

The scheduled meeting of the Beaufort County Zoning Board of Appeals was held on Wednesday, May 23, 2007, in Council Chambers, 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  
Mr. Phil LeRoy

**MEMBERS ABSENT**

Mr. Kevin Mack

**STAFF PRESENT**

Ms. Hillary Austin, Zoning Administrator  
Mrs. Lisa Glover, Zoning Analyst III  
Mr. Arthur Cummings, Building Codes Director  
Ms. Audra Antonacci, Codes Enforcement

**CALL TO ORDER:** Mr. Gasparini called the meeting to order at 5:19 p.m.

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

**REVIEW OF AGENDA:** Mr. Gasparini stated that items #5 & 6 (Pinckney Point, LLC Variance/Public Comment) shall be deleted off the agenda, because the applicant has not received the approval from County Council.

**MOTION:** Mr. Edgar Williams made a motion to adopt the agenda with the noted deletions. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, E. Williams).

**REVIEW OF MINUTES**

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

*Mr. Gasparini briefly reviewed the ZBOA rules to the public. Mr. Gasparini limited public comment to three minutes per person.*

**ALBERT ENGEL (C/O DAVID TEDDER, ATTORNEY) – APPEAL**

Mr. David Tedder, attorney for the applicant, stated to the board, that this matter involves a Notice of Violation, issued by the Codes Enforcement Officer. Mr. Tedder stated to the board, that per Section 106-1426, fences as an accessory use, are exempt from the zoning standards in the Rural and Rural Residential Districts. Mr. Tedder stated to the board, that the Government has various fences in the river-buffer. Mr. Tedder stated, that the width of the buffer yards is based on the natural vegetation. Mr. Tedder stated, that the river-buffer standard does not indicate that fences are prohibited. Mr. Tedder stated, that OCRM approved the fence in the river buffer.

*Mr. Gasparini noted the arrival of Mr. Chester Williams. Mr. Williams arrived at 5:23 p.m.*

Ms. Austin stated to the board, that the OCRM does not have any interest in anything that's landward of the critical line. Ms. Austin stated, that fences are not exempt from the environmental standards of the zoning ordinance. River buffers are considered a natural resource, which is protected per Section 106-1782 of the Zoning & Development Standards Ordinance.

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

Mr. Reed Armstrong, Coastal Conservation League, explained to the board, that per Section 106-1845 (River-Buffers), it does describe some things that are permitted in the river-buffer area. Mr. Armstrong stated, that this issue came before County Council and the Land Management Committee; County Council (9-1 vote) rejected to amending the zoning ordinance to allow fences in the river buffer.

Ms. Sally Murphy explained to the board, that County Council, Land Management Board, and the Storm water Utility Board took up this issue last fall. The proposal was to allow some amenities into the river buffer. The Storm Water Utility Board discussed fences in the river buffer, and the determination was that fences would damage the river buffer.

Mr. Michael Magalis, neighbor, stated to the board, that the staff wrote a letter to Mr. Tedder that stated that fences are not allowed in the river buffer. Mr. Magalis stated, that Mr. Tedder named some people who violated the zoning ordinance, but the board needs to look at the people who have not violated the zoning ordinance.

Ms. Sandy Stephen stated to the board, that the issue is having a fence in the river buffer, which is prohibited per the zoning ordinance.

Mr. David Tedder stated, that living fences does not cause environmental harm, and does not violate the zoning ordinance. Mr. Tedder stated, that County Council & the Land Management Board did not deny fences in the buffer, they tabled it.

Mr. Edgar Williams stated, that he is voting against this appeal, because it violates the river-buffer standards of the zoning ordinance.

**MOTION: Mr. Edgar Williams made a motion to deny this appeal. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Gasparini, E. Williams; OPPOSED: LeRoy, Dinkins; ABSTAINED: C. Williams).**

#### **SOUTH CAROLINA BANK & TRUST (SIGN VARIANCE)**

Mr. Pete Sigler, Sign Art, stated to the board, that they are proposing to erect a freestanding sign across the street from their existing bank. Mr. Sigler stated, that the sign is 5-1/2 feet tall, 6 feet wide. There are several reasons that this sign is necessary; (1) without this sign, the bank would be the only one in the area without a freestanding sign, (2) the wall signs are extremely restricted. Mr. Sigler stated, that the driveway on the left hand side of the building will be moved, and the sign will be moved to the center of the property; this gets them away from some clutter and the utility pole. Mr. Sigler stated, that the existing wall sign would be 56 feet setback from the curb. Mr. Sigler stated, that a pedestrian would not be able to read the sign on the wall until they get close to the building.

Mr. Bruce Vanhorn, SCB&T City Executive, explained to the board, that the building would not be completed until November 9<sup>th</sup>, 2007. Mr. Vanhorn stated, that they are in a retail business, and every bank in that corridor has a freestanding sign.

Mr. Chester Williams asked Mr. Sigler, "Prior to purchasing the property, was your client aware of the sign regulations?"

Mr. Sigler answered, "I can't speak in regards to that". Mr. Sigler stated, that he's not sure if his client checked the sign standards, but the safety issue still remains.

Mr. Dinkins asked Ms. Austin, "Have all the square footage been used for the wall signage?"

Ms. Austin answered, "I'm not sure, because they have not submitted a complete sign application". Ms. Austin stated, that per the Lady's Island Village Center zoning standards, the applicant is allowed 40 square feet of wall signage, a projection sign that protrudes out 6 feet, and the applicant can erect a sandwich board sign with a maximum height of 48", maximum width of 30".

Mr. Sigler stated, that he believes that the bank is at its limit with the allowed signage.

Ms. Austin stated, that the County recommends disapproval. Ms. Austin stated, that this is the third building to be erected in the Lady's Island Village Center zoning district, and all of the previous buildings conformed to the standards of the Village Center zoning standards. Ms. Austin stated, the Corridor Review Board also disapproves this sign.

Mr. LeRoy asked Ms. Austin, "Will the County allow the bank to erect their sign on the existing sign?"

Ms. Austin answered, "Yes, if the sign owner allows them to do so".

*Mr. Gasparini called for public comment; there were no public comment for this project.*

Mr. Dinkins stated, that he would rather give a variance for additional square footage on the wall of the building, versus another freestanding sign.

**MOTION: Mr. C. Williams made a motion to disapprove the variance based on failure to comply with the criteria to consider a variance. Mr. E. Williams seconded the motion. The motion passed (FOR: Dinkins, Gasparini, LeRoy, C. Williams, E. Williams; OPPOSED: Bootle).**

*Mr. Gasparini called for a recess @ 6:34 p.m.; meeting was called back to order @ 6:40 p.m.*

#### **BRIAN & AMY SMITH (SIDE-YARD VARIANCE)**

Mr. Smith explained to the board, that he is requesting a setback variance for his garage. Mr. Smith stated, that they live in a 10-lot subdivision, which is extremely small. Mr. Smith stated, that he and his wife purchased the house approximately six years ago, and in order to add on to the lot they would like to add a detached garage to the property. Mr. Smith stated, that he is asking the board to grant the variance to place the garage closer to his neighbors' house on the left hand side of his property. Mr. Smith stated, that both of his neighbors are in favor of this variance.

Mr. Dinkins asked the applicant, "Do you have any pictures of the house?"

Mr. Smith answered, "No".

Ms. Austin stated, that this variance request is creating a dangerous situation. Ms. Austin stated, that normally the setbacks are 25' (front), 10' (sides), 10' (rear), but occasionally if the new setbacks are less restrictive, the County would allow the property owner to utilize the new setbacks. Ms. Austin stated, that the All Joy CP setbacks are 20' (front), instead of 15' (front). The applicant is requesting to have a 1' front setback, and a 5' side setback. Ms. Austin stated, that the garage could be moved back at least to the 20' setback line, and would be keeping with the new All Joy setback of 20'. Ms. Austin stated, that the County recommends disapproval, because the applicant is requesting a 1' setback on the front.

Mr. LeRoy asked, "What is the setback of the existing carport?"

Mr. Smith answered, "Approximately 15' from the property line.

Mr. Gasparini asked Ms. Austin, "Does the setbacks includes out buildings or just the main building?"

Ms. Austin answered, "The setbacks are for all of the structures on the property".

*Mr. Gasparini called for public comment; there were no public comment for this project.*

Mr. Dinkins asked Mr. Smith, "Are you proposing to put a room above the garage?"

Mr. Smith stated, that they are planning on putting a guest room above the garage.

Mr. C. Williams stated, that he is troubled with the applicant making a non-conforming situation even more non-conforming. Mr. Williams stated, that he does not believe that the applicant have done everything to try to minimize a variance request. Mr. Williams stated, that he would like to see the placement of the septic system prior to a decision being made.

Mr. Dinkins stated, that he agrees with Mr. Williams that the board does not have enough information to make a decision.

Mr. Gasparini suggested to the applicant, that he has the option to ask for a continuance until he comes back with a plan that provides more information to minimize the request for a variance.

Mr. Smith stated to the board, that he would like to request a continuance until he can provide more information to minimize the need for a variance.

**MOTION: Mr. Gasparini made a motion to grant the continuance until more information is provided to minimize a need for a variance. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, C. Williams, E. Williams).**

#### **BRYAN J. PERRY (RIVER-BUFFER VARIANCE)**

Mr. Weaver, representative for the applicant, stated to the board, that he is requesting a river-buffer variance for a single-family residence. Mr. Weaver stated, that they are requesting to remove the existing cottage off the property and construct a two-story home on the property.

Mr. C. Williams asked Mr. Weaver, "When was the property subdivided?"

Mr. Weaver answered, "In the 1980's".

*Mr. Gasparini called for a recess @ 7:24 p.m.; meeting was called back to order @ 7:28 p.m.*

Ms. Austin stated, that if the board grants the applicant's request, the board should also grant a variance for the septic system to be 55' from the OCRM critical line, instead of 100' from the OCRM critical line. The driveway and the parking area should be within the buffer and it would remain pervious. The applicant should also be required to gutter the roof and bring the runoff to the 50' buffer line for the discharge from the roof, and to ensure that the runoff does not form a pathway and/or drainage ditch through the buffer. The house should not be no more than 2,400 square feet.

*Mr. Gasparini called for public comment; there were no public comment for this project.*

Mr. Weaver stated to the board, that he accepts those conditions set forth by Ms. Austin.

**MOTION: Mr. Chester Williams made a motion to approve the variance with the noted conditions presented by Ms. Hillary Austin, Zoning Administrator. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, C. Williams, E. Williams).**

## **EUGENE & PHYLLIS WAY (DOCK VARIANCE)**

Mr. Eugene Way explained to the board, that he and his wife are requesting a variance for a dock. Mr. Way stated, that in April 1999, they purchased their home, and a dock permit was assigned to them by OCRM. Mr. Way stated, that they hired Anchor Dock to build their dock and to take care of any permits. At that time, they were informed by OCRM that their dock was expired. Mr. Way stated, that after the first permit expired, they obtained a second permit from OCRM, and at that time there was a special condition on the permit that stated that Beaufort County must approve the dock permit. After meeting with the County, they were informed that they had to get a variance if they wanted to place a dock on the property, which exceeds 300 feet in total length. Mr. Way stated, that all of his neighbors have docks, which exceeds 300-foot in total length, and he is asking the board to consider this variance so they can continue to enjoy their retirement home.

Mr. Bootle asked Mr. Way, "Did you have a dock permit when you purchased the home?"

Mr. Way answered, "Yes".

Ms. Austin explained to the board, that the applicant did not ask for an extension from OCRM, and that's why the permit expired.

Mr. Way stated, that since he left the permit in the hands of the dock builder, the extension was never requested. Mr. Way stated, that he takes full responsibility in not requesting an extension from OCRM.

Ms. Austin stated, that the County recommends disapproval.

Mr. Gasparini asked the applicant, "If this variance is granted, will you take your house off the market?"

Mr. Way answered, "Yes".

**MOTION: Mr. Dinkins made a motion to approve the dock variance at 507.55 feet. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, C. Williams, E. Williams).**

## **WHALE BRANCH HIGH SCHOOL (SPECIAL USE PERMIT/VARIANCE)**

Mr. William Halligan, representative for the school board, explained to the board, that the district submitted the application on April 30, 2007 to build a new school. Mr. Halligan stated, that they don't have any new information to add to the submitted application.

Mr. Gasparini explained to the board, that the whole issue of the sewer line has been resolved.

Ms. Alice Howard, Aicuz Officer for the Air Station stated to the board, that they received an inquire from the school board, and they responded May 8, 2006 with a map and site that they have chosen; they took into consideration the noise zone. Ms. Howard submitted a copy of the letter that was issued to the school board. Ms. Howard stated, that the Air Station is okay with this school being built.

Mr. C. Williams asked, "Is the parking spaces the minimum required spaces per the ZDSO?"

Ms. Austin answered, that the applicant is allowed to go 20% below or 20% above the base parking spaces. Ms. Austin stated, that the applicant has the right amount of parking per the ZDSO.

Mr. C. Williams asked Mr. Krick, "Is the parking spaces included in the open space calculations?"

Mr. Krick answered, "No".

Mr. E. Williams asked Mr. Krick, "If the school is approved, would they have a gym, football field and all of the accommodations of the other schools?"

Mr. Krick answered, "Yes".

Mr. Gasparini stated to the applicant, that the County Development Review Team has submitted their recommendation to the board, and recommends approval to the board with conditions. Mr. Gasparini submitted a copy of the recommendation letter to Mr. Halligan & Mr. Krick to review. Mr. Gasparini stated, that while the applicant is reviewing the recommendation letter, he will have public comment.

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

Ms. Roberta Sanders, stated to the board, that she is in favor of the school. Ms. Sanders asked if the school will have a tennis court, swimming pool, soccer field, performance arts center, and track field?

Mr. Krick stated, that the school will have a football field, track field, tennis court, performance art center and gymnasium; but no swimming pools.

Ms. Laura Bush, District 4 Board of Education, stated to the board, that the school board have been working cooperatively with the County to look for sites South of the Whale Branch. Ms. Bush stated, that the school board would like to have the proposed site approved, so they can move forward.

Mr. Halligan stated, that the school board has no objection to the Beaufort County Development Review Team recommendation with the noted conditions.

**MOTION: Mr. Edgar Williams made a motion with the condition to provide a site plan depicting the required Natural Resource acreage, the open space requirement (the playing areas will count toward the open space), and the applicant shall address all of the comments/requirements set forth by the County Engineer to be provided at final DRT submittal. Mr. Chester Williams seconded the motion.** Mr. Gasparini stated, that this approval will provide a variance around the two-acres of open space, and will give the applicant a special use permit to build the school. Mr. Dinkins stated, that how the recommendation letter is written, this approval would be only for the special use permit, not for the variance around the two-acres of open space. Mr. Gasparini stated, that the board needs to also make a recommendation on the variance. *The board agreed with Mr. Gasparini's statement.* **The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, C. Williams, E. Williams).**

**MOTION: Mr. Edgar Williams made a motion to approve the variance, and work with the County to reduce as much as possible the shortfall of the required open space. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, C. Williams, E. Williams).**

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

*The meeting adjourned at approximately 8:32 p.m.*