

February 9, 2012

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: Jimmy Hiers, Chairman
Ward Lasso
Bachman Smith
Carlin Timmons

Chairman Hiers called the meeting to order.

Motion was made by Bachman Smith, seconded by Carlin Timmons, to approve the January 12, 2012 minutes, carried unanimously.

Chairman Hiers administered the oath to the applicants and participants, and asked Zoning Official Randy Robinson to present the application.

Harriet McDougal, 2429 Atlantic Avenue, variance to cut wax myrtles to 3-1/2 feet. Mr. Robinson stated that this property, along with one other one-story house on the island, has been granted a variance for years to prune the wax myrtles to 3-1/2 feet because the house is only one story.

Motion was made by Chairman Hiers, seconded by Ward Lasso, to approve the application on the findings as previous years that this property has extraordinary and exceptional conditions. There are only two houses that are essentially single story at ground level and since the ordinance was set up in 1995 the Board has made, on an annual basis, an exception for these two properties only. These conditions do not generally apply to other property in the vicinity and cannot be taken as a precedent for any other front beach property. Because of the unusual conditions of being at ground level, the application of the ordinance as it now stands will disproportionately impact the utilization of the property. Property owners with two stories are allowed to cut wax myrtles – previously 7 feet but now to 5 feet – so that 3-1/2 feet for these two properties is proportional. The authorization of a variance will not be of substantial detriment to adjacent property or to the public good. The character of the district will not be harmed by the granting of the variance in these two cases, as the Board has granted for since 1995, carried unanimously.

Carlin Timmons stated cutting the wax myrtles to 3-1/2 feet goes against the natural landscape. Bachman Smith stated it was a reasonable approach to the accreted land, and the Town needs to look carefully at this in the future. Chairman Hiers asked Mr. P.O. Mead of Mead's Tree Service (representing Ms. McDougal) to explain what happens after the wax myrtles are cut to 3-1/2 feet each year. Mr. Mead explained that cutting helps develop a root system to hold the tree when the water comes in. Even if not for views, it helps build and protect the dunes by the growth.

Chairman Hiers stated this variance is not an automatic variance and the Board was not setting a precedent because it is only two properties.

Motion carried by a vote of 3-1, with Carlin Timmons opposed.

Isaac Haupstein, 1851 I'on Avenue, Appeal from Action of Zoning Official to allow an iron entry feature. Chairman Hiers asked Mr. Robinson to present. Mr. Robinson said the applicant has applied to build an iron gate across the driveway. Mr. Robinson stated he could not approve this gate because the definition of a fence in Section 21-139 (a) states a fence is any created unroofed barrier that blocks or impedes the flow of people or animals; a fence may be a wall or other structure that prohibits physical or visual access across a lot, but does not include vegetation. Section 21-139 (B) (2) states all fences shall be constructed of wood or manufactured materials that appear to be wood, or wood/wire material; chain-link fences are not permitted. Section 21-139 (B) (3) states fences may employ the use of pillars or short runs of solid areas as an entry feature; however, the total length of these features shall not exceed sixteen feet. This gate does meet the definition of a fence.

Chairman Hiers asked the applicant to present. Trip Bull of T.B. Construction represented Mr. Haupstein. He presented pictures of the wooden fence around the property. He considers the gate as a decorative entry feature, not as a fence; and stated it would be 35 feet back from the road. He continued that the two pillars have been approved, and the gate would swing open on two hinges. Mr. Robinson said that a house on Pettigrew has an aluminum gate but the pieces of aluminum are large enough to actually look like wood. He continued that applications for iron fences have been denied by this Board in the past.

Chairman Hiers stated the photographs show it as a recessed entry way, but it is still an entry gate. The Board has to uphold the ordinance, and this request does not have a hardship test because it is to determine if the Zoning Official had the correct interpretation. He continued that if the Board overruled the Zoning Official's decision, that would basically approve the use of metal fences on Sullivan's Island. The ordinance states "and other structures that prohibit physical or visual access across the lot" and the gate does prohibit physical access to the lot; and all fences are to be constructed of wood or manufactured materials that appear to be wood.

Motion was made by Bachman Smith, seconded by Carlin Timmons, to defer this application until the next meeting so the applicant can review his design, carried unanimously.

The Board decided to defer the review of the Rules of Procedure until more members of the Board were present. The Board did discuss that the main issues to review are 1) what is a majority and 2) decision to allow a re-hearing

Motion was made by Ward Lasso, seconded by Carlin Timmons, to adjourn, carried unanimously.

Respectfully submitted,

Ellen Miller