

**TOWN OF DUCK
BOARD OF ADJUSTMENT MEETING
WEDNESDAY, JANUARY 9, 2019
MINUTES**

The Board of Adjustment for the Town of Duck convened at the Paul F. Keller Meeting Hall at 2:30 p.m. on Wednesday, January 9, 2019.

BOARD OF ADJUSTMENT MEMBERS PRESENT: Chair Olin Finch, Carol Powell, Ed Sadler, Kent Zimmerman, and Alternate Tom O'Brien and Randy Morton. Staff present: Director of Community Development Joseph Heard, Attorney Ben Gallop and Board of Adjustment Clerk Sandy Cross.

MEMBERS ABSENT: None.

OTHERS PRESENT: Planning Board Chair Joe Blakaitis, Planning Board Member James Cofield, Planning Board Member Sandy Whitman, Mayor Don Kingston, Town Manager Chris Layton, Joseph and Vicki Hatch and Aubrey Kitchin.

CALL TO ORDER

Chair Finch called the meeting to order at 2:38 p.m.

REVIEW DECISION-MAKING PROCESS AND STANDARDS WITH BOARD ATTORNEY

Chair Finch turned the meeting over to Attorney Ben Gallop.

Attorney Gallop noted that it has been a while since the Board has met. He stated that the Board of Adjustment is a quasi-judicial body which acts as a five-member judge when voting. He stated that his job is not to come up with a decision for the Board, but to guide the Board on the process if there is a need for his advice. If the Board is not making the decision in the right arena, he will redirect the Board's discussion to focus on the proper points. He reiterated that he does not make the decision but will give advice and guide the Board during the process.

Attorney Gallop stated that the Board's decision must be based on substantial, competent evidence presented to them at the meeting. He explained that evidence is facts such as information about measurements which meet different requirements. He added that the Board has specific rules to ensure a fair process. He stated that there could be conflicts that may arise and would potentially prevent an impartial decision. He stated that if any Board member has a fixed opinion prior to a hearing that is not susceptible to change, they should not participate in that matter. He clarified this does not mean that the Board member read the packet and had some idea of what was going on as well as what their ultimate decision would be. He added that if the facts presented at the hearing match the information in the packet, then the Board member may come out with the decision they anticipated, but if the facts are different, then the Board member should be susceptible to change their opinion. He related an example - if someone wants to put some type of adult theater in the downtown portion of Duck and one Board

member's religious beliefs told them that they do not care what the law is, they are not going to vote for it. That predetermined decision would be a problem under the law. He noted that it is rare for this type of situation to come up.

Attorney Gallop stated that the more common issue is undisclosed ex-parte communication. He explained that ex-parte communications means communication with one party to an application without the other parties present. He stated that the parties are generally Town staff and the applicants, whether it is a variance or an appeal process. He stated that the way to cure that conflict is to disclose the ex-parte communication. He stated that the conflict arises when it's undisclosed because what the law wants to happen is whatever party was not part of that communication would then be allowed to know what was said, so they can tell the Board member if the information provided is not right, or they can put on different evidence to show that it is not right. He stated that if there is ever a situation where a Board member talks to Town staff about whether or not they were still members of the Board of Adjustment or what time the meeting is – that is not be the type of communication he is referencing. He added that ex-parte communication regards a specific case and learning facts about it, which needs to be disclosed at the hearing as well as whatever was learned or gained from that communication. He stated that a Board member does not want to be making decisions based on information that they have in their heads that other members do not know about. He added that everyone needs to have an opportunity to rebut the information that one Board member may have or agree with the information. He noted that it isn't a conflict for a Board member to drive by and look at properties that are involved, but it often raises more complexity than may be necessary.

Attorney Gallop stated that if a Board member has a close, familial business or other association or relationship with an affected person or a financial interest in the outcome of the matter, there can be a conflict of interest as well. He stated that if there is a project that one of the Board members is involved in, then clearly there would be a financial interest and the member will have to go through the actions to recuse themselves. He added that a close, familial relationship, typically a spouse or children, can also be a conflict but it is pretty rare to see that. He stated that there can be business or associational issues as well. He noted that just because a Board member attends church with someone does not mean the member has to recuse themselves, but if they go to church and have a close relationship, it may be closer to a conflict.

Attorney Gallop stated that, unlike the Planning Board that hears legislative matters, the Board of Adjustment is quasi-judicial, and the members don't hear just evidence, but sworn evidence such as at a courtroom with people testifying under oath. He asked for confirmation that conditional use permits go through the Planning Board and Town Council. Director Heard stated he is correct, adding that the Board of Adjustment does not see those applications. Attorney Gallop stated that the two things that the Board of Adjustment considers are appeals of a permanent grant of denial, appeals of notice of violations, or a variance. He explained that an appeal is when Town staff has made some sort of decision of denial and the applicant is unhappy with it. He added that it would come before the Board of Adjustment and the members hear the evidence and apply the rules and facts to determine if Town staff was correct or not.

Attorney Gallop stated that with a variance, the applicant has the burden of producing the evidence. He stated that if the evidence isn't there, the applicant is the one to lose since they do not meet the burden. He stated that it is the applicant's duty to come in and prove everything

that they have to prove. He added that the case may be proven by facts that come from Town staff or someone else.

Attorney Gallop stated that variances have four primary standards that are spelled out by the N.C. General Statutes. He added that if the applicant fails to meet any of the standards, then they should not receive the variance. He noted that it is 4/5 vote for each one, meaning that there needs to be a unanimous decision or a 4/5 vote of the Board members to approve the variance. He stated that in order for an applicant to get a variance, they have to meet every one of the requirements by the 4/5 vote. He stated that Board of Adjustment typically evaluates each standard – one by one – and goes on the record to determine whether or not each standard is met, discuss the facts that ultimately support the decision on each standard, make a motion to grant or deny the variance accordingly. He added that if a motion is made to grant the variance, the Board can also add conditions to it that are reasonable and related to the concepts that zoning deals with.

Attorney Gallop stated that sometimes the conditions on variances are if the people are involved in selling a house, they would not be able to so or the variance would be voided. He noted that this is not typical and usually seen with commercial properties related to signage.

Attorney Gallop stated that the easiest thing for the Board members to do is to look at their agenda packet to see the standards that are already laid out. He stated that the unnecessary hardship standard is not absolutely clear. He explained that it used to be an unreasonable hardship only if all use of the property was denied. So, if a piece of property could be used for anything, it was hard to obtain a variance because there was still a reasonable use of the property. He noted that that standard has been relaxed in State law to if it is an unnecessary hardship caused by the ordinances. He stated that first the hardship would need to be identified, then determined if it is unnecessary and caused by the ordinance or something else.

Attorney Gallop stated that the next standard is the peculiarity of the property and the differentiation between personal circumstances and property circumstances. He stated that one of the most common things is that someone will come to Director Heard with a house that was built 25 years ago to obtain a permit. They show Director Heard a survey and he might tell them they are over the lot coverage because of a pool addition that was never permitted. He stated that it would be a mistake on either the contractor or the surveyor for not putting the pool on the survey with no one noticing it for 15 years. He stated that, typically, that would not be related to the property, but is related to personal circumstances or things that have happened in the past that aren't driven by the property.

Attorney Gallop stated that the next standard is actions that result from the applicant or property owner. He explained that it goes back to the concept of the surveyor and contractor, but it used to be that purchasing a property with the knowledge or ability to have known that it had a problem would have been enough to deny a variance. He added that the legislature changed that a few years ago, so needs to be shown that the applicant has done something incorrect or caused their own problem. He stated that many times when a homeowner receives a notice of violation, they will seek an appeal and a variance. He noted that they will try to get a variance first to keep what they have and then later appeal where they will challenge whether or not the law was

applied correctly. He stated that variances in this case are challenging because it is hard to not show that they created the problem themselves.

Attorney Gallop stated that the next standard is the minimum variance standard, which is in the Town's code and is self-explanatory in that what the applicant is requesting should be the minimum necessary to allow them to address the unnecessary hardship. He stated that the Board will be finding if there is an unnecessary hardship and then figuring out what is necessary to fix it. He stated that if the applicant goes too far beyond that, then it is not correct to grant the larger variance. He added that if it is in the ballpark in what the applicant is trying to do or what they are doing would solve the hardship that they found themselves in, then that is what the provision would be for.

Attorney Gallop stated that the last standard is subjective, but the Board needs to question if the variance is in harmony with what the zoning ordinance is trying to do or consistent with how the Town typically does things. He stated that it is the same for injurious to the neighborhood or detrimental to the public welfare as these two grounds were rare that they do not get approved unless someone is asking for something strange. He noted that it should stand out if it is going to dangerous.

Attorney Gallop stated that, with regard to any evidence that the Board receives, there are some things that have to be provided by experts. He added that this is not a true court where the Board had to follow to the precise letter of the law and the rules of evidence, but there is still the ability for people to object if there were two attorneys present – one on staff and one for the applicant.

Chair Finch thanked Attorney Gallop for his time.

PUBLIC HEARING

Variance BOV-2018-001: An Application Submitted by Property Owners Joseph & Vicki Hatch for a Variance of 4.2 Feet to Replace Existing, Nonconforming Decks Attached to the East Side of Their Residence at 131 Buffell Head Road as Close as 25.8 Feet to the Static Vegetation Line on the Primary Dune. Town Code Section 156.124 Requires a Minimum Setback of 30 Feet from the Static Vegetation Line

Town Clerk Lori Ackerman was recognized to speak. Town Clerk Ackerman proceeded to swear in the applicants and staff for the public hearing.

The following persons were sworn to provide testimony during the hearing: Joe Heard, Sandy Cross, Vicki Hatch and Aubrey Kitchin.

Director Heard stated that there is one variance application for the Board's consideration. He pointed out that there are four voting members and two alternates at this meeting and the Board needs to appoint one of the alternates to serve as the fifth voting member. He questioned Attorney Gallop if the other, nonvoting alternate can participate but not vote or they should sit off to the side. Attorney Gallop stated that Chair Finch will be the one to pick which alternate is the voting member. He added that if there are more meetings, it will be fine to alternate between the two members. He stated that the alternate that is not chosen to be a voting member should not sit with the Board members and

be involved. However, he prefers that they stay for the meeting in case any issue comes up where a member has to be recused.

Chair Finch stated that Alternate Tom O'Brien will participate in the meeting as a voting member and Alternate Randy Morton will sit in the audience.

Director Heard stated that the Board has before them an application for a variance at 131 Buffell Head Road. He stated that Subsection 156.124(C)(2)(b) of the Town Code states that accessory structures, such as decks, cannot be located within 30 feet of the static vegetation line. He added that Subsection 156.124(C)(2)(a) requires development to be consistent with setback standards established by CAMA. He noted that CAMA requires a minimum setback of 60 feet for structures from the static vegetation line.

Director Heard stated that Joseph and Vicki Hatch are seeking a variance from the setback standards to permit the demolition and reconstruction of the existing decks on the rear of the residence in the same, nonconforming location. He stated that the existing residence has three levels of decks that are presently located only 25.8 feet from the static vegetation line, thus encroaching 4.2 feet into the required 30-foot setback. He noted that while the existing decks can be repaired and maintained in their present location, complete replacement of the decks requires full compliance with the current Town standards.

Director Heard explained that in most oceanfront areas of Town, the minimum building setback is measured from the first line of stable natural vegetation, typically located on the primary oceanfront dune. He stated that the first line of stable natural vegetation is determined on a property-by-property basis and staked onsite by a CAMA representative. He explained that just prior to the beginning of the beach nourishment project in 2017, the Town worked with CAMA officials to survey the existing vegetation and establish a static vegetation line from which future measurements are taken. He stated that since the subject property is in the beach nourishment area, the setback measurements are taken from the static vegetation line.

Director Heard stated that the issue leading to this variance request was identified when the applicant's contractor met with the Community Development Department to propose demolition and reconstruction of the existing three tiers of oceanfront decks on the rear of the home. He stated that after reviewing the recent survey and field-checking the situation, Community Development staff confirmed that the existing decks are located within 30 feet of the static vegetation line and due to the nonconforming location, if the decks are removed, they cannot be rebuilt unless in conformance with current minimum setback standards.

Director Heard stated that Community Development staff discussed several alternatives with the owners and the contractor, which included the following:

- Repairing, rather than replacing, the existing decks.
- Completing a phased repair/replacement project over two years.
- Reducing the width of the decks to eliminate any encroachment.
- Reducing the size of the decks to 64 square feet, which could be permitted as an accessory dune structure.

Director Heard stated that due to an immediate interest in addressing the poor condition of the existing decks by reconstructing them to meet current building codes and safety standards, the applicant has chosen to proceed with a variance application in order to construct the new decks as a single project. He noted that if the Board grants the requested variance, the property owners will have an additional step of obtaining a setback variance from the North Carolina Coastal Resources Commission. He added that the Coastal Resources Commission requires that the owner obtain local government approval before proceeding with their process.

Director Heard stated that Section 156.167 of the Duck Town Code states that when unnecessary hardships will result from carrying out the strict standards of the zoning ordinance, the Board may grant a variance from provisions of the zoning ordinance consistent with the spirit, purpose and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

Director Heard stated that during the evaluation of the variance application, the Board is required to consider and make findings concerning the six criteria. He noted that if the Board finds that all six of the criteria have been met, then the Board should vote to grant the requested variance. However, if the Board finds that one or more of the criteria have not been met, then they should deny the requested variance.

Director Heard stated that as part of the decision, the Board may impose conditions on the approval of a variance, as long as the conditions are reasonably related to the variance. He pointed out that such conditions are often intended to mitigate any potential impacts resulting from the variance.

Member Powell asked if all three levels of decking are part of the application. Director Heard responded that they are.

Member Sadler asked if the project is for all the decking around the house or just the decking on the oceanfront. Director Heard stated that the variance only applies to the oceanfront decks on the rear of the house. He noted that replacing the decks on the sides of the house can be permitted by the Town without the need for a variance. Member Sadler asked if all the decks would be one project. Director Heard stated that they are proposed as a single project, but the requested variance is only necessary for the rear decking.

Director Heard stated that in regard to the six criteria, Town staff found the following:

1. *Unnecessary hardship would result from the strict application of the ordinance.* – The applicant's proposed project is a reasonable request to replace the house's oceanfront decks in their current location. The applicant is not seeking to expand the footprint or size of the decks. The existing decks do not comply with the current setback requirements from the static vegetation line on the dune. Section 156.124(C)(2)(b) of the Town Code prevents reconstruction of the new decks in the same, nonconforming footprint as the existing decks. The current decking is decades old, not in good condition, and does not meet current construction standards. The applicant is seeking to upgrade the safety and sturdiness by demolishing the existing decks and rebuilding them entirely. To comply with the 30-foot minimum setback standard, the eight-foot-wide deck would have to be reduced to less than four feet in width, which is not very functional for a deck. It is staff's opinion that strict

application of the ordinance will restrict construction of decks with a reasonable width, resulting in a hardship to the applicant.

2. *The hardship results from conditions that are peculiar to the subject project, such as location, size or topography.* – The adjoining property to the north faced similar challenges when replacing a swimming pool in 2013. However, those issues were related to a swimming pool, not decks attached to the residence like the current situation. Although there are other properties in the surrounding area that contain similar physical characteristics, there are few properties with the exact set of circumstances as the subject property. It is staff’s opinion that the subject property has unique conditions peculiar to the property and that such conditions are not common to the neighboring properties.
3. *The hardship did not result from actions taken by the applicant or the property owner.* – When constructed under Dare County’s purview in 1981, the residence was located significantly further to the west of the Atlantic Ocean and oceanfront dune. Its location in relation to the first line of stable natural vegetation at that time would have complied with the Town’s current setback standards. The applicants have not subsequently enlarged the decks or conducted any activities that exacerbated the situation. It appears that the hardship has resulted from erosion and westward movement of the beach and dune, which has moved the static vegetation line closer to the residence. It is staff’s opinion that the hardship has not resulted from the actions of the applicant.
4. *The requested variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.* – The Board must decide if a width of eight feet for the proposed decks is the minimum possible to allow reasonable use of the decks. To comply with the 30-foot minimum setback standard, the current eight-foot-wide deck would have to be reconstructed at less than four feet in width, which is not very functional for a deck. Staff notes that the requested variance is the minimum necessary to reconstruct the deck in its current configuration and location. However, there are other options available for construction of some decking that require either a lesser variance or no variance at all. For example, one alternative that can be permitted is a reduction of the deck size to a 64 square foot structure, consistent with Town and CAMA allowances for dune deck structures. The Board may wish to explore if other alternatives are available to provide reasonable use of the residence and decks.
5. *Granting the variance will be in harmony with the general purpose and intent of the Zoning Ordinance.* – Section 156.124(A) of the Zoning Ordinance contains a purpose statement outlining the intent of the Town Council when adopting these standards for structures within the primary and frontal dunes. The ordinance reads: “It is the purpose of this section to develop regulatory standards which will assist with the preservation of a continuous dune system within the Town, acknowledging the protective and aesthetic values that this feature provides. Regulations are hereby established to limit structures within the dune system that are known to weaken its structural integrity. Further, construction standards are established for dune walkover structures to minimize their impact on the dune, recognizing that these structures provide a safe and responsible mechanism to access the ocean beach.” Constructing a new deck structure into the western side of the dune within the 30/60-foot minimum setback has the potential to weaken or compromise the stability of the dune.

However, it can be accurately debated that replacement of the decks within the same footprint will not cause further damage to the adjoining dune or weaken the dune's structural integrity. As the proposed decking is in the same location as decks that have existed within the dune for decades, it is staff's opinion that the proposed project will not substantially damage the dune system and the proposed variance is consistent with the stated intent of the ordinance.

6. *Granting the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.* – The proposed project would replace the decks in their existing configuration. While there will be temporary noise and activity impacts during construction, there will be no additional visual impact to the surrounding properties and neighborhood. The decking and house will look much like it has in the past. The location of the proposed decks is on the rear of the residence and minimally visible from Buffell Head Road. The proposed decks will only be visible from adjoining properties to the north and south. The applicant contacted both abutting property owners and submitted emails from adjoining properties to the north and south of the subject property. James Rice, owner of 129 Buffell Head Road, expressed no objection to the proposed variance application. Moses & Semiramis Kaloustian offered comments on the application, supporting the variance "...as long as it does not impact our property at 133 Buffell Head Road in any way." Based on the information available, it is staff's opinion that granting the variance will not negatively impact the neighboring properties or be detrimental to the public welfare.

Director Heard stated that it is staff's opinion that the applicant has provided sufficient evidence to show that the property contains a legitimate hardship due to the movement of the dune system westward over the past few decades. He stated that the applicant has proposed a reasonable project to replace the existing, deteriorating decks with new, safer, sturdier decks in the same footprint. He noted that it did not appear that granting the variance will negatively impact the adjoining dune system or any of the surrounding properties.

Director Heard stated staff's opinion that the applicant has satisfied the conditions of Findings 1, 2, 3, 5, and 6. He added that Finding 4 may also be satisfied if the Board accepts that the dimensions of the proposed deck replacement are the minimum necessary to allow reasonable use of the decks. He noted that if the Board makes a favorable finding on Finding 4, staff is recommending approval of the application.

Chair Finch asked if the applicants have any questions for Director Heard. There were none.

Aubrey Kitchin of 114 Sea Hawk Drive West was recognized to speak. Mr. Kitchin stated that with regard to making the decks four feet in width or less, all of the decks have sliding glass doors in and out of the house directly onto the decks, as well as a staircase that connects to the top deck. He stated that by making the decks smaller will impede access. He added that the top deck allows access into and out of the house.

Chair Finch asked if the applicant has anything to present.

Vicki Hatch of 131 Buffell Head Road was recognized to speak. Ms. Hatch stated that she and her husband want to maintain their property with the least amount of impact on the area. She stated that

the dune was a precious commodity to everyone and their intention is to preserve that. She felt that this is the best option in terms of safety, longevity and the least amount of impact to the dunes.

Member Zimmerman stated that he is curious about the enclosed ground floor. He inquired if it would be left open and not be enclosed. Vicki Hatch stated he is correct. Member Zimmerman asked if the applicant anticipated vegetation growing in that area. Vicki Hatch stated he is correct. She explained that the area underneath the house is a presently storage area.

Member Sadler asked for clarification that the enclosed ground floor is being used for beach storage. Vicki Hatch stated he is correct. Member Sadler asked where the beach storage will be in the future. Ms. Hatch stated that they will store items in the garage. Member Sadler stated that he thought a lot about reducing the deck size to four feet, but determined it would no longer be a deck, more of a walkway. He thought it will be detrimental to the applicant's property. Vicki Hatch stated that it will greatly change the function of the property. Member Sadler stated that he looked at the property and read the packet. He added that since the property was purchased in 1979 or 1981, over 100 feet of the property has been claimed by the ocean. He stated that beach nourishment has saved a lot of the oceanfront properties on Buffell Head Road. He thought an eight-foot deck should be the minimum and if it can be legally cantilevered to make it 10 feet, it will be even better.

Chair Finch asked if any member of the audience had anything to add that would be substantially enlightening to the hearing. There were no comments.

Attorney Gallop pointed out that Director Heard has prepared a draft order granting the variance. He explained that the Board would normally go through the provisions one by one and come to a conclusion with the order drafted later. He stated that he gets asked if a board can vote on all of the items at once and he usually responds that they can if they think it will pass. He stated that if someone agrees with the order as written and agrees with the findings as written, it is not inappropriate for someone to make a motion to grant the variance by accepting the order as proposed, with a second and then a vote. He stated that it is a cleaner way to go unless a board member has changes or issues with the order as it is proposed.

Member Powell stated that Item #4 had no recommendation from Town staff, so it would fall to the Board members, regarding any other alternatives that were available to provide reasonable use of the residence and decks. She stated that eight feet is not an unreasonable width for a deck.

Chair Finch closed the public hearing and opened it for deliberation with the Board members.

Alternate O'Brien felt the application is very positive.

Chair Finch noted that Director Heard made a recommendation and suggested eight feet for the deck size. He asked if any members of the Board have any reason to alter the eight-foot suggestion. Member Zimmerman thought it would be more disruptive to the dune if the deck width is changed since pilings would need to be pulled and new ones installed in new locations. Chair Finch pointed out that the same number of pilings are being installed, so it didn't matter whether it is four or eight. He added that in some ways it is more disruptive the closer they got to a house. He stated that he does not have any reason to veer from the eight feet.

Member Powell thought the Board is in agreement that the four-foot deck width is ridiculous and if the Board suggested six feet, there wouldn't be much difference from the four feet as it is still not technically in compliance. She thought the eight feet is reasonable. She didn't think any other alternatives are reasonable.

Member Sadler moved to recommend granting BOV-2018-001 with the findings and conditions as presented with the minimum width of the deck at eight feet. Member Powell seconded.

Motion carried 5-0.

MINUTES FROM THE FEBRUARY 2, 2017, MEETING

Chair Finch opened the approval of minutes from the February 2, 2017 meeting. He directed the Board to review the minutes from the February 2, 2017 meeting for changes.

Member Powell moved to approve the minutes as presented. Member Zimmerman seconded.

Motion carried 5-0.

NOMINATE REPRESENTATIVE TO DUCK LAND USE PLAN ADVISORY COMMITTEE

Director Heard stated that the Town has begun efforts to update its CAMA Land Use Plan. He reminded the Board that the Plan was adopted in 2005 and since then there have been a lot of changes. He stated that the current Plan does not reflect those changes, so the Town Council has set aside funds in the budget to hire a planning consultant to work with the Town on updating the current Land Use Plan.

Director Heard stated that the Plan is a guideline that the Town uses and refers to when making decisions. He noted that a lot of things in the current Plan have been completed – items that were consistent with recommendations in the Plan as far as improvements that the Town has made. He stated that it is frequently used by the Town Council and Planning Board to help guide them in making decisions. He noted that it is an important document for reference and a great opportunity to lay out where the Town is heading into the future.

Director Heard stated that at their last meeting, the Town Council adopted a resolution establishing a Land Use Plan Advisory Committee, which will be a group of seven citizens working with Town staff and the consultant to help arrange the planning process and develop the Plan. He noted that there will be input from many other people such as property owners and residents. He stated that the Committee will help advise the consultant and Town staff as they work through the update to the Plan.

Director Heard stated that when Council established the Plan, they felt it was important to have someone from the Board of Adjustment serving on the committee. He stated that if the Board wishes to nominate someone for the Committee, it could be someone that Council would then appoint.

Member Powell asked if anyone else beside Member Zimmerman was interested in serving on the Committee. Member Sadler stated that he is interested in serving. Director Heard stated that the

Committee will contain a representative from Town Council, Planning Board, Board of Adjustment, Duck Merchants Association, one representative from a neighborhood association, and two at-large members that Council will appoint. He added that there will only be one representative from the Board of Adjustment on the Committee.

Chair Finch asked if two people volunteered for it, who will make the final decision. Director Heard stated that, ultimately, Town Council will make the final appointment. He stated that he is asking the members of the Board if they have a nomination that they wish to propose. Member Powell noted that there are two. Director Heard stated that there isn't a specific nomination process set up by Town Council, but if it is a situation where the Board does not have a single individual they wish to nominate, both names can be forwarded to Town Council for their decision.

Chair Finch asked if two names can be submitted for Council to decide. Director Heard reiterated that if the Board of Adjustment doesn't feel comfortable in choosing a candidate, both names can be forwarded to Council for their decision.

Member Powell moved to nominate Member Kent Zimmerman and Member Ed Sadler for the Land Use Plan Committee. Alternate Tom O'Brien seconded.

Motion carried 6-0.

BOARD COMMENTS

None.

STAFF COMMENTS

None.

OTHER BUSINESS

None.

ADJOURNMENT

Member Powell moved to adjourn the meeting. Alternate Morton seconded.

Motion carried 6-0.

The time was 3:54 p.m.

Approved: _____
 /s/ Secretary