

**TOWN OF HILTON HEAD ISLAND**  
**Board of Zoning Appeals**  
**Minutes of the February 22, 2016 2:30pm Meeting**  
**Benjamin M. Racusin Council Chambers**

Board Members Present: Chairman Glenn Stanford, Vice Chairman Jeffrey North, David Fingerhut, Jerry Cutrer, Lisa Laudermilch, John White

Board Members Absent: Steve Wilson (excused)

Council Members Present: Tom Lennox

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator  
Teri Lewis, LMO Official  
Jill Foster, Deputy Director of Community Development  
Heather Colin, DRZ Administrator  
Anne Cyran, Senior Planner  
Jennifer Ray, Urban Designer  
Eileen Wilson, Senior Administrative Assistant  
Teresa Haley, Secretary

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**1. Call to Order**

**2. Pledge of Allegiance to the Flag**

**3. Roll Call**

**4. Freedom of Information Act Compliance**

Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.

**5. Welcome and Introduction to Board Procedures**

Chairman Stanford welcomed the public and introduced the Board's procedures for conducting the business meeting.

**6. Approval of Agenda**

Chairman Stanford added to the agenda the appointment of the Board's new Secretary. The Board of Zoning Appeals **approved** the **amended** agenda by general consent.

**7. Approval of the Minutes**

Mr. Cutrer made a motion to **approve** the minutes of the January 25, 2016 meeting as presented. Ms. Laudermilch **seconded** the motion. The motion **passed** unanimously.

**8. New Business**

**PUBLIC HEARING**

**VAR-2367-2015:** Mike Ruegamer of Group III Design, on behalf of Robert Graves, is requesting a variance from LMO Sections 16-5-102, Adjacent Use Setbacks and 16-5-103, Adjacent Use Buffers, to reduce the adjacent use setback and buffer along one side of the property from a 12.5 foot setback and a 12 foot buffer to a 10 foot setback and buffer. The applicant is requesting the variance to allow the preservation of a protected size magnolia tree and a specimen size water oak tree in conjunction with a plan to construct four homes on the subject property. The property is located on Avocet Road and is identified as Parcel# 245 on Beaufort County Tax Map# 18. **WITHDRAWN**

The applicant has withdrawn the application at this time.

### **PUBLIC HEARING**

**VAR-124-2016** - Medardo Cadiz applied for a variance from LMO Section 16-6-102.D, Wetland Protection, to enclose an existing deck that encroaches into a wetland buffer. The property is located in the PD-1 Zoning District (Sea Pines). The property is located at 34 Hearthwood Drive, further identified as Beaufort County parcel R550 014 00B 0207 0000.

Anne Cyran presented an in-depth review of the project. Staff recommends the Board of Zoning Appeals **disapprove** the application based on the Findings of Fact and Conclusions of Law contained in the staff report. Staff also recommends if the Board approves the application, adding the following condition of approval: The Applicant shall replace the existing sod and any non-native plants with wetland vegetation in the buffer per a planting plan approved by Town staff.

Chairman Stanford requested the Applicant make a presentation. Mrs. Cadiz presented statements regarding awkward interior arrangements of a door in the living room; the possibility of installing gutters to the proposed roof addition to avoid direct drainage runoff into the lagoon; adding native planting in the buffer for filtering; and the fact that the enclosed area is elevated. She also indicated that the Sea Pines ARB was awaiting the Town's approval prior to their approval. However, the Sea Pines ARB has no issue with the variance request.

Chairman Stanford asked for comments from the public. A member of the public gave the history of the subdivision as it was approved by the County prior to Town incorporation, indicating that the County at that time did not anticipate any further restrictions along the lagoon. These restrictions were added later by the Town and therefore, the applicant should not be held to the new restrictions. Staff clarified that Criteria 1 addresses extraordinary and exceptional conditions as raised by the public. The Staff Report indicated the applicant met this criteria.

Chairman Stanford requested comments from the Board. The Board discussed concerns of the proposed expansion to a legally nonconforming structure and how variances can allow proposed expansions; the adverse impact to the buffer with additional impervious coverage of the proposed enclosed roof and additional deck that would replace the stairs; and the possibility of installing gutters to the new roof to flow the runoff away from the lagoon for water quality protection. The Board spoke at length with Staff regarding the Board's authority of expanding a legally nonconforming structure in a redevelopment scenario. Staff explained that LMO 16-7-103A expressly prohibits expansion or redevelopment unless the structure is made conforming to the LMO. Staff emphasized that the expansion or redevelopment of a legally nonconforming structure would be allowed through a variance procedure such as this.

Mr. North moved to **approve** the variance request based on the following: (1) Town Staff concludes that Criteria 1 has been met; (2) Criteria 2 has been met because Beaufort County required the Applicant to set the house closer to the lagoon in order to protect the oak trees in the front of the house; (3) Criteria 3 has been met because the application of the LMO would unreasonably restrict the Applicant's ability to use the house; (4) Criteria 4 has been met because the Applicant proposes to gutter the water away from the lagoon; and (5) the Applicant should implement the native plantings as suggested by Staff.

Mr. White **seconded** the motion. The motion **passed** with a vote of 5-1-0.

### **PUBLIC HEARING**

**VAR-127-2016:** Jennifer Ray, on behalf of the Town of Hilton Head Island, is requesting a variance from LMO Section 16-6-104.F.2.iii, Specimen Tree Protection, to allow impact (soil compaction and paving) within 15 feet of the trunk of two trees rather than removing them. The property is located at 90 Pope Avenue and is identified as Parcels # 235 and 65A on Beaufort County Tax Map# 18.

Nicole Dixon presented an in-depth review of the project. Staff recommends the Board of Zoning Appeals **approve** the application, based on the Findings of Fact and Conclusions of Law contained in the staff report. Ms. Dixon indicated she has received no opposition from the public and the Town Council had previously approved this project for the public good.

Chairman Stanford requested the Applicant to make comments. The Applicant made no further statements at this time.

Chairman Stanford opened the meeting for public comment. The public made comments regarding the concern of pedestrian traffic being moved closer to vehicular traffic at the park access point, and the impact of additional parking to existing large trees.

Chairman Stanford opened up for Board discussion. The Board raised questions as to the involvement of tree experts and the impact of parking to the large trees.

Mr. Cutrer made a motion to **approve** the variance request. Ms. Laudermitch **seconded** the motion. The motion **passed** unanimously.

### **9. Board Business – None**

### **10. Staff Reports**

Waiver Report – Ms. Dixon indicated the Waiver Report was included in the packet.

### **11. Adjournment**

The meeting was adjourned at 3:52 p.m.

Submitted By:

Approved By: March 28, 2016

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Teresa Haley, Secretary

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Glenn Stanford, Chairman