



**JASPER COUNTY COUNCIL  
COUNCIL CHAMBERS  
BOARD OF ZONING APPEALS**

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**358 THIRD AVE.  
RIDGELAND, SC 29936  
OCTOBER 28, 2009  
10:00 A.M.**

**MINUTES**

**Officials Present:** Lawrence Bowers-Vice Chairman,  
Board Members- Barbara Bartoldus, Freddy Morgan, Dr. William  
Singleton

**Officials Absent:** Ben Mill, Chairman

**Staff Present:** Judith Frank-Clerk to Council, David Jirousek- Planning  
Director, Lisa Lamb- Planning and Zoning Coordinator.

In accordance with the freedom of information act the electronic and  
print media were notified.

During periods of discussion and/or presentations, minutes are  
typically condensed and paraphrased.

**Call to Order:** Vice Chairman Bowers called the meeting to order at  
10:10 a.m. and requested that all cell phones be turned off or put on  
vibrate.

**Invocation:** Dr. Singleton gave the invocation.

**Pledge of Allegiance:** Vice-Chairman Mills led the Pledge of  
Allegiance.

**Approval of the Agenda:** Dr. Singleton motioned and Mr. Morgan  
seconded the motion to approve the agenda; the motion was carried  
with all members present voting in favor.

**Request for Variance-William Ruck, Jamestown Estates; Section  
7:3 Setback Requirements and 7:4 Riparian Buffers:**

Ms. Lamb listed lots 12; 13; 14; 15; 16; 17;18; 19; 20; 21; 22; 23;  
24; 25; 27; 28; 30; 31; 32; 33; 34; 35; 36; 37; 39; 40; 41; 45; 46;  
47; 48; 49; 050; 51; 52; 53; 54; 55. Ms. Lamb informed the board  
that the applicant was requesting that the front yard setbacks be  
reduced from 25 feet to 20 feet; the side yard setbacks be reduced

from 10 feet to 5 feet; and the rear yard setbacks be reduced from 25 feet to 10 feet. Ms. Lamb said the applicant was also seeking relief from Section 7:4, riparian buffer requirements for lots 12; 32; 33; 36; 37; 39; and 40. Ms. Lamb said the applicant is requesting that the riparian buffer requirements be reduced from 50 feet to 0 feet for lots 12, 32 and 33; and that the riparian buffer requirements be reduced from 50 feet to 10 feet for lots 36, 37, 39 and 40. Ms. Lamb said the property is zoned residential and the lots are located in Jamestown Estates Subdivision, which is off of Jenkins Avenue in Hardeeville. Ms. Lamb said that the applicant proposes to build small affordable single family homes.

Ms. Lamb discussed the ruling of the planning commission in 1998 when the property was approved for a mobile home park, and then it came back to the planning commission in 2003, and it was approved for single family homes rather than the mobile home park. Ms. Lamb explained that new plat subdivision was filed at the Register of Deeds office and the setback requirements were 5 feet from each property line and 20 feet from the right of way of the road.

Ms. Lamb explained that until 2007 the County did not have minimum lot sizes or riparian buffer requirements. Ms. Lamb told the board that with the current requirements these lots do not allow for an average size home of 1000 sq. feet to 1300 sq. ft. to be built. Ms. Lamb said that under the Local Comprehensive Planning Enabling Act of 1994, the Board of Zoning Appeals has the power to hear and decide appeals for variances when strict application of the zoning ordinance would result in unnecessary hardship. Ms. Lamb reminded the board that it does have some discretion when granting or denying a variance. However, the board is not free to make whatever determination appeals to its sense of judgment; rather the board must apply the standards prescribed by the zoning ordinance and the 1994 Act. Ms. Lamb told the board that the proper public notices for this appeal were met and the property was posted and adjacent property owners were notified by mail. Ms. Lamb informed the board that public notification was included in the October 10<sup>th</sup> edition of the Jasper County Sun. Ms. Lamb provided the board with the standards for granting a variance and the zoning standards that the applicant was requesting relief.

Ms. Lamb stated that the staff recommended the approval of the variance setbacks to be reduced to 20 feet from the right of way of the road, and 5 feet from the side yard property lines and 10 feet from the rear property line. Ms. Lamb said that the staff recommendations for the riparian buffer the staff recommended approval of the variance for the riparian buffers to be reduced to 0 feet for lots 12, 14, 32 and 33; and 10 feet for lots 36, 37, 39, and 40 with the condition that silt fencing will remain along all wetland lines until the site is properly

stabilized. Ms. Lamb said that a minimum vegetated buffer will be provided to filter runoff prior to entering the wetlands where possible, as determined by the staff at the time of building and zoning permitting.

Vice Chairman Bowers opened the floor for public comment.

Mr. Tedd Moyd and Ms. Mary Davis were present to represent Mr. Ruck. Mr. Moyd and Ms. Davis work for Jasper County Neighbors United. Ms. Davis said that they discussed the type of housing she recommended, and they did not support the mobile home park. Ms. Davis said her organization has grants in place to help first time home buyers. Mr. Moyd added that none of the homes would cost more than \$130,000.00 and the people would only need \$10,000.00 for a down payment. Mr. Moyd said the goal of Jasper County Neighbors United is to help people become homeowners in property that will appreciate in value. Ms. Davis said that a homeowner's association will be established to keep the neighborhood up. Dr. Singleton said that Mr. Moyd spoke of the cost of the homes; however, he was concerned about the setbacks. Ms. Lamb said the lots are very small and what was proposed and approved were different from the current requirements. Ms. Lamb said the current requirements would make the lots unbuildable. Dr. Singleton asked how many homes were to be built. Mr. Moyd said 40 homes. Dr. Singleton asked if the number of homes was cut back to 35 homes, could the current setbacks be met. Ms. Bartoldus said that the precedents were important and setbacks also deal with sidewalks, green space, and she was concerned about the wetlands. Ms. Bartoldus said the back of the development is very wet and with a lot of rain the lots would be flooded. Ms. Bartoldus said she would like to see the OCRM report. Attorney Jones told the committee, they could try to fashion some conditions regarding the riparian buffer and perhaps ask for a different plat showing parking, park, and greenspace and the board can delay a decision until they get a full report from the OCRM. Ms. Bartoldus asked if the group could make the request. Mr. Jones said it can be made part of the decision that the decision is subject to the requirements listed by the board.

Judge Eugene Williams said that he owned the property adjacent to the Jamestown Estates and Jamestown Estates is in wetlands, and he has a home in wetlands and his property is subject to flooding. Mr. Williams said a 9 acre pond was dug in 1960. Mr. Williams said the environmental impact on the community and the quality of life will change with additional homes, traffic will increase, there are no sidewalks and the road is poorly maintained. Mr. Williams said that to allow more traffic in that area would be irresponsible. Mr. Williams said he was also concerned about cutting back the setbacks, and he

would like the board to consider why these changes are being requested.

Pamela Williams, speaking for the Jenkins Homeowners, said that to put 50 homes with 2 cars each would mean 100 more cars on that road. Ms. Williams said a factory was built and the neighbors were not notified, and they have trucks running up and down the road. Ms. Williams said that many people dump things on Jenkins Ave. and a person wanted to put waste from the racetrack there and a welding business has been built on Jenkins Ave. Ms. Jenkins asked the board to consider what is being left to future generations. Ms. Jenkins told the board that the Jenkins Ave. residents want it to stop.

Tedd Moyd said the property was zoned for mobile homes, but JCNU wanted homes. Mr. Moyd said the owner of the property planned to put mobile homes on the property if the variances were not granted.

Ms. Bartoldus asked if the mobile home permit issued in 1998 was still valid. David Jirousek said that there were no issues with mobile homes being put on all the lots. Mr. Jirousek stated that single wide mobile homes could be placed on all the lots as the lots were already designed and subdivided prior to the ordinance. Mr. Jirousek said if the variance is not granted, the owner could put 40 mobile homes on the property.

Ms. Bartoldus asked if the owner would consider cutting the number of lots to 35 instead of 30. Mr. Moyd said the lots could be adjusted; they were trying to help the people. Mary Davis said this is not a JCNU project, and they were trying to improve the neighborhood. Ms. Davis said the owner already has new and old mobile homes he can put on the property.

Ms. Bartoldus said that a buffer up against the wetlands is a deterrent. Mr. Moyd said that area could be used as green space.

Jerome Davis said his chief concern is that Hwy. 176 is a secondary road and it is in bad condition. Mr. Davis said there are not sidewalks and he is concerned about the children. Mr. Davis said that until the road is improved and sidewalks installed, he did not think this should be approved. Mr. Davis said there were already two factories on the road.

Vice Chairman Bowers closed the floor to the public.

Ms. Bartoldus motioned and Mr. Morgan seconded the motion to go into executive session. The motion carried with all members present voting in favor.

Dr. Singleton motioned and Mr. Morgan seconded the motion to return to open session.

Vice Chairman Bowers told the public that no decision was made in executive session and the attorney will be getting back to Mr. Moyd with a decision.

## **Request for Special Exception – John Mullins, Delta Bluff – Mining:**

Mr. Jirousek said that a special exception was being requested for a five acre mining operation within the Delta Bluff PDD. Mr. Jirousek said this was a unique application as the zoning ordinance that applies is the version that was in effect at the time the development agreement was signed in 2006. Mr. Jirousek said that the current Excavation and Resource Extraction district does not apply. Mr. Jirousek said the property was posted, the adjacent property owners were notified by mail and public notification was included in the Oct. 10, 2009 edition of the Jasper County Sun. Mr. Jirousek said the applicant applied for a DHEC permit and this permit allows a five acre sand mine limited to the depth of 20 feet and no processing of material is permitted. Mr. Jirousek said the proposed mine meets the 1,000 foot setbacks and 500 foot buffer requirements that were in place at the time of the development agreement and the BZA is the only board with the authority to grant a special exception.

Mr. Jirousek told the board that the residents living on Bellinger Hill road have expressed great concern with the impact of heavy trucks on the road, the width of the road and the lack of shoulders on the road. Mr. Jirousek said based on those concerns, the Staff recommends approval of the special exception with a condition on the access for truck traffic to be limited to SC 170A.

Vice Chairman Bowers opened the floor for public comment.

Nathan Long from Thomas and Hutton was present representing the owner. Mr. Long said that the pond was intended as a storm water facility and the 5 acres is referred to as a mine due to the permit obtained. Mr. Long said that they could have applied for a construction permit, however, due to the time and cost, they chose a mining permit. Mr. Long said that the mining process should last about two years because of the economy. Mr. Long said they have buffers in place. Ms. Bartoldus said there was a very large cemetery near this location, and she asked what was being done to protect it. Mr. Long said that they plan to utilize a logging road and not affect the cemetery. Mr. Long said the cemetery area is protected and is at least 500 feet away from the site. Ms. Bartoldus said Scrivens Ferry Road is a historical road and also the Bellinger Hill Road should not be used for ingress and egress. Ms. Bartoldus asked how the historical road would be protected. Mr. Jirousek said that a study was done regarding protecting areas in the DA. Lisa Lamb said that Scrivens Ferry Road is to the south of the property. Mr. Lang said they will not be using that road, they will be using Hwy. 170 and Bellinger Hill Road and the road will be decided when they contract with the truckers.

John Hausley, representing SCAD, said that SCAD owned the equestrian center near the development , and they opposed the mining operation. Mr. Hausley said the only way SCAD can expand is to where the property is and most of it is wetlands. Mr. Hausley said he was concerned about the whole Delta Bluff Operation. David Jirousek showed the board the location of proposed expansion area for SCAD, which is about 2 miles from the site. Mr. Jirousek said that reclamation is required through DHEC.

Albert German said he was concerned about Bellinger Hill Road being very narrow and two cars can barely pass each other. Mr. German said he opposed using Bellinger Hill Road for trucking sand.

Mr. Jirousek said that safety issues should be one of the main concerns of this application. Mr. Jirousek said that about 50 residents from this area attended a community meeting and opposed another proposed mining operation and trucks using Bellinger Hill Road. Mr. Hale said that the pond could be dug in 2 weeks, but it is going to be spread out over 2 years. Ms. Bartoldus asked if they agreed with the staff's suggestion to using Hwy. 170, would there be a need for a traffic study. Mr. Jirousek said that SCDOT would require an encroachment permit. Mr. Lang said they already have the encroachment permit, and they applied to be able to utilize either road.

Vice Chairman Bowers closed the floor for public comments.

Dr. Singleton motioned and Mr. Morgan seconded the motion to go into executive session. The motion carried with all members present voting in favor.

Ms. Bartoldus motioned and Dr. Singleton seconded the motion to return to open session. The motion carried with all members present voting in favor.

Ms. Bartoldus motioned and Dr. Singleton seconded the motion to allow the special exception for the mine and the trucks are to use Hwy. 170 only and that there is at least a 500 ft. buffer from the cemetery.

Mr. Lang requested that the buffer remain at 100 ft. and the purpose of the mine was to generate revenue and if the dimensions are changed it would prolong the process.

Ms. Bartoldus stated that he would need to get a new permit. Mr. Jirousek said they could get measurements and more information from the DA. Mr. Lang said that they would not be using the road from the cemetery to the mine, just the existing road up to the road to the cemetery. Ms. Bartoldus said she felt they should review the DA and get the measurements to be fair and to protect the cemetery. Ms. Bartoldus rescinded her motion and Dr. Singleton rescinded this second.

Ms. Bartoldus motioned and Dr. Singleton seconded the motion to table the decision until further information is provided. The motion carried with all members present voting in favor.

**Adjourn:**

Dr. Singleton motioned and Mr. Morgan seconded the motion to adjourn the meeting. The motion was carried with all members present voting in favor.

The meeting ended at 11:35 a.m.

Respectfully submitted by:

Approved by:

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Judith M. Frank, ccc  
Clerk to Council

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Lawrence Bowers  
Board Vice Chairman