



Town of Hilton Head Island BOARD OF ZONING APPEALS MEETING Monday, June 24, 2024, 2:30 PM Minutes

1. Call to Order

Chair Fingerhut called the Meeting to order at 2:30 p.m. Present were: David Fingerhut, Kay Bayless, Steve DeSimone, Peter Kristian, Michael Sackheim and Amy Fee. Mr. Johnson was excused.

2. Swearing in Ceremony of new Board Member Amy Fee, performed by Shawn Colin, Assistant Town Manager

Mr. Shawn Colin swore in Amy Fee and thanked her for her service to the Board of Zoning Appeals and the Community.

3. Welcome and Introduction to Board Procedures

Chair Fingerhut welcomed all in attendance and explained the Board's procedures for conducting the meeting.

4. Adoption of the Agenda

Chair Fingerhut asked if staff had any changes to the Agenda. Mr. Connolly advised that staff would like Item 8e removed. The Election of Officers will take place at the next meeting. Mr. Kristian moved to approve the Agenda as amended. Mr. Sackheim seconded. The Agenda was unanimously approved.

5. Approval of the Minutes

a. Regular Meeting Minutes of May 22, 2023

Mr. DeSimone moved to approve the Minutes of May 22, 2023. Mr. Sackheim seconded. The Minutes were approved. Ms. Bayless was not present at the May 22, 2023 Meeting and Ms. Fee was not a member yet.

b. Special Meeting Minutes of June 8, 2023

Mr. DeSimone moved to approve the Minutes of June 8, 2023. Mr. Sackheim seconded. The Minutes were approved. Ms. Fee was not a Member yet.

6. Appearance by Citizens

No Citizens spoke on items unrelated to items not on the Agenda. There were several comments received on the Town's Open Town Hall Portal. The comments were sent to all Board Members and made a part of the Official Record.

7. Unfinished Business

None

8. New Business

a. Public Hearing

VAR-000802-2024 - Request from Richard Dietrich of The Renovators of SC , on behalf of Vinod Rajasekaran, owner of 59 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1125 0000, for a Variance from LMO Section 16-5-102.D, Adjacent Use Setback Standards, to allow a proposed home to encroach into the setback angles.

Chair Fingerhut opened the Public Hearing for VAR-000802-2024, VAR-000803-2024 and VAR-000804-2024 - a request for all intents and purposes is the same Variance pertaining to 59 Sandcastle Court, 129 Sandcastle Court and 9 Sandcastle Court to allow the homes to encroach into the adjacent use setback angles. The presentation addressed all three Variance Requests.

Michael Connolly presented the Applications as described in the staff reports. Staff recommends the Board of Zoning Appeals find the requests to be inconsistent with the Town's Our Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Facts and Conclusions of Law as determined by the LMO Official. Staff recommends that the Board of Zoning Appeals deny the Applications.

The Board made comments and inquiries regarding: how many of the homes actually meet the setback angle requirement; how did the Town approve three building permits without setback angles; the builder has been aware of the setback requirements since 2022 and nonetheless submitted new applications ignoring it; sounds like we are being asked to make a determination based on past mistakes and maybe compound past mistakes; is it customary or the Town not to enforce building standards on such a large scale - it seems this entire community was built without setback angles as required.

Missy Luick, Director of Planning who attended the meeting remotely spoke to past Planning Review of the setback angles and advised she has been with the Town for five years, so cannot speak to some of the past Planning Review errors that were made by staff. The setback angle was required in the old LMO as well as in the 2014 rewrite. We have over the years amended our Plan Review Check List over time when we have noticed that certain requirements of the Code were just not being met through regular Plan Review. That is what appears to have happened in this particular Sub Division.

Once staff was made aware that we were making errors in our Plan Review procedures, we then added that to our Plan Review Check List and then enforced it going forward.

Following the staff presentation and questions from the Board, Chair Fingerhut asked the Applicant to make a presentation. Mr. Dietrich of The Renovators of SC presented his grounds for Variance as described in his submittal materials.

The Board made comments and inquiries regarding: were you allowed to build the three homes without the setback angle; what is the average size of the home that was not held to the standard and the setback angles; when the Town was made aware of the setback angle; how many additional homes will be built; sounds like the majority of homes have not been subject to the setback angles.

Chair Fingerhut asked for Staff Rebuttal. Staff had no rebuttal.

Chair Fingerhut asked for applicant rebuttal. The applicant had no rebuttal.

Chair Fingerhut asked for public comment. Two members of the public spoke in support of the three Variance requests. One member stated he was not here in support or against the Variance, but rather of concern, as it is essential to Hilton Head Beach & Tennis that the law is followed. Despite the difficulties that individuals may face with certain development proposals before the Town that zoning regulations are not mere suggestions - they are the law.

Chair Fingerhut incorporated all the evidence, including the Staff Report, Application, Documents, and testimony provided during the Hearing into record. Chair Fingerhut closed the Public Hearing.

The Board made final comments and inquiries regarding: the Town dropped the ball, and we have not enforced defacto since the inception of this subdivision and if you would hold someone to a setback angle would make those homes out of character in the community; it is regrettable that a Town Official would sign a letter that bases his own Variance to what is required in the LMO upon a possible amendment to the LMO to be made by Officials other than him. It is clear that this situation is very frustrating and there have been problems with prior construction efforts there. The basic facts are the LMO was in place before any house was built there. The HOA cannot enact requirements that conflict with the Town's Ordinances. We have to decide whether we will continue to make mistakes as were made in the past or whether we are going to enforce the Ordinance as it is written; the criteria of extraordinary and exceptional conditions have been met for these Variance because of the unfairness to the investors in the remaining homes.

Upon the conclusion of discussion, Chair Fingerhut asked for a Motion.

Mr. Kristian moved to approve the Application for VAR-000802-2024 based on the Findings of Fact and Conclusions of Law submitted by the Applicant and that the Board of Zoning Appeals approve this Variance. Mr. Sackheim seconded. Ms. Bayless said she does not feel there are Findings of Fact and Conclusions of Law that are stated in the submission by the Applicant. Mr. Kristian stated the Applicant proposed what he felt met the criteria and that is what I am submitting. Chair Fingerhut agreed and said the Applicant took the four criteria and made his argument. The Motion passed with a vote of 4-2. Ms. Bayless and Ms. Fee were opposed.

b. Public Hearing

VAR-000803-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Rosanne Magers, owner of 129 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1157 0000, for a Variance from LMO Section 16-5-102.D, Adjacent Use Setback Standards, to allow a proposed home to encroach into the setback angles.

Mr. Kristian moved to approve the Application for VAR-000803-2024 based on the Findings of Fact and Conclusions of Law submitted by the Applicant and that the Board of Zoning Appeals approve this Variance. Mr. Sackheim seconded. Ms. Bayless said she does not feel there are Findings of Fact and Conclusions of Law that are stated in the submission by the Applicant. Mr. Kristian stated the Applicant proposed what he felt met the criteria and that is what I am submitting. Chair Fingerhut agreed and said the Applicant took the four criteria and made his argument. The Motion passed with a vote of 4-2. Ms. Bayless and Ms. Fee were opposed.

c. Public Hearing

VAR-000804-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Charlotte Russo, owner of 9 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1107 0000, for a Variance from LMO Section 15-5-102.D, Adjacent Use Setback Standards, to allow a proposed home to encroach into the setback angles.

Mr. Kristian moved to approve the Application for VAR-000804-2024 based on the Findings of Fact and Conclusions of Law submitted by the Applicant and that the Board of Zoning Appeals approve this Variance. Mr. Sackheim seconded. Ms. Bayless said she does not feel there are Findings of Fact and Conclusions of Law that are stated in the submission by the Applicant. Mr. Kristian stated the Applicant proposed what he felt met the criteria and that is what I am submitting. Chair Fingerhut agreed and said the Applicant took the four criteria and made his argument. The Motion passed with a vote of 4-2. Ms. Bayless and Ms. Fee were opposed.

d. Public Hearing

VAR-000818-2024 - Request from Judd Carstens of Witmer Jones Keefer, on behalf of Dave Peacock, owner of 19 Ibis Street, also identified as Beaufort County Tax Map Parcel R550 015 00A 0111 0000, for a Variance from LMO Section 16-3-106.H.4.d, Floor Area Ratio requirements, to exceed the maximum gross floor area by 2,259 square feet for the development of a detached garage with guest rooms.

Chair Fingerhut opened the Public Hearing for VAR-000818-2024 a request from Judd Carstens of Witmer Jones, Keefer on behalf of Dave and Jane Peacock, owner of 19 Ibis Street for a Variance to exceed the maximum gross floor area by 2,259 square feet for the development of a detached garage with guest rooms.

Michael Connolly presented the Application as described in the staff report. Staff recommends the Board of Zoning Appeals find the request to be inconsistent with the Town's Our Plan and does not serve to carry out the purposes of the LMO, based on those Findings of Fact and Conclusions of Law as determined by the LMO Official. Staff

recommends the Board of Zoning Appeals deny the Application.

The Board made comments and inquiries regarding: the size of the lot and whether it has ever been subdivided; whether this will create a multifamily property on the lot; The Application does not give information on the detached garage with guest rooms - will it have cooking, laundry facility in addition to sleeping space.

Following the staff presentation and questions from the Board, Chair Fingerhut asked the Applicant to make a presentation. Mr. Judd Carstens of Witmer Jones Keefer on behalf of Dave and Jane Peacock presented his grounds for Variance as described in his submittal materials. Mr. & Mrs. Peacock also spoke with the Board regarding their Application for a Variance and advised it is not nor ever has been their intention to rent out the property.

The Board made comments and inquiries regarding: questioned if they had two lots we wouldn't be having this discussion; is the space above the garage considered a separate dwelling unit where someone could independently rent it; does the detached garage with guest rooms serve as additional stand alone living quarters; concern that even though the Peacock's want to be in the home for 20+ years, doesn't mean they will be and this property can be sold; why not subdivide the lot;

Chair Fingerhut asked for Staff Rebuttal. Staff had no rebuttal - Brian Eber clarified the process for a Major Subdivision change and how long it would take.

Chair Fingerhut asked for Applicant Rebuttal. Applicant had no rebuttal.

Chair Fingerhut asked for public comment. One member from the public expressed concern that granting this Variance would set a very bad precedent. North Forest Beach is zoned single family. The LMO was created for a specific reason and not to allow massive structures in a single family neighborhood.

Chair Fingerhut incorporated all the evidence, including the Staff Report, Application, Documents, and testimony provided during the Hearing into record. Chair Fingerhut closed the Public Hearing.

The Board made final comments and inquiries regarding: this is a very large structure and it will be very attractive for some investor to come along and make them an offer they cannot refuse and we will end up with a huge hotel with dozens of cars utilizing that space and it will not keep in character with the neighborhood; it is this Board's duty to follow the LMO, particularly in a case where another solution is available that still lets us uphold the letter of the LMO; very cognizant of the objections that have been voiced by the neighbors and the HOA and the fact that none of us can predict the future; this request is not in keeping with the character of Forest Beach; there is no unnecessary hardship here - there is a clear path to avoid making this sort of request.

Upon the conclusion of discussion, Chair Fingerhut asked for a Motion.

Ms. Bayless moved to deny the Application based on the Findings of Fact and Conclusions of Law as set forth in the staff memo. Mr. Kristian seconded. The Motion passed with a vote of 6-0.

e. Election of Officers for July 1, 2023 - June 30, 2024 Term

This item was removed from the Agenda and will be on the July, 2024 Agenda.

9. Board Business

a. Review and Adoption of 2024 Meeting Schedule

Ms. Bayless moved to approve the 2024 Meeting Schedule. Mr. Sackheim seconded. The 2024 Meeting schedule was unanimously approved.

Chairman Fingerhut presented outgoing member, Peter Kristian with a Certificate of Appreciation and thanked him for his years of service to the Board of Zoning Appeals and to the Community.

10. Staff Reports

a. Status of Appeals to Circuit Court

No Report.

b. Status of LMO Amendments

Alexis McIlwee, Principal Planner, gave a brief update on the LMO project and stated they are working right now towards the Priority Amendment Set that was brought before the Public Planning Committee on May 9, 2024. All the Priority Amendments are moving forward to a Workshop in August. The LMO Overhaul Project is also underway. We have a June Workshop with the Code Consultant and are currently working on the Table of Contents or the organization of the Code Overhaul. We will be working on discussing those changes, whether they are policy or administration, with members of Town Council at that Workshop.

c. Recent FAR Update - Forest Beach .55 to .45

Michael Connolly reviewed the Ordinance that recently passed reducing the FAR in the Forest Beach Area Overlay to .45. The 5,000 sq. ft. restriction in the Forest Beach Area Overlay with respect to Gross Floor Area will remain the same.

11. Adjournment

The Meeting was adjourned at 5:25 p.m.

Approved: July 22, 2024

The recording of this Meeting can be found on the Town's website at www.hiltonheadislandsc.gov



Board of Zoning Appeals June 24, 2024

Agenda

June 24, 2024, 7:00 AM

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Board of Zoning Appeals June 24, 2024 Agenda

We are seeking public comment for items on the Board of Zoning Appeals June 24, 2024 Agenda.

Introduction

The Hilton Head Island Board of Zoning Appeals (BZA) will be conducting an in-person regular meeting on June 24, 2024, at 2:30 pm.

The June 24, 2024, Board of Zoning Appeals special meeting agenda is available at <https://hiltonheadislandsc.gov/boards/bza/>.

Citizens may submit written comments via the Town's Virtual Open Town Hall portal. The portal will close at 4:30 pm on Wednesday, June 23, 2024. Comments submitted through the portal will be provided to the Board and made a part of the official record.

Board of Zoning Appeals June 24, 2024 Agenda

We are seeking public comment for items on the Board of Zoning Appeals June 24, 2024 Agenda.

Summary Of Comments

As of June 24, 2024, 7:00 AM, this forum had:

Attendees:	20
Comments:	7
Minutes of Public Comment:	21

Topic Start

June 17, 2024, 10:25 AM

Topic End

June 21, 2024, 4:30 PM

QUESTION 1

Name

Answered	6
Skipped	1

QUESTION 2

Do you have comments regarding VAR-000802-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Vinod Rajasekaran, owner of 59 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1125 0000?

Answered	3
Skipped	4

QUESTION 3

VAR-000803-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Rosanne Magers, owner of 129 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1157 0000?

Answered	3
Skipped	4

QUESTION 4

VAR-000804-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Charlotte Russo, owner of 9 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1107 0000?

Board of Zoning Appeals June 24, 2024 Agenda

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Answered 3

Skipped 4

QUESTION 5

VAR-000818-2024 - Request from Judd Carstens of Witmer Jones Keefer, on behalf of Dave Peacock, owner of 19 Ibis Street, also identified as Beaufort County Tax Map Parcel R550 015 00A 0111 0000?

Answered 7

Skipped 0

Board of Zoning Appeals June 24, 2024 Agenda

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Survey Questions

QUESTION 1

Name

QUESTION 2

Do you have comments regarding VAR-000802-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Vinod Rajasekaran, owner of 59 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1125 0000?

QUESTION 3

VAR-000803-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Rosanne Magers, owner of 129 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1157 0000?

QUESTION 4

VAR-000804-2024 - Request from Richard Dietrich of The Renovators of SC, on behalf of Charlotte Russo, owner of 9 Sandcastle Court, also identified as Beaufort County Tax Map Parcel R511 009 000 1107 0000?

QUESTION 5

VAR-000818-2024 - Request from Judd Carstens of Witmer Jones Keefer, on behalf of Dave Peacock, owner of 19 Ibis Street, also identified as Beaufort County Tax Map Parcel R550 015 00A 0111 0000?

Board of Zoning Appeals June 24, 2024 Agenda

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Individual Comments

John Strother

inside Town Limits

June 17, 2024, 12:42 PM

Question 1

John Strother

Question 2

No response

Question 3

No response

Question 4

No response

Question 5

The owner of 19 Ibis St. is asking for a variance of approximately 2200 ft.² as an increase over the already approved 5000 square-foot main house. That would bring the total square footage to over 7000 ft.² after looking at the property it's obvious that they are sub dividing this property into two home sites. Size in North Forest Beach is restricted to no larger than 5000 square feet. The size of the home and the ability to change this into two separate building lots are not in keeping with the character of our neighborhood. Please deny this request.

Name not available

June 18, 2024, 3:25 PM

Question 1

Mickey Goodman

Question 2

No response

Question 3

No response

Question 4

No response

Question 5

I do not believe this variance should be granted, as it allows a 2nd structure of 2500+ square feet on a lot that is already building a 5000+ square foot house. This feels like a "compound" is being constructed or if not that a mini-hotel and neither is in the spirit and aesthetic of North Forest Beach. Considering that there is a second buildable lot on this property owned by the same person, let them put the second structure there. Most important this would set an unnecessary and TERRIBLE precedent for NFB, which is already suffering from clear-cutting and over-building, and which is trending in a very negative direction. Sometimes it's just time for the town to say "No". I am a long-time (10 years+) NFB resident. Thank you.

Name not shown

outside Town Limits

June 18, 2024, 9:29 PM

Question 1

Dave

Question 2

I object to the variance request, my belief is that they are looking to build even a bigger home on the lot and we are already dealing with major parking issues in the Sandcastle development and this will only make matters worse.

Question 3

I object to the variance request, my belief is that they are looking to build even a bigger home on the lot and we are already dealing with major parking issues in the Sandcastle development and this will only make matters worse.

Question 4

I object to the variance request, my belief is that they are looking to build even a bigger home on the lot and we are already dealing with major parking issues in the Sandcastle development and this will only make matters worse.

Question 5

I object to the variance request, my belief is that they are looking to build even a bigger home on the lot and we are already dealing with major parking issues in the Sandcastle development and this will only make matters worse.

Board of Zoning Appeals June 24, 2024 Agenda

We are seeking public comment for items on the Board of Zoning Appeals June 24, 2024 Agenda.

Jack Daly

inside Town Limits

June 19, 2024, 5:57 PM

Question 1

Forest Beach Owners Association

Question 2

No response

Question 3

No response

Question 4

No response

Question 5

Board of Zoning Appeals - On behalf of the Forest Beach Owners Association, Inc., a property owner adjacent to the subject property of this appeal, located at 19 Ibis Street the Association believes that no variance should be granted for the following reasons:

- 1) This is a standard size lot for the platted neighborhood, prior to any acquisition of adjacent and replatted strand and access strip parcels.
 - 2) There has been no "hardship" shown to base the granting of a variance.
 - 3) The granting of a variance would create the development of a property not in keeping with the character of the neighborhood.
 - 4) There is no precedent upon which to grant the requested variance within Forest Beach or the Forest Beach Neighborhood Character Overlay District.
 - 5) Approval of this variance would set a precedent allowing others to build similar over-sized compounds
- Respectfully submitted,

Forest Beach Owners Association, Inc.

Name not available

June 20, 2024, 9:53 AM

Question 1

Joe Todd

Question 2

No response

Question 3

No response

Question 4

No response

Question 5

We purchased a lot in the 1980's in NFB, a single family neighborhood, to build a vacation home with a minimum of pedestrian and vehicle traffic, and the noises and parking issues that go with that traffic. It seems that freestanding garages in the neighborhood inevitably become standalone rental units, adding to the noise and traffic. I ask that the letter and spirit of the law be followed, and the request for additional square footage be denied.

Peter Brown

outside Town Limits

June 21, 2024, 10:33 AM

Question 1

Peter & Joni Brown - 15 Ibis St.

Question 2

no

Question 3

no

Question 4

no

Question 5

Being unable to see the location of the house and the size of the garage with no current site map or footprint provided, we have these questions:

1. What are the setbacks on Dune Lane and Ibis Street?
2. What is the location of the proposed garage?
3. How many stories for living space above the garage? More than one story will be an eyesore to the neighborhood.
4. Will this variance allow for future building on the remainder of the lot?
5. Is this lot being treated as one lot or two lots?

We object to allowing building beyond the current square footage allowed.

Name not shown

Board of Zoning Appeals June 24, 2024 Agenda

We are seeking public comment for items on the Board of Zoning Appeals June 24, 2024 Agenda.

inside Town Limits

June 21, 2024, 12:40 PM

Question 1

No response

Question 2

No

Question 3

No

Question 4

No

Question 5

As the only non rental home on the Dune Lane block between Ibis and Jacana, we object to this variance request. We are surrounded on all sides by rental homes, having experienced parking issues and loud neighbors. We assume the rental agencies inform the tenants of our rules, but some renters don't abide by or respect them. As a good steward of the land, I have had to inform beachgoers about staying off the dunes and not disturbing the sea oats, turtles, etc. When we bought and built on our lot in 1987, Dune Lane was a quiet and tranquil neighborhood.

By granting this variance, you are actually allowing this nice large lot to become subdivided into two lots, thus allowing these issues to continue. A 5,000 square foot house is certainly adequate. The previous house was situated a good distance from Dune Lane, providing a green space and habitat for our treasured deer and other wildlife. Variances are usually requested and granted due to hardships and we do not consider this a hardship. To allow this request will set a precedent and will suggest to other property owners that they too can build two homes on their single family lot. Restrictions are created for the betterment of the neighborhood and need to be enforced and respected. We're sure the buyers were fully aware of the restrictions prior to starting construction.

We welcome the Peacocks to the neighborhood and assume they will adhere to the POA guidelines and become an asset to our wonderful community. We hope they will be enjoying and making wonderful family memories for many years to come.