

October 12, 2017

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, Chair  
Emily Brasher, Board Member  
Peter Koepke, Board Member  
Peter Richardson, Board Member  
Joe Henderson, Zoning Administrator  
Randy Robinson, Building Official  
Courtney Liles, Town Clerk

A. Freedom of Information Act Requirements

Elizabeth 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. Members of the audience included: Elizabeth Burkhart, Mark Howard, Pat Marr, Kelly Messier, Laura Middleton, Reagan Moseley and Tim Reese. There were no members of the media present.

B. Approval of Minutes from August 10, 2017

**Motion was made by Peter Richardson, seconded by Peter Koepke, to approve the Board of Zoning Appeals Meeting minutes of August 10, 2017. This motion carried unanimously.**

C. Applicant and Participant Oath

D. Variance Requests

1. 2302 Middle Street: CMB LLC, owner and applicant, requests a variance in accordance with Chapter 5, Article IV, §5-78 of Sullivan's Island Flood Damage Prevention Ordinance. (TMS# 529-06-00-124 and 529-06-00-019)

Zoning Administrator Joe Henderson presented this application on behalf of the Town. The applicant is requesting modification of a historic structure. This property is a non-conforming property to FEMA standards. It is currently owned by Elizabeth Burkhart, and the perspective owner has initiated the applications. What is being proposed is a renovation of the structure and the new owners anticipate exceeding the FEMA 50% rule. Mr. Henderson explained that with the renovations, if the cost exceeds 50% of the value of the structure, then the requirements states that the entire

building has to be elevated to one (1) foot above the FEMA base flood elevation. The proposed variance is to keep from having to do that. Building Official Randy Robinson stated that the Town has never issued a FEMA flood variance before. Knowing that, he reached out to Maria Cox with the Department of Natural Resources. Ms. Cox supports the proposed variance and stated she felt it would be out of character for the district to elevate the large historic structure.

Laura Middleton, Architect with the Middleton Group, stated that the property does meet the definition that FEMA holds as a historic structure as defined both in the International Building Code and FEMA's National Flood Insurance Program. The current flood insurance rate maps would require the building to be raised four (4) feet, which would require eight (8) additional steps at each of the six (6) entrances. This would dramatically change the character of the building and compromise the historic nature of the structure. The preliminary flood insurance rate maps that are scheduled for adoption late 2018 will put this property in an AE-10 zone (currently zoned AE-15) which will reduce the height that the structure would need to be at, and would make the structure compliant. Ms. Middleton reviewed her memorandum "Considerations for Approval of Variance from Flood Damage Prevention Ordinances" (Exhibit 1).

Elizabeth Tezza stated she agrees that the building should not be raised and she likes the information regarding compliance with the new flood maps so she feel comfortable with this variance.

Elizabeth Tezza handed the chair over to Board Member Peter Koepke.

**Motion was made by Elizabeth Tezza, seconded by Emily Brasher, to approve the variance request for 2302 Middle Street in reference to Chapter 5, Article IV, §5-78 of Sullivan's Island Flood Damage Prevention Ordinance (TMS# 529-06-00-124 and 529-06-00-019). This motion is in accordance to the conditions to variances in Section 5-78, granting this variance as the minimum necessary so it is not to destroy the historic character and design of the building. The granting of this variance will not result in increased flood heights or additional threats to public safety. The Zoning Administrator shall maintain records of all actions and report anything necessary to the Federal Emergency Management Agency (FEMA) upon request. Further, the Board of Zoning Appeals has considered the 11 items in Section 5-79 E. of the Sullivan's Island Flood Damage Prevention Ordinance. Attached to this motion are the answers contained in the memorandum from The Middleton Group dated 12 October 2017 (Exhibit 1). This motion carried unanimously.**



#### E. Administrative Appeals

1. 2302 Middle Street: CMB LLC, owner and applicant, appeals Zoning Administrator's interpretation of Zoning Ordinance §21-150 B. (Expansion of Nonconforming Uses) as it related to Certificate of Occupancy conditions. (TMS# 529-06-00-124 and 529-06-00-019)

Mr. Henderson presented this application on behalf of the Town. This property was permitted to utilize it's building in a certain way back in 1978. In 1977, when Mrs. Burkhart's mother bought the property, the Town incorporated the first Zoning Ordinance, which deemed all properties on the island as single-family residential for residential uses. Any properties that were used other than for single-family detached homes were required to receive a certificate of occupancy (hereinafter refer to as "CO") granting a vested right to use that structure or structures on the property as either a multi-family unit or multiple units on a property. This is one of those properties and the appeal is related directly to the CO and how Town staff reads it. The staff interpretation of the CO is that each of the CO's refer to one residence with one apartment being allowed per parcel and that it be divided by a fire wall. GIS maps of this property shows two parcels. What the CO refers to is a fire wall that runs approximately along the property line and it states that one residents are allowed on each parcel with one apartment. The request is that the applicants be allowed to not maintain two units per property, but to be allowed to expand Unit C over the shared property boundary. According to staff, that would conflict with the requirements of the CO.

Ms. Middleton stated they are asking permission to reapportion the four (4) units that are allowed within the exterior walls. There will be no increase to the square footage of the building or any additional units. The building is 9,800 square feet and was always built on two (2) lots. Even though it is legally two lots, it has always been functionally used as one property. When it was a school, church, and a residential unit, it has always been treated as one lot and will continue to be treated as one lot. The applicant's intention is to create four condo units which will operate under a property regime which will manage and maintain the exterior and the grounds. The property on the right is 6,400 square feet, whereas the property on the left only contains 3,400 square feet which creates very unevenly sized units as it stands currently. In order to create appropriately sized units that are compatible with the neighborhood, the applicant needs the ability to redistribute the square footage across the building and across the lot line. As part of the renovation, all units will be separated by a fire barrier.

Elizabeth Tezza stated she is normally not comfortable overturning the Zoning Administrator, but in looking at the history of the building and where the fire wall is currently located and the fact that we can consider this as a total renovation not expanding a non-conforming structure, she is comfortable with it.

Tim Reese, 305 Station 20 Street, represents Mrs. Burkhart in the sale of this property, stated the eastern side of the building was Mrs. Burkhart's mothers home which constituted about 4,500 square feet of that unit. The other three (3) units were (and have ben since 1978) rented out on a long-term basis.

Elizabeth Tezza handed the chair over to Board Member Peter Koepke.

**Motion was made by Elizabeth Tezza, seconded by Peter Richardson, to overturn the Zoning Administrator's interpretation for 2302 Middle Street in reference to Zoning Ordinance §21-150 B. (Expansion of Nonconforming Uses) as it related to Certificate of Occupancy conditions (TMS# 529-06-00-124 and 529-06-00-019) based on the fact that this is a unique and historic property and the opinion of the Board of Zoning Appeals is that it is not an expansion of the nonconforming use of the entire building because the buildings square footage of 9,800 will not be increased. Additionally, the four new units will be separated by fire barriers and this building has always straddled both lots as it was originally built and has been used over the years as a school and a church and a multi-dwelling unit. This motion carried unanimously.**

F. Items for Consideration

G. Public Input

H. Adjourn

**Motion was made by Peter Richardson, seconded by Emily Brasher, to adjourn at 6:51 p.m. This motion carried unanimously.**

Respectfully submitted,



Courtney Liles