



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, August 25, 2022, at the Beaufort County Administration Bldg., Council Chambers, Beaufort, South Carolina.

MEMBERS PRESENT

Mr. Kevin Mack, Chairman

Mrs. Jane Frederick, Vice Chairwoman

Mr. John Chemsak

Mr. Cecil Mitchell

Ms. Lynn Hoos

Dr. Dennis Nielsen

MEMBERS ABSENT

Mr. Evan Bromley

VACANCY

None

STAFF PRESENT

Mr. Eric Greenway, County Administrator

Mr. Robert Merchant, Planning/Zoning Director

Ms. Hillary Austin, Zoning Administrator

ATTORNEY PRESENT

Mr. Brad Mitchell, Attorney for the ZBOA

Mr. Danny Crowe, Attorney for Staff

Mr. Thomas Taylor, Attorney for Appellant

Mr. Benjamin Coppage, Attorney for Staff

CALL TO ORDER: Mr. Mack called the meeting to order at 5:04 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: Mrs. Frederick made a motion to adopt the agenda. Ms. Hoos seconded the motion. The motion passed unanimously.

ADOPTION OF MINUTES: July 28, 2022

MOTION: Mrs. Frederick made a motion to adopt the minutes. Mr. Chemsak seconded the motion. The motion passed unanimously by the members who were present at the July 28, 2022 meeting.

JAMES WARE/AMANDA DUBOSE REQUEST FOR RECONSIDERATION

Mr. Mack explained that one (1) of the opposing members of the Board will have to make the motion to rehear the appeal.

Mr. Mack asked for a motion from one of the opposing members.

Mr. Taylor asked the board if they have decided to not reconsider the appeal.

Mr. Mack answered that he is correct.

Mr. Taylor asked for an answer to his letter that was sent to the Board.

Mr. Mack stated that an answer to the letter would be forthcoming.

Mr. Crowe stated that on behalf of the Planning Director, he would like to bring a finality to this issue, and would request a motion to deny the petition for reconsideration under Article 8 Section C. According to the rules, the vote will be considered the Board's final action on the matter.

Mr. Mack asked for a motion to deny the petition for reconsideration.

MOTION: Mr. Chemsak made a motion to deny the petition for reconsideration. Dr. Nielsen seconded the motion. FOR: Chemsak, Nielsen, Frederick, Mack, Mitchell. AGAINST: Hoos. The motion passed five (5) for, one (1) against.

JAMES ROCK REQUEST FOR RECONSIDERATION

Mr. Mack explained that one of the opposing members of the Board will have to make a motion to rehear the appeal.

Mr. Mack asked for a motion.

MOTION: Mr. Chemsak made a motion to deny the petition for reconsideration. Ms. Hoos seconded the motion. The motion passed unanimously by the members who were present at the last meeting. FOR: Chemsak, Hoos, Frederick, Mack, Nielsen. ABSTAINED: Mitchell.

Mr. Mack stated that Item #10 and 11 have been withdrawn from the agenda.

NEIL TURNER'S ADMINISTRATIVE APPEAL

Mr. Taylor stated that the key aspect of this appeal is that a request was granted to Mr. Turner to allow him to install gates at the entrance to the Turner's Marina in order to secure the marina. He stated that over the last two (2) years, there has been theft which prompted him to hire a security guard. Mr. Turner now believes that the gates to the access point at the end of Jenkins Road would

be the best thing for the site. He stated that Ms. Austin granted the approval for the gate on May 21, 2022 and revoked the permit on June 29, 2022. He continued to state that the most important thing to understand is that there is no dispute between anyone. This is private property, and the RV Resort Owners have a valid and recorded easement over Mr. Turner's property. He continued to state that Mr. Turner guaranteed that anyone who has the right to cross his property would be granted some form of access whether by a push button transmitter or a key code. He stated that the decision made by Ms. Austin to revoke the permit should be reversed.

Mr. Chemsak asked if cameras satisfy the requirements for security instead of the gates?

Mr. Taylor stated that this is private property and anyone who has the right to use the property would have access.

Mr. Mack asked if someone who does not have the code wants to visit the restaurant, how would they have access?

Mr. Taylor stated that if there was no one at the gate, Mr. Turner would be willing to leave the gates open after hours to allow access to the restaurant.

Mr. Coppage stated that this appeal is not the approval or the disapproval or whether or not there should be gates at this property, it is more of a procedural issue. When Mr. Turner met with Ms. Austin, the map provided did not cover all of the properties. As you can see where she marked the placement of the gates it would not prevent access from the RV park over to the restaurant. As presented to her it was her understanding that the placement of the gates would not prevent access from the RV park.

Mr. Coppage continued to state that Section 7.4.30 of the CDC states that the applicant bears the burden of ensuring that the application contains sufficient information to demonstrate compliance with the standards. Based on that, Ms. Austin, believing that she had all that was needed and that the RV Park and the restaurant would have full access to the gates she issued the permit. The wording of the permit stated that under no circumstances will the gates be placed in a manner that prevents the owners of the parcel 306 access to their property, and any violation would result in the permit being rescinded.

Mr. Coppage continued to state that Ms. Austin was later contacted by Mr. Russell Patterson who represents the other owners and was made aware there was no other access to the restaurant and the RV park. After speaking with him and reviewing some evidence that showed that there was no other access, she determined that there had been some misrepresentations at least not a full telling of the story and because of that, the permit was issued in error. Section 9.5.20 of the CDC allows the County to revoke a permit that was given through false representation or was issued in error.

Mrs. Frederick asked if the gates were installed.

Mr. Taylor stated no they were not. Mr. Taylor requested that Ms. Austin be sworn in so that he can question her about the misrepresentation made by Mr. Turner.

Mr. Mack stated that Ms. Austin would not be sworn in and be questioned by Mr. Taylor.

Mr. Taylor called his client up to ask him if he made any misrepresentations to Ms. Austin about the gates. Mr. Turner stated that he did not.

Mr. Mack asked if there is any other access to the RV Park?

Mr. Taylor stated there is no other access to the RV Park.

Mr. Mack asked what the hardship would be if Mr. Turner placed the gate at the entrance of the marina instead of where he wants to place them.

Mr. Taylor stated that because of leased areas to other businesses, it would be hard to place the gates in that location.

Mr. Mack stated there would be no PUBLIC COMMENT.

Mrs. Frederick stated that the permit stated, item #2 that under no circumstances the gates shall be placed in a manner that prevents the owners of parcel 306 access to their property. It appears that Hillary decided that the gates do prevent access.

Ms. Hoos stated that the marina would give them access during the hours the restaurant is opened.

MOTION: Mr. Chemsak made a motion to deny the appeal and uphold the county's decision. Mrs. Frederick seconded the motion.

DISCUSSION ON THE MOTION:

Mr. Mitchell stated that looking at the actual easement documents which states that the easement should provide access sufficient for motor vehicle traffic. He stated that he did not think it would be doable with gates of this type. He also stated that upholding the easement access is the most important and it's everyone's right. Mr. Mitchell also stated that he would be more comfortable deferring the board's decision until after the courts have made their decision.

The Board Members withdrew their motion.

Mr. Taylor made a decision to withdraw his appeal without prejudice until after the Courts have made a decision.

MIKE VACCARO RIVER BUFFER VARIANCE

Mr. Mack stated that this is a request that was continued from the last meeting so that the applicant could meet with staff and redesign the pool.

Mr. Vaccaro stated that he significantly reduced what was brought to the board last month. He stated that the purpose of the river buffer is to remove harmful toxic substance from entering the waterways. He stated that by granting this variance he would reduce the square footage of the river buffer by 6 percent and would replant the buffer more than 66 percent and there would be plenty of room for natural screening. He also stated that this pool would not require a variance in three (3) of the five (5) zoning districts in the county.

Ms. Austin stated that he reduced the pool by 4 feet, which is not enough to warrant a hardship. She asked Mr. Vaccaro what the blue indication on his plans was. He stated that it was a 720 square feet rain garden. She told Mr. Vaccaro that rain gardens are not permitted within the river buffer.

Ms. Austin continued to state that Mr. Vaccaro has not proven a hardship for this variance. The proposed house meets the river buffer, but because of this large pool, a variance is needed.

Mr. Vaccaro stated that the property owner wants a pool, and it is an important aspect of the house, and a property owner should be able to build a pool.

Mr. Mack called for PUBLIC COMMENT.

No Public Comment.

MOTION: Mrs. Frederick made a motion to deny the request for the variance. The applicant has not proven a hardship. Ms. Hoos seconded the motion. FOR: Frederick, Hoos, Mack, Nielsen. AGAINST: Chemsak, Mitchell. The motion passed.

CHERI LASHER – LOWCOUNTRY HOPE HOUSE ADMINISTRATIVE APPEAL

Ms. Lasher stated that she is the Secretary and the Treasurer for the Lowcountry Hope House. She stated that she received a violation for not having a zoning permit and a business license for a halfway house. She stated that this is not a halfway house, this is a 503C organization. She also stated that they have been running the business for six (6) years in which they rent a house, this house is rented for \$1,200 per month, then they provide that house for people who have gone through rehab for drugs or alcohol. These people have gotten themselves free from their addictions and need a place to stay away from where they used to live and their friends. This house allows them a safe, sober and affordable place to live. The resident of the house pays \$175 per week for about 6 to 12 months. They provide no services, there are no staff and no employees. One person lives for free and is considered the house manager. All they do is provide a place for these people to stay.

She then continued to state that the house manager gives the residents random drug test and ensure that they have jobs and that they meet the curfew.

Mr. Chemsak asked if the Lowcountry Hope House owns the house.

Mrs. Lasher stated no, it is rented, and the owner of the house knows what the house is being used for.

Mrs. Frederick wanted to know if the agencies that send the clients to the house do not require the Lowcountry Hope House to be licensed.

Mrs. Lasher stated no.

Mr. Chemsak asked if there are any violation of covenants?

Mrs. Lasher stated that there are no covenants.

Ms. Austin stated that there are covenants that governs the subdivision.

Dr. Neilsen wanted to know how long do the people get to stay if they do not pay?

Mrs. Lasher stated that they give them two (2) weeks then they have to go.

Mr. Coppage stated that appeal would have to be denied, because it is not properly before the Board. A notice of violation was issued to the Lowcountry Hope House on July 6, 2022. A citation will be issued if the activity does not cease, then there will be a trial on the matter, and that is how the matter will be disposed of. There is presently nothing for the entity to appeal to this board for. Mrs. Lasher went to the County to get a zoning permit and was told that the use would not be approved. She would need to make a request for an interpretation and get an answer then appeal that interpretation. She filed the appeal prematurely.

Mr. Mack recommended to Mrs. Lasher that she withdraw the application and go back to the County Staff so that the procedures can be adhered to.

Mrs. Lasher stated to the Board that she wishes to withdraw her application.

NADINE O'QUINN LODGING, SHORT-TERM RENTAL UNIT SPECIAL USE

Mrs. O'Quinn stated she is requesting a special use approval for lodging, short-term rental at 1892 Sea Island Parkway, St. Helena Island. She stated that she repaired the cottage and furnished it and would like to get the approval for short-term rental.

Mr. Mack asked if there are any covenants and restrictions.

Mrs. O'Quinn stated that there are no covenants and restrictions.

Ms. Austin stated that staff recommends approval.

Mr. Mack called for PUBLIC COMMENT.

NO PUBLIC COMMENT.

MOTION: Mrs. Frederick made a motion to approve the request. Ms. Hoos seconded the motion. The motion passed unanimously.

PRAYING MANTIS DOCK LENGTH VARIANCE

Mr. Taylor stated that the applicant is requesting a variance for a dock located at 1928 Sea Island Parkway. The property is within the Fishing Village Overlay District. The dock will be about 344 feet, but he would like it to be up to 400-feet.

Ms. Austin stated that staff recommends approval because of the Fishing Village Overlay District and the commercial uses that are allowed, any business would need a dock that would be more than 300-feet. This request meets the requirements for a variance because there would definitely be a hardship.

Mr. Mack called for PUBLIC COMMENT.

Ms. Ashley Houck spoke on behalf of granting the variance.

Mr. Michael Bradley spoke on behalf of granting the variance.

Ms. Peach Morrison spoke on behalf of granting the variance.

Mr. John Sullivan spoke on behalf of granting the variance.

Mr. Mack closed PUBLIC COMMENTS

Mrs. Frederick asked if there would be an issue with the size of the boats that would be allowed on a small tidal creek.

Ms. Austin stated that, that would be up to OCRM and they have issued the permit. She also stated that the Small Tidal Creek Section does allow commercial docks.

MOTION: Mr. Mitchell made a motion to approve the variance request for the dock. There is a hardship due to the Fishing Village Overlay District and the proposed use is consistent with the fishing industry and the dock is a necessary structure to conduct business. Mrs. Frederick seconded the motion. The motion passed unanimously.

JOHN MOORE LODGING, SHORT-TERM RENTAL UNIT – SPECIAL USE

Mr. Moore stated that he is requesting a Special Use approval for lodging, short-term rental at 16 Hilda Ave, Ladys Island.

Mr. Mack stated that he sees a copy of covenants that has the date of expiration highlighted. He wanted to know if there were any other covenants that govern the property.

Mrs. Frederick stated that the Board received another set of covenants from someone in the neighborhood that looks like they have not expired. She also stated that it is a bit confusing for the Board as to which covenants are applicable.

Mr. Moore stated that the covenants he presented to the Board are the covenants that he received from his attorney when he purchased the house 60 days ago.

Mrs. Frederick stated that she would be more comfortable if Mr. Moore went back to his attorney and get the right covenants that govern the property. She continued to state that if there are covenants, the covenants have higher power than the Board does.

Mr. Moore requested that the Board continue his request until the next scheduled meeting.

MOTION: Ms. Hoos made a motion to continue the request to the next scheduled meeting. Mrs. Frederick seconded the motion. The motion passed unanimously.

JAMES PETERSON ACCESSORY USE PLACEMENT VARIANCE.

Mr. John Clements stated that he is the contractor for the Petersons, and they are requesting a variance to be able to construct a 1,700 square foot pole barn before the principal structure is built. He stated that if the Peterson's had known that there could not be an accessory structure built before the principal structure is built, they would not have torn down the existing house.

He also stated that the owners are in the process of finalizing the details of the main house, and it should be ready for building permitting within three (3) to four (4) months.

Ms. Austin stated that she has been working with Mr. Clements and is just not comfortable allowing this shed to be built before the Building Permit is granted. The existing cottage is just too small for this size accessory structure. She also stated that the reason for this section of the code is to stop the building of sheds and other accessory structures on properties that does not have a principal structure.

Ms. Hoos asked what would happen if he built the pole barn and did not build the house, would he have to tear it down.

Mr. Clements stated that he would remove the structure.

Mr. Chemsak asked how long before the building plans would be ready to be submitted for the building permit.

Mr. Montgomery stated two (2) to three (3) months.

Mr. Mack call for PUBLIC COMMENTS

Kevin Dukes spoke on behalf of granting the variance.

Mr. Mack closed PUBLIC COMMENTS

MOTION: Mr. Mitchell made a motion to approve the variance with the condition that the Building Permit is issued within six (6) months or the accessory structure shall be removed from the property. Mr. Chemsak seconded the motion. The motion passed unanimously.

ANTHONY HEYWARD LODGING, SHORT-TERM RENTAL SPECIAL USE

Mr. Heyward stated that he is requesting a special use permit for lodging, short-term rental at 54 Alston Road, Ladys Island.

Mr. Mack asked if there are any covenants and restrictions in that area.

Mr. Heyward stated that there were none.

Mr. Frederick asked who will be managing the property.

Mr. Heyward stated APEX Realty.

Ms. Austin stated that staff recommends approval. There are no covenants and restrictions.

Mr. Mack call for PUBLIC COMMENT

No PUBLIC COMMENT.

MOTION: Mr. Chemsak made a motion to approve the special use permit for the short-term rental. Dr. Nielsen seconded the motion. The motion passed unanimously.

No New Business.

No Old Business.

ADJOURNMENT

MOTION: Mrs. Frederick made a motion to adjourn the meeting. Mr. Chemsak seconded the motion. The motion passed unanimously.

Meeting adjourned at 7:14 p.m.