



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, January 27, 2011, 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. Claude Dinkins
Mr. Philip LeRoy

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

MEMBERS ABSENT

None

STAFF PRESENT

Mr. Anthony Criscitiello, Planning Director
Mrs. Tamekia Judge, Zoning Analyst I
Mrs. Katherine Smith, Zoning Analyst II

CALL TO ORDER: Mr. Thomas 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, and a moment of silence in honor of our country's military service members.

REVIEW OF AGENDA:

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

REVIEW OF MINUTES (DECEMBER 16, 2010):

MOTION: Mr. E. Williams made a motion to adopt the December 16, 2010 minutes as submitted. Mr. C. Williams seconded the motion. The motion passed (FOR: Dinkins, Gasparini, LeRoy, Mack, C. Williams and E. Williams; ABSTAINED: Rentz).

RAY & SHARON SUTTON'S VARIANCE (SIDE & FRONT YARD SETBACK)

Mr. Criscitiello read the Beaufort County Staff Recommendation report into the record. Mr. Criscitiello stated, that this property falls within the category of a hardship variance, and was created as a result of erosion that had taken place in the area, causing a lot shift from previously Lot 10, to Lot 12. Mr. Criscitiello stated, that the plat reflects a setback variance request from 25' feet in the front, and 10' feet on the side; the front yard setback is being requested at 19' feet, and the side setback is being requested at 9.6' feet. Mr. Criscitiello stated, that this variance request has been to the Fripp Island Architectural Review Board, and the Architectural

Review Board has recommended Conceptual approval. Mr. Criscitiello stated, that the variance should be granted based on the facts, the size, shape and topography of the lot, which causes this variance to be a classic type of hardship, which is allowed under the State law and our own Zoning ordinance. Mr. Criscitiello stated, that one of the principal drivers of this variance is, that the size of the house is 1,750 square feet, and based on evidence received from the applicant and three different architects, it would be difficult, if not impossible, to build a house of that size, which is incomparable to houses in the general vicinity. Mr. Criscitiello stated, that there are objections from other property owners in the area, based on the fact that they feel that this creates a use problem or an enjoyment problem of their property, and they would suggest that this variance has no merit in regards to the application; but the Staff disagrees, and recommends approval. Mr. Criscitiello also stated, that the fact that Beaufort County is in court with the Fripp Island Architectural Review Board, represents a strong reason for approval based on the hardship in the area.

Mr. E. Williams asked Mr. Criscitiello, "As a result of sending the letters out that were required, were there any objections from the opposition of the letter that was sent regarding the variance, and if so, how many?"

Mr. Criscitiello stated, that there were no objections from the property owners within the 500' feet who received a letter, but there were other objections outside of the 500' foot radius, which responded.

Mr. E. Williams asked Mr. Criscitiello, "As a result of the letters that were sent out, were there any objections from the property owners within 500' feet?"

Mr. Criscitiello answered, "No".

Mr. Rentz asked Mr. Criscitiello, "In reading some of the letters from different people, like Tina Reeves; she stated, that the current ARB board has not granted the current Conceptual approval, why is that?"

Mr. Criscitiello stated, that the October 23, 2006 letter from Sandra Fleming, Chairman of the Fripp Island Architectural Review Board, granted Conceptual approval.

Mr. Rentz asked Mr. Criscitiello, "Is that ARB approval still good?"

Mr. Criscitiello stated, that it essentially is the same thing. The only difference is, that previously the side-yard variance requested was at 8.8' feet on the side, but now the variance being requested is 9.6' feet, which is actually more in conformance with the standard setback."

Mr. LeRoy asked Mr. Criscitiello, "Is it a fact, that this variance is required to bring the house footprint up to 1,750 square feet; and if they were not able to go to 1,750 square feet, there would either have to be a variance to the design guidelines or the covenants and restrictions, and if it wasn't granted, would it make the lot unbuildable?"

Mr. Criscitiello replied, "Yes, that's basically true. The only difference would be the elevation for the 1,700 square feet, or maybe a two or three story house to accommodate that much square footage, but that may be out of character in another way".

Mr. Gasparini asked Mr. Criscitiello, "Does the email from Tina Reeves stating, Conceptual approval was not granted from the Fripp Island ARB, mean that the old board granted the Conceptual approval?"

Mr. Criscitiello stated, that according to the letter from Sandra Fleming, yes; the old board did grant the Conceptual approval.

Mr. Gasparini asked Mr. Criscitiello, "Did the lot use to be across the street?"

Mr. Criscitiello stated, that the lot use to be across the street, but because of the erosion; the lot shifted.

Mr. Greg Bennett, representative for the Sutton's explained to the board, that the letter signed from Sandra Fleming was an approval given by the Fripp Island Architectural Review Board, when the lot was sold. Mr. Bennett stated, that the Sutton's have decided to move forward and get an ARB approval, since the approval is only good for one year.

Mr. Gasparini asked Mr. Bennett, "Has the 2006 approval expired?"

Mr. Bennett replied, "Yes." Mr. Bennett stated, that due to the configuration of that particular lot, the covenants and the bylaws require that the first floor be a minimum of 1,750 square feet; they had to go through three different Architects, in order to find an architect that could design a 1,750 sq. ft. house that meets the covenants and bylaws of Fripp Island. When the Fripp Company ARB authorized the setback variance, it was the understanding of the Sutton's, when they acquired that property, that it was approved by the County, it did not think that the ARB or the Fripp Company would authorize a variance if it had not been approved by the County. Mr. Bennett stated, that the Sutton's spent a half million dollars on the lot with the belief, that they would be able to construct a house on that lot. Mr. Bennett stated, that Tina Reeves requested that they stake the property, which they have done; it has been completely staked and flagged, and the ARB came and looked at the property. Mr. Bennett stated, that Tina Reeves' comments were, that it seems like the variance is in conformance; Tina advised them, that they should get a County variance prior to receiving a new letter from the Fripp Island ARB. Mr. Bennett also stated, that they are requesting a variance from the 10' foot side setback to 9.6', and a front yard setback variance from the 25' foot setback to 19' feet.

Mr. Gasparini asked Mr. Bennett, "Did the Fripp Island ARB approve the project?"

Mr. Bennett stated, that the Fripp Island ARB approved the project once, but Tina Reeves suggested that they get County approval first, and then get approval from the Fripp Island ARB.

There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Gasparini called for public comment, and limited the comments to 3 minutes each.

Mr. Jim Bennett, stated, that the Board should have received two letters from the Sandown home owners regarding the variance issue, and that he and his wife are in opposition to this variance request. Mr. Bennett stated, that he is a little troubled over the concept in the owner's lack of research prior to purchasing the property, which would become the other Fripp Island property owners' problems.

Mr. E. Williams asked Mr. Jim Bennett, "Do you have a copy of the plat?"

Mr. Jim Bennett replied, "Yes, I have emailed versions of the plat, and it only shows up to the cul-de-sac".

Mr. C. Williams asked Mr. J. Bennett, "Both you and the letter from the Board of Directors of the Sandown home owners association, say that the side setback variance will interfere with property of others contiguous, for which the side setback variance is requested; are those the Sandown owners you are referring to?"

Mr. J. Bennett replied, "No Sir, those are the other Fripp Island property owners."

Mr. C. Williams stated to Mr. J. Bennett, "Particularly Lot 12, since that seems to be the closest".

Ms. Peggy Baker stated, that she is within 500' feet of the property. She explained that the requested variance is 25% of the original setback, which is a significant and major change to the neighborhood; and if the variance is granted, it would not be fitting with the other lots in the subdivision. Also, the percentage of the lot occupied by the house footprint would be significantly greater than the adjacent properties. Ms. Baker stated, that the larger portions of the lots could be covered with impermeable materials, which would negatively impact the over land drainage in the area; the drainage already floods with high tide and could result in damage for the neighbors. Ms. Baker stated, that she is in opposition to this variance.

Mr. LeRoy stated, that it was his understanding that if the board granted a variance, the owner will still need to obtain approval from the Fripp Island ARB, and that is what Ms. Baker wants; it would still need to happen prior to the owner getting approval from the Fripp Island ARB.

Mr. Greg Bennett stated, that the primary concern about the drainage issue will be fully addressed by the Fripp Island ARB.

Mr. E. Williams made a motion to grant the variance request as submitted, in accordance to Section 106-7(1)(A) of the Zoning & Development Standards ordinance.

Mr. Rentz seconded the motion.

Mr. LeRoy stated, that he would like to propose that the approval be subsequent to the approval of the Fripp Island ARB.

Mr. Gasparini stated, that it's the Board's job to decide on the variance.

Mr. LeRoy withdrew his proposed addendum.

Mr. C. Williams stated, that the variance should be granted according to Section 106-522, because those standards clearly apply, because of the shape of the lot and the setbacks that are imposed; there are extraordinary and exceptional conditions that apply to the lot, and considering that, if they want to do anything with the lot, they have to abide by the covenants and restrictions; and the denial of the variance would result in an unreasonable restriction in the utilization of the property.

MOTION: Mr. E. Williams made a motion to approve the Variance request as submitted, in accordance with Section 106-7(1)(A); the front setback is approved at 19' feet and the side setback is approved at 9.6' feet. This application meets the

criteria for a Variance, as set forth in Section 106-522 of the Beaufort County Zoning & Development Standards Ordinance. Mr. Rentz seconded the motion. The motion passed unanimously (FOR: Dinkins, Gasparini, LeRoy, Mack, Rentz, C. Williams, and E. Williams).

ADJOURNMENT

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

The meeting adjourned at approximately 5:50 p.m.