

Town of Sullivan's Island
BOARD OF ZONING APPEALS
Thursday, March 11, 2021

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

Present were: Elizabeth Tezza, Chairman
Babak Bryan, Board Member
Summer Eudy, Board Member
Peter Koepke, Board Member
Michael Koon, Board Member
Amy Pruitt, Board Member
Joe Henderson, Director of Planning/Zoning Administrator
Courtney Sottile, Town Clerk
Bridget Welch, Administration

A. Freedom of Information Act Requirements

Chair Tezza called the meeting to order at 6:00 p.m. and stated the press and public had been notified in accordance with State Law. There were five (5) members of the public present and no members of the media present. This meeting was conducted via virtual meeting as a result of COVID-19 Pandemic.

B. Approval of Minutes from December 10, 2020

Motion was made by Babak Bryan, seconded by Peter Koepke, to approve the Board of Zoning Appeals Meeting minutes of December 10, 2020. This motion passed unanimously.

C. Variance Request

2002 Gull Drive: Rhett Morgan, applicant on behalf of Margaret Ann McMullen, requests approval to vary from the required side setback regulations of 21-22 C (1) (a) reducing the requirement from 15'-0" to 3'-0," and reduction of the combined side yard setback from 40'-0" to 15'-3". (PIN# 529-05-00-068)

Director of Planning/Zoning Administrator Joe Henderson presented this application on behalf of the Town. Mr. Henderson gave a brief background of this project. The subject property is bounded to the north by the marsh (RC-2) and to the south by Gull Drive. The eastern property line is shared with an electrical substation under the control of Dominion Energy. An undeveloped public right of way is located along the western property line. The subject property contains one principal building and one outbuilding used for principal building square footage (heated and cooled space), part of the principal building.

The principal building was constructed in 2005 and the outbuilding was relocated to the property before demolition could occur in or around 2004. The applicants request to add PBSF (heated and cooled space) and decking to the house yet do not desire construction on the marsh or Gull Drive side of the home where buildable area currently exists. Zoning Ordinance section §21-22 C (1) a (*Side Setback*) prohibits this encroachment. Mr. Henderson stated that the proposed additions of 750' in PBSF (heated and cooled space), pool and decking could be accommodated by meeting the 15' side setbacks either on the Gull Drive or marsh side (i.e., within the buildable area). Staff's recommendation is that the variance application presented has not demonstrated an unnecessary hardship exists in the application of Sections §21-179: test 1, 2 and 3.

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

Ms. Eudy asked if the build to line would keep the property owners from building in front of the current structure without getting a variance. Mr. Henderson stated that the subject property is what sets the build to line on that block. Mr. Henderson added that it appears that it would be difficult to build on the rear side of the property, but they would certainly be enough room to build on the Gull Drive side of the property.

Mr. Bryan asked if not being allowed to maximize the buildable square footage on a lot based on certain parameters was a hardship. Mr. Henderson answered that profitability, aesthetics and design should not be factored in when granting a variance. Zoning Ordinance Section §21-22 C (1) a (*Side Setback*) must prohibit you from effectively using your property the way you are intending to use it. The current application of the 15' side setback is not effectively prohibiting the property owners from building this square footage including the pool and deck within the buildable square footage.

The applicant, Rhett Morgan, presented. Mr. Morgan stated that the subject property does not lie within the historic district. There were three (3) separate historic structures that were moved onto the site from other sites on the island to be saved from demolition. The accessory structure on the front of the property was the former historic post office. The other two pieces were connected in 2005 onto a two-story cottage. Resident Pat Ilderton gave a brief summary on the history of the property. Mr. Morgan stated that the property owners reached out to Dominion Energy and they fully support the proposed addition and stated that the structure does not encroach upon any of the company's easements that allow for the safe and reliable delivery of energy to the Town.

Chair Tezza asked if the applicant considered what could be built in the rear (marsh side) of the property. Mr. Morgan stated that there is potential to get a variance to build on the

rear side, but he felt the current proposed addition on the east side of the property was the most appropriate location.

Mr. Bryan expressed concerns regarding fire safety, fire separation requirements and setback codes that define how many windows are permitted within a certain distance from the lot line. Mr. Morgan stated that the proposed application meets all of the fire code regulations.

Ms. Eudy asked if the applicant/property owners could apply for a historic designation and if they would be willing to apply. Mr. Henderson answered that the applicant/property owners would have the ability to petition the Design Review Board to be placed on the historic designation list and Town staff would recommend that it be deemed historic. Mr. Henderson added that even if the property does be deemed historic, it would not necessarily afford rationale for granting the variance based upon size, shape and topography. Mr. Henderson stated that this seems to be more of a situation of a convenience of design over physically being prohibited from adding the proposed additions to the structure.

Mr. Koepke stated that he does not believe that this qualifies as a hardship in any way and that what is being asked is an enormous request.

Mr. Koon agreed with Mr. Koepke. Mr. Koon added that he established that the proposed variance is the property owner's preference and not a hardship and there are opportunities to fully use this property in a different way.

Chair Tezza stated that she is in agreement with Mr. Koepke and Mr. Koon. Chair Tezza added that if this were her property, she would go before the Design Review Board and request it be deemed historic and then move the current structure and try to accentuate the front of the existing historic fabric of the building.

Motion was made by Michael Koon, seconded by Peter Koepke, that the Board of Zoning Appeals deny the variance request at 2002 Gull Drive relating to side setback regulations of §21-22 C (1) (a) reducing the requirement from 15'-0" to 3'-0", and reduction of the combined side yard setback from 40'-0" to 15'-3" due to the applicants having failed to establish any hardship associated with use and development of the property pursuant to existing side setback rules and also there is no support from the Board. Motion passed unanimously.

D. Items for Consideration

E. Adjourn

Motion was made by Michael Koon, seconded by Peter Koepke to adjourn at 6:54 p.m. Motion passed unanimously.

Respectfully submitted,


Courtney Sottile