



Town of Hilton Head Island  
**Board of Zoning Appeals**  
January 27, 2020 at 2:30 p.m. Regular Meeting  
Benjamin M. Racusin Council Chambers

## **MEETING MINUTES**

**Present from the Board:** Chairman Jerry Cutrer, Vice Chair Patsy Brison, Robert Johnson, Lisa Laudermilch, Anna Ponder, Charles Walczak, John White

**Absent from the Board:** None

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

**Present from Town Staff:** Nicole Dixon, Development Review Administrator; Teri Lewis, Deputy Director of Community Development; Missy Luick, Senior Planner; Tyler Newman, Senior Planner; Stephen Ryan, Staff Attorney; Teresa Haley, Senior Administrative Assistant

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**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. Chairman Cutrer welcomed Stephen Ryan, the new Staff Attorney for the Town.

**6. Approval of Agenda**

Chairman Cutrer asked for a motion to approve the agenda. Vice Chair Brison moved to approve. Mr. White seconded. The motion passed with a vote of 6-0-0.

**7. Approval of Minutes** – Meeting of October 28, 2019

Chairman Cutrer asked for a motion to approve the minutes of the October 28, 2019 regular meeting as written. Vice Chair Brison moved to approve. Ms. Laudermilch seconded. The motion passed with a vote of 6-0-0.

**8. Unfinished Business** – None

**9. New Business**

**a. Public Hearing**

**VAR-002648-2019** – Request from Jason Bullock 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 3 Pensacola Place and has a parcel number of R552 015 00C 0094 0000.

Ms. Luick presented the application as described in the Staff Report. During the public notice period of the application, Staff received one e-mail and one telephone call in opposition to the variance. 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 condition:

1. The applicant obtains minor development plan review and minor corridor review approvals which shall include a landscaping plan to plant areas of the buffer adjacent to Shipyard golf course that are currently void of vegetation.

The Board made comments and inquiries regarding: bicycle shops are allowed in the LC District, but a use-specific condition prohibits outdoor storage of bicycles; why outside storage of bicycles is specifically prohibited in the LC District; the difference between this as a use or a use-specific condition.

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

The Board made additional comments and inquiries regarding: the fence location and the items that will be stored within it; fencing will shield the front and sides of the storage area and vegetation will shield the view adjacent to Shipyard golf course; the applicant is currently under contract to buy 4 Pensacola Place; the vegetation between the property line of 3 Pensacola and the dentist office property; the storage area will not have a cover on top; the current operations of the business; this location is an office and storage area for the bicycles; bicycles are delivered to customers and subsequently picked up.

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

The Board continued deliberations about why the LMO does not allow outside bicycle storage in the LC District. The Board expressed that the request seems reasonable with the conditions to screen the storage area with fencing and landscaping subject to the Town's approval.

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

Ms. Laudermilch moved that 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 condition:

1. The applicant obtains minor development plan review and minor corridor review approvals which shall include a landscaping plan to plant areas of the buffer adjacent to Shipyard golf course that are currently void of vegetation.

Dr. Ponder seconded. The motion passed with a vote of 6-0-0.

*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.*

- b. **APL-002639-2019** – Request for Appeal from Mike Palmieri with Side Hustle Beer Company LLC. The appellant is appealing staff’s determination, dated December 16, 2019, that a Nano Brewery is classified as a manufacturing use and therefore is not permitted at 144 Arrow Road, in the Sea Pines Circle (SPC) zoning district.

Chairman Cuter noted the appellant is the lessor of the subject property and therefore, asked if the owner of property would like to approach and speak on the appeal. The property owner was not in attendance. Chairman Cutrer asked the appellant to proceed with his presentation. The appellant presented his case as described in the Board’s agenda package.

Chairman Cutrer asked the Board for discussion. The Board made comments and inquiries regarding: the appellant would be engaged in brewing one day per week and selling for five days per week; the State license limits the volume and distribution of the brew; the shelf life of the product is approximately 60 to 90 days and varies by beer type; a double batch brewing day would produce about 6 barrels or 180 gallons of beer; a brewery is restricted by State license on the amount of brewing and consumption allowed per day; minimal vehicular traffic is anticipated as the business plans to function as a “drop-in” and “to-go” facility; packaging of the brew for selling purposes is minimal and does not require equipment.

Ms. Dixon presented Staff’s findings as described in the Board’s agenda package. The Board made comments and inquiries regarding: the LMO interpretation that an undefined use should be permitted; historically the Town has considered breweries as a manufacturing use; manufacturing use is not allowed in the SPC zoning district; consideration of the use classification of commercial services; consideration of this use as a nightclub or bar; convenient stores, grocery stores, liquor stores, nightclubs or bars, all sell beer and are allowed in the SPC zoning district; the LMO does not define Nano Brewery; based on evidence presented the primary use of the business is sales.

Chairman Cutrer asked for rebuttals of the appellant and Staff. Following the appellant’s rebuttal, the Board continued their deliberations. The Board presented comments in support of the reversal of Staff’s interpretation. The Board agreed that Staff’s determination was not accurate to classify the Nano Brewery as a manufacturing use. The Board agreed this use is similar to other uses allowed in the SPC zoning district, most closely resembles a bar and the definitions of industrial use and commercial services, is not primarily engaged in manufacturing, but sales, and therefore, the Board determined the use should be allowed.

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

Vice Chair Brison moved that the Board of Zoning Appeals reverse the decision/interpretation because Staff made an error in determining whether a requirement of the Land Management Ordinance (LMO) was met. There was an error in judgment based on facts, plans, and regulations misread in determining the particular requirement was or was not met.

Findings of Facts:

- The uses allowed in the Sea Pines Circle (SPC) zoning district include, but are not limited to grocery stores which sell beer, liquor stores, nightclubs or bars, convenience stores which sell beer.

- The definition of Commercial Services found in LMO Section 16-10-105.G is applicable.
- The definition of Industrial Uses found in LMO Section 16-10-103.I.1 is applicable.
- The interpretation provisions of LMO Section 16-4-102.A.5.b are applicable.
- There is not a definition for a Nano brewery in the LMO.
- Based on evidence presented at the hearing, the proposed Nano brewery would brew one day and would have sales of the brew five days. Sales is the primary use of the occupancy.

Conclusion of Law:

- Although Nano breweries are not specifically listed within the LMO, they are most like a bar, as defined within Commercial Services LMO Section 16-10-105.G, and so the use should be allowed.

Mr. White seconded. The motion passed with a vote of 7-0-0.

Following the vote on the appeal, the Board pointed out that as a result of their decisions on the variance and appeal cases today, there are discrepancies in the LMO related to outdoor bicycle storage in the Light Commercial (LC) District and Nano Breweries.

Mr. Walczak moved to authorize the Chairman to draft a letter to Town Council and Planning Commission to consider an LMO amendment to allow outdoor bicycle storage in the Light Commercial (LC) District. Mr. White seconded. The motion passed with a vote of 7-0-0.

Vice Chair Brison moved to authorize the Chairman to draft a letter to Town Council and Planning Commission to consider amending the LMO to address Nano Breweries and Microbreweries. Mr. White seconded. The motion passed with a vote of 7-0-0.

## 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. Walczak seconded. The motion passed with a vote of 7-0-0.

## 11. Staff Report

- a. Waiver Report – The report was included in the Board’s agenda package. Vice Chair Brison requested the Board review the last few years of waivers granted by Staff. Staff will provide that information for a future meeting.

The Board’s regular meeting on February 24 will be cancelled due to a lack of agenda items.

## 12. Adjournment

The meeting was adjourned at 4:47 p.m.

**Submitted by:** Teresa Haley, Secretary

**Approved:** July 29, 2020