

April 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
Brian Hellman
Jimmy Hiers
Susan Middaugh
Bachman Smith

Motion was made by Bachman Smith, seconded by Jimmy Hiers, to approve the February 14, 2008 minutes, carried unanimously.

Chairman Keenan administered the oath to all applicants and participants.

Heather Hall, 1121 Middle Street #2. Appeal of Zoning Administrator's denial for vacation rental license; variance for vacation rental license. Chairman Keenan asked Zoning Administrator Kent Prause to present. Mr. Prause stated this appeal concerns portions of the Code Section 21-118 A, 21-119 B (1) and (11). He continued that the applicant did not have a vacation rental business license in 2007, yet the property was rented. Section 21-120 A of the Code states that if Section 21-119 is not met, the Zoning Administrator shall deny issuing a certificate of compliance. Ms. Hall did not submit a complete application for the 2007 license by the year end of 2007. Ms. Hall was notified by staff at least once, on October 17 that the application was not complete. The applicant had turned the property over to a real estate management company, and apparently they did not get the information to the Town. There has been an approved license on the property from 2000 to 2006.

Heather and J.C. Hall, One Southerland Avenue in Charleston, were present. Ms. Hall stated that the check submitted with the application was cashed by the Town. She stated she received documentation from Exit Realty that the license had been approved for 2007. She first found out in July 2007 that her application was incomplete, when she called to inform the Town that she had relieved Exit Realty from managing the property. She stated the application was not completed until October 2007 because she was in the process of moving back to Charleston. She stated the property was rented in 2007.

Motion was made by Jimmy Hiers, seconded by Brian Hellman, to overrule the Zoning Administrator and grant the appeal and variance because the application of the ordinance would result in an unnecessary hardship and there are extraordinary and exceptional conditions pertaining to this piece of property as follows: since the year 2000 it has been used as a vacation rental property, the check was submitted and accepted by the Town; there are extraordinary conditions that have been stated verbally by the applicant; and these conditions do not generally apply to other properties in the vicinity because most properties on the Island are not vacation rental homes; because of these conditions the application of the ordinance to this particular piece of property would effectively prohibit and unreasonably restrict the utilization of the property for the purpose of a vacation rental property and that has been its historic use; and the authorization of the variance and appeal would not be of substantial detriment to the

adjacent property or to the public good, and the character will not be harmed by granting the variance and appeal, carried unanimously.

Keith and Fredda Culbreth, 1121 Middle Street #1. Appeal of Zoning Administrator's denial for vacation rental license; variance for vacation rental license. Chairman Keenan asked Mr. Prause to present. Mr. Prause stated this application is essentially the same as the previous application, although the information is a little different. The information for a complete application was not submitted until after the calendar year. The same real estate management company is involved.

Motion was made by Bachman Smith, seconded by Susan Middaugh, to grant the variance and appeal on same grounds as recited by Board member Jimmy Hiers on the previously heard Hall application: to overrule the Zoning Administrator and grant the appeal and variance because the application of the ordinance would result in an unnecessary hardship and there are extraordinary and exceptional conditions pertaining to this piece of property as follows: since the year 2000 it has been used as a vacation rental property, the check was submitted and accepted by the Town; there are extraordinary conditions that have been stated verbally by the applicant; and these conditions do not generally apply to other properties in the vicinity because most properties on the Island are not vacation rental homes; because of these conditions the application of the ordinance to this particular piece of property would effectively prohibit and unreasonably restrict the utilization of the property for the purpose of a vacation rental property and that has been its historic use; and the authorization of the variance and appeal would not be of substantial detriment to the adjacent property or to the public good, and the character will not be harmed by granting the variance and appeal, carried unanimously.

Charles Rittenberg, 1002 Middle Street. Appeal of Building Official's denial to construct driveway. Chairman Keenan asked Mr. Prause to present. Mr. Prause asked Building Official Randy Robinson to explain the application, as it coincides with the Zoning Ordinance, but relates to the Town's NPDES Phase 2 Stormwater Ordinance passed in May 2005. Mr. Robinson distributed a copy of the ordinance concerning pervious surfaces to the Board. The ordinance states that a pervious surface is any material in which water can be easily absorbed or passed through such as but not limited to grass and uncompacted gravel, shell and crushed stone. After the ordinance passed, Mr. Robinson stated it would need to be decided how to determine a surface is pervious. Mr. Robinson stated he and Mr. Prause decided if the ICPI (Interlocking Paver Institute) certified agency approved the surface, then he would approve it. He continued that Dr. Rittenberg came to the Design Review Board to install a new porch on his home and it shows a new pervious driveway. A permit was issued in April 2007 and completed in September 2007, but the driveway was never completed. Landscape architect Kelly Messier inquired with him about using oyster shell in the driveway. Mr. Robinson stated that oyster shell required some type of system, similar to pavers. If you just throw shell on the ground, it becomes compacted and impervious when driven across. The Town ordinance states the material needs to be uncompacted. Mr. Robinson continued that Ms. Messier did research the information, and found in a book that shell is pervious until a car is driven over it. A representative of Seamon Whitesides agreed with Randy when he talked to him. Mr. Robinson sent Ms. Messier to Charleston County to obtain a stormwater permit, and whether she needs to actually obtain one, because if you disturb 5,000 square feet of property, a stormwater permit needs to be obtained. The disturbance of the entire property

would be disturbing more than 5,000 square feet. Mr. Robinson introduced Mr. Chuck Jarmon, Charleston County Stormwater Manager, and asked him to explain.

Mr. Jarmon stated he was also the administrator for the Town by inter-governmental agreement of the Ordinance. The permitting process is: once you disturb 5,000 square feet there is an application form; however, there are no requirements imposed into the design portion of the stormwater management of the system. In that permit, we are looking for good construction practices while doing construction, such as putting up silt fencing so construction doesn't go offsite, etc. From a stormwater standpoint, a pervious surface is basically a surface that water will go through. In the Town's Zoning Ordinance, there is a section on infiltration devices. A pervious surface is actually an infiltration device. The Stormwater Ordinance has infiltration standards in it also, although they would not be enforced by Charleston County on this project because it is a relatively small project classified as up to 5,000 square feet. He stated after researching, he has not found a design standard for oyster shell, although one source stated oyster shell was not considered as a pervious surface. Mr. Robinson added that one book showed an infiltration rate for oyster shell at .03; however, there is not an infiltration rate listed in the Town ordinance.

Kelly Messier, the landscape architect of the project, presented. Ms. Messier stated that Dr. Rittenberg's original driveway was removed when the porch was expanded. He would like to now have a crushed shell driveway. Ms. Messier stated the zoning ordinance states that shell is pervious; there is no definition of impervious for oyster shell. She added that she has correspondence from a testing laboratory in Augusta, Georgia that tested shell driveways one year after installation. The tests showed infiltration at 1.4 inches per hour to 7.8 inches per hour. She stated there are enough test results to show that oyster shell is pervious, and that there is no standardized rule. She added that shell is historic to the island, instead of pavers. Dr. Rittenberg added that it has been determined tonight that no matter what the infiltration rate, water can pass through uncompacted or compacted oyster shell. It is not an impervious surface.

Motion was made by Brian Hellman, seconded by Bachman Smith, that based on what the ordinance provides, that an oyster shell driveway is not a substance through which water cannot be absorbed or passed, therefore it is not an impervious surface under the definition as provided in Section 21-26 A(2) and thus would not constitute impervious coverage, and therefore move that the Zoning Administrator be overruled. After discussion by the Board, Dr. Rittenberg asked the Board if his application could be deferred until next month. Mr. Hellman withdrew his motion. **Motion was made by Susan Middaugh, seconded by Jimmy Hiers, to defer this application until the next meeting, carried unanimously.**

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

Respectfully submitted,

Ellen McQueeney

Approved:

Date:
