



AGENDA
PLANNING COMMISSION
November 18, 2019 at 7:00 PM

Call to Order

Consideration of Minutes

- 1 MINUTES OF OCTOBER 21, 2019

Disclosures and Recusals

Old Business

- 2 DISCUSSION ON CHANGING TYBEE'S VARIANCE APPLICATION

New Business

- 3 TEXT AMENDMENT SEC.4-050(L) MARITIME DISTRICT TO DELETE SUBSECTION (L)(1)(I) PASSENGER CRUISE LINES

Adjournment

Standing Items

Adjournment

Individuals with disabilities who require certain accommodations in order to allow them to observe and/or participate in this meeting, or who have questions regarding the accessibility of the meeting or the facilities are required to contact Jan LeViner at 912.472.5080 promptly to allow the City to make reasonable accommodations for those persons.

PLANNING COMMISSION

Demery Bishop
Ron Bossick
Marianne Bramble
Tina Gann
Charles Matlock
David McNaughton
Alan Robertson



CITY MANAGER
Shawn Gillen

COMMUNITY DEVELOPMENT DIRECTOR
George Shaw

CITY ATTORNEY
Edward M. Hughes

Planning Commission Meeting MINUTES October 21, 2019

Chair Bishop called the October 21, 2019 Tybee Island Planning Commission meeting to order. Commissioners present were **David McNaughton, Charles Matlock, Marianne Bramble, Tina Gann** and **Ron Bossick**. **Alan Robertson** was absent.

Consideration of Minutes:

Chair Bishop asked for consideration of the September 16, 2019 minutes. **Commissioner Bramble** made a motion to approve. **Commissioner Matlock** seconded. The vote to approve was unanimous.

Disclosures/Recusals:

Chair Bishop asked if there were any Disclosures or Recusals. There were none.

Old Business:

Discussion on changing Tybee's Variance application fee and looking into changing the application based on the Valdosta application.

George Shaw stated that Lisa took all comments and put together the draft before you. From staff's point of view the only concerns with the changes is number four. Our requirements in our Variance ordinance are different and would need to be changed also. **Chair Bishop** asked staff to incorporate the changes and bring back to the November 18th meeting. **George Shaw** stated yes we will do that.

Text Amendment to Article 3, Section 3-170 Home occupations and home business offices.

George Shaw stated the main purpose of this is to make it clear which businesses occur at a home in a residential neighborhood and which would require a public hearing or approval by staff. **Vice Chair Bossick** made a motion to approve. **Commissioner Gann** seconded. The vote to approve was unanimous.

New Business:

Zoning Variance: 1111B Bay Street –requesting to build new steps in setback – Zone R-1 - 40021 16088 – Sue Else & Rex Osborn.

George Shaw stated the applicant would like to realign his steps to keep them from being too close to the pool. There is no hardship involved so staff recommended denial. **Chair Bishop** asked if they had already built the steps they are requesting to build. **George Shaw** stated yes they were going to repair them but decided to change layout before they asked permission. **Mack Kitchens** approached the

planning commission and stated he lives at 1703 Inlet Avenue Tybee Island. He stated that he has concerns on the amount of variances that should not be allowed to come to Planning Commission. **Commissioner Matlock** made a motion to deny. **Commissioner Bramble** seconded. The vote to deny was unanimous.

Subdivision of land: requesting to divide out one lot zoned commercial C-2 from the two remaining residential lots that make up 109 Jones Ave. - 109 Jones Avenue – Zone R-2 and C-2 -Thomas A. Smith III (Jones Tybee LLC).

George Shaw approached the Planning Commission and stated the applicant would like to subdivide the lot to the north which is zoned C-2 and leave a single lot zoned R-2 to the south. Staff has been working with the City Attorney on finding ways to eliminate split zoning lots on the island and Mr. Smith has volunteered to do that on his own with this property. Staff recommends approval.

Commissioner Bossick asked if the R-2 lot will be non-conforming if we approve. **George Shaw** stated yes it will make it non-conforming. **Commissioner Bramble** stated Jones Avenue is a high traffic area. **Thomas A. Smith III** who lives at 216 East Point Drive, Talahi Island approached the planning commission and stated he has been taking care of all the issues Planning Commission wanted him to do and it seems everything keeps changing. He also stated he has seven year round properties on Tybee already and has repaired this property to be a long term also. This lot in question is already a commercial lot. **Keith Gay** who lives at 16A Twelfth Place Tybee Island approached the Planning Commission and stated he would like to suggest that Planning Commission assist Mr. Smith in getting this resolved to separate the property so he can utilize it in different ways. And this will also help the City accomplish trying to get this property conforming. **Mack Kitchens** approached the Planning Commission and asked how much of the lot is commercial. **George Shaw** stated the entirety of the proposed lot is commercial. **Commissioner Matlock** made a motion to approve. **Commissioner McNaughton** seconded. The vote to approve was three for and two against. Motion to approve carried.

Meeting adjourned

Lisa L. Schaaf

Fee
Commercial \$500
Residential \$200



CITY OF TYBEE ISLAND ZONING VARIANCE APPLICATION

This is an application for a variance from the City of Tybee Island Land Development Code

Applicant: _____

Telephone #: _____ Email Address: _____

Mailing Address _____

*Note: If the applicant is not the property owner as listed on the property deed, a letter from the listed owner(s), including a telephone number and address along with any other relevant information, authorizing the applicant to act in their behalf must be included in the application.

PROCEDURE

Application Requirements

All applications must be complete including required supporting documents. **Drawings or surveys should be 11" X 17" or larger.** Incomplete applications will not be accepted and will delay review.

Application Deadline

Applications are due by 4:00pm of the last day of the month before the next scheduled Planning Commission meeting.

Application Submittal

Return one copy of this completed application and all supporting documents to: Tybee Island Planning and Zoning City Hall 404 Butler Avenue / P.O. Box 2749 City of Tybee Island, GA 31328

Application Public Hearings

Applications will be heard at a public hearing with the Planning and Zoning Commission in preparation for a recommendation to City Council on the third Monday of each month and then the final decision with City Council on the second Thursday of the following month. Both meetings will be at 7:00pm at the Public Safety Building 78 Van Horn Drive.

Property Address (Or General Location Description if no Address Assigned): _____

Tax Map/Parcel ID#: _____ Current Zoning: _____

Existing use of Property: _____

Proposed use of Property: _____

Has the property been denied a variance in the past 12 months? If so, please provide brief details:

Variance Questionnaire:

1. Does the requested variance change the Tybee Island character designation for the property? If so, provide a brief explanation.

2. Please explain the purpose of the requested variance and the intended development of the subject property if the variance is granted.

3. Please explain the specific provision within the Tybee Island Land Development Code from which the variance is requested.

4. Per the Tybee Island Land Development Code, the Tybee Island Planning Commission shall not approve a variance from the terms of the Land Development Code unless it has made specific findings of fact based directly upon the particular evidence presented and supporting written conclusions that the variance meets each of the criteria listed below. Please explain how the requested variance meets each of the following:

A. The need for a variance arises from the condition that is unique and peculiar to the land, structures and buildings involved.

B. The variance is necessary because the particular physical surroundings, the size, shape or topographical condition of the property involved would result in unnecessary hardship for the owner, lessee or occupants as distinguished from a mere inconvenience.

C. The condition requiring the requested relief is not ordinarily found in properties of the same zoning district as the subject property.

D. The condition is created by the regulation in the Tybee Island Land Development Code and not by the action of the property owner or applicant.

E. The granting of the requested variance will not increase the danger of fire, endanger the public or diminish property values within the neighborhood.

F. The variance requested is the minimum variance that will make possible the reasonable use of the land, building or structures.

5. Please explain how the proposed variance is consistent with the general spirit of the Tybee Island Master Plan.

Adjacent Property Owners

Please list all current owners of properties located immediately adjacent to or directly across the street from the subject property. This information may be obtained from the Chatham County Tax Assessor's office (912) 652-7271 or by using their website at www.boa.chathamcounty.org. The accuracy and completeness of this information shall be the responsibility of the applicant.

Property owners name and mailing address:

1. _____
2. _____
3. _____
4. _____
5. _____
6. _____
7. _____
8. _____
9. _____
10. _____
11. _____
12. _____
13. _____
14. _____
15. _____
16. _____
17. _____
18. _____
19. _____
20. _____
21. _____

NOTE: This application must be accompanied by additional documentation, including drawings that include or illustrate the information outlined below.

<u>REFERENCE</u>	<u>DESCRIPTION</u>
5-040 (D) (1)	Site plan and/or architectural rendering of the proposed development depicting the location of lot restrictions.
5-040 (D) (2)	Narrative describing the hardship and the reason for the variance request. (<i>Hardship means the circumstances where special conditions, which were not self-created or created by a prior owner, affect a particular property and make strict conformity with the restrictions governing dimensional standards (such as lot area, width, setbacks, yard requirements, or building height) unnecessarily burdensome or unreasonable in light of the purpose of this code. Unnecessary hardship is present only where, in the absence of a variance, no feasible use can be made of the property.</i>) Explain the hardship: _____ _____
5-040 (D) (3) 5-090 (A) (1)	A survey of the property signed and stamped by a State of Georgia certified land surveyor. That there are unique physical circumstances or conditions beyond that of surrounding properties, including: ___ irregularity; ___ narrowness; or, ___ shallowness of the lot shape; or, ___ exceptional topographical or other physical circumstances, conditions, or considerations related to the environment, or the safety, or to historical significance, that is peculiar to the particular property; and;
5-090 (A) (2)	Because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of the Land Development Code, without undue hardship to the property. <u>NOTE: Provide attachments illustrating conditions on surrounding properties and on the subject property, indicating uniqueness, etc.</u>
5-090 (B)	If this variance application is for a Height Variance, in addition to other requirements, the petitioner shall be required to: ___ Add two feet to each side yard setback for each one foot above 35 feet in height, and, ___ Have safeguards consisting of sprinkler systems, smoke detectors and other fire protection equipment deemed necessary at the time by the Mayor and Council, and, ___ Where a rear yard abuts a side yard of the adjacent lot, the petitioner shall be required to add two feet to the rear setback for each foot above 35 feet height.

The Applicant certifies that he/she has read the requirements for Variances and has provided the required information to the best of his/her ability in a truthful and honest manner.

Signature of Applicant

Date

5-090(C) *Variance longevity.* After a variance has been granted by the mayor and council it shall be valid for a period of 12 months from date of approval. Such approval is based on information provided in the application. Building permits may only be granted for plans consistent with the approved application. Any deviation from the information submitted will require separate approval by the mayor and council.

CERTIFICATION AND AUTHORIZATION

I hereby certify that, to the best of my knowledge and belief, the above listed information and all attached supporting documents are complete and accurate. I understand that this application will require a public hearing by the Tybee Island Planning Commission and City Council. I have been made aware and I hereby acknowledge this scheduled hearing date/time and location where this application will be considered, and I promise that either myself or my authorized representative will be in attendance at this hearing. I also understand that review of this application will require a site visit, and I hereby authorize City staff and members of the Planning Commission and City Council to enter and inspect the premises which are the subject of this application.

Signature of Applicant _____ Date _____

If within two (2) years immediately preceding the filing of the Applicant's application for a zoning action, the Applicant has made campaign contributions aggregating to more than \$250 to the Mayor and any member of Council or any member of the Planning Commission, the Applicant and the Attorney representing the Applicant must disclose the following:

- a. The name of the local government official to whom the campaign contribution or gift was made;
- b. The dollar amount of each campaign contribution made by the applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action, and the date of each contribution;
- c. An enumeration and description of each gift having a value of \$250 or more made by the Applicant to the local government official during the two (2) years immediately preceding the filing of the application for this zoning action.

Disclosure of Campaign Contributions form attachment hereto: _____ Yes

Signature of Applicant _____ Date _____

STAFF USE ONLY

Date received: _____ Received by _____

Fee Amount \$ _____ Check Number _____ Date _____

PUBLIC HEARING DATES:

Planning Commission _____ City Council _____

DECISION: (Circle One) Approved Denied

Approved with Conditions: _____



CITY OF TYBEE ISLAND

CONFLICT OF INTEREST IN ZONING ACTIONS

DISCLOSURE OF CAMPAIGN CONTRIBUTIONS

Have you within the past two (2) years made campaign contributions or gave gifts having an aggregate value of \$250.00 or more to a member of the City of Tybee Island Planning Commission, or Mayor and Council or any local government official who will be considering the rezoning application?

YES _____ NO _____

IF YES, PLEASE COMPLETE THE FOLLOWING SECTION:

NAME OF GOVERNMENT OFFICIAL	CONTRIBUTIONS OF \$250.00 OR MORE	GIFTS OF \$250.00 OR MORE	DATE OF CONTRIBUTION

IF YOU WISH TO SPEAK CONCERNING THE ATTACHED REZONING APPLICATION, THIS FORM MUST BE FILED WITH THE ZONING ADMINISTRATOR FIVE (5) DAYS PRIOR TO PLANNING COMMISSION MEETING IF CAMPAIGN CONTRIBUTIONS OR GIFTS IN EXCESS OF \$250.00 HAVE BEEN MADE TO ANY MEMBER OF THE PLANNING COMMISSION OR MAYOR AND COUNCIL.

Signature _____

Printed Name _____

Date _____

Sec. 5-090. Variances.

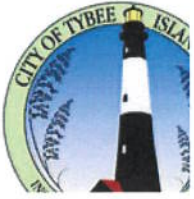
- (A) *Standards.* After an application has been submitted to the zoning administrator, reviewed by the planning commission, and a public hearing has been held by the mayor and council, the mayor and council may grant a variance from the strict application of the provisions in this Land Development Code only if the following findings are made:
- (1) That there are unique physical circumstances or conditions beyond that of surrounding properties, including irregularity, narrowness, or shallowness of the lot size or shape, or exceptional topographical or other physical conditions, peculiar to the particular property; and,
 - (2) That because of such physical circumstances or conditions, the property cannot be developed in strict conformity with the provisions of this Land Development Code, without undue hardship to the property.
- (B) *Height variances.* For height variances, in addition to other requirements, the petitioner shall be required to add two feet to each side yard setback for each one foot above 35 feet in height and have safe-guard consisting of sprinkler systems, smoke detectors and any other fire protection equipment deemed necessary at the time by mayor and council. Where a rear yard abuts a side yard of the adjacent lot, the petitioner shall be required to add two feet to the rear setback for each foot above the 35 feet height, and have safe-guards consisting of sprinkler systems, smoke detectors, and any other fire protection deemed necessary at the time by mayor and council.
- (C) *Variance longevity.* After a variance has been granted by the mayor and council it shall be valid for a period of 12 months from date of approval. Such approval is based on information provided in the application. Building permits may only be granted for plans consistent with the approved application. Any deviation from the information submitted will require separate approval by the mayor and council.
- (D) *[Reviewing variance applications.]* The staff, planning commission, and governing body, shall consider the factors stated herein in reviewing variance applications in taking action on a particular variance. In exercising the powers to grant variances, the mayor and council may attach any conditions to its approval which it finds necessary to accomplish the reasonable application of the requirements of these regulations.
- (E) *[Application approval.]* Notwithstanding any other provisions of the Code of Ordinances, the staff of the community development department through its department head may approve applications for variances without the need of public hearings and without the need of review by the planning commission or the mayor and council as follows:
- I. When either of the following circumstances exists:
 - a. The proposed improvement of alteration will not result in an expansion of the existing footprint of the existing structure; or
 - b. No additional encroachment into any setback shall be created by the proposed improvement, construction or addition.
 - II. When each of the following circumstances also exists:
 - a. No encroachment or construction of habitable space or other prohibited improvements will exist beyond the flood elevation; and
 - b. The requested improvements or construction will not violate existing zoning provisions.

This subsection shall have specific application to existing nonconforming structures as referred to in [section 3-020](#).

If the staff of the building and zoning department finds that the request needs or should have additional review for any reason, it may request review by the planning commission and if the request is approved or rejected by the planning commission then the planning commission's determination shall control. For purposes of this section, a public hearing before the planning commission shall not be necessary. If the staff of the building and zoning department declines an applicant's request the applicant may apply for the granting of a variance which will follow the procedures applicable to variances in general specifically, those procedures described in sections [3-020](#) and [3-090](#) as well as the public hearing requirements referred to in [section 5-060](#). In the event the staff request review by the planning commission and the planning commission rejects the request, the applicant may apply for the granting of a variance and follow the procedure applicable to such request before mayor and council.

(F) *Compliance with ordinances.* Notwithstanding any other provision of the Code of Ordinances, no application for a variance may be accepted nor may any variance be granted with respect to any property that is then not in compliance with the requirements of ordinances for the condition on which the variance is sought, unless the applicant files with the application a detailed written explanation of how, when, and by whom the need for a variance was created. In such a case, the planning commission shall make a recommendation to the mayor and council as to whether the variance should be approved or rejected or modified and the mayor and council, following a public hearing, may approve, reject or modify the variance request. In the event property is constructed in violation of the ordinances, the violation status remains until such time as the condition is rectified and placed in conformity with the ordinances. Violations of the ordinances may be subject to the enforcement provisions of this Code and all penalties permissible by law. A variance that is granted under this Ordinance does not excuse prior violations including those that have resulted or may result in enforcement action by the City of Tybee Island.

(Ord. No. 1999-27, 8-12-1999; Ord. No. 2002-08, 5-9-2002; Ord. No. 2002-08 Variances, amended 8-29-2001; Ord. of 8-11-2005; Ord. No.14-2010, 8-26-2010; Ord. No. 57-A-2014, § 1, 12-11-2014)



STAFF REPORT

PLANNING COMMISSION MEETING: November 18, 2019

CITY COUNCIL MEETING: December 12, 2019

LOCATION: N/A

APPLICANT: City of Tybee Island

OWNER: N/A

EXISTING USE: N/A

PROPOSED USE: N/A

ZONING: N/A

USE PERMITTED BY RIGHT: N/A

COMMUNITY CHARACTER MAP: N/A

APPLICATION: Amendment to Article 4, Section 4-050(L) Maritime District.

PROPOSAL: To eliminate passenger cruise line from uses permitted after site plan approval and special review.

ANALYSIS: This amendment is an effort to eliminate a potential use that the City has deemed incompatible with the size of Lazaretto Creek and the bridge to Tybee.

STAFF FINDING

Staff recommends approval

This Staff Report was prepared by George Shaw.

ATTACHMENTS

- A. Amendment

ORDINANCE NO. _____

AN ORDINANCE TO AMEND THE CODE OF ORDINANCES FOR THE CITY OF TYBEE ISLAND, GEORGIA, TO REVISE PERMISSIBLE USES IN THE MARITIME DISTRICT SO AS TO ELIMINATE PASSENGER CRUISE LINES AS A PERMISSIBLE USE AND FURTHER, SO AS TO REQUIRE SPECIAL REVIEW FOR ANY USE IN SUCH DISTRICT AND TO PROVIDE AN EFFECTIVE DATE AND TO REPEAL INCONSISTENT ORDINANCES AND FOR OTHER PURPOSES

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is authorized under Article 9, Section 2, Paragraph 3 of the Constitution of the State of Georgia to adopt reasonable ordinances to protect and improve the public health, safety, and welfare of the citizens of Tybee Island, Georgia, and

WHEREAS, the duly elected governing authority for the City of Tybee Island, Georgia, is the Mayor and Council thereof, and

WHEREAS, the governing authority desires to amend Section 4.05(L) *Maritime District* so as to delete Subsection (L)(1)(l) passenger cruise lines as a permissible use after site plan approval, and

WHEREAS, the governing authority desires to amend such section and subsection so as to add a requirement of special review for uses in the Maritime District,

NOW, THEREFORE, be it resolved and it is hereby ordained by the governing authority of the City of Tybee Island as follows:

SECTION 1

Section 4-050(L) *Maritime District* is hereby amended so to eliminate subsection (L)(1)(l) allowing Passenger cruise line and hereafter such subsection shall be a “reserved” use.

SECTION 2

The governing authority of the City of Tybee Island hereby amends Section 4-050(L)(1) *Maritime District* so as hereafter such section shall read as follows:

(1) Uses permitted after site plan approval and special review. In the maritime district, land may be used and buildings or structures may be erected or used for the land uses listed below after special review and site plan approvals have been granted by the mayor and council:

- a. Boat launching facilities;
- b. Bait shops; and
- c. Retail sale of boating provisions;
- d. Aquaculture projects;
- e. Assembly hall, club, or lodge;
- f. Boat building and repair facilities;
- g. Commercial charter or sightseeing watercraft facilities;
- h. Commercial fishing and crabbing;
- i. Government buildings;
- j. Marine;
- k. Recreational activities carried on wholly within a building including theaters, dance halls, and activities of a similar nature;
- l. Reserved.
- m. Private or community dock;
- n. Public utility structures;
- o. Wholesale/retail seafood/sales/warehouses;
- p. Restaurant – (no alcohol) – limited to sit down facility with no drive through;

q. Restaurant, sit down facility which serves alcoholic beverages (must have council approval for liquor, beer, wine, and Sunday sales) and no drive through;

r. Watercraft rentals.

SECTION 3

All ordinances and parts of ordinances in conflict herewith are expressly repealed.

SECTION 4

It is the intention of the governing body, and it is hereby ordained, that the provisions of this ordinance shall become effective and be made a part of the Code of Ordinances, City of Tybee Island, Georgia, and the sections of this ordinance may be renumbered to accomplish such intention.

SECTION 5

This ordinance shall be effective upon its adoption by the Mayor and Council pursuant to The Code of the City of Tybee Island, Georgia.

This Ordinance shall become effective on _____ day of _____, 2019.

ADOPTED THIS __ DAY OF _____, 2019.

MAYOR
ATTEST:

CLERK OF COUNCIL

FIRST READING: _____

SECOND READING: _____

ENACTED: _____