



Town of Hilton Head Island

Board of Zoning Appeals Meeting

January 24, 2022, at 2:30 p.m. Virtual Meeting

MEETING MINUTES

Present from the Board: Chair Patsy Brison, Vice Chair Anna Ponder, Lisa Laudermilch, Charles Walczak, David Fingerhut, Peter Kristian, Robert Johnson

Absent from the Board: None

Present from Town Council: Glenn Stanford, Tom Lennox

Present from Town Staff: Chris Yates, Interim Community Development Director; Nicole Dixon, Development Review Administrator; Teri Lewis, Deputy Community Development Director; Shari Mendrick, Floodplain Administrator; Teresa Haley, Senior Administrative Assistant

Others Present: Curtis Coltrane, Town Attorney

1. Call to Order

Chair Brison called the meeting to order at 2:30 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. Welcome and Introduction to Board Procedures

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

5. 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 7-0-0.

6. Approval of Minutes

a. September 27, 2021, Meeting

Chair Brison asked for a motion to approve the minutes of the September 27, 2021, meeting as presented. Mr. Kristian moved to approve. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 7-0-0.

b. November 22, 2021, Meeting

Chair Brison asked for a motion to approve the minutes of the November 22, 2021, meeting as presented. Mr. Fingerhut moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 7-0-0.

7. Appearance by Citizens

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall HHI portal. Those comments have been distributed to the Board and made part of the official record for this meeting. Citizens were provided the option to sign up for public comment participation during the meeting by phone. Mr. Barry Johnson requested to speak regarding items 9.a. and 9.b. and he will participate at that time.

8. Unfinished Business – None

9. New Business

a. Public Hearing

VAR-002417-2021 – Request from Chester C. Williams, ESQ on behalf of Beachwalk Hilton Head, LLC for a variance from LMO Section 16-4-102.B.5.b., Use Specific Conditions, to allow an Outdoor Commercial Recreation Use Other Than a Water Park to not have the required direct vehicular access to a minor arterial street. The address subject to this request is 40 Waterside Drive with a parcel number of R552 018 000 202D 0000. *Presented by Nicole Dixon*

Chair Brison opened the Public Hearing.

Ms. Dixon presented the application as described in the Staff Report. She stated 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. She explained the variance criteria in detail.

The Board made comments and inquiries regarding: owner neglect and condition of the building; the reflection in the staff report that the condition of the building contributed to meeting the criteria; definition and differences of a major and minor arterial road; confirmation that Waterside Drive is a private road; clarification of other properties serviced by Waterside Drive; discussion regarding the need for an encroachment permit for use of Waterside Drive; explanations regarding the parking calculations needed; concern and questions regarding the need of a formal report regarding traffic trip calculations and clarification that all findings of fact contribute to meeting criteria.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation.

Mr. Chet Williams noted the applicant holds a right of way easement for Waterside Drive. He pointed out that there is a detailed traffic trip generation report in the applicant narrative within the packet. Mr. Williams stated he would be happy to answer any question from the Board.

The Board made comments and inquiries regarding: the lack of direct testimony or formal documents regarding the traffic impact if the application is approved; concerns expressed that the owners of the property caused the dilapidated, unsafe conditions; an explanation that the current owner needed to acquire all units in order to improve the property; confirmation that the miniature golf course is a short-term to mid-term plan for the property and that the long-term plan is unknown at this time; confirmation that no other uses are planned for the property at this time; confirmation that the access easement is tied to the property and discussion regarding the width of the easement.

Chair Brison asked for public comment. Attorney Barry Johnson spoke on behalf of his clients, Waterside by Spinnaker, LP; Waterside by Spinnaker Owners Association, Inc.; and SDC Properties, Inc., stating they are owners of the property immediately adjacent to the proposed miniature golf course. He said he commented through the public comment portal and all Board members had copies of those comments. Mr. Johnson explained concern on behalf of his clients and requested that his clients be consulted, and their concurrence be obtained regarding their concerns.

Chair Brison incorporated all the evidence, including the staff report, application, documents, and testimony provided during the hearing into the record. Chair Brison closed the public hearing at 3:33 p.m.

The Board made final comments and inquiries regarding: questioning the need for the condition of the property being critical to meeting criteria; confirmation the issues regarding the neighboring properties will be dealt with during the development plan; concern over short-term and long-term issues; discussion of the permitted uses under zoning of property can be done at a future date; affirmation that unnecessary hardship can be found without using the side effects of neglect; suggestions of a condition that the structure to be built is strictly ancillary to miniature golf course use; concern over setting a precedent by using the neglect of property as a criteria; the need to look at the whole of the situation; the quality of evidence in regard to the traffic count; the lack of testimony by traffic engineer or traffic counts; and the lack of a site plan.

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

Mr. Fingerhut 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 one change: that in items 1, 2, and 3, all reference to the dilapidated or otherwise poor condition to the property be removed. In addition, that there be a condition placed on the variance, that the use of the multi-purpose structure is to be limited to those that are customarily ancillary to a miniature golf course. Mr. Kristian seconded. By way of roll call, the motion passed by a vote of 6-1-0 (Chair Brison against).

b. Public Hearing

SER-002416-2021 – Request from Chester C. Williams, ESQ on behalf of Beachwalk Hilton Head, LLC for a special exception to allow an Outdoor Commercial Recreation Use Other Than a Water Park, specifically a miniature golf course, on property zoned Resort Development (RD). The address subject to this request is 40 Waterside Drive with a parcel number of R552 018 000 202D 0000. *Presented by Nicole Dixon*

Chair Brison opened the Public Hearing.

Ms. Dixon presented the application as described in the Staff Report. She stated 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. She explained the variance criteria in detail.

The Board made comments and inquiries regarding: clarification in referencing the *Comprehensive Plan* and *Our Plan* and how provisions are satisfied; acknowledgment that staff will not allow removal of trees within buffers and if any trees are proposed to be removed within the site, mitigation will need to be done; confirmation that trees and buffers will be protected in advance of development; discussion on how creation of a miniature golf course qualifies as

redevelopment; discussion that a miniature golf course does not satisfy workforce housing; and clarification that the Town cannot require site owners to redevelop their properties for workforce housing.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation.

Chet Williams stated he agreed with staff recommendations and was available to answer questions from the Board.

The Board made comments and inquiries regarding the Town Workforce Housing program and if the property in question qualifies for such.

Chair Brison asked for public comment. Attorney Barry Johnson spoke on behalf of his clients Waterside by Spinnaker, LP; Waterside by Spinnaker Owners Association, Inc.; and SDC Properties, Inc., stating they are owners of the property immediately adjacent to the proposed miniature golf course. He reiterated his comments regarding VAR-002417-2021 for this item.

Chair Brison incorporated all the evidence, including the staff report, application, documents, and testimony provided during the hearing into the record. Chair Brison closed the public hearing at 4:35 p.m.

The Board made final comments and inquiries regarding confirmation that the area in question does not qualify for the density bonus provided through the Town Workforce Housing Program.

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

Mr. Kristian 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. Mr. Fingerhut seconded. By way of roll call, the motion passed by a vote of 6-1-0 (Chair Brison against).

c. Public Hearing

VAR-002732-2021 – Request from Nathan Sturre of Cranston Engineering Group, P.C, on behalf of Beaufort County for a variance from LMO Section 16-5-107.D.10, Use of Parking Spaces as Electric Vehicle (EV) Charging Station, for relief of the Electric Vehicle charging station requirement which is required for all multifamily and nonresidential development. The property is known as Fords Shell Ring and is located at 273 Squire Pope Road and has a parcel number of R511 003 000 0222 0000. **POSTPONED**

Chair Brison noted the above referenced variance has been postponed to February pursuant to the authority of the Chair, as found in Article 11, Section 4 of the Rules of Procedure.

d. Public Hearing

VAR-002850-2021 – Request from Travis Pence with The Wilson Group on behalf of Beaufort County and the Hilton Head Island Airport for a variance from LMO Section 16-3-105.E. Maximum Building Height in the Light Industrial zoning district to allow proposed renovations to the Airport terminal building to exceed the maximum height of 35 feet. The subject property is located at 120 Beach City Road and the parcel number of the property associated with this variance request is R510 008 000 0085 0000. *Presented by Nicole Dixon*

Chair Brison opened the Public Hearing.

Ms. Dixon presented the application as described in the Staff Report. She stated 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. She explained the variance criteria in detail.

The Board made comments and inquiries regarding: the height, elevations, and size of the Airport expansions.

Following the Staff presentation and questions by the Board, Chair Brison asked the applicant to make a presentation.

Mr. Travis Pence clarified the parts of the expansion that will be above the height requirements. He explained why they were keeping existing building heights in certain areas noting the need to make sure the expansion complemented the existing building. He stated the only way to achieve that is to maintain roof heights.

The Board made comments and inquiries regarding: projected start dates on the expansions; consideration of future expansions; the number of airlines serviced; and an explanation of the square footage increase in the height of the building.

Chair Brison asked for public comment. There were no requests from the public to give comments by phone on this item.

Chair Brison incorporated all the evidence, including the staff report, application, documents, and testimony provided during the hearing into the record. Chair Brison closed the public hearing at 5:10 p.m.

All Board members commented in support of the application. Upon the conclusion of discussion, Chair Brison asked for a motion.

Mr. Walczak 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. Ms. Laudermilch seconded. By way of roll call, the motion passed by a vote of 7-0-0.

e. Public Hearing

VAR-002853-2021 – Request from John Nicholas Crago 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 13 Executive Park Road and has a parcel number of R552 015 000 0087 0000. **POSTPONED**

Chair Brison noted the above referenced variance has been postponed to February pursuant to the authority of the Chair, as found in Article 11, Section 4 of the Rules of Procedure.

10. Board Business - None

11. Staff Reports

a. Status of Appeals to Circuit Court

Mr. Curtis Coltrane stated there was nothing new on general matters. He informed the Board that five of the existing appeals, which are regarding the Sandcastles by the Sea neighborhood, are still pending but a negotiation has been ongoing with the Town and the owners. He noted

a proposal has been made to the owners and there has not been a response to date. Mr. Coltrane stated he has been in communication with the attorney representing the owners and they are hopeful the matter will be resolved.

b. Waiver Report

Chair Brison stated the report is included in the Board's agenda package. She asked Board members if they had any questions regarding the report. There were none.

Ms. Dixon stated staff was requested by the legal department to hold off on any changes to the Rules of Procedure as they are looking at revising all Rules of Procedures for all Boards, Committees and Commissions so they are consistent. Chair Brison stated she had been in communication with the Town Manager and the Board can proceed with the amendments the Board requested at the February 2021 meeting. Chair Brison asked Mr. Coltrane for his input. Mr. Coltrane stated he was sent proposed language from Ms. Luick and responded earlier this month. He stated his conversation was limited to substance and not timing. Chair Brison stated she is looking forward to the amendments being included on the February 28, 2022, meeting agenda.

12. Adjournment

The meeting was adjourned at 5:21 p.m.

Submitted by: Vicki Pfannenschmidt, Secretary

Approved: February 28, 2022