



Town of Hilton Head Island  
**Construction Board of Adjustments &  
Appeals Meeting**  
May 24, 2022, at 5:00 pm  
**MEETING MINUTES**

**Present from the Committee:** Chairman Jay Owen, Vice Chairman Neil Gordon, Will Okey, Frank Guidobono, Randy May, Joe Nix, Douglas Pine, Mark Ellis, Michael Lynes

**Absent from the Committee:** Ling Graves (excused), Robert Zinn (excused)

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

**Present from Town Staff:** Shari Mendrick, Floodplain Administrator; Josh Gruber, Deputy Town Manager; Krista Wiedmeyer, Town Clerk; Teresa Haley, Community Development Coordinator

**Others Present:** Curtis Coltrane, Town Attorney

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**1. Call to Order**

Chairman Owen called the meeting to order at 5:01 p.m.

**2. FOIA Compliance**

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

**3. Roll Call –** See as noted above.

**4. Approval of Agenda**

Chairman Owen asked for a motion to approve the agenda. Mr. Ellis moved to approve. Mr. Okey seconded. By show of hands, the motion passed by a vote of 6-0-0.

**5. Approval of Minutes –** Meeting of October 26, 2021

Chairman Owen asked for a motion to approve the minutes of the October 26, 2021 meeting. Vice Chairman Gordon moved to approve. Mr. Lynes seconded. By show of hands, the motion passed by a vote of 6-0-0.

**6. Appearance by Citizens on Items Unrelated to Today's Agenda –** None

**7. Unfinished Business –** None

**8. New Business**

- a. **APL-000618-2022** – An appeal of the Building Official's determination of the floodplain regulations as they pertain to 12 Park Road.

Chairman Owen asked Town staff to make a presentation. Ms. Shari Mendrick presented on behalf of staff. Ms. Mendrick presented staff's findings as described in the Staff Report contained in the Board's agenda package. Staff recommends the Construction Board of Adjustments & Appeals concur with the Building Official's determination that the illegal non-conforming structure located at 12 Park Road is an unpermitted structure that is being unlawfully used for habitation in violation of the Code.

Following staff's presentation, Chairman Owen asked the Board for comments and questions to staff and there were none. Chairman Owen then asked for the appellant to make a presentation.

Mr. Eric Sherrier, appellant, presented his case as described in the Board's agenda package. Mr. Sherrier stated the ordinance does not apply to his property. He expressed that to define dwelling as a habitable space and state there is no functional difference between the two structures is in contradiction to his findings. Mr. Sherrier further stated staff's interpretation of the ordinance contradicts South Carolina law on the definition of dwelling and residential property; contradicts and misstates the wording of 15-9-312 in that it does not refer to dwellings or habitable space but rather residential property; ignores the law of every state and federal jurisdiction regarding the requirements of legal interpretation of statutes and ordinances; contradicts all the definitions of both dwelling and residential property in the applicable building codes including the International Residential Building Code; conflicts with prior communications between Town officials.

Following the appellant's presentation, Chairman Owen asked the Board for comments and questions. The Board made comments and inquiries regarding: clarification as to when the structure in question was built; confirmation that at one point in time the structure was a shed with a roof on it; confirmation that on two occasions a stove was inside the structure and the Town instructed the appellant to remove it because it is not permitted and the appellant complied; confirmation that the electrical components for the stove are still there; there is a microwave inside the structure; the main house has a breaker panel and the structure in question has a separate panel; there is one electrical meter for the property; the appellant confirmed the stove was not inside the structure prior to Hurricane Matthew.

Chairman Owen asked for rebuttal of staff. Ms. Mendrick provided that the flood damage controls ordinance is part of the Municipal Code and it does apply to all lands within the Town. Prior to the updated flood maps adopted March 23, 2021, the ordinance pertained to all properties within the special flood hazard area and 12 Park Road has historically been in such area. The most recent ordinance states that this chapter shall apply to all areas of special flood hazard within the jurisdiction of the Town of Hilton Head Island as identified by the Federal Emergency Management Agency in its flood insurance study dated March 23, 2021. Historically, the flood damage controls ordinance has had regulations on accessory structures. The definition has changed however, accessory structure, as in the structure that is subordinate and incidental to and on the same lot as the principal structure may not be used for human habitation. The concern at hand is even though the structure may have existed in 1969, it was converted from a shed to a habitable structure without a permit. The concern about the dwelling unit is in the Town's Land Management Ordinance (LMO) which addresses density and the amount of dwelling units that are allowed on the lot per zoning district. The stove comes into play as part of the dwelling unit, but that is to establish density.

Chairman Owen asked if Mr. Curtis Coltrane had anything to add to staff's rebuttal. Mr. Coltrane indicated he was available to the Board for any questions and noted that neighbors adjacent to the subject property were available to provide testimony if the Board so chooses. Chairman Owen called on the neighbors, Mr. and Mrs. Urato to provide testimony. Mr. and Mrs. Urato have resided at 13 Park Road since approximately 1981. They testified to the changes to the subject property that they have witnessed over the years.

Chairman Owen then asked for rebuttal of the appellant. Mr. Sherrier restated that the ordinance does not apply and to read Exhibit I.

Chairman Owen asked the Board for final discussion. The Board made final comments and inquiries regarding: clarification on a dwelling unit as defined in the LMO and the applicability of the Flood Damage Controls Ordinance; agreement that the structure is intended to be a habitable space and therefore it is a dwelling unit; confirmation the flood ordinance applies to all lands within the Town regardless of flood zone; the structure would be subject to the flood ordinance and the lowest floor requirements for the change in use from a shed to a dwelling unit; the structures on the property are not broken out in the tax records, therefore, under the 50% rule, the Town would request a private appraisal for the value of the structure in question; clarification as to when the bathroom was installed; reiteration the intent for the structure is to be lived in rather than to be an out-building.

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

Mr. Okey made a motion to uphold the Building Official's determination that the Illegal Non-Conforming structure located at 12 Park Road is an unpermitted structure that is being unlawfully used for habitation in violation of the Code. Mr. Ellis seconded. By show of hands, the motion passed by a vote of 6-0-0.

**9. Staff Report – None**

**10. Adjournment**

Chairman Owen asked for motion to adjourn. Mr. Lynes moved to approve. Mr. Ellis seconded. The meeting adjourned at 6:00 p.m.

**Submitted by:** Teresa Haley, Secretary

**Approved:** September 27, 2022