

October 11, 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: Jay Keenan, Chairman
Jimmy Hiers
Susan Middaugh
Alice Paylor

Motion was made by Alice Paylor, seconded by Susan Middaugh, to approve the August and September minutes, carried unanimously.

Chairman Keenan administered the oath to all applicants and participants.

Attorney Bill Barr stated that on behalf of Suzanne Emge and Joe Riley, who applied for and received approval of a variance in September, they would like the Board's approval to withdraw without prejudice the variance for property located at Jasper Boulevard, TMS 520-08-00-049. While they believe the request was reasonable and the decision of the Board was correct, and in accordance with the letter and the spirit of the land use law, they believe the issue has unfortunately been mischaracterized and casts in the political light something that Mr. Riley has studiously sought to avoid. As a result, they feel that Town Council has been put in a most awkward position of having to move forward with an appeal. Mr. Riley and Ms. Emge have a special feeling for Sullivan's Island, and do not want to put the Council and the community through a timely and expensive litigation. They have determined to pursue an alternate route toward preserving the family dock along the lines that were previously suggested by this Board. Mr. Barr stated he, attorney Frances Cantwell, and the Rileys wanted to thank the Board for its consideration and courtesies that were extended during this time. Mr. Barr presented the Consent Order for the Board's consideration and signature.

Motion was made by Alice Paylor, seconded by Jimmy Hiers, to approve the written Consent Order as prepared by Mr. Bill Barr, carried unanimously. Chairman Keenan signed the Consent Order.

Kerns, Barbara. 1026 Middle Street. Appeal of Zoning Administrator denial of permit to complete unfinished space; variance to finish space previously designated on approved drawings. Chairman Keenan asked Zoning Administrator Prause to present. Mr. Prause stated that this basically relates to Section 21-7 of the old Zoning Code. In the interim, of the new Chapter 21 provisions, Town Council presented a grace period for people to submit plans under the old Chapter 21 ordinance provisions. The Building Department received about 19 sets of plans in a week; the Kerns' plans was one of them. The plans were submitted, went to DRB for approval, and were approved for a permit. The concept of the 21-7 provisions were that whatever was approved under the condition of the building permit and the zoning ordinance in force at the issuance of the permit shall control and be completed within two years of issuance. The situation now is that there was a certain amount of unfinished space that was labeled attic and mechanical space on the second floor that is just

DRB has the ability to grant a certain amount of relief, 25%, based upon a finding of neighborhood compatibility to increase the size of that living space. The applicant has not applied to the DRB; they have chosen to come to this Board to basically state that Mr. Prause's interpretation of this provision is incorrect and they want it overturned. The alternative is to ask for a variance from whatever it may be that they are over. According to the plans they submitted, it appears that the footprint of the heated portion of the building is 3,159 sq ft and the lot is 21,247 sq ft. Based upon the formula that is currently in effect to allow the amount of square footage, they can have 4,024 sq ft and the DRB can grant an increase of up to 25% of that for an additional 1,006 sq ft for a total of 5,031 sq ft. Subtract the 3,159 sq ft from what they have right now as approved, that leaves 1,872 sq ft for which the DRB could grant relief without confronting Mr. Prause's interpretation or applying for a variance.

Mr. Prause continued that he had not calculated the amount of square footage that is listed as attic or mechanical, but it could be that a good portion or perhaps all could be approved through the DRB with the 25% modification to increase that standard. Mr. Prause stated what the applicant represented is that the mechanical/attic area was eliminated at that time because of budget constraints. The applicants had every intention of finishing it in the future, and it is unfortunate that it was not shown as finished space, because had it been, then it would be covered by the terms and conditions of the permit that was issued.

Building Official Randy Robinson noted that the second floor plan received by the Board is not what was permitted. Mr. Robinson showed the Board the permitted plans, compared to what the Board received and what Mr. Robinson viewed during a recent mechanical inspection.

Mr. Barr presented photographs of the house. He stated the Kerns' are asking to be allowed to amend the building permit to change the unfinished space into finished space in accordance with the old statute instead of with the new statute.

Dr. Dean Kilpatrick, 1026 Osceola, requested the Board to uphold the Zoning Administrator's interpretation of the ordinance, and turn down the appeal. Randy Kerns said Mr. Kilpatrick's comments although well-intentioned are misinformed. There is no change to the exterior of the home at all; they want to finish the square footage that is already in the house.

Mr. Barr stated there appears to be questions that neither he or Mr. Kerns can answer; Mr. Robinson has pointed out inconsistencies with the plans; and Mr. Prause has raised questions regarding possible DRB relief. Mr. Barr requested to withdraw without prejudice, to return next month with the Kerns' architect.

Motion was made by Alice Paylor, seconded by Susan Middaugh, to adjourn, carried unanimously.

Respectfully submitted,

Ellen McQueeney

Approved:

Date: _____