

April 12, 2007

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: Alice Paylor, Vice Chairman
Brian Hellman
Jimmy Hiers
Susan Middaugh
Betsy Richardson
Bachman Smith, III

Motion was made by Bachman Smith, seconded by Alice Paylor, to approve the February 8, 2007 minutes, carried unanimously. All applicants and participants took the oath of office.

Jose Biascochea, 2850 Jasper Boulevard, special exception requested for historic structure used as accessory dwelling unit. This application has been deferred.

Bourland, Michael and Allison, 1607 Atlantic Avenue. Variance for outdoor fireplace chimney to extend above the 4-1/2 foot height limit. The Bourlands withdrew their application before the meeting.

Riley, Jr., Joseph P. Lots 242 and 243 on Jasper Boulevard. Variance to subdivide the property into a buildable lot of .475 acres and a dock lot of .045 acres. Attorney Bill Barr presented the application; Attorney Frances Cantwell was also present. Mr. Barr presented a history of the property, along with plats of the property. He stated when Mr. Riley acquired the property in 1957, it was three lots, and they were not identified as numbered lots. In 1971, the Town caused one plat to be recorded with the lot numbers. In 1976, Mr. Riley had another plat recorded showing the property line between lots 242 and 243 had been abandoned, although it has always been recorded on the tax records as two lots. In 1983, Mr. Riley acquired a 50 foot strip from Buzzy Newton. Their proposal to the Board is to create a dock lot – essentially the dock lot would encompass the 50 foot strip. The Wurthmann's own lots 240 and 241. Mr. Barr paraphrased a memo written by Mr. Riley. It states there is a long-time Sullivan's Island tradition of gathering at the property. Their intention has been for it to never be more than a dock lot. The reason the property line was abandoned was because he did not want to pay for two front foot assessments if he was only going to park a boat at the dock. Without the variance, he states that the activity will be lost to the Riley's. In time the family would be forced to sell the entire property because the value of the large amount of land is too much to just have a dock. Mr. Barr stated that the historical preservation ordinance covers not only houses, but it also covers property. There are exceptional and extraordinary conditions related to this property, which are in the application. It is an extraordinarily large lot, being carried on the tax books as two lots, and these conditions do not generally apply to two properties in the area. The closest property is George Wurthmann's property further to the west, and it is a small dock lot. They believe the hardship of the property is the history of the property, the size of the property, its traditional use solely for a dock, and unreasonable restriction of its utilization. Also, in keeping with the ordinance, the size of the property accommodates the creation of a dock lot, and a buildable lot only slightly smaller than the

minimum size required by Section 21-12. If the request is approved, it will not result in an increase in density, as only one single family residence will be on the property; the character of the district will not be harmed; and it is consistent with the character of the island to have one residence per lot of a lot one-half acre in size. Mr. Barr pointed out that the Town requires to measure minimize lot size by statute from the critical line. From the critical line, there is .475 acres of remaining lot. The dock lot would be not buildable. There is .52 acres of high ground from the mean high water mark. There is a de minimis difference in the minimum lot size on the island. In closing, he urged the Board to allow this variance. He stated there is significant historical character and tradition to this property. Ms. Cantwell added that this is one of the few areas of the island that was not one-half acre to begin with. Essentially this will allow traditional use that is somewhat disappearing on the island to remain; it would not only be keeping with the spirit of the ordinance, but also with the spirit of the island.

Zoning Administrator Prause stated that although the presentation was excellent, there is no provision for a dock lot in the ordinance; and the minimum lot size is one-half acre. The applicant should perhaps recommend to Council to amend the ordinance. He submitted to the Board that there is no hardship pertaining to the property; certainly a good case has been made for personal circumstance. He stated there are a number of properties on the island that have residences and docks; although probably none that have this historical context. Susan Middaugh stated she does not see any extraordinary conditions. They have a buildable lot and have chosen not to build on it. Discussion ensued by the Board, as the evidence presented did not pass the hardship test for a variance. Bachman Smith offered that an option might be for the owner to lease or grant easement to someone for the use of a piece of the property.

Motion was made by Susan Middaugh, seconded by Betsy Richardson, to not allow the subdivision on this lot because there are not sufficient exceptional conditions pertaining to this particular piece of property. Essentially they are asking to subdivide a single piece of property so that they can keep a portion for the family dock lot, while selling the other lot for a buildable single family lot; neither will meet the test of being one-half acre as required by ordinance. These conditions could apply to other property across the Island in which individuals may seek to establish a new lot line to essentially subdivide their property to allow for establishing a dock lot. This denial will not unreasonably restrict the utilization of the property; the owners can continue to use it as a dock lot, or they can build a house on it, so there is no restriction on the use of the property; the authorization of the variance would be of detriment to the character of the district in that it is likely to set a precedence for similar requests for subdivision for dock lots, carried unanimously.

Betsy Richardson suggested to the applicant to research the lease option issue as previously mentioned.

Mr. Barr withdrew the application. Mr. Prause noted that under the Rules of Procedure, the application could not be refiled for six months.

Motion was made by Susan Middaugh, seconded by Jimmy Hiers, to approve the Rules of Procedure as presented which were amended at the last meeting, carried unanimously.

Motion was made by Jimmy Hiers, seconded by Brian Hellman to adjourn, carried unanimously.

Respectfully submitted,

Ellen McQueeney

Approved:

Date: _____