

*In the Matter Of:*

Town of Sullivans Island v  
In Re: Board of Zoning Appeals

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Board of Zoning Appeals

February 11, 2016

APPROVED March 10, 2016

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TOWN OF SULLIVAN'S ISLAND  
BOARD OF ZONING APPEALS

HEARING BEFORE: SUMMER EUDY, CHAIRPERSON  
DATE: February 11, 2016  
TIME: 6:04 PM  
LOCATION: Sullivan's Island Town Hall  
2050-B Middle Street  
Sullivan's Island, SC  
REPORTED BY: LORA L. McDANIEL,  
Registered Professional Reporter

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APPEARANCES :

SUMMER EUDY, CHAIRPERSON  
CARLIN TIMMONS, BOARD MEMBER  
PETER RICHARDSON, BOARD MEMBER  
JAMES ELLIOTT, BOARD MEMBER  
JODY M. LATHAM, BOARD MEMBER  
ELLEN MILLER, TOWN CLERK  
JOE HENDERSON, ZONING ADMINISTRATOR

(INDEX AT REAR OF TRANSCRIPT)

1 THE CHAIRPERSON: I'd like to call the  
2 meeting to order. Ellen, has the Freedom of  
3 Information Act requirements been met?

4 MS. MILLER: They have.

5 THE CHAIRPERSON: We'll move on to the  
6 approval of the minutes. Has everybody had a chance  
7 to review the minutes from the November 12, 2015  
8 meeting?

9 Any questions or concerns?

10 MS. TIMMONS: They were long.

11 THE CHAIRPERSON: Yes, they were.

12 (Mr. Elliott entered the room.)

13 MR. HENDERSON: Welcome, we just got  
14 started. Our first agenda item.

15 THE CHAIRPERSON: The approval of minutes.

16 MR. HENDERSON: This is listed under D-1.  
17 It's a variance request for property --

18 THE CHAIRPERSON: We didn't approve the  
19 minutes.

20 MS. LATHAM: Move to approve minutes.

21 MS. TIMMONS: Second.

22 THE CHAIRPERSON: All in favor say aye.

23 (All board members stated aye.)

24 THE CHAIRPERSON: Motion carried, motion  
25 approved.

1                   And then the next item is the applicant  
2 and participant oath. All those who plan to speaking  
3 on the variance request, please stand.

4                   JOE HENDERSON  
5 being first duly sworn, testified as follows:

6                                   2429 ATLANTIC AVENUE  
7                   THE CHAIRPERSON: The first variance  
8 request and only variance request is 2429 Atlantic  
9 Avenue. And we ask staff to present.

10                   MR. HENDERSON: The applicant and property  
11 owner is Ms. Harriet McDougal. The property at 2429  
12 Atlantic Avenue. Ms. McDougal is requesting a  
13 dimensional variance from zoning ordinance Section  
14 21-71(C)(3). This is to allow her to prune the wax  
15 myrtles to three-and-a-half feet from grade.

16                                   The zoning ordinance allows pruning to  
17 take place no lower than five feet from grade.

18                                   Just to give a little background on this  
19 request, Ms. McDougal lives in a one story house.  
20 She has made this variance request since 2004. This  
21 is because the zoning ordinance was adopted in 2005  
22 that prohibited the pruning of the wax myrtles.

23                                   She has explained that this has created an  
24 undue hardship for her. The application of the  
25 regulation would create a hardship for her because

1 she lives in a one story house.

2 Ms. McDougal is not here, and the Board  
3 under the BZA rules of procedure may postpone or  
4 proceed with the variance, if you so wish.

5 THE CHAIRPERSON: Does anybody have any  
6 objection proceeding without the applicant?

7 No objection. We shall proceed.

8 Normally, we take public comment. It  
9 doesn't appear that the public has come to the  
10 meeting.

11 Are there any comments or discussion on  
12 the variance request?

13 MS. TIMMONS: The only comment I have is  
14 when we make -- when I first heard about this, the  
15 first time I was on the board, I voted against it  
16 just as a matter of principal.

17 On the last couple of times, it's like no,  
18 let's go on and do it while the town is looking at  
19 the management plan. This is just for this year.  
20 Who knows what it will be next year.

21 And her house is on the ground. I can  
22 understand why it's a hardship.

23 THE CHAIRPERSON: Anybody else?

24 MR. RICHARDSON: So, Joe, she wants a lane  
25 all the way out to the beach, though; right?

1 MR. HENDERSON: That's right. The zoning  
2 ordinance allows pruning wax myrtles for properties  
3 that are adjacent to the town's protected land. It  
4 allows this work to take place along the extended  
5 property house.

6 THE CHAIRPERSON: This applies to only two  
7 houses.

8 MR. HENDERSON: That's right. There are  
9 two that have received variances for this because  
10 they are on grade. They have justified, when the  
11 ordinance was adopted in 2005, it was a hardship for  
12 them. That is what the ordinance allows.

13 I would say that in the past, variance --  
14 past motions that the BZA have granted, there have  
15 been conditions attached. I can go through those, if  
16 you like.

17 MS. LATHAM: So they're read into the  
18 minutes.

19 THE CHAIRPERSON: Do you want this?

20 MR. HENDERSON: I have them here. There  
21 are three of them. The first condition applied to  
22 the granting of this variance is that future  
23 variances will not be issued should the home at 2429  
24 Atlantic Avenue be altered by way of increasing the  
25 height, the square footage of the structure.

1                   Number two, the zoning ordinance  
2 regulations do not change with respect to the tree  
3 pruning and the RC-1 district; that is, that town  
4 council doesn't change the actual ordinance in any  
5 way.

6                   Number 3, future variances will not be  
7 issued should the Town of Sullivan's Island institute  
8 any type of land management or preservation plan for  
9 the RC-1 district restricting the cutting of the wax  
10 myrtles. That's a reference to the stand-alone  
11 accreted land and protected management plan that they  
12 have been working on for about 15 years now or  
13 longer.

14                   So staff would recommend applying those  
15 conditions.

16                   MR. ELLIOTT: She hired someone, and they  
17 cut all the wax myrtles all the way to the beach?

18                   MR. HENDERSON: That's right. The town  
19 has a list of contractors, approved contractors that  
20 pull permits for these property owners. We issue  
21 them the permit, and they go out and cut it. And  
22 then we inspect it to make sure they haven't cut down  
23 any trees or any other species.

24                   THE CHAIRPERSON: If anybody is inclined  
25 to make a motion to approve, we have a go-by from



1 last year, if anybody wants it.

2 MS. TIMMONS: I'll be happy to do that.  
3 I'll make a motion to approve the granting of this  
4 variance to allow the pruning of the wax myrtles at  
5 2429 Atlantic to a height of three-and-a-half feet.

6 In making this motion, the Board will base  
7 part of its finding on the finding of previous years;  
8 that this property, number one, has extraordinary and  
9 exceptional conditions; that there are only two  
10 houses that are essentially single story at ground  
11 level.

12 And since the ordinance was set up in  
13 1995 -- is that correct?

14 MR. HENDERSON: 2005.

15 MR. TIMMONS: The board has made on an  
16 annual basis an exception for these two properties  
17 only.

18 Number two, these conditions do not  
19 generally apply to other properties in the vicinity  
20 and cannot be taken as precedent for any other  
21 beachfront property.

22 Because of these unusual conditions of the  
23 houses being at ground level, the application of the  
24 ordinance as it stands will disproportionately impact  
25 the utilization of the property.

1           The property owners with two stories are  
2 allowed to cut wax myrtles to five feet, so  
3 three-and-a-half feet for these two properties is  
4 proportional when you think of the height of the  
5 building.

6           The authorization of the variance will not  
7 be of substantial detriment to adjacent property or  
8 to the public good.

9           This is the fourth item. The character of  
10 the district will not be harmed by the granting of  
11 the variance in these two cases as the Board has  
12 determined since 2005.

13           And the following conditions will also  
14 apply. That the house at 2429 Atlantic not be  
15 altered by increasing the height or square footage  
16 and provided that the zoning ordinance regulations do  
17 not change with respect to tree pruning in the RC-1  
18 district and that the Town of Sullivan's Island does  
19 not institute any other type of land management or  
20 preservation plan for the RC-1 district. Period.

21           THE CHAIRPERSON: Is there a second?

22           MR. ELLIOTT: Second.

23           MS. TIMMONS: I didn't include the land  
24 management plan or preservation plan restricting the  
25 cutting of wax myrtles. I think we should just look

1 at it again when the land management gets approved.

2 THE CHAIRPERSON: All in favor?

3 (All board members stated aye.)

4 THE CHAIRPERSON: Any no's? Motion  
5 carries.

6 Is there anything else before we adjourn?

7 Is there a motion to adjourn?

8 MS. LATHAM: I move to adjourn.

9 MR. RICHARDSON: Second.

10 THE CHAIRPERSON: All in favor?

11 (All board members stated aye.)

12 (The meeting was concluded at 6:14 p.m.)

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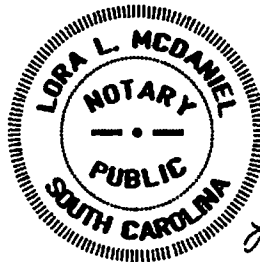
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CERTIFICATE OF REPORTER

I, Lora McDaniel, Registered Professional Reporter and Notary Public for the State of South Carolina at Large, do hereby certify that the foregoing transcript is a true, accurate, and complete record.

I further certify that I am neither related to, nor counsel for, any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 22nd day of February, 2016 at Charleston, Charleston County, South Carolina.



*Lora McDaniel*

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Lora L. McDaniel,  
Registered Professional Reporter  
My Commission expires:  
September 18, 2016