

**TOWN OF HILTON HEAD ISLAND**  
**Board of Zoning Appeals** **APPROVED**  
**Minutes of Monday, June 23, 2014 2:30pm Meeting**  
**Benjamin M. Racusin Council Chambers**

Board Members Present: Chairman Peter Kristian, Vice Chairman Glenn Stanford,  
Irv Campbell, David Fingerhut, Michael Lawrence, P. Jeffrey North  
and Steve Wilson

Board Members Absent: None

Council Members Present: Mayor Drew Laughlin

Town Staff Present: Nicole Dixon, Senior Planner & Board Coordinator  
Teri Lewis, LMO Official  
Brian Hulbert, Staff Attorney  
Richard Spruce, Flood Plain Administrator & Plans Examiner  
Jayme Lopko, Senior Planner  
Kathleen Carlin, Secretary

**1. Call to Order**

Chairman Kristian called the meeting to order at 2:30p.m.

**2. Roll Call**

**3. Freedom of Information Act Compliance**

Public notice of this meeting has been published and posted in compliance with the Freedom of Information Act and Town of Hilton Head Island requirements.

**4. Presentation of Crystal Award to outgoing BZA Member, Mr. Peter Kristian**

Mayor Drew Laughlin presented the Town's Crystal Award to outgoing BZA member, Mr. Peter Kristian. Mayor Laughlin expressed his appreciation to Mr. Kristian for his excellent service to the Board of Zoning Appeals and Town of Hilton Head Island. A Farewell Celebration in appreciation of Mr. Kristian's service was held in Council Chambers following the meeting.

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

**6. Approval of Agenda**

Vice Chairman Stanford made a **motion** to **approve** the agenda as presented. Mr. Campbell **seconded** the motion and the motion **passed** with a vote of 7-0-0.

**7. Approval of the Minutes**

Vice Chairman Stanford made a **motion** to **approve** the minutes of the May 19, 2014 meeting as presented. Mr. Wilson **seconded** the motion and the motion **passed** with a vote of 7-0-0.

**8. Unfinished Business**

None

**9. New Business**

*(Chairman Kristian recused himself from review of APL130010 due to a professional conflict of interest. A Conflict of Interest Form was completed and signed by Mr. Kristian and attached to the record. Chairman Kristian requested that Vice Chairman Stanford presided over the review of APL130010.)*

**Hearing**

**APL130010:** Request from Terry A. Finger on behalf of Kittredge S. Collins and Michael Moy. The appellant is appealing the Town's determination on December 11, 2013 that the business license issued to On the Water Tours was issued in error, that the land uses assigned to the property (located at 421 Squire Pope Road) do not allow the activities conducted by On the Water Tours and that jet skis cannot be considered a form of embarkation. Acting Chairman Stanford introduced the application and stated that there will be no public comment. Acting Chairman Stanford requested that the appellant make his presentation.

Terry A. Finger, Esq., presented statements on behalf of the property owner, Mr. Kittredge Collins, and the business owner, Mr. Michael Moy. The appeal is from a letter sent by Ms. Teri Lewis, LMO Official, to Mr. Kittredge Collins dated December 11, 2013. Ms. Lewis had determined that the business license issued by the Town to the On the Water Tours for 2013 was issued in error. Ms. Lewis also stated that the land uses assigned to the property do not allow the activities conducted by On the Water Tours, and that jet skis cannot be considered a form of embarkation. Mr. Finger stated that the grounds for appeal are as follows:

(1) The business license to On the Water Tours was not issued in error; (2) The Town has waived its right to attempt to revoke or rescind the business license of On the Water Tours; (3) "Embarkation" is not a defined term in either the LMO or any other operable documents concerning this property. The use of jet skis falls as an allowable use under embarkation; (4) "Non-recreational ferry embarkation" is not a defined term under the LMO or any other operable documents concerning this property; (5) The action of the Town is arbitrary and capricious and is based solely upon unfounded complaints from residences within Hilton Head Plantation; (6) The docking facilities at Salty Fare were designed and constructed in order to facilitate full water uses on the subject property; (7) The damages caused by the Town and its agents in publically alleging that the business license for On the Water Tours had been revoked have been extensive and on-going; and (8) The Town's staff decision is not supported by facts, evidence, or law.

Mr. Finger and the Board discussed the appellant's ground for appeal. Following Mr. Finger's presentation, Mr. Kittredge Collins, property owner, presented additional statements in support of the appeal. Following the appellant's presentations, Acting Chairman Stanford requested that the staff make their presentation.

Ms. Teri Lewis, LMO Official, made the presentation on behalf of staff. Ms. Lewis presented statements regarding the history of the application. Ms. Lewis discussed the applicant's rezoning application which was not successful. Ms. Lewis also described the options that were considered by staff and the appellant. Following the staff's presentation, Acting Chairman Stanford asked Brian Hulbert, staff attorney, if the Board could receive comments from Mr. Peter Kristian, General Manager, Hilton Head Plantation POA. Mr. Hulbert stated that this would be permitted.

Acting Chairman Stanford then requested that Mr. Peter Kristian (as General Manager of Hilton Head Plantation, POA), address the Board. Acting Chairman Stanford asked Mr. Kristian if Hilton Head Plantation has a position on this issue and Mr. Kristian stated that they do. Mr. Kristian stated that the embarkation issue ended up being a very broad term and opening it up to a broader context of operational use became a concern for the Board. The Board is, therefore, in opposition to the appeal.

Terry Finger, Esq., asked Mr. Kristian about the Salty Fare documents created in 1987 that detail the restrictions on the use. Mr. Kristian stated that these documents pre-date his association with Hilton Head Plantation's POA. Acting Chairman Stanford discussed the definition of "embarkation" including limited recreational use. Following final discussion by the Board, Acting Chairman Stanford requested that a motion be made.

Mr. Fingerhut made a **motion** to **deny** Application for Appeal APL130010. Mr. Fingerhut stated that the Board should uphold the staff's position on this application. Mr. North **seconded** the motion and the motion **passed** with a vote of 5-2-0.

Chairman Kristian resumed his position as BZA Chairman at this time.

### **Public Hearing**

**VAR-000632-2014**: Debbie Remke, of Low Country Permit Expeditors, on behalf of Rodney Galella, is requesting a variance from Land Management Ordinance Section 16-4-704, Forest Beach Neighborhood Character Overlay District Regulations, to construct a pool and deck within the adjacent street setback and buffer. The property is located at 16 Dove Street and is further identified as parcel 240 on Beaufort County Tax Map 15A. Chairman Kristian introduced the application and requested that the staff make their presentation.

Ms. Nicole Dixon made the presentation on behalf of staff. Ms. Dixon presented an in-depth overhead review of the application including an as-built of the property and a site plan. Staff recommended that the application for variance be disapproved based on the staff's Findings of Fact and Conclusions of Law.

The subject parcel is located at 16 Dove Street in North Forest Beach, within the Forest Beach Neighborhood Character Overlay District. The property is a corner lot that has frontage on North Forest Beach Drive and Dove Street, and is surrounded by single family residential properties.

The applicant contacted staff inquiring if a pool was permitted on the property in the proposed location. Staff informed the applicant that the proposed pool, which is shown located in the 20-foot adjacent street setback and buffer, would require a variance application. The applicant states in the narrative that they are requesting the variance

because it is the only useable area on the property for a pool. The applicant also states that the only other area on the property that could be available for a pool already has a deck, and is adjacent to a neighbor who has asked the applicant to not place the pool on that side of the house. The applicant states in the narrative that the owner of the property would like the pool to be located where it is visible from the interior of the home. There is a six-foot high privacy fence that surrounds the property, so the proposed pool would not be visible from the street, neighbors or any passers-by. Ms. Dixon reviewed the staff's Findings of Fact and Conclusions of Law. Following the staff's presentation, Chairman Kristian requested that the applicant make her presentation.

Ms. Debbie Remke, of Low Country Permit Expeditors, presented statements in support of the application on behalf of her client, Mr. Rodney Galella. The applicant believes that there are extraordinary and exceptional conditions pertaining to this piece of property. The lot is small and the fenced in area is actually outside of the property line giving the appearance of a larger yard. The useable area is 22-ft. from the property line to the house.

Ms. Remke presented an overhead review of the property including the 20-ft. setback line. Chairman Kristian and the applicant discussed the non-conformities associated with the property and the need for open space. Following the applicant's presentation, Chairman Kristian requested public comments and none were received.

Chairman Kristian and other Board members discussed the application. The Board stated their concern with the application's inability to comply with the six required criteria. The BZA is required to follow the law. Following final discussion by the Board, Chairman Kristian requested that a motion be made.

Vice Chairman Stanford made a **motion** to **deny** Application for Variance VAR-000632-2014 based on the staff's Findings of Fact and Conclusions of Law including the fact that there are no extraordinary and exceptional conditions pertaining to the property. Mr. Fingerhut **seconded** the motion and the motion **passed** with a vote of 7-0-0.

## 10. Board Business

Nomination and Election of Officers for the July 1, 2014 – June 30, 2015 term.

Chairman Kristian stated that it is time to nominate and elect new officers for the term, July 1, 2014 – June 30, 2015. Chairman Kristian requested that a motion be made for Chairman for the term, July 1, 2014 – June 30, 2015.

Mr. Wilson made a **motion** to nominate Mr. Glenn Stanford to serve as Chairman for the new term. Mr. Lawrence **seconded** the motion. There were no additional nominations for the office of Chairman. The vote to elect Mr. Stanford as the new Chairman was **unanimous**.

Chairman Kristian then requested that a motion be made for a Vice Chairman for the new term. Mr. Stanford made a **motion** to nominate Mr. P. Jeffrey North to serve as Vice Chairman for the new term. Mr. Lawrence **seconded** the motion. There were no additional nominations for the office of Vice Chairman. The vote to elect Mr. North as the new Chairman was **unanimous**.

**11. Staff Reports**

- a) Ms. Dixon presented the staff's Waiver Report.
- b) Ms. Dixon presented staff's proposed revisions to the Rules of Procedure. The Board discussed the revisions with staff. The Board **adopted** the revisions to the Rules of Procedure as presented by staff by general consent.

**12. Adjournment**

The meeting was adjourned at 3:40p.m.

Submitted By:

Approved By:

Approved By:

June 26, 2015

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Kathleen Carlin  
Secretary

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Peter Kristian  
Chairman  
(for review of:  
VAR-000632-2014)

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Glenn Stanford  
Vice Chairman  
(for review of:  
APL130010)