



Town of Hilton Head Island

Board of Zoning Appeals Meeting

November 22, 2021, at 2:30 p.m. Virtual Meeting

MEETING MINUTES

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

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

Present from Town Council: David Ames, Tamara Becker

Present from Town Staff: Missy Luick, Senior Planner; Chris Yates, Interim Community Development Director; Diane Busch, Staff Attorney; Nicole Dixon, Development Review Administrator; Teri Lewis, Deputy Community Development Director; Teresa Haley, Senior Administrative Assistant

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 6-0-0.

6. Approval of Minutes

a. September 27, 2021 Meeting

Chair Brison expressed concern regarding discussion on two staff directives which were not listed in the draft minutes and asked for a motion to postpone approval until a revision is prepared and submitted at the next held meeting of the Board. Mr. Kristian moved to postpone approval for the reasons described by Chair Brison. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 6-0-0.

Chair Brison noted the meeting originally scheduled for December 13, 2021 has been cancelled due to a lack of agenda items.

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. There were no requests to participate by phone.

8. Unfinished Business – None

9. New Business

a. Public Hearing

VAR-002117-2021 – Request from Courtney Struna on behalf of the Palmetto Hall Property Owners Association 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 4 feet in an adjacent street setback and buffer. The parcel numbers of the properties associated with this variance request include R510 005 000 0278 0000, R510 004 000 0370 0000, and R510 004 000 0304 0000. *Presented by Missy Luick*

Chair Brison opened the Public Hearing.

Ms. Luick presented the application as described in the Staff Report. She stated that Staff recommends the Board of Zoning Appeals approve the application with the condition that the applicant obtains a Minor Corridor Review approval 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 that the replacement fencing will reduce the amount of the existing fencing encroachment on Beach City Road; clarification that this is a continuation of the original project under a 2015 Memorandum of Understanding agreement with the Town, County and Palmetto Hall POA; clarification that the new fencing will be an upgrade to the existing fencing; and confirmation that the existing fencing is six to seven feet in height and the proposed new fencing will be eight feet in height.

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

Ms. Struna introduced Melinda Tunner, President of Palmetto Hall Board of Directors who conducted a detailed presentation regarding the request. She explained the request is to continue to replace and upgrade portions of their current perimeter fencing to an eight-foot-high perimeter fence. She added the eight-foot-high fence would aid in safety measures for the community.

The Board made comments and inquiries to Ms. Tunner regarding: clarification that the proposed new fencing will not be closer to any public walkways; confirmation that the existing eight-foot fencing has not had any known breaches into the community; and inquiry as to the noise mitigation provided by the fencing.

Chair Brison asked for public comment. There were no requests or callers on the line.

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 3:29 p.m.

The Board made final comments and inquiries regarding: confirmation that the improvement will blend well and replace old, worn fencing; inquiry as to who determines color of fencing; comments regarding the unusual conditions regarding the property; support of the variance because it causes no hardship in the surrounding community; and due to existing fencing already encroaching areas, existing fencing exceeding the height requirement and other

evidence presented, it is easier to view this request in a more favorable manor as opposed to a new request for encroachment into setback and buffer areas.

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

Mr. Kristian moved that the Board of Zoning Appeals approve the application with the condition that the applicant obtains a Minor Corridor Review approval 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 6-0-0.

b. 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. **POSTPONED**

Chair Brison noted the above referenced variance has been postponed.

c. 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. **POSTPONED**

Chair Brison noted the above referenced variance has been postponed.

10. Board Business

a. Discussion of consideration of LMO Amendments related to lot sizes and setbacks

Ms. Dixon reported that staff has been advised to hold off on taking forward any general LMO amendments at this time until the Strategic Plan has been adopted by Town Council. She stated the Strategic Plan includes developing a growth management plan and it is anticipated that the LMO will need a full rewrite at that time. She requested that this item be removed from further agendas as an update until staff has been given the go ahead to move forward.

It was the consensus of the Board to remove the item from future agendas awaiting Town Council action regarding the Strategic Plan. Chair Brison stated that when staff has an update for the Board that the item be placed on a future agenda.

11. Staff Reports

a. Status of Appeals to Circuit Court

Ms. Busch stated that she was traveling unexpectedly and unable to provide an update at this time.

b. Status of Amendments to BZA Rules of Procedure

Chair Brison referenced the MASC Model Rules of Procedure for the Board of Zoning Appeals to provide language for consideration of an amendment to the current BZA Rules of Procedure. The current Rules “Motion for Reconsideration” in Article XI, Section 1 language is not definitive and noted the concern regarding the standard the Board would apply. She explained the Board wanted to change the rule to a “Motion for Rehearing” and referenced Section 9 on page D-4 of the Model Rules for suggested amendment language. She explained the Model Rules

language is more definitive and includes the requirement that new evidence which could not reasonably have been presented at the hearing or evidence of a clerical error or mutual mistake of fact affecting the outcome. She asked that this amendment be placed on the January agenda for consideration.

Related to amendments to the Rules, Chair Brison referenced Article VI, Section 1 of the Model Rules noting it is a simple process stating that rules may be amended at any regular meeting of the Board by a majority of the members at least seven days after the written amendments are delivered to all members. She stated the current rules have a very difficult process which takes several months. She requested staff place this amendment on the January agenda for consideration.

Chair Brison referenced the amendment regarding changing the reference of Chairman to Chair is not pressing at this time.

Chair Brison referenced Ms. Busch's recommendation of separating swearing-in of witnesses from public comments noting it could be reviewed if it can be completed for the January meeting.

Chair Brison requested to move forward with the rehearing and rules amendment changes in January. She asked for Board input on placing the amendments on the January agenda. There were no comments and it was the consensus of the Board the two items be placed on the January 2022 agenda.

c. Status of LMO Amendments

Please refer to Item 10.a. above.

d. Waiver Report

Missy Luick noted there were three waivers granted since the last meeting and the full report is included in the Board's agenda package. She stated she was available to answer any questions regarding the report. There were none.

12. Adjournment

The meeting was adjourned at 3:42 p.m.

Submitted by: Vicki Pfannenschmidt, Secretary

Approved: January 24, 2022