

Wadmalaw Island Land Planning Committee  
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September 8, 2021

Charleston County Board of Zoning Appeals  
Lonnie Hamilton, III Public Services Building  
4045 Bridge View Drive  
North Charleston, SC 29405  
Via Email: [BZA@charlestoncounty.org](mailto:BZA@charlestoncounty.org)

RE: Letter Opposing BZA-07-21-00508  
OCRM Critical Line Buffer and Setback Variance  
TMS#: 196-00-00-069  
1171 Hart's Bluff Road/Wadmalaw Island  
Agricultural Residential (AGR) District

Dear Members of the Board of Zoning Appeals:

The Wadmalaw Island Land Planning Committee opposes this request to reduce the 50' required OCRM Critical Line Setback by 26.5' and to reduce the 35' required OCRM Critical Line Buffer Area by 11.5'. We believe that an approval of this request will heavily compromise the intent and purpose of the ZLDR Wetlands, Waterways, and OCRM Critical Line Ordinance: §9.7.1, the purpose and intent of wetland buffers and setbacks, and §9.7.2, specifically prohibited activities.

***ZLDR §9.7.1 Wetland Buffers and Setbacks***

*"A. Intent: The buffer standards of this Article are intended to provide a natural vegetated area between the furthestmost projection of a \*structure\*, parking or driveway area, or any \*other building elements\*, and all saltwater wetlands, waterways, and OCRM (saltwater) critical lines. (emphasis added). The purpose of these required Buffers and Setbacks is to provide a visual, spatial, and ecological transition zone between development and the County's saltwater wetlands and waterways, and to protect water quality and wildlife habitat."*

***ZLDR §9.7.2 Prohibited Activities***

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*The following activities are specifically prohibited in a buffer area:*

- A. Removal excavation, or \*disturbance of the soil\*, except for minimal disturbance associated with the planting of shrubs or trees for landscaping; (emphasis added)*
- B. Grassed lawns requiring regular maintenance such as herbicides; pesticides, fertilizers and frequent mowing;*
- C. Gardens, fences, or \*structures\*, except for permitted crossings; (emphasis added)*
- D. Paved or other impervious surfaces; and*
- E. Destruction or addition of plant life which would alter the existing pattern of vegetation.*

In addition to the above objection to the compromise of §9.7.1-2, the legal hardship test has not been satisfied by the applicant, pursuant to the following criteria: **§3.10.6 (3), §3.10.6 (5), §3.10.6 (6), and §3.10.6 (7)**

### §3.10.6 Approval Criteria

A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals makes and explains in writing the following findings:

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**§3.10.6 (3)** *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.*

**A denial of the variance would not restrict the use of this owner's property. The applicant has full use of the property within the footprint of what was previously constructed, as well as other areas on her lot that do not encroach into the wetlands buffer and setback areas. The deck could be redesigned and built to the size and dimensions that would no longer intrude into the wetlands buffer and setbacks.**

**§3.10.6 (5)** *The Board of Zoning Appeals shall not grant a variance the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, **\*to extend physically a nonconforming use of land\***, or to change the zoning district boundaries shown on the official zoning map. The fact that property may be utilized more profitably, should a variance be granted, may not be considered grounds for a variance. (emphasis added)*

**Granting the variance to allow the extension of the deck into the wetlands buffer and setbacks would create an expansion of the grandfathered footprint. This would result in allowing a physical extension of the nonconforming use of the property.**

**§3.10.6 (6)** *The need for the variance is not the result of the applicant's own actions;*

**Had the applicant obtained permits for the removal of the enclosed part of the structure that she demolished, and had she gotten permits for the deck, she would have been informed about the County's ordinances related to OCRM Critical Line Setbacks and OCRM Critical Line Buffers, and the requirements and restrictions for each.**

**Further, had she gotten permits prior to the start of the deck construction, she would have been informed that she would not have been able to expand the area that was grandfathered as legal nonconforming. Therefore, the applicant's need for the variance is the result of her own actions.**

**§3.10.6(7)***Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of the Ordinance;*

**Granting the variance would conflict with both the Comprehensive Plan. and the Intent of the Wetlands Buffer Ordinance. The Comprehensive Plan, in the Land Use Element - LU1 states "Protect and enhance environmental quality of natural resources and continue to require restrictive development standards along the OCRM critical line to protect water quality, wildlife habitat, scenic vistas."**

**Granting of the variance would conflict with the purposes of the Wetlands Critical Line Setback and Buffer Ordinance, §9.7.1 and 9.7.2, as explained above.**

Because the applicant has not met four of the required criteria to establish a hardship, we would ask that you deny the variance. In the event the Board decides to approve the application, we would ask that Staff's recommended conditions be attached.

Thank you for your consideration of our comments.

Sincerely yours,

WADMALAW ISLAND LAND PLANNING  
COMMITTEE



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