

CITY OF NORTH MYRTLE BEACH, SOUTH CAROLINA
NORTH MYRTLE BEACH CITY HALL
BOARD OF ZONING APPEALS MEETING
Thursday, January 8, 2026
5:00 PM

MINUTES

William McGonigal, Chairman
Mendel Bell
Cynthia Lover
Joe Reaves,
Andy Thomas
Wyman Wise
Melissa Wober

City Staff:
Ben Caldwell, Zoning Administrator
Elton Farmer, Zoning Technician
Chris Noury, City Attorney
Dawn Snider, Planner
Amber Elmadolar, Plan Reviewer, Absent

- 1. CALL TO ORDER & ROLL CALL:** Chairman McGonigal called the meeting to order at 5:00 PM.
- 2. APPROVAL OF MEETING MINUTES:** Chairman McGonigal called for a motion to approve the minutes of the December 11, 2025, meeting. The motion was made by Ms. Wober and seconded by Mr. Bell. The motion to approve passed 6-0. Chairman McGonigal abstained because he was not present at the previous meeting.
- 3. COMMUNICATION:** None.
- 4. SWEAR IN THOSE PERSONS TO SPEAK:** Ms. Snider swore in persons to speak at the meeting.
- 5. NEW BUSINESS:**
 - A. BZA-25-40:** Application by Roger Roy for a 15' front yard variance and a 10' side yard variance for a proposed residential project at 6810 Water Tower Road, zoned Medium Density Residential (R-2). Mr. Roy stated the property consisted of two lots being combined into one and there was a 20-foot easement given to the City for road widening and a 35' setback off Water Tower Road. The requested front yard setback reduction was due to the roadway easement and the existing conditions along Water Tower Road. Mr. Roy explained that the side yard setback variance related to an adjacent flag lot that functioned as a driveway providing access to a cellular tower. He stated that the reduced setback would not be injurious to adjacent property owners. Mr. Roy further explained that the property was bordered by wetlands on the north and east sides, which required additional buffers and limited the buildable area of the site. Mr. Roy stated there was another townhome project on the west of the flag lot. Mr. Roy explained that the proposed development was an over-55 community with associated amenities. He noted that the developer was requesting a reduced front-yard setback of 15'; however, due to the existing right-of-way and buffer areas, approximately 45 feet would be between the roadway and the start of the development. He further indicated that the buildings would be placed adjacent to a flag lot extending approximately 30' to the rear. Mr. Roy explained the site will include a buffer area with vegetation, shrubs, and other landscaping. He noted that additional green space would be maintained around the wetlands, along with any required supplemental landscaping. He concluded that, for these reasons, the proposal would not be injurious to surrounding properties and that the lot differs from other lots within the city limits.

Mr. Bell asked whether the request was essentially for a landscaping buffer. Mr. Roy responded that was correct. Mr. Bell asked whether any buildings would be constructed outside of the

setback and Mr. Roy responded no. Ms. Lover asked for clarification regarding the 35' roadway setback. Mr. Roy noted that, according to the plat in the packet, the 35' setback was required because Water Tower Road was planned for future expansion. He added that, as these lots were developed, easements would likely be signed with the City to allow for the addition of another lane. Ms. Lover asked how close the buildings would be to the roadway if the road were widened in the future. Mr. Roy stated that even with the roadway expansion, the buildings would remain approximately 30' from the roadway and that a landscaped buffer would remain. Ms. Lover asked how much space would remain between the pavement and the building if the road were expanded to its maximum width. Mr. Roy responded there would be 25' remaining. Mr. Bell clarified 25' was standard for the R-1 zoning district.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal requested clarification on the consequences that were discussed earlier over a phone call and asked for the numbers. Mr. Caldwell stated the developer had not conveyed the numbers yet. He explained that the property would remain private until the city widened the road, at which time the developer would convey the necessary portion to the City. Mr. Caldwell explained he gave a drawing that conveyed this. Chairman McGonigal stated he just wanted to make sure the numbers were correct. Mr. Caldwell explained that an earlier version of the plan showed a 35' roadway setback and a 20-foot front-yard setback. The front-yard setback had since been reduced to 15 feet, but a 35-foot-wide strip of land would still be conveyed to the City.

Chairman McGonigal noted that the primary concern had been ensuring there was sufficient space for the future widening of the roadway. Ms. Lover expressed concern that if the road was eventually widened to its maximum, future residents of the townhomes might lose their expected privacy and be exposed to traffic noise. She asked how much distance or protection would remain between the roadway and the buildings for the residents' benefit. Mr. Reeves asked if that would be in the deed. Mr. Caldwell did not believe it would be in the deed and explained it would be commonly owned so there was no cross-section of what the road may look like; so, he did not feel confident answering the question. Mr. Caldwell assumed a 12-13' wide lane and additional right of way to the property line. Ms. Lover quoted Mr. Roy saying he believed the building itself would be 25' from the road. Mr. Caldwell responded that even if the front-yard setback were reduced to 15 feet and the roadway width were only 12 to 14 feet, there would still be sufficient distance between the buildings and the road. Mr. Bell asked for clarification, noting that there was a 15' landscape buffer plus an additional 35' totaling 50' and 12 to 13' off that 50'. Mr. Caldwell explained that it was a guess without having a cross-section of the proposed right-of-way. Mr. Roy clarified that the units would not be sold but would be part of a rental project. He noted that it would be an over-55 rental community. Ms. Lover asked whether ownership would be limited to KT or a successor. Mr. Bell asked for confirmation that, even with the roadway expanded, approximately 35 feet of buffer would remain between the road and the buildings. She stated her understanding that future occupants who found road noise unacceptable could relocate without a reduction in property value.

Chairman McGonigal called for a motion. Mr. Wise motioned to approve BZA-25-40 with a 15' front yard and 10' side variance. The applicant had demonstrated an unnecessary hardship. There were extraordinary and exceptional conditions pertaining to this particular piece of property where the shape and wetlands that constricted the utilization of the property. These conditions did not generally apply to other properties in the vicinity. Because of these conditions, the application of

the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. The authorization of the variance would not be of substantial detriment to adjacent properties or to the public good, and the character of the district would not be harmed by the granting of the variance. The motion was seconded by Mr. Thomas. The motion to approve passed 7-0.

- B. BZA-25-41:** Application by Jerred Roberts to remove a multi trunk tree at 1603 Hillside Drive South. Mr. Roberts stated the subject property was a 50-foot-wide lot and that the cedar tree was located in the center of the front yard, which made installation of a driveway infeasible. He further stated that utility lines were required to cross the front of the lot and that the installation of those utilities would damage the tree's root system, likely resulting in the loss of the tree even if it were preserved. Chairman McGonigal asked the applicant for a picture to figure out the layout of the lot. Ms. Lover asked if it was the lot in the rear and not the lot with the foundation laid out. Mr. Roberts explained where they saw the foundation laid out, there were two additional lots to the right of it, and it was the one to the far right. Ms. Lover clarified the tree in question was on Hillside Drive but not the tree in the front corner. Mr. Roberts explained it was not the tree in the front corner and that tree was being saved and was located on a different lot. Chairman McGonigal clarified that the lot in question was the only one with a split tree. Ms. Lover noted that there were three lots, with no other trees on the lot except those around the fringe and confirmed that one of the fringe trees needed to be protected. Chairman McGonigal clarified the tree in the front was close to the street. Mr. Robert noted that a third smaller tree was extending from the main tree.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal asked if Hillside Drive was a DOT road. Chairman McGonigal noted the challenge that came from it being a DOT road since they dictated location.

Chairman McGonigal called for a motion. Ms. Lover motioned to approve BZA-25-41 based on the hardship created by the location of the tree within the buildable area of the lot and the utility requirements. The motion included a condition requiring the replacement of 14" of trees on the subject lot, to be planted as hardwoods, or payment of \$4,200 into the City's Tree Bank, or a combination thereof. The motion was seconded by Mr. Reeves. The motion to approve passed 7-0.

- C. BZA-25-42:** Application by William McFaul to exceed the maximum signage allowances for an under construction 24,900 square foot family dining and entertainment facility at 3607 Highway 17 South zoned Highway Commercial, HC District. Mr. McFaul stated the proposed development was an approximately 25,000-square-foot facility on a 2.75-acre lot. He noted his understanding that signage was limited to 150 square ft. Mr. McFaul noted the project would include multiple components, including dining, beverage service, bowling, arcade games, and mini golf. Mr. McFaul stated that they submitted schedules for three sides of the building, as well as a pylon sign. They requested a variance to exceed the 150-square-foot sign limit due to the number of uses within the venue and the overall size of the project. Mr. McFaul further explained that a large live oak tree located near the center of the property had been preserved, which affected the orientation and placement of the building and reduced its visibility from Highway 17 South. He stated that the building was positioned farther west on the site as a result, creating additional hardship related to signage visibility. Mr. McFaul stated he submitted signage schedules for three building elevations and a freestanding pylon sign to promote the different uses on the property. He noted that if the building were subdivided into multiple commercial spaces, each could be allowed 150 square feet of signage, which on the same lot would exceed the current limit. Ms. Lover asked what the variance amount was for. He noted that signage requirements varied by

jurisdiction, creating uncertainty regarding how certain artistic elements would be calculated. Mr. McFaul explained their signage package included a Jeep "Woody" vehicle, which was considered artwork in some jurisdictions. Mr. McFaul noted that the sizes of each sign were detailed in the submitted schedules. On the east elevation, the two Woody signs measured 20 square feet each, and in combination with three additional signs, including a fork and knife, a bowling pin, a tropical drink, and a golf green, the total signage on that elevation amounted to approximately 250 square feet. Mr. McFaul noted that the signage package specified the size of each sign for all three building elevations, as well as the pylon sign. Mr. McFaul was uncertain whether the 40 square feet for the Woody signs would be counted toward the total.

Ms. Wober asked whether the sign would be illuminated. Mr. McFaul explained they were all back lit. Mr. Bell asked if there would be a digital component. Mr. McFaul stated that the pylon sign would include a digital component and that a separate submission was provided for. He explained that the pylon sign measured approximately 130 square feet based on overall width and height, noting that the actual area was reduced due to its irregular shape. The electronic message center (EMC) portion measured approximately 5 feet 3 inches by 9 feet 3 inches, adding roughly 50 square feet of signage.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover asked how much of a variance was being requested and noted that 150 square feet was permitted, asking if the applicant was requesting an additional 606 square feet. Chairman McGonigal asked staff to clarify what the ordinance allowed. Mr. Caldwell explained the ordinance allowed one square foot of signage per linear foot, not to exceed 150 square feet, including any freestanding sign. Mr. Reeves asked if this was a 25,000 square foot building. Mr. McFaul noted the building was 24,900 square feet so just about 25,000 square feet. Mr. Bell stated that if the building were divided into 2,500-square-foot tenant spaces, the property could legally accommodate up to approximately 1,470 square feet of signage across those spaces. Mr. Bell also noted the building was reoriented to preserve a tree in the center of the lot, which reduced visibility and limited signage opportunities, as the building did not directly face the street. Mr. Bell expressed agreement that these factors created challenges for the applicant.

Ms. Lover asked what the plans were for the smaller oak trees located in the parking lot. Mr. McFaul stated several of the trees looked to be in bad shape and they intended to trim them and save them. Mr. McFaul noted his understanding that if the trees were removed, they would need to be replaced. Ms. Lover noted that some of the trees looked dead and some were trimmed. Mr. McFaul stated they had not trimmed the trees. Ms. Lover asked for the City's position on the pictures. Mr. Caldwell explained that all artwork was considered signage. Although artistic in nature and without words, the company logo, the "Woody", was included on the freestanding sign and would be counted as building-mounted signage if it appeared on the building. Ms. Lover asked about the artwork of the bowling pin. Mr. Caldwell noted that signage representing on-site activities, including bowling, drinks, and golf, would be counted toward the total signage. He also noted that artwork unrelated to the business, such as a painted beach scene on the building, would not be considered signage.

Mr. Bell asked if City Council was considering changes to the signage regulations for future projects, noting that 150 square feet may be insufficient for larger buildings. Mr. Caldwell pointed out that based on the side and front elevations, the building did not appear to have a large amount of signage. Mr. Caldwell noted a discussion with the Chairman regarding the potential increase in signage size to better correspond with the scale of the building. Chairman McGonigal discussed the possibility of reviewing signage allowances based on building size, noting that larger buildings may warrant additional signage to be effective and support community success. He suggested evaluating square footage to determine a reasonable signage amount. Ms. Lover

stated that she agreed with the discussion regarding the proportionality of the signage to the building size. She requested that any motion to approve included a condition requiring the preservation of all healthy existing trees in the parking lot. Mr. McFaul asked for clarity on the replacement program. Ms. Lover inquired about the required amount of landscaping and number of trees for the property. Mr. Caldwell stated that the property was required to have one tree per 25 linear feet along the perimeter, one tree on each end island of a parking space bank, and one shrub for every 10 linear feet. Mr. Caldwell noted that there were existing trees on the site, and while some were intended to be preserved, the reorientation of certain parking areas prevented all of them from being saved. The Board discussed the preservation of trees on the property. Mr. McFaul pointed out the submitted plans included a landscape plan with replacement requirements.

Chairman McGonigal called for a motion. Ms. Lover motioned to approve BZA-25-42 to allow the applicant to have 756 square feet of the requested signage based on the hardship created by the size of the building, the size of the lot, and the limited visibility resulting from the preservation of the large oak tree. The motion included a stipulation requiring that existing trees deemed alive and healthy be retained and allowed to count toward the project's landscaping requirements. The motion was seconded by Mr. Bell. The motion to approve passed 7-0.

- D. BZA-25-43:** Application by Robert Bays for a variance to place a storage building in one of the two front yards at 2410 Douglas Street zoned Mobile / Manufactured Home Residential, R-3 District. Mr. Bays stated that their property was considered a double-frontage lot, with frontage on Douglas Street and Bryant Street. He explained that there was an existing shed in the fenced backyard, which was removed due to disrepair, and they were requesting a variance to place a new portable building in the fenced backyard on the Bryant Street side. Mr. Bell clarified the hardship being the double frontage lot.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Ms. Lover explained to the audience that, under the ordinance, a lot with frontage on two streets was considered to have two front yards rather than a backyard. Certain structures, such as sheds, garages, and swimming pools, were only permitted in the backyard. Therefore, the applicant's lot had two front yards, which constituted the hardship for the variance request.

Mr. Bell motioned to approve BZA-25-43 based on the unnecessary hardship created by the lot's double frontage and resulting in two front yards. The applicant had demonstrated an unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property given the fact it had two front yards. These conditions do apply to the other properties in the vicinity. Because of these conditions, the application effectively prohibits or unreasonably restricts the utilization of the property. The authorization of the variance would not be a substantial detriment to adjacent properties or to the public good given the fact there's already a structure on that side of the street as well on the house next to them and wouldn't be harmed by the granting of the variance. The motion was seconded by Ms. Wober. The motion to approve passed 7-0.

- E. BZA-25-44:** Application by Derek DaPonte for a variance to place or have constructed a metal building that exceeds the allowance for a freestanding garage at 1502 26th Avenue North zoned Low Density Single Family Residential, R-1 District. Mr. Daponte stated that the property consisted of a double lot and that his residence was constructed on one lot, with the second lot was intended for a detached garage. He explained that he had originally believed a larger accessory structure would be permitted but later learned the ordinance limited garage size to 30 percent of the home's gross living area, resulting in a maximum allowable size of approximately

625 square feet. Mr. Daponte requested approval to construct a 30-foot by 30-foot (900-square-foot) garage to accommodate boats, camper trailers, and other equipment currently stored under and around the home. Mr. Daponte stated that he was inexperienced with the process and was appearing before the Board for the first time. He explained that they had their property surveyed and followed the required steps, but were informed that, based on their 1,900-square-foot house, the allowed garage space was limited to 625 square feet (25 by 25 feet). Mr. Daponte stated that the proposed garage would be used solely for residential storage purposes and not for any business or living space. He explained that the larger structure would allow equipment to be stored out of view, improve the appearance of the property, and provide buffering from traffic along Little River Neck Road.

Ms. Lover asked how many square feet the house was currently. Mr. Daponte stated that their house had approximately 1,600 to 1,900 square feet of heated living area. They noted that including decks and the full foundation, the structure measured approximately 36' by 40'. Ms. Lover asked how much living space the house would have if the area underneath were enclosed to create a two-story home. Mr. Daponte responded that the enclosed two-story configuration would provide approximately 3,600 to 3,700 square feet of living space. Ms. Lover asked if approval was granted, would it interfere with the tree on the property. Mr. Daponte stated he staked out the property and indicated that the proposed structure would be approximately 15 feet from the front corner of the house, aligned with the front of the house. He noted that this placement met all front and rear setback requirements and described that the structure would extend along the side of the house, stopping before the back deck and leaving approximately 25 feet before reaching the tree on the property. Ms. Lover expressed concern over aesthetics, stating a metal building would look like an industrial building. Mr. Daponte explained the garage would be two toned like the style of the house with a regular peaked roof. Mr. Daponte described the proposed building's exterior, stating it would have a black lower portion, white upper walls with black trim around the doors, a white side door, and a black roof, generally matching the colors of the house. He noted that the building would have two garage doors rather than three.

Mr. Daponte explained that the original submittal was for a 960-square-foot building, which was not approved. He stated that a revised submittal for a 30-by 30-foot (900-square-foot) garage was submitted for consideration. Ms. Lover asked if he was requesting 900 or 960 square feet. Mr. Daponte noted that no materials have been purchased and they were seeking a permit before proceeding. He explained that the original design was for a 24-foot-deep, 960-square-foot garage, but was informed that the maximum allowed in North Myrtle Beach was 900 square feet for a 2,700-square-foot house. The request for the variance was for an additional 5-foot depth to construct a 30-by-30-foot garage, which was needed to accommodate the items they planned to store, as a 25-by-25-foot garage would be insufficient. Mr. Bell asked if there was a way to attach the garage to the house by a breezeway. Mr. Daponte explained he did not want to attach it to the home due to cost and the look of the property. Mr. Daponte addressed aesthetic concerns raised by Ms. Lover, stating that the proposed structure was designed to match the residence with coordinated colors and finishes and would resemble a residential garage rather than an industrial or commercial building. He emphasized that the building was intended for personal storage only and not for commercial use. Board members discussed construction options, noting that a stick-built structure would be significantly more expensive. Mr. Daponte confirmed that cost was a limiting factor but explained that the design included residential-style doors and windows to reduce an industrial appearance. The Board agreed that maintaining a residential aesthetic was important to protect neighborhood character and property values and expressed no opposition to the structure's size, noting that it appeared proportionate to the lot. The applicant also mentioned potential future plans for fencing along the property.

The Board discussed the importance of maintaining neighborhood character and requested conditions to ensure the building's appearance was compatible with the surrounding residential area. The Board discussed whether design details of the structure would require additional approval if the variance were granted. It was noted that while separate approval would not be required, conditions could be included in the variance regarding windows, doors, colors, paint, and landscaping. Mr. Caldwell explained that a neighboring property's fence screened the structure from view along Little River Neck Road, limiting visibility from one direction. He noted that the overhead and pedestrian doors would face the opposite direction and that adding a window with shutters could provide additional visual appeal, while visibility from other approaches would remain minimal due to the existing fence. Mr. Noury asked for clarification as to whether the proposed structure was accurately represented by the photograph provided by the applicant's wife, and the applicant confirmed that it was. Mrs. Daponte stated that a larger structure had been preferred but was not permitted, so the smaller option was selected, noting some difficulty evaluating its appearance due to the dark color shown in the photograph. Chairman McGonigal stated that the structure would need to be reviewed and approved by staff to ensure it met upgraded appearance standards. He also noted the installation of a fence could further screen the structure from view. Mr. Daponte stated he had no issue installing a fence.

Mr. Thomas noted that the example metal building shown in the photograph was black while the residence was white, and the applicant clarified that the proposed structure would feature black wainscoting approximately four feet along the lower portion with white siding above to match the house. Ms. Lover recommended design conditions for the structure, including four feet of wainscoting with white siding above, at least two windows along the Little River Neck Roadside with contrasting shutters to complement the residence, and additional landscaping such as oleanders and crepe myrtles. Members noted that the shutters would enhance the building's appearance and reduce the visual impact of the metal structure. Mr. Bell asked what the hardship was. Ms. Lover explained the proportionate size of the lot to the structure. Chairman McGonigal asked whether the area beneath the structure would be considered living space, even though it was intended as a garage, and whether such space would be counted in calculations. Mr. Caldwell explained they wouldn't count the outdoor areas, porches, or underneath the house. Ms. Wober asked if the boats and vehicles would fit in the building. Mr. Daponte stated all vehicles, boats and trailers would fit. Ms. Lover noted that a common issue throughout North Myrtle Beach was the presence of campers and trailers and emphasized the city's intent to encourage property owners to provide coverage or screening for such vehicles. The Board discussed previous situations like this one.

Chairman McGonigal called for a motion. Mr. Reeves motioned to approve BZA-25-44 based on the applicant demonstrating unnecessary hardship. The extraordinary and exceptional conditions pertaining to this particular piece of property was due to the irregular shape and large size of the lot relative to the home. These conditions did not generally apply to other properties in the vicinity. Because of these conditions, the application of the ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property. The authorization of the variance would not be substantial to the detriment to adjacent properties or to the public good, and the character of the district would not be harmed by the granting of the variance. The approval was granted subject to conditions including that the garage be limited to 900 square feet; that the building incorporate an upgraded residential appearance; that the color scheme match the existing home, with no more than four feet of black wainscoting at the base; that at least two windows with shutters be installed on the Little River Neck Road side; that

appropriate landscaping be provided; that the existing tree adjacent to the proposed garage location be preserved; and that final design details be reviewed and approved by City staff. If staff approval cannot be obtained, the applicant would be required to return to the Board for further review. The motion was seconded by Mr. Wise. The motion to approve passed 7-0.

- F. BZA-25-45:** Application by Michelle Barney for a variance to remove protected trees at 1232 Crooked Hook Road. Scott Davis, Beverly Homes representative, explained this was the first of two requests and that the trees were located within the footprint of a proposed future amenity center, including a pool, pool house, sidewalks, parking lot, and mailbox kiosk. Ms. Lover indicated she had difficulty locating the trees during site visits and initially believed the request involved larger trees located in the center of the open space. Mr. Davis noted that the large trees in the middle of the property would remain, while the trees on the waterway side of the small island between the roads were being proposed for removal. Ms. Lover pointed out the application noted two poplar trees. Mr. Davis acknowledged confusion regarding tree species, noting he misspoke earlier by referring to cedar trees and clarified that the trees included poplar for this application. Mr. Davis clarified that the large central trees would remain and that the trees proposed for removal were located on a small island area closer to the roadway and near a dumpster location.

Ms. Lover expressed concern that the development had already removed a significant number of trees and questioned why the applicant was returning for additional removals of protected trees. Mr. Davis explained that the area in question was an open space, and the engineer later designed the pool to comply with all requirements for stormwater management, parking lot size, number of parking spaces, sidewalks, and related parameters.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Mr. Bell asked whether, realistically, the city would have required an amenity center to be constructed before the development began. Mr. Caldwell stated there wasn't a requirement for an amenity center in this development, but they decided to provide one. Mr. Caldwell noted the development was not a part of a Planned Development District (PDD) but was under standard zoning. Mr. Caldwell stated that the applicant had previously appeared before the Board for tree removal. While they initially thought they had identified all trees to be removed, two additional trees had been identified due to plans for an amenity center. Mr. Caldwell noted that these trees were protected from the beginning, and adjustments in the amenity center's location during final development planning have resulted in the need to remove them. Ms. Lover stated the trees appeared healthy and were among the few remaining trees on the site. The Board discussed that the amenity center was not originally required for the development and was added later, raising questions about whether the site could be redesigned to preserve the remaining trees. Mr. Bell asked city staff if they could grant a variance on the parking requirements to help preserve the trees. Mr. Caldwell explained that doing so would require the applicant to reapply, readvertise, and to be considered at the following month's meeting. Mr. Caldwell noted that amenity centers do not have a minimum parking requirement and that applicants were typically advised to provide what they anticipated needing. He added that the Board would not need to take any action if the applicant chose to reduce the number of parking spaces at the amenity center, noting that the applicant could make that adjustment independently. Chairman McGonigal suggested that the applicant return to the city and postpone the matter to develop a reasonable solution to preserve the trees. He emphasized that while the amenity center was important to residents, the Board also sought to preserve trees wherever possible and noted that this appeared to be a case where tree preservation could be achievable.

Mr. Wise asked how many parking spaces there were in the proposed plan. Mr. Davis stated there were six standard and one handicap, so a total of seven parking spaces. Mr. Bell asked

whether retaining the tree would interfere with access to a single parking space. Mr. Davis responded that it would likely affect two or three spaces on one side and two or three on the other, though an exact determination would require reviewing the plans. Chairman McGonigal asked whether the Board was also attempting to preserve the cedar tree. Ms. Lover stated that she had not seen a cedar on site, and Mr. Davis acknowledged that he had misspoken. Ms. Lover explained that while a cedar appeared in the photograph, the site contained several large individual trees, including a sycamore near the foundation. Mr. Davis noted that an 8-inch cedar was located within a cluster of two trees, and Ms. Lover confirmed that the cedar could not be removed without also removing the poplars. Ms. Lover stated that she preferred to continue the matter and have the applicant return with an updated drawing or consider repositioning the driveway to preserve the few remaining trees. She noted that the Board had previously reviewed which trees were required to be saved and expressed concern that the applicant was now requesting removal of the few lone trees still on the site. Mr. Caldwell stated that Mr. Farmer was retrieving the drawings for the amenity center and would display them on the camera to show what was proposed. He noted that the tree was located on the opposite side of the parking spaces and suggested that the driveway could potentially be shifted slightly toward the bottom of the site plan to preserve it. Suggestions included shifting or shortening the parking lot, relocating the driveway entrance, creating a landscaped tree island with curbing to protect roots, and adjusting ADA parking placement. After reviewing the proposed plans and photographs, the Board agreed that additional coordination with City staff could likely identify an alternative layout that would preserve the trees. Members requested a revised plan clearly showing tree locations and parking adjustments before considering removal.

Chairman McGonigal called for a motion. Ms. Lover motioned to postpone BZA-25-45 to allow the applicant to work with City staff to explore redesign options aimed at saving the protected trees. The motion was seconded by Mr. Reeves. The motion to postpone passed 7-0. The applicant was advised to return to the Board only if no feasible alternative could be identified.

- G. BZA-25-46:** Application by Michelle Barney for a variance to remove a protected tree at 1200 Brackish Bay Road. Scott Davis, Beverly Homes representative explained a residence was located nearby on Brackish Bay Road and that a 27-inch sycamore tree was approximately four feet from the foundation once the house was constructed. Ms. Lover reiterated that the applicant had been aware the tree was protected prior to beginning construction of the house. Mr. Davis explained that the home was pre-sold and that the buyer had selected the floor plan and related features. He noted that the tree was approximately 48 inches from the foundation and relatively close to the property line, adding that the lot was a corner parcel with larger setback requirement on both sides. Ms. Lover asked whether the applicant had been aware that the tree had been protected in a prior hearing before the foundation was installed. Ms. Lover stated that she believed the situation was self-imposed, noting that the issue resulted from the applicant's actions. Mr. Bell agreed, commenting that allowing the buyer to select a house plan that encroached on the protected tree created the conflict. Ms. Lover added that construction was still in its early stages, with only framing in place and no footers poured at this time.

Mr. Caldwell read the description of the request, the ordinance, and recommended to hear the variance. Chairman McGonigal called for a motion. Ms. Lover motioned to deny BZA-25-46 on the grounds that this was a protected tree and any hardship that may exist was self-imposed. The motion was seconded by Mr. Bell. The motion to deny passed 7-0.

- H. BZA-25-47:** Application by David Rumney for a variance to remove trees at 948 Morrall Drive. Mr. Rumney appeared before the Board as the property owner and explained that the parcel exceeded two acres in size, approximately three-quarters of the lot consisted of wetlands and dense woodland. He emphasized that preservation of trees was a primary reason for purchasing

the property and that his intent was to minimize tree removal to the greatest extent possible. He explained that the construction submittal included a house and driveway that accounted for less than 15 percent of the lot's total impervious area. He noted that eight trees had been identified during inspection, then clarified that there were seven trees to be reviewed individually.

Ms. Lover clarified that the Board was only reviewing trees measuring 24 inches in diameter or larger. She noted that the application referenced additional smaller trees, which may have caused some confusion, but explained that while the City considered those trees separately, the Board's review was limited to those meeting the 24-inch threshold. The owner and the Board clarified that the relevant trees were numbered one through four and agreed to proceed with reviewing those items individually. Ms. Lover noted difficulty identifying which specific trees were proposed for removal due to multiple ribbon colors on site and the volume of trees present. Mr. Rumney clarified that purple tape identified trees proposed for removal, pink tape identified wetlands, and that yellow markings had later been added by staff to clarify impacted trees. The survey included numbered tree designations to assist with identification. Ms. Lover stated that after walking the site, she had difficulty identifying the specific trees referenced but believed she had located the tree near the right corner of the house and the tree situated within the driveway area. Mr. Rumney referenced photographs of Tree No. 1 and indicated its approximate location, noting that it was roughly 150 feet from the road and positioned straight in from the roadway, identified as Tree No. 46 on the site plan. Ms. Lover asked if it was the tree leaning hard. Mr. Rumney explained it was and that it was three trees with three trunks. He noted that the tree was located in the area where the driveway was proposed to be constructed. He commented that the tree was not particularly attractive and noted that it appeared to be a multi-trunk tree rather than a single-stem tree. Ms. Lover stated she had questions regarding other trees and felt Mr. Rumney was within his purview to remove Tree No. 1 (46).

Ms. Lover explained she had a hard time finding the trees but did find the trees in the ditch where the corner of the house was proposed. Mr. Rumney noted that the second tree was a fairly large poplar, also multi-trunk, with an approximate trunk diameter of 17 inches, identified as Tree No. 99. He explained that Tree No. 2 (99), a healthy poplar, was located in the middle of a ditch at an elevation about five feet lower than the proposed lot grade. He noted that the tree would likely not survive construction and further observed that when the foundation strings were laid, one string passed through the middle of the two trunks, placing roughly half of the tree within the house footprint. He added that it was unclear whether the lot lines had been properly marked during the survey, which could affect the scope of the tree's impact on construction. Chairman McGonigal asked to see the plot plan so they could see the driveway layout. Chairman McGonigal noted that the proposed driveway minimized tree impacts, and that Tree No. 1 (46) was located in the middle of the driveway and could not be preserved. Mr. Rumney inquired about measuring multi-trunk trees, and Mr. Caldwell explained that the two largest trunks were combined to determine if a tree met the protected 24-inch threshold, noting that separate trees or smaller trunks could affect whether the tree fell under the Board's review. Chairman McGonigal suggested addressing Tree No. 1 (46) first, noting that if it was located in the driveway and could not be preserved, it would be removed from consideration before reviewing the remaining trees. Ms. Lover noted that she had walked the site within the marked driveway and house area and observed that most trees could be removed without issue. She stated that her only concern was confirming which trees the applicant intended to remove, asking whether the four large trees in question were all within the house footprint and driveway area or if any were outside the marked boundaries. Mr. Rumney noted that Tree No. 3 fell into a separate category and was not considered a hardship, as it did not appear healthy, and indicated that only Trees No. 1 (46) and No. 2 (99) posed hardships.

The Board reviewed the specific trees individually, agreeing that Tree No. 1 (46), which was leaning and located in the driveway, could be removed. Members discussed replacement requirements and generally agreed that no replacement was necessary due to the abundance of existing multi-trunk trees on the property and the condition of the affected trees. Chairman McGonigal called for a motion. Ms. Lover made a motion to approve BZA-25-47 with regards to Tree No. 1 (46), finding it's a hardship that was located in the footprint of the driveway. Since the lot had multiple large trees, she noted replacement was not necessary. Ms. Lover noted she would require no further trees other than the ones approved in the meeting to be removed. The motion was seconded by Mr. Bell. The motion to approve Tree No. 1 (46) passed 7-0.

The Board then considered Tree No. 2 (99), a multi-trunk poplar located in a drainage ditch near the corner of the proposed house footprint. Mr. Rumney explained that staking indicated the tree partially conflicted with the house foundation layout. The Board agreed that removal could be permitted only if the tree remained within the footprint of the structure. If the foundation were shifted such that the tree no longer conflicted, the tree would be required to remain. Chairman McGonigal called for a motion. Ms. Lover made a motion to allow the removal of Tree No. 2 (99) with no replacement schedule provided the foundation was not shifted. The motion was seconded by Mr. Reeves. The motion to approve Tree No. 2 (99) passed 7-0. Discussion then turned to additional trees identified as items three through five, which were located farther from the house footprint and were cited primarily due to potential health concerns, including visible fungus and apparent decay at the base. There was confusion between members about the identification of the trees. Board members determined that removal based solely on suspected health issues should be evaluated by a certified arborist rather than decided at the meeting. Ms. Lover suggested denying the variance request for Tree No. 5, noting visible signs of fungus, and recommended that an arborist inspect the tree. Mr. Bell suggested offering a continuance and letting the applicant speak to an arborist. The Board agreed to continue reviewing trees three, four, and five pending an arborist evaluation, with the City to report findings back to the Board at a future meeting. It was noted that this continuance would not delay permitting for the home.

Chairman McGonigal called for a motion. Mr. Bell motioned to continue BZA-25-47, approving the first two tree removal items and directing that the remaining trees be evaluated by an arborist, with the City reporting back at the next meeting to determine whether the variance should be finalized or further continued. The motion was seconded by Mr. Wise. The motion to approve passed 7-0. Mr. Rumney also clarified that two additional trees initially identified had since been determined to remain outside construction impacts and would be preserved.

Chairman McGonigal called for a motion to adjourn. The motion to adjourn was made by Mr. Bell and seconded by Mr. Thomas. The motion passed 7-0. The meeting adjourned at 6:41 PM.

Respectfully submitted,

Amber Elmadolar
Plan Reviewer

NOTE: BE ADVISED THAT THESE MINUTES REPRESENT A SUMMARY OF THE BOARD OF ZONING APPEALS MEETING AND ARE NOT INTENDED TO REPRESENT A FULL TRANSCRIPT OF THE MEETING.