

April 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

Motion was made by Susan Middaugh, seconded by Jay Keenan, to approve the minutes of February 12, 2004, carried unanimously.

Aimee Turisk, 1856 Middle Street. Mr. Turisk stated how the daycare meets Section 21-61 of the Zoning Code regarding special exceptions: Section 21-61 states they need adequate provision for setbacks, fences, and buffers to protect adjacent property from adverse influence. They are not requesting a variance to increase the building space; they instead are requesting to remove the deck and to enclose that area. Traffic congestion would be improved by adding parking spaces on the property. The Code states that vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered. He stated this improvement would eliminate any parking on opposite sides of the street and create safer conditions for the public and patrons. The Code also states that off street parking and loading areas and entrance and exits of these areas shall be adequate in terms of location. Mr. Turisk stated they meet that in the fact that the location of the parking will be on their property and no cars will be parking on the perimeter of anyone else's property. He stated that with the parking amount and design they will be coming in compliance with zoning requirements that were not met initially with this daycare before his wife took it over. Section 21-61.4 states that the proposed use shall be compatible with existing uses such that they will not adversely effect property value general character or the general welfare. As far as property value goes, it will definitely help property values, he stated, because the neighbors sometimes have daycare patrons parking in front of their house and this plan will eliminate that; regarding general character, the improvements done will be by a certified contractor; they will blend into existing structure and will meet all requirements. Regarding general welfare; this addition will improve safety for pedestrians and children. The proposed plan is not to increase enrollment, but to combine two existing rooms into one room and allow space for the remaining children and will help with storage. They submitted all the required documents and Mr. Turisk feels that their case is reasonable and will be helpful for all.

Chairman Hiers stated that seven letters of support had been received from Mark P. de Villier at 2724 Jasper, James and Mary Gatch at 1814 Central, Cheryl Dunn at 1421 Middle, James and Patricia Sharpe at 1306 Thompson, Lenton Sharpe, Pauline Sharpe McElhenney, and Kelly and Doug Heath at 1618 Goldbug. No letters of opposition were received.

Mr. Prause stated that we do not have a current drawing of the 20x20 room requested. If they built the room at Station 19, a variance would be needed. No variance would be

needed if it was built on the other side of the building. Mr. Prause stated there are two issues. The plan submitted shows an addition not the same size of the deck, but in the same place. It is 5.9' from the property line. A variance would be needed to encroach into the 20' setback. A special exception would also be needed to expand the use, which the applicant has already presented. No special exception would be needed for fence and parking area. Mr. Prause stated that Section 21-61 #5 states that the Board can attach reasonable terms and conditions on a special exception. Mr. Prause stated that the Board could stipulate a certain number of children that could be there; if approved by the Board it then becomes an enforcement issue with the Town. Mrs. Turisk stated that she has 63 children, which is the maximum at one time; 30% of the children are Sullivan's Island residents.

Mr. Prause also stated that parking standards for nurseries are under commercial zoning district classifications. Since it is in a residential district, certain lot coverage requirements with respect to impervious surfaces that would apply here do not commonly apply in the commercial zoning district. The parking surface may not be able to be asphalt or concrete, but there may be some other suitable treatments that would provide a surface that meets the daycare's needs for wear without being totally paved.

Jimmy Hiers stated that the Town Council denied the request for an expansion in 1998. Mr. Turisk stated that was when his wife first bought the business and her proposal at that time was strictly expansion. Mrs. Turisk stated that the area is functionally obsolete; the classrooms are crowded and she wants to knock out a wall between two classrooms to make it one classroom. Currently she has twelve toddlers in a tiny room.

Kelly Heath of 1618 Goldbug Avenue stated she wrote a letter of support, and believes this would be a great benefit to our community; it represents the diversity spoken about at all the planning meetings, and part of our goal at Sullivan's Island is to keep diversity by having children here. Cheryl Dunn of 1421 Middle Street stated that she has used the daycare and they do a great job. She has also written a letter of support.

Motion was made by Susan Middaugh, seconded by Jimmy Hiers, to approve the request for special exception and variance to add a 20x20 foot room to the daycare with the special conditions that at no time will there be a request for expanding the current license beyond the current 63 children, so the expansion of space is not to be used to go to the State to get an expanded license for adding children; as part of this approval they are required to implement the proposed parking spaces and fencing improvements and the dropoff area would be approved as well under the conditions that they meet the permeable requirements; that the special exception run with the property owners and that if the business or the property is sold, that this issue would be returned to the Board to whoever buys it; that they do not operate after 6:00 p.m. except in rare emergency occasions and do not operate on weekends; that they confirm in writing annually to the Town that they have not exceeded 63 children; and that the steps currently encroaching within the 5.9' setback should be revised so that they do not encroach further out toward Station 19, carried unanimously. Chairman Hiers stated the rationale is to improve the care of the children, but most importantly the number is not ever going to be increased.

Barbara and Buddy Inabinet, 2902 Jasper Blvd. The Inabinets were represented by Bill Barr. Mr. Barr stated that the Inabinets have submitted for a dock variance; it is not actually a new application for a variance because a variance was granted by this Board in 2001; it is an application to renew a variance. He stated that this is a similar situation as to the Mr. Tanenbaum variance just a few months ago. The Inabinet variance was granted in 2001 to construct a dock and OCRM permit was issued in May 2002. There have been no changed conditions since January 2001 in which this was presented to the Board. The Board at that time approved as being within, what he claims generally, as the Felger exception. The Inabinets did not immediately start within six months of 2001 due to personal issues, but they would like to construct it now, and would ask that the variance that was previously approved in 2001 be allowed now.

Chairman Hiers stated that the Board turned down the last dock request related to the Felger issue, which was Dr. Feller. Mr. Barr stated the only difference in Dr. Feller's case is that the Inabinet's dock was previously approved. The rule at the time that this variance was granted was that you couldn't have a dock over 300' in length regardless of where it terminated. This dock terminates in a 42' estuary; and the only reason it was granted before in excess of 300' was because it was based upon the Felger claim. Motion was made by Jay Keenan, seconded by Susan Middaugh, to defer this until the Board has received legal advice from town counsel, carried unanimously.

Rebecca Campbell, 2910 Jasper Blvd. Ms. Campbell is requesting that the dock variance granted by the Board in 2001 be renewed. She stated that this process was started in 1992 but they were notified of the Felger claim. Larry Dodds wrote a letter in 1996 confirming a right of riparian access across that strip of highland owned by Sullivan's Island behind 2910 Jasper. In 2001 the Board granted the variance for a 750' dock only on the same grounds regarding the Felger contested property of the marsh. OCRM approved the permit in July 2002. Ms. Campbell did not realize the variance expired after six months if a permit was not pulled.

Mr. Prause stated that in the first application the request was for the dock to go to Conch Creek, but he wrote a letter stating that the current town ordinances wouldn't allow it. The minutes on which the variance was granted reflected that she needed to keep it within the projected property lines, and if a variance were required that they come back and ask for a variance at that time. The Board granted a length of 750' within the projected property line and that goes to the 42' wide creek unnamed tributary off Conch Creek, which is the same tributary which the other Felger claim variances go to.

There was discussion whether the dock could be angled. Mr. Prause stated that the wording of the angle provision added to the dock ordinance after Council's executive session was not clear. For example, if they went to Hamlin Creek, they would be going to a creek more than 200' wide and the dock would be less than 800', and it would be angled in an area of town where other angled docks exist. He questioned whether they would have to get to a 200' creek within 800' within the property lines first to be eligible to do the angle.

Motion was made by Jay Keenan, seconded by Jimmy Hiers, to defer this until the Board has received legal advice from town counsel, carried unanimously.

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

Respectfully submitted,

Ellen McQueeney

Approved:

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Date: \_\_\_\_\_