

July 13, 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
Susan Middaugh
Alice Paylor

Motion was made by Susan Middaugh, seconded by Alice Paylor, to approve the minutes of the June 19, 2006 meeting, carried unanimously.

Jeffords, Jack and Kim. 1902 Middle Street, variance for front and side setbacks. Attorney Bill Barr represented the Jeffords; Mr. Jeffords was also present. Mr. Barr stated that the Board deferred action on this application last month in order to obtain legal counsel. Mr. Barr stated that this is a non-conforming structure that was built in the 1920's. The Jeffords bought the house in 2004, and applied for a permit to renovate under the old ordinance. The permit was granted with an estimated value of less than 50% of its value. However, the Jeffords exceeded the 50% value, mostly as a result of interior renovations to the house that were not contemplated at the time the permit was issued. The construction of an area outside of the building permit was noticed by the Building official, Randy Robinson, and a stop work order was issued. Mr. Barr stated the Jeffords are willing to tear down the piece that was not in compliance with the permit. Mr. Barr stated hopefully that would allow the Jeffords to be able to proceed in accordance with the original approved building permit except for the fact that they have exceeded the 50% rule. Having exceeded the 50% rule, the house will need to be raised. The house is in an "A" zone, and will need to be raised about 4-6 feet. It could be landscaped so it doesn't appear to be a towering structure close to the street. Mr. Barr stated the Town has not passed its comprehensive vested rights statute, so basically the Town is governed under 6-29-1560 which states that a landowner has a vested right to proceed in accordance with an approved site specific development plan for a period of two years from the approval. The vesting is not affected by a later amendment to a zoning ordinance or land-use or development regulation if the landowner incurs significant obligations and expenses in diligent pursuit of the specific project in reliance on the significant affirmative government act. Mr. Barr stated if the Board finds that Mr. Jeffords is governed under the old zoning ordinance, then they could move forward. Mr. Barr stated there are provisions in the new ordinance that he would like to note. Section 21-151 D(2) states that when a non-conforming structure is damaged by intent or neglect (and this house is damaged by intent because of the renovation process) by more than 50% of its assessed value, the structure shall be restored in conformity with the zoning ordinance in effect at the time the building permit was issued. Mr. Barr stated they are asking the Board to grant a variance to allow them to proceed in accordance with the existing building permit under the old ordinance and complete the project as designed.

Motion was made by Alice Paylor, seconded by Jimmy Hiers, to go into executive session for legal counsel, [Attorney Clay McCullough], carried unanimously. Following the executive session, motion was made by Jimmy Hiers, seconded by Alice Paylor, to go into regular meeting session, carried unanimously. Chairman Hiers stated that no votes were taken during executive session.

Motion was made by Alice Paylor, seconded by Jimmy Hiers, conditioned on Mr. and Mrs. Jeffords tearing down the addition that was not on the original permit, and conditioned on their limiting the lifting of the house to the bare minimum required by the flood zone ordinance, and conditioned on approval by the Design Review Board that is required, that the Zoning Administrator's decision be overruled and that under Section 21-151 D (2) Mr. and Mrs. Jeffords be allowed to build in accordance with their original permit which does not include the offending addition, carried unanimously.

Felder, Freddy. 3035 Marshall Blvd., appeal of Zoning Administrator's decision and variance to repair erosion control device. A letter was received from Attorney Cotton Harness asking for a continuance on the Felder matter until a decision can be made regarding how his client would like to proceed. Further, if a continuance could not be granted, that the variance request be withdrawn. Mr. Prause stated that in the Board of Zoning Appeals' Rules, Article III, Section 5, states that requests for continuances from applicants or parties other than Board members may only be continued upon a showing of good cause. Mr. Prause indicated his view that deciding how his client wants to proceed is not a good cause. If they withdraw, they can come back with the variance request after six months, but they can not come back to appeal the administrative decision because the filing period of 15 days has lapsed.

Motion was made by Alice Paylor, seconded by Susan Middaugh, that the Board continue this case until next month, to give Mr. Felder the opportunity to either use his appeal, or to know that he has given it up; a letter will be written to Mr. Harness stating the Board rules, however, the Board granted the continuance because the Board did not know if he realized that he was actually giving up a right by withdrawing, carried unanimously.

Dawsey, Nellie. 2850 Jasper Blvd, appeal for special exception for historical structure use as an accessory dwelling. A letter was received from applicant Joe Biascoechea asking for a deferral until August, as he believes he needs a certificate of appropriateness from the Design Review Board prior to presenting to the BZA. The property is on the DRB agenda for this month. Motion was made by Alice Paylor, seconded by Susan Middaugh, to defer this case for one month, carried unanimously.

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

Respectfully submitted,

Ellen McQueeney

Approved:

Date: _____