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TOWN OF SULLIVAN'S ISLAND
BOARD OF ZONING APPEALS

APPROVED 2/11/2016

2720-B Goldbug - page 3
322 Station 19 - page 42

MEETING BEFORE: ELIZABETH TEZZA, CHAIRPERSON

DATE: November 12, 2015

TIME: 6:00 PM

LOCATION: Town of Sullivan's Island
2050-B Middle Street
Sullivan's Island, SC

REPORTED BY: LORA L. McDANIEL,
Registered Professional Reporter

A. WILLIAM ROBERTS, JR. & ASSOCIATES

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1 APPEARANCES:
2
3 ELIZABETH TEZZA, CHAIRPERSON
4 CARLIN TIMMONS, BOARD MEMBER
5 PETER RICHARDSON, BOARD MEMBER
6 JODY M. LATHAM, BOARD MEMBER
7 JOE HENDERSON, ZONING ADMINISTRATOR
8 RANDY ROBINSON, BUILDING OFFICIAL
9 ELLEN MILLER, TOWN CLERK
10
11
12
13
14
15
16 (INDEX AT REAR OF TRANSCRIPT)
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21
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23
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1 THE CHAIRPERSON: We're going to go ahead
2 and start. I'd like to call this meeting to order.
3 And I will ask Ellen: Has the Freedom of Information
4 Act requirements been met?
5 MS. MILLER: They have.
6 THE CHAIRPERSON: Thank you. I will now
7 ask for approval of the minutes from the July 9th
8 meeting. I think everybody has received them.
9 Are there any changes, additions or
10 corrections?
11 MS. TIMMONS: I wasn't here, but I did
12 read them.
13 THE CHAIRPERSON: Do I hear a motion to
14 approve the minutes?
15 MS. TIMMONS: So moved.
16 THE CHAIRPERSON: Is there a second?
17 MS. LATHAM: Second.
18 THE CHAIRPERSON: Thank you. All in
19 favor, signify by saying aye.
20 (All board members stated aye.)
21 THE CHAIRPERSON: Like sign opposed?
22 Minutes are approved. Ellen will remind me to sign
23 the orders.
24 MS. MILLER: I'll try to remember.
25 THE CHAIRPERSON: I'd now like to do the

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1 applicant and participant oath. Everyone intending
2 to speak before the Board of Zoning Appeals, please
3 stand and raise your right hand.
4 Audience and staff
5 being first duly sworn, testified as follows:
6 THE CHAIRPERSON: We have two
7 administrative appeals before us tonight. I'll go
8 over the rules of procedure before we start.
9 On each one we will hear from the town
10 staff. We will then hear from the applicant. The
11 board members will ask questions. We will ask for
12 public comment, and then we will close public
13 comment, and the board will deliberate. At that
14 time, we may have additional questions for staff or
15 the applicant. Public comment will be right after
16 staff and applicants present.
17 I just want to make that clear that is
18 when the public -- and I will ask for public comment
19 as well.
20 2720-B GOLDBUG AVENUE
21 THE CHAIRPERSON: Our first item is 2720-B
22 Goldbug Avenue. And the agenda that was published,
23 was published as Middle Street.
24 MR. HENDERSON: That's correct.
25 THE CHAIRPERSON: It's now Goldbug, and so

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1 we'll enter that correction.
2 MR. HENDERSON: That's correct.
3 THE CHAIRPERSON: I'll ask Joe Henderson
4 to present for the town.
5 MR. HENDERSON: Thank you, members of the
6 Board. Our first agenda item is listed under D-1,
7 Administrative Appeal. Mr. Paul Boehm, the property
8 owner and applicant is here on behalf of 2720-B
9 Goldbug Avenue. He's requesting the administrative
10 appeal related to the staff decision and
11 interpretation of Section 21-175(G)(1). This section
12 of the zoning ordinances addresses meetings, quorum,
13 and time limitations for submittal of applications.
14 What I'd like to do is first present to
15 the Board some documentation and plans constituting
16 records in this case, beginning with the zoning
17 ordinance section referenced in the appeal, which is
18 21-175(G)(1).
19 What I'd like to do is hand that out to
20 you and just briefly review this. So on page 2 I've
21 highlighted.
22 21-175(G)(1) states: Under time
23 limitations, when it shall appear to the zoning
24 administrator that a request regarding the same lot
25 for an administrative appeal presents substantially

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1 the same issues that have been decided by the Board
2 of Zoning Appeals within the previous two years,
3 zoning administrator shall notify the Board of
4 Appeals, shall not advertise the hearing or give
5 notice to the interested parties, and shall determine
6 that an amendment of the zoning ordinance or other
7 change conditions require reopening of the issue.
8 In my mind, it is the charge of the BZA
9 tonight to make findings of fact that the applicant's
10 initial requests and appeal does or does not present
11 substantially the same issues.
12 What I would like to begin with is a
13 review of the August 28, 2015 building permit that
14 was presented by Mr. Boehm here that is listed as
15 building permit 15-0305. I'd like to review those
16 plans with you now.
17 Mr. Boehm presented these plans to us in
18 August, and it describes here in the scope of work
19 that he planned to place an addition on the back of
20 2720-B Goldbug, which included the attachment of a
21 roof with a structure that expands over an existing
22 slat house, detached accessory structure. Intended
23 in these plans to screen in and use it as a porch
24 addition to the existing apartment above this garage.
25 Having reviewed these plans, staff made

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1 another application to appeal town's decision
2 relating to the provision that we reviewed in the
3 initial section 21-175, meetings, quorum, time
4 limitations. That's what's before you today.
5 Essentially, BZA should determine whether
6 this presents substantially the same issues, i.e., an
7 expansion of the use or expansion of the structure.
8 THE CHAIRPERSON: Anybody have any
9 questions for Joe at this time? We can reserve that
10 until after.
11 Alice, would you like to present for
12 Mr. Boehm.
13 MS. PAYLOR: Thank you. I'm Alice Payor.
14 I'm a lawyer. I'm also a resident on Sullivan's
15 Island. There has been a change of circumstances
16 that Mr. Henderson did not refer to. On May 4, 2015,
17 Judge Markley Dennis issued an order reversing the
18 decision of the Board of Zoning Appeals.
19 In that decision, he found this structure
20 is a principal dwelling, which it has to be under
21 your zoning ordinance. And I know there's new
22 members of the BZA here. Your job is to look at the
23 zoning ordinance and follow it.
24 And I know Mr. Henderson will give you
25 his -- he's already given you his interpretation of

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1 the determination that it presented approximately the
2 same scope of work as plans reviewed by this group in
3 2014 and 2015 and also in 2009.
4 During both of these presentations, 2009,
5 2014, the owner of the property presented expansions
6 of this structure that you see here.
7 The existing conditions on this lot is
8 that this is the second structure on the property.
9 There is a principal building, a conforming principal
10 building, and this is a second structure on the
11 property that maintains an existing dwelling unit.
12 And the interpretation of staff, this is
13 not only a nonconforming structure but also a
14 nonconforming use. It has previously been
15 adjudicated, as I mentioned twice, that this
16 structure cannot be expanded by way of structure or
17 useable square footage, and it may not be expanded by
18 way of use.
19 Staff then issued a letter on October 16th
20 to deny these plans, and that is noted as exhibit 4
21 before you.
22 On September 11th, town staff issued
23 another letter denying the application and ultimately
24 led to the October 1st appeal.
25 On October 20th, Mr. Boehm submitted

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1 it. If you read it, it's entitled to its plain
2 meaning. Under the plain meaning of the Sullivan's
3 Island Zoning Ordinance, if the principal use of the
4 lot, which this lot is residential, if the principal
5 use of the lot is conducted in a structure, it is a
6 principal building.
7 So he likes to refer to this as a garage
8 with an apartment over it. That's fine. It is. An
9 apartment is a residence, as we all know.
10 Judge Dennis found that it was a principal
11 building. And that order is here. And I know that
12 the town has appealed it, and you're probably aware
13 of that.
14 This is a change in circumstances. And
15 I'd like -- I'd welcome you to read the ordinance.
16 It states very clearly that, if the principal use of
17 the lot is conducted in the building, it is a
18 principal building.
19 An apartment is a residence; it is a
20 dwelling. It is conducted in this building, to which
21 it's a principal building.
22 If, as Judge Dennis has ruled, this is a
23 principal building, then it's covered -- any
24 expansion is covered in section -- actually I'm going
25 to refer you to Section 21-150. That's nonconforming

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1 uses. It says in there: In the event that two or
 2 more principal buildings occupy a single lot, said
 3 occupancy shall constitute a nonconforming use.
 4 The structure with the greatest liveable
 5 square footage is the conforming usage; the other
 6 principal building is nonconforming. 2720-B is a
 7 nonconforming principal building as found by Judge
 8 Dennis.
 9 Principal buildings, whether they're
 10 nonconforming or conforming, are allowed to have
 11 accessory structures under the zoning ordinance. As
 12 a matter of fact, this slat house that's behind here
 13 is an accessory structure to this principal building.
 14 Mr. Boehm got a building permit from this
 15 office to put that up as an accessory structure to
 16 this principal building. What he asked for before
 17 were three different things. This one is different
 18 from those other three, all of which the judge ruled
 19 he was entitled to do because you have to look -- it
 20 says, when you have two buildings, then you look at
 21 under -- when it says second residence on the lot is
 22 the nonconformity, then what you have to look at is
 23 whether or not any change in this building is going
 24 to expand -- increase the extent of nonconformity.
 25 The nonconformity is there's residents in

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1 to be bound by --
 2 THE CHAIRPERSON: I'm just stating that
 3 for the record.
 4 MS. PAYLOR: I did say it was under
 5 appeal. If you're not going to let him -- what I
 6 want to make sure is clear, if you're not going to
 7 let him present at the next meeting what he wants to
 8 do, then I want it clear on the record that, if he
 9 wins this appeal, he can do this.
 10 If you're saying it's the same issue and
 11 we want it clear on the record, if he wins and he can
 12 do the other things that he's already asked, then he
 13 can do that as well.
 14 I'm actually asking that you let him make
 15 a presentation and you vote with him, is what we
 16 would like to do. What he would like to do is go
 17 ahead and do this. Anyway, that is basically our
 18 appeal.
 19 I do have some documents that Mr. Boehm,
 20 he went through -- believe it or not, he's retired or
 21 semi-retired. He went through every property on
 22 Sullivan's Island. He found every example of
 23 something like this where owners of a second
 24 residence were allowed to do things like screen-in a
 25 porch. Some of them are allowed to add their porch

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1 here. That's the nonconformity. Putting a roof and
 2 putting a screen porch around this is not an
 3 extension of the nonconformity. It's not putting
 4 another house there. He's not putting another
 5 apartment there. He's not putting another bedroom
 6 there. All he's doing is improving his residence to
 7 allow for the comfort of the people living in there.
 8 And you can do that. And it says:
 9 Structural alterations, including enlargements, are
 10 permitted if the structural alteration does not
 11 increase the extent of nonconformity.
 12 Just asking you to look at the zoning
 13 ordinance, see what it says. I promise you that's
 14 what it says. That's what Judge Dennis found that it
 15 says. That's what the town's appealing, saying that
 16 it doesn't say that, but that's what it says.
 17 I guess what I'm saying is there has been
 18 a big change in circumstances. One thing, we have
 19 new members on the board. And for another thing, we
 20 have a court order. I don't know if y'all have it or
 21 not.
 22 THE CHAIRPERSON: I will note that it's
 23 under appeal. The town is appealing.
 24 MS. PAYLOR: It doesn't matter. You can
 25 still give him what he wants here. Y'all don't have

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1 on there. They were allowed to do all kinds of
 2 things. I'm just going to submit this as part of the
 3 record.
 4 MS. LATHAM: Do we have dates on this?
 5 MS. PAYLOR: They're on there. He went
 6 back to the '70s. There's probably a hundred of
 7 them. Anyway, it's been -- that's the way this
 8 ordinance has always interpreted. That's what it
 9 says. Thank you.
 10 THE CHAIRPERSON: Thank you, Alice. I
 11 think I have a couple of questions, so I'll start.
 12 Some of these don't have dates. A lot of these --
 13 anyway thank you for this. We will look at it.
 14 When Mr. Boehm first came before us for
 15 this particular addition, great care was taken to
 16 tell us that the slat house would not be physically
 17 attached to the deck. That it was a slat house. It
 18 was a free-standing accessory structure.
 19 And from what I understand, looking at the
 20 plans and the description of this project --
 21 MS. PAYLOR: It's not going to be
 22 attached. Do you want him to explain what's going to
 23 happen?
 24 THE CHAIRPERSON: Let me finish asking my
 25 question. Great care is being taken. Is this

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1 expansion an expansion attached to this apartment,
2 garage apartment, dwelling, whatever we want to call
3 it -- if it's a second principal building, it's still
4 a nonconforming structure. It still is a
5 nonconformity. Would you agree with that?
6 MS. PAYLOR: It's a nonconforming use of a
7 principal building. There's no doubt about that.
8 And Judge Dennis found that also.
9 THE CHAIRPERSON: So the issue to me is,
10 it looks like, when you look at the plan, it looks
11 like an attached screened porch. But the description
12 of the project goes to great lengths to say that the
13 roof extension is supported by posts which do not
14 touch the slat house. That the screening does not
15 touch the slat house.
16 I'm wondering, is this an expansion of the
17 slat house, or is this a screened porch that's being
18 attached to the existing deck? That's my question.
19 MR. BOEHM: Do y'all have a copy of this
20 floor plan?
21 THE CHAIRPERSON: We do.
22 MR. BOEHM: The posts are not attached to
23 the slat house at all. Completely independent of the
24 slat house. They may, in fact, touch it. Sometimes
25 with construction, they end up touching. They're not

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1 THE CHAIRPERSON: Your argument, to me,
2 this is essentially what you asked for before and
3 that's, unfortunately, the issue before us. Is it
4 the same thing?
5 MR. BOEHM: When did I ask for that
6 before? What are you saying?
7 THE CHAIRPERSON: You've asked for this
8 roof.
9 MR. BOEHM: 2009 I asked to attach the
10 slat house to the main house and screen it.
11 THE CHAIRPERSON: In 2014, you asked
12 for --
13 MR. HENDERSON: This was taken in 2009.
14 You see the slat house and you see behind the slat
15 house railings that define the existing deck.
16 THE CHAIRPERSON: That's attached to the
17 apartment.
18 MR. HENDERSON: That go behind the
19 apartment.
20 MS. TIMMONS: The walkway.
21 THE CHAIRPERSON: In 2014, Mr. Boehm
22 requested to receive approval for this work that he
23 did without building permits, expanding a useable
24 square footage of the deck for the apartment.
25 If we look back at the section under

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1 structurally attached whatsoever. They won't be
2 nailed, screwed or anything else to the slat house.
3 It's simply a roof that comes out from the
4 existing house and supported on these posts. Going
5 to be close enough to the deck of the slat house to
6 be able to screen it to effectively keep mosquitos
7 and other bugs from coming in. It's not going to be
8 attached whatsoever to the slat house.
9 The slat house will remain an independent
10 structure from my house.
11 MS. PAYLOR: It's not an expansion. It's
12 there already.
13 THE CHAIRPERSON: I know it's there.
14 Because I know that there are slat houses that have
15 been allowed to be screened. It's the lower portion.
16 MR. BOEHM: I want to screen mine.
17 THE CHAIRPERSON: So the logical part of
18 me asks: Is this an expansion to the apartment or is
19 this an expansion to an accessory structure? Because
20 the slat house by definition itself is an expansion
21 of an accessory structure. Maybe that is more
22 amenable.
23 MR. BOEHM: I'm not sure I'm expanding
24 anything. I'm simply bringing out a roof and
25 circling the slat house with a rail and screening.

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1 nonconformities, it says nonconforming uses. It
2 asks, or it states: Shall not be expanded except to
3 reduce a nonconforming aspect. This talking about
4 the use.
5 I would ask how is this deck surface going
6 to be used? Are you expanding it? Regardless of
7 whether you consider it a garage or second principal
8 building, it doesn't matter. It's still a
9 nonconforming structure and it's still a
10 nonconforming use and cannot be expanded.
11 MR. BOEHM: Can I answer? In 2009, I was
12 connecting -- asked to connect the slat house to the
13 main house, and I was turned down.
14 In 2014, the observation was made that I
15 had installed furniture on top of the slat house.
16 That was to protect people from falling off. The
17 slat house deck has been used as a deck since 2001 by
18 the tenants of that building. That's what it was put
19 there for. That's what it was built for. It was
20 designed as a deck. It was built as a deck. It was
21 built adjacent to the existing structure.
22 I was told by Kent Prause erroneously that
23 I could not add to the existing structure. That's
24 why it was built. It was built as a deck. It's been
25 used for 14 years as a deck.

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1 THE CHAIRPERSON: It was permitted as a
2 slat house.
3 MR. BOEHM: Permitted as a slat house,
4 used as a deck. Built as a deck. The entire
5 structure is 6-by-6, 2-by-6 2-by-4 on top.
6 THE CHAIRPERSON: It's well built.
7 MR. BOEHM: It's well built. It wasn't
8 built as a garden structure with some lattice on top.
9 MS. TIMMONS: That would be the floor?
10 The roof of the slat house is the roof?
11 MR. BOEHM: Is the deck.
12 MR. HENDERSON: That's the way it was
13 approved for permitting. It was a structure. In no
14 way was it intended to be a deck. It had spaces in
15 it. It didn't have handrails. This would've never
16 been allowed to be used as habitable square footage
17 in any way. We don't have anything on record as a
18 building permit that described it was intended to be
19 a deck.
20 After 2009, where the BZA denied his
21 request, that's what was built. This is a pending
22 violation on this property.
23 MR. BOEHM: It's not built, Joe. It's
24 simply furniture put around to keep people from
25 falling off because the town wouldn't allow me to put

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1 while we're deliberating. I'll officially close
2 public comment.
3 What we're here to decide, is there enough
4 new information or does this project look
5 substantially different that we would believe that it
6 would not be subject -- basically we're looking at
7 the time limitation.
8 We had a decision on this property in
9 January 2015. If we believe that it's substantially
10 the same project that was submitted to us most
11 recently, not the one in 2009, then we would uphold
12 the zoning administrator's decision based on timing.
13 If we believe that there's -- they have
14 presented enough additional information that makes
15 the project different, then we would overturn the
16 zoning administrator's decision and hear their
17 variance request.
18 Have I stated that --
19 MR. HENDERSON: That's correct.
20 MS. PAYLOR: It's on appeal. It's not a
21 variance.
22 THE CHAIRPERSON: Never mind. I got you.
23 It's an appeal. I was getting confused. I get
24 confused sometimes.
25 Alice used to sit in this chair. She will

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1 a railing around it.
2 MR. HENDERSON: The railing today,
3 Mr. Boehm is required to maintain handrails right
4 across here to prevent people from using that space
5 because it is a slat house roof. And that is the
6 only thing that was permitted by the Town of
7 Sullivan's Island up to this point. It was never
8 permitted to be a deck.
9 MS. PAYLOR: Anyway, just to kind of close
10 it out, you know, all we're here tonight for is, if
11 you're going to say, no, it's the same thing, we just
12 want to confirm that, if it's the same thing, then if
13 we win the appeal, Mr. Boehm can do it. Thank you.
14 THE CHAIRPERSON: We don't have our
15 attorney here. My question is, it's still a
16 nonconforming structure. So is everybody in
17 agreement with that? Even if we say they win the
18 appeal and it is called a principal building, we have
19 several principal buildings on this island that are
20 nonconforming.
21 I'm going to ask: Is there any other
22 public comment? Or Mr. Boehm, would you like to say
23 anything else?
24 MR. BOEHM: No, I'm good.
25 THE CHAIRPERSON: We may ask you questions

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1 keep me straight, and she's a lawyer.
2 MS. TIMMONS: The issue that I have with
3 it is the fact that it's under appeal. I have read
4 Judge Dennis' thing carefully. And I don't know that
5 we can even say -- I was surprised that we had to,
6 that we would even look at something else for the
7 property while this was under appeal. That's what
8 made me nervous.
9 I'm not an attorney. I don't know
10 anything. I know that a lot of times when there's a
11 lawsuit going on, people can't even talk about it.
12 But we're talking about it, so I hesitate.
13 To me it's just more to it than what you
14 were talking about doing before. But essentially to
15 me it's just a little bit more of the same thing.
16 And that's not to say at all, if y'all win the
17 appeal, then I think that's what we -- we can't say
18 this is the same thing exactly, but it's related so
19 we think that, you know, as a board member, my vote
20 would change.
21 Right now my vote is, I think we need to
22 support Joe until the court settles it. And then,
23 you know, and then, you know, that's the word, you
24 know. The judge has the word. We certainly respect
25 it. That's where I am with it. I'm just totally

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1 confused by the whole thing, too. I will admit that.
2 THE CHAIRPERSON: Any members have any
3 questions or comments?
4 MS. TIMMONS: Part of my confusion is the
5 idea not be -- nonconforming use. Nonconforming use,
6 if you interpret that as meaning square footage or
7 does it mean the theoretical use and that those are
8 the two different interpretations of what you're
9 doing? And you see both kinds in the zoning
10 ordinance.
11 I read that. One part says, you can
12 expand back as long as you're not going too far, if
13 it's nonconforming. And another place says you can't
14 increase nonconforming. Please make it muddier for
15 me.
16 THE CHAIRPERSON: We have nonconforming
17 use and nonconforming structure. To me this it's
18 both.
19 And, again, I was surprised as well since
20 I knew it was under appeal that we were seeing this
21 again because, if you win your appeal, then it's a
22 whole different issue. We were advised that we have
23 to hear this because they have asked for an appeal of
24 his decision.
25 Any comments?

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1 is what Alice brought up. Does it increase the
2 nonconformity or decrease the nonconformity? And I
3 don't know how you decide that.
4 I mean, who's got the definition of that?
5 It is -- now, if we're going to consider it a deck --
6 one of the things that the rules define is a deck
7 doesn't have a roof. And it's not enclosed in any
8 way.
9 So if it's a deck that you want, you
10 probably need railings. I mean, there was some
11 building going on that you initially, according to
12 Mr. Boehm's letter, that you initially approved but
13 then contested once it started. Do you remember what
14 that was?
15 MR. BOEHM: Yes, that was the roof over
16 the walkway.
17 MR. HENDERSON: That's right.
18 MR. BOEHM: That lined up with the posts.
19 THE CHAIRPERSON: That's been settled.
20 MR. HENDERSON: We issued a permit for the
21 roof to overhang an area of the stairs that had
22 already been constructed, I guess, when this was
23 built in 1989 or so.
24 THE CHAIRPERSON: Post-Hugo.
25 MR. HENDERSON: Post-Hugo, right. It was

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1 MS. LATHAM: Just for clarity, we are
2 talking about a second structure on the property
3 where there is a long-term renter.
4 MR. HENDERSON: That's correct.
5 MS. LATHAM: You have a structure where
6 you have a renter residing where they're using it as
7 a deck, where somebody coming over to visit after too
8 many cocktails can just go poof. Okay, I'm good.
9 THE CHAIRPERSON: However, the town has
10 requested that it be blocked off, that they be told
11 that it not be used as a deck because it was not
12 permitted as a deck. So, yes, there was a mention of
13 liability to the town. Good catch.
14 MS. LATHAM: If people always did what
15 they were supposed to do, life would be a lot
16 simpler.
17 MR. RICHARDSON: It seems to me, I mean it
18 is nonconforming. It's not conforming because it's a
19 separated lot. It's a principal building. I agree
20 with Alice because there's a residence in there.
21 On a principal building, you can add a
22 deck.
23 THE CHAIRPERSON: Not if it's
24 nonconforming.
25 MR. RICHARDSON: The real question for me

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1 issued CO in 1991, I believe.
2 MR. BOEHM: '89 was Hugo.
3 MR. HENDERSON: At any rate, town staff
4 felt that it was reasonable to allow him to build the
5 overhang over a structure that had already been
6 existing. In our mind, it wasn't going beyond the
7 existing building footprint. However, Mr. Boehm went
8 outside of the building footprint with the posts and
9 set those; thereby increasing the area of building
10 footprint.
11 In 2009 and in 2014, Mr. Boehm requested
12 to expand the deck out from this nonconforming
13 structure and use over the slat house roof. That's
14 where town staff and Board of Zoning Appeals said
15 that he couldn't expand the structure and the use.
16 We've been very consistent with this
17 interpretation.
18 MR. RICHARDSON: That it couldn't be a
19 deck you mean?
20 MR. HENDERSON: It couldn't be expanded,
21 right. So he could not expand the use. And a deck
22 is considered a recreational use in our zoning
23 ordinance, defined as a recreational use.
24 By expanding this recreational area, he
25 would be intensifying the nonconforming use and the

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1 nonconforming structure and violating this provision
2 of the ordinance that we deal with every day. On a
3 daily basis we enforce this.
4 By stepping outside of this
5 interpretation, long-standing interpretation of the
6 zoning ordinance, would profoundly impact all
7 development on this island.
8 MR. ROBINSON: I was around when he built
9 that slat house. And that slat house was built
10 because he couldn't have a deck, you know. I mean.
11 MR. RICHARDSON: Because it increased the
12 nonconformity?
13 MR. ROBINSON: That's right.
14 THE CHAIRPERSON: This is before the
15 current court case where we were not deeming it a
16 principal building as well. When it was built as a
17 slat house, were the steps there then? Was it
18 touching the steps?
19 MR. ROBINSON: No, it was not touching.
20 It was built as a slat house.
21 THE CHAIRPERSON: Where was the entrance?
22 MR. ROBINSON: It was not built as a deck.
23 If you look closely at pictures of the top of that
24 slat house, you will see that there are different
25 size pieces of lumber on that deck. It was not built

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1 going through town and county records. Over 200 of
2 them.
3 So to say that you're not allowed to
4 expand nonconforming use is nonsense. Every one of
5 these expansions is nonconforming.
6 Kent told me I could not have expansion to
7 my deck. This house is on the marsh, has a five-foot
8 walkway that goes around it. It's absurd that the
9 original owner didn't build a deck. My son lived
10 there for five years. My two sons lived there for
11 five years, first five years. They used the
12 structure, this slat house roof, as their deck
13 because there was no other place to sit on the
14 outside of this building at the living level. So
15 that's why it was built.
16 Kent is the one who told me what a slat
17 house was. Kent is the one who told me you can use
18 this as a deck, if you build it right up against your
19 existing structure at exactly the same height as your
20 walkway and make it a deck. That's why it was built.
21 MS. LATHAM: In saying that, he was -- it
22 sounds like he was saying this is a way to get around
23 the fact that you can't build a deck.
24 MR. BOEHM: This is the way to substitute
25 for, in his opinion, I couldn't have a deck, but

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1 as a deck to walk on.
2 MR. HENDERSON: There's no connection
3 here. This is the slat house. There are spaces in
4 between the boards. It's not indicative of a deck.
5 MR. ROBINSON: You will even notice the
6 attachment of the different boards are different.
7 And what that's telling me is they were put down at
8 different times, you know. This was just never
9 permitted as a deck.
10 MR. HENDERSON: Never allowed to be an
11 increase of square footage for that nonconforming
12 apartment, and nonconforming structure. Call it a
13 house or call it a garage or call it whatever, still
14 nonconforming.
15 MR. BOEHM: If I could answer for one
16 second.
17 THE CHAIRPERSON: Please. Go ahead.
18 MR. BOEHM: I had no idea what a slat
19 house was. When I came to Kent in 2001, and Kent
20 said, erroneously I think, that you cannot have a
21 deck because he allowed another house in 2006 to have
22 400 square foot deck added to it.
23 There are over 200 examples of decks and
24 porches and steps and enlargements of dwellings in
25 that document that Alice handed to you that I found

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1 here's a carrot. You can have this instead. And, of
2 course, I took the carrot.
3 I just bought the place in 2001. My son
4 moved in. By being there a few times, we realized
5 this is stupid. There's no deck on the structure.
6 You can't sit up here and enjoy the view.
7 That's why I came back to Kent and said:
8 Can I have something here. He says: Yeah, you can
9 have a slat house.
10 MS. PAYLOR: I think that Kent was wrong.
11 A deck and a slat house are both accessory
12 structures. So if you can have a slat house as an
13 accessory structure, why couldn't you have a deck?
14 THE CHAIRPERSON: I think it's because a
15 slat house is not connected to what is considered a
16 nonconforming structure.
17 Kent Prause was the former zoning
18 administrator who was here part-time. I believe he
19 has told us that he did not say that it could be used
20 as a deck.
21 MR. BOEHM: No, he didn't tell you that.
22 MS. PAYLOR: No, he did not.
23 MR. BOEHM: I have a letter in the car I
24 will get for you that I asked Kent to send me.
25 THE CHAIRPERSON: Don't we have a letter?

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1 MR. BOEHM: No, you don't.
 2 THE CHAIRPERSON: I'm asking Randy or Joe.
 3 MR. HENDERSON: We don't have a letter
 4 from Kent Prause.
 5 MR. BOEHM: Would you like me to get a
 6 letter from Kent, an e-mail from him?
 7 THE CHAIRPERSON: No, that's not
 8 necessary. I must be confusing that with another.
 9 MR. BOEHM: I'll just tell you what he
 10 says. He says he doesn't recall -- this is in 2013.
 11 I don't recall exactly what was heard in 2001, but I
 12 seem to recall that there were two structures on the
 13 property; one was conforming, one was nonconforming
 14 based on the size, and I don't remember which was
 15 which.
 16 That's what he said to me in the e-mail.
 17 MR. HENDERSON: I would also say the town
 18 doesn't have any documentation showing or authorizing
 19 this space to be used as a deck.
 20 MS. PAYLOR: The town has very little
 21 documentation period. They don't have certificate of
 22 occupancy to do what the zoning ordinance tells them
 23 to do either.
 24 MS. LATHAM: Can I ask a dumb question?
 25 THE CHAIRPERSON: There are no dumb

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1 questions.
 2 MS. LATHAM: Theoretically, let's take
 3 this slat house and move it ten feet away in some way
 4 from the existing structure. Would he be able to
 5 make that an elevated screened porch with stairs?
 6 Would that be considered a conforming accessory
 7 structure?
 8 MR. HENDERSON: Provided he met all the
 9 requirements of the accessory structure ordinance, I
 10 don't see why not.
 11 MR. ROBINSON: It's not allowed under
 12 accessory structure ordinance; that isn't a use. You
 13 are allowed a gazebo.
 14 MR. RICHARDSON: You are allowed decks,
 15 pools, cabanas, all of that.
 16 MR. ROBINSON: Not as a separate
 17 structure. There are certain things that are allowed
 18 as a structure but some things have to be an integral
 19 part of the structure. Elevated pools have to be an
 20 integral part of the structure. We really have to
 21 look at that a little bit closer.
 22 MS. LATHAM: Nowhere on this island would
 23 you be just sort of construct a deck unattached at
 24 sort of grade?
 25 MR. ROBINSON: You're not supposed to now.

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1 I mean, that all changed in '05. In '05, they
 2 changed the ordinance and said you can't have a
 3 detached recreational -- I might be overspeaking my
 4 bounds. I know it deals with pools. You can't have
 5 an elevated pool that is -- which is recreational.
 6 THE CHAIRPERSON: Which is detached from
 7 your house.
 8 MR. ROBINSON: It's called recreational
 9 accessory structure. You can't have a detached
 10 recreational accessory structure unless it's an
 11 integral part of the structure. Let me look at it.
 12 I mean, I was just looking for that.
 13 MR. BOEHM: So a question to ask, could I
 14 have a pool with a deck around it and attached it to
 15 my slat house?
 16 MR. RICHARDSON: That may be something for
 17 Alice to explore.
 18 MR. HENDERSON: We would need to consider
 19 any other requests at the staff level.
 20 MR. BOEHM: He said pool.
 21 MR. ROBINSON: For that request we need to
 22 really study that.
 23 MR. HENDERSON: I think it would come down
 24 to how that accessory structure you're referring to
 25 is being used and by which; either the conforming or

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1 the nonconforming structure is using it.
 2 Again, as with a lot of the issues in that
 3 list of properties that were handed in, a lot of them
 4 are situational. This is a very complex zoning
 5 ordinance, I'll admit that.
 6 And so there are lots of situations that
 7 would allow, say for instance, historic structures to
 8 put on additions, nonconforming historic structures.
 9 Our ordinance permits that.
 10 Again, we really have to do detailed
 11 evaluations whether any structure, any change to this
 12 property would be allowed in the ordinance. It's
 13 very difficult to do that kind of on the fly.
 14 MR. BOEHM: Would you-all like to study
 15 the stuff that was turned into you. Drive around the
 16 island, look at all the examples.
 17 THE CHAIRPERSON: This is a good list.
 18 But I need to know when things happened. Our
 19 ordinance changed in 2005. That is what we have to
 20 go by.
 21 MS. LATHAM: Those are before Hugo, before
 22 they really even remotely enforced zoning.
 23 MR. BOEHM: Tons after Hugo, I promise
 24 you. If you look at the list, drive around the
 25 island, check and see, you might be enlightened.

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1 THE CHAIRPERSON: When the expansions of
 2 nonconforming use were actually --
 3 MR. BOEHM: Should be a list there.
 4 THE CHAIRPERSON: There is a list but
 5 they're not all dated.
 6 MR. BOEHM: Every single property has a
 7 date approximately when the change occurred.
 8 THE CHAIRPERSON: The ones I'm seeing are
 9 1985, 1977, 1988, 1991. So I'm not seeing any -- I
 10 can't read this entire document right now.
 11 MR. BOEHM: Like 100 of them. You would
 12 have to study.
 13 THE CHAIRPERSON: There are not a lot of
 14 current dates after 2001. We will certainly look at
 15 this.
 16 MR. BOEHM: I can assure you there are.
 17 THE CHAIRPERSON: I'm just not seeing them
 18 in here. I don't have time to read that. We don't
 19 have time to go through this entirely.
 20 MR. HENDERSON: Interpretation by staff,
 21 any mistakes in the past doesn't mean that we forever
 22 have to make those mistakes.
 23 MR. ROBINSON: Or that we won't make one
 24 in the future.
 25 MR. HENDERSON: That's exactly right.

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1 different than the previous submittal. And does that
 2 give us enough information to overturn the zoning
 3 administrator's decision and hear their appeal at our
 4 next meeting. It would be at the next meeting.
 5 MR. HENDERSON: That's correct.
 6 THE CHAIRPERSON: That's actually our
 7 issue right now.
 8 MS. LATHAM: We're essentially voting for
 9 their right to present again for us to decide at the
 10 next meeting?
 11 MS. TIMMONS: Right.
 12 THE CHAIRPERSON: We do have to make sure,
 13 if we are going to, we have to state that we believe
 14 that there is substantial -- this project is
 15 different than presented before. And for that
 16 reason, we're going to overturn this decision here
 17 and allow them to present an appeal of that decision
 18 at our December meeting.
 19 So I would need a motion for a BZA member
 20 for either way. To either uphold or deny. We can
 21 talk about it a little bit more.
 22 I know where you're going. What about the
 23 pending court case?
 24 MS. TIMMONS: The pending court case is
 25 really to me the lynchpin. How many months is that

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1 MR. ROBINSON: They do happen.
 2 MR. RICHARDSON: One of the reasons we can
 3 give a variance or permit variance is to enhance
 4 profitability of the property, if similar conditions
 5 exist on other properties, and for personal
 6 preference or convenience of the property owner.
 7 MR. HENDERSON: Those are the reasons that
 8 we can't.
 9 MS. LATHAM: Not for financial reasons.
 10 THE CHAIRPERSON: There are four
 11 conditions; one is hardship, for example.
 12 MS. PAYLOR: This is not a variance.
 13 THE CHAIRPERSON: This isn't a variance.
 14 Actually those don't apply. The things that you just
 15 read, those are not reasons for us to grant a
 16 variance.
 17 Those are, you know -- for example, it's
 18 not a hardship to not have a pool on Sullivan's
 19 Island. If you really want a pool, should've bought
 20 a lot that allowed you to build one, not that you
 21 were going to encroach in setbacks. That's a test
 22 that's very hard to meet for variances. This isn't
 23 what we're talking about.
 24 Actually what our issue is right now that
 25 we have to decide is this project substantially

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1 going to take.
 2 MS. PAYLOR: At least a year.
 3 MS. TIMMONS: No.
 4 MS. PAYLOR: Yes. I mean, if you say it's
 5 the same issue, then we have at least that going up.
 6 We can do that if we win, which I'm assuming we are.
 7 MS. TIMMONS: That's where I wish Summer
 8 was here to get some input there on that end.
 9 MR. RICHARDSON: Is there a motion?
 10 MS. TIMMONS: I'm trying. I'm struggling.
 11 Because I don't want to muddy the waters for our
 12 attorneys, the town attorneys, that are appealing
 13 this.
 14 MS. PAYLOR: Can I address that as a
 15 lawyer. What you do here tonight is going to have no
 16 impact on the appeal. It's already up there. The
 17 briefs are written, the record was made when we were
 18 here couple years ago.
 19 THE CHAIRPERSON: And I want to say one
 20 other thing. Just because we are overturning the
 21 decision, doesn't mean that this is being allowed.
 22 It still has to come before us for a decision on this
 23 actual project. This is on timing only. This is
 24 allowing him to come before us with an appeal.
 25 MR. RICHARDSON: If he had a different

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1 project, he could come back to us in the future.
2 THE CHAIRPERSON: Of course. Any
3 completely different project can come before us.
4 MR. RICHARDSON: If he wants to do a
5 raised pool that's connected, and they can legally
6 justify, he could bring that back.
7 THE CHAIRPERSON: Of course, he could.
8 It's a pool. It's not a deck.
9 MR. HENDERSON: Is it substantially the
10 same request that he is requesting to expand the use
11 and the structure. Regardless of how -- what kind of
12 structure he proposes, in 2014 he requested to simply
13 expand this. And now he put a roof on it. Is it, at
14 the crux of his request, is it still an expansion of
15 the square footage? Is it still an expansion of the
16 structure?
17 And the intent behind this section that we
18 referenced tonight, 21-175(G)(1), is intended to stop
19 folks, once they have -- our volunteer board members
20 have made a decision to stop people, an applicant,
21 from modifying slightly their request or modifying it
22 one way or the other and continually coming back.
23 MS. TIMMONS: Browbeating us, getting us
24 tired.
25 MR. HENDERSON: Month after month. Is it

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1 know. I don't think it's our position to put that in
2 a motion.
3 THE CHAIRPERSON: We don't reference the
4 court case at all. We don't have anything to do with
5 the outcome of that. We don't know what the final
6 order would be either.
7 MS. PAYLOR: Can I make a statement. The
8 only reason for you to do this, if you're going to do
9 it the same way, is for him to appeal it. He's not
10 losing the year-and-a-half that's getting ready to go
11 now. If substantially the same issue is present,
12 then he's going to be entitled to do this, if he wins
13 his appeal. It wouldn't come back to him.
14 MR. HENDERSON: That's right.
15 MS. TIMMONS: That's great.
16 THE CHAIRPERSON: Say that again, Alice.
17 MS. TIMMONS: It will all be handled by
18 the town administrator 'cause it wouldn't be a
19 variance.
20 MS. PAYLOR: It's not a variance now.
21 MS. TIMMONS: The original.
22 MS. PAYLOR: If he wins, the issues that
23 are up there and this is substantially the same, then
24 this will also -- he will win on this one.
25 MS. TIMMONS: Okay, then I move that we

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1 the crux of the same request?
2 MS. PAYLOR: If you think this is the same
3 issue that's up on appeal, I agree with
4 Mr. Henderson. With that said, if the appeal goes in
5 Mr. Boehm's favor, then he can do this. We would
6 like to have that set forth also.
7 MS. LATHAM: That's my fear. A porch is a
8 fancy deck. From that standpoint, yes, I think it's
9 very much substantially the same issue.
10 Again, I'm brand new. I don't necessarily
11 want to make a bad decision. Does that make sense?
12 THE CHAIRPERSON: This is a pretty tough
13 one for your first meeting. I will admit that
14 freely. It's pretty tough for those have actually
15 heard this issue before.
16 MS. LATHAM: It's a fancy deck.
17 MS. TIMMONS: If we decide to not allow
18 this to be presented next month, to agree with the
19 town that it is substantially the same, it is
20 expanded but substantially the same issue that we
21 have ruled on before, do we need to incorporate --
22 I'm perfectly fine with them listening, having the
23 presentation.
24 If the court rules against us, you know,
25 then, hey, it's wide open. And there is no, you

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1 deny this request that is an appeal of our zoning
2 administrator. Denying Mr. Boehm's request.
3 THE CHAIRPERSON: Appeal to overturn the
4 zoning administrator's decision.
5 MS. TIMMONS: Yes.
6 THE CHAIRPERSON: Is there a second?
7 MS. PAYLOR: You're denying his request?
8 How about citing this section because it has
9 substantially the same issues.
10 MS. TIMMONS: Yes, right. And the reason
11 for denying this request is because it has
12 substantially the same issues that have been
13 presented to the board in the past within the past
14 two years. And based on section 21-150 --
15 MS. PAYLOR: 175.
16 THE CHAIRPERSON: 21-175(G)(1).
17 MS. TIMMONS: 21-175(G)(1), that's right.
18 THE CHAIRPERSON: Sometimes we make these
19 motions all together. Is that clarification enough?
20 That's a motion.
21 Is there a second?
22 MR. RICHARDSON: (Raised hand.)
23 THE CHAIRPERSON: I can't second it.
24 Thank you. Pete second.
25 Any further discussion?

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1 All in favor, signify by say aye.
2 (Ms. Timmons, Mr. Richardson, Ms. Tezza
3 stated aye.)
4 THE CHAIRPERSON: Like sign opposed?
5 MS. LATHAM: Nay.
6 THE CHAIRPERSON: The motion to uphold the
7 zoning administrator's decision passes.
8 Thank you, Alice. Thank you, Mr. Boehm.
9 And good luck.
10 322 STATION 19
11 THE CHAIRPERSON: Our next item on our
12 agenda is 322 Station 19. Mr. Henderson, will you
13 please present.
14 MR. HENDERSON: Our next administrative
15 appeal is listed as D-2 to our agenda. Mr. Hal
16 Coste, the applicant and property owner of 322
17 Station 19 is requesting an administrative appeal to
18 the decision made from staff regarding Section
19 21-150, nonconforming uses, and 21-151, nonconforming
20 structures.
21 Just to give you a little time line on the
22 request for Mr. Coste, on September 8, 2015, he
23 requested a building permit listed under permit
24 150309. He requested from this building permit
25 application to apply for a 200-square-foot elevated

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1 second principal building. If he were to request to
2 attach a structure to that by way of a deck or by way
3 of an addition, it would be an increase in the
4 nonconforming structure and nonconforming use. And
5 it would revert back to that section that we reviewed
6 for the previous agenda item under 21-150, where it
7 states nonconforming uses may not be expanded except
8 to eliminate or reduce the nonconforming aspects.
9 Staff then issued a letter denying that
10 followed by Mr. Coste's BZA application that was
11 issued or was submitted on September 21, 2015. I
12 have a copy of the minutes where he cites the
13 treehouse.
14 I can answer any questions you might have.
15 And some pictures of the treehouse, if you would like
16 to review it.
17 THE CHAIRPERSON: Are you presenting for
18 Mr. Coste as well?
19 MS. PAYLOR: I am.
20 THE CHAIRPERSON: Thank you, Alice.
21 MS. PAYLOR: Thank you for doing both of
22 these the same night. I'm representing Hal Coste. I
23 know you're familiar with the treehouse behind his
24 house. I've been over there. It's really a
25 fantastic structure. It's fantastic.

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1 deck to be considered an integral part of the
2 principal building. And that's listed under exhibit
3 1 here.
4 Upon reviewing Mr. Coste's building
5 permit, we find that his request did not meet the
6 conditions of the zoning ordinance to have an
7 elevated deck, which must be an integral part of the
8 building.
9 What he's showing in his building permit
10 is a ladder that extends up to a treehouse that he
11 previously presented to this Board as a variance
12 request on September -- I'm sorry June 12, 2014. He
13 presented to this BZA a request for a height variance
14 to be applied to his treehouse construction.
15 Additionally, staff has made the
16 interpretation that his house was the second
17 principal building on this lot. Zoning ordinance
18 states: That where you have two principal buildings
19 or two structures on a lot where there exists two
20 dwelling units within each one of those, you
21 designate the conforming principal building as the
22 one with the greatest square footage; that's a
23 historic structure, fronting Central Avenue. And
24 then Mr. Coste's structure on the back porch.
25 Mr. Coste's house is the nonconforming

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1 He came to y'all and he had a roof on it.
2 Variance on the height. You turned him down. He
3 doesn't have a roof on it anymore. It's now a deck.
4 Has to be integral part. He's made it an
5 integral part of the deck that he has, and because
6 this doesn't have a roof on it, there are no height
7 restrictions that apply. That's out of the way.
8 So just like in the last appeal that you
9 were listening to, the zoning administrator takes the
10 position that the addition of the deck is not
11 permanent is because sections 21-150 and 21-151 do
12 not allow an expansion of a nonconforming use. And
13 they don't allow an expansion of a nonconforming use.
14 The nonconforming use, again, is you have
15 a second residence on a lot. It's the same thing I
16 explained the first time. He's not expanding the
17 nonconforming use. He has a treehouse that his
18 grandchildren can play on. Doesn't have a roof on it
19 anymore, so it's a deck.
20 We'd like y'all to let him keep it like it
21 is. But as Mr. Henderson just explained, it's pretty
22 similar issue to the one Mr. Boehm has. And so that
23 he doesn't have to appeal if you're not going to
24 allow it, I would suggest or I would ask that you
25 stay your decision pending the outcome of Mr. Boehm's

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1 appeal. Pending the outcome of Mr. Boehm's appeal,
2 if Mr. Boehm wins, Mr. Coste wins. He's not
3 expanding the use.
4 He has something out there that he's put a
5 lot of time and love into. It's great. So I would
6 ask that -- first of all, I would ask that you let
7 him keep it like that. But if you can't do that,
8 then I would ask that you stay your decision until --
9 and let it rest on the outcome of Mr. Boehm's appeal.
10 MR. RICHARDSON: Joe, we denied the
11 treehouse based on height, wasn't it?
12 MR. HENDERSON: Mr. Coste previously
13 requested a height variance.
14 MR. RICHARDSON: Thirty feet.
15 MR. HENDERSON: That's correct. He
16 requested -- the accessory structures ordinance
17 doesn't permit an accessory structure over 15 feet in
18 height. There's a provision that allows the roof to
19 go up to 18 feet.
20 Mr. Coste -- the floor of Mr. Coste's
21 treehouse begins at around 16 feet, I believe. So he
22 was requesting 100 percent variance. He could not
23 demonstrate that receiving -- not receiving that
24 variance would limit the usability of his property
25 for a single-family residence.

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1 MS. LATHAM: Are you saying you want to be
2 able to put the roof back on and the windows and
3 build the ladders?
4 MS. PAYLOR: He can't put a roof back on,
5 no. He can put a ladder. I don't know what
6 prohibits him from putting windows in.
7 MR. HENDERSON: If I may.
8 THE CHAIRPERSON: Yes, Joe.
9 MR. HENDERSON: Staff has the
10 interpretation that this structure that Mr. Coste has
11 requested modification to is an accessory structure,
12 a treehouse. Town staff has always issued, whether
13 it has a roof or not, permits for treehouses. And
14 listed them as accessory structures. That's number
15 one. That's our interpretation.
16 Number two, this is a nonconforming
17 structure and use and falls under the provisions of
18 21-150, 21-151. It may not be expanded. That's a
19 staff interpretation. Just to clarify.
20 MS. TIMMONS: I know when Hal was here
21 before, we were trying to figure out how to make it
22 not a treehouse so he could keep it. Well, so that
23 it could not have a roof on it and then not be under
24 the height restrictions. We're not in discussion
25 yet, are we?

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1 I think the Board found that he also
2 showed no unique characteristics for the property.
3 So he didn't meet any of the hardship tests.
4 THE CHAIRPERSON: The previous one was a
5 variance request.
6 MR. HENDERSON: Mr. Coste also has on
7 appeal with Charleston County Circuit Court the
8 appeal of that decision. He has appealed the Board
9 of Zoning Appeals. That is a pending case. He has
10 put that on hold temporarily while he can request
11 this --
12 MS. PAYLOR: He will withdraw that appeal
13 if you stay -- either if you grant this or if you
14 stay this order pending this Mr. Boehm's request.
15 THE CHAIRPERSON: I'm going to have to ask
16 you a legal question. What does stay legally --
17 MS. PAYLOR: You don't take any action;
18 put it on hold.
19 THE CHAIRPERSON: I know. I'm asking you
20 what effect that has because --
21 MS. PAYLOR: Nothing, he's just keeps it
22 like it is right now.
23 THE CHAIRPERSON: You just said pending
24 Mr. Boehm's case.
25 MS. PAYLOR: It's the same issue.

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1 THE CHAIRPERSON: Very loosely, yes.
2 MS. TIMMONS: Very loosely. My feeling on
3 this one is to -- if we don't want to overturn Joe,
4 this administrative appeal is to just let it sit
5 until we hear what the judge has to say again on
6 Mr. Boehm. Because it is expanding the use of a
7 nonconforming.
8 You know, the nonconforming is the second
9 building. I get that.
10 MS. PAYLOR: Can I make an observation.
11 Your job is not to do what he tells you to do.
12 That's why you're here. If your job was to uphold
13 him, then there wouldn't be any reason for an appeal.
14 But you are citizens who are supposed to be looking
15 at the zoning ordinance and interpreting it to the
16 best of your ability.
17 MS. TIMMONS: And my concern is --
18 MR. HENDERSON: I agree.
19 MS. TIMMONS: I take that responsibility
20 seriously. My concern is opening doors for people to
21 do whatever they want with their places without going
22 through and getting permits and then doing the work.
23 Both of these have elements of that involved.
24 THE CHAIRPERSON: It's interesting that
25 one of the issues at hand is substantially the same

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1 in these two cases. In one, a slat house is being
2 used as a deck; now we have a treehouse converting to
3 a deck.
4 And I understand what you're saying about
5 staying our decision, but Mr. Coste would still have
6 to go through, you know -- remedy the fact that the
7 town has not permitted his deck. I mean, still have
8 to come back to us after the court case. I don't
9 think it wouldn't be automatic. He would still have
10 to request the building permit.
11 MS. PAYLOR: He already got it there. I
12 don't think that's your concern.
13 THE CHAIRPERSON: No, it's not our
14 concern.
15 MS. PAYLOR: I think that's for whatever
16 building official.
17 THE CHAIRPERSON: In answer to your
18 question, we have overturned zoning administrator's
19 decisions before.
20 MS. TIMMONS: He can take it.
21 THE CHAIRPERSON: When we are talking
22 about nonconforming uses and nonconforming
23 structures, we have to go by what we -- how we can
24 interpret the code.
25 Every lot on this island is unique I have

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1 bit when the tree moves. With a half hour's work, I
2 could fasten it. If that's the definition of
3 fastening, I can screw it down.
4 THE CHAIRPERSON: It's from the --
5 MS. TIMMONS: From the lower deck to the
6 upper deck.
7 MS. LATHAM: To the deck that's attached
8 to the house.
9 MS. PAYLOR: He can make it an integral
10 part.
11 MR. HENDERSON: Currently it's completely
12 detached or disconnected from the existing deck. He
13 would just -- that ladder or the paddle stairs would
14 be the only way to connect the deck to the elevated
15 deck-treehouse.
16 We just looked at the definition of
17 integral. It states something like necessary and
18 critical or something to the design of a given
19 structure.
20 And I guess if you think that the paddle
21 stairs and the treehouse are critical and necessary
22 to the design of the house, I don't know. That might
23 be something for --
24 MS. TIMMONS: That's something
25 interpretative.

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1 decided. And eventually they're all going to come
2 marching through the Board of Zoning Appeals.
3 MS. LATHAM: I would love -- if I were a
4 little kid, I would have loved to have this
5 treehouse. This is a great treehouse. I would love
6 to find a way for this to really fit.
7 My issue is, with a roof on it, it's a
8 separate, nonconforming structure and is subject to
9 those rules, which it's too high.
10 And if it's a deck, it's subject to being
11 an integral part of this nonconforming building,
12 which it's not.
13 My issue is I'm trying to find a way, in
14 either circumstance, to say yes because it doesn't
15 really fit either one. And I hate to say no because,
16 I mean, who doesn't want a treehouse that's like
17 this. It really doesn't fit.
18 THE CHAIRPERSON: How does it connect to
19 the existing deck?
20 MR. COSTE: Joe called it a ladder. I
21 call them paddle stairs. They are stairs leading
22 from the lower deck to the top deck. Presently they
23 are -- I made it so there are -- they give a little
24 bit. They are on the lower part of the -- paddle
25 stairs are on wheels. That's meant to give a little

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1 MS. LATHAM: On a plain surface meaning
2 integral, connected, attached, incorporated.
3 MS. COSTE: Together, in my mind. That's
4 only my mind.
5 This has been about two years now I've
6 been fighting for this. My reason was I didn't
7 consider it an accessory structure. And certainly
8 now with the roof off of it, it's not an accessory
9 structure.
10 I have had to, in 25 years ago, I had to
11 sue the town before for an addition for my daughter.
12 After six months and \$12,000, which was a lot of
13 money 25 years ago, I won that appeal. Or I won that
14 case.
15 I want to read just one paragraph that a
16 very well respected gentleman on Sullivan's Island
17 wrote. It says the Board of Adjustments here. The
18 Board of Adjustments at that time is now the Board of
19 Zoning Appeals. I'm going to interconnect these.
20 It's my understanding when the stricter
21 zoning system -- when the stricter zoning system was
22 adopted by the island, part and parcel of that
23 legislation included the creation of a Board of
24 Adjustments -- now the Board of Zoning Appeals -- to
25 deal with situations in which the new zoning might

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1 inflict hardships or injustices on the residents.
 2 If the Board of Adjustments categorically
 3 refuses to grant certain types of variance or if they
 4 are not allowed to carry out their assigned mandates
 5 by the council, then the government has reneged on
 6 its essential part of the legislation that created
 7 the present zoning laws in the first place.
 8 This is from Father McInerney. He's not a
 9 lawyer. I just wanted you to read that. I don't
 10 think this was what the BZA was intended to be.
 11 That's all I'm going to say.
 12 THE CHAIRPERSON: Thank you.
 13 MR. RICHARDSON: Joe, if this structure
 14 was an elevated deck below 15 feet integral to the
 15 house, would it be acceptable?
 16 MR. HENDERSON: Yes.
 17 MS. PAYLOR: 15 feet doesn't apply.
 18 MR. HENDERSON: As a treehouse it would be
 19 allowed. As an elevated deck?
 20 MR. RICHARDSON: Yes.
 21 MR. HENDERSON: It would still be an
 22 expansion of the nonconforming use.
 23 MR. RICHARDSON: You're saying expansion.
 24 That's not how I read it, though. It talks about
 25 increase or decreased nonconformity. That could be

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1 roof.
 2 THE CHAIRPERSON: There's not a roof.
 3 He's saying it's not a treehouse now. It's a deck.
 4 It does not have a roof on it.
 5 MR. RICHARDSON: Does it have walls?
 6 THE CHAIRPERSON: I don't know.
 7 MR. COSTE: I've applied for two things
 8 here, from what I understand, Alice tells me. The
 9 deck is one thing. And a roof-less structure on the
 10 deck.
 11 MS. PAYLOR: It's a roof-less structure.
 12 The height restriction only applies if the structure
 13 has a roof. It's very clear. The zoning ordinance
 14 is not very clear in a lot of ways, but that is
 15 clear.
 16 THE CHAIRPERSON: That is clear.
 17 MS. LATHAM: What we're saying is that it
 18 wasn't allowable as the accessory structure with the
 19 roof because it was too high. Now what we are saying
 20 is that the whole building in and of itself is
 21 nonconforming. We're increasing the square footage;
 22 therefore, in theory, that's the issue.
 23 Are we increasing the square footage on a
 24 nonconforming building, thereby increasing said
 25 nonconforming building?

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1 aesthetic, it could be functional. I don't know
 2 about that. Does that make sense to you?
 3 MR. HENDERSON: It states under expansion
 4 of nonconforming uses: A nonconforming use shall not
 5 be expanded except to eliminate or reduce the
 6 nonconformance.
 7 MR. RICHARDSON: Reduce the structure.
 8 MR. HENDERSON: Nonconforming structures
 9 permits structural alterations including enlargement
 10 if the structural alteration does not increase the
 11 extent of the nonconformity.
 12 You have to ask yourself does the adding
 13 of a deck increase the extent of the nonconformity or
 14 intensify?
 15 MR. RICHARDSON: You also have to ask
 16 yourself if you can increase the size of the
 17 structure, what does it really mean increasing the
 18 nonconformity? To me, that's the big confusing issue
 19 on Goldbug and something you ought to hammer on.
 20 And I think for Mr. Coste, if he's going
 21 to have an elevated deck that's integral and the
 22 floor is 15 feet, does a railing or a wall increase
 23 the elevation? It would in my mind.
 24 THE CHAIRPERSON: It's the base elevation.
 25 MR. RICHARDSON: No, 'cause if there's a

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1 MS. PAYLOR: It's not conforming use not
 2 building.
 3 MR. RICHARDSON: You can increase the size
 4 of the building; right?
 5 MS. PAYLOR: You can increase the size of
 6 the building.
 7 THE CHAIRPERSON: I thought it was a
 8 nonconforming structure as well?
 9 MS. LATHAM: That's how I read it.
 10 MS. PAYLOR: You can enlarge a
 11 nonconforming structure. He just read it to you. If
 12 you can enlarge it, as long as it does not increase
 13 the extent of the nonconformity.
 14 MR. RICHARDSON: So many things that we
 15 ought to improve on as these issues come up.
 16 THE CHAIRPERSON: What the Board of Zoning
 17 Appeals has done in the past, when we see these
 18 issues like the treehouse issue when it first came to
 19 us, we actually said to the town council, do you
 20 want -- we asked them: Do you want an ordinance on
 21 treehouses because although treehouses are not listed
 22 as an accessory structure, they have always been
 23 permitted as accessory structures. By that, we said,
 24 yes, a treehouse is an accessory structure, and we
 25 applied that section of the zoning ordinance.

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1 The zoning changes come from the planning
 2 commission to the town council. We don't have
 3 anything to do with them. We're just supposed to
 4 interpret them and apply them to the variance
 5 requests and the special exceptions.
 6 When we get an issue like this, it becomes
 7 very difficult. Is it the number of seats in a
 8 restaurant or the square footage? There's not a
 9 definition for expansion of a restaurant. Now there
 10 is.
 11 MR. HENDERSON: I would add that
 12 Mr. Coste's initial request for variance, I guess,
 13 drew the BZA to request a text amendment to the
 14 zoning ordinance to clarify that. Shortly after you
 15 made that request, Mr. Coste filed an appeal at the
 16 Charleston County Circuit Court and thereby put a
 17 halt on improving and modifying the zoning ordinance.
 18 That's how that played out.
 19 I think there is some desire to modify the
 20 accessory structure section of the ordinance.
 21 MS. PAYLOR: Why would an appeal put a
 22 halt on improving the ordinance?
 23 MR. HENDERSON: I would like to finish
 24 what I was saying.
 25 Regarding nonconformities and the intent

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1 THE CHAIRPERSON: Alice.
 2 MS. PAYLOR: Mr. Henderson is not a
 3 lawyer. Your job is to --
 4 MR. HENDERSON: That's right, I'm not a
 5 lawyer.
 6 MS. PAYLOR: -- read this ordinance and
 7 determine what it means. If it's ambiguous, guess
 8 who wins? The property owner.
 9 What I hear you say, it's ambiguous. I
 10 agree with you. But the nonconforming use is what
 11 cannot be expanded. The nonconforming use is for a
 12 residence. He's not expanding that.
 13 I don't care what Mr. Henderson says is
 14 the intent of the ordinance. That's what it says.
 15 I would ask that you let him have his deck
 16 out there. He will make it an integral part of the
 17 other deck. Let him have it. Let's move on.
 18 THE CHAIRPERSON: I'm going to ask for any
 19 public comment. Anybody else want to comment before
 20 the BZA?
 21 MR. deBrux: Yes, ma'am, I'm Sumter
 22 deBrux. I live at 1903 Back Street. I am
 23 Mr. Coste's next door neighbor on 19. I'm the one
 24 closest to the dump. And I'm the neighbor that's
 25 closest to this structure and all the technical

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1 of having a provision of our zoning ordinance, it
 2 speaks to nonconformities. Every zoning ordinance,
 3 whether it be county, state or small town, they all
 4 have a nonconformity section of the ordinance.
 5 We need to ask ourselves: Why do we have
 6 that section? And it's pretty clear that it
 7 describes allowing the continuance of a nonconforming
 8 use provided you don't expand or intensify these
 9 uses. There are lots of different sections that say
 10 that.
 11 Now, in both of these cases we've had
 12 property owners requesting to expand the use, expand
 13 out with additions or with intensifications or
 14 expanding square footage for a deck. What is the
 15 spirit and intent of this section of the ordinance?
 16 We have asked ourselves that quite a few
 17 times, with regard to Mr. Boehm, Mr. Coste, and also
 18 some other issues that we have here in town. I think
 19 the intent is to apply a status to allow them to
 20 continue a use they're allowed under a previous
 21 ordinance but not to allow the expansion or
 22 intensification.
 23 I would just ask you to -- that's our
 24 perspective. We're trying to stay consistent with
 25 the spirit of this ordinance.

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1 things that y'all are talking about. I don't know
 2 beans about that.
 3 But I know that my wife and I fully
 4 support what Mr. Coste has built back there. He's
 5 got two extremely important loves in his life; one is
 6 his work. He's a gifted contractor, carpenter.
 7 I was up in the treehouse two weeks ago,
 8 him showing me the deck. Some hinges off an antique
 9 roof. And he has so much pride. He is his own worst
 10 enemy. He just loves doing this.
 11 To have a love, which I had opportunity a
 12 couple weeks ago to take my two granddaughters, eight
 13 and 12, up in there. And they brought markers and
 14 they were messing on the wall and drawing trees and
 15 treehouses and things. It does not have a roof on
 16 it.
 17 The folks in the neighborhood would love
 18 to see. You can't see it from the street. 90
 19 percent blocked by his house. It's a wonderful
 20 structure. The neighborhood, most all of us would
 21 love to see it open for business. Thank you.
 22 MR. PROCTOR: I live at 1726 Atlantic
 23 Avenue. I often walk down that street or ride my
 24 bike down the street. And actually I've noticed I
 25 can't even see it unless I'm looking for it. You

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1 have to be driving south, going towards the beach,
2 and you really have to take a hard look to see it.
3 I, like Sumter, had my oldest son, who's
4 31 years old, in town, and my son-in-law who's 36
5 years old in town. And they went upstairs, and they
6 were totally enthralled with this. They thought it
7 was the greatest thing. They said: Dad, why didn't
8 you build one like that when I was growing up.
9 I said I didn't know how to do it. I
10 didn't have the talent that he did. I just say, with
11 kids like that, my grand kids, when they come into
12 town, they want to go over and play in the house --
13 excuse me, on the deck. That's all I have to say.
14 THE CHAIRPERSON: Thank you, sir.
15 Mr. Boehm.
16 MR. BOEHM: I'm Paul Boehm. My issue and
17 the courts and my expansion of the deck is not going
18 to have any impact on -- Hal's position is not going
19 to have any impact on me.
20 Almost every nonconforming dwelling,
21 nonconforming use dwelling on the island has been
22 expanded. Almost every one in the last 38 years.
23 There's almost nobody left to expand their
24 nonconforming use structures.
25 We now have ordinances that control the

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1 MS. LATHAM: We bought our house, we
2 bought and built our house in '88; did the
3 walk-through on the Tuesday before Hurricane Hugo.
4 And then, you know, Hugo came and all hell broke
5 loose. And people went nuts.
6 And as I understand it, our current zoning
7 ordinance is sort of a way that the island itself
8 came to say, we want to protect the feel and the look
9 of our island, because it's what makes it special.
10 So my question really, I guess, is that I
11 would love to allow the treehouse. I think it's a
12 great thing. My fear is that this is a small little
13 ding to the protections we put in place so we don't
14 look like Malibu, California and we don't look like
15 Wrightsville Beach where you are this far away from
16 your neighbor and you have no trees and you have no
17 dunes.
18 And my question is, if we do this, aren't
19 we going to then let the guy who wants to do 400
20 square feet at 35 feet so he can finally see the
21 ocean from his third row house? I mean, I know
22 that's sort of reductio ad absurdum.
23 That's my fear is that we, the next person
24 is going to come in and say, you let Mr. Coste have
25 his lovely treehouse, why can't I have mine?

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1 square footage, the lot coverage, the footprint. And
2 if Hal can have this deck, why not give it to him?
3 There's nobody else out there who's going to be
4 impacted by this. I would've been impacted by it,
5 but I've been put off to the courts. Why not grant
6 this approval? Let him have it. Every body else has
7 got one. Everybody else.
8 Read that list. Go drive around the
9 island. Look and see. There's hundreds of
10 expansions of nonconforming uses on Sullivan's Island
11 that have been granted in the last 38 years and
12 plenty of them.
13 How about 1710 Blanchard Street? In 2009,
14 nonconforming use, it was allowed to have 600
15 additional square feet of heated space added to it
16 and over a thousand square feet of decks and porches
17 added to it in 2009. 1710 Blanchard Street,
18 nonconforming use. It's a rental property. Come on.
19 THE CHAIRPERSON: Wait a minute. Do you
20 have a question? If not, I'm going to close public
21 comment for right now.
22 MS. LATHAM: I have clarification.
23 THE CHAIRPERSON: We're going to close
24 public comment for right now so that the Board can
25 deliberate. We may want to ask additional questions.

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1 MR. COSTE: Can I say something? There
2 are already numerous precedents for treehouses over
3 here. Some have been permitted, some haven't. This
4 is one at Station 9 that is 21 feet from ground to
5 peak. That's in a very prominent citizen's yard.
6 There is another one here without a rail
7 on it, platform in a tree; no rail. Permitted or
8 not, there are multiple violations of the
9 treehouse -- of code violations in treehouses and as
10 well as nonconforming structures. I want to say
11 that.
12 MS. LATHAM: My point is this and the
13 addition cited in the list for the other issue, it
14 seems somewhat clearer to me that those were made in
15 the aftermath of Hugo when it was the building boom.
16 They weren't really particularly stringent. And I
17 guess I don't really have a point.
18 I'm struggling with this because it just
19 seems like the drip of water through the dam before.
20 MS. PAYLOR: Can I address the one thing
21 you said at the beginning, how we want Sullivan's
22 Island to be. This is a treehouse that's like this
23 big. I mean, it's not adding -- you're not adding
24 anything. It fits in with Sullivan's Island.
25 THE CHAIRPERSON: I want to clarify. We

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1 are not talking about a treehouse.
2 MS. PAYLOR: I'm sorry. A deck.
3 THE CHAIRPERSON: We are not talking about
4 a treehouse.
5 MS. PAYLOR: Unroofed structure.
6 MS. LATHAM: Again, like I said, if this
7 were the only issue and this were -- if we could
8 isolate this and encapsulate this, I am all for it.
9 My concern is that everyone coming after uses
10 everything as a precedent. That's the whole basis of
11 our legal system.
12 MR. COSTE: You have to take it on a
13 case-by-case basis or change the ordinance, which I
14 hope they will.
15 MS. LATHAM: Then they have grounds to
16 appeal in the court system because they're saying
17 there's an unfair application of the zoning.
18 MR. COSTE: There are already 17
19 precedents.
20 MS. PAYLOR: Nobody is going to win appeal
21 on that.
22 THE CHAIRPERSON: Let's rein it in.
23 MR. RICHARDSON: For me, the real issue
24 goes back to expanding nonconforming use. That's the
25 one issue I think for Mr. Boehm.

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1 MR. RICHARDSON: Talking about a raised
2 deck.
3 THE CHAIRPERSON: There's no height
4 requirement on a raised deck.
5 MR. RICHARDSON: Why, if that is not an
6 expansion of nonconformity, is the other case?
7 THE CHAIRPERSON: They're actually the
8 same. Mr. Boehm, the reason to deny his is because
9 it was a timing issue.
10 Mr. Coste, it's not a timing issue. He's
11 asking us to overturn -- there is an issue that is
12 the same in both, but the issue where we upheld the
13 zoning administrator's decision on Mr. Boehm is not
14 the issue that we are actually discussing for
15 Mr. Coste. They just happen to each have that issue.
16 MR. RICHARDSON: If we judge Mr. Boehm's
17 issue on the basis of our reasoning for Mr. Coste, he
18 could withdraw his legal thing. He would have
19 permission right now, wouldn't he?
20 THE CHAIRPERSON: No, because there's
21 still an issue with the town -- well, the town has
22 appealed -- let's not even go there. Let's not go
23 there.
24 MS. PAYLOR: It is totally separate.
25 THE CHAIRPERSON: It's a totally separate

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1 I think there are three or four issues for
2 Mr. Coste. I think if we agree to a raised deck
3 connected by a step ladder to the house, that's all
4 you need, Mr. Boehm, is a treehouse behind yours.
5 But the elevation is a problem. I mean,
6 it's just a big problem. I think, you know, the
7 issue with permitting to begin with is a problem.
8 And I think the integral part is a problem.
9 I mean, there are a lot of things that you
10 could resolve if you wanted to. It would be nice to
11 have a treehouse; drop it down.
12 MR. COSTE: Not in this case. Without
13 tearing it apart, I mean, you know. It's not
14 economically or physically feasible.
15 MR. HENDERSON: That's actually been
16 approved. We could issue a building permit for that
17 tomorrow, if he dropped that treehouse down and meet
18 the height requirement for accessory structures.
19 MR. COSTE: It would be sitting on the
20 ground.
21 MS. PAYLOR: There are no height
22 requirements now.
23 THE CHAIRPERSON: I want to get back to
24 the issue at hand. We're not talking about a
25 treehouse.

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1 issue.
2 MS. PAYLOR: I don't think this is
3 creating much of a precedent for the BZA.
4 MS. TIMMONS: And I approach this one a
5 little different, too, because I was here when Hal
6 came in before. And we did try to figure out how we
7 could work it so he could keep that. And that's what
8 I'm actually leaning towards tonight. It's not just
9 to make it go away because I've been groggy. Nobody
10 has knocked on my door or anything like that.
11 I know that the neighbors think it's
12 great, you know. Everybody thinks it's great, and I
13 think it's great, too. I don't think it's great, you
14 know, you didn't get a building permit.
15 THE CHAIRPERSON: I would say, if it were
16 still a treehouse, we wouldn't be looking at this
17 section. But it's come back to us as a deck. And we
18 have previously applied this section to not allow
19 such expansions. That doesn't mean we couldn't, but
20 we would not be -- we would not be consistent.
21 My preference, no matter what we do, is
22 to, once again, ask the town council to look at
23 nonconformity and to see if they would like to
24 further clarify that for us because we get this issue
25 all the time.

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1 MR. HENDERSON: If I might make a
2 suggestion. If you stay consistent and make the
3 ruling based upon our current interpretation of not
4 expanding nonconforming structures and nonconforming
5 uses, i.e., expansion of the attached deck way up
6 high, then the pending appeal the town has filed at
7 the state court of appeals will answer that question
8 for both of these cases.
9 THE CHAIRPERSON: Yeah, it would.
10 MS. PAYLOR: That was the alternative I
11 put forward.
12 MR. HENDERSON: Staying consistent, it
13 will still be answered.
14 MS. PAYLOR: Mr. Coste would much prefer
15 you rule in favor tonight.
16 MR. COSTE: Let me say this. I filed a
17 lawsuit against the town, not knowing what I'm doing.
18 I'm not a lawyer. I asked Alice to come down there
19 and help me on a limited basis. She doesn't
20 represent me in this case. I'm representing my case.
21 And I intend to drop it tomorrow, so that
22 may have a factor. I'm tired of dealing with it.
23 MS. LATHAM: If we request clarity from
24 town council on nonconforming structures, vis-a-vis,
25 treehouses -- I know we're not talking about a

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1 to clarify what we're talking about here. Not only
2 with these two cases tonight but with lots of other
3 expansion requests for structures and for
4 nonconforming uses, even down the commercial
5 district.
6 By staying consistent, I think that we err
7 on the side of caution here. That's just the opinion
8 of town staff.
9 MS. TIMMONS: What we want to do is be
10 consistent and give -- what I would like to do is be
11 consistent but be sure that Hal can have his deck,
12 whatever, his structure, and enjoy it while we are
13 waiting to hear what the judge says, and what kind of
14 blessing he's going to need from us.
15 THE CHAIRPERSON: That is a stay. If we
16 postpone, and I think it's not legal in a court.
17 It's a stay. For us, it's a postponement.
18 MS. PAYLOR: Whatever you want to call it.
19 Basically you're leaving it open pending the outcome
20 of the case. It's substantially the same issue.
21 What we just talked about is the same thing that
22 happened with Mr. Boehm.
23 THE CHAIRPERSON: I think that might be
24 the appropriate remedy for this particular case only.
25 MR. HENDERSON: I tend to disagree with

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1 treehouse here.
2 THE CHAIRPERSON: Or even expansion of a
3 nonconformity.
4 MS. LATHAM: Just in general for decks and
5 things like that. For example, we said this is an
6 expansion of the nonconforming use. Town council
7 then provided clarity, corrected for treehouses.
8 Would he be eligible to come back and put a roof on
9 it and come back and talk to us again once we have a
10 treehouse section?
11 THE CHAIRPERSON: He can come back if we
12 had --
13 MS. PAYLOR: Not necessarily.
14 MS. TIMMONS: That's where we have to say
15 stay.
16 THE CHAIRPERSON: If he loses right now,
17 it's got to come back unless he appeals.
18 MR. HENDERSON: You mentioned asking town
19 council to clarify. Town council is, in fact, trying
20 to clarify their position, the town's position on
21 nonconforming structures and uses through this
22 appeal. That is the action.
23 THE CHAIRPERSON: On Mr. Boehm's case.
24 MR. HENDERSON: That's right. It's a
25 South Carolina Court of Appeals case that is intended

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1 that. We made a finding of fact in Mr. Boehm's case.
2 I think we found that it presented the same
3 substantial issues as the previous one and that was
4 an expansion of a legal nonconforming structure or
5 use.
6 With this case, I don't see that there is
7 any other procedure that allows us to issue a stay or
8 table.
9 MS. PAYLOR: Only thing he can do is
10 appeal it. That will stay. I think you can most
11 definitely stay it pending the outcome of this
12 appeal. It has substantially the same issues.
13 Exactly what you just did.
14 THE CHAIRPERSON: I am the chair, and I
15 cannot make a motion.
16 MS. TIMMONS: I move that we postpone
17 dealing with Mr. Hal Coste's administrative appeal
18 pending the outcome of the town's court case appeal.
19 MS. LATHAM: I second.
20 THE CHAIRPERSON: On this specific
21 interpretation of section 21-151?
22 Is that the section you cited in your
23 note?
24 MS. PAYLOR: And 21-175. Both of them.
25 MR. COSTE: Paul's case will take another

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1 year at least.
 2 MS. TIMMONS: You're okay. Just breathe.
 3 THE CHAIRPERSON: Is there a second?
 4 MS. LATHAM: I second it.
 5 THE CHAIRPERSON: All in favor signify by
 6 saying aye.
 7 (Ms. Timmons, Mr. Richardson, Ms. Latham
 8 stated aye.)
 9 THE CHAIRPERSON: All opposed like sign.
 10 Aye. The yeses have it.
 11 I believe that brings us to the end of our
 12 meeting. Thank you.
 13 Is there any other comment from the public
 14 before we adjourn?
 15 MS. PAYLOR: I move we adjourn.
 16 THE CHAIRPERSON: You can't move, Alice.
 17 MR. RICHARDSON: I move we adjourn.
 18 THE CHAIRPERSON: Is there a second?
 19 MS. LATHAM: Second.
 20 THE CHAIRPERSON: All in favor, signify by
 21 saying aye.
 22 (All board members stated aye.)
 23 THE CHAIRPERSON: We are adjourned.
 24 (The meeting was concluded at 7:40 p.m.)
 25

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1 SIGNATURE OF APPROVAL
 2
 3 MEETING DATE: 11-12-15
 4 REPORTER: LORA L. McDANIEL
 5 AWR JOB #: 151112LLM2
 6 CASE CAPTION: Board of Zoning Appeals Meeting
 7
 8 (Please return both Signature of Deponent pages.)
 9 I, the undersigned, do hereby certify
 10 that I have read the foregoing transcript and find it
 11 to be a true and accurate transcription of the
 12 proceedings, with the following corrections, if any:
 13
 14 PAGE LINE CHANGE REASON
 15
 16
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 19
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 23
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 25

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1 SIGNATURE OF APPROVAL (CONTINUED)
 2
 3 REPORTER: LORA McDANIEL
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NAME	Date
 <i>Lora McDaniel</i>	
Lora L. McDaniel My Commission expires September 18, 2016	

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1 CERTIFICATE OF REPORTER
 2
 3 I, Lora McDaniel, Registered Professional
 4 Reporter and Notary Public for the State of South
 5 Carolina at Large, do hereby certify that the
 6 foregoing transcript is a true, accurate, and
 7 complete record.
 8
 9 I further certify that I am neither related
 10 to, nor counsel for, any party to the cause pending
 11 or interested in the events thereof.
 12
 13 Witness my hand, I have hereunto affixed my
 14 official seal this 26th day of November, 2015 at
 15 Charleston, Charleston County, South Carolina.
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 <i>Lora McDaniel</i>	
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