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TOWN OF SULLIVAN'S ISLAND
BOARD OF ZONING APPEALS

COPY

HEARING BEFORE: ELIZABETH TEZZA, CHAIRPERSON
DATE: May 14, 2015
TIME: 6:02 PM
LOCATION: Sullivan's Island Town Hall
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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APPEARANCES :

ELIZABETH TEZZA, CHAIRPERSON
CARLIN TIMMONS, BOARD MEMBER
DELORES SCHWEITZER, BOARD MEMBER
SUMMER EUDY, BOARD MEMBER
BACHMAN SMITH, IV, BOARD MEMBER
RANDY ROBINSON, BUILDING OFFICIAL
JOE HENDERSON, ZONING ADMINISTRATOR
ELLEN MILLER, TOWN CLERK

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(INDEX AT REAR OF TRANSCRIPT)

1 THE CHAIRPERSON: We're going to start.
2 Have the Freedom of Information Act requirements been
3 met?

4 MS. MILLER: They have.

5 THE CHAIRPERSON: We need to approve the
6 minutes of the February 12th and March 12th meetings.

7 MS. TIMMONS: Read them on-line.

8 THE CHAIRPERSON: Do I hear a motion for
9 approval of both sets of minutes?

10 MS. TIMMONS: Motion.

11 THE CHAIRPERSON: Is there a second?

12 MR. SMITH: I'll second.

13 THE CHAIRPERSON: Bachman seconded. All
14 in favor, signify by saying aye.

15 (All board members stated aye.)

16 THE CHAIRPERSON: All opposed, like sign.
17 Minutes are approved.

18 We will now move to the
19 applicant/participant oath. If the applicant
20 appears, we will swear him in, when he does.

21 All those speaking before the board: Do
22 you swear to tell the truth, the whole truth and
23 nothing but the truth, so help you God.

24 JOE HENDERSON
25 being first duly sworn, testified as follows:

1 THE CHAIRPERSON: Now we will go into
2 executive session for a very brief period of time.
3 Will staff come with us.

4 MS. MILLER: Do you want to make a motion?

5 MS. EUDY: Motion for executive session.

6 THE CHAIRPERSON: Is there a second?

7 MS. TIMMONS: Second.

8 THE CHAIRPERSON: All in favor say aye.

9 (All board members stated aye.)

10 THE CHAIRPERSON: Like sign opposed?

11 (A recess transpired from 6:03 p.m. until
12 6:10 p.m.)

13 THE CHAIRPERSON: The Board of Zoning has
14 reconvened. During the executive session, we
15 discussed a personnel matter.

16 Joe, I will have you go ahead and present
17 the administrative appeal.

18 1509 MIDDLE STREET

19 MR. HENDERSON: We just got word that the
20 applicant is not going to be here.

21 So our first agenda item is related to
22 1509 Middle Street. This is an administrative appeal
23 from Mr. Carl Jacobson, the property owner and
24 applicant. He's requesting an appeal from staff's
25 interpretation of several sections of the zoning

1 ordinance.

2 Section 21-138(A)(1) refers to accessory
3 structures and the building requirements for
4 accessory structures.

5 Section 21-139(B)(4) and (6) refer to
6 fence regulations.

7 So just to give you a quick background
8 relating to the time line of events, and I'll read
9 directly from the staff report that I sent out to
10 you. November 4, 2014, Randy Robinson, building
11 official, identified some work had taken place
12 without building permits. We investigated the site.
13 Identified that a carport was built, and a six-foot
14 high fence was constructed.

15 We contacted the contractor and notified
16 them. Melody Nelson of Nelson Design was notified
17 that we didn't have a building permit on file or a
18 business license for her company to conduct work on
19 Sullivan's Island.

20 She came in the following day, and we
21 explained to her, instead of issuing a citation to
22 her for doing this work, instead we agreed to work
23 with them to a certain extent. We requested that
24 they have an as-built survey drawn up for the
25 property to identify whether the fence or the

1 structure had been constructed on the adjacent
2 property on the right-of-way because there wasn't a
3 current survey. That took some time for them to put
4 together.

5 We received the survey on January 28, 2015
6 and identified that the fence was non-compliant and,
7 according to our interpretation of the ordinance, the
8 carport was non-compliant as well.

9 March 4th we issued a violation notice to
10 the property owner, and we then received a BZA
11 application appeal and variance.

12 I can go into more relating to the actual
13 violations, if you would like.

14 THE CHAIRPERSON: Y'all have any questions
15 of Joe?

16 MS. EUDY: The fence is too high, and the
17 carport is out of the setback.

18 THE CHAIRPERSON: I think their argument
19 is that the primary building's principal facade is
20 not on Middle Street. Did y'all go by the property?

21 MR. SMITH: Uh-huh.

22 MS. EUDY: Uh-huh.

23 MS. SCHWEITZER: Uh-huh.

24 MS. TIMMONS: Uh-huh.

25 THE CHAIRPERSON: It seems it does face

1 the street. Even though there's bamboo in front of
2 the house, that does not mean the house cannot face
3 Middle Street. The driveway is on 16.

4 My house is on Atlantic, and my driveway
5 is on 22-and-a-half. If you're a corner lot, your
6 driveway access is not usually in the front.

7 And I understand that, if we deny the
8 administrative appeal, they're requesting a variance.

9 MR. HENDERSON: That's right. I also have
10 some site photos here and some aerial photographs
11 that show the different yards of the property, if you
12 want to take a look at that, and also a survey.

13 THE CHAIRPERSON: I do have a question.
14 They said that they constructed the fence to six feet
15 because of privacy considerations. Did they give any
16 explanation of that? I don't understand that.

17 MS. TIMMONS: Their explanation was that,
18 in order to get a four-foot privacy -- the result of
19 a four-foot privacy fence, the houses were too close
20 together. So that's why they made it taller.
21 Four-foot fence wouldn't create privacy.

22 MS. SCHWEITZER: Joe, was there a fence
23 there before?

24 MR. HENDERSON: Not that I know of.

25 MS. EUDY: That house has asbestos siding.

1 I assume it's been there for a long time. Has the
2 driveway always been in that location?

3 MR. ROBINSON: (Moves head up and down.)

4 MR. HENDERSON: I think so. They amended
5 some materials. They added to the driveway. I guess
6 added some crush and run out there. But it was
7 always accessed on the front or from Station 16.

8 MS. EUDY: Side front. Front side. Side
9 front.

10 MR. HENDERSON: The house is
11 non-conforming in that it sits in the side setback.
12 The front corner of the house --

13 THE CHAIRPERSON: That house was probably
14 built before the side setback.

15 MR. HENDERSON: It's a historic structure.

16 THE CHAIRPERSON: My house is in a side
17 setback.

18 MR. SMITH: Is the location of that house
19 the reason why it's so close to the neighbor?

20 THE CHAIRPERSON: I would like to see -- I
21 really couldn't figure out how far away from the
22 fence the neighbor's house was.

23 MR. HENDERSON: Here is aerial.

24 MS. EUDY: They look like they're a little
25 right of center.

1 MR. SMITH: Look at the plat. They're
2 right on the line. The fence is where --

3 MS. TIMMONS: Probably five feet like the
4 Little Sergeant's quarters.

5 MR. SMITH: The house that is seeking the
6 appeal or variance is the one that is snuggled up
7 next to the fence, that he wants to maintain a
8 six-foot fence.

9 MR. HENDERSON: That's right.

10 MS. SCHWEITZER: It says in the
11 application their home is 18.1 feet from the
12 applicant's house, the neighbor.

13 MR. SMITH: I saw that.

14 MS. EUDY: Any idea how many houses on the
15 island are that close or what kind of percentage of houses
16 on the island sit that close to each other?

17 MR. HENDERSON: That are non-conforming,
18 encroaching on side setbacks? Not sure.

19 MS. EUDY: I didn't figure.

20 MR. HENDERSON: Lots of them, though.
21 Really in this particular part of the island, the
22 lots are much smaller.

23 MS. TIMMONS: All these ones near,
24 involved with the fort are right up against each
25 other.

1 MR. HENDERSON: Here's an interesting one.
2 Kind of view of officer's row here. And the large
3 houses and relatively small lots. I think that most
4 of these are probably encroaching into a side yard.

5 I wanted to show this simply to illustrate
6 how we have to identify a front yard and a rear yard
7 in our ordinance. And there's language submitted in
8 your packet that identifies that, on a new
9 construction, the orientation of the house should
10 face the ocean. Corner lots or the recommended
11 design is that the front door face street frontage.

12 Of course, there is no front door -- there
13 is no door on Station 16. So the only front door is
14 facing Middle Street. It's addressed off of Middle
15 Street. That's how we determined this is where the
16 front yard falls on this property.

17 MS. EUDY: Not that this is determinative
18 of anything, did the contractor give a reason as to
19 why she didn't seek a building permit which would've
20 prevented all of this in the first place?

21 MR. HENDERSON: I can't recall of a
22 reason.

23 MR. SMITH: To that end, when I went and
24 looked at it, my first thought was: Wow, not in a
25 million years would I have thought to go get a

1 building permit to build that thing.

2 MS. EUDY: Why?

3 MR. SMITH: Because it doesn't appear like
4 something that it would occur to me that would need a
5 building permit. The fence perhaps. The carport,
6 not at all.

7 MS. TIMMONS: Two by four. Almost like a
8 trellis. It has a roof.

9 MR. SMITH: Hey, I'm not arguing with you.
10 You're telling me why. I'm giving you my answer. It
11 looks like an inconsequential structure. I would not
12 have -- I wouldn't have done it. Honestly, I'm
13 thinking: All right, great. Now I know.

14 THE CHAIRPERSON: It isn't an extremely
15 substantial structure, but it is a carport. I don't
16 think it would meet hardship test to have a carport.
17 That's not part of this discussion.

18 MS. EUDY: I would have been more likely
19 to get a building permit for a carport rather than a
20 fence. In either event, I think a licensed
21 contractor would know that. I don't know. None of
22 that matters. I was just kind of wondering why it
23 happened like it happened.

24 THE CHAIRPERSON: I have a question about
25 the fence to both Joe and Randy. Randy will probably

1 know more of these instances. In what instances, if¹²
2 any -- I think I do remember one; wasn't the same
3 type of hardship -- have we allowed fences to be
4 built above four feet? I'm thinking of one on this
5 side of Middle Street next to the water station. And
6 we did allow them to go up to six feet, I think.

7 MR. ROBINSON: Actually, I think you
8 allowed them to go up to eight feet.

9 MS. EUDY: Where is that? I'm sorry.

10 THE CHAIRPERSON: Near that little angled
11 street between Jasper and Middle. There's a house
12 there that backs up on to that. It's a water station
13 where we -- it was reverse osmosis. We used to go
14 get water there before we had city water. After the
15 storm.

16 We allowed them to go up because they had
17 a commercial-type facility behind them, and it had
18 been cleared of a lot of trees and brush. You could
19 see it.

20 MR. ROBINSON: Typically between a
21 residential and commercial lot. Our ordinance
22 actually provides a section that says you have to
23 build a fence six to eight feet tall. That was the
24 reasoning behind that variance that this house did
25 back up to a commercial --

1 THE CHAIRPERSON: Use.

2 MR. ROBINSON: -- use and, therefore, they
3 should be able to build a fence like you would if you
4 were backed up to a commercial.

5 MR. SMITH: Most of those houses on I'on
6 back up to lots.

7 THE CHAIRPERSON: Have there been any
8 variances granted strictly in the residential
9 district?

10 MR. ROBINSON: Not that I know of.

11 MR. HENDERSON: This fence is also
12 non-compliant in that it doesn't meet the open
13 across-the-plane percentage of 25 percent. This is a
14 solid stockade fence. And the ordinance requires 25
15 percent is a three-inch picket with a one-inch gap in
16 between; 25 percent open.

17 THE CHAIRPERSON: That's not a requirement
18 for the commercial district?

19 MR. ROBINSON: It's not.

20 THE CHAIRPERSON: It's a different
21 requirement.

22 MR. HENDERSON: That's right. The
23 commercial district allows that.

24 MS. SCHWEITZER: There were some that
25 grandfathered in.

1 THE CHAIRPERSON: Do we have any more
2 questions or start discussing it?

3 MS. SCHWEITZER: I guess I have one more,
4 just as clarification about the orientation of the
5 principal building. Obviously, somebody can't just
6 randomly change the orientation of their house and
7 say: I'm going to make my backyard my front yard.

8 I see that it says double frontage lots.
9 They have rules for that. Otherwise just as
10 clarification, it would face Middle Street because
11 there is no street behind their lot.

12 MR. HENDERSON: That's right.

13 MS. SCHWEITZER: They couldn't say that
14 they're reorienting their lot towards the ocean
15 because there is no street on that side.

16 MR. HENDERSON: That's correct. As stated
17 in the purpose of 21-30, orientation principal
18 building, it states that: Principal building must
19 have its front doors oriented towards a street
20 frontage.

21 There is a mechanism for deviating from
22 that. The Design Review Board can determine that, in
23 order to be more compatible with the neighborhood,
24 they can allow that orientation to change. However,
25 given the fact it's addressed off of Middle Street.

15
1 There is no front door facing Station 16.

2 There's no street on the backside of the lot. It's
3 pretty evident it's the front.

4 THE CHAIRPERSON: The fact they enter the
5 house from Station 16 does not come into play because
6 every corner lot on this island I think, just about,
7 if you're a corner lot, your access is not normally
8 from the front; it is from the side.

9 MS. EUDY: Do we know why the applicant is
10 not here? Did he say why he's not coming?

11 MR. HENDERSON: Did he say why? We just
12 got him on the phone.

13 MS. MILLER: He said he had no idea the
14 meeting was tonight.

15 MR. HENDERSON: He submitted the
16 application.

17 MS. MILLER: He has two signs on his
18 property, but he doesn't think that it says the
19 meeting is tonight on there.

20 THE CHAIRPERSON: I rode by, and it does
21 say May 14th.

22 MR. HENDERSON: Let me double check that.

23 MR. SMITH: Irregardless, the BZA meeting
24 is a regular meeting.

25 THE CHAIRPERSON: It's published.

1 MR. HENDERSON: It's published in the
2 paper. It's identified on the sign in front of the
3 house. It's hard to see on this.

4 MS. EUDY: Was he at home? He could have
5 just come on down here.

6 We have questions when it comes to stuff
7 like this. I think it's important, barring some kind
8 of circumstance where the applicant can't be here for
9 him to be here, to me.

10 MR. HENDERSON: I exchanged correspondence
11 with him regarding our meeting tonight. He
12 actually -- I asked him to revise his application
13 slightly and elaborate on some of the reasons for his
14 request for a variance, and he did that. He did so.

15 I think we've given adequate public
16 notice.

17 MS. EUDY: Sure.

18 THE CHAIRPERSON: What is the pleasure of
19 the board?

20 MS. EUDY: I think given where the house
21 is situated and where the driveway is situated,
22 having the carport in the front yard, I don't
23 necessarily have a problem with that just because
24 of historically how the lot is laid out.

25 I have a problem with the fact that it's

17
1 in the setback because there was no reason for it to
2 be in the setback that I'm aware of unless I missed
3 something in the application that somebody else saw.
4 I mean, I absolutely hate to commit waste and tell
5 somebody to tear something down, whether it be a
6 fence, carport or anything else that's a nice
7 structure but, I mean, they didn't do what they were
8 supposed to do. They could've avoided all this by
9 seeking a building permit.

10 And I think that if they did that and
11 asked for a carport in the front yard, I don't think
12 I would've had a problem with that, granting a
13 variance for that.

14 The others, I get the argument about the
15 privacy. But, I mean, how many other people are
16 going to be in front of us making that same argument.
17 That's something that needs to be addressed. I think
18 it's better addressed with a change in the ordinance.

19 THE CHAIRPERSON: I will state, if he had
20 come before us for a variance for a carport, that
21 is -- there is not a hardship. Many houses on this
22 island do not have garages.

23 MR. SMITH: There might be. We can't say
24 it wouldn't be a hardship. I don't know whether --
25 for whatever reason why. His health precludes him

1 from getting in a steaming hot car. We can't
2 definitely say that, but we don't have him here to
3 answer those questions.

4 How would it change what we're looking at
5 if the house were considered to be oriented facing
6 the side, Station?

7 THE CHAIRPERSON: I think it would still
8 be in the setback.

9 MS. TIMMONS: Still in the setback. Then
10 it's in the side yard. He could get a five-foot
11 fence all the way across the back instead of four
12 foot and five foot.

13 MR. SMITH: Right. I'm just curious. How
14 would -- would the only change -- he would still be
15 in violation but he would be allowed to do a
16 five-foot fence if, in fact, the house were
17 considered to be oriented toward Station 16; is that
18 correct?

19 MR. HENDERSON: Yes. If Station 16 were
20 the front of the house and he could extend five-foot
21 fence along the back, but he would still need to drop
22 the fence down to four feet as he comes into that ten
23 foot setback.

24 So the ordinance requires you to have a
25 four-foot fence within a ten-foot setback of any

1 right-of-way. So on the Middle Street right-of-way,
2 he would still have to drop that down to four feet.

3 THE CHAIRPERSON: Either way, his fence is
4 out of compliance.

5 MR. HENDERSON: He would get one segment
6 of about, from the front of the house here to about
7 ten feet. He would get a five-foot extension and
8 have to drop that down to four feet. That's only if
9 we were to determine that this is the front of the
10 house where there is no door.

11 MS. TIMMONS: It makes more sense.

12 MR. HENDERSON: It's six feet.

13 MR. SMITH: It's six feet anyway. I just
14 want to know how it could change. You know, like you
15 said, you don't want to create waste. You also try
16 to want to be fair. You want to think how they're --
17 what they're thinking. The house is a little bit
18 unique.

19 I'm in agreement, you can't start allowing
20 people to act first, beg forgiveness later, we are
21 getting ourselves in trouble. I don't want to do
22 that.

23 MS. TIMMONS: When I look at the house,
24 it's easier for me to say, okay, I can change the
25 orientation from Middle Street to the backyard of the

1 other neighbor more than to the side. The entry is
2 over there. That's not the front of the house. You
3 know, that's a stretch.

4 I don't have a problem with the carport
5 behind the bamboo. The bamboo may not always be
6 there. The carport looks like something you could
7 take down pretty easily. I can't imagine that it was
8 a big investment, but the fence really does bug me
9 being six foot.

10 And I don't care if that neighbor doesn't
11 mind it. I wouldn't want to see other people coming
12 in and wanting a six-foot fence between these
13 close-together little houses. I don't like that at
14 all.

15 MR. HENDERSON: About the bamboo, we've
16 been notified by water and sewer department that
17 their water and sewer improvements may be needed in
18 that area and bamboo is right on top of it.

19 THE CHAIRPERSON: It will come back.

20 MR. HENDERSON: Most of it is in the
21 public right-of-way so you really can't lean on the
22 fact that there's growth in the public right-of-way.
23 It could be removed. Tomorrow.

24 THE CHAIRPERSON: Then the house would
25 definitely look like it fronted on Middle Street.

1 MS. EUDY: I still wouldn't have a problem
2 with the carport being there. I understand you're
3 saying it's not a hardship not to have a carport.
4 Their driveway is there. It's always been there.

5 THE CHAIRPERSON: There are a lot of
6 driveways on this island where, if we allow carport,
7 a lot of people would want one. I could ask for one
8 for my house. I'm completely in the setback.

9 MS. EUDY: I get that.

10 THE CHAIRPERSON: You're opening up a
11 door. That's why we have to really think about these
12 things.

13 MS. SCHWEITZER: Did you offer them the
14 option of relocating it? I see there's so much more
15 space on the back part of the lot. I don't
16 understand why that wouldn't be an option, if they
17 wanted a carport.

18 MS. EUDY: Is there a door in the back of
19 the house?

20 MS. TIMMONS: Yeah, and there's a little
21 porch and steps.

22 MR. HENDERSON: It looks like they could
23 put the structure in the back yard and not have to
24 cut down any large trees.

25 MS. TIMMONS: It's landscaped back there.

1 MS. EUDY: Yeah, I see. This is the back.
2 I rode by. I didn't really look at these pictures.

3 MR. SMITH: Let me ask a question about
4 this. Joe, your letter, you tell him straight up it
5 can be a five-foot fence in your letter to him. How
6 did you come to that determination if you also
7 determined that the house was oriented towards Middle
8 Street?

9 MR. HENDERSON: Well, I mentioned that I
10 think a portion of it could be five feet.

11 MS. SCHWEITZER: It says the fence:
12 Reduced to five feet in height, the fence segment
13 that extends beyond the front facade of the house
14 facing Middle Street would need to be reduced to four
15 feet in height.

16 MR. HENDERSON: Where it comes into the
17 front yard, it would need to be reduced to four feet.
18 But if, hypothetically, the Design Review Board were
19 to say the house faces Station 16, in an effort to be
20 more compatible with the neighborhood, then I guess
21 they could extend a little further that five-foot
22 segment.

23 MR. SMITH: It would be just a little
24 further extension.

25 MR. HENDERSON: And then drop down to four

1 feet once he got into the ten-foot setback.

2 THE CHAIRPERSON: They would have to go
3 before the DRB for that.

4 MR. HENDERSON: Right.

5 MS. EUDY: I guess they can say you can
6 have side doors. I mean, I technically enter my
7 house from the side, sort of.

8 THE CHAIRPERSON: Your house is at an
9 angle.

10 MR. SMITH: You enter from the door.

11 MS. EUDY: My house is all out of whack.

12 MR. SMITH: I'm inclined to uphold the
13 zoning administrator's findings. That said, if
14 that's what we're going to do, we need to give
15 reasons why we're doing it. I think it's going to
16 involve essentially some recitation of the code.

17 THE CHAIRPERSON: Right here on the front.

18 MR. HENDERSON: If you look at the second
19 page behind the application, I put the worksheet for
20 the appeal, noting the findings of fact. Just to
21 keep up with your ideas.

22 And then behind that is the variance
23 sheet. I have a highlighted section of the ordinance
24 that I provided to you guys, if that's easier to work
25 through.

1 So the first one is the accessory
2 structures ordinance section. This is the provision
3 that requires the 20 feet behind the front facade.

4 And then here is the fencing section that
5 requires the height and also the openness
6 requirement.

7 And then this last one is the orientation
8 section of the ordinance that dictates how we need to
9 call front yards front yards and rear yards rear
10 yards.

11 MS. EUDY: I assume if we say we uphold
12 the decision and we deny the request, if they then
13 went to the DRB, and have the front yard deemed facing
14 Station 16, they could then come back in front of us,
15 based on that change.

16 MR. HENDERSON: They wouldn't have to for
17 the fence. They could modify the height of the fence
18 to five feet and modify it to create the opening, the
19 25 percent. And they would not have to come back to
20 you.

21 However, they would still have to remove a
22 portion of the shed, right, the carport. Because it
23 encroaches into the ten-foot setback.

24 MS. EUDY: Or pick it up and just -- I
25 mean.

1 MR. HENDERSON: Or pick it up and move it.
2 Again, the DRB regardless will have to review this
3 for aesthetic design. If you allow the variance to
4 have the carport where it is now, I think it would
5 still have to be reviewed. It's a historic property.

6 That's the other piece to this. It needs
7 a certificate of appropriateness for you to build
8 anything or modify any historic property.

9 MS. EUDY: How long has this particular
10 person owned this piece of property?

11 MR. HENDERSON: I think he owned it for
12 about maybe -- I'm not exactly sure. I wouldn't want
13 to mislead you; not all that long. I believe the
14 Charleston County tax records say it was a previous
15 owner maybe a couple years ago.

16 MS. TIMMONS: I think it's been a few
17 years.

18 MS. EUDY: They would've known it was a
19 historic property when they purchased it.

20 MR. HENDERSON: Yeah.

21 THE CHAIRPERSON: We will need to discuss
22 the administrative appeal, then move to the actual
23 variance request. Two-part process.

24 MR. SMITH: I can give it a shot.

25 THE CHAIRPERSON: Okay. Please do.

1 MR. SMITH: It might take some crafting to
2 do it.

3 I'd like to make a motion that we uphold
4 the decision of the zoning official, zoning
5 administrator based on the orientation of the
6 principal building facing Middle Street despite the
7 fact that a driveway accesses the property from
8 Station 16, which in and of itself does not re-orient
9 the principal building to Station 16 and, in fact,
10 the building is oriented to Middle Street.

11 And as the building is oriented towards
12 Middle Street, the accessory structure being the
13 carport, which is loosely defined under Section
14 21-138(B) falls within the definition of accessory
15 structure which includes but is not limited to
16 cabana, garage, gazebo, and in this case a carport,
17 to go on quoting, the types of accessory structures
18 and any other structure having a roof such as this
19 carport. We find that it is an accessory structure.

20 As such, the accessory structure shall be
21 located a minimum of 20 feet to the rear of the
22 principal building's front facade and must meet a
23 ten-foot setback from any property line.

24 Further considering the orientation of
25 this structure as towards Middle Street -- the

1 principal building is towards Middle Street, no fence
2 shall exceed five feet in height in any district
3 except as provided for in CC, Community Commercial
4 District. Fences located forward of the principal
5 building shall be limited to four feet in height.

6 Fences located to the side or rear of a
7 principal building, if not within ten feet of a
8 street right-of-way or public access to the beach
9 shall be limited to five feet in height. And that
10 too is in accordance with Section 21-139, under
11 subsection (b).

12 THE CHAIRPERSON: Is there a second?

13 MS. EUDY: Second.

14 THE CHAIRPERSON: Thank you. Is there any
15 further discussion? All in favor, signify by saying
16 eye.

17 (All board members stated aye.)

18 THE CHAIRPERSON: Like sign opposed.

19 The administrative appeal is denied, and
20 the order of the zoning administrator is upheld.

21 1509 MIDDLE STREET

22 THE CHAIRPERSON: We will now proceed to a
23 variance request for 1509 Middle Street.

24 MR. HENDERSON: The same property and
25 property owner is requesting variance of ordinance

1 Section 21-139, fence regulations. The applicant
2 installed a six-foot fence. For a portion of that
3 fence, he's requesting one foot variance in the
4 height requirement for the segment that it is
5 required to be five feet in height. And he's
6 requesting a two-foot variance for the portion that
7 is required to be four feet in height.

8 He's also requesting a variance for
9 Section 21-138, accessory structures. This structure
10 currently encroaches into the ten-foot side setback.
11 And further, it is located in the front yard of the
12 home and, thus, it would vary from the section that
13 requires structures to be 20 feet to the rear of the
14 principal building's front facade.

15 Those are noted and highlighted in your
16 staff report under each one of those sections.

17 MS. EUDY: Question. Since the fence does
18 not have the requisite space between the --

19 MR. SMITH: Pickets.

20 THE CHAIRPERSON: Pickets.

21 MS. EUDY: Pickets, thank you. And you
22 said it's non-conforming in that way, were they
23 requesting a variance to that portion as well?

24 MR. HENDERSON: He didn't identify, and
25 I'm not sure if I was -- I think at some point I

1 explained to him that it would have to be modified,
2 but it wasn't part of his application. I think that
3 that's --

4 THE CHAIRPERSON: That would have to be a
5 condition, I think. He basically said he wants a
6 variance to allow him to keep his six-foot fence.

7 MS. EUDY: If you're keeping it as-is, you
8 have to have a variance as to that requirement as
9 well.

10 MR. HENDERSON: I think the entirety of
11 Section 21-139, which would include the height and
12 also the openness provision, a percentage open.

13 THE CHAIRPERSON: Fortunately, we've gone
14 through these issues very thoroughly. Then again,
15 the applicant is not here to speak to any hardship.
16 I'm not sure that there are extraordinary and
17 exceptional conditions for this particular lot that
18 would not apply to other lots on the island or even
19 in the vicinity.

20 I think there's some other -- in that
21 area, the houses are closer together. For me, this
22 just does not meet the hardship test.

23 MR. SMITH: If we're looking at that
24 four-part test, it certainly doesn't -- the
25 language -- unreasonably restrict all use of the

1 property or something along those lines.

2 THE CHAIRPERSON: Prohibit or unreasonably
3 restrict utilization of the property.

4 MS. EUDY: And while I think that, like I
5 said earlier, may be reasonable to have the carport
6 where it is, it really doesn't meet the test. Like
7 you said -- just like we've said, it's not a hardship
8 not to have a pool, even though that's hard for me.
9 I get it.

10 MS. TIMMONS: If the hardship can't be
11 something that was created by the homeowner.

12 THE CHAIRPERSON: Correct.

13 MS. TIMMONS: The hardship now for him is
14 that he's got to fix it, you know.

15 MS. EUDY: Well, if the driveway had been
16 there for a long time and he bought it that way, I
17 don't even see it as he created the hardship. If he
18 was here and there was something, like Bachman said
19 earlier, that he can tell us as to why it needed to
20 be here, maybe it would be different. It could be
21 different for me. But he's not here to say that.
22 And it's on the facts that we have.

23 I think you're probably right. It doesn't
24 meet hardship.

25 THE CHAIRPERSON: One of the things I want

1 to point out, it's not on the variance application,
2 but it is on the administrative appeal application, a
3 note from Joe: The property owner was given an
4 option to modify the fence, and he was given an
5 option to relocate the carport. They were told -- he
6 was told that it was noncompliance and offered
7 options and declined to take them.

8 MR. SMITH: He can still avail himself of
9 those options to comply with the zoning ordinances as
10 is his right.

11 THE CHAIRPERSON: Unfortunately because he
12 doesn't have a building permit, and I understand the
13 contractor didn't have a business license to do
14 business.

15 MR. SMITH: I'm hearing Elizabeth stating,
16 I'm thinking about the houses on each corner, on each
17 corner of my lot, the driveways are on the Stations,
18 off the Stations. And the houses are still oriented
19 towards Jasper.

20 THE CHAIRPERSON: That's why there are not
21 extraordinary exceptional conditions on this lot.

22 MS. TIMMONS: Join the club.

23 MR. SMITH: I think I can make a motion to
24 deny the variance request because it does not meet --
25 neither of the requests meet the hardship test as

1 presented in the application that is in front of us.
2 And so denying these variance requests, we are not
3 unreasonably restricting the utilization of the
4 property.

5 Our threshold for granting a variance
6 request is that it must meet all four parts of the
7 test. I think, without getting into all four parts,
8 it has been demonstrated that it cannot meet two of
9 those four parts. And for those reasons I would make
10 a motion to deny the variance request that's before
11 us in the application.

12 THE CHAIRPERSON: Any second?

13 MS. TIMMONS: Second.

14 THE CHAIRPERSON: Comment? Any further
15 discussion? All in favor signify by saying aye.

16 (All board members stated aye.)

17 THE CHAIRPERSON: Like sign opposed?
18 Variance request is denied.

19 I believe that brings us to the end of our
20 meeting. I would like to say to Bachman we are going
21 to miss you. You've gone out with a bang. Making
22 most of our motions this evening. You've made a huge
23 contribution to the BZA, and your attention to detail
24 will serve you well on town council. And we look
25 forward to all the good work that you're going to do

1 there.

2 I will say the same thing to Sarah. Sarah
3 lives around the corner from me, so I will take her
4 some chicken soup or something. She's not feeling
5 well.

6 You will be missed and good luck on
7 Council. Congratulations again on your election.
8 We're losing our great BZA. You people cannot run
9 for council next time. Unfortunately, you and Sarah
10 are following Susan so we lose our good BZA members.

11 MR. SMITH: I want to say thank you and
12 make a motion to adjourn.

13 MS. SCHWEITZER: Second.

14 THE CHAIRPERSON: All in favor, aye.

15 (All board members stated aye.)

16 (The meeting was concluded at 6:55 p.m.)

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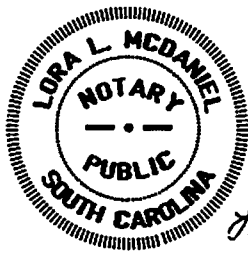
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CERTIFICATE OF REPORTER

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 26th day of May, 2015 at Charleston, Charleston County, South Carolina.



Lora McDaniel

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

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REQUESTED INFORMATION INDEX

(No Information Requested)

E X H I B I T S

(No Exhibits Proffered)