



Town of Hilton Head Island  
**Board of Zoning Appeals Meeting**  
**Monday, June 27, 2022 – 2:30 p.m.**  
**AGENDA**

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The Board of Zoning Appeals meeting will be held in-person at Town Hall in the Benjamin M. Racusin Council Chambers.

**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. Presentation of the Town’s Crystal Award to outgoing Board Member Lisa Laudermilch**  
– *Presented by Shawn Colin, Assistant Town Manager – Community Development*

**5. Welcome and Introduction to Board Procedures**

**6. Approval of Agenda**

**7. Approval of Minutes**

a. April 25, 2022 Meeting

**8. Appearance by Citizens**

Citizens may submit written comments via the [Town's Open Town Hall Portal](#). The portal will close at 4:30 p.m. on Friday, June 24, 2022. Comments submitted through the portal will be provided to the Board of Zoning Appeals and made part of the official record.

**9. Unfinished Business – None**

**10. New Business**

**a. Public Hearing**

**VAR-000620-2022** – Request from John Nicholas Crago for a variance from LMO Section 16-4-102.B.7.c, Use-Specific Conditions for Principal Uses, for proposed screened outdoor storage of bicycles in the Light Commercial (LC) District where outdoor storage of bicycles is not allowed. The property is located at 13 Executive Park Road and has a parcel number of R552 015 000 0087 0000. *Presented by Shea Farrar*

**b. Public Hearing**

**VAR-001455-2022** – Request from Jason and Abigail Rudasill for a variance from LMO Sections 16-3-106.J.4, Holiday Homes Neighborhood Character Overlay District Regulations, 16-5-102.D, Adjacent Use Setbacks and 16-5-103.E, Adjacent Use Buffers, to construct a pool and deck within the setbacks and buffers. The subject property is located at 31 Oleander Street with a parcel number of R510 009 000 0830 0000. *Presented by Nicole Dixon*

**11. Board Business**

**12. Staff Reports**

- a. Status of Appeals to Circuit Court
- b. Status of LMO Amendments
- c. Waiver Report

**13. Adjournment**

**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 25, 2022, at 2:30 p.m. Virtual Meeting  
**MEETING MINUTES**

**Present from the Board:** Chair Patsy Brison, Charles Walczak, David Fingerhut, Peter Kristian, Robert Johnson

**Absent from the Board:** Vice Chair Anna Ponder (excused), Lisa Laudermilch (excused)

**Present from Town Council:** Glenn Stanford

**Present from Town Staff:** Chris Yates, Development Services Manager; Nicole Dixon, Development Review Program Manager; Missy Luick, Principal Planner; Teresa Haley, Community Development Coordinator

**Others Present:** Curtis Coltrane, Town Attorney

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**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 noted she would not be introducing the Board's procedures for conducting the meeting, as the item listed on the agenda has been postponed.

**5. Approval of Agenda**

Chair Brison asked for a motion to approve the agenda as presented. Mr. Kristian moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote 5-0-0.

**6. Approval of Minutes**

a. March 28, 2022, Meeting

Chair Brison asked for a motion to approve the minutes of the March 28, 2022, meeting. Mr. Fingerhut moved to approve. Mr. Kristian seconded. By way of roll call, the motion passed with a vote of 5-0-0.

**7. Appearance by Citizens**

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall HHI portal. There were no comments submitted. Citizens were provided the option to sign up for public comment participation during the meeting by phone. There were no requests.

## 8. Unfinished Business – None

## 9. New Business

### a. Public Hearing

**VAR-000620-2022** – Request from John Nicholas Crago for a variance from LMO Section 16-4-102.B.7.c, Use-Specific Conditions for Principal Uses, for proposed screened outside storage of bicycles in the Light Commercial (LC) District where outside storage of bicycles is not allowed. The property is located at 13 Executive Park Road and has a parcel number of R552 015 000 0087 0000. **POSTPONED**

Chair Brison noted the above referenced variance has been postponed until the regularly scheduled May meeting pursuant to the authority of the Chair, as found in Article XI, Section 3 of the Rules of Procedure.

## 10. Board Business

### a. Adoption of Amendments to the Rules of Procedure

Missy Luick noted there were no changes from the previous month. Mr. Kristian moved to approve. Mr. Johnson seconded. By way of roll call, the motion passed by a vote of 5-0-0.

## 11. Staff Reports

### a. Status of Appeals to Circuit Court

Curtis Coltrane reported there has been an agreement reached with the Town of Hilton Head Island, the six Sandcastles by the Sea property owners that originally filed the lawsuit, as well as all Sandcastles by the Sea property owners along the common boundary with the Town property. He explained the Town is conveying a small strip of land to the owners which will move the buffer far enough away from the homes to encompass the improvements that were improperly made. He stated the owners are paying the appraised value for the property, plus a pro-rated cost for the expenses incurred by the Town.

Curtis Coltrane reported there has not been a ruling on the Bradley Circle Vacation Partners appeal.

### b. Status of LMO Amendments

Nicole Dixon stated there was no report at this time. She noted the amendments are still being drafted by the on-call code writing team and when they are received, she will update the Board.

### c. Waiver Report

Chair Brison noted the report was included in the agenda packet and invited Board members to ask questions. There were none.

## 12. Adjournment

With no other business before the Board, Mr. Kristian moved for adjournment. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 5-0-0. The meeting was adjourned at 2:48 p.m.

**Submitted by:** Vicki Pfannenschmidt, Secretary

**Approved:** [DATE]



**TOWN OF HILTON HEAD ISLAND  
COMMUNITY DEVELOPMENT  
DEPARTMENT**

One Town Center Court	Hilton Head Island, SC 29928	843-341-4757	FAX 843-842-8908
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**STAFF REPORT  
VARIANCE**

<b>Case #:</b>	<b>Public Hearing Date:</b>
VAR-000620-2022	June 27, 2022

<b>Parcel or Location Data:</b>	<b>Property Owner</b>	<b>Applicant</b>
Parcel#: R552 015 000 0087 0000 Address: 13 Executive Park Road Parcel size: 0.61 acres Net acreage: 0.61 net acres Zoning: LC (Light Commercial) Overlay: COD (Corridor Overlay District)	Lucky Investments, LLC 13 Executive Park Road Hilton Head Island, SC 29928	John Nicholas Crago 13 Executive Park Road Hilton Head Island, SC 29928

**Application Summary:**

John Nicholas Crago has applied for a variance from LMO Section 16-4-102.B.7.c, Use-Specific Conditions for Principal Uses, for proposed screened outdoor storage of bicycles in the Light Commercial (LC) District where outside storage of bicycles is not allowed. The property is located at 13 Executive Park Road and has a parcel number of R552 015 000 0087 0000.

**Staff Recommendation:**

Staff recommends the Board of Zoning Appeals find this application not to be consistent with the Town's Our Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Fact and Conclusions of Law as determined by the LMO Official and enclosed herein.

**Background:**

The property subject to this application is located at 13 Executive Park Road, off Pope Avenue in a commercial area adjacent to the entrance to Shipyard. Refer to Attachment A, Vicinity Map.

The property is currently developed with a 2,756 square foot building with associated parking. Surrounding properties along Executive Park Road are similar in size and are developed with primarily office and restaurant uses. Shipyard Golf Course is located to the rear of the property.

The zoning of the property is Light Commercial (LC). This property has been the location of a bicycle business since 2007 and the applicant has operated a bicycle shop at this location since 2020. Since bicycle shops are allowed in the LC District, but the outdoor storage of bicycles is not, the applicant is requesting relief from this use specific condition to enable the permitting of a screened outdoor storage area for bicycles.

Of the 10 zoning districts where bicycle shops are allowed, only 2 districts do not allow outdoor bicycle storage: LC and Community Commercial (CC) per LMO Section 16-4-102.B.7.c:

A bicycle shop shall comply with the following conditions.

- i. Outdoor storage is permitted only in the CR, SPC, MS, WMU, S, MF, MV, and RD Districts.
- ii. Vegetation, fences, and walls shall be installed to screen outdoor storage areas.
- iii. In the S District, a bicycle shop shall not direct vehicular access to a major arterial.

In 2019, the Board of Zoning appeals approved VAR-002648-2019 to allow outdoor storage of bicycles in the LC Zoning District at 3 Pensacola Place. At that time, the applicant was relocating from 13 Executive Park Road to this new location. In 2009, at 13 Executive Park Road, the Town permitted a screened outdoor storage area when the property was zoned Commercial Center, which allowed for screened outdoor storage of bicycles. The zoning of the property changed in 2014 when the LMO was rewritten, from Commercial Center to LC, which made the property non-conforming because of the use specific conditions. This storage area was maintained as a legal nonconformity until the business relocated to 3 Pensacola place following the approval of VAR-002648-2019 as the screened storage area was removed.

When reviewing VAR-002648-2019, consideration was given to the fact that the LMO, while it restricts the screened outdoor storage of bicycles in the LC and CC Districts, allows other uses to have screened outdoor storage as an accessory use. Businesses, such as contractors, could have screened outdoor storage for materials and bike business could have screened outdoor storage for other items, such as baskets, but not bicycles.

Following the approval of VAR-002648-2019, the Board of Zoning Appeals sent a letter to the Planning Commission and Town Council regarding issues that may warrant the consideration of changes to the Town's LMO. Refer to Attachment B. One of the issues identified was the restriction on screened outdoor storage for bicycle shops in only two Zoning Districts (LC and CC) of the 10 that permitted bicycle shops. This issue was included in staff's list of modifications to the LMO to be reviewed with potential future amendments. Currently, these amendments are being drafted to help address this conflict.

Unfortunately, the amendments to the LMO have not moved forward quickly enough due to other priorities. Based on continued complaints, staff conducted a comprehensive review of bicycle shops on the Island. Letters were sent to all business that were not in compliance. For those in the LC District, staff informed them that they were prohibited from having screened outdoor storage and must come into compliance by removing the outdoor storage or applying for a variance from this use

specific condition.

A letter was sent to Mr. Crago, dated November 29, 2021, that outlined the enforcement effort and compliance options. As his business is located in the Light Commercial District, Mr. Crago was asked to remove the outdoor storage or to apply for a variance from this use specific condition. Mr. Crago filed a variance application in December of 2021.

During staff's preliminary review of the variance application, staff found that screened outdoor storage had been permitted on the property through XDPR090074. Per legal advice, this screened outdoor storage of bicycles was identified as a legal nonconforming site feature, meaning that the variance would no longer be required. So, staff voided the application.

Following another inquiry regarding the status of enforcement efforts, staff provided an update that the application had been voided due to the permitted screened area. It was at that time that staff was made aware that the screen had been removed by the prior business when relocating. This effectively removed the legal nonconformity that staff had identified for the outdoor storage of bicycles on the property. So, Mr. Crago was again informed that the variance was still required.

**Applicant's Grounds for Variance, Summary of Facts and Conclusions of Law:**

**Grounds for Variance:**

According to the applicant, the applicant has tried to maintain compliance by not storing bicycles outside, but the normal operations of such a business are dependent upon having a large inventory of bicycles that can be rented.

**Summary of Fact:**

- The applicant seeks a variance as set forth in LMO Section 16-4-102.B.7.c.

**Conclusion of Law:**

- The applicant may seek a variance as set forth in LMO Section 16-4-102.B.7.c.

**Summary of Facts and Conclusions of Law:**

**Summary of Facts:**

- Application was submitted on December 23, 2021 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on June 5, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on June 10, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on June 10, 2022 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):*

**Findings of Fact:**

- The subject property has a size and shape similar to adjacent properties.
- The subject property has been the location of a permitted bicycle rental business since 2007.
- Outdoor storage of bicycles is not permitted in the LC District per the current LMO, but it was permitted in the prior zoning of Commercial Center prior to the 2014 LMO re-write.
- Outdoor storage was permitted when the property was zoned Commercial Center through XDPR090074.
- This storage area was removed when the prior business relocated.
- The applicant has operated a bicycle shop at this location since 2020.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are not extraordinary and exceptional conditions that pertain to this particular property.
- The subject property is average in shape and size for the subdivision and does not contain any extraordinary or exceptional conditions that prohibit other uses of the property.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):*

**Findings of Fact:**

- There are no extraordinary and exceptional conditions that pertain to this particular property.
- The applicant has made continued efforts to operate without outdoor storage and to comply

with enforcement requirements.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are extraordinary or exceptional conditions that apply to the subject property that do not also generally apply to other properties in the vicinity.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO Section 16-2-103.S.4.a.i.03):*

**Finding of Fact:**

- The applicant has made continued efforts to operate without outdoor storage and to comply with enforcement requirements, but because of the large inventory of bicycles being rented out, the use tends to require outdoor storage at times.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that apply to the subject property that would prohibit or unreasonably restrict the utilization of the property.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):*

**Findings of Facts:**

- The applicant is proposing to screen the outdoor bicycle storage area, which will meet the requirements of LMO Section 16-5-113, Fences and Walls.
- The applicant is not proposing to remove any existing vegetated buffer areas.
- Permitting outdoor storage on the subject property will not be of substantial detriment to the adjacent property or the public good as it has been the location of a bicycle shop with outdoor storage since 2007.

**Conclusion of Law:**

- This application meets the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the

variance will not be of substantial detriment to the adjacent property or the public good.

**LMO Official Determination:**

**Staff recommends the Board of Zoning Appeals find that this application is not consistent with the Town’s Our Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Fact and Conclusions of Law as determined by the LMO Official and enclosed herein.**

**BZA Determination and Motion:**

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board makes and explains in writing ..." their decisions based on certain findings or "may remand a matter to an administrative official, upon motion by a party or the board’s own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the motion.**

**PREPARED BY:**

  
\_\_\_\_\_  
Shea Farrar, *Senior Planner*

June 15, 2022  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

*Nicole Dixon*

6-15-22

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Nicole Dixon, AICP, CFM, *Development  
Review Program Manager*

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DATE

*Shawn Colin*

6-16-22

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Shawn Colin, AICP, *Assistant Town Manager -  
Community Development*

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DATE

**ATTACHMENTS:**

- A) Vicinity Map
- B) Letter from BZA
- C) Applicant Materials
- D) Site Picture
- E) Public Comments



# Town of Hilton Head Island

[13 Executive Park Road](#)  
[Attachment A: Vicinity Map](#)



Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4600

100 50 0 100 Feet

This information has been compiled from a variety of unverified general sources at various times and as such is intended to be used only as a guide. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion.

## Attachment B

# TOWN OF HILTON HEAD ISLAND

One Town Center Court, Hilton Head Island, S.C. 29928

(843) 341-4600 Fax (843) 842-7728

www.hiltonheadislandsc.gov

John J. McCann  
Mayor

William D. Harkins  
Mayor ProTem

\_\_\_\_\_  
Council Members

David Ames  
Tamara Becker  
Marc A. Grant  
Thomas W. Lennox  
Glenn Stanford

\_\_\_\_\_  
Stephen G. Riley  
Town Manager

February 13, 2020

Hilton Head Island Town Council  
Hilton Head Island Planning Commission  
One Town Center Court  
Hilton Head Island, SC 29928

Re: Board of Zoning Appeals Recommendations for Possible LMO Changes

Dear Town Council and Planning Commission Members:

At its January 27, 2020 meeting, the Board of Zoning Appeals heard two cases with issues that may warrant consideration of changes to the Town's Land Management Ordinance.

VAR-002648-2019 (Land Cruisers Bike Rental LLC)

Land Cruisers Bike Rental LLC requested a variance from LMO Section 16-4-102.B.7.c, Use-Specific Conditions for Principal Uses, for proposed screened outside storage of bicycles in the Light Commercial (LC) District where outside storage of bicycles is not allowed. The subject property is located at 3 Pensacola Place (a non-arterial cul-de-sac street located off New Orleans Road) and within the Corridor Overlay District.

The Applicant has been in business since 1983 and proposed to purchase 3 Pensacola Place as a new location for its bicycle rental business currently on Executive Park Road. Prior to closing on its purchase, the Applicant met with Town Staff regarding the intended use of the property including outdoor storage of bicycles and was incorrectly advised that the proposed use was permitted by the LMO. Subsequent to purchasing the property, the Applicant was notified that while bicycle shops are an allowed use, outdoor storage of bicycles is not a permitted use in the Light Commercial (LC) District.

During the BZA hearing, testimony was presented by Town Staff and the Applicant that:

- Outside storage of bicycles is an essential component of the Applicant's business and the property would not have been purchased if the outside storage prohibition had been known.

- The LMO allows bicycle shops in 10 Zoning Districts (Coligny Resort, Community Commercial, Light Commercial, Main Street, Marshfront, Mitchelville, Resort Development, Sea Pines Circle, Stoney and Waterfront Mixed Use). Of these Districts, only two (Community Commercial and Light Commercial) do not allow outdoor bicycle storage. Staff had researched the LMO's legislative history but could find no reason for these exclusions.
- Staff recommended approval of the Variance request for screened outside storage of bicycles with the condition that the Applicant obtain minor development plan review and minor corridor review approvals.

The Board of Zoning Appeals approved the Variance request on a 6-0 vote and authorized the Chairman to forward a recommendation that the Town review whether or not any adjustment should be made to the LMO regarding outside storage of bicycles where bicycle shops are permitted.

APL-002639-2019 (Side Hustle Beer Company, LLC)

Side Hustle Beer Company, LLC appealed the December 16, 2019 Determination Letter from the Development Review Administrator that a proposed nano brewery to be located at 144 Arrow Road was a manufacturing facility and not a permitted use in the Sea Pines (SPC) District.

The Appellant proposed to brew small quantities of craft beer using nano-sized kettles and tanks, sell tap room pours (maximum of 48-ounces per customer for on premise consumption, and sell to-go beer. Prior to leasing the space and purchasing brewing equipment, the Appellant met with Town Staff in October 2019 and was advised the nano brewery would be classified as a “night club or bar”, a permitted use in the Sea Pines (SPC) District. The Appellant leased the space, purchased equipment and after applying for a business license was notified that the nano brewery would be classified as a manufacturing facility and not permitted in the Sea Pines (SPC) District.

During the BZA hearing, testimony was presented by Town Staff and the Appellant that:

- Nano brewing of craft beer is a fairly new concept and was never contemplated by the LMO. When a term is not defined in the LMO, the LMO Official is authorized to interpret meanings based upon definitions used in acceptable sources. Town Staff referenced “A Planner’s Dictionary” which defines a brewery as “an industrial use that brews...beers...or similar beverages on site” to reach its determination.
- LMO Section 16-2-103.R.2.c provides “The Official is authorized to and shall be responsible for making interpretations of this Ordinance including...whether an unspecified use is comparable to a listed use or not, and whether any unspecified use should be allowed in a zoning district or prohibited in that district”. LMO Section 16-10-103.G.2 (Use Classifications, Use Types and Definitions – Commercial Services) defines a Nightclub or Bar as “an establishment that sells alcoholic beverages for

consumption on the premises...but the sale of food is not a major source of revenue”.

The Board of Zoning Appeals determined that the proposed nano brewery was more like a bar than a manufacturing facility since it would brew one day per week and sell five days. On a 7-0 vote the Board reversed the Staff determination and authorized the Chairman to forward a recommendation that the Town review whether or not nano breweries should be addressed in the LMO.

The Board of Zoning Appeals recommends that the Town review these two issues and determine whether any adjustments to the LMO are warranted.

Respectfully submitted.

Hilton Head Board of Zoning Appeals  
By: Jerry W. Cutrer, Chairman

Cc: Stephen G. Riley, ICMA-CM, Town Manager

## Attachment C - Applicant Materials

John Nicholas Crago  
NickCrago14@gmail.com  
Cross Island Cruisers, LLC  
843 384 7371  
13 Executive Park Rd  
Hilton Head Island, SC, 29928

To whom it may concern within the Town of Hilton Head Island Land Management Ordinance,

### **Ammendment on May 4th, 2022.**

On or around February 16th, 2022, Cross Island Crusiers received a letter from the Town of Hilton Head stating, “During staff review of your variance application, we became aware that a screened outside storage area for bicycles was approved in 2009 for this site. Per legal advice, the screened outside storage of bicycles on your property is a legal nonconforming use. This means that a variance is no longer required. Staff will void your variance application and send you a refund for the application fee.” In the original variance application submitted in December 2021, it was clearly stated that we were planning on building a screened outside storage area, per the specifications and requirements of the Town. The letter from the Town received on February 16th, 2022, states, “the screened outside storage of bicycles on your property is a legal nonconforming use. This means that a variance is no longer required.” No specification is made that this is contingent on the existence of the previous structure, which could have otherwise been denoted in the statement of, “This means that a variance is no longer required.” It is my hope that the Town simply honors the letter I received by approving my variance application to build a new screened and fenced storage area as stated in my first application, and considers this an upgrade to the original approval in 2009, which has already proven its functionality within the parameters of the Town of Hilton Head.

**The following is the narrative for project “Outside Storage at Cross Island” in accordance with VAR submittal requirements.**

### **WHY**

The variance is requested because outdoor storage is essential to increase business growth potential for Cross Island Cruisers, LLC, as bicycle businesses without outdoor storage are limited in their growth capacity. Without outdoor storage, I would be forced to spend unnecessary money and time to transport a large amount of merchandise to my business location from Bluffton, adding to already congested traffic from which Hilton Head suffers, especially in the summer months when tourists are on the road and we are at our busiest time of year.

When speaking to multiple Town officials and employees over the past year, I, as well as other bike shop owners, were informed that there would be a pause on enforcement due

## Attachment C - Applicant Materials

to the BZA deciding the code needed to be amended. Code amendments have since been paused until further notice, for unknown reasons.

Per section of 16-4-102.B.7.c.1, The LC district in which Cross Island is located, currently allows for outdoor storage of strollers, carts, bike attachments, and other various accessories, but not bicycles. LC district is the only district that prohibits the outdoor storage of bicycles, but not other bike related merchandise. To fully comply with section 16-4-102.B.7.c.ii, a fence would need to be constructed behind the building on the left side. All other areas are currently fenced and have vegetation that is at least six feet tall. It would make sense that, if all requirements to obstruct the view of items in outdoor storage were satisfied, that the contents of the outdoor storage could reasonably include bicycles. Cross Island intends to mainly store bicycles in outdoor storage during the off season when tourism is slow.

Precedent has been set by the Town of Hilton Head for decades that, if bikes are stored out of sight, there is no problem with outdoor storage. Our goal is to reflect all standards Town of Hilton Head sets out in creating guidelines for businesses that serve tourism, locals, and ultimately the Town.

16-4-102.B.7.c.iii does not apply because Cross Island is located in LC district and not S district.

### **HOW**

This request seeks to prove that enforcement of any appropriate dimensional, development, design, or performance standard set forth in this Ordinance would result in unnecessary hardship, by meeting all criteria of LMO SECTION 16-2-103.S.4.a, as described the following ways:

01.

Executive Park Rd is unique because it is a U street of which both ends connect to Pope Ave, but is not a high traffic road utilized by the general public for regular transportation. Those who travel on this street generally do so to seek out businesses with whom they are already established customers. Already, the back of the property is not visible due to existing fencing and vegetation, with only one side currently requiring a fence to obstruct view from the back of an adjacent business. Once the fence is constructed, private access by employees will be the only way to view the area within which we are requesting the variance. The back of the building is not currently visible from the street or front of any surrounding buildings, thus eliminating any concern of visual disturbance. Even when standing in the parking lot of 13 Executive Park Rd, the back area of the building being requested for variance is not visible to customers or general public. Thus, whether driving, walking, or biking by, one would not be able to access or see the area intended for outdoor storage.

02.

## Attachment C - Applicant Materials

Other properties in the area lack the combination of vegetation and fencing that prevents the back of the building and any such items stored there from being viewable from the front or sides. Other bicycle rental companies that operate on the main street of Pope Ave are directly in public view and currently all store bicycles outside. The front, back, and sides of other properties in the area are completely visible from the streets and bike paths, lending to the unique lack of exposure of 13 Executive Park Road. Even our entrance is framed with large landscaping which obstructs most of the parking lot itself from being visible from Executive Park Road. Thus, we have exceptional conditions to be most compliant in the requirements for outdoor storage compared to other surrounding properties.

03.

13 Executive Park Road has a large, mostly hidden outdoor area behind the building that would otherwise be a loss of value as unusable land that can serve a purpose if allowed. Because we are currently restricted from utilizing this area, we are forced to store merchandise inside the building and offsite, hindering our ability to conduct business in a presentable and professional manor. All of this directly limits in our ability to serve customers and effectively grow as a business in the short and long term.

04.

Given that the back of the building is already largely obstructed from view of both the general public and adjacent buildings, being granted variance in this ordinance would only result in positive visual change to the character of 13 Executive Park Road. Outdoor storage would further improve the visual appeal of the building by requiring the necessity of better land management to utilize the area, which directly benefits the buildings next to us. Because this improvement would only be accessible from private access, the character in zoning district LC would be preserved.

### **CONCLUSION**

The Town has put a tremendous amount of time, money and effort into planning, producing, and preserving the bike paths that Hilton Head is famous for. To best serve our community and customers, we hope you approve our request for variance within this ordinance. If granted, we will comply with all parameters for outside storage of bicycles, including but not limited to, the requirement to construct an additional fence on part of the property, and anything else the Town deems necessary. I appreciate all of the assistance I have received in this application process, and look forward to further assisting the Town in establishing regulations around E-bikes, and any further motions the Town would like insight on.

## Attachment C - Applicant Materials

### **Bicycle Shops**

A bicycle shop shall comply with the following conditions.

- i. Outdoor storage is permitted only in the CR, SPC, MS, WMU, S, MF, MV, and RD Districts.
- ii. Vegetation, fences, and walls shall be installed to screen outdoor storage areas
- iii. In the S District, a bicycle shop shall not have direct vehicular access to a major arterial.

### **LMO SECTION 16-2-103.S.4.a**

#### **Variance review standards**

i.

A Variance may be granted by the Board of Zoning Appeals if it concludes that the strict enforcement of any appropriate dimensional, development, design, or performance standard set forth in this Ordinance would result in unnecessary hardship. A Variance may be granted in an individual case of unnecessary hardship if the Board of Zoning Appeals determines and expresses in writing all of the following findings:

01.

There are extraordinary and exceptional conditions pertaining to the particular piece of property;

02.

These conditions do not generally apply to other properties in the vicinity;

03.

Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and

04.

The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.

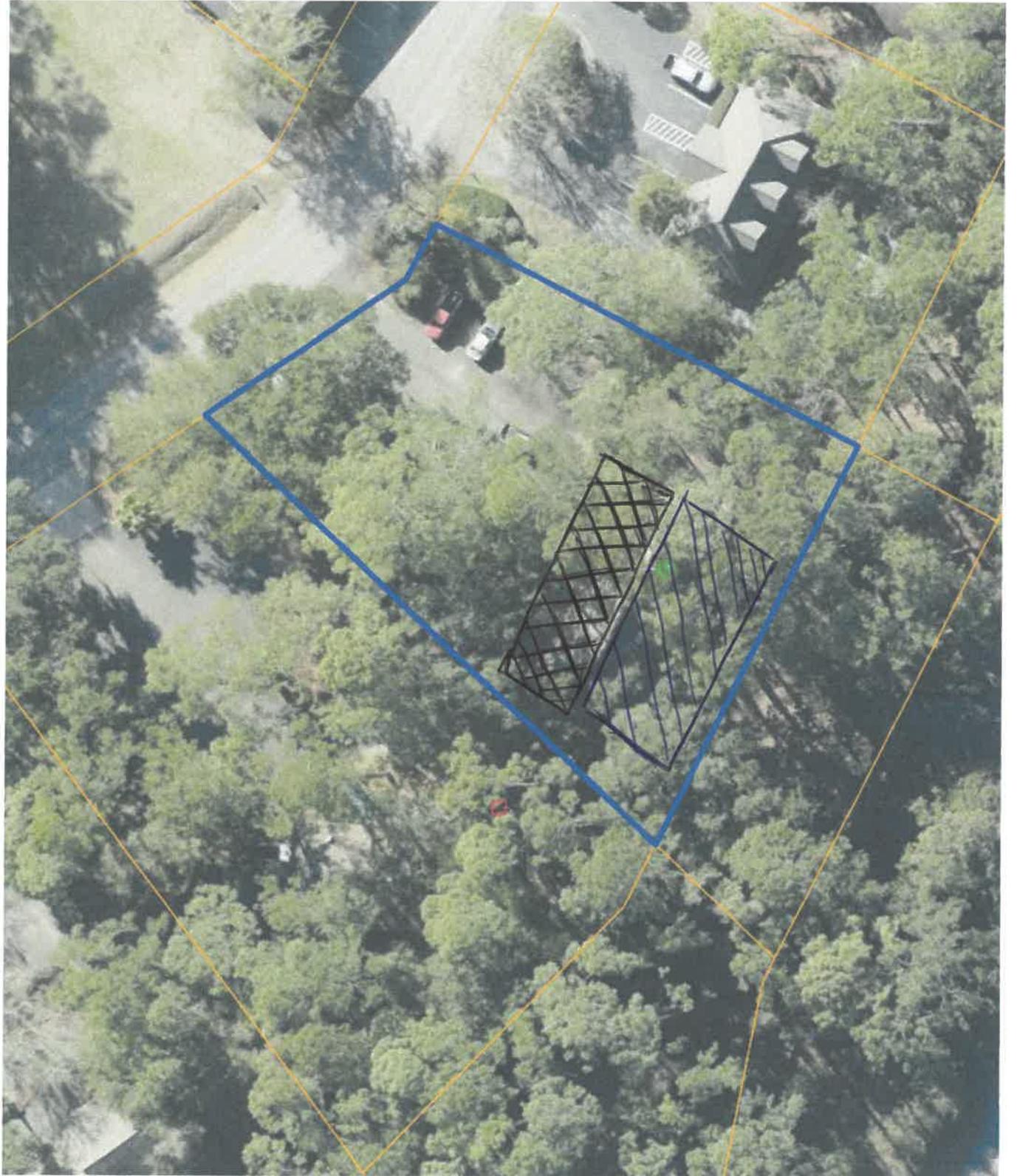
ii.

In its consideration of an application for a Variance, the decision-making body shall be guided by this Ordinance, the relevant provisions of the South Carolina Local

## Attachment C - Applicant Materials

Government Comprehensive Planning Enabling Act of 1994, and the decisions of the appellate courts of South Carolina interpreting such provisions.

Attachment C - Applicant Materials



 - area needed for outside storage  
 - Building blocking outside storage from view

Attachment D





## Island Cruisers Bike Rentals

3 Pensacola Place  
Hilton Head, SC 29928  
Tel: 843.785.4321  
[www.hhibikes.com](http://www.hhibikes.com)

May 19, 2022

The Town of Hilton Head Island  
Board of Zoning Appeals  
One Town Center Court  
Hilton Head, SC 29928

Dear Board of Zoning Members:

We are writing to express our objection to VAR-000620-2022 regarding outside storage of bicycles at 13 Executive Park Road by CROSS ISLAND CRUISERS, LLC.

Our primary reason for objection is I was, through our entity ISLAND CRUISERS BIKE RENTALS, LLC, the former tenant of 13 Executive Park Road. On December 31, 2019 I purchased the membership units and assets of ISLAND CRUSIERS BIKE RENTALS, LLC. from Weldon (Dondi) and Theresa Wall and were not allowed to continue our bike rental operations at 13 Executive Park Rd subsequent to my purchase of the entity.

Sometime in mid January of 2020 I had a phone conversation with Teri Lewis regarding our desire to continuing operating at 13 Executive Park Rd and ending our BZA appeal for outside bike storage at 3 Pensacola Place. During that phone conversation I was informed by Ms. Lewis that I was not able to continue operations at 13 Executive Park Rd because while I owned the entity to whom the fence variance was granted and ISLAND CRUISERS BIKE RENTALS, LLC. had been in operation there prior to the promulgation of the LMO, since there was a change in the Membership of the LLC the business license would need to be renewed and upon renewal screened outside storage of bicycles would not be allowed.

While I did not agree with Ms. Lewis' opinion that the continuance of the LLC did not supersede the change in membership interests, I agreed to continue our BZA appeal. Ms. Lewis agreed that since we had an active BZA appeal for 3 Pensacola Place she would not enforce the prohibition of our continuing to store outside at 13 Executive Park Rd. Ms. Lewis was VERY clear that if the BZA appeal was not approved, I would not be able to continue operations with outside bicycle storage at either 13 Executive Park Rd or 3 Pensacola Place. The result of this would be to essentially put me out of business after less than a month of ownership.

During our BZA Appeal hearing, Ms. Lewis stated the only reason that she and Town Staff would agree with our being granted the appeal is because a member of Town Staff

## Attachment E - Public Comments

Page 2 of 3

VAR-000620-2022 Opposition

wrote in an email that screened outside storage would be allowed and it was in reliance of that email Mr. Wall purchased 3 Pensacola Place, which we subsequently purchased. It was ONLY for that written communication between a staff member and Mr. Wall that they could support the BZA Committee granting our appeal and any other reason for request of outside screened bike storage in the LC District they would not support.

Fortunately we were granted our BZA Appeal for 3 Pensacola Place. Upon being granted the opportunity to operate at 3 Pensacola Place we began the process of working with Town Staff to design and construct new screening that met their specific requirements. Once that screening was complete and approved by Town Staff, we began the process of moving from 13 Executive Park Rd to 3 Pensacola Place. After moving all of our inventory from 13 Executive Park Rd we removed, with permission from the Landlord, the approved fence and the posts. I spent this additional time and expense to ensure no future bike operator would attempt to use our old location.

Unfortunately, that was not the case and CROSS ISLAND CRUISERS, LLC moved into our prior location less than a month after we vacated. This is our secondary reason for our objection to this appeal. Mr. Crago chose to move into our old location with a very similar name to ours to gain the benefit of our reputation as the longest operating bike company on the Island. Most important, Mr. Crago chose to move into a location in the LC District with full knowledge that outside storage of bicycles was not allowed. Mr. Crago was fully aware of our BZA Appeal and the reason for it. Mr. Crago contacted me on multiple occasions in January and February 2020 to review his desire to sell his business to me. In those conversations I informed Mr. Crago why we went through the BZA Appeal and the LMO details that prohibition of outside bike storage in the LC District. Due to the market uncertainty caused by COVID shutdowns I did not continue conversations about purchasing Mr. Crago's business.

From the beginning of Mr. Crago's time at 13 Executive Park Rd he was informed on multiple occasions by Town Staff that all bicycles must be inside the building at the end of each work day. Mr. Crago then decided to push the issue by leaving bicycles on his trucks and trailers overnight. This then turned into an expansive inventory of unscreened bicycles in the rear of the property – along with dilapidated cars, trampolines, hammocks, and even reported to live there for a period of time. From time to time I would send photos to Ms. Lewis, Ms. Luick, and Ms. Farrar about CROSS ISLAND CRUISER's and other bike operators not following the LMO requirements for bike storage in the LC District. These continued communications with the Town finally, after nearly 2 years, led to Ms. Lewis and the Code Enforcement division properly and consistently enforcing the provisions of LMO Section 16-4-102.B.7.c. There are now only five bike operators, including CROSS ISLAND CRUISERS, failing to properly comply. For two years Mr. Crago has enjoyed the benefit of not only uneven enforcement of the LMO, but most important his conscious decision to move into a location with foreknowledge that he was not allowed to operate in the manner in which he wanted.

## Attachment E - Public Comments

Page 2 of 3

VAR-000620-2022 Opposition

It is only now that the Town is enforcing the LMO consistently that Mr. Crago must come to the BZA and attempt to make a case for why despite his knowledge that outside storage of bicycles was not allowed when he moved into a location in the LC District and immediately began violating the LMO. There are other new operators in the LC District who store all of their inventory inside. Lowsea rentals recently moved to 25 New Orleans Rd where, after letters to comply from the Town, now store all of their inventory inside. Salty's Bike Rentals at 142 Arrow Road, also a new operator, correctly stores all of their inventory inside. It is possible to be a new bike operation in the LC District and comply with the storage requirements. A new bike operator can also open their operations in the CR, SPC, MS, WMU, S, MF, MV, and RD Zoning Districts which allow screened outside storage. Despite these many ways to properly comply with the LMO, Mr. Crago is asking for a variance to something he knew when he began operations at 13 Executive Park Rd was against the rules.

In summary, we adamantly oppose granting this appeal. Mr. Crago knew when he moved into 13 Executive Park Rd. that outside storage of bicycles was not allowed. I do not know the reason why Ms. Lewis would inform me my operation as the entity that was in the location prior to the LMO and received the variance for the fence was not allowed and would then make representations that a completely different operator would be allowed to use our 2009 variance after we were prohibited from doing so. Ms. Lewis was wrong in both communications. Further, Ms. Lewis' prohibition of our continued operations at 13 Executive Park Rd cost me hundreds of thousands of dollars in excess operation costs, fence construction, purchase of 4 Pensacola Place to aid in BZA approval, and delay in our construction of a new location at 3 St. Augustine. For Mr. Crago to then be able to benefit from something that we were prohibited to do is wrong and must not be allowed.

We appreciate you taking the time to read our opposition – and possibly reread to fully understand the depth of the issue – to understand how incorrect and unfair it would be to approve Mr. Crago to conduct his business in a manner we were prohibited from doing. We hope the BZA sees fit to deny this appeal and Mr. Crago required to immediately comply with the LMO requirements.

Sincerely,

ISLAND CRUISERS BIKE RENTALS



Jason Bullock  
Member

# Property Research Holdings, Inc.

Post Office Box 7432 • Hilton Head Island, SC 29938 • (843) 842-9665 • Fax (843) 842-9992

May 19, 2022

John N. Crago  
Cross Island Cruisers, LLC  
13 Executive Park Road  
Hilton Head Island, SC 29928

Re: Outside Bicycle Storage, 13 Executive Park Road

Dear Mr. Crago,

The Property Research Holdings, Inc., Review Board, as Declarant successor to the Hilton Head Company, hereby approves the outside storage of bicycles as shown and designated on the plan you have included in your Variance application to the Town of Hilton Head Island to be heard May 23, 2022. Please know there is a 50 foot buffer across the rear of your lot which must be maintained in its natural state.

Sincerely,  
PROPERTY RESEARCH HOLDINGS, INC.



Francis J. Guscio, Jr., President

FJG/jsg



## TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court	Hilton Head Island, SC 29928	843-341-4757	FAX 843-842-8908
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### STAFF REPORT VARIANCE

Case #:	Public Hearing Date:
VAR-001455-2022	June 27, 2022

Parcel Data:	Applicant and Owner:
<p>Parcel#: R510 009 000 0830 0000          Address: 31 Oleander Street          Parcel size: .17 acres          Zoning: RSF-6 (Residential Single Family District-6)          Overlay: HH-NC-O (Holiday Homes Neighborhood Character Overlay) District</p>	<p>Jason &amp; Abigail Rudasill          3009 Raylen Place          Indian Land, SC 29707</p>

Application Summary:
<p>Request for a variance from LMO (Land Management Ordinance) Sections 16-3-106.J.4, Holiday Homes Neighborhood Character Overlay District Regulations, 16-5-102.D, Adjacent Use Setbacks and 16-5-103.E, Adjacent Use Buffers, to construct a pool and deck within the setbacks and buffers.</p>

Staff Recommendation:
<p>Staff recommends the Board of Zoning Appeals find this application to be inconsistent with the Town's Our Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official and enclosed herein. Staff recommends that the Board of Zoning Appeals <i>deny</i> this application.</p>

Background:
<p>The subject property is located mid-island off Folly Field Road in the Holiday Homes subdivision, which is within the Holiday Homes Neighborhood Character Overlay (HH-NC-O) District. The property is surrounded on three sides by single family residential lots and backs up to vacant</p>

Town-owned property zoned PR (Parks and Recreation).

The lot is currently developed with a single-family home. The applicant is proposing to construct a pool and deck in the rear of the property within the adjacent use setback and buffer. There is already an existing non-conforming shed located in the rear setback and buffer. According to Beaufort County records, the existing home was constructed in 1973, prior to the Town's incorporation and adoption of the LMO. As many of the homes in the Holiday Homes subdivision were constructed prior to the adoption of the LMO, there are several non-conforming structures throughout the subdivision.

The HH-NC-O District was adopted in 2005 at the request of the residents of the Holiday Homes subdivision, to ensure that new development and redevelopment will be proportionate with existing structures and harmonious with the general single family residential character of the neighborhood. The applicant purchased the property in January 2021.

The Town purchased the property behind the Holiday Homes subdivision in 1996. At that time, the property was zoned RS-2. It remained zoned RS-2 until the Town's adoption of the new LMO and Zoning Map in 2014, when it was rezoned to PR. It is standard practice to have Town-owned land zoned PR when the intended use typically is either park or open space. It is important to note that even though the Town property was rezoned to PR in 2014, the prior setback requirement for a single family use adjacent to the RS-2 zoned property was 20 feet, which is the same as what is required currently adjacent to PR zoned property. The rezoning of the property in 2014 did not result in a greater setback requirement.

The HH-NC-O District requires side and rear setbacks of 10 feet, in addition to the setbacks required by LMO Section 16-5-102, which requires a 20 foot setback for single family use adjacent to vacant PR zoned property. The HH-NC-O District requires side and rear buffers equal to the setbacks mentioned above, which would be 10 feet, in addition to the buffers required by LMO Section 16-5-103, which requires a Type A buffer, which could be either 10 or 20 feet depending on the vegetation planted, for single family use adjacent to vacant PR zoned property.

While the HH-NC-O District only requires a 10 foot setback and buffer, the general setback and buffer standards in Chapter 5 require a 20 foot setback and buffer. LMO Sections 16-1-106.A and 16-3-106.D both state that the standards governing an overlay zoning district shall control, whether they are more restrictive or less restrictive than a base zoning district. But the setback and buffer requirements outlined in Section 16-5-102 and 16-5-103 are not base zoning district standards, they are development and design standards. LMO Section 16-1-106.D states that when any LMO provision is inconsistent with another LMO provision, the more restrictive provision shall govern unless the terms of the more restrictive provision specify otherwise. In this case, the setback and buffer standards of Sections 16-5-102 and 16-5-103 are more restrictive and apply to the property.

The applicant informed staff they cannot locate a pool outside of the 20 foot setback and buffer and have decided to apply for the variance.

**Applicant's Grounds for Variance, Summary of Facts and Conclusions of Law:**

**Grounds for Variance:**

The applicant is requesting a variance from the adjacent use setback and buffer requirements to construct a pool and deck within the adjacent use setback and buffer.

The applicant believes that because their property backs up to PR (Parks and Recreation) zoned property, the more restrictive setback and buffer of 20 feet is an extraordinary and exceptional condition, as the majority of the lots in the neighborhood only have a 10 foot adjacent use setback and buffer. The applicant states their buildable area is less than other properties in the neighborhood which poses a hardship to them.

**Summary of Fact:**

- The applicant seeks a variance as set forth in LMO Section 16-2-103.S.

**Conclusion of Law:**

- The applicant may seek a variance as set forth in LMO Section 16-2-103.S.

**Summary of Facts and Conclusions of Law:**

**Summary of Facts:**

- Application was submitted on May 27, 2022 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- Notice of the Application was published in the Island Packet on June 5, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on June 10, 2022 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on June 6, 2022 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):*

**Findings of Fact:**

- The subject property is rectangular in shape.
- The lot is approximately 0.17 acres in size.
- The property does not contain any wetlands or other natural features that prohibit development on the lot.
- The property does back up to PR zoned property, which requires a 20 foot setback and buffer (the 20 foot buffer can be reduced to 10 feet if the buffer meets the option 2 buffer plantings) instead of the 10 foot setback and buffer required in the HH-NC-O District.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.
- While the lot is subject to a greater setback and buffer than the majority of the other lots in this subdivision, this is not a condition that is unique to the subject lot only.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):*

**Findings of Fact:**

- There are no extraordinary or exceptional conditions that pertain to this property.
- The other properties in the vicinity are similar in shape and size and do not typically contain any wetlands or natural features.
- There are other lots in this subdivision that back up to PR zoned property, which requires a 20 foot setback and buffer (the 20 foot buffer can be reduced to 10 feet if the buffer meets the option 2 buffer plantings) instead of the 10 foot setback and buffer required in the HH-NC-O District.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that apply to the subject property that do not also generally apply to other properties in the vicinity.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO*

*Section 16-2-103.S.4.a.i.03):*

**Findings of Fact:**

- There are no extraordinary or exceptional conditions that pertain to this property.
- LMO Section 16-5-102, Adjacent Use Setbacks, requires a 20 foot setback for single family use adjacent to vacant PR zoned property.
- LMO Section 16-5-103, Adjacent Use Buffers, requires a Type A buffer, which could be either 10 or 20 feet depending on the vegetation planted, for single family use adjacent to vacant PR zoned property.
- LMO Section 16-3-106.J, Holiday Homes Neighborhood Character Overlay District, requires a 10 foot setback and buffer in the rear and sides.
- LMO Section 16-1-106.D states that when any LMO provision is inconsistent with another LMO provision, the more restrictive provision shall govern.
- The site contains an existing house and shed, which are both non-conforming structures as they are located within the adjacent use setbacks and buffer.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary and exceptional conditions that apply to the subject property that would prohibit or unreasonably restrict the utilization of the property.
- The setback and buffer standards were adopted to protect the character of the neighborhood and do not unreasonably restrict the use of the property.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):*

**Findings of Facts:**

- Staff has received no letters of opposition to this variance request at the time this Staff Report was completed.
- The purpose of the adjacent use buffer standards is to spatially separate development from adjacent development with aesthetically pleasing natural or landscaped buffers. Such buffers are intended to help mitigate potential negative effects between adjacent uses and provide space for landscaping that can help improve air and water quality and be used to reduce storm water runoff.
- The purpose of the adjacent use setback standards is to provide separation between structures and adjacent property lines. Such separation is intended to maintain and protect the Town's Island character and facilitate adequate air circulation and light between structures in adjacent developments.
- The applicant is requesting to reduce the adjacent use setback and buffer from 20 to a little

less than 6 feet.

- The proposed pool and deck would be located in the rear of the property which is adjacent to vacant Town-owned property. While there is a heavily vegetated Town-owned property behind the property that is currently undeveloped, the property could potentially be developed in the future.
- The HH-NC-O District was adopted in 2005 at the request of the residents of the Holiday Homes subdivision, to proactively ensure that new development and redevelopment will be proportionate with existing structures and harmonious with the general single family residential character of the neighborhood.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because the variance will be of substantial detriment to the adjacent property or the public good.

**LMO Official Determination:**

**Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance should be denied.**

**BZA Determination and Motion:**

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board makes and explains in writing ..." their decisions based on certain findings or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2, Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the motion.**

**PREPARED BY:**

*Nicole Dixon*

June 12, 2022

Nicole Dixon, AICP, CFM, *Development Review Program Manager*

DATE

**REVIEWED BY:**



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Shawn Colin, AICP,  
*Assistant Town Manager – Community  
Development*

June 14, 2022

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DATE

**ATTACHMENTS:**

- A) Vicinity Map
- B) Applicant's Narrative
- C) Proposed Site Plan
- D) Pictures

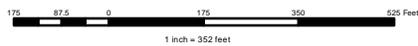


Property highlighted in blue is subject to variance request



TOWN OF HILTON HEAD ISLAND  
 ONE TOWN CENTER COURT  
 HILTON HEAD ISLAND, S.C. 29928  
 PHONE (843) 341-4757  
 Date Created: June 3, 2022  
 Project: map.mxd

Town of Hilton Head Island  
 VAR-001455-2022  
 Attachment A - Vicinity Map



The information on this map has been compiled from a variety of sources and is intended to be used only as a guide. It is provided without any warranty or representation as to the accuracy or completeness of the data shown. The Town of Hilton Head Island assumes no liability for its accuracy or date of completion or for any losses arising from the use of the map.

**HILTON HEAD ISLAND VARIANCE NARRATIVE**  
**31 OLEANDER ST. HILTON HEAD ISLAND, 29928**

We are seeking a variance in relief of **Section 16-5-102.D** titled “Adjacent Use Setbacks” as applied to our property located at 31 Oleander Street in order to obtain a permit to build a pool.

**Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property.**

**Response:** As specified in the aforementioned section of the LMO, due to our property backing to PR land, the current ordinance dictates a 20 foot rear setback. The house was built in the 1970s when such a large setback was not required. Applying new ordinance setback standards to the pre-existing dwelling on our lot creates exceptional difficulty in the utilization of our rear yard. Please see Criteria 3 for exact measurements.

Furthermore Section 16-1-106.A.1 and 16-1-106.A.2 are in direct conflict with one another when applied to our particular piece of property. The former states that if any LMO provision is inconsistent with another LMO provision that the more restrictive provision shall govern. This would give us a 20 foot setback according to the adjacent PR land indicated in Section 16-5-102.D. The latter states that if there is a conflict between an overlay district and the underlying base zoning district that the “overlay district shall control”. In section 16-3-106.D titled “Relationship Between Overlay and Base Zoning Districts” there is further instruction that states “The standards governing the *overlay zoning district* shall control, **whether they are more restrictive or less restrictive** (emphasis mine) than a *base zoning district*.” implying that section 16-1-106.A.1 does not apply when an overlay district is in place. Our property is in the Holiday Homes Overlay District.

**Criteria 2: These conditions do not generally apply to other properties in the vicinity**

**Response:** Most homes in the Holiday Homes overlay district do not back to PR land, leaving the majority of lots with a 10 foot set-back as specified in the Holiday Homes overlay district.

**Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property**

**Response:** Our lot measures 70 feet across by 99.47 feet deep for a total of 6962.9 square feet. As strictly applied to our lot the current setbacks account for 70 feet x 20 feet (1400 sq ft) each in the rear and the front, and an additional 10 feet x 59.47 feet (approximately 595 square feet) on each side for a total of 3990 sq ft. of setbacks. As calculated this accounts for **57%** of our total lot occupied by setbacks. The rear the setback itself accounts for a staggering **73%** percent of the space available. This would leave only 11.5 ft x 50 ft of space available for the proposed swimming pool, centered in front of a sliding glass door. If placed in the space left after accounting for setbacks one would step out of the rear patio door and directly into the pool. This is an unreasonable and extreme restriction when strictly applied to our lot.

Furthermore, in Section 16-5-102.D.3 the LMO indicates that “The adjacent use setback distance applicable to **lots** along the perimeter of **development** subject to Small Residential Development Review may be reduced by up to 50 percent, down to no less than five feet. The **Official** may allow further reduction as necessary to ensure that the total area within such perimeter setbacks does not exceed **20 percent** of the total area of the site of the Small Residential Development.” This subsection of the ordinance appears to indicate that in certain circumstances setbacks can be decreased, at the discretion of a permitting official, such that

## ATTACHMENT B

they encompass no more than 20% of a perimeter lot. If this standard is allowed for some development it seems reasonable for us to request relief from the current setback requirements that encompass a total of 57% of our lot. Allowing a decrease of setbacks, both front and rear and sides, to 5 feet each, would decrease the amount encompassed by set-backs to 22%. Per the site plan we are submitting we would like to be able to place a pool centered in our back yard such that the edge of the pool would be 10 feet from the property line on one side and 10 feet from the rear of the house on the other is well above the setback width that would account for only 20%.

**Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.**

**Response:** Installation of pool in the rear would not be visible to anyone from the street. We also have 7 foot privacy fencing on either side of the rear yard which helps to limit the impact that the addition of a pool would have on our neighboring lots. There is no development of record planned for the PR land adjacent to our rear so there would be no impact of note in that direction. It also does not require the removal of any protected specimen trees making the installation of minimal impact to that factor that helps make the island so special. The granting of a variance for the installation of a swimming pool that is contained within the property boundaries and privacy of our current lot does not diminish the character of single family residential development and is within the normal use of a single family home on Hilton Head Island. Of note there are multiple homes in our neighborhood that have pools installed in their backyards.

Neighborhood: Holiday Homes of Folly Field

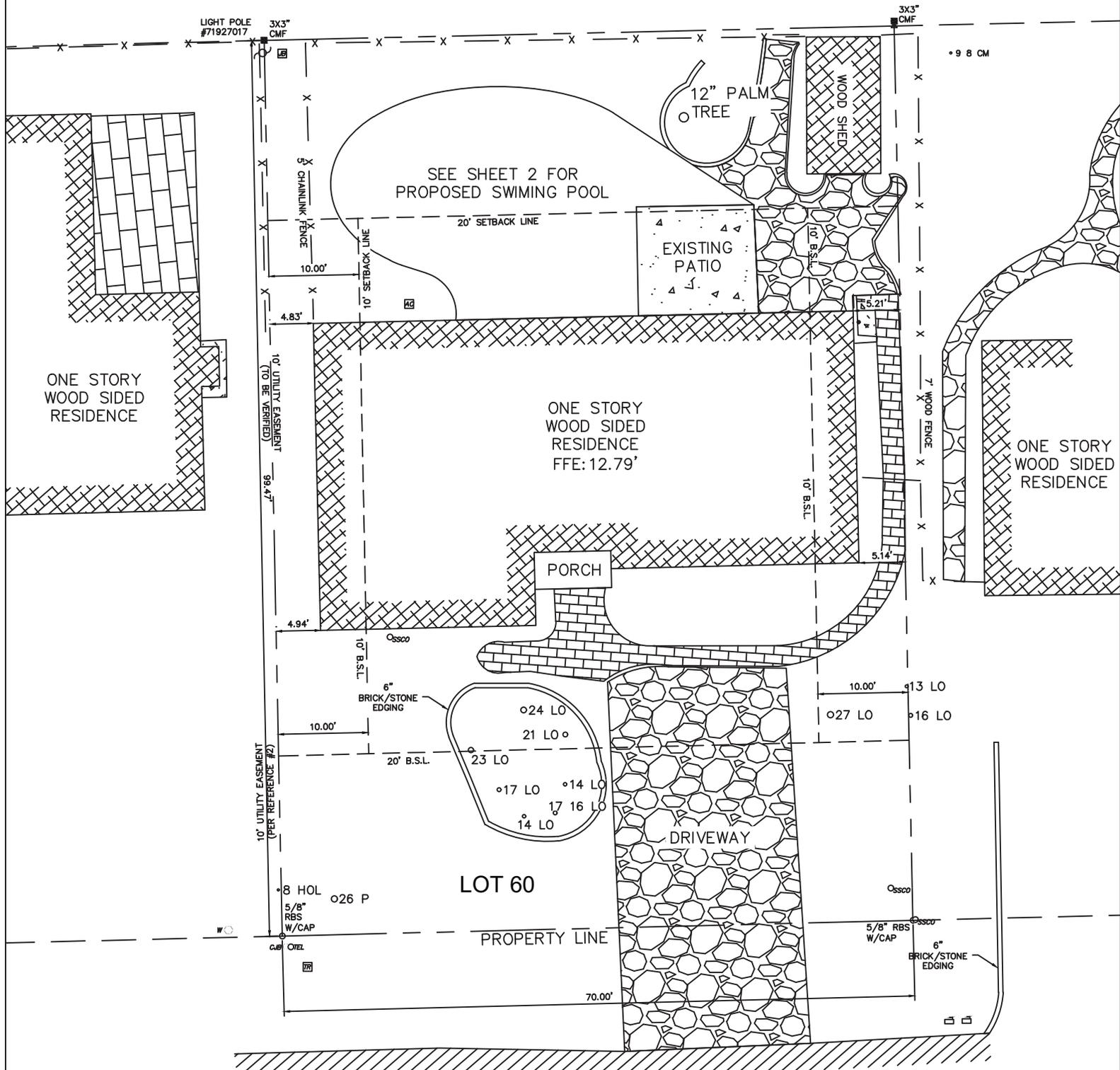
Owners:

Jason & Abigail Rudasill

Ph: Jason = 518-817-0439

Ph: Abigail = 518-330-6207

ATTACHMENT C  
N/F  
THE TOWN OF HILTON HEAD  
TMS R510 009 000 0835 0000



**SETBACK NOTES:**  
 LOT DEPTH=99.47'  
 WIDTH = 70.00'  
 LOT TOTAL = 6962.9 SQ. FT.

SIDE SETBACKS: 594.7 SQ. FT. EA.  
 FRONT & REAR SETBACKS: 1400 SQ. FT. EA.

TOTAL SETBACK = 3989.4 SQ. FT. OR 57%

OLEANDER STREET 50' R/W

**31 OLEANDER ST**

**LOT #60**

**TMS R510 009 000 0830 0000**

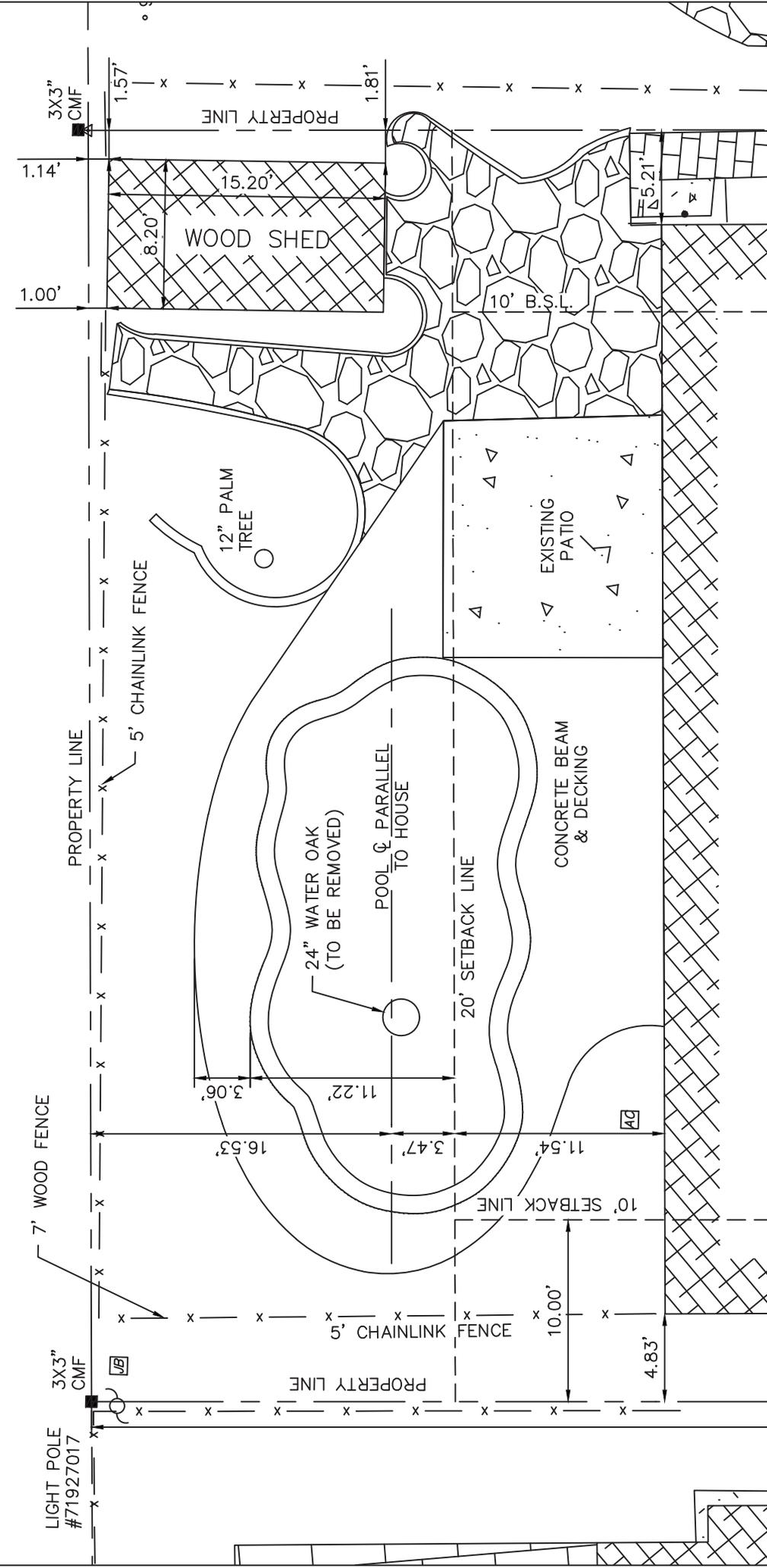
(SCALE: 1" = 15')

**ATTACHMENT C**  
**N/F**  
**THE TOWN OF HILTON HEAD**  
 TMS R510 009 000 0835 0000

SETBACK AS APPLIED TO BACKYARD ONLY:  
 BACKYARD: 70.00' X 31.54' = 2207.8' SQ. FT.  
 -1400 SQ. FT. (20' X 70')  
 -115.4 SIDE SETBACK (10' X 11.54')  
 -115.4 SIDE SETBACK (10' X 11.54')

TOTAL SETBACK LOSS = 1630.8 SQ. FT. OR 73%

ESTIMATED IMPERVIOUS AREA TO BE ADDED TO LOT = 993.28 SQ. FT.



**31 OLEANDER ST**  
**POOL PROPOSAL DETAIL**  
 (SCALE: 1" = 8')



Front of house



Back of house



Location of proposed pool and deck





## TOWN OF HILTON HEAD ISLAND

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### *Board of Zoning Appeals Memo*

**TO:** Board of Zoning Appeals  
**FROM:** Nicole Dixon, AICP, CFM, Development Review Program Manager  
**DATE:** June 14, 2022  
**SUBJECT:** Waiver Report

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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 meeting 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.”

There have been no waivers granted by staff since the April 25, 2022 BZA meeting.