

NC COASTAL RESOURCES COMMISSION (CRC)

Special Meeting

November 19, 2014

DENR – Wilmington Regional Office

Participating CRC Members

Frank Gorham, Chair

Renee Cahoon, Vice-Chair (attending by conference call)

Neal Andrew

Larry Baldwin (attending by conference call)

Suzanne Dorsey

Greg Lewis (attending by conference call)

Jamin Simmons (attending by conference call)

Harry Simmons

Bill White (attending by conference call)

Participating Attorney General's Office Members

Christine Goebel

Mary Lucasse

CALL TO ORDER/ROLL CALL

Frank Gorham called the meeting to order reminding Commissioners of the need to state any conflicts due to Executive Order Number One and also the State Government Ethics Act. The State Government Ethics Act mandates that at the beginning of each meeting the Chair remind all members of their duty to avoid conflicts of interest and inquire as to whether any member knows of any conflict of interest or potential conflict with respect to matters to come before the Commission. If any member knows of a conflict of interest or a potential conflict of interest, please state so when the roll is called.

Angela Willis called the roll. Commissioners Marc Hairston and John Snipes were absent. No conflicts were reported. The Chairman stated he knows Tom Jarrett and Ken Willson; however he has not discussed these variance requests with them. Based upon this roll call Chairman Gorham declared a quorum.

VARIANCE REQUESTS

West Beach Drive – Joint Request by Four Homeowners (CRC-VR 14-15)

Christine Goebel/Heather Coats

Heather Coats, DCM Field Representative, gave the Commission an overview of the property. Christine Goebel of the Attorney General's Office represented staff. Attorney Barry Golob, admitted *pro hac vice* was present and represented Petitioners. Ms. Goebel stated Petitioners own four adjacent oceanfront homes in Oak Island. On May 21, 2014, Petitioners were each issued CAMA General Permits for the installation of sandbags in front of their homes and each installed their bags by the end of May. On September 24, Petitioners jointly submitted an application for a CAMA Major Permit seeking to install additional sandbags in excess of the size limits for sandbags in order to create a sandbag structure with a maximum base width of 30 feet and an

elevation of 15.7 feet NAVD 88. On October 24, DCM denied Petitioners' permit application due to its inconsistency with the Commission's size limit rules for sandbags. Petitioners submitted a variance request seeking permission to install larger bags as described in the permit application. Ms. Goebel reviewed the stipulated facts of this variance request and informed the Commission that Staff and Petitioners agree on three of the four variance request which must be met in order to grant the variance. Staff and Petitioners disagree on the second variance criteria. Specifically, it is Staff's position that it is not peculiar for conditions on the property to be influenced by inlet processes. The Commission's rules reflect that inlets are especially volatile and are known to regularly move causing both erosion and accretion.

Attorney Golob reviewed the stipulated facts which he contends supports the granting of this variance request stating hardships are caused by conditions are peculiar to the property specifically the aggressive lunar tides and accelerated erosion immediately in front of these four properties. The Town of Oak Island is putting together a dredging and beach nourishment project intended to provide relief from the erosion.

Chairman Gorham asked Mr. Golob if he could commit to a six month timeframe to begin construction of the sandbag project. Mr. Golob agreed.

Harry Simmons made a motion that the Commission affirmatively find that strict application of the applicable development rules, standards or order issued by the Commission cause the Petitioner an unnecessary hardship. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

Harry Simmons made a motion that any hardships result from conditions peculiar to the Petitioner's property. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

Harry Simmons made a motion that hardships do not result from actions taken by the Petitioner. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

Harry Simmons made a motion that subject to the condition that the proposed development begin within six-month

the variance will be consistent with the spirit, purpose and intent of the rules, standards or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

This variance request was granted with the condition that construction begin on the development within six months.

Town of North Topsail Beach (CRC-VR 14-16)

Christine Goebel/Jason Dail

Jason Dail, DCM Field Representative, gave an overview of the property. Christine Goebel of the Attorney General's Office represented Staff. Attorney Brian Edes was present and represented the Town of North Topsail Beach. Ms. Goebel stated the Town holds oceanfront easements for the area north of Topsail Reef Condos toward the New River Inlet in connection with their Inlet Management Plan. Following the Phase I channel realignment and nourishment project which was completed in early 2013 there was accelerated erosion in this area. During the summer of 2014, the Town began to research various options to protect the 20 structures in this area from erosion. On October 3, 2014 Petitioner completed a CAMA Major Permit application seeking to develop a sandbag structure larger than those allowed by the Commission's sandbag rule size limits. On October 24, 2014 DCM issued Emergency CAMA Major Permit authorizing sandbags at this location but conditioned them to meet the Commission's rules limiting size. Petitioner now seeks a variance to allow the placement of sandbags in the configuration proposed in their permit application. Ms. Goebel reviewed the stipulated facts of this variance request and stated that Staff and Petitioner agree on three of the four variance criteria which must be met in order to grant the variance request. Staff and Petitioners disagree that any hardships are a result from conditions peculiar to the Petitioner's property. The site is and has been located within the Inlet Hazard AEC for the New River Inlet since it was adopted and is clearly influenced by inlet processes. The Commission's rules note that inlets are especially volatile and are known to regularly move causing both erosion and accretion. Thus, it is staff's position that any hardships are not caused by conditions peculiar to the property.

Brian Edes, Town Attorney for the Town of North Topsail Beach, stated Petitioners are in agreement with Staff on three of the criteria. Mr. Edes reviewed the stipulated facts which the Town contends supports the granting of this variance request. The record indicates that the hardships are peculiar to the site based on accelerated erosion, overwash flooding, and the impact of the 2013 Phase I completion of the channel realignment and renourishment project. We need at least five years to see benefits from Phase I.

Chairman Gorham asked Mr. Edes if the Town would commit to begin the project within six months. Mr. Edes agreed.

Harry Simmons made a motion that the Commission affirmatively find that strict application of the applicable development rules, standards or orders issued by the Commission would cause Petitioner an unnecessary hardship. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

Harry Simmons made a motion that the Commission affirmatively find that hardships result from conditions peculiar to the Petitioner's property. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

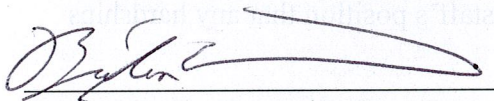
Harry Simmons made a motion that the Commission affirmatively find that any hardships do not result from actions taken by the Petitioner. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

Harry Simmons made a motion that the Commission affirmatively find that subject to the condition that the Town begin the project within six months, granting the variance will be consistent with the spirit, purpose and intent of the rules, standards, or orders issued by the Commission; will secure the public safety and welfare; and preserve substantial justice. Suzanne Dorsey seconded the motion. The motion passed unanimously (Gorham, Andrew, Baldwin, Cahoon, Dorsey, Lewis, J. Simmons, H. Simmons, White).

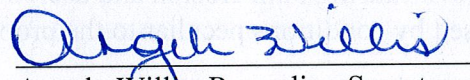
This variance request was granted with the condition that construction on the development begin within six months.

With no further business, the CRC adjourned.

Respectfully submitted,



Braxton Davis, Executive Secretary



Angela Willis, Recording Secretary