



## 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, November 17, 2011, in the Council Chambers, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

#### MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman  
Mr. William Mitchell  
Mr. Timothy Rentz

Mr. Chester Williams  
Mr. Edgar Williams, Vice Chairman

#### MEMBERS ABSENT

Mr. Kevin Mack

#### STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator  
Mr. Anthony Criscitiello, Planning Director  
Mrs. Lisa Glover, Zoning Analyst III  
Mrs. Katherine Smith, Zoning Analyst II

**CALL TO ORDER:** Mr. Gasparini called the meeting to order at 5:04 p.m.

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

#### REVIEW OF AGENDA:

**MOTION:** Mr. Rentz made a motion to adopt the agenda as submitted. Mr. E. Williams seconded the motion. The motion passed unanimously (FOR: Gasparini, Mitchell, Rentz, C. Williams, and E. Williams).

#### REVIEW OF MINUTES (OCTOBER 27, 2011):

**MOTION:** Mr. Rentz made a motion to adopt the October 27, 2011 minutes, as submitted. Mr. Mitchell seconded the motion. The motion passed (FOR: Gasparini, Mitchell, Rentz, and C. Williams; ABSTAINED: E. Williams)

#### MR. GARY FIORE (RIVER BUFFER VARIANCE)

Ms. Amy Carn with Designamy, and representative for Gary Fiore stated, that her client is requesting a variance to encroach into the 50' River Buffer; the property is located in Berkeley Hall; her client is proposing a sand paver patio, which is of pervious material. Ms. Carn explained that the shape of the lot is odd, and a third of the lot is within the OCRM buffer, which becomes unusable for the client to do anything in that area. There is a proposed planting plan provided, using all native plants, which is listed in the back yard buffer pamphlet. The shape of the lot in the back corner of the house shows a small inlet that comes in from the river. There is an existing dock and bulkhead on the lot. The adjoining properties are not under the same conditions; I consider this to be an exceptional condition for this lot because of the topography,

and that makes everything else dependent on the house being placed right on the OCRM critical line. Ms. Carn stated, that there are no trees in the way, and no trees were taken down in the process of building this house. Ms. Carn stated, that her client has no use of the area in the back of the terrace to the left of the property.

Mr. C. Williams asked Ms. Carn, "When this area in Berkeley Hall was platted, was the buffer line shown on the plat, at that time?"

Ms. Carn replied, "Yes, I believe it was. We have a survey with the approved OCRM setback line."

Mr. C. Williams stated, that the landscape plans show a thirty foot building setback from the road right-of-way, and the house does not come near the thirty foot setback.

Mr. Gasparini asked Ms. Carn, "Is the dotted line on the plan, the thirty foot setback from the street?"

Ms. Carn replied, "Yes Sir."

Mr. Gasparini stated to Ms. Carn, "What's not showing here, is the buffer lines that shows the OCRM buffer lines."

Mr. Carn replied, "Yes, that's correct."

Ms. Austin stated, that she has a copy of the plat.

Mr. Gasparini asked Ms. Carn, "What is the lot number?"

Mr. Carn replied, "Lot 360."

Mr. Gasparini stated, let the record reflect that this is Lot 360.

Mr. Gasparini asked Ms. Carn, "Is the pool already built?"

Ms. Carn replied, "Yes Sir."

Mr. Criscitiello stated that the County's position, is that this application does not rise to the level of a hardship variance; the conditions of the lot was known when the development was platted in 2001, showing the OCRM critical line and the setbacks. The usable activities on the property, are such as the pool and other activities developed on the property outside the critical line, indicates to the County that the owner is not deprived of the use of his property; therefore, a 26 foot encroachment into the OCRM critical line setback is a condition that would be invariance with the county ordinance to avoid that from happening, so the County's position is to request the board to disapprove the patio variance on this property.

Mr. E. Williams asked Mr. Criscitiello, "Your request is that the variance be disapproved. There are some points in the staff report that states conditions, if the variance is granted. Have you discussed those points with the applicant?"

Mr. Criscitiello replied, "A copy of the staff report was mailed to Ms. Carn, so consequently they were advised of the staff's position, in advance to this meeting."

Mr. E. Williams asked Mr. Criscitiello, "Was these points discussed with the applicant?"

Mr. Criscitiello replied, "I presume that they understood what the staff position was, since it was provided to the applicant before the meeting."

Mr. Gasparini asked Mr. Criscitiello, "Have you seen the plat?"

Mr. Criscitiello replied, "I have."

Mr. Gasparini asked Mr. Criscitiello, "Would you please take a look at this plat? Does this change your mind?"

Mr. Criscitiello replied, "Not really, because the owner knew what he bought, which comes with the decision he made."

Mr. E. Williams asked Ms. Carn, "Did you review the points from the staff report?"

Ms. Carn replied, "Yes Sir, I did."

Mr. E. Williams asked Ms. Carn, "Do you have a problem with it?"

Ms. Carn replied, "I disagree in the interpretation for the use of the property. To me, it appears that a third of the property is within the OCRM critical line buffer, and would not apply to the adjacent lots. I do understand Mr. Fiore bought this lot, as it was."

Mr. Rentz asked Ms. Carn, "Has anybody had OCRM come back out to the lot, and review the critical line in the last few years?"

Ms. Carn replied, "There is an existing bulkhead in place and an existing dock, there was someone there to review the site plan, but we have not asked specifically for OCRM to come back to the lot."

Mr. C. Williams stated, that the board deals with various applications for the river buffer variance, but this application is not the typical river buffer application that we receive. More often than not, when we deal with river buffer variances, it's in relation to a lot that was platted and laid out before the County's imposition of the river buffer; and in that situation, we are dealing with a subsequent imposition of regulatory matter that was not complicated at the time the plat was laid out. But that's not the case here, the applicant has admitted, that when the subdivision was platted, the OCRM critical line was in place, everyone knew of the critical line setbacks, and now we are here with the applicant requesting to change the rules, because they want to use more of the lot. Mr. Williams stated, that the findings of this application does not meet the standard for a variance, that is set forth in Section 106-522 of the Zoning & Development Standards Ordinance; based on the application before the board, and the county's staff recommendation to disapprove the variance, Mr. C. Williams made a motion to disapprove the variance application.

**MOTION: Mr. C. Williams made a motion to disapprove the variance, based on the applicant application and the County's staff report. This application does not meet the standard for a variance, that is set forth in section 106-522 of the Zoning & Development**

**Standards Ordinance. Mr. Rentz seconded the motion. The motion passed unanimously (FOR: Gasparini, Mitchell, Rentz, C. Williams, and Mr. E. Williams).**

#### **ADJOURNMENT**

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

*The meeting adjourned at approximately 5:23 p.m.*