

TOWN OF HILTON HEAD ISLAND
The Board of Zoning Appeals
Minutes of the Monday, March 22, 2010 Meeting
2:30pm – Benjamin M. Racusin Council Chambers

APPROVED

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

Board Members Absent: Chairman Roger DeCaigny and Alan Brenner

Council Members Present: None

Town Staff Present: Anne Cyran, Planner; Nicole Dixon, Planner
Jayme Lopko, Senior Planner & BZA Coordinator
Kathleen Carlin, Board Secretary

I CALL TO ORDER

II ROLL CALL

III APPROVAL OF THE AGENDA

Mr. Qualey made a **motion** to **approve** the agenda as presented. Mr. Sharp **seconded** the motion and the motion **passed** with a vote of 5-0-0.

IV APPROVAL OF THE MINUTES

Mr. Murphy made a **motion** to **approve** the minutes of the February 22, 2010 meeting as presented. Mr. Lawrence **seconded** the motion and the motion **passed** with a vote of 5-0-0.

V UNFINISHED BUSINESS

None

VI NEW BUSINESS

PUBLIC HEARING

VAR100001: David Stebbing, on behalf of Roger Stebbing, is requesting a variance from LMO Section 16-6-204, Wetland Buffers, to keep non-permitted encroachments in the wetland buffer. The subject property is located at 47 Shearwater Drive.

Ms. Anne Cyran made the presentation on behalf of staff. The staff recommended that the Board of Zoning Appeals **disapprove** the application based on those Findings of Facts and Conclusions of Law stated in the Staff Determination dated March 22, 2010.

Shearwater Plantation is a single-family subdivision located near the end of Jonesville Road. As required by LMO Section 16-6-204, all of the properties in Shearwater abutting the tidal marsh are required to maintain a 20 foot wetland buffer, measured inland from the OCRM Critical Line.

In July of 2005, Crossroads Enterprises applied for a building permit to construct a 3,100 square foot house at 47 Shearwater Drive, an undeveloped lot. The certificate of occupancy was issued on March 10, 2006 and the current owner bought the property on March 21, 2006.

A separate building permit for a swimming pool was approved on March 2, 2006. On May 2, 2006, Ms. Sarah Skigen, Natural Resources Associate, inspected the pool and found that the wetland buffer had been damaged. The owner was required to plant Spartina in the wetland buffer as mitigation for the damage. On May 15, 2006, Ms. Skigen confirmed the mitigation planting was complete, and the pool permit was finalized on August 18, 2006.

At some point between February of 2007 and February of 2009, the property owner constructed a retaining wall with backfill in the wetland buffer and topped it with sod and a brick patio and fire pit. The sod, brick patio and fire pit are all prohibited in wetland buffers by LMO Section 16-4-204C. In addition, the required mitigation planting was removed from the wetland buffer in violation of LMO Section 16-6-204C.

In addition, the owner built the wall without obtaining either of the two required permits: a natural resources permit and a building permit. Per LMO Section 16-6-204D(5), a retaining wall with backfill may be constructed in the wetland buffer if a natural resources permit is obtained and the wetland buffer is replanted per a staff-approved landscape plan.

Mr. David Stebbing, agent for the application, was contacted by a Town Code Enforcement Officer when staff discovered the violations. Community Development staff informed Mr. Stebbing that the retaining wall and backfill could remain as they are without obtaining a variance if the owner obtained a natural resources permit. The conditions of the natural resources permit would be to remove the sod, brick patio and fire pit and replant the entire wetland buffer with native vegetation. The owner must obtain a building permit for the wall regardless of whether a variance is granted. In addition, the side wall must be reconstructed off the adjacent property.

Instead, Mr. Stebbing is seeking a variance to reduce the depth of required wetland buffer from 20 feet to 10 feet. If the variance is approved, the retaining wall would be reconstructed so that it ends 10 feet from the property line, and the 10 foot wetland buffer would begin at the end of the wall. Mr. Stebbing proposes to keep the sod and brick patio on the retaining wall, but the fire pit will be removed. The remaining 10 foot wetland buffer would be replanted with Spartina.

Ms. Cyran reviewed the Findings of Fact and the Conclusions of Law. The application has not met the required criteria necessary for approval. At the completion of the staff's presentation and discussion by the Board, acting Chairman D'Amico asked the applicant if he would like to make a presentation. Mr. Stebbing introduced himself to the Board, but made no comments for the record. At the completion of final statements by the Board, Acting Chairman D'Amico requested that a motion be made.

Mr. Qualey made a motion to **disapprove** Application for Variance, VAR100001, based on the Findings of Fact and Conclusions of Law contained in the staff report. Mr. Sharp **seconded** the motion and the motion **passed** with a vote of 5-0-0.

VII BOARD BUSINESS

None

VIII STAFF REPORT

Mrs. Lopko presented the Waiver Report to the Board.

IX ADJOURNMENT

The meeting was adjourned at 2:50pm.

Submitted By:

Approved By:

Kathleen Carlin
Board Secretary

David D'Amico
Acting Chairman