



COUNTY COUNCIL OF BEAUFORT COUNTY  
**Beaufort County Community Development**

Beaufort County Robert Smalls Complex  
Administration Building, 100 Ribaut Road, Room 115  
Post Office Drawer 1228, Beaufort SC 29901-1228  
Phone: (843) 255-2171 • FAX: (843) 255-9446

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, December 19, 2019, in the Council Chambers, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

**MEMBERS PRESENT**

Mr. Thomas Gasparini, Chairman  
Mr. Kevin Mack, Vice-Chairman  
Mr. John Chemsak  
Mr. Mark McGinnis  
Mr. Chester Williams

**MEMBERS ABSENT**

Mr. Bernard Rivers  
Mr. Cecil Mitchell, III

**VACANCY**

**None**

**STAFF PRESENT**

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

**CALL TO ORDER:** Mr. Gasparini called the meeting to order at 5:03 p.m.

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

**REVIEW OF AGENDA:**

**MOTION:** Mr. Williams made a motion to adopt the agenda as written. Mr. Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, McGinnis and Williams; ABSENT: Mitchell and Rivers; VACANCY: None).

**REVIEW OF MINUTES:**

**MOTION:** Mr. Mack made a motion to adopt the November 21, 2019 minutes as written. Mr. Williams seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, McGinnis and Williams; ABSENT: Mitchell and Rivers; VACANCY: None).

**NEW BUSINESS**

**NICOLE SCOTT, NEXSON PRUET – K & R DEVELOPMENT (APPEAL CONTINUANCE)**

Mr. Williams and Mr. Gasparini recused themselves from the consideration of the application because they represent the neighboring property.

Mr. Mack, Vice-Chairman, chaired the meeting.

There was no quorum to vote on the continuance.

Mr. Gasparini, Chairman and Mr. Williams rejoined the meeting.

**JOSEPH AND MAUREEN KLEIN'S (STRUCTURE SETBACK VARIANCE)**

Mr. Klein stated, "My wife and I have lived in South Carolina for six and a half years in Moss Creek Community. This is our full-time retirement home. Our house is a patio home, which the restrictions on setbacks have been removed by Moss Creek. Please see the attached letter from Moss Creek Architectural Review Board approving this structure in its location on the lot. The screened porch would allow us to enjoy the community; we would not be causing any problems. Behind us is a 40-foot drainage swale and a pecan field used as common area, so we would not be obstructing anything. In reference to the specific sub-section, 7.2, a Variance permit would not restrict or prohibit the utilization of land or result in any undue hardship. There would be no conflict with any of the special privileges of the neighbors. They all agree one hundred percent. The permit would allow us to use the land. The letter from Moss Creek shows that the work is in harmony with the balance of the Community and has no injurious effect on persons or public welfare. We would appreciate your approval to continue this project."

Mr. Mack asked Mr. Klein, "Did you say that Moss Creek doesn't have to adhere to any setbacks?"

Mr. Klein replied, "There are two communities, Stable Gate and Royal Pointe and they are Patio homes. They have managed to put a patio home on a lot that is very tiny. The majority of the houses in some way get into the ten-foot setback either on the side, on the front or on the back."

Mr. Williams stated to Mr. Klein, "You stated in your application that other patio lots have received variances for the same reason and I don't see anything in the record that supports that."

Mr. Klein replied, "I didn't bring anything in but I have been told by the Moss Creek Architectural Review Board that this is pretty common for them and the fact that they would allow people to build right up to the lot line."

Mr. Williams asked Mr. Klein, "Is there a deck on the back of the house right now?"

Mr. Klein replied, "There is a cement patio on the back of the house. We had three architects come out; review the back of the house and the only thing that could be put over the patio would be a Lanai type structure, which Moss Creek does not allow, which would not give us any protection. They are looking for a Gable type shingled roof, which this structure would give. So, it would be architecturally balanced to what the house looks like."

Mr. Williams asked Mr. Klein, "Why can't you put a Gable top over the deck?"

Mr. Klein replied, "If you look at the house it is kind of an L-shape in back and its cut on a 45 and the builder said it couldn't be done."

Mr. Gasparini asked Mr. Klein, "On the pecan grove, how many other porches are there like this?"

Mr. Klein replied, "There are three houses on the pecan grove. The house to my right and the house to my left both have Carolina rooms."

Mr. Gasparini asked Mr. Klein, "If I were standing in the pecan grove and looking at your house, there would be a house on either side, is that correct?"

Mr. Klein replied, "Yes."

Mr. Gasparini asked Mr. Klein, "And each one of those already has a structure that comes as close to the lot line as yours?"

Mr. Klein replied, "Yes. The one that is on the corner is just a Carolina room and the one that's on the other side has a swimming pool and a Carolina room."

Mr. Gasparini asked Mr. Klein, "Do they all come within two feet of the property line?"

Mr. Klein replied, "I do not know that as a fact."

Mr. Gasparini asked Mr. Klein, "Do they stick out from the back of the house as your proposed porch?"

Mr. Klein replied, "Yes."

Ms. Hillary Austin, Zoning and Development Administrator stated, "Patio lots are normally ten feet on the rear; one side seven feet and one side three feet, so that each lot would have a ten feet setback between the buildings. On the rear, it is normally ten feet. When this house was built it was built at ten feet."

Mr. Williams asked Ms. Austin, "Does the subdivision plat show the setbacks?"

Ms. Austin replied, "No. The way this subdivision came about, they brought each lot on one at a time until 1997, so that is why you have a plat showing one lot. There is a five foot utility easement on the rear and on the sides."

Mr. McGinnis asked Ms. Austin, "What is the zoning?"

Ms. Austin replied, "It is a PUD, Planned Unit Development."

Mr. Gasparini asked Ms. Austin, "There is a five foot utility easement, nothing can get built in that, is that correct?"

Plat of the subdivision entered into the record.

Ms. Austin replied, "Yes, nothing should be built in it. There is an easement that goes around the entire lot."

Mr. McGinnis asked Ms. Austin, "What is the County's view on the property for Planned Unit Development if it has no specific setbacks?"

Ms. Austin replied, "They have them in the Covenants and Restrictions."

Mr. McGinnis asked Ms. Austin, "Is there any conflict between what the County would view and what the PUD would view?"

Ms. Austin replied, "Normally when it's like that and the PUD grants them a Variance, if it's something that we can handle, we'll accept it. Our code allows us to modify the setbacks. So a ten-foot setback would be modified by twenty percent or three feet whichever is greater. We would not allow the house to

go into the platted drainage easement. There is no way the County would say it is okay to allow it, and even if the Board says ok, then they are not meeting their standards.”

Mr. Williams stated, “I am not predisposed to consider a Variance that violates a platted easement.”

Mr. Gasparini asked Ms. Austin, “Do you know anything about earlier easements for the neighboring properties?”

Ms. Austin replied, “I would have to pull their plat to see what was on it, because like I said the Developer brought them on one at a time.”

Mr. Gasparini asked Mr. Klein, “If there is an easement there and someone owns the easement, you are not supposed to build within the easement. I think it is important to understand in more detail of what has been going on next door. It has been the custom of the Zoning Board in situations like this, particularly with lots that have been platted, long ago, and if there are already encroachments with the neighbors then we would be more sympathetic to a Variance than if this is the first one. I am not suggesting that it is because we do not know that. I will suggest, and this is up to you entirely, you can put this off for a month and get some more information about what is going on with the neighbors, or we can move forward to have a vote tonight, which is up to you. If you want to put it off until you get some more information than we are likely to do that; you can ask us to do that.”

Mr. Williams stated, “Our concern is that the recorded subdivision plat that shows your lot appears to show a five-foot wide utility easement along the rear property line. I am not predisposed to consider granting a Variance that would allow you to go three feet into that five feet utility easement.”

Mr. Klein replied, “I am still on my property.”

Mr. Williams stated to Mr. Klein, “Your lot is subject to a utility easement. An easement is the right to use someone else’s property. Someone has the right to, if they need to go and dig up that five-foot area on the rear of your property and put, utility lines and if there is a porch in there, they cannot do that without destroying your porch. I do not have enough information in the record other than your own self-serving statements that certain things are fact and I am not willing to rely just on that in order to make a decision in your favor. It is up to you as to whether you want us to vote on this tonight or whether you want us to carry it over, and see what additional information you can put together to help us make a decision that you want us to make.”

Mr. Klein asked the Board, “What information do you need to approve this? The ARB has stated that it was fine.”

Mr. Williams stated, “That is a decision that is made under their Restrictive Covenants.”

Mr. Klein asked the Board, “Can you put this over until next month until I get you more information?”

Mr. Williams made a motion to continue the meeting until next month, giving the applicant time to submit evidence and facts regarding the neighboring structures.

Mr. Mack seconded the motion.

**MOTION: Mr. Williams made a motion to continue the meeting until next month, giving the applicant time to submit evidence and facts regarding the neighboring structures. Mr.**

**Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, McGinnis and Williams; ABSENT: Mitchell and Rivers; VACANCY: None).**

### **ELECTION**

The election of the Chairman and Vice-Chairman is postponed until the next meeting.

### **ADJOURNMENT**

**MOTION: Mr. Williams made a motion to adjourn the meeting. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, McGinnis and Williams; ABSENT: Mitchell and Rivers; VACANCY: None).**

The meeting adjourned at approximately 5:32 p.m.

Note: The video link of the December 19, 2019, Zoning Board of Appeals meeting is:  
[https://beaufort.granicus.com/player/clip/4616?view\\_id=15](https://beaufort.granicus.com/player/clip/4616?view_id=15)