



Town of Hilton Head Island
Board of Zoning Appeals Meeting

July 26, 2021 at 2:30 p.m.

Benjamin M. Racusin Council Chambers

MEETING MINUTES

Present from the Board: Chair Patsy Brison, Lisa Laudermilch, Charles Walczak, David Fingerhut, Peter Kristian

Absent from the Board: Vice Chair Anna Ponder (excused), Robert Johnson (excused)

Present from Town Council: Tamara Becker

Present from Town Staff: Missy Luick, Senior Planner; Tyler Newman, Senior Planner; Diane Busch, Staff Attorney; Nicole Dixon, Development Review Administrator; Teresa Haley, Senior Administrative Assistant

1. Call to Order

Chair Brison called the meeting to order at 2:32 p.m.

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. Roll Call – See as noted above.

4. Swearing in Ceremony of Reappointed and New Board Members

Diane Busch administered the oath of office to Chair Brison, Mr. Fingerhut and Mr. Kristian.

5. Welcome and Introduction to Board Procedures

Chair Brison welcomed all in attendance and introduced the Board's procedures for conducting the meeting.

6. Approval of Agenda

Chair Brison asked for a motion to approve the agenda as presented. Mr. Kristian moved to approve. Ms. Laudermilch seconded. By way of roll call, the motion passed with a vote of 5-0-0.

7. Approval of Minutes

a. June 28, 2021 Meeting

Chair Brison asked for a motion to approve the minutes of the June 28, 2021 meeting as presented. Mr. Fingerhut moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 4-0-1. (Mr. Kristian abstained as he was not present at the subject meeting.)

8. Appearance by Citizens - None

9. Unfinished Business – None

10. New Business

a. Public Hearing

VAR-001218-2021 – Request from Jeffrey Loch, of Seagrass Construction, LLC, on behalf of Steven A. Weston for a variance from LMO Sections 16-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-6-104.F, Specimen and Significant Tree Preservation to allow a proposed development of 3 homes and associated driveway to exceed allowable specimen tree impacts and be located within the adjacent use setback and buffer. The property address is 202 Mitchelville Road with a parcel number of R510 005 000 001B 0000. **WITHDRAWN**

Chair Brison referenced VAR-001218-2021 stating it had been withdrawn by the applicant.

b. Public Hearing

VAR-001411-2021 – Request from Brian Rose, of Rose Landscape LLC, on behalf of Monica Duvall, for a variance from LMO Sections 16-5-113, Fence and Wall Standards, 16-5-102 Setback Standards and 16-5-103 Buffer Standards to allow a proposed fence to exceed the maximum fence height of 7 feet on or along a common property line. The property address is 14 Ibis Street with a parcel number of R550 015 00A 0301 0000. **POSTPONED**

Chair Brison referenced VAR-001411-2021 stating it was postponed for one month due to a problem with meeting public notice requirements.

c. Public Hearing

VAR-001375-2021 – Request from Joseph Perota for a variance from LMO Section 16-5-102, Setback Standards to allow an existing HVAC unit to remain in the adjacent use setback. The property address is 13 Mangrove Street with a parcel number of R510 004 000 0382 0000. *Presented by Tyler Newman*

Chair Brison opened the Public Hearing.

Mr. Newman presented the application as described in the Staff Report. Staff concluded the variance request does not meet any of the four required criteria and recommended denial of the application.

The Board made comments and inquiries regarding: the time of the alteration; permitted uses of the property in question; permitted locations of HVAC units; clarification of the five foot setbacks and uses; clarification of definition of balcony and uses for such; confirmation on size of the lot and building footprint; concern for safety issues for emergency access; and confirmation the home is built up to the setback.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation. Mr. Perota stated that he was not aware of the setback or that a permit was required to move the HVAC unit and did not complete the work in an act of defiance. He also noted there are two other areas for emergency access. Mr. Perota said he is in disagreement with the staff conclusions because over 50 percent of the lots in the subdivision are larger than his and he only has 9 inches of property to deal with before he encroaches the setback. He stated the original location of the HVAC was located on an outdoor living space. He added that with the small lots in the vicinity, the setback line eliminates the area around the home for any use. He stated in order to comply with the LMO, it forces the HVAC unit onto his outdoor living space which is unusual on Hilton Head Island. Mr. Perota proceeded to go through each additional criteria pointing out how he felt

his request meets each one. He concluded that the granting of the variance would not be a detriment to any individual or any entity, public or private. Mr. Perota noted the two neighbors that would be affected have written letters of support for the relocation of the unit. He added that the noise nuisance mentioned does not affect his neighbor and the relocation actually moved it further from the neighbor's outdoor living space and bedroom window. Mr. Perota stated he would camouflage or cover the unit, if required.

The Board made comments and inquiries to Mr. Perota regarding: spacing required around an HVAC unit; and emergency access concerns.

Chair Brison asked for public comment. Frank Hernandez and Charles Flowers, spoke in support of the variance. Chair Brison closed the Public Hearing at 3:32 p.m.

The Board made final comments and inquiries regarding: size of lots; the lack of room for additional amenities; the need to follow the law of the LMO; and conveyed empathy for building on the small lots within various communities.

Upon the conclusion of the discussion, Chair Brison asked for a motion.

Mr. Fingerhut moved that the Board of Zoning Appeals deny the application based on those Findings of Facts and Conclusions of Law contained in the Staff Report. Mr. Walczak seconded. By way of roll call, the motion passed by a vote of 4-1-0. (Roll: Walczak, Laudermilch, Fingerhut, Brison – for the motion; Kristian – against the motion.)

11. Board Business – None

12. Staff Reports

- a. Status of Appeals to Circuit Court – Diane Busch updated the Board on various appeals to the Circuit Court.
- b. Status of Amendments to BZA Rules of Procedure – Missy Luick reported staff continues to review and work on the amendments and hope to have something for the Board to review at the next meeting.
- c. Status of LMO Amendments – Nicole Dixon updated the Board on various proposed amendments noting they were presented to the Public Planning Committee for input and would be moving forward in the process.
- d. Waiver Report – The Waiver Report was included in the Board's agenda package.

13. Adjournment

The meeting was adjourned at 3:58 p.m.

Submitted by: Vicki Pfannenschmidt, Secretary

Approved: September 27, 2021