



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, January 26, 2023, 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

Ms. Lynn Hoos

Mr. Evan Bromley

MEMBERS ABSENT

Mr. Cecil Mitchell

Mr. Dennis Nielsen

VACANCY

None

STAFF PRESENT

Mr. Robert Merchant, Planning/Zoning Director

Ms. Hillary Austin, Zoning Administrator

ATTORNEY PRESENT

None

CALL TO ORDER: Mr. Mack called the meeting to order at 5:00 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: November 17, 2022

Mr. Bromley stated that the minutes should be corrected to reflect that he was absent.

MOTION: Mrs. Frederick made a motion to adopt the minutes of November 17, 2022 with the above correction. Mr. Chemsak seconded the motion. The motion passed. (FOR) Frederick, Chemsak, Mack, Hoos. (ABSTAINED) Bromley.

**I. PULTE HOMES COMPANY – RIVER BUFFER/SETBACK VARIANCE
JOHN GERING/JOHN PAUL MOORE – AGENTS**

Mr. Moore stated that Pulte Homes is seeking a variance from the River Buffer Setback to construct a picnic pavilion at Malind Bluff as a part of the development amenity area. He stated that presently there is an old house which originally was to be used as a part of the amenity area, but after more consideration, the company decided to remove the house and build the pavilion on the same footprint and stating that this location would allow them to save specimen trees, and to not impact the archeological site. They are seeking the variance because the 1999 Zoning and Development Standard Ordinance that governs the PUD requires that Non-Residential structures be placed 100-feet from the OCRM Critical Line.

Mr. Moore continued to state that the original location of the amenity area was in the middle of the development and was moved when the company decided to install gates to the community which caused them to lose a couple of lots. The decision was made and approved by the County for them to move the amenity area to the present location and to place lots in the old location.

He continued to state that the house is in disarray and would not be suitable to be used as the amenity structure.

Ms. Austin stated that the applicant's decision to move the amenity area was made so that the developer could place more lots in the development. The structure would be grand-fathered if it is not demolished, but once the structure is gone, the grand-fathering goes away. Therefore, the new non-residential structure has to be placed 100-feet from the critical line. She also stated that she does not see where the applicant has proven their hardship for a variance.

Ms. Austin also stated that there may be other areas on the site where the pavilion could go and meet the 100-foot setback.

Mr. Moore stated that there were too many trees on the site.

Mrs. Frederick stated that the aerial shows areas that do not have any trees and asked why the uses on the site can't be moved around to meet the 100-buffer/setback.

Mr. Mack called for **PUBLIC COMMENT**

Mr. David Trail a property owner in Malind Bluff spoke in support of the variance being granted.

Mr. Mack closed **PUBLIC COMMENT**

MOTION: Mrs. Frederick made a motion to deny the variance request and for the developer to rework the design and meet the 100-foot buffer/setback. There appears to be plenty of room to redesign the site to include all the required/desired items outside of the 100-foot setback. Ms. Hoos seconded the motion. The motion passed unanimously.

II. MICHAEL FOSKEY'S SIDE YARD SETBACK VARIANCE MICHAEL FOSKEY – OWNER

Mr. Foskey stated that the storage building was constructed during the time that the house was being built, and after all of the inspections by the County, no one complained about the shed. He stated that the shed has been there for two (2) years and no one complained about it until now. He stated that to move it would be a hardship for him and his family.

Mrs. Frederick asked did the contractor who built the house build the storage shed.

Mr. Foskey stated that he built the shed himself.

Ms. Hoos wanted to know why the shed wasn't noticed during construction of the house.

Ms. Austin stated that staff did not see a hardship that would allow the applicant to receive a variance. Therefore, staff recommended disapproval.

Mr. Mack called for **PUBLIC COMMENT**

Mr. Gerald Swank spoke on behalf on Mr. Foskey keeping the shed.

Mr. Greg Felver spoke on behalf of Mr. Foskey keeping the shed.

Mr. Mack closed **PUBLIC COMMENT**

MOTION: Mr. Chemsak made a motion to deny the variance request. Mr. Bromley seconded the motion. The motion passed. FOR: Chemsak, Bromley, Frederick, Hoos. AGAINST: Mack.

III. CHRISTOPHER SCOTTO-LAVINO'S RIVER BUFFER DECK VARIANCE CHRISTOPHER SCOTTO-LAVINO – OWNER

Mr. Scotto-Lavino stated that he is seeking a variance from the 50-foot River Buffer to construct a deck 39-feet from the OCRM Critical Line. He stated that it is not his intention to destroy the river buffer, but the way the house is constructed it does not give them a way to enjoy the rear of the property.

Mrs. Frederick wanted to know what rooms were in the rear of the house.

Mrs. Scotto-Lavino stated that the kitchen and living room are near the rear of the house.

Ms. Austin stated that staff believe that there is a way the deck can be built and not encroach within the 50-foot buffer. She stated that if the applicants will agree, then there is no need for a variance.

Mr. Scotto-Lavino stated that he agreed and requested that the variance request be withdrawn.

The Board unanimously approved the withdrawal.

**IV. REESE ROBERTSON'S LODGING – SHORT TERM RENTAL SPECIAL USE
HAMZA ABDELQUADER/ANGELA JOHNSON – AGENTS**

Mr. Hamza stated that he is standing in for the property owner. He stated the property owners purchased the property with the plan to use the property for about 6 months out of the year, and would rent the property the other 6 months. He continued to state that the covenants and restrictions had expired back in 1991.

Mr. Chemsak stated to the applicants that there is more to the paragraph that states the covenants and restriction renews itself every 10 years.

Mr. Mack called for **PUBLIC COMMENT**

Mr. Dale Wills spoke in favor of the Special Use Permit.

Mr. Mack closed **PUBLIC COMMENT**

Mr. Mack stated that the applicants should withdraw the request because the Board would not be able to approve the Special Use.

Mr. Hamza stated to the Board that he would like to withdraw the application for the Special Use.

The Board unanimously approved the withdrawal.

**V. BARRY GUPTON'S LODGING – SHORT TERM RENTAL – SPECIAL USE
BARRY GUPTON – OWNER**

Mr. Gupton stated that he is seeking approval for a short-term rental unit in the Coffin Point area. He stated that when they purchased the property, they heard that there were some controversies in the area about short term rentals and the covenants and restrictions. He also stated that he read the documents and did not see where short-term rentals were prohibited. He also stated that they purchased the house for this reason, so that they could make money renting the house short-term.

Mr. Gupton also read paragraph 2 of the covenants that no noxious trade can be carried out on the lot. He did not see where the short-term rental would be a trade.

Mrs. Frederick explained that the covenants are higher than the Board, and the Board is not allowed to approve anything that would be contrary to the document.

Mr. Mack called for **PUBLIC COMMENT**

No **PUBLIC COMMENT**

Mr. Mack stated that the applicant should withdraw the request because the Board would not be able to approve the Special Use.

Mr. Gupton stated to the Board that he would like to withdraw the application for the Special Use.

The Board unanimously approved the withdrawal.

Adjournment

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

The meeting adjourned at 6:28 p.m.