



Town of Hilton Head Island  
**Construction Board of Adjustments  
& Appeals Meeting**  
Tuesday, September 27, 2022 – 5:00 p.m.  
**AGENDA**

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The Construction Board of Adjustments & 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. **Swearing in Ceremony of Reappointed Board Members:** Marc Ellis; Randy May; Joe Nix and Robert Zinn
4. **Roll Call**
5. **Approval of Agenda**
6. **Approval of Minutes**
  - a. May 24, 2022 Meeting
7. **Appearance by Citizens on Items Unrelated to Today's Agenda**
8. **Unfinished Business – None**
9. **New Business**
  - a. **APL-001878-2022** – An appeal of the Building Official's determination that the Village West Association does not have any right to make changes to certain elements of the buildings and property maintained by the association and therefore Town staff cannot process an application made to the Design Review Board (DRB) for an after-the fact permit; and an appeal of the Building Official's determination that the permit sought by the Village West Association would be in violation of the 2018 International Building Code (IBC) regulations as adopted by the Town of Hilton Head Island.
  - b. **Approval of Proposed 2023 Meeting Schedule**
10. **Staff Report**
11. **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  
**Construction Board of Adjustments &  
Appeals Meeting**  
May 24, 2022, at 5:00 pm  
**MEETING MINUTES**

**Present from the Committee:** Chairman Jay Owen, Vice Chairman Neil Gordon, Will Okey, Frank Guidobono, Randy May, Joe Nix, Douglas Pine, Mark Ellis, Michael Lynes

**Absent from the Committee:** Ling Graves (excused), Robert Zinn (excused)

**Present from Town Council:** David Ames, Tamara Becker

**Present from Town Staff:** Shari Mendrick, Floodplain Administrator; Josh Gruber, Deputy Town Manager; Krista Wiedmeyer, Town Clerk; Teresa Haley, Community Development Coordinator

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

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**1. Call to Order**

Chairman Owen called the meeting to order at 5:01 p.m.

**2. FOIA Compliance**

Public notification of this meeting has been published, posted, and mailed in compliance with the Freedom of Information Act and the Town of Hilton Head Island requirements.

**3. Roll Call –** See as noted above.

**4. Approval of Agenda**

Chairman Owen asked for a motion to approve the agenda. Mr. Ellis moved to approve. Mr. Okey seconded. By show of hands, the motion passed by a vote of 6-0-0.

**5. Approval of Minutes –** Meeting of October 26, 2021

Chairman Owen asked for a motion to approve the minutes of the October 26, 2021 meeting. Vice Chairman Gordon moved to approve. Mr. Lynes seconded. By show of hands, the motion passed by a vote of 6-0-0.

**6. Appearance by Citizens on Items Unrelated to Today's Agenda –** None

**7. Unfinished Business –** None

**8. New Business**

- a. **APL-000618-2022** – An appeal of the Building Official's determination of the floodplain regulations as they pertain to 12 Park Road.

Chairman Owen asked Town staff to make a presentation. Ms. Shari Mendrick presented on behalf of staff. Ms. Mendrick presented staff's findings as described in the Staff Report contained in the Board's agenda package. Staff recommends the Construction Board of Adjustments & Appeals concur with the Building Official's determination that the illegal non-conforming structure located at 12 Park Road is an unpermitted structure that is being unlawfully used for habitation in violation of the Code.

Following staff's presentation, Chairman Owen asked the Board for comments and questions to staff and there were none. Chairman Owen then asked for the appellant to make a presentation.

Mr. Eric Sherrier, appellant, presented his case as described in the Board's agenda package. Mr. Sherrier stated the ordinance does not apply to his property. He expressed that to define dwelling as a habitable space and state there is no functional difference between the two structures is in contradiction to his findings. Mr. Sherrier further stated staff's interpretation of the ordinance contradicts South Carolina law on the definition of dwelling and residential property; contradicts and misstates the wording of 15-9-312 in that it does not refer to dwellings or habitable space but rather residential property; ignores the law of every state and federal jurisdiction regarding the requirements of legal interpretation of statutes and ordinances; contradicts all the definitions of both dwelling and residential property in the applicable building codes including the International Residential Building Code; conflicts with prior communications between Town officials.

Following the appellant's presentation, Chairman Owen asked the Board for comments and questions. The Board made comments and inquiries regarding: clarification as to when the structure in question was built; confirmation that at one point in time the structure was a shed with a roof on it; confirmation that on two occasions a stove was inside the structure and the Town instructed the appellant to remove it because it is not permitted and the appellant complied; confirmation that the electrical components for the stove are still there; there is a microwave inside the structure; the main house has a breaker panel and the structure in question has a separate panel; there is one electrical meter for the property; the appellant confirmed the stove was not inside the structure prior to Hurricane Matthew.

Chairman Owen asked for rebuttal of staff. Ms. Mendrick provided that the flood damage controls ordinance is part of the Municipal Code and it does apply to all lands within the Town. Prior to the updated flood maps adopted March 23, 2021, the ordinance pertained to all properties within the special flood hazard area and 12 Park Road has historically been in such area. The most recent ordinance states that this chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Hilton Head Island as identified by the Federal Emergency Management Agency in its flood insurance study dated March 23, 2021. Historically, the flood damage controls ordinance has had regulations on accessory structures. The definition has changed however, accessory structure, as in the structure that is subordinate and incidental to and on the same lot as the principal structure may not be used for human habitation. The concern at hand is even though the structure may have existed in 1969, it was converted from a shed to a habitable structure without a permit. The concern about the dwelling unit is in the Town's Land Management Ordinance (LMO) which addresses density and the amount of dwelling units that are allowed on the lot per zoning district. The stove comes into play as part of the dwelling unit, but that is to establish density.

Chairman Owen asked if Mr. Curtis Coltrane had anything to add to staff's rebuttal. Mr. Coltrane indicated he was available to the Board for any questions and noted that neighbors adjacent to the subject property were available to provide testimony if the Board so chooses. Chairman Owen called on the neighbors, Mr. and Mrs. Urato to provide testimony. Mr. and Mrs. Urato have resided at 13 Park Road since approximately 1981. They testified to the changes to the subject property that they have witnessed over the years.

Chairman Owen then asked for rebuttal of the appellant. Mr. Sherrier restated that the ordinance does not apply and to read Exhibit I.

Chairman Owen asked the Board for final discussion. The Board made final comments and inquiries regarding: clarification on a dwelling unit as defined in the LMO and the applicability of the Flood Damage Controls Ordinance; agreement that the structure is intended to be a habitable space and therefore it is a dwelling unit; confirmation the flood ordinance applies to all lands within the Town regardless of flood zone; the structure would be subject to the flood ordinance and the lowest floor requirements for the change in use from a shed to a dwelling unit; the structures on the property are not broken out in the tax records, therefore, under the 50% rule, the Town would request a private appraisal for the value of the structure in question; clarification as to when the bathroom was installed; reiteration the intent for the structure is to be lived in rather than to be an out-building.

Upon the conclusion of the discussion, Chairman Owen asked for a motion.

Mr. Okey made a motion to uphold the Building Official's determination that the Illegal Non-Conforming structure located at 12 Park Road is an unpermitted structure that is being unlawfully used for habitation in violation of the Code. Mr. Ellis seconded. By show of hands, the motion passed by a vote of 6-0-0.

**9. Staff Report – None**

**10. Adjournment**

Chairman Owen asked for motion to adjourn. Mr. Lynes moved to approve. Mr. Ellis seconded. The meeting adjourned at 6:00 p.m.

**Submitted by:** Teresa Haley, Secretary

**Approved:** [DATE]



Town of Hilton Head Island  
 Community Development Department  
 One Town Center Court  
 Hilton Head Island, SC 29928  
 Phone: 843-341-4757 Fax: 843-842-8908  
 www.hiltonheadislandsc.gov

APL - 1878-2022

FOR OFFICIAL USE ONLY  
 Date Received: 7-21-22  
 Accepted by: NS  
 App #: APL 1878-2022  
 Meeting Date: \_\_\_\_\_

Applicant/Agent Name: CARDYN NEBBIA Company: Village West Association  
 Mailing Address: 10 GOVERNOR HBR City: Hilton Head State: SC Zip: 29926  
 Telephone: 570-620-6843 Fax: \_\_\_\_\_ E-mail: tcyrcee8@aol.com

Owner Name: Village West Association Company: \_\_\_\_\_  
 Mailing Address: same City: \_\_\_\_\_ State: \_\_\_\_\_ Zip: \_\_\_\_\_  
 Telephone: same Fax: \_\_\_\_\_ E-mail: \_\_\_\_\_

Street Address of Property in Question: 6 Village NIDA Spinnaker Permit #: \_\_\_\_\_  
 PIN: R510 003-0647 0000

**APPEAL (APL) SUBMITTAL REQUIREMENTS**

**If you are interested in submitting your appeal electronically please call 843-341-4757 for more information.**  
 The following items must be attached in order for this application to be complete:

- \_\_\_\_\_ A detailed narrative stating the Town Official or Body who made the decision, the date of the decision being appealed, the decision being appealed, the basis for the right to appeal, the grounds of the appeal, cite any Code Section numbers relied upon; and a statement of the specific decision requested of the review body.
- \_\_\_\_\_ Any other documentation used to support the facts surrounding the decision.
- \_\_\_\_\_ Filing Fee - \$75.00 cash or check made payable to the Town of Hilton Head Island.

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

Applicant/Agent Signature: Carolyn Nebbia Date: 7/20/22

August 12, 2022

TO: Town of Hilton Head Construction Board Adjustments & Appeals

RE: Appealing March 4<sup>th</sup> 2022 Decision and Code Violation

On March 4<sup>th</sup> 2022 we received the attached letter from Christopher Yates regarding our application to the Design Review Board for a meeting on 2/23/2022 for an approval on the railings that were removed on the 2<sup>nd</sup> floor of the Spinnaker building in front of units 8, 10 & 12. We are appealing the decision that there wasn't enough information to make a determination that the board had the right to make the changes and with reference to possible code violations. The letter also stated we had the right to make the appeal to the Construction Board.

We strongly feel we have the right to appeal and have evidence to substantiate it. See attached letter from our Village West attorney Rick Haight on Feb, 2<sup>th</sup> 2022 outlining the sections in our governing documents giving us right to make changes.

Over the last 20 years there have been many alterations to the buildings, including a \$5.1million renovation in 2004 without owner approval. It's the fiduciary duty of the board to make decisions that will improve the property.

We fee discriminated against that our February 23, 2022 was not allowed to go forward and was stopped, 5 minutes before it was to be heard, by Ms. Griffin attorney Chet Williams.

In July of 2022, after Unit 8 was enclosed, the Village West board voted to remove the 17" railings on the three 2<sup>nd</sup> floor porches based on the following:

1. It would be esthetically pleasing from both inside and outside. (who would want to look through bars on their windows) Further, the railings did not conform to the 3<sup>rd</sup> floor railings. See attached pictures before, after and inside.
2. In the mid 1990s only units 10 & 12 had enclosures installed. In July 2021 unit 8 enclosed the porch, thereby making it uniform to remove the railings.
3. The Spinnaker building was built in 1987 under SC Standard building code. The minimum sill height was 24". When new living room and dinning area

windows were reconfigured and installed in all the buildings in 2004, it was approved with the 24" sill height and no railings. Therefore, the enclosed porches would fall under the same guidelines. (see picture of casement windows on the side of our other building at the 24" height.)

Ms. Griffin, owner of Unit 12, was told around the 27<sup>th</sup> of June the railings would probably be removed with board approval. Unit 8 owner Mr. Driscoll emailed Ms. Griffin on August 10<sup>th</sup> 2021 advising the removal, she replied back "I like the railings" and claimed the board didn't have the right to remove them. (attached are the emails).

Village West was notified around the last week of August there was a complaint filed regarding the railings.

Town Official Chris Darnell met with me and Mr. Driscoll at the Spinnaker building on August 31<sup>st</sup>, 2021. Mr. Darnell looked up at the windows and said we met code, but failed to secure a permit since we fall under the 400' water corridor. We advised Mr. Darnell we were unaware of any water corridor inclusion. He asked we submit a Minor Planning application along with a summary and include before and after pictures to be submitted to the Design Planning Staff for approval. The application was submitted on September 1<sup>st</sup> 2021, and was confirmed received. (see attached application, summary and pictures)

1. There was no further communication from the Town until we received an email from our Village West attorney on December 22<sup>nd</sup> 2021. He informed me Ms Griffin's attorney contacted him because the Town did not know who to send a letter to. That seemed strange since the Town had all my contact info, phone number and email. (see emails from Haight &/Williams)
2. On January 3<sup>rd</sup> I spoke to Chris Yates, Tony Pierce and Chris Darnell in depth, via conference call. They said we needed to submit to the Planning Review Board again, along with a letter from the HHPPOA (see attached) for a meeting on February 23<sup>rd</sup> 2022. They also said we were under the IBC code along with commercial assisted living units, etc. even though condos are considered residential units. Three story attached Townhouses still remain as residential along with single family homes. They said we may have to install stoppers.

3. Five minutes before the February 23<sup>rd</sup> meeting Chris Darnell said it could not go forward because Ms. Griffin's attorney, Chet Williams, was challenging that our board had the right to remove the railings. We were denied the right to have the case heard.

During the last few months we have done extensive research regarding the SC Codes. I spoke with the SC Code Council in Columbia stating the issues that there are 5 buildings in our complex. Our building was built in 1987 by a different builder and is slightly different from the other 4 buildings – we are 9 units and only 3 stories high. They said it appeared that unit 10 & 12 may fall under the SC Standard Code we were built under. We were then referred to the International Code Council's Regional Office in Chicago that renders opinions on code issues. I spoke with Mr, John S. Gonzalez, Senior Staff (See attached emails).

1. The International Code Council's opinion for unit 8, enclosed in 2021, falls under the 2018 IBC code and would need stoppers for fall protection. It was determined unit 10 & 12 did not fall under the 2018 IBC code but an opinion was not given since he did not have the Standard 1994- 1996 Town of Hilton Head Code to review. (email dated Aug. 8<sup>th</sup>)
2. On August 16<sup>th</sup> & September 2<sup>nd</sup>, I reviewed the Town's SC Standard 1994 Building Codes that our buildings were built under and forwarded info to Mr. Gonzalez. see emails dated September 7<sup>th</sup>, and 9<sup>th</sup>.

Based on all of the above, we are asking the Construction board to approve unit 8 with stoppers under the 2018 IBC code. Also approve unit 10 & 12 does not need stopper or railings based on the information of the International Code Council.

We are asking for a decision on both issues from the Construction Board.

Respectfully,

Carolyn Nebbia.  
President, Village West Association

From: [billdatgovernorsharbor@gmail.com](mailto:billdatgovernorsharbor@gmail.com),  
To: [topcees@aol.com](mailto:topcees@aol.com),  
Subject: ~~Fwd:~~ Removal of railings on the second floor  
Date: Tue, Aug 10, 2021 5:32 pm

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Fyi

----- Forwarded message -----

From: Mary Anng48 <[REDACTED]>  
Date: Tue, Aug 10, 2021 at 2:13 PM  
Subject: Re: Removal of railings on the second floor  
To: <[billdatgovernorsharbor@gmail.com](mailto:billdatgovernorsharbor@gmail.com)>

You told me that we were to be poled before that would happen.  
No one asked my opinion. I am not happy about this. I like the railing. The bylaws are clear about not changing the facade of the building. This changes the facade of our building.  
What about all the other people who denied changes in the past? Why are there different answers for different people.  
I am very upset.  
Mary Ann  
Sent from the all new AOL app for Android

On Tue, Aug 10, 2021 at 11:29 AM, Bill Driscoll  
<[billdatgovernorsharbor@gmail.com](mailto:billdatgovernorsharbor@gmail.com)> wrote:

Hi Maryann,  
Hope all is well in NY.  
The board approved the removal of the railings on our three second floor units.  
The contractor is planning to remove them today.  
Sorry for the late update but we just found out ourselves.  
There is no cost to you .  
Looking forward to seeing you in September !  
Take Care,  
Bill

[REDACTED]@gmail.com,

tcross@soi.com,

Subject: ~~Bill~~

Date: Wed, Aug 11, 2021 2:53 pm

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Maryann

I received your note.

The railings are a Board decision as they pertain to building structure not individual homeowner preferences.

Bill



Town of Hilton Head Island  
 Community Development Department  
 One Town Center Court  
 Hilton Head Island, SC 29928  
 Phone: 843-341-4757 Fax: 843-842-8908  
 www.hiltonheadislandsc.gov

FOR OFFICIAL USE ONLY  
 Date Received: \_\_\_\_\_  
 Accepted by: \_\_\_\_\_  
 DRB #: \_\_\_\_\_

Applicant/Agent Name: CAROLYN NEBBIA Company: Village West Association  
 Mailing Address: 10 GOVERNORS HARBOUR City: Hilton Head State: SC Zip: 29926  
 Telephone: 570-620-6843 Fax: \_\_\_\_\_ E-mail: tcqpcce8@aol.com  
 Project Name: SPINNAKER BUILDING Project Address: 6 Village N. Drive  
 Parcel Number [PIN]: R510 003 000 064D 0000 - Spinnaker Building  
 Zoning District: \_\_\_\_\_ Overlay District(s): \_\_\_\_\_

**CORRIDOR REVIEW, MINOR SUBMITTAL REQUIREMENTS**

*Digital Submissions may be accepted via e-mail by calling 843-341-4757.*

Submittal Requirements for *All* projects:  
 \_\_\_\_\_ Private Architectural Review Board (ARB) Notice of Action (if applicable): When a project is within the jurisdiction of an ARB, the applicant shall submit such ARB's written notice of action per LMO Section 16-2-103.I.4.b.iii.01. Submitting an application to the ARB to meet this requirement is the responsibility of the applicant.  
 \_\_\_\_\_ Filing Fee: Minor External Change \$50; cash or check made payable to the Town of Hilton Head Island.

Additional Submittal Requirements:  
**Corridor Review, Minor**  
 Photographs and/or drawings of existing development.  
 \_\_\_\_\_ Site Plan (1"=30' minimum scale) showing location of existing development.  
 \_\_\_\_\_ Drawings, material samples and/or color samples of proposed changes.

Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If yes, a copy of the private covenants and/or restrictions must be submitted with this application.  YES  NO

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

Carolyn Nebbia  
 SIGNATURE

8/31/21  
 DATE

## VILLAGE WEST ASSOCIATION

August 31, 2021

Town of Hilton Head Community Development Dept.

On Monday, August 30<sup>th</sup>, 2021, I met with Chris Darnell, PLA at the Spinnaker building. I have attached a Minor Corridor Application, along with pictures of our Spinnaker building before and after the railings were removed, for your consideration.

The Village West Board of Directors unanimously voted to remove the 18” railings along the ledge of the three 2<sup>nd</sup> floor unit porches since they are all enclosed with glass windows and screens. The enclosed pictures shows the living room windows at the same height. (3 two bedroom units in the middle and 3 three bedroom units on the end of the building.)

Reason For Removal: The railings were an “eyesore”, esthetically, since they were not the same size as the railings on the 3<sup>rd</sup> floor, and did not conform. The view from inside the porch was also an “eyesore”. The 3<sup>rd</sup> floor porches are a different design, open from the base of the floor. The board was not aware that we needed permission from the Town of Hilton Head for their removal.

We truly apologize for not contacting the Town and filling out the required form, we ask for your kind consideration and approval for the removal.

Sincerely,

Carolyn Nebbia,  
President, Village West Association

**From:** [carolyn](#)  
**To:** [Darnell Chris](#)  
**Subject:** Spinnaker Building Railings  
**Date:** Wednesday, September 01, 2021 11:17:54 AM  
**Attachments:** [RAILINGS \(2\) \(1\).docx](#)  
[scan0007.pdf](#)

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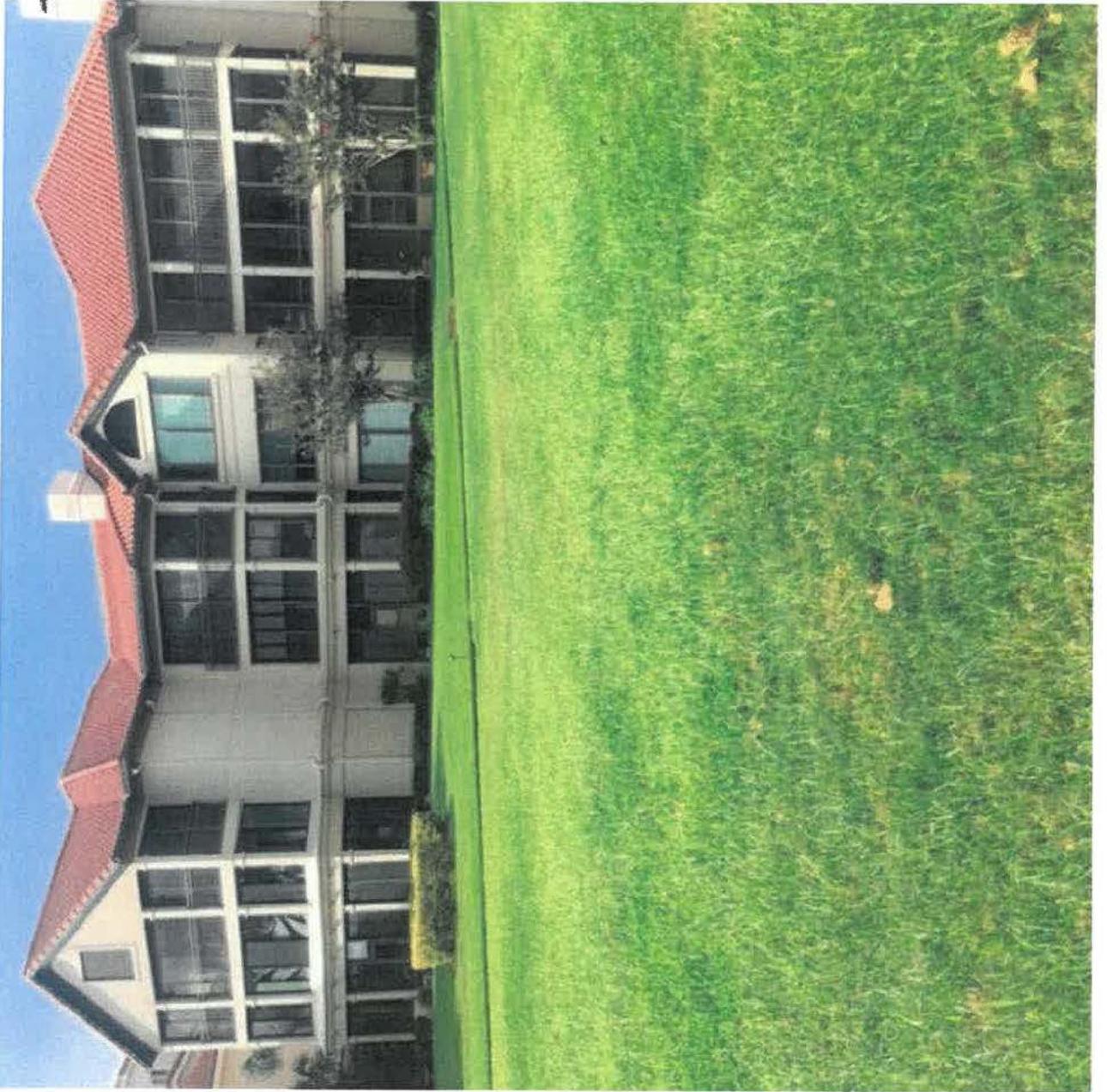
**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

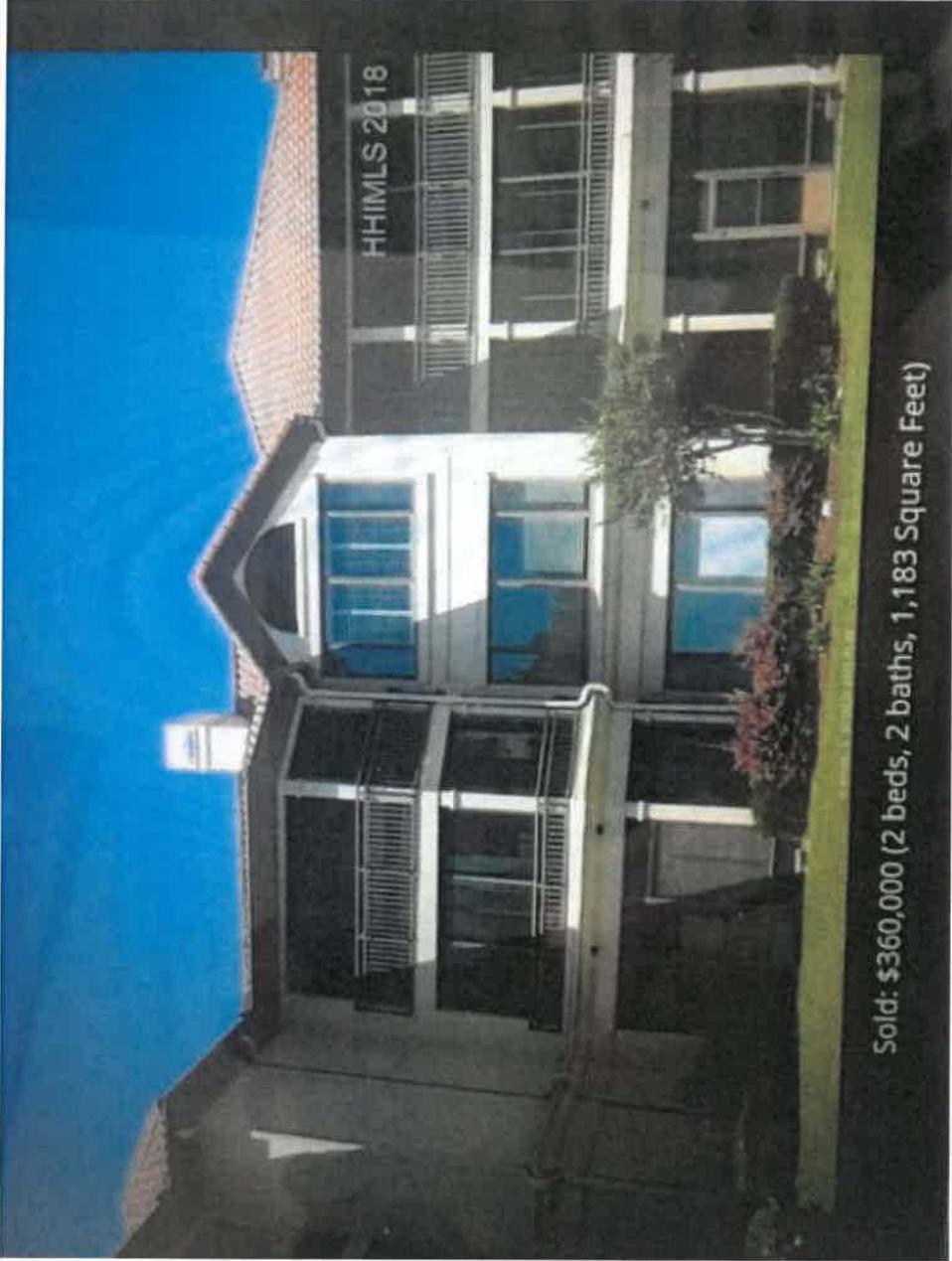
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Dear Chris,

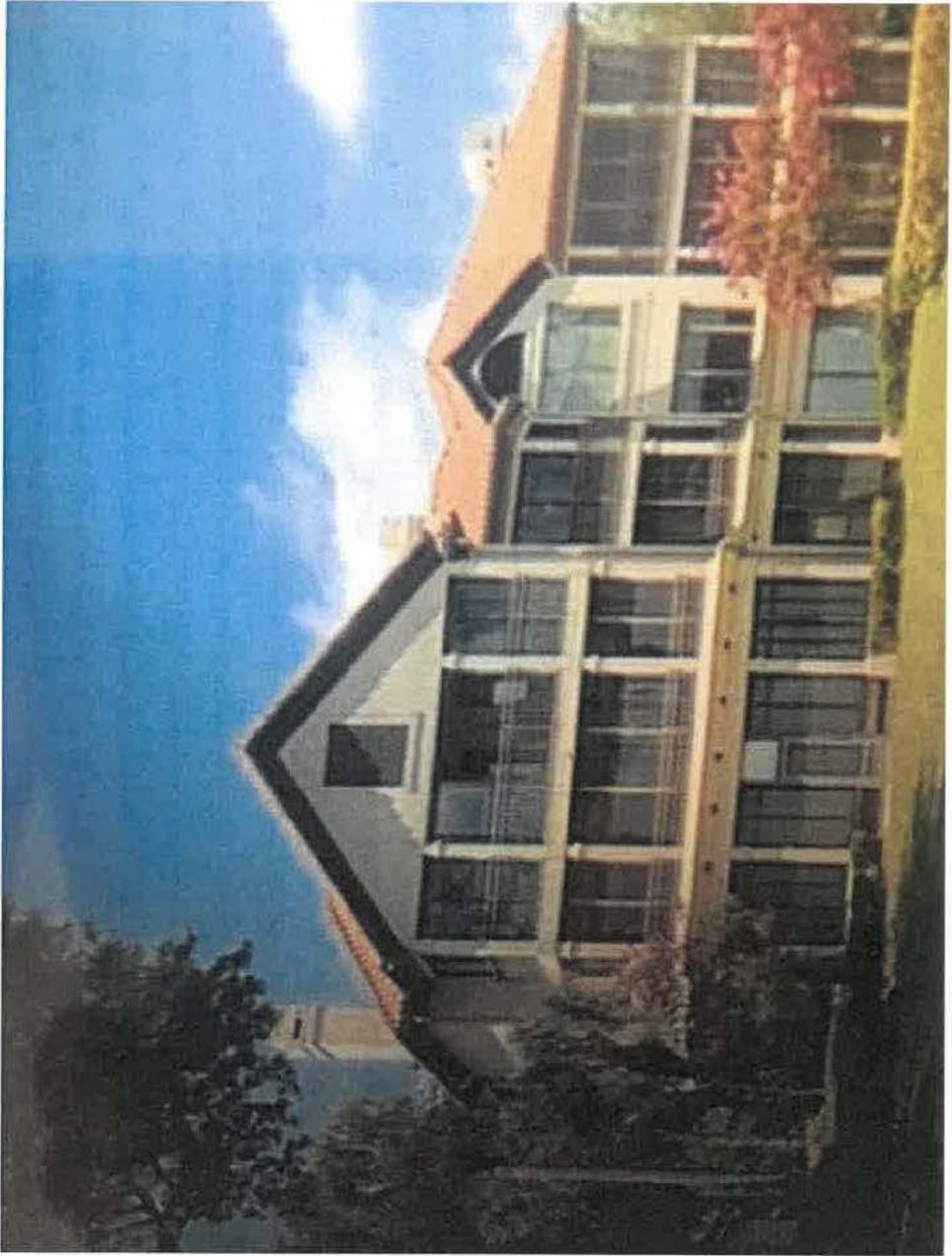
As per our meeting on Monday the 30th, attached is the Minor Planning Application, pictures of the Spinnaker Building before and after the railings were removed, and letter stating the reason for the removal. Thank you for your consideration, let me know if there is anything else I need to include.

Regards,  
Carolyn





Sold: \$360,000 (2 beds, 2 baths, 1,183 Square Feet)



**Debt Collector:** This firm collects debts for mortgage lenders and other creditors. Any information obtained will be used for that purpose. However, if you have previously received a discharge in bankruptcy, this message is not and should not be construed as an attempt to collect a debt, but only as an attempt to enforce a lien.

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**From:** Law Office of Chester C. Williams <firm@ccwlaw.net>  
**Sent:** Wednesday, December 22, 2021 3:36 PM  
**To:** Rick Haight <rick@mhalawfirm.com>  
**Subject:** Village West Window Railings

Dear Rick:

Thanks for taking our call this afternoon, and for taking the time to talk about the Village West window railings there were removed without permits from the Town, and without the permission of our client, Mary Ann Griffin, the owner of Unit 12 of Village West HPR Phase 3.

As you requested, two digital photographs of the water side exterior of the building that contains Unit 12, taken on 5 October 2021, are attached. You will note the railings on the exterior of the windows on the third floor units. Similar railings previously existed on the exterior of the second floor units, until those second floor railings were removed by the regime board earlier this year.

Chris Yates at the Town has advised us that the removal of the second floor railings has resulted in a violation of the Town's building codes, and Wayne Adams at the Town has advised us that he has verbally told the regime that the railings must be re-installed; however, Wayne told us today that he has received no response from the regime. Wayne asked that we provide him with a contact for the regime in order for him to write a letter formally requiring the re-installation of the second floor railings, and, because you are the registered agent for Village West Owners' Association, Inc., we will be giving Wayne your address and also the address for Atlantic States Management.

Please let us know if you have any questions or comments.

Regards, and happy holidays,

Chet Williams



2022  
 Approved by Village West Owners Association on January 6, 2022  
**Town of Hilton Head Island**  
 Community Development Department  
 One Town Center Court  
 Hilton Head Island, SC 29928  
 Phone: 843-341-4757 Fax: 843-842-8908  
 www.hiltonheadislandsc.gov

FOR OFFICIAL USE ONLY	
Date Received:	_____
Accepted by:	_____
DRB #:	_____
Meeting Date:	_____

Applicant/Agent Name: CAROLYN NEBBIA Company: VILLAGE WEST ASSOCIATION  
 Mailing Address: 10 GOVERNORS HARBOUR City: HILTON HEAD State: SC Zip: 29926  
 Telephone: 570 620 6843 Fax: \_\_\_\_\_ E-mail: ~~TCGRCEE8~~ TCGRCEE8@AOL.COM  
 Project Name: SPINNAKER BUILDING Project Address: 6 VILLAGE NORTH DRIVE  
 Parcel Number [PIN]: R 510 003 000 0640 0000  
 Zoning District: PUD Overlay District(s): COD

**CORRIDOR REVIEW, MAJOR  
 DESIGN REVIEW BOARD (DRB) SUBMITTAL REQUIREMENTS**

Digital Submissions may be accepted via e-mail by calling 843-341-4757.

Project Category:  
 Concept Approval – Proposed Development  Alteration/Addition  
 Final Approval – Proposed Development  Sign

Submittal Requirements for *All* projects:

Private Architectural Review Board (ARB) Notice of Action (if applicable): When a project is within the jurisdiction of an ARB, the applicant shall submit such ARB's written notice of action per LMO Section 16-2-103.I.4.b.iii.01. Submitting an application to the ARB to meet this requirement is the responsibility of the applicant.

Filing Fee: Concept Approval-Proposed Development \$175, Final Approval – Proposed Development \$175, Alterations/Additions \$100, Signs \$25; cash or check made payable to the Town of Hilton Head Island.

Additional Submittal Requirements:

**Concept Approval – Proposed Development**

- A survey (1"=30' minimum scale) of property lines, existing topography and the location of trees meeting the tree protection regulations of Sec. 16-6-104.C.2, and if applicable, location of bordering streets, marshes and beaches.
- A site analysis study to include specimen trees, access, significant topography, wetlands, buffers, setbacks, views, orientation and other site features that may influence design.
- A draft written narrative describing the design intent of the project, its goals and objectives and how it reflects the site analysis results.
- Context photographs of neighboring uses and architectural styles.
- Conceptual site plan (to scale) showing proposed location of new structures, parking areas and landscaping.
- Conceptual sketches of primary exterior elevations showing architectural character of the proposed development, materials, colors, shadow lines and landscaping.

Additional Submittal Requirements:

**Final Approval – Proposed Development**

- A final written narrative describing how the project conforms with the conceptual approval and design review guidelines of Sec. 16-3-106.F.3.
- Final site development plan meeting the requirements of Appendix D: D-6.F.
- Final site lighting and landscaping plans meeting the requirements of Appendix D: D-6.H and D-6.I.
- Final floor plans and elevation drawings (1/8"=1'-0" minimum scale) showing exterior building materials and colors with architectural sections and details to adequately describe the project.
- A color board (11"x17" maximum) containing actual color samples of all exterior finishes, keyed to the elevations, and indicating the manufacturer's name and color designation.
- Any additional information requested by the Design Review Board at the time of concept approval, such as scale model or color renderings, that the Board finds necessary in order to act on a final application.

Additional Submittal Requirements:

**Alterations/Additions**

- All of the materials required for final approval of proposed development as listed above, plus the following additional materials.
- A survey (1"=30' minimum scale) of property lines, existing topography and the location of trees meeting the tree protection regulations of Sec. 16-6-104.C.2, and if applicable, location of bordering streets, marshes and beaches.
- Photographs of existing structure.

Additional Submittal Requirements:

**Signs**

- Accurate color rendering of sign showing dimensions, type of lettering, materials and actual color samples.

For freestanding signs:

- Site plan (1"=30' minimum scale) showing location of sign in relation to buildings, parking, existing signs, and property lines.
- Proposed landscaping plan.

For wall signs:

- Photograph or drawing of the building depicting the proposed location of the sign.
- Location, fixture type, and wattage of any proposed lighting.

Note: All application items must be received by the deadline date in order to be reviewed by the DRB per LMO Appendix D: D-23.

*A representative for each agenda item is strongly encouraged to attend the meeting.*

**Are there recorded private covenants and/or restrictions that are contrary to, conflict with, or prohibit the proposed request? If yes, a copy of the private covenants and/or restrictions must be submitted with this application.**  YES  NO

To the best of my knowledge, the information on this application and all additional documentation is true, factual, and complete. I hereby agree to abide by all conditions of any approvals granted by the Town of Hilton Head Island. I understand that such conditions shall apply to the subject property only and are a right or obligation transferable by sale.

I further understand that in the event of a State of Emergency due to a Disaster, the review and approval times set forth in the Land Management Ordinance may be suspended.

Carolyn Nebbia  
SIGNATURE

2/10/22  
DATE

## VILLAGE WEST ASSOCIATION

August 31, 2021

Town of Hilton Head Community Development Dept.

On Monday, August 30<sup>th</sup>, 2021, I met with Chris Darnell, PLA at the Spinnaker building. I have attached a Minor Corridor Application, along with pictures of our Spinnaker building before and after the railings were removed, for your consideration.

The Village West Board of Directors unanimously voted to remove the 18” railings along the ledge of the three 2<sup>nd</sup> floor unit porches since they are all enclosed with glass windows and screens. The enclosed pictures shows the living room windows at the same height. (3 two bedroom units in the middle and 3 three bedroom units on the end of the building.)

Reason For Removal: The railings were an “eyesore”, esthetically, since they were not the same size as the railings on the 3<sup>rd</sup> floor, and did not conform. The view from inside the porch was also an “eyesore”. The 3<sup>rd</sup> floor porches are a different design, open from the base of the floor. The board was not aware that we needed permission from the Town of Hilton Head for their removal.

We truly apologize for not contacting the Town and filling out the required form, we ask for your kind consideration and approval for the removal.

Sincerely,

Carolyn Nebbia,  
President, Village West Association



# Hilton Head Plantation Property Owners' Association, Inc.

PO Box 21940, 7 Surrey Lane  
Hilton Head Island, SC 29925-1940

---

February 10, 2022

Village West Association  
Carolyn Nebbia, President  
Hilton Head Plantation, Hilton Head Island

Dear Ms. Nebbia:

On February 10, 2022, the Hilton Head Plantation Architectural Review Board performed an onsite visit and reviewed the proposal showing the removal of the railings of the second floor units in the Spinnaker Building in the Villages of Skull Creek. The ARB Board agrees that removing the railings does not change the overall aesthetic look of the rear. However, the Board states that you must submit your plans to the Town to review code requirements for railings.

Please be advised that you must submit any additional changes to the Architectural Review Board.

Sincerely,

A handwritten signature in cursive script that reads "Michele Chisolm".

Michele Chisolm  
Administrator, ARB and Covenants  
Email: [mchisolm@hhppoa.org](mailto:mchisolm@hhppoa.org)  
Phone: 843-681-8800 ext. 231

**From:** [carolyn](#)  
**To:** [Darnell Chris](#)  
**Subject:** Spinnaker Building Railings  
**Date:** Wednesday, September 01, 2021 11:17:54 AM  
**Attachments:** [RAILINGS \(2\) \(1\).docx](#)  
[scan0007.pdf](#)

---

**THIS MESSAGE ORIGINATED OUTSIDE YOUR ORGANIZATION**

---

Dear Chris,

As per our meeting on Monday the 30th, attached is the Minor Planning Application, pictures of the Spinnaker Building before and after the railings were removed, and letter stating the reason for the removal. Thank you for your consideration, let me know if there is anything else I need to include.

Regards,  
Carolyn



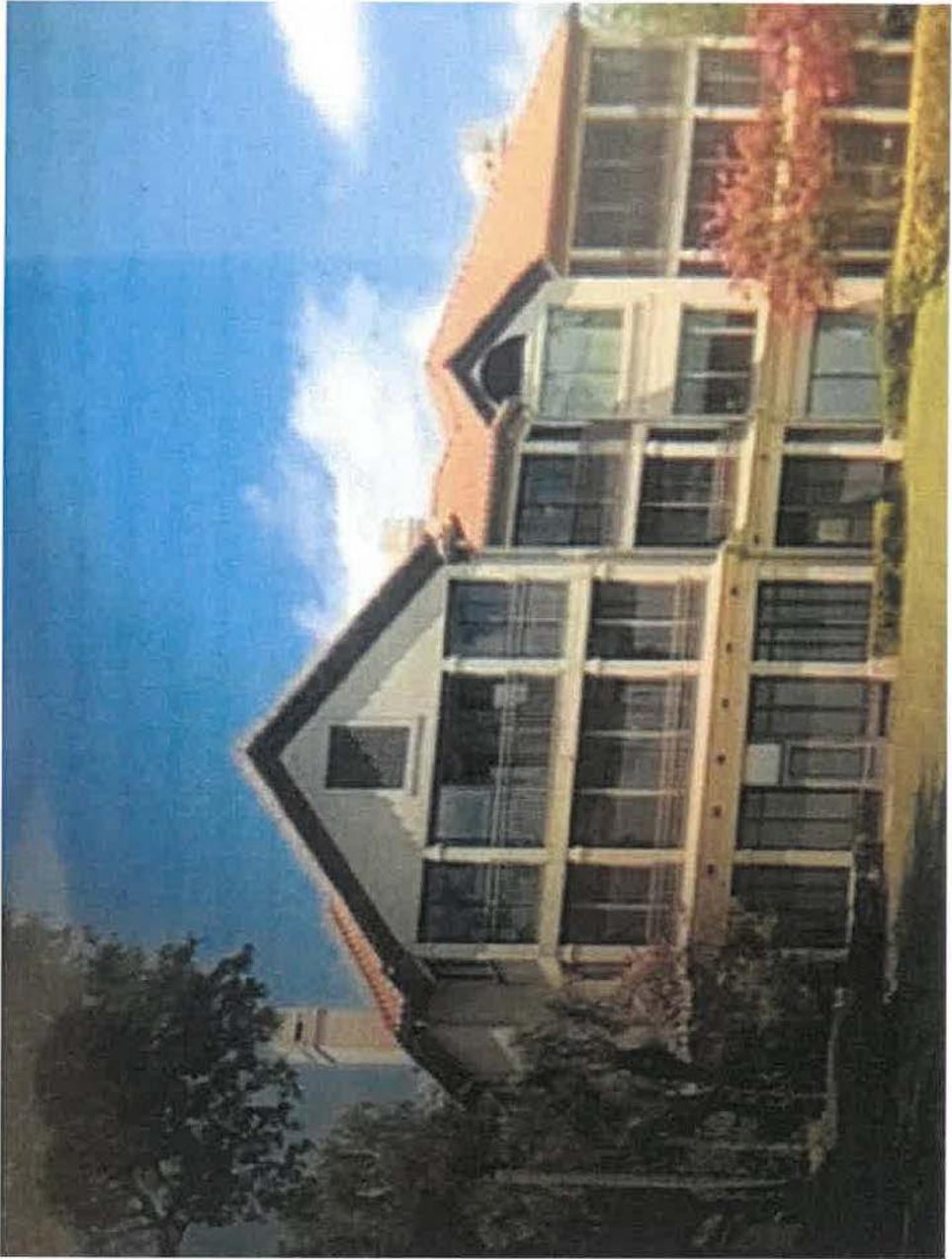








Sold: \$360,000 (2 beds, 2 baths, 1,183 Square Feet)





Hilton Head Plantation  
Property Owners' Association, Inc.

PO Box 21940, 7 Surrey Lane  
Hilton Head Island, SC 29925-1940

---

February 10, 2022

Village West Association  
Carolyn Nebbia, President  
Hilton Head Plantation, Hilton Head Island

Dear Ms. Nebbia:

On February 10, 2022, the Hilton Head Plantation Architectural Review Board performed an onsite visit and reviewed the proposal showing the removal of the railings of the second floor units in the Spinnaker Building in the Villages of Skull Creek. The ARB Board agrees that removing the railings does not change the overall aesthetic look of the rear. However, the Board states that you must submit your plans to the Town to review code requirements for railings.

Please be advised that you must submit any additional changes to the Architectural Review Board.

Sincerely,

A handwritten signature in blue ink that reads "Michele Chisolm".

Michele Chisolm  
Administrator, ARB and Covenants  
Email: [mchisolm@hhppoa.org](mailto:mchisolm@hhppoa.org)  
Phone: 843-681-8800 ext. 231

From: tcgrcee8@aol.com,

To: chrisdy@hiltonheadislandsc.gov,

Subject: Fwd: Village West: Spinnaker Building Railings

Date: Wed, Mar 2, 2022 8:36 pm

Attachments: scan0007.pdf (901K)

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Chris,

Thank you again. See email below from our attorney. Rick's expertise in condo document, SC State law governing HOA associations and he offers classes to condo boards. I highlighted in red regarding the opinion on the limited common area.

Carolyn

-----Original Message-----

From: Rick Haight <rick@mhalawfirm.com>

To: carolyn <tcgrcee8@aol.com>

Sent: Thu, Feb 24, 2022 6:20 pm

Subject: Village West: Spinnaker Building Railings

Carolyn:

We spoke yesterday about the "no" box being checked on the attached application to take down the exterior railings in question, representing that the governing documents "are not contrary to, conflict with, or prohibit the proposed request." You asked me to review the governing documents for Village West to determine whether the Board had the power or authority under those documents to take down or remove the exterior railing. If so, checking the "no" box would be correct. This opinion is focused on and limited to that question.

I have reviewed the Master Deed and By-Laws, as amended. Under the Second Amended and Restated By-Laws ("By-Laws") the authority of the Board is addressed in Article IV. The Board has the power and duty under Article IV, Section 3 for the following:

- (b) Care, upkeep and surveillance of the property and the common elements.
- (h) Contracting for repairs caused by any natural disaster, deterioration or man-made damage....
- (k) Making of repairs, additions and improvements to, **or alterations of**, the property in accordance with the provisions of these bylaws. (Emphasis added).

Under Article VII, Section 6 (c) of the By-Laws, "[a]ll maintenance, repair and replacement to the common elements as defined in the master deed...shall be made by the Board or its agent...".

In my opinion, exterior railings are most likely general common elements under Article EIGHTH, Section A of the Master Deed. If they are not general common elements, they are limited common elements under Section B. The exterior railings do not fit the definition of "Units" under Article FIFTH of the Master Deed. The Board has the authority to repair, add to, improve or alter the property, which includes the common elements.

Under Article FIFTH (b)(vi)(6) of the Master Deed, "each Unit Owner shall be responsible for maintenance and repair of the following, whether it shall be defined as within a Unit or not: the screens, awnings, partitions[,] railings, balustrades, bounding or enclosing any deck, walkways, balcony, patio or service area that is integral and exclusive to the Unit...". In my opinion, even if the exterior railings in question fit within this provision, there is no conflict with the cited provisions of the By-Laws. In this instance, the railings were removed. This was a permitted alteration of the property. There is no longer a railing for which any particular Unit owner has a maintenance or repair responsibility or duty.

Please let me know if you or the Board have any additional questions or concerns.

# 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

March 4, 2022

William D. Harkins  
Mayor Pro Tem

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

Thomas W. Lennox  
David Ames  
Tamara Becker  
Glenn Stanford  
Alexander Brown, Jr.

Village West Association  
10 Governors Harbour  
Hilton Head Island, SC 29928  
C/O Carolyn Nebbia

Re: 6 Village North Drive, Hilton Head, SC 29926, District Map and Parcel #R510 003  
000 064D 0000

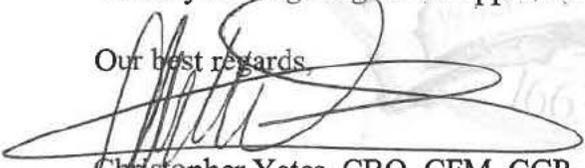
\_\_\_\_\_  
Marc Orlando  
Town Manager

Dear Mrs. Nebbia,

I am writing to you regarding the above referenced address and your recent application to the Design Review Board, DRB-000348-2022, that you have withdrawn. After further review of the application, the bylaws for Village West Association, and legal review with the Town Attorney, I have decided that we would be unable to process both your application to the Design Review Board for exterior aesthetic changes and any subsequent application for a building permit to alter, upgrade or replace the windows. I have concluded that we do not have enough information to determine if you have the appropriate permissions or rights to make the changes to the structure that you are proposing. You are hereby ordered to immediately replace the guardrails that protected the windows. Once the guardrails are replaced, an inspection by a Town building inspector will be required. If you do not agree with the determination, you have the right to appeal with the Construction Board of Adjustments and Appeals.

Thank you for giving us the opportunity to serve you.

Our best regards,

  
Christopher Yates, CBO, CFM, CGP  
Building Official  
Town of Hilton Head Island

cc: Marc Orlando, ICMA~CM, *Town Manager*  
Josh Gruber, *Deputy Town Manager*  
Shawn Colin, *Senior Advisor to the Town Manager/Interim Community Development Director*  
Nicole Dixon, *Development Review Program Manager*  
Chris Darnell, *Urban Designer & Design Review Board Coordinator*









\* Note Dining Area windows at 24" from floor

From: jgonzalez@iccsafe.org,

To: tcgrcee8@aol.com,

Cc: creeves@iccsafe.org,

Subject: RE: 2018 IBC - Opinion for Village West

Date: Mon, Aug 8, 2022 5:08 pm

Attachments: (14K), (5529K), IMG\_2920 (1).JPG (88K), IMG\_2945 (1).JPG (101K), 2021-10-05 Digital Photo 01 (6) (1).pdf (3850K), (34K)

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August 8, 2022

Dear Ms. Nebbia:

Re: Sections 1015.5 and 1015.8 of the *2018 International Building Code (IBC)*; Sections 503.1, 505.2 and 702.4 of the *2018 International Existing Building Code (IEBC)*

This e-mail is in response to your e-mail sent July 28, 2022, as well as a subsequent related e-mail sent August 3, 2022, requesting an ICC-staff opinion regarding the above referenced code sections. (See the e-mail thread below and attached email for the specifically asked questions.)

**ANSWER:** Firstly, with respect to new construction, Section 1015.5 indicates that porches and decks that are enclosed with insect screening shall be provided with guards where the walking surface is located more than 30 inches above the floor or grade below. With respect to window fall prevention, Section 1015.8 indicates that operable windows associated with Group R-2 dwelling units be provided with one of the prescribed methods of fall prevention where the top of a window sill is located less than 36 inches above the finished floor and more than 72 inches above the finished grade or other surface below on the exterior of the building.

Based on the provided narrative and our telephone conversation on August 3, 2022, it is my understanding that all three of the second floor dwelling units had "porches" (decks) which were originally provided with screened openings (circa 1987). The screened openings had 24-inch high sills with an additional 14-inch high railing system installed immediately atop the sill, thereby providing the opening with a 38-inch high guard system.

With respect to the dwelling unit which you have indicated underwent alterations in accordance with the 2018 IBC and IEBC (i.e., the third 2nd floor unit which had "porch" windows installed in August 2021), Section 503.1 of the IEBC (which is part of the Prescriptive Compliance Method) indicates that alterations to any building shall comply with the requirements of the IBC for new construction and such alterations shall not make an existing building less compliant with the IBC than the existing building was prior to the alterations. In addition, Section 505.2 specifically addresses the installation of window opening control devices complying with ASTM F2090 where existing windows are replaced with windows involving new sashes and frames and which would normally be deemed a fall concern in accordance with Section 1015.8 of the IBC. (The IEBC has another code compliance method, referred to as the Work Area Compliance Method, which may be used in lieu of the Prescriptive Compliance Method. Section 702.4 of the Work Area Compliance Method contains identical provisions as Section 505.2.) Although the windows in question are replacing existing screened openings rather than existing windows, in my opinion, Section 505.2 or 702.4 would appear to be relatable.

Regarding the other two second floor dwelling units (altered circa mid-1990s), ICC is unable to offer an opinion. While the windows which replaced the original screened openings with a guard system resulted in the exact same condition as the one dwelling unit which was altered in 2021, we are not familiar with the language in the governing building code regarding window fall prevention at the time of the alteration. As a point of information, window fall prevention was first introduced in the 2006 edition of the IBC (Section 1405.12.2). Additionally, the provisions of the 2018 IEBC are not intended to be applied retroactively towards the two dwelling units which had windows installed in the 1990s.

Code opinions issued by ICC staff are based on ICC-published codes and do not include local, state or federal codes, policies or amendments. This opinion is based on the information which you have provided. We have made no independent effort to verify the accuracy of this information nor have we conducted a review beyond the scope of your question. This opinion does not imply approval of an equivalency, specific product, specific design, or specific installation and cannot be published in any form implying such approval by the International Code Council. As this opinion is only advisory, the final decision is the responsibility of the designated authority charged with the administration and enforcement of this code.

"Copyright © 2022 International Code Council, Inc. All rights reserved."

Sincerely,

**John S. Gonzalez**

**ICC Senior Technical Staff**

Central Regional Office (Chicago)

4051 West Flossmoor Road

Country Club Hills, IL 60478

888-ICC-SAFE (422-7233), x4232 phone

[jgonzalez@iccsafe.org](mailto:jgonzalez@iccsafe.org)

---

To: carolyn <[tcgrcee8@aol.com](mailto:tcgrcee8@aol.com)>  
Sent: Wed, Sep 7, 2022 10:38 am  
Subject: RE: 2018 IBC - Opinion for Village West

Carolyn,

Based on the information you discovered, it would appear that ICC staff opinion would not technically apply since the applicable code provisions appear to be straightforward. The intent of ICC staff opinions is to help explain the intent of the I-codes; however, please note that ICC is not in the official position of providing judgements or rulings. Such rulings and judgments are the purview of the local authority having jurisdiction based on their official capacity.

As such, I suggest that with what ICC had provided in our original ICC interpretation below, namely:

Regarding the other two second floor dwelling units (altered circa mid-1990s), ICC is unable to offer an opinion. While the windows which replaced the original screened openings with a guard system resulted in the exact same condition as the one dwelling unit which was altered in 2021, we are not familiar with the language in the governing building code regarding window fall prevention at the time of the alteration. As a point of information, window fall prevention was first introduced in the 2006 edition of the IBC (Section 1405.12.2). Additionally, the provisions of the 2018 IEBC are not intended to be applied retroactively towards the two dwelling units which had windows installed in the 1990s.

I would suggest that you take the information you discovered with the research you did and present it to the local authority having jurisdiction and/or your association because, unless you are unsure of how to interpret the particular code language from the SCICC 1994, an ICC opinion is not necessary. In addition, I'm not sure if ICC can even provide opinions on the SCICC 1994, since I do not believe it is one of our old legacy codes.

Best wishes,

John S. Gonzalez  
ICC Senior Technical Staff  
Central Regional Office (Chicago)  
4051 West Flossmoor Road  
Country Club Hills, IL 60478  
888-ICC-SAFE (422-7233), x4232 phone  
[jgonzalez@iccsafe.org](mailto:jgonzalez@iccsafe.org)

---

From: carolyn <[tcgrcee8@aol.com](mailto:tcgrcee8@aol.com)>  
Sent: Tuesday, September 6, 2022 5:30 PM  
To: John Gonzalez <[jgonzalez@iccsafe.org](mailto:jgonzalez@iccsafe.org)>  
Subject: 2018 IBC - Opinion for Village West

**CAUTION:** This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.

John,

On Friday, at the Town of Hilton Head Municipal building, I reviewed the approximate 800 page SCICC 1994 building codes that were in effect through 1998. There was no mention of "fall protection" for windows, the emphasis was on egress in case of fire. Minimum sill height from the floor was 24", no mention of higher building floors needing a different sill height. Concern was the actual window width and height measurement for egress for escape.

I have attached pages from the SC 2006 codes regarding energy and if you scroll down the page I sited the paragraph showing the state implemented the IBC codes in 2000, up until that time they used the Standard building codes.

I hope this information will help you to render an opinion on the two units 10 & 12 that were enclosed with windows around 1994 or 1995.

Best Regards,

Carolyn Nebbia

-----Original Message-----

From: John Gonzalez <[jgonzalez@iccsafe.org](mailto:jgonzalez@iccsafe.org)>  
To: carolyn <[tcgrcee8@aol.com](mailto:tcgrcee8@aol.com)>  
Cc: Chris Reeves <[creeves@iccsafe.org](mailto:creeves@iccsafe.org)>  
Sent: Mon, Aug 8, 2022 5:08 pm  
Subject: RE: 2018 IBC - Opinion for Village West

August 8, 2022

Dear Ms. Nebbia:

From: jgonzalez@iccsafe.org,  
To: tcgrcoe8@aol.com,  
Subject: RE: 2018 IBC - Opinion for Village West  
Date: Fri, Sep 9, 2022 10:36 am

---

Carolyn, best of luck.

p.s., The bottom line is that one is only obligated to do what the code text specifically prescribes. Once a authority having jurisdiction legally adopts a building code (and if the jurisdiction did not insert legal amendments touching upon window fall prevention) then only what is found in the code is enforceable. That is, if it's not addressed then it is not required. Based on that, your research seemed to determine that the SCICC 1994 (which was the governing code when Units 10 and 12 were altered) did not contain any window fall prevention requirements. (Note that this email does not confirm what the SCICC 1994 contains within the building code's provisions.)

Sincerely,

John S. Gonzalez

ICC Senior Technical Staff

Central Regional Office (Chicago)

4051 West Flossmoor Road

Country Club Hills, IL 60478

888-ICC-SAFE (422-7233), x4232 phone

[jgonzalez@iccsafe.org](mailto:jgonzalez@iccsafe.org)

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**1014.1.3** Balconies or other open spaces serving as a means of egress shall be maintained as a required path of travel without obstruction so as to maintain the required minimum width of exit travel.

**1014.1.4** Exterior balconies used as an exit access from buildings four or more stories in height shall be of noncombustible construction. See 1404.2 and 1404.3 for fire protection requirements of balconies not used as a means of egress.

**1014.1.5** See 3206 for projections over public property.

## 1015 GUARDRAILS

### 1015.1 General

All unenclosed floor and roof openings, open and glazed sides of landings and ramps, balconies or porches which are more than 30 inches (762 mm) above finished ground level or a floor below shall be protected by a guardrail. Guardrails shall form a vertical protective barrier not less than 42 inches (1067 mm) high. Open guardrails shall have intermediate rails or ornamental pattern such that a 6-inch (152 mm) diameter sphere cannot pass through any opening. A bottom rail or curb shall be provided that will reject the passage of a 2-inch (51 mm) diameter sphere. Construction of guardrails shall be adequate in strength, durability and attachment for their purpose as described in 1608.2.

#### EXCEPTIONS:

1. Guardrails are not required on the loading side of loading docks.
2. Guardrails shall be permitted in conformance with requirements for specific occupancies in 1018.

### 1015.2 Glass

Glass guardrail components shall comply with 2405.5.

## 1016 EXIT ILLUMINATION AND SIGNS

### 1016.1 Means of Egress Illumination

**1016.1.1** Means of egress shall be illuminated at all times that the building is occupied, with light of not less than 1 footcandle (11 lx) intensity at the floor level, except theaters which shall have not less than 1/5 footcandle (2 lx) in aisles. For purposes of illumination, means of egress shall consist only of the exits and aisles, corridors, passageways, ramps, escalators and lobbies leading to the exits.

**1016.1.2** An independent and separate source of emergency power shall be provided for means of egress illumination in occupancies with the occupant load listed in Table 1016. Such emergency power shall be automatically actuated and emergency illumination provided for a period of 1 1/2 hours in the event of failure of normal lighting. Emergency lighting



# TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court | Hilton Head Island, SC 29928 | 843-341-4757 | FAX 843-842-8908

## STAFF REPORT APPEAL

Case #:	Public Hearing Date:
APL-001878-2022	September 27, 2022

Parcel or Location Data:	Property Owner	Applicant
<u>Address:</u> 6 Village North Drive  <u>Parcel:</u> R510 003 000 0064 0000	Village of Skull Creek LTD DBA Village of Skull Creek LP 100 Colony Square Suite 2100 Atlanta, GA 30361	Village West Association Carolyn Nebbia 10 Governor Harbour Hilton Head Island, SC 29926

Application Summary:
<p>Ms. Carolyn Nebbia, on Behalf of the Village West Association, is appealing the following determinations from the Building Official:</p> <ol style="list-style-type: none"> <li>1. The Village West Association does not have the right to make changes to certain elements of the buildings and property maintained by the association and therefore Town staff cannot process an application made to the Design Review Board (DRB) for an after-the-fact permit, and</li> <li>2. The permit sought by the Village West Association would be in violation of the 2018 International Building Code (IBC) regulations as adopted by the Town of Hilton Head Island.</li> </ol>

Staff Recommendation:
<p>Town staff recommends that the Construction Board of Adjustments and Appeals (CBAA) concur with the Building Official's determination that the Village West Association did not appropriate permissions or rights to make changes to the Spinnaker Building at Village West and Town Staff cannot process an application to the DRB for aesthetic changes to alter, upgrade or replace windows creating an illegal nonconformity of the 2018 IBC.</p>

Background:
<p>August 25, 2021 – Staff received call from Ms. Mary Ann Griffin, owner of Unit 12 in the Spinnaker</p>

Building, regarding the removal of guard rails by the Village West Association. Urban Designer arranged site visit with Ms. Griffin on August 30, 2021. After the site visit, Staff informed the Village West Association that the proposed guard rail removal on units 8, 10, and 12 required approval from the DRB because the property is in a Corridor Overlay District.

August 31, 2021 – Staff received a Minor Corridor application from the Village West Association for an “after the fact” approval for the removal of guard rails from three units on the second floor of the Spinnaker Building, to include units 8, 10, and 12. Staff determined the application was invalid because the DRB cannot approve something in violation of the Building Code.

September 3, 2021 – Staff received contact information from Ms. Griffin and forwarded her concern about the safety of her tenants after the removal of the guard rails to the Chief Building Official.

September 8, 2021 – Building Division Staff conducted an inspection and confirmed that the second floor guard rails were removed. Staff informed Ms. Griffin that the removal of the guard rails required a permit application; however, a building permit application would be denied because they did not have Design Review Board approval and the removal of the guard rails would be in violation of the requirements of IBC Section 1015 Guards. Once the Design Review Board approved the removal of the guard rails window opening limiting devices would need to be installed to make the windows code compliant. Ms. Griffin was opposed to any additional modifications to her unit and wanted the guard rails re-installed.

January 4 and January 6, 2022 - Chief Building Inspector emailed attorney Chester Williams, representative of Ms. Griffin to request access to Unit 12 to measure the sill height.

January 14, 2022 – Chief Building Inspector conducted a site visit at Unit 12 and measured the sill height on the sunroom windows. The sill height measurement was 26½ inches on the front windows and the side windows were less because the floor slopes. IBC Section 1015.3 Height, Exemption 1. requires the sill height to be not less than 36 inches on all windows adjacent to walking surfaces.

January 24, 2022 and February 1, 2022 – Chief Building Inspector conducted a site visit at Unit 8 and Unit 10, respectively, and stated, “I went to the location and verified that the guard rails were removed and the sill height was less than 36 inches. They vary in height because the floor is sloped.”

February 2, 2022 – Staff meet with Ms. Nebbia, President of the Village West Association and owner of Unit 8. They discussed that the removal for the guard rail was an illegal nonconformity and informed Ms. Nebbia that a DRB application was required for the aesthetic change and a building permit was required for the removal of the guard rail and installation of the window opening limiting device.

February 8, 2022 – Staff received application and allowed the after-the-fact review of the railing removal to be added to the February 22, 2022 DRB agenda with the addition of window stops for compliance with the Building Code.

February 22, 2022 – Prior to the DRB meeting, Staff received a letter from Ms. Griffin’s attorney questioning the authority of the Village West HPR Board to remove the railing. Staff forwarded the letter to the DRB. After discussion with the applicant and Ms. Griffin’s attorney, the DRB tabled the

application until the letter received is reviewed by the Town Attorney and a legal determination is made.

March 1, 2022 – The Town Attorney advised that it was his opinion that the Village West Association did not have the authority to make the requested changes to the windows and thus the application was rejected, and the application fee was returned.

March 4, 2022 - Building Official mailed a letter to the Village West Association. The letter denied the application to the DRB and required that the removed Guard rails be replaced immediately. (Attachment 1)

March 22, 2022 – Staff received a call from Ms. Nebbia in response to the March 4, 2022 letter. The Village West Association Board did not agree with the interpretation of the Building Official and requested that he reconsider his determination. Ms. Nebbia was informed that Staff could not approve an application that would result in a violation of the IBC and the Board would either need to pull a building permit to replace the guard rails or file and appeal with the CBAA.

July 18, 2022 – The Building Official sent a Notice of Violation letter to Ms. Carolyn Nebbia and Mr. Bob Baroni informing them that they had until Friday July 22, 2022 to install temporary guardrails on the three units in question to mitigate the unsafe conditions or face citations.

July 20, 2022 – Deputy Town Manager, Building Official and Development Services Manager met with Ms. Nebbia and another board member. At that meeting, the Village West Board Members agreed to install temporary guard rails on Unit 12. Ms. Nebbia, on behalf of the Village West Association, would file for an appeal for the August 28, 2022 CBAA meeting.

July 21, 2022 – Ms. Nebbia, on behalf of the Village West Association, filed an appeal with the Construction Board of Adjustments and Appeals. The appeal was based on the Building Official's decision not to process a DRB application that is in violation of the International Building Code.

July 26 and 27, 2022 – Building Official conducted a follow-up site visit and verified that temporary guard rails had been installed. The guard rails observed were installed on unit 12 and were wooden 2 x4's and appeared to be sturdy. Code approved window opening limit devices were ordered and were scheduled to be completed for units 8 and 10 once they were received.

August 15, 2022 -- The window opening limit devices have been installed on units 8 and 10 and are pending inspection.

**Summary of Facts:**

The Spinnaker Building located at 6 Village North Drive contains three second story units, Units 8, 10, and 12.

1. The previously existing guard rails on Units 8, 10, and 12 were removed by the Village West Board in August of 2021.
2. Building permits were not issued to remove the guard rails on the three second-story units.

3. 2018 IBC Section 1015.1 Guards/General requires operable windows with sills located more than 72 inches (1829 mm) above finished grade or other surface below shall comply with Section 1015.8.
4. 2018 IBC Section 1015.8 Window Openings requires windows in Group R-2 and R-3 buildings including dwelling units, where the top of the sill of an operable window opening is located less than 36 inches above the finished floor and more than 72 inches (1829 mm) above the finished grade or other surface below on the exterior of the building, shall comply with one of the following:
  2. Operable windows where the openings will not allow a 4-inch-diameter (102 mm) sphere to pass through the opening when the window is in its largest opened position.
5. Staff Attorney advised staff that the Village West Association did not have the authority to request changes to the windows, thus Staff was unable to process a DRB application and Building Permit.
6. Town Staff cannot process a permit application that will result in a violation of the 2018 IBC.

**PREPARED BY:**

SM

\_\_\_\_\_  
 Shari Mendrick, P.G., CFM  
 Floodplain Administrator

September 20, 2022

\_\_\_\_\_  
 DATE

**REVIEWED BY:**

TP

\_\_\_\_\_  
 Tony Pierce, CBO, CFM  
 Building Official

September 20, 2022

\_\_\_\_\_  
 DATE

**ATTACHMENTS:**

1. Letter from Building Official dated March 4, 2022
2. Photos

## 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

March 4, 2022

William D. Harkins  
Mayor Pro Tem

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

Thomas W. Lennox  
David Ames  
Tamara Becker  
Glenn Stanford  
Alexander Brown, Jr.

Village West Association  
10 Governors Harbour  
Hilton Head Island, SC 29928  
C/O Carolyn Nebbia

Re: 6 Village North Drive, Hilton Head, SC 29926, District Map and Parcel #R510 003  
000 064D 0000

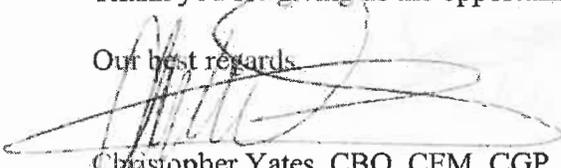
\_\_\_\_\_  
Marc Orlando  
Town Manager

Dear Mrs. Nebbia,

I am writing to you regarding the above referenced address and your recent application to the Design Review Board, DRB-000348-2022, that you have withdrawn. After further review of the application, the bylaws for Village West Association, and legal review with the Town Attorney, I have decided that we would be unable to process both your application to the Design Review Board for exterior aesthetic changes and any subsequent application for a building permit to alter, upgrade or replace the windows. I have concluded that we do not have enough information to determine if you have the appropriate permissions or rights to make the changes to the structure that you are proposing. You are hereby ordered to immediately replace the guardrails that protected the windows. Once the guardrails are replaced, an inspection by a Town building inspector will be required. If you do not agree with the determination, you have the right to appeal with the Construction Board of Adjustments and Appeals.

Thank you for giving us the opportunity to serve you.

Our best regards,

  
Christopher Yates, CBO, CFM, CGP  
Building Official  
Town of Hilton Head Island

cc: Marc Orlando, ICMA~CM, *Town Manager*  
Josh Gruber, *Deputy Town Manager*  
Shawn Colin, *Senior Advisor to the Town Manager/Interim Community Development Director*  
Nicole Dixon, *Development Review Program Manager*  
Chris Darnell, *Urban Designer & Design Review Board Coordinator*







The Town of Hilton Head Island  
**Construction Board of Adjustments & Appeals**  
**Proposed 2023 Meeting Schedule**

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Meetings are generally held in Benjamin M. Racusin Council Chambers at **5:00 p.m.** on the **fourth** Tuesday of each month, subject to change with notice.

<b>PUBLIC MEETING DATES</b>	<b>APPLICATION DEADLINES</b>
January 24, 2023	January 10, 2023
February 21, 2023	February 7, 2023
March 21, 2023	March 7, 2023
April 25, 2023	April 11, 2023
May 23, 2023	May 9, 2023
June 27, 2023	June 13, 2023
July 25, 2023	July 11, 2023
August 22, 2023	August 8, 2023
September 26, 2023	September 12, 2023
October 24, 2023	October 10, 2023
November 28, 2023	November 14, 2023
December 26, 2023	December 12, 2023

All applications must be completed and submitted not later than **4:30 p.m.** 14 days prior to the meeting date at which the application will be reviewed.