



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Zoning & Development

Multi Government Center ♦ 100 Ribaut Road
Post Office Drawer 1228, Beaufort, SC 29901-1228
OFFICE (843) 470-2780
FAX (843) 470-2784

The scheduled meeting of the Beaufort County Zoning Board of Appeals was held on Wednesday, February 22, 2006, in Council Chambers of the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. Edgar Williams, Vice Chairman
Mr. Phillip Leroy
Mr. Chester Williams

Mr. Bill Bootle
Mr. Claude Dinkins
Mr. Kevin Mack

MEMBERS ABSENT

None

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mrs. Lisa Glover, Zoning Analyst III

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:04 p.m.

INVOCATION: Mr. Gasparini led those assembled in a moment of silence.

Mr. Gasparini stated to the board, that Mr. Edgar Williams would be late, because he was driving from Charleston, South Carolina.

REVIEW OF AGENDA

MOTION: Mr. Chester Williams made a motion to adopt the agenda as submitted. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams).

REVIEW OF MINUTES:

MOTION: Mr. Bootle made a motion to adopt the minutes. Mr. Chester Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams).

JAMES & LOUELLEN MACOLLY (SIDE-YARD SETBACK VARIANCE)

Mr. Macolly stated that he had made some corrections to his narrative. Mr. Macolly explained to the board, that he went to the Building Codes Department to obtain a building permit for his shed, and was told he did not need a permit. Mr. Macolly stated that he asked the contractor who built the shed whether or not he needed a permit, and he was again told he did not need a permit because; it did not have any plumbing or electricity going to the shed. Mr. Macolly stated, that there is no other place on the property to put his shed, due to the water well, drainage ditch, septic tank, and trees. Mr. Macolly stated, that his neighbor has three sheds on his property, which is close to the property line, and he has no objections to that. Mr. Macolly stated, that he only have one neighbor, and the rest of the home is surrounded by farmland, and there are only two houses and two modular homes in the section he lives in. Mr. Macolly respectfully requested that the board permits him to keep the shed in its original place.

Mr. C. Williams asked Mr. Macolly, "Why can't the house be moved, because he doesn't see anything on the plat that supports his opinion, that the shed cannot be moved in a different location on the property?"

"Professionally we serve; Personally we care!"

Mr. Macolly showed Mr. Chester Williams a plat of his property, locating the existing structures on the lot.

Mr. Mack asked Mr. Macolly, "Does he have water and electricity going to the shed?"

Mr. Macolly said, "No".

Mr. Leroy asked Mr. Macolly, "Was the shed bought from the store, or was it stick built?"

Mr. Macolly stated, "It was stick built."

Mr. Gasparini asked Mr. Macolly, "When was the shed built?"

Mr. Macolly answered, "He cannot give the exact date, but maybe after 2002."

Mr. Bootle asked Mr. Macolly, "How did this violation occur?"

Mr. Macolly answered, "One of his neighbors called and reported him to the Codes Enforcement Officers".

Mr. C. Williams asked Mr. Macolly, "Are there any extraordinary or exceptional conditions that pertain to his property in respect to where the structure is?"

Mr. Edgar Williams arrived to the meeting at 5:20 p.m.

Mr. Macolly answered, "No".

Ms. Austin stated to the board, that staff recommends disapproval, because the shed was built without a zoning permit, and it also violates two sections of the ordinance; Section 106-7 (side-yard setback of 10 feet), and Section 106-1845 (50-foot river-buffer setback). Ms. Austin stated, that since the shed is a temporary structure, it could be moved to another place on the property to meet the setbacks.

Mr. Gasparini called for public comment, and limited the comments to five minutes each.

Mr. Walter Chittum stated to the board, that he lives two houses away from this property, and the shed is an eyesore. Mr. Chittum asked the board not to grant the variance.

Mr. Gasparini noted for the record, that the board received a letter from a neighbor objecting to the variance.

Mr. C. Williams stated, that the application does not meet the requirements set forth in Section 106-522 (qualifications to grant a variance) of the Beaufort County Zoning & Development Standards Ordinance.

MOTION: Mr. Chester Williams made a motion to deny the variance because, the applicant has not met the qualifications for the board to grant a variance from Section 106-522 of the Beaufort County Zoning & Development Standards Ordinance. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

DAVID & JACQUELINE PARK (RIVER-BUFFER VARIANCE)

Mrs. Park explained to the board, that she added on to her house without a permit, and the house now encroach further into the OCRM setback line.

Mr. Bootle asked Ms. Park, "How did this violation occur?"

Mrs. Park stated, "A neighbor reported her to the Codes Enforcement Officer".

Mr. Bootle asked Ms. Park, "Was a licensed contractor hired to do the addition?"

Mrs. Park stated, that a family friend did the addition, and she does not know if he was licensed.

Mr. Gasparini asked Mrs. Park, "Is the addition closer to the critical line?"

Mrs. Park answered, "Yes".

Ms. Austin stated to the board, that the existing deck was grandfathered because, it already encroached into the OCRM setback line; but since the applicant built their addition closer to the critical line, they are now creating a more non-conforming site. Ms. Austin stated, that the County recommends disapproval.

Mr. Gasparini called for public comment, and limited the comments to five minutes each.

Mr. Tedder, stated that it troubles him when the citizens of Beaufort County comes to this board, and really don't know how to present their case. Mr. Tedder stated that the citizens do not know that they should seek legal advice prior to coming to the Zoning Board of Appeals. Mr. Tedder stated, that staff should recommend to the citizens to seek legal advice prior to coming to the board.

Mr. Walter Chittum stated to the board, that he is the adjoining neighbor, and he built a fence in-between the two properties. Mr. Chittum stated, that the Park's did not realize that the addition was encroaching further into the setback line. Mr. Chittum stated, that he feels that it would be a hardship for the Park's to tear down the structure because, they did not know the addition was encroaching into the river-buffer setback line.

Mr. C. Williams stated, that if Ms. Park wanted to take Mr. Tedder's advice and seek legal advice, he would not object to it.

Mr. Gasparini agreed with Mr. C. Williams. Mr. Gasparini explained to Mrs. Park, that the board would be willing to defer the application in order for her to seek legal advice.

Mrs. Park stated, that she would like to consider that, but could she cut off the back of the building and take off part of the deck?

Mr. Gasparini said that if the board vote on this case tonight, and disapprove it, she would be required to put the structure back in its original place on the property.

Ms. Austin suggested, that the board approve the variance, with the condition, that the addition does not encroach any closer to the critical line.

Mrs. Park stated to the board, that she would like to formally request a deferment.

MOTION: Mr. Chester Williams made a motion to defer the variance. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

Mr. Chester Williams recused himself from the D.R. Horton Lot-Width Variance case, due to a conflict of interest.

D.R. HORTON (LOT-WIDTH VARIANCE)

Mr. Lamar Mercer, Representative for D.R. Horton, stated to the board, that the applicant is requesting a lot-width variance from the PUD document. Mr. Mercer stated that Lots 161 and 162 had three trees located on the lots, and the developer decided to keep the trees and move the house location. Mr. Mercer stated, that the house had to be pushed back on lot 162 due to three specimen trees.

Mr. Gasparini asked, "Is the houses already built on the lots?"

Mr. Mercer answered, "Yes". Mr. Mercer stated, that they were not aware that there was a minimum 50-foot lot width requirement in the PUD document.

Mr. Gasparini asked, "When were the houses built?"

Mr. Mercer answered, "Approximately two or three months ago".

Ms. Austin stated, that the homes were built, but the applicant did not receive their Certificate of Occupancy yet. Ms. Austin stated that the Certificate of Occupancy would be issued, if the variance is granted, and the plats re-recorded in the Register of Deeds office, with the lot line correction.

Ms. Austin asked Mr. Mercer, "Was a foundation survey done?"

Mr. Mercer answered, "Yes".

Ms. Austin stated that she is confused, because she tried to get a copy from the Building Codes Department, and was not able to get it before the meeting. Ms. Austin stated that the County recommends disapproval.

Mr. Gasparini called for public comment, and limited the comments to five minutes each.

Mr. John Bender, D.R. Horton, explained to the board that a potential homeowner looks at a plat of the property with the location of the house, and the location of trees before they actually close on a lot. Mr. Bender stated, that they also tried to get a tree arborist to prune the trees without killing the trees.

Ms. Austin stated, that the applicant could come back to the Development Review Team, to amend the PUD document, and change the minimum lot-width requirement to 40 feet.

Mr. Mercer stated, that there are a lot of entities involved in this development. Mr. Mercer also stated, that this is just a one-time situation, and this mistake will never happen again.

Mr. Gasparini asked Ms. Austin, "If the applicant goes to the Development Review Team, would they most likely receive a variance?"

Ms. Austin said, "Yes".

Mr. Leroy stated, that he does not feel that there was no harm done, and he does not think that anything would be lost if this variance is granted.

Mr. Bootle asked Mr. Bender, "Are the homeowners okay with this request?"

Mr. Bender said, "Yes".

MOTION: Mr. Leroy made a motion to grant the variance as submitted. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

Mr. Gasparini came back to the meeting at approximately 6:20 p.m.

BURTON WELLS COMMUNICATION TOWER (SPECIAL USE PERMIT)

Mr. Tedder explained to the board, that he is requesting a special use permit for a cell tower located in Burton Wells. Mr. Tedder stated, that the Development Review Team recommended approval with the condition to place two buffers on the site; one around the base of the tower, and the other one around the perimeter of the site. Mr. Tedder stated, that Section 106-7 (3) of the Zoning & Development Standards Ordinance states, that public utilities are exempt, except for tree protection, wetlands and river-buffer

requirements. Mr. Tedder stated, that a cell-tower is considered a public utility use, and it is exempt from the Zoning & Development Standards Ordinance.

Mr. C. Williams stated, that the prior application was approved without the additional buffer because there was an existing perimeter buffer around a PUD development.

Mr. Tedder stated that the board decided that a perimeter buffer should not be required.

Mr. Gasparini asked Mr. Tedder, "Isn't a cell tower a substation or transmission local distribution facility?"

Mr. Tedder stated, "I have a specific definition, and when you have a specific definition you don't go back to the general definition; you apply the specific definition".

Mr. Gasparini called for public comment, and limited the comments to five minutes.

Mr. Lamar Lawson stated to the board, that he came to the meeting to find out what the applicant is actually requesting. Mr. Lawson asked the board, to table this application until the rest of the neighbors be able to attend the meeting.

Mr. Tedder stated, that he showed Mr. Lawson some plans prior to the meeting. Mr. Tedder stated that this tower is a 150-foot monopole, it has underground wire cables going to it, everything will be put under the fence which is two supporting boxes to store the equipment, it will not be any new telephone poles, and power will be delivered underground.

Mr. Dinkins asked, "Will the tower be lighted?"

Mr. Leroy stated, that he thinks the County's desire for the lighting would be withdrawn.

Mr. Bootle asked Mr. Tedder, "If the tower falls, would it fall within the site?"

Mr. Tedder answered, "Yes".

Mr. C. Williams stated, "It actually says that if the tower falls, it would fall in the collapse section of the ground which is within a radius of 100 feet of the monopole. Mr. Williams asked, "Is the site more than 100 feet of the monopole?"

Mr. Tedder said, "He believes it's 110 feet".

Mr. C. Williams asked Ms. Austin, "What's her opinion regarding Mr. Tedder's argument, that communication towers are exempt because towers are under utilities?"

Ms. Austin said, that she disagrees with Mr. Tedder's statement because towers are not considered a public utility; they are a commercial communication tower.

Mr. Gasparini called for a five-minute recess at 6:44 p.m. Mr. Gasparini called the meeting to order at 6:50 p.m.

Mr. C. Williams stated, that the collapse zone is supposed to have a 100-foot radius easement from the base of the tower; but the plan shows 85 feet from the base of the tower.

Mr. Tedder asked the board to grant a conditional approval provided at final review of the Development Review Team meeting, a complying easement buffer for the collapse zone or a revised engineering letter changing the easement area to 100 feet be provided.

Mr. C. Williams asked the board to discuss the issue with the two buffers; which is the 50-foot perimeter buffer, and the 50-foot buffer around the base of the tower.

Ms. Austin stated, that for all uses other than single-family homes, there is a buffer requirement that's allowed on the perimeter of the property. Ms. Austin stated, that when a property is zoned Rural, and the adjacent property is also zoned rural, there is a 50-foot perimeter buffer required under other permitted uses of the Zoning & Development Standards Ordinance.

Mr. Gasparini asked Ms. Austin, "If a communication tower was in the middle of a 5,000 acre tract, would there be a 50-foot perimeter buffer around the entire site?"

Ms. Austin stated, "Yes, the County has required a 50-foot perimeter buffer around a large tracts of land.

MOTION: Mr. Dinkins made a motion to approve the Special Use Permit with one buffer; which is the 50-foot perimeter buffer. Mr. Leroy seconded the motion. Mr. Chester Williams moved to amend the motion to address if the height of the tower is raised, a special use permit is required; the 100-foot collapse zone easement must be reviewed and approved by the Development Review Team, and the lease and the easement must address the collapse zone, certified by an Engineer.

MOTION: Mr. Chester Williams made a motion to amend the motion with the additional conditions. Mr. Gasparini seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

MOTION: Mr. Chester Williams made a motion to adjourn. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, C. Williams, E. Williams).

The meeting adjourned at approximately 7:17 p.m.