

TOWN OF HILTON HEAD ISLAND
Board of Zoning Appeals
Minutes of the Monday, October 26, 2009 Meeting
2:30pm – Benjamin M. Racusin Council Chambers **APPROVED**

Board Members Present: Chairman Roger DeCaigny, Vice Chairman David D’Amico,
Alan Brenner, Michael Lawrence, Jack Qualey, Stephen Murphy
and Bob Sharp

Board Members Absent: Alan Brenner, Excused

Council Members Present: Bill Ferguson

Town Staff Present: Nicole Dixon, Planner
Heather Colin, Development Review Administrator
Kathleen Carlin, Administrative Assistant & Board Secretary

I CALL TO ORDER

II ROLL CALL

III APPROVAL OF THE AGENDA

Mr. Brenner made a **motion** to **approve** the agenda as presented. Mr. D’Amico **seconded** the motion and the motion **passed** with a vote of 6-0-0.

IV APPROVAL OF THE MINUTES

Mr. Lawrence made a **motion** to **approve** the minutes of the September 28, 2009 meeting as presented. Mr. D’Amico **seconded** the motion and the motion **passed** with a vote of 6-0-0.

V UNFINISHED BUSINESS

None

VI NEW BUSINESS

PUBLIC HEARING

VAR090008: Request for a variance from LMO Sections 16-5-202, General Requirements and 16-5-205, Miscellaneous Standards. Howard Feldman is requesting a variance from lot frontage and internal property line setbacks in order to meet the requirements to change the use of the subject property from Multi-Family Residential to a Single Family Residential Major Subdivision. The development known as Bryant Park Cottages is located at 625 Spanish Wells Road, and is further identified as Parcel 27 on Beaufort County Tax Map #10.

Ms. Nicole Dixon made the presentation on behalf of staff. The applicant is requesting a variance from these regulations in order to meet the requirements to change the use designation of the subject property from Multi-Family Residential to a Single Family Residential Major Subdivision. The applicant has no plans at this time to change the development of the land; the layout and design will remain the same, the development will

function the same way it was originally intended; the only change the applicant is proposing is to change the use designation.

In August 2006, the applicant received Development Plan Review approval for a multi-family development consisting of 12 cottages with associated garages, a pool and common open space on the subject property. The development, known as Bryant Park Cottages, is the first green development on the Island, designed as a sustainable neighborhood. Even though the cottages appear to be single family residences because they are detached units, they are classified as a condominium or multi-family development due to the fact that there are more than two units on the parcel. The cottages are sited as a cluster around a common courtyard. Access to the development is provided via two separate driveways, one at either end of the community, with associated parking and garage areas. Residents and guests then access the homes via community sidewalks.

Currently all of the common areas (garages, pool, sidewalks, common space landscaping, paving, fencing and signage) and 5 of the 12 planned cottages are completed; 2 cottages are under construction. Within the last 6 to 8 months, the applicant told staff that due to the mortgage industry dramatically changing since he first began construction, he is unable to close on any of the units because of their condominium designation. The applicant states that there are new Fannie May/Freddie Mac lending guidelines for condominium projects which prohibit the applicant from selling these cottages. The applicant states that if the use designation is changed to Single Family Residential, he will not have any problems with the financing.

In order to change the use designation from Multi-Family Residential to a Single Family Residential Major Subdivision, the applicant would have to meet all major subdivision regulations in the LMO. The applicant can meet all but two of the regulations, which is why he is seeking a variance. Ms. Dixon reviewed the application's grounds for variance, the summary of Facts and the Conclusions of Law.

At the completion of the staff's presentation, Chairman DeCaigny requested that the applicant make his presentation. Mr. Howard Feldman, property owner and developer, presented statements in support of his application. The board and the applicant discussed the applicant's desire to change the use designation on the property.

At the completion of the applicant's presentation, Chairman DeCaigny requested public statements. The following citizens presented comments for the record: Mr. Tom O'Brian and Mr. Marcus Hall. Following final comments, Chairman DeCaigny requested that a motion be made.

Mr. Qualey made a **motion** that the Zoning Map Application, ZMA090008, be **approved** based on the Findings of Fact and Conclusions of Law as stated in the LMO official determination and the staff report subject to the condition that the 20-foot wetland buffer required in the original project approval be maintained. Mr. Sharp **seconded** the motion and the motion **passed** with a vote of 6-0-0.

VII BOARD BUSINESS

Mrs. Lopko presented the revised Rules of Procedures. The board briefly reviewed the proposed revisions and Chairman DeCaigny requested that a motion for approval of the revised Rulers of Procedure be made.

Mr. Lawrence made a **motion** that the revised Rules of Procedures be **approved** as presented by staff. Mr. Sharp **seconded** the motion and the motion **passed** with a vote of 6-0-0.

Mrs. Lopko stated that approval of the Board of Zoning Appeals proposed 2010 Meeting Schedule is also required. Chairman DeCaigny requested that a motion be made. Mr. Qualey made a **motion** to approve the 2010 Meeting Schedule as presented. Mr. Sharp **seconded** the motion and the motion **passed** with a vote of 6-0-0.

VIII STAFF REPORT

- 1. Mrs. Lopko presented the monthly waiver report to the board.
- 2. Mrs. Lopko reported that a State Mandated Training session entitled, "Eminent Domain" will immediately follow today's meeting.

IX ADJOURNMENT

The meeting was adjourned at 3:25pm.

Submitted By:

Approved By:

Kathleen Carlin
Board Secretary

Roger DeCaigny
Chairman