

The scheduled meeting of the Beaufort County Zoning Board of Appeals was held on Wednesday, June 27, 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. Kevin Mack

MEMBERS ABSENT

Mr. Phillip LeRoy

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

REVIEW OF MINUTES: Mr. Chester Williams stated, that the draft minutes be revised, 2nd to last page to read (Whale Branch High School – Special Use Permit), “Reduce as much as possible the shortfall of the required open space”.

MOTION: Mr. Chester Williams made a motion to adopt the May minutes with the noted corrections. Mr. Edgar Williams seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, C. Williams, E. Williams; ABSTAINED: Mack).

Mr. Gasparini briefly reviewed the ZBOA rules to the public. Mr. Gasparini limited public comment to three minutes each.

ST. HELENA CELL TOWER (SPECIAL USE PERMIT)

Mr. David Tedder, attorney for the applicant, explained to the board that this is a special use permit request for a cell tower on St. Helena Island. Mr. Tedder stated, that this project has been to the DRT with a favorable recommendation, as submitted with no conditions, other than what’s required by the zoning ordinance. Mr. Tedder stated, that this is a 180-foot tower involving the new standards for the cell tower lighting, which was recently adopted; so this tower will be lighted. Mr. Tedder stated, that the co-location studies are in the file, and they have not received any further request from staff relating to this matter.

Mr. Dinkins asked Mr. Tedder, “How far is this tower from the road?”

Mr. Tedder answered, “Approximately 608 feet”.

Mr. Dinkins asked Mr. Tedder, "Is this cell tower engineered for a fall zone?"

Mr. Tedder answered, "Yes, the letter is in the file".

Mr. Gasparini asked Mr. Tedder, "Is this tower going to be shared?"

Mr. Tedder answered, "Yes, up to four carriers".

Mr. E. Williams asked Mr. Tedder, "Will the safety involving airplanes be affected by this tower?"

Mr. Tedder answered, "No".

Mr. Gasparini stated, that there's a slight amendment to the County's recommendation. The County has a condition that the tower be shown at 180 feet.

Ms. Austin stated, that the antenna goes from 180 – 190 feet.

Mr. Gasparini asked, "Is the board approving a 180-foot tower or a 190-foot tower?"

Ms. Austin answered, "A 180-foot tower, from grade".

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

Mr. Anthony Baxter stated, that he and his wife built a home on their property and looked at the height restrictions, and were encouraged that their view would be natural; they did not think about a cell tower. Mr. Baxter asked the board, "How will this tower affect the value of my property, and what type of benefit would this tower be to the neighborhood?" Mr. Baxter stated, that he doesn't see how this tower would increase the value of his property; but it would cause some type of impact.

Ms. Hanna stated to the board, that cell phones do not work in that area. Ms. Hanna stated, that during the case of emergencies, they are not able to call for help, because of the cell phone issues. Ms. Hanna stated, that she doesn't see how we can ignore the value of a cell phone; because when her cell phone did not work during an emergency, it was a tragic situation.

Mr. Mack stated, that he understand Mr. Baxter's concern about his property value, but on Seaside Road the frequency is very low in that area for cell phone towers, until you get to Hwy 21.

MOTION: Mr. Dinkins made a motion to approve the special use permit at 180' AGL. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Mack, C. Williams, E. Williams).

HAMILTON PLACE (SPECIAL USE PERMIT)

Mr. S. Lee Moore, Carolina Engineering Consultants, explained to the board, that he's requesting a special use permit to place a sewer line through a non-jurisdictional wetland. Mr. Moore stated, that his client is proposing a nine-lot single-family subdivision off of Middle Road on Lady's Island. Mr. Moore stated, that they will turn the wetland back to its natural state, and there will be minimal impact on the wetland.

Mr. Mack asked Mr. Moore, "How much of the wetland are you proposing to tamper with?"

Mr. Moore answered, "It will be roughly 80 feet to the bottom of the wetland".

Mr. Dinkins asked Mr. Moore, "Whose plant is this sewer line running to?"

Mr. Moore answered, "BJWSA".

Mr. Jeff Ackerman stated, that the BJWSA probably would not allow a pumping station for individual lots, because gravity sewer is available.

Ms. Austin stated, that the Development Review Team reviewed the project for conceptual submittal, and the board sent the applicant back to find alternative ways to get the sewer line around the wetland area, in order to minimize the impact on the wetland.

Mr. Bootle, asked Mr. Ackerman, "How long have the developer owned the property?"

Mr. Ackerman answered, "Approximately, 1-1/2 years".

Ms. C. Williams asked Ms. Austin, "What was the result of the Community Impact Study, for the sewer line going through the wetland?"

Ms. Austin stated, "One of the criteria was to show the DRT that they could not get the sewer line anywhere else through the property; and they provided that". Ms. Austin stated, that the DRT placed a condition on this approval that the existing endangered "pond spice" plants that are shown on the conceptual approved plans be relocated to a suitable location, to ensure their survivability for perpetuity. The DRT required the applicant to build a 4' – 6' fence, to protect the rookery and its wetland from human disturbances. The DRT also required the applicant to demonstrate that the non-conformity would have minimal impact on the surrounding areas.

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

Mr. Rackinbush asked the board, "Have they visited the wetland site, where is the ingress and egress to this development for nine homes, and why can't sewer lines be placed there?" Mr. Rackinbush stated, that he would like a thoughtful vote by the board, to refuse the special use request.

Ms. Emily Hughes, stated to the board, that she is concerned about her well-water being contaminated. Ms. Hughes stated, that she would have to pay \$5,025 to hook up to the water and sewer; she is required by BJWSA to be hooked up to the system, and she does not feel she should have to pay. Ms. Hughes asked, "Would the well water be contaminated if something happened to the pipes?"

Mr. David Tedder explained to the board, that Ms. Hughes was misinformed. Mr. Tedder stated, that the reason BJWSA wants gravity, is because it is maintenance free; if you put in a mechanical system you would have to maintain it, and it will be a failure in it. Mr. Tedder stated, that he is in support of this project, because it has minimal impact on the wetland.

Mr. E. Williams asked Mr. Tedder, "If your house is existing and is considered a grandfathered use, you don't have to tie into the sewer line?"

Mr. Tedder stated, that if a landowner has an existing house, and a private developer puts in a sewer line, instead of BJWSA, the landowner would not be penalized; but if the landowner builds a new house, they would be required to tie into the existing sewer systems.

Mr. James Gay stated to the board, that he was misinformed of the wetland issue; he thought they were running the sewer lines through the rookery.

Ms. Austin stated, that she would like to add another condition to the approval, that no construction shall occur between March 1st & August 15th, because of the rookery.

Ms. Linda Bridges stated to the board, that she is on well water, and she's concerned that if there were an overflow, what would happen to the system. Ms. Bridges asked, would it be nine houses only, or would it be more homes added to the property at a later date? Ms. Bridges stated, that she wants to know what would be the impact on her property and the wetlands?

Mr. Bridges stated to the board, that the whole area of the golf course flooded 11 years ago, and if that happens again, would it affect the sewage system?

Mr. Ackerman stated, that by placing the sewer lines in the wetlands, it would not change the hydraulics of the wetlands in anyway.

Mr. E. Williams stated, that he's recommending disapproval, because he does not feel the engineers have met the concerns on the issues regarding the impact of the wetlands.

Mr. C. Williams asked Ms. Austin, "Did the DRT take into consideration the comments made by the property owners?"

Ms. Austin stated, that there were no comments or concerns by the property owners. Ms. Austin stated, that the property was posted, the DRT reviewed the project three or four times, and the neighbors did not express their concerns. Ms. Austin stated, that since the sewer line was contained on the applicant's property, the DRT did not feel that this would affect anyone's property. Ms. Austin stated, that when the applicant comes to the DRT for final approval, all of those concerns will be addressed.

MOTION: Mr. C. Williams made a motion to approve the special use permit including the conditions set forth by the DRT, and there will be no construction between March 1st & August 15th 2007. Mr. Dinkins seconded the motion. The motion passed (FOR: Dinkins, Gasparini, Mack, C. Williams; OPPOSED: Bootle, E. Williams).

Mr. Gasparini called for a recess @ 6:35 p.m.; meeting was called back to order @ 6:45 p.m.

CHERYL CONTE (VARIANCE)

Ms. Conte explained to the board, that she is requesting a variance to repair an existing deck and put a new roof on the house. Ms. Conte stated, that they are proposing to gutter and run the water to the front of the lot, so it won't go towards the marsh.

Mr. Gasparini stated, that his understanding is that the problem is not with the runoff, but it's the roof; the current structure is in the river-buffer, and the proposed addition is going further into the river buffer.

Ms. Conte stated, that she doesn't understand how it's going further into the river buffer.

Mr. Gasparini asked Ms. Conte, "Are you going to build the deck using the exact footprint that you have now?"

Ms. Conte answered, "Yes".

Mr. Gasparini asked Ms. Conte, "You're not going to extend the deck?"

Ms. Conte answered, "No, I'm going to put a roof on it".

Mr. C. Williams stated, "That's not what the submitted plans show". Mr. Williams stated, that one plan is showing the "as built" survey of what exists, and the other plan is what's being proposed.

Mr. Gasparini asked Ms. Conte, "Is the deck going to be extended; yes or no?"

Ms. Conte answered, "One of them are, but not the one with the roof on it".

Mr. C. Williams stated, that the existing deck is pervious; but once you put the roof over it, it is impervious.

Ms. Conte stated, she suggested that they add gutters to the roof and reroute the water, so it's not going into the marsh.

Mr. C. Williams stated, that he's having trouble reviewing the project, because there's no current survey showing the existing buffer line.

Mr. Bootle asked Ms. Austin, "When did the existing 50-foot setback change?"

Ms. Austin answered, "The river-buffer setback changed in 1996".

Mr. Gasparini asked Ms. Conte, "When was your house built?"

Ms. Conte answered, "I think in 1981".

Mr. Gasparini asked Ms. Conte, "How big is the new deck?"

Ms. Conte answered, "The existing deck is 12 x 12, I don't know how big the new deck is". Ms. Conte stated, that the existing deck is a safety hazard, and needs to be replaced.

Ms. Austin stated, that the existing deck could be repaired without a variance, as long as she doesn't extend out.

Mr. Gasparini suggested to Ms. Conte, that the way this proposal is presented to the board, it is difficult to understand, because of the inconsistency. Mr. Gasparini stated, that if the applicant chooses to ask for a postponement or a withdrawal and get the case organized to make it clear to the board, then the board would look at the case again. Mr. Gasparini stated to the board, that this is Ms. Conte's choice to make, because at this point it is difficult to understand.

Ms. Conte stated, that if she withdraws her case, would she have to start over and send out 33 more notices to the property owners?

Mr. Gasparini answered, "Yes; the board would give you a continuance until you decide to come back". Mr. Gasparini stated, that when the applicant comes back to the board, she is required to have the plans clear. Mr. Gasparini also asked the applicant to take pictures of any decks in her neighborhood that is going closer to the 50-foot OCRM critical line.

Mr. C. Williams stated, that it would help him a lot if the survey shows the delineated buffer areas.

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

Mr. Mike Passanite stated, that he is there on behalf of Ms. Conte. Mr. Passanite stated, that the contractor came three times to the Zoning Department/Building Codes Department to secure a building permit; she wanted to replace the deck to make it safe, and to use a roof to finish it, so that her 81 year old mother could utilize the porch with her. Mr. Passanite stated, he doesn't understand why she's not given the opportunity to have the repairs done on the existing deck that's in disrepair.

Mr. Gasparini stated, that the deck could be repaired through a building permit without a variance; but if Ms. Conte wants to extend the deck closer to the OCRM critical line, a variance would be needed.

MOTION: Mr. Gasparini made a motion to grant the continuance until the notices have been appropriately given, and the case has been resubmitted, with the noted suggestions. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Mack, C. Williams, E. Williams).

JOHN ROBINSON, JR (VARIANCE)

Mr. David Tedder, attorney for the applicant, stated to the board, that there's confusion regarding one notice; the name should have been transferred out of the County's records. Mr. Tedder stated, that he asks that the board continue this case until he provides notice to that 29th person.

Mr. Gasparini stated, that the applicant shall resend all of the notices to the property owners.

MOTION: Mr. Edgar Williams made a motion to grant the continuance until the notices have been appropriately given. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Mack, C. Williams, E. Williams).

RICHARD FORSCHNER (VARIANCE)

Mr. Forschner stated to the board, that he is seeking a variance, because the property is unusually pie-shaped; it has a 50-foot OCRM setback on two sides of the property. Mr. Forschner stated, that he originally requested a variance from the Development Review Team; they said they needed a letter from Dhec stating that there's no other place that the septic tank could go. The DRT was also concerned about a 30" live oak tree, so they wanted them to move the house in order to save the tree.

Mr. Dinkins asked Mr. Forschner, "How long have you owned the lot?"

Mr. Forschner answered, "One year".

Mr. Gasparini asked Mr. Forschner, "Are you here regarding the size of your house?"

Mr. Forschner answered, "Yes". Mr. Forschner stated, that he is asking to build his house 30 feet from the critical line on the rear side of the property, and on the left side of the property he is asking to build 25 feet from the OCRM critical line.

Mr. Mack asked Mr. Forschner, "What is the proposed square footage of the house?"

Mr. Forschner answered, "The total square footage, including the deck and garage is 3,134 sq.ft.

Mr. Gasparini asked Mr. Forschner, "What is the problem with the septic tank?"

Mr. Forschner answered, "The septic tank needs to be 100 feet from the OCRM critical line".

Mr. Gasparini stated, that the applicant has an option to request a continuance in order to go to Dhec to have them relocate the septic tank, revise the site plan to relocate the house, and then come back to the ZBOA; or the board would conditionally approve the variance with the condition that Dhec agrees with the ZBOA regarding the location of the septic system. Mr. Gasparini stated, that if Dhec does not agree with the location, then the applicant have to come back to the board.

Mr. Dinkins asked Mr. Forschner, "Did Dhec go back to the site to take another look at the septic tank location?"

Mr. Forschner answered, "No, they just looked at the original paperwork".

Mr. Gasparini stated, that he proposes to grant a variance with the condition that Dhec agrees to put the septic system where the board would like it to go. If Dhec agrees, the variance is approved, but if they disagree the applicant has to come back, so the board can review the variance request once more.

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

MOTION: Mr. Chester Williams made a motion to approve the variance, with the condition that the drain field be located as close as possible to the northeast corner of the lot, and that the house be as close as possible to the eastern setback on the lot, and as far north on the lot as possible; if the drain field cannot be moved, the applicant shall go back to the Development Review Team for approval. The drain field shall be as small as possible, and the house size is approved as requested. Mr. Edgar Williams seconded the motion. The

motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Mack, C. Williams, E. Williams).

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

The meeting adjourned at approximately 7:41 p.m.