



MEMBERS OF LANCASTER COUNTY BOARD OF ZONING APPEALS

BEVERLY WILLIAMS, DISTRICT 1
KEMESHA LOWERY, DISTRICT 2
KEYE JONES, DISTRICT 3
GARY WAYNE ALDEN, DISTRICT 4
SHERESA INGRAM, DISTRICT 5
, DISTRICT 6
FRANCES LIU, DISTRICT 7

**MINUTES OF THE LANCASTER COUNTY BOARD OF ZONING APPEALS
REGULAR MEETING**

August 29, 2023 at 6:00 PM

1. Roll Call

Board Members present: Quorum is present (5 Board Members)
Frances Liu Keye Jones Kemesha Lowery
Sheresa Ingram Gary Alden

Absent: Beverly Williams

Staff: Allison Hardin, Interim Planning Director
Jennifer Bryan, Administrative Assistant acted as Clerk and Recording Secretary

Members of the press were not present. All adjacent property owners were notified by mail. A notice was published in the local newspaper to include meeting place, date, time and the agenda and a copy is on file.

2. Call to Order

Chair Liu called the public meeting to order at 6:05 p.m.

a. Discussion of Officer Elections:

Motion to postpone Officer Elections until after fall training session [October 2023], by
Keye Jones; 2nd by Gary Alden.

Discussion: no further questions.

Called Vote: 5:0. **Motion to postpone elections is approved.**

3. Approval of Agenda

Kemesha Lowery moved to Approve the Agenda; 2nd by Sheresa Ingram. The motion was approved by unanimous consent.

4. Approval of Minutes from June 6, 2023

Chair Frances Liu asked if there were any comments, changes or corrections to the Minutes of the June 6, 2023 meeting. Beverly Williams was absent from the meeting of June 6, 2023.

Gary Alden moved to approve minutes as written, seconded by Sheresa Ingram. The Board members voted unanimously to approve and adopt the June 6, 2023 meeting Minutes.

5. Public Hearing Items

Staff was sworn in under oath.

a. BZA 2023-1201: NR Lodges Property Owner LLC

STATEMENT OF MATTER TO BE HEARD:

Application by NR Lodges Property Owner LLC to Appeal the Decision of a Planning/Zoning Official, regarding the assessment and scheduling of payment for School Impact Fees on 44 apartment units. Subject property is The Lodges at Fort Mill Highway near Rosemont Drive (TM 0006-00-086.00).

PRESENTATION BY APPLICANT: Eight (8) Minute limit.

NR Lodges Property Owner LLC represented by **Michael Wilson**. Also present are attorney Dan Ballou (Morton & Gettys), Vice President Kyle Whitaker, and Vice President Ron Stewart. Original site plan was approved before impact fees were implemented; master plan was revised and submitted for approval with 44 additional residential units after impact fees were instituted. Although number of units changed, the number of buildings and the number of bedrooms did not change. Floor plans were reconfigured to include a higher number of one-bedroom units.

Summary of request: Delay the payment of the school impact fee until either a) more than 217 units overall have been built, or b) until more than 4 garden apartments have been built, since the additional units are all garden apartments [green area on schematic].

PRESENTATION BY PLANNING/ZONING STAFF: Eight (8) Minute limit.

Planning/Zoning Staff represented by **Allison Hardin**, Development Services Director. Original plan approved for 217 rental units. Additional units were approved after the implementation of impact fees. On the schematic shown, number of units in the blue area and the yellow area did not change. Only the number of units in the garden apartments (green area) changed.

Impact fees are assessed as proportional to infrastructure demand of a project. Fees apply to all new development. The County chose not to apply the fees on the previously approved 217 units.

Fees are assessed at the time building permits are issued and/or the commencement of construction activity. All other impact fees assessed by the County have been paid by the applicant.

Staff concurred that fees did not need to be assessed for permitting of construction in the blue and yellow sections, but that fees must be assessed for permitting of garden apartment buildings, because the additional units are not confined to one building but are dispersed throughout the garden apartment buildings. The footprints of the buildings have not changed. There is no way to delay permitting or assessment of fees because of the nature of phased construction requires work on multiple areas simultaneously.

If the applicant wishes to challenge the metric of assessment of school impact fees, there is a separate process for that, requiring that they engage a consultant to establish an alternative fee calculation basis.

STIPULATION:

Mr. Wilson:

To clarify the nature of the applicant's request as presented in the application, they are willing to stipulate that in this hearing, they are only requesting a delay in the imposition of school impact fees, not a change in the calculation or waiver of the school impact fees.

Ms. Hardin: If they choose to engage a consultant and pursue the other options, that can be brought back to the Board if needed.

PUBLIC HEARING: Four (4) Minute limit per person

None signed in to speak.

REBUTTAL BY APPLICANT/APPELLANT: Three (3) Minute Limit

Mr. Wilson: We feel that we have a good working relationship with the Director and the Planning Department. At this time we are not asking for a waiver of the fees or a recalculation; we only request a change in the schedule of payment, deferred until either unit 218 overall or unit 75 of the garden apartments.

QUESTIONS/DISCUSSION FROM BOARD:

Frances Liu and **Keye Jones** ask for clarification of the request, per numbered items in the agenda and staff report. **Ms. Hardin** and **Mr. Wilson** resolve what is being requested in this hearing. [See STIPULATION above.]

The applicant asked if the impact fees could be paid after the construction on the original plan was completed and construction begins on the additional garden apartments. When this was denied, he suggested a compromise wherein the fees would be paid upon completion of the original 74 garden apartments and before the first of the additional 44 garden apartments would be started.

When questioned as to whether construction of the cottage court units, the townhome units and the garden apartments would be concurrent, he said "That is how it works". When asked if that meant that all of the construction on the original plan could be completed before construction began on the additional garden apartments was started, he said yes.

Chairman Liu indicated that this was no different than the plan that was denied and it did not provide a compromise.

Gary Alden asked if there is a statutory requirement for the fee to be paid at permitting?
Hardin confirmed that our UDO states that all fees are to be paid at permitting.

Gary Alden asked if the bond was for all impact fees?

Mr. Wilson and **Ms. Hardin** clarified that the other impact fees have been paid, the bond only covers the school impact fees, and that the bond remains in place until project is finished or other conditions for release are met.

Sheresa Ingram asked for the name of the development company.

Mr. Wilson confirmed that the developer is Northwood Raven.

Vote: A 4/5 vote is required in affirmation or denial of the appeal.

Motion to Approve the Appeal request, by Kemesha Lowery; second by Gary Alden.

Vote:	KL: Against	KJ: Against	GA: For
	SI: Against	FL: Against	BW: Against

Vote: 4:1. **The motion is denied.**

No other motions are presented.

6. Other Business:

- There will be no September meeting;
- A training session will be take place on the scheduled date of the October meeting.

7. Adjournment:

With there being no further business, Kemesha Lowery moved to adjourn; motion seconded by Sheresa Ingram. The motion was approved by unanimous consent.



Board of Zoning Appeals Public Hearing Sign In Sheet

Item 5a: BZA-2023-1201 NR Lodges Property Owner LLC

Application by NR Lodges Property Owner LLC to Appeal the Decision of a Planning/Zoning Official, regarding the assessment and scheduling of payment for School Impact Fees on 44 apartment units. Subject property is The Lodges at Fort Mill Highway near Rosemont Drive (TM 0006-00-086.00).

ONLY STATEMENTS OF FACT WILL BE CONSIDERED AS EVIDENCE. HEARSAY AND OPINION ARE INADMISSABLE.

Council Chambers
101 N. Main Street, Lancaster South Carolina
Tuesday, August 29, 2023

Citizens are allowed 3 minutes per person to speak. Everyone speaking before the Board will be required to do so in a civil manner. The Board will not tolerate personal attacks on individual Board Members, County Staff or any person or group. Racial slurs will not be permitted. The Board's number one priority is to conduct business for the citizens of this county.

PLEASE PRINT

1.	MIKE WILSON - NR LODGES PROPERTY OWNER, LLC
2.	DAN BALLOU - NR LODGES MORTON & GOTTYS
3.	

9.2.14 APPEAL OF ADMINISTRATIVE DECISIONS

A. APPLICABILITY

This process is hereby established to provide an appeal process for parties aggrieved by any administrative order, requirement, decision or determination, made by an administrative officer charged with enforcing the provisions of this ordinance.

B. FILING PROCEDURES

1. **Process Type:** Quasi-Judicial.
2. **Filing Procedure:** An appeal of an administrative decision may be taken by any person aggrieved (or by their authorized agent) or may be taken by any officer, department, board or bureau of the County. Such an appeal shall be made to the County within 30 days of the receipt of the written notice of decision from the County.
3. **Stay of Proceedings:** The filing of an appeal shall stay all proceedings in furtherance of the contested action unless the Administrator certifies that, in his/her opinion, by reason of facts stated in the certification, such a stay would cause imminent peril to life and property. In such a case, proceedings shall not be stayed except by restraining order granted by the Court of Common Pleas on notice to the administrative official from whom the appeal is taken with due cause shown.
4. **Required Application Information:** All information relevant to describing the applicant's appeal to the Board of Zoning Appeals is required. The Administrator shall similarly prepare a report detailing the regulations and interpretation behind the matter being appealed and their reason for their decision.
5. **Public Notification:** Level 1 and 3.

C. FORMAL REVIEW

1. Upon receiving the application, the Board shall conduct a public hearing on the matter. Any party may appear in person or be represented by an agent at the hearing.
2. After conducting the public hearing, the Board shall adopt an order reversing or affirming, wholly or in part, or modifying the order requirements, decision or determination in question. It shall take a 4/5ths vote of the Board to reverse or modify the contested action.
3. The Board, in making its ruling, shall have all the powers of the Administrator from whom the appeal is taken, and may issue or direct the issuance of a permit.
4. The decision of the Board must be in writing and permanently filed in the minutes of that reviewing body as a public record. All findings of fact and conclusions of law must be separately stated in final decisions or orders of the Board, which must be delivered to parties of interest by certified mail.

D. APPEALS

Any appeal from a decision of the Board of Zoning Appeals may be made by an aggrieved party and shall be made to the Circuit Court of Lancaster County in the nature of certiorari. Any such petition shall be filed no later than 30 days after the applicant receives a written copy of the decision of the Board of Zoning Appeals.

GUIDELINES FOR CONSIDERATION: (All BZA actions)

Section 6.h of Rules & Procedures:

- h. Board members will cast their votes based on evidence presented, considering the following guidelines:
 - 1. The evidence presented does or does not meet the requirements and standards of the UDO;
 - 2. The evidence presented is or is not compatible with the current planned land uses or zoning;
 - 3. The evidence will or will not diminish the value of adjacent property, or property in the general area;
 - 4. The evidence presented will or will not have a positive impact on the general health, safety and welfare of the citizens of the area and Lancaster County;
 - 5. The Board may approve any guidelines or conditions by a simple majority.

**LANCASTER COUNTY BOARD OF ZONING APPEALS SCRIPT
AND ORDER OF MEETING**

1. THE BOARD OF APPEALS AND ZONING DEPARTMENT WELCOME ALL OF YOU TO THE MEETING TONIGHT.

✓ BY ATTENDING THIS MEETING, WE SINCERELY HOPE THE RESULTS ARE INFORMATIVE TO YOU ON HOW THE SYSTEM HANDLES EACH APPLICATION BECAUSE ALL REQUESTS ARE DIFFERENT.

- ✓ 2. OUR BOARD MEMBERS ARE: CHAIR **FRANCES LIU**, VICE-CHAIR **BEVERLY WILLIAMS**, **KEMESHA LOWERY**, **KEYE JONES**, **GARY ALDEN** and **SHERESA INGRAM**

- ✓ 3. THE CLERK WILL PLEASE CALL THE ATTENDANCE.

- ✓ 4. AT THIS TIME, I WILL ASK ALL MEMBERS OF STAFF TO PLEASE STAND, STATE YOUR NAME AND YOUR DUTIES WITHIN THE COUNTY. PLEASE REMAIN STANDING AND THE CLERK WILL PLACE EACH OF YOU UNDER OATH.

ALLISON HARDIN

- ✓ 5. IS THERE ANY BOARD MEMBER THAT HAS NOT RECEIVED A PACKET FROM THE ZONING DEPARTMENT CONTAINING THE NECESSARY INFORMATION FOR OUR MEETING?

- ✓ 6. OUR NEXT ORDER OF BUSINESS IS TO DISCUSS OFFICER ELECTIONS. ELECTIONS ARE TO BE HELD AT THE FIRST MEETING AFTER THE COMMENCEMENT OF THE NEW FISCAL YEAR ON JULY 1ST.

[Discussion on whether to postpone elections until after training this fall.

✓ Outcome of discussion may require motion and vote to postpone. Otherwise proceed to election of Chair and Vice Chair, moderated by Director of Development Services.]

- ✓ 7. OUR NEXT ORDER OF BUSINESS IS TO **APPROVE THE AGENDA**. ARE THERE ANY CHANGES TO THE AGENDA?

[ASK FOR A MOTION TO APPROVE, SECOND, DISCUSS AND APPROVE].

- ✓ 8. OUR NEXT ORDER OF BUSINESS IS TO **APPROVE THE MINUTES** of JUNE 6, 2023. ARE THERE ANY CHANGES?

[ASK FOR MOTION TO APPROVE, SECOND, DISCUSS AND APPROVE.]

9. **LEGAL NOTICE:**

- ✓
- HAS ZONING MADE IT POSSIBLE FOR ALL APPLICANTS OR APPELLANTS TO RECEIVE INFORMATION OF THIS MEETING?
 - HAVE ALL ADJACENT PROPERTY OWNERS WITHIN THE REQUIRED LIMITS BEEN NOTIFIED?
 - WAS THERE A NOTICE OF THIS MEETING PUBLISHED IN THE LOCAL NEWSPAPER TO INCLUDE THE MEETING PLACE, DATE, TIME AND THE AGENDA?
 - IS THERE A COPY POSTED IN THE LOBBY OF THE ADMINISTRATION BUILDING?

10. THE ZONING BOARD OF APPEALS' DUTIES ARE WITHIN THREE SPECIFIC AREAS:

- ✓
- A. AN **ADMINISTRATIVE REVIEW** IS AN APPEAL OF AN ORDER, OR DECISION OF THE ADMINISTRATOR THAT HAS ALLEDGED ERROR(S).
- B. THE POWER TO GRANT A **VARIANCE** IS GIVEN TO THE BOARD OF ZONING APPEALS BY THE STATE OF SOUTH CAROLINA. VARIANCES MAY BE GRANTED WHEN STRICT APPLICATION OF THE ZONING ORDINANCE WOULD CAUSE UNNECESSARY HARDSHIP AND THE GRANTING OF THE VARIANCE WOULD NOT CAUSE SUBSTANTIAL DETRIMENT TO ADJACENT PROPERTIES OR THE PUBLIC GOOD.
- C. **SPECIAL EXCEPTIONS** ARE PERMITTED USES WITHIN A ZONING DISTRICT BUT REQUIRE A PUBLIC HEARING PRIOR TO GRANTING FINAL APPROVAL.

✓ 11. A PUBLIC HEARING IS CONDUCTED TO REVIEW EVIDENTIARY COMMENTS AND INFORMATION, BOTH FOR AND AGAINST THE PROPOSED APPLICATION. DURING THE PUBLIC HEARING PORTION OF THE MEETING:

- ALL INTERESTED PARTIES WILL BE GIVEN THE OPPORTUNITY TO SPEAK AND GIVE **FACTUAL INFORMATION** OR PRESENT **FACTUAL DOCUMENTATION**. OPINION AND HEARSAY ARE INADMISSIBLE.
- ALL PERSONS WISHING TO SPEAK WILL SIGN THE REGISTER PRIOR TO SPEAKING.
- ALL PERSONS SPEAKING WILL BE PLACED UNDER OATH.

✓ 12. ANYONE SPEAKING WILL COME FORWARD TO THE PODIUM, SPEAK INTO THE MICROPHONE, STATE HIS OR HER NAME AND ADDRESS, AND BE SWORN IN.

- ALL INFORMATION IS RECORDED FOR THE RECORD.
- THE APPLICANT/APELLANT WILL SPEAK FIRST AND WILL HAVE AN OPPORTUNITY FOR A REBUTTAL AT THE END.
- PLEASE LIMIT YOUR COMMENTS TO NO MORE THAN THE ALLOTTED TIME, PER SECTION 6.b OF THE RULES AND PROCEDURES. (FOUR (4) MINUTES

✓ 13. THE CLERK WILL NOW READ THE STATEMENT OF MATTER AS READ. IF AN AMENDMENT IS NEEDED, PLEASE CORRECT THE DOCUMENT, INITIAL AREAS OF AMENDMENT.

14. I NOW DECLARE THE PUBLIC PORTION OF OUR MEETING OPEN. WE WILL CALL EACH SPEAKER TO THE PODIUM.

- ✓ a. APPLICANT NR LODGES PROPERTY OWNER LLC (8 minutes)
- ✓ b. STAFF REPRESENTATIVE (8 Minutes)
- c. PUBLIC HEARING: (4 minutes per person) *none signed in.*
- d. APPLICANT REBUTTAL (3 minutes)

15. **[AFTER HEARING]**: ALL SPEAKERS HAVE BEEN HEARD; THE PUBLIC PORTION OF THE MEETING IS NOW CLOSED.

16. **[CALL FOR BOARD MEMBERS' QUESTIONS TO APPLICANT]**

17. **[CALL FOR BOARD MEMBERS' QUESTIONS TO STAFF]**

18. **[CALL FOR DISCUSSION]** PLEASE REFER TO THE HANDOUT OF UDO Sec. 9.2.14 REGARDING APPEALS, and Rules & Procedure Sec. 6.h.

19. THE CHAIR WILL ENTERTAIN A MOTION TO:

- A. APPROVE THE APPEAL
- B. DENY THE APPEAL
- C. APPROVE WITH STIPULATIONS/CONDITIONS, OR
- D. POSTPONE THE VOTE UNTIL THE NEXT MEETING, IF THE INFORMATION PROVIDED IS NOT SUFFICIENT FOR THE BOARD TO MAKE A DECISION

VOTE: 1:4 *(G. Alden in support, remainder against).*

~~20. CALL FOR NEXT APPLICATION AND REPEAT ITEMS 12-20~~

THERE ARE NO FURTHER ITEMS FOR PUBLIC HEARING

Motion is denied

21. NEW BUSINESS:

[Discussion of administrative items]:

- Next month's agenda
- Date for group CE Training Session

22. **[IF NO FURTHER BUSINESS, CALL FOR ADJOURNMENT, PAUSE, AND ADJOURN].**