



**Town of Sullivan's Island, South Carolina
Board of Zoning Appeals
Meeting Minutes
Thursday, May 12, 2022**

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
Jackie Edgerton, Board Member
James Elliott, Board Member
Jeremy Graves, Board Member
Amy Pruitt, Board Member
Joe Henderson, Deputy Administrator
Charles Drayton, Director of Planning/ Zoning Administrator
Bridget Welch, Administration

I. 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 ten (10) members of the public present and no members of the media present.

II. Approval of Minutes-April 14, 2022

Motion was made by James Elliott, seconded by Jeremy Graves, to approve the Board of Zoning Appeals Meeting Minutes of April 14, 2022, passed unanimously.

III. Variance Requests

A. 419 Station 23 Street: Heirs of Rovena Hazel and Ronald Robert Mikell Trust, co-applicants, request dimensional variances in conjunction with request to re-subdivide two existing parcels, TMS# 529-06-00-106 and TMS# 529-06-00-107:

- § 21-12 A (2) (Lot subdivision, not less than one-half (.5) acre)
- § 21-12 A (5) (Lot subdivision, generally rectangular in shape):
- § 21-22 C (Minimum side yard setback of fifteen (15) feet):
- § 21-22 E (Minimum rear yard setback of twenty-five (25) feet):

Joe Henderson stated this is a unique property that has two separate TMS numbers (parcels of land), and is located within the historical Atlanticville district, and involves a court settlement agreement.

Chair Tezza commented the following: “The realignment of the property line for these two lots is in contravention of every standard in our Town ordinance. Not only are lots to be generally rectangular in shape, but lots should be no less than a half-acre in size. This play, as proposed, while it is in accordance with the Judge’s order, is not in character with the Island nor the Atlanticville district. I believe that if the parties had worked with the Town staff, more appropriate boundary lines would have been recommended and potentially agreed upon, such as a property line to the west of the existing house running south to north, resulting in two rectangular lots with an easement on the southern end allowing driveway access.

Joe Henderson then gave his report on the property and requests with maps, pictures, and setback renderings included, as well as provided background information on the owners and the two lots. The current property line runs through the middle of the home, which is the main issue the court and Town are trying to solve while still having use of the house and buildability of the back lot. Mr. Henderson provided a visual example of what is currently being proposed to both the Board and eventually to the Planning Commission. He highlighted which parts of the proposed survey conflicts with the zoning ordinance.

The first variance would need the proposed setback on the side yard at 13 feet instead of 15 feet. They are also requesting a 15-foot rear setback instead of 25 feet. A third variance would be needed to allow a .47-acre lot instead of the required half-acre, as well as allowing an irregular shape.

Chair Tezza asked for a description of the buildable area in the new lot that does not currently have a house on it. Mr. Henderson stated the proposed lot would move the acreage from .6 to .66 acres. He also mentioned that it is currently unclear on how the setbacks would be determined but suggested the critical line (along the marsh) would have a 30-foot setback. If the street front is the front yard, there would be a 25-foot setback, creating a 25-foot setback on the west side. However, if the house were oriented towards the marsh (like many marsh front homes are), the 25-foot setback would be from the south, making the side setbacks (on the west) 15 feet.

Dennis O’Neil presented on behalf of Jason Mikell, the owner of the marsh side lot. He stated that the litigation and negotiations regarding this lot have been going on for six years, and that this is a very unusual predicament. Mr. O’Neil provided a brief history of the two lots.

The current proposition is a compromise between the two families and are requesting relief to be settled. Mr. O’Neil stated it is impossible to utilize the lot in its present condition and

splitting the lot would not be a detriment to the character of the neighborhood. He also stated neither family can afford to relocate the home or buy out the other person's lot. He closed by saying both applicants have legally agreed to the proposed lot division, should it be granted.

Chair Tezza asked if discussions were had with Town staff regarding options for dividing the lot, to which Mr. O'Neil said yes. Mr. O'Neil stated the proposal was agreed upon knowing variances would need to be requested and approved.

Allan Hazel presented on behalf of the heirs of Rovena Hazel and provided a history of the property and the families and how they ended up in this situation. He mentioned the current line was agreed to in court, although it was not the most favorable, in his opinion.

Susan Middaugh, 2420 Raven Drive, does not like the setback and feels it would create trouble for future requests. She feels dividing the lot south to north, creating two rectangular lots is the best solution.

Mr. Graves does not feel the north to south rectangular lot division is a possibility and believes the real issue is more about the number of variances. Chair Tezza agreed and mentioned while they cannot ask them to redraw the lines, they can only approve or deny the variances, with the possibility of approving with conditions. For example, they can stipulate that no further variances be allowed in the future.

Mr. Elliott stated he feels because these properties are very unique and creates an extraordinary condition since it followed the rules when it was built but is no longer the case now. Chair Tezza agreed and feels it will be of substantial detriment to the Hazel's adjacent property.

Ms. Edgerton had suggestions for other options that would potentially make the Mikell lot slightly smaller, but still over a half-acre. This would require going back to the judge to re-adjust and approve the settlement.

Mr. Henderson stated there is no staff recommendation but encouraged the Board to focus on utilization and detriment. He suggested they consider if approving these variances would it unreasonably prohibit the Mikell's from building a house on their lot. He also encouraged them to consider if an approval would cause substantial detriment to the residents of the home and if it would affect the character of the Atlanticville historic district and the historic view.

Mr. Elliott appreciated the public comment from Ms. Susan Middaugh and Chair Tezza stated she is a former member of the BZA.

Mr. Graves stated he feels the zig zag property line is the best option to solve the issue, but it does not meet the current Town ordinances. He also mentioned that a property line that

would adhere to the current ordinance, but they have chosen to, and settled to in court, to propose a new property line that does not adhere to the current ordinance, thus requiring variance requests.

Ms. Edgerton suggested granting a variance for non-rectangular lots with the conditions that the line that is drawn is within the current setback rules. This would require the changes to the court order. The order is very specific about where the lines are drawn, but it is not required that the BZA follows the court order. The purpose of the Board is to follow the requirements of the ordinance. Approving with conditions is also an option and the next steps would be to work it out and then go before the Planning Commission for approval.

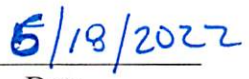
Motion was made by Jackie Edgerton, seconded by James Elliott, to grant the variance of Section 21-12 A (5) (Lot subdivision, generally rectangular in shape) with the conditions that lot line division abides with the current setback requirements and deny Section 21-12 A (2) (Lot subdivision, not less than one-half (.5) acre) condition review that that would be approved if needed after applying the required setbacks and deny Section 21-22 C (Minimum side yard setback of fifteen (15) feet) and Section 21-22 E (minimum rear yard setback of twenty-five (25) feet) variance request to have variances for the side yard and side yard setbacks, joint motion was made by Elizabeth Tezza, seconded by James Elliott, that there are extraordinary and exceptional conditions pertaining to this particular piece of property, these conditions do not generally apply to other property in the vicinity, because of the these conditions the application of the ordinance to the particular pieces of property would effectively prohibit or unreasonably restrict the utilization of the property and the authorization of a variance will not be of substantial detriment to adjacent property or to public good and the character of the district, passed unanimously.

IV. Adjourn

Chair Tezza adjourned the meeting at 7:21 p.m.

Respectfully submitted,
Bridget Welch
Board of Zoning Appeals Staff


Elizabeth Tezza, Chair


Date