

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	
COUNTY OF CHARLESTON	)	C/A No.: 2021-CP-10-02888
	)	
J. Doe,	)	
	)	
Petitioner,	)	
	)	
v.	)	<b><u>ORDER DISMISSING APPEAL</u></b>
	)	
Design Review Board (DRB) of the Town of	)	
Sullivans Island (S.I.), and Town of	)	
Sullivans Island,	)	
	)	
Respondents.	)	

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This matter came before the Court on September 19, 2022 upon Respondents’ Motion to Dismiss the Appeal. John P. Linton, Jr., Esq. appeared on behalf of Respondents and Cynthia Holmes appeared on behalf of Petitioner. For the reasons explained herein the Court grants the motion to dismiss the appeal and dismisses the case in its entirety.

Petitioner Appeals of the Town of Sullivan’s Island Design Review Board (“DRB”) May 19, 2021 decision approving two requests by nonparty property owners and their designer. According to Petitioner, referred to as J. Doe in the caption of the appeal, she is a property owner in the immediate vicinity of the property that is the subject of the DRB decision. She is not the owner of the property that is the subject of the decision on appeal, which is 1608 Poe Avenue on Sullivan’s Island.

Respondents filed a motion to dismiss the appeal because Petitioner failed to name the owners of the property that is the subject of the appealed decision as parties to this appeal. Spanish Wells Property Owners Ass’n, Inc. v. Board of Adjustment, 295 S.C. 67, 367 S.E.2d 160 (1988) is controlling and requires dismissal of the appeal because the permittee has not been included as a party. In the Spanish Wells case, the sole question before the South Carolina Supreme Court

was whether a permittee is a necessary party to an action to revoke a development permit. Id. at 68, 367 S.E.2d, 161 (“The sole question we address here is whether a permittee is a necessary party to an action to revoke a development permit.”). The Court unanimously found that “a development permittee is a necessary party to an appeal of its permit.” Id. at 68, 367 S.E.2d, at 161. Petitioner appeals a decision of the DRB seeking to overturn its decision granting approval of a project but has failed to name the permittee in the appeal. For those reasons, the appeal is dismissed.

Therefore, the Court **GRANTS** the motion to dismiss. The appeal is hereby **DISMISSED** for failure to join the owners of the subject property as required under Spanish Wells.

**AND IT IS SO ORDERED!**

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Charleston Common Pleas

**Case Caption:** J Doe , plaintiff, et al VS Design Review Board of the Town of Sullivan Island S I  
**Case Number:** 2021CP1002888  
**Type:** Order/Dismissal

So Ordered

s/Jennifer B. McCoy #2764