

## January 19, 2005 Design Review Board Minutes

**Pat Ilderton:** Called the meeting to order.

**Members Attending:** Pat Ilderton, Steve Herlong, Betty Harmon, Michael Daly, Duke Wright. Also attending; Kent Prause, Randy Robinson and Kat Kenyon.

**Duke Wright:** Made a motion to approve the December 15, 2005 minutes.

**Steve Herlong:** seconded the motion to approve the minutes. He continued with the next item on the agenda, which was the discussion of the design review manual.

**Pat Ilderton:** Mentioned that in a Town Council meeting on Saturday January 15, 2005 there was strong sentiment from council and zoning to allow owners of a historical structure to build another structure on the property while leaving the historical structure in tact and that this may be passed within a few months.

Someone in the audience asked if they would be able to rent it out.

**Pat Ilderton:** There will be regulations on the use of the second structure. Right now they are saying it will be for family use. Rentals to other than family member has not been addressed.

**Pat Ilderton:** Called the first application on the agenda:

**Seth Fisher and Heidi Brown  
405 Station 22  
Demolition of an Historical Structure**

Mr. Bill Barr represented the applicants. He mentioned that he attended the Town Council meeting last night (Tuesday January 18, 2005) and discovered what they are saying may indeed happen but he was pessimistic that given the time it has taken to get the proposed ordinances passed that it would be anytime soon.

Mr. Barr gave Kat Kenyon a package to include in the record. This included the application form, a memorandum, minutes of the town council meeting minutes and the planning committee minutes when they were adopting the ordinance of the original text of the historical overlay district prepared by Cooper Consultants, the original proposed ordinance which was attached to the application, the map, historical preservation list, a copy of the ordinance enacted in August 2004, a corrected list, a note from Kat Kenyon to Ms. Heidi Brown, and notes from Ms. Brown's folder.

Mr. Barr asked if DRB members had received and read the fax he sent regarding Ms. Brown's application.

All the board members affirmed that they did receive and had read the memorandum.

Mr. Barr asked if there were any questions regarding what occurred in May 2003 when when the ordinance came before Town Council for approval. He said that at time Ms. Brown asked if her property was on the list. The answer was no. As a result of that information she did nothing. As a result of an August 2004 article in the newspaper she returned and again asked if her property was on the list and was told no. She did not find out until November of 2004 that her property was on the list. She immediately filed an application to demolish, on the basis that the property is not included in the historical list and is not a historical property as defined by the ordinance. It is essentially not on the list. If you look at the Revised June 2003 Field Evaluation Map and go to the foot of Jasper

Street the property that purports to be her property is numbered 214. If you go to the Historic Resource Designation Study List property number 214 is listed as 211 Station 22. The actual address is 405 Station 22 but that isn't shown. If this property, 405 Station 22, is not on the list then essentially the DRB has no jurisdiction and Ms. Brown should be entitled to demolish the house

**Pat Ilderton:** When you make an application who determines if the house is on the list or not?

**Kent Prause:** There is only one official who can interpret the zoning ordinance and that is me. The house is on the map and on the list but the address is incorrect.

**Pat Ilderton:** The address is not correct but the dot is in the right place on the map.

**Bill Barr:** In order to identify a property on the map you have to go to the list. In this case a property owner wants to determine whether or not they are on the list in order to protect themselves. They ask a duly appointed representative of the town and are told no.

**Pat Ilderton:** Is it under the purview of the DRB, which was formed in October 2004, to say whether a house is or is not on the list? Yes or no? If there is an application to demolish there has to be a determination as to whether or not the house is on the list.

**Steve Herlong:** We have to assume that the house is on the list in order to issue a Certificate of Appropriateness.

**Kent Prause:** If requirements in the zoning ordinance have been met and the DRB approves it, a Certificate of Appropriateness for demolition can be issued. If those requirements are not met the DRB does not have authority to grant the demolition approval.

**Steve Herlong:** This application would not be before us if had been determined that the house was not or should be on the list. And that is determined by the zoning administrator Kent Prause, is that right?

**Kent Prause:** Yes.

**Bill Barr:** I don't think that determination was made. Who ever made up the list, which was probably the historical preservation consultants incorrectly designated the house. Unfortunately that was to the detriment to Heidi Brown and Seth Fisher.

**Kent Prause:** David Schneider made the list. I met with Larry Dodds last night. He asked me to write up some findings for the DRB. I would like for this information to be offered into the record as the Zoning Administer offering advice to the board:

### **Discussion/ response to Applicants memorandum**

#### **Legal Authorities**

**Vested Rights:** Contemplated use of property is not sufficient to vest a property right (Daniels v. City of Goose Creek)(SC App.1993 314 S.C. 494,431 S.E. 2d 256, rehearing Denied.

**Estoppels:** Not applicable when administrative officials acts outside scope of legitimate authority (see above case law and others) A person is presumed to know the limits of authority of a public official

**Takings:** Preservation of historic property is not a legislative taking. Penn Central Transportation Co. v. City of New York, 438 U.S. 104(1978)

**Proof: Burden:** of proof is upon applicant to demonstrate ordinance provisions are met. Lake Francis Properties v. City of Charleston) S.C. App.2002) 349 S.C. 118,561 S.E.2d, 627rehearing denied.

### **Salient Points:**

- 1.** Facts reveal that applicants had knowledge of town's endeavors to adopt historic preservation ordinance, but apparently erroneously relied upon a draft ordinance and representations of a town administration clerk in protecting their contemplated future demolition of an historic building.
- 2.** Apparently the applicant's property address was incorrect on the proposed list of historic properties. The clerk advised applicants that their property was not on the list.
- 3.** However the ordinance ultimately adopted contains the list and a map of historic properties and district. (This is the same map presented at numerous public meetings and workshops conducted by the town and planning consultants. The criteria for individual listing and district inclusion in the draft ordinance, in addition to the survey cards for the subject property from a previous Historic Survey from 1988 clearly justify the property's historic significance and designation, which should have been aware to the applicants.
- 4.** The draft ordinance provided for individual notice to property owners prior to designation of historic properties. Applicant's claim to relied upon this representation. However, the ordinance adopted included the list of individual Historic and a map of historic districts and individual properties (which included the subject) based upon the consultant's and Planning Commission's recommendation. Significantly, the adopted version provides for individual notice only for the addition or deletion of properties or changes to district boundaries after the initial designation.
- 5.** The burden is upon the applicant to demonstrate they have met the requirements of the zoning code in order to receive a Certificate of Appropriateness for demolition. Applicant has provided no such justification in the materials submitted to date. In the absence of appropriate justification, the Design Review Board is without the authority to approve demolition.
- 6.** In summary, the applicant's relied upon a draft ordinance and incomplete information provided by a town official who lacked the authority to administer the zoning code. It is important to note the information was preliminary and not in final form. The information in the draft ordinance and the previous historic survey clearly indicate the significance of the subject property. Historic preservation is a legitimate zoning technique and is not, per se, a regulatory taking. The applicants have failed to demonstrate they meet the zoning ordinance requirements necessary for a Certificate of Compliance for demolition.

**Kent Prause:** There was a contemplated use of the property to demolish it at some point in time. The property was acquired in 1995 and could have demolished it at any time before the ordinance not allowing them to do so was put into effect. It is abundantly clear that a contemplated use of the property is insufficient case law. With respect to representations by the town it is clear that the ordinance was listed as a draft ordinance, One cannot rely on a draft document with any sense of reliability, they are always subject to change. It is an individual's responsibility to keep up with the changes and how those changes may affect their property. The Town Council had not yet adopted the ordinance. The administrative official that was mentioned provided information based on incomplete and inaccurate information from the draft. Even if Town Council adopted the draft a town administrative official has to be acting within their scope of their authority for it to be

binding. An individual administrative official is charged with the knowledge of knowing the extent of their responsibility. Even if they make representation acting in their official capacity they cannot exceed the bounds of that authority.

For example, if a house is clearly on a list or shown on a map and they tell someone it is not and they are in error it doesn't matter that they are in error and give incorrect information because they are not vested with the authority to take something off the list or exclude it from a map or present it in such a fashion that the rules do not apply. The burden is for the applicant to demonstrate that they have met the requirements of the zoning ordinance to receive a Certificate of Appropriateness for a certificate of demolition.

Those requirements are listed in the zoning ordinance and there hasn't been any information to my knowledge that demonstrates that it meets any of the applicable requirements. Absent that, the DRB doesn't have authority to grant a demolition.

Regarding the aspect of the property being a taking (which is outlined in the memo) case law is abundantly clear. Preservation of historic property is not a legislative taking. All of those points are outlined in the handout that I gave to you. If the DRB is so inclined to deny this application I would highly recommend that you adopt which ever portions of this document you may feel appropriate as finding of fact to support your decision.

**Bill Barr:** I have a rebuttal. We are here because it is our contention that the property is not on the list. If the property is not on the list you have no jurisdiction. I agree that there is a dot on the map but the map is not self-identifiable. You have to go from the map to the list to find the property. You will not find 405 Station 22 on the list. This board lacks jurisdiction to deny anything but saying you have no jurisdiction because the property is not on the list.

**Pat Ilderton:** I don't know if we have jurisdiction to say if it is or is not on the list. People can apply to us to have their house removed. Is that correct?

**Kent Prause:** That is correct. You also have the authority under section 21-108 B to hear appeals based on alleged error in any order, requirement, determination, or decision of the Zoning Administrator or other appropriate administrative official. It is clearly within your scope of authority.

**Bill Barr:** This could be treated (acted on) if the zoning official made the determination that this house was not on the list. Therefore, based on evidence presented, we ask that you to over rule his decision.

**Pat Ilderton:** If we do that we would want to look at this house to determine if it is of significant architectural historical value to Sullivan's Island. Is the house worthy of keeping?

**Bill Barr:** That is not the issue before the board. The issue before the board tonight is not whether this house is old and possibly a historic structure, the issue before this board tonight is that this house is not the list.

**Pat Ilderton:** We have to determine whether the map or the list are correct or incorrect and whether or not the house is on the list or not. You said the map shows it is but the list

does not show the house number. I think that in order to determine that we will have to value the house. How do we make a decision?

**Michael Daly:** If someone has to ask if their house is on the list and Kent says it is on the list then I would say it is on the list.

**Bill Barr:** Forget the detrimental alliance. If we were to decide to go to court all of the issues in my memorandum and all the issues in Kent's memorandum would be preserved for appeal. The decision for the board tonight is this house on the list?

**Steve Herlong:** I have a question for Kent. I am looking at the application and a document that describes the house. Where did this document come from?

**Kent Prause;** From David Schneider and Sara acting as preservation consultants. The town hired them to do an initial historic survey in 1988, prior to hurricane Hugo. The draft ordinance was based on their survey and survey card information and on work that was done previously. It seems very clear that this house is on the list and was intended by Mr. Schneider to be on the list. The fact that there was an error in the address is unfortunate but looking at all the information there is no doubt that it was intended to be on the list. I can't imagine that it would have been excluded.

**Steve Herlong:** So this is a survey card for a survey that was done.

**Kent Prause:** These are survey cards that are used for the state historic preservation office. With all the information in front of you this house was absolutely intended to be on the list and on the map. When you read the comments on the card this is the type of building that this whole endeavor was enacted to preserve.

**Steve Herlong** In 1988 when this survey was done were survey cards made for all of the houses that are currently on the list?

**Bill Barr.** Some of the houses have been demolished. There are two lists, the 1988 list and a 2003 list. The numbers up to 200 are on the 1988 list and numbers after 200 are on the 2003 list. It seems that the intent is for this house to be on the list. If you look at the photographs it looks like a significant home.

**Bill Barr.** If you look at the ordinance basically what it says is that it should be on the list. That means that you want to put it on the list. If you want to put it on the list you have to follow the provisions of paragraph 21-94 E of Article IX, Historic Preservation Overlay District, which says the owner must be notified that their property is going to put on the list and that they may come forward and present evidence that it should not. We made an application in December 2004 as soon as we found out we were in this situation. To put it on the list now would be contrary to 21-94 E, which gives you the procedure for putting property on the list. It would be a denial of constitutional due process to put it on the list now because it ought not be on the list. There is a dot on the map that says 214. If you go to the list it says 211 station 22

**Pat Ilderton:** We can not get around not valuing this house. It is a historical structure and it is worth keeping. It is a historical structure that is significant to Sullivan's Island. It is obvious there was a clerical error but I would have to vote no. Clearly the intent is to preserve houses like this. Ms brown should have a real asset when the town enacts the ordinance. People are impacted by this ordinance. It is a classic case of Sullivan's Island architecture

**Betty Harmon:** I agree with Kent Prause. I don't think that we can demolish this house.

**Bill Barr:** What I am asking you to do is to rule that this house is on the list, that the board has jurisdiction and that you won't let the owner demolish it. *Kat. This doesn't make sense. Please check the transcript.*

**Kent Prause:** In instances where there is a challenge to the list you are the representatives of authority to make the final determination at this stage.

**Michael Daly:** I think this house was meant to be on the list.

**Kent Prause:** You need to make a direct finding that the house is on the list.

**Pat Ilderton:** Maybe our finding tonight is that the house is on the list and not a denial of demolition.

**Duke Wright:** I make a motion that the house is on the list based on the findings that the town attorney has provided.

**Kent Prause:** I would find that the location of the house on the map that was adopted as an exhibit to the ordinance and it's entry as 211 station 22 Street on the list is the same address that was as shown on the survey card that was prepared by the preservation consultants in the initial survey. The address was just transposed to the new list, Based upon those facts your determination is that the house is shown on the list and subject to requirements of the historical preservation overlay.

**Duke Wright:** I amend the motion to include the statement from Kent Prause.

**Pat Ilderton:** Do I hear a second?

**Steve Herlong:** I second.

**Pat Ilderton:** Vote aye. The vote was unanimous in favor.

**Kent Prause:** I don't want to prolong this but do you want to go through the demolition aspect.

**Bill Barr:** No. I think to go through the demolition aspect hits on the justification of it being on the list in the first place. My client's argument is that there is a misidentification on the town's list. This gives you jurisdiction. She relied on the fact that 211 was a street address and as a result if she had known in 2003 that this was her property she could have done something about it. She has relied on the town official's representation concerning the property and the list in 2003.

**Pat Ilderton:** called the next applicant:

**Nona Hastie and Dominicus Valinuas  
2256 I'on Avenue  
Addition to a Historic Structure**

**Richard Walters** the contractor for the Valinuas residence at 2256 I'on made the presentation He said they were proposing to stay within the original footprint of the original structure. The addition is 147 SF. All the work will be done on the backside of the structure. We want to update electrical and plumbing systems and remove the existing driveway and replace it with a gravel driveway in the back yard. We will use similar materials or use what you recommend.

We want to add a new wall and enlarge the back room/and a add larger deck on the back. This will not change the look from the front. If you look at the back of the house it is a great improvement.

**Duke Wright:** I move that we approve the project as submitted.

**Michael Daly:** I second. The vote was unanimous in favor.

**Pat Ilderton:** Called the next applicant:

**Lisa/Jeff Short**  
**2408 I'on**

**Fence at a Traditional Island**

**Resource Home**

**Jeff Short:** I live at 2408 I'on Street. We propose to add two separate fences to our property. On the front along I'on we want to erect a three foot high picket fence. In the back of the property along Middle street we want to erect a wire fence. We have two young children and they play in the back yard. We don't want to extend the fence along the side of the property, just along the back.

**Duke Wright:** Is the fence down the sides or just in the front and the rear?

**Jeff Short:** Just in the front and the rear.

**Duke Wright:** Did you give consideration to a picket fence?

**Lisa Short:** I wanted a fence you could see through that will have plants along it to form a living barrier.

**Duke Wright:** There are a couple of fences like that on Middle Street.

**Jeff Short:** We intend to heavily plant this with roses and veining plants.

**Michael Daly:** I make a motion to approve as applied for.

**Steve Herlong:** I second the motion.

**Pat Ilderton:** Called for a vote. The vote was unanimous in favor.

**Randy Robinson:** I do want to state that a permit is required for the work.

**Pat Ilderton** called the next applicant:

**Robert Graves**  
**1514 Middle Street**

**Exterior Demolition around Island Landmark**

**Robert Graves:** I am the owner and contractor for 1514 Middle Street. I want to remove the additions to the original structure. The additions were done around the seventies or sixties. We also want to remove some old concrete footings in the backyard.

**Michael Daly:** There is a lot of concrete.

**Betty Harmon:** Is that the back or actually the side?

**Robert Graves:** There is a drive that enters from the side and there is some concrete in the back away from Middle Street.

**Steve Herlong:** I have one comment. I appreciate what you are trying to do. I think it is a great thing to do but I am not exactly clear on each of the things that would be removed.

The reviewed a set of plans, The deck will be removed, the porch and stoop on Middle Street remains.

**Robert Graves:** This was a duplex and that was the entrance for the back apartment.

**Steve Herlong:** So you are turning it into a single-family residence. If you take the stoop off will the door go back to a window?

**Robert Graves:** I don't know that right now. The next time I come to see you I will be able to answer that.

**Steve Herlong:** There is one door on the back.

**Robert Graves:** It will be replaced with the same style door. The doors appear to be original and in their original locations.

**Pat Ilderton:** What was this building originally?

**Robert Graves:** Ammunition ordinance storage. It is supported with trusses.

**Steve Herlong:** So in the advent you want to add some protection at the doors you would come back to us for that and anything else you might do?

**Pat Ilderton:** Is that a slate roof?

**Robert Graves:** It is a slate roof

**Steve Herlong:** I make a motion to approve this request. It is bringing this structure back to its original condition.

**Michael Daly:** I second the motion.

**Kent Prause:** You might want to think about the removal of historical driveway material (muffled could not decipher)

**Duke Wright:** I did not understand what you just said.

**Kent Prause:** You approved the request because it restores the building to its original condition. There is also a request to remove some of the other historical fabric of the site. I want to bring this to your attention. I am not saying one way or the other, I am just putting it out there.

**Pat Ilderton:** Obviously that was some kind of out building.

**Steve Herlong:** I think that by removing large portions of the driveway it will reduce some runoff to the immediate area. That would be a good thing. I add this to the motion and second the motion.

The vote was unanimous in favor.

**Pat Ilderton:** Do we want to set a date to talk about the Design Review Manual?

**Duke Wright:** Discussion of the Design Review Manual was on tonight's agenda.

**Pat Ilderton:** The Design Review Manual was on the agenda but we moved it to the end of the meeting so the applicants could leave. I am not prepared to go through it now. We need to set a time when we can sit down for an hour or more and talk about it. We need to give a twenty-four hour notice so that interested people can come and discuss it. We can set the date for our convenience.

**Duke Wright:** At Saturday's meeting we were encouraged by the council to look at these two proposed draft ordinances (Articles III and IV).

**Pat Ilderton:** I was at that meeting and I gather we are going to be looking at a lot more stuff.

**Duke Wright:** The special meeting is to look at the Design Review Manual.

**Pat Ilderton:** We can certainly discuss the other items as well. We need to make an announcement that we will discuss proposed ordinances. We don't want a long meeting. But we need time to read through them and make notes to see what we need to discuss.



We need to set the meeting for Kent Prause's convenience because we will need his expertise and suggestions.

**Kent Prause:** There are two things you need to do. You adopted the design review guidelines and there are some inconsistencies in the manual. There is also some information from Andy on what the council is currently proposing on the ordinances they have not adopted. Would you like to just go ahead and discuss the Design Review Manual as it is on the agenda?

**Pat Ilderton:** We can but I don't know it well enough myself.

**Duke Wright:** I would like a chance to read it over so that I can be prepared.

**Kent Prause:** I suggest that everyone read it and the areas with which you have concern so we can discuss them

**Pat Ilderton:** My general problem and fear is that the ordinances and this board can become too restrictive in terms of demanding specific architectural design on Sullivan's Island. We don't want to do this to the island or the people on the island.

We don't want to try to recreate something that was never there to begin with but does exist on some houses. The Design Review Manual is fairly specific and talks about such things as specific siding and roofing. My problem is that we need to have something to base our decisions on. We need something general and be talking about the massing of houses and streetscape, not about 2over2 windows and metal roofing.

**Steve Herlong:** The discussion at the council meeting centered on the point that there would be a board to possibly review all houses on the island. We really have two situations; properties that have been determined historic, and new construction. We are going to have different categories. We will be concerned with three historic districts and historic properties not in historic districts as well as new houses just because they may be in a historic district. In either category we need to look at the level of detail we want to exercise.

**Kent Prause:** It is obviously important to keep those things in mind when dealing with original historic homes to protect their historic fabric. The reason we went to the manual is that I couldn't find much to go by to get started. The only concrete criteria to judge these houses are the Secretary of Interior standards which are really loose and only deal with treatment of existing historic buildings. They don't address new buildings in a historic district. As Steve said you want to make sure whatever goes into the district does not detract from the character of the district. It may not necessarily meet the same architectural or materials standard that the historic buildings must meet but you don't want something so out of place that it compromises the integrity of the district

You should adopt what you are comfortable with in the way of some guideline. I recommend that the manual be adopted into the ordinance so the material has greater authority. It would actually become part of the ordinance. That is one aspect; the others are the proposed ordinances which the council wants you to go over.

**Pat Ilderton:** We may end up with two or three different criteria we may have to use as well as historical background to support our findings. I guess we can do that as a single board. We don't want three boards. We can document our position.

**Steve Herlong:** The historic resource manual is useful when someone presents a project and wants to do things that don't seem compatible to an existing structure. We can use the document to show that is not the right thing to do. We are able to refer to that document as a general guideline regarding how to deal with historic structures. Some things don't apply to structures on this island. I think that is as far as we want to make use of that document. If someone wants to argue that they have certain shutter styles or porch details they want to change I think we have the right to say that it should be compatible with the changes over the years.

**Pat Ilderton:** I agree.

**Jerry Kaynard:** In downtown Charleston because of legal problems the Board of Architectural Review decided they can only tell an applicant what they don't like about their application. That is a problem we have to deal with.

**Kent Prause:** The Historic Preservation Overlay District is all about preservation and you want to make sure the original architectural elements and building materials are preserved and not integrated. That way you don't have someone come in and change out all the windows or doors or whatever or remove a standing seam metal roof and put on shingles. You obviously have to look at the cost and hardships. That is what Historic Preservation is all about. You can certainly have leeway with additions to historic buildings. In fact the Secretary of Interior standards say that additions should be designed so that if they are removed in the future the main aspect of the historic building remains intact. That is hard to do but here on Sullivan's Island it might be easier than other places where the houses and additions are built in stages.

There are three levels of treatment within a historic district. This is what the council has been struggling with. They have taken a very prescriptive approach like saying how wide a front façade can be on a street or how far an indentation can go letting it be alleviated by the addition of a porch by at least eight foot width. This is very prescriptive. But in these areas people know what they have to do and in that regard the Design Review Board was created for people to come to you with concepts of neighborhood compatibility where they must deal with design guidelines, not standards. Guidelines are to enhance neighborhood compatibility. The DRB can give applicants extras such as greater lot coverage, a break on setbacks, or make the house bigger.

The other aspect of it is more in keeping with the city of Charleston's approach. That is to have some general guidelines. That is what Pat was referring to such as size, mass, scale and rhythm where you don't necessarily want buildings so out of keeping with other buildings they don't fit at all but you don't want things to be exactly alike either.

Prescriptive things are easy. You just say this is what it says and that is what you have to do. But when you are working in the less restrictive realm it is extremely important that you articulate well why you are allowing certain things to happen because you may want something to happen in one instance but if everyone did it, it would become monotonous. You wouldn't want that to happen. If someone comes to you and said this person did this and I want to do the same thing you may not agree. You have to be able to articulate your

position well and document your reasons so it can be explained to other people. Like, we don't want five dome houses on this block.

The less restrictive approach gives you the greatest flexibility but often the hardest to deal with. Each application you deal with is in its own context and you may tell some people you don't like this in this particular instance because we don't want three corrugated metal sided buildings in a row. You have to decide which way to go with it. It seems that you are leaning towards more of a less prescriptive concept with more flexibility.

**Duke Wright:** Doesn't that fly in the face of the proposed ordinance? Where do we go with that?

**Kent Prause:** Yes. I think that is what this is all about. You should make the recommendations to town council. They seem to be going towards the more restrictive approach, at least in the commercial district. Debra Haze-Martin said that the DRB doesn't have purview over building materials because that is a guideline, not a standard. It is almost as if you have approaches that are incompatible. It would be easier to choose one and go with it.

**Pat Ilderton:** It would be easier on Kent and Randy if we had a less prescriptive approach with more design latitude but with some general ideas and good explanations as to why we said certain things.

**Kent Prause:** We could get used to the prescriptive approach. We have done it.

**Michael Daly:** Some of the standards in here are very strict, such as square footage lot coverage.

**Pat Ilderton:** There are going to be certain things we have to do.

**Kent Prause:** If you have a half acre lot you should be able to have a reasonable size house no matter where it is on the island. I think you should have the right to do it. Blaine's way was that if you have more modest homes and someone wants to build a large house that is out of character there are certain treatments you can give to the larger houses to soften the impact.

**Steve Herlong:** The council also seems to be debating that a house that doesn't need relief from those guidelines wouldn't have to come before the board if it is not in a historic district unless it is a 3800 sq foot house on a half acre lot. What if there are houses on either side of it that have certain characteristics?

**Pat Ilderton:** Nona Hasties said that her house sits between two homes that are not on the historical list. What happens if someone wants to build a house that is out of character on one of the lots?

**Steve Herlong:** Everyone is concerned about too many restrictions. These prescriptive requirements in the code over years will start to define a different type of architecture. Years from now we will look back and say that was when the code said certain things.

**Kent Prause:** We have already seen that with the 400 sq ft limitations on the third floor that has brought out an architectural element that was not there before. But people use it because it is prescriptive. So we now have things we haven't seen before.

**Duke Wright:** We need to review this Historic Resources Design Review Manual for application in the historic district. We also need to review what Andy gave us.

**Kent Prause:** You have to keep in mind the historic district is an overlay and it sits over the RS zoning district. They still have to meet all of the requirements that are in place for that district. When prescriptive requirements come into effect the zoning requirements will be there as well. There is a provision in Article XI, 21-96 C, of HP Historic Preservation Overlay District that says generally when the historic district provisions conflict with the others that the historic district provisions will prevail. I don't think that gives you wide enough latitude.

**Pat Ilderton:** They are going to give us some leeway.

**Steve Herlong;** I think we are going to find that many times rather than those prescriptive requirements, a better job can be done if the board has the ability to review the plans and say it would look better if you did not do that.

**Pat Ilderton:** In Saturday's meeting it was brought up that if our board recommended certain things that could have some consideration and weight for the board of adjustment. Our recommendation would be used as a request for certain cases for relief of prescriptive limits.

**Steve Herlong:** That board has to find a hardship.

**Pat Ilderton:** It has always been because of a hardship. Legally in the state of South Carolina the board is regulated and rules are provided boards of adjustment. But if the town passed a resolution that said our recommendation would carry weight that may not equal a hardship, that could be a possibility when we get a difficult case I don't know legally if that can be done. But if we see a set of plans that doesn't meet requirements but we feel should be allowed we could send them to the BZA.

**Steve Herlong:** What if we see a structure that meets the prescriptive requirement but may be offensive within the neighborhood?

**Michael Daly:** I still feel like some of the restrictions are too strict.

**Kent Prause:** Listed the dates he was unavailable for a special meeting. He asked if we wanted a night meeting or day meeting and said if we give him enough time he could arrange either.

**Duke Wright:** Asked if the board wanted a Saturday morning meeting but everyone decided a day meeting would be preferable.

**Randy Robinson:** Informed the DRB at the town council had another Saturday morning meeting set for February 12 and that we should have our meeting before that. .

**Betty Harmon:** How about the second week in February.

**Duke Wright:** Made a motion for the special meeting to be held to discuss material provided by Andy Benke and to review the design review manual on February 2, 2005 at 9:00 AM.

**Steve Herlong:** Seconded the motion. Vote was unanimous.

**Betty Harmon:** Motioned to adjourn

**Steve Herlong:** Seconded the motion. Vote was unanimous.

