



**MINUTES
TOWN OF HILLSBORO BEACH
BOARD OF ZONING & APPEALS MEETING
OCTOBER 6, 2020**

TUESDAY

9:00 A.M.

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Deborah L. Tarrant called the meeting to order at 9:02 a.m. Roll was called with the Commission members and staff present as listed below.

Town Commission:

Mayor Deborah L. Tarrant
Commissioner Andrew R. Brown
Commissioner Barbara Baldassarre

Vice Mayor Irene Kirdahy
Commissioner Vicky Feaman

Town Staff:

Town Manager Mac Serda
DJ Doody, Town Attorney
Town Clerk Sherry D. Henderson, CMC

Town Manager Mac Serda shared the Governor's order allowing for online meeting and outlined the procedure to be followed. He explained the notice given and provided instruction on the Zoom system being utilized to host the meeting online. He further noted public comment was being accepted by email, as well as on the Zoom system.

I. QUASI-JUDICIAL PUBLIC HEARINGS

- A.** Variance request from Timothy Rowe, 1200 Hillsboro Mile Homeowner Association (HOA). Agent for property located at 1200 Hillsboro Mile, Hillsboro Beach, FL 33062

Town Attorney DJ Doody swore in all those giving testimony at the hearing.

Town Planner Joe Arenal presented the request, which is for two (2) variances related to Chapter 12 of the Town's Land Development Code. Those variances include:

- Section 12-264 Swimming Pools, Pools, Patios, and Decks (D) – Patios. To extend the existing pool patio 10 feet seaward, extending approximately 5 feet beyond the allowed 5 feet extension east of the easterly building.

- Section 12-263 (A) (1) (a) Fences and Walls – General. Relocate an existing pool fence east of the easterly building line to an existing wall.

Mr. Arenal provided a brief background on the property and application, including previous variances awarded in 2016. He shared drawings of the existing pool fence, which appears to lack the structural integrity to act as a safeguard, and a survey of the proposed pool fence, which would be at the site of an existing seawall.

Mr. Arenal shared staff comments on the proposal, noting the staff had not demonstrated a non-self-imposed hardship, but there may be safety concerns as a result of erosion. He stated staff recommended denial of the original proposal, but approval without the deck variance may be appropriate.

Tim Rowe, HOA Vice President, explained a temporary fence exists at the seawall, and he would like to move the existing fence to that site for safety reasons and extend the deck for quality of life. He noted that a five (5) foot extension as allowed by Code would be an amenable compromise rather than the 10 feet in the variance.

Mayor Tarrant stated she had visited the site the previous day with Mr. Arenal and Mr. Serda. She noted the drop-off is a safety issue, in her opinion created by erosion of the beach.

Mr. Rowe noted the building is pet-friendly and expressed concern for the safety of pets without the fence change. He stated the change was in line with what was present on neighboring properties.

Mayor Tarrant stated the applicant could remove the request for variance regarding the size of the patio.

Mayor Tarrant opened the public hearing on the matter.

Town Clerk Sherry Henderson read a letter from Hillsboro Imperial Condo Association in support of the variance.

Ms. Henderson read an email from Heidi Burke in opposition to the variance, stating the fence would encroach on an undeveloped line along the beach. She outlined history of the project at 1200 Hillsboro Mile and asserted previous variances and decisions were also an issue. She asked that the variances not be granted, and the property be required to remove existing issues.

Ms. Henderson read an email from the Law Firm of Harvey School, on behalf of Susan Poe, Trustee for 1203 Hillsboro Mile #10 in opposition to the variances. The email

outlined history of the project and asked that further variances not be granted.

Joyce Rice, HOA President at 1200 Hillsboro Mile, addressed the concerns expressed via email. She stated none of the owners were informed that variances were required during the construction phase. She noted the owners did not develop the property, they bought in after construction.

Mr. Rowe stated the comment regarding a berm with weeds being a problem was seen by the HOA as a protective barrier. He asserted that because the neighboring property did not have vegetation, issues with erosion were exacerbated.

Ms. Rice added that the vegetation on the berm was required by the State of Florida.

Mayor Tarrant closed the public hearing.

Vice Mayor Kirdahy thanked staff for the application provided. She stated in her opinion it was a hardship caused by erosion problems. She asserted the temporary fence was not a safe barrier and that portion of the variance should be granted. Continuing, Vice Mayor Kirdahy asked for staff response regarding the neighbors' view.

Commissioner Baldassarre stated she was not prepared to grant the extension of the patio, but she did believe the fence was a safety hazard.

Commissioner Feaman agreed that she did not support the extension of the patio. She asked what type of fence would be constructed on the seawall.

Mr. Arenal stated the property would have a 48-inch fence to meet both the safeguard requirement and the pool fence requirement.

Commissioner Feaman asked if it would be secured directly on the seawall, drilling holes into the seawall itself.

Mr. Arenal stated the fence would be fastened to the cap of the seawall.

Commissioner Feaman clarified the fence would have a gate with access to the stairs.

Mayor Tarrant stated a safety issue exists. She noted the neighboring property making the complaint had not just a fence, but a wall which fully blocked the view of neighbors.

Town Attorney DJ Doody asked that the deck variance application be officially removed for the record.

Mr. Rowe withdrew the application for the variance for the 10-foot extension of the deck and noted they would extend it to the distance allowed within code.

Mr. Doody asked that a time limitation be placed regarding compliance.

Mr. Rowe stated a survey had been ordered in May, but it was not completed until the end of July during COVID-19. He asked that the time limitation take COVID-19 delays into account.

Mr. Serda stated less than six (6) months would not be appropriate because Department of Environmental Protection (DEP) approval would be required.

Mr. Arenal added that he would state six (6) months to a year, due to DEP timelines.

Motion made by Vice Mayor Kirdahy, seconded by Commissioner Brown, to approve the fence variance requested for 1200 Hillsboro Mile with one (1) year to comply. In a roll call vote, the **motion** passed unanimously. (5-0)

Mayor Tarrant noted public comments were considered, but the Commission had to review all information before the Board.

II. ADJOURNMENT

Motion made by Commissioner Feaman, seconded by Commissioner Brown, to adjourn the meeting. In a roll call vote, the **motion** passed unanimously. (5-0)

There being no further business before the Board of Zoning and Appeals, the meeting was adjourned at 9:44 a.m.

ADOPTED THIS 10th DAY OF Nov, 2020

By: Deborah L. Tarrant
Deborah L. Tarrant, Mayor

ATTEST:

Sherry D. Henderson
Sherry D. Henderson, CMC
Town Clerk
11/10/2020



OCTOBER 6, 2020

BOARD OF ZONING & APPEALS MEETING

Town of Hillsboro Beach
1210 Hillsboro Mile
Hillsboro Beach, FL 33062

HILLSBORO IMPERIAL CONDO ASSOC., INC.

1198/1199 HILLSBORO MILE • HILLSBORO BEACH, FL 33062

April 21, 2020

To Whom It May Concern:

This letter is in support of 1200 Hillsboro Mile Condominium Association, Inc.'s request for a variance to extend its current pool fence to the seawall, and to add additional decking less than 10 feet to the current patio. Hillsboro Imperial Condominium Association, Inc.—the adjoining property on the south—does not oppose the variance.

Please let us know if you require additional information or confirmation.

Sincerely,

Lindsey M. Tenberg

Lindsey M. Tenberg, Esq.
President, Hillsboro Imperial Condominium Association

August 5, 2020

1200 Hillsboro Mile Homeowners Association Approval Letter

On behalf of the owners of 1200 Hillsboro Mile, The Homeowners Association Approves the submission of the variance for movement of the existing pool fence of the East Building to the property lines as well as to the seawall. We also approve enlarging the patio area by 10 feet.

Sincerely,

The 1200 Hillsboro Mile HOA Board of Directors:

Joyce Rice President

Tim Rowe Vice President

Mark Silver Secretary



October 5, 2020

Township of Hillsboro
1210 Hillsboro Mile
Hillsboro Beach, FL 33062

Attention: Zoning Board

Re: 1200 Hillsboro Mile variance request.

Dear Zoning Board.

I represent Ms. Susan Poe, trustee of SLP Revocable Trust, the owner of unit 10A, located at 1203 Hillsboro Mile, Hillsboro Beach, FL 33062. My client is the most impacted by this variance request, although it affects others and continues to set a very bad precedent for the Township of Hillsboro.

The building at 1200 Hillsboro has been breaking the rules, if not, the law, in their ignoring of the regulations set forth by the board.

Initially, they built the building beyond the permitted extension east, asking for a variance to build past the CCCL line. After that was pushed through, they illegally adding a pool east of the property. They then went even further, tearing down the existing safety fence that separates the beach from the building's common area.

They next, evidently illegally, without permission, dug up the beach and created a pile of sand east of where the fence previously stood. Later they realized that they wanted to move the pile and was stopped from doing so, with the zoning board informing them that the reeds that they planted in the sand which were now growing on the sand were protected. Now that the latest weather removed the pile of sand and they must consider this a good time to try to build out. After all, they added the pile of sand, why not a patio.

This needs to end now. In zoning, it should not be easier to ask forgiveness than permission. If permission is not given it should be torn out.

Additionally, the extension of the property fence will be an eyesore to an existing eyesore. It is a blight on the shoreline. It has the look and feel of a motel common pool area. Where other pools are discretely placed out of view, such as the Shoreland pool, placed on the west side, secured, safe and unseen, the 1200 is placed where everyone must endure its presence, unsafe and certainly not unseen.

This extension will block the view of my client even more, reduce their property value and further impair their enjoyment of the beach and their view. If we allow this, what's next? A request to build on the beach or into the water; perhaps another pier.



We ask that this variance be denied and that we are informed of any changes well before they are considered.

Please direct any correspondence to my client's husband who is works for this firm. His name is Perino Orlando. You may reach him by email at admin@scholloffices.com and by cell phone at 954-889-6400.

Thank you for your time and consideration.

Very truly yours,

A handwritten signature in blue ink, appearing to be "H. Scholl", written over a faint circular stamp or watermark.

Harvey J. Scholl, Esq.

Town Clerk

From: Heidi Berk <bocaberk@gmail.com>
Sent: Monday, October 5, 2020 2:08 PM
To: TOWNCLERK@townofhillsborobeach.com
Subject: Hearing Board for 1200 Hillsboro Mile Variance Request

Regarding the Quasi Legal 1200 Meeting:

In reference to the 1200 Building's request to build a fence directly on the Beach Seawall, thus further encroaching into what has always been an undeveloped Lawn area buffer between developed property and the sand, I would like to share my opinion and facts. It was not an intelligent Zoning decision in the first place to allow only a linear 100 foot subdivision as had occurred 60 years ago. The Town should have required developers minimum consolidations of the older properties of at least 200 linear feet and preferably 400 feet to upgrade the multi family areas.

As we all know 1200 has been breaking rules and requesting variances from the day they started construction. This development began its project asking that the side setbacks be reduced from 15 to 10 feet. This was because 100 linear feet is too narrow for today's beach market.

Then after building the West Side first, which was also the location of the swimming pool which was designed for both sides of 1200 to use, they left a hole in the ground with rotting rusting pilings and rebar for over 10 years and the Zoning Board did NOTHING about it.

Then when the developer finally decided to complete the East side, they were granted another variance to build SEAWARD of the CCCL line.

After the building was completed, they added a pool which went even FARTHER Seaward, and then they made a "mistake" and exceeded the CCCL Variance and encroached on the buffered lawn area again. Subsequently, they applied for yet another variance for this "already constructed mistake" which encroached upon and further blocked the neighboring building view of the beach.

They put in a pool fence to create more view disruption and built a "mound" of dirt seaward - as a result blocked the view even more - worse yet, the plantings spread their weeds seedlings completely northerly and southerly on the private beaches of all the neighboring buildings and completely covered the sand. They did NOTHING to maintain the mess they created.

Their current request to extend their pool fence ALL the way out the Seawall and take over even more land Seaward completely destroys all ocean and beach views are remaining. This is NOT fair and demonstrates That the very poor previous judgments of the Zoning Board.

Their fence and landscape need to be Moved back to their pool boundary, like any other pool so that undeveloped lawn between the Seawall and a pool fence is restored. The blocked ocean and beach views need to be eliminated.

No way should they be granted the right to continue to affect any more view with ANOTHER variance. They should be required to correct the encroachments that exist and put back a lawn area buffer By setting the fence line closer to the pool.

Residents can take chaises and chairs out to the restored lawn buffer area in front of the Seawall. This Zoning Board needs to quit making decisions which destroy the views of neighboring developments. It would be much more fair to

have the Zoning Board correct the poor past encroachment decisions and make 1200 restore some lawn buffering area near the Seawall and improve the views of the neighbors.

Respectfully Submitted,

Heidi Lynn Berk
Luxury Properties
Mizner Grande Realty- Boca Raton, FL
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bocaberk@gmail.com

