

STATE OF SOUTH CAROLINA )  
 )  
 COUNTY OF CHARLESTON )  
 )  
 Teresa Melhado and Dane Neller, )  
 )  
 Appellants, )  
 )  
 v. )  
 )  
 City of Charleston, City of Charleston )  
 Board of Zoning Appeals, George Wallace, )  
 and Erika R. Hayes, Trustee of the Ericka )  
 R. Hayes Revocable Trust u/a/d 8-4-2016, )  
 )  
 Respondents. )  
 )  
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IN THE COURT OF COMMON PLEAS  
 FOR THE NINTH JUDICIAL CIRCUIT  
 Case No.: 2021-CP-10-05255

**ORDER DENYING MOTION FOR RECONSIDERATION**

**RECEIVED**  
**Jul 14 2022**  
 SC Court of Appeals

This matter is before the Court on Appellants Teresa Melhado’s and Dane Neller’s motion pursuant to Rule 59(e) of the South Carolina Rules of Civil Procedure asking this Court to alter or amend its Order entered on May 18, 2022, affirming the decisions of the City of Charleston Board of Zoning – Zoning and dismissing this appeal (the “Order”).

Motions for reconsideration are only granted under highly unusual circumstances. U.S. ex rel. Becker v. Westinghouse Savannah River Co., 305 F.3d 284, 290 (4th Cir. 2001).<sup>1</sup> Courts have recognized three circumstances in which a court should grant a Rule 59(e) motion: (1) where there is an intervening change in controlled law; (2) to account for new evidence not available at trial; or (3) to correct a clear error of law or prevent manifest injustice. Hutchinson v. Staton, 994 F.2d 1076, 1081 (4th Cir. 1993); see also Daves v. Cleary, 355 S.C. 216, 584 S.E.2d 423 (Ct. App. 2003).

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<sup>1</sup> “Rule 59(e) in the South Carolina and federal rules of civil procedure is practically identical.” Elam v. S.C. Dep’t of Transp., 361 S.C. 9, 21, 602 S.E.2d 772, 779 (2004).

The Court denies Appellants' motion because Appellant has failed to demonstrate any of these circumstances. The Order is supported by the record evidence and is not controlled by any error of law, the Appellants offer no new evidence that was not available at the time of the decisions of the Board of Zoning Appeals - Zoning, and the issues raised by the Appellants were addressed and ruled upon by this Court. A party's mere disagreement with the court's ruling does not warrant a Rule 59(e) motion. Lyons v. Fid. Nat'l Title Ins. Co., 415 S.C. 115, 135, 781 S.E.2d 126, 137 (Ct. App. 2015).

IT IS, THEREFORE, ORDERED that the Appellants' Motion for Reconsideration is DENIED.

IT IS SO ORDERED.

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R. Markley Dennis, Jr.  
Circuit Court Judge

Charleston, South Carolina  
\_\_\_\_\_, 2022



Charleston Common Pleas

**Case Caption:** Teresa Melhado , plaintiff, et al VS Charleston City Of , defendant, et al  
**Case Number:** 2021CP1005255  
**Type:** Order/Other

R. Markley Dennis Jr., 2060

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