

June 19, 2006

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: Thom Hiers, Chairman
Jimmy Hiers
Jay Keenan
Susan Middaugh
Alice Paylor

Motion was made by Alice Paylor, seconded by Jimmy Hiers, to approve the minutes of the May 11, 2006 meeting, carried unanimously.

Chairman Hiers stated that Freddy Felder has deferred his variance request until next month, and Mr. Bill Danielson has withdrawn his appeal.

Hubbard, Carl. 2530 Myrtle Avenue, variance to install pool in front yard. Mr. Hubbard stated that under the new ordinance, it is his understanding from Section 21-142 B1 that a pool is considered a recreational facility, and recreational facilities must be a minimum of 20 feet to the rear of the front façade of the principal building. Their property, purchased in 1998, and added to in 2001, does have orientation of the front façade to Myrtle Avenue. He stated this property is unique and has exceptional circumstances. Directly across the street from the rear setback line there is a sewage lift station, a 60' telephone pole put in 6 months ago, all of the HVAC equipment is located on the back of the house and with the side and rear setbacks, there is truly a small amount of space left to put any type of recreational facility. As Mr. Hubbard understands the history of the neighboring Howle property and his property, there were three small cottages oriented very closely to Myrtle Avenue; there is still a small cottage on Myrtle on the Howle property. The Howle house is oriented toward Goldbug Avenue. In looking at all the blocks from Station 20 to Station 26-1/2, these two properties are the only two that seem to have the principal buildings oriented closer to Goldbug. However, Mr. Hubbard's property is facing Myrtle. Mr. Hubbard stated items to be considered are the placement of his property as well as the Howle's, the orientation, and the fact that it is on a corner lot. The conditions that they have on their property do not apply to other property on Myrtle Avenue or Goldbug Avenue for about seven blocks. No other properties are oriented the way their house or the Howle's house is, meaning that all the other properties are much closer to Myrtle Avenue. He stated there are pools on Myrtle Avenue with those properties, and they are arguably set in the rear of the house because of property orientation; there is no room to put them in the front. The neighbors, Buddy and Meg Howle, the Rovner's, and Tim Jenkins, do not object to the variance.

Motion was made by Alice Paylor, seconded by Jay Keenan, that the variance be granted for the following reasons: because there are extraordinary and exceptional conditions pertaining to this particular piece of property which is that it is located on a corner, and actually fronts on three streets and it is actually closer to Goldbug than to Myrtle which makes it impossible to put a pool to the rear; the house was already situated there when he bought the house; the lift station is across the street and there is a power pole; these conditions do not generally apply to other properties in the vicinity because the only other property that is situated that way actually has a front façade on Goldbug; it is not clear by definition what the front façade would be under the ordinance in this case; the next door neighbor's principal residence has a Goldbug address, carried with a vote of 3-2 with Thom Hiers and Susan Middaugh casting the no votes.

deBrux, Clydie and Sumter. 1903 Back Street, variance for impervious coverage. Attorney Bill Barr represented the deBrux's. Mr. Barr stated that they have an existing deck on the property. They want to enclose the current deck, and then extend the deck. He stated they are allowed 30.5% impervious lot coverage, and are requesting 33.5% coverage. Chairman Hiers stated that a previous variance was given on this property for the pool. Mr. Prause stated it was a setback variance from the marsh front lot line. Mr. Barr stated that the deBrux's would like to offer their gazebo to the Town, which would reduce the impervious coverage by 119 square feet, and they could replace some impervious material at the foot of the stair with pervious pavers. Motion was made by Jay Keenan to approve this variance on the condition that the gazebo be donated and that a portion of the pervious material be reduced so they get down to the 30%. Motion was not seconded. Mr. Prause stated that if the impervious material is reduced to 30.5%, then a variance is not needed. Mr. Barr withdrew the variance request.

Jeffords, Jack and Kim. 1902 Middle Street, variance for front and side setbacks. The Jeffords were represented by Attorney Bill Barr. Mr. Barr noted that the property is in the historic district, and it is on the historical list as an altered property, so it is not a historic property under the ordinance. Mr. Barr stated this house was permitted by the Design Review Board, however, when the building permit was issued, there was an area of the property that was not included in the permit because the Jeffords were worried about exceeding the 50% Rule. Mr. Barr stated that when Building Official Randy Robinson saw exterior construction other than what was permitted, he told them he believed they were exceeding 50%, and all work needed to be stopped because the house would need to be elevated to be compliant with the flood damage prevention ordinance. Mr. Barr stated the Jeffords are prepared to raise the house. Mr. Barr stated what the Jeffords are asking to do, is to overrule the Zoning Administrator that the new ordinance does not apply, and that the Jeffords should be able to amend their permit under the old ordinance, raise the house, pay additional necessary fees, and move forward under the old ordinance; or the alternative is for the Board to grant them a variance because it would be a huge hardship to raise it, move it back, and try to meet all the setbacks that would be required.

Motion was made by Alice Paylor to reverse the decision of the Zoning Administrator, and that the amendment of the building permit relates back to when it was first filed, so it would be under the old ordinance. Motion not seconded.

Mr. Prause stated his interpretation, and what he believes Town Council was trying to convey, is that the plans that were approved under the old ordinance have two years to be built; anything that is changed is not grandfathered under the old ordinance. Mr. Prause stated the owners and the contractor signed an affidavit stating this was all the work that was going to be done. This situation has implications beyond just this one house.

There was much discussion concerning setbacks, and under what ordinance the permit would be issued. Steve Herlong, architect for the property, stated the variance needed would actually be not to raise the structure, but to allow it to be raised in its current position on the property because the new ordinance would cause it to be moved back.

Jay Keenan asked Randy Robinson that if the Jeffords had built what they were permitted to build, the Board would not have this issue? Mr. Robinson stated that was correct. Chairman Hiers inquired if any property owner had asked to elevate when they are not increasing the square footage. Mr. Prause stated there will be applications. Mr. Prause also stated that the 50% is accumulative over a three year period, and it includes demolition, and damage, and voluntary work. He stated that owners run into problems when they almost reach 50%, and if, for example, a kitchen fire causes \$5,000 in damage, then the entire house has to be elevated because they are reached over 50%.

Motion was made by Jay Keenan, seconded by Alice Paylor, to go into executive session for legal advice, carried unanimously. Upon returning from executive session, Chairman Hiers stated that legal matters regarding the case were discussed, and no votes were taken. Motion was made by Alice Paylor, seconded by Jay Keenan, to defer the matter until the July meeting in order to get legal opinion from counsel as to whether or not the old ordinance or new ordinance applies to the situation, and encourage the applicant to get a legal opinion as well, carried unanimously.

Brown, Howard. 2217 Myrtle Avenue, variance for front setback. Mr. Brown was represented by Attorney Bill Barr. Mr. Barr stated that Mr. Brown's house fronts on Myrtle Avenue, and he wants to build a second story on the existing structure. This lot is 16/100 of an acre. The house, which is not a historic structure, sits closer to the street than any of the other houses on the block. Mr. Barr stated that according to the ordinance, the second story will have to be set back from the street since it will be over 20 feet, which basically destroys the ability for him to build it altogether. Mr. Barr stated he is asking for a variance for the grey shaded area of 48 sq ft as shown on the presented plan. Architect Stephen Herlong stated that area allows him to get a bedroom and a bath for the bedroom inside the footprint. It is setback from the first floor approximately 6-8 feet. However, the new ordinance requires him to setback 25 feet. Mr. Herlong stated that Mr. Brown has been doing renovations piece by piece with an overall plan in mind. He has followed the ordinance in previous work, but the new ordinance has caught him in enlarging the house for a growing family. Mr. Herlong stated they looked at plans to go out to the red line on the presented plans, but it would bring the front second story straight across the front line. Mr. Herlong stated that having the small area projected to the front will allow a more visually appealing structure. Chairman Hiers inquired if when the recessed issue was being discussed for the new ordinance, were they considering new houses, or also old houses? Mr. Prause stated that they were considering existing houses because the setback provisions for the side yard are excluded. Mr. Prause stated that you can continue an existing non-conformity, but specifically above 20 ft, you get what the Design Review Board can give you if you meet the standards of neighborhood compatibility. Beyond that, the options are to move the house; not build the house; or get a variance.

Motion was made by Jay Keenan, seconded by Alice Paylor, to grant the exception because of the extraordinary and exceptional conditions of the property in that the lot is only .16 of an acre, and that the conditions do not generally apply to other properties in the vicinity as apply to this since the house is built up in front of the property; because of these conditions the application of the ordinance at this particular property would effectively prohibit the utilization of the property; and by granting this variance, it would not be a substantial

detriment to the adjacent property or to the public good; in addition, the majority of the second story will be recessed, the variance is only for one small portion of the second story, which is de minimis, carried unanimously.

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

Respectfully submitted,

Ellen McQueeney

Approved:

Date: _____