

The scheduled meeting of the Beaufort County Zoning Board of Appeals was held on Wednesday, December 12, 2007, in Council Chambers, Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. Phillip LeRoy
Mr. Edgar Williams, Vice Chairman

Mr. Bill Bootle
Mr. Kevin Mack

MEMBERS ABSENT

Mr. Claude Dinkins
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.

PLEDGE OF ALLEGIANCE: Mr. Gasparini led those assembled in the Pledge of Allegiance.

REVIEW OF AGENDA: Mr. Gasparini stated, that item # 10 & 11 (Steven Bilton's Dock Variance) shall be moved to item # 5 & 6.

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

REVIEW OF MINUTES:

MOTION: Mr. LeRoy made a motion to adopt the October 24th minutes as submitted. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Gasparini, LeRoy, E. Williams; ABSTAINED: Mack).

MOTION: Mr. Bootle made a motion to adopt the November 14th minutes as submitted. Mr. LeRoy seconded the motion. The motion passed (FOR: Bootle, Gasparini, LeRoy, Mack; ABSTAINED: E. Williams).

STEVEN BILTON (DOCK VARIANCE)

Mr. David Gasque, representative for the applicant, explained to the board that the applicant is requesting a variance for an extension of a dock to exceed the 300-foot dock length requirement. Mr. Gasque stated, that the applicant needs 496 feet to get to the water.

Mr. Steve Bilton stated, that when he first purchased the property, he was not having any health problems, and he told the realtor his plan to build a small house, and apply for a dock permit. His realtor did not have a problem with his plans at that time. Mr. Bilton stated, that he had to have his hip replaced, and it's approximately 6 miles to the nearest boat landing, which is Paige Point. Since it's a steep incline,

it's hard to get in and out of the boat; so this private dock would be very helpful to him. Mr. Bilton asked the board, to please consider his handicap, as well as the purpose to purchase this property on the water.

Mr. Mack asked Mr. Bilton, "How long have you owned the property?"

Mr. Bilton answered, "I closed on the property in 2003, so approximately 4 years".

Mr. Mack asked Mr. Bilton, "Have you built on the property yet?"

Mr. Bilton answered, "No, I've been working on the land itself; there's a camper, well and septic tank on the property".

Mr. Bootle asked Mr. Bilton, "Who told you that you could exceed the 300 foot dock length requirement?"

Mr. Bilton stated, that he really did not know about the dock length limitation.

Mr. E. Williams asked Mr. Bilton, "What kind of hardship would you have if you stay at the 300 foot limitation for the dock?"

Mr. Bilton stated, that he doesn't think he could reach the water with a 300 foot limitation, because there's marsh in front of the property.

Mr. E. Williams asked Mr. Bilton, "Was the realtor aware of the restrictions of the dock?"

Mr. Bilton answered, "I don't know".

Mr. E. Williams asked Mr. Bilton, "Did you consult with the county before purchasing this property?"

Mr. Bilton answered, "No".

Ms. Austin stated, that the county staff recommends disapproval. Ms. Austin stated, that the applicant used health problems as his hardship, but the hardship has to be on the land, not on health problems. Ms. Austin stated, that the applicant has an option to do a shared dock, or use the public boat landing.

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

Ms. Sally Murphy stated to the board, that her property is four lots south of Mr. Bilton's property. Ms. Murphy stated, that the dock variance is based on a hardship, but there's no economic hardship for someone that could afford a 500-foot dock. Ms. Murphy stated, that his only hardship is that he has to drive further down the road to use the public boat ramp, but that is what everyone else has to do. Ms. Murphy stated, that the creek is narrow at low tide, and there are no docks on that part of the creek. Ms. Murphy asked the board to deny the variance request.

Mr. Reed Armstrong, Coastal Conservation League stated to the board, that Mr. Bilton purchased this property after the dock ordinance was adopted. Mr. Armstrong stated, that if this dock were approved, other property owners would also argue the same point. Mr. Armstrong asked the board to deny the variance request, because by granting this dock variance, it would set a dangerous precedence.

Ms. Wendy Zara stated to the board, that she attended almost every meeting concerning the dock ordinance. Ms. Zara stated, that when laws like the dock ordinance are passed, it has to be a scientific reason for the creation of the rules. Ms. Zara stated, that anything that is waterside of the critical line is public trust land; it belongs and benefits all of us. Ms. Zara asked the board not to grant the variance, because it would set a bad precedence.

Mr. Collin stated to the board, that he does not see a hardship for the variance request, and since the applicant has health problems, he should not be messing around with a dock by himself. Mr. Collin

stated, that he would be willing to help Mr. Bilton with his boat at the public boat landing, and he would like the board to deny the variance.

Ms. Cahill stated to the board, that she is sorry for Mr. Bilton's hardship, and she lives next door to his property. Ms. Cahill stated, that she thinks that Mr. Bilton was unaware of the hardship that he would cause on the creek. His dock would be too far out in the creek, and he would only be able to use the dock two hours per day; she is opposed to this variance request.

Ms. Burnet stated to the board, that this creek is different from any other creeks in Beaufort County, because of the previously legal binding agreement that the Northern Beaufort County Committee has with Bull Point Subdivision. The agreement stated, that there will be no docks extending out into the creeks; only short crabbing docks were permitted. Ms. Burnet stated, that as soon as one dock goes out on the marsh, there would be numerous other requests for a dock to go on the creek. Ms. Burnet asked the board, to deny this variance request.

Mr. Price stated to the board, that he lives two lots north of Mr. Bilton's lot. Mr. Price stated, that he sold Mr. Bilton the property, and he told Mr. Bilton he could apply for a dock permit. Mr. Price stated, that he doesn't think that one or two docks would be bad for the creek; but his real objection is for every lot to have docks extending to the creek. Mr. Price stated, that he is not speaking for or against the dock, and he sees where both sides are coming from.

Mr. Gasparini stated, that the public comment portion of this hearing is closed.

MOTION: Mr. Edgar Williams made a motion to deny the dock variance, because the requirements for a variance were not met, because the hardship relates to the applicant's personal circumstances, not the property. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Gasparini, LeRoy, Mack, E. Williams).

BRIAN & AMY SMITH (SETBACK VARIANCE)

Mr. Brian Smith stated to the board, that he purchased the house approximately six years ago, and it's considered a small lot; his house has been added on to numerous times. Mr. Smith stated, that he is asking for a variance to demolish the driveway and carport, and erect a detached garage that would be closer to the street, and closer to the neighbor's yard.

Mr. Mack asked Mr. Smith, "How would you be getting into this proposed garage?"

Mr. Smith stated, that the concrete driveway would be removed, and everything else would be a pervious structure. He would pull directly into the garage from the road.

Mr. Mack asked Mr. Smith, "Would it be more logical to push the proposed garage more to the right?"

Mr. Smith stated, that it would be possible, but they are using the rest of the property for the drain field.

Mr. Gasparini asked Mr. Smith, "Do you have the plans for the remodeling of your house?"

Mr. Smith answered, "No".

Mr. Gasparini stated, that he wants to make sure that the applicant would not need a variance for the remodeling of the house.

Ms. Austin stated, that the applicant already received a variance for the addition on the rear of his house. Ms. Austin stated, that the All Joy CP District, approved a setback of 20' from the front property line. The covenants & restrictions for this subdivision states, that no building shall be located closer than 20' from the property line; the applicant's application is showing a 7' front setback line, and that intends to be a safety issue. Ms. Austin stated, that the ordinance has regulations to take into account these situations,

and there is no way to park the cars. The garage is going to create a more non-conforming situation if the applicant remove the carport and erect a garage. The county recommends disapproval, because it is a safety hazard, and she cannot go against the existing covenants and restrictions.

Mr. Gasparini asked Ms. Austin, "Who holds the rights to the covenants and restrictions?"

Ms. Austin stated, that the subdivision doesn't have a homeowners association; the covenants and restrictions run with the property.

Mr. LeRoy stated, that the applicant should not be held accountable if there's no Property Owner's Association governing the covenants & restrictions.

Mr. Gasparini called for public comment; there was no public comment for this variance request.

MOTION: Mr. LeRoy made a motion to approve the variance as requested, on the basis that the covenants & restrictions on the existing setbacks has not been enforced in the past. If the board require the applicant to abide by the covenants and restrictions, it would create a hardship on the applicant that has not been opposed to others; and to ask for the garage to be reduced would not improve what is being proposed, and would decrease the pervious surface, by removing the concrete driveway. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Gasparini, LeRoy; OPPOSED: Mack, E. Williams).

TOM & MELINDA LATENDRESSE (RIVER-BUFFER VARIANCE)

Mrs. Melinda Latendresse explained to the board, that she is requesting a variance to enclose an existing deck by making it into a screened porch.

Mr. Gasparini asked Mrs. Latendresse, "Does the deck have an existing roof?"

Mrs. Latendresse answered, "No".

Mr. Gasparini asked Mrs. Latendresse, "Do you have intentions to expand the area of the deck?"

Mrs. Latendresse answered, "No".

Mr. Gasparini asked Mrs. Latendresse, "Is this deck pervious?"

Mrs. Latendresse answered, "Yes".

Mr. Gasparini called for public comment; there was no public comment for this variance request.

Ms. Austin stated, that the county recommends approval, with the condition to trap the water 50' from the OCRM critical line.

MOTION: Mr. Mack made a motion to approve the variance, with the condition that the applicant diverts the runoff to the 50' OCRM critical line. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Gasparini, LeRoy, Mack, E. Williams).

ROBERT & JANET GOULD (RIVER-BUFFER WAIVER)

Mr. Robert Gould explained to the board, that he is requesting a variance to enclose an unroofed existing deck, and relocate the existing stairs toward the front of the house, which is within the 50' OCRM critical line buffer.

Mrs. Janet Gould stated, that the measurements on the site plan are slightly incorrect.

Ms. Austin stated, that the county recommends disapproval, because of the incorrect site plan.

Mr. Gasparini called a brief recess at 6:40 p.m.; the meeting was called back to order @ 6:45 p.m.

MOTION: Mr. LeRoy made a motion to approve the variance, with the condition that the applicant diverts the runoff to the 50' OCRM critical line. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Gasparini, LeRoy, Mack, E. Williams).

DOLPHIN MANAGEMENT, INC. (SUGAR FOOT S/D VARIANCE)

Mr. Alford, representative for the applicant explained to the board, that he is requesting a variance from the requirement of spot paving the road, without saying if the subdivision is considered a minor or major subdivision.

Ms. Austin stated, that the ordinance requires major subdivisions to pave the roads. Ms. Austin stated, that the ordinance states that, "All improvements required by this chapter shall either be built or completed prior to the issuance of the Certificate of Compliance, or the recordation of the plat". If the applicant wants to record a plat, the applicant is required to submit a bond for the paving of the road. Ms. Austin stated, that the county recommends disapproval of this variance request.

Mr. LeRoy asked Ms. Austin, "How does the 400' separation reflect this subdivision?"

Ms. Austin answered, "The 400' separation is still implemented in this subdivision".

Mr. LeRoy asked Ms. Austin, "Is the required paving, putting in an asphalt surface on an existing surface?"

Ms. Austin answered, "They would have to pave the road, as required by the ordinance".

MOTION: Mr. LeRoy made a motion to approve the variance, to waive the requirement to pave the road or pay into the escrow account for Church Road. The applicant has to adhere to all of the other subdivision requirements. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Gasparini, LeRoy; OPPOSED: Mack, E. Williams).

OLD BUSINESS (RULES & PROCEDURES)

Mr. Gasparini stated, that he distributed a copy of the rough draft of the procedures, and he would like the board to review them, and get back to him with their comments. Mr. Gasparini asked Ms. Austin to get someone from her staff to put the rough draft in order, and distribute it back to the board members.

NEW BUSINESS (2008 YEARLY SCHEDULE)

Mr. Gasparini stated, that he spoke with Westin Newton (Chairman of County Council), and Skeet Van Harton (Chairman of the Land Management Committee) regarding seeking a waiver from Mr. Chester Williams being excused from his duties for missing more than three consecutive meetings. Mr. Gasparini stated, that he feels that there will be a favorable approval with the Land Management Committee. Mr. Gasparini stated, that moving the meetings from Wednesdays to Thursdays, would solve Mr. Chester Williams conflict problems. Mr. Gasparini stated, that he nor Mr. Dinkins has a problem with moving the meeting days to Thursdays.

MOTION: Mr. Edgar Williams made a motion to approve the 2008 yearly schedule, which would change the meeting days from Wednesdays to Thursdays of each month. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Gasparini, LeRoy, Mack, E. Williams).

ADJOURNMENT

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

The meeting adjourned at approximately 7:27 p.m.