



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Zoning & Development

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The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, May 27, 2010, in the 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. Phillip LeRoy

Mr. Kevin Mack
Mr. Timothy Rentz
Mr. Chester Williams

MEMBERS ABSENT

Mr. Claude Dinkins

STAFF PRESENT

Ms. Hillary Austin, Zoning & Development Administrator
Mr. Anthony Criscitiello, Planning Director
Mr. Lad Howell, County Attorney
Mrs. Tamekia Judge, Zoning Analyst I

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:01 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:

Mr. Chester Williams stated, that item #5, Frank Anthony appeal will be moved to the June 24, 2010 agenda at the request of the applicant.

MOTION: Mr. Chester Williams made a motion to adopt the agenda, with a notation to move the Frank Anthony appeal to the June 24, 2010 Zoning Board of Appeals meeting. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Gasparini, LeRoy, Mack, Rentz, C. Williams, and E. Williams).

REVIEW OF MINUTES (APRIL 22, 2010):

MOTION: Mr. Chester Williams made a motion to approve the April 22, 2010 minutes as submitted. Mr. Rentz seconded the motion. The motion passed unanimously (FOR: Gasparini, LeRoy, Mack, Rentz, C. Williams, and E. Williams).

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

GRAY'S HILL BAPTIST CHURCH – (VARIANCE)

Mr. Fred Kuhn Jr., Attorney for Gray's Hill Baptist Church explained to the board, that the church was requesting a variance to erect a Fellowship Hall, which would serve as an adjunct to the existing church building.

Mr. Steve Andrews, representative for Gray's Hill Baptist Church stated that in late 1996, the church applied for a Development permit, which was issued in early 1997 for a church and a Fellowship Hall. Mr. Andrews also stated that the church was built at that time, but the second building was not built, today they are requesting a variance to erect the Fellowship Hall. Mr. Andrews stated, that the Fellowship Hall would constitute a 6% increase, in which 15% is allowed.

Mr. E. Williams asked Mr. Andrews, "Was the proposed 10,000 square foot building, which is shown on the plans, approved in 1997?"

Mr. Andrews stated, that everything that's listed on the plans, was built in 1997, the 10,000 square foot Fellowship Hall was approved as a future building, and that is the building that the church is proposing to build.

Mr. Gasparini asked Mr. Andrews, "Was there a Development permit and a building permit approved in 1997 for the entire plan?"

Mr. Andrews replied, "Yes, but only one building was built."

Mr. E. Williams asked Mr. Kuhn, "What occurred between 1997 and 2010, which resulted in the Fellowship Hall not being built?"

Mr. Kuhn stated, that after the church was built, the funding was low, and the property was held up in litigation, because the building permit, for the Fellowship Hall was denied. Mr. Kuhn also stated, that they appealed that decision to the circuit court, and the case is still pending in circuit court; so the judge suggested that the Gray's Hill Baptist church come before the Zoning Board of Appeals, and request a variance.

Mr. Gasparini questioned whether the application before the Zoning Board of Appeals is correct, based on the fact that the case is in litigation.

Mr. Kuhn stated that the case is appropriate for a variance, and that the board should hear the case, due to the fact that when the church bought the property to build the church, they envisioned a Fellowship Hall as well.

Mr. Gasparini asked Mr. Kuhn, "Is it your position, that if you wanted to expand the existing building, you would be limited to 15% for the size of that building, but if you wanted to expand the use by building another building, then you would be limited to 15% of the disturbed area?"

Mr. Kuhn stated, that if they wanted to expand the use by building a Fellowship Hall, which is an accessory use to the main building, then the 15% of the pre-existing disturbed area should be applied.

Mrs. Mary Lohr, with Howell, Gibson, & Hughes law firm and representative for Beaufort County explained to the board, that in 1996 there was a 15,000 square foot building permitted for the

Gray's Hill Baptist Church. Mrs. Lohr stated, that the Masterplan was designed with two phases in mind; the initial phase was the Sanctuary, storm water, drainage and parking. The 2nd Phase was for the Fellowship Hall. It was not noted in Phase 1 to build a Fellowship Hall, but it was noted in Phase 2 for future development. Mrs. Lohr stated, that a few years later they came back to apply for a permit for the Fellowship Hall, in which the Air Installations Compatible Use Zones (AICUZ) had been put into place; the Gray's Hill Baptist Church is located in Accident Potential Zone 2. They came back a few years ago and applied for a development permit for the Fellowship Hall, which was denied, it took a while to get it up to the circuit court for an appeal. Mrs. Lohr stated, that she told the judge that this case would be a case for a variance, in order to see if the problem could be resolved by the Zoning Board of Appeals.

Mr. Gasparini asked Mrs. Lohr, "Is the second permit that was before the Development Review Team, the Planning Commission, and the court; was that a development permit or a building permit?"

Mrs. Lohr replied, "It is a development permit."

Mr. E. Williams asked Mrs. Lohr, "If the variance is granted, what impact would it have on the Marine Corps Air Station, or the community?"

Mrs. Lohr stated, that the risks would rise, because it puts people in accident zones.

Mr. Gasparini stated, that if the board decided to grant a variance today, they would have to decide how much of a variance to give.

Mr. Criscitiello, Planning Director for Beaufort County stated, that when the Development Review Team looked at the case, they looked at Appendix A1, Section 7 (A) (6), which discussed the 15% expansion limitation for expansions on non-conforming uses.

Mr. Gasparini asked Mr. Criscitiello, "Does Appendix A, supersede Section 106-9 for non-conforming uses?"

Mr. Criscitiello replied, "Yes, not to exceed 15% expansion for Assembly and Worship."

Mr. Dave Warner, representative for the Marine Corps Air Station stated, that they had two concerns, which are the encroachment, and the safety for the Marine Corps Air Station. Mr. Warner also stated, that whenever a non-conforming use comes in, it affects the future viability of the bases. Mr. Warner stated, that the safety is another issue, because if an airplane crashed, it does not have enough raw land if it came down. Mr. Warner also stated, that the Gray's Hill Baptist Church variance should be denied, because it is inconsistent with the Comprehensive Plans.

Mr. C. Williams asked Mr. Warner, "When did you receive notice?"

Mr. Warner replied, "May 10th."

Mr. C. Williams stated, that the Zoning & Development Standards Ordinance states, that the board shall not act on a request for a variance, until they have received an advisory opinion from the Marine Corps Air Station, and if it is not received within 30 days, the board cannot act on the variance request.

Mr. Warner stated, that if the board does not grant the variance, they would like to submit written comments for the 30 days notice period.

Mr. Gasparini stated, that if the Marine Corps Air Station is not in a position to waive their 30 days notice period, then the board cannot hear the case.

Mr. Warner stated, that they are not in a position to waive the comments.

Mr. Gasparini stated, that if they go forward and award the variance, the board will be in violation of the Zoning & Development Standards Ordinance; so the board will give the Marine Corps Air Station 30 days from the notice dated May 9th, to submit written comments of the variance request, which means the written comments are due on June 9th, which is 30 days from the notice.

Mr. C. Williams made a motion to table the case until the June Zoning Board of Appeals meeting. Mr. C. Williams also stated, that he would like to know the County's opinion on Appendix A1, Section 6 of the Zoning Ordinance, and Mr. Kuhn shall prepare the criterias for the granting of a variance when they come before the board at the June meeting.

There being no further comments from the applicant or the County and no further questions from the Board, Mr. Gasparini suspended public comment until the June meeting.

MOTION: Mr. C. Williams made a motion, to table this application until the June meeting. Mr. E. Williams seconded the motion. The motion passed unanimously (FOR: Gasparini, LeRoy, Mack, Rentz, C. Williams, and E. Williams).

ADJOURNMENT

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

The meeting adjourned at approximately 6:10 p.m.