

Deposition of Kiawah Island Board of Zoning Appeals

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MEETING OF THE KIAWAH ISLAND
BOARD OF ZONING APPEALS

DATE: August 15, 2011
TIME: 4:00 P.M.
LOCATION: TOWN OF KIAWAH ISLAND
21 Beachwalker Drive
Kiawah Island, South Carolina 29445

REPORTED BY: TERI L. HORIHAN
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A P P E A R A N C E S

BOARD OF ZONING APPEALS MEMBERS:

- Ronald Ritchie
- Ronald Hacker
- Charles Larsen
- Nancy Zisk
- Herchiel Sims
- Thomas Burke

ALSO PRESENT:

- Jennifer Werking
- Sally Brooks
- Sally Rhoad

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1 MR. RITCHIE: Okay. We're going to
2 call the August 15th meeting of the Board of Zoning
3 Appeals for Kiawah Island to order. The board
4 members who will hear the case today are Ron
5 Hacker, Tom Burke, Nancy Zisk, Herk Sims, Charlie
6 Larsen, and myself, Ron Ritchie. The staff people
7 present are Sally Brooks and Jenny Werking, and
8 Sally Rhoad is here pinch hitting for her husband,
9 Dennis.

10 Our case rulings from this and any
11 other BZA meeting are available for public review
12 and inspection during normal business hours right
13 here at Town Hall. At this time, I'm obligated to
14 explain the workings of the BZA. We are a
15 quasi-judicial body established to interpret and
16 grant relief from the zoning ordinance.

17 Today we're going to hear a variance
18 request. Variances may be granted when strict
19 application of the zoning ordinance would create an
20 unnecessary hardship. This board's action must be
21 based on specific standards as contained in the
22 South Carolina Local Government Planning Enabling
23 Act of 1994 as well as this Town's Zoning
24 Ordinance. A simple majority vote of the quorum
25 present is required to grant a variance.

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1 Because today's hearing is a public
2 fact-finding meeting, we are in compliance with the
3 Freedom of Information Act and South Carolina Code
4 6-29-70. 15 days prior to this hearing, an
5 announcement was printed in the Post and Courier, a
6 sign was posted right in front of the property that
7 we're going to hear the variance about, and a
8 notice was mailed to the applicant or a
9 representative, to residents within 300 feet of the
10 application, and any other parties of interest.

11 Persons, organizations, and news media
12 that have requested declaration of our meeting have
13 also been notified. The Freedom of Information Act
14 does not require notification of anybody other than
15 the applicant and possible parties of interest.

16 Our purpose today is for interested
17 parties to be heard in order to assist the board in
18 gathering evidence pertinent to each case. If the
19 members of the BZA feel the need for further
20 information to clarify the case, we have the
21 authority to subpoena witnesses.

22 In addition to testimony, the board has
23 been presented with written information submitted
24 to the staff by the applicant or their agent in
25 this particular case. This information is now

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1 considered evidence and is entered into the
2 permanent record of this body, and we assume it is
3 complete, true, and accurate.

4 Also, we have been presented data
5 assembled by the staff for the purpose of
6 clarifying the location and the effect on
7 surrounding property. This board is empowered to
8 approve, approve with conditions, or to deny the
9 request for a variance. We also have the option to
10 defer a case if we think we need additional
11 information.

12 If an applicant's request is approved
13 for the variance, they must go to the office of
14 Charleston County Planning Department on Bridge
15 View Drive, that's up in North Charleston, to
16 obtain a permit. Variances granted by the BZA are
17 valid for 12 months after the date of this hearing.

18 However, if the request is disapproved
19 and the applicant wishes to appeal the decision of
20 the board, appeals must be addressed to the Circuit
21 Court. South Carolina Code 6-29-820 states that
22 the appeal must be filed by the applicant within 30
23 days after the decision of the board is mailed to
24 the applicant, not today's date, 30 days after it's
25 mailed. Failure to file an appeal within the time

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1 limit deprives the Court of the jurisdiction to
2 hear the matter.

3 Because this is a quasi-judicial body,
4 everything said in this meeting must be completely
5 true and accurate. All the information provided to
6 the BZA is considered evidence, and this board may
7 certify contempt of Circuit Court if false
8 statements are made, either in writing or orally.

9 Because of this, each person who wishes
10 to address the board on this particular variance
11 request will be sworn in. I now ask everybody who
12 is going to speak this afternoon either for or
13 against this variance if they would please stand
14 and be sworn in.

15 (Witnesses sworn.)

16 MR. RITCHIE: Thank you. I shall now
17 call case BZAV-7-11-11552 concerning the property
18 at 248 Glen Abbey. The staff will now present
19 facts pertinent to the case. I shall then call the
20 applicant to address the case. I would ask that
21 the applicant or the applicant's representative
22 please stand, go over to the podium, state their
23 name and their current address.

24 I will then ask for all those speaking
25 either for or against this case. And we then are

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1 going to close the hearing, and I'm going to ask
2 the board for a motion on this particular variance.
3 The board will then have a discussion and then vote
4 on the case.

5 The chair will announce for the record
6 who made the motion and seconded the motion and how
7 members voted, yes, no, or abstained. After the
8 vote, the chair announces for the record the legal
9 reasons for the decision.

10 Okay. Sally, you're on.

11 MS. BROOKS: Okay. Thanks. The
12 applicant, Marshall Driver, is requesting a
13 variance to increase the required 33 percent
14 maximum lot coverage by 3 percent to 36 percent at
15 238 Glen Abbey in the residential (R-1) zoning
16 district within the developed lands of Kiawah
17 Island.

18 The property owner is Vickie Frazier
19 Lockridge. The property is 14,994.5 square feet in
20 size with a 25-foot front setback along Glen Abbey,
21 a 15-foot side yard setback, and a 30-foot rear
22 yard setback along the golf course. The current
23 lot coverage is 4,980 square feet, which is 33
24 percent.

25 12A-205 (R-1), Residential, Table 2B:

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1 Lot Standards of the Town of Kiawah Island Land Use
2 Planning/Zoning Ordinance requires a maximum lot
3 coverage of 33 percent when the lot size is 12,000
4 square feet or greater for the (R-1) single-family
5 detached dwelling.

6 The ordinance defines lot coverage as,
7 quote, total percentage of lot area that is
8 impervious, including buildings and pervious
9 driveways and walkways and other pervious paved
10 areas including pervious decks and porches, end
11 quote.

12 The applicant is requesting the
13 increased lot coverage in order to construct an
14 addition off the existing screened-in porch at the
15 rear of the residence. The site plan depicts the
16 addition that consists of an elevated pool, pool
17 deck, and planter equalling 325 square feet. The
18 applicant proposes to remove 36 square feet of the
19 deck on the opposite side of the screened-in porch.

20 The Kiawah Island Architectural Review
21 Board variance request approval dated June 29th,
22 2011, states, quote, ARB approved due to existing
23 home location driven by preservation of trees which
24 caused need for extra coverage and, therefore, no
25 ability to expand footprint without variance, end

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1 quote.

2 The variance criteria used noted on the
3 Kiawah Island ARB letter states, quote, the
4 original design allowed for the conservation of
5 several live oak trees in the front yard. This
6 concept positioned the footprint of the house
7 farther from the street, increasing the size and
8 complexity of the driveway, end quote.

9 The applicant's letter of intent
10 explains, quote, the site plan depicts that there
11 are six live oak trees in the front yard of the
12 site that were retained as part of the original
13 design and necessitated positioning the home
14 farther from the street which increased the size,
15 complexity, and coverage of the driveway, end
16 quote.

17 A site visit was conducted on July
18 27th, 2011, at which time the following
19 determinations were made regarding the approval
20 criteria for variances as stated in Article 12 of
21 the Town of Kiawah Island Code of Ordinances,
22 Article 12A, Land Use Planning, Zoning, Section
23 12A-509.4.

24 Findings of fact: Criteria 1: There
25 are extraordinary and exceptional conditions

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1 pertaining to the particular piece of property.

2 Staff's response: There may be
3 extraordinary and exceptional conditions pertaining
4 to the property due to the position and layout of
5 the existing residence and driveway. The residence
6 is set back away from the roadway and has a double
7 front loading garage underneath. The driveway
8 splits to access each garage door and has a
9 turnaround area on each side for egress from each
10 garage.

11 It appears that the driveway was
12 configured to avoid a cluster of oak trees in the
13 middle of the front yard. The driveway alone
14 covers 13.9 percent of the lot area.

15 Criteria 2: These conditions do not
16 generally apply to other property in the vicinity.

17 Staff's response: These conditions may
18 not generally apply to other properties in the
19 vicinity because lot configuration varies
20 throughout the surrounding area due to site
21 specific conditions.

22 Criteria 3: Because of these
23 conditions, the application of this ordinance to
24 the particular piece of property would effectively
25 prohibit or unreasonably restrict the utilization

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1 of the property.

2 Staff's response: The application of
3 this ordinance to 248 Glen Abbey would not prohibit
4 the utilization of the property; however, the
5 application of this ordinance would restrict the
6 addition of the pool to this particular piece of
7 property.

8 Criteria 4: The authorization of the
9 variance will not be of substantial detriment to
10 adjacent property or to the public good, and the
11 character of the zoning district will not be harmed
12 by the granting of the variance.

13 Staff's response: The authorization of
14 this variance may not be of substantial detriment
15 to the adjacent properties as long as the existing
16 vegetation, which creates a natural buffer along
17 the side property line, is protected in order to
18 provide adequate screening and preserve the
19 character of the zoning district.

20 Criteria 5: The Board of Zoning
21 Appeals shall not grant a variance the effect of
22 which would be to allow the establishment of a use
23 not otherwise permitted in a zoning district, to
24 extend physically a nonconforming use of land or to
25 change the zoning district boundaries shown on the

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1 official zoning map.

2 Staff's response: Granting of this
3 variance would not allow the establishment of a use
4 not otherwise permitted in this zoning district,
5 extend physically a nonconforming use of land, or
6 change the zoning district boundaries.

7 Criteria 6: The fact that property may
8 be utilized more profitably should a variance be
9 granted may not be considered grounds for a
10 variance.

11 Staff's response: The property may be
12 utilized more profitably if this variance is
13 granted.

14 Criteria 7: The need for the variance
15 shall not be the result of the applicant's own
16 actions.

17 Staff's response: The applicant's
18 letter of intent contends, quote, the need for the
19 requested variance is not a result of the
20 applicant's own actions but a reflection of the
21 natural environmental conditions and the site
22 configuration, end quote.

23 Additionally, the variance request
24 approval from the Kiawah Island ARB dated June
25 29th, 2011, states, quote, the original design

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1 allowed for the conservation of several live oak
2 trees in the front yard. This concept positioned
3 the footprint of the house further from the street
4 increasing the size and complexity of the driveway,
5 end quote.

6 However, a pool is an accessory
7 structure that is incidental and subordinate to the
8 principal single-family residence. Therefore the
9 need for the variance may be created by the
10 applicant's own actions.

11 Criteria 8: Granting the variance will
12 not be contrary to the public or neighbor interest
13 nor will not adversely affect other property in the
14 vicinity nor interfere with the harmony, spirit,
15 intent, and purpose of these regulations.

16 Staff's response: Granting of this
17 variance may not be contrary to the public or
18 neighborhood interest, may not adversely affect
19 other property in the vicinity nor interfere with
20 the harmony, spirit, intent, and purpose of these
21 regulations as long as existing natural features
22 including trees are preserved.

23 Criteria 9: Granting of the variance
24 does not substantially conflict with the
25 comprehensive plan or the purposes of this

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1 ordinance.

2 Staff's response: Granting of this
3 variance may not substantially conflict with the
4 comprehensive plan or the purposes of this
5 ordinance. Housing element 8, goals 1,
6 implementation strategy A of the comprehensive plan
7 states, quote, provide mechanisms to permit
8 flexibility and innovation in residential project
9 design to promote land use efficiency and
10 environmental protection, end quote.

11 Staff recommendation: This request may
12 not meet the requirements of the section 12A-509,
13 criteria 3 and 7, variances, as stated in the
14 staff's responses and the findings of fact.

15 Action: The Board of Zoning Appeals
16 may approve, approve with conditions, or deny case
17 number BZAV-7-11-11552 based on the findings of
18 fact unless additional information is deemed
19 necessary to make an informed decision. Are there
20 any questions of staff?

21 MR. RITCHIE: Board have any questions
22 of staff?

23 MR. BURKE: I notice that the adjacent
24 property seems to have a pool as well. Do you
25 happen to know what the lot coverage is on that

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1 site?

2 MS. BROOKS: I do not. No, I don't.

3 MR. RITCHIE: You have to make the
4 assumption, though, it would be 33 percent or less,
5 assume that.

6 MR. BURKE: Well, it could have had a
7 variance too.

8 MR. RITCHIE: Could have.

9 MR. LARSEN: I had a question related
10 to that. And I meant to look up impervious and
11 pervious as in the -- page 1 in the staff review,
12 second paragraph. Because that house, 287, has a
13 stone driveway, crushed stone.

14 MS. BROOKS: Yeah.

15 MR. LARSEN: My question is if this
16 driveway were crushed stone, does that count as
17 part of the 33 percent?

18 MS. BROOKS: It would -- under the
19 definition in the ordinance, even a stone driveway,
20 gravel, would count toward lot coverage.

21 MR. LARSEN: So it doesn't matter if
22 it's paved or not paved?

23 MS. BROOKS: That's correct.

24 MR. SIMS: Follow-up to that. At what
25 point does a driveway cease to be a part of the 33

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1 and a third percent? For instance, if it were
2 grass?

3 MS. BROOKS: That would be a case where
4 it would not be considered --

5 MR. SIMS: If it were pine straw?

6 MS. BROOKS: That would not be
7 considered lot coverage either.

8 MR. SIMS: If it were pine bark? So at
9 what point does it cease to be pervious --

10 MR. LARSEN: Pervious or impervious.

11 MR. SIMS: -- and become part of the --

12 MS. BROOKS: I would say if it were
13 gravel or like a paver of some sort, that's where
14 we draw the line, I suppose. We could get a
15 further determination on that from Dan, but I mean,
16 that's how I would say.

17 MR. SIMS: So it's fuzzy?

18 MS. BROOKS: To interpretation.

19 MR. RITCHIE: Okay, Sally. I think
20 everybody's asked questions that they'd like to.
21 Thank you.

22 MR. BURKE: I do -- I'm sorry.

23 MR. RITCHIE: Oh, sorry. Go ahead.

24 MR. BURKE: Most of the time when we
25 look at these cases, the lot coverage seems to be

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1 36 percent. Is there a high incidence of 33
2 percent on Kiawah?

3 MS. BROOKS: As in people maximizing
4 their lot coverage? I would say.

5 MR. BURKE: Well, I mean, are there a
6 lot of streets that are 33 percent? Our street is
7 36.

8 MS. WERKING: They're either 33 or 40
9 percent.

10 MS. BROOKS: Right. The only cases, I
11 guess, where we would be able to approve
12 administratively something over 33 percent or
13 whatever it's listed, if it is in the undeveloped
14 lands where we can do a 20 percent -- or 10 percent
15 administrative increase through the development
16 agreement, but --

17 MS. WERKING: And then there's cases of
18 legal nonconforming. And what happens in those is
19 if you're really supposed to be 33 percent, but
20 you're already 36 and you're wanting to -- we do
21 allow that, like if you're wanting to switch out
22 something for something else, as long as it stays
23 33. You can't go to -- or sorry. 36. You
24 couldn't go to 36.1.

25 MR. HACKER: Or is it a function of how

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1 many square feet the lot is? Because if it's under
2 12,000, it obviously is different. Because they
3 made a statement that it's over 12,000. Is there
4 another number, a 20,000, that it goes up bigger?
5 That's I think what Tom is asking is --

6 MS. WERKING: It's opposite.

7 MR. HACKER: -- are there variance --
8 differences for different size lots?

9 MS. WERKING: It's opposite. The
10 smaller the lot, the more -- and 12,000 and over is
11 33 percent, so --

12 MR. RITCHIE: You could tear your house
13 down and build a large chicken coop, and you'd be
14 in -- other questions? Okay. Thank you, Sally.

15 All right. At this point in time,
16 we'll hear from the applicant, who has submitted
17 the variance, and I assume this is Mr. Driver
18 acting as the applicant's representative.

19 MR. DRIVER: Applicant's
20 representative. Thank you. My name is Marshall
21 Driver. I'm an architect. My address is 1701 Live
22 Oak Park, Johns Island, South Carolina. I'm here
23 this afternoon representing, as we talked about,
24 Vickie and Russ Lockridge. They're sorry that they
25 can't be here this afternoon but appreciate very

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1 much you taking your time to review our request.

2 The Lockridges built 248 Glen Abbey in
3 2003, and since that time, it's served as a second
4 home for the family including three children and
5 most recently their first grandchild, Henry.

6 The proposed improvements are intended
7 to help continue the enjoyment of this family. It
8 is not a rental house. They wanted to be sure that
9 everybody understood that.

10 As stated in the letter of intent, the
11 position of the oak trees in the front yard
12 originally required that the home be located
13 farther from the street increasing the size and
14 length of the driveway. And secondly, by avoiding
15 these trees in the front yard, the complexity of
16 the driveway design also increased, which impacted
17 the lot coverage.

18 MR. RITCHIE: Can I ask you a question
19 at this point in time?

20 MR. DRIVER: Sure, sure.

21 MR. RITCHIE: Were you the original
22 architect of the house?

23 MR. DRIVER: We were not.

24 MR. SIMS: And did you say that the
25 applicant is the builder? They built the house

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1 initially? They're the first owner?

2 MR. DRIVER: Yes. They're the first
3 owner. We believe that these existing conditions
4 and the proposed improvements are in concert with
5 the natural conditions of this site, and two, the
6 spirit of the neighborhood, and three, the intent
7 of the regulations, and we appreciate your
8 thoughtful consideration. And I'd be glad to
9 answer any questions that the board might have.

10 MR. RITCHIE: Well, I'll start off.
11 When I went and looked at the property, I have to
12 admit I was a little mystified because what you're
13 proposing to do -- assuming you're standing in
14 front of the house -- on the right-hand side is to
15 remove that small deck area, correct?

16 MR. DRIVER: Correct.

17 MR. RITCHIE: And I'm assuming that
18 also means the stairs?

19 MR. DRIVER: No, sir.

20 MR. RITCHIE: No, sir. Okay. No.
21 There is a set of stairs on that side.

22 MR. DRIVER: Yeah. On the right-hand
23 side, there's a set of stairs up from grade to a
24 small deck. And they looked at that deck area, and
25 the only thing that it's really served as a purpose

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1 was to -- for a position for the grill, and they
2 thought it was larger than it needed to be. So
3 they said, well, in good faith, we could reduce
4 that somewhat to help to deal with the coverage
5 situation.

6 MR. RITCHIE: Okay. But in other
7 words, the stairs would remain, and the purpose of
8 the stairs on the right-hand side would still be to
9 have access to the screened porch?

10 MR. DRIVER: Correct.

11 MR. RITCHIE: Okay. Second question I
12 have is in -- I'm now on the left-hand side of the
13 house, not the right-hand side, where we're talking
14 about putting in this pool. As I look at this
15 thing, I assume this is a lap pool?

16 MR. DRIVER: It's really only about 15
17 feet long by about 6 feet wide, so probably by
18 definition couldn't do too many laps in that pool.
19 And the thought is that the pool would be about
20 three-and-a-half to four feet deep, so really just
21 a wading pool more than anything.

22 MR. RITCHIE: Okay. The other thing is
23 that you have -- as I look at that thing, there is
24 an oak tree almost right at the very corner of
25 where you're -- where you propose to put this thing

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1 in. I mean, if you were in the pool and you
2 reached down, you could touch the tree. I mean, it
3 wouldn't be difficult at all.

4 MR. DRIVER: Well, there are two oak
5 trees there. One of them is a Laurel oak, and
6 that's slated to be removed as part of this
7 construction, and then there's a live oak tree
8 which occurs -- let's see -- to the -- maybe it
9 would be to the southwest corner, you know, which
10 would be close to the planter, but the planter and
11 the deck area are closer to that tree. The pool is
12 actually closer to the golf course.

13 MR. RITCHIE: Okay.

14 MR. LARSEN: Along those lines, I think
15 at our meeting two months ago, we complimented the
16 applicant for laying out tape so that we could tell
17 exactly what was being done and where, and in this
18 case, I was clueless. There was no tape out there.
19 There were a couple of stake sticks in the ground,
20 and it was impossible to really tell where it was
21 according to, you know, the planned extension.

22 MR. DRIVER: Okay.

23 MR. LARSEN: That was just one thing.
24 But referring to your design, I'm confused about
25 the 30-foot setback from the golf course because it

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1 looks like the pool and planter and adding the
2 square footage extends beyond the 30 feet on the
3 left.

4 MR. RITCHIE: I read it just went right
5 to the line.

6 MR. LARSEN: Well, the dotted line
7 though is across here, and he's out here.

8 MR. SIMS: There's two dotted lines.

9 MR. HACKER: The little lines you're
10 looking at, Charlie, are just giving information on
11 how wide the lines are. It all stops just inside
12 the dotted line.

13 MR. LARSEN: I'm looking at a 30-foot
14 setback line, dot, dot, dot, 15-foot setback on the
15 right and left, and I see pool and planter over
16 that dotted line. Am I wrong?

17 MR. RITCHIE: It's looking like the
18 architect answered that, but I think it's right on
19 the line.

20 MR. BURKE: I think it ends at the
21 line.

22 MR. RITCHIE: Is our supposition on
23 that correct?

24 MR. DRIVER: Could I come over and --

25 MR. RITCHIE: Absolutely.

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1 MR. DRIVER: Thank you.

2 MR. LARSEN: And again, that's where
3 the tape would help understand the schematics.

4 MR. DRIVER: I certainly appreciate
5 that. This is actually the setback line, this one.

6 MR. LARSEN: So nothing is going to be
7 over that?

8 MR. DRIVER: It's not intended that
9 anything would be on the golf course side or on the
10 setback -- side yard setback.

11 MR. LARSEN: Thank you.

12 MR. RITCHIE: Is everybody clear that
13 it would not be over the setback line? Okay.
14 Okay. Other questions that the board may have of
15 Mr. Driver.

16 MR. HACKER: You're showing the planter
17 along the lot line towards 249. What type of
18 planting are you -- is that -- is that like a
19 barrier planting, or just there's going to be low
20 shrubs in it?

21 MR. DRIVER: The planter is to be
22 elevated about 30 inches above the deck level,
23 which would be above the pool level, and then some
24 small landscaping within the planter, shrubbery.
25 It's not large enough for any tree scape, per se.

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1 But I think that there was some
2 sensitivity when we went through the process with
3 respect to the pool on the other side, so not only
4 for their own privacy but also for the privacy of
5 the adjacent property we thought that elevating
6 that planter as well as putting in some low
7 landscaping would be a complement to the situation.

8 MR. BURKE: What's the structure going
9 to look like from the side?

10 MR. DRIVER: It would be block
11 construction, you know, with stucco application
12 which would be similar to the foundation stucco on
13 the rest of the house. So the undercarriage of the
14 pool, because it's elevated a full story, would be
15 block work and then stucco covering that.

16 MR. BURKE: Okay.

17 MS. ZISK: In addition to the Laurel
18 oak that you mentioned would be coming down, are
19 there any trees that have to be removed for this
20 construction?

21 MR. DRIVER: That's the only tree. We
22 had an arborist take a look at the Laurel oak as
23 well as the live oak that's close to it. There may
24 need to be some pruning done in the live oak just
25 because we'd want to prepare it for the

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1 construction process, but it's supposed to be in
2 good health and he felt like the position was okay.

3 MR. RITCHIE: Other questions that the
4 board has of Mr. Driver? Okay. We thank you very
5 much.

6 MR. DRIVER: Thank you.

7 MR. RITCHIE: All right. Seeing that
8 the only person other than Al Burnaford and the
9 staff and Ms. Olsen here, who I don't think is here
10 to speak either for or against this granting of
11 this variance, I will now call this part of the
12 proceedings to a close.

13 And at this point in time, the chair
14 will entertain a motion on this particular
15 variance. Okay. Hearing a resounding quiet, the
16 chair will make a motion that the granting of this
17 variance be disapproved because it does not meet
18 the requirements of section 12A-509, criteria 3 and
19 7 of the variance. Is there a second to the
20 motion?

21 MS. ZISK: Second.

22 MR. RITCHIE: Okay. Discussion?

23 MS. ZISK: In addition to not meeting
24 the sections 3 and 7 as pointed out by the board, I
25 do worry that it also doesn't satisfy number 1

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1 about extraordinary or exceptional conditions
2 created the need for this variance.

3 And it seems, you know, the more
4 variance requests we hear, this is a problem many
5 property owners face and, in fact, at our last
6 hearing, the board unanimously denied a request for
7 a variance for very similar reasons.

8 While each property layout is unique,
9 calling for a different variance, the reasons for
10 this one seem so similar to the last because of the
11 layout of the property, and that doesn't seem to
12 satisfy even number 1 for getting -- for creating
13 an exception, which is why I think that this
14 variance should not be granted.

15 MR. RITCHIE: Thank you. Ron?

16 MR. HACKER: I'm very frustrated with
17 this because it's already almost 32 square feet
18 over coverage because if you do the math, it's over
19 33 percent coverage right now.

20 So when it was originally approved by
21 the ARB, someone was saying, we want this huge
22 driveway, and I have a feeling if the pool was on
23 it at that time, it would have been approved too.
24 In other words, the whole idea was, we've got this
25 humongous driveway. So then I start thinking --

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1 you know, but yet, the rules are the rules.

2 Then I went out and looked at the house
3 and saw this driveway, but then I saw all the
4 shrubbery, and the whole idea was to make something
5 green and good looking and conform with what we
6 want on the island, and they've done a great job
7 with this huge driveway.

8 So what do we do? We say -- do we
9 approve it and say, you've done a good job, and
10 you're already over; you can be some more. Or do
11 we say, you rip out one of the turnarounds, and you
12 don't even have to come to the board, and it's
13 not -- it's within compliance because it's under
14 coverage. So that's the dilemma.

15 Do we rip it up and say, get rid of
16 part of your driveway to be conforming? And I
17 don't think it -- it looks like it conforms other
18 than the fact that it's sitting back further. And
19 that's my dilemma.

20 MR. RITCHIE: Rip up part of the
21 driveway, it would probably be hard to use one of
22 the garages.

23 MR. HACKER: Well, I'm not saying --
24 take out a turnaround. In other words, you could
25 only back out of one side is basically what you're

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1 saying because it still could be done. That's what
2 you're -- you're fighting with the driveway. Or
3 you make the driveway a foot-and-a-half smaller on
4 each side so that -- the practical part of this is
5 what I'm struggling with.

6 MR. SIMS: Just a comment about the
7 driveway. The ARB has developed their rationale
8 for approving this on the trees, preservation of
9 the trees. And yet, the design of the house
10 initially was as compelling a reason for using up
11 the square footage as the trees. There was no -- I
12 mean, you could have designed the house with a
13 single driveway as opposed to the double front
14 loading garage concept.

15 MR. RITCHIE: I'm sure that was done
16 for an architectural balance, so --

17 MR. SIMS: That's right. But
18 nevertheless, the decision was made at that time to
19 use the square footage for that purpose, and this
20 is kind of an after-the-fact, the determination of,
21 well, now we're going to try to do something else,
22 again using the trees for the rationale, and I find
23 that not a compelling argument.

24 MR. RITCHIE: Okay.

25 MR. LARSEN: I would go along from the

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1 standpoint of there was a choice to make a grand
2 design, which they did. I mean, that's a terrific
3 looking driveway. But we do that versus other
4 choices you might have.

5 And I also wonder -- according to
6 earlier conversation, it wouldn't be hard to make
7 some of the driveway pine straw, reduce the
8 coverage that way, and build their pool. So there
9 are many alternatives other than just kind of an
10 in-your-face to the 33 percent.

11 MR. BURKE: I think I felt the same
12 reaction that Ron had in that we like to
13 accommodate the landowner, but at the same point in
14 time, we have guidelines for a reason. And unless
15 there is a compelling reason to violate the
16 guideline, it doesn't seem to be the right thing to
17 do.

18 And I think in this case, the owner
19 didn't really help us too much to get to a
20 compromised solution that would give him or her the
21 pool and ease off on either both sides of the
22 turnouts or to take out some board footage from the
23 porch or the deck.

24 MR. RITCHIE: Other comments? Okay.
25 I'm going to call the question. All those in favor

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1 of -- let me get this right before I say it. All
2 those in favor of denying the variance request of
3 case number BZAV-7-11-11552, please signify by
4 saying aye.

5 ALL: Aye.

6 MR. RITCHIE: Opposed?

7 Okay. Let the record reflect that the
8 decision of the board was unanimous, that this
9 granting of the variance would be disapproved in
10 this case.

11 Okay. Is there anything else that
12 needs to come before the board at this time? Okay.
13 We stand adjourned. Thank you.

14 (The hearing was adjourned at 4:39
15 p.m.)

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REPORTER'S CERTIFICATE

I, TERI L. HORIHAN, Registered Professional Reporter and Notary Public in and for the State of South Carolina at Large, do hereby certify that I correctly reported the within-entitled matter and that the foregoing is a full, true and correct transcription of my shorthand notes of the testimony and/or other oral proceedings had in the said matter.

I further certify that I am neither related to nor counsel for any party to the cause pending or interested in the events thereof.

Witness my hand, I have hereunto affixed my official seal this 22nd day of August, 2011, at Charleston, Charleston County, South Carolina.

Teri L. Horihan
Registered Professional Reporter
My commission expires
January 17, 2017

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ZONING (18)