

*In the Matter Of:*

# Town of Sullivans Island Board of Zoning Appeals

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Zoning Board of Appeals

December 08, 2016

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TOWN OF SULLIVAN'S ISLAND  
BOARD OF ZONING APPEALS

COPY

HEARING BEFORE: CHAIRMAN ELIZABETH TEZZA

DATE: September 8, 2016

TIME: 6:00 PM

LOCATION: Sullivan's Island Town Hall  
2056 Middle Street  
Sullivan's Island, SC

REPORTED BY: Priscilla Nay,  
Certified Shorthand Reporter

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APPEARANCES :

ELIZABETH TEZZA, CHAIRMAN  
SALLIE PRITCHARD, BOARD MEMBER  
PETER RICHARDSON, BOARD MEMBER  
JAMES ELLIOTT, BOARD MEMBER  
JODY M. LATHAM  
JOE HENDERSON, ZONING ADMINISTRATOR  
COURTNEY LILES, TOWN CLERK  
RANDY ROBINSON, BUILDING OFFICIAL

ALSO PRESENT:

MARK HOWARD



1 THE CHAIRMAN: I'd like to call this  
2 meeting to order. Courtney, have the Freedom of  
3 Information Act requirements been met?

4 THE CLERK: They have.

5 THE CHAIRMAN: Thank you. I'll move  
6 to -- the approval of the minutes from the  
7 September 8th meeting.

8 Did you all receive the minutes?

9 Any questions?

10 Comments? I had some edits before the  
11 final. I would entertain a motion to approve.

12 MS. PRITCHARD: I move to approve the  
13 minutes of the September 8th meeting.

14 THE CHAIRMAN: Is there a second?

15 MR. RICHARDSON: Second.

16 THE CHAIRMAN: All in favor, signify by  
17 saying aye.

18 (Board members stated aye.)

19 THE CHAIRMAN: Like sign opposed?

20 (No response.)

21 THE CHAIRMAN: The minutes are  
22 approved. We don't have a big audience today. So  
23 I don't have to do all of my turn off your cell  
24 phones.

25 2014 GULL AVENUE

1 THE CHAIRMAN: We will proceed quickly  
2 to the variance request for 2014 Gull Avenue.  
3 Joe, please present for the town.

4 MR. HENDERSON: Sure. Thank you,  
5 members of the Board. Can you hear me okay?

6 Agenda Item D-1 is a dimensional  
7 variance request. This is a property located at  
8 2014 Gull Avenue. Mr. Pat Ilderton, the property  
9 owner and applicant, is requesting a variance from  
10 the RC-2 setbacks requirement.

11 This is a stated provision and these  
12 provisions are stated in Section 21-3 E.(1)(b).  
13 Essentially these provisions require that --  
14 require that any structure over four and a half  
15 feet in height cannot be built any closer to the  
16 marsh than any house -- than the closest house  
17 built on that block. We've done this previously  
18 with several other variance requests.

19 This distance is measured from the  
20 center line of the right of way and I'll get into  
21 that a little bit more. This property is bound by  
22 a single family home, to the east and to the west,  
23 and a utility power station.

24 And so that's the subject of the  
25 variance. The applicant is making a case that that

1 is a hardship, that the power station is to the  
2 east and causes -- sorry -- to the west and causes  
3 some health problems, adverse health problems, if  
4 the house isn't moved away from it, closer to the  
5 marsh.

6 Town staff would recommend the variance  
7 meets the standards for granting dimensional  
8 variances and I can go through those as we  
9 deliberate if you want. I'll put up on the screen  
10 the zoning regulation and the words as stated in  
11 the Ordinance 21-23. And just to give you --  
12 provide more of a graphic illustration of the  
13 variance -- let's see.

14 This is kind of hard to show. So if  
15 you look at the red line, that's the center line  
16 of the right-of-way. The ordinance prohibits that  
17 any new construction go past the build-to line  
18 essentially and that is set by the house located at  
19 2002 Gull.

20 The proposal is approximately -- and  
21 this is my rendering, not the applicant's just for  
22 illustrative purposes -- is to go 30 feet beyond  
23 the build-to line up towards the marsh. We do have  
24 elevation renderings that show the massing of the  
25 structure and where this 30-foot encroachment --

1 what it's going to look like, the portion that goes  
2 past the go build-to line. I can defer to Pat to  
3 elaborate on the instruction or I can show  
4 whichever elevation when --

5 MR. ILBERTON: Yes. Do you want to  
6 show this now?

7 MR. HENDERSON: Let's see. So I asked  
8 the -- initially the applicants had a site plan  
9 that showed this from a 2-D perspective. I asked  
10 them to provide the encroachment which is created  
11 by -- it's not showing up all that well.

12 THE CHAIRMAN: So the two-story section  
13 is the marsh side of the house?

14 MR. ILBERTON: Yes, that's correct.

15 MR. HENDERSON: Exactly. So the dotted  
16 line indicates the build-to line and then the  
17 30 feet would be going towards the marsh.

18 MR. ILBERTON: My name is Pat Ilderton.  
19 Thank you for considering my application.

20 I guess a bit from what I always  
21 understood these -- with the BZA you had to have a  
22 hardship and -- and I guess my hardship that I'm  
23 proposing is that -- that the substation to the  
24 left is immovable and been there for a long time  
25 and I want to move the house as far away from the



1 substation as possible both for looks but also  
2 for -- there have been some health studies both  
3 here in the United States as well as in England on  
4 the magnetic rays that things like that emit,  
5 that is the closer you get to the substation --  
6 actually -- I actually measured it and you can  
7 actually get a gas meter and read on the meters  
8 that the increase of radiance -- it's like you  
9 could walk into this building here with this meter  
10 and it would jump up higher because of  
11 every -- all the -- all the magnetic rays  
12 running through the air an all.

13 So that's my proposed hardship, that as  
14 well as the looks of it, and just to get away from  
15 the immediacy of that with the house. So it's  
16 fairly obvious. I think probably the house to the  
17 right of it will eventually get demolished, if it's  
18 not demolished yet.

19 The house that's on the lot now is well  
20 below flood and it's a bit of -- I meanly generally  
21 it's not -- it's habitable because it's rented  
22 because but it's -- but it's not a long-term viable  
23 residence for Sullivan's Island. So --

24 THE CHAIRMAN: You're talking about  
25 this on the property?

1 MR. ILBERTON: The house that's there  
2 now because it's so low. I guess in a nutshell  
3 that's pretty much what I've got to say. Thank  
4 you.

5 THE CHAIRMAN: Joe, do you have  
6 anything else to add?

7 MR. HENDERSON: No. I'll defer to you  
8 all for questions.

9 THE CHAIRMAN: Any questions? Any  
10 questions?

11 (No response.)

12 THE CHAIRMAN: Okay. Is there any  
13 other public comment? Seeing none, I'll close  
14 public comment and we may ask questions.

15 What say you? We've never had a  
16 substation; so this is new. I do believe -- I do  
17 believe it is a hardship.

18 MS. LATHAM: I do. I had two family  
19 members who lived in a house, a farm, next to  
20 stepdown transformers who both ended up with  
21 50 percent -- two of the four people in the house  
22 within two years of each other died of  
23 neuroblastoma that the physicians and research  
24 tracked back to the electromagnetic radiation.

25 I think it is real. So...

1 MR. ELLIOTT: For the record, it  
2 appears to be a hardship given the electrical  
3 substation next to it.

4 MR. HENDERSON: Move a little closer to  
5 the microphone.

6 MR. ELLIOTT: Can you hear me now?

7 THE COURT REPORTER: I can hear you  
8 better.

9 THE CHAIRMAN: We just need to speak a  
10 little closer to the microphone. It's a new day.

11 MR. ELLIOTT: Do we want to push the  
12 button here if we don't want to be on here?

13 THE CHAIRMAN: Yes. If the green light  
14 is on you're being recorded.

15 MR. ELLIOTT: Got it.

16 THE CHAIRMAN: Peter.

17 MR. RICHARDSON: I think there is  
18 certainly a hardship. In light of the properties  
19 the real question was is it a substantial detriment  
20 to the other neighbors and nobody is here to say  
21 anything and I don't think there is.

22 THE CHAIRMAN: That was my one  
23 question. Have there been any questions raised by  
24 the contiguous property owners?

25 MR. HENDERSON: I have spoken with both

1 of the neighbors. They inquired about the plan and  
2 I directed them to the website to look at the  
3 elevations and the siting of the house. You know,  
4 for all I believe they did look at the plans and I  
5 haven't heard from them since.

6 THE CHAIRMAN: So we add that.

7 MR. ELLIOTT: How many houses are there  
8 to the right looking at -- is it just the one?

9 MR. HENDERSON: Just the one. So one  
10 single family home to the east and then one to the  
11 west sets the build-to line at 2002.

12 THE CHAIRMAN: Sally.

13 MS. PRITCHARD: I am in agreement. It  
14 is a hardship.

15 THE CHAIRMAN: Would anyone like to --

16 MS. LATHAM: I'm assuming all other  
17 setbacks and variances and coverages are met. Is  
18 that correct?

19 MR. HENDERSON: This is a true half-  
20 acre lot, I believe --

21 MR. ILBERTON: Yep.

22 MR. HENDERSON: -- if not more. These  
23 are preliminary sort of conceptual plans and so  
24 Mr. Ilderton knows all the dimensions.

25 THE CHAIRMAN: So we need to grant a

1 specific variance.

2 MR. RICHARDSON: So, Pat, can we say  
3 we did a variance with no more than a 30-foot  
4 extension?

5 MR. ILBERTON: Yes, sir. That's  
6 exactly right. Then we can come back for any  
7 further extension for --

8 THE CHAIRMAN: I was just looking for  
9 how many feet because we need to be specific how --

10 MR. ILBERTON: I think -- I think on  
11 the application I asked for 30 feet and that's --  
12 that's -- I didn't ask for 50 or 60. I mean, I  
13 think there's a 30-foot automatic setback from the  
14 marsh area anyway in our ordinance. So...

15 THE CHAIRMAN: That's the critical  
16 line. So --

17 MR. ILBERTON: The critical line.  
18 That's not what I'm asking, even to that. I'm not  
19 even going to that. I'm probably another 20 or  
20 30 feet away from that point.

21 THE CHAIRMAN: The elevation. I  
22 just --

23 MR. HENDERSON: Yeah, so the critical  
24 line follows right about where you follow the  
25 green --

1 MR. ELLIOTT: Say that one more time.

2 MR. HENDERSON: So the critical line  
3 runs approximately kind of diagonally.

4 MR. ELLIOTT: Okay.

5 MR. HENDERSON: But the construction  
6 will have to be brought back 30 feet off of that.  
7 So the proposed encroachment, past the build-to  
8 line, is probably a good 30 feet.

9 MR. ILBERTON: Yeah. More. It's well  
10 beyond that. Well beyond that. So I'm not  
11 approaching that build-to line. On another type of  
12 lot one could have built to that 30-foot point, but  
13 that's not what I'm asking for here.

14 MR. HENDERSON: Exactly.

15 THE CHAIRMAN: We want to grant a  
16 specific variance of a specific number of feet from  
17 the center line. So --

18 MR. HENDERSON: It's -- and I only have  
19 an approximate from the center line.

20 THE CHAIRMAN: Pat, do you think 30  
21 feet will be sufficient from that -- where the red  
22 line is? 30 feet?

23 MR. ILBERTON: Yes, I do. I mean, the  
24 lot is big enough and I don't -- I don't see -- I  
25 don't see having to push --

1 MR. ELLIOTT: It is 30 feet beyond the  
2 setback requirement. Is that right?

3 MR. HENDERSON: That is right.

4 MR. ILBERTON: Right.

5 MR. RICHARDSON: Beyond this setback  
6 and the current build-to line, right?

7 MR. HENDERSON: True.

8 MR. ILBERTON: The build-to line set  
9 beyond that other house.

10 THE CHAIRMAN: So it is 30 feet beyond  
11 the build-to line?

12 MR. HENDERSON: 30 feet past the  
13 build-to line and I wasn't able to ask the  
14 applicants to get a surveyed marking from the  
15 center line to the build-to line. So I think that  
16 we can -- it's one in the same.

17 THE CHAIRMAN: That will work. Okay.  
18 So that's the motion that we need is a variance  
19 from the 30 feet from the build-to line?

20 MR. ELLIOTT: Joe, what is the setback?  
21 This variance is from the RC-2 setback requirement.

22 What is the setback distance?

23 Do they -- do we need to know that?

24 MR. HENDERSON: Well, this is -- this  
25 is just a provision, kind of a stated provision in

1 the RC-2 setback requirements.

2 MR. ELLIOTT: Okay.

3 MR. HENDERSON: So, you know, we have  
4 two different -- we have two different setback  
5 requirements.

6 We have one that requires a 30-foot  
7 setback from the critical line. So that's the  
8 first one and then we have this additional  
9 provision that's intended to keep people from  
10 building homes and obstructing kind of your view  
11 shared from your property overlooking the marsh.

12 So there are two parts to it. This  
13 is -- you know, this is the one that protects your  
14 view shared quarter. So it is kind of unique  
15 although it applies to the RC-1 as well.

16 THE CHAIRMAN: But the 30-foot variance  
17 from the build-to line is not encroaching on the  
18 30-foot setback? Rear setback.

19 MR. HENDERSON: I'm sorry. Say that  
20 again.

21 THE CHAIRMAN: The 30-foot variance  
22 from the build-to line does not encroach upon the  
23 30-foot --

24 MR. HENDERSON: That's right.

25 THE CHAIRMAN: From the critical line.



1 MR. HENDERSON: From the critical line.  
2 Exactly.

3 THE CHAIRMAN: Got it. So we're good  
4 there?

5 MR. HENDERSON: Yes.  
6 (Board conferring.)

7 MR. HENDERSON: This is the site plan  
8 that is included in the packets and it shows a side  
9 setback that would apply and then also a 50-foot  
10 distance from the property line --

11 MS. LATHAM: Which is before the --

12 MR. HENDERSON: -- which is before the  
13 critical line and is going to --

14 MR. ELLIOTT: So this house would be  
15 50 feet from the property line?

16 MR. HENDERSON: That's right, from  
17 their property line and it had critical line out  
18 beyond that.

19 (Inaudible)

20 THE COURT REPORTER? I'm sorry. I  
21 can't hear.

22 THE CHAIRMAN: Yes. You'll have to  
23 speak into the microphone.

24 MR. ELLIOTT: Yes. I'm sorry. I'll  
25 move to grant Pat Ilderton's application for a

1 dimensional variance from the RC-2 setback  
2 requirements, Zoning Ordinance Section 21-23  
3 E.(1)(B) for -- this may be the difficult part --  
4 no more than 30 feet beyond the build-to line and  
5 the structure will be 50 feet from the property  
6 line.

7 THE CHAIRMAN: You just have to say 30  
8 feet from the build-to line.

9 MS. LATHAM: Let's just leave it at  
10 that then, 30 feet from the build-to line and the  
11 variance being granted because there are  
12 extraordinary exceptional conditions pertaining  
13 to the property in the form of the electrical  
14 substation next door.

15 The condition doesn't generally apply  
16 to the other property in the vicinity and the  
17 conditions -- because of these conditions the  
18 application of the zoning ordinance to this  
19 particular piece of property would effectively  
20 prohibit or unreasonably restrict the utilization  
21 of the property for the construction of the home.

22 The authorization of the variance  
23 will not be a substantial detriment to adjacent  
24 property or to the public good and the granting  
25 of the variance will not harm the character of

1 the District.

2 MS. LATHAM: I second.

3 THE CHAIRMAN: There is a motion and a  
4 second. Any further discussion?

5 (No response.)

6 THE CHAIRMAN: All in favor, signify by  
7 saying aye.

8 (Board members stated aye.)

9 THE CHAIRMAN: Like sign opposed?

10 (No response.)

11 THE CHAIRMAN: The variance is granted.

12 Thank you, Mr. Ilderton.

13 MR. ILBERTON: Thank you.

14 THE CHAIRMAN: Is there any other  
15 business to come before the Board?

16 MR. HENDERSON: We do have -- I believe  
17 Courtney sent out some meeting dates for these.

18 THE CHAIRMAN: She did?

19 MR. HENDERSON: For 2017. And if I  
20 could just get your input on that.

21 THE CHAIRMAN: They were all the second  
22 Thursday of the month at six o'clock. Is there a  
23 motion to approved the meeting dates as --

24 MS. PRITCHARD: So approved.

25 MS. LATHAM: I move to approve the

1 meeting dates as proposed.

2 MS. PRITCHARD: Second.

3 MR. RICHARDSON: Second.

4 THE CHAIRMAN: There is a motion and a  
5 second. All those in favor, signify by saying aye.

6 (Board members say aye.)

7 THE CHAIRMAN: Like sign opposed?

8 MR. HENDERSON: Thank you.

9 THE CHAIRMAN: The meeting dates are  
10 approved. Oh. We do need to -- do we need to  
11 reelect a Vice Chairman? We'll do that at our  
12 January meeting.

13 MR. HENDERSON: I think -- I think we  
14 usually do that at the first of the year. I'll  
15 have to ask.

16 THE CHAIRMAN: Okay. If there's no  
17 further business, do I hear a motion to adjourn?

18 MS. LATHAM: Motion to an adjourn.

19 MS. PRITCHARD: Second.

20 THE CHAIRMAN: It is not debatable.

21 The meeting is adjourned.

22 (The meeting was adjourned at 6:21 PM.)  
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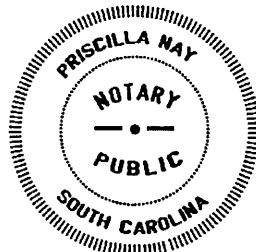
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CERTIFICATE OF REPORTER

I, Priscilla Nay, Court Reporter and Notary Public for the State of South Carolina, 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 19th day of December, 2016 at Charleston, Charleston County, South Carolina.



*Priscilla Nay*

Priscilla Nay,  
Court Reporter  
My Commission expires  
December 2, 2021

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E X H I B I T S

(None Proffered)

1 SIGNATURE OF DEPONENT

2 DEPONENT: Zoning Board of Appeals

DEPOSITION DATE: 12/08/2016

3 AWR JOB #: 161208PAN

CASE #:

4

5 (Please return both Signature of Deponent pages)

6 I, the undersigned, Zoning Board of Appeals, do hereby

certify that I have read the foregoing deposition

7 and find it to be a true and accurate transcription

of my testimony, with the following corrections, if

8 any:

9	PAGE	LINE	CHANGE	REASON
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A. WILLIAM ROBERTS, JR., & ASSOCIATES (800) 743-DEPO

1 SIGNATURE OF DEPONENT (CONTINUED)

2 DEPONENT: Zoning Board of Appeals

DEPOSITION DATE: 12/08/2016

3 AWR JOB #: 161208PAN

CASE #:

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Zoning Board of AppealsDate

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I certify, as the Court Reporter and Notary Public for the State of South Carolina at Large, that the deponent was advised of his or her right to read and sign said deposition both verbally and in writing.

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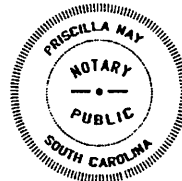
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