



Town of Hilton Head Island  
**Board of Zoning Appeals Meeting**  
**Monday, September 27, 2021 – 2:30 p.m.**  
**AGENDA**

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This meeting will be conducted virtually and can be viewed on the [Town of Hilton Head Island Public Meetings Facebook Page](#). A Facebook account is not required to access the meeting livestream.

**1. Call to Order**

**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**

**4. Welcome and Introduction to Board Procedures**

**5. Approval of Agenda**

**6. Approval of Minutes**

a. July 26, 2021 Meeting

**7. Appearance by Citizens**

Citizens who wish to address the Board concerning items on the agenda may do so by contacting the Board Secretary at 843-341-4691 no later than 1:30 p.m. the day of the meeting. Citizens may also submit written comments via the [Town's Open Town Hall Portal](#). The portal will close at 1:30 p.m. the day of the meeting. Comments submitted through the portal will be provided to the Board and made part of the official record.

**8. Unfinished Business – None**

**9. New Business**

**a. 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.  
*Presented by Missy Luick*

**b. Public Hearing**

**VAR-001987-2021** – Request from Eric Walsnovich, on behalf of Palmetto Coastal Landscaping LLC, for a variance from LMO Section 16-6-104.F., Specimen and Significant Tree Preservation Standards, to allow the removal of one 30” Water Oak Tree. The subject property is located at 161 Dillon Road with a parcel number of R510 005 000 0284 0000. **WITHDRAWN**

**10. Board Business**

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

b. Review and Adoption of 2022 Meeting Schedule

## **11. Staff Reports**

- a. Status of Appeals to Circuit Court
- b. Status of Amendments to BZA Rules of Procedure
- c. Status of LMO Amendments
- d. Waiver Report

## **12. Adjournment**

**Please note that a quorum of Town Council may result if four (4) or more of their members attend this meeting.**



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

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**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:** [DATE]



## TOWN OF HILTON HEAD ISLAND COMMUNITY DEVELOPMENT DEPARTMENT

One Town Center Court	Hilton Head Island, SC 29928	843-341-4757	FAX 843-842-8908
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### STAFF REPORT VARIANCE

Case #:	Public Hearing Date:
VAR-001411-2021	September 27, 2021

Parcel or Location Data:	Property Owner	Applicant
Address: 14 Ibis Street  Parcel#: R550 015 00A 0301 0000  Zoning: RS-5 (Residential Single-Family District-5)  Overlay: FB-NC-O (Forest Beach Neighborhood Character Overlay District)	Monica Duvall Hip Home Investment Forest Beach LLC 1975 Lebanon Road, Lebanon, TN 37807	Brian Rose Rose Landscape LLC 25 Palmetto Beach Drive Bluffton, SC 29910

**Application Summary:**

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.

**Staff Recommendation:**

Staff recommends the Board of Zoning Appeals find this application to be inconsistent with the Town’s Our Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official and enclosed herein. Staff recommends the Board of Zoning Appeals **deny** the application.

**Background:**

The subject property is located on the corner of North Forest Beach Drive and Ibis Street in the Forest Beach Neighborhood Character Overlay District. The applicant is applying for a variance to install a proposed fence to exceed the maximum fence height of 7 feet on or along a common property line.

The applicant is proposing a 4 foot tall fence within the North Forest Beach Drive adjacent street setback which is allowed per LMO Section 16-5-113.C.2. The applicant is also proposing an 18 foot section of 6 foot tall fence along the common property line between 14 Ibis Street and 42 Forest Beach Drive which is allowed per LMO Section 16-5-113.C.1. Finally, the applicant is proposing a 40 foot section of 12 foot tall fence along the common property line between 14 Ibis Street and 42 Forest Beach Drive which is the subject of this variance request. The 4 foot tall and 6 foot tall sections of fence do not require a variance, but the 12 foot tall section does require a variance.

Per LMO Section 16-5-113.C.1, fences up to seven feet in height are allowed on or along common property lines. Variances from the Setback and Buffer Standards are also requested because, the allowable setback encroachments in Table 16-5-102.E and footnote 3 in the Buffer Types Table 16-5-103.F refers to a fence being allowed along a common property line that is no more than 7 feet high. So while this request does not encroach in a setback or buffer as it is on the common property line, it includes a variance from those sections as they both refer to the height limit of 7 feet.

The purpose and intent of the Fence and Wall Standards section is to establish minimum standards to regulate the location, height, and appearance of fences and walls to maintain visual harmony within neighborhoods and zoning districts throughout the Town, protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls, and ensure the safety, security, and privacy of properties.

The applicant is seeking a variance for the proposed 40 foot section of fence to exceed the 7 foot height limit along a common property line. The applicant seeks 5 additional feet of fence height for the proposed 40 foot section (total of 12' tall) of fence to mitigate the visual impact of the adjacent three story residence located at 42 Forest Beach Drive.

On a separate matter, the site plan submitted for the variance shows replacement of the existing concrete walkway with rock or paver walkways in buffers on the side and rear. The concrete walkways within the side and rear buffers are existing nonconforming site features. A nonconforming site feature waiver approval is required to make changes to these site features. The applicant will be advised to work with Town staff to seek a waiver approval for these proposed site improvements.

**Applicant's Grounds for Variance, Summary of Facts and Conclusions of Law:****Grounds for Variance:**

According to the applicant, the large three story residence adjacent to the subject property presents extraordinary and exceptional conditions. The variance is requested in order to provide privacy from the adjacent balconies from the yard and swimming pool area. The applicant states in their narrative

that the taller fence would help screen the pool area from the overlooking balconies on the adjacent home.

**Summary of Fact:**

- The applicant seeks a variance as set forth in LMO Section 16-2-103.S.

**Conclusion of Law:**

- The applicant may seek a variance as set forth in LMO Section 16-2-103.S.

**Summary of Facts and Conclusions of Law:**

**Summary of Facts:**

- Application was submitted on June 4, 2021 as set forth in LMO Section 16-2-102.C and Appendix D-23.
- The original application was scheduled for a Public Hearing on July 26, 2021, but was postponed as the public notice mailing requirement was not met. A second Public Hearing was scheduled for August 23, 2021, but was canceled due to the Town of Hilton Head Island Local State of Emergency.
- Notice of the Application was published in the Island Packet on September 5, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of the Application was posted on September 9, 2021 as set forth in LMO Section 16-2-102.E.2.
- Notice of Application was mailed on September 10, 2021 as set forth in LMO Section 16-2-102.E.2.
- The Board has authority to render the decision reached here under LMO Section 16-2-102.G.

**Conclusions of Law:**

- The application is in compliance with the submittal requirements established in LMO Section 16-2-102.C.
- The application and notice requirements comply with the legal requirements established in LMO Section 16-2-102.E.2.

*As provided in LMO Section 16-2-103.S.4, Variance Review Standards, a variance may be granted in an individual case of unnecessary hardship if the Board determines and expresses in writing all of the following findings of fact.*

**Summary of Facts and Conclusions of Law:**

*Criteria 1: There are extraordinary and exceptional conditions pertaining to the particular piece of property (LMO Section 16-2-103.S.4.a.i.01):*

**Findings of Fact:**

- The subject property is approximately 0.18 acres.
- The subject property is approximately the same size as the other properties in the same block and generally similar in size to other properties within Forest Beach.



- The subject property is rectangular in shape as are the majority of the adjacent properties.
- The subject property as well as other properties in the RS-5 District have a 35' maximum building height.
- The subject property is currently developed as a one-story single-family home.
- The subject property does not contain any unique site features that prohibit development on the lot.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.01 because there are no extraordinary and exceptional conditions that pertain to this particular property.

**Summary of Facts and Conclusions of Law:**

*Criteria 2: These conditions do not generally apply to other properties in the vicinity (LMO Section 16-2-103.S.4.a.i.02):*

**Findings of Fact:**

- The majority of lots located between Heron Street, Dune Lane, Jacana Street and Forest Beach Drive are rectangular in shape and approximately 0.18 acres in size.
- There are one, two and three-story homes throughout the Forest Beach neighborhood.
- The Fence and Wall Standards apply to all properties within the vicinity.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.02 because there are no extraordinary and exceptional conditions that pertain to this particular property that don't also apply to other properties in the vicinity.

**Summary of Facts and Conclusions of Law:**

*Criteria 3: Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property (LMO Section 16-2-103.S.4.a.i.03):*

**Findings of Fact:**

- The property is currently developed with a single-family residence.
- LMO Section 16-5-113.C.1 states that fences up to seven feet in height are allowed on or along common property lines.
- The purpose and intent of the Fence and Wall Standards section is to establish minimum standards to regulate the location, height, and appearance of fences and walls to maintain visual harmony within neighborhoods and zoning districts throughout the Town, protect adjacent properties from the indiscriminate placement and unsightliness of fences

and walls, and ensure the safety, security, and privacy of properties.

**Conclusions of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.03 because there are no extraordinary or exceptional conditions that pertain to this property that unreasonably prohibit the use of the property.
- The property is already developed with a single-family residence and a fence is allowed on the property up to 7 feet in height on or along a common property line.

**Summary of Facts and Conclusions of Law:**

*Criteria 4: The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance (LMO Section 16-2-103.S.4.a.i.04):*

**Findings of Facts:**

- The purpose and intent of the Fence and Wall Standards section is to establish minimum standards to regulate the location, height, and appearance of fences and walls to maintain visual harmony within neighborhoods and zoning districts throughout the Town, protect adjacent properties from the indiscriminate placement and unsightliness of fences and walls, and ensure the safety, security, and privacy of properties.

**Conclusion of Law:**

- This application does not meet the criteria as set forth in LMO Section 16-2-103.S.4.a.i.04 because a 12 foot tall fence is out of character with the neighborhood.

**LMO Official Determination:**

**Based on the above Findings of Facts and Conclusions of Law, the LMO Official determines that the request for a variance should be denied to the applicant.**

**BZA Determination and Motion:**

The "powers" of the BZA over variances are defined by the South Carolina Code, Section 6-29-800, and in exercising the power, the BZA may grant a variance "in an individual case of unnecessary hardship if the board makes and explains in writing ..." their decisions based on certain findings or "may remand a matter to an administrative official, upon motion by a party or the board's own motion, if the board determines the record is insufficient for review."

This State law is implemented by the Hilton Head Island Land Management Ordinance, Chapter 2,

Article 103 and the Rules of Procedure for the BZA.

A written Notice of Action is prepared for each decision made by the BZA based on findings of fact and conclusions of law.

**The BZA can either Approve the application, Disapprove the application, or Approve with Modifications. Findings of Fact and Conclusions of Law must be stated in the motion.**

**PREPARED BY:**

ML  
\_\_\_\_\_  
Missy Luick  
Senior Planner

9/13/2021  
\_\_\_\_\_  
DATE

**REVIEWED BY:**

ND.  
\_\_\_\_\_  
Nicole Dixon, AICP, CFM  
Development Review Administrator

9/14/2021  
\_\_\_\_\_  
DATE

**ATTACHMENTS:**

- A) Applicant's Narrative
- B) Applicant's Site Plan
- C) Vicinity Map
- D) Fence and Wall Standards
- E) Site Photos



**June 1, 2021**

**14 IBIS FENCE VARIANCE REQUEST**

**Hello**

**On behalf of my clients, the owners of the residence at 14 Ibis Street, we are requesting a variance at 14 Ibis Street to extend a portion of the side property line fence to twelve (12) feet. Seven feet is what is allowed by code. We are asking for the twelve foot height extension to run 40 feet along the property line. We are requesting the variance to mitigate the visual impact of the adjacent three story residence. The fence would help to screen the pool area from the overlooking balconies on the adjacent structure. We believe twelve feet in height is tall enough to break up the direct view from someone standing on the adjacent balconies.**

**We thank you for your consideration.**

**Sincerely yours,**

**Brian Rose**



June 21, 2021

#### 14 IBIS FENCE VARIANCE REQUEST

Hello

On behalf of my clients, the owners of the residence at 14 Ibis Street, we are requesting a variance at 14 Ibis Street to extend a portion of the side property line fence to twelve (12) feet. Seven feet is what is allowed by code. We are asking for the twelve foot height extension to run 40 feet along the property line.

1. *There are extraordinary and exceptional conditions pertaining to the particular piece of property;*

The adjacent property looms three stories above the existing house with balconies that look directly into the rear yard. The proposed additional fence height would help to lessen to the imposing visual impact.

2. *These conditions do not generally apply to other properties in the vicinity;*  
In an effort to preserve the original house the owners were limited in the location they could locate the new pool. These limitations necessitated the pool be located close to the property line and the adjacent structure. This conditions are not the same in adjacent properties.

3. *Because of these conditions, the application of this Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property; and*

We believe the lack of privacy, as viewed from the adjacent balconies, could limit the value of the property and its use as a vacation rental. Thus reducing utilization of property.

4. *The authorization of the Variance will not be of substantial detriment to adjacent property or the public good, and the character of the zoning district where the property is located will not be harmed by the granting of the Variance.*

We believe there will be no detrimental effect to any neighbor, or the character of the neighborhood. The extended fence height does not run the entire side property line. It is also shielded from the road at the closest point to the road by existing trees and vegetation.





Town of Hilton Head Island  
One Town Center Court  
Hilton Head Island, SC 29928  
(843) 341-4600

## Town of Hilton Head Island

[14 Ibis Street](#)  
[Attachment C: Vicinity Map](#)



100 50 0 100 Feet



This information has been compiled from a variety of unverified general sources at various times and as such is intended to be used only as a guide. The Town of Hilton Head Island assumes no liability for its accuracy or state of completion.

## Attachment D – Fence and Wall Standards

### Sec.16-5-113. - Fence and Wall Standards

#### A. Purpose and Intent

The purpose and intent of this section is to establish minimum standards to regulate the location, **height**, and appearance of fences and walls to maintain visual harmony within **neighborhoods** and zoning districts throughout the **Town**, protect **adjacent** properties from the indiscriminate placement and unsightliness of fences and walls, and ensure the safety, security, and privacy of properties.

#### B. Applicability

1. This section applies to the **construction**, substantial reconstruction, or replacement of fences or walls not required for support of a principal or **accessory structure**, and to any other linear barrier intended to delineate different portions of a **lot**, within the **Town**.
2. Temporary fences for **construction sites**, sand fencing in beachfront areas, and **tree** protection fencing are exempt from the standards and requirements of this section.

#### C. Height

Except as otherwise required or allowed in Sec. 16-5-102, Setback Standards, fences and walls shall be subject to the following **height** limits:

1. Fences up to seven feet in **height** are allowed on or along common property lines.
2. Fences up to four feet in **height** are allowed within required setbacks along **streets**, **beaches**, and regulated wetland areas, if they comply with the requirements of this section and are approved by the **Official** in accordance with this **Ordinance**.
3. The **gates**, posts, columns, and associated details of entry **gates** are allowed within the required setbacks along **streets** if they do not exceed six feet in **height** and are approved by the **Official** in accordance with the requirements of this **Ordinance**.

#### D. Appearance

Fences and walls visible from a **street right-of-way** shall be composed of a design, materials, and colors that are compatible with those of **buildings** and other elements of **development** on the site.



Site Photos: 14 Ibis Street  
VAR-001411-2021  
Photos taken 7/22/2021

Attachment E- Site Photos



Site Photos: 14 Ibis Street  
VAR-001411-2021  
Photos taken 7/22/2021



Site Photos: 14 Ibis Street  
VAR-001411-2021  
Photos taken 7/22/2021



Site Photos: 14 Ibis Street  
VAR-001411-2021  
Photos taken 7/22/2021





The Town of Hilton Head Island  
**Board of Zoning Appeals**  
**Proposed 2022 Meeting Schedule**

BZA Powers and Duties	Application Procedure
<p>The Board of Zoning Appeals has the following powers:</p> <p>A. To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the administration or enforcement of Title 16 of the Municipal Code, Land Management Ordinance.</p> <p>B. To hear and decide requests for variance from the Design and Performance Standards of the Land Management Ordinance.</p> <p>C. To review and take action on applications for uses by special exception; and</p> <p>D. To review and take action on appeals of Planning Commission action on certain traffic analysis plans.</p>	<p>Applications for Variance and Special Exception must be completed and submitted not later than 30 days prior to the meeting at which the application will be considered. In addition, Applications for Appeal must be filed not later than 14 days from the date of the decision being appealed.</p> <p>An Application Check-In Conference is required for all applications to determine whether the application meets the minimum requirements for acceptance. Application Check-In Conferences must be scheduled by appointment with the Community Development Department staff.</p>

<u>BZA PUBLIC MEETING DATE</u>	<u>APPLICATION DEADLINE</u>
January 24, 2022 .....	*December 23, 2021
February 28, 2022 .....	January 28, 2022
March 28, 2022.....	February 25, 2022
April 25, 2022.....	March 25, 2022
May 23, 2022 .....	April 22, 2022
June 27, 2022.....	May 27, 2022
July 25, 2022.....	June 24, 2022
August 22, 2022.....	July 22, 2022
September 26, 2022.....	August 26, 2022
October 24, 2022.....	September 23, 2022
November 28, 2022.....	October 28, 2022
**December 12, 2022.....	November 11, 2022

*\*The application deadline is Thursday, December 23, 2021 because Town Hall will be closed on Friday, December 24, 2021 in observance of Christmas Day.*

*\*\*The December meeting is moved to the second Monday of the month due to the Holidays.*

Regular meetings are generally held on the 4<sup>th</sup> Monday of each month at 2:30 p.m. in Benjamin M. Racusin Council Chambers, subject to change with notice.



# TOWN OF HILTON HEAD ISLAND

## Community Development Department

**TO:** Board of Zoning Appeals  
**FROM:** Missy Luick, *Senior Planner*  
**DATE:** September 20, 2021  
**SUBJECT:** Waiver Report

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The BZA requested that staff keep them informed of substitutions of nonconformities for redevelopment that are granted by staff. A memo is distributed every month at the regular BZA meetings and is discussed under staff reports on the agenda.

The following language is contained in Section 16-7-101.F, Substitutions of Nonconformities for Redevelopment, which gives the Administrator the power to grant such substitutions for existing nonconforming structures and site features.

LMO Section 16-7-101.F:

“To provide flexibility and encourage redevelopment of sites with nonconforming features or structures, the Official is authorized to approve a Development Plan for such sites if the proposed development:

1. Will not include any new development that increases the amount of encroachment into any required buffer or setback;
2. Will not increase the impervious cover on the site over the maximum allowed for the district or the existing impervious cover, whichever is greater;
3. Will not result in a density in excess of what is allowed under this Ordinance, or the existing density, whichever is greater;
4. Will lessen the extent of existing nonconforming site features to the greatest extent possible;
5. Will not have an adverse impact on the public health, safety or welfare; and
6. Will lessen the extent of nonconformities related to any existing nonconforming structure on the site to the greatest extent possible.”

Four waivers have been granted by staff since the July 26, 2021 BZA meeting.

- 1 **WAIV-001753-2021 – Folly Field Property Owners Association** – A Substitution of Nonconformities waiver was received for the Folly Field Property Owners Association owned property near Sand Dollar Road, specifically the parcel identified as R510 009 000 1066 0000. The request was to keep the non-conforming fence in the Adjacent Street Setback and Buffer. The fence exceeds the 4 foot maximum height allowed for a fence in the adjacent street setback and buffer. The fence replaced an old fence with the same height and location, which was destroyed by Hurricane Matthew. Because the applicant agreed to bring the site more into conformance with the LMO by planting additional vegetation to help screen the fence from view, the waiver was approved.
- 2 **WAIV-001373-2021- 25 Capital Drive, Luna Roofing** - Tree Preservation and Adjacent Street Buffer waiver requests were received for the property located at 25 Capital Drive as part of a Development Plan Review (DPR-000380-2021) for a new building. The site contains 3

significant trees and 1 specimen tree. The applicant applied for a Tree Preservation waiver to remove 1 of the significant trees. After reviewing the documents submitted with the Tree Preservation waiver request, staff has determined that the applicant met the waiver criteria and approved the waiver with a condition that mitigation of five Category 1 trees that must be a minimum of 10' tall with a 2" nursery stock diameter be included in the landscape plan associated with the development. Regarding the Adjacent Street Buffer reduction request, the applicant modified the site plan as much as possible to work within the significant and specimen tree site constraints. The Adjacent Street Buffer reduction waiver is less than the 20% which is allowed in the IL zoning district and the applicant met all the required criteria for the parking reduction, thus staff determined that the waiver was approved provided that the buffer planting plan still meets the planting requirements of a Type A, Option 2 buffer.

- 3 **WAIV-001775-2021- 202 Mitchelville Road-** Tree Preservation, Adjacent Use Setback and Adjacent Use Buffer waiver requests were received for the property located at 202 Mitchelville Road in conjunction with DPR-000972-2021. The site contains 10 significant trees and 10 specimen trees throughout the parcel. The applicant applied for a Tree Preservation waiver to remove 2 significant trees. After reviewing the documents submitted with the Tree Preservation waiver request, staff has determined that the applicant met the waiver criteria and approved the waiver with a condition that mitigation of three (3) Category I trees and two (2) Category II trees that must be a minimum of 10' tall with a 2" nursery stock diameter be incorporated into the Landscape plan for the associated Development Plan Review for the project. Regarding the Adjacent Use Setback reduction request, the applicant requested the adjacent use setback requirement of 10' adjacent to single family residential use be reduced to 9' and the adjacent use setback requirement of 12.5' adjacent to civic/vacant MV (Mitchelville District) use be reduced to 11.25'. Upon review of the waiver request, staff determined that all six criteria are met, therefore the waiver was approved. Regarding the Adjacent Use Buffer reduction request, the applicant requested the adjacent use buffers be reduced from a 15' Type B Buffer to a 12.75' Type B Buffer and from a 10' Type A Buffer to an 8.5' Type A Buffer. Staff reviewed the waiver request and determined that all six criteria are met, therefore the waiver was approved with the condition that the Type A and Type B buffer planting schedule be met which will be incorporated into the Landscape plan for the associated Development Plan Review for the project.
  
- 4 **WAIV-001890-2021- 2 Plaza Drive, McDonald's-** Tree Preservation, Non-Conforming Site Features and Parking waiver requests were received for the property located at 2 Plaza Drive in conjunction with DPR-001562-2021. The site contained a significant tree located close to the building foundation, cooler/freezer and sidewalk that was causing damage. The applicant applied for a Tree Preservation waiver to remove the significant tree. After reviewing the documents submitted with the Tree Preservation request, staff has determined that the applicant met the waiver criteria and approved the waiver with a condition that mitigation of four (4) Category II trees that must be a minimum of 10' tall with a 2" nursery stock diameter be incorporated into the Landscape plan for the associated Development Plan Review for the project. Regarding the Non-Conforming Site Features waiver request, the applicant identified that the property contains nonconforming site features (encroachment into the Plaza Drive adjacent street buffer, lack of wheel stops, inadequate parking stall spaces). Due to the fact that the applicant's proposal will bring the property more into conformance with the standards of the Town's LMO with the reduction in impervious cover, addition of wheel stops and additional landscaping along the Plaza Drive buffer, staff approved the waiver. Regarding the Parking waiver request, the applicant requested a 5% reduction (2 spaces) for the site. The

applicant added 1 additional bicycle parking space and demonstrated why the parking requirements will not be needed at the site as the business model favors drive-through traffic (not eat-in customers). The LMO allows a parking reduction of up to 15% in the CC district. Because the applicant met the criteria for the parking reduction, staff approved the waiver.