

THE TOWN OF HILTON HEAD ISLAND
CONSTRUCTION BOARD OF ADJUSTMENTS & APPEALS
Regular Meeting

Jay R. Owen, Chairman
Neil Gordon, Vice Chairman
Ling Graves
Frank Guidobono
Robert Tanner
Joe Nix



Michael Lynes
Gary M. Schmidt
Robert Zinn
Randy May

AGENDA
Tuesday, November 24, 2015
at 5:30pm in
Benjamin M. Racusin Council Chambers

- I. CALL TO ORDER**
- II. FREEDOM OF INFORMATION ACT 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.
- III. WIRELESS TELEPHONE USAGE**
Please turn off all wireless devices so as not to interrupt the meeting.
- IV. APPROVAL OF AGENDA**
- V. APPROVAL OF MINUTES**
Approval of the CBAA minutes of August 25, 2015
- VI. APPEARANCE BY CITIZENS ON ITEMS UNRELATED TO TODAY'S AGENDA**
- VII. UNFINISHED BUSINESS**
- VIII. NEW BUSINESS**
 - Proposed 2016 CBAA meeting schedule
- IX. ADJOURNMENT**

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

**THE TOWN OF HILTON HEAD ISLAND
CONSTRUCTION BOARD OF ADJUSTMENT & APPEALS MINUTES**

Date of Meeting: Tuesday, August 25, 2015

Members Present: Neil Gordon, Frank Guidobono, Michael Lynes, Randy May, Joe Nix, Jay Owen, Robert Tanner, Robert Zinn

Members Absent: Chauncey Burtch, Ling Graves, Gary Schmidt,

Town Council: David Bennett, *Mayor*

Town Staff Present: Jill Foster, *Deputy Director Community Development*; Brian Hulbert, *Staff Attorney*; Bob Klein, *Building Official*; Chris Yates, *Chief Building Inspector*

I. Call to Order

Chairman Owen called the meeting to order at 5:30 p.m.

II. 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.

III. Wireless Telephone Usage Please turn off all wireless devices so as not to interrupt the meeting.

IV. Approval of Agenda The agenda was amended to include Election of Officers.

V. Election of Chairman and Vice Chairman. Mr. Gordon made a motion to nominate Mr. Jay Owen for Chairman. Mr. Zinn seconded the motion. The motion passed unanimously. Mr. Nix made a motion to nominate Mr. Gordon for Vice Chairman. Mr. Tanner seconded the motion. The motion passed unanimously.

VI. Approval of Minutes. The minutes of February 24, 2015 were approved as presented.

VII. Appearance by Citizens on Items Unrelated to Today's Agenda. None

VIII. Unfinished Business. None

IX. New Business.

APPEAL

APL #: 001383-2015

Forest Beach Owners Association President Jack Daly and Xanadu unit property owners Mr. Henry Sanders and Mr. Thomas Weatherhead are appealing what they interpret is the Building Official Bob Klein's "approving Xanadu unit-splitting and separate renting of mother-in-law (lockout) suites in multi-bedroom condominium units".

Mr. Jack Daly, representing the North Forest Beach Association, has asked the CBAA for a 30 day continuance to finish collecting evidence.

Several members of the public spoke in support of the continuance and several spoke opposing a continuance.

One owner stated that the Town does not understand the magnitude of problems at Oceanwalk and stated the same will happen at Xanadu because it starts with renting lockout units where ready access to the electrical panel is denied; it is a life safety issue. He stated that it is a violation of the electrical code and he does not understand why the Town continues to fight them on this issue. He stated that he does not understand why the Town would allow this type of low income housing in the heart of the Town's tourist district.

Chairman Owen replied that he sympathizes but it is not pertinent to the issue at hand which is the Building Official's determination that this situation is in compliance with code.

Mr. Nix made a motion to deny the Request for Continuance. Mr. Tanner seconded the motion. The motion passed unanimously.

Mr. Chester Williams presented his Motion to Dismiss Appeal No. 001383-2015 on behalf of Mr. Boykin and Ms. Hoffmann.

5:45 p.m.

Mr. Lynes made a motion that the CBAA go into Executive Session to seek legal advice pertaining to a Motion to Dismiss Appeal No. 001383-2015 – and a Motion to Intervene filed by Mr. Chester Williams on behalf of Mr. Frank Boykin and Ms. Nancy Hoffmann. Mr. Nix seconded the motion. The motion passed unanimously.

6:12 p.m.

No action was taken in Executive Session.

Mr. Nix made a motion to deny the Motion to Dismiss Appeal No. 001383-2015 filed by Mr. Chester Williams on behalf of Mr. Frank Boykin and Ms. Nancy Hoffmann. Mr. Lynes seconded the motion. The motion passed unanimously.

Mr. Tanner made a motion to deny Mr. Chester Williams' Motion to Intervene. Mr. May seconded the motion. The motion passed unanimously.

Mr. Williams stated that he would have liked to have the opportunity to argue that motion; "to put forth my position on behalf of Mr. Boykin & Ms. Hoffman."

APL #: 001383-2015

Forest Beach Owners Association President Jack Daly and Xanadu unit property owners Mr. Henry Sanders and Mr. Thomas Weatherhead are appealing what they interpret is the Building Official Bob Klein's "approving Xanadu unit-splitting and separate renting of mother-in-law (lockout) suites in multi-bedroom condominium units".

Mr. Klein presented information to the CBAA explaining how he came to his determination. Mr. Klein stated that the Xanadu condominiums were permitted, inspected and approved by Beaufort County in 1978 as a single unit in conformance with the building and electrical codes in effect at the time. Mr. Klein stated that the 1979 codes were the oldest codes he had to use as a reference. Mr. Klein presented the definition of a dwelling unit as well as the criteria for single dwelling unit from the 1979 codes and various codes through 2012.

Mr. Klein stated the following:

- The Town does not regulate short term or long term rentals of residential housing.
- The Building Official has never made a determination related to approving/disapproving unit splitting and separate rental of lockout units, as alleged in the appellant's documentation.
- The Building Official determined that the lockout units (C-10, B-8, and D-20) are not separate dwelling units as defined by the building and electrical codes.
- To be a separate dwelling unit, it must have five elements per the Codes: eating, living, sleeping, sanitation and permanent provisions for cooking.
- None of the lockout units have what would be considered permanent provisions for cooking, and therefore are not considered separate dwelling units.

Discussion followed covering the following items:

- Whether a thumb latch lock meets the definition for accessible or readily accessible.
- History of insurance availability for these units.
- The situation with closets being wired for a kitchen.
- "Unsavory" renters.
- Xanadu has to enforce its own rules and covenants; the Town cannot enforce the rules for them.

Mr. Nix made a motion to uphold the Building Official Bob Klein's determination they are a single unit at Xanadu and comply with the building code standards. Mr. Lynes seconded the motion. The motion passed unanimously.

X. Adjournment.

There being no further business, the meeting adjourned at 7:20 p.m.

Submitted by Eileen Wilson, Senior Administrative Assistant

Approved by: _____

Jay Owen, Chairman

Construction Board of Adjustments & Appeals

Tuesday, August 25, 2015

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CONSTRUCTION BOARD OF ADJUSTMENT AND APPEALS

PROPOSED 2016 SCHEDULE

	Meeting Date	Application Deadline
January	26	12
February	23	9
March	22	8
April	26	12
May	24	10
June	28	14
July	26	12
August	23	9
September	27	13
October	25	11
November	22	8
December	27	13

All meetings to be held on the 4th Tuesday at **5:30 pm** in Council Chambers
unless otherwise noted