

STATE OF SOUTH CAROLINA  
IN THE COURT OF APPEALS

RECEIVED

APPEAL FROM BEAUFORT COUNTY  
Court of Common Pleas

JUL 30 2025

SC Court of Appeals

Robert Bonds, Circuit Court Judge

APPELLATE CASE #: 2024-001984

Mare Deckard

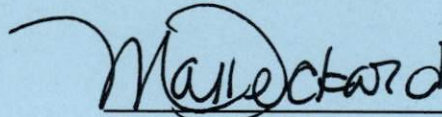
Appellant

v.

Town of Port Royal Zoning Board of Appeals

Respondent

FINAL BRIEF OF APPELLANT



Mare Deckard, *Pro Se*

1006 Madrid Avenue

Port Royal, South Carolina 29935

July 28, 2025

Counsel of Record:

Thomas Bendle

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Town of Port Royal Zoning Board

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Port Royal SC 29935

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## STATUTES

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§ 30-4-10 et. seq., S. C. Code, ann

## STATEMENT OF ISSUES ON APPEAL

1. THE PORT ROYAL ZONING BOARD ERRED BY ADMITTING HEARSAY EVIDENCE, VIOLATING THE APPELLANT'S RIGHT TO PROCEDURAL DUE PROCESS.

A. THE PORT ROYAL ZONING BOARD'S DECISION TO AMEND THE CODE REGARDING ALLEY WAY ACCESS BY APPROVING A FENCE IN THE ALLEY WAY NOT ONLY FAILED TO CONFORM TO THE CODE, IT WAS AN ABUSE OF THEIR DISCRETION.

B. THE PORT ROYAL ZONING BOARD AMENDED THE TOWN'S CODE, ESTABLISHING A PRECEDENT FOR OBSTRUCTIONS TO BE PLACED IN ALLEY WAYS THAT WOULD OTHERWISE BE PROHIBITED. FURTHER, THEY FAILED TO PROVIDE A FULLY FORMED WRITTEN DECISION AS TO HOW THEY CAME TO THAT DETERMINATION, IN ORDER TO ELIMINATE POTENTIAL CONFUSION AND ENSURE THE WILL OF THE BOARD WAS ACCURATELY TRANSMITTED TO THE AFFECTED PARTIES AND REVIEWING COURTS.

2. THE CIRCUIT COURT JUDGE ERRED BY FAILING TO MAINTAIN THE INTEGRITY OF THE COURT WHEN EVIDENCE WAS PRESENTED TO HIM THAT OPPOSING COUNSEL'S TESTIMONY WAS UNTRUTHFUL. A JUDGE IS OBLIGATED TO ENSURE THAT COURT PROCEEDINGS ARE CONDUCTED FAIRLY AND HONESTLY, WHICH MEANS ACTIVELY ADDRESSING INSTANCES OF ATTORNEY MISCONDUCT.

A. THE CIRCUIT COURT JUDGE FAILED TO FULLY ADDRESS AT THE INITIAL PROCEEDING, AND THE SUBSEQUENT MOTION FOR RECONSIDERATION, ISSUES RAISED BY THE APPELLANT IN HER APPEAL AND SUPPLEMENTAL MEMORANDUM, WHICH WERE 1] THE HEARSAY EVIDENCE, 2] THE BOARD'S AMENDING OF THE CODE, AND 3] THE BOARD'S FAILURE TO PROVIDE A PROPER WRITTEN DECISION.

B. THE CIRCUIT COURT JUDGE FAILED TO PROVIDE PROPER WRITTEN DECISION(S) FOR A REVIEWING COURT.

C. THE CIRCUIT COURT FAILED TO CONSIDER ALL RELEVANT FACTS PROVIDED AND FAILED TO APPLY THE LAW CORRECTLY IN REACHING AN INFORMED DECISION.

## STATEMENT OF THE CASE

December 1994 the Town of Port Royal [Town] approved a development plat for Phase 1/The Village at Port Royal, a block design including an Alley Way [Alley] connecting 10<sup>th</sup> and 11<sup>th</sup> Streets, that traversed the corner of 1015 11<sup>th</sup> Street, Lot #7 - Harriet Witt [Witt]. The Alley was in this same location for almost thirty years without issue and maintained by the Town throughout until an addition was built on Witt's lot in the spring of 2022. (R. pp. 382 -383)

The Appellant learned of this proposed addition January 2022. On February 1 2022 she requested a copy of the plan from the Town because she/her family own Lot #9, adjacent to the Alley and directly opposite Witt. The Appellant was initially concerned about ingress/egress for their boat, trailer and truck for which they had deeded access to the Alley since December 1999, and from which they had a license to operate a charter business. Noah Krepps, Town Planning Director, sent Appellant the "*survey with approved location of the proposed garage*" noting the Alley Way as "**edge of gravel**". (R. pp. 55-57) The Town subsequently approved the addition including a rental garage apartment [aka "Accessory Dwelling Unit"]. In November 2022 Witt installed tall, concreted posts on the side/corner of the road, blocking Appellant's access for her boat and trailer, as well as fire truck and emergency vehicle access. (R. p. 346)

The Appellant's real estate attorney, Frampton Harper, contacted the Town January 11, 2023 about the Town's code and/or construction standard allowing concreted posts on the road/corner. In response, Town attorney Thomas Bendle replied January 25, 2023 saying "*the only zoning regs are just the setbacks for this district (T4NC). There is no setback requirement for a fence. Applicable standards are attached.*" (R. pp. 62-64)

This was not true. The Appellant received documentation from her [first] FOIA request that confirmed Krepps sent Witt a copy of the Port Royal Code section entitled "**Division 5.5**

**Supplemental to Zone Fences and Walls**” November 15, 2022. Neither the Appellant nor her attorney received a copy. It contained Town Code rules and regulations for a fence, under certain circumstances, not random posts. (R. pp. 359-362). On January 2, 2024 Witt installed a side driveway and more concreted posts. The Appellant texted Krepps January 2, 2024; he replied January 3rd: “*She needs a fence permit to add more. We will be taking care of it*”. (R. pp. 337-338). Thus, the Appellant submitted a second FOIA request for all documentation pertaining to the fence, as the Town had not been forthcoming. While awaiting the FOIA Appellant filed a Code Violation Complaint February 3, 2024 that the posts violated the Code. (R. pp. 48-71). The Town finally admitted by letter they did. (R. p. 33, lines 11-12) On February 16, 2024 the Appellant received a second letter from the Town clarifying their requirements for a fence. (R. pp. 37-38). Thereafter, Witt fashioned the existing concreted posts into noncontiguous fence sections in the exact same location. Given they still impeded the Appellant’s deeded access, obstructed visibility at the corner, and blocked Alley Way fire truck access the Appellant filed a Notice of Appeal to the Port Royal Zoning Board March 5, 2024. (R. pp. 41-42).

### **Standard of Review**

The findings of fact by the Board shall be treated in the same manner as findings of fact by a jury, and the court may not take additional evidence. S.C. Code Ann. 6-29-840(A) (Supp. 2003); see also Heilker v. Zoning Bd. of Appeals for City of Beaufort, 346 S.C. 401, 405, 552 S.E.2d 42, 44 (Ct. App. 2001). In reviewing the questions presented by the appeal, the court shall determine only whether the decision of the Board is correct as a matter of law. Id. Furthermore, [a] court will refrain from substituting its judgment for that of the reviewing body, even if it disagrees with the decision. Restaurant Row Assocs. v. Horry County, 335 S.C. 209, 216, 516 S.E.2d 442, 446 (1999). However, a decision of a municipal zoning board will be overturned if it

is arbitrary, capricious, has no reasonable relation to a lawful purpose, or if the board has abused its discretion.

### ARGUMENTS

1. TOWN OF PORT ROYAL EMPLOYEES/AGENTS OBSTRUCTED THE APPELLANT BY WITHHOLDING MATERIAL EVIDENCE
2. THE PORT ROYAL ZONING BOARD FAILED TO UTILIZE THE CORRECT STANDARD OF THE PORT ROYAL CODE GOVERNING ALLEYS
3. THE CIRCUIT COURT JUDGE FAILED TO TAKE ANY ACTION REGARDING UNTRUHFUL STATEMENTS BY THE TOWN ATTORNEY, AND FAILED TO ADDRESS THE TOWN'S WITHHOLDING OF MATERIAL FACTS
4. THE PORT ROYAL ZONING BOARD, AND THE CIRCUIT COURT, FAILED TO PROPERLY ARTICULATE THEIR FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THEIR FINAL DECISION/ORDER. THAT FAILURE OPERATES AS AN IMPEDIMENT TO APPELLATE REVIEW

#### **1. TOWN OF PORT ROYAL EMPLOYEES/AGENTS OBSTRUCTED THE APPELLANT BY WITHHOLDING MATERIAL EVIDENCE**

From the outset, Town employees/agents obstructed the Appellant. They failed to provide her pertinent information about the addition and their proposed changes to the Alley in a timely manner, sent the Appellant [and her attorney] incorrect and/or incomplete information, failed to correctly identify the purpose of Alleys pursuant to the Town Code, failed to provide notice they were moving the Alley, and violated FOIA by withholding relevant emails they knew, or should have known, the Appellant was entitled.

To reiterate, in December 1994 the Town of Port Royal [Town] approved a development plat for Phase 1/The Village at Port Royal which included a dedicated Alley Way connecting 10<sup>th</sup> and 11<sup>th</sup> Street that traversed the corner at Lot#7/Witt property. (R. p. 383)

In February 2022 the Appellant emailed Town Planning Director Noah Krepps for a copy of a plat/plans for a proposed addition at the Witt property; the Appellant owns/reside at Lot #9, directly across from Witt and bisected by the Alley, for which she has deeded access. Her concern was continued ingress/egress for a boat, trailer, truck etc.

November 7, 2022 the Appellant and neighbors met with Krepps during his inspection of large planters that suddenly appeared on the road/corner; they told Krepps these planters were blocking the corner of the road and their access for fire trucks and emergency vehicles.

Krepps said he would ask the Town attorney about the obstructions. Per FOIA material the Appellant received in April 2023 she learned Krepps emailed town lawyer Thomas Bendle, Brooks Plank-Buccola, Director of Administrative Services, and Town Manager Van Willis November 8, 2022 about the blocked Alley. Krepps also included an aerial photograph clearly showing the Alley location. (R. p. 327)

Upon review of these emails the Appellant wrote Krepps to reiterate they had used the Alley in the same location for over **twenty years** and asked how it would be resolved, because Krepps had clearly miscommunicated this information to Bendle, Willis and Plank-Buccola. Krepps answered (R. p. 334):

*“Understood, but the subsequent discussion was held over the phone per the emails provided. We did not have any further discussion via email and didn’t discuss ‘length of use after the initial email.”*

Also included in the FOIA was an email from Bendle dated November 9, 2022, informing Willis and Krepps that the Phase 2 Alley between 9<sup>th</sup>/10<sup>th</sup> Streets had never been included in the deed to the Town. Bendle advised the Town arrange for a quit claim deed from the owner, Village Renaissance. This email established that as far back as November 2022 Bendle was aware of matters pertaining to the Appellant/Phase 1 Alley, and was instrumental in ensuring the Town entered into a deed for ownership of Phase 2 Alley Way. This deed was executed September 22, 2023: (R. p. 328)

**From:** Thomas A Bendle, Jr. <[TBendle@hghpa.com](mailto:TBendle@hghpa.com)>  
**Sent:** Wednesday, November 9, 2022 9:04 AM  
**To:** Noah Krepps <[NKrepps@portroyal.org](mailto:NKrepps@portroyal.org)>

Cc: Van Willis <vwillis@portroyal.org>; Brooke Plank-Buccola <bplank-buccola@portroyal.org>  
Subject: RE: 11th Street Alley

**CAUTION: This email originated from outside the Town of Port Royal's email system. Maintain caution when opening external links/attachments**

Noah,

I am available most of the day to speak with you and Van. Do the two of you have a time that you would like to give me a call, or that I can call you?

Van,

I need to speak to you about the alleyway between 9<sup>th</sup> and 10<sup>th</sup> Streets as well. This is Parcel 174 that was never included in the deed to the Town. It is a bit odd how it was left off but, then again, if you look at the plat that is referenced in the deeds, there was a portion of the ROW (small sliver) that was deeded. I think we just need to get Village Renaissance to sign a QCD.

Subsequently, Witt replaced the planters with several tall concreted wooden posts. The Appellant asked Krepps for documentation as to the post's conformance to the code and Krepp's said they were allowed under Transact Zone **T4NC**. On January 25, 2023 the Appellant's real estate attorney, Frampton Harper, received the same reply from Bendle: (R. pp. 62-64)

Framp,

Noah Krepps wrote to me after our conversation, as follows:

"The only zoning regs are just the setbacks for this district (T4NC). There is no setback requirement for a fence. Applicable standards are attached."

I further understand that the fence was laid out while a surveyor was on site at Ms. Coffey's residence to make sure that there would not be an encroachment into the alleyway. You are welcome to provide me with any evidence to the contrary. Van told me that they will periodically provide replacement gravel for the alleyway and clean out the drainage boxes but they otherwise do not have a maintenance schedule or records.

Hope this helps. Let me know if there is anything else you need to if there are further questions.

However, this was not true. The Appellant learned that on November 15, 2022 Krepps sent a copy of Town Code "**Division 5.5 Supplemental to Zone Fences and Walls**" to Witt [but not the Appellant nor her attorney] about the rules for a fence on the corner of a road under certain circumstances [not randomly concreted posts]. Subsequently, in January 2024, Witt installed a

side driveway and added more posts to the road/corner. At this juncture the Appellant texted Krepps, who replied *“She needs a fence permit to add more. We will be taking care of it”*.

(R. pp. 337-338)

The Appellant submitted a second FOIA request for documents January 2024. (R. pp. 339-340) The Town claimed they fulfilled it February 27<sup>th</sup>. Among the documents was an email from Willis to Port Royal Town Council, dated **January 11, 2024 at 10:10 am**, referencing the [disputed] issue of Alley Way fire truck access. (R. p. 341)

At the April 15, 2024 Port Royal Zoning Board hearing, the Appellant provided the Town and Board with copies of her documents and a power point presentation. (R. Index Item #28 - Flashdrive/Powerpoint) The Town provided nothing to her in return. Subsequently, Krepps testified the Town had received an email exchange from the [City of Beaufort] fire chief and fire marshal and read a part of it aloud into the record, beginning minute 56.00

(R. Appeal Hearing Flashdrive, Index Item #12, and R. pp. 156-161)

*“We did reach out to the fire district in response to the concerns about fire access. We received an email from Chief Ogden with Beaufort Port Royal Fire District on January 11<sup>th</sup> of this year. And the fire marshal determined that the alley is not a fire access road and all fire suppression efforts are conducted from either 10<sup>th</sup> Street, 11<sup>th</sup> Street or Madrid Avenue for all the residents on the block.”*

The Appellant objected strenuously to these emails because they were hearsay. And the Appellant was unaware, until *after* she filed her appeal with the circuit court and received the Certified Record from the Town, that the Port Royal Zoning Board were given a copy of this entire email conversation, made available just to the Board and the Town. (R. p. 101, lines 8-11) The Appellant had not only been excluded, but their existence in the Record confirmed the Town unlawfully withheld them from the Appellant’s FOIA request.

The Court will take judicial notice the conversations in these emails between Willis, town staff, the City of Beaufort fire chief, and the City of Beaufort fire marshal commenced

**January 11, 2024 at 10:05 am**, only five minutes before the aforementioned email Willis sent to Town Council about the *very same* subject matter. ***It would be more than reasonable to inquire how Willis knew, at 10:00 o'clock in the morning, what the fire marshal determined at 2 pm.*** It would take a leap of faith to believe Town employees and Bendle did not know the Appellant was entitled to all of these emails from her January 2024 FOIA request. And, that she was entitled to them also as the Appellant in this matter before the Zoning board. Further, that its attorney was not familiar with the rules for an evidentiary hearing.

By withholding documents from the Appellant, particularly the ones between the fire chief and fire marshal, it is reasonable to infer the Town knew, or had to have known, that citing the opinion of an individual cloaked in the officialness of his office and pronouncing “the ***fire marshal determined***” would be highly prejudicial to the Appellant and likely sway a board of laypersons in the town’s favor; otherwise, there was no reason to provide these emails to the Zoning Board beforehand, as well as formally enter them into the record. Further, if the Town’s position all along was that the Phase 1 Alley Way was not a “*vehicular way/street/road or thoroughfare*, and thus not subject to Code Division 2, there would have been no reason for the Town Manager to secretly contact the fire chief and fire marshal. (R. p. 366; lines 26-28; R. p. 378; lines 36-39)

And the Board should not have allowed these emails to be admitted into the record because they were obviously hearsay. These emails merely cited the opinions of laypersons not qualified as experts in Port Royal land use codes. And while the Fire Marshal [who, along with the Fire Chief, is not a town employee] may have expertise in fire safety, that was not the area being litigated at this hearing.

Further, these private email communications were pivotal and factually material because they completely changed the intent of the Code, and that alone should render invalid the board's decision to eliminate the alleyway fire truck provision. This issue transcends the Appellant's situation because if there is an easily spreading fire amongst the accessory dwelling units and the attendant homes, it can lead to the death of tenants and residents, as well as cause chaos for fire equipment access to the area, leading to multimillion dollar lawsuits and the potential bankruptcy of the Town of Port Royal. That is because, should such a catastrophe occur, the facts the Appellant has fully laid out for the Court will, in retrospect, form the basis for the Town's malfeasance.

There is a time-honored maxim that "*he who seeks equity should come with clean hands*". In this matter the record is inarguable that **1)** the Appellant was not provided documents by the Town to which she was entitled, the very same ones used to ambush her at the hearing; **2)** by allowing hearsay evidence to be admitted into the record the Board violated the Appellant's right to procedural due process, **3)** the fire chief and fire marshal should have been present to testify as to their unvetted opinions, **4)** the safety of residents, guests and tenants is now in jeopardy because the board eliminated a critical section of the code, and **5)** by allowing this [unlawful] decision to stand it opens up the town to potentially cataclysmic financial ruin.

Town employees/agents were just gaming the system to gain a tactical advantage over the Appellant. And it was shockingly heavy handed because the Town enjoys every possible advantage: they make the rules, they control the flow of information, they appoint the board members, they set the hearing place, time and agenda, and the burden is on the Appellant. Their conduct was repugnant and antithetical to the administration of justice.

**2. THE PORT ROYAL ZONING BOARD FAILED TO UTILIZE THE CORRECT STANDARD OF THE PORT ROYAL CODE GOVERNING ALLEY WAYS**

Because this was argued before the circuit court, the Appellant addresses it in her appeal. The Port Royal Zoning Board failed to properly determine in their ruling how Alleys in the Town are codified. The regulations for Alleys are contained in Division 2, Sections 2.2 and 2.3. Alleys are also defined in Division 10, *and the Code does not distinguish between existing Alleys and newly constructed Alleys*. From Division 2.2.80: (R. p. 355; lines 36-42)

**We Do This Because....**

**Rear Alleys and Lanes: Alleys and lanes have both a functional and aesthetic basis. An alleyway is where all of the “messy stuff” should go. This includes driveways, garage doors, trash containers, recycling bins, and utility boxes and meters. When utilities are located on an alleyway the street can be significantly narrower, resulting in less pavement, more trees, and wider sidewalks. Freeing the street of such clutter allows a building’s front façade to be sited closer to the street and places greater emphasis on human habitation (e.g. porches and stoops over garages and driveways). Finally, alleyways provide occupants of accessory dwelling units with vehicular access to their unit, but more importantly, they afford fire trucks with an alternative path to the main building (or buildings) on the block.**

Approving additions with accessory dwelling units [rentals], without providing the required fire truck access, is in direct opposition to the code. And a fence installed on the corner of a Town Alley is *new development*. And if it was the Town’s position that only certain Alleys with these [rental] units would be afforded fire truck access, they should have codified it in the regulations. They did not; therefore, this provision from Division 2 applies unless, or until, Town Council amends the Code. And the Port Royal Zoning Board cannot, *sua sponte*, change, alter or amend the Code to exempt just one particular Alley, but no others.

**3. THE CIRCUIT COURT JUDGE FAILED TO TAKE ANY ACTION REGARDING FALSE STATEMENTS BY THE TOWN ATTORNEY, AND FAILED TO ADDRESS THE WITHHOLDING OF MATERIAL FACTS**

At the August 13, 2024 circuit court hearing before Judge Bonds, attorney Thomas Bendle testified to the court about ownership of the Alley (R. p. 297, lines 24-25; p. 298, lines 1-25; p. 299, lines 1-4)

The Court: Who owns the property?  
Mr. Bendle: It's the kind that Port Royal that maintains it.  
The Court: The road?  
Mr. Bendle: Yes sir. And road is a strong word again because the 16 DY, the emergency vehicle argument, Your Honor,  
The Court: Again, who owns the property?  
Mr. Bendle: The road itself is the town.  
The Court: So, the town has been deeded are the 16-foot wide—  
Mr. Bendle: Alleyway  
The Court: --property alleyway?  
Mr. Bendle: Yes, sir.  
The Court: 16-foot Alleyway was deeded to and accepted by the town of Port Royal.  
Mr. Bendle: I wish I could definitively answer your question, that has been a mystery at the town anytime that we--  
The Court: I understand  
Mr. Bendle: I could do research and title for it.  
The Court: It would pop up.  
Bendle: Yes, sir. But the best I can tell you is based upon my experience as the town attorney over the last 20 years and having to research the road and stuff, that at one point they may have been owned by the county and they were never really as development occurred in the town, they were never really deeded like you would expect a road to be. But the town, when that development went up, I believe that the developer, and I could be wrong about this, but I would speculate that the developer turned those alleyways over to the town because the town does maintain them but the deed—

*Not* a mystery to Bendle, because he had emailed Willis and Krepps on November 9, 2022 about needing a “quit claim” deed for the Alley in Phase 2. Further, Bendle provided copies of Alley deeds to the Appellant in reply to her initial FOIA. Thus, the Appellant provided Judge Bonds with a copy of her FOIA request, Bendle’s email, and copies of the deeds, to impeach Bendle’s testimony. (R. p. 332, R. p. 328, R. pp. 384-390)

Bendle also testified, in regard to the Appellant (R. p. 300; lines 11-16):

“Again, they own a commercial fishing business and they keep their boat there. And so, what was happening and what’s been happening for years is that they were encroaching on the neighbor’s property. So when the neighbors started taking some action to prevent that from happening—”

And (R. p. 301; lines 5-11):

“But essentially why we’re here today, judge, is because Mrs. Deckard for years was utilizing her

neighbor's property as a matter of convenience to get her boat and trailer back into her driveway and she no longer can do that without hitting the fence that Mrs. Witt has erected. So, that's what this is really about..."

**False.** Bendle testified he had been the Town's attorney for twenty years (R. p. 298; lines 20-22), the same number of years the Appellant/her family have run their charter business from this same location. Therefore, Bendle knew, or should have known, the Appellant's business was not/had not been the subject of an encroachment complaint or investigation. This testimony was specious, a "straw man" argument, to cast aspersions on the Appellant and undermine her credibility. In reality, the Appellant/her family, her neighbors, Witt's tenants and others used the Alley for almost thirty years, until the Town moved the Alley *without notice* November 2022. Further, the Appellant is not on trial and neither is her business.

As to Bendle's testimony about how emails from the fire marshal and fire chief came about, Bendle testified (R. p. 299; lines 7-12):

"Because it's an alleyway and her argument your honor, is that emergency vehicles can't get down there. Well, they were never intended to. In fact, the email that she's referring to comes from the fire marshal who conducted an inspection of that road after she filed her complaint to the town. They can't get emergency vehicles down."

**False.** The record shows the Appellant did not file her complaint until February 3, 2024. The emails in question are dated **January 11, 2024**. In addition, the Town was required by law to provide them to the Appellant in response to her FOIA request. Instead, they were withheld from the Appellant and used to sandbag the Appellant at the Zoning Board hearing. Bendle also testified (R. p. 296; lines 18-21):

"And she mentioned some of the emails that you haven't and before you but those submissions came obviously much later than her notice of appeal. They're not anything that's before the court that the court should consider with regards to appeal."

*And* (R. p. 300; lines 5-8):

"So, what those emails that she has submitted that are outside the scope, I believe even of her own appeal is essentially from the fire marshal and the fire chief explaining that."

Translation: those emails are *within the scope for the Town* to use to influence the Zoning Board for a favorable ruling, but the Appellant can't use those same emails to impeach their content because they are *outside the scope of her own appeal*.

This is shameful conduct, and contraindicated by South Carolina Judicial Branch Rule 3.3[2] “Candor toward the Tribunal”. Further, the Appellant gave Judge Bonds evidence of Bendle’s misrepresentations and/or untruthful statements at both the appeal hearing and the motion for reconsideration hearing, and Bonds failed to act on this information. Specifically, Judge Bonds had an obligation to maintain the integrity of the judiciary by taking appropriate actions, which could have included: sanctioning Bendle, addressing the false statements directly in the court record, potentially holding Bendle accountable for contempt of court, and in his judgement even reporting the misconduct to the relevant disciplinary bar association.

4. THE PORT ROYAL ZONING BOARD AND THE CIRCUIT COURT FAILED TO PROPERLY ARTICULATE THEIR FINDINGS OF FACT AND CONCLUSIONS OF LAW IN THEIR FINAL DECISION/ORDERS. THAT FAILURE OPERATES AS AN IMPEDIMENT TO APPELLATE REVIEW

The mandate of section 6-29-800(f) requiring fully formed written final decisions is implicated here, because the Board’s decision amended the Town’s code, thereby establishing a precedent for obstructions to be placed on Town Alleys that otherwise would be prohibited. Therefore, while an exhaustive written decision may not be warranted when a narrow issue may be succinctly addressed by the Board, further detail will surely be required to support the decision in this matter. Thorough written findings and determinations eliminate potential confusion and ensure the will of the Board is accurately transmitted to the affected parties and reviewing courts. And the same standard applies to the Circuit Court, whose two sentence(!) order(s) operate as an impediment to judicial review.

**Conclusion**

Therefore, this court should conclude as a matter of law the code section for alley fire truck access is not only clear on its face and emphatic as to its importance, it should be paramount to

the unvetted opinion of laypersons. Further, the court should find that as a matter of law a zoning board may only uphold an ordinance; they cannot change it or amend it. In this matter, they ignored it and eliminated it. Therefore, their decision was arbitrary, capricious, had no reasonable relation to a lawful purpose, and they abused their discretion by amending the Code. And, that the Town obstructed the Appellant, up to and including withholding material facts they were required to produce in a FOIA request. Also, that the Circuit Court judge failed the Appellant by not addressing the town attorney's misrepresentations/false statements. Finally, the Zoning Board and the Circuit Court failed to properly articulate the laws upon which they made their determinations, making it impossible for this court or any other reviewing court to discern exactly how they arrived at their decisions.

For the foregoing reasons, this Court should reverse the Circuit Court's dismissal of the Appellant's appeal of the Port Royal Zoning Board.

Respectfully submitted,

A handwritten signature in black ink that reads "Mare Deckard". The signature is written in a cursive style with a large, sweeping initial "M".

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