



Town of Hilton Head Island
Board of Zoning Appeals
Monday, July 22, 2019 at 2:30 p.m.
Benjamin M. Racusin Council Chambers

MEETING MINUTES

Present from the Board: Chairman Jerry Cutrer, Vice Chair Patsy Brison, Robert Johnson, Anna Ponder, Charles Walczak

Absent from the Board: Lisa Laudermilch (excused), John White (excused)

Present from Town Council: Tamara Becker

Present from Town Staff: Nicole Dixon, Development Review Administrator; Josh Gruber, Assistant Town Manager; Missy Luick, Senior Planner; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chairman Cutrer 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. Roll Call – See as noted above.

5. Welcome and Introduction to Board Procedures

Chairman Cutrer welcomed the public and introduced the Board's procedures for conducting the business meeting.

6. Approval of Agenda

Chairman Cutrer asked for a motion to approve the agenda. Mr. Walczak moved to approve. Vice Chair Brison seconded. The motion passed with a vote of 4-0-0.

7. Approval of Minutes – None

8. Unfinished Business – None

9. New Business

a. Public Hearing

VAR-001373-2019 – Request from Greg Goldberg with Spanish Wells Club for a variance from LMO Sections 16-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113, Fence and Wall Standards to construct a tennis court and 9' high fence within the adjacent street setback and buffer. The property address is 1 Brams Point Rd with a parcel number of R510 010 000 046F 0000.

Ms. Luick 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.

The Board made comments and inquiries regarding: a small portion of an existing tennis court encroaches into the adjacent street setback of Spanish Wells Road; when the existing four tennis courts were constructed; whether a setback buffer is applicable; the applicable buffer types; the Town process for monitoring the buffer requirement; the required buffer is Type B Option 2 and would fit within the setback and the road; and if the variance is approved, the applicant would be held to their site plan submittal.

Chairman Cutrer asked if the applicant would like to make a presentation. The applicant's legal representative presented statements regarding the grounds for the variance and answered the Board's questions.

The Board made additional comments and inquiries regarding: the width of the new tennis court would be 70 feet; the street right of way; State maintenance sign and its significance; the classification of roads defined in the LMO; Spanish Wells Road is a minor arterial and Brams Point Road is considered other streets; the survey line of demarcation of the two roads; the new tennis court would encroach approximately 17 feet 4 inches into the adjacent street setback; the 15 foot buffer would fit into the remaining feet of the adjacent street setback; the setback measurement begins at the edge of the property line; the existing chain link fence; the landscape plan including the buffer type would be required in the DPR process; the existing tennis courts have a 9 foot high fence; granting the variance would benefit the public and not impose a material detriment.

Chairman Cutrer opened the hearing for public comments and none were received.

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

Dr. Ponder moved that the Board of Zoning Appeals approve the application based on those Findings of Facts and Conclusions of Law contained in the Staff Report with the following conditions and additional Findings of Fact and Conclusions of Law:

Conditions of Approval:

1. Encroachment into the LMO-required 40 foot adjacent street setback along Spanish Wells Road (a Minor Arterial Road) must maintain a 17 foot setback from Spanish Wells Road.
2. The buffer established within the setback along Spanish Wells Road must meet the requirements of a Type B, Option 2 Buffer described in Section 16-5-103.F.

Additional Findings of Fact:

- Applicant has testified that the tennis court and related screening can be built while maintaining a 17 foot setback from Spanish Wells Road.
- LMO Section 16-5-103.D requires Type B Buffers along Minor Arterial Roads such as Spanish Wells Road.
- LMO Section 16-5-103.F allows two Type B Buffers; Option 1 with a width of 25 feet and Option 2 with a width of 15 feet.
- Only a Type B, Option 2 Buffer will fit within a 17 foot setback from Spanish Wells Road.

Additional Conclusion of Law:

- A Type B, Option 2 Buffer will meet the requirements of the LMO given a 17 foot setback from Spanish Wells Road.

The Chairman passed the gavel to the Vice Chair for purposes of seconding the motion. Chairman Cutrer seconded the motion. The gavel passed back to the Chairman. The motion passed with a vote of 4-0-0.

(Mr. Johnson arrived at the meeting after the discussion of the variance began and did not participate in the discussion or vote. Mr. Johnson took the dais at this time.)

10. Board Business

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

Vice Chair Brison moved to approve the revised amendments to the Rules of Procedure. Mr. Johnson seconded. The motion passed with a vote of 5-0-0.

11. Staff Report

- a. Update on Board Training Schedule

Ms. Luick presented the update on the board training schedule. Staff proposed conducting a board training session following the BZA meetings in September, October, and November, pending the length of the agendas. The Board asked staff to instead look into doing the training prior to each meeting. The Board also asked staff to provide information pertaining to recent case law involving BZA decisions.

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

12. Adjournment

The meeting was adjourned at 3:45 p.m.

Submitted by: Teresa Haley, Secretary

Approved: October 28, 2019