



CITY OF CHARLESTON BOARD OF ZONING APPEALS – ZONING

PUBLIC COMMENT SEPTEMBER 19, 2023

A meeting of the Board of Zoning Appeals – Zoning (BZA-Z) will be held on **Tuesday, September 19, 2023 at 5:15 p.m.** in the **Public Meeting Room, First Floor, 2 George Street.**

The following comments will be provided to the board members 24 hours in advance of the meeting and also be acknowledged into the record and summarized. The public is encouraged to attend the meeting in person to speak in order for comments to be fully heard.

Application information will be available at www.charleston-sc.gov/bza-z in advance of the meeting. Please check the website on the meeting date to view any withdrawn or deferred agenda items.

For additional information, please contact:

DEPARTMENT OF PLANNING, PRESERVATION & SUSTAINABILITY
2 George Street, Suite 3100, Charleston, SC 29401 | 843-724-3781

In accordance with the American with Disabilities Act, people who need alternative formats, ASL (American Sign Language) Interpretation or other accommodation please contact Janet Schumacher at 843-577-1389 or email to schumacherj@charleston-sc.gov three business days prior to the meeting.

BOARD OF ZONING APPEALS – ZONING

September 19, 2023 Meeting

Comments Submitted to Innovate website and BZA-Z Staff

Agenda Item B-2: 728 Rutledge Ave. 1 Comment Submitted				
First Name	Last Name	Address	Comment	Submitted
Dorsey	Smith	728 Rutledge Ave, Charleston, SC. 29403	<p>Here before The Zoning Administrator & The Board comes now Dorsey H Smith & Angela M Smith; owners of 728 Rutledge Ave. Please let this serve as an attachment to the BZA-Z Appeal Form regarding Denial of STR Cat. 2 permitting. 1)Reason for Denial & Explanation from Lee Batchelder. 2)Ordinance 54-120 Sub Section 54-208; STR Category 2 3)Definitions of terms used in Ordinance 54-120 and its subsections. 4)Closing & Potential Damages to Property Owner(s)</p> <p>1)Reason For Denial The Zoning Administrator’s Denial states: - “Residential STR must be subordinate to the primary use (Residential). The proposed STR unit (1288sf) is superior to the residential use (775st) in this case. “ Note – per ordinance, key words are not included in the order and/or not included in the denial “...Residential STR must be subordinate to the “principal residential use of the property. Full email received from Lee Batchelder (dated 8/9/23) – “The sections you reference are part of the City’s zoning ordinance, which includes definitions for terms in Sec 54-120. Sec 54-120 reads as follows: Sec. 54-120. - Definitions. The following words, terms and phrases, when used in this Chapter, shall have the meanings ascribed to them in this section, except when the context clearly indicates a different meaning or when the word, term, or phrase is specifically defined to apply to a particular article, part, or section of this chapter: Accessory Use. A use of land or of a building or portion thereof customarily incidental and subordinate to the principal use of the land or building and located on the same lot with the principal use. This is the language we are basing the denial on.” (END OF EMAIL)</p> <p>Applicant’s Note: Specific to the terms & definitions identified in Mr. Batchelder’s email, it is our position that the phrase “A use of land”, is applicable, as we are hoping to use a “portion” of the property as an STR. We are not trying to use “a portion” of a building. The Principal Use of the land is “A Primary Residence”, which includes property amenities, driveway and open green space, etc. (All of which are not accessible to any STR renter.) 2)Ordinance 54-120 Sub Section 54-208; STR Category 2 Information used for appeal: The Ordinance states in Sec 54-208-(a) – “...a residential short-term rental... has to be an accessory use to the principal residential use of the property....” (Note – different wording used in ordinance vs used in reason for denial.) -The terms of Sec. 54-208-(a) & Sec. 54-208.2 and subsections, do not clarify that the Accessory Use & Principal Residential Use is limited to interior dimensions of dwellings, but instead clearly states “..an accessory use to the principal residential use of the property”. othe PRINCIPAL USE to which 728 Rutledge Ave. is devoted, is for a primary residence (Residential Use), which includes housing & amenities i.e. housing, parking, porch, deck, open space, animal space, Vegetable/Flower gardens & outdoor entertainment station, etc. None of which will be accessible by STR guests, nor advertised to be accessible. oIn ALL STR ADVERTISING, if STR guests of Accessory Use have access to back patios, pools, decks, Outdoor entertainment, etc., then the pricing of the STR is increased per the</p>	Sept. 18, 2023 12:00 PM

		<p>access to such amenities, i.e usable space. oThe SUPERORDINATE use of the of property is a Primary Residence for the property Owners i.e. housing, driveway, parking, patio/deck, animal space, flower & vegetable gardens, outdoor entertainment station, etc.. These amenities are not accessible by STR guests, and do not increase our estimated STR pricing. It is our opinion that Principal Residential use of the property includes housing & amenities (interior & exterior), therefore sq ft of Principal Residential Use is 'Superordinate' to that of Accessory Use of the property. (Usable SqFt listed in closing statement.) 3)Definitions of terms used in Ordinance 54-120 and its subsections. Definitions: Principal Use = as defined under Zoning & Land development Regulations, - The primary or predominant use to which a property is or may be devoted and to which all other uses on the premises are accessory. -In the context of this definition, the predominant use to which the property is devoted, is for a primary residence, which includes housing & amenities i.e porch, deck, yard, & outdoor entertainment, etc.. It is our opinion that the predominant use of the property is as a primary residence, which includes housing & amenities. Accessory Use = a use of land or of a building or portion thereof "customarily incidental and subordinate" to the principal use of the land or building and located on the same lot with the principal use. -In the context of this definition, "use of land" and/or "portion thereof" is applicable to the term "Accessory Use". oThe dwellings are detached from one another, and use & access of specific parts of land are isolated to each dwelling; separately. It is our opinion that the use/size/access of land includes interior & exterior usable space, which is isolated to each dwelling. "Customarily Incidental", -in this context, requires that the Accessory Use be scrutinized to determine whether it has commonly, habitually and by long practice been established as reasonably associated with the primary use. "Incidental", -In such context, means that the use of the property (accessory use) must be, not the primary one, but one subordinate in its significance. oSince Jan 2022, the front dwelling & usable exterior space has not been occupied as Primary Residence. Instead, used as a Home Office, Recording Studio, and guest bedroom for family visitors; To the contrary, the rear dwelling & usable exterior space is used as a Primary Residence. oThe owner of the STR Accessory Use has to reside on the property for 183 days of the year. oThe avg. length of stay at an STR is 3 nights or 156 nights of the year, which is subordinate to the use and time occupied at the Principal Residential Use of the property. (includes dwelling/amenities) It is our opinion that based on time requirements which the owner has to reside on the property (183) is of more significance than the projected number of days (156) which STR guests occupy the property. And, the Principal Residential Use (which includes dwelling/amenities) is 'superordinate' in its size & significance to the Accessory Use. 4)Closing & Potential Damages to Property Owner(s) In Closing – Sec. 54-208(a) states the STR "...has to be an Accessory Use to the Principal Residential Use of the property.... We have clearly presented that the Principal Residential Use of the property, (being a primary residence which includes dwelling & amenities), is "'Superordinate' by (1) main purpose of property; (2) size devoted to Principal Use vs Accessory Use; (3) the variance of STR pricing, based on access to exterior amenities; (4) significance of occupancy of the property (owner vs guests). All of these qualifications identify Principal Residential Use to be 'Superordinate' to the Accessory Use, and with using full measurements of the property: -Principal Residential Use sqft is roughly 3,353sqft (dwelling= 775sqft; exterior usable space 2,578sqft). -Accessory Use sq ft is</p>	
--	--	---	--

		<p>roughly 1,928sqft (dwelling= 1,288sqft; exterior usable space= 640sqft.) Therefor, Per the terms of the denial, ("A residential STR must be subordinate to the primary use (Residential) (of the property)..... . Once Usable sq ft is adjusted for interior AND exterior use, individually of both Principal Residential Use of the property & Accessory Use of the property, the STR will qualify for permitting due to the front dwelling & its exterior usable space being subordinate (or less significant) to the back dwelling & its exterior usable space used as the Principal Residential Use of the property. In the case of the Denial for Permitting, The Board's decision will significantly harm the property owners. Dorsey Smith lives in the primary residence, and Angela Smith lives in Nashville, TN. The Smith's are currently involved with Divorce proceedings, however are to be LLC business partners, splitting the potential revenue to be applied to mortgage and other loan payments. Among other discussions & agreed upon items, this result of denial will end in additional months-long deliberations, additional legal fees, and possible default on all loans. As owners of 728 Rutledge Ave, as the parties submitting for STR Cat. 2 permitting, we respectfully pray that the Zoning Administrator & The Board accepts our appeal to the denial of STR Cat. 2 permitting, and instead approve our application. Respectfully, Angela M Smith & Dorsey H. Smith</p>	
--	--	---	--

Agenda Item B-4: 161 Tradd St.				
3 Comments Submitted				
First Name	Last Name	Address	Comment	Submitted
John	Cannon	159 Tradd St., Unit A	See attached letter.	Submitted to Staff
Caitlin	Daly	4 Council St.	See attached letter.	Submitted to Staff
Ann	Mintz	156 Tradd St., Unit B	See attached letter.	Submitted to Staff

DEFERRED				
Agenda Item B-6: 10 Magnolia Ave.				
2 Comments Submitted				
First Name	Last Name	Address	Comment	Submitted
Preservation Society of Charleston			See attached letter.	Submitted to Staff
Jeff	Johnston	5 Magnolia Ave.	See attached letter.	Submitted to Staff

Agenda Item B-8: 942 Rutledge Ave.				
3 Comments Submitted				
First Name	Last Name	Address	Comment	Submitted
David	Thompson	99 Magnolia Ave.	See attached letter.	Submitted to Staff
Cassie	Odachowski	101 Magnolia Ave.	See attached letter.	Submitted to Staff
Stephen & Nicola	Lipster	940 Rutledge Ave.	See attached letter.	Submitted to Staff

Agenda Item B-9: 71 Bull St.				
4 Comments Submitted				
First Name	Last Name	Address	Comment	Submitted
Grayce	Davis	63 Smith St.	See attached letter.	Submitted to Staff
Resident		67 Bull St.	See attached letter.	Submitted to Staff
Barbara	Mitchell	73 Bull St.	See attached letter.	Submitted to Staff
Fred	Mitchell	73 Bull St.	See attached letter.	Submitted to Staff



CITY OF CHARLESTON

BOARD OF ZONING APPEALS – ZONING

161 Tradd St.

Charlestowne | TMS # 457-11-04-029 | Zoned: DR-1

- Request special exception under Sec. 54-110 to allow a horizontal expansion (1-story bedroom/bathroom) addition that extends a non-conforming 1-ft. 8 ³/₄ inch east side setback (3-ft. required).
- Request variance from Sec. 54-301 to allow a (1-story bedroom/bath) addition having a 43.25% lot occupancy (35% limit, existing lot occupancy 37.3%).

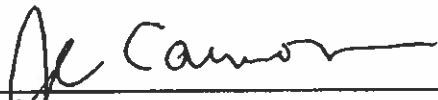
Owner: Ross Miller and Jennifer Hoffman
Applicant: Sebastian von Marschall Architect, LLC

TO: BOARD OF ZONING APPEALS – ZONING (BZA-Z)
FROM: LUTHER LEE (JOHN) CANNON, JR. - NEIGHBOR OF 161 TRADD ST.

To Whom it May Concern,

My name is John Cannon. I own and reside at 159 Tradd St., Unit A, Charleston, SC 29401, which is directly next door to 161 Tradd St. I have seen, reviewed, and am familiar with the plans and architectural drawings regarding the proposed addition my neighbors, Ross Miller and Jenny Hoffman, would like to build at their home at 161 Tradd St. I fully support this addition, do not believe it will affect my property or neighboring properties in any discernible manner, and believe it comports with the historical integrity and aesthetics of the surrounding homes and neighborhood. Should you have any questions or concerns, I am available at your convenience.

Respectfully Submitted,

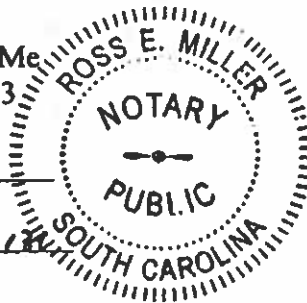


John Cannon

Sworn to and Subscribed Before Me
This 11 day of September, 2023



Notary Public for South Carolina
My Commission Expires: 1/25/24

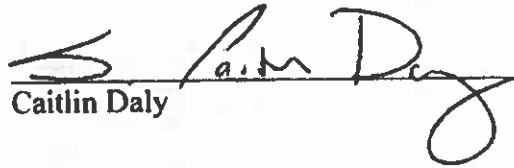


TO: BOARD OF ZONING APPEALS – ZONING (BZA-Z)
FROM: CAITLIN DALY - NEIGHBOR OF 161 TRADD ST.

To Whom it May Concern,

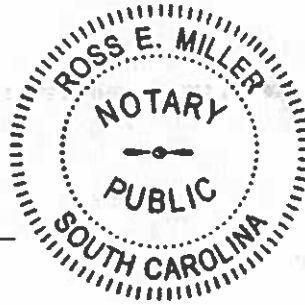
My name is Gaitlin Daly. I own and reside at 4 Council St., Charleston, SC 29401. My house backs up to 161 Tradd St. I have seen, reviewed, and am familiar with the plans and architectural drawings regarding the proposed addition my neighbors, Ross Miller and Jenny Hoffman, would like to build at their home at 161 Tradd St. I fully support this addition, do not believe it will affect my property or neighboring properties in any discernible manner, and believe it comports with the historical integrity and aesthetics of the surrounding homes and neighborhood. Should you have any questions or concerns, I am available at your convenience.

Respectfully Submitted,


Caitlin Daly

Sworn to and Subscribed Before Me
This 18 day of September, 2023


Notary Public for South Carolina
My Commission Expires: 1/28/24

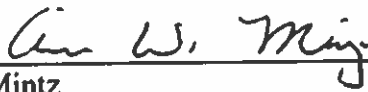


TO: BOARD OF ZONING APPEALS – ZONING (BZA-Z)
FROM: ANN MINTZ - NEIGHBOR OF 161 TRADD ST.

To Whom it May Concern,

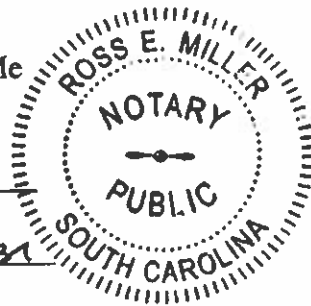
My name is Ann Mintz, I own and reside at ¹⁵⁶159 Tradd St., Unit ^BA, Charleston, SC 29401, with my husband Bruce, which sits directly across the street from 161 Tradd St. I have seen, reviewed, and am familiar with the plans and architectural drawings regarding the proposed addition my neighbors, Ross Miller and Jenny Hoffman, would like to build at their home at 161 Tradd St. I fully support this addition, do not believe it will affect my property or neighboring properties in any discernible manner, and believe it comports with the historical integrity and aesthetics of the surrounding homes and neighborhood. Should you have any questions or concerns, I am available at your convenience.

Respectfully Submitted,


Ann Mintz

Sworn to and Subscribed Before Me
This 11 day of September, 2023


Notary Public for South Carolina
My Commission Expires: 11-25-27





CITY OF CHARLESTON

BOARD OF ZONING APPEALS – ZONING

10 Magnolia Ave.

North Central | TMS # 463-08-03-032 | Zoned: SR-2

- Request special exception under Sec. 54-110 to allow a horizontal expansion (master bedroom suite/stairs) and vertical extension (bedrooms/bathroom/closets) that extends a non-conforming 5.8-ft. north side setback (9-ft. required).
- Request variance from Sec. 54-301 to allow a horizontal expansion and vertical extension with a 23.8-ft. rear setback (25-ft. required).

Owner: George and Louisa Gooding
Applicant: Joel Adrian, Coastal Creek Design

PRESERVATION
ESTD SOCIETY 1920
of CHARLESTON

Position Statement
Board of Zoning Appeals - Zoning
September 19, 2023

10 Magnolia Avenue

Dear Board Members:

The PSC supports the concerns of the directly affected neighbors over the potential detrimental impacts of this proposal, and agree the request does not meet the requirements for granting a variance, nor a special exception.

This is a prototypical house and lot size for this historic streetscape predominately characterized by one-story houses. A two story addition would fundamentally change the character of the property and adversely affect the strong architectural patterns of the surrounding context (Sec. 54-924 (a-d)).

While we would not be opposed to a more reasonably-scaled, sensitive addition, we feel this proposal represents an "unreasonable intensification" that would negatively impact the "aesthetic character" of the neighborhood (Sec. 54-110 (f)). We ask the Board to deny this request.

Thank you for considering our position in this matter.

Sincerely,



Erin Minnigan, AICP
Director of Preservation & Planning

Jeff Johnston
5 Magnolia Avenue
Charleston South Carolina 29403

September 17, 2023

Board of Zoning Appeals Zoning
2 George Street, Charleston SC 29401
Regarding: Agenda Item B-6 10 Magnolia Avenue (North Central)
TMS# 463-08-03-032

Dear Chairman, Staff and members of the Board of Zoning Appeals Zoning,

I am writing as a neighbor and on behalf of the undersigned residents of the southern block of Magnolia Avenue regarding the application for a variance request at 10 Magnolia Avenue.

It is our request that this application be Deferred until a point at which the renovation and addition plans can be communicated by the Owner or its Applicant to the affected neighbors. To this point, the Owner and the Applicant have not been in direct contact or in communication with this project's directly adjoining neighbors. A vote of deferral would allow those conversations to occur. It should be noted that the submitted application indicates that "letters from neighbors or petitions" are checked "to be provided", but neither have been requested or submitted (as presumed evident by the virtual image agenda).

The City's Variance Test (quoted from City of Charleston Zoning Ordinance Section 54-924), item "d" asks that the board determine if "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." This suggests that the Board is the arbiter of what constitutes "character", and also what may be considered "harmful".

Though we recognize that the BZAZ is not an architectural review board, we respectfully ask that the Board consider the following architectural characteristics of the south block of Magnolia Avenue, a micro-district, if you will, and see how this current design conflicts with both the existing house and its adjoining context, and therefore considered to harm the district's overall character. Please consider:

- a. House massing on south Magnolia Avenue is that of one-story houses (excepting one house that addresses Peachtree Street)
- b. Of the houses on Magnolia Avenue that have had additions, they have done so with an architectural compatible style, primarily through single-story or other compatible massing (same floor to floor heights) and in expression and detailing.
- c. Relative to the proposed, on architectural sheets 7/8/9, the current application presents this addition in a non-compatible form to the existing house. The new two-story form is a gable roof mass, and is not in agreement with the existing hipped roof structure, the addition's overall height exceeds the existing, thus, these two forms conflict and do not attempt to interact other than a small cricket roof to connect the existing with new. One may assume that this addition would recede beyond the existing, however, in looking at the overall height and massing, this design would,

as currently presented, overpower and conflict with the massing and simplicity and style of the existing house. This conflict is most expressed on sheet 8, on the drawing titled "Proposed Right Elevation". Rarely, in traditional architectural development, would a rear addition be taller and differ so much in roof form and overall volume such that an under-emphasis of the forward most and front facing existing house occur.

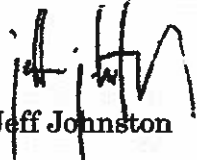
As currently presented, we submit that the granting of this variance would greatly harm the architectural character of this district, therefore, it is our opinion, that this application's approval would be in non-agreement with the City's published Variance Test "Item d" stated above.

The Board of Architectural Review has deemed this house worthy of keeping and has determined that keeping this house contributes to the overall character of the Charleston community. Considering that determination, it seems reasonable to expect that any addition or alteration would also require sympathetic integration and expression, particularly in massing, form and detailing, and would stand in deference to the existing.

It must be stated that we are not in opposition to the idea of an addition, and not opposed to the variance request. We are only seeking a more architecturally compatible approach to doing so.

Thank you for considering the above regarding this application.

Respectfully submitted,


Jeff Johnston

5 Magnolia Avenue
Jeff Johnston - Former Chairman, City of Charleston Design Review Board
Kathryn Johnston

8 Magnolia Avenue
Hailey Wist
Joel William Caldwell 

87 San Souci Street
Teresa M Johnson 

95 San Souci Street
Bob Bauer
Mary Sue Lawrence 



CITY OF CHARLESTON

BOARD OF ZONING APPEALS – ZONING

942 Rutledge Ave.

North Central | TMS # 463-08-01-055 | Zoned: SR-2

Request variance (after-the-fact) to allow a detached accessory structure (9-ft. tall pergola) having a 5.1-ft. rear setback (25-ft. required).

Owner/Applicant: Kathleen Eldh



DAVID THOMPSON ARCHITECT

August 20, 2023

RE: 942 Rutledge Ave Zoning Request

To: City of Charleston Zoning

Hello --

My wife Sara and I own and reside at 99 Magnolia Ave. Our rear property corner is shared with the rear property corner of 942 Rutledge, owned by Katie and John Eldh. We have visibility of their house and the pergola in question. We take no exceptions to the pergola structure and do not oppose their request for approval.

Sincerely,

A handwritten signature in black ink, appearing to read 'D. Thompson' with a long, sweeping underline.

David F. Thompson, Architect
99 Magnolia Ave
Charleston SC 29403

August 19, 2023

To the Charleston Board of Zoning-

My name is Cassie Odachowski and my address is 101 Magnolia Avenue and we are neighbors to John and Katie Eldh of 942 Rutledge Ave, Charleston SC. We would like you to know that we approve of all aspects (height, width, appearance and proximity to our property line) of their newly constructed pergola. We are hopeful that you approve of their application for a variance, as this pergola adds to the aesthetic and beauty of their property and our neighborhood.

Thank you for your consideration,

Cassie Odachowski

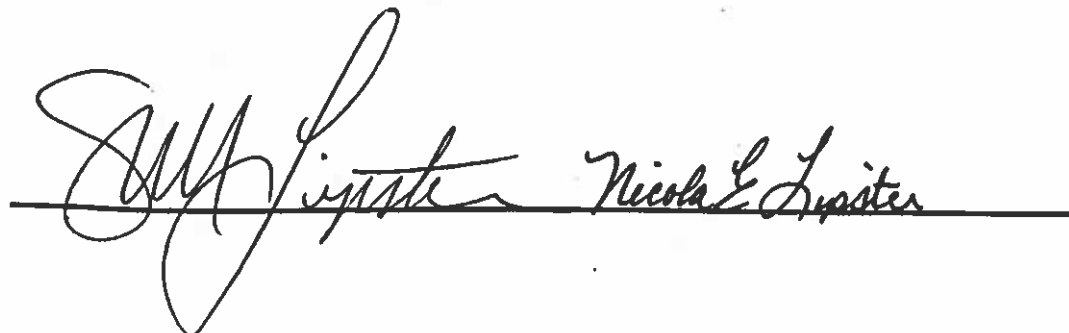
Cassie Odachowski 8/21/23

August 19, 2023

To the Charleston Board of Zoning-

Our names are Stephen and Nicola Lipster and our address is 940 Rutledge Ave. We are neighbors to John and Katie Eldh of 942 Rutledge Ave, Charleston SC. We would like you to know that we approve of all aspects (height, width, appearance and proximity to our property line) of their newly constructed pergola. We are hopeful that you approve of their application for a variance, as this pergola adds to the aesthetic and beauty of their property and our neighborhood.

Thank you for your consideration,



Stephen Lipster Nicola Lipster



CITY OF CHARLESTON

BOARD OF ZONING APPEALS – ZONING

71 Bull St.

Harleston Village | TMS # 457-03-02-099 | Zoned: DR-1F

- Request special exception under Sec. 54-110 to allow a 2-story addition (bay window) that extends a non-conforming 14.5 rear setback (25-ft. required).
- Request special exception under Sec. 54-110 to allow a 2-story addition (powder room, closet) that extends a non-conforming 0.5-ft. east side setback (3-ft. required).
- Request variance from Sec. 54-301 to allow a rear 2-story addition (powder room, closet) with a 5.4-ft. rear setback (25-ft. required).
- Request variance from Sec. 54-301 to allow a detached 1-story accessory building (garden pavilion/storage/fireplace) with a 3-ft. rear setback and a 3.8-ft. west side setback (25-ft. 9-ft. required).

Owner: J. Walker Layne, Jr. and Nicole Layne
Applicant: Kate Campbell, Beau Clowney Architects

8/29/2023

Board of Zoning Appeals
City of Charleston
2 George Street
Charleston, SC 29401

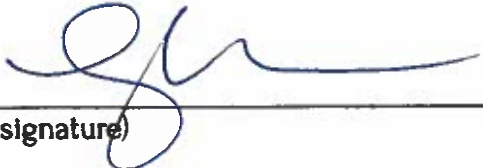
RE: 71 Bull Street Plans / Renovation

Members of the Board of Zoning Appeals,

Walker and Nicole Layne invited us to review and comment on their proposed revised plans for the addition to their home at 71 Bull Street. After reviewing the drawings and speaking with them, we have no objections to this project and support the zoning requests, as well as the design of the renovation and hope it will be approved.

Sincerely,

Grace Davis
(print name)


(signature)

63 Smith St
(address)

9/10/23
(date)

8/29/2023

Board of Zoning Appeals
City of Charleston
2 George Street
Charleston, SC 29401

RE: 71 Bull Street Plans / Renovation

Members of the Board of Zoning Appeals,

Walker and Nicole Layne invited us to review and comment on their proposed revised plans for the addition to their home at 71 Bull Street. After reviewing the drawings and speaking with them, we have no objections to this project and support the zoning requests, as well as the design of the renovation and hope it will be approved.

Sincerely,

Rob Salvatore
(print name)


(signature)

67 Bull St.
(address)

9/1/23
(date)

8/29/2023

Board of Zoning Appeals
City of Charleston
2 George Street
Charleston, SC 29401

RE: 71 Bull Street Plans / Renovation

Members of the Board of Zoning Appeals,

Walker and Nicole Layne invited us to review and comment on their proposed revised plans for the addition to their home at 71 Bull Street. After reviewing the drawings and speaking with them, we have no objections to this project and support the zoning requests, as well as the design of the renovation and hope it will be approved.

Sincerely,

Barbara Mitchell

(print name)

Barbara Mitchell

(signature)

73 Bull Street

(address)

8/29/23

(date)

8/29/2023

Board of Zoning Appeals
City of Charleston
2 George Street
Charleston, SC 29401

RE: 71 Bull Street Plans / Renovation

Members of the Board of Zoning Appeals,

Walker and Nicole Layne invited us to review and comment on their proposed revised plans for the addition to their home at 71 Bull Street. After reviewing the drawings and speaking with them, we have no objections to this project and support the zoning requests, as well as the design of the renovation and hope it will be approved.

Sincerely,

Fred Mitchell
(print name)


(signature)

73 Bull Street
(address)

8/29/23
(date)