

Kershaw County Board of Zoning Appeals



MINUTES

KERSHAW COUNTY BOARD OF ZONING APPEALS
January 18, 2022 REGULAR SESSION
COUNCIL CHAMBERS, KERSHAW COUNTY GOVERNMENT CENTER
CAMDEN, SOUTH CAROLINA

Members Present: Mike Jones, Ben Strickland, Amy Eudy, and Ned Towell

Members Absent: None

Staff Present: Michael Conley, Joey Adams-Raczkowski, Justin Moore, and Rhonda Darity

CALL TO ORDER

Joey Adams-Raczkowski, called the meeting to order at 5:30 p.m.

ELECTION OF CHAIRMAN

Mr. Adams-Raczkowski asked for a motion from the floor. Mike Jones nominated Ned Towell. Mr. Towell withdrew his name, and nominated Ben Strickland. Hearing no other nominations, Ben Strickland was elected as Chairman

ELECTION OF VICE-CHAIRMAN

Chairman Strickland opened the floor for nominations. Amy Eudy nominated Ned Towell. Hearing no other nominations, Ned Towell was elected as Vice-Chairman.

APPOINTMENT OF SECRETARY TO BOARD

Chairman Strickland opened the floor for appointment of secretary, and nominated Rhonda Darity. Ned Towell seconded the appointment.

MINUTES

The minutes from the January 7, 2020 regular meeting were previously reviewed. Hearing no comments. The motion to approve was made by Ben Strickland, seconded by Ned Towell, and approval was unanimous.

PUBLIC HEARING CASE #22-01

Ben Strickland opened the public hearing:

Planning Manager, Joey Adams-Raczkowski, introduced the case, stating that the applicant is requesting a variance from Article 5, Section 3:7.4-6(B)2 of the Kershaw County Zoning and Land Development Regulations to allow for a 180 sq. ft. retaining wall encroachment into the Lake Wateree Shoreline Buffer. Specifically, the applicant is requesting to allow the southern lake-facing corner of the retaining wall to extend 12.84' southward and 16.43' eastward into the Lake Wateree Shoreline Buffer. The property is located at 1802 Sailing Club Road. Mr. Adams-Raczkowski went over the surveys of the property prepared before the start of construction, and during construction. He also went over the variance standards.

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The applicant, Harold Smith addressed the Board, stating that he missed the surveyor's marker, and measured from the lake bed. The land was sloped prior to the wall. Grass was planted before the wall and it would wash out. Drainage is better now. It is a well built wall, and well drained.

There was some discussion concerning the determination of the project boundary and shoreline. Mr. Adams-Raczkowski explained that a signed and sealed foundation survey was provided by a licensed surveyor. The surveyor determined the location of the 50' shoreline buffer as shown on the survey. Mr. Conley explained that the shoreline buffer was created by FEMA rules.

Mr. Adams-Raczkowski went over the staff analysis for the justification given by the applicant on his application.

STAFF FINDINGS AND RECOMMENDATIONS:

An owner is not entitled to relief from a self-created or self-inflicted hardship. This variance request is clearly a self-created and self-inflicted hardship, as evidenced by the application materials as submitted.

According to the Comprehensive Planning Guide for Local Government as published by the Municipal Association of South Carolina, "A variance allows the board to modify an otherwise legitimate zoning restriction when, due to unusual conditions, the restriction may be more burdensome than was intended. The variance must not impair the public purpose. To obtain a variance on the ground of unnecessary hardship, there must at least be proof that a particular property suffers a singular disadvantage through the operation of a zoning regulation."

A variance must be granted on conditions of the specific piece of property and may not be granted because an applicant wants something other than what is allowed under the Ordinance and applied to all other properties within the same zoning district category.

In order to grant a variance, the Board of Zoning Appeals is required to determine that the application of the Ordinance will result in unnecessary hardship, and that all four standards for a variance set by State Law and the Ordinance are met by the following facts:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
2. These conditions do not generally apply to other property in the vicinity.
3. Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the surrounding area will not be harmed by granting the variance.

STAFF RECOMMENDATION

Based upon the application materials as applied to the four (4) State law standards, staff has not identified any justifiable reasoning for approving a variance to allow the 180 sq. ft. retaining wall encroachment/disturbance into the Lake Wateree Shoreline Buffer to remain.

Therefore, staff recommends that a variance not be granted to allow for a 180 sq. ft. retaining wall encroachment/disturbance into the Lake Wateree Shoreline Buffer to remain on the property identified in the application as 1802 Sailing Club Road.

REBUTTAL BY APPLICANT - Mr. Smith asked if he was not aware of the buffer zone and put in a patio or retaining wall, would that be a violation? Mr. Adams-Raczkowski stated "yes it would be, on several different levels".

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PUBLIC COMMENT - Mickey Anderson, contractor for the property owner, informed the Board that the shoreline is the buffer. Mr. & Mrs. Smith put the wall in to beautify the area, and help with the erosion. The property owners are spending a lot of money to live on the lake. It is going to create a lot of problems if they have to remove the portion of the wall encroaching into the buffer.

Sherry King addressed the Board on behalf of Mr. & Mrs. Smith. A lot of lots on the lake are sloped. The wall was well planned, and has stopped a lot of problems. She does not see a problem with it.

During a very lengthy discussion Mr. & Mrs. Smith, and Mr. Anderson were allowed to make additional comments, and ask additional questions.

There being no more testimony, the Chairman closed the hearing.

The Chairman called for a motion. Ned Towell made a motion to deny the variance request, stating that all four standards for a variance set by State Law and the Ordinance have not been met. He stated that he could not find any exceptions based on what was provided. The motion was seconded by Mike Jones, and all voted to deny the application for the variance.

ADJOURNMENT

At 6:40 p.m., the Chairman called for a motion to adjourn. The motion to adjourn was made by Ned Towell, seconded by Mike Jones, and approval was unanimous.

Respectfully submitted,

Rhonda Darity
Rhonda Darity
Secretary

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