

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the October 26, 2015 2:30pm Meeting **APPROVED**
Benjamin M. Racusin Council Chambers

Board Members Present: Chairman Glenn Stanford, David Fingerhut, Steve Wilson,
John White, Lisa Laudermilch, and Jerry Cutrer

Board Members Absent: Vice Chairman Jeffrey North

Council Members Present: None

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

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

Mr. Cutrer made a **motion** to **approve** the agenda as presented. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 6-0-0.

7. Approval of the Minutes

Mr. Wilson made a **motion** to **approve** the minutes of the September 28, 2015 meeting as amended. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 6-0-0.

8. Board Business

None

9. New Business

Public Hearing

VAR-001830-2015: John P. Qualey, Jr. is requesting a variance from Land Management Ordinance Section 16-5-102.D, Adjacent Use Setback Requirements, in order to construct a single family home within the adjacent use setback. The property is located at 22 Bradley Circle and is further identified

as parcel 22U on Beaufort County Tax Map 8. Chairman Stanford introduced the application, opened the public hearing, and requested that the staff make their presentation.

Ms. Nicole Dixon presented an in-depth overhead review of the application including the vicinity map and proposed site plan. The staff recommended that the Board of Zoning Appeals approve the application based on the Findings of Fact and Conclusions of Law contained in the staff's report.

The applicant previously submitted an application for variance from LMO Sections 16-5-102.C, Adjacent Street Setback Requirements, 16-5-102.D, Adjacent Use Setback Requirements, and 16-5-103.D, Adjacent Street Buffer Requirements, in order to subdivide the property into four single-family lots. The application was presented at the July 27, 2015 Board of Zoning Appeals meeting with a staff recommendation for approval. The Board denied the application for variance.

The applicant has since substantially revised the plans and is now proposing to subdivide the property into three single-family lots with attached homes. There will be open space on both sides of the project. The applicant has worked with the staff on the design to try to meet all LMO requirements. The only variance they are currently seeking is from the adjacent use setback on the side of the project that is adjacent to the Marriott Surf Watch timeshare development. The LMO required a 27-ft. setback for single-family residential use adjacent to a resort accommodations use. The applicant is requesting the setback be reduced to 15 ft.

The applicant states in their narrative that there are exceptional conditions pertaining to this particular piece of property. Being located adjacent to a resort accommodations use which requires a greater setback than being between two single family uses, being bound by wetlands and having an access easement running through the property all have reduced the buildable area of the property. A variance is required because the applicant would like to reduce the adjacent use setback on the south side of the property. The required adjacent use setback on the south side is 30'. Per Note 5 under Table 26-5-102.D, the required adjacent use setback of 30' may be reduced by 10% to 27' if the applicant meets six conditions. The staff has determined that the applicant meets the conditions necessary to receive the reduction in the adjacent use setback. The property owner states that the application of the 27' adjacent use setback on the south side of the property will require the homes to be fully attached not allowing any views or breezes in between the homes.

The applicant is seeking a variance to reduce the required adjacent use setback from 27' to 15' so that they can construct attached homes at the ground level, but then detach them for the levels above the garage to be more harmonious with the existing homes in the neighborhood. Ms. Dixon reviewed the Findings of Fact and Conclusions of Law contained in the staff's report. Following the staff's presentation, Chairman Stanford requested that the applicant make his presentation.

Mr. Radu Chindris presented statements on behalf of the developer including comments regarding the heated square footage of the project. Mr. Chindris also presented comments regarding the site plan and projection of the roofline. Following the applicant's presentation, Chairman Stanford requested public comments and the following were received: (1) Ms. Tamra Becker, 5 Bradley Circle, presented statements regarding the revised submission. Ms. Becker presented statements in concern of the logistics; (2) Mr. Carl Brinker, 16 Bradley Circle, presented statements regarding the setback line. Following public comments, Chairman Stanford stated that the public hearing is closed for this application. Chairman Stanford invited discussion among the Board members.

The Board discussed the application and stated that it is a good faith effort on the part of the property owner to come forward and comply with the ordinance. The Board agreed that it is a permitted use of

the property. Following final comments by the Board, Chairman Stanford requested that a motion be made.

Mr. Cutrer made a **motion** to **approve** application for variance, VAR-001830-2015, as presented based on the Findings of Fact and Conclusions of Law contained in the staff's report. Mr. White **seconded** the motion and the motion **passed** with a vote of 6-0-0.

9. Board Business

Discussion on considering abolishing the option for a Motion to Reconsider from the BZA's Rules of Procedure.

Chairman Stanford presented opening comments regarding the original intent of the Motion to Reconsider and today's discussion to abolish the option for a Motion to Reconsider entirely from the BZA's Rules of Procedure. Brian Hulbert, Esq., presented a legal opinion on behalf of staff.

Chester Williams, Esq., presented statements in support of keeping the Motion to Reconsider in the BZA's Rules of Procedure.

The Board discussed the pros and cons of abolishing the option for a Motion to Reconsider from the BZA's Rules of Procedure. Most Board members agreed that it may be of potential benefit to a property owner appearing before the BZA. Most Board members stated that they would be opposed to removing the Motion to Reconsider from the BZA's Rules of Procedure.

Ms. Nicole Dixon presented statements in support of the staff adding the Motion to Reconsider option to their Notice of Action. Ms. Dixon stated that this will help the public to be more aware of their options. Chairman Stanford agreed with this idea and requested that staff add a note for the public to refer to the BZA's Rules of Procedure for complete information.

10. Staff Reports

Ms. Dixon presented the Waiver Report to the Board

11. Adjournment

The meeting was adjourned at 3:20p.m.

Submitted By:

Approved By:

November 16, 2015

Kathleen Carlin
Secretary

Glenn Stanford
Chairman