

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, March 26, 2009, in Council Chambers, Beaufort County Administration Building, at 100 Ribaut Road, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Thomas Gasparini, Chairman
Mr. Claude Dinkins

Mr. Bill Bootle
Mr. Kevin Mack

MEMBERS ABSENT

Mr. Edgar Williams, Vice Chairman
Mr. Philip LeRoy
Mr. Chester Williams

STAFF PRESENT

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

CALL TO ORDER: Mr. Gasparini called the meeting to order at 5:11 p.m.

PLEDGE OF ALLEGIANCE / MOMENT OF SILENCE: Mr. Gasparini led those assembled in the Pledge of Allegiance, and a moment of silence in honor of our country's military service members.

REVIEW OF AGENDA:

MOTION: Mr. Bootle made a motion to adopt the agenda as submitted. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, and Mack).

REVIEW OF MINUTES:

Mr. Gasparini stated, that the November 2008 minutes will be approved at the end of the meeting. Mr. Gasparini also stated, that the February 2009 minutes will be reviewed and adopted at the next scheduled meeting.

DAUFUSKIE ISLAND PROPERTIES, LLC (APPEAL)

Mr. Gasparini stated, that he has received a written request from Daufuskie Island Properties to put their hearing over until the next scheduled meeting.

Ms. Austin stated, that this is the appeal that was supposed to be heard by the Planning Commission per the county attorney.

Mr. Gasparini stated, that the board will put this hearing off until the next scheduled meeting, but he's not sure the issue is resolved regarding which board should hear the case. Mr. Gasparini stated, that it may be determined that the Planning Commission is the best board to hear this case.

The board unanimously agreed to defer this case until the next scheduled meeting.

FOUR SEASONS – PHASE II (VARIANCE/REVISIT)

Mr. Karlyk explained to the board, that he was deferred at the last meeting in order to do some research regarding the state law standards, and the county attorney determined that there was not a conflict with Beaufort County standards and the State Law standards. Mr. Karlyk stated, that he is before the board tonight asking for a reduction in the CRB buffer requirement, from 50 feet to 15 feet.

Mr. Gasparini asked Mr. Karlyk, "Has anything changed since last month, in terms of what you're asking?"

Mr. Karlyk answered, "No sir".

Mr. Gasparini asked Ms. Austin, "Did the county support this application?"

Ms. Austin answered, "Tony Criscitiello supported this application". Ms. Austin stated, that the Planning Director Tony Criscitiello didn't oppose, but the county did.

MOTION: Mr. Dinkins made a motion to approve the variance request, to reduce the CRB buffers from 50 feet to 15 feet. Mr. Mack seconded the motion.

Mr. Gasparini asked Ms. Austin, "Do you want to add a condition to this motion?"

Ms. Austin stated, that she would like the applicant to re-vegetate the buffer; if there's no existing buffer, the applicant shall plant a buffer.

Mr. Karylk stated, that he has an approved landscape plan that went before the Corridor Review Board, which shows trees being planted in that buffer, and he agrees with that amendment.

MOTION: Mr. Dinkins amended the motion to approve the variance request, with the condition, that applicant implement the landscape plan, which was approved by the Corridor Review Board. Mr. Mack seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, and Mack).

Mr. Gasparini called for public comment for this variance request.

Mr. Skeet Von Harton stated, that in light of the motion, he doesn't need to speak for public comment.

Mr. Gasparini stated, that since Mr. Von Harton spoke at the last meeting for public comment, he will reflect the comment into the minutes.

Mr. Von Harten's comments from the February 26, 2009 meeting: *Mr. Von Harten stated, that he knows the applicant, and he is interested in this project. Mr. Von Harten stated, that the applicant came to him while he was on County Council, and asked for advice regarding the ditch. Mr. Von Harten stated, that he conferred with Mr. Kubic, the County Administrator to make sure that he was not stepping outside of his authority; Mr. Kubic gave him permission, and the applicant and Mr. Bellamy, Public Works Director, got together to resolve the problem regarding the ditch. Mr. Von Harten stated, that it has come down to an error or misinterpretation of law, that they changed the buffers from 15 feet to 50 feet, by order of County Council. Mr. Von Harten stated, that he believes it would be an appropriate decision to approve this application for the 15-foot buffer, instead of the 50-foot buffer.*

PAUL & SUE O'SULLIVAN (VARIANCE)

Mr. Paul O'Sullivan explained to the board, that he would like to expand a garage, and in order to expand, he would have to come out onto the property line. Mr. O'Sullivan stated, that his property line abuts the common property, which is a Right-Of-Way of 36' wide by 311' wide, to allow the people of the subdivision to access the dock. Mr. O'Sullivan stated, that he notified all of the neighbors personally, and mailed out the notifications within a 500' radius, and no one had any objections to the request.

Mr. Dinkins asked Mr. O'Sullivan, "How many lot owners are there in the subdivision?"

Mr. O'Sullivan answered, "Approximately nine owners".

Mr. Dinkins asked Mr. O'Sullivan, "Have they all been contacted?"

Mr. O'Sullivan answered, "Yes".

Mr. Dinkins asked Mr. O'Sullivan, "Do you have any letters from the property owners?"

Mr. O'Sullivan answered, "No, I contacted the property owners by e-mail and certified mail".

Mr. Mack asked Mr. O'Sullivan, "Do you have a Home Owners Association?"

Mr. O'Sullivan answered, "Yes".

Mr. Mack asked Mr. O'Sullivan, "How did they respond to this request?"

Mr. O'Sullivan stated, that he was previously the president of the Home Owners Association, and he went over everything with the new president and he was okay with the request.

Mr. Bootle asked Mr. O'Sullivan, "What is west of your property?"

Mr. O'Sullivan answered, "That is the Dean's property".

Mr. Dinkins asked Mr. O'Sullivan, "Is your driveway on the common lot?"

Mr. O'Sullivan answered, "Yes, I use the common lot, and then pull into my drive". Mr. O'Sullivan stated, that he and his next-door neighbor have an agreement with the association, and they maintain it.

Mr. Bootle asked Mr. O'Sullivan, "Do you have anything in writing from the Property Owners Association, which states what the agreement is in regards to the common area?"

Mr. O'Sullivan answered, "No".

Mr. Gasparini stated, that he's troubled with the request to build up to the lot line. Mr. Gasparini asked Mr. O'Sullivan, "Do you want to build a new garage, or expand an existing garage?"

Mr. O'Sullivan answered, "Expand an existing garage".

Ms. Austin stated, that staff recommends disapproval of this application. Ms. Austin stated, that the applicant's pictures show some trees, and she does not know if those trees would have to be removed.

Mr. O'Sullivan stated, that the trees doesn't have to be removed.

Ms. Austin asked Mr. O'Sullivan, "How far will you be from the trees?"

Mr. O'Sullivan answered, "Approximately eight (8) feet".

Mr. Austin stated, that staff still recommends disapproval, because the structure will be too close; if something happens in the pier, the fire marshall might have difficulty getting back to the site.

Mr. O'Sullivan showed the board members some pictures of the property, showing the trees.

Mr. Gasparini explained to the applicant, that Section 106-522 of the zoning ordinance requires the board to follow certain criteria's; one of the criteria's is, are their extraordinary and exceptional conditions pertaining to the particular piece of property? Extraordinary conditions could exist due to topography, street widening, beachfront setback lines or other conditions, which make it difficult or impossible to make reasonable use of the property. Mr. Gasparini explained to the applicant, that he would also have to prove a hardship. Mr. Gasparini stated, that he doesn't know what the hardship is.

Mr. O'Sullivan stated, that the hardship is that he cannot get the car into the garage, but he really doesn't have a hardship.

Mr. Mack stated, that he has a problem with the applicant expanding his garage up to the property line.

MOTION: Mr. Dinkins make a motion to disapprove the variance request; this application does not meet the criteria of a variance set forth in Section 106-522 of the Zoning & Development Standards Ordinance. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, and Mack).

VINCENT & SALLY HUGHES (VARIANCE)

Mr. Vincent Hughes explained to the board, that he is applying for a variance from the 50-foot OCRM critical line, in order to build a screen porch over an existing deck. Mr. Hughes stated, that the screen porch he is proposing to build, is 16' x 20', and would cover less than half of the existing deck. Mr. Hughes stated, that the remaining deck would be reduced in size, and a portion would be removed. Mr. Hughes stated, that the house was constructed in 1991, and they are the third owners; according to the Moss Creek Architectural Review Board, they took a great effort to save the three existing and very old live oak trees, which are fronting the property, and made it very hard to maximize the utilization of the property. Mr. Hughes stated, that the hardship was not a creation of the current or passed owners, but it was a hardship related to the land. To the best of his knowledge, they're situation is unique and is not common to the other homeowners around them or the general public. Mr. Hughes stated, that they are planning on trapping all of the roof runoff water and discharge it a minimum of 50-feet from the OCRM critical line. Mr. Hughes stated, that he has approval from the Moss Creek Home Owners Association, which authorizes them to build the porch, subject to approval from the county.

Mr. Gasparini asked Mr. Hughes, "Have you read staff's recommendation?"

Mr. Hughes answered, "No".

Mr. Gasparini stated, that staff recommendation, is that they will let this board decide, without any opinion from the county.

Mr. Bootle asked Mr. Hughes, "Is the deck pervious or impervious?"

Mr. Hughes answered, "Pervious".

MOTION: Mr. Bootle made a motion to approve the variance request with the condition, that the applicant traps the water back to the 50-foot setback line; the board determined that this is a hardship, due to the current situation with the home, this application meets the criteria of a variance, set forth in Section 106-522 of the Zoning & Development Standards

Ordinance. Mr. Dinkins seconded the motion. Mr. Dinkins asked, "Did anyone address the buffer yard setback?"

Ms. Austin stated, that the applicant indicated that he had a landscape plan, staff can review the plan and make sure that it meets the standards of the backyard buffer book, with re-vegetation with native plants.

The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, and Mack).

FREE BORN DELIVERANCE TEMPLE, INC. (VARIANCE)

Minister Brown explained to the board, that he's at the meeting on behalf of Bishop Fred Brown and the members of the Free Born Deliverance Temple Church. Minister Brown stated, that approximately two years ago, the kitchen portion of the church burned down, and they purchased a trailer and moved it in the back of the church. The trailer was placed six feet from the adjacent property. Minister Brown stated, that he contacted the owner of the property next door, and he gave them authorization to place the trailer at that location. Minister Brown, stated that the trailer is to enhance the minister, and to restore the pastor's study, a food bank for the community, and a place for people to eat; it's a place used for minister's who come from out of town to reside, instead of going to a hotel.

Mr. Bootle asked Minister Brown, "How did the trailer get placed at that location?"

Minister Brown stated, that they paid a gentleman to move the trailer from Walterboro to the current location. Minister Brown stated, that the same gentleman that moved the trailer, also set up the trailer.

Mr. Bootle asked Minister Brown, "Did they get a permit?"

Minister Brown answered, "Yes".

Mr. Bootle asked Minister Brown, "Did you know they had set up the trailer in violation of the zoning ordinance?"

Minister Brown stated, that at the time, they did not know the trailer was in violation, and they had a setback from the neighbor's property.

Mr. Mack asked Minister Brown, "When was the mobile home moved to that location?"

Minister Brown answered, "Approximately two months ago".

Mr. Dinkins asked Minister Brown, "Did you get a building permit?"

Minister Brown answered, "Yes". Minister Brown stated, that the Bishop did all of the legwork for this trailer. Minister Brown stated, that he notified all of the property owners within a 500-foot radius, and he also got permission from the adjacent property owner,

to allow the trailer to remain at that particular location. Minister Brown stated, that if he had to turn the trailer around, they would have to pay \$3,000; they already paid \$5,000 to move the trailer from Walterboro to Sheldon.

Mr. Mack asked Minister Brown, "What's your hardship?"

Minister Brown stated, that the hardship is the money they already paid for the trailer. Minister Brown stated, that they are not large in number, because they only have approximately ten members. If they have to move the trailer, it would cost them an additional \$3,000, which would have to come out of their pockets.

Mr. Gasparini asked Ms. Austin, "Did the applicant receive a building permit?"

Ms. Austin answered, "No". Ms. Austin stated, that she believes that Minister Brown is confusing the posting notice with the building permit. Ms. Austin stated, that the Pastor came to the zoning office after he placed the trailer on the site; the church never got a zoning permit or a placement permit from the Building Codes Department. Ms. Austin stated, that she believes Codes Enforcement received a complaint from a citizen.

Mr. Gasparini stated, that he received a letter from South Broad River Associates, objecting to the activity instead of the location of the trailer.

Ms. Austin stated, that the applicant placed the trailer on the site without any permits; the applicant is only three feet from the property line. Ms. Austin stated, that this property is supposed to have a ten-foot buffer and a setback of 20 feet from the property line. Ms. Austin stated, that staff recommends disapproval of this variance request, because the applicant can turn the trailer around to meet the setback requirements and there's no hardship for this site.

Mr. Dinkins asked Ms. Austin, "What did the Fire Marshall report say, about getting into the property?"

Ms. Austin stated, that she doesn't have a copy, but she doesn't believe the Fire Marshall got into the fire flows, because it's supposed to be an accessory type dwelling unit for visiting ministers. Ms. Austin stated, that she heard the applicant say that they will also use the trailer for food banks and other stuff, and those uses would not be allowed in the trailer.

Minister Brown stated, that he was not aware that the Bishop did not get the required permits, but the sheet rock and the flooring has already been done, and in order to move the trailer, everything would have to be torn up.

Mr. Gasparini stated, that he is sympathetic to the situation, but the variance cannot be a result of the applicant's own doing. Mr. Gasparini stated, that in this case, this trailer was placed in the wrong place, and he is troubled with getting around that piece of the law.

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 was no public comment for this variance request.

Mr. Gasparini stated, that the only public comment was from South Broad River Associates, which was read into the record.

MOTION: Mr. Dinkins made a motion to disapprove this variance request; application does not meet the criteria of a variance set forth in Section 106-522 of the Zoning & Development Standards Ordinance. Mr. Bootle seconded the motion. The motion passed (FOR: Bootle, Dinkins, and Gasparini; OPPOSED: Mack).

TLC MINISTRIES OF BEAUFORT (SPECIAL USE)

Mr. Ronald Von Fricken, founder and director of TCL Ministries explained to the board, that he is requesting a special use permit for the Old Sheldon Academy; they are not proposing to change the size of the building, and everything that's there will remain. Mr. Von Fricken stated, that the Old Sheldon Academy will allow him to have more people in the building. They are seeking a special use permit because of the location; it is in a location that's away from the busy in-town life. Mr. Von Fricken stated, that this use will be similar to the Marine Institute.

Mr. Gasparini asked Mr. Von Fricken, "Is this a faith based organization?"

Mr. Von Fricken answered, "Yes".

Mr. Gasparini stated, that he see it's going to be a sheriff's station on the site. Mr. Von Fricken stated, that the Sheriff's Department does want to start a program with them, that would allow people who are mandated from court to have a place to go for rehabilitation, and that is something they are working towards. Mr. Von Fricken stated, that the Sheriff's Department would be able to use the building for a substation.

Ms. Austin stated, that the rural zoning district did not allow any institutional residential uses; so Mr. Von Fricken went to the Planning Department to start the process for a text change. County Council amended the zoning ordinance to allow institutional residential uses as a special use permit.

Mr. Mack asked Mr. Von Fricken, "Will this facility be used for inpatient and outpatient services?"

Mr. Von Fricken stated, that the facility will be used for both inpatient and outpatient services, and they will be treating people that will go to the site up to three times a week. Mr. Von Fricken stated, that they will also have group meeting where men can come together and meet, similar to the Alcohol Anonymous (AA) meetings.

Mr. Gasparini stated, that the Development Review Team recommended approval with the following conditions; (1) the maximum number of patients shall be 24, (2) the

applicant has one-year to obtain the Certificate of Occupancy; if the building is not occupied within the one-year period, the applicant may request a six-month extension of the Special Use Permit; the Special Use approval will then expire if the Certificate of Occupancy has not been issued, and (3) site shall not be occupied prior to the issuance of the Certificate of Occupancy. Mr. Gasparini asked Mr. Von Harten, "Do you have any problems with any of those conditions?"

Mr. Von Harten answered, "No".

Mr. Gasparini asked, "Are there any issues with the site plan?"

Ms. Austin stated, that the Development Review Team modulated some buffers, because the existing building sits 40 feet from the south side of the property.

There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Gasparini called for public comment, and limited the comments to three (3) minutes each.

Ms. Sally Murphy stated to the board, that she lives in a small neighborhood in Sheldon, and she wasn't aware of this project until last year. Ms. Murphy stated, that approximately a year ago, she had a meeting with Mr. Von Fricken, and some of her questions were not answered at that time. Ms. Murphy stated, that she asked Mr. Von Fricken, "How will your clients be selected?" Ms. Murphy stated, that Mr. Von Fricken said that there would be no selection process, that it's for people who would like to come. Ms. Murphy asked Mr. Von Fricken, "How many staff members will be present?" Ms. Murphy stated, that Mr. Von Fricken answered, "Six", which in her opinion works out to two people per shift. Ms. Murphy stated, that she asked Mr. Von Fricken, "Who owns the property?" Ms. Murphy stated, that Mr. Von Fricken informed her that this property was a gift, which did not answer her question. Ms. Murphy stated, that the property is not owned by TLC Ministries. Ms. Murphy stated, that she asked Mr. Von Fricken, "How will the clients be supervised to ensure that they stay on the property?" Ms. Murphy stated, that the reason she asked the question, is because the back property line on the east side is approximately 100 yards from her road, and there are a lot of people who are home all day alone, and have small children. Ms. Murphy stated, that Mr. Von Fricken informed her that the people who are roaming around the neighborhoods, are more dangerous than their clients. Ms. Murphy stated, that she asked Mr. Von Fricken was he bonded; he answered "No". She asked him, was this use chartered as a church; if so, what did the charter say; Mr. Von Fricken stated, that it was a ministry. Ms. Murphy stated, that she asked Mr. Von Fricken, does the state or county license this type of facility; Mr. Von Fricken stated, that he doesn't need a license. Ms. Murphy stated, that she contacted the State Department of Labor Licensing in Columbia, South Carolina, and read the exemption of South Carolina Code of Laws, Title 40, Chapter 75, Section 29E. Ms. Murphy stated, that she's concerned that this facility will have felons in this neighborhood with small children and women that are home during the day, and even though it's a worthwhile effort, she doesn't believe this is a good fit for the community.

Mr. Bootle asked Ms. Murphy, "Did you talk to County Council or the Development Review Team about your concerns?"

Ms. Murphy answered, "I attended the Development Review Team meeting when they suggested he do a Community Impact Assessment". Ms. Murphy stated, that it was one paragraph, and it didn't address any concerns she had, and she doesn't believe it is accurate.

Mr. Bootle asked Ms. Murphy, "Who did the Community Impact Assessment?"

Ms. Murphy stated, that she guesses that Mr. Von Fricken did his own Community Impact Assessment.

Mr. Bill Barrett stated, that he's a property owner behind the proposed facility, and he's afraid that he's not entirely clear on what the applicant is proposing.

Mr. Gasparini explained the procedures of a text change, particular uses, and the special use process to the applicant.

Mr. Barrett stated, that he agrees with Ms. Murphy's comments, in regards to the appropriateness of the facility in their community.

Mr. Von Fricken stated, that he remembers his conversation with Ms. Murphy. He is a licensed minister and has been doing this type of work for 18 years. He has credentials if the board wants to see them. Mr. Von Fricken stated, that his staff will all be qualified, and have been through the program; it has been satisfactory proven that the people who have already been through recovery can successfully help the clients, because of their ability to understand them.

Mr. Gasparini asked Mr. Von Fricken, "Is the exemption self claimed, or does the state tell you that you're exempted?"

Mr. Von Fricken stated, that he had to provide the state with the documentation to be a South Carolina charitable organization that conducts business in the substance abuse field.

Mr. Gasparini asked Mr. Von Fricken, "Do you have a letter from the state that says we reviewed your qualification and your proposal and you don't need a license?"

Mr. Von Fricken answered, "Yes". Mr. Von Fricken stated, that he is also under the umbrella of the Family Worship Center, which is located on Hwy 17, which owns the property.

Mr. Mack asked Mr. Von Fricken, "Will you have a certified counselor?"

Mr. Von Fricken answered, "Yes". Mr. Von Fricken stated, that the certified counselor will be an active part of their ministry, and she is also on Pastor Harley's board, from the Family Worship Center.

Mr. Dinkins asked Mr. Von Fricken, "Would you be required to obtain a county business license?"

Mr. Von Fricken answered, "No".

Mr. Gasparini stated, that he understands the concern of the neighbors concerning their safety; Mr. Gasparini asked Mr. Von Fricken, "How can you ensure the safety of the neighbors?"

Mr. Von Fricken stated, that the clients will not be allowed to leave the property after a certain hour because the doors will be locked after dark. The doors are closed from dark to daylight, no one would be allowed to be walking around outside. Mr. Von Fricken stated, that they will also have a sub station in the building that would actively be apart of the ministry.

Mr. Gasparini asked Mr. Von Fricken, "Will that be staffed 24 hours a day?"

Mr. Von Fricken answered, "No, usually there will be a night time officer at the sub station, in leiu of sitting in their car. Mr. Von Fricken stated, that the clients will be allowed outside of the building, but they will not be wandering around the neighborhood.

Mr. Gasparini asked Mr. Von Fricken, "Will the property be fenced off?"

Mr. Von Fricken answered, "No".

Mr. Gasparini asked Mr. Von Fricken, "How do you know they won't wander off?"

Mr. Von Fricken stated, that the clients they will be servicing are people who want to get help.

Mr. Gasparini asked Mr. Von Fricken, "If there was an incident, who would be legally responsible?"

Mr. Von Fricken answered, "TLC Ministries; we have insurance".

Mr. Dinkins asked Mr. Von Fricken, "In the past 18 years, did you have a lot of people who wandered off from the facility?"

Mr. Von Fricken stated, that they have had people who left the program, but it has not been a lot of people. The people did not go down the street and committed a crime, they just decided they could do the rehabilitation on their own.

Mr. Gasparini asked Mr. Von Fricken, "How long is the program?"

Mr. Von Fricken answered, "It's one year".

Mr. Dinkins asked Mr. Von Fricken, "In your other facilities, do the patients have to use ankle bracelets?"

Mr. Von Fricken answered, "No".

Mr. Gasparini stated, that he believes that these types of programs are absolutely wonderful, but the board has an obligation to review this application and maybe approve this use in a residential neighborhood, and he is concerned about their safety. Mr. Gasparini stated, that he would propose to table this application until next month, because he would like to hear from the Sheriff's Department, to see if they have any security concerns.

Ms. Austin stated, that she spoke to D.A Brown, Chief of Staff from the Sheriff's Department, and he said that because of the people, he probably couldn't have a substation at that location.

Mr. Gasparini stated, that he hopes the Sheriff's Department say that this is a voluntary inpatient facility, and they are not concerned about the safety of the neighbors, but he would like to be more comfortable about allowing this use in a residential neighborhood. Mr. Gasparini asked Mr. Von Fricken, "Have you discussed this use with the Sheriff's Department?"

Mr. Von Fricken answered, "Yes".

Mr. Gasparini asked Ms. Austin, "Would you be willing to call Sheriff Brown, and tell him of the board's concerns, and ask him does the Sheriff's Department have any reservations about the security around the facility?"

Ms. Austin stated, that she will call Sheriff Brown tomorrow.

Mr. Dinkins stated, that he would like to also get a recommendation from Judge Manning Smith.

Mr. Gasparini asked Mr. Von Fricken, "Is it acceptable to you, that the board table this application until next month, in order to hear from Sheriff Brown, and Judge Manning Smith?"

Mr. Von Fricken answered, "Yes".

Mr. Clifford Mayo stated, that he believes that this is a good thing that Mr. Von Fricken is trying to do for the community, because it's a lot of drug problems going on in Beaufort County. Mr. Mayo stated, that this is a Christian based facility, to help people who are willing to do what it takes to get cleaned, and straighten out their lives.

Mr. Gasparini called for a recess at 6:50 p.m., meeting was called back to order at approximately 7:01 p.m.

THE LOWCOUNTRY STORE (SPECIAL USE)

Mr. David Tedder explained to the board, that this application is concerning an existing business on St. Helena Island, which is the Lowcountry store; it is a non-conforming retail use. Mr. Tedder stated, that this use includes manufacturing and sales of chairs, and initially, Mr. Jerue spent months working with the Lowcountry Economic Network in an effort to create jobs in Beaufort County and create a light manufacturing facility within the Industrial Park. Mr. Tedder stated, that this effort was unsuccessful, due to the inability of the Lowcountry Economic Network gaining the financing it needed to facilitate the business model it wished to use. Mr. Tedder stated, that Mr. Jerue met with Mr. Tony Criscitiello from the Planning Department, and they decided to go with the Rural Business district zoning on that property, which would allow special standards in the rural zoning district. Mr. Tedder stated, that they started the process with a rezoning, and went before the Subcommittees and the Planning Commission, and they recommended approval of the rezoning; prior to going before the Land Management Committee, he met with Mr. Criscitiello, and as a result of that conversation, they agreed to attempt to use the special use exception procedure in lieu of a rezoning. Mr. Tedder stated, that he did go before the Land Management Committee, and as a result, they voted to recommend approval, with the understanding that the rezoning would not proceed forward while the creation of a special use process for the seven acres have been pursued. Mr. Tedder stated, that the board decided that in the event the special use request was unsuccessful, the applicant would be able to proceed forward to County Council for a rezoning. Mr. Tedder stated, that they don't have a site plan for the expansion portion of the site, because they are not able to put up the money for it at this time. Mr. Tedder stated, that the Development Review Team stated, that they did not believe they have the power to approve additional uses for non-conforming uses.

Mr. Gasparini reiterated with Mr. Tedder what was being requested as a part of the special use request. *A discussion took place between Mr. Gasparini and Mr. Tedder.*

Ms. Austin stated, that under the special use process, the Development Review Team and the Zoning Board of Appeals have the power to make a non-conforming use conforming; for example, BJWSA and Stokes Toyota. Ms. Austin stated, that even though the applicant had the use approved as a conforming use, the county did not allow them to be able to use all of the uses, which is allowed in the Commercial zoning district.

Mr. Gasparini stated, that he believes that the county is not saying no, they just wanted some more information.

Ms. Austin stated, that the Development Review Team did say no, to other uses, in the Rural Business Zoning District. Ms. Austin stated, that the Development Review Team was willing to approve his existing uses, but not new uses in another zoning district.

Mr. Gasparni stated, that he's comfortable with approving a special use, which would make the existing use conforming, but he's not comfortable with rezoning the property to allow Rural Business uses.

Mr. Tedder stated, that he was asked by the Land Management Committee to apply for a special use permit.

Mr. Gasparini stated, that he understands that, but he's not comfortable in rezoning a piece of property.

Mr. Tedder stated, that he went before the Development Review Team, and asked them to remove any uses off the list that causes harm to the public; and they would not do that.

Mr. Gasparini stated, that he would only vote to make the existing business conforming without creating more uses.

Mr. Tedder asked the board, "What harm would it have for the board to approve this special use permit, and who would determine whether or not if the decision was right or wrong?" Mr. Tedder stated, that the county could always appeal the Zoning Board of Appeals decision, if they have a problem with it.

Mr. Gasparini stated, that the way he reads the statute, it states, that the Development Review Team shall require certain criterias. Mr. Gasparini stated to Mr. Tedder, that the board could vote on a special use, which would make the existing site conforming, or do you want the board to vote on a special use to include the uses from the Rural Business District?

Mr. Tedder stated, that he wants the board to vote on what's in front of them.

Mr. Bootle asked Mr. Tedder, "Does your applicant have a long-term lease?"

Mr. Tedder answered, "Yes". Mr. Tedder stated, that the owner of the property is John Trask, Jr.

Ms. Austin stated, that the Development Review Team determined that the applicant was requesting a light industrial use in a rural zoning district, which is not allowed. Ms. Austin stated, that by allowing the rural business uses in the rural zoning district, the Development Review Team would be rezoning the property.

Mr. Jerue explained to the board, that they currently can do limited manufacturing by expanding the existing building, but they couldn't do all of the required manufacturing that's needed. Mr. Jerue stated, that he has expanded the business by allowing restaurants to set up on their property.

Mr. Bootle asked Mr. Tedder, "Do you need the entire five acres to expand the business?"

Mr. Tedder answered, "Yes, because it's coming out of a 20 acre parcel of land".

Mr. Gasparini asked Mr. Tedder, "How long will it take you to get the property rezoned?"

Mr. Tedder answered, "Approximately six week".

Mr. Gasparini summarized to the board, what the applicant was requesting. Mr. Gasparini stated, that he's willing to go to County Council with Mr. Tedder in support of this rezoning application, but he's not willing to vote on a rezoning from the Zoning Board of Appeals.

There being no further comments from the applicant or the County, and no further questions from the Board, Mr. Gasparini called for public comment, and limited the comments to three (3) minutes each.

Mr. Mack, Deputy Administrator for Penn Center explained to the board, that he is a long time resident of St. Helena Island. Mr. Mack stated, that he believes this is a great project, and he supports the project. Mr. Mack stated, that as you all know, the economy is terrible, and this project gives them an opportunity to produce new jobs, and maintain jobs. Mr. Mack stated, that the Lowcountry Store has a lot of items, that's produced locally, and they need jobs on St. Helena Island. Mr. Mack stated, that the applicant support businesses that's not apart of his business.

Mr. Gasparini stated, that he supports what Mr. Jerue is proposing, but he doesn't think it's appropriate to request a special use permit for a rezoning.

MOTION: Mr. Dinkins made a motion to approve the special use permit request with the Rural Business zoning. Mr. Bootle seconded the motion.

Mr. Mack stated, that he supports what Mr. Jerue is trying to do on St. Helena, but he doesn't believe this board can approve a rezoning.

Mr. Bootle asked, "Can I withdraw my second to the motion?"

Mr. Gasparini stated, that Mr. Bootle doesn't have to vote in favor of the motion if he doesn't want to.

(FOR: Dinkins; OPPOSED: Bootle, Gasparini, and Mack).

REVIEW OF NOVEMBER 2008 MINUTES:

MOTION: Mr. Gasparini made a motion to adopt the November 14, 2008 minutes as submitted. Mr. Bootle seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, and Mack).

OLD BUSINESS (ADOPTION OF REVISED RULES & PROCEDURES)

Mr. Gasparini stated, that the adoption of the revised Rules & Procedures shall be adopted at the next scheduled meeting.

ADJOURNMENT

MOTION: There being no further business to come before the Board, Mr. Bootle made a motion to adjourn. Mr. Dinkins seconded the motion. The motion passed unanimously (FOR: Bootle, Dinkins, Gasparini, and Mack).

The meeting adjourned at approximately 8:12 p.m.