

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, September 25, 2008, in the Executive Conference Room, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Edgar Williams, Vice Chairman
Mr. Claude Dinkins
Mr. Phillip LeRoy

Mr. Bill Bootle
Mr. Kevin Mack
Mr. Chester Williams

MEMBERS ABSENT

Mr. Thomas Gasparini, Chairman

STAFF PRESENT

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

CALL TO ORDER: Mr. E. Williams called the meeting to order at 5:13 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. Chester Williams made a motion to adopt the agenda as submitted. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

REVIEW OF MINUTES (JULY 24, 2008):

Mr. E. Williams stated, on the last page, under the motion to adjourn, change "moved to adjourn" to "made a motion to adjourn".

Mr. C. Williams stated, on page 5 under the Wilbert Roller variance, change "held in April 24th, 2008" to "held on May 22nd, 2008".

Ms. Austin stated, that even though Mr. Tedder made a mistake, she doesn't think the board can change in the minutes what was actually said at the meeting. Ms. Austin asked the board, "Do we correct it, just because Mr. Tedder made a mistake?"

Mr. C. Williams answered, "Yes, that's what I would do".

Mr. David Tedder, attorney for Wilbert Roller stated, that Ms. Austin is correct, that in the beginning of his statement, he kept saying April 24th, 2008, because of a typographical error of the transcript; and at the end of the hearing it was determined that the date was May 22nd, 2008.

MOTION: Mr. Chester Williams made a motion to approve the July 24th, 2008 minutes with the noted corrections. Mr. Dinkins seconded the motion. The motion passed (FOR: Bootle, Dinkins, LeRoy, C. Williams, and E. Williams; ABSTAINED: Mack).

Ms. Austin asked the board, "How do we change the verbatim minutes that's going to court?" Ms. Austin stated, that once the minutes are changed, the date will reflect May 22nd, 2008, but the verbatim minutes will reflect April 24th, 2008.

Mr. C. Williams stated, a notation could be inserted at the end of Mr. Wilbert Roller's case. Mr. C. Williams stated, that when he made the corrections to the minutes, he suggested that a copy of the minutes be distributed to Mr. Tedder, attorney for Wilbert Roller and Mrs. Cantwell, attorney for Bull Point, LLC to review the minutes for suggestions, corrections or comments.

Mr. Tedder suggested that at the end of the Wilbert Roller case and Bull Point, LLC case to make a notation, which states, "Verbatim transcript was made of the hearing, and where the transcript and minutes varies, the transcript supersedes".

MOTION: Mr. Chester Williams made a motion to insert a notation at the end of the Wilbert Roller case and Bull Point, LLC case, which states, that the verbatim transcripts of those hearings remain to the extent that the transcripts varies from the minutes, the transcripts will supersede. Mr. LeRoy seconded the motion. The motion passed (FOR: Bootle, Dinkins, LeRoy, C. Williams, and E. Williams; ABSTAINED: Mack).

Mr. Edgar Williams 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.

CONSOLIDATED HOLDINGS—DERMATOLOGY ASSOC. (SETBACK VARIANCE)

Mr. Earl DuPriest, IV, Carolina Engineering explained to the board, that he met with Ms. Austin and Ms. Timmer, and they came up with a solution to the problem; he agrees with the recommendation set forth by Ms. Austin.

Mr. C. Williams stated, that this matter came up at the last month meeting, and it was deferred for Mr. DuPriest to meet with the Zoning Administrator. Mr. Williams stated,

that it appears that the applicant and staff worked out an exceptional plan, and the county is now recommending approval with certain conditions.

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

Mr. Bootle asked Ms. Austin, “Does the site plan have to be redrawn?”

Ms. Austin answered, “Yes. Once the variance is granted, the Development Review Team can work the site to save the trees”.

MOTION: Mr. Chester Williams made a motion, that based on the evidence presented at the last meeting, and based on the recommendation of Ms. Austin, he finds that this application meets all of the standards of granting a variance set forth in Section 106-522 of the Zoning & Development Standards Ordinance, and that the variance be approved as requested with the following conditions, 1) To allow pervious parking within the 100’ setback, and the building be required to meet the 100’ setback in its entirety, 2) The final design of the site plan be subject to redesign, with the Development Review Team working with the engineer to ensure careful site planning so that specimen trees will be protected. The Development Review Team will also work with the engineer to modulate the street and side buffers. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

DAVID CAPPELLARI (RIVER-BUFFER VARIANCE) – REVISIT

Mr. Walter Nester, McNair Law Firm explained to the board, that the applicant is requesting a variance to encroach into the river-buffer setback that was set forth by Section 106-1845 (5)(D) of the Zoning & Development Standards Ordinance. Mr. Nester stated, that the applicant previously requested a waiver, and was denied a variance on July 10, 2008. Mr. Nester stated, that given the denial of the waiver, this application seeks relief of the setback established by Section 106-1845 (4)(A) of the Zoning & Development Standards Ordinance. Mr. Nester stated, that several lots in the neighborhood have residences constructed on them, and lot 7 was approved for a variance earlier this year by the Zoning Board of Appeals. Mr. Nester stated, that this proposed site plan has been approved by the Windmill Harbour Property Owners Association, and that information is obtained in the packet. Mr. Nester stated, that the Reef Club Subdivision in Windmill Harbour has a zero lot line development, because the lots are townhome type lots.

Mr. C. Williams asked Mr. Nester, “How many of the homes have approvals?”

Mr. Nester answered, "I don't know the answer to that question, but I will refer the question to Mr. Parker, who might be able to answer that question".

Mr. Lee Parker, Architect for the applicant explained to the board, that two homes were constructed before the 50' OCRM setback was placed on the lots.

Mr. E. Williams asked Mr. Parker, "What are the two lots?"

Mr. Parker answered, "Lot 1, and I believe lot 5".

Mr. Nester stated, that the encroachment into the 20' foot setback is going to be pervious, except for the pool.

Mr. C. Williams stated, that they had the same issue with the Keogh's residence, but there were no improvements in the 20' setback.

Mr. Parker stated, that there were no buildings, but there were structures in the setback.

Mr. C. Williams asked Mr. Nester, "How many lots have pools on the property?"

Mr. Nester answered, "Two of the lots have pools, but all but one of the residences encroach into the 50' setback".

Ms. Austin stated, that she would like to correct one thing that Mr. Nester said, which were the setbacks. Ms. Austin stated, that the lots are not zero lot lines, they are always 3' feet on one side and 7' of the other side. Ms. Austin stated, that the applicant went to the Development Review Team for a waiver, but because they wanted to put a pool and deck 1.4' from the critical line, the Development Review Team denied them. Ms. Austin stated, that Beaufort County always had a 20' OCRM setback line, prior to the adoption of the 50' setback line. Ms. Austin stated, that she doesn't mind the house being built at 20' from the critical line, but she does recommend disapproval for the pool and deck going all of the way down to the critical line, because it does not meet the standards of the zoning ordinance, and there's no hardship.

Mr. LeRoy asked Mr. Parker, "What is the circular thing on the plans; is that a hot tub?"

Mr. Parker answered, "Correct".

Mr. C. Williams asked Mr. Parker, "Is that also impervious?"

Mr. Parker answered, "Yes".

Mr. Nester stated, that he understands that the 20' setback was for vertical construction.

Ms. Austin stated, that the setbacks were treated as a regular wetland buffer, and nothing could go within the 20' setback.

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

Mr. C. Williams stated, that as a result of the Keogh's property, which is next door to this property, it appears that this application is very similar to the Keogh's residence, which the Zoning Board of Appeals approved. Mr. Williams stated, that the board gave approval for 11.3' from the OCRM critical line.

MOTION: Mr. Chester Williams made a motion, that this application meets the criteria for a variance set forth in section 106-522 of the Beaufort County Zoning & Development Ordinance, and this variance request be approved for encroachment into the 50' buffer from the OCRM critical line, with the condition that there be no improvements constructed any closer than 11.3' from the critical line, which is the same standard set forth for the Keogh's residence. Mr. Williams stated, that the applicant shall submit to a revised site plan showing the 11.3' setback from the OCRM critical line. Mr. LeRoy seconded the motion.

Mr. E. Williams stated, that he's not sure the applicant has met the criteria of section 106-522 of the Beaufort County Zoning & Development Standards Ordinance.

Mr. C. Williams stated, that he agrees with that assessment, based on the submitted site plan, but it was a condition of the approval in the motion, that the extent of the variance granted was the minimum amount necessary in order for the property owner to adequately utilize the property. Mr. Williams stated, that it is appropriate to allow the encroachment into the setback area similar to what was allowed on the adjacent lot.

MOTION: The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

TED LAVALLEE, SR (RIVER-BUFFER VARIANCE)

Mr. Christopher Cook, representative for the applicant, explained to the board that he is requesting a variance from the river buffer, in order to expand his house.

Ms. Austin stated, that Section 106-1845 (d) of the ZDSO, states that the Development Review Team can grant a waiver, if the proposed house doesn't exceed the distance between the existing houses in the neighborhood; the average distance is 20.3 feet, and the applicant is proposing 27 feet from the OCRM critical line.

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

MOTION: Mr. LeRoy made a motion to approve the variance, with the condition that the applicant put gutters on the roofline, capture the runoff and discharge it behind the 50' OCRM critical line. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, LeRoy, Mack, C. Williams, and E. Williams).

WILLIAM YORK (REAR-YARD VARIANCE)

Mr. York explained to the board, that he is requesting a rear-yard setback variance in the Mint Farm Subdivision, because the lot is too short to place a decent structure on it.

Mr. Dinkins asked Mr. York, "When was your house built?"

Mr. York answered, "Approximately 1-1/2 years ago".

Mr. Dinkins asked Mr. York, "Can you turn the house a different way?"

Mr. York answered, "No".

Mr. Dinkins asked Ms. Austin, "Is the patio counted in the setbacks?"

Ms. Austin answered, "Yes, because these are brand new lots; everything has to meet the setbacks". Ms. Austin stated to the board, that the lots in Mint Farm Subdivision were created in 2005, and all setbacks are from the current zoning ordinance. Ms. Austin stated, that the Planning Department is working on changing the setbacks in the Suburban District; but granting the variance would allow everyone in the subdivision to apply for a variance.

Mr. C. Williams asked Ms. Austin, "How many lots are in the subdivision?"

Ms. Austin answered, "Approximately 160 lots?"

Mr. C. Williams asked Ms. Austin, "How many homes are built on the lots?"

Ms. Austin answered, "Approximately 30 homes are built".

Mr. C. Williams stated, that usually variances are granted on lots that were subdivided prior to the county imposing the current regulations. This property was subdivided in 2005, and the requirements were in place ever since that time. Mr. Williams stated, that this is not a situation unique to this piece of property, and the applicant have not met the requirements for a variance from Section 106-522 of the Zoning & Development Standards Ordinance.

Mr. Bootle asked Ms. Austin, "Are the lots approximately the same size?"

Ms. Austin answered, "Yes, they are approximately the same size".

Mr. C. Williams stated, that in the Suburban district, the minimum lot size is 8,000 square feet, and this lot is 8,030 square feet. Mr. Williams stated, that for the record, Mr. Dinkins has a copy of the subdivision plat, showing the building envelopes on all of the lots.

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

MOTION: Mr. Chester Williams made a motion to disapprove this variance request, because it doesn't meet the criteria for granting a variance from Section 106-522 of the Beaufort County Zoning & Development Standards Ordinance, and there's no extraordinary or exceptional conditions that pertains to this property. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, LeRoy, Mack, C. Williams, and E. Williams; OPPOSED: Dinkins).

ADJOURNMENT

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

The meeting adjourned at approximately 6:32 p.m.