

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the June 25, 2018 2:30 p.m. Regular Meeting
Benjamin M. Racusin Council Chambers

Board Members Present: Chairman David Fingerhut, Vice Chairman Jerry Cutrer, Patsy Brison, Charles Walczak, Robert Johnson, John White, Lisa Laudermilch

Board Members Absent: None

Council Members Present: Kim Likins

Town Staff Present: Charles Cousins, Director of Community Development; Nicole Dixon, Development Review Administrator; Carolyn Grant, Communications Director; Joheida Fister, Fire Marshal; Danielle Tison, Fire Inspector; Brian Hulbert, Staff Attorney; Teri Lewis, LMO Official; Taylor Ladd, Senior Planner; Teresa Haley, Senior Administrative Assistant

- 1. Call to Order**
- 2. Pledge of Allegiance to the Flag**
- 3. Roll Call**
- 4. Freedom of Information Act Compliance**
Public notification of the Board of Zoning Appeals meeting has been published, posted and mailed in compliance with the Freedom of Information Act and the requirements of the Town of Hilton Head Island Land Management Ordinance.
- 5. Swearing in Ceremony for New Board of Zoning Appeals Member Patsy Brison**
Kim Likins, Mayor Pro Tem, performed the swearing in ceremony for newly appointed Board member Patsy Brison.
- 6. Welcome and Introduction to Board Procedures**
Chairman Fingerhut welcomed the public and introduced the Board's procedures for conducting the business meeting.
- 7. Approval of Agenda**
Chairman Fingerhut asked for a motion to approve the agenda. Ms. Laudermilch moved to approve. Mr. White seconded. The motion passed with a vote of 7-0-0.
- 8. Approval of the Minutes – Meeting of January 22, 2018**
Chairman Fingerhut asked for a motion to approve the minutes of the March 26, 2018 meeting. Vice Chairman Cutrer moved to approve. Mr. Walczak seconded. The motion passed with a vote of 6-0-1. Ms. Brison abstained as she was not present at the subject meeting.
- 9. Unfinished Business – None**
- 10. New Business**

- a. **APL-942-2018** – Request for Appeal from Claudia Kennedy. The appellant is appealing staff’s determination, dated March 27, 2018, which states that the use being conducted at 2, 3, 7, 11, 15 and 17 Trail Beach Manor is Animal Services and Animal Services uses are not allowed in the MV (Mitchelville) zoning district.

Ms. Lewis presented on behalf of Town Staff. The Board made comments and inquiries to Staff regarding: permitted uses in the Mitchelville (MV) zoning district; permitted Commercial uses; other commercial services allowed; Animal Services is not an allowed use in MV; the interpretation of Animal Services as defined in the LMO; the properties were in the WMU zoning district until the LMO rewrite occurred in October 2014; prior use related to animals were pet stores and boarding kennels, but neither was allowed in WMU; whether any complaints were filed with the Town prior to 2014; around May 2016 Staff was alerted to cats being housed on the property; this property would not be grandfathered as animal services were not permitted uses previously; the size of the property; no other uses are being conducted on the property; and surrounding properties include The Spa and Mitchelville Freedom Park.

The Appellant, Claudia Kennedy, presented her case as described in the Board’s packet. The Board made comments and inquiries to the Appellant regarding: the percentage of cats that return to the property; she purchased the land in 2012; All About Cats has operated at property for approximately two to three years; All About Cats is a 501(c)(3) South Carolina non-profit; how the non-profit operates and where funding comes from; she does not hold a business license from the Town; how and from where do the cats come to her property; funding mostly comes from Appellant and some volunteers; the cats are fed, caught if possible, taken to the vet and paid for by the Appellant; the Appellant delivers cat food to people who cannot afford it; All About Cats is a group started around 2015 to provide people with a receipt for donating to the non-profit; consideration of purchasing additional land in other areas; there are about twenty kennels on site; the kennels are on palates with straw underneath and inside, a tarp on top, and cat feeders to keep rain off the food; volunteers come and go at various times, with two to three cars at most parked on the other side of the fenced in area which is also owned by the Appellant; no cat food is on site as raccoons will eat it; the Appellant is interested in purchasing land for cats throughout the Island; the Appellant lives inside a PUD and this use is not allowed; the Appellant characterizes what she does as a rescue at an urgent level and to help control overpopulation; and consideration for removal of the structures.

Chairman Fingerhut asked the Town for a rebuttal. Ms. Lewis pointed out while not permitted in MV, Animal Services is permitted in five zoning districts – SPC, CC, Stoney, LC and IL. The property cannot be considered grandfathered as this type of use was never allowed on the property to begin with.

Chairman Fingerhut asked the Board for comments and discussion. The Board members discussed: their interpretations of the definition of Animal Services; a for profit business versus a non-profit and volunteer services; some members indicated the first sentence of the Animal Services definition governs and the rest of the definition includes examples; some members indicated interpreting the definition as a whole; the use is not permitted

now and was not permitted prior to the LMO adoption in 2014; and the Board is charged with deciding whether or not the use fits appropriately and complies with the LMO.

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

Vice Chairman Cutrer moved to uphold the finding of the LMO Official that the subject parcels are not in compliance with the LMO based on the Findings of Fact and Conclusion of Law as stated in the staff report and the March 27, 2018 determination letter. Ms. Brison seconded. The motion passed with a vote of 4-3-0.

(Roll: Brison, Johnson, Fingerhut, Cutrer – for the motion; Walczak, White, Laudermilch – against the motion.)

b. Election of Officers for the July 1, 2018 – June 30, 2019 Term

Mr. Cutrer made a motion to elect David Fingerhut to serve as Chairman for the new term. Mr. Walczak seconded. There were no additional nominations for the office of Chairman. The motion to elect David Fingerhut as Chairman passed with a vote of 6-0-1. Chairman Fingerhut abstained.

Mr. Walczak made a motion to elect Jerry Cutrer to serve as Vice Chairman for the new term. Chairman Fingerhut seconded. There were no additional nominations for the office of Vice Chairman. The motion to elect Jerry Cutrer as Vice Chairman passed with a vote of 6-0-1. Vice Chairman Cutrer abstained.

Vice Chairman Cutrer made a motion to appoint Teresa Haley to serve as Secretary for the new term. Ms. Laudermilch seconded. The motion passed with a vote of 7-0-0.

11. Board Business – None

12. Staff Report

a. Waiver Report – Ms. Ladd noted the Waiver Report was included in the Board’s packet.

The Board asked Staff to offer more frequent board training sessions that follow BZA meetings.

The Board briefly discussed making motions that cover multiple issues. The Board was in general agreement to break up parts of a complex issue into compound matters. The suggestion was made to discuss each member’s viewpoint on each issue prior to making a motion. This would allow for easier transcription and to lessen the likelihood of multiple amended motions.

13. Adjournment

Mr. Johnson moved to adjourn. Vice Chairman Cutrer seconded. The meeting was adjourned at 3:47 p.m.

Submitted by: Teresa Haley, Secretary

Approved: August 27, 2018

David Fingerhut, Chairman