



Town of Hilton Head Island
Board of Zoning Appeals Meeting
February 22, 2021 at 2:30 p.m. Virtual Meeting
MEETING MINUTES

Present from the Board: Chair Patsy Brison, Vice Chair Anna Ponder, Robert Johnson, Lisa Laudermilch, Charles Walczak, John White, David Fingerhut

Absent from the Board: None

Present from Town Council: Tamara Becker, Tom Lennox

Present from Town Staff: Teri Lewis, Deputy Community Development Director; Nicole Dixon, Development Review Administrator; Missy Luick, Senior Planner; Tyler Newman, Senior Planner; Brian Eber, NPDES Administrator; Diane Busch, Staff Attorney; Teresa Haley, Senior Administrative Assistant; Vicki Pfannenschmidt, Temporary Administrative Assistant

1. Call to Order

Chair Brison called the meeting to order at 2:31 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. Ms. Laudermilch moved to approve. Mr. White seconded. By way of roll call, the motion passed with a vote of 7-0-0.

6. Approval of Minutes

a. January 28, 2021 Special Meeting

Chair Brison asked for a motion to approve the minutes of the January 28, 2021 special meeting as presented. Mr. Walczak moved to approve. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 7-0-0.

7. Appearance by Citizens

Public comments concerning agenda items were to be submitted electronically via the Open Town Hall portal. All comments received via the portal were provided to the Board for review and made a part of the official record. Citizens were also provided the option to give public comment during the meeting by phone. There were no requests to give public comment by phone.

8. Unfinished Business – None

9. New Business

a. Public Hearing

VAR-001875-2020 – Request from Eric Schnider for a variance from LMO Section 16-5-102, Setback Standards, and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 119 Sandcastle Court with a parcel number of R511 009 000 1152 0000.

b. Public Hearing

VAR-001870-2020 – Request from George F. Zitlaw, Jr. for a variance from LMO Section 16-5-102, Setback Standards, and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 123 Sandcastle Court with a parcel number of R511 009 000 1154 0000.

c. Public Hearing

VAR-001894-2020 – Request from Brian Ritchey for a variance from LMO Section 16-5-102, Setback Standards, 16-5-103, Buffer Standards and 16-5-113 Fence and Wall standards, to allow an existing patio to remain and proposed fence to be added in the adjacent use setback and buffer. The property address is 25 Sandcastle Court with a parcel number of R511 009 000 1115 0000.

d. Public Hearing

VAR-001983-2020 – Request from Jennifer Miotto for a variance from LMO Section 16-5-102, Setback Standards and 16-5-103, Buffer Standards to allow an existing patio to remain in the adjacent use setback and buffer. The property address is 27 Sandcastle Court with a parcel number of R511 009 000 1116 0000.

Chair Brison opened the public hearings and read the above description for each into the record for VAR-001875-2020, VAR-001870-2020, VAR-001894-2020, VAR-001983-2020 (collectively, the “Applications”). Chair Brison presented statements regarding the procedure for the hearings. The Chair noted for the record, these hearings are based upon approved motions for reconsideration, but pursuant to the rules of procedure, it will be treated as though they are a new hearing without reference to the previous matters and the Board will review the entire matter as though no vote had been previously taken.

Ms. Luick clarified that two of the cases (119 and 123 Sandcastle Court) are reconsiderations and two (25 and 27 Sandcastle Court) have not yet been heard.

Ms. Luick and Mr. Newman presented the Applications as described in the Staff Reports. Staff’s presentations included: a global overview of the Applications, including the subdivision’s development history, applicable LMO Setback, Buffer and Fence & Wall Standards, and summary of the common LMO violations in the subdivision; a detailed review of the variance requests individually; and the criteria to be met for a variance. In addition, Mr. Eber offered information regarding stormwater related information applicable to the hearings. Staff recommends the Board of Zoning Appeals deny the Applications, based on

the Findings of Fact and Conclusions of Law contained in the Staff Reports. Staff incorporated by reference the Staff Reports and variance applications as part of the record.

The Board made comments and inquiries to Staff regarding: permitting requirements; clarity regarding the original recorded plat verbiage; recorded opposition to the variances; stormwater run-off calculations for pavers versus a naturalized buffer; life span of a paver system; and the activities that may occur in the required buffers as set forth in the LMO.

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

Eric Schnider made a detailed presentation regarding the grounds for variance application VAR-001875-2020, and answered questions by the Board. He emphasized his position that the area is not a patio but actually a permeable paver grading system which results in a highly functional stormwater protection plan, as long as they are properly maintained. The Board discussed the application with the applicant, including maintenance required for the pavers and how there would be assurance of that maintenance.

George F. Zitlaw, Jr. made his presentation regarding the grounds for variance VAR-001870-2020. He noted that he was in full agreement with Mr. Schnider and confirmed his position that the patio is a fully functioning system for stormwater run-off. The Board had no questions for Mr. Zitlaw.

Brian Ritchey made his presentation regarding the grounds for variance VAR-001894-2020. He noted when he extended his patio, he did not disturb the existing vegetation he was required to plant so he thought he was in compliance. Mr. Ritchey added that the need for the fence was for safety issues with the close proximity of alligators to the area. The Board had no questions for Mr. Ritchey.

Jennifer Miotto made her presentation regarding the grounds for variance VAR-001983-2020, and answered questions by the Board. She explained that she extended her patio eight feet and did not disturb the existing vegetation and then installed the knee wall at a later date for safety issues. She emphasized the need for safety in the area because of alligators. She addressed the building survey she was provided by the builder and stated there was no notation about the vegetation buffer. Ms. Miotto added that due to the small size of the lot, with the setback and buffer requirements, over 50% of the lot cannot be used. The Board discussed the application with the applicant, including view enhancement alterations per private covenants.

Chair Brison asked for any rebuttal by Staff. Staff stated they had no rebuttal.

Chair Brison confirmed that written public comments were distributed to the Board and made part of the record. The applicants' applications, presentations and staff reports were made part of the record without objection. Staff confirmed that there were no callers or additional public comments at this time.

Chair Brison asked Diane Busch, Staff Attorney, if private covenant restrictions apply to the Board. Ms. Busch stated they do not because the Board is bound to abide by the LMO which supersedes any private community covenants.

Chair Brison closed the public hearing at 4:54 p.m.

At 4:57 p.m., Mr. White left the meeting and therefore did not participate in the vote on the applications.

The Board made final comments and inquiries regarding: defining the extraordinary and acceptable conditions criteria; emphasis that in order to grant the variance, all four criteria need to be met; the allowance of retaining walls in the buffer; the interpretation of vicinity; and requirements for replanting.

Chair Brison asked for motions concerning the individual applications.

Mr. Fingerhut moved that the Board of Zoning Appeals deny application VAR-001875-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 6-0-0.

Mr. Walczak moved that the Board of Zoning Appeals deny application VAR-001870-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 6-0-0.

Mr. Walczak moved that the Board of Zoning Appeals deny application VAR-001894-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report. Mr. Fingerhut seconded. By way of roll call, the motion passed with a vote of 6-0-0.

Mr. Fingerhut moved that the Board of Zoning Appeals deny application VAR-001983-2020 based on the Findings of Fact and Conclusions of Law as set forth in the Staff Report. Mr. Walczak seconded. By way of roll call, the motion passed with a vote of 6-0-0.

10. Board Business

Chair Brison updated the Board stating she presented the BZA Semi-Annual Report to Town Council on February 16. She stated she made a request for LMO Amendments to be considered; informed Council that the Board would be reviewing their rules and procedures and would be completing Board training. Chair Brison asked staff as to when the LMO Amendments would be considered. Ms. Dixon stated there is a list started but it would be a couple months before they would be addressed. Ms. Lewis informed the Board that the LMO Committee will be meeting on March 8, 2021 to review proposed amendments regarding building heights, setbacks and buffers. Chair Brison requested that status reports regarding the LMO Amendments and rules and procedures be included upcoming meetings. Ms. Busch informed the Board she is working on something for training regarding case studies and will be working with staff on putting it together.

11. Staff Reports

- a. Waiver Report - The Waiver Report was included in the Board's agenda package.

12. Adjournment

The meeting was adjourned at 5:21 p.m.

Submitted by: Vicki Pfannenschmidt

Approved: March 22, 2021