

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the November 16, 2015 2:30pm Meeting **APPROVED**
Benjamin M. Racusin Council Chambers

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

Board Members Absent: Vice Chairman Jeffrey North

Council Members Present: None

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator
Anne Cyran, Senior Planner
Brian Hulbert, Staff Attorney
Teri Lewis, LMO Official
Jill Foster, Deputy Director of Community Development
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. Fingerhut made a **motion** to **approve** the agenda as presented. Mr. White **seconded** the motion and the motion **passed** with a vote of 6-0-0.

7. Approval of the Minutes

Mr. Cutrer made a **motion** to **approve** the minutes of the October 26, 2015 meeting as presented. Ms. Laudermitch **seconded** the motion and the motion **passed** with a vote of 6-0-0.

8. Board Business

None

9. New Business

Public Hearing

A. **VAR-1942-2015**: Gregory Wynn with GW Services, Inc., on behalf of the Woodbine Villas Regime, is requesting a variance from Land Management Ordinance Section 16-6-104.F, Specimen Tree Preservation, to remove a specimen tree. The tree is located behind Unit 52 at 2 Woodbine Place, further identified as Beaufort County Tax Map parcel number R550 017 00A 0120 052A. Chairman Stanford introduced the application, opened the public hearing, and 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 Fact and Conclusions of Law contained in the staff's report with the following conditions: (1) the applicant shall apply for a Natural Resources Permit to remove the subject tree; and (2) the applicant shall plant four, Category I mitigation trees per LMO Section 16-6-104.I.3. Ms. Cyran presented an in-depth overhead review of the application including a site plan and aerial view of the site.

The Woodbine Villas were built in 1966 using plans approved by Beaufort County. Current LMO standards would not allow the construction of a building so close to a tree. Given the growth rate of live oak trees, the subject tree, which is now 40 inches DBH, was probably not specimen size (35 DBH) at the time of construction. In mid-October, the property management company submitted a natural resources application to remove the tree. Mr. Rocky Browder, the Town's Environmental Planner, examined the tree and determined that it is healthy. Mr. Browder denied the application to remove the tree because removing a healthy specimen-size tree would be a violation of LMO Section 16-6-104.F, Specimen Tree Preservation. Mr. Browder recommended that the applicant explore alternatives to removing the tree or to seek a variance per LMO Section 16-6-104.F.

Shortly after the application to remove the tree was denied, the property management company submitted the application for a variance to remove the tree. The applicant states that the Woodbine Villas regime supports the removal of the tree. Ms. Cyran presented the staff's Findings of Fact and Conclusions of Law. Following the staff's presentation, Chairman Stanford requested that the applicant make his presentation.

Mr. Gregory Wynn presented statements in support of the application. Mr. Wynn presented comments regarding the tree's size and location as well as his concern with potential further damage to the roof and the foundation of Unit 52. Following Mr. Wynn's presentation, Chairman Stanford requested public comments and the following were received: (1) Mr. Paul Cardinale, resident of Woodbine Villas, presented comments in support of the staff's recommendation for removal of the tree. Following public comments, Chairman Stanford closed the public hearing for this application and invited discussion by the BZA.

The Board discussed the application for variance, the staff's recommendation, and the proposed mitigation plan. The Board agreed with the staff's recommendation for approval of the application, with conditions, based on the Findings of Fact and Conclusions of Law contained in the staff's report. Following final comments, Chairman Stanford requested that a motion be made.

Mr. White made a **motion to approve** application for variance, VAR-1942-2015, with the following conditions: (1) the applicant shall apply for a Natural Resources Permit to remove the subject tree; and (2) the applicant shall plant four, Category I mitigation trees per LMO Section 16-6-104.I.3. This

motion is based on the Findings of Fact and Conclusions of Law contained in the staff's report. Mr. Cutrer **seconded** the motion and the motion **passed** with a vote of 6-0-0.

Chairman Stanford then stated the following two procedural matters are before the Board:

B. Request from Tai Scott: Tai Scott is asking for the Board of Zoning Appeals to make a motion to issue subpoenas in conjunction with an upcoming appeal.

C. Request from Tai Scott: Tai Scott is requesting his appeal be scheduled for the January 25, 2016 Board of Zoning Appeals meeting as he will be unavailable for the December 14, 2015 meeting.

Chairman Stanford stated that these procedural matters are related to Mr. Scott's application for appeal which is currently scheduled to be heard on December 14, 2015. Mr. Scott is requesting that his appeal be rescheduled to the January 25, 2016 meeting as he is unavailable to attend the December 14th meeting. Mr. Scott is also requesting that the Board issue subpoenas to witnesses to attend the rescheduled meeting. Following this introduction, Chairman Stanford invited Mr. Scott to present statements to the Board. Chairman Stanford requested that Mr. Scott limit his remarks to the procedural matters that are before the Board today.

Mr. Scott presented his reasons for requesting that his appeal be heard at the January 25, 2016 meeting instead of at the December meeting. Chairman Stanford confirmed with Brian Hulbert, staff attorney, that the BZA has the jurisdiction to grant one postponement request. Mr. Hulbert confirmed that the BZA has the power to grant one postponement request. Chairman Stanford **granted** Mr. Scott's request to postpone his appeal to the January 25, 2016 meeting. This appeal will appear on the BZA's January 25, 2016 agenda.

Mr. Tai Scott then requested that the Board of Zoning Appeals make a motion to issue subpoenas in conjunction with his upcoming appeal. At the Chairman's request, Mr. Scott named the individuals that he would like to have subpoenaed stating that their testimony is crucial to his case. The named town staff members are: Ms. Heather Colin, Ms. Teri Lewis, Ms. Jill Foster, Ms. Donna Horsman, Ms. Sarah Wallace, and Ms. Kisha O'Donnell. In addition, Mr. Scott stated that he would also like to subpoena his neighbors, Mr. and Mrs. David Arnal.

Chairman Stanford confirmed with Brian Hulbert that the BZA has the jurisdiction to grant the requested subpoenas. Mr. Hulbert confirmed that the BZA has the power to grant the requested subpoenas. Since the list of town staff names was incomplete when provided to the BZA, Chairman Stanford requested that Mr. Scott provide the Board with a complete list of individuals that he would like to subpoena.

Chairman Stanford, the Board, and Mr. Hulbert discussed the proposed form that the BZA might use for their issuance of the subpoenas. Mr. Fingerhut and other Board members discussed the option of allowing the town to direct the staff members named in the subpoena to attend the BZA meeting on January 25 2016 instead of issuing subpoenas to these individuals. Chairman Stanford and Mr. Hulbert stated that the legal costs associated with issuing the subpoenas will be assumed by Mr. Scott.

Chairman Stanford, Mr. Scott and Mr. Hulbert discussed this option and Mr. Hulbert stated that the town will ensure that the named staff members will attend the BZA's January 25, 2016 meeting with the possible exception of Ms. Kisha O'Donnell, who may be out of town and unavailable. Mr. Hulbert stated that an affidavit from Ms. O'Donnell would be provided to the BZA, if she is

unavailable to attend the meeting. Mr. Scott agreed that an affidavit from Ms. O'Donnell would be sufficient if she is unavailable to attend the January 25th meeting.

Mr. Wilson suggested that it might be better for the BZA to wait until the January 25, 2016 meeting to decide if the issuance of subpoenas is even necessary. The outcome of that meeting will determine if subpoenas are necessary. Chairman Stanford and the other Board members agreed that this might be a better solution.

Mr. David Arnal, Mr. Scott's neighbor, stated that he is not in support of Mr. Scott's application. Mr. Arnall stated that he is represented by legal counsel, Dean Bell, Esq. This completed the discussion on these procedural issues.

10. Staff Reports

Ms. Dixon presented the Waiver Report to the Board

11. Adjournment

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

Submitted By:

Approved By: December 14, 2015

Kathleen Carlin
Secretary

Glenn Stanford
Chairman