



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Zoning & Development

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The scheduled meeting of the Beaufort County Zoning Board of Appeals was held on Wednesday, June 28, 2006, in the Executive Conference Room, the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Edgar Williams, Vice Chairman
Mr. Phillip LeRoy

Mr. Claude Dinkins
Mr. Kevin Mack

MEMBERS ABSENT

Mr. Thomas Gasparini, Chairman
Mr. Bill Bootle
Mr. Chester Williams

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mrs. Lisa Glover, Zoning Analyst III
Mr. Tony Criscitiello, Planning Director

CALL TO ORDER: Mr. Edgar Williams called the meeting to order at 5:07 p.m.

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

REVIEW OF AGENDA

MOTION: Mr. Dinkins made a motion to adopt the agenda as submitted. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Dinkins, LeRoy, Mack, E. Williams).

REVIEW OF MINUTES:

MOTION: Mr. Dinkins made a motion to review the June minutes at the next scheduled meeting. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Dinkins, LeRoy, Mack, E. Williams).

Mr. Edgar Williams stated that all public comments would be limited to three (3) minutes each.

REEDY (APPEAL)

Mr. Tony Criscitiello, Beaufort County Planning Director, stated to the board, that based on his understanding of this file and the Zoning Ordinance, the actions of the Zoning Administrator, Hillary Austin, and the Assistant Planning Director, Delores Frazier were properly correct with their actions. Mr. Criscitiello stated, that Tom Wilson, Former Planning Director and Lad Howell, County Attorney, with the delegation of County Council made an administrative interpretation to allow the Planning Department to make zoning changes to properties of land that was identified as being mis-zoned and meets the criteria of the Zoning Ordinance. Mr. Criscitiello stated, that it was a proper exercise of authority granted to the Former Planning Director, and County Attorney to act in the manner in which they did; so when Hillary Austin and Delores Frazier followed the opinion of Tom Wilson, and Lad Howell, they were acting within the scope in advocate of their authority, to make sure that the zoning map corresponded, and in this case it was proper to change the zoning from Rural to Rural Residential.

"Professionally we serve; Personally we care!"

Mr. LeRoy asked Mr. Criscitiello, "What's the criteria that were applied?"

Mr. Criscitiello stated, "The density and the contingency of five lots for Rural Residential".

Mr. LeRoy asked Mr. Criscitiello, "Is the authority to correct mistakes in the zoning, in the Zoning Ordinance?"

Mr. Criscitiello said, "Yes".

Mr. Joseph Reedy, Applicant, stated to the board that he is appealing the September 9, 1999 memorandum, and the September 3, 1999 memorandum decision, written by Delores Frazier. Mr. Reedy stated, that he purchased a piece of property that the County clearly identified as being zoned Rural, and then to find out later that it was changed to Rural Residential. Mr. Reedy stated, that the County identified the property as being Rural, and on October 3, 2005 the County identified the property as being zoned Rural Residential.

Mr. LeRoy asked Mr. Reedy, to give a brief description of how this rezoning negatively impacted his property?

Mr. Reedy stated, that he owns the center parcel of three parcels of land, his home is on his property, and the other two lots does not have anything on it. His understanding is that one home could go on one lot, but if it is zoned Rural Residential, the lots on each side of him can have three lots on each side of him; and it would depreciate the value of his property.

Ms. Austin explained to the board, that the property was originally five acres, and the lot was sold at tax sale. Ms. Austin stated, that when the property was sold at tax sale, the property was split into three lots per Beaufort County.

Mr. Williams called for a brief recess @ 5:34 p.m. The meeting reconvened @ 5:36 p.m.

Mr. Dinkins asked Mr. Criscitiello, "If the board make a motion to withhold the applicant's request, would this decision affect the rest of the properties in Beaufort County?"

Mr. Criscitiello stated, that the decision would affect everything, because the board would have to provide guidance to the staff on how to handle any future cases.

Mr. Dinkins asked Mr. Criscitiello, "Is it any way the board can get around not affecting other future cases?"

Mr. Criscitiello stated, that it is no way around it.

Mr. Reedy stated to the board, that he is only concerned with the October 3, 2005 memorandum. Mr. Reedy stated, that if the board says that this particular memorandum was done improperly then he is satisfied, and the County would not have to visit every decision that was rendered since 1999.

MOTION: Mr. Edgar Williams made a motion to support the County as it relates to their decision of the Former Planning Director, Tom Wilson memorandum to allow the Beaufort County Planning Department to make changes without applying the procedures. The motion died due to a lack of second to the motion.

MOTION: Mr. Dinkins made a motion that Tom Wilson and Lad Howell erred in the administrative interpretation on this case, and the board will support keeping the three lots Rural. Mr. LeRoy seconded the motion. The motion passed (FOR: Dinkins, LeRoy, Mack; OPPOSED: E. Williams)

Mr. Tony Criscitiello asked the board, to give the Planning Department guidance on how to handle future cases.

Mr. E. Williams told Mr. Criscitiello, that he would talk to him at a later date to discuss his request.

RAY HARVEY (RIVER-BUFFER VARIANCE)

Mr. Ray Harvey explained to the board, that they sent out proper notifications to the adjacent property owners. Mr. Harvey stated, that he was before the board last month, but he failed to properly notify his adjacent property owners within a 500-foot radius.

Ms. Austin stated, that the County was in the process of allowing decks in the River-Buffer, but only 100 square feet. Ms. Austin stated, that the County would be willing to support this variance request if the deck was not exceeding 100 square feet.

MOTION: Mr. Dinkins made a motion to allow the deck with removal of the patio. Mr. LeRoy seconded the motion. The new river-buffer setback will be 40-feet from the OCRM critical line. The motion passed unanimously (FOR: Dinkins, LeRoy, Mack, E. Williams)

MICHELLE OWENS (RIVER-BUFFER VARIANCE)

Mrs. Owens explained to the board, that she was before the board last month, because she failed to send out property notification to her adjacent property owners within a 500-foot radius. Mrs. Owens stated, that they purchased the lot in 1990, and they completed building their house in 1994; they wanted to build a pool but they were unable to build. Mrs. Owens stated, that her husband's health is deteriorating and they are on him about weight loss, and the pool would be a great way of exercise.

Ms. Austin stated, that staff recommends disapproval. Ms. Austin stated that the house is already encroaching into the river-buffer setback, and the applicant is requesting to go 26 feet into the OCRM critical line. Ms. Austin stated that Section 106-522 (5), states that a hardship should be the applicant's land, not the applicant's personal circumstances. Ms. Austin stated that 106-9, states that non-conforming buildings and structures shall not project further into the setback line, than the present. Ms. Austin stated that she is 40 feet from the critical line, now she wants to go 26 feet from the critical line.

Mr. Edgar Williams called for public comments, and limited the comments to five minutes each.

Mr. Reed Armstrong, Coastal Conservation League, stated to the board that the Zoning Ordinance is clear that pools are not allowed in the river-buffer. Mr. Armstrong stated, that the ordinance states that in no event are pools allowed in the river-buffer setback.

MOTION: Mr. Dinkins made a motion to deny the variance. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Dinkins, LeRoy, Mack, E. Williams)

CAROL HORTON (DOCK VARIANCE)

Ms. Horton stated that she got a crabbing dock permit on April 25, 2000, and reapplied for another permit November 27, 2001 and she had a dock builder to do all the paperwork for her. Ms. Horton stated that she assumed she would go with the old permit, but OCRM informed her that this was an amended permit.

Ms. Austin stated to the board, that Ms. Horton is requesting to build a dock at 442 feet. Ms. Austin stated that Ms. Horton received the permit before the ordinance changed, she could have built the dock then, but she wanted until now. Ms. Austin stated that staff recommends this request be denied.

Mr. Dinkins asked Ms. Horton, "Does Mike Davis have a dock?"

Ms. Horton said, "No".

Mr. Dinkins stated, that the board has approved longer docks before.

Mr. E. Williams asked Ms. Austin, "What major impact would the dock have if it's exceeded to where Ms. Horton requested it to be?"

Ms. Austin said, "She cannot answer that question".

MOTION: Mr. Dinkins made a motion to approve the variance request to exceed the dock to 442 feet. Mr. LeRoy seconded the motion. The motion passed (FOR: Dinkins, LeRoy, Mack; OPPOSED: E. Williams)

GEORGE & JANNA JACKSON (DOCK VARIANCE)

Mr. George Jackson explained to the board, that Palmetto Beach Drive was subdivided to Crystal Beach, Palmetto Beach, and Nannie Cove in 1925. Mr. Jackson stated, that Nannie Cove and Crystal Beach have a community dock located in their subdivision. Mr. Jackson stated, that his subdivision does not have a community dock because, they are located on a small tidal creek. Mr. Jackson is requesting a variance of 70 feet for a shared dock; to be shared between his property and the adjacent neighbor's property.

Ms. Janna Jackson stated, that in the pass they asked Crystal Beach could they use their community dock, and they were told they could not use the community dock. Ms. Jackson stated, that the neighbors in their subdivision are not opposed to them having a shared dock.

Mr. Edgar Williams called for public comment, and limited the comments to 10 minutes each. Mr. Williams extended the time for public comment because the citizens regarding this case decided to elect three representatives to speak on their behalf.

Ms. Floyd stated to the board, that she lives one door down from the proposed dock location. Ms. Floyd stated, that she doesn't believe the property qualifies for a shared dock.

Ms. Austin explained to the board that Section 106-1912 (2)(b) states, that existing lots of record where two or more owners agree to build a community dock, they get one foot of dock over 300 feet for every foot of waterfront footage exceeding 300 feet. Ms. Austin stated, that these two docks does not qualify for that; the total width is 160.99 feet; so they are not even close to 300 feet. They are asking for a variance of 280 feet, not 70 feet. Ms. Austin stated, that this is a small tidal creek, and they do not qualify to get the extra square footage; the County recommends disapproval.

Ms. Floyd stated, that she is a representative for the neighborhood, and this is the only area in Bluffton where you have an unobstructed view of east and west. Ms. Floyd stated, that the residents present are very concerned, because they have a beautiful view. Ms. Floyd stated, that this community does not desire to see a 580-foot dock going to a small tidal creek.

Ms. Jane Hefner stated to the board, that the dock should not have ever been permitted from OCRM because the view crosses her property. Ms. Hefner stated, that the Jackson's have not applied to join Palmetto Beach communication dock association.

Mr. Carl Schultz stated to the board, that there's never been a dock on this particular tidal creek. Mr. Schultz stated, that the environment would be damaged when the crew comes to construct the dock. Mr. Schultz stated, that he is opposed to this request being granted from the Zoning Board, because of the distant and navigational challenges that exist.

Ms. Austin stated, that OCRM established dock corridors to extend out from the property lines, and if you look at the location of the dock corridors, there's no way this dock can be built without crossing all of the other property lines.

Mr. Williams asked Ms. Austin, "Does OCRM check with the County prior to issuing a permit?"

Ms. Austin said, "No".

MOTION: Mr. Mack made a motion to deny the variance. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Dinkins, LeRoy, Mack, E. Williams)

DELORES BERGMAN (DOCK VARIANCE)

Mr. George Chamberlyn, Steadfast Marine Services, explained to the board that they are requesting a 30-foot extension for their dock.

Ms. Austin stated to the board, that the County recommends disapproval.

MOTION: Mr. Dinkins made a motion to approve the dock variance. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Dinkins, LeRoy, Mack, E. Williams)

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

The meeting adjourned at approximately 7:00 p.m.