

LPA / PLANNING AND ZONING BOARD
MINUTES
JUNE 27, 2016

The Local Planning Agency / Planning and Zoning Board held a regular meeting on Monday, June 27, 2016 in the City Commission Chambers, 210 Sams Avenue, New Smyrna Beach, Florida. Chairperson Steven Casserly called the meeting to order at 6:30p.m.

ROLL CALL

The following members were present:

Steven Casserly
Ian Ratliff
Kelly Azzinaro
Jamie Calkins
Pat Arvidson
Stephen Sather
Travous Dever

Also present were Planning and Zoning Manager Amye King; Chief Planner Jeff Gove; Planner Steven Bapp; Planner Robert Mathen; Assistant City Attorney Greg McDole; Board Secretary Tammy Dickerson and members of the public.

APPROVAL OF MINUTES

Motion by Ms. Arvidson, seconded by Mr. Sather, to approve the minutes of the regular meeting on May 2, 2016. Motion passed unanimously on a roll call vote, 5-0.

NO PUBLIC PARTICIPATION

NO OLD BUSINESS

NEW BUSINESS

SP-5-16: MESSINA BY THE LAKE/VEN. BAY MULTI-FAMILY (CLASS III)

Applicant and Property Owner: James Stowers, Esquire, 424 Luna Bella Lane, New Smyrna Beach, Florida 32168, legal representative of the property owner, Geosam Capital US LP, 424 Luna Bella Lane, New Smyrna Beach, Florida 32168. Request: Class III Site Plan approval for a 262 unit multi-family development, with associated infrastructure, parking and landscaping, within a 8.48 acre undeveloped existing Tract of the previously platted Venetian Bay Phase 1B Unit 2 subdivision. The 8.4 acre site is zoned PUD, Planned Unit Development, and is located within platted Tract H, north and west of the intersection of Luna Bella Lane and Medici Boulevard. A location map is

attached as Exhibit A, along with an aerial photo of the site attached as Exhibit B. TAX ID #7307-09-00-0010.

Mr. Gove reviewed staffs' findings and stated that staff recommends the Board approve the request.

Ms. Arvidson asked if all staff members had signed off on the plan.

Mr. Gove stated that all Plan Review Committee members had signed off on the plan.

Mr. Calkins asked if the traffic impact analysis showed slightly more or slightly less.

Mr. Gove stated that we asked that they do the traffic impact analysis for any future development that might occur.

Sam Sebaali, Florida Engineering Group, stated his name then addressed the Board. He stated that he concurred with the staff recommendation and was here for any questions.

Motion by Mr. Sather, seconded by Mr. Calkins, to approve the requested site plan. Motion passed unanimously on roll call vote, 5-0.

V-9-16: 650 MIDDLEBURY LOOP / DOLEVA

Applicant: Mark Davis, 101 Riverview Place, New Smyrna Beach, Florida 32169.
Property Owner: James and Nancy Doleva, 650 Middlebury Loop, New Smyrna Beach, Florida 32168. Request a variance to allow a 15-foot front yard setback variance from the minimum required 20-foot front yard setback, to allow a house addition to be 15 feet from the front property line. The subject property is zoned R-3A, Single-Family and two family Residential, contains approximately 0.31 acres. (See Location Map attached as Exhibit A and an aerial map attached as Exhibit B). Tax ID #7313-21-00-1490.

Mr. Mathen reviewed staffs' findings and stated that staff recommended approval of the requested variance with the condition that this approval for the front yard setback reduction from 20 feet to 15 feet applies only for the proposed addition.

Mark Davis, applicant, was sworn in to testify then addressed the Board. He stated that this variance would allow them to be able come out of existing house in to the addition. He stated that this is the only place they could put an addition on the property due to a drainage right of way on the other side of the property.

Ms. Arvidson asked why the addition couldn't have been placed 5 more feet back from front yard.

Mr. Davis stated that there is a minimum setback there also.

Motion by Mr. Calkins, seconded by Mr. Sather, to approve the requested variance with the condition that this approval for the front yard setback reduction from 20 feet to 15 feet applies only for the proposed addition. Motion passed unanimously on roll call vote, 5-0.

V-10-1-6: VERIZON - SR 44 & TIMBERLANE

Applicant: Shannon Stewart, Rogers Engineering, LLC, 1105 SE 3rd Ave., Ocala, FL 34471, authorized representative of owner Platinum Bank, 802 W. Lumsden Rd., Brandon, FL 33511. Request a variance to Section 604.041 of the City LDR regarding Tree Replacement requirements, in association with a pending and concurrent Class II site plan (SP-4-16) for a proposed 2,500 sq. ft. retail store and associated infrastructure, within a 1.5 acre portion of an approximately 4.5 acre parent parcel. The subject property is zoned PUD and is in the SR 44 Corridor Overlay Zone (COZ), contains approximately 1.5 acres of a proposed parcel within the pending Minor Subdivision (MS-9-16) of an approximately 4.5 acre parent parcel, and is located on the southwest corner of State Road (SR) 44 and Timberlane Drive. A location map is found in Exhibit A and an aerial photo is found in Exhibit B. Tax ID # 7343-06-00-0282 (east portion only).

Mr. Gove reviewed staffs' findings and stated that staff recommends the Board approve the request with the following conditions:

1. This variance should be tied only to the applicant's specific request and submitted application materials and plans, for this proposed 1.5 acre eastern portion/future parcel only, and
2. Any existing trees within the proposed 10' wide eastern utility easement should be preserved, in accordance with comments of the UCNSB, with any trees proposed to be planted located outside of that easement area.

Robert Guerky, Rogers Engineering LLC, was sworn in to testify then addressed the Board. He stated that they have been working with staff for over 2 ½ years to bring this project to the city and believe it's a good development for the city.

Mr. Calkins stated that the staff report says they are adding 53 trees and the letter from Roger Engineering states they are adding 63 trees and the staff reports they are removing 48 trees and the letter from Roger Engineering states a significant amount more than 48.

Mr. Gove stated that he remembers there being some inconsistencies but the site plan provided was enough to satisfy what staff thought was the intent of the city code and the MDA allowed for.

Mr. Dever stated that what if the Utilities Commission (UC) decides they want the trees removed from the utility easement area at a later date.

Mr. Gove stated that the UC said they would remove trees at a later date if they needed to but didn't want any more trees planted in this easement.

Mr. Dever stated that he is concerned that staff is adding language that could cause problems for either the UC or the developer down the road.

Mr. Gove stated that staff's intent was to keep the trees until they may have to removed.

Mr. Dever stated that he just thinks the language needs to be reworded.

Mr. Calkins asked the applicant if they had a problem with the language.

Mr. Guerky stated that he didn't see it being a problem for many years but an additional phrase could be added at upon UC's request.

Craig Hilton, 309 Oliver Drive, was sworn in to testify then addressed the Board. He asked if the 48 trees being removed were historic trees, if any stormwater drainage study had been done for this area will there be a retention pond, if there will be a traffic study done and have the gopher tortoises on the property been addressed.

Mr. Guerky stated that we have extensively looked in to all of these concerns.

Andy Kesselring, EDK Environmental Design Landscape Architect, was sworn in to testify then addressed the Board. He stated that we are making every effort to preserve the trees that are abutting residential areas. He stated that the engineering firm did have to go through the city's review and St. John's water management district for their approval for the project and have done extensive drainage calculations and they are taking care of all the runoff water from the development on the site. He stated that as far as traffic they are trying to route all the traffic to not going back in the Oliver Estates subdivision at all.

Mr. Gove stated that there was one 55" historic tree on the site in the northeast corner which was in the sanitary sewer line and have received approval from the City Commission to remove that tree which wasn't a healthy tree. He stated that staff doesn't see any traffic impact on Oliver Drive with this development.

Randy Herman, 108 Esther Street, was sworn in to testify then addressed the Board. He asked if the arborist study that was done was only for this project and not for the entire property.

Mr. Gove stated that was correct and the reason for the condition of approval.

Motion by Mr. Dever, seconded by Ms. Arvidson, to approve the requested variance with the following conditions:

- 1. This variance should be tied only to the applicant's specific request and submitted application materials and plans, for this proposed 1.5 acre eastern portion/future parcel only, and**

2. Any existing trees within the proposed 10' wide eastern utility easement should be preserved unless the UC stipulates otherwise, in accordance with comments of the UCNSB, with any trees proposed to be planted located outside of that easement area.

Motion passed unanimously on roll call vote, 5-0.

A-11-16: SMALL SCALE ANNEXATION, REZONING, AND COMPREHENSIVE PLAN AMENDMENT

Kyle Mariacher, 864 Old Mission Road, New Smyrna Beach, Florida 32168 applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County UMI, Urban Medium Intensity, to City Medium Density Residential, and rezoning from Volusia County R-4, Urban Single-Family to City RE, Residential Estate. The subject property consists of approximately 3.6 acres, and is generally located south of SR 44, on the west side of Old Mission Road addressed as 864 Old Mission Road, (VCPA# 7419-23-00-0392)

Charles B. Collins, 938 Bay Drive, New Smyrna Beach, Florida 32168 applicant and property owner, request voluntary annexation, *Comprehensive Plan* amendment from Volusia County Rural, to City Rural, and rezoning from Volusia County MH-8, Mobile Home Estate to City RA, Residential Agriculture Estate. The subject property consists of approximately 5 acres, and is generally located north of Pioneer Trail, on the west side of Bay Drive addressed as 938 Bay Drive, (VCPA# 7312-00-00-0187)

Mr. Mathen reviewed staffs' findings and stated that staff recommended approval of the requested annexations, Comprehensive Plan amendments and rezonings.

Motion by Mr. Calkins, seconded by Mr. Sather, to recommend the City Commission approve the requested annexations, Comprehensive Plan amendments, and rezonings. Motion passed unanimously on a roll call vote, 5-0.

SE-1-16: 864 OLD MISSION ROAD / SPECIAL EXCEPTION USE "GARDEN WEDDING VENUE"

Kyle Mariacher, 864 Old Mission Road, New Smyrna Beach, Florida 32168 applicant and property owner, requests special exception use approval to operate a Garden Wedding Venue in the RE, Residential Estate zoning district. The subject property consists of approximately 3.6 acres and is located generally located on the west side of Old Mission Road, south of State Road 44, at 864 Old Mission Road.

Mr. Mathen reviewed staffs' findings and stated that staff recommended approval of the requested special exception with the condition that all criteria agreed to by the applicant are met.

Kyle Mariacher, owner, stated his name then addressed the Board. He stated that they were cleaning up property and house in pretty rough shape. He stated that he was here for any questions from the Board.

Motion by Mr. Sather, seconded by Mr. Dever, to recommend the City Commission approve the requested special exception with the condition that all criterions agreed to by the applicant are met. Motion passed unanimously on a roll call vote, 5-0

SE-2-16 177 N. CAUSEWAY / B & L PROPERTIES OF NSB, INC

Applicant: Erik Lumbert, 177 N. Causeway, New Smyrna Beach FL, 32169. Property Owner: B & L Properties of NSB, INC, 177 N. Causeway, New Smyrna Beach FL, 32169. Requests special exception approval to allow docking and unloading of commercial fishing boats and the sale of their products. The subject property is 1.0 acres, is zoned CM - Commercial Marina, is generally located north of N Causeway BLVD, east of Quay Assisi and West of Barracuda Blvd on the waterfront. The property is addressed 177 N Causeway.

Mr. Bapp reviewed staffs' findings and stated that staff recommended approval of the requested special exception with the following conditions:

1. The docking and unloading of commercial fishing boats will not generate and undue amount of waterway congestion which would tend to create a hazard or danger to other craft docked or moored in the vicinity or create a public nuisance.
2. This use will not give rise to any pollution of the air. Land, or water or cause unnecessarily injurious heat, noise or odor.
3. No seafood canning, packaging, processing, smoking, or airing will be allowed.

Erik Lumbert, applicant, was sworn in to testify then addressed the Board. He stated that he was here for any questions.

Mr. Calkins asked what he planned on doing.

Mr. Lumbert stated that there is a small group of commercial fishing boats that work around New Smyrna Beach that he is trying to give them an option of out loading their fish.

Mr. Herman asked if there will be any dead fish left in the area that nearby residents would have to deal with.

Mr. Lumbert stated that it is against regulations to drop dead fish in the waterway.

Motion by Mr. Sather, seconded by Mr. Dever, to recommend the City Commission approve the requested special exception with the following conditions:

1. **The docking and unloading of commercial fishing boats will not generate and undue amount of waterway congestion which would tend to create a hazard or danger to other craft docked or moored in the vicinity or create a public nuisance.**
2. **This use will not give rise to any pollution of the air. Land, or water or cause unnecessarily injurious heat, noise or odor.**
3. **No seafood canning, packaging, processing, smoking, or airing will be allowed.**

Motion passed unanimously on a roll call vote, 5-0

A-12-16:

Mr. Mathen reviewed staffs' findings and stated that staff recommended approval of the requested annexations, Comprehensive Plan amendments and rezonings.

Motion by Mr. Calkins, seconded by Mr. Sather, to recommend the City Commission approve the requested annexations, Comprehensive Plan amendments, and rezonings. Motion passed unanimously on a roll call vote, 5-0.

V-8-16: 2275 CAPTAIN BUTLER TRAIL / ZIMMERMAN

Bill and Madeleine Zimmerman, property owners, 756 Silver Birch Place, Longwood, Florida 32750. Request the following variances:

1. Reduce the required east side yard setback from 25 feet to 15 feet to allow for the construction of a new single-family house.
2. To allow for a driveway to cross over a wetland and be located in the 25 foot wetland buffer.
3. To allow for a new in-ground pool to be located within the wetland buffer.

The subject property is zoned Volusia County A-3, Transitional Agriculture, contains approximately 1 acres. Tax ID #7340-04-00-0110.

Mr. Mathen reviewed staffs' findings and stated that staff recommended approval of the variance application to reduce the east side yard setback from the required 25 feet to 15 feet, reducing the required wetland buffer to allow for an in-ground pool and pool deck and to allow for a driveway to cross over a wetland and be located in the wetland buffer as shown in EXHIBIT D with the following 8 conditions:

1. This approval for the east side yard setback reduction from 25 feet to 15 feet applies only for the proposed single family house.
2. Silt fence installed prior to any work or site disturbance along the wetland buffer line, and/or proposed line of buffer impact (pool boundary, driveway, etc.)
3. No equipment, no work, or material storage outside of silt fence in the buffer or wetland areas.

4. Building foundation to be outside of buffer area. Stem wall foundation required. No change to existing grade adjacent to non-mitigated buffer areas.
5. Minimum of 12' of buffer from wetlands maintained in mitigated area(s).
6. Maximum buffer mitigation area of 1400 SF.
7. Wetland Buffer mitigation fee calculated at \$45/100 SF impacted and paid prior to issuance of building permit.
8. Contingent upon and compliant with FDEP and Volusia County approval and conditions regarding driveway and culvert.

Bruce Krall, Krall Construction, was sworn in to testify then addressed the Board. He stated that you can see by the site plan that the wetland runs right through the property which really limits the upland area. He stated that when the owners bought the property 10 years ago they were given biological survey that showed very little wetland on it so they thought it was a buildable lot. He stated that they have designed a house that will disturb the wetland buffer as minimal as they could. He stated that they have been communicating with FDEP regarding the driveway access and the culvert. He stated that the property is surrounded on 3 sides by a drainage ditch and we don't plan to impede any of it they actually plan to go with a larger culvert then required.

Motion by Mr. Dever, seconded by Mr. Sather, to approve the requested variance with the following conditions:

1. **This approval for the east side yard setback reduction from 25 feet to 15 feet applies only for the proposed single family house.**
2. **Silt fence installed prior to any work or site disturbance along the wetland buffer line, and/or proposed line of buffer impact (pool boundary, driveway, etc.)**
3. **No equipment, no work, or material storage outside of silt fence in the buffer or wetland areas.**
4. **Building foundation to be outside of buffer area. Stem wall foundation required. No change to existing grade adjacent to non-mitigated buffer areas.**
5. **Minimum of 12' of buffer from wetlands maintained in mitigated area(s).**
6. **Maximum buffer mitigation area of 1400 SF.**
7. **Wetland Buffer mitigation fee calculated at \$45/100 SF impacted and paid prior to issuance of building permit.**
8. **Contingent upon and compliant with FDEP and Volusia County approval and conditions regarding driveway and culvert.**

Motion passed on roll call vote, 4-1 with Ms. Arvidson dissenting.

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

Ms. Arvidson stated that we seem to be getting a lot of variances that are wanting to match the property with the building instead of the building to the property.

Mr. Calkins stated that there are 5 criteria and there are special reasons on why to consider approval of variances.

Mr. Sather that he is being a lot of research on the number of parking spaces needed for a development which should be considered by public safety if the Board could start thinking about that because once he has finished his research he plans to present it to the Board.

REPORTS AND COMMUNICATIONS BY THE STAFF

INTER OFFICE MEMORANDUM REVIEW OF I-1 ZONING USES

Ms. King stated that after reviewing the I-1 zoning uses because of the proximity to less intense uses and in some cases, single family residential, staff recommends allowing recreational vehicle and boat storage in the I-1 District, Light Industrial, as a special exception rather a permitted use.

Mr. Calkins stated that it would be on a case to case basis depending on what the property is surrounding.

Ms. King stated that is correct.

Mr. Dever asked if there would be some criteria to it.

Ms. King stated that we could do it either way. She stated that staff would prepare an ordinance and bring it to the Boards next meeting.

Mr. Sather stated that he would like staff to look in to giving credit for a seat in a restaurant for bicycle and motorcycle parking spaces provided by a restaurant. He stated that this encourages restaurants to provide bicycle parking. He stated that he would like to see New Smyrna Beach become a bike friendly town.

Ms. King stated that staff is looking in to this right now and will bring to the Planning and Zoning Board when they have completed the research on it.

JUNE 2016 DEVELOPMENT ACTIVITY REPORT

Mr. Dever asked if the business Gulf Stream Glass had used any of the reductions that we had set for US1.

Ms. King stated that she believed they used the 50% reduction.

Mr. Dever stated that that building probably wouldn't have fit without some reductions and it's nice to see some new buildings coming up on US1.

MATRIX ON POOL LOCATIONS IN FRONT YARDS

Ms. King stated that if the Board could look over this staff report and then we can discuss it at the August 2016 meeting.

Ms. King introduced the new Administrative Specialist Sheila Watson.

The Board welcomed her.

ADJOURNMENT

With there being no further business, the meeting was adjourned at 8:06pm.