

June 12, 2014

The Board of Zoning Appeals for the Town of Sullivan's Island met on the above date at Town Hall, all requirements of the Freedom of Information Act having been satisfied.

Board members present: Elizabeth Tezza, Chair  
Sarah Church  
Summer Eudy  
Jimmy Hiers  
Delores Schweitzer  
Bachman Smith  
Carlin Timmons

Staff present: Joe Henderson  
Ellen Miller

Chair Tezza called the meeting to order and stated all Freedom of Information Act requirements had been met.

Motion was made by Jimmy Hiers, seconded by Bachman Smith, to approve the Minutes of the May 8, 2014 meeting; carried unanimously.

Chair Tezza stated she had received two recusals from Board members. Delores Schweitzer is recused from Item E(3) 322 Station 19; and Sarah Church is recused from Item E(1) 1801 Back Street. Chair Tezza administered the oath to the applicants and participants. She then asked Zoning Administrator Joe Henderson to present the first application.

**2830 Middle Street.** Heather Wilson, applicant, requests approval of a Historic Preservation Special Exception for a designated Sullivan's Island Landmark located at 2830 Middle Street (TMS# 529-07-00-071).

Mr. Henderson stated the applicant previously received conceptual approval from the Design Review Board on April 17, 2014 for site design, access, and elevations for a proposed second structure. In accordance with the Zoning Ordinance Section 21-20 (C)

(2) Historic Special Exceptions in the RS-District – the existing structure is less than 1200 square feet in size and is listed as a Sullivan’s Island Landmark. The Board must review and confirm conditions in order for the property to qualify for the Special Exception: historic structure shall remain less than 1200 sq ft.; shall remain in single ownership; accessory dwelling may be used as a long-term rental provided the owner/owners occupy the principal dwelling as their primary residence; no separate utility service meters; all conditions of Section 21-20 (C) (2) shall be deed restricted.

Chair Tezza asked the applicant, Heather Wilson, to present. Ms. Wilson presented a model which is the same footprint as in the application packet. Mr. Henderson added that the Design Review Board stated the massing is actually scaled down – the applicant could have made it larger. The main house is 2,730 square feet, and the cottage is 1,184 square feet.

Chair Tezza asked for public comment. There being none, public comment was closed.

**Motion was made by Jimmy Hiers, seconded by Bachman Smith, to grant the special exception pursuant to meeting all the conditions including the deed restrictions and the other special details, carried unanimously.**

**1802 Back Street.** Bill Huey and Associates, applicants, request a variance from Zoning Ordinance Section 21-23(E), reduction of the required thirty-foot RC-2 District setback (TMS# 529-05-00-077).

Board member Sarah Church recused herself and sat in the audience.

Chair Tezza asked Mr. Henderson to present the application. Mr. Henderson stated the applicants are requesting a variance from Zoning Ordinance Section 21-23 (E) (1) (a) reduction of the required thirty-foot RC-2 District setback from the OCRM critical line. The applicants request to demolish a non-historic post Hugo era structure, and in its place construct a single family home that is reoriented to Back Street. The front elevations will face Back Street instead of facing the intersection of Station 18 and Back Street. Applicants have indicated that the revised design will cantilever the rear elevations over the pool in order to minimize the pool’s encroachment into the 30’ OCRM critical line setback. They are requesting that the pool be allowed to encroach 7’ 8” (approximately within 22 feet of the OCRM critical line). A presentation will be made to the Design Review Board during their June 18, 2014 meeting to request principal building coverage increase of 388 square feet (19.5%) and principal building square footage of 783 square feet (24.9%). The proposed structure, if the Design Review Board approves their

request, would be 3,925 square feet, and the pool setback encroachment is 47.3 square feet.

Chair Tezza asked the applicant to present. Architect Bill Huey introduced the potential owner, Paul Vanetta. Mr. Huey stated the lot is an oddly configured lot. The 30 foot setback, which probably was less when the current structure was built, is fairly constrictive. All of the other setback requirements are being met. Being a corner lot, they do not have to subordinate the façade back behind the one story element, but it is their purpose to do that. In doing that, it is pushing more of the mass of the house towards the rear, forcing the pool into the corner. The pool has minimum coping of one foot around it; some of the pool will actually go under the structure. The pool dimensions are 30x13 with 4 feet of it under the house to the left, and 2.5 feet at the bottom. They are trying to make the home look more appropriate to a traditional theme of architecture to the island.

Bachman Smith asked Mr. Huey to state the hardship grounds as presented in their application, as the writing was very small; especially in item 2 (c). Mr. Huey stated Item 2(C) says because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property as follows: providing a new structure that meets setback requirements and presents a one story frontage to Back Street in order to minimize its presence while conforming to all other aspects, the applicant needs a portion of the at grade pool to encroach into the 30 foot OCRM setback. He continued they did look at whether the home could be salvaged; however, because it was built around 1990, it would be cost inhibitive to bring to current code for insurance purposes; plus the house is really low and the duct work hangs under the house.

Chair Tezza asked for public comment. There being none, public comment was closed. Chair Tezza asked the Board for comment.

Summer Eudy stated that the current encroachment with the current structure is irrelevant because this is new construction. The 7.8 foot encroachment is a significant request. The Board rarely grants a variance into the RC-2 District. The Board recently heard a RC-2 encroachment request for a pool, and the owners decided to build an angled pool in order not to encroach. An alternative may be to move the structure forward slightly, but that request may or may not be granted if it is in the setback.

Bachman Smith stated he echoed Ms. Eudy's comments. The most important one is there is a blank slate of land to build. The applicant trying to show hardship for not being able to build the envisioned pool while knowing the setbacks is hard to acknowledge as unreasonable restriction of use of the property and that it creates a hardship.

Jimmy Hiers stated he concurred with the two previous comments. It is a great design and will be a beautiful house but most lots on the marsh are already irregular in shape; and when at all possible, the Board needs to uphold the 30 foot setback on the RC-2.

Carlin Timmons agreed with the previous comments; especially because it is new construction.

Elizabeth Tezza stated if it were renovating to keep an existing historic house it might be a little different than having a blank slate of land to design and build; and almost all the lots on the island are irregular in some way.

Delores Schweitzer agreed and stated there is no hardship.

Tim Reese, real estate agent for the buyer, stated they tried to stay within the setbacks – 15 feet on the sides and 15 feet on the front. The critical line traverses the entire lot. He continued perhaps it could be moved closer to the street, but might need to come back before this Board. The plans could be changed to make the house vertical and make it all fit in, but it needs the lower front façade in order to be a traditional island style home. The only other option now, without getting relief on the critical line, is getting relief to bring it closer to the street.

Ms. Eudy responded that there are other options to keep the look of the house without moving it forward. The porch could be smaller or the pool could have one corner angled. Unfortunately, the hardship is not met.

**Motion was made by Jimmy Hiers, seconded by Bachman Smith, to deny the variance, carried unanimously.**

**3005 Marshall Boulevard.** Robert M. Burdell III, applicant, requests variances from Zoning Ordinance Section 21-22 (B) reduction of required front setback and Section 21-23(D) reduction of required RC-1 District setback (TMS# 529-05-00-089).

Chair Elizabeth Tezza asked Zoning Administrator Joe Henderson to present the application of 3005 Marshall Boulevard (TMS# 529-12-00-072). Mr. Henderson stated Robert M. Burdell, III, the owner and applicant, requests variances from Zoning Ordinance Section 21-22 (B) reduction of required front setback, and Section 21-23 (D) reduction of required RC-1 District setback. The owner is requesting relief from the front

setback requirement to reduce to 5 feet; and relief from the RC-1 setback requirement. The applicant is proposing a one-foot setback landward of the designated DHEC/OCRM baseline. This is a variance request the Board has never received in that DHEC/OCRM and Town have not been able to identify a primary oceanfront sand dune on the property. Zoning Ordinance Sections 21-23 (D) (1) (a) and Section 21-68 (A) (1) requires a thirty (30) foot setback from the primary oceanfront sand dune as marked in the field by DHEC/OCRM, which demarcates the line bordering the RC-1 District boundary. Typically, OCRM receives a survey from the property owner and certifies the location of the primary oceanfront sand dune, which is then marked with the thirty (30) foot setback and applies the buildable area of the parcel. Because staff could not determine the ocean-side setback from the RC-1 boundary line, Town staff required the applicant to submit their proposed building footprint on a survey for OCRM for approval prior to requesting a dimensional variance. The applicants submitted a survey and footprint based on the OCRM correspondence. Mr. Henderson stated he consulted the Town attorney, Larry Dodds, and Mr. Dodds believed the applicant's request to setback from the OCRM baseline was a reasonable request given the absence of a primary oceanfront sand dune. If the Town regulations are applied, the Town may be in danger of rendering the lot unbuildable.

The Board has approved 5-foot front setbacks in this area of Marshall Boulevard for a few properties. The property at 3019 Marshall Boulevard was granted that front setback and a deed restriction was placed on the property that if the house became a nuisance or hazard, the property owner would assume the responsibility for removing the house. A RC-1 variance was issued in 2004 for the property at 3001 Marshall; however, that lot is a deeper lot. Mr. Henderson stated that for this RC-1 variance, the Board would issue the variance based upon the Code Section that requires the Town staff to establish the 30-foot setback from the dune line because the dune line does not exist. There would be no dimensional characteristic to it.

Chair Tezza stated she believed the front setback request was not an issue because other properties in that area have already received that variance. Potential owner Reta Hampton stated she has a contract on the house and asked Town staff before designing a house what could be built within all the rules and regulations of Sullivan's Island before she proceeded further. Since the determination from OCRM, they want to build a house similar to the house at 3019 Marshall, but a little bit larger. They understand the possibility of a deed restriction to remove the house if it is deemed a hazard or nuisance;

but believe it will be a normal lot like any other. She also stated they would agree to a restriction for the structure to be no more than 4,000 square feet.

Board member Jimmy Hiers asked what would happen if the Board granted the front setback relief only. Mr. Henderson responded that there has to be a variance from the ordinance Section 21-68 (A) (1), which requires staff to determine a fixed line from the saddle of the primary oceanfront dune because it is a non-existent element of this lot. That is the only way the lot can be made a buildable lot. Board member Bachman Smith commented that this variance request meets the unreasonable restriction and hardship components for a variance.

Mr. Henderson noted that this should be slated for further study because the Town Code does not give the staff the guidance to make a decision regarding this RC-1 issue.

**Motion was made jointly by Jimmy Hiers and Bachman Smith to grant the variance on 3005 Marshall Boulevard as submitted because there are extraordinary and exceptional conditions pertaining to this property. The erosion along the oceanfront has resulted in a very narrow lot. Strict application of our laws would unduly restrict the ability to build a house on the lot so there needs to be relief from the setback. These conditions do not generally apply to other properties in the vicinity. It applies to a few properties in the direct vicinity but it would not apply island-wide. There is a fairly unique erosion problem in this area; and on one previous occasion for a similar lot the Board also granted a setback from the street. There is also an additional restriction now that the dune line cannot be located by OCRM or by Town staff. Because of these conditions the application of the ordinance would unreasonably restrict the utilization of the property. The application of all setbacks would make it very difficult to build a functional residence on the lot. The authorization of the variance will not be of substantial detriment to the adjacent property or public good, or the character of the district. This motion is contingent on the restrictions as set forth in the S.C. Department of Health and Environmental Control letter authored by Steven Brooks, Senior Regulatory Project Manager and dated May 16, 2014 (Exhibit 1 attached), as well as the plat dated March 21, 2014 for Lot 3, Block 9 (Exhibit 2 attached) submitted with the application. Also that any new structure not be built further seaward than the existing house at Lot 5, Block 9 located to the east of this lot; and that a declaration of restrictive covenant be placed on record whereby the applicant or any of his/her heirs and assigns would be solely responsible for the cost of removal of the structure**

**in the event a court of competent jurisdiction determined that the structure was a nuisance and/or health hazard. Also, any new structure will be no larger than 4,000 square feet. The granting of this variance is specific to this application. Motion was seconded by Carlin Timmons, and carried unanimously.**

**322 Station 19.** Hal Coste, applicant, requests a variance from Zoning Ordinance Section 21-138 (A) (3) height requirements for accessory structures (TMS# 529-05-00-089).

Board Member Delores Schweitzer recused herself from this application and sat in the audience.

Chair Tezza asked Mr. Henderson to present. Mr. Henderson stated the applicant, Hal Coste, is requesting a variance from Zoning Ordinance Section 21-138 (A) (3) height requirements for accessory structures. He continued that Mr. Coste began constructing a treehouse and was subsequently issued a stop work order because he did not obtain a permit to build the structure, which is behind his house. Staff deemed that the structure is an accessory structure because it has a roof. As well, the Design Review Board reviewed this as an accessory structure. The ordinance limits accessory structures to 15 feet in height and the treehouse as built began at 16 feet of finished floor and goes up to 30 feet. This is a 100% height variance.

Chair Tezza asked the status of the treehouse. Mr. Coste responded that it is 90% complete. The roof is not yet completed, and he placed a tarp over it.

Board member Summer Eudy asked Mr. Henderson if the situation would be remedied if a roof was not on the treehouse, or if it was a canvas type roof.

Mr. Henderson stated because it is an accessory structure, it went to the Design Review Board (DRB) and received a certificate of appropriateness on April 17, 2014. It went to the DRB after it had been built; after a stop work order was issued.

Mr. Henderson asked Ms. Eudy if she is asking that if the roof is removed completely, would the structure meet the definition of an accessory structure. She said yes, and if the Board would even need to hear this application.

Mr. Henderson responded by reading Section 21-138 accessory structures under (B) it notes other types of accessory structures. It says for the purpose of applying the

zoning standards provided in (A), only the following structures are considered an accessory structure: cabana, garage, gazebo, greenhouse of personal use, personal storage building, shed, tool room or workshop, and any other structure having a roof. He added that a roof could be made of any material – tin, shingles, canvas, etc.

Mr. Coste stated that the treehouse was 96 square feet sitting on a 200 square foot deck. There is electrical conduit on the tree but not in the treehouse itself. It is accessed from the rear deck of the house, but it will not be attached. If he can continue the treehouse, his plan is to have a freestanding ladder, but it would need to be determined what type of ladder would be code compliant.

Board member Jimmy Hiers asked Mr. Henderson if the treehouse were placed on the ground if a variance would be needed. Mr. Henderson responded that it would have to meet the height requirement, impervious coverage requirements, and setbacks. Mr. Coste stated that the height of the building in existence is 14 feet so if it was on the ground he did not think it would be a problem. He continued that it is not a habitable structure, and it is not a heated or cooled living space. There is plexiglass over the window holes, but he is planning to put in windows.

Mr. Coste asked if he could continue speaking, to add comments that he has not yet made. Chair Tezza responded yes, noting the Board is asking Mr. Henderson questions now, but stated that Mr. Coste had been helpful answering some of the questions, and he will have time to present his information. Chair Tezza asked if the Board had any further questions for Mr. Henderson before the applicant makes his presentation. Mr. Hiers stated this lot has been before the Board before because there are two houses on this lot.

Mr. Coste responded that there are two houses on one subdivided lot. Mr. William Frampton owns the other house. Mr. Hiers asked how many accessory structures are on the lot, noting that he knew of the potting shed, greenhouse and pool, and also asked if the other property owner would have to agree to this decision. Mr. Henderson stated a side setback variance was issued for the potting shed in 2005 (10 years after it was constructed); and in a horizontal property regime, the agreement would be between the two owners of the property. Chair Tezza asked if there were any other questions for Mr. Henderson before the applicant makes his presentation. There were none. Chair Tezza asked Mr. Coste to present his application.



Mr. Coste stated during his research he could not find specific wording on codes for treehouses. The Town code says any structure with a roof, so he contends that a bird house and a dog house have a roof; they are just a smaller size. It's a stretch but they are roofed structures on a property and he hoped the Board could look beyond the letter of the law for this case, as it is a particularly unusual structure. He continued that he thought the intent of the Sullivan's Island height zoning regulation was to primarily limit two story accessory structures; and he believed the tree itself dictated where the treehouse had to be built. It is safe and structurally sound; he has plans for it as well as a certified arborist report and structural engineers report. He stated that he would read a prepared statement that will answer the questions of the extraordinary and exceptional conditions to this property, as well as the other hardship questions.

A. The extraordinary and exceptional conditions pertaining to this particular piece of property is there is only one tree on the lot that is suitable for a treehouse, and the configuration of its branches dictates the height being utilized. He stated there are other treehouses on Sullivan's Island, and further stated one of them is at least 20-21 feet and another one is over 15 feet. Mr. Coste showed examples of treehouses around the island, but could not give the definite location of all the treehouses. Chair Tezza stated the Board understands there are other treehouses on the island. Mr. Coste continued that he was a licensed builder and this treehouse is meant to be an attractive and sound addition. He worked together with a structural engineer friend who designed a way to, in fact, help the tree. After Hurricane Hugo it was the only tree left in the yard. It is a large pecan tree with two co-dependent stems. After the storm it leaned about 15 degrees towards the house. The treehouse actually helps counterweight it so in the event of another storm, it could help keep the tree from falling on his house. Mr. Coste gave a description of how the treehouse actually helps the tree, and how the treehouse is attached to the tree. A letter from Billy Ellison, certified arborist, is included in his application and is included as a part of these minutes. (Exhibit 1) Mr. Coste continued with his prepared statement.

B. These conditions do not generally apply to other property in this vicinity as shown by his neighbors' lots have more alternatives available to them.

C. Because of these conditions, the application of the ordinance to this particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property because it is not unreasonable for him to want a treehouse for his grandchildren. He wants to utilize his property to its fullest extent by allowing the treehouse to remain.

D. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good and the character of the district will not be harmed by the granting of the variance because the location of the treehouse is not near the setbacks; it is barely visible from the street; it is not a detriment to view corridors or the breezes; and the neighbors agree that the character of the district is not harmed. He included a letter of support with about 60 signatures from around the island, and 21 of them are his immediate neighbors. (Exhibit 2)

Chair Tezza asked if there were any more public comments.

Mr. William Frampton stated he is the owner of the original house on that property. Although it may not be pertinent, he stated his only concern was the impervious percentage because that affects him and his plans to preserve the old house while also putting an addition on the back. Mr. Henderson responded that this treehouse would contribute to the overall impervious percentage; and that would need to be worked out between Mr. Coste and Mr. Frampton. Mr. Coste stated that they will discuss and noted that the 200 square feet is already over about 50% of concrete pool deck that cannot be counted twice, he also does not understand how something 16 feet in the air could be counted as impervious surface.

Mr. Henderson reminded Mr. Coste that the variance was the focus of discussion; and they could discuss the impervious/pervious issue at another time. Mr. Henderson asked to make a couple of points.

Mr. Henderson stated when staff was initially confronted with this treehouse being built without a permit, it obviously was a treehouse and exceeded the height requirement for accessory structure, and it is much higher than any other treehouse on the island. The Design Review Board reviewed this at its April 17, 2014 meeting as an accessory structure. They reviewed the aesthetics and whether it was appropriate on their property as it is a historic property. It would have a certificate of appropriateness issued for it.

Delores Schweitzer stated (from the audience) that speaking as a citizen of Sullivan's Island and recusing herself from this decision, she believed the critical issue is the definition of accessory structure and how it applies to this particular case and other situations around the island. Ms. Schweitzer's statement dated June 12, 2014 is Exhibit 3 of these minutes. Chair Tezza stated that Ms. Schweitzer made very good points; however, the Board has to deal with how the ordinance is written today. She continued that the Design Review Board had already reviewed the treehouse as an accessory

structure, therefore that is how it will be reviewed by the Board of Zoning Appeals. Chair Tezza also stated that she had confirmed with staff that all treehouses on the Island, for which building permits had been applied, had been permitted as accessory structures.

Chair Tezza asked if there were any more public comments.

Mr. Coste stated that in a treehouse book, it says that when it comes to building codes and treehouses, the official word is that there is no official word. Building codes for earth bound structures are based on measurable predictable factors that engineers use to calculate things like strength requirements. The treehouse had to be placed where it was in the crook of the tree because the tree dictated where it had to be placed. It has been three months since the stop work order was placed on it. He stated he almost regretted doing it, but he believed that it just cannot be governed by the same rules as earthbound structures, and wanted the Board to look beyond the letter of the law and apply some common sense to their decision.

Chair Tezza asked if there were any other public comments. There being none, the public comment was closed.

Chair Tezza stated she needed to ask Mr. Coste one more question. She asked if Mr. Coste considered the treehouse to be a temporary structure, what was the life of the structure should the variance be granted? He responded that he considered it a temporary structure as he viewed his potting shed as a temporary structure. It is not meant to be a living, habitable space. There is no heated space; there is a floor but is a deck floor where you can actually look through and see the ground. He planned to put windows and doors in it. They will be made out of antique sashes with old water glass, unless the glass needs to meet a specific rating; then he would use plexiglass. He wanted it to be tasteful and creative but comply with safety. Chair Tezza thanked him for his answers, and stated the Board may have additional questions for him, but it was now time for the Board to discuss.

Chair Tezza stated she was concerned about the structure because a treehouse is actually supported by the tree, a house built by kids in an oak tree. When she reviewed the arborist opinion submitted with the application (Exhibit 1), she noted the structure is not supported by the tree; it is only anchored to the tree by a bolt. It is literally a house built around a tree.

Mr. Coste stated that was not true. There are two girders running through it, one in the crook of the tree.

Chair Tezza responded that there are also 3x1 footers that support the floor joists. Mr. Coste answered no, there are two girders that primarily support the tree. One is in the crook of the tree, the other one is pinned through the other co-dependent stem that has some latitude so it will move, so all the weight is being carried by two things: by the tree itself and by the four legs that are sort of diagonal.

Chair Tezza asked if the legs as described by Mr. Coste are embedded in the concrete footers and are therefore part of the support structure. Mr. Coste responded yes.

Chair Tezza stated her second point is, as stated earlier in discussion, that the Design Review Board reviewed this structure as an accessory structure, according to the code as written. She further stated the only way this Board can evaluate this particular variance request is to follow the Code, and further noted all the other treehouses on the island that have been permitted have been permitted as accessory structures. In addition, although Mr. Coste stated he believed the intent of the ordinance was to restrict accessory structures from being two stories, this Board cannot define the intent of the ordinance. This is a 100% variance. Chair Tezza's final point was that he was a licensed contractor and he did not pull a building permit. She asked the Board members for their comments.

Mr. Hiers stated it was a nice treehouse; however, it appeared it was more of an adult treehouse because of the height of the door and the roof, along with detailed schematics on the footing. He was doubtful it is a hardship to not be able to build this elaborate structure in the air. He stated there is also the issue about the pervious vs impervious surface.

Mr. Coste responded to please let him correct that. He is applying for a height variance; the other issue will be worked out between himself and Mr. Frampton.

Mr. Hiers stated he agreed; they are discussing a 100% variance on an accessory structure. Unfortunately, sometimes people try to get around the ordinances, and he noted there are very detailed plans to build something like this without pulling a building permit.

Mr. Coste asked if he took the structure out of the tree and put it on a flatbed trailer on wheels; wouldn't that be a trailer? He stated he was just trying to find out where he could go with this.

Chair Tezza stated the Board cannot respond to that; they are considering the variance. She asked Mr. Coste to hold his comments so other members of the Board could speak. Mr. Coste apologized.

Ms. Timmons stated that was one of her questions. Since it is a height variance, he obviously cannot pull a building permit since it is already built. Could he apply for a building permit to lower it so it met the height requirement. Chair Tezza stated it would basically be on the ground if he lowered it. It is 16 feet in the air.

Ms. Eudy asked if it is a playhouse or an accessory structure; Chair Tezza stated according to the ordinance it is an accessory structure.

Mr. Coste responded that is not according to the ordinance; that is according to the opinion of your staff.

Mr. Smith addressed to Mr. Coste while that may be true, with all due respect let the Board have time to work through their thoughts, and Mr. Coste could speak more later. Mr. Coste responded he did not want to interrupt.

Mr. Smith stated he believed what the Board is dealing with follows more along the line of concerns raised by Ms. Schweitzer in her statement, specifically the definition of accessory structure. If the Board were to grant such a variance there could be restrictions placed on it. For example, no power or water/sewer hook-ups; attaching the arborist recommendations to the variance; restrictions to increasing the 200 square foot dimensions. There is tension in the way that accessory structures and things such as playground equipment are built because when you look at the dimensions, Lowe's can dropship a structure larger than the treehouse in a yard and it can be built without a permit. He continued that while Mr. Coste's hardship argument of only having one tree to build the treehouse is not a good argument, he would like to be able to grant him the variance. He also did not like the fact that a building permit was not pulled; however, Mr. Smith stated he did not know that a permit would be needed to build a treehouse.

Chair Tezza stated she understood Mr. Smith's comments; however, her concern is that it is precedent setting. While Mr. Smith stated they were interpreting the code differently, Chair Tezza stated the code is not ambiguous.

Mr. Smith stated that he does not think a bird house, such as the Purple Martin houses, are accessory structures; but they are all against code.

Chair Tezza replied that those types of structures are not fit for human habitation. She was surprised that bird houses and dog houses were mentioned because she does not define those as accessory structures as humans do not use them.

Sarah Church stated that she would like to be able to grant the variance; however, it does not follow the ordinance and it is not the Board's right to change the ordinance. She sees the structure as an accessory structure.

Chair Tezza added that the precedent has been set that all other treehouses on the island that were permitted were issued a building permit as an accessory structure.

There was discussion among the Board members about the difference between a playhouse or large playground equipment and an accessory structure. Ms. Eudy stated that was the point she wanted to make. The ordinance is ambiguous as to what is a treehouse, a playhouse in the tree, or large playground equipment, etc.

Mr. Coste stated it would not be an accessory structure if the roof was taken off of it. He asked if that would be allowable.

Mr. Henderson responded that at that height this structure would have to follow the height requirement. He was asked if the roof is taken off, would it be considered a deck? He stated he would not know how to issue a permit for it if the roof is removed.

Mr. Coste stated because there is no specific wording about treehouses now as the ordinance is written, either write a new ordinance or take each treehouse on a case by case basis.

Ms. Eudy stated right now the Board has to look at the height requirement. She asked Mr. Henderson if the height requirement would apply to any structure whether playground equipment or accessory structure. Mr. Henderson replied affirmatively. He stated to go back to what is the spirit and intent of height limitation for accessory structures. What is the intent of a height limitation? Does it impact your neighbor so it does not aesthetically impact the adjacent property owner?

Mr. Hiers stated he would like to call for the question.

Chair Tezza stated the Board needed to vote on calling for the question, which means ending debate. **Motion carried unanimously.**

**Motion was made by Jimmy Hiers, seconded by Sarah Church, that the Board deny the request for variance because it has not met the test for hardship; it is not effectively prohibiting or unreasonably restricting the utilization of the property; there are no exceptional or extraordinary conditions to this particular piece of property; and also that the Board should refer to Town Council as to whether to direct staff to look at a potential text amendment for treehouses in particular, or should treehouses continue to be accessory structures under the current ordinance.**

Chair Tezza asked if there was any more discussion.

Summer Eudy asked if procedurally if she had to vote one way or another, stating she disagreed in part and agreed in part on this particular motion. Chair Tezza stated that she could abstain.

Chair Tezza called for the vote. **The variance request was denied by a vote of 4-1, with Summer Eudy abstaining and Delores Schweitzer recused.** (In favor of motion to deny: Sarah Church, Jimmy Hiers, Elizabeth Tezza and Carlin Timmons. Against motion to deny: Bachman Smith).

Chair Tezza stated she wanted to briefly comment on a Planning Commission meeting she attended the night before regarding the proposed coffee shop ordinance. The Planning Commission voted to send the proposed ordinance to Council. The ordinance proposes the same distance restriction as for the restaurants and it would allow up to four coffee shops in the commercial district with the 300 foot restriction, one in each block. The coffee shop designation requirements are: no liquor, beer and wine only and no more than 15% of sales; operation 6am-10pm; no more than than 700 square feet including decks and porches; a deck or porch can be no more than 25% of the interior square footage, and no more than 25 feet. If the coffee shop ordinance is passed by Council, all applications will come before the BZA as a special exception. She asked Mr. Henderson to forward the Planning Commission packet to the Board members and asked all members to become familiar with the ordinance.

**Motion was made by Summer Eudy, seconded by Bachman Smith to adjourn at 8:55pm, carried unanimously.**

Respectfully submitted,



Ellen Miller



**Cox Tree Service, LLC**



1150 C-381 Hungryneck Blvd  
Mt. Pleasant, SC 29464  
843.971.2079 phone

March 21, 2014

Hal Coste  
322 Station 19  
Sullivan's Island, SC 29482

**RE: Certified Arborist Tree Opinion- *Tree House Inspection***

Dear Hal,

Per your request I have provided you with an inspection of the pecan tree that is presently being utilized for the construction of a tree house:

Location: 322 Station 19  
Sullivan's Island, SC  
Charleston County Tax ID # 529-05-00-089

Tree Species:

Pecan tree (*Carya illinoensis*). Double stem with DBH of 16"-16".

Inspection:

At the time of inspection the tree house was over 50% complete with the majority of the structural support and framing installed. The tree was in a dormant state without foliage present and the crown's skeleton was fully exposed. The subject tree was in excellent health condition with no visible decay in the basal area, in the two main leaders, or throughout the crown. Surprisingly, unlike many pecans, this tree appears to have no signs of previous storm damage. This could be due to its wind protection from numerous nearby dwelling units and surrounding vegetation.

The structure of the tree is formed by two co-dominant stems arising from ground level. Co-dominant stems can be a weak type of attachment point due to bark inclusions. In this case the attachment point appears to be in good condition and in theory the tree house may reduce possible failure by limiting the movement of the co-dominant stems.



March 21, 2014

The tree house was fastened to the tree by using one through bolt through each of the two major leaders. Through bolts are commonly used in arboriculture to reduce torque on co-dominant stems and to attach weight loads. Both bolts were installed properly and inserted perpendicular to the vertical axis of each leader and through the pith of the heartwood.

The platform has been constructed around three major stem sections of the tree and it appears that enough space has been removed in the platform to compensate for future growth and to avoid detrimental stem girdling. Extreme care should be given to ensure the tree's stem is never in contact with the platform as growth proceeds in the future.

At the time of inspection, one footer was installed and another had been prepared for excavation. The two footers used to support the structure are each approximately 3'x1' and 1' in depth. The footer that had recently been excavated was located at the base of the tree on the side closest to the house. It appeared that no significant roots had been damaged in its excavation. The second footer was already poured and therefore I could not conduct a visual inspection. It is my opinion though that the two footers are small enough in size in relation to the tree's entire drip line, that tree will remain unaffected by their construction if no major roots were damaged during footer construction.

I am not qualified to advise on how the force loads of the structure will impact the tree, but it's my opinion that if the piers are supporting the entire weight load of the structure, the tree's structural integrity should remain minimally effected or possibly even enhanced (see note on co-dominant stem stability above) by the structure. A professional engineer could provide a more substantial assessment of the force load interactions between the structure and the tree.

It appears that you have given great care and thoughtfulness to the preservation of this tree during the construction of the tree house. It is my opinion that the tree will remain healthy and safe if future care is properly provided and if the force loads are considered not to be a problem. The following recommendations are advised to preserve the health of the tree:

- 1) Immediately aerate the entire drip line of tree where accessible. Include turfgrass areas. Backfill all aeration holes with compost.

March 21, 2014

- 2) Immediately top dress the bed areas within the dripline with 1" of compost. In places where turf grass is present within the dripline, broadcast a thin layer of compost.
- 3) Immediately top dress the compost in bed areas with an additional 3-4" of hardwood mulch. Take care to keep mulch and compost 12" away from the basal area of the tree.
- 4) Consider increasing the size of bedding areas within the dripline to reduce competition from turfgrass and provide additional organic matter to the tree.
- 5) Have the tree inspected by a Certified Arborist every 6 months.
- 6) Check the decking area every 3 months to ensure that no stems are touching or being girdled by the deck.

Sincerely,



**Billy Ellison**

**ISA Certified Arborist # SO 6426A  
Cox Tree Service, LLC**

\*\*\*\* This document is a professional *opinion* based on the knowledge and experience of a Certified Arborist. It is not intended to be an absolute determination for the courses of action recommended.

60  
Total

21 close neighbors

New list presented  
by Hal Coste @  
June 12 2014 BZA  
meeting (additional  
signatures from  
lists presented with  
application.) em

TO: Sullivan's Island Design Review Board

- |               |            |                |
|---------------|------------|----------------|
| Pat Iderton   | Chair      | Mark Howard    |
| Steve Herlong | Vice Chair | Rhonda Sanders |
| Duke Wright   |            | Donna Webb     |
| Billy Craver  |            |                |

The following neighbors and islanders support the Tree House at 322 Station 19. Property owner, Hal Coste, is a licensed builder and a master craftsman. This tree house is a superior example of his ability to enhance his property with safety and creativity in mind. It combines environmental sensitivity with architectural integrity. This non-habitable tree house will be enjoyed by his grandchildren, the children of our neighborhoods, and many of their friends.

NAME	ADDRESS
James Bryson Nelson	321 Station 19
Judy P. Nelson	321 Station 19
Barthryn P. Nelson	321 Station 19
James Nelson	321 Station 19
Ally An. Mohr	1750 Atlantic Avenue
Ally An. Mohr	1750 ATLANTIC AVENUE
Julia Khoury	1728 ION Ave
NORMAN Khoury	1728 Ion Ave
Lynn McInerney	2302 Jasper Blvd
Mike McInerney	2301 Myrtle Ave
Tom Freeman	2302 Middle St. S 19183
David DeAntonio	2250 JASPER BLVD. SC.
Sumter F. de Brui	1903 Back St. Sullivan's IS 1
Deleke R. de Brui	1659 Middle St.
H. J. Word Jr.	1408 Thompson Ave SI SC

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Steve Herlong	Vice Chair	Rhonda Sanders
Duke Wright		Donna Webb
Billy Craver		

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NAME	ADDRESS
✓ Jane Galis	1817 Back St
✓ Chuck Galis	1817 Back St
Joyce Schweitzer	1612 Poe Ave.
✓ Bill G. (Donnie Unby)	1967 Back St
Michael Bean	1738 Middle St.
Don B.	1738 MIDDLE ST
ALBY	1510 THOMPSON AVE
Charles Clark	902 Middle St
Kathy Clark	902 Middle St
CYRUS SINOR	1856 CENTRAL AVE
MB Sinor	1856 CENTRAL AVE
✓ Rick Reed	1851 Flag St.
✓ Hal Spurr	1722 Middle Street
✓ Emma Spurr	1726 Middle St.
✓ M. Lynn Rutledge	2014 Central Ave.

7/13/11

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Billy Craver		

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NAME	ADDRESS
TIM HARREN	1741 MIDDLE ST
TERRY McMAHONS	919 MIDDLE ST.
MICHAEL LANGLEY	1618 Middle St.
RITA LANGLEY	" " "
Card Kilbough Adk. / Dickson Stron	1813 Back Street
Jay Fitzpatrick	415 (B) <del>ST 22</del> ST 22 - STITH & STON
Wendy BALLARD	2524 MYRTLE AVE.
DEREK WADE	2420 E'ON
Jean Kimbrell	1802 Central Ave.
May L Kimbrell	1802 Central Ave
John O'Rourke	1423 Middle St.
Jill B. England	2014 Middle St
Michael Smith	415 STATION 22 Street
Stephanie Smith	1908 Tree St.

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NAME	ADDRESS
✓ Mary R. Blanchard	2002 Central Ave.
✓ Brantley de Brax	1903 Park St
JAKE ELLINGTON	306 STATION R.
✓ Olyve E. Love	1908 central ave.
✓ Barbara Love	1908 Central Ave.
Terd Greene	410 Patriot St.
✓ Michael Williams	1870 MIDDLE ST.
[Signature]	3009 middle
[Signature]	2218 west side
[Signature]	2218 Myrtle

TO: Sullivan's Island Design Review Board

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NAME	ADDRESS
Allison B. deBux	1903 Back Street
Bert A. Wurthman Jr	2219 Myrtle





June 12, 2014

**To: Sullivan's Island Board of Zoning and Appeals**

**Re: Issues pertaining to Zoning Ordinance Sec. 21-137 and 21-138 as they apply to Hal Coste's appeal for a variance to construct a treehouse on his property**

Speaking as a citizen of Sullivan's Island and recusing myself from this decision as a member of the Board of Zoning and Appeals, I would nevertheless like to state some concerns I have with the Sullivan's Island Code for definitions of accessory structures which lead to vagueness in interpretation.

While Mr. Coste's application regards a height variance, I believe a critical issue is the definition of accessory structure and how it applies to this particular case and other situations around the island.

Section 21-137 gives a detailed list of permitted accessory uses and structures, restrictions, and approvals required. In no place are facilities for the primary use of children, such as play houses or treehouses specified, and the only item that comes close is Sec. 21-137-A-11 which says: "Recreational facilities for personal use (pool, tennis or basketball court, large playground equipment, etc.)." This specification is vague, as there are no dimensions to quantify the assessment of "large playground equipment." A simple Google search of "treehouse as accessory structure" reveals that many municipalities have faced this issue and addressed it with specified square footages to deem something an accessory structure, or, in many cases, detailed building codes and ordinances for treehouses and playhouses.

Section 21-138 Item B specifies the terms for applying the zoning standards, and again, there is no mention of playhouses or treehouses, but instead employs the catch-all phrase "and any other structure having a roof."

Many homes on the island have prefabricated or self-constructed play equipment for the purpose of entertaining children. Several of these have roofs of wood, plastic or canvas. It is not my understanding that permits are required to assemble one of these units as a weekend project, nor do I generally think it is in the best interest of the town to be micromanaging these projects. Hal Coste's project is obviously more involved, but without clear definitions for the terms "large playground equipment" and consistent town scrutiny for "any other structure having a roof," the waters do become muddied.

With regard to structures designed for the play of children, I think it is important to remember that these are temporary, by the nature of those children growing up. They typically do not last for years and years because of continual use, as in the case

of structures such as garages, greenhouses, pool houses or utility sheds. We should have concerns about these structures regarding their safety and upkeep, their occupancy standards, how they impact the neighborhood, and how they impact natural conservation, as in the case of treehouses.

As you move forward with your deliberation of Hal Coste's case, I ask that you take into consideration the vagueness of these terms and the temporary intent of the structure. I also ask that you consider recommending that steps be taken by the town to make vague terms in Sections 21-137 and 138 more clear by evaluating other municipalities' codes for play and tree houses and adopting less ambiguous terminology.

Thank you for your consideration.

Respectfully submitted,

Delores Schweitzer  
1612 Poe Avenue  
Sullivan's Island