



Town of Sunset Beach  
Board of Adjustment

**Meeting Minutes of July 8, 2015**

**9:00 am**

**DRAFT**

**Members Present:** Robert Forrester, Chairman; Peter Scott, Gene Allen, Leon August, Pete Larkin, Lawrence Sweeny.

*Establishment of Vested Rights decision was tabled from the June 10, 2015 meeting to today's meeting. Members present today were not present at the June 10, 2015 meeting: Gene Allen, Peter Larkin.*

**Members Absent:** Jim Strandquist

**Staff Present:** Susan Parker, Town Administrator, Rawls Howard, Director of Planning and Inspections; Susan Renton-An attorney from the office of the Town Attorney Grady Richardson; Cindy Nelson, Secretary

Chairperson Robert Forrester called the meeting to order, established that a quorum was present, and read a prepared welcome statement. The Pledge of Allegiance was recited by all in attendance.

**Consideration of Approval of Minutes:** FROM THE JUNE 10, 2015 MEETING.  
CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION TO APPROVE THE MINUTES WITH CORRECTION. MOTION WAS MOVED BY LEON AUGUST. SECOND WAS MADE BY PETER LARKIN. MOTION CARRIED UNANIMOUSLY.

**Swearing in of Staff:** Rawls Howard, Director of Planning and Inspections was sworn in.

**Continuances or Withdrawal's:** Continuance of June 10, 2015 Establishment for Vested Rights.

**Old Business:**

A. Establishment of Vested Rights

BOA-15-04; Gregory and Dinah Gore via Agent Sammy Varnam; seeks to establish zoning vested rights for Lots 19-25, Block 28 for a proposed multi-family development located on the West side of Sunset Blvd., South of North Shore Dr. West, and North of West Main St. in Sunset Beach.

Chairperson Robert Forrester recapped the reason for the hearing continuance from June 10, 2015: Due to Text Amendment consideration on density by Town Council for the BB-1 zoning district and pending research findings by the Town Attorney; can vested right be granted or denied given the approval of the Text Amendment at the July 29<sup>th</sup> Council meeting, which comes before today's continued meeting. Rawls interjected that the Text Amendment was approved.

Rawls introduced Susan Renton sitting in for Town Attorney Grady Richardson. He continued that there were five (5) Board of Adjustment members present today that would vote. Chairman Robert Forrester stated that only the Board of Adjustment members who were present for the hearing on June 10, 2015 or who had listened to the recording of that meeting could vote at today's hearing, which include: Chairman Robert Forrester, Leon August, Peter Larkin, Peter Scott and Larry Sweeny. Rawls added that if the vote is to approve Vested Rights today to default to the ordinance for parking and landscaping requirements.

Discussion as ensued as follows:

Chairperson Robert Forrester said vested rights are based on site specific plans, which we have. State Statute says that we are approving a site plan. The Technical Review Committee already approved this plan however, we are approving a plan we had no participation in and we have no evidence of what was approved. Rawls stated that his sworn testimony and presentation is evidence of what was approved.

Chairperson Robert Forrester: We do not have a site specific plan that includes infrastructure. We do not have adequate information to approve this.

Rawls: The statute also references "with reasonable certainty"; and this meets current statutes for Vested Rights and Town ordinance standards.

Pete Larkin: There is no height dimension given for the structures. Can we impose conditions?

Susan Groves: In approving Vested Rights you agreeing to what zoning is in effect at the time for a site specific development for a period of two years. You are not changing the building requirements or any other standard that would apply to the development process.

Peter Scott: My understanding that anything would have to meet Town ordinances for building approval.

Rawls: That is correct.

Chairperson Robert Forrester: That is not what the statute says.

Additional deliberation went forth for some time. Rawls informed the Board they could place conditions on the approval. The applicant has provided more information on this plan than what would normally be required for a Vested Rights approval.

Susan Groves: You are approving a plan that will allow the applicant to lock into the current zoning for two years. All other approvals would be through the Planning Board, and Staff. After more discussion and deliberation the Board was prepared to make a motion.

CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION THAT THE APPLICANT RECEIVE STATUTORY VESTED RIGHTS IN ACCORDANCE WITH THE ORDINANCES IN PLACE AT THE TIME OF THE VESTED RIGHTS APPLICATION AND ON THE CONDITION THAT ALL STATE AND LOCAL STATUTES, ORDINANCES, AND OTHER REQUIREMENTS IN EFFECT AT THE TIME OF THE VESTED RIGHTS APPLICATION ARE MET DURING THE CONSTRUCTION OF THE PROPOSED STRUCTURE, AND THAT THE PLAT NOTE ON THE SUBMITTED PLAT WAS DELETED AND CHANGED TO READ: "APPROVAL OF THIS PLAN ESTABLISHES A ZONING VESTED RIGHT UNDER NCGS 160A-385.1. UNLESS TERMINATED AT AN EARLIER DATE, THE ZONING VESTED RIGHT SHALL BE VALID FOR A PERIOD OF TWO YEARS UNTIL JULY 8, 2017. MOTION CARRIED BY LARRY SWEENEY. SECOND WAS MADE BY PETE LARKIN. MOTION WAS APPROVED BY VOTE:

*Chairman Robert Forrester-Yes*  
*Leon August-Yes*  
*Pete Larkin-Yes*  
*Peter Scott-No*  
*Larry Sweeney-Yes*

#### B. Review and Approval of Rules and Procedures

Susan Groves recommended one change as follows:

Page 3 under Section E. Voting: Remove “Failure of a motion to receive the number of affirmative votes required to carry the motion shall be deemed an action denying the application” and replace with: “If a motion to approve an applicant’s request does not receive the the necessary votes to be granted, then the applicants’ request shall be deemed denied.

CHAIRPERSON ROBERT FORRESTER ENTERTAINED A MOTION TO TO ENACT THE RULES AND REGULATIONS WITH CHANGE. MOTION MOVED BY PETER SCOTT. SECOND WAS MADE BY PETE LARKIN. MOTION WAS APPROVED BY UNANIMOUS VOTE:

*Chairperson Robert Forrester-Yes*  
*Peter Scott-Yes*  
*Larry Sweeny-Yes*  
*Gene Allen-Yes*  
*Pete Larkin-Yes*  
*Leon August-Yes*

#### **New Business**

##### A. Discussion-Staff Presentation and Board Training Regarding Variances

Rawls put together an informative training session on the rules and responsibilities of conducting variance requests. His presentation has been submitted for the minutes. Training session with questions and answers lasted approximately an hour and a half.

**Administrative Items:**

A. Director and Staff Comments

- a. CAMA Land Use Plan Update-The kickoff meeting is tentatively scheduled for September 30, 2015 at Sea Trail. The initial meeting will establish goals. A consultant from Asheville will be present to help facilitate the meeting and the CAMA LUP process.
- b. Articles 3 & 4 of UDO Update-Rawls has been working to rewrite these ordinances with guidance from the Town Attorney. Once completed the Articles will then go to the Planning Board for approval and then the Town Council for adoption.

B. Board Member Comments and Request for Future Agenda Items-None

**Adjournment-** 11:07 am. CHAIRPERSON ROBERT FORRESTER MOTIONED TO ADJOURN. MOTION CARRIED BY PETER SCOTT. SECOND WAS MADE BY PETE LARKIN. MOTION CARRIED UNANIMOUSLY.

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*Chairperson Robert Forrester*

Submitted by:

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*Cindy Nelson Board of Adjustment Secretary*

\*\*\*Minutes from June 10, 2015 were approved at the July 8, 2015 meeting.