



## 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, July 26, 2006, in the Executive Conference Room, the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

#### MEMBERS PRESENT

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

Mr. Bill Bootle  
Mr. Claude Dinkins

#### MEMBERS ABSENT

Mr. Phillip LeRoy  
Mr. Kevin Mack

#### STAFF PRESENT

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

**CALL TO ORDER:** Mr. Gasparini called the meeting to order at 5:10 p.m.

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

#### REVIEW OF AGENDA

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

#### REVIEW OF MINUTES:

**MOTION:** Mr. Bootle made a motion to approve the May minutes, and review the June minutes at the next scheduled meeting. Mr. E. Williams seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, E. Williams; ABSTAINED: C. Williams).

#### ROGER & NANCY WILSON (RIVER-BUFFER VARIANCE)

Mr. Larry Grimsley, representative for the applicant, stated to the board, that he is requesting a variance for a pool to encroach closer to the 50' OCRM critical line. Mr. Grimsley stated, that the applicant purchased the pool seven years ago, and at that time there was no 50' setback. Mr. Grimsley stated, that he received a letter from Nancy Wilson's doctor recommending that she would benefit from having a pool. Mr. Grimsley stated, that the pool would not negatively impact the neighbors' property.

Mr. Dinkins asked Mr. Grimsley, "What is the elevation?"

Mr. Grimsley said, "I don't know".

Ms. Austin stated, that the elevation is 13 feet.

Mr. C. Williams asked Mr. Grimsley, "Is this an in ground pool or an above ground pool?"

*"Professionally we serve; Personally we care!"*

Mr. Grimsley said, "It's an in ground fiberglass pool".

Ms. Austin stated to the board, that Section 106-1616 (3) specifically prohibits pools in the buffer. Ms. Austin stated, that Section 106-522, states that variances shall not apply to the applicant's personal circumstances. Ms. Austin stated, that most of the lots on Fripp Island are almost under water; except for the ones they built up. Ms. Austin stated, that staff recommends disapproval, because the ordinance specifically prohibits pools in the buffers.

Mr. Chester Williams stated, that in order for the board to grant a variance, the applicant shall find extraordinary and exceptional conditions pertaining to their property. Mr. Williams asked Mr. Grimsley, "Are there extraordinary and exceptional conditions that's pertaining to this property?"

Mr. Grimsley stated, that the 50-foot river-buffer setback was not enforced at the time the pool was purchased.

Ms. Austin stated, that the 50-foot river-buffer setback was enforced at the time the pool was purchased.

*Mr. Gasparini called for public comment, and limited the comments to 3 minutes each.*

Mr. David Tedder stated to the board, that he remembers a request for a pool variance in Rose Hill Plantation on a peninsula; there was a requirement to capture and divert the water through French drain systems because of the location of the house, and it was a lot that was created back in the late 70's when the setbacks was 20 feet from the OCRM critical line. Mr. Tedder stated, that this board has granted pool variances before.

Mr. Gasparini stated to the applicant, that if he wants to withdraw his application to investigate if the property has a critical line or baseline attached to it, that the request would be okay with him.

Mr. Grimsley asked the board, to postpone his application until next month.

Mr. Gasparini asked Mr. Grimsley, to be prepared next month to inform the board if the property has a baseline setback or critical line setback. Mr. Gasparini informed Mr. Grimsley, that this case would not be heard in detail next month.

**MOTION: Mr. Chester Williams made a motion to table this request for one month at the request of the applicant. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, C. Williams, E. Williams).**

#### **MARY JOHNSON (DOCK VARIANCE)**

Mr. David Tedder, attorney for Mary Johnson, stated to the board that Ms. Johnson obtained this lot in the 1970's. Mr. Tedder stated, that Polawana Island did a dock master plan; Ms. Johnson was not involved in the dock master plan because, she was not apart of that development. Mr. Tedder stated, that Ms. Johnson is requesting a 426-foot dock. Mr. Tedder stated, that the zoning ordinance states, that a dock on a small tidal creek cannot be more than 300 feet. Mr. Tedder stated, that everyone around her have the ability to build a dock due to the dock master plan.

Mr. Gasparini stated, that there are two docks to the right, and three docks to the left.

Mr. Tedder stated, that the docks on the right are 360 feet, and the docks on the left are 522 feet.

Ms. Austin stated, that the County recommends disapproval, because the existing docks were built before the new dock ordinance was passed. Ms. Austin stated, that the County had a court case that stipulated; if someone had a dock permit prior to May 8, 2006, they would be allowed to build the dock. Ms. Austin stated, that the County never approved a dock master plan for Polawana Island, and those lots in

Polawana Island were created under the five-acre exemption. Ms. Austin stated, that a dock is not a hardship, it's an amenity; and it does not meet the criteria for a variance.

Mr. Bootle asked Mr. Bobby O'Quinn, "Is this dock going to be a community dock?"

Mr. O'Quinn said, "No, all of the interior lots have cross-easements for docks".

Mr. Bootle asked, "Is there a building permit to build the dock?"

Mr. Tedder stated, "He cannot answer that question".

**MOTION: Mr. Dinkins made a motion to approve the dock at 426 feet. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, C. Williams; OPPOSED: E. Williams).**

#### **WILLIAM BUCKUS JR. (FRONT-YARD SETBACK VARIANCE)**

Mr. Buckus stated to the board, that he is requesting a variance to place a carport in the front of his property.

Mr. Gasparini asked Mr. Buckus, has the property owners been appropriately notified within a 500-foot radius?

Mr. Buckus stated, that he went to the first floor and they gave him three names. Mr. Buckus stated, that he doesn't know who gave him the list.

Mr. Gasparini stated, that the board doesn't have the power to listen to his case without the neighbors being properly notified.

**MOTION: Mr. Gasparini made a motion to postpone the meeting until next month, to send out the appropriate notices to the property owners within a 500-foot radius. Mr. E. Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, C. Williams, E. Williams).**

#### **JAMES MCCOLLY (SIDE-YARD SETBACK VARIANCE)**

Mr. Randolph Murdaugh, III, attorney for the applicant, stated to the board that he is requesting a side-yard setback variance for a shed.

Mr. Gasparini stated that he remembers hearing this case several months ago. Mr. Gasparini asked Mr. Murdaugh, "What basis do he have to ask for a reconsideration of this case?"

Mr. Murdaugh stated to the board, that he contacted the Zoning Office, and was told he could come to the board for reconsideration.

Ms. Austin explained to the board, that a letter was written by Lisa Glover stating that he would have to go through the proper process for reconsideration.

Mr. Gasparini asked Mr. Murdaugh, is there new evidence about the shed that the board did not consider before.

Mr. Murdaugh stated, that the people who were previously complaining do not live near Mr. McCalley anymore.

Mr. Gasparini stated, that he doesn't see what difference that makes.

Mr. Murdaugh stated, that the new neighbor does not mind that the existing shed on Mr. McCalley's property does not meet the setbacks.

Mr. Gasparini explained to Mr. Murdaugh, that one of the basis for reconsideration is that there is new evidence. Mr. Gasparini stated, that his understanding is that new evidence is facts that the board did not consider when they made their decision. For example, the shed is not where the board thought it was, or the lot line was in a different place, etc. Mr. Gasparini stated, that if there is no new evidence, the board does not have the power to rehear this case.

Mr. Murdaugh stated, that because of the layout of the property, there's nowhere to move the shed because of the drain field, and the location of the house and deck.

Mr. Gasparini stated, that he would be willing to postpone the meeting, with the condition that the applicant provide written evidence of facts, that the board did not previously consider several months ago. Mr. Gasparini explained to Mr. Murdaugh, that the argument concerning the complaining property owners does not count towards the written evidence.

**MOTION: Mr. Edgar Williams made a motion to postpone this case until written evidence is provided. Mr. Dinkins seconded the motion.** Mr. Gasparini explained to Mr. Murdaugh, that they must come back to the board even if they don't have written evidence. **The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, C. Williams, E. Williams).**

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

*The meeting adjourned at approximately 6:18 p.m.*