



Town of Hilton Head Island
Board of Zoning Appeals Meeting
Monday, May 24, 2021 – 2:30 p.m.
AGENDA

In accordance with the Town of Hilton Head Island Municipal Code Section 2-5-15, this meeting is being conducted virtually and can be viewed live on the Town's Public Meeting Facebook Page at <https://www.facebook.com/townofhiltonheadislandmeetings/>. Following the meeting, the video record will be made available on the Town's website at <https://www.hiltonheadislandsc.gov/>.

1. Call to Order

2. FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

3. Roll Call

4. Welcome and Introduction to Board Procedures

5. Approval of Agenda

6. Approval of Minutes

a. April 26, 2021 Regular Meeting

b. April 29, 2021 Special Meeting

7. Appearance by Citizens

8. Unfinished Business

a. Public Hearing

VAR-000818-2021 – Request from Edward K. Pritchard, III for a variance from LMO Sections 16-5-102, Setback Standards and 16-5-103, Buffer Standards for an existing non-permitted food truck and associated screening fence to remain in the required adjacent use setback and buffer. The property address is 15 Marshland Road with a parcel number of R510 008 000 013H 0000. *Note: This public hearing is continued from the Board of Zoning Appeals meeting on Monday, April 26, 2021.*

9. New Business – None

10. Staff Reports

- a. Status of Appeals to Circuit Court
- b. Status of LMO Amendments
- c. Status of Amendments to BZA Rules of Procedure
- d. Waiver Report

11. Board Business

- a. Discussion of consideration of LMO Amendments related to lot sizes and setbacks
- b. Board Training – How To Conduct Meetings

12. Adjournment

Public comments concerning agenda items can be submitted electronically via the Open Town Hall HHI portal at <https://hiltonheadislandsc.gov/opentownhall/>. The portal will close 2 hours before the meeting. Public comments submitted through the portal will be provided to the Board for review and made part of the official record. Citizens who wish to comment on agenda items during the meeting by phone must contact the Board Secretary at 843-341-4691 no later than 2 hours before the meeting.

Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.



Town of Hilton Head Island
Board of Zoning Appeals Meeting
April 26, 2021 at 2:30 p.m. Virtual Meeting
MEETING MINUTES

Present from the Board: Chair Patsy Brison, Vice Chair Anna Ponder, Robert Johnson, Lisa Laudermilch, Charles Walczak, David Fingerhut, John White

Absent from the Board: None

Present from Town Council: Alex Brown, Tamara Becker

Others Present: Curtis Coltrane, Town Attorney

Present from Town Staff: Teri Lewis, Deputy Community Development Director; Nicole Dixon, Development Review Administrator; Missy Luick, Senior Planner; Tyler Newman, Senior Planner; Diane Busch, Staff Attorney; Teresa Haley, Senior Administrative Assistant; Vicki Pfannenschmidt, Temporary Administrative Assistant

1. Call to Order

Chair Brison called the meeting to order at 2:30 p.m.

2. FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

3. Roll Call – See as noted above.

4. Welcome and Introduction to Board Procedures

Chair Brison welcomed all in attendance and introduced the Board's procedures for conducting the meeting.

5. Approval of Agenda

Chair Brison asked for a motion to approve the agenda as presented. Ms. Laudermilch moved to approve. Mr. White seconded. By way of roll call, the motion passed with a vote of 7-0-0.

6. Approval of Minutes

a. March 22, 2021 Meeting

Chair Brison asked for a motion to approve the minutes of the March 22, 2021 meeting as presented. Mr. Fingerhut moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 7-0-0.

7. Appearance by Citizens

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall portal. All comments received via the portal were provided to the Board for review and made a part of the official record. Citizens were also provided the option to give public comment during the meeting by phone. There was one request to give public comment by phone regarding VAR-002385-2020/12 Circlewood Drive.

8. Unfinished Business – None

9. New Business

a. Public Hearing

VAR-002385-2020 – Request from Dennis Antoccia for a variance from LMO Sections 16-5-102, Setback Standards and 16-5-103, Buffer Standards to allow a shed, paver pathway, and paver patio to remain in the adjacent use setback and buffer. The property address is 12 Circlewood Drive with a parcel number of R510 005 000 0341 0000. *Presented by Tyler Newman*

Chair Brison opened the Public Hearing.

Mr. Newman presented the application as described in the Staff Report. He stated that Staff recommends the Board of Zoning Appeals deny the application based on the Findings of Fact and Conclusions of Law contained in the Staff Report. He explained the variance criteria in detail.

The Board made comments and inquiries regarding: ownership of the fence surrounding the perimeter of the property; definition of a structure as defined in the LMO; size of encroachment area; location of existing easement; the purpose of buffers; and the possibility of an alternative location for the shed.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation. Mr. Antoccia advised the Board that the HOA informed him that sheds were permitted as long as they are not on concrete. He presented his case stating the work done is considered an improvement and enhances the property.

Chair Brison asked for public comment. Susan Mosher spoke in support of the variance request and on behalf of the HOA stating the Association supported the request for variance. Chair Brison closed the Public Hearing at 3:33 p.m.

The Board made final comments and inquiries regarding: the disservice of the applicant being misinformed; the unusual shape of the lot; the need to meet all four criteria and none were met; the need to follow the law; the inability to utilize the fence as a basis of meeting the setback requirements; and finally, the need to relocate the shed to a place that meets the LMO requirements.

Mr. Fingerhut moved that the Board of Zoning Appeals deny the application based on those Findings of Facts and Conclusions of Law contained in the Staff Report. Mr. Johnson seconded. By way of roll call, the motion passed with a vote of 7-0-0.

b. Public Hearing

VAR-000818-2021 – Request from Edward K. Pritchard, III for a variance from LMO Sections 16-5-102, Setback Standards and 16-5-103, Buffer Standards for an existing non-permitted food truck and associated screening fence to remain in the required adjacent use setback and buffer. The property address is 15 Marshland Road with a parcel number of R510 008 000 013H 0000.

Chair Brison opened the Public Hearing.

Curtis Coltrane explained the application before the Board came forward from a mediation conference that was between the applicant, Mr. Taiwan Scott and the Town of Hilton Head Island. He stated the Town will not take a position for or against Mr. Scott's variance application.

Following Mr. Coltrane's comments and questions by the Board, Chair Brison asked the applicant to make a presentation. Mr. Pritchard confirmed that Board Members had the applications and corresponding documents that relate to the application. Chair Brison reviewed the documents in hand and Mr. Pritchard confirmed they were correct. Mr. Pritchard reviewed the four criteria required to approve a variance request stating the property in question satisfied each criteria. He detailed the property restrictions. Mr. Scott presented additional materials to support his application. He presented a September 2, 2015 letter from the Town describing the structures as legally non-conforming structures and did not need to be moved and that staff would support a variance.

The Board made comments and inquiries regarding: possible retraction of the letter presented by Mr. Scott; height of the screen fence; location of access easements; reasons for access easements; possible removal of access easements; wetlands and the latest Army Corps of Engineers assessment of such; setback requirements for property and adjacent properties; author of the letter Mr. Scott introduced and relevance of such; use of the adjacent property; number of parking spaces on said property; possibility of moving the food truck to comply with buffers and setbacks; and the need to speak with the author (Anne Cyran) of the letter referenced by Mr. Scott.

After lengthy discussion regarding the letter and mediation compliance, Mr. Fingerhut moved that the Board subpoena Anne Cyran to testify about the September 2, 2015 letter and provide relative documentation relative to correspondence that was presented by the applicant during the hearing and to continue this hearing until they get adequate answers from her and anybody else that comes up during the testimony who has relevant information. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 6-1-0 (Mr. Johnson against).

Mr. Fingerhut moved to continue the public hearing of VAR-000818-2021 to the May 24, 2021 regular BZA meeting. Mr. White seconded. By way of roll call, the motion passed with a vote of 7-0-0.

10. Staff Reports

a. Status of LMO Amendments

Ms. Dixon noted the process is ongoing and staff will keep the Board informed of the progress.

b. Status of Amendments to BZA Rules of Procedure

Ms. Luick informed the Board that she and Ms. Busch met and started the discussion of proposed amendments. She stated the next step will be to complete research of the items. She added the item will remain on upcoming agendas for discussion and they will share the results when complete.

c. Waiver Report – The Waiver Report was included in the Board's agenda package.

11. Adjournment

The meeting was adjourned at 6:03 p.m.

Submitted by: Vicki Pfannenschmidt, Secretary

Approved: [DATE]



Town of Hilton Head Island
Board of Zoning Appeals Board Training

April 29, 2021 at 10:00 a.m. Virtual Training

MINUTES

Present from the Board: Chair Patsy Brison, Vice Chair Anna Ponder, John White, Robert Johnson

Absent from the Board: Charles Walczak (excused), David Fingerhut (excused), Lisa Laudermilch (excused)

Present from Town Council: None

Present from Town Staff: Teri Lewis, Deputy Community Development Director; Nicole Dixon, Development Review Administrator; Missy Luick, Senior Planner; Tyler Newman, Senior Planner; Diane Busch, Staff Attorney; Teresa Haley, Senior Administrative Assistant; Vicki Pfannenschmidt, Temporary Administrative Assistant

1. Call to Order

Chair Brison called the meeting to order at 10:07 a.m.

2. FOIA Compliance – Public notification of this meeting has been published, posted, and distributed in compliance with the South Carolina Freedom of Information Act and the requirements of the Town of Hilton Head Island.

3. Roll Call – See as noted above.

4. Legal Training – Conducted by Diane Busch, Staff Attorney

Ms. Busch conducted a presentation regarding insight as to how the South Carolina Court of Appeals and the South Carolina Supreme Court rule on BZA decisions appealed from the 14th Circuit Court. She noted the Board is a Quasi-Judicial body with judicial responsibilities which consist of no ex-parte communications, are to find facts, must rule based on facts applied to law and must avoid conflicts. Ms. Busch added that the decision of the board must be allowed to stand unless there is no evidence which reasonably supports the findings.

Ms. Busch informed the Board that the powers of the BZA are enumerated in 6-29-800(A):

(1) **ERROR:** to hear and decide appeals where it is alleged there is error in an order, requirement, decision, or determination made by an administrative official in the enforcement of the zoning ordinance;

(2) **UNNECESSARY HARDSHIP:** to hear and decide appeals for variance from the requirements of the zoning ordinance when strict application of the provisions of the ordinance would result in unnecessary hardship;

(3) **SPECIAL EXCEPTION – USE:** to permit uses by Special Exception, subject to the terms and conditions for uses set forth for uses in the zoning ordinance;

(4) REMAND TO STAFF: to remand a matter to an administrative official (staff), upon motion by a party or the board's own motion, if the board determines that the record is sufficient for review.

She reviewed case studies that were applicable to the criteria and detailed procedures that are necessary.

Upon completion of Ms. Busch's presentation there was a question and answer period.

Chair Brison thanked Ms. Busch for her presentation.

5. Adjournment

The meeting was adjourned at 11:08 a.m.

Submitted by: Vicki Pfannenschmidt, Secretary

Approved: [DATE]

DRAFT



TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
VIA: Jennifer Ray, ASLA, *Interim Community Development Director*
VIA: Teri B. Lewis, AICP, *Community Development Deputy Director*
VIA: Nicole Dixon, AICP, CFM, *Development Review Administrator*
FROM: Tyler Newman, *Senior Planner*
CC: Joshua Gruber, *Deputy Town Administrator*
DATE: May 12, 2021
SUBJECT: VAR-000818-2021 – 15 Marshland Road

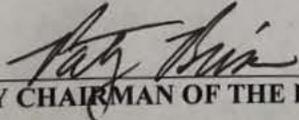
The Board of Zoning Appeals met on April 26, 2021 to review the proposed variance application. The Board voted 7-0 to continue the public hearing at the next scheduled Board of Zoning Appeals meeting. Additionally the Board voted 6-1 to subpoena Town staff to testify and to provide documentation from 2015 relative to correspondence that was presented by the applicant during the hearing.

Attachments:

- 1 – Subpoena
- 2 – Staff letter to applicant dated September 2015
- 3 – Staff letter to applicant dated October 2015
- 4 – Photos from applicant

SUBPOENA

TOWN OF HILTON HEAD ISLAND BOARD OF ZONING APPEALS

SOUTH CAROLINA	TOWN OF HILTON HEAD ISLAND	
	CASE NO VAR-00818-2021	SUPOENA FOR <input checked="" type="checkbox"/> PERSON <input checked="" type="checkbox"/> DOCUMENT OR OBJECTS
TO: ANNE CYRAN, Senior Planner Town of Hilton Island c/o Diane Busch, Staff Attorney, for service One Town Center Court Hilton Head Island, SC 29926		
<p>▪ YOU ARE HEREBY COMMANDED to appear at a hearing before the Board of Zoning Appeals in the Town Council Chambers located at One Town Center Court, Hilton Head Island, South Carolina at the place, date and time specified below to testify in the above-entitled case.</p>		
PLACE One Town Center Court, Hilton Head Island, SC 29928	TOWN COUNCIL CHAMBERS **attend BZA Meeting via Blue Jeans	DATE AND TIME May 24, 2021 at 2:30 PM
<p>YOU ARE ALSO COMMANDED to bring with you the following document(s) or object(s): 1. Any and all written communications (including, without limitation, email correspondence), including any attachments, from yourself or any Town staff to Mr. Taiwan Scott and/or his attorney relative to or associated with your correspondence to Mr. Scott of September 2, 2015; and 2. Any and all photographs in the possession of the Town which show the food truck and adjacent screening fence located at 15 Marshland Road, Hilton Head Island, South Carolina.</p>		
<p>LIST DOCUMENT(S) OR OBJECT(S)</p> <p>This subpoena shall remain in effect until you are granted leave to depart by the Board or by an officer of the Board on behalf of the Board. This Subpoena is issued in accordance SC Laws Section 6-29-790, and other applicable provisions of law.</p>		
CHAIRMAN OF THE BOARD OF ZONING APPEALS (BZA) 	DATE May 14, 2021	
BY CHAIRMAN OF THE BZA PATSY BRISON		
THIS SUBPOENA IS ISSUED UPON APPLICATION AND AUTHORITY OF THE BOARD OF ZONING APPEALS VIA MOTION MADE AND PASSED BY THE BOARD DURING ITS APRIL 26, 2021 HEARING.	APPELLANTS'S NAME AND ADDRESS TAIWAN SCOTT 5 CANDY DOLL BLUFF HILTON HEAD ISLAND, SC 29928	

TOWN OF HILTON HEAD ISLAND

COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court, Hilton Head Island, SC 29928
843-341-4600 <http://www.hiltonheadislandsc.gov>

September 2, 2015

Tai Scott
Sent to taifr@hotmail.com

Re: DPR-1584-2015, Gullah Geechee Catering

Dear Tai:

This letter is regarding your Minor Development Plan Review (Minor DPR) application for Gullah Geechee Catering at 15 Marshland Road. As we discussed on Friday, the application materials are incomplete. Staff needs further information to review this project for compliance with the Land Management Ordinance (LMO). The comments below reflect many of the same comments staff provided to you at the pre-application meeting for this project, which was held on October 14, 2013.

Since the use of the structure and this site are changing from an accessory storage structure for the single family home on the parcel to a commercial eating establishment, the site must be brought into compliance to the maximum extent practicable with current LMO standards for a commercial eating establishment. In meetings with staff since the 2013 pre-application meeting and in an email sent to you by Heather Colin, Development Review Administrator, on February 23, 2015, staff informed you that prior to any change to the use of the property for anything other than a single family use, the site must comply with the regulations for the new use.

Staff found some areas of flexibility in the LMO to reduce the alterations that must be made to the site to bring it into compliance with LMO standards. The gravel drive aisle running along the western property line (adjacent to Lot 9) existed prior to the development of the commercial portion of the site and is considered a legally non-conforming site feature. Even though the drive aisle runs through the required adjacent use buffer, you do not have to remove the drive aisle from the buffer or plant vegetation in the buffer to meet current adjacent use buffer standards; the drive aisle can remain in its current location.

The wood screen fence surrounding the food truck and the enclosed building encroach into the 30-foot adjacent use setback from Lot 7. Though the building and fence enclosure would not have been permitted in the setback area if the building permit applications for these structures were submitted as part of a commercial development instead of residential accessory structures,

TOWN OF HILTON HEAD ISLAND

COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court, Hilton Head Island, SC 29928
843-341-4600 <http://www.hiltonheadislandsc.gov>

the building and fence enclosure do not have to be removed to bring the site into full compliance with the LMO. They are legally non-conforming structures. The remaining non-conforming site features, however, must be brought into compliance with current LMO standards to the maximum extent practicable.

Please submit the following materials to complete the application and begin staff review:

1. Check Yes or No after the “Are there recorded private covenants...” question on the application form (attached).
2. Please revise the narrative to include the size of the enclosed building (not the food truck), the size of the covered eating area, and, if the area in between the gravel drive and the building will be used as an outdoor seating area, state the size of that outdoor seating area.
The narrative should also address the following questions/issues:
 - a) When will food and supplies be delivered and where the delivery truck will access the food truck;
 - b) How waste will be removed – will there be a dumpster?
 - c) The number of bicycle and vehicle parking spaces required based on the size of the enclosed building and outdoor seating areas. See LMO Sections 16-5-107.D (page 5-31) and 16-5-107.H.7 (page 5-42).
 - d) The number, size, and species of existing overstory trees, understory trees, and evergreen shrubs in the adjacent street buffer and in the adjacent use buffer next to Lot 7. The existing vegetation in the buffer will count toward the required buffer vegetation. See LMO Section 16-5-103.F, Buffer Types (page 5-8).
3. A site plan including all of the items listed in LMO Appendix D, Section 7 (attached), including but not limited to:
 - a) The adjacent street setback line, labeled “40 Foot, 70 degree angle Adjacent Street Setback”.
 - b) The adjacent street buffer line, labeled “Type B, Option (1 or 2) Adjacent Street Buffer”.
 - c) The adjacent use setback line, labeled “30 foot, 60 degree angle Adjacent Use Setback”. The line should be drawn on the side of the property next to Lot 7 and should extend from the Marshland Road right-of-way to the back of the building.
 - d) The adjacent use buffer line, labeled “Type C, Option (1 or 2) Adjacent Use Buffer”. The lines should be drawn on the side of the property next to Lot 7 and should extend from the Marshland Road right-of-way to the back of the building.

TOWN OF HILTON HEAD ISLAND

COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court, Hilton Head Island, SC 29928
843-341-4600 <http://www.hiltonheadislandsc.gov>

- e) The required 15 foot wide landscape medians at the ends of the parking row. See LMO Section 16-5-107.G (page 5-39).
- f) Lines showing the location and width of the 20-foot driveway. The lines do not need to be marked on the site; they just need to be shown on the site plan.
- g) Lines delineating the lengths and widths of the parking spaces. The lines do not need to be marked on the ground; they just need to be shown on the site plan to demonstrate that they are the required dimensions: all spaces must be 18 feet long; spaces at the ends of the parking row must be 10 feet wide; spaces on the inside of the parking row must be 9 feet wide.
- h) Add a table with the following information to the site plan:
 - The gross area of the site in square feet (33,300 sq ft) and acres (0.76 acres).
 - The area of the tidal wetland on the site in square feet (2,462 sq ft) and acres (0.06 acres).
 - The net area of the site (gross area – tidal wetland area) in square feet (30,838 sq ft) and acres (0.7 acres).
 - The Zoning District: MF, Marshfront Mixed Use.
 - The maximum impervious coverage allowed for the MF Zoning District: 60%.
 - The maximum impervious coverage allowed on the site in square feet (18,503 sq ft) and acres (0.42 acres).
 - The amount of impervious coverage on the site in square feet, acres, and as a percent of the site.
 - The maximum density permitted for the site per the MF Zoning District: 4 Single Family Dwelling Units; and 4,900 square feet of Nonresidential Use.
 - The proposed density for the site: Retain the existing Single Family Dwelling Unit; and add 300 square feet of Nonresidential Use.
 - The number of parking spaces required: 1 space per every 100 square feet of enclosed floor area and outdoor seating area.
 - The number of parking spaces provided.
 - The number of bicycle parking spaces required: parking for 4 bicycles for every 10 vehicle parking spaces required, or major fraction thereof.
 - The number of bicycle parking spaces provided.
- i) An Electric Vehicle (EV) Charging Station. Land Management Ordinance Section 16-5-107.D.10 (page 5-38) states that “All multifamily and nonresidential development shall provide one electric vehicle (EV) charging station per site. The electric vehicle charging station shall be located within 100 feet of the primary entrance.” Note the location of the EV charging station and provide

TOWN OF HILTON HEAD ISLAND

COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court, Hilton Head Island, SC 29928
843-341-4600 <http://www.hiltonheadislandsc.gov>

specs for the station for staff review of the design.

4. A landscape plan for the adjacent street buffer, adjacent use buffer, and the parking medians.
5. The estimated impact fees for a 300 square foot High Turnover Eating Establishment are: \$2,628.30 (Town of Hilton Head Island) + \$1,030.20 (Beaufort County) = \$3,658.50. The impact fees must be paid at Town Hall prior to the Certificate of Compliance (C of C) being issued for this project.
6. If required by Hilton Head PSD, a Will Serve letter stating that the PSD will provide water and sewer service to the site. If this letter is required, it does not have to be submitted to start staff review of the application, but it is required before the Minor DPR will be approved.
7. If required by Palmetto Electric, a Will Serve letter stating that Palmetto Electric will provide electrical service to the site. Again, if this letter is required, it does not have to be submitted to start staff review of the application, but it is required before the Minor DPR will be approved.

Please note that this list is not inclusive; additional information or materials may be required by Town staff once they review the complete application. Once the materials required to complete the application have been submitted, staff will begin reviewing the application. A comment letter or an approval (if staff has no comments) will be sent to you within seven business days of receiving the complete application.

Please note that, when making the above changes to the site plan, if you find that you aren't able to meet some of the current LMO standards, you can apply for a variance from the Board of Zoning Appeals (BZA) from the section or sections of the LMO. A variance application is attached and the BZA application deadlines, meeting schedule, and further information about the variance process are on the Town's website:

<http://www.hiltonheadislandsc.gov/boards/boarddetails.cfm?BoardID=BZA>. Please note that each of the four criteria in LMO Section 16-2-103.S.4.a.i (see attached application form) must be met for the variance to be approved. Please also note that any variances requested for this site must be approved before the site plan can be approved.

You will need to submit the C of C application when the approved site work for this project is complete. The required application forms for the C of C will be provided to you when the

TOWN OF HILTON HEAD ISLAND

COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court, Hilton Head Island, SC 29928
843-341-4600 <http://www.hiltonheadislandsc.gov>

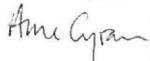
Minor DPR application is approved. The C of C must be approved by staff **prior** to this site being used as a Commercial Eating Establishment.

Please ensure that no further work (demolition, removing vegetation, moving gravel, installing site features, building structures, etc.) takes place on this site until the Minor DPR is approved.

Again, the Design Review Board (DRB) application must be approved, the Minor DPR must be approved, any alterations to the building or site required by the DRB must be complete, all site work must be complete, and a C of C must be approved before the site can be used as anything other than a single family residence.

Please contact me at (843) 341-4697 or at annec@hiltonheadislandsc.gov if you have any questions about these requirements.

Sincerely,



Anne Cyran, AICP
Senior Planner

cc: File
Heather Colin, Development Review Administrator
Teri Lewis, LMO Official

Attachments: Minor DPR Application Form
PAPP130019 Staff Comment Sheet
Email from Heather Colin dated 02/23/2015
LMO Appendix D, Section 7
VAR Application

TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, SC 29928
843-341-4600 phone 843-842-7728 fax
www.hiltonheadislandsc.gov

Sent via e-mail to taifr@hotmail.com

October 21, 2015

Mr. Taiwan Scott
5 Candy Doll Bluff
Hilton Head Island, SC 29928

Re: DPR-1584-2015, Gullah Geechee Catering

Dear Mr. Scott:

This is a follow up to the meeting held on October 20, 2015 between you, Alex Brown, Richard Spruce, Jill Foster, Charles Cousins and myself. At that meeting we agreed that I would send you a letter listing your options to complete your Minor Development Plan Review (DPR) application. Below are our ideas and recommendations based on yesterday's meeting.

The first option is to locate the food truck (open air sales unit), associated screening fence, bike rack and farmers' market area out of the required setback and buffer (see attached site plan for possible layout). The brick walk between the storage shed and the fence along the property line must be removed or relocated out of the required buffer. If you choose this option, I will circulate the attached site plan among reviewers to determine anything else with the site that needs to be addressed.

The second option is to do the first option **and** apply for a variance asking for a 15' adjacent use setback instead of the required 30' setback. I think you have a great case for a variance to reduce the adjacent use setback based on the narrowness of the property, especially once you apply the various setback and buffer requirements to the site plan. I would support such a variance and be willing to meet with your neighbor ahead of time to explain my support of the variance. This variance would give you even more area for the farmers' market and for the open air sales use (food truck).

Per Richard Spruce, please be advised that building permits will still be required for the restroom and the screening fence around the food truck (which were installed without the required permits) and any propane tanks that have been or are proposed to be added. Additionally any electrical or plumbing work already done or proposed to be done related to the food truck will need to be inspected.

The paragraphs above simply explain your options; as stated before, until such time that the stop work orders are removed, no work can occur on this site.

To keep this project moving forward, please let me know by **November 3, 2015** which option you choose and we will work with you to continue the permitting of this project as expediently as possible.

Yesterday you stated that you wanted a final answer on the Open Air Sales use and the Farmers' Market use. I have determined, after a thorough review of the LMO, particularly the Use and Definition sections, that the food truck is considered a permanent Open Air Sales use and not just a part of a temporary Farmers' Market use. This determination is based in part on the information provided on the business license submitted by Gullah Geechee Catering. Their business license states that this is a permanent location for their business, the description of which is catering and restaurant, not a farmers' market. The determination regarding the

use classification of the food truck is also based on the definition of Farmers' Market which states that, "... held...occasionally or periodically for only a limited time period during the year..." Additionally I have determined, as we discussed yesterday, that based on the information available to me, your site (Lot 8) and the neighboring site (Lot 7) do not appear to function as a single development and therefore the adjacent use setback and buffer are applicable. These are my final written determinations on these two issues. **Should you disagree with them and wish to appeal these two determinations to the Board of Zoning Appeals, you must do so within 14 days of receipt of this letter (November 3, 2015).**

Sincerely,



Teri B. Lewis
LMO Official

cc: Alex Brown
Charles Cousins
Jill Foster
Richard Spruce

Google Maps

15 Marshland Rd



Image capture: May 2019 © 2020 Google



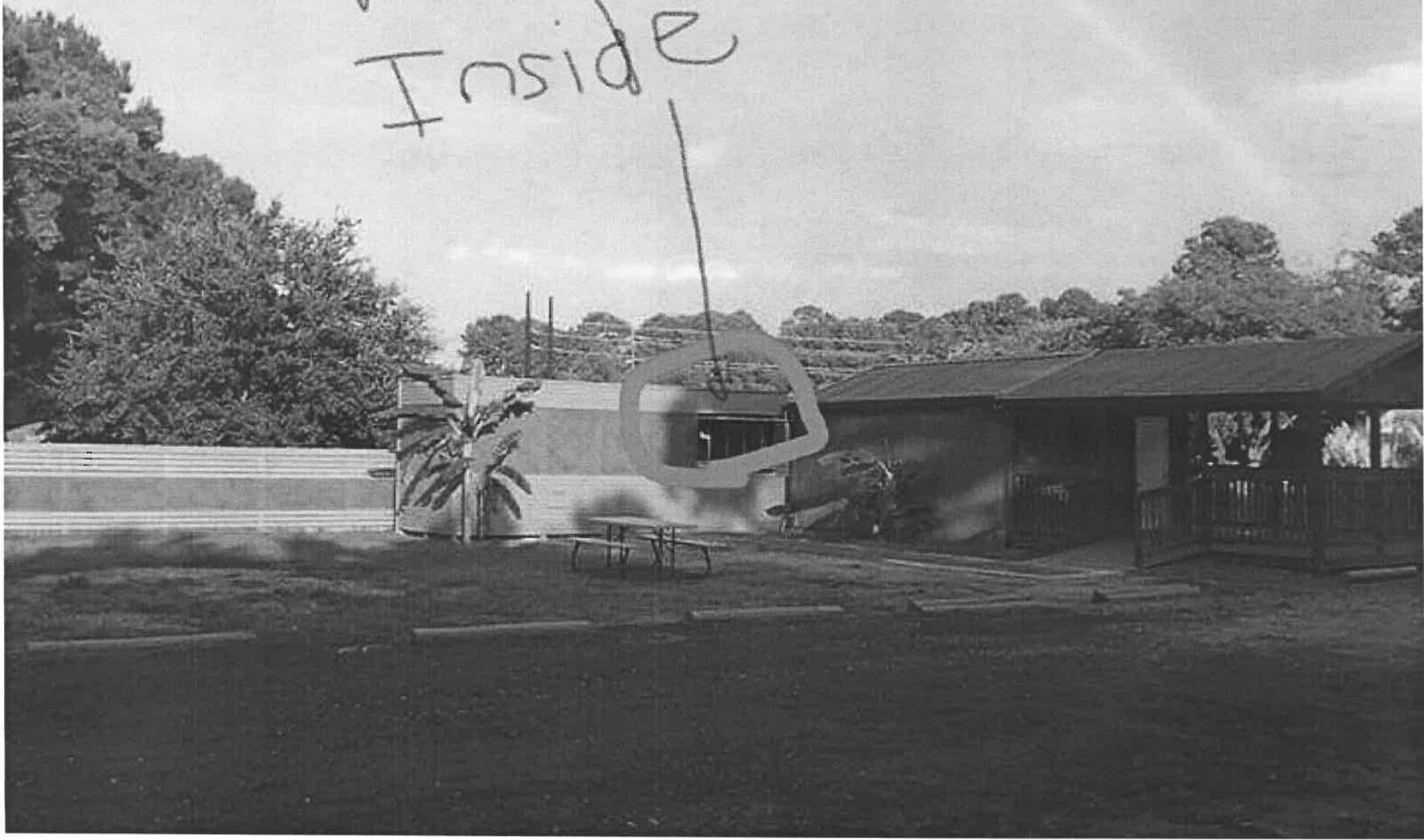
Image capture: May 2019 © 2020 Google
Hilton Head Island, South Carolina

Google

Street View



Food Truck is
Inside





TOWN OF HILTON HEAD ISLAND

Community Development Department

TO: Board of Zoning Appeals
FROM: Missy Luick, *Senior Planner*
DATE: May 14, 2021
SUBJECT: Waiver Report

The BZA requested that staff keep them informed of substitutions of nonconformities for redevelopment that are granted by staff. A memo is distributed every month at the regular BZA meetings and is discussed under staff reports on the agenda.

The following language is contained in Section 16-7-101.F, Substitutions of Nonconformities for Redevelopment, which gives the Administrator the power to grant such substitutions for existing nonconforming structures and site features.

LMO Section 16-7-101.F:

“To provide flexibility and encourage redevelopment of sites with nonconforming features or structures, the Official is authorized to approve a Development Plan for such sites if the proposed development:

1. Will not include any new development that increases the amount of encroachment into any required buffer or setback;
2. Will not increase the impervious cover on the site over the maximum allowed for the district or the existing impervious cover, whichever is greater;
3. Will not result in a density in excess of what is allowed under this Ordinance, or the existing density, whichever is greater;
4. Will lessen the extent of existing nonconforming site features to the greatest extent possible;
5. Will not have an adverse impact on the public health, safety or welfare; and
6. Will lessen the extent of nonconformities related to any existing nonconforming structure on the site to the greatest extent possible.”

2 waivers have been granted by staff since the April 26, 2021 BZA meeting.

1. **WAIV-001082-2021 – 51 S. Forest Beach Drive** – A Tree Preservation waiver was received for the Marriott Vacation Club property at 51 S. Forest Beach Drive. The existing pool site contains a 30” Live Oak which per LMO Section 16-6-104.F.1, is classified as a “Significant” tree. The application stated how the existing significant tree is causing problems with the pool deck and related pool systems and has created health and safety issues. The waiver was granted due to the fact that the planting of three (3) category I trees as mitigation or a total of 6 nursery stock mitigation inches will be planted on site.
2. **WAIV-001098-2021, 13 Cardinal Road-** A Properties Functioning Together waiver application was received in conjunction with a proposed contractor laydown yard project associated with DPR-000791-2021. The request was to eliminate the setback and buffer requirements between two parcels because they function as one site. After reviewing the documents submitted with the waiver request it is evident that the waiver narrative describes how the parcels function together with shared stormwater detention ponds. The waiver was approved and authorized permission to eliminate the setbacks and buffers between the parcels.