

TOWN OF EDISTO BEACH

ZONING BOARD OF APPEALS

Monday, May 14, 2012
5:00 P.M.
Regularly Scheduled Meeting

THESE MINUTES ARE NOT VERBATIM, BUT DO ACCURATELY REFLECT THE PROCEEDINGS.

Members attending: Chairman Gerald Jones, Members Reddick Bowman, Polly McIntosh, John McAlhaney and Joe Dreher

Members absent: Vice Chair Jeanine Rhodes and Member Charles Boozer

Staff attending: Patrick Brown, Building Code Administrator, Rebecca Brown, Code Enforcement Officer and Sara Simpson, Secretary

Chairman Jones called the meeting to order at 5:00 p.m. He began with an opening statement, "This Zoning Board of Appeals was established by town ordinance enacted by Town Council of the Town of Edisto Beach, South Carolina. The ordinance establishing this Board was enacted pursuant to the South Carolina Local Government Comprehensive Planning Enabling Act of 1994 which has been codified as Title 6, Chapter 29 in the South Carolina Code of Laws. Being so constituted, this Board does not have unlimited authority, in fact our powers are limited. For example, this Board may not grant a variance, the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district or to extend a non-conforming use of land or to change the zoning district boundaries shown on the original zoning map. Moreover, the fact that property may be utilized more profitably if a variance is granted may not even be considered grounds for a variance. The standards that this Board must apply are set forth plainly in the governing statute and in Section 86-91 of the Town's zoning ordinance." The Board then moved directly into New Business.

New Business:

1307 Point Street – Charles W. and Isabelle S. Mims

Chairman Jones began by stating, "Today we are here to decide if the Zoning Administrator made an error in his determination that the present structure on lot 1307 Point Street cannot be used in the calculation to determine the seaward roof line on new or reconstruction on said property. Specifically, the appellant requests relief from the from the application of Section 86-145-1 of the zoning ordinance." Building Code Administrator Brown concluded that no error was made in his interpretation of the ordinance but that the request was a variance from the ordinance. Both parties agreed to that determination. Chairman Jones then administered the Oath. After administering the Oath, Chairman Jones asked if anyone standing for the Oath did not say "I do." No one answered.

The Appellant's testimony began with Mr. Mims introducing Lee Frank to speak. Mr. Frank stated he was tasked to define the developable area of Mr. Mim's lot. This is the last lot on Point Street and the next structure upstream is on Palmetto Boulevard. The ordinance, as Mr. Frank interprets it, required the incorporation of data derived from the three (3) closest, habitable structures. He realized quickly that using data from the next structure upstream was inappropriate and would result in a buildable envelope that was wasn't even on the lot and would have to be in the right-of-way. As a result, he used the data from the three closest structures downstream, when typically one structure in one direction and two structures in the other direction would be used. This would leave a building envelope that was comparable to the existing structure. Using the strict interpretation of the ordinance would be a hardship as the building envelope would be moved almost 45 feet landward. This would cause a new structure to be out of line with existing structures on Point Street and result in all houses on Point Street to move landward. Mr. Frank recommends that using data from the two houses downstream and Mr. Mims' existing house and this would be in keeping with the spirit of the ordinance. Using this data for the calculations would require a right hand roofline to move landward about 18 feet and this is consistent with the Town and the State of South Carolina's beach retreat strategy.

The Board asked if there was some sort of compromise that could be agreed on by all parties as this is such a unique situation. Member Bowman stated that in order for the Board to grant a variance, the landowner had to meet four (4) requirements. If the variance was not granted, this would not prohibit the building of a new structure, one of the requirements. The Board just doesn't see where this situation meets any of the four requirements. Therefore, where one method would move the roofline 18 feet and another method would move the roofline 45 feet, there must be some sort of middle ground that could be reached. The Mims' stated that they were agreeable to a compromise.

Building Code Administrator Brown's began by giving the Board and the parties a copy of the Town's ordinance and the state's beachfront management overlay district plan. He stated "the purpose of the beach management overlay zoning district is to implement and enforce a retreat strategy and storm hazard mitigation plan adopted by the Town so as to protect life and property located with the close proximity to the baseline established by the South Carolina Coastal Council." In Building Code Administrator Brown's opinion, using the method of compiling data that Mr. Frank suggested and granting the variance is still in conformance with the Town's ordinance and state law. Any retreat at all is applicable and in this case, the compromise would be a 20' retreat. Also, the Town requires one 9'x20' parking space for each bedroom in the structure and they can be located under the structure.

Mr. Rick Garrick, Mr. Mims' next door neighbor, stated that he agrees and supports the request for the variance.

Building Code Administrator Brown's rebutted and stated that the strict interpretation of the ordinance in this case would have a domino effect and is unreasonable. Using Mr. Frank's calculation may be more in line with the beach management overlay zoning district plan. A recess was taken at this time so that the parties to come up with a number that everyone could agree on.

Upon reconvening the meeting, Building Code Administrator Brown read a prepared statement, "As the Building Code Administrator, I do not necessarily agree with a compromise, I think strict application of the ordinance does create a hardship and does fall under the three sections as outlined in the variance ordinance. Using the current structure in the calculations does meet the Town's ordinance and the state law for retreat. Granting a variance using the current structure in the calculations is warranted."

Member Bowman moved to grant the request for a variance using the methodology that would move a new roof line back from the existing corner 20 feet, which is approving the variance with a special condition. The condition being a new roof line being moved back 20' from the existing corner of the present structure. Mr. Frank explained that this is essentially what the Appellant came in and asked for. Following a lengthy discussion, Member McAlhaney moved to grant the variance as requested followed by a second from Member Bowman. A vote was taken, **3-2 with Member Bowman and Chairman Jones opposing.**

Old Business:

There was no old business to discuss.

Approval of Minutes:

Chairman Jones asked the Board if there was any discussion pertaining to the minutes of February 17, 2012. There being no discussion, Member McIntosh moved to approve the minutes followed by second from Member Bowman. The vote was **unanimous to approve the minutes.**

There being no further business to discuss, Member Reddick made the motion to adjourn the meeting followed by a second by Member McIntosh, which carried unanimously. The meeting adjourned at 6:45 p.m.

Freedom of Information Act, § 30-4-80(3) was complied with.

APPROVED BY THE ZONING BOARD OF APPEALS

Submitted by Sara Simpson
Secretary of the Zoning Board of Appeals

A digital recording of this meeting is on file at Town Hall.