Town of Sullivan's Island BOARD OF ZONING APPEALS Thursday, December 10, 2020

A Board of Zoning Appeals Meeting was held on the above date at 6:00 p.m., all requirements of the Freedom of Information Act having been satisfied.

Present were: Elizabeth Tezza, Chairman

Babak Bryan, Board Member Peter Koepke, Board Member Michael Koon, Board Member Jody Latham, Board Member Amy Pruitt, Board Member

Joe Henderson, Director of Planning/Zoning Administrator

Randy Robinson, Building Official Courtney Sottile, Town Clerk Bridget Welch, Administration

A. Freedom of Information Act Requirements

Chair Tezza called the meeting to order at 6:00 p.m. and stated the press and public had been notified in accordance with State Law. There were four (4) members of the public present and no members of the media present. This meeting was conducted via virtual meeting as a result of COVID-19 Pandemic.

B. Approval of Minutes from November 12, 2020

Motion was made by Amy Pruitt, seconded by Babak Bryan, to approve the Board of Zoning Appeals Meeting minutes of November 12, 2020. This motion passed unanimously.

C. Special Exception

<u>2630 Middle Street</u>- Heather Wilson, applicant, requests approval of the historic accessory dwelling unit (ADU) special exception in accordance with Zoning Ordinance section §21-20 C. (2) and §21-178. (PIN# 529-06-00-001)

Director of Planning/Zoning Administrator Joe Henderson presented this application on behalf of the Town. Mr. Henderson gave a brief background of this project. During the October 21, 2020 Design Review Board hearing, the Board approved, conceptually, the proposed historic restoration plan and size, scale, massing and position of the new construction. Included in the requests are the following project elements:

• Historic Restoration. No elevation of the historic home is proposed given the high elevation of the lot and current FEMA compliance of the structure

The Mark State of Section 1 is a section of the sec

A stock of White List speaks the reminder in the incess object interest of the control of the call of the seat of the call of the seat of the control of the control of the control of the call of the

From some Till vareth Haward From an interest of the art of the ar

- continue its tot standard states specified in Council value allies the major of the edge of the local standard decrease and published be of notified an accordance while the set as there were from (4) attends of the partie of and published position and not nombers of the major paragent. It is mosting was conducted out a much architecture of the of Chini (1941) into feed; t.
 - 13 grammar of Valuar School School School and State a
 - 1' Special Eucephon

racessons the interior of the complete approximation of the following of the following sections of the published of the contract of the published of the publis

I never of Planning Zoping. Admining for the Henderson presented the application of an application of the chair of the form Men. He derive gave a brief background on this profess. Lachne the cashed for the first profession for the first profession of the control of the contro

 In tenso conformation for effects in such the barrone boson is proposed about the right and carron of the third and mental of EADs are bittinged of the structure.

- Driveway access. Current driveway is nonconforming in width. Proposal includes relocation slightly to the north, and constructing a compliant driveway to serve as vehicle access for both dwellings.
- Shed demolition and new garage. The existing shed is to be removed and new detached garage constructed to serve as vehicle storage for both structures.
- New construction. New home to be constructed without discretionary increases to the Z.O. and no setback or architectural relief requested.
- Lot coverage calculations. No coverage increases or setback relief has been granted for the ADU or home.

Mr. Henderson explained 2630 Middle Street was originally constructed in the 1880s in the Hampton Park neighborhood in downtown Charleston and relocated by barge to Sullivan's Island around 1900. The property holds an individual listing as a *Sullivan's Island Landmark* and lies just outside of the Atlanticville Historic District. Also known as "Oleander Cottage", 2630 Middle Street has experienced a great deal of modification in past removal of original materials and demolition of original portions of the home from 1960, 1987, and 1990 renovations.

The granting of this incentive is a three-step process:

- 1. The Design Review Board granted conceptual approval of restoration and new construction (approved October 21, 2020)
- 2. The Board of Zoning Appeals may grant approval of special exception if it meets the conditions of Sections §21-178 C. and consider §21-20 C. (2)
- 3. The Design Review Board must grant approval of final design

Mr. Henderson stated that Town staff recommends approval of the special exception provided that the Board ensures compliance with the standards of §21-178 C. cited in a motion for approval.

Ms. Wilson, applicant, presented. The Oleander Cottage is currently 1,573 square feet and will be reduced to 1,180 square feet after renovation by removing the non-historic additions that were added post Hurricane Hugo. The proposed new main structure will be approximately 3,575 square feet.

Deliberations took place between the Board, applicant and Town staff.

Mr. Bryan stated that the conflicts in the Zoning Ordinance with creating multiple buildings on a lot exist verses creating historic preservation initiatives. He added that this section makes specific language stating that this section shall take priority and preference over all contradictions that may be found in the Zoning Ordinance. Mr. Bryan stated that he finds

- aufteform uang ata inti miligi mangkamanan miligi menganan kanang aterima me apang atah di kujunt tujunga di gmiloponan dilah tulah di kalang bilah pranosiona gapan tuntah tambun dibita
- women and Burkhafter of the districts grades there is a required to the subdistrict Dealer of periods to a finished and committed foliations of a large of the contract of th
- Amsternationalism of form the bounded of withhold color and moving accusation.
 Amsternationalism of the fall of the following states.
- The process of the proc

entritional and recording the second framity recording to the first of the first of the first of the second term of the first of the fi

region 1966 - Alt - Ker englisht wet for ny esk

- In the course of the description of the second of the secon
- - residential in the energy of the artifect of the design of the decimal

Ministration and easted the of the common and install appears at the great extraposition of the particular particular particular terms and the second section of the first standard by official 178 (first addition of the first and the second of the first and the second of the first and the second of the second

ons faut ligen in Trum (t**racesses a**l prostre la place of la fibrar lesseg laire temperal. Il la visual facilità d visualità di un la per un esti gia vivento a fibrar di tracesta di la visualità di un la la fibrar la compani un la la singular de la compute francosporaj cultili la la fibrar la marki la seg costre la compute di la comput

that from Last maight a had all have so carly to disease. Editi

2.1 Shows stated that the actioner is onto You by Ordinance will core to be added to be additional or the south of a contract that a contract the contract that are not south or contract that are against a great that so many short that so many that the contract of the contract or that the contract of the contract o

it difficult when 25% of a building is being removed to make it comply with this idea of a historic existing building is stretching the limits of the intention of that section a little too much for his comfort. He stated that he feels the intention of maintaining a historic structure needs to be put in the greater context of all of the elements of the Zoning Ordinance which are to have predominantly single-family single-home lots and small density on the island and he does not believe that two houses of a smaller size on a lot is necessarily better than one larger house on a lot.

Mr. Koon stated that he has had a problem with other special exception applications in the past but, despite the fact that the cottage will have to be reduced in size in order to get to the qualifications regarding square footage, he is much more comfortable with this application than some of the others since the Town has a historical record and the appearance of the revised historic structure will be restored to what it was in the 1920's-1940's.

Chair Tezza stated that she thinks the lot configuration with the dune and natural landscape/existing trees also helps us understand why the applicant applied for a special exception instead of adding on to the existing house.

Motion was made by Michael Koon, seconded by Peter Koepke, that the Board of Zoning Appeals approves the historic accessory dwelling unit (ADU) special exception at 2630 Middle Street as proposed in accordance with Zoning Ordinance section §21-20 C. (2) and §21-178 stating that the criteria requirements have been duly met by the application.

Motion passed by a vote of 5-1, with Babak Bryan opposing.

D. Administrative Appeal

1659 Atlantic Avenue- Mark Volkmann, property owner and applicant, appeals Town staff enforcement action related to Building Permit #P20-0757, and interpretation of Zoning Ordinance section §21-13, *Increase or decrease in natural elevation prohibited.* (PIN # 523-12-00-008)

Mr. Henderson presented this application on behalf of the Town and gave a brief background of the project. Mr. Mark Volkmann owns 1659 Atlantic Avenue, a property fronting Atlantic Avenue and Station 17 to the north and the Town's protected land to the south.

On August 12, 2020, Mr. Volkmann's contractor, MB Demolition, received building permit #P20-0552 to demolish the home and all accessory structures on site. This work was not completed until October 23, 2020, which involved enforcement action from

all caseds. The attended as share on the control of inglished one on the engage of the control o

out the main maintain of the propertion will appropriate and that it is a limit of the solution of the solutio

a four de les sults d'abac dée mine a fign de configuration de la fiac d'aux manneurs aureeur de mediants de la researcie de les configurations applicants optification, par d'aux four management de manuelle dans le de la configuration de la con

nd the a second by Wielen to one element by their Morphe, the the Beard of Zening and generals argrover the cists do not received in (AE) in perfect a property of increased in the continuous of the Aming Ore connects, all a §21-21 and a 11-178 status that the collection requirements have then doing and by all and a time.

Note to transport by a vote of 5-1, with Bull at the concoppositing

hermal a harmanist de

- A registrative of the second of the control of the second of the seco

Studio al resculto espuetua tabola per cole a care en la Marchine de la careta que en Parol. El come cado el melpesa et Marchine Visita menore en esta SSO Anterios Al careta careta a popo et Polo el joux de cales Al careta de decima de colde en esta de Aria Termais promo nod il estadar de

purphien to six or an interest in the control of the Demonstrate of the Control of the Supersegue of the Super-seguence of Demonstrate of the Control of Super-seguence of the Superwas not control of Demonstrate of Demonstrate of the Control of Super-seguence of the Control of Super-seguence of Control of Super-seguence of the Control of Super-seguence of Control of Super-seguence of Control of Super-seguence of Control of Super-seguence Town staff to force completion of work that had stopped for several weeks. Staff mandated immediate removal of hazardous debris and the backfilling of a large hole left by the demolition of the swimming pool.

Following removal of all debris and backfilling of the hole, Mr. Volkmann requested to add multiple truckloads of fill to the property under his current demolition building permit. Staff denied this request citing that adding additional fill beyond the backfilling of the pool would require a separate permit with supporting information in the form of asbuilt survey data (with multiple spot elevations) and a certified stormwater management plan as required by §21-17, *Stormwater Management*. Henderson explained that the purpose of the spot elevations is to ensure the Zoning Ordinance limitation of 12" of fill is met with all fill and grading requests. Without an as-built survey there would be no way for staff to determine the regulation is being met. This section is found under §21-13, *Increase or decrease in natural elevation prohibited* requires that no more than one foot of fill be added to any property whether developed or undeveloped.

Mr. Henderson outlined the sequence of permitted work under Mr. Volkmann's building permit and staff's interpretation of the zoning regulations for permitting fill:

- Allowed work under building permit #P20-0552: Demolish home and accessory structures and remove all debris.
- Allowed work under "Change of Design" permit #P20-0757: Backfill swimming pool only. Permit conditions clearly outline no other fill may be brought on to the property.

Mr. Henderson reiterated that Mr. Volkmann was issued a permit to backfill the swimming pool <u>only</u> as part of his overall demolition permit. The minimal amount of fill authorized by a "Change of Design" permit P20-0757 was intended to remedy the safety violation by covering the open hole left where the swimming pool was excavated. Staff inspected the site on October 23, 2020 and determined the hole was adequately filled.

On October 30, 2020, Mr. Volkmann informally requested, by email, to add more fill which staff conveyed would trigger a separate building permit application with as-built survey spot elevations to demonstrate compliance with the maximum fill height requirements of §21-13 (no more than 1').

Mr. Henderson also reviewed Zoning Ordinance section §21-17, *Stormwater Management*. According to this section, if Mr. Volkmann adds fill, or recontours twenty percent (20%) or more of the existing area of the lot, a certified stormwater management plan is required for a building permit application. This plan must be drafted and certified

tipete i de la caracteria fisicale la caracteria de En descripción de la caracteria de la caracteria

where the constraint of the little is and the conformation of the little intermediate of the conformation of the little is a property of the conformal field help will the result it. They are the conformal field help with the result it. They are the conformal field help with the result it. They are the conformal field help with the conformal field the result in the latest of the conformal field the result in the latest of the conformal field the result in the latest of the conformal field the result in the latest of the conformal field field the latest of the conformal field the conformal f

More that the control of the description of the control work under Mar MaRos and similaling to any set of the production of the production are the control of the production of the production of the control of the production of the production of the control of t

- Allowed in Always of Life a Witter PP20 0552; Demotish approved according About the and remove all deficie.
- Albertal verbound (Therpool but a "paramer 120-9757 Backliff avaranted for a mb Paramassen and assistant assistant as a different following the original assistanted for a participant.)

the fit offersomer and many in Nothington as assed a pomit to backful the entire amount of the entire and and the entire to a some of the called the entire to a some by the safety allowed to a some by the safety and after a color of the entire to a some by the safety and assert a color of the entire to a some of the entire the entire that it is the first of the entire that the ball of the entire that the entire that the entire that the ball of the entire that the entire

Cart Reterior 10. 2014. And inches and more sufficient policy amonth to also more fall in a land or second fall in the sum of the control or greater and lang permit application of the second or se

the decrease above towed Zonang Ordina an rection (21-17) Superaces when the decrease wents above to the Superaces adds of the property wents above to the control of the first superaces the control of the control of

by a registered landscape architect or professional civil engineer currently licensed in South Carolina.

Below is the sequence of administrative actions made part of the staff report to the Board:

- August 12, 2020: Demolition permit issued to MB Demolition LLC #P20-0552
- October 1-10, 2020: Multiple complaints received from residents of the neighborhood regarding length of time taken to complete the demolition of the home, swimming pool and state of the property: wind-blown debris, stagnant water, etc.
- October 1, 2020: Zoning official sends enforcement email to demolition contractor informing of these complaints and requiring immediate removal of hazardous materials and partially removed swimming pool concrete. Citations pending.
- October 9, 2020: Zoning official sends second enforcement email to require immediate removal of construction debris and requests that Mr. Volkmann submit for "Change of Design" permit #P20-0757 to back fill the swimming pool hole only. Citations pending.
- October 15, 2020: "Change of Design" permit #P20-0757 issued to Mr.
 Volkmann (2029 Wambaw Creek, LLC) to backfill the pool only.
- October 23, 2020: Zoning official inspected the site and confirmed all debris was removed and the pool hole was adequately filled and level with the surrounding grade. Staff expressed that no additional fill should be brought on to the property under current building permits and that zoning/code violations were resolved.
- October 30, 2020: Mr. Volkmann requested to add additional truckloads of fill to the lot. Zoning official requires a separate building permit with post-demolition as-built survey, with spot elevations, to determine the average natural grade of the lot which is staff's standard operating procedure for adding fill to any property.
- November 13, 2020: Board of Zoning Appeals application filed by Mr. Volkmann.

Mr. Henderson stated that Town staff's recommendation is for the Board to determine if staff correctly or incorrectly interpreted the requirements of Zoning Ordinance §21-13, *Increase or decrease in natural elevation prohibited*, and §21-17, *Stormwater Management*, and employed a sound procedure for ensuring the fill regulations required are met. He added that any motion made by the Board cites findings of fact when rendering a decision.

Mr. Volkmann, property owner and applicant, presented.

Deliberations took place between the Board, applicant and Town staff.

by a material condition of the contract of concentration for Leaviside Leavised in

than for expensive harmoning and a sequence of an animal and an animal

- Octob Associate, 2006 (addition) controlled as a control from reside (sortion) and for
 all sociated against a ten place (along the property and reference of the property). Additional action and for
 all persons are in resident and action of the property and reference debution depends and reserves.
- manifered to the filter transported as the control of the particle of the second of the second of the second of the control of
- OT COMMITTEE AND AND AND AND AND ADDRESS AND ADDRESS
 - atri a Benegi VeVo-0844 pagetry ikudi ni bili napedi ni 2000 bili nortubi. Alba tangri di Biti tomi ili (1911 bili bili ni okasi mati/ vi 765 bili bili bili di v
- esserving the form the particular of the form the following control of the space of the following particular of the following particular following particular of the follo
- a comban star 2020 life weeken and on the additional main made making of the base of the base of the base of the base of the additional region of the additional permitted of the additional permitted on the additional file and the adding of the large management.
 (a) the base of this search is an additional and the adding of the large management.
 - rof yd calls molta, lliggi, islab ym cynnai ei ac banafa edfarfi. E'i cala c ei ac llig

o bui d'endors i eté na dad é ce a cellé e como en da a más log électrica a se ou en grapa. Ense i messado contro a sembola sable a a cela cela control se en Zoná, gobernámico e gC (a) dua que a control A color en este en color en a amaza el color como profesionos, end gC lo U.C. En marca a

 A constructed comment to a control of an engine the first fix this reconstitue or annear and then contified to the course of a control of the Bream with a significant tast the control of t

instruktion of the property of the contract of

the movement been through the property of the property and through the transfer of the contract that

Chair Tezza asked Mr. Volkmann why he did not just apply for an additional building permit which would require an as-built survey. Mr. Volkmann stated that his concern is there is no prior survey or documentation to compare the pre-demolition lot level to.

Peter Koepke asked Mr. Volkmann how many additional truckloads of fill does he think is necessary to fill the lot. Mr. Volkmann stated that there are 117 cubic yards that remain to be filled and a typical truckload of fill is between 14-16 cubic yards so that would be approximately 7 additional truckloads of fill.

Mr. Bryan asked Mr. Henderson how many properties either have documentation or a survey in hand before any work is done on a particular lot. Mr. Henderson stated that typically when a property is purchased or is going to be developed, most often either the Town or property owner has a survey with spot elevations. He added that it is not required to have an as-built survey in order to get a demolition permit. Typically, when fill is brought on to a lot, the Town has new construction plans, engineering and a proposal as part of the project to build the structure. In this case, the Town has a request to bring 7 truckloads of fill on to a lot, yet there is no proposal for construction and the Town does not have an asbuilt survey making this a very unusual request. Mr. Henderson stated that no matter what is done on any particular lot, if more than 20% of fill is being added to a lot, an as-built survey with spot elevations is required and that relates to any new construction project, any large addition or any addition of a swimming pool. Once the construction project has been completed, an additional as-built survey is required to demonstrate that the finished grade meets the requirements of §21-13 and no more than 12" has been added.

Mr. Henderson stated that he believes Mr. Volkmann's concerns will be resolved when he gets an as-built survey because the Town can work with Mr. Volkmann to remove any low spots or outliers on the lot, such as where the previous house and swimming pool were. In order to determine the average natural grade of a lot is, the outliers are removed before calculating.

Mr. Koon suggested that the applicant withdraw his request. He stated that the Board has been sensitive to situations in the past where property owners have had a disadvantage by mistakes that have been made by contractors and those cannot be fixed but if the applicant can provide the Board with a basis to make findings of fact that can allow the Board to support what need to have done, then the Board will work with him. Mr. Koon added that if he were the property owner, he would find a very competent professional surveyor out to come to the property and show them what the benchmarks are that he/she ought to see in order to recreate what the topography of the lot was before demolition and then work

Chair Lazzer Liter' Ma. Mola estam M.S. Les aius air jaist apphy for sach difference suchting penals refacts word fire pose and as see all a cover Mill Molaman interval despectives are control from the control of the

From the standard of the Verlaman reading of the continuous markines of the literature of the standard of the continuous standard

The second state of the control of the principal property of the control of the c

All technicisms states that are like a valuate and are acceptanted in all dead when he may are assention and the major of the major of the area of the area of the following the major of the area of the following the area of the area o

of the considerable and the arm to be of a considerable state of the stated manufaction of the others of the considerable and the state of the considerable and the state of the considerable and the state of the considerable and the constant and the c

with Town staff to come to an agreement. Mr. Koon stated that Mr. Henderson did not make a mistake based off what is in the Zoning code. The Board agreed with Mr. Koon.

Mark Volkmann requested to withdraw his application for an administrative appeal at 1659 Atlantic Avenue. Chair Tezza accepted.

- E. Items for Consideration
- F. Adjourn

Motion was made by Michael Koon, seconded by Peter Koepke to adjourn at 7:07 p.m. Motion passed unanimously.

> Courtney Sottele
> Courtney Sottele Respectfully submitted,

with inverse vious constant or an account of Koomstand thee Ms. Bendaron the antianal cased trice is set on when a set o company and a lacilleant action of the Koom.

Vi. & Vob. et as required to voidered by application for an elementative appear at 1639 Atlantic Avenue, Chair Press 8, appear.

- romer orași în di are û 90
- Contain view enable by Suckeast November 2, and it her Peter Margher to adjourn et 736
 una. Martin aus est manifer rest.

As Mindue of the sales of

t altered message