

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, October 28, 2010, 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. Claude Dinkins
Mr. Phillip LeRoy
Mr. Kevin Mack
Mr. Chester Williams

MEMBERS ABSENT

Mr. Timothy Rentz

STAFF PRESENT

Mr. Tony Criscitiello, Planning Director
Mrs. Lisa Glover, Zoning Analyst III

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:05 p.m.

PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE: Mr. Gasparini led those assembled in the Pledge of Allegiance.

ADOPTION OF AGENDA:

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

ADOPTION OF MINUTES:

MOTION: Mr. Chester Williams made a motion to adopt the September 23, 2010 minutes as submitted. Mr. Dinkins seconded the motion. The motion passed (FOR: Dinkins, LeRoy, Mack, C. Williams, and E. Williams; ABSTAINED: Gasparini).

BULL ISLAND – BIRCHWOOD ACQUISITIONS, LLC (SPECIAL USE)

Mr. Criscitiello explained to the board, that on September 8, 2010, the Development Review Team reviewed the application for a special use permit on Bull Island, and determined that the application for the special use was properly developed, and is presented to this board for review and consideration. Mr. Criscitiello stated, that the owner's representative, Mr. Jacobs wishes to construct a 7,200 square foot building on an island zoned Resource Conservation; per the natural resource calculations, the applicant is able to build a 7,400 square foot building. It is consistent with the Comprehensive Plan, it is an island, and it's not adjacent to properties that

would create a conflict in anyway. The purpose of the 7,200 square foot building is to store equipment for recreational & forestry purposes. The Development Review Team further considered, that the project does not affect the environment; traffic or governmental services is not involved, and the setbacks and buffers are adhered to, as required by the Zoning & Development Standards Ordinance. The Development Review Team did not require a Community Impact Statement, given the location of the project, and the site plan includes all required elements in regard to buffers, setbacks, natural resource protection, and storm-water/BMP requirements. Mr. Criscitiello stated, that the Development Review Team recommends approval of the request for a special use permit from Section 106-552, for the 7,200 square foot building.

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 were no public comment for this application.

MOTION: Mr. Chester Williams made a motion that based on the application before the board, and the memorandum dated October 11, 2010 from the Development Review Team recapping their review of the application and their recommendations for approval, that the board find that this application meets the criteria for a special use permit, as set forth in section 106-552 of the Zoning & Development Standards Ordinance, and that the approval be conditioned on the use of the new facility for the storage of equipment for recreation/forestry use, and any change in use of that facility would void the special use approval. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Dinkins, LeRoy, Gasparini, Mack, C. Williams, and E. Williams).

ABRAHAM SIMON JR (SETBACK VARIANCE)

Mr. Gasparini asked Mr. Simon, "Have you seen the county's staff report?"

Mr. Simon answered, "Yes".

Mr. Criscitiello explained to the board, that Mr. Simon is requesting a hardship variance to construct a garage 2.7 feet from the property line, and there is a 10 foot setback requirement. Based on the circumstances, the City of Beaufort is on the other side of the property line, and Mr. Simon owns the property that's located in the City of Beaufort. Mr. Criscitiello stated, that the City of Beaufort staff was of the opinion that the lot could not be made more nonconforming by the moving of the property line, which created a hardship for Mr. Simon. The conditions set forth in the staff report answers the questions for the hardship that is evident in this particular case: 1) The conditions does not apply to other properties in the vicinity, the property line would have been moved if it was in the unincorporated part of the county, 2) The application merits a variance based on the unique circumstances of the property, and it's location. Mr. Criscitiello stated, that the staff recommends approval, based on the circumstances confronted by Mr. Simon, and would recommend that he be allowed to construct his garage 2.7 feet from the side property line as compared to the 10 foot setback.

Mr. C. Williams stated, that part of the application that the board received was the survey from Mr. Youman that shows a 0.52 acre tract, which is the site of Mr. Simon's home, and an adjacent parcel 546A. Mr. C. Williams asked Mr. Criscitiello, "Is 546A the parcel that's inside the City of Beaufort limits?"

Mr. Criscitiello answered, "Yes".

Mr. C. Williams asked Mr. Criscitiello, "What's the problem with doing away with the property line and consolidating the two lots; is it the City of Beaufort's position that it makes the property more nonconforming?"

Mr. Criscitiello stated, that the lot that's within the City of Beaufort limits is nonconforming, and consequently based on its size, the county's property would create a larger nonconformity based on the City of Beaufort's position.

Mr. Gasparini asked Mr. Criscitiello, "Why is it nonconforming?"

Mr. Criscitiello stated, that he believes it's because the lot itself is already nonconforming, and it's probably because of the size of the lot.

Mr. C. Williams stated, that it seems like the staff position is that Mr. Simon is caught between a rock and a hard place, and if he could consolidate the two lots, he would not need a variance. But because he can't consolidate the two lots, if he maintains the boundary line between the 0.52 acre tract and parcel 546A, that would cause the need for the setback variance, because you have to measure the 10 foot setback off of the boundary line that separates the two parcels that Mr. Simon actually owns.

Mr. LeRoy asked Mr. Criscitiello, "For clarification, did you mean that the variance was to intrude into the setback by 2.7 feet; not that the garage would be 2.7 feet from the property line?"

Mr. Criscitiello stated, that he meant that the setback of 10 feet can not be met.

Mr. LeRoy asked Mr. Criscitiello, "Then the garage would be 7.3 feet from the property line?"

Mr. Criscitiello answered, "Right".

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 were no public comment for this application.

MOTION: Mr. Chester Williams made a motion, that based on the application before the board, the recommendations from county staff, and the review of the criteria for the granting of a variance set forth in the recommendation of the county staff, that the board finds that this application meets the standards for the granting of a variance set forth in section 106-522 of the Zoning & Development Standards Ordinance, and that there are extraordinary and exceptional conditions pertaining to the property, because if Mr. Simon was allowed to consolidate the property, he would not need this variance, but because of the City of Beaufort's position he cannot consolidate the properties. The extraordinary and exceptional conditions relating to the property, as a result of Mr. Simon's property straddling the boundary between the county and City of Beaufort, it does not generally apply to other properties in the vicinity; because of those extraordinary and exceptional conditions, Mr. Simons is unreasonably restricted in the utilization of his property. That the request for a variance does not adversely affect the adjacent properties or the public good; this is a situation that resulted not from Mr. Simon's personal circumstances, but relates to the land, it's unique, and not in common with the surrounding properties, and it's suffered by the applicant, and not adjoining

property owners or the general public, and that the board approves this variance application as submitted. Mr. LeRoy seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, Mack, C. Williams, and E. Williams,).

OLD BUSINESS

GRAYS HILL BAPTIST CHURCH

Mr. Gasparini asked the board if they received a copy of the lawsuit for Grays Hill Baptist Church.

All of the board members present, received a copy of the lawsuit.

OPTICOS

Mr. Criscitiello explained to the board, that the county is deeply involved with a consultant, Opticos; a company out of San Francisco, California, for the drafting of the county's new zoning code. It's a code that will be nearly identical to the City of Beaufort, Town of Port Royal, hopefully the Town of Bluffton, and maybe the Town of Hilton Head. Mr. Criscitiello stated, that the county staff and members of the Planning Commission is meeting with the Town of Bluffton Planning Commission this afternoon, to discuss the interrelationship between the county code and the municipal codes, which would hopefully be very similar one to the other. The Planning Commission through various educational opportunities is learning some of the details of Form Based Code; this is the area which the county is hoping to migrate to, in terms of the zoning approach. Mr. Criscitiello stated, that the Zoning Board of Appeals, will have to interrelate with the new code and have opportunities for being advised as to the nature of the new zoning approach, and receive some education in terms of how it is to be utilized in the future. Mr. Criscitiello stated, that he would enjoy the opportunity of conversing with the chairman and the board members in terms of how best to bring the Zoning Board of Appeals on line, with regard to particulars of the new form of zoning that they are proposing to follow in the future. Mr. Criscitiello stated, that hopefully some time next year, around September or October, they will have a new zoning code in Beaufort County, which will be very similar to the City of Beaufort, the Town of Port Royal, Town of Bluffton and Town of Hilton Head.

Mr. E. Williams asked Mr. Criscitiello, "Are you planning on merging all of the municipalities into one?"

Mr. Criscitiello stated, that they have an absolute contract with the City of Beaufort and the Town of Port Royal to do that, but the county and the Town of Bluffton is of the same mind, but they have different consulting efforts. The intention is that if you pick up a county code, and pick a municipality code, you'll be able to navigate through any of those codes and arrive at the same basic idea of what you could do with your land with the same definitions and approach.

Mr. Gasparini stated, that it probably would avoid all of the annexations that's going on.

Mr. Criscitiello stated, that it allows for the county to be the best rural county, and the municipalities to be the best urban places, and the ambition is to know how to promote ruralness in the proper way in Beaufort County, how to promote urban environments in the unincorporated areas, and to cooperate at the governmental levels to make that so.

Mr. Gasparini stated, that he will be happy to talk with Mr. Criscitiello about the Form Based Codes; he has a couple of suggestions, which are to urge the drafter of the new code to have a firm grasp of the State Enabling Statue, so there are no inconsistencies.

Mr. Criscitiello stated, that he understands that fully, and they have a very qualified and knowledgeable land use attorney, who is advising them step by step as they go through the Form Based Codes.

Mr. Gasparini stated, that the other suggestion is that Mr. Chester Williams could be a resource when dealing with the Town of Hilton Head. Mr. Gasparini also stated, that he will be happy to go over this when Mr. Criscitiello thinks it's going to happen.

Mr. Criscitiello stated, in regards to the Town of Hilton Head, the county's consultant is meeting with the Town of Hilton Head in regards to the Form Based Code. The Town of Hilton Head has not made a decision for the Form Based Code, but there's an indication that they might be interested.

ADJOURNMENT

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

The meeting adjourned at approximately 5:30 p.m.