

The scheduled meeting of the Beaufort County Zoning Board of Appeals was held on Wednesday, October 24, 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. Claude Dinkins

Mr. Bill Bootle
Mr. Phillip LeRoy

MEMBERS ABSENT

Mr. Kevin Mack
Mr. Chester Williams

STAFF PRESENT

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

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:11 p.m.

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

REVIEW OF AGENDA: Mr. Gasparini stated, that the applicant withdrew his application for items 5 & 6; items 7 & 8 is rescheduled for next month, due to improper notices.

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

REVIEW OF MINUTES:

MOTION: Mr. Bootle made a motion to adopt the September minutes as submitted. Mr. LeRoy seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, LeRoy; ABSTAINED: E. Williams).

Mr. Gasparini stated, that public comment is not appropriate on an appeal, and he proposes that there be no public comment on this appeal. The board unanimously agreed not to have public comment on appeals.

DOLPHIN MANAGEMENT (ADMINISTRATIVE APPEAL)

Mr. Greg Alford, representative for Dolphin Management stated to the board, that his client subdivided his property into two pieces of property, where no new streets were involved, under the five-acre exception. Mr. Alford stated, that the plat was stamped under 106-8 (1)(B) stating, that the creation of the lots was exempt from having to obtain a subdivision approval. Mr. Alford stated, that his client came back to the County to create four more lots, and was told that he would have to go through certain review processes, and he had to pave portions of Church Road.

Mr. LeRoy asked Mr. Alford, "How long ago was the first subdivision?"

Mr. Alford answered, "The stamped approval on the plat was May 29, 2007".

Mr. Dinkins asked Mr. Alford, "Is any roads paved out there now?"

Mr. Alford answered, "No". Mr. Alford stated, that the first appeal is the correct determination of whether this subdivision is the first subdivision on this property. He believes that staff is incorrect in this interpretation, according to the zoning ordinance. Mr. Alford stated, that since staff determined that this subdivision is the second one, they shall be required to pave the road.

Mr. Gasparini stated, that the zoning ordinance says that minor subdivisions are exempt from the Development Review Team's review and site capacity analysis, provided the subject property have not been previously subdivided within five years. It just says it's exempt from review, it doesn't add additional requirements in there, does it?

Mr. Alford answered, "It did in this case". Mr. Alford stated, that they were subjected to the Development Review Team's review and site analysis, and as a result of those requirements, the requirement for paving was initiated.

Ms. Austin stated, that under Section 106-8 (2) & (5), it was determined that this property was previously subdivided, and had to go before the Development Review Team for review. Proposed minor subdivisions that does not meet the requirements of this section, or are not consistent with environmental or public safety standards shall require consideration and approval by the Development Review Team, and subject to all standards required in provision 2 of article 12 of this chapter of the zoning ordinance.

Mr. Bootle asked Ms. Austin, "Were they aware of this when they subdivided the property the first time?"

Ms. Austin answered, "I don't know".

Mr. Gasparini asked Ms. Austin, "Is this a county road?"

Ms. Austin answered, "Yes, it's a county maintained road".

Mr. LeRoy asked Ms. Austin, "Does the developer have to put money into the escrow account for the entire road, or for a proportionate part of the road?"

Ms. Austin stated, that Mr. Klink has to answer that question.

Mr. Gasparini stated, that he would like to see what the state has to say about the five-year rule.

Mr. LeRoy asked Ms. Austin, "Is this issue regarding the paving of the road the only burden on the applicant, or will they have to come up with tree surveys, etc?"

Ms. Austin answered, "They would have to come up with tree surveys, 10% open space, resource protection, and covenants & restrictions". Ms. Austin stated, that the applicant would have to maintain the 400-foot separation for each driveway.

Mr. Bill Scott stated, that the statement Ms. Austin made is not true. Mr. Scott stated, that they have 400 feet of frontage.

Ms. Austin stated, that they have 100 foot of frontage on each lot. The ordinance states, that they have to have a 400-foot separation for each driveway.

Mr. Dinkins asked Ms. Austin, "How soon can the gaps in the ordinance be cleared up?"

Ms. Austin answered, "I'm not sure, I would have to talk to the Planning Department about that".

Mr. Gasparini asked Ms. Austin, "If the board upheld the administrative interpretation, could the applicant ask for a variance against the road issue?"

Ms. Austin answered, "Yes, they could".

Mr. Gasparini called a recess @ 6:29 p.m.; meeting back to order @ 6:33 p.m.

Mr. Alford stated, that if it wasn't for the paving or escrow requirement, the other requirements would not matter; there's two phases to this appeal, one is the subdivision interpretation, and the other is the requirement of paving the road and escrow.

Ms. Austin stated, that this is not a variance request, and the requirement to pave the road and escrow was a Development Review Team's decision, not a Zoning Administrator's decision. If the applicant wants to appeal the Development Review Team's decision, he must go to the Planning Commission.

Mr. Gasparini stated, that he is concerned about changing the definitions or clarifying it in such a way that it appears to be a loop hole against going through the county's planning process. Mr. Gasparini stated, that he's incline to uphold the determination of the ZDA, and at the same time urge the applicant to seek relief against any of the requirements of the code.

Ms. Austin stated, that because of what the applicant is asking, the board has to make a decision of whether or not the Zoning Administrator erred, or uphold the Zoning Administrator's decision.

Mr. Gasparini stated, that the board could table this appeal, seek advice from the staff attorney, and determine alternatives for this applicant.

Mr. Alford stated, that he would like to request, that the board table this appeal in advance, in order to explore other alternatives regarding this project.

MOTION: Mr. Dinkins made a motion to table the appeal in advance for six months or unless the applicant chooses to come back to the board sooner for a decision at a regularly scheduled meeting. The applicant shall retain all rights with regards to time limits for an appeal, or until the board take further action, or until the appeal is withdrawn. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, E. Williams)

OLD BUSINESS

RULES & PROCEDURES

Mr. Gasparini stated, that since there were no comments concerning changes to the "Rules of Procedures", this item will be discussed at the next scheduled meeting.

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

The meeting adjourned at approximately 6:49 p.m.