

January 8, 2004

The Board of Zoning Appeals for the Town of Sullivan's Island met on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied.

Present were: Thomas Hiers, Chairman
Jimmy Hiers
Jay Keenan
Susan Middaugh
Alice Paylor

Chairman Hiers welcomed new board member Jimmy Hiers.

Motion was made by Alice Paylor, seconded by Jay Keenan, to approve the minutes of November 13, 2003, carried unanimously.

Jane P. McCutchen and McCutchen-Perry, LLC, 2525 Atlantic Avenue. Grace McCutchen, daughter of the applicants, requested a variance to trim the wax myrtles to 3-1/2 feet. Zoning Administrator Kent Prause asked Ms. McCutchen if they were aware the ordinance had been changed to reduce the cut height from 7 feet to 5 feet. She was not aware of the change. Mr. Prause stated that Council realized certain inequities and took that into consideration to reduce the cut height to five feet. Mr. Prause stated to the Board to provide the opportunity to hold the line at five feet, and inequities should be addressed to Town Council. Ms. Paylor stated she abstained from this variance request. Ms. McCutchen said she would discuss the ordinance change with her parents to determine if they wanted to continue with the request to 3-1/2 feet; and will defer until the next meeting.

Ann Scott, 2215 Atlantic Avenue. Mr. Bill Barr represented Ms. Scott's variance request for lot coverage. Mr. Barr presented a 1935 survey of the hotel lots. The hotel lots are the lots that are between Station 22 and Station 22-1/2. Mrs. Scott owns Lot 5. They are called hotel lots because there was an old hotel there. He also presented a copy of the tax map. On the tax map, he pointed out the RC1 district line. In 1998 Mr. Barr represented a group of homeowners because Mr. Ralph Day wanted to subdivide Lot 46 on the TMS. At that time the way the zoning ordinance read for purposes of subdivision on the back side of the island, the size of the lot was measured by that portion of the lot which is measured landward from the RC2 District line, but it didn't say that on the front beach. Council amended the ordinance in 1999 that said for purposes of subdivision on the front beach that the size of the lot is measured by that area of the lot measured landward of the RC1 District line. The problem is that although Section 21-28M of the Zoning Code has not yet been amended, it has gone far enough in the process to qualify as a pending ordinance. And so it has the effect of reducing the area that Ms. Scott can build on. Under the old ordinance, she would be limited by a line that is measured by the furthest house forward; it would be about a 5-6,000 sq ft footprint. If measured from the RC1 line, she could have a 2,600 sq ft footprint. Mr. Barr stated that Ms. Scott would like to build a house with a footprint of 3,200 square feet which is the equivalent of 15% of 1/2 acre lot. The total size of the lot they own is 1.3 acres of high ground. There is grass planted all the way out to the edge of the dune line. They are not encroaching on that area of the beach that is seaward of the dune line. They are well inside of the OCRM critical line. It is because of the RC1 line, which was never intended to affect the

buildability of these lots, having been arbitrarily drawn, and now being used arbitrarily it adversely impacts Ms. Scott. She is the only one on the block without a house. The neighbors attended the meeting, and they have no objection to this variance request.

Mr. Prause clarified that the Planning Commission made the same recommendation that they made the first time to Council regarding the Section 21-28M amendment: that Council adopt it as written. Town Council then agreed to withhold any action until Cooper Consulting made their final recommendations.

Mr. Prause stated that he believes that that line was drawn as more of a setback issue. The RC District boundary was established 2-17-87. Council specifically drew that portion into the language as shown on the official zoning map from the corner house on Pettigrew St to the corner house on Station 22, cutting across the hotel lots. At the time the setback ordinance stated that you couldn't go out any closer than the average of the two adjoining houses. The ordinance was changed 11-29-90 to read that you couldn't go out any further than the closer part of the closest house in that zoning district block as measured from the center line of the right of way.

Mr. Prause stated that there is another setback that is 30 ft from the RC1 district boundary line and in the event of a hurricane and the houses were knocked down, there would be no houses to establish where you could build back. So, they could not go any closer than 30' from that RC1 district boundary line as drawn. He stated with respect to this lot particularly, it is .3980 sq ft, almost 40% of an acre. At 15% of that amount, they would be allowed to have a 2600 sq ft footprint of heated space. Doubled that would be 5200 sq ft in total heated space. If they didn't go straight out with two full stories because of setbacks and inset, and only went half the size on a second story, it would still allow for a 3900 sq ft house of heated space. If you add on another 2600 sq ft of porches and decks, it is 5,500 sq ft of structure on the lot. With the ½ acre aspect, there are 18 lots on this exhibit which have been submitted of which the dimensions are discernable, and 10 of those are under ½ acre. There are literally about half the lots on the island that are under ½ acre. The ordinance is not imposing any further restriction than what was intended to apply.

Ms. Paylor stated she did not see a hardship. Mr. Barr stated that hardship: the RC1 line that was arbitrarily drawn from the corner lot to the corner lot. Essentially what has happened is that Mr. Reinhardt has in excess of ½ acre of buildable lot area that he can utilize to build on even under the pending ordinance. The lots get smaller and smaller from the line for no apparent reason. Mr. Barr stated this line was never meant to reduce the buildable area of the lot, but that is what is happening.

Mrs. Scott felt there was a hardship because the house on the end received that privilege and she hired an architect to build a home for herself and her four children to enjoy. She pay taxes, and believes this imaginary line limits her and is unreasonable.

Mr. Prause stated that the RC1 line is one of three things: it's either the seaward most platted lot line; the base of a functioning erosion control device or the crest of the primary ocean front dune established in the field by OCRM. Those are the definitions of the RC1 line, except for the six hotel lots. The line is not arbitrary in the fact that it has a purpose. It was put there for a reason. Mr. Barr stated that they would like to withdraw and regroup.

There being no further business to come before the Board, the meeting was adjourned.

Respectfully submitted,

Ellen McQueeney

Approved:

Date: _____