

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, August 27, 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. Kevin Mack

Mr. Claude Dinkins
Mr. Phillip LeRoy
Mr. Timothy Rentz

MEMBERS ABSENT

Mr. Chester Williams

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mr. Tony Criscitiello, Planning Director
Mrs. Lisa Glover, Zoning Analyst III

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:14 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.

Mr. Gasparini stated, that he would like to welcome Mr. Timothy Rentz as a new member of the Zoning Board of Appeals; Mr. Gasparini would also like to extend his appreciation to Mr. Bill Bootle who served on the board for a long time, and his service to the board was appreciated.

ADOPTION OF AGENDA:

MOTION: Mr. Edgar Williams made a motion to adopt the agenda as submitted. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, Mack, Rentz and E. Williams).

ADOPTION OF MINUTES: The board will adopt the minutes at the next scheduled meeting.

LINDLY B. MINGLEDORFF'S (ADMINISTRATIVE & VENUE APPEAL)

Mr. Gasparini stated, that he would like to introduce into the record the letter he sent to Ms. Austin on August 25th, 2009; which reflects his professional capacity, that he represents the appellant, Mr. Mingledorff, and according to South Carolina Code of

Ethnics, he's going to step aside for the case so, Mr. Edgar Williams can chair this application for the duration of consideration of Mr. Mingledorff's appeals.

Mr. Tony Criscitiello explained to the board, that the attorney for the applicant requested a continuance for both the appeal applications, and the county is asking the board to grant the request for the continuance.

Mr. Edgar Williams asked Mr. Criscitiello, "How long does the applicant want this application continued?"

Mr. Criscitiello answered, "Probably until next month".

MOTION: Mr. LeRoy made a motion to grant the continuance for the appeal application until next month. Mr. Mack seconded the motion. The motion passed (FOR: Dinkins, LeRoy, Mack, Rentz and E. Williams; RECUSED: Gasparini).

Mr. Gasparini returned back to the meeting; Mr. Edgar Williams gave the position of chair back to Mr. Gasparini.

WILLIAM CALHOUN JR. (VARIANCE)

Mr. William Calhoun Jr., explained to the board, that due to physical hardship for his family, he's requesting a variance to place a mobile home on 20 Solomon Lane. He has four (4) disabled relatives living on the property, and he wants to place a home on the property for his fiancé, so they can take better care of his family members.

Mr. Mack asked Mr. Calhoun, "Does all four of the disabled relatives live in the existing mobile home on the property?"

Mr. Calhoun stated, that his mother, father and grandmother lives in the existing mobile home on the property, but his uncle, William Sails Jr., lives on the adjoining property.

Mr. LeRoy asked Mr. Calhoun, "Did you investigate whether it would be possible to join the structures together, so it would be one structure instead of two structures?"

Ms. Austin stated, that the applicant could expand the building and make the structures one house.

Mr. LeRoy asked Ms. Austin, "What would the applicant have to do to join the structures together, in order to make it one structure?"

Ms. Austin stated, that the applicant could join the structures together with an enclosed breezeway. Ms. Austin stated, that if the applicant submits a revised site plan showing the two structures merged together with an enclosed breezeway, she would consider the application.

Mr. Gasparini asked Ms. Austin, "What section of the ordinance is the variance being requested from?"

Ms. Austin answered, "Appendix D, Interim Community Preservation standards from the Beaufort County Zoning & Development Standards Ordinance". Ms. Austin stated, that the Community Preservation interim zoning, allows the applicant to place a single-family residence on his property, and an accessory dwelling unit, which are limited to a maximum of 50 percent of the primary building heated floor area, and one bedroom.

Mr. Gasparini asked, "Is the reason the applicant is requesting a variance, is to make the house larger than 50 percent of the primary house?"

Ms. Austin answered, "Yes".

Mr. Criscitiello stated, that staff recommends disapproval of this application request, because variances are based on conditions pertaining to land, not personal circumstances.

Mr. Mack asked Mr. Criscitiello, "Would the county change the recommendation if the applicant join the two mobile homes together with an enclosed breezeway?"

Mr. Criscitiello answered, "Yes, as long as everything is contained within the building area".

Mr. Gasparini explained, that since variances cannot be granted for personal circumstances per the zoning ordinance, the applicant has two options; one option would be to ask for a continuance for this application until the next meeting, in order to reach a positive solution with the county. The other option would be for the board to make a decision on the application; but if the board votes on the application, the decision might not be favorable.

Mr. Calhoun stated, that he would like to request a continuance until next month, in order to try to come up with a positive solution with the county.

Mr. Gasparini asked, "Does the county have any objections with continuing this application until next month?"

Ms. Austin answered, "No".

Mr. Gasparini asked the members of the Zoning Board of Appeals, "Does any member of the board have any objections with continuing this application until next month?"

The board members answered, "No".

Mr. Gasparini stated, that since the board members have no objections, this application is continued until next month; if the applicant reach a positive solution with the county, he would not have to come back before the board for a variance. Mr. Gasparini explained to everyone, that he did not ask for public comment since this application was

continued until next month; if this application comes back before the board next month, he will have public comment for this application.

THE OYSTER CLUB, LLC (BUDGET INN-WATERAMA ADMINISTRATIVE APPEAL)

Mr. Tom Davis, attorney with Harvey & Battey Law Firm explained to the board, that this application is a combination of a two year stop and go attempt on the part of the property owner, to figure out if the Waterama motel is still grandfathered; the building currently is not being used as a motel. Mr. Davis stated, that there's been various submissions made over a two-year period, which started back August 30th, 2007, and he would like to pass out some documentation that he will be talking about.

Mr. Robert Achurch, attorney with Beaufort County stated, that he doesn't think it was a two-year ordeal, and he doesn't think that any of this information is pertinent; they had requested an administrative interpretation on May 2009, and an answer was given in June 2009. Mr. Achurch stated, that he objects to Mr. Davis' comments.

Mr. Gasparini stated, that the board can only review documents that was provided to the Development Review Team at the time the decision was made.

Mr. Davis stated, that the information was already submitted to the Development Review Team by the applicant, or County Council by the applicant, over a two-year period.

Mr. Gasparini stated, if the information was submitted to the Development Review Team at the time the decision was made, he would allow him to pass it out to the board members.

Mr. Davis stated, that Mr. Ferguson started the process on August 30, 2007, and over the course of a year's time, or after with the assistance of a local attorney in Beaufort, Allison Eversole, submitted various materials in response to the Development Review Team's request. Mr. Davis stated, that the Development Review Team made a determination on September 2008, that Mr. Ferguson had not met his burden; the facts as presented, indicated to the Development Review Team, that the use has been discontinued for 120 days, and therefore the grandfathering status was lost. Mr. Davis stated, that Ms. Eversole asked Mr. Achurch, could they have that decision withdrawn so they could provide additional information to the board, which could be relevant to the inquiry; additional information was provided after September 2008, that indicated that the building was used as a hotel. Mr. Davis stated, that Mr. Achurch is going to argue that for the past 120 days from today's date on backwards, the building have not been used as a hotel; he will agree with that fact. Mr. Davis stated, that when the applicant received the letter in September 2008, stating that he wasn't grandfathered, and had to stop using the building as a commercial use, he stopped using it as a commercial use, but continued to provide information to get a determination on whether or not he was grandfathered. Mr. Davis stated, that it was a very important consideration, because Mr. Ferguson had entered into a contract with the Trust for Preservation Land; they had agreed to pay a certain price if the property was grandfathered as a hotel use.

Mr. Gasparini asked Mr. Davis, "What's your favorite date in terms of the 120 days?"

Mr. Davis stated, that on September 12, 2007, the Development Review Team indicated that the applicant had to show that the hotel had been in operation up to that date, and provide business licenses, hospitality tax receipts, etc.

Mr. Gasparini asked Mr. Davis, "What date do you think we ought to be using to count 120 days back from?"

Mr. Davis answered, "From the time Chuck Ferguson submitted his application, and the Development Review Team said, you have to demonstrate and show us evidence you have been using it as a motel". Mr. Davis stated, that the appeal that's before the board today, is the decision that the Waterama Motel was vacant for the past couple of years; so the Development Review Team is going back to the original application.

Mr. Gasparini stated, that he's trying to figure out the 120-day date.

Mr. Davis stated, that the date should be August 30, 2007. Mr. Davis stated, that the property owner was trying in good faith to figure out what he could do with his property, and it's wrong to trip him up on procedural technicalities.

Mr. E. Williams asked Mr. Davis, "During all those years, was the building being taxed as a motel?"

Mr. Davis answered, "Yes, and its still being taxed as a motel".

Mr. E. Williams asked Mr. Davis, "Is it your position that since it's been taxed as a motel, it still should be grandfathered as a motel?"

Mr. Davis stated, that the overwhelming evidence shows the building being used as a motel, but he admits that it has not been used as a motel for the past few months; Mr. Ferguson stopped using the building as a motel in 2008, when the Development Review Team sent him a letter saying a determination was made that the motel was not grandfathered. Mr. Davis stated that Section 106-9 indicates, that voluntary abandonment is any structure, which is vacant or unused for 120 days; the applicant shouldn't be penalized just because he discontinued using the building as a motel after the Development Review Team sent him that letter.

Mr. Dinkins asked Mr. Davis, "Assuming that this appeal is granted, how soon will construction start?"

Mr. Davis stated, that there's no plan for construction, because the property is in foreclosure; the applicant has been trying to hold on to the property for a few years while he was trying to get the question answered. Mr. Davis stated, that the Trust for Public Land wants to acquire the property for a park; they want to tear down the building and turn the property into a park.

Mr. Achurch explained to the board, that this application is an appeal of a decision, which was made in June 2009; based on an application made in May 19, 2009, the applicable time frame is May 19, 2009 for 120 days prior to that date. Mr. Achurch stated, that the applicant sent a letter to the Development Review Team requesting an informal discussion as to what could be done with his land; the applicant received a letter from Ms. Austin on September 14, 2007, which informed the applicant that the use of the property was not grandfathered. Mr. Achurch stated, that after that decision, the attorney for the applicant asked for a 15 percent expansion for the building, and a decision was made regarding the expansion on December 2008.

Mr. Gasparini asked Mr. Achurch, "Was the decision that was made in 2007 ever appealed?"

Mr. Achurch stated, that the applicant did not appeal that decision, because it was just an informal discussion; that's why he doesn't think it's fair that the applicant is now saying that he made an application to do certain things to the property. The applicant never made an application for an expansion, and on December 15, 2008 a letter was sent to his attorney, which stated, "Because no application has been made requesting a 15 percent expansion, the matter has never been properly before the Development Review Team for a decision". Mr. Achurch stated, that pictures were also taken to support evidence that the building has not been operated as a motel.

Mr. Gasparini stated, that the applicant is saying that the 120 days is a moving target; meaning that it can be changed at any time.

Mr. Achurch stated, that it's not a moving target, because a decision was made in December 2008 indicating that the use was not grandfathered, the applicant appealed that decision; they also asked for more time, and was granted more time.

Mr. Gasparini asked Mr. Achurch, "Is that what this appeal is about?"

Mr. Achurch answered, "No, the appeal application was withdrawn". Mr. Achurch stated, that the attorney wrote a letter stating that they withdraw the application; it was not an application, it was an appeal. Mr. Achurch stated, that from September 2007 through December 2008, the building was not operating as a motel. Mr. Achurch stated, that the only date that should be appealed at this point, is the letter of May 19, 2009 when Mr. Davis wrote a letter and asked for an administrative interpretation.

Mr. Gasparini asked Mr. Achurch, "Is it your position that the applicant never applied for an administrative interpretation until this year, and by their own admission it's been more than 120 days since this building was used as a motel?"

Mr. Achurch answered, "Yes".

Mr. Dinkins asked Mr. Achurch, "Why did the Development Review Team call him an applicant in 2007?"

Mr. Achurch stated, that Mr. Ferguson and his attorney kept asking for an answer to their application. Mr. Achurch stated, that the word "applicant" might have been misused, because Mr. Ferguson came before the Development Review Team for a discussion only.

Mr. Gasparini stated, that the board has to pick a date to count back from to see if the building was a motel; the board needs to know, when did the applicant ask for an interpretation, did he get one, and was it a hotel prior to 120 days before that.

Mr. Achurch stated, that the specifics of this application is an appeal that was made in June 2009.

Mr. E. Williams asked Mr. Achurch, "Were there any taxes paid after 2007?"

Mr. Achurch stated, that he cannot answer that question.

Mr. Rentz stated, that the application indicates that the last receipt that showed someone renting a room was in 2007.

Mr. Gasparini asked Mr. Davis, "When was the last time someone rented a room at the motel?"

Mr. Davis answered, "November 5, 2008". Mr. Davis stated, that the applicant discontinued renting out rooms, due to the letter he received in September 2008.

Mr. Rentz asked Mr. Davis, "What was the date that Mr. Ferguson was told he couldn't operate the building?"

Mr. Davis answered, "September 11, 2008".

Mr. Gasparini stated, that according to the documentation, it appears that the motel did not take in any revenue for the motel.

Mr. Davis stated, that there was a sustained effort on the part of the applicant to operate the building as a motel; not because it was a profitable concern, or because it was turning a profit.

Mr. Gasparini asked Mr. Davis, "So the motel was open, but no one was renting rooms?"

Mr. Davis stated, that they was renting rooms, but not turning a profit. Mr. Davis stated, that the intent of the grandfathering clause, is not whether or not the use is turning a profit, but to whether or not it's been used as a motel.

Mr. Criscitiello stated, that he were a member of the Development Review Team in 2007, and the applicant requested to come before the Development Review Team for a discussion, not an application of a project. Mr. Criscitiello stated, that during the discussion, the Development Review Team was never told that the purpose of the

conversation was that there was an intended proposed sale of the property to the county through the Rural & Critical Land Program; if the Development Review Team would have known that information at the time of the discussion, the approach to the question might have been more precise.

MOTION: Mr. Dinkins made a motion to uphold the appeal, based on the fact that the motel was in use within the 120-day period prior to August 30, 2007. Mr. Rentz seconded the motion.

Mr. LeRoy stated, that he would be interested in hearing how Mr. Dinkins was persuaded to accept those dates, as fact.

Mr. Dinkins stated, that based on the facts presented, he believed that the motel was open.

Mr. LeRoy asked Mr. Dinkins, "So you believe that it was a valid application?"

Mr. Dinkins stated, that the questions were being asked, but there were no valid answers; the answers did not seem right in regards to the process.

Mr. E. Williams stated, that there was no activity presented to the board that showed whether or not the motel was in operation for 120 days.

Mr. Dinkins stated, that the accommodation taxes were paid in 2007; the applicant had to pay those taxes on some type of revenue.

Mr. Gasparini stated, that it appears that there was some type of revenue in 2007, but he doesn't know what it was. It appears that the accommodation tax was paid in the second quarter, which appeared to be paid late. Mr. Gasparini stated, that he's sympathetic with the applicant regarding not knowing the process, but he was consistently told that the motel was not grandfathered, and it wasn't until two years later, he decided to file an appeal on that decision. Mr. Gasparini stated, that he's persuaded, that the motel is no longer grandfathered.

Mr. Rentz asked, "Is there a time limit for an appeal?"

Ms. Austin answered, "30 days from the date the letter was received".

Mr. Gasparini reiterated to the board, that the motion was to uphold the appeal, and find that the county erred in the decision that the hotel/motel use was not grandfathered.

The motion failed (FOR: Dinkins; AGAINST: Gasparini, LeRoy, Mack, Rentz and E. Williams).

Mr. Gasparini stated, that he believes that the board members who voted against the motion should state the findings of fact for the record; that includes everyone present at the meeting, except for Mr. Dinkins who voted for the appeal.

Mr. LeRoy stated, that he was persuaded that the August 30, 2007 document was simply a meeting with a documentation of discussion.

Mr. Rentz stated, that he couldn't find a continuous chain of events, until the ruling was made. The applicant asked the Development Review Team, if the building was torn down could it be rebuilt, and the decision was made that if the use were not continued for 120 days, the grandfathering status would go away. Mr. Rentz stated, that he took it as saying, if you shut it down for construction for 120 days, then the grandfathering would be lost.

Mr. E. Williams stated, that after 2007 there was nothing to keep the business alive, if there was, he did not find any documentation for that year. Mr. Williams stated, that the applicant received a September 14th letter, and the applicant was put on notice that if he felt that he still have the grandfathered use, he should respond; there was no response. The applicant was also told that he had to provide documentation of proof that the hotel was in operation up to that date, and he did not see any documentation for that.

Mr. Mack stated, that the application to the Development Review Team was just a discussion, and he did not see any trails, which would have rendered the use grandfathered; he also did not see any trails, as far as the applicant following through with providing the Development Review Team the paperwork to consider the use grandfathered.

Mr. Gasparini summarized the statements of the board members. The findings of facts are as follows:

1. The board finds that the August 30, 2007 communication with the Development Review Team was not an application.
2. The board finds that even if a decision was rendered, it was never appealed.
3. The board finds that by the time the formal application for a decision was made, the use was not in operation for more than 120 days.

Mr. Gasparini stated, that for the Conclusions of Law, he would like to recommend that the board adopts, that since there was not a hotel/motel use for 120 days prior to the actual application for a ruling regarding the grandfathering status; as a result, the use was not grandfathered for a hotel/motel.

The board agreed with the finding of facts and the conclusion of law.

MAZZANNA LAWN CARE – COTTAGE INDUSTRY (VARIANCE/SPECIAL USE)

Mr. Dinkins stated, that he would like to recuse himself from this application, because he has business dealings with the applicant.

Mr. Michael Fowlkes explained to the board, that he is the general manager, and owns a small percentage of Mazzanna Lawn Care Services for 13 years, and bought into the company five (5) years ago. Mr. Fowlkes stated, that the business used to be located on Mossy Oaks Road, but since October 2000, they moved to 221 Johnson Landing

Road as a landscaping company; they brought in pine trees, stored pine straws, mulch, mini equipment, etc., and March 2008 he purchased the property from Mr. Mazzanna as a general manager and operator of Mazzanna's Landscaping. Four months later, he received a letter from the county informing him that he was in violation, because he had palm trees and debris on the property, he cleaned up the lot and went to the Development Review Team for advice, and started the process for the landscaping business under Cottage Industry.

Mr. Greg Baisch with Ward Edwards stated to the board, that the applicant was never zoned for the use; he had a business license to operate the business, but was never aware there was a zoning issue.

Mr. Gasparini asked, "Does the business violate the use?"

Mr. Criscitiello stated, that the zoning district allowed the use, but the applicant did not have a zoning permit for the use.

Mr. Baisch stated, that in order to obtain proper zoning to operate the business, the category he would have to fall under is the Cottage Industry section, which have 12 conditions. All of the conditions were met from Section 106-1218 of the zoning ordinance, except for item 5, which states that cottage industries shall have direct access to a paved arterial or collector road.

Mr. Gasparini asked Ms. Austin, "Have you shared your recommendation with the applicant?"

Ms. Austin answered, "Yes".

Mr. Baisch stated, that staff is recommending that the use be scaled down to a home business instead of cottage industry, so that neither a variance nor a special use permit would be required, since the property is less than 10 acres. Mr. Baisch stated, that he spoke to the county engineer regarding the paving of Johnson Landing Road, and he mentioned that the road is on the top of the list to be paved for the upcoming road paving projects.

Mr. Gasparini asked Mr. Baisch, "How many employees?"

Mr. Baisch answered, "30".

Mr. Gasparini asked, "How many vehicles?"

Mr. Fowlkes answered, "7".

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 the variance request.

Mr. Gasparini stated for the record, that he received three (3) letters in opposition of this application from homeowners. Mr. Gasparini asked, "How long has the business been in operation at this location?"

Mr. Fowlkes answered, "Since 2000".

Mr. Gasparini asked Mr. Fowlkes, "Is it much bigger than it was a year ago?"

Mr. Fowlkes answered, "No. We have been at the same size, same number of employees and same number of vehicles for at least the past five (5) years".

Mr. Rentz asked Mr. Fowlkes, "When did you actually purchase the property?"

Mr. Fowlkes answered, "March 2008".

Mr. Rentz asked Mr. Fowlkes, "At that time, was it being used as Mazzanna's Landscaping?"

Mr. Fowlkes answered, "Yes".

Mr. Mack asked Mr. Fowlkes, "Is the property that you purchased, 221 Johnson Landing Road or 220 Johnson Landing Road?"

Mr. Fowlkes answered, "221 Johnson Landing Road".

Mr. Mack asked Mr. Fowlkes, "Does Mr. Mazzanna still owns 220 Johnson Landing Road?"

Mr. Fowlkes answered, "Yes, he owns 220 Johnson Landing Road, and 215 Johnson Landing Road; one is owned by Gary Mazzanna, and the other one is owned by Mazzanna Lawn Service".

Mr. Gasparini stated, that there's another item on the agenda, which is the same business and same property, and the applicant needs a variance for the size of the property.

Mr. Criscitiello stated, that the special use permit is for the size of the property, and the variance is for the use of the road.

Mr. Gasparini asked Mr. Criscitiello, "Why two different applications?"

Mr. Criscitiello stated, that in the Cottage Industry section of the ordinance, the applicant has to request a special use permit, if the property is less than 10 acres; the variance is needed because the applicant cannot meet condition five (5) in the Cottage Industry section of the zoning ordinance.

Mr. Gasparini suggested to the board, that the variance application and the special use application be joined together; the board will vote on both applications separately.

Ms. Austin stated, to the board that Mr. Fowlkes indicated that the property has been used in the same condition since 2000, and she has arials that show that in 2004 there were some buildings on the site, and in 2006 they started to do business on the other two parcels; so the site expanded, and it was not in that condition since he purchased the property.

Mr. Fowlkes explained to the board, that for the last five (5) years, they were using the property that was purchased from a homeowner as part of the company; they did not know that they were not allowed to do that. Mr. Fowlkes stated, that they have not grown in five (5) years, and the additional building, which was placed on the property has nothing to do with the business.

MOTION: Mr. Gasparini made a motion to join together items 10 & 12 on the agenda. Mr. Gasparini asked, if there were any objections to the motion; there were no objections.

There being no further comments from the applicant or the county, and no further questions from the board, Mr. Gasparini called for public comment for the special use request; there was no public comment for the special use request.

Mr. LeRoy asked, "If this application is granted, would there be a site plan submitted to the Development Review Team, that would be in total conformance without any additional requirements?"

Mr. Criscitiello stated, that the site plan that 's before the board today, is the one that's going to be used, if approved by the Zoning Board of Appeals; the county was satisfied with the submitted site plan.

MOTION: Mr. Rentz made a motion to approve the variance application as requested. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Gasparini, LeRoy, Mack, Rentz, and E. Williams; RECUSED: Dinkins).

MOTION: Mr. Edgar Williams made a motion to approve the special use application as requested. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Gasparini, LeRoy, Mack, Rentz, and E. Williams; RECUSED: Dinkins).

Mr. Dinkins returned back to the meeting.

Mr. Gasparini stated, as chairman, he would like to discuss the Ernest Mine application prior to the Barefoot Bubba's application.

ERNEST DRIVE MINE (SPECIAL USE)

Mr. Gasparini stated, that Mr. Rentz recused himself, because he is the applicant for this special use application.

Mr. Criscitiello stated to the board, that staff would like to request this application be continued, because he received a plan by the applicant today on some comments that was given to the applicant yesterday. Mr. Criscitiello stated, that if this application is moved forward, staff would have to recommend disapproval, because there are some issues in regard to the site planning on the site, in order to meet the requirements of the ordinance. Mr. Criscitiello stated, that with a continuance the project could be brought back to the Zoning Board of Appeals without losing any time in regard to advertising.

Mr. Gasparini asked Mr. Baisch, "Do you have any objections to this application being continued until next month?"

Mr. Baisch with Ward Edwards answered, "No". Mr. Baisch stated, that he will be back next month.

Mr. Gasparini asked the board, if they had any objections to the request for a continuance; there were no objections.

Mr. James Brown stated to the board, that he doesn't think it's fair that this application is continued until next month, because a lot of concerned citizens are at the meeting to hear this case, and he took a whole day off from work to be at the meeting.

Mr. Gasparini stated, that he think that's a fair comment. Mr. Gasparini asked Mr. Brown to come before the board to make his comment since he can't be at the meeting next month.

Mr. James Brown explained to the board, that he owns a piece of property on Ernest Drive, and the mine is going to affect him and the people around him. Mr. Brown stated, that when they build the 20-acre pond adjacent to his house, it's going to affect him because he has livestock.

Mr. Gasparini explained, that the plan that was proposed might not be the plan that's approved by the Development Review Team. Mr. Gasparini stated, that he's happy to reopen this application and ask for public comment if people are inconvenienced by coming to this meeting tonight, but he just want to remind everyone that the plans may change.

Mr. E. Williams stated, that the county indicated that there may be information that may change, so he think it would be unfair to the citizens to make public comment on something that may be irrelevant at next month's meeting. Mr. Williams stated, that it wouldn't be fair for the people to comment on the application today.

Mr. Jonathan Brown, chairman of the Community Preservation District on St. Helena Island recommended that everyone wait until next month to comment on this application until the new plans are submitted.

Mr. Gasparini stated, that if anyone would like to make a public comment with the understanding that the plans may change, they may do so at this time. Mr. Gasparini

reopened item 16 for public comment, and limited the comments to three (3) minutes each.

Mr. Reed Armstrong, resident of St. Helena Island and member of the Community Preservation and Cultural Overlay District Committee on St. Helena Island explained to the board, that one of the provisions in the special use application, is the Community Impact Statement, and he would like that board to review the Community Impact Statement, and provide comments to the Zoning Board of Appeals prior to a decision being made by the board.

Mr. James Lamie stated to the board, that he wanted to make sure that this project does not affect his property, and he wanted to make sure that his property is not affected when the application is heard next month. Mr. Lamie stated, that he purchased the property to eventually build on it, and he wants to make sure it perks.

Mr. Gasparini closed public comment, and this project will be continued until next month.

Mr. Timothy Rentz returned back to the meeting.

BAREFOOT BUBBA'S (SPECIAL USE)

Mr. Michael Brock with Ward Edwards explained to the board, that he is requesting a special use permit for Barefoot Bubba's; the Development Review Team and the Planning Department has been working with him to make the site conforming. Mr. Brock stated, that under this special use approval, they are requesting a buffer modulation to reduce the buffer from 50 feet to 35 feet, and they also have to go before the Corridor Review Board to bring the site up to compliance.

Mr. Greg Baisch with Ward Edwards wanted to clarify, that the reason for the special use permit is to bring the site into conformance with the buffer modulation; the existing building is within the 50-foot buffer, and once the buffer is modulated to 35 feet, the site will be in conformance.

Mr. Criscitiello stated, that staff has no problem with the special use request.

MOTION: Mr. Edgar Williams made a motion to approve the special use application, with the condition that the applicant submits a landscape plan that addresses the river and highway frontage buffers; the landscape plan must be submitted and approved by the Corridor Review Board, and all CRB requirements shall be met. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, Mack, Rentz, and E. Williams).

Mr. Dinkins informed the board, that he will not be at next month's meeting.

ADJOURNMENT

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

The meeting adjourned at approximately 7:03 p.m.