



# The Town of Fenwick Island

800 Coastal Highway, Fenwick Island, DE 19944

302-539-3011 ~ 302-539-1305 fax

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## **SPECIAL MEETING OF THE TOWN COUNCIL**

**Balsamo Real Estate, LLC. Appeal**

**February 13, 2026, at 9:00 a.m.**

**Town Hall**

### **Minutes**

Members Present in Person: Natalie Magdeburger, Colleen Wilson, Bill Rymer

Members Present via Zoom: Jacque Napolitano, Lucy Wilder, Kurt Zanelotti, Susan Brennan

Others Present: Erin Ellinger, Mike Locke, Joseph Balsamo Sr., Joseph Balsamo Jr., Charles Armbruster, Esq., Kathy Grab, Ray Tomasetti (via Zoom), Ray Tomasetti, Jr. (via Zoom)  
3 additional attendees in person and 5 additional attendees on Zoom

#### **1. Call to Order**

The Special Meeting of the Town Council was called to order at 9:01 a.m. for the purpose of hearing an appeal of fines levied against Balsamo Real Estate LLC related to outdoor lighting at the Surf Bagel property.

#### **2. Roll Call**

Council Members Present (In Person):

- Mayor Natalie Magdeburger
- Bill Rymer
- Colleen Wilson

Council Members Present (via Zoom):

- Kurt Zanolotti
- Susan Brennan
- Jacque Napolitano
- Lucy Wilder

All Council Members were present.

Also Present:



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- Charles Armbruster, Esq., Tomasetti Law (Attorney for Balsamo Real Estate LLC)
- Joseph Balsamo, Jr.
- Joseph Balsamo, Sr.
- Town staff and members of the public

### 3. Pledge of Allegiance

The Pledge of Allegiance was recited.

### 4. Appeal Hearing – Balsamo Real Estate LLC

Attorney Armbruster presented the appeal on behalf of Balsamo Real Estate LLC regarding fines assessed for alleged violations of Town Code §102-4(C) requiring outdoor lighting to be fully shielded at the Surf Bagel property.

#### Summary of Appellant’s Presentation

Mr. Armbruster:

- Acknowledged his client’s procedural mistakes, including failure to submit a lighting change order and delays in responding to Town requests.
- Stated that his client’s electricians ordered different lights than what was approved by the Town’s permit and stated that his clients were unaware of the change order. Acknowledged that neither his clients nor the electricians made the Town aware or sought the Town’s approval for the change in lighting that was installed.
- Explained that the lighting fixtures were initially improperly installed and later corrected by the electricians.
- Stated that on April 9, 2025, the electrician dimmed the lights to address foot-candle requirements, resolving the §102-8(B) issue—three months after the Town brought it to the attention of his clients.
- Asserted that the lighting fixture met the definition of “fully shielded” based on Dark Sky International standards, citing a U0 BUG rating.
- Argued that side shields address glare and backlight but are not explicitly required by Town Code to meet the definition of “fully shielded.”
- Confirmed that side shields were ordered July 31, 2025, and installed August 11, 2025, at which time fines ceased.
- Noted that the Town’s August 23, 2025, correspondence reflected a total assessed fine of \$33,250, which formed the basis of the appeal.

### 5. Council Questions and Discussion



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Council members questioned the appellant regarding:

- The timeline of notices, meetings, and correspondence between the Town and the property owner beginning in January, 2025.
- Whether earlier letters and emails, sent via certified mail, constituted sufficient notice under the Town Code.
- Confirmed that the Appellant had received all the letters sent via regular mail and via email as well as the copies that were sent via certified mail.
- The distinction between foot-candle violations and shielding requirements.
- When side shields were identified as available and ordered.

Council discussed:

- That the matter extended over several months with repeated communications that were ignored by the Appellants.
- The Town's obligation to consistently enforce its Code.
- That while cooperation occurred at times, the issue could have been resolved more promptly.
- The importance of residents being able to raise concerns without fear of retaliation.

### **6. Public Comment**

Tim Collins, 22 West Georgetown Street, spoke during public comment. Mr. Collins identified himself as a year-round resident and commercial property owner and stated:

- Adjacent neighbors did not express complaints regarding the lighting.
- The lighting provided security benefits.
- The issue became unnecessarily prolonged and escalated.
- He expressed concern about the broader impact of such disputes on the Town's business community.

### **7. Council Deliberation and Final Determination of Fine**

Following the conclusion of the Appellant's presentation and public comment, Town Council entered into deliberation regarding the appropriate enforcement action and fine amount.

Council discussed at length:



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- The duration of the violation and timeline of corrective actions sought and time it took for the Appellants to respond. Fines did not go into effect, until after the Appellants stated that they were not going to put in place a shield. Further, the first response was that the manufacturer did not make a shield, which proved to be inaccurate as the manufacturer did make a shield.
- The Town's responsibility to consistently enforce its Code.
- The communication and notice history between the Town and the property owner included months of communication asking for compliance with an offer to waive any fines. Fines were not imposed until Appellants stated they would not do more to address the shielding requirement.
- The eventual compliance achieved with installation of house-side shields within three days of their legal counsel being hired in July.
- The issue that the lights were already shielded was not brought up until after shields were installed. The manufacturer would have no need to make shields if the lights were already shielded. Fenwick's lighting ordinance is not unique—many municipalities have similar wording requiring shields to be installed and that is the likely reason that the manufacturer makes a shield for the lights.
- Had the Appellants come to the Town with the change order, as required by Code, all of the events and fines could have been avoided.
- Appellants had an opportunity to seek redress from the Board of Adjustments and/or an appeal to Town Council if they thought the lights were sufficiently shielded and they failed to avail themselves of that opportunity and chose to ignore the Town's request for compliance.
- The originally assessed fine amount of \$33,250; however, the daily rate changed from \$100/day to \$250/day during the time period of the attempts to get Appellants to comply.
- All notices were sent via regular mail and email and were, in fact received. Several were also sent via certified mail, particularly the one stating fines would be assessed and Appellants had greater than 30 days, as required by Code, to make corrections and failed to do so.
- Regardless, the Town does not wish to harm our business partners but does need all of our residents, including our business partners, to comply with the Code.
- Council also discussed whether a reduced fine was appropriate under the totality of all circumstances.
- Council members acknowledged that while compliance was ultimately achieved, the matter extended over a significant period of time and warranted a meaningful penalty.
- Discussion about starting the fine 30 days after the May certified mailing to address the issue of certified mailing notice (although Appellants received all) and reducing to \$100/day under the older Code provisions was discussed (totaling \$6,000).



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### 8. Council Action – Roll Call Vote

**A motion was made to impose a total fine of \$6,000 against Balsamo Real Estate LLC related to the outdoor lighting violations at the Surf Bagel property so long as the matter is paid in full within 30 days of the date of the hearing. In the event the matter is not paid in full within 30 days, the entire fine of \$33,250.00 would remain and the Town would seek attorneys' fees and other costs in the event the Town was forced to collect.**

The motion was considered by roll call vote, with each Council member providing a brief statement prior to voting.

#### Roll Call Vote and Statements

- Bill Rymer – Aye  
Stated that the violation persisted for an extended period and that a reduced but substantive fine was appropriate to reflect enforcement of the Town Code.
- Colleen Wilson – Aye  
Noted the importance of consistent code enforcement while also recognizing the corrective actions ultimately taken.
- Kurt Zanelotti – Aye  
Expressed that the matter involved prolonged back-and-forth and that the fine appropriately balanced enforcement with resolution.
- Susan Brennan – Aye  
Indicated that while compliance was eventually achieved, the length of time to reach resolution justified a monetary penalty.
- Jacque Napolitano – Aye  
Stated that code requirements must be followed and that penalties are necessary when violations are not addressed in a timely manner.
- Lucy Wilder – Aye  
Agreed that the reduced fine reflected both the extended duration of the issue and the eventual compliance.
- Mayor Natalie Magdeburger – Aye  
Concurred that the \$6,000 fine was reasonable and appropriate based on the full record and Council discussion so long as the fine was paid within 30 days; otherwise, the entire amount of \$33,250 should be collected as well as other costs, including attorneys' fees, if the fine needed to be collected.

**Result: Council formally determined that the total fine owed by Balsamo Real Estate LLC is \$6,000 so long as the matter is paid in full within 30 days of the date of the hearing. In the event the matter is not paid in full within 30 days, the entire**



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**fine of \$33,250.00 would remain and the Town would seek attorneys' fees and other costs in the event the Town was forced to collect.**

### 9. Adjournment

The Special Meeting was adjourned at 10:30 a.m. following completion of the appeal proceedings.