

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, August 28, 2008, in the Executive Conference Room, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

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

Mr. Bill Bootle
Mr. Claude Dinkins
Mr. Phillip LeRoy

MEMBERS ABSENT

None

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mrs. Tamekia Judge, Zoning Analyst I

CALL TO ORDER: Mr. E. Williams called the meeting to order at 5:07 p.m.

PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE: Mr. E. Williams led those assembled in the Pledge of Allegiance, and a moment of silence in honor of our country's military service members.

REVIEW OF AGENDA:

MOTION: Mr. Dinkins made a motion to adopt the agenda as submitted. Mr. LeRoy seconded the motion. Mr. C. Williams moved to amend the motion, based on the letter submitted by Mr. Deeb, the attorney for Mayriver L.P, that item # 15 & 16 be removed from the agenda, since the application has been withdrawn. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

Mr. C. Williams stated, that the board has received a substantial amount of additional information from Mr. Nester, that they did not have a chance to review before the case came before the board. Mr. C. Williams asked Mr. Nester, "Do you have any objection to continue item # 7 & 8, David Cappellari's variance request until next month, in order to give the board a chance to review the information?"

Mr. Nester, McNair Law Firm stated, that in accordance with Mr. Chester Williams request, he agrees to come back to the meeting next month.

MOTION: Mr. C. Williams moved to further amend the motion to remove item #7 & 8 off of the agenda, and place it on next months agenda. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

REVIEW OF MINUTES:

Mr. E. Williams stated, that due to the illness of Mrs. Glover, the minutes for the July 24th, 2008 meeting is not available at this time.

Ms. Austin asked the board, to have a special meeting to adopt the July 24th, 2008 minutes, so that the orders can be written and approved.

MOTION: Mr. LeRoy made a motion to schedule a special meeting, with the date to be determined, in order to adopt the July 24th, 2008 minutes. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

Mr. Gasparini arrived to the meeting at approximately 5:12 p.m. Mr. Gasparini explained to the applicants and members of the public present at the meeting, that the applicant has ten minutes to present his/her case to the board; the time limit for public comment is 3 minutes each, and is limited to variances and special use permits.

THOMAS & PAMELA BARBER, III (SETBACK VARIANCE)

Mr. Thomas Barber stated, that his property is located on two roads, and the setbacks are 25 feet off both of the roads. Mr. Barber stated, that once you take 25 feet off each side, it eats up most of his property, and it makes him push his mobile home further into the marsh. Mr. Barber stated, that he is requesting a variance off the roads, in order to move the mobile home forward to high ground and further away from the drain field and critical areas.

Mr. Bootle asked Mr. Barber, "Where will your driveway be located?"

Mr. Barber stated, that he did not decide the location of the driveway yet, because it's not that much room on the property.

Ms. Austin stated, that she recommends approval of this variance request.

Mr. C. Williams stated, that based on staff's recommendation, it appears that there are extraordinary & exceptional conditions pertaining to this property; because of the shape and the street setback on two sides of the triangle, and the OCRM setback on the third side of the triangle that severely restricts the building envelope available on the property. These conditions does not generally apply to other properties in the vicinity, and that strict imposition of the conditions of the code, would result in effectively prohibiting or unreasonably restricting the utilization of the property. If the board does

grant the variance, it's the minimum that's necessary, in order to be able to applicably use the property.

There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Gasparini called for public comment.

Mr. Alvin Lanier stated to the board, that he owns two lots on Larry's Road, and he has no objection to this variance request.

There being no further public comment, Mr. Gasparini closed the public comment portion of the hearing.

MOTION: Mr. Edgar Williams made a motion to approve the variance as submitted. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).

CLIFFTON WAYNE BENTON (RIVER-BUFFER VARIANCE)

Mr. Benton stated, that he's adding a garage shop to his property. Mr. Benton stated, that the reason the structure is situated within the river-buffer, is because he doesn't want to remove any trees off of the property. Mr. Benton stated, that he has a shop underneath the house, and his insurance company asked him to remove everything from underneath the house.

Mr. C. Williams asked Mr. Benton, "How wide is the existing shed?"

Mr. Benton answered, "10 x 20".

Mr. C. Williams stated, that the applicant is requesting to place a structure on the property, that's five times as wide as the existing shed.

Mr. Benton stated, that he has four automobiles, two boats, and several vehicles that makes the property an eyesore.

Mr. C. Williams asked Mr. Benton, "What are the extraordinary and exceptional conditions, as it relates to the topography of the property?"

Mr. Benton stated, that the drain field would not allow him to move forward with the building; he has to have a turning radius in front of the building. Mr. Benton stated, that the only place to put the structure, is within the river buffer. Mr. Benton stated, that he has already shortened the building from the first set of plans he had.

Mr. C. Williams asked Mr. Benton, "Have you had an opportunity to discuss with Ms. Austin her concerns about you're proposed building?"

Mr. Benton answered, "Some, not much".

Mr. C. Williams stated, that the staff recommendation states, that even if the applicant did receive a variance from the board, he still wouldn't be able to place the structure at that location, because it violates other provisions of the code.

Mr. Benton stated, that he was not aware of that.

Mr. C. Williams stated, that the provisions have to do with other freestanding accessory structures.

Mr. Bootle stated, that the structure is 900 square feet too big.

Mr. Benton stated, that the county informed him, that based on the square footage of his existing house; the square footage for the structure would not be too big.

Mr. C. Williams stated, that when this application was before the board approximately two or three months ago, the staff recommendation was the same as it is right now.

Ms. Austin stated, that the applicant did not count the second floor of the structure.

Mr. C. Williams asked Mr. Benton, "Is it a two-story structure?"

Mr. Benton answered, "It's actually a three-store structure".

Mr. C. Williams asked Mr. Benton, "Why can't the structure go behind the house?"

Mr. Benton stated, that it's well behind the house and that's between his property and the neighbor's property; the neighbor's house is right on the property line.

Mr. C. Williams asked Mr. Benton, "Why can't the structure go in the area adjacent to the drain field?"

Mr. Benton stated, that there are trees on the property, and he wishes that the plat had shown all of the trees on the property.

Mr. C. Williams stated, that based on the picture of the property, it seems that it's quite a bit of space where there are no trees.

Mr. Benton stated, that it wouldn't fit in that space, because of the drain field; the picture does not show the drain field as it's shown on the plat, and even if he moves the structure to that area, it would still be in the river-buffer area.

Mr. C. Williams stated, that it appears to be more than 30 feet of depth between the drain fields and the river-buffer area.

Mr. Benton stated, that he still doesn't have enough space, because you have to have enough room to get into the building.

Mr. LeRoy asked Mr. Benton, "How long have you lived on the property?"

Mr. Benton answered, "I believe since 1992". Mr. Benton stated, that he originally planned to build a big garage, but could not afford it.

Ms. Austin stated, that Section 106-1436 of the zoning ordinance states, that freestanding structures can only be 30 percent of the residence, which works out to be 1,698 square feet; the proposed structure is 2,576 square feet, not counting the first floor. Ms. Austin stated, that the first floor is 28 x 46 by itself, and she calculated the second floor as the same square footage as the first floor. Ms. Austin stated, that if the board approves the size, the applicant can turn the structure to get it out of the critical line. Ms. Austin stated, that staff recommends disapproval, because there's no hardship, as it relates to the land.

Mr. Benton stated, that he would like to clarify that his house is three levels, not the garage.

Mr. Gasparini stated, that maybe the problem could be solved, if the structure was reduced.

There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Gasparini called for public comment; there was no public comment for this variance request.

Mr. C. Williams stated, that based on the information submitted to the board, there's no hardship, because the structure could fit behind the river-buffer area, or behind the house where the driveway comes in.

MOTION: Mr. Chester Williams made a motion that the variance application be denied, because it does not meet the criteria of a hardship, set forth in section 106-522 of the Beaufort County Zoning & Development Ordinance. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).

DALE GROCERY STORE – JOE ALBANY (VARIANCE/SPECIAL USE AMEND)

Mr. Rufus Williams, representative for the applicant explained to the board, that he's appearing before the board on behalf of Joe Louis Albany, as it relates to the construction of his new building. Mr. Williams stated, that Mr. Albany received approval from the Zoning Board of Appeals in 2005 for a special use permit, and in November 2005 he received a development permit to construct his building. Mr. Williams stated, that he's requesting a variance from the board, to reduce the amount of landscaping which eliminates planting an excessive amount of trees; if Mr. Albany has to plant the

excessive amount of trees, it would create a hardship to his business. Mr. Williams stated, that if the variance were not granted, the establishment would be easily assessed by thieves; therefore by granting Mr. Albany the variance, it would not cause an impact to the adjacent property, nor to the public. Mr. Williams stated, that the citizens of the Dale Community, respectively request that the board grant Mr. Albany the requested variance, the community strongly supports Mr. Albany as evidence of their presence at the meeting.

Mr. Bootle asked Mr. Albany, "What changed since the permit was issued in 2005?"

Mr. Rufus Williams stated, that the Development Review Team had the applicant planting approximately 200 trees, and the area where the store is located, the community does not want that excessive amount of trees.

Mr. Gasparini stated, that as he looks back at his notes, the board approved the special use request for the store consistent with the Zoning & Development Standards Ordinance; he's sure that the conversation included whatever planting were required by the Zoning & Development Standards Ordinance.

Mr. LeRoy asked Mr. Albany, "Did anything change from the time the special use permit was approved?"

Mr. Albany stated, that the engineer that drew up the plans, did not show him all of the trees that were to be planted. Mr. Albany stated, that when he went back to the engineer, he already left town, and went up north.

Mr. LeRoy asked Mr. Albany, "Are there any other reasons for the reduction of trees, other than the need for more security?"

Mr. Albany answered, "Yes".

Ms. Austin stated, that when the project came before the Development Review Team, they realized that the property had no trees. Ms. Austin stated, that the ordinance addresses buffer yards with limited or no vegetation, and the reforestation of the buffer yards, per section 106-1680 (3)(d) & (e) of the Zoning & Development Standards Ordinance. Ms. Austin stated, that based on the acres from each one of the buffers, those were the numbers the Development Review Team came up with. Ms. Austin stated, that she understands the problem with the security, but what the applicant is proposing, is not enough to reforest the buffer.

There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Gasparini called for public comment; there was no public comment for this variance request.

Ms. Austin stated, that if the variance were approved, the board would have to amend the special use permit to reduce the amount of landscaping, through section 106-552 of

the Beaufort County Zoning & Development Standards Ordinance. Ms. Austin recommended to the board, the applicant should meet with her, and they both come to an agreement to plant a little bit more trees than what's proposed.

Mr. Gasparini stated, that he agrees with Ms. Austin, and suggests that the board defer this case until next month until Mr. Albany meet with Ms. Austin to come up with an agreement regarding the nature about the type of trees and amount of trees that's suitable for this type of development.

Mr. C. Williams asked Mr. Albany, "When you received your original approval, you did not realize the full extent of what would be required under the landscaping plans?"

Mr. Albany answered, "That's correct".

Mr. C. Williams stated, that since the board will be having a special meeting for the adoption of the minutes, this item could also be placed on that agenda.

Mr. Gasparini stated, that he agrees with placing this item on the special meeting agenda.

MOTION: Mr. Edgar Williams made a motion to postpone this variance request until the next meeting, in order to determine if there are enough trees on site, and to consider a variance at that time. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, C. Williams, and E. Williams).

Mr. Gasparini called for a brief recess @ 6:08 p.m. The meeting was called back to order @ 6:15 p.m.

DERMATOLOGY ASSOCIATES – EARL DUPRIEST, IV (VARIANCE)

Mr. Earl DuPriest, IV, Carolina Engineering explained to the board, that he represents Dermatology Associates, Inc. Mr. DuPriest stated, that the applicant's property is strictly restrained; it's between the intersection of Hwy 802 and Meridian Road. Mr. DuPriest stated, that the county requires a 100-foot river-buffer setback, and they're not allowed to pave or build within the river-buffer setback; the setback literally cuts his property in half. Mr. DuPriest stated, that the applicant is currently operating a business; the business has grown and expanded. The applicant has too many patients for this facility; the applicant can't provide proper parking or accommodate his patients like he should. Mr. DuPriest stated, that 44 percent of his land is consumed by the setback. Mr. DuPriest stated, that he is requesting that the 100-foot setback be reduced to 50-feet from the OCRM critical line. Mr. DuPriest stated, that the other hardship is that the applicant has buffers on both sides of the property; a 50-foot buffer on the east and a 20-foot buffer on the west. The buffers and setbacks combined reduces the property by 65 percent; the applicant can only use 35 percent of his property.

Mr. Bootle stated, that the submittal mentioned a grinder and a crush system. Mr. Bootle asked Mr. DuPriest, "Where will the grinder and crush station be located?"

Mr. DuPriest stated, that the grinder and crush station will be in place instead of the septic system, and he doesn't know where it will be located on site.

Mr. Bootle asked Mr. DuPriest, "Will it be located in the parking lot?"

Mr. DuPriest answered, "No".

Mr. Gasparini asked Mr. DuPriest, "Are you planning to place something else in the buffer area?"

Mr. DuPriest answered, "No".

Mr. LeRoy asked Mr. DuPriest, "Does the applicant have a title to the salt pond?"

Mr. DuPriest answered, "No".

Mr. Gasparini asked Mr. DuPriest, "Is the marsh attached to the Battery Creek marsh?"

Ms. DuPriest stated, that it's tidal influenced, and it goes under the road.

Ms. Austin stated, that her recommendation is, that the applicant meets with the Corridor Review Board Planner in order to look at other footprints, to get a different square footage and different shape of the building, in order to reduce the parking, and to move further away from the critical line. Ms. Austin stated, that she doesn't know where the grinder and crush station is going, because there's no other place on the property to place it, other than the buffer area.

Mr. C. Williams asked Ms. Austin, "Would it be a better idea to consider the number of parking spaces?"

Ms. Austin stated, that the applicant would not need a variance to reduce the parking spaces; the Development Review Team could modulate the parking. Ms. Austin stated, that the parking requirement is 4.5 parking spaces per 1,000 square foot of building, because the use is a medical office.

Mr. C. Williams asked Ms. Austin, "Are you saying if a variance is granted, it may not be the minimal variance that's necessary in order to adequately utilize the property?"

Ms. Austin answered, "Yes".

There being no further comments from the applicant or the County and no further questions from the Board, Mr. Gasparini called for public comment.

Ms. Frances Grant stated to the board, that she is the heir to the property next door to this swamp, which is Isaac Washington's property. Ms. Grant stated, that she called the Zoning office last week, and was told that the applicant was trying to cut down trees to put a parking lot on the property.

Mr. Gasparini explained to Ms. Grant, that the applicant will not be cutting trees on her property; the applicant is proposing to build a larger two-story building where the existing wooden building is already located, and in order to put the size of building and parking on the property, he has to get approval to be closer to the swamp than what the ordinance requires.

There being no further public comments, Mr. Gasparini closed the public comment portion of the hearing.

Mr. Gasparini asked Mr. DuPriest, "Have you discussed this proposal with the county in detail?"

Mr. DuPriest stated, that he did not discuss this project in detail, but he did meet with the Development Review Team and briefly discussed this project in some length, but it was preliminary type things.

Mr. Gasparini stated, that the board could deal with the application tonight or defer the project until the next regularly scheduled meeting, in order for the applicant to meet with Ms. Austin and the Planning Staff to discuss variations to the project. Mr. Gasparini asked Mr. DuPriest, "Would you like the board to consider this application tonight as presented, or would you like the board to defer the application until next month?"

Mr. DuPriest stated, that he would like to defer the application until next month, and meet with Ms. Austin and the Planning Department.

MOTION: Mr. Edgar Williams made a motion to postpone this application until the next regularly scheduled meeting. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).

Mr. Dinkins stated, that the board needs to amend the minutes to allow Dale Grocery Store to be heard at the special hearing.

MOTION: Mr. Chester Williams made a motion to amend the motion of the minutes to allow Dale Grocery Store to be heard at the special hearing. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).

OLD BUSINESS

Mr. C. Williams received an e-mail earlier this week from Ms. Frances Cantwell, attorney for Bull Point, LLC, asking him about the preparation of the order, because the county is planning on appealing the decision of the Zoning Board of Appeals. Mr. Williams stated, that he told Ms. Cantwell that he was not going to prepare the order, but he can contact Mrs. Mary Lohr, the attorney for the county about the preparation of the order.

Ms. Austin stated, that Ms. Cantwell is preparing the order for Bull Point LLC, and Mr. Tedder is preparing the order for Wilbert Roller's Dock appeal.

ADJOURNMENT

MOTION: There being no further business to come before the Board, Mr. Dinkins made a motion to adjourn. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

The meeting adjourned at approximately 6:45 p.m.