



## COUNTY COUNCIL OF BEAUFORT COUNTY

### Beaufort County Planning & Zoning

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The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, October 28, 2021, at the Beaufort County Administration Bldg., Council Chambers, Beaufort, South Carolina.

#### MEMBERS PRESENT

Mr. Kevin Mack, Chairman  
Mr. Chester Williams, Vice Chairman  
Mr. John Chemsak  
Ms. Lynne Hoos  
Mr. Cecil Mitchell

#### MEMBERS ABSENT

Mr. Mark McGinnis

#### VACANCY

One

#### STAFF PRESENT

Mr. Robert Merchant, Planning/Zoning Director  
Ms. Hillary Austin, Zoning Administrator  
Mrs. Lisa Anderson, Zoning Analyst III

#### ATTORNEY PRESENT

Mr. Ben Coppage, Attorney for the County  
Mr. Jim Weggmann, Attorney for Graham Trask

**CALL TO ORDER:** Mr. Mack called the meeting to order at 5:02 p.m.

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

**FOIA – PUBLICATION NOTICE:** Mr. Mack asked if all public notices were sent out, Ms. Austin verified that they were.

#### **ADOPTION OF AGENDA:**

**MOTION: Mr. Chemsak made a motion to adopt the agenda. Ms. Hoos seconded the motion. The motion passed unanimously.**

#### **ADOPTION OF MINUTES:**

**MOTION: Ms. Hoos made a motion to adopt the minutes of September 23<sup>rd</sup>, 2021 meeting. Mr. Williams seconded the motion. The motion passed unanimously.**

#### **HERMANT & BARBARA GOEL'S VARIANCE – BULKHEAD**

Mr. Ashley Eastman, agent for the applicant stated he is here to request a variance from the Division 5.11.60.G.1 to not require the OCRM Bulkhead Permit in order to build an 18-inches wall landward of the critical line to prevent erosion. He stated that OCRM did not believe there was erosion seaward of the critical line, and did not approve a permit for the wall. He also stated that there were a couple of trees seaward of the critical line that had their roots being scoured out by the tide, and he wanted to protect the trees by building the wall.

Mr. Mack wanted to know if there were any bulkheads in the immediate vicinity.

Mr. Eastman stated no there were no bulkheads in the area.

Ms. Austin stated the request did not warrant a variance, because there was no hardship. All of the lots in the vicinity has flooding at high tide. Approving a wall at this property would eventually cause problems on the adjacent lots. She also stated if the applicant wanted to shore up the trees, the staff would work with them to place tree wells around the trees in a manner that may not cause an issue with the adjacent properties.

**PUBLIC COMMENTS:** Only emails which are in the file to deny.

**MOTION: Mr. Chemsak made a motion to deny the variance request because it is not in compliance with the Comprehensive Plan. Mr. Williams seconded the motion. The motion passed unanimously.**

### **MICHAEL MURR'S VARIANCE**

Mrs. Murr stated she built the shed because she did not know she needed any permits. She stated she needed the extra space for storage, and since this lot belongs to her and there were no plans to build a home, she did not see a problem. She stated that she is not a part of the Perryclear S/D Property Owners Association, because they are defunct.

She stated that a hardship exists on the ground because it was underwater during Hurricane Matthew, and a large amount of dirt would have to be brought in to make the lot buildable. She also stated the company she hired to build the building was supposed to get all of the permits.

Ms. Austin stated that the building is in violation of the Accessory Structure requirements that require a principal structure. The structure is also in violation of the recorded Covenants and Restrictions that requires only single family residences. She made a suggestion to have Mrs. Murr add maybe a studio apartment to the structure which would make it a single family building.

Mr. Chemsak wanted to know the height of the structure?

Mrs. Murr did not know.

### **PUBLIC COMMENTS:**

Mrs. Betty Van Esselstyn stated she is in support of Mrs. Murr.

Mrs. Brenda Lucas stated she is the Treasurer of the Home Owners Association, and the structure is in violation of the Covenants and Restrictions.

Mrs. Murr stated that there is no Perryclear Home Owners Association, she was never invited to a meeting.

Mrs. Mitchell stated that maybe Mrs. Murr should request a continuance so that she can work something out with the County and the Association.

Mrs. Murr requested that the Board continue her request until the next meeting.

The Board granted her request to continue the request until the next scheduled meeting.

## **GRAHAM TRASK SETBACK VARIANCE**

Mr. Trask is requesting a variance to be able to not meet the required build-to-line. The Code requires that all structures within the T4NC zoning district be setback 0'-15' from the property line. The reason for the variance is there are existing power-line easements along the front property line that prevents any structure from being built. The building will be located behind the power-line easement.

Mr. Williams stated to Mr. Trask that the County has recommended the approval of the variance, and asked if he saw the staff's report.

Mr. Trask stated yes, he just wanted to ensure that he made his case.

Mr. Ben Coppage stated that the County has no objection to the variance requested by Mr. Trask.

Mr. Mack called for Public Comments.

Mr. Chuck Newton stated that he is the Chairman of the Lady's Island Coalition, and the issue is the project needing 2 variances and a special use. He also stated that the location of this project is where two (2) lanes turns into one (1) lane all the way to the Woods Memorial Bridge. He also stated that SCDOT traffic count states there is an average of 18,000 annual traffic movements in that area, and a plan is formulated to address that count. Beaufort County voters approved a referendum which provided for 30 million dollars for traffic improvement along Sea Island Parkway in this area. He continued to state that the proposed drive-thru will threaten the work being done to improve traffic conditions on the parkway. He also stated that there was no issue with the first variance.

Mrs. Bonnie Krstolic stated she is a resident of Ladys Island, and this one area on Ladys Island has a lot of traffic accidents. She also stated that presently the traffic getting across the Woods Bridge is very bad, and most people do not want to come on to Ladys Island because of the traffic.

Mr. Mack stated that there are email comments for and against the request.

**MOTION: Mr. Williams made the motion to approve the variance based on the application before the Board and the Staff's recommendations. Mr. Chemsak seconded the motion. The motion passed unanimously.**

## **GRAHAM TRASK – BUILDING PRIVATE FRONTAGE TYPE VARIANCE**

Mr. Trask is requesting a variance from Division 5.2.30 – Private Frontage. He stated that he has a shop front structure while the County states he does not. He stated that the code describe a shop-front as the main façade of the building at or near the frontage line with an entrance along the public right-of-way. This frontage type is intended for retail use. It has substantial glazing at the sidewalk level and may include an awning that overlaps the sidewalk. He continues to state that the International Building Code defines a building as including all that is under the roof. This has a roof over it so he is a little confused with the variance request.

The applicant showed the board members what the building would look like with the drive way inside the building.

Mr. Williams stated he doesn't think a variance is needed, and he would like to hear the County's position on this request.

Mr. Ben Coppage stated that the Action Form from the staff told Mr. Trask to apply for a variance from the frontage standards. He stated that the information shown to the Board is not a main façade shop front. What the Board sees is a wall and then a drive-thru and then you get to the main part of the building.

Mr. Williams asked if that front was a part of the building.

Mr. Coppage stated that would hinge on the definition of building.

Mr. Williams stated that the Code does not have a definition of a building, he continue to state that to him that's a part of building as it has one continuous roof.

Mr. Coppage stated before we get too deep into the definition, he must agree with Mr. Williams that this is more akin to an appeal of an interpretation.

Mr. Williams asked Mr. Coppage if the County told Mr. Trask to seek a variance.

Mr. Coppage stated yes. But instead of Mr. Trask requesting a variance from the Code, he is asserting that his submittal meets the requirement.

Mr. Merchant stated that this issue has to do with the configuration of the lot in this district. The district calls for a walkable main street, regardless of whether it is appropriate for the area or not. This requirement came out of many community plans, and if it is not appropriate, then it is up to Planning Commission and County Council to address the issue. This zoning district calls for a walkable community and it is very specific on how the buildings address the street. The zoning district is very specific on the types of frontage, the whole idea is that you have the buildings fronting the sidewalk and you do not have automobile traffic occurring between the building and the sidewalk, so that is the reason why Staff directed them to configure the drive in a different manner so that the driveway is at the rear of the building.

Mr. William stated that the issue with whether the request should be a variance or an appeal is troubling because if the Board moves on the request and approve the variance, the County will appeal the decision to the Circuit Court, which will hold up Mr. Trask much longer than he wants.

Mr. Weggman stated that it works both ways, Mr. Trask will appeal the decision if it is not favorable.

The Board made the decision to table the variance request and to move on to the Special Use request. FOR – Williams, Hoos, Mack, Mitchell. AGAINST - Chemsak

Mr. Mack asked for a 5 minute recess before moving on to the next item.

Mr. Mack called the meeting back to order.

### **GRAHAM TRASK SPECIAL USE PERMIT – 131 SEA ISLAND PARKWAY**

Mr. Trask stated that he is requesting a Special Use Permit for a Coffee Shop with a Drive-thru. The specific use conditions in the Code are for conventional zoning district, the T stands for Transect zoning not conventional zoning, nevertheless the proposed site plan meets the requirements for the conventional zone even though they are in the transect.

Mr. Coppage stated that a Special Use Permit is required for a drive-thru restaurant in the Transect zoning district. Because of it's nature and external effects it requires the Special Use to determine that its location, and design should be compatible with the surrounding area. A Special Use shall be approved on finding that

the applicant demonstrates that the use is consistent with the Comprehensive Plan, purposes, goals, objectives

and policies and the standards of the Community Development Code to include standards for building and structural intensities, densities and intensities of use.

Mr. Coppage stated that the Staff recommended that the project should be deferred until all conditions listed on the Action Form dated October 6, 2021 have been submitted and approved by the SRT. The issues pointed out in the Staff's Action Form are the reasons that the Special Use Permit cannot be granted at this time.

Mr. Merchant stated that the use is a Special Use because it may be allowed in the district but not necessarily in every configuration on every site is appropriate. This particular district T4Neighborhood Center is as Mr. Trask stated is a transect zone which is designed to promote pedestrian friendly development and whether people think it is a good idea or not, the zoning was placed in this area after many years of different plans, community workshops and the county is also investing a minimum of 30 million dollars into road improvements.

Mr. Trask stated that if the county did not want drive-thru in that district why didn't they prohibit them and not make them a special use.

Mr. Mack called for Public Comments.

Mr. Gordon Fritz stated that the driveway is a driveway, and it is not in compliance with the County's plan. This plan took a lot of people and time on Ladys Island to come up with a plan that was feasible for the future of Ladys Island. We can't do anything with what has happened in the past, but we can move forward with a better plan. This is not a good development for this particular property.

Mr. Chuck Newton stated this use is a planned drive thru coffee restaurant, and 80 percent of these restaurants revenue comes through the window. There is only one curb cut proposed to take care of a massive amount of traffic with traffic both entering and existing at the same curb cut in the same limited space. This has nothing to do with the variance on the setback or the variance on the store front, it has everything to do with traffic and safety. This operation is different from the Ladys Island McDonalds and Wendy's that are located off secondary roads and away from the main thoroughfares. We are looking at traffic backing up on the road. He continued to state that this is the wrong project at the wrong time and urges the Board to disapprove the request.

Mrs. Bonnie Krstolic stated she had two points, 1 she suggest to the Board to take a field trip and go to Highway 21 pass the Chick-Fil-A and watch what happens there in the mornings. Number 2, there is going to be traffic issue at this site. The argument is the traffic and safety.

Mr. Greenway stated that the county has invested a lot of time, effort and county resources in the Ladys Island area over the last 6-8 years. Bad designs are always compatible with bad development that exists in the area. That is going to change over time and the Board needs to start to make the change this evening by making Mr. Trask abide by the requirements. He continued to state that it is not the Staff's responsibility to design Mr. Trask's project, it is for the applicant and his design team to meet the criteria of the Code. It is on the Director to require a Traffic Impact Analysis if he deems it appropriate.

Mr. Greenway suggested to the Board that they table action on this so that Staff can be instructed as to what the Board would like to see and give the Staff time to get what they need from Mr. Trask and his team, and then we will bring it back once all of the information has been received.

Mr. Mack closed the Public Comment.

Mr. Mack stated his concern has to do with the traffic in that area, and the congestion when the lanes goes from 2 lanes to 1.

Ms. Hoos stated that she is concerned with what has been mentioned as far as intent. She stated that there is a difference between a drive-thru to pick up coffee, and a neighborhood concept of going into the coffee house to meet your neighbors, sit down for an hour. It is not the same traffic or the same feeling. And if that the committees and staff have been studying to improve the area to have a neighborhood concept on Ladys Island, then this use is not compatible with that plan and does not deserve a variance.

Mr. Greenway stated that he would guarantee to the Board that the SRT will review the updated site plan and have comments available for the November 17<sup>th</sup>, 2021 meeting.

**MOTION: Mr. Williams made a motion to continue the projects until the November 17<sup>th</sup>, 2021 meeting. Mr. Chemsak seconded the motion. The motion passed unanimously.**

**ADJOURNMENT:**

**MOTION: Mr. Chemsak made a motion to adjourn. Mr. Williams seconded the motion. The motion passed unanimously.**

The meeting adjourned at 9:09 p.m.