

October 11, 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  
Susan Middaugh  
Susan Romaine  
Elizabeth Tezza  
Carlin Timmons

Chairman Hiers called the meeting to order. Chairman Hiers administered the oath to the applicants and participants.

Motion was made by Elizabeth Tezza, seconded by Carlin Timmons, to amend the minutes from the August 9, 2012 meeting, to add the word "which" on page 4, line 4 so the sentence reads: She stated Mr. Altman did have a point concerning the Code, which does have the same setback lines for both large and small lots. Motion was made by Susan Middaugh, seconded by Elizabeth Tezza, to amend the minutes to change the word "setback violations" to "nonconformities" on page 4, line 5 so the sentence reads: Susan Middaugh stated there are so many nonconformities already, the problem is setting a precedent and filling up the setback lines. Motion to approve the minutes, as amended, carried unanimously.

Rion and Elizabeth Foley, 2268 Myrtle Avenue, variance for first floor finished height. Chairman Hiers asked Building Official Randy Robinson to present. Mr. Robinson stated that the applicant is requesting a height variance on their finished first floor. Section 21-31 (B) of the ordinance states that the first floor height of a principal building can be no higher than three feet above base flood elevation. The Design Review Board approved one additional foot. One of the problems with this lot is it is lower than the street on all sides. In order to get positive drainage, the applicant has to bring in almost a foot of fill dirt. The applicant is asking for seven extra inches above the four feet above flood. Their elevation would be 18.7, and the elevation of the lot is 9.3.

Chairman Hiers asked the applicant to present. Mr. Rion Foley, potential homeowner of the property, stated the purpose of the variance was to preserve green space and not have a garage on the property. He stated the request is similar to a request on Middle Street recently granted by the Board. Susan Middaugh stated for the record that if the variance is granted it will not be because the Board granted a variance for another property. There are unique characteristics of the property including needing more fill dirt for drainage and it would be compatible with the neighborhood because this area does not have garages.

**Motion was made by Elizabeth Tezza, seconded by Susan Middaugh, to grant the variance in the amount of seven inches on finished floor height. There are extraordinary and exceptional conditions pertaining to the particular piece of property; the property is such that additional fill dirt needs to be added to the property to assure appropriate drainage; the other homes in the area are of the same or higher finished floor height; therefore the request is compatible with the neighborhood. The authorization of this variance will not be of 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, carried unanimously.**

**Rion and Elizabeth Foley, 2268 Myrtle Avenue, variance for pool setback. Chairman Hiers asked Mr. Robinson to present. Mr. Robinson stated the request is for a variance for a pool from Section 21-142 (B) (1). Pools are considered a recreational facility and all accessory recreational uses and structures shall be located a minimum of 20 feet to the rear of the principal building's front façade. The front façade on this property is Station 23. The Design Review Board approved the front façade to be on Station 23 instead of Myrtle, so the applicant needs a variance because the pool is now in the side yard rather than the backyard. The pool deck is at the same setback as the front façade of the house; therefore, the applicant is asking for twenty feet of relief because the deck around the pool is also part of the recreational accessory structure.**

**Chairman Hiers asked the applicant to present. Mr. Rion Foley stated there is a very large live oak on the Myrtle Street side of the house,so Design Review Board allowed orientation toward Station 23. The pool situation is an unintended consequence. He showed the site plan to the neighbors and they have no objection. There was no public comment.**

**Motion was made by Elizabeth Tezza, seconded by Carlin Timmons, to grant the variance from Section 21-142 (B) (1) for construction of an inground pool and deck because there are extraordinary and exceptional conditions pertaining to this property that do not generally apply to other properties in the vicinity. Specifically that the Design Review Board has granted the applicant the ability to orient the house toward Station 23 instead of Myrtle; therefore the orientation of the house has changed and the pool is on the side instead of at the back; and authorization of the variance will not be of 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, carried unanimously.**

**Richard and Diana Browder, 1315 Thompson Avenue., variance for rear setback. Chairman Hiers asked Mr. Robinson to present. Mr. Robinson stated this is a rear yard setback variance request from Section 21-142 (B) (2) to install a pool. The unusual situation is the lots in a two-block area have an alleyway behind them. Chairman Hiers asked the applicant to present. Applicant Diana Browder stated that landscape architect Kelly Messier was presenting the plan of the pool. Ms. Messier stated that it is a small lot, less than ¼ acre. The rear of the house is 21.1 from the rear property line, so it is non-conforming as setbacks exist. The applicant is asking for 17 feet of relief. The alleyway is served by four homes, the homes on Middle Street; it is almost like a shared driveway. The houses on Thompson do not use the alleyway and the house that is directly behind the applicant has a detached garage that helps buffer the new pool from their main living area. It is meeting the intent of the code as the alleyway helps to buffer the space between the properties. The applicant has letters from Joan and Michael Noll at 1318 Middle Street (who live directly behind the Browders); and June and Nick Murphy at 1311 Thompson Avenue stating they do not have an objection to the variance. She spoke with Nicholas Black who lives next door and he did not object, as well as the Wilkins. There is 18.5 ft of alleyway, about 12 ft is asphalt.**

Motion was made by Susan Middaugh, seconded by Elizabeth Tezza, to grant a 15 foot variance from the 25 foot setback for purposes of recreational inground pool, and this would allow the pool and deck to come no closer than 10 foot from the rear property line. There are extraordinary and exceptional conditions pertaining to this particular piece of property in that it borders on an 18 foot unimproved alleyway. These conditions generally apply only to a two-block area on the island. Because of these conditions, allowing the variance would not be of substantial detriment to the adjacent property which would be 18 feet across alleyway, and the character of the district will not be harmed by the granting of the variance, carried unanimously.

Motion was made by Elizabeth Tezza, seconded by Susan Middaugh, to approve the final version of Rules of Procedure amended on August 9, 2012, as presented, carried unanimously.

Mr. Robinson reported that a variance request from Dean Schmelter of 3217 Middle Street was erroneously omitted from tonight's agenda. He received a variance in August 2012, but applied again for the October meeting because a larger setback variance is needed. Ms. Miller will try to coordinate a Special Meeting of the Board by November first if there are no applications received by tomorrow for the regular meeting in November.

There being no other business to come before the Board, the meeting was unanimously adjourned at 8:15 pm.

Respectfully submitted,



Ellen Miller