



**MINUTES
TOWN OF HILLSBORO BEACH
BOARD OF ZONING & APPEALS MEETING
JANUARY 7, 2025**

9:00 A.M.

CALL TO ORDER AND ROLL CALL

Mayor Dawn Miller called the meeting to order at 9:00 A.M. Roll was called with the Commission members and staff present as listed below.

Town Commission:

Mayor Dawn Miller

Commissioner Jane Reiser

Commissioner David A. Ravanesi

Vice Mayor Barbara Baldassarre

Commissioner Vinnie Andreano

Town Staff:

Town Manager William "Mac" Serda, ICMA-CM

Town Attorney Donald J. Doody, Esq.

Town Clerk Sherry D. Henderson, CMC

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

I. QUASI-JUDICIAL PUBLIC HEARINGS

A. VARIANCE REQUEST for property located at 1035 Hillsboro Mile, Hillsboro Beach, FL 33062

Property Owner: Hillsboro Mile Tower, Inc.

Authorized Agent: Irene Kirdahy

Request: Request for a Variance to Comply with Screening of a Dumpster

Staff: Graham Long, Development Planner, CG&A Solutions

- Section 6-42 (A): "All refuse or recycling containers in use within the Town limits shall be screened from view from State Road A1A on or before November 1, 2021."
- Applicant is requesting an extension of time to comply with Section 6-42 (A) requiring dumpsters to be closed from view.

At this time any individuals wishing to speak on the Item were sworn in by Town Attorney Donald J. Doody.

Planning Consultant Graham Long explained that this Item seeks a variance for a condominium development at 1035 Hillsboro Mile, which is located in the RM-30 multi-family zoning district. The condominium association is requesting a variance from Code Section 6-42 (A), which requires all dumpsters and other trash containers to be screened from view by November 1, 2021.

The dumpster is located on the west side of A1A and is adjacent to the Intracoastal Waterway and a seawall. It is on a narrow strip that currently serves as a parking area. The Applicant wishes to level and re-pave the area where the dumpster is located due to complications with the reconstruction of the seawall. The re-paving cannot begin until the seawall is repaired. The Applicant asks for additional time to install a fence to enclose the dumpster area once the parking area has been re-paved.

Mayor Miller asked if the Applicant has indicated how much additional time they will need to comply with the Town's Code. Mr. Long replied that while the Applicant has not requested a specific time period, Staff has recommended that six months would be sufficient to finish the re-paving and install the fence around the dumpster area.

Commissioner Reiser asked what would be done during the six-month extension. Mr. Long replied that a sequence of events will need to happen to level the area.

Irene Kirdahy, representing the Applicant, stated that when the Ordinance requiring dumpsters to be screened was passed in 2021, the Applicant contracted with a company to install the fence, and the contractor submitted a permit application for this work. The project has been in court since that time. The north end of the Applicant's seawall has been reconstructed; however, there is a boat lift illegally attached to the seawall at its south end.

Ms. Kirdahy explained that the U.S. Army Corps of Engineers does not want the boat lift to remain in its current position, as it is located on a narrow portion of the Intracoastal Waterway where boats often turn. The individual who owns the boat lift has sued the Condominium Association because if he removes the lift, he will not be permitted to return it in its current state.

The condominium association has informed the individual that he may replace the boat lift if it is accompanied by piers. The lift is very old and could collapse. The contractor who made the repairs on the northern part of the seawall has recommended placing the lift in the middle of the property, to which the condominium association did not agree.

Ms. Kirdahy continued that the condominium association sued the individual to require him to remove the portion of the boat lift that is attached to the seawall. They informed him that he may replace it in the same location once work on the seawall is complete. The Army

Corps of Engineers has agreed to this; however, if the entire lift is removed, it cannot be replaced in the same location. She concluded that there have been several delays related to ongoing litigation.

Mayor Miller asked if the location of the boat lift is adjacent to the area in which the dumpsters are located. Ms. Kirdahy clarified that the boat lift is on the south end of the seawall, while the dumpsters are on the north end. The seawall's deterioration has now eaten into the ground area, which will require the entire parking lot to be re-paved. The fence contractor secured permits and processed the association's deposit; however, the permits expired because the work could not be done.

Ms. Kirdahy continued that she had asked the fence contractor if they would install the fence, remove it when the other work is done, and then re-install it. The contractor did not agree to this. She emphasized the frustration of the association regarding this ongoing issue and litigation.

Mayor Miller asked if the association has investigated the possibility of temporary screening the dumpster area. Ms. Kirdahy replied that this was not an option, as temporary screening would not withstand high winds.

Commissioner Reiser asked if there were current permits for the seawall repair, which would need to be done before any other repairs or construction. Ms. Kirdahy replied that the association has a contract for this work but noted that a new contract will be necessary due to pricing changes over time. Permits for the work have expired.

Commissioner Reiser asked how the individual who owns the boat lift has been able to exercise control over the subject portion of the property to prevent the association from making necessary changes. Ms. Kirdahy replied that the individual has done this through lawsuits. She added that the boat lift has been at its location since before 1998.

Commissioner Reiser noted that the seawall has been repaired at the north end of the condominium property, which is where the dumpster area is located. Ms. Kirdahy confirmed this. Commissioner Reiser observed that it would be unlikely for temporary fencing to blow away from the dumpster area. Ms. Kirdahy reiterated that she was informed by the contractor that temporary fencing would not be suitable at the location.

Commissioner Andreano asserted that he felt temporary fencing could be installed, and explained that the Commission was concerned with the appearance of the subject area. He pointed out that it could be another several years before the legal issues on the site are resolved. Ms. Kirdahy noted that she has been advised by the association's counsel that the issue is going to court in "a couple of months" and the individual is expected to be ordered to remove the lift. She emphasized that the association wants to proceed with installing the fence.

Commissioner Ravanese asked how the Commission can help the association resolve the issue. Ms. Kirdahy replied that she was informed a variance was necessary and did not know how else they could assist with resolving the matter.

Vice Chair Baldassarre commented that she felt granting the Applicant a certain amount of time was a good idea. She recommended that the association investigate other options for enclosing the area. Ms. Kirdahy stated that the seawall could be repaired in one week and paving in an even shorter time frame. The fencing could be installed in two days. She reiterated that she could not predict when the case will be resolved.

Town Attorney Doody requested that any Commission members who have had *ex parte* communications regarding this Item disclose it at this time. No such communications were reported.

At this time Mayor Miller opened the public hearing.

Frank Morary, 1021 Hillsboro Mile, suggested a method that could allow the Applicant to proceed with the repairs and fencing on the north end of the property.

With no other individuals wishing to speak at this time, Mayor Miller closed the public hearing.

Commissioner Reiser asked what length of time the Applicant felt would be needed to make the necessary changes if granted a variance. Ms. Kirdahy replied that she could not answer this, although she reiterated that the association's counsel feels a judgment will be made on the case "within three to six months." She emphasized that this could not be guaranteed.

Commissioner Reiser also acknowledged the amount of time that has passed since the Ordinance requiring screening was enacted, and stated that she did not feel a time frame past six months could be extended.

Vice Mayor Baldassarre commented that another possibility could be approving a six-month extension with the understanding that the Applicant would investigate alternative solutions rather than focusing solely on the end of litigation. It was suggested that the Applicant may wish to investigate working with a different fence contractor.

Town Attorney Doody pointed out that a variance is not traditionally considered temporary approval. If a variance is granted for six months, another hearing would be required to revoke it at the end of that period. He suggested that the Commission instead consider tabling the Application for an appropriate period of time, during which the variance application would remain pending and Code Compliance proceedings would be abated until the Application comes back to the Commission for consideration.

Mayor Miller requested additional discussion regarding the length of time the Commission may be willing to table the Item. Commissioner Ravanesi proposed that the Application be tabled for six months.

Commissioner Andreano requested clarification of the length of time that an item may be tabled. Town Attorney Doody replied that this was left to the Commission's discretion but recommended that they identify a specific period of time, including a date certain on when the Application would come before them again.

Commissioner Andreano proposed tabling the Item for three months and then following up to determine whether progress has been made within that time frame. Commissioner Ravanesi stated, however, that he did not feel this was an adequate amount of time to resolve an issue that has gone on for years, and again recommended six months, which would provide the Applicant with a greater opportunity to research solutions to the issue.

Commissioner Reiser advised that she felt more than three months would be needed to resolve the issue of the boat lift, after which other actions may fall into place. She asked if tabling the Item would mean the variance application continues. Town Attorney Doody replied that tabling would place the variance application on hold. He added that options in addition to tabling the Item include approval or denial of the application, stating again that he was not comfortable with the idea of a temporary variance.

Commissioner Andreano recommended tabling the Item for six months and having the Applicant come back before the Board in three months to report on the status of the issue. This would ensure the Commission remains up to date on the situation.

Ms. Kirdahy strongly emphasized the importance of resolving the matter and other related issues to residents of the condominium. She felt at least six months would be necessary to resolve litigation. She pointed out that she must ensure any work provides value to the condominium.

Mayor Miller asked if there was the possibility that the Applicant would proceed with installing the fence before the litigation has been resolved. She expressed concern that the litigation could continue to be time-consuming. Ms. Kirdahy confirmed that she will again contract another party to discuss options for the necessary work, again asserting that a temporary fence would not be suitable at the subject location.

It was also clarified that any work on the site would require new permits, as previous permits have expired.

Commissioner Reiser clarified that it may be possible to complete paving work on half of the site, which would then allow for a permanent fence to be installed there. The remainder

of the lot would be paved when work on the seawall is complete.

Mayor Miller asked if it would be procedurally correct and legally binding to require the Applicant to provide a status update to the Board. Town Attorney Doody confirmed that this would be appropriate, and Ms. Kirdahy indicated her wish to provide an update. Town Attorney Doody further clarified that providing an interim status report could be made a condition of tabling the Item.

Motion by Commissioner Reiser, seconded by Vice Mayor Baldassarre, to table the variance Application for six months (July 1, 2025), with the requirement that the Board get a status report at two months (March 4, 2025) and four months (May 6, 2025) so they know where the Applicant is in terms of progress. In a roll call vote, the **motion** passed unanimously (5-0).

II. ADJOURNMENT

Motion made by Commissioner Andreano, seconded by Commissioner Ravanesi, to adjourn. 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 9:51 a.m.

ADOPTED THIS 4th DAY OF FEBRUARY 2025.

By: _____

Dawn Miller, Mayor

ATTEST:

Sherry D. Henderson
Sherry D. Henderson, Town Clerk

2/4/2025

