

**TOWN OF HILTON HEAD ISLAND**  
**Board of Zoning Appeals**  
**Minutes of the Monday, April 22, 2013 Meeting**  
**2:30p.m. - Benjamin M. Racusin Council Chambers**      **APPROVED**

Board Members Present:      Chairman Roger DeCaigny, Vice Chairman Peter Kristian,  
Alan Brenner, Irv Campbell, Michael Lawrence, Stephen Murphy  
and Glenn Stanford

Board Members Absent:      None

Council Members Present:      None

Town Staff Present:      Nicole Dixon, Senior Planner & Board Coordinator  
Anne Cyran, Senior Planner  
Heather Colin, Development Review Administrator  
Teri Lewis, LMO Official; Brian Hulbert, Staff Attorney  
Kathleen Carlin, Secretary

**1.      Call to Order**

Chairman DeCaigny called the meeting to order at 2:30p.m.

**2.      Roll Call**

**3.      Freedom of Information Act Compliance**

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and Town of Hilton Head Island requirements.

**4.      Introduction to Board Procedures**

Chairman DeCaigny stated the Board's procedures for conducting the business meeting.

**5.      Approval of the Agenda**

Vice Chairman Kristian made a **motion** to **approve** the agenda as presented. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 7-0-0.

**6.      Approval of the Minutes**

Vice Chairman Kristian made a **motion** to **approve** the minutes of the March 25, 2013 meeting as presented. Mr. Stanford **seconded** the motion and the motion **passed** with a vote of 7-0-0.

**7. Unfinished Business**

**Public Hearing**

**VAR130003:** Request for variance from LMO Sections 16-5-202, General Requirements, 16-5-1201, Off-Street Parking Required, 16-5-704, Minimum Required Setback Area, 16-5-806, Required Buffers and 16-5-508, Street Intersections. Mr. Bret Pruehs with McNair Law Firm, on behalf of CJT Real Property, LLC, is requesting a variance from these sections to change the use designation of the existing multi-family residential development from a horizontal property regime to a single family attached major subdivision. The property is located at 2 Tidal Bluff Road, and is further identified as Parcel 17 on Beaufort County Tax Map 5. Chairman DeCaigny introduced the application and opened the public hearing. Chairman DeCaigny then requested that staff make their presentation.

Ms. Nicole Dixon presented the history of the application. At the March 25, 2013 meeting, the staff presented the variance application for the Tidal Bluff development, which was a request for a variance from several LMO requirements in order to change the use designation of the property from Multi-Family residential to a Single Family Residential Subdivision.

During the Board's discussion of the application, the density of the existing development was questioned. Currently the property is zoned RM-4 (Low to Moderate Density Residential), which allows 4 dwelling units per net acre. The Tidal Bluff development currently consists of 15 buildings with 2 units per building, totaling 30 residential units. Tidal Bluff is 4.96 acres, which would permit 19 residential units with the current RM-4 zoning. The question was raised that if the density is currently non-conforming, would the applicant be able to go through the subdivision process should the BZA approve the variance. The applicant requested the application be remanded to the April 22, 2013 meeting in order to give staff time to research this issue.

The Tidal Bluff development was originally approved under the name Dillon Road Duplex and consisted of two phases. The first phase was for 12 units and was approved in December of 1997. The second phase was approved in June of 1998 for the additional 18 units. At the time of the approvals, the property was zoned M-2 (Community Mixed Use). The M-2 zoning district permitted up to 4 dwelling units per net acre, but if property was within 500 feet of the critical line, 8 dwelling units per net acre was allowed. This property is located within 500 feet of the critical line and allowed a maximum of 39 units; therefore the 30 existing units were conforming at the time of approval and conformed to the permitted density.

In 1999 with the Ward 1 Master Plan rezoning, the zoning district was changed from M-2 to RM-4. When this rezoning took place, the provision for allowing a greater density if located within 500 feet of the critical line was removed from the density regulations, which caused the Tidal Bluff development to become legally non-conforming.

Based on staff review of Chapter 7, Nonconformities, of the LMO, there are no provisions that would prohibit the subdivision from being approved, should the BZA grant the variance. There will be no expansion or relocation of the nonconformity or any changes to the nonconformity; therefore the nonconformity can continue. Single Family Residential

uses are permitted in the RM-4 zoning district. Ms. Dixon stated that the staff recommends *approval* of VAR130003. The Board and Ms. Dixon discussed the application. Following the staff's presentation, Chairman DeCaigny requested that the applicant make his presentation.

Mr. Bret Pruehs with McNair Law Firm, on behalf of CJT Real Property, LLC, presented statements in support of the application. The Board and Mr. Pruehs discussed the application. At completion of the Board's discussion, Chairman DeCaigny requested public comments and none were received. Chairman DeCaigny then requested that a motion be made.

Vice Chairman Peter Kristian made a **motion to approve** Application for Variance 130003 as presented by staff. The application meets the Findings of Fact and Conclusions of Law contained in the staff's report. Mr. Lawrence **seconded** the **motion** and the motion **passed** with a vote of 7-0-0.

**8. New Business  
Public Hearing**

**VAR130004:** Charlie Wire, on behalf of the Hilton Head Public Service District, is requesting a variance from Land Management Ordinance Section 16-5-704, Minimum Required Setback Area, Section 16-5-806, Required Buffers, Section 16-5-1207, Parking Area Design, and Section 16-5-706, Setbacks for Fences, to allow a new pump station to encroach into the adjacent street setback and buffer, the adjacent use setback and buffer, to eliminate a parking median for access to the pump station and to install a 6 foot tall fence in the adjacent street setback. The property is Barker Field Extension, located at 160 Mitchelville Road and is further identified as parcel 6B on Beaufort County Tax Map 5. Chairman DeCaigny introduced the application and opened the public hearing. Chairman DeCaigny then requested that the staff make their presentation.

Ms. Anne Cyran made the presentation on behalf of staff. The staff recommended that the Board of Zoning Appeals *approve* the application based on the Findings of Facts and Conclusions of Law contained in the staff's report. Ms. Cyran presented an in-depth overhead review of the application including an Aerial Photo, the Applicant's Narrative, the Site Plan and Site Photos.

The subject parcel is known as Barker Field Extension and is located at 160 Mitchelville Road in the WMU Zoning District. As shown on the Vicinity Map (Attachment A), the subject parcel is bounded by: Mitchelville Road on the southwest; an undeveloped parcel on the northwest; Port Royal Sound on the northeast; and two undeveloped parcels on the Southeast.

On September 20, 2005, Town Council adopted Resolution 2005-25 to establish policies and action strategies regarding island-wide sewer service. One policy is to work with the Hilton Head Public Service District (HHPSD) to build sewer infrastructure on Town-owned property to help decrease the cost of providing sewer service to residents. The Resolution identified the Barker Field Extension site as a preferred location for future sewer infrastructure. The site was selected because it has cleared open space and it is the best location based on engineering needs for the system.

On February 6, 2011, Town Council approved in concept the conveyance of permanent easement rights to Hilton Head Public Service District for the establishment of a sanitary sewer pump station and its required infrastructure at Barker Field Extension in the location proposed in this application. The pump station would serve the Town's property, which is using a septic system, and 91 other properties in the area. The final easement has not been approved. If the variance request is approved, the easement agreement would be sent to Town Council for final approval. Following the staff's presentation, Chairman DeCaigny requested that the applicant make his presentation.

Mr. Charlie Wire, Hilton Head Public Service District, presented statements in support of the application. The Board discussed several issues with Mr. Wire including the Board's concern with odors. The applicant reported that that odor should not be an issue with this application. Following this presentation, Chairman DeCaigny requested public comments and the following were received: Resident, Mr. Dan Driessen, presented statements regarding the proximity of the project to the fence at Barker Field. Following final comments by the Board, Chairman DeCaigny requested that a motion be made.

Mr. Stanford made a **motion to approve** Application for Variance 130004 as presented by staff. The application meets the Findings of Fact and Conclusions of Law contained in the staff's report. Vice Chairman Kristian **seconded** the motion and the motion **passed** with a vote of 7-0-0.

### **Public Hearing**

**VAR130005:** Roger Freedman is requesting a variance from Land Management Ordinance Section 16-5-704, Minimum Required Setback Area, and Section 16-5-806, Required Buffers, to allow an aerial ropes course to be located in an adjacent use setback and buffer. The property is called Zip Line Hilton Head, located at 33 Broad Creek Marina Way and is further identified as parcel 379 on Beaufort County Tax Map 11.

Ms. Dixon reported that the public hearing for Application for Variance, VAR130005, is **postponed** until further notice.

### **9. Board Business**

Ms. Dixon reported that the staff's training on Wetlands is canceled today and will be rescheduled at a later date.

### **10. Staff Report**

#### a) Waiver Report

Ms. Nicole Dixon presented the Waiver Report on behalf of staff.

- b) Ms. Dixon stated that staff has no agenda items for the May 20, 2013 meeting. Chairman DeCaigny approved cancellation of the May 20, 2013 meeting.

**11. Adjournment**

The meeting was adjourned at 3:15p.m.

Submitted By:

Approved By:

June 24, 2013

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Kathleen Carlin  
Secretary

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Roger DeCaigny  
Chairman