City of Charleston

BOARD OF ZONING APPEALS-SITE DESIGN

May 4, 2022
5:00 PM

DEPARTMENT OF PLANNING, PRESERVATION & SUSTAINABILITY
www.charleston-sc.gov/bza-sd

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# City of Charleston

## BOARD OF ZONING APPEALS-SITE DESIGN

<table>
<thead>
<tr>
<th>Your Board of Zoning Appeals-Zoning Members are:</th>
<th>Your City of Charleston Staff are:</th>
</tr>
</thead>
<tbody>
<tr>
<td>Joel Adrian</td>
<td>Lee Batchelder, Zoning Administrator</td>
</tr>
<tr>
<td>Amanda Graham Barton</td>
<td>Eric Schultz, Board Administrator/Principal Planner</td>
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<tr>
<td>Jennifer DeCiantis</td>
<td>Scott Valentine, TRC Coordinator</td>
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<td>Paula Murphy</td>
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</tbody>
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DEPARTMENT OF PLANNING, PRESERVATION & SUSTAINABILITY

www.charleston-sc.gov/bza-z

This meeting is being recorded.
Meeting Protocol

Order on Each Application:

- Chair announces each application
- Staff presents application and City’s recommendation. Staff will control slide presentation
- If recommendation is favorable and no one objects to the application, usually the Board treats application as uncontested and passes it
- If there is an objection, applicant and anyone else in favor, after being sworn in, will be allowed to speak on the application. Each speaker will be sworn in before speaking. Each speaker should state their name and address for the record
- Next, opponents, after being sworn in, can speak followed by a short rebuttal from the applicant
- The Board then closes the public hearing on that application and opens discussion for Board members

The Board of Zoning Appeals—Zoning has the authority to do three things:

1. Hear appeals to decisions of the Zoning Administrator;
2. Grant special exceptions, a fact finding function of the Board; and
3. Grant variances to the Zoning Ordinance if the application meets the hardship test outlined in Section 54-924 of the ordinance.
Board of Zoning Appeals-Site Design

Requirements for Granting a Variance

A variance may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship if the Board makes the following findings:

a. there are extraordinary and exceptional conditions pertaining to the particular piece of property;

b. these conditions do not generally apply to other property in the vicinity;

c. because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

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 district will not be harmed by the granting of the variance.
Agenda Item #A-1

Approval of the April 6, 2022 BZA-SD Meeting Minutes.

1. HIGH TIDE DRIVE (Laura Brill)  
   APP. NO. 2204-06-B1  
   (TMS#830-00-00-000)  
   Requested a variance from Sec. 54-327 to allow the removal of these grand tress.  
   Requested a variance from Sec. 54-330 to allow a reduced impervious construction setback near the bases of four grand tress  
   Owner: Chamber Association, LLC (Steve Chandler)  
   Applicant: MLA, Inc.  
   Zoned: PUB & C  
   APPROVED XX  
   WITHDRAWN 0  
   DISAPPROVED 0  
   DEFERRED 0  
   NOTION: Staff recommendations & conditions:  
   Approval:  
   Must plant 66 caliper inches of native sapling trees on the project site in addition to the previous approved landscape plan.  
   Provide a revised landscape plan for staff review and approval.  
   MADE BY: Brian  SECOND: Bruce VOTE FOR 2 AGAINST 0

2. 229 HARBOURVIEW CIRCLE (Paul Island)  
   APP. NO. 2204-06-B2  
   (TMS#842-00-00-001)  
   Requested a variance from Sec. 54-301 to allow a reduced CCNR Critical Line Buffer.  
   Owner: Charleston Water System  
   Applicant: Pass and Savory (Jamie Harbison)  
   Zoned: C  
   APPROVED XX  
   WITHDRAWN 0  
   DISAPPROVED 0  
   DEFERRED 0  
   NOTION: Staff recommendations & conditions:  
   Approval:  
   Made by: Brian  SECOND: Bruce VOTE FOR 2 AGAINST 0

In accordance with the Americans with Disabilities Act, people who need alternative formats, AIG (American Sign Language) interpretation or other accommodation please contact Janet Schumacher at (803) 857-1389 three business days prior to the meeting.
Agenda Item #B-1

4 PADDLECREEK AVENUE
(Cross Creek)

TMS # 424-04-00-036
Request a variance from Section 54-327 to allow the removal of one grand tree.

Zoned SR-1
For Variance requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary):

VARIANCE FOR TREE REMOVAL (38 FT. SOUTHERN MAGNOLIA)
SEE ATTACHED LETTER FOR RESPONSE TO THE VARIANCE TEST

Variance Test: The Board of Zoning Appeals–Site Design is authorized to approve a variance from the requirements of the Zoning Ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes the following findings:
1. There are extraordinary and exceptional conditions pertaining to the particular piece of property;
2. These conditions do not generally apply to other property in the vicinity;
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use 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. (SC Code of Laws Section 6-29-800)

For Special Exception requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as Sec. 54-329, Sec. 54-311(b), or Sec. 54-513 (add as an attachment if necessary):

For office use only
Date application received: 3/3/2021
Time application received: 11:30

Department of Planning, Preservation & Sustainability
2 George Street
Charleston, South Carolina 29401
(843) 724-3781 Fax (843) 724-3772
www.charlestonsc.gov

BZA-SD Application (continued)
March 26, 2027

Eric Schultz, Principal Planner
City of Charleston Department of Planning, Preservation & Sustainability
Zoning Division
2 George Street
Charleston, SC 29401

Dear Mr. Schultz,

Please accept this variance application to remove a 28-inch Southern Magnolia from the backyard of the property located at 4 Paddecreveck Avenue on James Island. I have owned this property since 2001. The 1,500-square-foot house is a single-story, ranch style home constructed in 1983. In addition to the 28-inch Southern Magnolia, the property contains many large trees, including a 25-inch Red Oak, a 21-inch Water Oak, a 20-inch Black Gum, and a large Sweet Gum.

The arborist who evaluated the subject tree found that it is a C grade tree in fair condition. The primary leader splits with a V-shaped juncture that collects water, and over time, decay forms in the union. The arborist's letter states the tree "will likely become hazardous over time as the included bark progresses." Over the years, the tree has grown such that the existing house is now located within the 14-foot tree protection zone, and its roots are beginning to grow into the sidewalk next to the foundation of the house causing the sidewalk to crack. The roots are also growing into the foundation of the shed. I have attached pictures of the tree and the aforementioned damage. We are concerned that the roots will cause further damage to the house foundation and shed in the future due to the proximity of the tree. We are also concerned that as the health of the tree continues to decline, it or its branches could fall and cause damage to our property and adjacent properties.

In addition, we would like to expand our home to make room for our parents, who are aging, to be able live with us. We initially thought about purchasing a larger home; however, house prices in the area are unaffordable for us. Therefore, our only option is to expand the house located at 4 Paddecreveck Avenue.

The subject tree is in the buildable area of the property, just under 13 feet from the house and just under 15 feet from the shed, in the most logical and useful location for the proposed expansion. The portion of the house that is closest to the tree contains the kitchen area, making it difficult to design the expansion around the tree protection zone. We understand that we can request an administrative variance to encroach a few feet into the tree protection zone if we use an alternative foundation design. However, the tree is already in decline, and we will likely have to remove it eventually.

Please find below our responses to the variance test:

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.
   - Response: These are extraordinary and exceptional conditions pertaining to this property. Our property has more large trees than many of the surrounding properties, and it has more trees, including the subject tree, that are in the buildable area thus more adjacent properties. The subject tree is located just under 13 feet from the house and just under 15 feet from the shed, in the most logical and useful location for the proposed expansion of the home.

From further damage to the house foundation and shed, and may protect our property and surrounding properties from possible damage caused by falling limbs and/or the tree falling.

2. These conditions do not generally apply to other property in the vicinity.
   - Response: As noted in the response to criterion #1, our property has more large trees than many of the adjacent properties, and it has more trees, including the subject tree, that are in the buildable area than many adjacent properties. The trees on the surrounding properties are not located as close to the houses on those properties as the subject tree is to our home. Additionally, it is a C grade tree that is decaying due to the collection of water in the V-shaped union, which is a condition that may not exist on surrounding properties, and it will likely become hazardous over time according to the arborist's evaluation. The roots of the tree are already causing damage to the house and shed, as noted above, and we are concerned it will cause further damage to our property and possibly cause damage to adjacent properties.

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.
   - Response: The subject tree is located just under 13 feet from the house and just under 15 feet from the shed, in the most logical and useful location for the proposed expansion of the home. The portion of the house that is closest to the tree contains the kitchen area, making it difficult to design the expansion around the tree protection zone. Even if the expansion was designed around the tree protection zone, the tree will need to be removed in the future due to its declining health. Additionally, as noted above, the roots of the tree are already causing damage to the sidewalk next to the house foundation and the shed, and they will likely cause further damage to the house foundation and shed in the future due to the proximity of the tree.

4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.
   - Response: The authorization of this variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance. The removal of the tree will serve the public good by protecting our property from further damage and preventing possible damage to surrounding properties. Its removal will not harm the character of the district as there are four other very large trees in our backyard that are in good health. We have spoken with our neighbors and a representative from Save James Island, and no one has expressed any opposition to this request. We have attached letters of support from the owners of adjacent properties.

Please let us know if you need additional information. Thank you for considering our request.

Kind regards,

Andrew M. Melocek (property owner)

Andrew N. Melocek
BOARD OF ZONING APPEALS SITE DESIGN
City of Charleston
Wednesday, May 4, 2022

ITEM B 1
4 PADDLECREEK AVENUE
(Cross Creek)
TMS# 424-04-00-036
ZONED SR-1
NOTE: PLAT DONE BY
ROBERT FRANK Sweeny;
LOCATIONS OF TREES &
PROPAGATION BY
HOMEOWNER.
March 21, 2022

Andrea Melocik
4 Paddlecreek Ave.
Charleston, SC 29412

Dear Ms. Melocik,

As requested, this is my evaluation of the Magnolia tree we spoke about this week. This tree is located at the left rear of the home at 4 Paddlecreek Avenue. This property is located in the City of Charleston.

The Magnolia tree has a D.B.H. of 28”. The primary leader splits into codominant leaders with a V-shaped crotch. This union collects water and over time decay forms in the union. At this time, the tree is a C grade in fair condition. It will likely become hazardous over time as the included bark progresses.

Trees inherently pose hazards and I cannot guarantee the structural integrity of any tree. Although I am confident in the accuracy of this report, no tree removal should be performed without permission from the City of Charleston. Please give me a call with any questions at (843) 296-1581.

Sincerely,

Donald E. Skinner, Jr.
Donald E. Skinner, Jr.
Certified Arborist SO-5166A
4 Paddlecreek Avenue: Location of 28" Southern Magnolia as seen looking at the property from the street

28" Southern Magnolia: View toward rear of the property
28" Southern Magnolia: View toward northern side of property

28" Southern Magnolia: V-shaped union (looking northeast)
28” Southern Magnolia: V-shaped union (looking north)

28” Southern Magnolia: V-shaped union (looking southeast)
28" Southern Magnolia: Recently broken/fallen branch

28" Southern Magnolia: Root growing into sidewalk next to house foundation and resulting crack
28" Southern Magnolia: Root growing into shed foundation
Dear BZA Members,

I am in support of the variance application to remove the 28-inch Southern Magnolia on the property located at 4 Paddlecreek Avenue on James Island.

Signature

3/27/22

Date

1 Paddlecreek Ave

Property Address

-----------------------------------

Dear BZA Members,

I am in support of the variance application to remove the 28-inch Southern Magnolia on the property located at 4 Paddlecreek Avenue on James Island.

Albert Miller

Signature

3-27-22

Date

2 Paddlecreek Ave

Property Address
Members of the City of Charleston Board of Zoning Appeals (BZA)
2 George Street
Charleston, SC 29401

Dear BZA Members,

I am in support of the variance application to remove the 28-inch Southern Magnolia on the property located at 4 Paddlecreek Avenue on James Island.

[Signature]

March 27, 22

[Property Address]

3 Paddlecreek Ave, Charleston, SC 29412

Members of the City of Charleston Board of Zoning Appeals (BZA)
2 George Street
Charleston, SC 29401

Dear BZA Members,

I am in support of the variance application to remove the 28-inch Southern Magnolia on the property located at 4 Paddlecreek Avenue on James Island.

[Signature]

3/27/2022

[Property Address]

5 Paddlecreek Ave, Charleston, SC 29412
Members of the City of Charleston Board of Zoning Appeals (BZA)
2 George Street
Charleston, SC 29401

Dear BZA Members,

I am in support of the variance application to remove the 28-inch Southern Magnolia on the property located at 4 Paddlecreek Avenue on James Island.

Signature

3/27/22

Date

4 Paddlecreek Ave

Property Address
Agenda Item #B-2

26 CUMBERLAND STREET
(Peninsula)

TMS # 458-05-03-087, 089-091, 093

Request a special exception from Sec. 54-327 to allow the removal of one grand tree.
Request a variance from Section 54-347 to allow the removal of two protected trees.

Zoned MU-2/WH
BZA-SD Application (continued)

For Variance requests, applicants should list the specific variance(s) being requested and, if possible, explain how the variance test that follows is met (add as an attachment if necessary).

Applicant requests variance to section 54-327(a) Removal of 1 grand tree.
Applicant requests variance to section 54-327(b) and (c). Removal of protected tree and protection of 15 trees per acre requirement.

See attached site plan.

Variance Test: The Board of Zoning Appeals-Site Design is authorized to approve a variance from the requirements of the Zoning Ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship. A variance may be granted in an individual case of unnecessary hardship if the Board makes the following findings:
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2. These conditions do not generally apply to other property in the vicinity.
3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and
4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

In granting a variance, the Board may attach to it such conditions regarding the location, character, or other features of the proposed building, structure, or use 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. (SC Code of Laws Section 6-29-800)

For Special Exception requests, applicants should list the specific approval(s) being requested and include documentation to demonstrate compliance with the relevant special exception requirements of the Zoning Ordinance, such as Sec. 54-629, Sec. 54-511(b), or Sec. 54-513 (add as an attachment if necessary):


All approvals of the Board shall remain valid for two (2) years from the approval date, unless extended in accordance with the provisions of Article 9, Part 5 of the zoning ordinance. Applicants may not apply for the same request that has been denied by the Board until a period of six (6) months has lapsed.

Department of Planning, Preservation & Sustainability
2 George Street
Charleston, South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.charleston-sc.gov

For office use only
Date application received
Time application received
Fee
Receipt #

Department of Planning, Preservation & Sustainability
2 George Street
Charleston, South Carolina 29401
(843) 724-3781 FAX (843) 724-3772 www.charleston-sc.gov

6/15
GROUNDS FOR VARIANCE
TMS Parcel No.: 458-05-03-090
Location: 26 Cumberland Street
Owner/Applicant: Jon Funami, Landmark Partners, LLC

Overview of Application

The Applicant, Landmark Partners, LLC, is the owner of 22-26 Cumberland Street on the peninsula. The property is comprised of approximately 0.1 acres.

To have the most attractive street appearance, the owner and the city staff sought a plan where the residential units would be built facing the streets. The parking will be interior garage parking behind the buildings that is not visible from the street. The Applicant went to considerable lengths in the design of the buildings to make them attractive and to conform them to the suggestions of the City BAR staff for planning and architecture.

See site plan provided along with application.

The building design and layout requires a special exception and a variance from Section 54-327:

1. A special exception from Sec. 54-327(a) (removal of 1 grand trees Mulberry Quad trunk)
2. A variance from Sec. 54-327(b)(c) (removal of protected trees and protection of 15 trees/acre requirement)

Grounds for Requested Variances

1. There are extraordinary and exceptional conditions pertaining to the particular piece of property.

The property currently does not meet the 15 trees/acre requirement; therefore, any protected trees (10 inches and above) to be removed on the site would require a variance. This is an urban setting and there are only 2 trees on the entire site. This is an exceptional condition as there are only two trees of poor condition that are in decline and need to be removed but require a variance to do so. The tree is also growing up in the current building footprint foundation.

2. These conditions do not generally apply to other property in the vicinity.

As described in the Overview and the answer to No. 1, the grand mulberry is growing up against the Marketbank building downtown. The building façade is Art Deco and considered historic. The new design plans incorporate the building envelope into the new plans surrounding the building. The trees requested to be removed are volunteer trees around the perimeter of the building. As part of the project, the applicant will be adding street trees along the road frontages and this will be a "planned" landscape layout that will allow the trees to mature and further enhance the street frontages in this area of downtown.

3. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property.

If the variances are not granted, the Applicant will be prohibited from proceeding with the plan and architectural design favored by the design team. The design team has worked closely with City architectural staff to utilize the property in the best manner. The Marketbank building will not be able to be redeveloped into new use. The surface lot is not good use of the property.

4. The authorization of the variance will not be of substantial detriment to adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The district is an urban district downtown and the grand Mulberry tree is currently growing up in the foundation of the Marketbank building. The entire block adjacent to this project except for our site that is a surface lot consists of buildings that meet at street frontage. The plans for this site will be similar to adjacent properties use of the site.
BOARD OF ZONING APPEALS SITE DESIGN
City of Charleston
Wednesday, May 4, 2022

ITEM B 2
26 CUMBERLAND STREET
(Peninsula)
TMS# 458-05-03-087, 089-091, 093
ZONED MU-2/WH
TREE 1 - MULBERRY
TREE 2 - 23 LIGUSTRUM