

**TOWN OF HILTON HEAD ISLAND**  
**Board of Zoning Appeals**  
**Minutes of the Special Meeting on Monday, January 6, 2014 APPROVED**  
**2:30p.m. - Benjamin M. Racusin Council Chambers**

Board Members Present: Chairman Peter Kristian, Vice Chairman Glenn Stanford, Irvin Campbell, Michael Lawrence, P. Jeffrey North and Steve Wilson

Board Members Absent: David Fingerhut

Council Members Present: None

Town Staff Present: Anne Cyran, Senior Planner  
Nicole Dixon, Senior Planner & Board Coordinator  
Brian Hulbert, Board Attorney  
Kathleen Carlin, Secretary

**1. Call to Order**

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

**5. Approval of the Agenda**

Chairman Kristian requested that a motion be made to approve the agenda. Vice Chairman Stanford made a **motion** to **approve** the agenda as presented. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 6-0-0.

**6. Approval of the Minutes**

Chairman Kristian stated that the approval of the December 16, 2013 meeting minutes is deferred to the January 27, 2014 meeting.

**7. New Business**

**Public Hearing**

**VAR130014:**

Jane Carnahan is requesting a variance from Land Management Ordinance Section 16-5-704, Minimum Required Setback Area, and Section 16-5-806, Required Buffers. The applicant proposes to build a staircase and landing in the 20 foot exterior boundary setback

and buffer of the Mulberry Place II subdivision. The subject parcel is located at 29 Bellhaven Way. The parcel is further identified as parcel 51 on Beaufort County Tax Map 11C. Chairman Kristian introduced the application and opened the public hearing. Chairman Kristian 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 a review of the vicinity map, an aerial photo, the subdivision plan, and as-built survey.

The subject parcel is located at 29 Bellhaven Way in the RM-8 (Residential Moderate Density) Zoning District. The subject parcel is bound by Shelter Cove on the northeast; a single family residence on the northwest; Bellhaven Way on the southwest; and single family residences on the south and southeast.

The applicant applied for a building permit in October 2013 to construct a five foot wide by seventeen foot long staircase and landing on the back of her house as a second exist from the first floor, which is important in case of an emergency. The building permit was denied because the proposed staircase and landing would encroach into the subdivision's exterior boundary setback and buffer.

The subject parcel is located in the Mulberry Place Phase II subdivision, Mulberry Place Phase II was approved in May 1995. In November 1996, Thomas Brencko, Manager of Current Planning, wrote a letter outlining changes to the approval. The letter states that, "Pursuant to the Memorandum of Understanding regarding the Yacht Cove Residential Development, setbacks and buffers along the external boundaries (of the subdivision) shall be maintained in accordance with the original approvals. In (the case of Mulberry Place Phase II), the minimum setback is 30 feet."

The original approvals and Memorandum of Understanding referenced in the letter were not included in the subdivision's file. Without the approvals or memorandum, it is unclear why a 30 foot exterior boundary setback and buffer was required for this subdivision. At the time the subdivision was approved in 1995, the LMO required a 20 foot exterior boundary setback and buffer for subdivisions. This requirement was the same whether a subdivision was part of the exterior boundary of a PUD or outside of a PUD. (Subdivisions located inside PUDs are not subject to the same setback and buffer standards as outside PUDs). The LMO still requires a 20 foot exterior boundary setback and buffer for all single family residential subdivisions.

Since Mulberry Place Phase II was developed, many of the applicant's neighbors built structures in the exterior boundary setback and buffer. These structures include staircases and landings similar to the one proposed by the applicant, as well as porches. These additions were built either without building permits or building permits that were approved in error. The Yacht Cove Property Owners Association has approved the applicant's proposed staircase and landings.

Ms. Cyran and the Board reviewed the staff's Findings of Fact and Conclusions of Law. Following the staff's presentation Chairman Kristian stated that it may be a good idea for the Yacht Cove Property Owners Association to appear before the Planning Commission to

request a 20 foot setback requirement for all properties in the subdivision. Ms. Cyran agreed with this idea on behalf of staff. Following this discussion, Chairman Kristian requested that the applicant make her presentation.

Ms. Jane Carnahan presented statements in support of the application. The Board and the applicant discussed the proposed staircase and landing in the exterior boundary setback and buffer. Following the applicant's presentation, Chairman Kristian requested public comments and none were received. Chairman Kristian then closed the public hearing for this application.

The Board discussed the application and at the completion of their discussion, Chairman Kristian requested that a motion be made.

Mr. North made a **motion to approve** Application for Variance VAR130014 with the condition that the administrative decision made by the Board of Zoning Appeals is based on the information that the 30 foot setback really does exist since the supporting documents for this finding cannot be found. Approval of the application is based on the Findings of Fact and Conclusions of Law contained in the staff's report. Vice Chairman Stanford **seconded** the motion and the motion **passed** with a vote of 6-0-0.

**8. Adjournment**

The meeting was adjourned at 2:50p.m.

Submitted By:

Approved By:

January 27, 2014

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Kathleen Carlin  
Secretary

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Peter Kristian  
Chairman