

**MINUTES OF THE BOARD OF ZONING ADJUSTMENT
CITY OF GULF SHORES, ALABAMA
REGULAR MEETING OF AUGUST 2, 2022**

MEMBERS PRESENT:

Chairman Craig Olmstead, Vice Chairman Grant Brown, Board Member George Harris, Board Member Erin Kaiser, Supernumerary Board Member Richard Lamar, Supernumerary Board Member David Stewart

MEMBERS ABSENT: Board Member John Tuberville

STAFF PRESENT:

Director of Planning & Community Development, Lee Jones; Zoning Administrator, Andy Bauer; City Planner, Jennifer Watkins; Code Enforcement Officer, Justin Clopton; Secretary, Mell Davis

CALL TO ORDER:

Chairman Olmstead called the meeting to order at 4:00 p.m.

ROLL CALL:

The Secretary called the roll.

APPROVAL OF MINUTES: Regular Meeting of April 6, 2021; October 5, 2021; and June 7, 2022.

Board Member Erin Kaiser made the motion to approve minutes from the April 6, 2021; October 5, 2021 and June 7, 2022 meetings. Motion was seconded by Supernumerary Board Member Lamar and approved 6-0.

ITEMS FOR DEFERRAL:

None

PUBLIC HEARINGS:

A. ZA21-000051 Shallon Ferguson Dog Grooming Home Occupation Appeal

The applicant is appealing a decision made by the Zoning Administrator regarding characterization of a Home Occupation under the Zoning Ordinance.

Staff provided board members with letters and emails from residents in the subdivision requesting that this dog grooming business not be allowed to operate due to concerns of increased traffic and safety of residents.

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Zoning Administrator, Andy Bauer, presented the applicant's appeal and staff recommendation to deny the applicant's appeal and uphold City staff's determination that dog grooming businesses are not allowed as Home Occupations.

Chairman Olmstead opened the Public Hearing.

Applicants, Keith Roeten & Shallon Ferguson expressed their disagreement with the Zoning Administrators interpretation of the meaning of "treatment of animals" related to regulations for home occupations.

Chairman Olmstead closed the Public Hearing.

Board Member Grant Brown made the motion to deny the appeal and uphold City staff's determination that dog grooming businesses constitute the "treatment of animals" and are not allowed as Home Occupations. Supernumerary Board Member David Stewart seconded the motion, and the motion was unanimously passed 5-0.

B. ZA22-000048 Baldwin County Sewer Service Appeal

The applicant is appealing a decision made by the Zoning Administrator regarding characterization of a new sewer sludge pond under the Zoning Ordinance.

Director of Planning & Community Development, Lee Jones, presented the applicant's appeal and staff recommendation to deny the applicant's appeal and uphold City staff's determination that the sludge pond construction represents an expansion of a Nonconforming Use and is therefore prohibited.

The applicant's representative David Conner explained that the sewer treatment plant is an Essential Services Facility as defined by the City of Gulf Shores Zoning Ordinance and this use is allowed by a Conditional Use Permit in the R-1-4 Zoning District. BCSS asserts that it is fundamentally unfair to characterize and treat an Essential Services Facility, like the sewer treatment plant, as a nonconforming use and that the ultimate purpose of the Nonconforming Use provisions of a zoning ordinance is to manage the discontinuance of the use over time. BCSS argues the application of non-conforming use provisions to ongoing and operating utility providers is inappropriate as the need for such services will normally be perpetual.

BCSS is merely attempting to use the plant and the surrounding land for the use and purpose for which was purchased and constructed and has been used by the sewer company. In addition, BCSS asserts that the new pond is an Essential Services Installation and is allowed by right.

Chairman Olmstead opened the Public Hearing.

Barb Abeling: Ms. Abeling asked if this BCSS treatment location is accepting sewage waste from Fairhope.

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Lloyd Moore: Feels the appeal by BCSS is deceiving and that BCSS is expanding a non-conforming use. Also complained about the noxious odor put out by the sludge pond.

Rhonda Caviedes: Her parents live right behind the sludge pond and have to live with terrible noxious odor from the expansion. Ms. Caviedes also believes that BCSS violated setbacks requiring pond to be at least 500ft from inhabited structures, says the pond is 53 feet from her parent's back door.

Tom Eberly: He said he has lived on the lagoon for over 40 years, says sludge pond emits gases that are awful and overpowering. Also believes that BCSS is in violation of the 500ft setback required.

Sylvia Little & Dennis Hatfield, with the Little Lagoon Society, complained about the odor, do not believe this qualifies as an Essential Service Installation and wants them in compliance with ADEM.

Chairman Olmstead closed the Public Hearing.

Supernumerary Board Member David Stewart made the motion to deny Baldwin County Sewer Service's appeal and uphold City staff's determination as follows:

1. The new sludge pond is an expansion of a Nonconforming Use and prohibited by Article 13 of the Zoning Ordinance; and
2. The new sludge pond is classified as an Essential Services Facility.

Board Member George Harris seconded the motion, it passed with a 5-0 vote.

OTHER BUSINESS:

None

ADJOURN:

There being no further business to come before the Board, the meeting adjourned at 6:20 p.m.

Chairman

Secretary

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Date