



## **COUNTY COUNCIL OF BEAUFORT COUNTY**

### **Beaufort County Zoning & Development**

Multi Government Center • 100 Ribaut Road  
Post Office Drawer 1228, Beaufort, SC 29901-1228  
OFFICE (843) 255-2170  
FAX (843) 255-9446

The regular monthly meeting of the Beaufort County Zoning Board of Appeals was held on Thursday, November 17, 2016 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. Kevin Mack  
Mr. William Mitchell  
Mr. Chester Williams

#### **MEMBERS ABSENT**

Mr. Edgar Williams, Vice Chairman

#### **STAFF PRESENT**

Mr. Anthony Criscitiello, Planning Director  
Ms. Hillary Austin, Zoning Administrator  
Mrs. Tamekia Judge, Zoning Analyst III

#### **VACANCY**

Southern Beaufort County

**CALL TO ORDER:** Mr. Gasparini called the meeting to order at 5:14 p.m.

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

#### **REVIEW OF AGENDA:**

Item #5, D.R. Horton will be removed from the agenda; an agreement was reached between D.R. Horton and Beaufort County.

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

#### **REVIEW OF MINUTES:**

**MOTION:** Mr. Mitchell made a motion to adopt the September 22, 2016 minutes as written. Mr. Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack and Mitchell; ABSTAIN: C. Williams; ABSENT: E. Williams).

## **DAVENPORT (RIVER BUFFER VARIANCE)**

Mr. Orland Crosby stated that the Variance from the setback, and the design of the house we have been working on for several years, the code has changed from 50 feet to 60 feet and there are some Live Oak trees that we wanted to save. We will only be in the 60 feet setback by four feet, which is the corner of the house. The size of the house is 6500 square feet and I was told that it was too big for the area. Mr. Davenport owns four and a half lots and we have redrawn the four lots into two lots, so there will never be anything built on the others because we combined the lots.

Mr. C. Williams asked Mr. Crosby, "You are taking four lots and reconfiguring them into two lots and you will build the house on one lot?"

Mr. Crosby replied, "Yes."

Mr. C. Williams asked Mr. Crosby, "Shown on the plans is a deck and a brick fire place, is that going to remain?"

Mr. Crosby replied, "Yes, that will remain."

Mr. C. Williams asked Mr. Crosby, "Are the trees you wanted to save still there after Hurricane Matthew?"

Mr. Crosby replied, "We lost one of the Live Oaks and a couple of the Water Oaks came down."

Mr. Gasparini asked Mr. Crosby, "Are there homes on the adjacent lots?"

Mr. Crosby replied, "No. The nearest home is on Lot 2."

Mr. Gasparini stated, "The reason I am asking is because typically in situations like this, we understand about the setback but in the event any of the other lots were to get built on, we don't want to put any structures in front of the other structures."

Mr. Anthony Criscitiello, Planning Director stated that, "Staff recommended approval on the application, primarily because the Applicant is saving trees that are desired to be saved, and the CDC added a new regulation from the ZDSO, which was an additional ten feet setback, making it 60 feet as opposed to the 50 feet. Consequently because of the size of the house, Staff could not deal with this matter, so it was brought to the ZBOA for approval and we feel that it is a worthy Variance, and Staff recommends that you approve it."

Mr. Gasparini asked Mr. Criscitiello, "You didn't have any problem with the side setback?"

Mr. Criscitiello replied, "No."

***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 3 minutes each.***

Mr. William Reynolds stated that, "I own the adjacent lot and I have no problem with Mr. Davenport's plan. I think it would be a great addition to the community."

Mr. C. Williams stated, "Mr. Chairman I think it is generally a good idea to try and save Oak trees which seems to be the intent of this proposal. Based on the County Staff report, I would move that we find this application to be in conformance with the Variance permit review standards set forth in the Community Development Code Section 7.2.140 (D) and that we approve this application on the conditions that the construction be designed as to trap all runoff from the roof so that it be discharged no closer to the 50 feet from the critical line and that the Oak trees, the Laurel and Live Oak trees as shown on the site plan dated November 25, 2014 prepared by David Youmans and those trees be maintained in connection with the construction of the proposed residence on the lot.

Mr. Mack seconded the motion.

**MOTION: Mr. C. Williams made a motion to approve the Variance with the following conditions: 1) The construction shall be designed to trap all roof runoff, and discharge it no closer to than 50 feet from the critical line; and 2) All Laurel and Live Oak trees shown on the November 25, 2016 site plan prepared by David Youmans shall be maintained in connection with the construction of the proposed residence on the lot. Mr. Mack seconded the motion. The motion passed (FOR: Chemask, Gasparini, Mack, Mitchell and C. Williams; ABSENT: E. Williams).**

#### **ERNEST DRIVE LLC – (SPECIAL USE PERMIT)**

Mr. Jeff Ackerman, Carolina Engineering Consultants, representing Ernest Drive LLC stated, "My client owns a piece of property that is currently 39.27 acres that's located off Ernest Road and it has previously been permitted for an 8.08 acre surface mine. Recently the client purchased an additional 5 acres to bring that acreage up to the 39.27 acres. We are requesting an approval to expand the surface mine within those 39.27 acres from the 8.08 acres surface mine to a surface mine that is 18.47 acres so the expansion is about 10.39 acres more than what has been previously approved on the property. A DHEC permit is in hand, it went through the mining process with DHEC and obtained that permit, a reclamation bond is in place with DHEC for \$25,000, and we

have also met with the SRT and read their recommendation to this board and we are in agreement with all of the recommendations presented.”

Mr. Gasparini asked Mr. Ackerman, “Is it a burrow pit?”

Mr. Ackerman replied, “Yes.”

Mr. Gasparini asked Mr. Ackerman, “You are only doing this for dirt?”

Mr. Ackerman replied, “Yes.”

Mr. C. Williams asked Mr. Ackerman, “Haven’t this been before us for the original approval, how long ago was that?”

Mr. Ackerman replied, “Yes, about 8 years ago.”

Mr. Gasparini asked Mr. Ackerman, “Was it approved by a Special Use permit?”

Mr. Ackerman replied, “Yes.”

Mr. Gasparini asked Mr. Ackerman, “Were there any conditions on the Special Use permit?”

Mr. Ackerman replied, “I don’t know.”

Mr. Gasparini stated, “We want to be sure we didn’t put conditions back then that we are now going to enforce.” Mr. Criscitiello will probably be able to answer that question. So, you bought 5 acres of land, but you want to increase the mine 10 acres?”

Mr. Ackerman replied, “Yes, the original property boundaries were 34.27 acres and an adjacent piece of property became available and they purchased that, so the total project area increased from 34.27 acres to 39.27 acres.”

Mr. Gasparini asked Mr. Ackerman, “So, you are not just asking for 5 more acres, you are now asking for 10 acres, is that correct?”

Mr. Ackerman replied, “Yes.”

Mr. C. Williams asked Mr. Ackerman, “The Staff recommendation list conditions that list hours of operation limited from 6:30 a.m. through 6:30 p.m. Monday through Saturday and the plans say operating hours are limited to 7:00 a.m. to 5:00 p.m. Monday through Saturday, which is it?”

Mr. Ackerman replied, “Either of those hours works for us.”

Mr. Anthony Criscitiello, Planning Director stated, “The Staff has reviewed this and made recommendations. One of the biggest concerns that Staff has is the condition of

Ernest Drive and we want to be sure that the integrity and the condition of Ernest Drive be protected and that would be one of the major consideration. In addition to that, the reclamation plan shows that there are four additional residential lots to be created and this mine at the point in time that it becomes not used as a mine but used as an amenity, a lake or a pond to be beneficial to the area in question. Based on the implementation of the seven conditions, Staff recommends giving approval and at SRT final review we will take into consideration the estimated cost of the road and bond based on the engineer's estimate and acceptance by the County's Engineer."

Mr. Gasparini asked Mr. Criscitiello, "What you are asking us, if we are inclined to grant this Special Use permit, that we condition it upon the conditions that are there but them arriving at a bond that you are comfortable with?"

Mr. C. Williams asked Mr. Criscitiello, "Is Ernest Drive public or private?"

Mr. Criscitiello replied, "That's a Public road."

Mr. Gasparini asked Mr. Criscitiello, "If my memory serves me correct, maybe the first time around, there were some residents in this area who were concerned about noise from the big trucks. We've done another mine over by Grays Hill and I don't think that was the same issue, I believe Mr. C. Williams' earlier question about the hours of operation is well taken. I would certainly support the 7:00 to 5:00 as opposed to 6:30 to 6:30 and it sounds like the Applicant can live with this. The County doesn't have any concern with the hours do they?"

Mr. Criscitiello replied, "We certainly have to field the complaints, and if the stipulations are not followed, we are inclined to go and shut the operation down."

***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 3 minutes each.***

Mr. James Brown stated, "I am adjacent to this property that he is talking about and I was here the last time and I opposed it. Now he wants to expand it?"

Mr. C. Williams explained the site plan to Mr. Brown.

Mr. Brown stated, "The pond keeps draining on my property."

Mr. C. Williams stated, "That sounds like an Engineering issue."

Mr. Ackerman stated, "On sheet 1 there is a ditch that was on the back under Ball Park Road; the drainage ditch drains onto our property as well."

Mr. C. Williams asked, "Is the mining operation increasing the flow of water onto Mr. Brown's property?"

Mr. Ackerman replied, "No, sir."

Mr. C. Williams asked Mr. Criscitiello, "Is this something that the County Engineer can look at?"

Mr. Criscitiello replied, "Yes, we will have it reviewed at Final."

Mr. C. Williams asked Mr. Criscitiello, "Can you let Mr. Brown know when they will meet for the Final SRT?"

Mr. Criscitiello replied, "Yes."

Mr. Gasparini asked Mr. Ackerman, "You all are digging a big hole in the ground to take dirt. How are you treating the water that drains in?"

Mr. Ackerman replied, "Pump it out."

Mr. Gasparini stated, "What Mr. Brown is saying is that you are pumping it out and draining it on his property."

Mr. Ackerman replied, "No, there is a natural drainage way."

Mr. Criscitiello stated, "An additional comment would be a condition that the motors of the pumps will not operate during the evening time."

Mr. Ackerman replied, "If we were to operate the pumps during the evening, we will be 100 feet away from the property line."

Mr. Mitchell asked Mr. Ackerman, "When this pit is completed, wouldn't that help with drainage?"

Mr. Ackerman replied, "Yes."

Mr. C. Williams stated, "I would like the SRT to take another look at this."

Mr. Gasparini asked Mr. Ackerman and Mr. Criscitiello, "I want to make a suggestion. The Board can have a motion and vote and put conditions on the amendment or you can put this off for a month and try to address some of Mr. Brown's issues."

Mr. Ackerman replied, "If you do send it back to the SRT and having that as a condition that we address the Stormwater concerns with the County Engineer would be terrific with us."

Mr. C. Williams stated, "One of the conditions is that it should be designed to minimize adverse effects."

Mr. Chemsak asked Mr. Ackerman, "Currently Mr. Brown has water in his ditch, how much water is in the ditch south of you compared to his?"

Mr. Ackerman replied, "I can only comment to the ditch on our property, we have it opened up for the upstream property to drain into ours."

Ms. Priscilla Drake stated, "My comments are safety concerns, road maintenance and the flow of the trucks coming off Ernest Drive."

Mr. William Smith stated, "I am opposed to the ponds, I don't want them here because it will be just like Crystal Lake."

Mr. Ackerman stated, "Given the comments, we would like to put the project over until the next meeting, to give us time to meet with the SRT."

Mr. C. Williams made a motion to put the project over until the December ZBOA meeting.

Mr. Chemsak seconded the motion.

**MOTION: Mr. C. Williams made a motion to put the project over until the December ZBOA meeting. Mr. Chemsak seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell and C. Williams ABSENT: E. Williams).**

## **ADJOURNMENT**

**MOTION: There being no further business to come before the Board, Mr. C. Williams made a motion to adjourn. Mr. Mack seconded the motion. The motion passed (FOR: Chemsak, Gasparini, Mack, Mitchell and C. Williams; ABSENT: E. Williams).**

The meeting adjourned at approximately 6:12 p.m.