



COUNTY COUNCIL OF BEAUFORT COUNTY
Beaufort County Community Development

Beaufort County Robert Smalls Complex
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The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, April 26, 2018, 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. Joseph Passiment
Mr. Kevin Mack

MEMBERS ABSENT

Mr. Edgar Williams, Vice Chairman
Mr. Chester Williams
Mr. William Cecil Mitchell, III

STAFF PRESENT

Ms. Hillary Austin, Zoning Administrator
Mrs. Tamekia Judge, Zoning Analyst III

VACANCY

None

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:06 p.m.

PLEDGE OF ALLEGIANCE: Mr. Gasparini led those assembled with the Pledge of Allegiance.

REVIEW OF AGENDA:

Mr. Passiment made a motion to adopt the agenda.

Mr. Mack seconded the motion.

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

REVIEW OF MINUTES:

Due to no quorum, the adoption of the October 26, 2017 and February 22, 2018 minutes are postponed.

MOTION: Mr. Passiment made a motion to adopt the January 25, 2018 meeting minutes. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack and Passiment; ABSENT: Mitchell, C. Williams and E. Williams).

JASON AND AMANDA DUBOSE – RIVER BUFFER VARIANCE

Mr. Curtis Coltrane, representative for Jason and Amanda Dubose, stated in support of their application for a Variance for the installation of a swimming pool at their residence located at 5 Big Oak Street in the Buckingham Landing section of Beaufort County. "Mr. & Mrs. Dubose purchased their home within the last couple of years. They have young children and they desire to build a pool as an amenity to their home. They are seeking to build a pool of roughly 425 square feet. The layout of the lot will place the pool within the river buffer. The lot is relatively narrow, but more importantly it comes to a point in the

water; the marsh comes up one side of it to an area that is within almost 50 feet of the side of the house. If the lot was squared like the other lots, they wouldn't have a problem. They have proposed to have a pool deck that is pervious material, which would prevent any further runoff. The lot is not level; it falls away from the house as it runs down toward the yard. Therefore moving the pool across the yard or out further to try and get into the one small area where the setback line doesn't affect anything creates its own problems. There are extraordinary and exceptional conditions related to this piece of property as it relates to the shape of the property and the way the water comes up more than half of the frontage of the property on the side, which will have the setback encroaching from two separate angles. The granting of the Variance does not confer special privileges on Mr. & Mrs. Dubose; they simply seek to add an amenity. The permit would be in harmony with what's shown in the neighborhood. There are several homes along the street that have pools. Although the pool would encroach into the river buffer, the pool deck will be pervious and it would not create any particular burden on the waterway."

Mr. Anthony Criscitiello, Beaufort County Planning Director stated, "The principle driving force behind the Community Development Code is to try and preserve the water quality of Beaufort County. Consequently, a runoff from land development into our receiving bodies is something that we take a great deal of concern and interest in trying to avoid pollution finding its way into the waters. Staff recommends denial of the application. The usability of the property is not hindered by the lack of having a pool. If the Board elects to grant the Variance, Staff encourages the Board to ensure that the house, pool and deck design provides for drainage or channeling of runoff away from the natural watercourse, marshes and wetlands or tidal areas in that such runoff is filtered through a vegetative strip. So, while we recommend denial, we're providing you with what we think is some guidance for your decision making."

Mr. Gasparini asked Mr. Coltrane, "How long have your clients owned the property?"

Mr. Coltrane replied, "Two and a half years".

Mr. Gasparini asked Mr. Coltrane, "Did they build the home or was it there?"

Mr. Coltrane replied, "Existing home."

Mr. Gasparini asked Mr. Coltrane, "How far is the pervious deck?"

Mr. Coltrane allowed Mrs. Dubose to reply, "To the edge of the deck is 16 feet".

Mr. Gasparini stated, "It looks like there is a wood deck built up to the 50-foot".

Mrs. Dubose replied, "That's an elevated deck".

Mr. Gasparini asked Mrs. Dubose, "How far is it from the edge of the elevated deck to the edge of the pool? This is not 16 feet; can the pool be moved closer to the house to mitigate for what is being moved into the buffer?"

Mr. Dubose replied, "There are concrete columns that come down from the upper deck, so moving it closer would put the pool very close to this concrete, particularly on one corner, which wouldn't allow much access."

Mr. Mack asked Mr. Coltrane, "Are you saying that the pool cannot be built closer to the home because of the columns?"

Mr. Coltrane replied, "It can be built closer to the home, but that raises two issues. The columns are then closer to the center of the pool, and with children running around that poses a safety problem. It also creates a problem with maintenance with respect to water getting on those columns and causing deterioration."

Mr. Mack asked Mr. Coltrane, "On the average king tide or high tide, does that water encroach onto your property?"

Mr. Dubose replied, "No, that was the highest that we've ever had."

Mr. Gasparini stated, "I would be more amendable to the application if the pool were moved closer to the house".

Mr. Chemsak asked Mr. Coltrane, "Looking at the pictures, what is going to happen to the water from the gutters once the pool is put in?"

Mr. Coltrane replied, "It would be rerouted".

Mr. Dubose stated, "There is going to be a drain cut into the deck, and it's going to continue on out into the yard on to the other side".

Mr. Gasparini asked Mr. Coltrane, "There is some space to move the pool back towards the house and maybe even to move it further towards the wooden fence".

Mr. Dubose stated, "It could be moved a little bit closer to where the well is, but I don't know if that does anything for the encroachment. It probably encroaches more because the closest point of the encroachment is the corner by the well behind the wooden fence".

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 comments.

Mr. Passiment made a motion to uphold recommendation and conditions to grant the Variance.

Mr. Mack seconded the motion for the sake of discussion. I am having a difficult time with the hardship; I really don't see an extreme hardship. I am looking at the encroachment and don't believe we have minimized our level of encroachment. I am concerned about runoff from the pool, looking at the storm surge if another hurricane came.

Mr. Passiment stated, "I understand the nature of the property and what constitutes a dilemma, because of the way the property is shaped. In fact, if the pool is built the way it is being proposed and mitigated by the way the County is proposing, then that becomes acceptable to me."

Mr. Chemsak stated, "I see a problem with runoff and being too far into the critical line".

The motion failed and the Variance is denied.

MOTION: The motion failed and the Variance is denied. The applicant has not proven a hardship. (FOR: Passiment; OPPOSE: Chemsak, Gasparini and Mack; ABSENT: Mitchell, C. Williams and E. Williams).

HUGGINS HOLLOW LLC – VARIANCE

Mr. Patrick Kelley, representative for Steve and Deanna Hubbard stated, "The property is about 19 acres off of Gibbett Road. The zoning for the property was changed to T2 Rural to accommodate an RV Park. It is currently a mobile home park."

Mr. Gasparini asked Mr. Kelley, "When was it rezoned?"

Mr. Kelley replied, "This past January. What my clients are asking is that they be granted a Variance from the required 100-foot visual buffer that's adjacent to any property lines and roads. The reason is that it

creates a burden. If you look at the plans, it shows a 100-foot setback; you will see a road that goes along the fringe of the property and that road is entirely well within the setback. It's an existing road, along with several septic systems that have already been built on the property with an electrical grid setup as a result of being a mobile home park for a long time. The Variance is to lower the buffer back to 50 feet for the majority of the property. The property next to this property is Hargray's cable farm, which has a 150-foot easement that goes along the southern side of the property."

Mr. Gasparini asked Mr. Kelley, "You're telling me you want to use someone else's property as your buffer?"

Mr. Kelley replied, "No, I am saying that the amount of buffer existing doesn't buffer from anything."

Mr. Gasparini asked Mr. Kelley, "You want to reduce the buffer from 100 feet to 50 feet for the whole property, and a lesser buffer for the lower corner, is that right?"

Mr. Kelley replied, "That is correct".

Mr. Gasparini asked Mr. Kelley, "What is the hardship?"

Mr. Kelley replied, "The hardship is absent the setback they're going to have to abandon the infrastructure that's already there. They're not going to be able to build on what they've got".

Mr. Gasparini asked Mr. Kelley, "Are your clients the ones that applied for the rezoning?"

Mr. Kelley replied, "Yes, they were not aware that everything changed to 100-foot; they thought it was still at 50 feet".

Mr. Gasparini stated to Mr. Kelley, "If you asked to get the property rezoned, and it turns out that you don't like the buffers that seems to me like it's not a hardship".

Mr. Chemsak asked Mr. Kelley, "Are you saying by getting this Variance, you're going to increase the number of sites that you have for the RV?"

Mr. Kelley replied, "No".

Mr. Anthony Criscitiello, Beaufort County Planning Director stated, "The property was changed from T3 Edge to T2 Rural. The County Council set the standards in regard to the setback of 100 feet. The Staff recommends denial of the application".

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 were limited to three minutes.

Mr. Michael Anderson stated, "I strongly urge you to deny the buffer being changed."

Mrs. Eva Anderson stated, "I haven't seen a posting. I insist that the buffers remain".

Ms. Nicole Emsley stated, "The fence is not 6-foot. With a buffer it will stop the noise and we won't have to see things at all hours and campers".

Mr. David France stated, "I agree with a 100-foot buffer."

Mr. Chemsak made a motion to disapprove the application and uphold the County's decision.

Mr. Passiment seconded the motion.

MOTION: Mr. Chemsak made a motion to deny the application and uphold the County's decision. Mr. Passiment seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack and Passiment; ABSENT: Mitchell, C. Williams and E. Williams).

MARK FURGESON – BASELINE SETBACK VARIANCE

Mr. Mark Furgeson stated that he is requesting a Variance to build 22 feet into the river buffer.

Mr. Anthony Criscitiello, Beaufort County Planning Director stated, "Staff recommends approval".

Mr. Passiment made a motion to approve the application and grant the Variance request, upholding the County's decision.

Mr. Chemsak seconded the motion.

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 comments.

MOTION: Mr. Passiment made a motion to approve the application and grant the Variance request, upholding the County's decision. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack and Passiment; ABSENT: Mitchell, C. Williams and E. Williams).

ROBERT JIMENEZ – RIVER BUFFER VARIANCE

Mr. Robert Jimenez stated, "I moved three months ago to a small property and I am seeking to build a deck to enjoy the land. There being minimal land and the shape of the lot causes a hardship. There is no usable space in the front. The proposed deck will go out to the bedroom. There is no way for the kids to go out and enjoy the land because of the erosion."

Mr. Gasparini asked, "When the house was built, where was it built?"

Ms. Hillary Austin, Zoning Administrator stated, "It was at 20 feet. The house doesn't encroach into the critical line, only the buffer. The corner is sitting at 6 feet and the other side is at 8 feet. He can probably add a deck, but not as wide".

Mr. Gasparini stated to Mr. Jimenez, "If in building your deck, if you could figure out how to mitigate the runoff will that work?"

Mr. Myles Mckinzey explained the drainage system in the back yard, diverting the water to the front.

Mr. Gasparini asked Mr. Jimenez, "Would you be okay if County were to put a condition on your Variance application that you might give it some thought and divert the water back to the street, would you be willing to entertain that?"

Mr. Jimenez replied, "Yes."

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 comments.

Mr. Passiment made a motion to approve the Variance request, subject to the Stormwater conditions.

Mr. Gasparini stated subject to the design of the deck, address Stormwater from the roof to meet the County standards.

Mr. Chemsak seconded the motion.

MOTION: Mr. Passiment made a motion to grant the Variance request, upholding the County's decision. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack and Passiment; ABSENT: Mitchell, C. Williams and E. Williams).

OLD BUSINESS

There was no old business to come before the Board.

NEW BUSINESS

Mr. Gasparini requested that the election of the 2018 Chairman and Vice Chairman be postponed until all members are present.

ADJOURNMENT

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

The meeting adjourned at approximately 6:39 p.m.