

March 12, 2009

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.

Present were: Jimmy Hiers
Susan Middaugh
Betsy Richardson
Bachman Smith

The minutes from the February 12, 2009 meeting were carried unanimously. Mr. Bachman Smith, presiding as Acting Chairman, administered the oath to the applicants and participants.

Smith IV, Ellison. 1908 Flag St., variance for side setback. Mr. Smith asked Building and Zoning Official Randy Robinson to present. Mr. Robinson gave a brief history of the property. The builder was replacing the deck and steps on the side of the house about a year ago, and did not apply for a permit. When the builder was told to apply for a permit, the Town realized the stairs were too close to the property line, and it was non-conforming. Therefore, Zoning Administrator Kent Prause told them the work could not be permitted because it was too close to the setback line. Mr. Prause advised the owner to apply for a variance because the Town could not find a building permit or variance allowing it prior to that time. The Town has records on this property only back to 1990. Being a non-conformity, if a non-conformity is torn down completely, it can be repaired, but not completely rebuilt. An affidavit was submitted by Ellison Smith's brother, A. Hunter Smith, stating that a building permit was issued in 1984 to repair the house's foundation and build a stairway and deck. Mr. Robinson stated there should have been a variance back in 1984, but the Town has no records for the property before 1990. There is not a neighbor to that side of the Smiths' house; the school is located next door, about 100-200 feet from their property line.

Mr. Bachman asked Frances Cantwell, attorney for the Smith's, to present. Ms. Cantwell presented pictures of the house to the Board. The applicant is requesting to encroach into the side setback on the south, where it really would not be visible to anyone except the school property. The setback is 15 feet, and the house is already in the setback. There should be approximately three feet from the steps to the property line.

Mr. Smith stated that everything that has been replaced to this point is in the exact same footprint as in 1984.

Motion was made by Susan Middaugh, seconded by Betsy Richardson, to approve the variance based on the affidavit provided and the testimony of Randy Robinson; this was a pre-existing deck and steps, and it is basically a repair and rebuild of existing structure allowed under the ordinances. In addition, there are exceptional conditions; this is a property where the house is built close to the lot line; the conditions do not generally apply to other properties in the vicinity; because of the conditions the applicant would be unable to get to the deck without these stairs; therefore, not allowing the stairs would prohibit the use of the deck; it is not of substantial detriment to adjacent property which is the school property that is screened from this property, carried unanimously.

There being no further business to come before the Board, the meeting was adjourned at 7:20 p.m.

Respectfully submitted,
Ellen McQueeney

Approved: May 14, 2009 Board of Zoning Appeals Meeting