

September 14, 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
Alice Paylor

Motion was made by Alice Paylor, seconded by Jimmy Hiers, to approve the minutes as written of the August 10, 2006 meeting. Jay Keenan moved to insert a minor change, motion was seconded by Alice Paylor, and the amended minutes were unanimously approved.

Chairman Hiers stated that Paul Boehm had withdrawn his variance and appeal of Zoning Administrator's decision for 3306 Jasper Boulevard.

Ziff, Loren/2114 Iron Avenue LLC. 2114 Iron Avenue, variance to complete project in accordance with extended building permit. Mr. Ziff was represented by Attorney Bill Barr. Mr. Ziff stated that 2114 Iron is zoned residential and commercial. He has an existing permit to build a 6600 sq ft building. He has been working with the Town for an opportunity to subdivide the lot in exchange for building a smaller building. The Planning Commission has recommended to allow subdivision of residential/commercial lots and this recommendation will be sent to Town Council for their consideration. Mr. Ziff is specifically looking for an extension of his right to build the building beyond the two year limit. He is trying to preserve his rights until Council considers the potential ordinance change. Mr. Bill Barr stated that Mr. Ziff has already had an extension of his building permit. He is asking to extend the tail end of the limit because the front end has already been extended for two years through April 2007. Zoning Administrator Kent Prause stated that he has a building permit under the old zoning ordinance provisions, and those provisions are less stringent as to what he can build. Town Council, in adopting the new ordinance, put a 2 year time frame on building what you had a permit to build from the date of issuance of the permit. There is nothing that would prohibit Mr. Ziff from building a smaller building on the lot now. Mr. Prause stated he does not see where that is a hardship. Mr. Barr stated that the real hardship is that Mr. Ziff would have to build the larger building which is contrary to the interest of the Town.

Motion was made by Alice Paylor, seconded by Jay Keenan, to grant the variance because the strict application of the provisions of the zoning ordinance would result in an unnecessary hardship. There are extraordinary and exceptional conditions pertaining to the particular piece of property because it is a property that has both commercial and residential uses on there, and a building permit was issued in April 2005 and has been extended for six months; the conditions do not generally apply to any other property in the vicinity; and there are ongoing discussions with the Town; the Town has an interest in having a smaller building built on the property; an application of the ordinance would be that it is not enough time to actually complete the project due to the extensions of the permit and due to discussions with the Town; the variance will not be of substantial detriment to adjacent property or to the public good, and indeed, would actually benefit the public good; because of the Town's discussion about the property, it makes it a unique situation, carried unanimously.

Dawsey, Nellie. 2850 Jasper Blvd., appeal for special exception for historical structure use as an accessory dwelling. Mr. Bill Barr represented Ms. Dawsey. Mr. Barr stated that the applicant has the property for sale at this time to Jose Biascoechea and his partner, and the existing historic property on the structure has been designated on the historical overlay district. Mr. Barr stated that particular structure has less than 1200 sq ft so the existence of that structure so the owner can ask for a special exception in order to utilize that structure as an accessory dwelling unit, and then build a subsequent larger structure to the rear of the property. He stated they have been to the Design Review Board one time; and DRB deferred the matter pending information. Mr. Barr said they are trying to keep the process rolling without any unnecessary delay because there is a closing date coming up. Mr. Barr stated he is asking the Board of Zoning Appeals to grant a special exception pursuant to Section 21-20 C of the Code, conditioned upon getting DRB approval of the primary structure, which would be constructed on the rear.

Mr. Biascoechea stated that the square footage of the building was 1138 sq ft. Chairman Hiers stated the plans show the building as 36ft x 45 ft. Mr. Barr stated that there is a porch that is heated space and this survey doesn't show that basically the front porch goes all the way across the front and the heated area is only 1139. Building Official Randy Robinson stated he has not been inside this building. Chairman Hiers questioned the depth of the porch. They did not have a plan showing the depth, but Mr. Barr stated it was probably 6-8 feet deep. Mr. Barr stated the special exception could be granted on verification of the square footage of the structure. Chairman Hiers stated that in a previous case, this was handled by the Design Review Board before it came to the Board of Zoning Appeals. He inquired whether there is some reason why that should happen. Mr. Prause stated that in order for someone to be able to do this they have to meet the requirements of Section 21-20 (C) 2 a-1. The Design Review Board needs to make this determination that it cannot be added on to in a meaningful fashion, or that if it has to be elevated because of 50% improvement, that that would destroy its historic character in order for another building to be built on the property. The DRB has not done that yet. Mr. Prause stated if the Board of Zoning Appeals grants a special exception pursuant to those requirements, that means that they have a special exception approval to put a second dwelling on the lot. At least something needs to be on the record that it is subject to the DRB approval. The items as outlined in Section 21-178 (C) 1-4 are what the Board of Zoning Appeals needs to consider: (1) adequate provision is made for such items as setbacks, fences, and buffered or planting strips to protect adjacent properties from possible adverse influence of the proposed use, such as noise, vibration, dust, glare, odor, traffic congestion, and similar factors, (2) vehicular traffic and pedestrian movement on adjacent roads shall not be hindered or endangered, (3) off-street parking and loading areas and the entrance and exits of these areas shall be adequate in terms of location, amount, design, and construction to serve the proposed use, and (4) the proposed use shall be compatible with existing uses to the extent that such use will not adversely affect the level of property values, general character, or general welfare of the nearby area.

Chairman Hiers asked for comments from the public. Billy Richardson of 2678 Goldbug (with family property at 2856 Jasper) stated that there is a discrepancy in the survey of 2850 Jasper; the current structure on 2850 Jasper is old, is repairable, and can have an addition on it; and everyone in the neighborhood is totally against building the second structure. In addition, he stated that Mr. Biascoechea's current house does not meet the setback requirements, he does not have a certificate of occupancy, and he has tried to take

over about 25 feet of road right-of-way. Mr. Richardson also stated that the old survey showed the property at 105 feet; the new survey shows 130 feet.

Betsy Richardson of 2678 Goldbug stated there is not another piece of property on the surrounding lots with two houses, and she objects to the second house being built at 2850 Jasper.

Jaime Moore, 2857 Jasper, lives across the street. His concerns include the property line dispute, and the use of any new structures and the rehabilitated historic structure. He is concerned about the impact on the neighborhood and effect on rental property. He requested the Board to not grant the variance until the Design Review Board has had an opportunity to see what is actually being proposed.

Buddy Inabinet, who owns property at 332 Izlar, is concerned about the boundary issue. If the boundaries are moved onto Mr. Richardson's property, could the boundary lines be moved down continuously across other property?

Mr. Prause stated that the historic property can only be rented as a long-term rental, and only if the principal structure is occupied by an owner of the property as a primary residence. Chairman Hiers stated that the property line dispute is a legal issue, and can not be considered by the Board of Zoning Appeals. He also stated that the Board cannot deny a variance solely based on the neighbor's objection. However, Mr. Prause stated that the Board has to state findings on all of the criteria, and if the Board believes it adversely affects the general character of the nearby area, that is certainly a reason for saying no; it is completely within the Board's authority under Section 21-178 (C) 4.

Motion was made by Jay Keenan, seconded by Jimmy Hiers, to allow the Design Review Board to resolve their issues first before the Board of Zoning Appeals makes a determination, carried unanimously.

Chairman Hiers stated he has been on the Board of Zoning Appeals since before Hurricane Hugo, and will resign the Board by the end of the year. He stated that Town Council has ratified the ordinance amendment to add two new members to the Board, so there will be seven members.

Motion was made by Alice Paylor, seconded by Jimmy Hiers, to adjourn, carried unanimously.

Respectfully submitted,

Ellen McQueeney

Approved:

Date: _____