



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Zoning & Development

Multi Government Center • 100 Ribaut Road
Post Office Drawer 1228, Beaufort, SC 29901-1228
OFFICE (843) 255-2170
FAX (843) 255-9446

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, June 22, 2017, in the Council Chambers, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. John Chemsak
Mr. William Cecil Mitchell, III
Mr. Kevin Mack
Mr. Joseph Passiment
Mr. Chester Williams

MEMBERS ABSENT

Mr. Edgar Williams, Vice Chairman

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mrs. Tamekia Judge, Zoning Analyst III
Mr. Christopher Inglese, County Attorney

VACANCY

None

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 with the Pledge of Allegiance.

REVIEW OF AGENDA:

MOTION: Mr. C. Williams made a motion to adopt the agenda as written. Mr. Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell, Passiment and C. Williams; ABSENT: E. Williams).

REVIEW OF MINUTES:

Mr. Passiment was not appointed to the Board until after the January 26, 2017 meeting.

MOTION: Mr. C. Williams made a motion to adopt the January 26, 2017 minutes as written. Mr. Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell and C. Williams; ABSTAIN: Passiment; ABSENT: E. Williams).

MOTION: Mr. Chemsak made a motion to adopt the February 23, 2017 minutes as written. Mr. Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell, Passiment and C. Williams; ABSENT: E. Williams).

MOTION: Mr. Mitchell made a motion to adopt the April 27, 2017 minutes as written. Mr. Passiment seconded the motion. The motion passed (FOR: Chemsak, Mack, Mitchell and Passiment; ABSTAIN: Gasparini and C. Williams; ABSENT: E. Williams).

CHRISTOPHER MOHLER – (DOCK VARIANCE)

Mr. Tom Holloway representative for Mr. Mohler stated, "We are here because Mr. Mohler who lives at 22 Sheffield Ave. on Cat Island applied for a dock permit to construct a dock at his home location. He was granted a dock permit from OCRM extending out from the back of his home out 300 feet to the creek. Mr. Gasque then brought the dock permit and the plans to Beaufort County Zoning for permission to build the

dock and was advised that there was a small creek between the area that was permitted and the lot and therefore the Beaufort County Small Tidal creek ordinance applied and the Applicant needed to seek a Variance to cross the small creek. In researching the matter what I've determined in meeting with Mr. Gasque and Mr. Madlinger from OCRM is that the County, I think in 2000; created a Small Tidal creek map which mapped out the tidal creeks for which the ordinance was applicable to and when they renewed the ordinance in 2014, they did not renew the maps. And as per OCRM studies, Geordie Madlinger, resident OCRM employee, has determined that the area adjacent to Mr. Mohler's backyard has silted in; it is no longer a small creek and it is no longer subject to the County's Small Tidal creek map and therefore not subject to the ordinance. Today a picture was taken of the area and denoted as a small tidal creek behind Mr. Mohler's backyard, that is a pole, a young man with a 10 foot pool and obviously what's in his backyard. What was previously determined by Beaufort County as a small tidal creek is no longer a small tidal creek per Mr. Madlinger."

Mr. C. Williams asked Mr. Holloway, "Is it still shown on the map as a Small Tidal creek on the map?"

Mr. Holloway replied, "Yes, a portion of it is."

Mr. C. Williams asked Mr. Gasque, "So, your basic argument is that the map is wrong?"

Mr. Gasque replied, "We believe the map is wrong and it hasn't been updated."

Mr. C. Williams replied, "So your recourse is to the County Council to get them to change the map because it is incorporated into the Zoning ordinance."

Mr. Holloway stated, "I think the state law controls, and what controls here is that OCRM is determined that the proper location for this dock is out 300 feet to the larger water."

Mr. C. Williams asked Mr. Holloway, "Your position is that OCRM has the authority to overrule the County's zoning authority?"

Mr. Holloway replied, "No, my position is the County based its decision upon faulty information, and if the correct information from OCRM shows that the map is incorrect it not only shows that the decision is not valid but it also shows the hardship."

Mr. C. Williams asked Mr. Holloway, "The map is a part of the Zoning ordinance, is it not?"

Mr. Holloway replied, "It is."

Mr. C. Williams asked Mr. Holloway, "Then how can OCRM change the County's zoning code?"

Mr. Holloway replied, "It can't change the zoning code but they can interpret what a small creek is and where they would issue a dock permit. The information that Mr. Madlinger gave today, it reads according to OCRM 14-266-G, the State cannot permit docks on tributary or creeks that are less than 10 feet in width measured marsh grass to marsh grass, and that the survey of David Gasque shows the measurements of the tributary less than 10 feet width with the Applicant's property and the other lots shown."

Mr. Gasparini asked Mr. Holloway, "Does that mean OCRM can give them a permit?"

Mr. Holloway replied, "Yes, they have."

Mr. Gasparini asked Mr. Holloway, "In order to build a dock you have to have two, you need one from OCRM and one from the County, correct?"

Mr. Holloway replied, "Well I don't know if the County gives a permit, but I know they have to approve the plans."

Mr. Gasque stated to the Board, "The real reason we can't get a dock in there is because the State will not allow it because they deemed it as closing in, they've already allowed docks to cross it, and you can see it on the aerial because they don't consider it a creek."

Mr. Gasparini stated to Mr. Gasque, "The Zoning map which shows the small tidal creeks is a legislatively approved document, the County Council approves it. I don't know how OCRM or the Zoning Board can change that because we are not the legislative body."

Mr. Holloway stated, "We're not asking you to change it."

Mr. Gasparini replied, "You are asking us to say that what is marked as a small tidal creek on the map isn't a small tidal creek, is that correct?"

Mr. Gasque stated to the Board, "I'm asking you to tell us where that small tidal creek is at, it's non-surveyable and not re-creatable by that drawing."

Mr. C. Williams replied, "That's not for us to determine."

Mr. Gasque stated, "We need relief from somebody to tell us where it is located."

Mr. C. Williams replied, "We've been through this rodeo before, haven't we?"

Mr. Holloway stated, "I took aerial photos from the computer today... Mr. Savage has a dock probably within 50 feet."

Mr. Gasparini stated to Mr. Holloway, "I appreciate what you are saying; but this is not a legislative body, this isn't the County Council, we don't decide what's on the zoning maps."

Mr. Holloway stated to the Board, "You can grant a hardship Variance in the event that the information that the Zoning Department determinations are made is faulty, and there is no evidence to the contrary that the evidence isn't faulty and to make the Applicant be treated different than the rest of the neighbors in the Community and everyone else in Beaufort County based upon an improper determination of a map that wasn't recertified before it was enacted into the ordinance is exactly why the hardship statute is entitled to the Applicant before this body."

Mr. Gasparini stated, "The Variance piece of the County Development Code does provide the ability to give Variances for some things. The Board can't rezone, can't change the map; now you are asking us in fact to change the map and we have had this come before us before... we didn't say ok go ahead and build the dock because we don't feel like we could change the map."

Mr. Gasque stated to the Board, "When it comes down to two people interpreting the map and they are at odds, is this Board who we come to for relief?"

Mr. C. Williams replied, "No, not in this situation."

Mr. Holloway asked the Board, "Been before this Board many times and we often come here asking you to vary from what is allowed under the Zoning maps and this is no different than asking for a setback requirement or a pool Variance or allowing a house to be built on a lot that's smaller than what the County ordinance allows."

Mr. C. Williams replied, "Those situations you describe are all situations typically where the application of the codes results in the denial of the use of one's property, that's not the case here."

Mr. Holloway stated, "I don't mean to be argumentative, but it is. I have been here on pool applications where it didn't deny the applicant the use, this is the same where you live on a waterfront community

where everyone goes there to have docks and live on the water the way that everyone else does. Mr. Savage who is 50 feet away has the right to do, and if you look at the aerial map, there's no difference in that small creek that the County alleges to be there on the neighboring dock and in front of Mr. Savage's lot."

Mr. C. Williams replied, "There is a difference because there is a jurisdictional line that makes the difference. It's like the difference between one zoning district and another; it follows the property lines. If you stand on one side you're in one district and you stand on the other side and you are in another district, having different permitted uses."

Mr. Gasparini stated to the Board, "I don't have any doubt at all that the map needs to be corrected. My point is that's not what the Board can do, and I disagree with you. Yes we give Variances around setbacks and you're not asking us to change the setback; you're asking us to give a modulation against it and in this case you want us to take something that's labeled as a small tidal creek and say that it's not and I am not prepared to do that."

Mr. Holloway stated to the Board, "I have another position. I am going to ask for a Variance based upon a line change. When Mr. Gasque made the assumption, when we looked at the small tidal creek map and printed it out today, the lot line shows that the lot line is incorrect as it runs through the pool. Mr. Gasque found the lot line on the other side to the south of the property depicted on the maps in the front of you and, given that scenario, the requirements show that he can construct a dock 20 feet out, so if you would grant a Variance out to the 20 feet and allow the pier head to come out to the north; that would not determine that the map is incorrect."

Mr. Gasparini stated to Mr. Holloway, "So, what you are trying to tell us is that the County thinks the lot line is there, but to take the position that that's not the lot line also asks us to change the map, that's where I am hung up."

Mr. Holloway stated, "Not asking you to do that, asking you to issue the Variance with the dock being within 20 feet of the lot line, extending out 300 feet per the ordinance."

Mr. Gasque stated, "It obviously doesn't run down his driveway, it is not changing the Zoning map, you are changing the parcel overlay that is not geo referenced. They just copied and pasted that is how you see it going through the houses. If this is the true location, you can see we are missing it a little bit and if I can stay 20 feet off of that, I would have missed the green altogether."

Mr. C. Williams replied, "Then file your application."

Mr. Gasparini stated, "From my perspective, I know where that point is on that map because I am looking at it, and as I have said several times already, I don't feel comfortable changing that point. I don't know if the current application proposes a dock that touches that point or not, I don't know the answer to that and if it does, that's the map and I don't feel like we can change the map; and if it doesn't then it could be a whole another kettle of fish. I don't know how that would comply with the 20 feet setback and how that works. You are the surveyor Mr. Gasque, not me; and I don't know if we can eyeball that."

Mr. Gasque stated, "You just hit the problem, it's a map that somebody just cut and paste on it that's not geo referenced and there's not good coordinates and no way to really create that. So, are they just putting a cartblanch sweep on the whole creek, or if I can prove to them digitally on their own maps that we're missing it, that's where it's going to come in. You can ask Ms. Austin how they are going to treat that."

Mr. C. Williams stated, "We're not going to try and tell you how Ms. Austin would respond to an application that hasn't been filed." Mr. C. Williams also stated, "I don't see anything in the application that explains that it conforms to the Variance review standards."

Mr. Holloway stated, "I looked at the ordinance for Zoning Board of Appeals and it's for a denial of a determination of the Zoning office and what the zoning office did."

Mr. C. Williams asked Mr. Holloway, "Is this a Variance or an Appeal application?"

Mr. Holloway replied, "It states that it's a Variance application. When they denied the Zoning permit for a dock the Applicant filed an Appeal and followed the instructions and asked for a Variance, when I looked at it today, I determined that in fact I don't think a Zoning Variance is needed because I don't think that the zoning map is clear. It's ambiguous and it's contrary to the determination of OCRM, so it's not a valid denial. The Applicant isn't asking for a Variance from their application to construct a dock as submitted, on the other hand if they have to request a Variance we're asking you to vary from a map that is clearly faulty and that creates the hardship under the standards."

Mr. C. Williams stated, "First of all we have to figure out whether or not we are here for an appeal or a variance because the application form states a variance and with the variance there are very specific variance criteria that need to be met with a variance."

Mr. Gasque stated, "That's the process we are in; if we are turned down with the Zoning then we automatically appeal for a Variance based on their denial."

Mr. Holloway stated, "I submit we are here on both, it's an appeal of the determination of the Zoning and a request for a Variance in the alternative."

Mr. C. Williams stated that it was advertised as a Variance application.

Mr. Holloway replied, "I understand, that's what the Applicant was instructed to do. I looked at it as a lawyer and I think both elements are present."

Mr. C. Williams stated, "I have been doing this a long time and I do it in my private practice in Hilton Head Island, and I have never filed a combination appeal and Variance application and I've never seen one come before me; they are two separate applications, two separate criteria."

Mr. Gasparini stated, "It is two separate procedures because there is no public comment with an Appeal. As the Chairman of this group, the Board won't just change and say we will hear it as an appeal."

Mr. C. Williams asked Mr. Holloway, "What are the extraordinary or exceptional conditions that apply to Mr. Mohler's lot?"

Mr. Holloway replied, "The conditions are that he bought his house in 1995 under the conditions that he could construct a dock out to the small creek. The small creek, however, has silted in and now that is not an available option. The dock is an option and the only available dock would then be out to the next available creek, which is part of the application. The other element of the hardship is the Zoning ordinance and the map attached to the Zoning ordinance has not been amended to current information when the Zoning Ordinance was renewed."

Mr. C. Williams stated to Mr. Holloway, "You have recourse there, have you approached the County Council or the Planning Commission about changing the map?"

Mr. Holloway replied, "We have not. We've come here because we have been instructed by the Zoning office to file for a Variance and we are taking the first step in cooperating with the Zoning office."

Mr. Gasparini stated to Mr. Holloway, "Mr. Mohler is represented by competent Counsel and it's not up to the Planning Department to tell you what to do. It's up to you and your client to decide if you are doing an appeal or a variance."

Mr. Holloway replied, "Mr. Mohler was unrepresented at the time and now I am representing him."

Ms. Hillary Austin, Zoning Administrator stated to the Board, "When we heard the case for the two lots down the street, Mr. Savage was able to build a dock because a permit was issued in error and when Mr. Savage appealed for the second dock that he wanted, he came and he appealed my decision not to reverse the permit and get rid of it. In this case the Small Tidal creek is still there, yes it cuts off with the green, but we still consider that the creek continues on as a small tidal creek, that's the interpretation."

Mr. C. Williams asked Ms. Austin, "Should what's shown on the maps, for Zoning purposes be considered a small tidal creek?"

Ms. Austin replied, "You can look at the aerial and see that it is a small tidal creek."

Mr. C. Williams stated to Ms. Austin, "You are making the same argument as Mr. Holloway, but the reverse side, you are saying the map is wrong because it doesn't show everything that's a small tidal creek. Mr. Holloway says the map is wrong because it shows more than what's a small tidal creek, we can't have it both ways and either way we can't make that decision; that is a legislative decision that's vested in County Council."

Ms. Austin stated to the Board, "We would look at this if OCRM would send us a letter stating we have gone out there and this creek is no longer a small tidal creek. It was always planned by Cat Island to be a crab dock; it was never planned for docks to go across the small creek."

Mr. Gasparini asked Ms. Austin, "OCRМ regulations do not permit you to do that?"

Ms. Austin replied, "Right, so it's a catch twenty-two. If he would write a letter to County Council letting them know what is going on, maybe we can look at the map and correct it; but until that happens this is a small tidal creek and he wants to go across it. According to the ordinance it shall not adversely interfere with navigation. When we came for Scott Savage, there were people that came and said they kayak up and down that creek, and building a dock would cause a problem for that. That's also a part of the Variance that he's requesting; Staff recommends disapproval for the Variance. If there is anything with the maps, it needs to go to the Planning Department to request a map change or a text change and then it goes up to County Council."

Mr. Mack asked Ms. Austin, "If OCRM would send the County a letter stating it is less than ten feet marsh grass to marsh grass, what would be your take?"

Ms. Austin replied, "If we take it through the process and get the map approved, then he would get his permit."

Mr. Gasparini asked Mr. Holloway, "You showed me the picture of the boy with a ten foot pole, is that low tide or high tide?"

Mr. Holloway replied, "It's low tide."

Mr. C. Williams asked Mr. Holloway, "Is it navigable at high tide?"

Mr. Holloway replied, "Yes." Mr. Holloway stated that if OCRM could go through the process then maybe the maps can be updated. I request that we can table it until they do so, then the process can move forward."

Mr. Gasparini stated to Mr. Holloway, "If you table it, I am asking you to give notices."

Mr. C. Williams made a motion to table the project at the request of the Applicant, so the Applicant can meet with Staff and County Council to review Small Tidal creek zoning map.

Mr. Mitchell seconded the motion.

Due to the project being tabled, there was no public comment.

MOTION: Mr. C. Williams made a motion to table the project at the request of the Applicant, so the Applicant can meet with Staff and County Council to review the Small Tidal creek zoning map. Mr. Mitchell seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell, Passiment and C. Williams; ABSENT: E. Williams).

MI STAR GAZER LLC – (DOCK VARIANCE)

Mr. Kevin Dukes with Harvey and Battey, representing the Applicant, stated to the Board, "This is a Variance from the Small Tidal creek ordinance, which states that the maximum length of a dock accessing a small tidal creek is 300 feet and we are here requesting an additional 103 feet which would include the total length of both the walkway and the pier head which includes the float. It is an additional 8 feet from the bank and that might not go out that far if it's aligned with the pier head. The 103 feet is the actual worst case scenario for this application. The primary hardship is that this property at the creek does come up further and a little bit closer to the property we are discussing and it actually goes out in a different direction and comes up along one of the side of the property. The issue is whether you can actually get a dock in there and our position is that you can't; and if you were to stick a dock in there, you may actually cut off the public's ability to go up past that dock. It surely wouldn't have the ability for a boat to dock and go up and turn around. At most tides you can't access the dock because it is a shallow creek; however, we are asking for the dock to be placed at a larger pool in this creek, which would provide less of an impact on the creek itself and for the public, and would allow this property owner to have a fully functional dock. It would be tidal so he would not be able to access it at all times, but when he is able to get there, he would be able to turn his boat around and dock his boat at the dock, while allowing the public to get by in the creek. One of the aspects that we look at in these situations is; will there be a negative impact on the public by allowing this to be done. Our position is that there is none and by putting it in another location because it is so small, it actually could create negative impact on the public, should he be required to put it in another location that is small. This is part of the new development called the Marshes at Station Creek. This property was a part of a much larger development. There is a conservation easement on this part of the property. This property was allowed to be subdivided for five lots and each of those lots is between 6 and 13 acres. Along with that in the context of the dock Variance there are only two docks allowed, one on Station Creek side of the peninsula and one on the part facing the Port Royal Sound. There is a small dock that goes out to the saltwater pond on the northwestern side of the peninsula."

Mr. Gasparini asked Mr. Dukes, "So, there are access easements to get to your client's property?"

Mr. Dukes replied, "Yes, one other aspect of this is that there is very limited development with respect to the area along the marsh and the view from Station Creek and Port Royal was critical in the determination of the conservation easement because they were concerned about seeing houses from there because of the setbacks and even more so because of the cobra line. Most of these houses are going to be very far off of the marsh, and again there is only two docks; there is a total frontage on Station Creek and Port Royal Sound of 6600 feet. This lot alone has marsh frontage of 1200 feet and so, when we talk about whether this is in keeping with the harmony of the code and the purpose for the code with respect to these issues, I point you to one aspect which is not applicable in this case but if this was a shared lot you are obviously able to get a dock up to 500 feet. The purpose behind that is so we don't have these small lots with docks like Factory Creek where there are docks one after the other and we don't want that at all. So, we believe it is in keeping with respect to the restrictions that are already placed on the property; these two docks will barely be noticeable in the grand scheme of things from Port Royal and Station Creek. We have a good open relationship with the Open Land Trust; they are okay with this and of course OCRM agrees to this. They think that it makes sense with respect to the larger pool."

Mr. Gasparini asked Mr. Dukes, "Have they given you a permit?"

Mr. Dukes replied, "They have for the smaller creek closer to the property."

Mr. Gasparini asked Mr. Dukes, "Have you applied for a permit for the bigger one?"

Mr. Dukes replied, "We have not; we were coming to you first. We would have to have a Variance before they would issue the permit."

Mr. Gasparini asked Mr. Dukes, "Did they tell you that?"

Mr. Dukes replied, "Yes."

Mr. Gasparini stated to Mr. Dukes, "In some cases people go to OCRM and get a permit and then come to us."

Mr. Dukes stated to the Board, "They have told us that should you grant the variance the permit that was given can be amended, there doesn't have to be a new permit."

Mr. Gasparini asked Mr. Dukes, "So, they told you that you can amend a permit and build a totally different dock?"

Mr. Dukes replied, "From what I've been told, I usually just do what they say. Looking at the two creeks you are roughly between the areas anywhere between 11-20 feet in the alternative locations, we're not talking about really long areas, the difference between that and 200 times that at 50 feet, would make a huge difference and we don't believe 103 feet of length on the dock would have any additional impact on the community."

Mr. Mack asked Mr. Dukes, "To access the larger pool, would you have to cross some water?"

Mr. Dukes replied, "There is an inlet on the Port Royal Sound just off of that pool of water."

Mr. C. Williams stated, "It looks like the property line runs right through the middle of the creek."

Mr. Dukes replied, "That is the property line for a parcel called Crab Island."

Mr. Gasparini asked Mr. Dukes, "Your client wants to build this long dock so he can get to this pool, is that a tidal pool or is it deep water?"

Mr. Dukes replied, "I say pool, it is a larger part of the creek."

Mr. C. Williams stated, "It's the area that is 51.2 feet wide."

Mr. Gasparini asked Mr. Dukes, "Does that have water in it all the time?"

Mr. Dukes replied, "It does have water in it all the time, however, it is not accessible all the time."

Mr. Gasparini asked Mr. Dukes, "How big is the boat your client wants to put at the end of the dock?"

Mr. Dukes replied, "I don't know what kind of boat he has."

Mr. Gasparini asked Mr. Dukes, "How far out does the property go out to get to the dock?"

Mr. Dukes discusses the maps at the podium with the Board.

Ms. Hillary Austin stated, that the creek is tidal and Staff recommends disapproval because it's a small tidal creek and he should meet 300 feet.

The location of the dock is being discussed at the podium.

Mr. Dukes stated, "The dock would be coming from the closest point of the property to the edge of the creek."

Mr. Gasparini stated, "I am struggling visualizing this; I am visualizing a 400 feet dock that runs from the peninsula that runs to a float that sits 20 feet from someone's property line, am I right about that?"

Mr. Dukes replied, "The tax maps are generally wrong. The reason the lot line contains so much marsh is because there is a King's Grant. The distance from the creek to Station Creek which you say is Distant Island is 1000 feet."

Mr. Gasparini stated to Mr. Dukes, "If there was a reasonable picture to look at, it would be easier to look at. I am going to suggest that maybe you want to put this over until you submit something showing the boundaries, so we can get a better depiction of what you are requesting, showing exactly where the dock will be located in relation to the property."

Mr. Dukes replied, "I would be happy to provide the information."

There being no further comments from the Applicant or the County and no further questions from the Board, Mr. Gasparini called for public comment. Public comments are limited to three minutes.

Mr. Ted Brewer stated that he lives in Bay Vista which is adjacent to the Applicant. His question is when they sent out the Variance, and he contacted Mr. Dukes to know where the dock was going to be located. He contacted Mr. Madlinger with OCRM for the information to find out where the dock will cross the creek. Mr. Brewer stated, "We are not complaining or not saying that we don't want it; we just want a response or a picture of where the dock will be located."

Mr. Dukes stated to the Board, "It would be appropriate to put the project over until the information is submitted, and I'm happy to resend out notices to the property owners."

Mr. C. Williams made a motion to put the project over at the request of the Applicant so, he can provide additional information for the dock's location.

Mr. Chemsak seconded the motion.

MOTION: Mr. C. Williams made a motion to put the Variance over at the request of the Applicant, in order to provide additional information for the dock's location. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell, Passiment and C. Williams; ABSENT: E. Williams).

SAINT GREGORY THE GREAT – (PARKING VARIANCE)

Mr. Passiment has recused himself because he is a member of the Parish.

Monsignor Ronald Cileni, Pastor of St. Gregory the Great Catholic Church in Bluffton, stated to the Board, when he came here twenty years ago the Catholic Church in Bluffton had 79 families, and today we have 4,755 as of this morning. We grow by between ten and fifteen families per week. We are dealing like most of Beaufort County with growth issues and right now we are a little bit behind of where we should be and we have a proposal for a new family Parish Life Center that will handle overflow from the parish and a place where the school has plays and retreats, meetings and gatherings, and celebrations. It will work with the Parish but it will have its own life and because of that it will strain the parking needs. We are having difficulty with parking; the statutes state one parking space for three cars and most of the parishioners' are older couples and they come in twos or alone, we are concerned about the safety of the people."

Mr. Dan Keefer, Landscape Architect stated that, "Currently there are two main buildings on the property, the church facility, and the school facility, and now the proposed Parish Life Center. We are setting up this long term campus plan. We have 62 acres and we are looking at a campus master plan. The facility requires separate parking for the campus. There are plans for future expansion, but we don't know what will happen next. The current facility including the new building is roughly 71,000 square feet and the allowed build out is roughly 380,000 square feet. The current parking consists of three parking lots, the west parking lot has 110 spaces, the east parking lot has 62 spaces, and the parking behind the school has 32 spaces. The total of those spaces is 404 spaces and that is allowed for the church. The church capacity is 1,098 people and we have 1 space per 3 seats; we received a 20% increase, with the 20% increase the parking is around the 405 spaces. So, essentially there is no extra parking for the school and the new building. The ordinance doesn't have a requirement for this type of building. In the ordinance it reads in the parking section, church/meeting facility that requires the one space per 3 seats or one space per 300 SF, so we are calling the new building a meeting facility on this campus and we are required to have one space per 300 SF, so that's how we determined the 100 spaces in this Variance request."

Mr. Gasparini asked Mr. Keefer, "Building the new building doesn't require you to have additional parking?"

Mr. Keefer replied, "No, that's why we are here tonight."

Ms. Austin stated that it is an ancillary use; the parking is the same as the church.

Mr. Keefer stated that the ordinance is written to share the parking, so that's what drove us to request the Variance.

Mr. Gasparini asked Mr. Keefer, "You get parking for the church and the school, how many spaces are for the school?"

Mr. Keefer replied, "The spaces are allocated for the church and there is none for the school."

Ms. Susan Griner stated, "The new building will be a meeting facility that will be used for many functions. We have over 60 ministries that meet and this building will be used for the overflow from the Sanctuary. There are people that park in the wooded areas, on the side of the road and there is a safety issue. While Staff is classifying it as an ancillary building, in our view it is a separate building that should have its own parking"

Mr. C. Williams asked, "Is this an Appeal of Ms. Austin's decision or a Variance request?"

Ms. Austin replied, "It's a Variance."

Ms. Griner stated, "I guess we are asking for clarification of the code because we are looking at it as a separate meeting facility instead of an ancillary use."

Mr. Gasparini asked, "If you are looking for a Variance against the number of parking spaces you get to have for your church facility, that's indeed a Variance. If you are looking to overturn Ms. Austin's decision that this is a multi-purpose building that doesn't qualify you for any more spaces, then that's an Appeal."

Ms. Griner stated, "I think there are two issues, one is the question of how it's classified and the second is if it is classified as an ancillary use then we are looking for a Variance. That Variance would be based on the fact that our population demographics are different than how the code is written, so the code is written for one space for every 3 seats. We currently have 4,755 families and 11,374 parishioners' and that's 2.4 people per family. On average we see two people per vehicle as opposed to how the code is written."

Mr. Gasparini asked, "What's in front of us today based on the papers submitted to the Board, the Variance piece or an Appeal? I don't know that we can deal jurisdictionally on an Appeal of Ms. Austin's

determination of what kind of building it is. According to my simple records, this is the fourth time the church has come for a parking Variance since 2006 and that's a lot. I understand expansion, but there must be some way to master plan this with the County rather than coming back for parking Variances every time."

Mr. Keefer stated, "The extraordinary and exceptional conditions show that the demographic makeup of attendees such as the standards of parking results in inadequate spaces. The proposed multi-use building will be used at overlapping times. The Sanctuary currently has 5 services. The code doesn't specifically outline parking for accessory uses; so now accessory uses do not have a parking requirement so there is a gap in the code, the reason why we are here tonight."

Mr. C. Williams asked, "How many spaces are there now?"

Ms. Griner replied, "There are 404 and we did apply for and were granted the 20% increase."

Mr. Keefer stated, "The school is not in that calculation."

Mr. C. Williams asked Mr. Keefer, "Why isn't the school in the calculation for parking?"

Mr. Keefer replied, "Because it is an accessory use."

Ms. Austin replied, "The school is in the calculation for 32 spaces. The church had 377 and you requested a 20% increase in 2014 which was given, and you are supposed to have 420 parking spaces."

Mr. C. Williams asked, "How many square feet is the proposed building?"

Ms. Griner replied, "29,900."

Mr. C. Williams, "So, that's the 100 spaces?"

Ms. Griner replied, "Yes."

Mr. Gasparini asked, "20% of the 377 spaces would be 75 spaces?"

Ms. Austin stated, "It's 79 spaces. They were approved for 40 parking spaces for the school, 310 for the church and at that time, it was 930 seats, and so the base parking required was 350. Staff upped the 350 spaces by 20% to 420 spaces."

Mr. Gasparini asked Ms. Austin, "If the amount of the seats in the church goes up does it require more parking?"

Ms. Austin replied, "Yes, the SRT also agreed that it was an accessory use."

Mr. C. Williams asked Ms. Austin, "Is this new development or a change of use?"

Ms. Austin replied, "It's new development. They are adding a new building; a meeting facility."

Mr. C. Williams asked Ms. Austin, "Where in the parking standards it states you don't get more parking for an accessory use?"

Ms. Austin replied, "I don't think it says that in the code. It's just that if you're an accessory to something and you are not increasing the seats there is no need for parking, a fellowship hall doesn't increase the seats in the church."

Mr. C. Williams stated that there are two categories, meeting facility / place of worship."

Ms. Austin stated, "We treat it as a place of worship."

Mr. C. Williams asked Ms. Austin, "1 per 3 seats or per 6 feet of pews whichever is greater; or 1 per 300 SF with no fixed seats, this wouldn't have any fixed seats. Why wouldn't you apply the 1 per 300 SF?"

Ms. Austin replied, "Because it is an accessory to the church, it's not a separate use."

Mr. C. Williams asked Ms. Austin, "So, if they came in originally for a development permit for a church that had 1,098 seats and a fellowship hall for 30,000 square feet are you saying that you wouldn't require that they had the parking for the 30,000 square feet?"

Ms. Austin replied, "No, we would not, we would just consider the parking for the church, for the seats. When they came to the SRT and we talked about it, we told them this was an accessory use and they would need a Variance to get more parking. They never told us there would be seating during church service; we can add parking for that because they would be upping the seats."

Mr. Gasparini asked Ms. Austin, "If St. Gregory came and mentioned the seats, would they get more parking?"

Ms. Austin replied, "Yes, they would go back to SRT to add the seats."

Mr. Keefer requested that the application be tabled until they speak with the SRT for additional seating for 100 additional parking spaces.

Mr. Gasparini stated to Mr. Keefer, "If you return, you will need to notify the property owners again."

There being no further comments from the Applicant or the County and no further questions from the Board, Mr. Gasparini called for public comment. Public comments are limited to three minutes.

Mr. Adrian Morris at Berkeley Hall stated that they are okay as long as there was not a traffic issue.

Mr. C. Williams made a motion to table the application over until next month at the Applicant's request.

Mr. Chemsak seconded the motion.

MOTION: Mr. C. Williams made a motion to table the Variance at the request of the Applicant, in order to meet with the SRT to request overflow seating for an additional 100 parking spaces. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell, Passiment and C. Williams; ABSENT: E. Williams).

NEW BUSINESS

MOTION: Mr. Chemsak made a motion to postpone the 2017 election until all members were present. Mr. Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell, Passiment and C. Williams; ABSENT: E. Williams).

ADJOURNMENT

MOTION: There being no further business to come before the Board, Mr. C. Williams made a motion to adjourn. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell, Passiment and C. Williams; ABSENT: E. Williams).

The meeting adjourned at approximately 6:56 p.m.