

January 10, 2008

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
Betsy Richardson

Motion was made by Susan Middaugh, seconded by Betsy Richardson, to approve the December 13, 2007 minutes, carried unanimously.

Chairman Keenan administered the oath to all applicants and participants.

Brown, Heidi. 405 Station 22. Special exception for historic structure to be used as accessory dwelling. Chairman Keenan asked Zoning Administrator Kent Prause to present. Mr. Prause stated at the last meeting the Board made a motion to remand this application back to the Zoning Administrator until the applicant received a valid Certificate of Appropriateness for the reduction in size on the existing building on the site and to come back to ask for a special exception approval in order to build a second building on the site. They have returned tonight to ask for a special exception and have brought a site plan as requested by the Board. This plan attempts to demonstrate that they have met the requirements of the applicable code sections of Section 21-178; most importantly (C) 1-4 which deals with setbacks, fences, buffer strips, traffic, pedestrian movement, parking, loading areas and the use being compatible with existing uses so it will not affect property values, general character, or the general welfare of the nearby area. Mr. Prause stated that if the Board grants a special exception, he asked them to consider as a condition of approval that the existing house be reduced in size before the second house is built on the lot; or that they at least be done in tandem. Section 21-178D allows the Board to attach reasonable terms and conditions to the special exception.

Chairman Keenan asked Ms. Brown's attorney, Bill Barr, to present. The applicant is asking the Board to grant a special exception to allow the second house to be built on the lot in accordance with Section 21-178. The old structure does not meet setbacks, but it is grandfathered in. The new structure will meet all of the setbacks. Vehicular traffic and pedestrian movement on the adjacent road shall not be hindered or endangered. Off-street parking is adequate and there is sufficient room on the lot to cover parking for both structures. The proposed use is compatible with existing uses; this is a single-family residence neighborhood and the next lot has a new house and an historic house on the lot. In looking at the Board's minutes where properties have been granted special exceptions like this, no special conditions were imposed on the special exceptions that were given to the other four properties that were done. Also, Mr. Barr stated the Town administratively has allowed Buddy and Meg Howle to live in their old house while they constructed their new house and then had to tear the old house down; Jose Biascoechea on Jasper was allowed to live in his old house until his new house was built, and in the interim his old house was characterized as an historical structure. Marshall Stith was allowed to live in his old house while he built his new house. It would impose a horrendous imposition and hardship on Ms. Brown and her family to move out of the little house while building the second house. Kent added that all the special exceptions mentioned by Mr. Barr, along with David DeAntonio's and Andy Benke's

houses, were all under the old Chapter 21 provisions. This has not happened since the new ordinance has taken effect. Susan Middaugh stated that previous historic houses, such as the ones at 1856 Central and 1801 P on either did not need to be rehabilitated, or extensive work had already been completed. Mr. Barr stated that there is nothing in the new zoning code stating that the historic structure must be renovated.

Motion was made by Alice Paylor, seconded by Susan Middaugh, to approve the request for the special exception because they have met all of the requirements, with the condition which is a covenant running with the property as stipulated in the ordinance that Ms. Brown can live in her older house as is while she is building the second house; but she can not get a certificate of occupancy for either house until she has performed renovations on both houses as approved by the Design Review Board, carried unanimously.

Heilmann, Mindy. 2662 Goldbug Avenue. Variance for RC-2 setback. Chairman Keenan asked Mr. Prause to present. Mr. Prause stated the applicant is requesting a variance from the requirements of Section 21-23E, setback from the RC-2 District, which provides a minimum setback from the critical line. But the main aspect of the provision is that no structure greater than 4-1/2 feet shall be constructed or moved on a lot so that any portion of the structure closest to the rear lot line is further from the center of the right-of-way forming the landward boundary of the lot and running generally parallel with the marshlands than the greatest distance between the center of the said right-of-way to the furthest point of any dwelling on the block on which the lot is located. The reason for this is apparently they have a significant berm or topographical feature that is in the middle of the lot so the elevations go from a low of about 6.1 feet to a high of 15.5 feet according to the plat elevations. The applicant wants to place the house to the marsh side of that berm as shown on the drawing labeled "proposed conditions", and then place what appears to be a detached garage on the street side of the berm. The submitted plat shows the building lines of the structures on the Lot 112 and Lot 114 beside 2662 Goldbug. That is the intent of the provision of measuring from the center line of the street right-of-way out to the furthest point of the dwelling on the adjoining lots of the property so that people do not build out in front of other people. And that is exactly what has been proposed to be done here.

Chairman Keenan asked the applicant to present. Ms. Heilmann was represented by Eddie Fava of E.E. Fava Architects. Mr. Fava presented pictures and a model of the lot, with the berm that is the extraordinary condition of the property. They propose that from the street front, the building would barely be visible, thus saving the street view. They did speak with the surroundings neighbors. One immediate neighbor was supportive, while the other immediate neighbor did not know exactly what he thought about it. Betsy Richardson inquired how the water and sewer lines were going to the house without disturbing the roots of the trees. Mr. Fava stated that has been reviewed, and the lines would run outside the tree canopy.

Motion was made by Alice Paylor, seconded by Jimmy Hiers, to grant the variance to allow a 40-foot rear yard setback because there are extraordinary and exceptional conditions pertaining to this particular piece of property which is the berm and the natural oak-covered area on the center of the property; and these conditions do not generally apply to other property in the vicinity; these conditions and the application of the ordinance to this particular piece of property would unreasonably restrict the utilization of the property because it will not allow the structure to go in the center; and the authorization of the variance will not be a substantial detriment to

adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance because they are going to nestle the house within the trees and will fit right in so it will not be a detriment to the neighbors; and as a condition the structure in front of the berm would meet the ordinance requirements regarding a garage.

Discussion: Mr. Prause stated he had concerns that have not been fully assessed. This will set the benchmark for going forward from the street for every house in the block. The consideration is that it is a large lot and the applicant could build close to a 5,000 sq ft house without this Board's approval or the Design Review Board's approval.

Motion was made by Alice Paylor, seconded by Susan Middaugh, to amend the motion to add the house could be 3600 sq ft; and a 100' setback on the front of the lot for building the garage.

Motion was made by Susan Middaugh, seconded by Alice Paylor, for the Board to defer this application until next month to give the applicant time to view the conditions of the motion, carried unanimously.

Cook, Tim. 2708 Goldbug Avenue. Variance for foundation height. Jimmy Hiers stated that he is recusing himself from this application because he lives directly next door to the property. Chairman Keenan recognized Mr. Hiers' recusal and stated there were still four voting members present, so there is a quorum. Chairman Keenan then asked Mr. Prause to present. Mr. Prause stated there are some topographical constraints to this lot. This is an historic house that is being added on to; the applicant has been to the Design Review Board. The Design Review Board did not want the house moved, and they wanted it to be added onto in a sensitive fashion. The applicants received approval from the Design Review Board for the addition contingent on this Board approving two variances. One is for a setback but the applicant has not applied to this Board for that issue; the other variance regards the requirement of a foundation height can not be any higher than a certain level above base flood. Because the existing house is nestled up against a berm there is a fairly significant differentiation in grade, so that when they carry out the existing finished floor elevation to the addition for which cars will park underneath, it exceeds that limitation above the base flood. Mr. Cook stated that one section will need to be bumped up about two feet, and the Design Review Board can not grant that relief. Mr. Prause stated as part of the four part variance test, the main issue is the unreasonable restriction of the utilization of the property. There is really no other place on the lot that they could put a detached or attached garage that would not compromise the street presence of the existing historic building. Mr. Prause also noted that neighbors here at the meeting had concerns that plans they saw for the property in November are not the same plans that were presented at the Design Review Board in December.

Jim Henshaw from Herlong Associates presented for Mr. Cook. He gave a brief history. This application went before the Design Review Board four times. At the November Design Review Board meeting, they were requesting setback relief on the west side, which was denied. There is a total setback required of 40 feet, and presently the plans show a total of 36 feet - 15 on one side; 21 on the other side. The minimum setback is 15 feet, so that requirement is met on both sides, however, they are short 4 feet on the overall setback requirement. Susan Middaugh stated that at first they were encroaching on one side of the property and that was resolved by changing the encroachment to the other side of the property at the December meeting, next to the Hiers' property. However, this will set a serious precedent. Mr. Henshaw stated the majority of the addition is at existing structure height, and actually a front piece on Goldbug steps down lower than the existing structure height, closer

to base flood elevation. Susan Middaugh inquired if there had been changes to the roof height between November and December meetings. Mr. Henshaw responded that additional square footage was available as a result of what is allowed by the zoning ordinance. One change was the floor level of the front piece was brought down to as low as it could go, to allow a small home office. Alice Paylor inquired if the applicant would be agreeable to giving up the setback encroachment if the Board gives the variance on the foundation height. Mr. Cook stated he would be willing to give up the encroachment on the setback next to Mr. Hier's property if the variance for foundation height was approved.

Jimmy Hiers spoke in support of the November design with the idea that if they could change the setbacks on the Geer property side, he could live with what was shown as the encroachment on his side which was at that time roughly 22-1/2 to 23. However, he never saw the December plans, even after the submission date they were not available at Town Hall. During that time, the design had grown.

Aussie Geer, 2702 Goldbug, stated she was at the November meeting and liked the plan except it encroached into the minimum 15' side setback. The Design Review Board denied that setback encroachment. The plans changed with additional square footage and the setback change to the other side of the property at the December Design Review Board meeting, and the plans were not available in Town Hall to view until several days before the meeting. The height is a concern because this house is one long wall from the front setback to the rear setback on the 15' line of her house. Therefore, she does not want to see any variances.

Mr. Prause reminded the Board that the Design Review Board approval is contingent on this Board giving the variance being granted for the base flood elevation and the setbacks (the setback has not been applied for to the BZA).

Dale Snyder, 2714 Jasper, stated he does not want to see his neighborhood changed anymore. He has a small bungalow and the huge house next to him took away the reasons he purchased the property. He does not want to see additional property compromised the way his property was compromised.

David Geer, 2702 Goldbug, stated Tim Cook has tried to develop a structure that is compatible with the situation. It would be valuable for everyone to stay within the ordinances as they are written. Mr. Geer also stated they have removed any issues that they have with this specific opposition to raising the height and they will rely on the wisdom of the Board of Zoning Appeals to make that decision.

Motion was made by Alice Paylor, seconded by Susan Middaugh, to grant the variance under soley Section 21-31 having to do with foundation height so that the base flood elevation accommodates a garage underneath this certain space as shown on the drawings presented; and this Board is granting it because there are extraordinary and exceptional conditions pertaining to this particular piece of property in that the base flood elevation is +/- 3 feet above grade and the property has an existing home that is +/- 7 feet above grade, and the Design Review Board has placed restrictions on any other options to create a garage underneath a home; these conditions do not generally apply to other property in the vicinity because of the unique combination of the historic building and the site conditions, along with the Design Review Board issues; the application of this ordinance to this particular piece of property would unreasonably restrict their ability to have a garage and to have parking that is covered on the property; and the authorization of this particular variance will not be of substantial detriment to adjacent property or to the public good; because it is very restrictive and it has only to do with allowing them to put their garage underneath it as approved by the Design Review

Board, and this Board is not making any other variances other than this one, carried by a vote of 3-1, with Betsy Richardson casting the nay vote.

Chairman Keenan stated that letters received from neighbors Dale Snyder and Martine Hiers would become a part of the record.

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

Respectfully submitted,

Ellen McQueeney

Approved:

Date: _____