



Town of Hilton Head Island

## Board of Zoning Appeals Meeting

September 27, 2021, 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

**Absent from the Board:** Robert Johnson (unexcused)

**Present from Town Council:** Bill Harkins, Tamara Becker, Glenn Stanford

**Present from Town Staff:** Missy Luick, Senior Planner; Chris Yates, Interim Community Development Director; Diane Busch, Staff Attorney; Nicole Dixon, Development Review Administrator; Teresa Haley, Senior Administrative Assistant; Vicki Pfannenschmidt; Temporary 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. 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 of 6-0-0.

#### 6. Approval of Minutes

a. July 26, 2021, Meeting

Chair Brison asked for a motion to approve the minutes of the July 26, 2021, meeting as presented. Mr. Fingerhut moved to approve. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 6-0-0.

#### 7. Appearance by Citizens

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall HHI portal. There were no comments of record via the portal. There were public comments submitted via USPS and email regarding 14 Ibis Street and 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-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*

Chair Brison opened the Public Hearing at 2:39 p.m.

Ms. Luick 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: why the applicant did not submit an application for the fence to the Forest Beach Owners' Association ARB review/approval; and clarified that the extended fence height is in violation of the Land Management Ordinance (LMO).

Chair Brison inquired if it is a requirement for review and approval of the request by the Forest Beach Owner's Association ARB. Ms. Luick confirmed that it is a requirement. Chair Brison asked why it did not go before the Association before coming to the Town's Design Review Board for a variance. Ms. Busch noted she was not familiar with this specific Association and deferred to staff. Ms. Dixon responded that the Town will not approve a permit without POA approval, but she is not aware of not moving forward with a variance application without POA approval. She added that she is aware that some POA's will not approve such requests until the applicant receives a variance from the Town. Chair Brison asked if there is any requirement in the LMO, State Statute or the Board's Rules of Procedure that require the Board to proceed with a variance application within a certain timeframe, notwithstanding consideration by an Owner's Association. Ms. Dixon responded she did not know the answer. Chair Brison requested that staff research and provide the answer to that specific question.

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

Ms. Duvall addressed the Board stating she did not realize it was a violation of the LMO to extend the height of the fence. She asked the Board to consider and approve the variance as she has completed many improvements to the property to enhance the appearance and compliment the neighborhood.

The Board made comments and inquiries to Ms. Duvall regarding: clarification of the reason for the extended fence; suggestion that landscaping could provide the solution;

and the need for Ms. Duvall to explain how the variance would meet the criteria requirements.

Chair Brison asked for public comment. Melissa Sellers spoke in support of the variance. Chair Brison closed the Public Hearing at 3:48 p.m.

The Board made final comments and inquiries regarding: consideration of an alternative solution to get the outcome the applicant wants; emphasis on the need for Ms. Duvall to present her case concerning the criteria; and the absence of proof of meeting any of the required criteria.

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

Mr. Kristian 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 6-0-0.

**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**

Chair Brison referenced VAR-001987-2021 stating it had been withdrawn.

**10. Board Business**

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

Nicole Dixon provided an update stating staff continues to do research on the potential amendments and will be working with the consultant soon to begin the drafting process.

**b. Review and Adoption of 2022 Meeting Schedule**

Chair Brison asked the Board for comments or questions regarding the 2022 Meeting Schedule. There being none, she asked for a motion to approve. Mr. Kristian moved to approve. Mr. Fingerhut seconded. By way of roll call the motion passed by a vote of 6-0-0.

Vice Chair Anna Ponder excused herself from the meeting at 4:02 p.m. A quorum of the Board remained in effect.

**11. Staff Reports**

**a. Status of Appeals to Circuit Court**

Diane Busch updated the Board on various appeals to the Circuit Court. Chair Brison inquired as to the status of the Sandcastle Cases and if there were any pleadings challenging the Board’s decision and the nature of the challenges, if any. Ms. Busch stated she had not looked for those, but if directed would do so. Chair Brison stated the information would be helpful and asked that it be done.

**b. Status of Amendments to BZA Rules of Procedure**

Ms. Luick reported final edits have been completed and staff continues to review and work on the amendments and hope to have something for the Board to review at the next meeting. Ms. Busch added there are several different Boards looking at their rules of procedure and staff is attempting to look at the proposed amendments in a holistic way.

Chair Brison requested staff move forward with the suggested change of the phrase “motion for a reconsideration” to “motion for rehearing”. Ms. Busch stated she didn’t see a problem with that and noted that consistency is also needed in swearing in witnesses and distinguishing witnesses from public comment. Ms. Busch stated she felt this would come forward in October with a more detailed outline. She asked for Ms. Luick’s input. Ms. Luick stated the final edit submitted to Ms. Busch did not include the new items Ms. Busch identified and suggested Phase 1 of the amendments would be all the items the BZA has previously discussed and explored, and Phase 2 would be all the unifying elements to all the rules for all the boards. It was the consensus of the Board to move forward with the two phases suggested.

**c. Status of LMO Amendments**

Nicole Dixon updated the Board and added Staff will be working with the consultant regarding the list of proposed amendments and the first priority will be the short-term rental ordinance.

**d. Waiver Report**

Missy Luick noted the Waiver Report was included in the Board’s agenda package and she was available to answer any questions regarding the report. There were none.

**12. Adjournment**

The meeting adjourned at 4:24 p.m.

**Submitted by:** Vicki Pfannenschmidt, Secretary

**Approved:** January 24, 2022