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SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In The Supreme Court

APPEAL FROM CHARLESTON COUNTY
Court of Common Pleas

R. Ferrell Cothran, Jr., Circuit Court Judge

Case No. 2022-000392

Opinion No. 2024-UP-838 (S.C. Ct. App. filed Nov. 13, 2024)

Wolfe Marie Vernon Trust, Appellant/Petitioner,

v.

The Town of Mount Pleasant and The Mount Pleasant Board of Zoning Appeals, Respondents.

PETITION FOR WRIT OF CERTIORARI TO THE COURT OF APPEALS

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CERTIFICATE OF COUNSEL

Counsel for Petitioner certifies that the Petition for Rehearing was made and finally ruled on by the Court of Appeals on January 30, 2025.

QUESTIONS PRESENTED

1. Did the Court of Appeals err by abandoning the long-standing rule of law that the cardinal rule of interpreting and applying an ordinance or statute must begin with its plain language, and instead taking a new approach in which the Court of Appeals first opined on what it believed the desired result should be and then advancing an interpretation of the ordinance to obtain that result?

2. Did the Court of Appeals err by interpreting an otherwise unambiguous ordinance in such a way that even the Court of Appeals had to admit created redundancy and therefore reduced portions of the ordinance's plain language to meaningless surplusage?

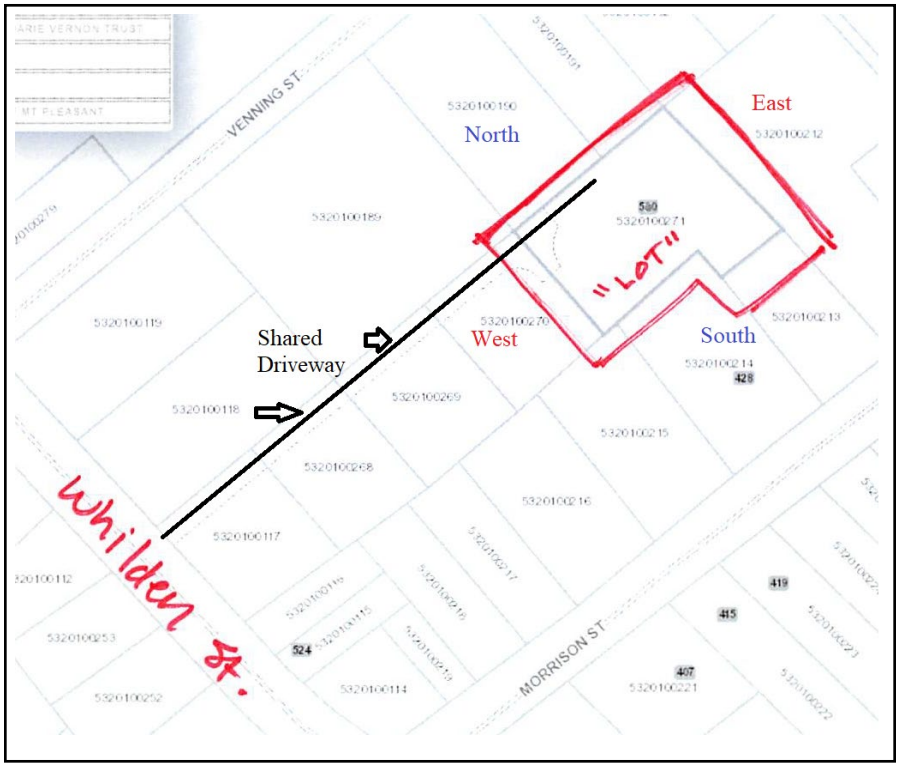
3. Did the Court of Appeals err when it failed to strictly interpret an ordinance limiting the free use of land in favor of the Owner?

BACKGROUND

Petitioner is the owner of a parcel of land located at 520 Whilden Street[1] (the "Lot"), in the Town of Mount Pleasant (the "Town"). The Lot is unique in two ways. First, the Lot is irregularly shaped. Second, despite having a Whilden Street address, the Lot does not border any public street or thoroughfare. (Appx. pp. 91 -92). Instead, the Lot is "landlocked," by the surrounding block where it is bounded on all sides by other parcels/homes. (Appx. *Id.*). The only ingress/egress benefiting the Lot is a shared driveway easement that connects the Lot with Whilden Street by traversing the neighboring parcels as shown below. In this way, the Lot has no frontage on any street or road.

[1] The "Lot" is known to the tax assessor by TMS No. 532-01-00-271.

Fig. 1 – The Lot



STATEMENT OF THE CASE

The issue here is the location of the "Building Line" or "Setback" on the Lot, which is located in the Town's Special R-2 Residential Overlay District ("SR2-OD"). The SR2-OD contemplates a Setback of 15' for a "front yard" and 25' for a "rear yard." The location of the Setbacks are delineated by the "Building Line." The Town's zoning Ordinance provides a single definition for both "Building Line" and "Setback":

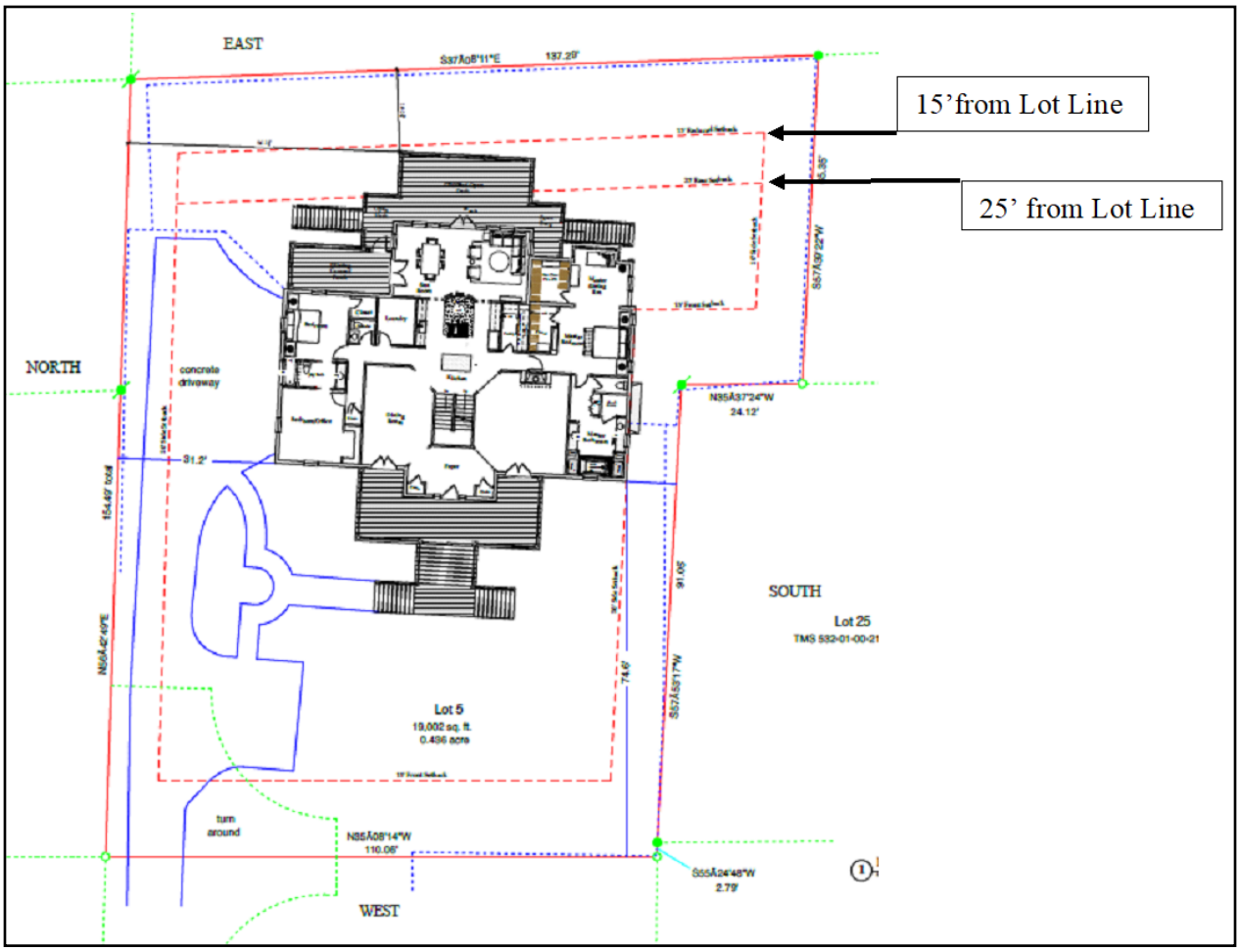
> *BUILDING LINE* (includes *SETBACK*). That line which represents the minimum distances, when measured at right angles, which a building or structure must be placed from a lot line in accordance with the terms of this chapter. Front and rear yards should be located along the width of the lot (shorter dimension) and side yards should be located along the length of the lot (longer dimension), **both regardless of lot and building orientation so as to provide the greatest amount of buildable area**.

M.P. Zoning Code. § 156.007 (emphasis added).

The crux of the question here is whether the Building Line should be located 15' from the East boundary and 25' from the West boundary, or visa-versa as reflected below. (Fig. 2, Appx. p. 92).

Fig. 2

EAST BOUNDARY



WEST BOUNDARY

In November 2020, an administrator in the Town's zoning office issued an opinion directing that the Building Line must be 25' from the East Boundary. (Appx. p. 88). Owner appealed this decision to the Town's Board of Zoning Appeals ("BZA"), asserting the Building Line need only be 15' from the East Boundary. (Appx. pp. 83-87).

On January 26, 2021, the BZA issued an order finding the Building Line on the East Boundary of the Lot must accommodate a 25' "rear yard" setback, rather than the lesser 15' "front yard" setback. (Appx. pp. 79-82). Not only did this ruling create *less* "buildable area" on the Lot, it was also expressly based on the orientation of the Lot to the street, and the orientation of the house on the Lot. *See* (Appx. p. 81) (the BZA stating "in our opinion" the front yard is determined by the "the side from which access to the lot is provided" and the side on which the "primary façade of the principal structure" is located).

Owner appealed this decision asserting this determination was inconsistent with the plain language of the Town's Zoning Ordinances which, in defining both "Building Line" and "Setback," directs that the location of the front and rear yards must be "both regardless of lot and building orientation so as to provide the **greatest amount of buildable area**." M.P. Zoning Code. § 156.007. (emphasis added). *See* (Appx. 6-23).The Circuit Court summarily affirmed the BZA in a Form 4 Order. (Appx. p. 64). Owner further appealed to the Court of Appeals, which likewise affirmed the circuit court. Owner/Petitioner takes the position that the Building Line should be 15' from the East Boundary, because this is the only way to give effect to the plain language of the Ordinance, which defines the Building Line and Setback by including a directive that it be established "regardless of lot and building orientation," and to "provide the greatest amount of buildable area." (Appx. *Id.*); (Appx. pp. 41-60); (Appx. pp. 168-78).

THE COURT OF APPEALS' OPINION

On November 13, 2024, the Court issued Opinion No. 2024-UP-383 affirming the BZA's decision to apply the 15' front yard setback to the Western boundary rather than the Eastern boundary. (Appx. 1-5).

There are two points important to this Petition that have not been (and cannot be) disputed. First, because of the irregular shape of the Lot, simple geometry provides that applying the larger 25' rear yard setback to the East Boundary yields *less* buildable area than if this larger setback is applied to the West Boundary (as Petitioner asserts). This has never been disputed. **In fact, the Court of Appeals expressly acknowledged that its decision does *not* provide the greatest amount of buildable area as directed by the Ordinance**. *See* (Appx p. 3) (stating "we acknowledge" that "under this interpretation and application" buildable area is not maximized).

Second, it cannot be disputed that Court of Appeals' decision (like the BZA's decision before it) is based entirely on the orientation of the Lot and building. *See* (Appx. p. 4) (where the Court of Appeals rationalized its decision on the orientation of the building on the Lot, noting that the "the driveway enters the lot on the western boundary" and the "primary entrance and the typical architectural characteristics associated with the front of a house are located on the 'west-facing' side of the [] house.").

To reach its ultimate conclusion, the Court of Appeals' reasoning takes the following steps. First the Court opines as to what it believes the proper *result* should be in the context of the SR2-OD. *See* (Appx. p. 2) ("we must first determine the [SR2-OD]'s purpose"). Then the Court proceeds to interpret the definition of Building Line and Setback in a manner that obtains the desired *result*. In doing so, the Court is left to find that the Ordinance's instruction to disregard lot and building orientation and maximize buildable area only apply to distinguishing the longer

versus the shorter dimension of the lot. *See* (Appx. pp. 3-4). Finally, the Court concludes that because the Ordinance is silent on how to distinguish the front from the rear, "common sense" directs that it be based on lot and building orientation. *See* (Appx. p. 4) (concluding "because neither the [SR2-OD] nor the definition [of Building Line and Setback] provide us with guidance on how to determine the front versus rear of a lot, we must use a common sense understanding of the 'front' of the *house*"[2]).

ARGUMENT

The logical misstep in the Court of Appeals' analysis is that it effectively ruled the definition of Building Line and Setback does not apply to questions concerning the location of Building Lines and Setbacks. Instead, the Court reasoned that provisions contained in the definition of Building Line and Setback only apply to the question of distinguishing the long dimension of a lot from its short dimensions. Under this flawed approach, the Court concludes that the determination of "front" versus "rear" can, and ostensibly must, be based on lot and building orientation and might fail to maximize the buildable area as instructed. *See* (Appx. pp. 3-5) (finding the same). The practical effect of the Court's ruling is to rewrite the Ordinance as if it said the Building Line must be located 25' from the lot line adjacent to the front or "primary" façade of the house. Of course, the Town could have written an Ordinance that provided for this requirement, but it did not.

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[2] It is telling that the Court of Appeals suggests the decision should be based on the "front of the ***house***." *See* (Appx. p. 4) (emphasis added). Plainly, the Court of Appeals acknowledged the possibility that a house may be situated such that its front façade is oriented toward the "side" of the lot. Moreover, it cannot be forgotten that questions concerning the location of the Building Line and Setback could also arise before any house is constructed on a lot. Apparently, under the Court of Appeals' interpretation the Ordinance can (and would) be interpreted and applied differently in that case. This further demonstrates the Court of Appeals' analysis is merely an exercise in creating a means to reach the end it desired rather than reaching the result compelled by the plain language of the Ordinance.

By implementing the Ordinance that the Court of Appeals *thinks* the Town *should* have drafted—rather than applying the plain text of the Ordinance the Town actually drafted—the Court of Appeals has usurped the Town's legislative authority. The Court should grant the instant Petition for Certiorari because it is not the role of the courts to engage in such judicial activism or to draft legislation. *See e.g., Kiawah Dev. Partners, II v. S.C. Dep't of Health & Envtl. Control*, 411 S.C. 16, 39, 766 S.E.2d 707, 720-21 (2014) ("Our role is to apply and interpret, not rewrite, regulations" and interpretation and application of statutes should be based on the plain language in accordance with its literal meaning).

I. The Court of Appeals erred because its analysis fails to start with the plain language of the Ordinance.

The Court of Appeals' reasoning begins with the assertion that "we must **first** determine the [SR2-OD] ordinance's purpose." (Appx. p. 2) (emphasis added). This is wrong. The law of this State directs that the analysis must start with the plain language of the definition of Building Line and Setback.[3] The Supreme Court of South Carolina has made clear that a Court "**must first attempt to construe a statute according to its plain language**, and if the language of a statute is plain, unambiguous, and conveys clear meaning, **[then] 'the rules of statutory construction are not needed** and the court has no right to impose another meaning'." *Odom v. Town of McBee*

[3] None of the cases cited by the Court of Appeals stand for the proposition that the analysis must begin with a broad analysis of perceived purpose of an ordinance rather than with an analysis of the actual language of the ordinance at issue. The Court first cites *Arkay, LLC v. City of Charleston,* 418 S.C. 86, 93, 791 S.E.2d 305, 309 (Ct. App. 2016). However, in *Arkay,* the court resorted to the rules of statutory construction to interpret the meaning of an **undefined** term. In the case at hand the terms Building Line, Setback, Front Yard, and Rear Yard are all specifically defined. Therefore, unlike *Arkay,* this appeal does not concern interpretation of an undefined term. The Court also cites *Mikell v. Cty. of Charleston*, 386 S.C. 153, 160, 687 S.E.2d 326, 330 (2009) and *City of Myrtle Beach v. Juel P. Corp*., 344 S.C. 43, 47, 543 S.E.2d 538, 540 (2001) neither of which support an analysis that does not begin with the plain language of the subject ordinance.

Election Comm'n, 427 S.C. 305, 310, 831 S.E.2d 429, 432 (2019); *citing Hodges v. Rainey*, 341 S.C. 79, 85, 533 S.E.2d 578, 581 (2000) (all emphasis added).

Without any finding that the definition of Building Line is ambiguous, the Court of Appeals jumped straight to a discussion of what it determined is the purpose of the SR2-OD. Just like Oz would have us ignore the man behind the curtain, the Court of Appeals would have us ignore that it has improperly reframed the analysis by interpreting the Ordinance to reach a desired result, rather than the other way around.

The Court of Appeals misapprehends that the definition of Building Line and Setback is neither affected nor modified by the SR2-OD. Instead, the definition of Building Line and Setback applies equally to all parts of the zoning code and in all zoning districts. While application of this definition to a lot inside the SR2-OD may lead to a different result than what might occur outside the SR2-OD, the meaning of this definition cannot change simply because a lot lies within the SR2-OD. In other words, the force and effect of this definition must be applied universally, regardless of whether a lot is in the SR2-OD or not. If Building Line and Setback were intended to have a distinct meaning and interpretation specific to the context of the SR2-OD then the Town Council (the Town's legislative body) would have provided a separate definition for these terms within the SR2-OD. It did not, which is paramount.

Here, the plain language of the applicable definition is clear when considered in the context of all other related definitions in the Ordinance. The "front yard" is defined as the *space between* the lot line and the "front **building line**," and similarly, the "rear yard" is defined as the *space between* the lot line and the "rear **building line**." *See* M.P. Zoning Code. § 156.007 (emphasis added). Similarly, the "Buildable Area" within a lot is defined by reference to the applicable "**setback.**" *See* M.P. Zoning Code. § 156.007 (defining "Buildable Area" as "[t]he **maximum** two-

dimensional space on a lot within which a structure or structures can be built, as permitted by applicable **setback**") (all emphasis added).

Because the relevant terms Front Yard, Rear Yard, and Buildable Area are all defined with express reference to the defined terms "Building Line" and "Setback" (which the Ordinance defines synonymously in a single section) the analysis necessarily must start there. The Court of Appeals overlooked this. Had the Court properly started with the express definition of Building Line/Setback, it would have been apparent the Court's forced interpretation and application is inconsistent with the plain language of the Ordinance.

II. The Court improperly interpreted the definition of Building Line and Setback in a manner that is inconsistent with the plain language of the Ordinance and based on the incorrect assumption that the Ordinance is silent on how to distinguish the front from the rear of a lot.

The plain language of the definition of Building Line/Setback directs:

> *BUILDING LINE* (includes *SETBACK*). That line which represents the minimum distances, when measured at right angles, which a building or structure must be placed from a lot line in accordance with the terms of this chapter. Front and rear yards should be located along the width of the lot (shorter dimension) and side yards should be located along the length of the lot (longer dimension), **both regardless of lot and building orientation so as to provide the greatest amount of buildable area**.

A. The Court's interpretation of the Ordinance creates redundancy and surplusage.

The Court of Appeals has previously held that "we must read [a] statute so that no word, clause, sentence, provision or part shall be rendered surplusage, or superfluous, for the General Assembly obviously intended [the statute] to have some efficacy, or the legislature would not have enacted it into law." *Lemmons v. Maced. Water Works, Inc.*, 431 S.C. 186, 197, 847 S.E.2d 471, 477 (Ct. App. 2020) (citation omitted) (quoting *State v. Sweat*, 379 S.C. 367, 377, 382, 665 S.E.2d 645, 651, 654 (Ct. App. 2008). Here, it abandoned this precedent.

In its opinion, the Court of Appeals opined that the Ordinance's directive to: (1) disregard lot and building orientation, and (2) provide the greatest amount of buildable area only applies when distinguishing the long dimension of a lot from its short dimension. As Petitioner explained in detail to the Court of Appeals, the determination of the long versus short dimension cannot possibly be affected by the lot or building orientation. (Appx. pp. 52-55); (Appx. pp. 19-20). Which is longer is just math. Moreover, distinguishing the long dimension from the short dimension cannot determine the buildable area of a lot—much less maximize buildable area. *(Id.).* Thus, for the Court of Appeals to find that these provisions only apply when distinguishing the long from the short dimensions is tantamount to holding these provisions are meaningless surplusage. (Appx. pp. 53-55); (Appx. pp. 171-75). In fact, the Court concedes its interpretation of the Ordinance *does exactly that*, stating, "we acknowledge the definition is somewhat redundant in explaining how to determine the sides versus front and rear." (Appx. p. 4).

When using proper rules of construction, this definition does not make these provisions redundant at all. Instead, the Court of Appeals *created* the redundancy by incorrectly suggesting the definition of Building Line and Setback only applies to distinguishing the long from short dimensions in order to justify its result. Herein lies the flaw of the Court's backward reasoning.

These provisions only *become* redundant because the Court has made them so by forcing a result to match the Court's desired "purpose" rather than gleaning the purpose from the plain language as the law requires. (*supra*). This redundancy does not exist within the plain language, nor does this redundancy exist under the interpretation of the Ordinance proposed by Petitioner. Nowhere does the Ordinance contemplate such a thing as a "long dimension Building Line" or "long dimension Setback;" nor is there such a thing as a "short dimension Building Line" or "short dimension Setback." It is unnecessary and illogical to think that the directive to ignore lot and

building orientation and maximize buildable area would only apply to identifying something that is not contemplated by the Ordinance—*i.e.,* a long or short dimension Building Line.

This is particularly true when considering that the Ordinance addresses Setbacks for a "front yard," a "rear yard," and two side yards, and the Ordinance also addresses Building Lines for the front, rear, and two sides of the lot. In other words, by definition, there is a Building Line and Setback for all **four** boundaries of a lot, not just two—*i.e.,* the long and short dimensions. It only makes sense that the provisions of this definition to ignore building and lot orientation and maximize buildable area would also apply to all four sides, not just the two of the long and short dimensions.[4] Had the Court interpreted the definition of Building Line and Setback to apply to the actual Building Line and Setback for each of the four boundaries contemplated by the Ordinance (*i.e*., the front, rear, and two sides) to determine the maximum buildable area rather than to determining the short and long dimensions, there would be no redundancy. This is contrary to how the law directs a court to interpret and apply an ordinance. *See Lawrence v. Gen. Panel Corp.*, 425 S.C. 398, 402, 822 S.E.2d 800, 802 (2019) ("[T]he Court should seek a construction that gives effect to **every word** of a statute.") (emphasis added).

B. The Court of Appels incorrectly asserts the Ordinance is silent on how to differentiate the front of the Lot from the of the Lot.

The Court of Appeals asserts the Ordinance is silent on "how to determine the front versus rear of a **lot,** [so] we must use a common sense understanding of the 'front' of a **house.**" (Appx. p. 4) (emphasis added). This completely misses the mark.

[4] As a practical matter, there can be no real debate over the long versus short dimension. This is a purely objective measure. Moreover, the concepts of long and short dimensions are separately defined under the Ordinance as "Lot Width" and "Lot Depth." M.P. Zoning Code § 156.007. If the provisions to disregard lot and building orientation and maximize buildable area only apply to the long and short dimensions, why do these provisions not appear in the definition of Lot Width and Lot Depth? *See* (Appx. p. 52). The Court ignores this.

Left completely unexplained is why the Court of Appeals felt a need to determine, via common sense or otherwise, the "'front' of a **house"** when the Ordinance plainly instructs that front and rear yards are determined "**regardless of lot and building orientation**" so long as the front and back exist along the shorter dimension of the lot. The plain language ensures that the front of a **lot** is not dictated by the front of the **house.** (emphasis added to distinguish "lot" and "house" (or "building")). The front of a lot and the front of the house are separate and unrelated inquiries. The Ordinance plainly defines the "front yard" as that area "situated between the front building line and the front lot line extending the full lot width[,]" without reference to the front of the building thereon. M.P. Zoning Code §156.007. Of course the Town Council could have defined the front yard as the area outside the "front of the house" but it did not and the decision not to evidences it was not intended. *See Hughes v. W. Carolina Reg'l Sewer Auth.*, 386 S.C. 641, 649, 689 S.E.2d 638, 643 (Ct. App. 2010) ("The general provisions of statutory construction would mandate that when the legislature employs a term other than one specifically defined, the implicit intent is that the undefined term has a different meaning.") (*citing State v. Leopard*, 349 S.C. 467, 472-73, 563 S.E.2d 342, 345 (Ct. App. 2002) for the "canon of construction *expressio unius est exclusio alterius* or *inclusio unius est exclusio alterius* holds that to express or include one thing implies the exclusion of another, or of the alternative.").

The determination of where the front and rear Building Line and Setback lines will be situated is not determined by one's view of common sense. Rather, the Ordinance commands a mathematical approach. Where, as here, a lot's irregular shape is such that the buildable area will *differ*[5] based upon the location of front and back Building Line and Setback lines, the Ordinance

[5] For a square or rectangular lot, the buildable area will be the same regardless of where the font and rear Building Line and Setback is assigned. The same is true in a location where all four Building Lines and Setbacks are the same value. Here, however, the irregular shaped Lot causes

requires that the assignment must "**provide the greatest amount of buildable area**." This is the sole determining factor.

This is made all the more compelling by the fact that in other sections of the Ordinance, the Town makes reference to the "primary façade" of a house. *See e.g.,* M.P. Zoning Code. § 156.310(E)(2) (discussing the "architectural design[s]" of commercial buildings—not residential buildings—and explaining the primary façade should face the street).[6] Thus, the fact that the Ordinance does not reference the "primary façade" in the sections concerning Building Line, Setback, or Front Yard indicates that Court's interpretation is inconsistent with what the Town's legislative body intended when it drafted the Ordinance. *See Leopard*, at 472-73, 563 S.E.2d at 345 (explaining "that to express or include one thing implies the exclusion of another, or of the alternative.").

Contrary to the Court of Appeals' assertion, the Ordinance is **not** silent on how to determine the location of the front and rear of a lot. The relevant sentence within the definition of Building Line provides: "**Front and rear yards should be located** along the width of the lot (shorter dimension) and side yards should be located along the length of the lot (longer dimension), both regardless of lot and building orientation so as to provide the greatest amount of buildable area." (emphasis added). Not only does this sentence begin with a statement of where the "Front and rear yards should be located" it also defines the Building Line with reference to the lot's "buildable area." This is significant because the Ordinance makes plain the meaning of Buildable Area is that

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the buildable area to be greater or lesser depending on where the front and rear Building Lines and Setbacks are applied. The Ordinance both contemplates and resolves any question over where the front and rear should lie on the Lot—it is wherever the buildable area is maximized, regardless of lot or building orientation. The most difficult question is why this is not patently clear from a plain reading of the Ordinance.

[6] Again, the Lot in question does not face any street. It is landlocked, utilizing a shared driveway.

area inside of the Building Line on the front, rear, and two sides in which construction is permitted. Simply put, for any lot that does not have the same front and rear yard setbacks, it is impossible to know the Buildable Area of such a lot until the Building Line for all four edges—*i.e.,* the front, rear, and both sides—are identified. Because the Buildable Area cannot be known without knowing the location of the Building Line for the front and rear, it cannot be reasonably said that the Ordinance is silent on this point when it contains the directive to "provide the greatest amount of buildable area."

At bottom, the Court of Appeals has overlooked that the interpretation advanced by Petitioner provides a way to interpret the definition so as not to be redundant. Therefore, this Court should grant the instant Petition for Certiorari to correct the Court of Appeals' erroneous interpretation.

III. The Court's opinion fails to strictly construe the Ordinance.

Relying on the incorrect assertion that the Ordinance provides no guidance on how to distinguish the location of the front Building Line from the location of the rear Building Line, the Court of Appeals directs that the determination must be made based on "a common sense understanding of the 'front' of a house." (Appx. p. 4). For argument's sake, even if the Court of Appeals were correct that the Ordinance is silent on this point, the approach the Court invented and adopted to resolve this question is wholly inconsistent with the law's directive that an ordinance be strictly construed in favor of the landowner.

Specifically, the approach created by the Court to settle the front versus the back directs that it should be based on the orientation of the house and lot and condones applying this approach in a manner that minimizes buildable area and the utility of the lot. The considerations relied on by the Court include the location of the "primary entrance," "the typical architectural

characteristics," the location of the driveway (which are all features of the "building"), and the location of the nearest street (overlooking the Lot is landlocked). (Appx p. 4). However, none of these factors appear anywhere in the Ordinance, nor is there any explanation of how these factors are to be weighed or how to resolve debate if these factors compete or are not agreed upon. *See* (Appx. 1-5) (the Court of Appeal's failing to explain how to weigh these factors). Further, the Court's approach would leave the interpretation and application of the Ordinance to yield a different result if there was no house on the lot. Moreover, the Court seemingly leaves the determination and weighing of these factors to the unrestricted discretion of the zoning employee making the determination, as occurred at the beginning of this dispute.

The Court of Appeals overlooked that unless a zoning ordinance clearly articulates this judicially created approach, the law prohibits the ordinance from being interpreted to give such broad and undefined discretion to the Town. Instead, where an ordinance is silent—as the Court of Appeals claims here—it must be interpreted in favor of the landowner. Prior rulings of the Court of Appeals and this Court have recognized that:

> [S]tatutes or ordinances in derogation of natural rights of persons over their property are to be **strictly construed** as they are in derogation of the common law right to use private property so as to realize its highest utility and should not be impliedly extended to cases not clearly within their scope and purpose. It [therefore] follows that the **terms limiting the use of the property must be liberally construed for the benefit of the property owner**.

Helicopter Sols., Inc. v. Hinde, 414 S.C. 1, 13, 776 S.E.2d 753, 759 (Ct. App. 2015) (*quoting Purdy v. Moise*, 223 S.C. 298, 302, 75 S.E.2d 605, 607 (1953)) (emphasis added). "[W]hile [l]ocal governments have wide latitude to enact ordinances regulating what people can do with their property, **they must draft their ordinances so that people can have a clear understanding as to what is permitted and what is not. Otherwise, we must construe such ordinances to allow**

people to use their property so as to realize its highest utility." *Id.* (*quoting Keane/Sherratt P'ship by Keane v. Hodge*, 292 S.C. 459, 465, 357 S.E.2d 193, 196 (Ct. App. 1987) (emphasis added).

In this case, rather than look to the plain language of the definition of Building Line and Setback, the Court took a backwards approach. Crafting an interpretation of the definition that conformed to its desired result, rather than applying the plain language of the Ordinance, the Court *created* a redundancy in the Ordinance rather than interpreting the Ordinance in a way that *avoided* this redundancy. In forcing a result, the Court of Appeals created an approach for applying the Ordinance in such a way that does not strictly interpret the Ordinance in favor of the homeowner as required by law. *See id.* Without adhering to proper rules of construction, the Court of Appeals has left behind an interpretation of the Town's Ordinance that allows Building Lines and Setbacks to be determined based on nothing more than the whims and opinions of the employees of the zoning department. That is not how the law works.

CONCLUSION

For these reasons, this Court should grant the instant Petition for Certiorari.

Respectfully submitted,

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