

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, April 23, 2009, 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. Philip LeRoy  
**Mr. Chester Williams**

Mr. Bill Bootle  
Mr. Claude Dinkins  
Mr. Kevin Mack

**MEMBERS ABSENT**

None

**STAFF PRESENT**

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

**CALL TO ORDER:** Mr. Gasparini called the meeting to order at 5:18 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. Bootle made a motion to adopt the agenda as submitted. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams and E. Williams).

**REVIEW OF MINUTES:**

**MOTION:** Mr. C. Williams made a motion to adopt the February 26, 2009 minutes as submitted. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).

**MOTION:** Mr. Mack made a motion to adopt the March 26, 2009 minutes as submitted. Mr. Gasparini seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, and Mack; ABSTAINED: LeRoy, C. Williams, and E. Williams).

## **TLC MINISTRIES OF BEAUFORT (REVISIT/SPECIAL USE)**

Mr. Von Fricken explained to the board, that he presented this project last month, and the only concern was regarding the security of the facility. Mr. Fricken stated, that they changed the student guidelines to state, "No students are allowed to leave the premises; if they leave the premises, they will be immediately discharged from the program". Mr. Von Fricken stated, that he believes that he believes that the sheriff submitted a letter, according to the memorandum that was passed out.

Ms. Austin stated, that the letter from the sheriff was passed out at last month's meeting.

Mr. Von Fricken stated, that this meeting on today, is just to talk about the security concerns. Mr. Von Fricken stated, that the neighbors were concerned that the clients would be wandering around the neighborhood, and he believes that the security concerns have been professionally addressed.

Mr. Bootle asked Mr. Von Fricken, "Do you have any kind of plan?"

Mr. Von Fricken stated, that he has a plan, but he did not know he had to bring that document to the meeting.

Mr. Bootle asked Mr. Von Fricken, "How many counselors will you have in the facility?"

Mr. Von Fricken answered, "One (1) counselor to every ten (10) clients".

Mr. Bootle asked Mr. Von Fricken, "How many clients will you have?"

Mr. Von Fricken answered, "24 people".

Mr. Bootle asked Mr. Von Fricken, "Who owns the property?"

Mr. Von Fricken answered, "Family Worship Center".

Mr. Mack asked Mr. Von Fricken, "Will a sheriff's sub station be at the location?"

Mr. Von Fricken stated, that he spoke to sheriff Brown, and he felt that it would be a conflict of interest to put a substation at that facility. Mr. Von Fricken stated, that Sheriff Brown informed him that they certainly be stopping in periodically to park, using the phone, etc.

Mr. Mack asked Mr. Von Fricken, "Will this be an out-patient facility?"

Mr. Von Fricken answered, "No, it will be an in-patient facility".

Mr. Mack asked Mr. Von Fricken, "Approximately how many certified drug & alcohol counselors will you have on staff?"

Mr. Von Fricken answered, “Four (4) on staff”.

Ms. Austin stated, that the Development Review Team did not go back over this project, because they still have the recommendation from March 25, 2009 when they reviewed the project. Ms. Austin stated, that they added a couple more conditions to the recommendation; the revised recommendation states, “(a) the approval limits the number of patients the facility will have to 24 patients, (b) the applicant has one-year to obtain the certificate of occupancy. If the building is not occupied within the one-year period, the applicant may request a six-month extension of the Special Use Permit. The Special Use approval will then expire if the certificate of occupancy has not been issued, (c) site shall not be occupied prior to the issuance of the certificate of occupancy, (d) applicant shall provide at final approval, the lease agreement with the owner of the property, and (e) applicant shall provide at final approval, verification from the SC Department of Labor, Licensing and Regulation stating, licensing of the facility is exempt. DRT shall not accept project for review until said information has been submitted”.

Mr. C. Williams asked Ms. Austin, “Did the Development Review Team require a Community Impact Statement for this project, or did the applicant provide one on his own?”

Ms. Austin stated, that the applicant submitted a small community impact statement, because he was not building a new building and everything was existing; the applicant did not need a traffic impact analysis or a environmental impact statement, the applicant only need a area impact statement, which he submitted and met the requirement of the zoning ordinance.

Mr. C. Williams asked Ms. Austin, “Why is the Development Review Team interested in the applicant obtaining a certificate of occupancy within one year?”

Ms. Austin stated, that there is an issue with the renovation of the building, so the Development Review Team did not want this project to drag out for years, trying to get the building up to code.

Mr. C. Williams stated, that under the zoning ordinance, and under the state statue, if the approval is granted, it’s good for two years, with five (5) – one-year extensions. Mr. Williams asked Ms. Austin, “Why in this case should the applicant not be granted the two year approval with a five (5) – one-year extension, under the vested rights act?”

Ms. Austin stated, that in the zoning ordinance, the special use permit is good for one year, with a one – year extension; once the applicant receives the development permit, the vested rights act will start. Ms. Austin stated, that since there was extensive work that needed to be done to the building, the Development Review Team wanted to ensure that the approval did not linger on for a long time. Ms. Austin stated, that the Development Review Team also did not want anyone into the building until the Certificate of Occupancy was issued. Ms. Austin read to the board, Table 106-432 (c) of the zoning ordinance, which states, “Permitted timeframes for an approval do not change with changes in ownership and shall expire as indicated in table 106-432 if any

of the following occur: (1) No building permit has been issued to establish the use authorized in the approval, (2) The use does not require a building permit and the use is not established, ongoing, and in operation". Ms. Austin stated, that the Development Review Team felt that with condition (b) it gives the applicant a push to get this project completed, so this building can be in operation. Ms. Austin stated, that even though that's the Development Review Team's recommendation, the board could remove that condition off of the recommendation.

Mr. Gasparini stated, that he doesn't understand why the county would care about how long it takes the applicant to complete the renovation of the building. Mr. Gasparini stated, that if the applicant does not receives a Certificate of Occupancy, they still cannot move into the building.

Mr. Bootle asked Ms. Austin, "How long have this project been in the process?"

Ms. Austin answered, "Approximately in 2006".

*There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Edgar Williams called for public comment, and limited the comments to three (3) minutes each.*

Ms. Diane Burnett stated to the board, that she is not at the meeting to stop any drug rehabilitation program, because this is one of the things that's needed. Ms. Burnett stated, that we all have been touched by drugs and addictions, and her heart goes out to the people who are addicted. Ms. Burnett stated, that even though she's concerned about the drug addicts, she is also concerned about the safety of twenty plus children in the neighborhood, because we she was just a little girl, she and her sister was adducted from a person who was an alcoholic, and he ruined their lives. Ms. Burnett stated, that just because you think the people are going to be in this building, it's so easy for them to go in and out of the building at any time. Ms. Burnett stated, that everyone need to look at the security problem, because if you have people staying there 24 hours a day, seven days a week, and you don't have complete control and background of them, it could be dangerous.

Ms. Wendy Zara stated to the board, that she has property near the facility, and she agrees with Diane Burnett, that we need facilities for people with substance abuse problems. Ms. Zara stated, that her concern is about the legitimacy of this particular facility; as she understands it, no one really knows where the funding is coming from. One of the conditions, is that the applicant needs something from the Department of Labor stating that he is exempt, and if he is not exempt, he need to get the applicable licensing. Ms. Zara stated, that the lease with the church is clearly a lease, and not that he's operating under their umbrella. Ms. Zara asked the board, what qualifies the applicant to do this type of project, and what qualifies his staff to do this? Ms. Zara stated, that she's really concerned about the experience, the legitimacy, the licensing, etc., and he has known about this project for 2 ½ years, and he has not even started on the building, which needs a new roof and substantial rehabilitation. Ms. Zara stated, that the board would address her issues in their consideration of the approval of this project. Ms. Zara asked the board, that since the applicant did not have any meaningful

Community Impact Statement, she hopes the board considers the people in the neighborhood as part of the Community Impact Statement.

Mr. C. Williams asked Ms. Zara, "As it relates to the Community Impact Statement, doesn't the county code say, "may be required, as determined by staff"?"

Ms. Zara stated, that she did not mean that the ordinance specifically required a piece of paper, but in a special use process, the community feelings are supposed to be considered by the Zoning Board of Appeals, and she is part of the community.

Mr. C. Williams stated, that in his understanding from Ms. Austin, in this particular situation, it was not a requirement for this project, and the applicant has gone above and beyond in providing a Community Impact Statement.

Ms. Zara stated, that in her experience with the county, that a lot of times when conditions are outstanding, those conditions never get satisfied.

Mr. Michael Zara, Jr. stated to the board, that he owns property in the neighborhood; they bought the property in 1986, and built a house on the property in 1992; over the years there's been more and more families moving into their rural setting. Mr. Zara stated, that the original building was used for a school, which was Sheldon Academy, and then it went through a transition to be a woodworking shop, which are appropriate for a rural residential community. Mr. Zara stated, that he believes that the impact on a 24 – 7 facility, with 24 roommates is out of the bounds of what would be a neighborhood, and it is not consistent with the neighborhood, and gives him an ill-feeling regarding values. It would be one thing if it was a day facility, but a 24-7 facility would have to be a high security facility, and this location would be inappropriate. Mr. Zara stated, that this type of facility would need to be in an urban district, with available security and police protection; they are in the outskirts of the county, and it is not a viable security option to have this facility in the Sheldon area.

Mr. C. Williams asked Mr. Zara, "What would you believe would be a security concern; do you have studies or evidence that supports your concerns?"

Mr. Zara answered, "No, it's just a reaction to people who violated the law, because using drugs is a violation of the law".

Mr. Mark Mansell stated to the board, that he lives in the neighborhood, and he also has a large family with a little farm. Mr. Mansell stated, that he supports TLC ministries as far as security and his belief in whether or not it will have an impact on the kids in the neighborhood. Mr. Mansell stated, that he trusts that the security will be secure, and he believe in helping men and women who have drug and alcohol addictions. Mr. Mansell stated, that as a landowner in that area, he is comfortable and secure with their facility into the neighborhood.

Mr. Preston Thompson, Jr., stated to the board, that he represents Walk Right Ministries, he lives right down the road from the facility, and is a good friend and associate of Mr. Von Fricken, and he also plans to help him with the renovation of the

building. Mr. Thompson stated, that his life was changed through programs like this; he grew up in foster homes, and he see the need for places like this. Mr. Thompson stated, that there's so many people who needed opportunities, just to have a place to come, and sometimes we need to take a second out of our own lives and reach out to help someone else. Mr. Thompson stated, that he has four kids, and people who needed help has come to his house, and he also mentors young teenagers, and he don't see a problem with extending a hand and reach out to the people who needs help. Mr. Thompson stated, that in regards to the building, he's sure that everyone who started a project, did not have all of the material when they first started, but somewhere along the line, the got what they needed, and they made it happened. Mr. Thompson stated, that he's at the meeting for the building, and to say that he will be at the facility to help with the renovation of the building.

Reverend Robert Graves, Sr., stated to the board, that he's at the meeting to fully support TCL Ministries. Reverend Graves stated, that he's a chaplain at the Beaufort Memorial Hospital, a biblical counselor; he handles people who are addicted to drugs and alcohol all of the time. In the United States, there are already 18 million alcoholics, 4 million drug addicts, 16 million people addicted to sex and sexual problems, and the list goes on and on. Reverend Graves stated, that he is also affiliated with Teen Challenge, which is a program that Ronald Von Fricken will use, and it is a one-year program of people who are on Alcohol and Drugs; it is a very efficient and substantial program, it leads people through a relationship with Jesus Christ, and helps them to get off of the drugs. Reverend Graves stated, that are people wandering all over the world who are addicted to alcohol in drugs, and tonight they can go anywhere they want to; at least at the facility, they will know where those few people will be, and hopefully they will become normal people, who are not addicted to drugs or such a problem as that, and they can get into the world and function as normal people. Reverend Graves stated, that he understands why the ladies are concerned about people wandering off of the site; but he believes that the people who are in support of the ministry will be at the site, to keep an eye on what happens, and keep them inside of the guidelines. Reverend Graves stated, that at some point and time, the people who are addicts, was also someone little precious child, and at least at the facility, they would have an opportunity to take someone off the street, and know where they are at night.

Pastor Jeannette Harley stated to the board, that she's the pastor of Family Worship Center and the owner of building where the facility will be located. Pastor Harley stated, that there are churches and individuals with the means to get the building up to code, but they don't want to invest money until they know that they are able to have this program. Pastor Harley stated, that there are two sites, that are very fluent with the drugs and alcohol; her church tries hard in the area, and this facility will help the ministry that they are trying to do. Pastor Harley stated, that the concerns of the people are legit, but they have to know that there are currently men and women that are in the area, that congregate under the trees and the stores. Pastor Harley stated, that her church has an accredited professional drug and alcohol abuse program; there's a minister at her church who has an office in town, and she works for the governor as a drug and alcohol substance abuse counselor with a team. Pastor Harley stated, that her husband has worked with Youth At Risk, which are teens ages 16 – 18, and he also

put together program called, Youth Challenge; so they have the ability to deal with people with substance abuse problems.

Mr. Louis Heinemann stated to the board, that he has known Mr. Von Fricken for a couple of years, and he's involved with TLC Ministries. Mr. Heinemann stated, that he's a recovering drug addict and alcoholic, and he's been contractor in Beaufort County for approximately 30 years. Mr. Heinemann stated, that it's a shame to building to sit useless, when it could be used to benefit the area; he knows for a fact, in that area there are several recovering alcoholics, cocaine addicts, and marijuana users, and he plan to help Mr. Von Fricken with any code requirements that he need, and anything to make this a better place for addicts. Mr. Heinemann stated, that he agrees with Reverend Graves, that there's a lot of people sleeping under bridges and in the woods, who needs a place like this; it's not in the city, it's in the country, it gives them a chance to have a garden, have fresh air and sunshine, and it will allow them to become a part of society again, through the direction of Jesus Christ.

Mr. Chris Hamilton stated to the board, that he's affiliated with Ron Von Fricken, and he's a part of group called Vessel of Honor, which is a local Christian ministry band in town that works with the youth, and help people with drug addictions, etc. Mr. Hamilton stated, that his brother was a part of the TLC Ministries, and was also addicted to crack cocaine and a lot of other programs, and had accomplished his defeat to overcome drug and alcohol addictions. Mr. Hamilton stated, that he moved into the area recently, and he notices that there are a lot of problems in that neighborhood, and it would be better for the people to have a place to go to be able to change their lives. Mr. Hamilton stated, that he will a part of the staff part time, and he is also a carpenter, and he will help in any way to get the building up to code. Mr. Hamilton stated, that he hopes that the board approves this application for the facility.

Ms. Sally Murphy stated to the board, that she was at the meeting last month for the discussion of this project. Ms. Murphy stated, that she also brought a letter for a neighbor, which was not able to attend the meeting on tonight. Ms. Murphy stated, that she was at the Development Review Team meeting when the project first came up, and the applicant was required to submit a full Community Impact Statement, not a partial Community Impact Statement. Ms. Murphy stated, that she believes that it's a conflict of interest for the applicant to prepare a Community Impact Statement; she believes it should be prepared by an outside independent person, and she finds that it was a self serving and incomplete statement, and she also believes that the Development Review Team made a mistake in accepting this statement. Ms. Murphy stated, that license from the Labor and Licensing Regulation Department in the State, is for the individual of the business as the counselor, which is supposed to be a priest, rabbi, clergyman, or work in the offices of a church, and that relationship with the church has to be proven to the LLR in Columbia, South Carolina, and there's no documentation that has shown that this relationship exists and that the State LLR has approved it.

Mr. C. Williams asked Ms. Murphy, "What sort of license are you talking about?"

Ms. Murphy answered, "To be a counselor".

Mr. C. Williams asked Ms. Murphy, "To be a drug and rehab counselor?"

Ms. Murphy answered, "Yes".

Mr. C. Williams asked Ms. Murphy, "Assuming that the facility have four (4) licensed drug rehab counselors, would that be a concern for this board?"

Ms. Murphy stated, that since Mr. Von Fricken said that he was exempted and did not need a license to run the facility, she did some research and talked to a person in Columbia, who gave her the section of the code of laws which was provided to the board last month; there were only two instances where a person could be exempted, which are a minister, priest, rabbi, clergy person of any religious denomination or sce, when the activities are within the scope of performance of his or her regular or specified ministerial duties.

Mr. C. Williams stated, that he's not sure what that has to do with the criteria that the board need to review for a special use permit, because he doesn't see anything in the statue having to do with employees or who is operating the facility.

Ms. Murphy asked Mr. C. Williams, "Wouldn't it have some vary, that the facility you are be approving be licensed by the state.

Mr. C. Williams stated, that he assumes that the applicant would need the license in order to operate the business; there are two hurdles to get across, and this board is just one of the hurdles, and doesn't have anything to do with the state license.

Ms. Murphy stated, that it's her understanding that Mr. Von Fricken has already been doing this type of business at several locations; one on St. Helena Island, and one in Burton.

Mr. C. Williams stated, that this board is not concerned about the other locations; this board is only concerned about the applicant that's before them.

Mr. E. Williams stated, that he agrees with Mr. C. Williams, because the board is only looking at this special use application, and nothing else. Mr. E. Williams stated, that the board's only concern is to grant the application or not to grant the application; to who they hire, fire, or employ are not the concern of this board.

Ms. Murphy stated, that simply making it a rule that the clients stay on the facility does not solve the security issues as far as she's concerned.

Mr. C. Williams asked Ms. Murphy, "Do you have any evidence that would help the board address the issues of security?"

Ms. Murphy stated, that there are woods surrounding the building on two sides, there's also an open field, and it is just open access, and it's only about 100 yards to the houses in their community through those woods. Ms. Murphy stated, that the clients



could leave the facility, break into the houses and be back at he facility within five minutes.

Mr. C. Williams asked Ms. Murphy, “Do you have anything that the board could look at or any studies, that says having this sort of facility in this neighborhood would increase the security risk?”

Ms. Murphy stated, that she believes that Mr. Mack asked Mr. Von Fricken that question about clients leaving the facility, and Mr. Von Fricken had to say that he had has people who have left the property.

Mr. C. Williams stated, that he is looking for evidence to put into the record, that supports what she is saying.

Ms. Murphy stated, that there’s no fence to protect the people in the neighborhood.

Mr. Neil Tisdale stated to the board, that his wife runs a high school bible study, and he run a middle school bible study, and there are lots of kids who are being influenced by drugs and being approached by different people. Mr. Tisdale stated, that he understands that the neighbors doesn’t want this type of facility in their neighborhood, but this facility is going to help people get back in society and be good members of society and pull their own weight, and not have to rob people and take drugs and other things. Mr. Tisdale stated, that just recently someone was beat up in the Beaufort Inn right before her wedding, so anything can happen anywhere. Mr. Tisdale stated, that Mr. Von Fricken is trying to take people off of the wrong path that they would be influenced by drugs and have to steal and commit crimes in order to fee their habit. Mr. Tisdale stated, that Mr. Von Fricken has a passion for this type of service, and he hopes that the board would approve the application.

Mr. C. Williams asked Ms. Austin, “To follow up on Ms. Murphy’s comment; did the Development Review Team previously require the applicant to submit a full Community Impact Statement?”

Ms. Austin stated, that when the applicant first came to the DRT, a full Community Impact Statement was required at that time, but the Development Review Team determined that certain parts of the Community Impact Statement was not required, and all of the requested information was not needed.

Mr. C. Williams asked Ms. Austin, “To follow up on another comment from Ms. Murphy; how typically prepares a Community Impact Statement?”

Ms. Austin stated, that it could be prepared by the applicant or the applicant’s engineer.

Mr. C. Williams asked Ms. Austin, “Does the county ever prepare a Community Impact Statement for the applicant?”

Ms. Austin answered, “No”.

**MOTION: Mr. Chester Williams made a motion to approve the special use application with the recommendation and finding of the Development Review Team, set forth in the March 26, 2009 memorandum; the application shall be approved, with the condition that the number of patients in the facility be limited to 24. Mr. Gasparini seconded the motion. The motion passed (FOR: Gasparini, Mack, C. Williams and E. Williams; AGAINST: Bootle, LeRoy, and Dinkins).**

### **FAITH MEMORIAL BAPTIST CHURCH EXPANSION (SPECIAL USE)**

Pastor Horace Williams, Jr., explained to the board, that he is requesting a special use approval for an expansion to an existing church. The church has been in existence for 54 years in the same location. Pastor Williams stated, that presently the church is located 25 feet from the R-O-W, thus causing the site to be in a non-conforming status. Pastor Williams stated, that the he wants to expand the church totaling more than 15 percent of the existing building, which would require the site to be brought into conformance to the maximum extent. Pastor Williams stated, that the non-conformities will be met through the removal of a small piece of asphalt, and the removal of one driveway to create the required 25-foot buffer; also, the additional parking will be provided as shown on the site plan, and the church will not be removing any trees on site.

Mr. Dinkins asked Pastor Williams, "How much parking do you have existing, and how much parking will you create?"

Pastor Williams answered, "Currently we have approximately 52 parking spaces, and will end up with 94 parking spaces".

Ms. Austin stated, that the Development Review Team reviewed the project on March 11, 2009, and recommended approval with the condition, that the applicant remove the asphalt from the buffer area, which would make the site more conforming. The applicant will also move the middle driveway, so that he will have two (2) driveways instead of three (3) driveways. Ms. Austin stated that, the applicant also has place a barrier around the 24-inch oak tree in the middle of the parking area, to ensure the cars will not impact the tree.

Mr. Gasparini asked Ms. Austin, "Will the expansion make the building go further into the buffer area?"

Ms. Austin answered, "No"

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

**MOTION: Mr. Chester Williams made a motion to approve the special use application with the recommendation and finding of the Development**

**Review Team, set forth in the March 11, 2009 memorandum; the application shall be approved, with the condition that the applicant remove the asphalt in the buffer area, as shown on the site plan. The applicant shall remove the middle driveway, as shown on the site plan, and the applicant shall place a barrier around the 24-inch Oak tree in the middle of the parking area, to ensure the cars will not impact the tree. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).**

#### **WILLIAM & DELORES REYNOLDS (RIVER-BUFFER VARIANCE)**

Mr. William Reynolds explained to the board, that he's requesting a river-buffer variance to go along with the land. Mr. Reynolds stated, that in 2005 the Development Review Team granted him a variance to be 20.1 feet away from the critical line, but each year the variance expires, and he has to apply for an extension. Mr. Reynolds stated, that he would not have to keep applying for an extension, if the Zoning Board of Appeals grants him a variance.

Mr. Mack asked Mr. Reynolds, "Did you say that this property received a variance from the Development Review Team in 2005?"

Mr. Reynolds answered, "Yes".

Ms. Austin explained to the board, that this property received a waiver from the Development Review Team, but the waiver doesn't run with the land. Ms. Austin stated, that waivers expires, but variances run with the land. Ms. Austin stated, that OCRM certification expires between three (3) to five (5) years, but waivers expires after one year. Ms. Austin stated, that since the applicant kept coming in the office year after year to update his waiver, she suggested that he comes into the Zoning Board of Appeals for approval, so that the variance can run with the land.

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

**MOTION: Mr. Gasparini made a motion to approve the variance request, with a condition that the buffer doesn't be reduced to less than 20 feet. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, E. Williams).**

#### **JOSEPH & ELEANOR CORNELISSE (SETBACK VARIANCE)**

Ms. Austin explained to the board, that the applicant was not able to attend the meeting tonight, but she believes that the Rules & Procedures allows the board to hear the case without the applicant being present.

Mr. E. Williams asked Ms. Austin, "Did the applicant send a letter stating they will not be at the meeting?"

Ms. Austin answered, “No, he called right before 5 o’clock”.

Mr. Gasparini stated, that he thought that the Rules & Procedures required the applicant to be present at the meeting.

Mr. C. Williams stated, that he noticed on the staff report, that the staff believes that the Property Owner’s Association of the Crescent can request a minor master plan amendment from the Development Review Team to allow a reduction of the setbacks.

Ms. Austin stated, that staff did say that, and staff also recommends approval of the variance request, based on the fact that the as-built survey was completed, showing the patio already located in the 10-foot setback. Ms. Austin stated, that the board could place a condition on the approval, which states, that the building shall not extend any further into the setbacks.

**MOTION: Mr. Chester Williams made a motion to dispose of this application without acting on it; the board request that the ZDA explains to the applicant, that the application is inadequate, and they need to show how they meet the criteria for the granting of a variance. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).**

#### **OAK ISLAND SUBDIVISION – GARY JUSTER (BUFFER VARIANCE)**

Mr. David Karyluk – Carolina Engineering Consultants, representative of the applicant explained to the board that he is requesting a variance from the river-buffer for the Oak Island Subdivision for an existing bridge. Mr. Karyluk stated, that previously the board had approve a section of the road for Oak Island from the OCRM critical line buffer; the board approved the variance, and after the approval he completed the site development plans, submitted for the land development permits, submitted to OCRM for storm water management permit, submitted plans for BJWSA, SCE&G and Hargray. Mr. Karyluk stated, that around Christmas time, OCRM reviewed the project, and part of their review was to send notification to the State Department of Archives and Natural History in Columbia, South Carolina stating that we’ve received this packet from an engineer in Beaufort, South Carolina, and could you check your records for any significant historical auto facts in this area. Mr. Karyluk stated, that the State Department of Archives and Natural History found that the areas which was shown was off of a delineation plan which was done when they was reviewing Oak Island back in the 1980’s. Mr. Karlyk stated, that the archeological areas had expanded significantly; what was original a third of an area of archeological areas combined was now three areas to be preserved for archeological quarters. Mr. Karyluk stated, that because of the archeological findings, they had to revise the site plan to relocate the road outside of the archaeological area, which puts them inside the 100-foot river buffer. Mr. Karlyk stated, that previously the board approved a 200-foot encroachment into the buffer area, but now they are requesting a 570-foot encroachment into the buffer area.

Ms. Austin stated, that staff recommends approval of this variance application, because there is definitely a hardship, and the applicant had previously designed the subdivision

with the road meeting the river-buffer requirement, prior to finding out about the larger archeological protection area. Ms. Austin stated, that since the island was master planned and approved by the county council, by not granting the variance would cause the applicant not to reasonably use of the property. Ms. Austin stated, that she has two conditions that she would like to have placed on the approval, which is, (1) the applicant shall ensure the area of road within the 50-foot buffer area be built with some type of pervious material, and that the runoff be diverted from the OCRM critical line, (2) the applicant shall try to save some of the existing vegetation closer to the critical line.

*There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Edgar Williams called for public comment, and limited the comments to three (3) minutes each.*

Mr. Rowley stated to the board, that he would like the board to take into consideration any alternatives to the location of the bridge, because this is delicate coastal island. Given the location to the buffer, there would be some sort of sea wall or something put in place to negatively impact the buffer. Mr. Rowley also stated, that he thought that Mr. LeRoy would have recused himself like he did in the past, since he was previously a consultant of Dataw Island.

**MOTION: Mr. Chester Williams made a motion to approve the variance application, based on the fact that without a variance the applicant would be unreasonably restricted to the utilization of the property; this application meets the standards set forth in section 106-522 of the Zoning & Development Standards Ordinance, with the condition that the applicant ensure the area of road within the 50-foot buffer area be built with some type of pervious material, and that the runoff be diverted from the OCRM critical line; the applicant shall try to save some of the vegetation closer to the critical line. Mr. Dinkins seconded the motion. Mr. LeRoy stated, that in regards to Mr. Rowley statement, he did not recuse himself at the last vote relating to Oak Island, but he abstained from voting; he will not abstain this time, because he doesn't have a conflict of interest. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams).**

## **OLD BUSINESS (ADOPTION OF REVISED RULES & PROCEDURES)**

Mr. Gasparini asked Ms. Austin, to place this item at the beginning of next month's agenda.

## **ADJOURNMENT**

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

*The meeting adjourned at approximately 6:40 p.m.*