



Town of Hilton Head Island
Board of Zoning Appeals
Monday, June 24, 2019 at 2:30 p.m.
Benjamin M. Racusin Council Chambers

MEETING MINUTES

Present from the Board: Chairman David Fingerhut, Vice Chairman Jerry Cutrer, Patsy Brison, John White, Lisa Laudermilch

Absent from the Board: Robert Johnson (excused), Charles Walczak (excused)

Present from Town Council: Glenn Stanford

Present from Town Staff: Nicole Dixon, Development Review Administrator; Josh Gruber, Assistant Town Manager; Taylor Ladd, Senior Planner; Teri Lewis, Deputy Director of Community Development; Missy Luick, Senior Planner; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chairman Fingerhut called the meeting to order at 2:30 p.m.

2. Pledge of Allegiance

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

4. Presentation of the Town's Crystal Award to outgoing Chairman David Fingerhut – Josh Gruber, Assistant Town Manager, presented the award. Mr. Gruber expressed appreciation to Mr. Fingerhut for his service to the community on behalf of the Town. Chester Williams also expressed his appreciation to Mr. Fingerhut for his service.

5. Roll Call – See as noted above.

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. Brison moved to approve. Mr. White seconded. The motion passed with a vote of 5-0-0.

8. Approval of Minutes – Meeting of March 25, 2019

Chairman Fingerhut asked for a motion to approve the minutes of the March 25, 2019 meeting. Vice Chairman Cutrer moved to approve. Ms. Brison seconded. The motion passed with a vote of 5-0-0.

9. Unfinished Business – None

10. New Business

- a. **APL-000770-2019** – Request for Appeal from William Peratta with Greenberg Farrow, on behalf of McDonald’s. The appellant is appealing staff’s determination, dated March 14, 2019, that the proposed digital menu boards for the property located at 2 Plaza Drive are not permitted per the sign standards in the LMO.

The appellant presented his case as described in the Board’s agenda packet. Staff presented their findings as presented in the determination letter dated March 14, 2019.

Chairman Fingerhut asked the Board for discussion. The Board made comments and inquiries regarding: size and location of the existing sign and the proposed new sign; the proposed sloped roof on the new sign; how the existing sign is changed and how often; how the proposed sign would be changed and how often; the format and material of the existing sign and the proposed new sign; the kiosk was proposed upon review of the Town’s Design Guide; interpretation of a periodic change, and animated and moving effects; lighting and sign illumination; the McDonald’s location at the south end of the Island does not currently incorporate digital signs; the purpose of the proposed sign and kiosk; definitions of a digital sign and changeable copy; LED signage is permitted if certain requirements are met; manual change versus digital change of menu boards; the LMO does not list digital signs under prohibited signs; not all digital signs have animation or moving effects; there is a moving effect of the menu board changing twice per day; digital signage in the LMO should be addressed; and placing a condition on the sign permit that the proposed menu board would never contain animated or moving effects.

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

Vice Chairman Cutrer moved that the Board of Zoning Appeals reverse the determination of the LMO Official pursuant to LMO Section 16-2-103.T.5.3 based on the following:

Finding of Fact: The periodic changing of the menu items and prices on digital menu boards is not an animated or moving effect.

Conclusion of Law: LMO Section 16-5-114.I.2, Prohibited Signs, does not apply to the proposed signage because the proposed digital menu boards will not contain animated or moving effects.

Additionally, a condition shall be placed on the sign permit stating that the proposed digital menu boards will never contain animated or moving effects.

Ms. Brison seconded. The motion passed with a vote of 5-0-0.

b. Public Hearing

VAR-1162-2019 – Robert Brick, on behalf of James Douglas Lamm, is requesting a variance from LMO Section 16-6-102.D, Wetland Buffer Standards, to construct a home and driveway within the 5 foot setback from the 20 foot wetland buffer. The property is located at 26 Oak Marsh Drive and is identified as Parcel# 307 on Beaufort County Tax Map# 10.

Ms. Dixon presented the application as described in the Staff Report. Staff recommends the Board of Zoning Appeals approve the application, based on the Findings of Fact and Conclusions of Law contained in the Staff Report, with the following conditions:

1. The deck in the rear is reduced in size to eliminate any encroachments into the 20 foot wetland buffer and the 5 foot building code setback from the property line.

2. Sediment and erosion control fencing be installed in a way that leaves room for the home to be constructed with as little disturbance and impact to the wetland buffer as possible. The fencing shall be inspected by staff prior to construction. Upon project completion, the areas of the buffer that were disturbed shall be re-planted to create a fully vegetated and functioning wetland buffer.
3. The areas of the wetland buffer that are currently void of vegetation be planted with wetland vegetation upon project completion. The applicant shall submit a landscaping plan for review and approval by the Town's Environmental Planner within 2 weeks of variance approval.
4. Staff shall inspect the property prior to a final Certificate of Occupancy is passed on the building permit to check for compliance with the landscaping plan and buffer impact mitigation.

The Board made comments and inquiries to Staff regarding: the property lines; parking area; ownership of the property; staff condition 1 only applies to the deck; the remaining area that would encroach into the 5 foot setback, if the deck size is reduced; square footage of the home would be just over 1,500 square feet.

Chairman Fingerhut asked if the applicant would like to make a presentation. The applicant presented statements regarding his grounds for the variance.

Chairman Fingerhut opened the hearing from public comments and none were received.

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

Ms. Laudermilch moved to approve the application, based on the Findings of Fact and Conclusions of Law, together with the four conditions, contained in the Staff Report. Mr. White seconded. The motion passed with a vote of 4-1-0. (Roll: Fingerhut, Cutrer, White, Laudermilch – for the motion; Brison – against the motion.)

c. Election of Officers for the July 1, 2019 – June 30, 2020 Term

Ms. Brison made a motion to elect Jerry Cutrer to serve as Chairman for the new term. Mr. White seconded. There were no additional nominations for the office of Chairman. The motion to elect Jerry Cutrer as Chairman passed unanimously.

Mr. Cutrer made a motion to elect Patsy Brison to serve as Vice Chairman for the new term. Ms. Laudermilch seconded. There were no additional nominations for the office of Vice Chairman. The motion to elect Patsy Brison as Vice Chairman passed unanimously.

Mr. Cutrer made a motion to appoint Teresa Haley to serve as Secretary for the new term. The motion passed unanimously.

11. Board Business

a. Review and adoption of revised amendments to the Rules of Procedure

Staff presented the changes made to the rules based on the feedback given at the last meeting. The Board and public made comments on those changes. The Board asked staff to make additional changes. Staff will incorporate the requested changes for the Board's review at a future meeting.

12. Staff Report

- a. Waiver Report – The Waiver Report was included in the Board’s packet.

Ms. Dixon provided an update on the July meetings. There will be a special BZA meeting on July 15 at 2:30 p.m. to hear two appeals. Staff will contact the board members to confirm their availability for the regular meeting on July 22 at 2:30 p.m. to hold a public hearing for one variance application.

The Board briefly discussed cancellation of the regular August meeting due to lack of available members.

Vice Chairman Cutrer moved that the regular BZA meeting on August 26 be cancelled. Mr. White seconded. The motion passed with a vote of 5-0-0.

Ms. Dixon introduced the Town’s new Senior Planner and BZA Coordinator, Missy Luick.

13. Adjournment

The meeting was adjourned at 4:38 p.m.

Submitted by: Teresa Haley, Secretary

Approved: July 15, 2019