



COUNTY COUNCIL OF BEAUFORT COUNTY

Beaufort County Zoning & Development

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The scheduled meeting of the Beaufort County Zoning Board of Appeals was held on March 23, 2005, in the County Council Chambers of the Beaufort County Administration Building at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. Edgar Williams, Vice Chairman
Mr. Claude Dinkins
Mr. Phillip Leroy

Mr. Charles Bootle
Mr. Kevin Mack

MEMBERS ABSENT

Mr. Chester Williams

STAFF PRESENT

Ms. Hillary Austin, Zoning Director
Mrs. Lisa Glover, Zoning Analyst III

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:01 p.m.

INVOCATION: Mr. Gasparini led those assembled in prayer.

REVIEW OF AGENDA: Mr. Gasparini stated that item # 6 and item #8 are taken off the agenda.

MOTION: Mr. Edgar Williams made a motion to adopt the agenda with the stated deletions. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams)

REVIEW OF MEETING MINUTES

MOTION: Mr. Edgar Williams made a motion to adopt the minutes as submitted. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams)

WESLEY CAMPBELL'S APPEAL

Mr. David Barry, attorney for Wesley Campbell stated to the board that the roadside stand is located on Fording Island Road, along Hwy 278. Mr. Barry stated that Mr. Campbell have been operating in that location since the year of 2000, when he was given a permit from the County to operate; in 2004 Mr. Campbell applied to renew his permit, and was denied. Mr. Barry stated that over the past few days, the Campbell's have obtained signatures from people who would like to see the business continue to operate at that location.

Ms. Austin stated that on September 11, 2000 Mr. Gatch granted Mr. Campbell a permit for miscellaneous outdoor sales. In section 106-1397 (b) are special or limited uses, and it states that miscellaneous outdoor sales have two conditions, (1) no such use shall be closer than 15 feet from the public road right of way, (2) each company or property and all associated franchises and/or divisions are permitted three limited use permits per year, each limited use permit shall terminate after 72 hours from permit approval. No permit was issued in 2001, 2002, or 2003. Mr. Campbell came to the Zoning Office and wanted a new zoning permit issued, and at that time Ms. Austin went to Appendix D, and the property was zoned Buckingham Community Preservation District, and under roadside stands it was not a

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permitted use, so the permit was denied. Ms. Austin stated that on June 14, 2004, County Council amended the roadside stand ordinance in section 106-199 to prohibit roadside stands along four lanes, divided section of roads with an average annual daily trip rate of more than 30 thousand trips; Hwy 278 qualifies for the 30 thousand trips, so that is also why the permit was denied.

Mrs. Campbell read the letter that Mr. Campbell submitted to the board. Mrs. Campbell stated that the business is just not a roadside stand, it is something they take pride in and make apart of the environment, it is their livelihood, and a labor of love.

Mr. Campbell stated to the board that he was licensed since the year 2000, and in 2004 he ran into a problem with the County.

Mr. Bootle asked Ms. Austin how did Mr. Campbell operate his business in 2004?

Ms. Austin stated, illegally and without a permit.

MOTION: Mr. Gasparini made a motion to deny the appeal. Mr. Dinkins seconded the motion. (FOR: Bootle, Dinkins, Gasparini; OPPOSED: Leroy, Mack, E. Williams). The board took a recess @ 5:37 p.m. to decide what to do for a tie vote. The meeting came to order @ 5:47 p.m. Mr. Gasparini stated that it takes a majority of this board to overturn an administrative decision, and they do not have the majority of the board in favor of overturning the administrative decision, and therefore the board cannot issue a zoning permit; the motion passed.

WILLIAM & DIANA SEILER'S VARIANCE

Mr. Seiler stated that he is purchasing a lot in Lands End, and he is requesting a five-foot variance on each side of the property.

Ms. Austin stated that Mr. Seiler is requesting a five-foot variance from the side setback line instead of 10 feet from the side setback line. Ms. Austin explained to the board that Mr. Seiler would have to come to the Development Review Team for a river protection variance.

Ms. Teresa Cope stated that her house is adjacent to the property, and most of those houses were built on two or three lots. Ms. Cope stated that she have some objections to this variance; one of the objections is that this is a very large house, and it is going to be placed on a very small lot, several oak trees would have to be cut down to build the house.

Mr. A.G. Solomon stated that his wife is the owner of one of the lots in Lands End. Mr. Solomon stated that the lot is small, and if the board grants a variance of five feet instead of a 10-foot setback, it would be burdensome for the adjoining landowners, and will devalue the property adjacent to the lot.

Mr. J. Marshall McCormick Jr. stated to the board that he lives directly across the street from Mr. Seiler's lot. Mr. McCormick asked the board to uphold the current setbacks. Mr. McCormick stated that it would be degrading for all the property owners to have a structure built in that proximity to the other structures.

Mr. Jim McCormick Sr. stated, that he purchased his home in Lands End in 1999. Mr. McCormick stated, it would be a big mistake to grant this variance, and it would lower their property value.

Mrs. Kathleen McCormick stated that it would set a precedence if Mr. Seiler were granted a variance to decrease his setbacks.

Mr. Don Brig stated he owns a lot that is approximately 100 feet wide by 250 feet deep, and he applied in 1999 to Hillary Austin to encroach into the 10-foot setback to build an outhouse, and was denied.

Mr. Seiler stated that he went for a septic tank permit, and DHEC told him that the septic tank had to go towards the road, and that is where all of the trees are.

MOTION: Mr. Bootle made a motion to deny the variance. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

WALTER & ANN DANY'S VARIANCE

Mr. Dennis Robinson, representative for the Dany family, stated to the board that the lot is very unique with marsh front and a private beach overlooking Fripp Island, Hunting Island, and the Atlantic Ocean. Mr. Robinson stated that he is asking for a variance to align the house with the existing structures.

MOTION: Mr. Leroy made a motion to approve the location of the house as submitted. Mr. Edgar Williams seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

Mr. Gasparini stated, that the board did not consider the variance for size.

Mr. Robinson explained that there are two variances before the board, one is the location of the house, and the other is the size of the house.

Ms. Austin stated that the Development Review Team disapproved the location of the house, if anything; the applicant should be appealing the decision of the Development Review Team. Ms. Austin stated that Mr. Robinson is asking for the size of the house, not the location.

Mr. Gasparini stated that he feels the applicant can ask for a variance for the location, but the board needs to address the size of the house.

MOTION: Mr. Leroy made a motion to approve the size of the house as submitted. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

BOBBY KEITH'S VARIANCE

Ms. Austin explained to the board that this lot is on the beach, and the ordinance states that a house has to have a setback of 50 feet landward of the primary sand dune or 100 feet landward of the mean high water. County Council recently adopted a new ordinance that states that a house has to be 50 feet from the OCRM baseline; this lot cannot meet the setback, he needs a variance from the front, and from the baseline.

Mr. Gasparini stated, that the applicant is not here to speak on his behalf.

Mr. Edgar Williams stated, that since the applicant is not here, he would like to make a motion to deny the variance.

MOTION: Mr. Edgar Williams made a motion to deny the variance because the applicant did not show up for the meeting. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Gasparini, Mack, E. Williams; OPPOSED: Dinkins, Leroy).

A & R ENTERPRISES (DIAMOND DUPLEX – PHASE 2) SPECIAL USE

Mr. Ron White stated that he is requesting a special use permit to build more apartments on his site.

Mr. Gasparini stated that the board obtained a written recommendation from the Development Review Team to approve the special use permit.

MOTION: Mr. E. Williams made a motion to approve the special use request. Mr. Mack seconded the motion. The motion passed unanimous (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

STOKES/BROWN TOYOTA (JERRY STOKES) SPECIAL USE

Mr. Jeff Ackerman explained to the board that Stokes/Brown Toyota is requesting a special use permit.

Mr. Jerry Stokes stated, the additional sales building was labeled "POSSIBLE FUTURE EXPANSION" on the previous plans.

Ms. Austin stated that this use is non-conforming per the 1999 ordinance, this special use permit is to make the business conforming, and the County is getting a better product for a bigger building.

MOTION: Mr. Edgar Williams made a motion to approve the special use request. Mr. Bootle seconded the motion. The motion passed unanimous (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

SUNSET BLUFF'S SPECIAL USE

Ms. Kyle Theodore, Wood & Partners, representative for Sunset Bluff, explained to the board that this property consist of approximately four acres, to the East and West is multi-family residential zoning, to the North is Factory Creek, and to the South is Sunset Bluff. The property is currently separated from Hwy 21, and is owned by SCDOT. The current zoning is Lady's Island Village Center, and the intention of the Village Center is to encourage residential, retail and office space within mixed-use sections of the ordinance. Ms. Theodore stated that they are requesting four single-family lots and a 7,000 square foot office building.

Mr. Gasparini stated, that the board obtained the staff written recommendation to approve the special use permit.

Mr. William Harvey stated to the board that he lives four lots down from the property. Mr. Harvey stated that Sunset Blvd is fully residential. He has no problem in allowing commercial development on property along Factory Creek Road as long as it has an access along Hwy 21. The primary concern is many people come through Sunset Bluff going to work or coming from Beaufort Academy. Mr. Harvey stated that he pleads the board to disallow this use for the safety of the citizens and the residential character of his road.

Ms. Carol Ruft stated to the board that she lives a couple of doors down from the proposed use. Ms. Ruft stated that a sidewalk is approved to come into the neighborhood, and it would be a danger to the neighborhood to allow more traffic onto the road.

Mr. Ray McCay stated, that his property is next door to the site. Mr. McCay stated that, there is a way to develop this property and meet everyone's concerns, but the way it is presented to the board is not the right way. Mr. McCay asked the board not to approve the special use as it is presented to them tonight.

Mr. Jackson stated, to the board that he lives two properties down from the property. There have been two auto accidents since he's been living on the street. Mr. Jackson stated that the applicant wants to enter and exit on their street.

Ms. Theodore explained to the board that their only access to the property is off of Sunset Bluff Road. Ms. Theodore stated, that the leftover property that is not being developed is going to be placed in the conservation easement, and they will not be able to develop it in the conservation easement. Ms. Theodore stated that the current zoning for this property dictates a very intense type of development, and they have taken 2/3's of the site and set it aside for undeveloped property.

Ms. Austin explained to the board that this is a very intense commercial zoning district. This is the only use that allows for residential (mixed use); there are a lot of uses that can be built on this property, for example, offices, restaurants, service buildings, government offices, commercial retail, and 40,000 square foot grocery stores. Ms. Austin states, that she feels that this is a less intense use, of what could actually be built.

MOTION: Mr. Dinkins made a motion to deny the special use request. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Dinkins, Gasparini, Leroy; OPPOSED: Mack, E. Williams).

Ms. Theodore asked the board, why was the special use request denied?

Mr. Gasparini stated that his personal opinion is that a special use permit is a matter of discretion with this board, and the board is not obligated to issue approval. Mr. Gasparini stated that he understands the difficulties about access to Hwy 21, and he is less concerned about that than having an office building between the residential sites.

BOBBY KEITH'S VARIANCE (RECONSIDERATION)

Mr. Mark Painter, representative for Bobby Keith, stated to the board that his son was in a car accident, and that is why he was late.

Mr. Gasparini explained to Mr. Painter that it is in the board's rules that a representative must be present to have the board consider the matter, and the board turned down the request because no one was here. In order to consider the case, there must be a motion for consideration from someone who voted to deny your request.

MOTION: Mr. Bootle made a motion to reconsider the variance. Mr. Gasparini seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

Mr. Painter explained to the board that he is requesting a variance from the front setback line, and a variance from the 50-foot OCRM baseline setback.

Ms. Austin stated that the County recommends approval, so the lot would not be rendered unbuildable.

Mr. Dinkins made a motion to approve the variance as submitted. Mr. Leroy seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

Mr. Dinkins made a motion to adjoin. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, Leroy, Mack, E. Williams).

The meeting adjourned at approximately 7:27 p.m.