

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, November 13, 2008, in Council Chambers, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. Claude Dinkins
Mr. Phillip LeRoy

Mr. Bill Bootle
Mr. Kevin Mack

MEMBERS ABSENT

Mr. Edgar Williams, Vice Chairman
Mr. Chester Williams

STAFF PRESENT

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

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:10 p.m.

PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE: Mr. Gasparini 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. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack).

REVIEW OF MINUTES:

MOTION: Mr. LeRoy made a motion to adopt the September 18th, 2008 special meeting minutes as submitted. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack).

MOTION: Mr. Dinkins made a motion to approve the September 25th, 2008 minutes as submitted. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Dinkins, LeRoy, Mack; ABSTAINED: Gasparini).

Mr. Gasparini stated, that the August 28th, 2008 and the October 23rd, 2008 minutes will be reviewed and adopted at the next scheduled meeting.

Mr. Gasparini explained to the applicants and members of the public present at the meeting, that the procedures has changed; Ms. Austin will present the application without taking a position on the case, then the applicant will present his/her case to the board.

CHRISTOPHER CAUDLE (RIVER-BUFFER WAIVER)

Ms. Austin stated, that Mr. Christopher Caudle is requesting a variance from Section 106-1845 to build a bulkhead/landscape wall within the 50-foot OCRM river-buffer setback. Ms. Austin stated, that the applicant doesn't have an OCRM permit for the bulkhead/landscape wall.

Mr. Christopher Caudle explained to the board, that this is the third time he has presented his case to a board. Mr. Caudle stated, that he has a very severe erosion problem, that washes into the marsh, and he is seeking a hardship variance to perform the work within the river-buffer, because of the washout. Mr. Caudle stated, that he spoke with Mr. Madlinger from OCRM, and he agreed with the need for the landscape wall; Mr. Madlinger was unable to issue a permit, because it wasn't inside the marsh. Mr. Caudle showed the board diagrams for his presentation. Mr. Caudle stated, that they will not be cutting down any trees, or removing any natural vegetation. Mr. Caudle stated, that he also had a South Carolina Civil Engineer, P.E. visit the site, and he also concurred with what was being requested.

Mr. LeRoy asked Mr. Caudle, "Did you receive any documentation from Mr. Madlinger that a bulkhead would have been approved along the critical line?"

Mr. Caudle stated, that Mr. Madlinger would not submit a written letter, because he did not have any jurisdiction over the request.

Mr. LeRoy asked Mr. Caudle, "Did Mr. Madlinger indicate that the bulkhead would not harm the trees?"

Mr. Caudle stated, that Mr. Madlinger concurred with the spot that he proposed to build the wall.

Mr. LeRoy asked Mr. Caudle, "How long have you owned the home?"

Mr. Caudle answered, "Approximately 3 years".

Mr. LeRoy stated, that the county policy, is that everything within the buffer, has to be planted with natural vegetation.

Mr. Caudle stated, that the buffer will be replanted with native vegetation.

Ms. Austin explained to the board, that Mr. Caudle came to the Development Review Team; but looking at the plat, there's a ditch that may not have been maintained. Ms. Austin stated, that where the applicant is proposing to place the wall in the river buffer; the Development Review Team did not know how the wall was going to stop erosion, since it's in the river buffer. Ms. Austin stated, that the Development Review Team considered this application a landscape wall, not a bulkhead, because putting the wall in the middle of the buffer will not save the trees. Ms. Austin stated, that the zoning ordinance states, that a bulkhead is an erosion device, which has to be issued a permit by OCRM. Ms. Austin stated, that since the county considers the proposed bulkhead a wall, the county recommends disapproval.

Mr. Gasparini asked Mr. Caudle, "How tall is the wall?"

Mr. Caudle answered, "4-1/2 feet".

Mr. Dinkins asked Mr. Caudle, "Will there be maintenance on the outside of the ditch?"

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

Mr. LeRoy stated, that the Development Review Team probably would have approved this application, if it had been at the critical line.

Mr. Gasparini asked Ms. Austin, "If this application was approved by the board, would you ask for something different as it relates to the landscape plan?"

Ms. Austin stated, that she doesn't know, because she would have to run some numbers. Ms. Austin stated, that if the board approves this application, please make it a condition, that the county engineer reviews and sign off on the construction plans, showing the fill area around the trees, and the landscape plan.

MOTION: Mr. Bootle made a motion, to approve the variance request with the condition, that the county engineer reviews the construction plans, showing the fill area around the trees, and the landscape plan. This application meets all of the standards of granting a variance set forth in Section 106-522 of the Zoning & Development Standards Ordinance. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, and Mack).

PATRICK & MARIA REBER (SPECIAL USE PERMIT)

Ms. Austin stated, that this application is a request for a special use permit. Ms. Austin stated, that the Reber's is proposing to turn an old house into a café; and the shed would be turned into a retail nursery. Ms. Austin stated, that the Development Review Team made a recommendation to approve the application, with conditions.

Mrs. Maria Reber explained to the board, that her husband loves to cook, and would like to share that with the community. Mrs. Reber stated, that they are not planning on doing anything major, other than constructing a deck on the back of the building.

Mr. Bootle stated, that he has a problem with the traffic; he doesn't know why the applicant did not do a Traffic Impact Analysis.

Mrs. Reber stated, that the reason she was not required to do a Traffic Impact Analysis was, because they will only be seating no more than 47 seats, and there's a traffic light by Builders First Source.

Mr. Gasparini asked Ms. Austin, "Why do this application need a special use permit; is it not zoned for a restaurant?"

Ms. Austin stated, that the property is zoned for a restaurant, but the site is nonconforming, because it used to be a house, and the house is sitting too close to the side property line, the shed is too close to the property line, and there are buffer issues. To make the site conforming, the applicant has to request a special use permit.

Mr. LeRoy asked Ms. Austin, "Does the non-conforming factors have any barring on the traffic?"

Ms. Austin stated, that if there were no non-conforming factors, the Development Review Team would have had the opportunity to approve this project without going through the special use permit process. Ms. Austin stated, that the traffic engineer, Colin Kinton stated, that this use did not warrant a Traffic Impact Analysis.

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 special use request.

Mr. Dinkins stated, that he's concerned that the Department of Transportation did not review the request, since the road is a State road.

Ms. Austin stated, that the reason staff did not receive approval from the Department of Transportation, was because an encroachment permit was not needed. Ms. Austin stated, that the board could put a stipulation in the approval, which states, that the Department of Transportation would have to sign off on this request.

MOTION: Mr. Dinkins made a motion, to approve this special use request, with the condition that the South Carolina Department of Transportation approves this request prior to final approval, and the applicant shall submit a landscape plan approved by the county with extra plantings along the side, by the house. This application meets the criteria for a special use permit set forth in section 106-552 of the Beaufort County Zoning & Development Ordinance. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, and Mack).

OAK ISLAND (RIVER-BUFFER VARIANCE)

Ms. Austin explained to the board, that Oak Island is a portion of the Dataw Island Planned Unit Development on St. Helena Island; the island was approved under the Planned Unit Development, by county council in 1983. Ms. Austin stated, that it was originally master planned for 40 lots, but the agreement between the property owners and the developer reduced it down to 21 lots. Ms. Austin stated, that the applicant is requesting a variance from the river buffer and setback, because since it is an island, the applicant cannot meet the requirement for access.

Mr. David Karlyk, Carolina Engineering explained to the board, that there's a master plan in the package, showing approximately 35 lots. Mr. Karlyk stated, that there's an existing bridge at the main gate; the road to Oak Island is not a causeway, but a bridge.

Mr. Dinkins asked Mr. Karlyk, "What's the elevation?"

Mr. Karlyk answered, "The County requires 7.5 feet, and the bridge is approximately 8 feet.

Mr. Gasparini asked Mr. Karlyk, "From the edge of the bridge to the dotted line, how far is it?"

Mr. Karlyk answered, "Approximately 180 feet".

Ms. Austin stated, that staff recommends approval, with the conditions that the least amount of damage is done to the buffer area, and anything that's disturbed in the buffer be revegetated. Ms. Austin stated, that this request is a hardship, because there's no other way to get across to the island.

Mr. Gasparini asked Ms. Austin, "Are you satisfied that this application is the least minimal to get the fire trucks out there?"

Ms. Austin stated, that the fire marshall wants 22 feet minimal for the roadbed.

Mr. Gasparini asked Ms. Austin, "Would you prefer pervious or impervious?"

Ms. Austin stated, that pervious would be fine with the county.

There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Gasparini called for public comment; and limited the comments to three minutes each.

Mr. George Beck, President of the Dataw Island Home Owners Association stated to the board, that the Architectural Review Board and the county governs construction on Dataw Island. Mr. Beck stated, that because the developer has to take certain steps to construct on Dataw Island, the Home Owners Association recommends approval of this variance request.

Mr. Dinkins asked Mr. Beck, "Do you think that other homes on Dataw Island will come to this board for variances?"

Mr. Beck answered, "I'm not sure; part of the approval process is to go through the Architectural Review Board and if they see a need for a request for a variance, they will not approve the request for the house until the applicant receives a variance from the county.

Mr. Gasparini asked Mr. Beck, "For this variance request, do you think that there's going to be other variances required for the infrastructure?"

Mr. Beck answered, "No sir".

Ms. Austin stated, that she agrees with Mr. Beck's answer; when the Development Review Team approves this subdivision, no variance will be approved by the county for the new lots; they would have to meet the current standards.

Mr. George Johnson stated to the board, that he's concerned with the integrity of the water quality for Jenkins Creek. Mr. Johnson stated, that Dhec considers Jenkins Creek as an impaired waterway, and is designated by Beaufort County as a small tidal creek. Mr. Johnson read into the record, a letter from Mr. Andy Miller. Mr. Johnson stated, that he is asking the board to consider the sensitivity of the water body when they make their decision.

Mr. Stern stated to the board, that Oak Island is on the coastal line, and is very sensitive; it looks to him that the storm water system needs to be put in place prior to any road construction approval.

Mr. Gasparini explained to Mr. Stern, that a variance is needed prior to the issuance of a building permit; it's at the building stage that the storm water issue is addressed.

Ms. Austin stated, that Mr. Gasparini is correct, and at the final review, the county will address all requirements in the zoning ordinance, including the storm water issue.

Mr. Gasparini stated, that the only other issue for the board, is whether the road should be pervious or impervious. Mr. Gasparini asked Mr. Karyl, "Which of the two options would minimize the unfiltered runoff to the creek?"

Mr. Karyl stated, that the pervious road is a better alternative, because it allows more water to percolate into the paving section, than the impervious road.

Mr. Bootle asked Mr. Karyl, "Would you have a problem with the pervious road?"

Mr. Karyl answered, "No sir".

Ms. Austin asked the board, could they put a condition on the permit, that the applicant runs both calculations for both pervious and impervious surfaces, and the county engineer will make a decision on which option is best.

MOTION: Mr. Dinkins made a motion to approve the variance, with the conditions that the least amount of damage is done to the buffer area, and anything that's disturbed in the buffer be revegetated, and the developer will conduct a study of storm water runoff for both pervious and impervious surfaces, and will discuss the results of the study with the county engineer. This application meets all of the standards of granting a variance set forth in Section 106-522 of the Zoning & Development Standards Ordinance. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, Mack; ABSTAINED: LeRoy).

ADJOURNMENT

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

The meeting adjourned at approximately 6:35 p.m.