

**TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
Town Hall
1122 Dills Bluff Road, James Island, SC 29412
BZA AGENDA
July 20, 2021
7:00 PM**

NOTICE OF THIS MEETING WAS POSTED IN ACCORDANCE WITH THE FREEDOM OF INFORMATION ACT

(MEETING WILL BE STREAMED ON THE TOWN'S YouTube CHANNEL)

Members of the public addressing the Board in support or opposition of this case at Town Hall must sign in. Social distancing will be in place. The Town invites the public to submit comments on this case prior to the meeting via email to planning@jamesislandsc.us referencing the Case #.

- I. CALL TO ORDER**
- II. COMPLIANCE WITH THE FREEDOM OF INFORMATION ACT**
- III. INTRODUCTIONS**
- IV. REVIEW SUMMARY (MINUTES) FROM THE DECEMBER 15, 2020 BZA MEETING**
- V. BRIEF THE PUBLIC ON THE PROCEDURES OF THE BZA**
- VI. ADMINISTER THE OATH TO THOSE PRESENTING TESTIMONY**
- VII. REVIEW OF THE FOLLOWING APPLICATIONS:**
 - 1. Case #BZAV-6-21-027**
TMS # 426-08-00-078
Variance Request for the removal of a grand tree for construction of a single-family home on a vacant lot in the Low-Density Suburban Residential District (RSL) on property located at 907 White Point Blvd.
- VIII. ADDITIONAL BUSINESS:**
 - 1. Next Meeting Date: August 17, 2021**
- IX. ADJOURN**

*Full packet available for public review Monday through Friday during normal business hours.

TOWN OF JAMES ISLAND
BOARD OF ZONING APPEALS
SUMMARY OF DECEMBER 15, 2020

The Board of Zoning Appeals held its regularly scheduled meeting on Tuesday, December 15, 2020 by Zoom Virtual Platform, 1122 Dills Bluff Road, James Island. Commissioners present: Brook Lyon, Chair, Sim Parrish, Roy Smith, Corie Hipp Erdman and David Savage, Vice Chair. Also, Kristen Crane, Planning Director, Ashley Kellahan, Town Administrator, Bonum S. Wilson, Town Attorney, and Flannery Wood, Planner I, standing in for Frances Simmons, Town Clerk and Secretary to the BZA. A quorum was present to conduct business.

Elected Officials: Councilwoman Cynthia Mignano.

Call to Order: Chairwoman Lyon called the BZA meeting to order at 7:01 p.m.

Compliance with the Freedom of Information Act: In compliance with the Freedom of Information Act and the requirements of the Town of James Island, members of the public were provided a link for participation.

Introduction:

Review Summaries and Rulings from the September 15, 2020 BZA Meeting:
BZAS-8-20-020
DISAPPROVED ON 9/15/2020

Chairwoman Lyon said we need a motion to approve the November 19, 2019 meeting minutes. She then moved for approval, seconded by Commissioner Parrish, and passed unanimously.

Brief the Public on the Procedures of the BZA: Chairwoman Lyon explained how the Board of Zoning Appeals Hearing would be conducted.

Administer the Oath to those Presenting Testimony: Chairwoman Lyon said each person who wants to address the Board would be sworn in. Each person speaking via the Zoom chat feature or speaking in person at the Town Hall would be sworn in individually by Attorney Wilson before giving testimony.

Review of the Following Application:

New Business:
BZAS-8-20-021

Chairwoman Lyon stated that this is a Special Exception Reconsideration request for the placement of a manufactured housing unit on a vacant lot in the Low-Density Suburban Residential District (RSL) at 1108 Seaside Lane. The original Special Exception request was disapproved at the September 15, 2020 BZA meeting and will be reheard/reconsidered at this meeting. I would like to mention that issues regarding potential flooding, access and trespass are more appropriate for the Planning Director, Code Inspector and Building Inspector to address. The grant of a variance remains subject to code, real property laws and permitting. Please keep that in mind during our questioning staff and the applicant and in our discussion.

Planning Director, Kristen Crane presented the staff review of applicant Mr. Steven Lewis, who requested a Special Exception Reconsideration (per Section 10: Rehearing, of the BZA Rules and Procedures) for the placement of manufactured housing unit in the Low-Density Suburban Residential (RSL) District at 1108 Seaside Lane - Town of James Island (TMS #428-08-00-056). The original Special Exception request was

disapproved at the September 15, 2020 BZA meeting. The parcel is currently vacant. Mrs. Crane reviewed adjacent properties to the south, east, and west in the RSL District in the Town of James Island. Property to the south is owned by Charleston County School District and houses the athletic fields of James Island Charter High School. She described other uses within 300' of the subject property that included residential uses in the Town of James Island and several residential properties in the City of Charleston.

Mrs. Crane described in the letter of intent that the applicant explained, "I originally submitted a request for a Special Exception for an upscale, modern manufactured home with landscape around the home and pea gravel driveway at 1108 Seaside Lane, however, new information has changed the number of manufactured homes in the 300 ft radius. A manufactured home was approved for placement across the street by Charleston County at 1079 Seaside Lane (copy of approval attached). Thus, placement of such on 1108 Seaside Lane will meet the 25% required for administrative approval of placement of a manufactured home."

Mrs. Crane's presentation included a radius map, site plan of the proposed manufactured home and pictures of the subject and adjacent properties.

Mrs. Crane reviewed the Findings of Facts according to §153.049 F, Zoning Special Exception Approval Criteria of the Town of James Island Zoning and Land Development Regulations (ZLDR). She said the Board has authority to approve, approve with conditions, or to deny the case based upon the findings of facts unless additional information is required to make an informed decision. Mrs. Crane read the six (6) approval criteria and the three (3) conditions recommended by staff:

1. The manufactured housing unit shall comply with *Section 153.144 Manufactured Housing Units*, of the *Town of James Island Zoning and Land Development Regulations Ordinance*, including all skirting and ventilation requirements in the *Ordinance*, as well as any additional requirements mandated by the Federal Emergency Management Agency (FEMA).
2. Prior to obtaining a Zoning Permit for the proposed site improvements and placement of the manufactured home, the applicant/owner shall install tree barricades around the protected trees on the property, as described in §153.334 of the *Ordinance*, throughout the duration of construction.
3. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the protected trees on the subject parcel that may be affected due to construction, have been pruned and fertilized as recommended by a Certified Arborist, in order to mitigate potential damage to the trees caused by construction.

Questions from the Board

Commissioner Parrish asked if the manufactured home at 1089 Seaside Lane had been approved and permitted. Mrs. Crane explained that the manufactured home had been approved to go at that location but had not been permitted. Commissioner Parrish then asked if the special exception was required. Mrs. Crane confirmed that it was until the home was placed on the property.

Applicant Presentation: None. Mrs. Crane informed the Board that she had been contacted by the applicant who let her know they were experiencing issues due to weather and were unable get on the Zoom meeting.

In Support: Council Chambers: No one present

Zoom Chat: No one present

In Opposition: Council Chambers: Mr. Clarence Bell, 1084 Seaside Lane. Mr. Bell indicated that he wanted to voice his opinion once again. He stated that he did not think it was a good idea to place a home on the property. He did not think that any of his neighbors approved even though they were not able to attend in person or via Zoom. Mr. Bell said that that he did not think that it was a good idea to build this house because the applicant was not very clear of who was going to be living there. He stated that if someone were going to build on that property, he wanted it to be clear, who would be living there. Mr. Bell stated he thought it was the last thing Seaside Lane needed. He thought that the application was thrown together very quickly, and they were not sure who was going to be living there. Mr. Bell concluded that it was not a good idea to be building on that property.

Zoom Chat: No one present

Applicant Rebuttal: None. Chairwoman Lyon stated that since the applicant was not present, he could not speak in rebuttal to the opposition.

Chairwoman Lyon closed the Hearing to the public at 7:32 p.m. and made a motion to approve with the conditions set forth by staff with the addition of a condition that the applicant shall ensure that the quality, construction, and architectural style are similar, if not identical to the proposed home presented by the applicant to the BZA at the September 15, 2020 Hearing. Chairwoman Lyon asked for a second for the purpose of discussion. Mr. Smith seconded for discussion.

Commissioner Erdman asked if Mr. Lewis had provided any updates regarding the flooding issue on the property. She acknowledged that Chairwoman Lyon had requested that the Board not discuss the flooding and driveways at the beginning of the meeting, but indicated it was concerning because so many people spoke out about the flooding and driveway concerns when she looked back through her notes.

Chairwoman Lyon said the reason she stated about the flooding and driveway access is that those are matters that are dealt with by the Flood Plain Manager, Building Inspector, and approval by the Planning Director and what we need to look at as a Board is the criteria set forth and whether or not the criteria is met. She said Criteria A is looking at what the community feels whether it would have an adverse effect on the community. She believes that Mrs. Crane can add to this and the Board could jump out of the typical protocol to address Commissioner Erdman's concerns.

Mrs. Crane re-stated that the question was whether or not the applicant addressed the concerns of the residents regarding flooding and driveways. She agreed with Chairwoman Lyon and indicated that the flooding would be addressed down the road when the Building Official does their inspections. She indicated that any driveway issues would be worked out during site plan approval. Mrs. Crane referred Board members to the survey in the packet that was completed when the Seaside Lane sidewalks were put in and indicated that each property had their own driveway apron. Mrs. Crane stated that additional stormwater requirements would have to be met, additional impervious surfaces and roofed structures would be addressed during the building permit stage and the zoning permits stage when the applicant reached that point.

Chairwoman Lyon stated once again that it was her understanding, if there were not room for a driveway, then the Planning Director would not approve the site plan. If there was a problem with the flooding, then it is not approved, so those issues, typically become a moot point and are out of the jurisdiction of the Board.

Commissioner Smith stated that he saw the issues with Criteria B concerning keeping with the character of the neighborhood and if it would not adversely affect the general welfare. He stated that he thought the driveway issue fell into that but was not the Board's purview and that would be taken care of by other

bodies. Commissioner Smith said the testimony that was offered was mostly about the people who would live in the home and that whoever lives in the home was out of the Board's jurisdiction. He stated that he also heard something about a change of a property line, but that would have to do with the ability of the Town to deal with whatever came up or if it was done legally. Commissioner Smith indicated that he did not hear anything in the testimony, although he understood the gentleman who took the time to comment and say what he thought, and he appreciated that. He stated that the main concern was dealing with the people who lived there, but the Board can only deal with those certain issues that were in their jurisdiction. Commissioner Smith stated that he did not find that the application was incompatible with the area, that it would adversely affect the general area, or the welfare of the community. He agreed with Mrs. Crane that the Town needed high quality, affordable housing for people of all ages and incomes, all sorts of different people.

Commissioner Savage explained that originally when this request for a special exemption was made he thought that it failed to meet Criteria B- compatible with existing users in the vicinity and would adversely affect the general welfare based upon the people that appeared in opposition. He stated that even though those people were not present it was still part of the record, just like the admission of the initial submission by Mr. Lewis. The Request for Reconsideration was on the basis that the City of Charleston had taken some action to approve a manufactured home in the vicinity. Mr. Savage said that he thought that it was sufficient basis for the Board to reconsider and that evidence that a structure was in the process of being placed or had been placed would obviously be relevant. There would have been an opportunity if Mr. Lewis were inclined to explain his position to probably alleviate some of the neighbors' concerns. Commissioner Savage indicated that because testimony by the applicant was not presented, he was left with the fact that there was always a tension between a property owner right to develop their land and the Town's Comprehensive Plan and of course the community input. Commissioner Savage stated that the Board's job is to really to follow those criteria. Commissioner Savage explained that according to his interpretation Mr. Lewis was asking the Board reconsider because there had been an approval of something that might occur in the future. He stated that Mr. Lewis said because it might occur in the future 25% of the surrounding property is manufactured homes and he should be approved because the application would be approved administratively. Commissioner Savage indicated that when he examined the submissions presented by staff the homes had to be equivalent to 25% of the number of the existing principal residences and he felt that the approval of something that would happen in the future did not meet that criteria. Commissioner Savage explained that he felt the applicant was trying to use something that would happen in the future to go through the administrative process. The applicant wished for a special exception which in turn caused the Board's analysis. He stated that he originally felt Criteria B was not met and his position had not changed. Commissioner Savage stated that he felt that the special exception request was not compatible with existing uses in the area and believed it adversely affected the general welfare according to public input. He explained that he was left to conclude if the applicant were convinced that that manufactured housing unit would be placed then 25% of the surrounding area would be manufactured homes and he would be able to get approval administratively and would not need a special exception. Commissioner Savage concluded that he was confident that the applicant did not meet the criteria but that his decision, may be moot if shortly in the future, the applicant was able to get administrative approval. He indicated that he was inclined to vote against the motion to approve with conditions.

Chairwoman Lyon asked Mrs. Crane if approval for a manufactured home by the City would stay with the property. Mrs. Crane explained that yes, the special exception would be attached to the property not the applicant.

Chairwoman Lyon reflected on a case the Board heard years ago. She stated that that case was approved and gave control over the conditions attached to approval. She explained that the current case gave her pause. Chairwoman Lyon said that she had ridden down Seaside Lane and saw both nice homes, like Mr. Bell's, and very derelict properties. She described it as a very transitional neighborhood. She indicated that

she felt that the applicant would be able to meet the requirement administratively in the future and felt that it could be an advantage to the neighborhood. Chairwoman Lyon reiterated that the Board did not have the right to look at who would be living on the property but felt like the applicant did meet the criteria. She stated that in her opinion the new evidence that was heard changes everything in that the additional home is not placed yet, but the special exception would stay with the property.

Commissioner Smith asked Mrs. Crane if the current application were not approved and the other premanufactured home was constructed, would a much lesser quality premanufactured home, such as a house trailer on concrete blocks be allowed to be built. Mrs. Crane stated that it would be but would still have to meet all zoning requirements.

Chairwoman Lyon agreed and explained that was her goal in adding a fourth condition. She stated that if the board ended up approving, she felt that should try to have something nicer for the residents on Seaside Lane.

Commissioner Savage stated that his concern was once the special exception was granted, the 25% criteria would be met, and future manufactured homes could be administratively placed. He said that the Town said that the 25% was calculated by existing homes, not what may occur. He expressed hesitation in approving the application in that 25% threshold would be met and the remainder of development could be mobile homes. Commissioner Savage reiterated that Criteria B was not met, and the application was not compatible with existing uses because most of the existing homes were site built. He also felt that it would adversely affect the general welfare.

Commissioner Smith suggested that the board make a note that the discussion be presented to the planning commission and asked Mrs. Crane to investigate the problem should it erupt in the future.

Commissioner Parrish asked if the conditions presented by staff were required for all manufactured homes. Mrs. Crane explained that they were, except for the fourth condition added by Chairwoman Lyon. He then asked Mrs. Crane for the exact definition of a manufactured housing unit.

Commissioner Hipp-Erdman asked if the approval was attached to the actual structure or the property. As an example, she mentioned a manufactured home on cinder blocks being allowed on the property if a special exception was granted. Chairwoman Lyon confirmed that if the exception were granted administratively then anything that qualified as a manufactured home would be permitted.

Commissioner Smith agreed that it was important to consider that. He stated that a lot of homeowners on the street were taking care of their properties and that they had a lot of pride in their neighborhood. He thought that the Board needed to watch out for them. Commissioner Smith also stated that it would be this home or a different one as Mr. Savage pointed out, and there could be a domino effect.

Chairwoman Lyon agreed that Commissioner Smith made a good point. She also presented the option to postpone finishing the hearing or table it until the next meeting if the Board felt that it was important to hear more from the applicant. Commissioner Erdman agreed with Chairwoman Lyon. Chairwoman Lyon explained that she felt that the whole thing would be a moot point if the 25% requirement was going to be met. She stated that if it were likely the exception would be granted administratively, in her opinion, it would be better to help. Chairwoman Lyon explained that the Board could help protect the character of seaside by adding the condition to have a nice, upscale home like what was presented two months ago, instead of just approving it or having it approved administratively. Commissioner Smith agreed that it was important to consider the best thing for the neighborhood.

Mrs. Crane explained the definition of a manufactured housing unit: Any residential dwelling unit constructed to standards and codes set forth by the United States Department of Housing and Urban Development, including the Federal Manufactured Housing Construction and Safety Standards act of 1974. The term does not include recreational vehicles, travel trailers or motorized homes licensed for travel on highways. There are more manufactured housing units designed and built to meet applicable requirements of the South Carolina Modular Buildings Construction Act.

Commissioner Savage asked Mrs. Crane if a trailer fit the definition. She explained that Charleston County Building Services defined a manufactured housing unit as something that was constructed elsewhere and had been brought into the site and a modular home was different. She said she thought it constructed in pieces right and built on site and put together which meant a manufactured housing unit would not necessarily have wheels on it. Commissioner Savage asked if a mobile home and manufactured housing unit were the same. Mrs. Crane clarified that they were all the same. Commissioner Erdman asked if approved would the special exception open the area for mobile homes. Mrs. Crane explained that it would within that 300' radius.

Commissioner Savage commented on the number of empty lots as in the 300-foot radius and explained that his concern was that the circle was going to get bigger and bigger and bigger. He stated that he still had his original thought process that was not sure that the applicant had presented sufficient evidence to cause him to change his mind that the criteria had been met.

Chairwoman Lyon thanked Commissioner Savage and asked the Board members if there was any other discussion or if anyone felt the need to postpone or defer. Chairwoman Lyon reminded the Board that the motion was to approve with the three conditions set forth by staff, as well as her additional condition that the applicant shall ensure that the quality, construction, and architectural style are similar, if not identical to the proposed home presented by the applicant to the BZA at the September 15, 2020 She stated that the details were left to the planning department, but the applicant presented a certain upscale plan she would like to see if it was approved.

Vote

Commissioner Parrish	Aye
Commissioner Savage	Nay
Commissioner Smith	Aye
Commissioner Hipp Erdman	Nay
Chairwoman Lyon	Aye

Motion Passed.

Chairwoman Lyon announced that a final decision will be mailed within ten (10) business days and the applicant may contact the Planning and Zoning staff with questions regarding the denial of the application.

Additional Business: Mr. Wilson updated the Board that the previous carwash case had its appeal hearing on Friday the 11th and he was optimistic that the court would side with the Board.

Commissioner Parrish announced his resignation effective immediately as he and his wife would be moving to North Carolina to be closer to family.

Chairwoman Lyon thanked Commissioner Parrish for his dedicated service to the Board and wished the members a Merry Christmas and Happy New Year.

Next Meeting: The next meeting is scheduled for January 19th, 2021. Mrs. Crane announced that no applications were received by the deadline and no meeting would be held.

Adjournment: There being no further business to come before the Board, the meeting adjourned at 8:07 p.m.

Respectfully submitted:

Flannery Wood
Planner I

DRAFT

Variance Application

Town of James Island Board of Zoning Appeals

Town of James Island
Zoning/Planning Department
1122 Dilks Bluff Road
James Island, SC 29412
Phone 843-795-4141
Fax 843-795-4878
www.jamesislandsc.us



This application must be complete and submitted in person to the Town of James Island Zoning/Planning Department in order to apply for a Variance. Please read the entire form prior to completing the application. The applicant shall receive a copy of this completed form at the time the application is filed. This application will be returned to the applicant within fifteen (15) working days if these items are not submitted with the application or if any are found to be inaccurate:

- 1) Completed Variance application signed by the current property owner(s).
- 2) Copy of **Current Recorded Deed** to the property (Owner's signature must match documentation). If the applicant is not the owner of the property, the **Current Property Owner(s)** must sign and print the **Designation of Agent** found below.
- 3) **Restrictive Covenants & Posted Notice Affidavit(s)** signed by the applicant or current property owner(s).
- 4) A **letter of intent** signed by the applicant or property owner(s) stating the reason for the request that explains why this request should be granted and how it meets the Approval Criteria of §153.049 F. All proposed Variances, except single family, shall satisfy the Site Plan Review process and attend at least one Site Plan Review meeting prior to submitting this application.
- 5) An accurate, legible **Site Plan** drawn to **Engineers Scale** must be attached. The site plan must show property dimensions, dimensions and locations of all existing and proposed structures and improvements, parking areas, Grand trees (24" DBH or greater, Pine, Sweetgum, SC Invasive Pest Trees are exempt), wetlands (properties containing DHEC-OCRM Critical Line areas must contain an up to date DHEC-OCRM signature on site plan or plat), holding basins and buffers when applicable.
One 24 x 36 copy & fifteen (15) 11 x 17 copies.
- 6) Copy of a legible **Approved and Recorded Plat** showing present boundaries of property.
- 7) **Fee \$250** check made out to "Town of James Island". Grand tree variances add \$50 each additional tree

Applicant Name: Edwards Culver Kidd IV

Mailing Address: 669 Lake Frances Dr.

City, State, Zip Code: Charleston, SC 29412 Daytime Phone: 843-819-4655

Email Address: culverkidd@gmail.com

Subject Property Address: 907 White Point Blvd. Charleston, SC 29412

Present Use of Property: Vacant Lot

Variance Description: Removal of Grand Tree

Applicant Signature: [Signature] Date: 5/19/21

Designation of Agent (Complete only if owner is not applicant): I hereby appoint the person named as Applicant above as my (our) agent to represent me (us) in this application.

Owner Print Name _____ Date _____ Owner Mailing Address _____

Owner Signature _____ City, State, Zip Code _____

FOR OFFICE USE ONLY:

Application #: BZAV-6-21-027

Zoning District: RSL

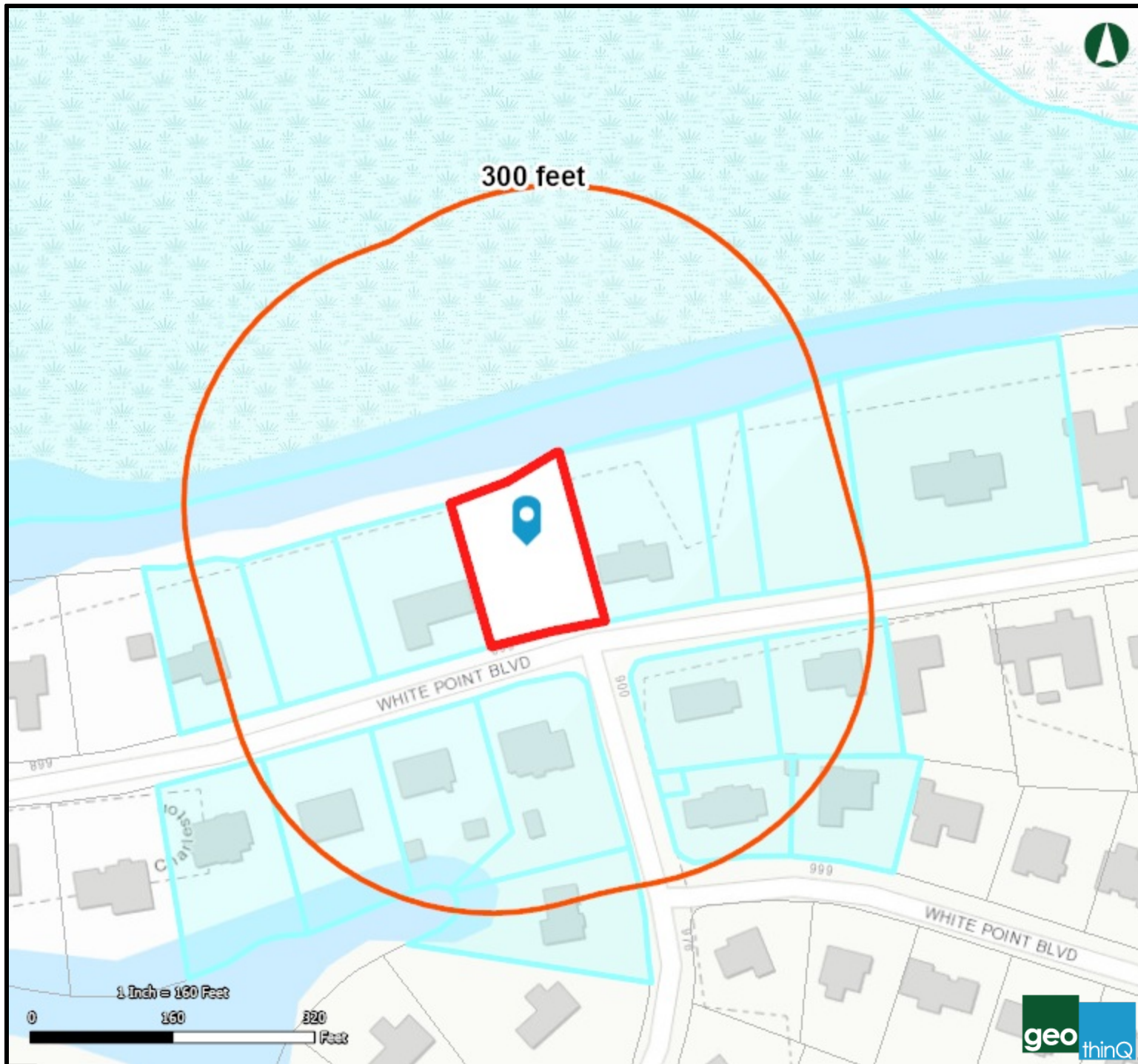
Date Filed: 5/19/21

TMS#: 426-08-00-078

Flood Zone: _____

Fee Paid (\$250): CK# 148

Zoning Officer: _____

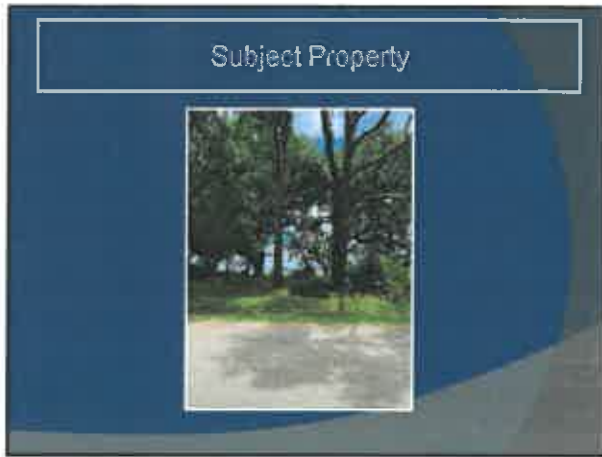


Town of James Island
South Carolina

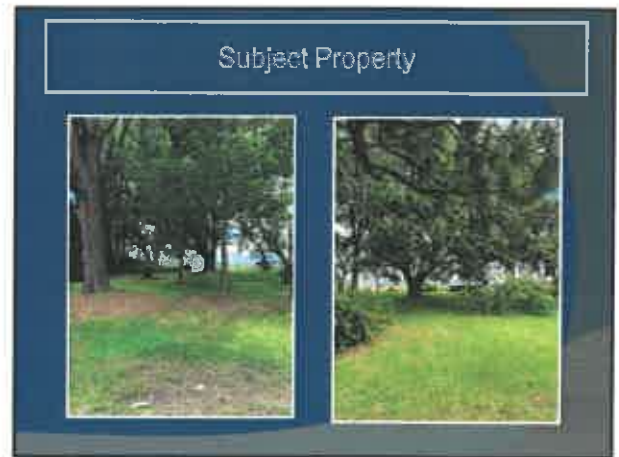


907 White Point Blvd

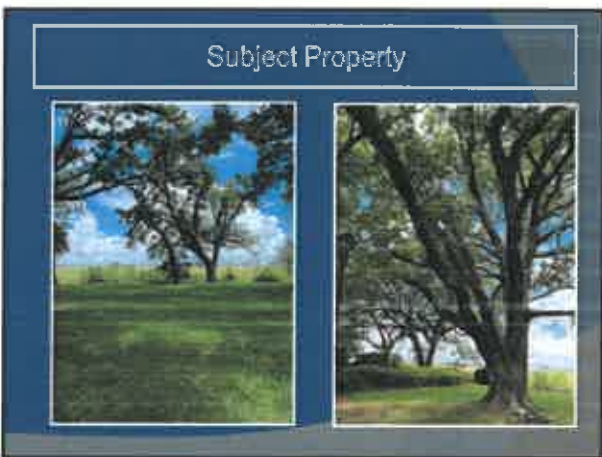
Radius Map
06/29/2021



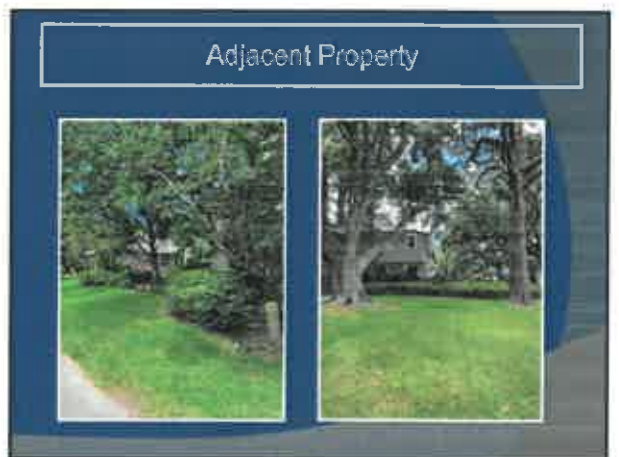
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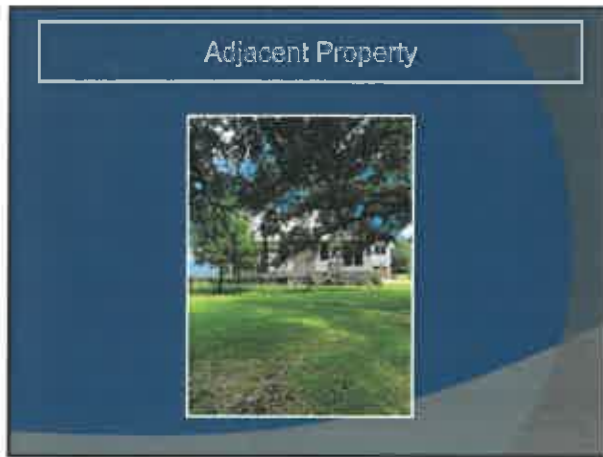
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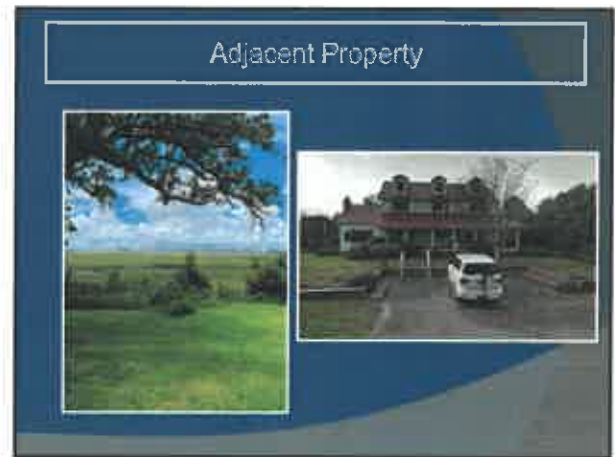
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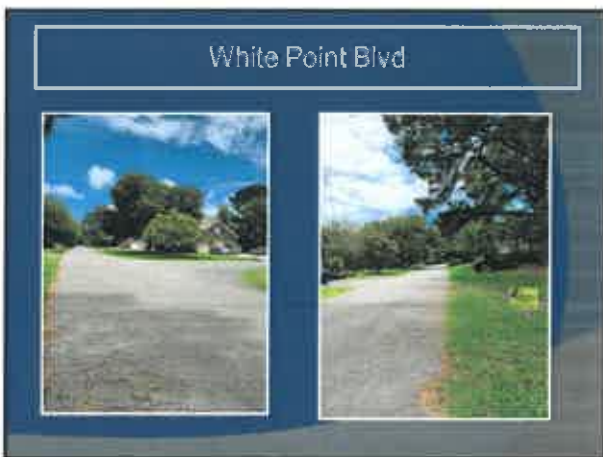
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Staff Review:

The applicant, Mr. E. Culver Kidd is requesting a variance for the removal of a grand tree for construction of a single-family home on a vacant lot in the Low-Density Suburban Residential (RSL) Zoning District at 907 White Point Blvd (TMS #426-08-00-078). Adjacent properties to the east, south, and west are also in the Low-Density Suburban Residential Zoning District and are in the Town of James Island's jurisdiction. Adjacent property to the north is marsh. Other uses within 300' of the subject property include residential uses in the Town of James Island and the City of Charleston.

Town of James Island Zoning and Land Development Regulations, §153.335 (E) (2) TREE PROTECTION AND PRESERVATION states trees that do not meet the criteria may be removed only where approved by the Board of Zoning Appeals and shall be replaced according to a schedule determined by the Zoning Administrator.

The subject property is vacant and is 0.44 acres in size. There are currently 6 grand trees on the site, with 2 of those having previously been permitted for removal due to health. The tree requested for removal is a 48" DBH Live Oak located in the center of the property on the western side. Records indicate a plat for the property was recorded in 1969. The previous property owners owned the lot since 1972. The applicant purchased the property in April of 2021. The applicant explains in their letter of intent "I purchased this residential lot to build a single-family residence. Upon acquiring the parcel and meeting with potential builders it quickly became apparent that in-order to build a single-family residence one grand live oak would need to be removed."

Findings of Fact:

According to §153.049 F, Zoning Variance Approval Criteria of the Town of James Island Zoning and Land Development Regulations Ordinance (ZLDR), The Board of Zoning Appeals has the authority to hear and decide appeals for a Zoning Variance when strict application of the provisions of this Ordinance would result in unnecessary hardship. A Zoning Variance may be granted in an individual case of unnecessary hardship if the Board of Appeals makes and explains in writing the following findings:

F (a): *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

Response: **There may be extraordinary and exceptional conditions pertaining to this piece of property. The property is vacant and has several large grand trees on the property that would be significantly impacted or would restrict construction of the proposed single-family home. In addition, the applicant states in their letter of intent "this lot is unique in that years of erosion have caused the OCRM line to move inland reducing the buildable portion of the parcel."**

F (b): *These conditions do not generally apply to other property in the vicinity;*

Response: **These conditions may not generally apply to other properties in the vicinity. While several single-family homes in the vicinity were constructed recently, most of those were tear-downs and rebuilds, and 12 of the 15 properties within 300' of the subject property were developed prior to 1995, leaving few vacant lots with large trees in the area.**

F (c): *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;*

Response: **The application of this Ordinance may effectively prohibit or unreasonably restrict the utilization of the property due to the location of the 2 live oaks and current location of the OCRM critical line. The applicant states in their letter of intent that "denial of our variance application would in essence cause this piece of property to be worthless and unreasonably restrict its only reasonable utilization."**

F (d): *The authorization of a variance will not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district will not be harmed by the granting of the variance;*

Response: **The authorization of a variance should not be of substantial detriment to adjacent property or to the public good, and the character of the zoning district should not be harmed by the granting of this variance as the applicant plans to keep the remaining 42" DBH Live oak on the property and maintain the single-family character of the neighborhood. Additionally, the applicant states in their letter of intent that "one immediately adjacent property owner is in favor of the removal of the tree".**

F (e): *The Board of Zoning Appeals shall not grant a variance to the effect of which would be to allow the establishment of a use not otherwise permitted in a zoning district, to extend physically a non-conforming use of land or to change the zoning district boundaries shown on the Official Zoning Map;*

Response: **The variance does not allow a use that is not permitted in this zoning district, nor does it extend physically a nonconforming use of land or change the zoning district boundaries.**

F (f): *The need for the variance is not the result of the applicant's own actions; and*

Response: The need for the variance may not be the result of the applicant's own actions as the property was kept vacant by the previous owners. This allowed the trees to reach their current size prior to the purchase of the property by the applicant.

F (g): *Granting of the variance does not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.*

Response: Although the Natural Resources Element has a Goal to "Protect, preserve and enhance the natural environment", a Land Use Element Strategy and Time Frame is to "Implement sustainable and flexible development guidelines and integrate development with growth to maintain the suburban character of the Town". Therefore, the granting of this variance may not substantially conflict with the Comprehensive Plan or the purposes of this Ordinance.

In granting a Variance, the Board of Zoning Appeals may attach to it such conditions regarding the location, character, or other features of the proposed building or structure as the Board may consider advisable to protect established property values in the surrounding area or to promote the public health, safety, or general welfare (§153.045 E 2).

Action:

The Board of Zoning Appeals may approve, approve with conditions or deny Case # BZAV-6-21-027 variance for the removal of a grand tree for construction of a single-family home on a vacant lot in the (in the Low-Density Suburban Residential (RSL) Zoning District at 907 White Point Blvd) based on the "Findings of Fact" listed above, unless additional information is deemed necessary to make an informed decision. In the event the Board decides to approve the application, the Board should consider the following conditions:

1. The applicant/owner shall install tree barricades around the grand trees on the property, as described in §153.334 of the *Ordinance*, throughout the duration of construction.
2. Prior to obtaining a Zoning Permit for the proposed site improvements, the applicant/owner shall provide documentation that the grand trees on the subject parcel have been pruned and fertilized as recommended by a Certified Arborist, to mitigate potential damage to the trees caused by construction.
3. The applicant/owner shall mitigate the removal of the grand tree by submitting a mitigation plan to the Zoning Administrator, as described in 153.334 (E) (2) of the Ordinance, that includes inch-per-inch replacement.

May 19, 2021

Town of James Island
Zoning/Planning Department
1122 Dills Bluff Rd.
James Island, SC 29412

Letter of Intent

To whom it may concern,

I recently acquired 907 White Point Blvd. within the town of James Island. I purchased this residential lot to build a single family residence. Upon acquiring the parcel and meeting with potential builders it quickly became apparent that in order to build a single family residence one Grand Live Oak would need to be removed.

There are extraordinary and exceptional conditions that apply to this particular parcel. This lot is unique in that years of erosion have caused the OCRM line to move inland reducing the buildable portion of the parcel. Following our recent survey marking the current OCRM line and after adhering to the 35' setback for that OCRM line and the 25' setback from the street there is an extremely limited footprint for which a house could be constructed. This is further complicated by the fact that almost square in the middle of that buildable footprint exists 2 Grand Live Oak Trees. No home could be built on this lot without encroaching on and substantially damaging these live oaks. By permitting the removal of one grand tree we are enabled to properly protect and preserve the remaining Grand Live Oak on the property. Denying the removal of this tree would destroy the only permissible use of the property. While Live Oaks are commonplace throughout the neighborhood no lots have this amount of protected trees this central on the lot confined within such limited buildable footprint.

Denial of our variance application would in essence cause this piece of property to be worthless and unreasonably restrict its only reasonable utilization.

By allowing the removal of this Grand Oak we will be facilitating the preservation of the remaining Grand Live Oak so that it can prosper. There are sufficient trees existing around the border of the lot so that the general nature and make up of the property will not be diminished. One immediately adjacent property owner is in favor of the removal of the tree.

Sincerely,


E. Culver Kidd
843-819-4655

