

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION  
PUBLIC HEARING HELD  
OCTOBER 8, 2013**

The Public Hearing of the Volusia County Planning and Land Development Regulation Commission was called to order by **Frank Severino**, at 9:00 a.m. in the County Council Meeting Room of the Thomas C. Kelly Administration Center, 123 West Indiana Avenue, DeLand, Florida. On roll call, the following members answered present, to-wit:

**FRANK SEVERINO**

**JEFF GOVE**

**JEFFREY BENDER**

**WANDA VAN DAM**

**JAY YOUNG**

**RONNIE MILLS**

**STAFF PRESENT:**

**IAN WILLIAMS, Assistant County Attorney**

**SCOTT ASHLEY, AICP, Senior Zoning Manager**

**CAROL MCFARLANE, AICP, PLANNER II**

**YOLANDA SOMERS, Staff Assistant II**

**BRIANA PETERSON, Senior Staff Assistant**

**Ian Williams, Assistant County Attorney**, provided legal comment.

**Disclosure of Ex Parte Communications**

Members of the Volusia County Planning & Land Development Regulation Commission Board were asked to please disclose, for the record, the substance of any ex parte communications that had occurred before or during the public hearing at which a vote is to be taken on any quasi-judicial matters. All members present disclosed any communication as listed below.

All Commission members disclosed they had received an email from Jim Morris regarding case V-14-002.

Member Severino also disclosed he had spoken with Mr. Morris regarding the same case.

**APPROVAL OF MINUTES**

**September 10, 2013**

Member Severino requested that Page 7, Lines 30-31 better depict his concern with opening the site up to members of the public who are not there for business purposes.

Member Gove requested that Page 2, Line 7 be corrected to include the correct spelling of Mr. Danskine's last name.

1 **Member Young moved to APPROVE the minutes as amended. Member Gove**  
2 **seconded the motion. Motion CARRIED 5:0, with Member Bender refraining from**  
3 **the vote as he was not in attendance during the September Commission meeting.**

4  
5 **APPLICATIONS TO BE CONTINUED**

6  
7 None

8  
9 **ITEMS TO BE CONTINUED OR WITHDRAWN**

10  
11 None

12  
13 **PUBLIC HEARING ON APPLICATIONS**

14  
15 **NEW BUSINESS**

16  
17 **V-14-002** – Application of Joseph McDonald and Mary Louise McDonald, owners,  
18 requesting a variance to section 72-206(1) to separate two nonconforming parcels  
19 (8443-01-00-1683 and 8443-01-00-1681) on Rural Mobile Home (MH-3) zoned  
20 property. The property is located on the north side of Citrus Drive at intersection with  
21 Cow Creek Road, near Interstate 95 and State Road 442 near Edgewater; ±2.5 acres;  
22 8443-01-00-1683 and 8443-01-00-1681.

23  
24 Scott Ashley, Senior Zoning Manager, presented the staff report, including a brief  
25 history of the site and unique circumstances.

26  
27 Member Severino asked Mr. Ashley to describe the immediate vicinity.

28  
29 Mr. Ashley explained the area consists of a mix of 5 (five) to 10 (ten)-acre lots, with a  
30 few mobile homes as described in the staff report.

31  
32 Joseph McDonald, 1560 Lewis Lane, New Smyrna Beach, property owner, stated he  
33 had purchased the property 27 years ago and had received a nonconforming lot letter  
34 for the site due to the lot being 2.5 acres. He added he was aware of environmental  
35 issues with the property.

36  
37 Troy Dunaway, 3131 Citrus Drive, Edgewater, adjoining property owner, expressed  
38 concern with the wetlands on the property and stated he was opposed to the possibility  
39 of two (2) mobile homes being located on the subject property.

40  
41 Member Gove asked Mr. Dunaway what the size of his property is.

42  
43 Mr. Dunaway responded it was approximately 2.75 acres, which consisted of a concrete  
44 construction dwelling with a floating floor. He then expressed his concern with two (2)  
45 mobile homes being located on Mr. McDonald's property.

46  
47 Member Gove stated the subject property was only allowed to have one (1) dwelling.  
48

1 Ian Williams, Assistant County Attorney, clarified the purpose and intent of the  
2 application, which was to deem the property buildable as a separate parcel.

3  
4 Mr. Ashley further explained that the property would be allowed one (1) dwelling unit,  
5 which may be a single-family home, manufactured modular, or mobile home as per the  
6 zoning.

7  
8 Diane Martin, 3001 Citrus Drive, Edgewater, neighbor, raised concerns with the  
9 potential impact to gopher tortoises, which have been located on the site. She also  
10 discussed a spring boil being located on the property and expressed concern with  
11 possible impact to her land and wells.

12  
13 Renee Irvine, 2929 Citrus Drive, Edgewater, neighbor, stated she was representing  
14 other neighbors in the area and their concern about the possible impact a mobile home  
15 may have on their neighborhood.

16  
17 Mr. Ashley explained the zoning history of the subject property.

18  
19 Member Severino asked if a rezoning would be more appropriate.

20  
21 Mr. Ashley replied that rezoning was an option, however the variance addressed the  
22 separation of lots, and would still have to meet the same neighboring standards.

23  
24 Keith Minster, 4850 Old Blue Ridge Road, Edgewater, neighbor, stated he was  
25 concerned about a proposed mobile home and questioned the variance request rather  
26 than a rezone.

27  
28 Mr. Ashley explained if the application were for a rezoning, staff would direct the  
29 applicant to the MH-8 zoning classification, which is less restrictive than the standards  
30 with the variance.

31  
32 Jim Morris, 750 Oak Heights Court, Port Orange, attorney for the Mr. Dunaway, stated  
33 that his client was not made to be an applicant on this request. He noted the site does  
34 not meet the variance criteria and should be modified to a rezoning request. He then  
35 requested consideration of a condition to only allow the construction of a stick-built  
36 home on the property. He added that the neighbors feel that the placement of a mobile  
37 home on the site would devalue the neighborhood. Mr. Morris also added that his  
38 request for continuance had been withdrawn.

39  
40 Mr. Morris explained that Mr. Dunaway is okay with his property being nonconforming  
41 and the proposed condition to only allow stick-built homes. He also added that the  
42 neighbors would entertain an administrative rezoning for their area.

43  
44 Member Mills stated he was having difficulty placing a condition for stick-built  
45 construction as surrounding lots were permitted to have mobile homes.

46  
47 Member Severino asked Mr. McDonald if he'd like to respond.

1 Mr. McDonald explained the purchase of the property and a previous attempt to sell,  
2 which was abandoned due to medical issues. He discussed the flow of water on the  
3 property and the wetlands as determined by a wetlands delineation from FDEP.

4  
5 Member Van Dam asked if Mr. McDonald had an issue with the stick-built condition.

6  
7 Mr. McDonald replied he was agreeable to the condition as he needed to sell the  
8 property.

9  
10 Member Severino asked Legal staff how much latitude there was for this type of  
11 stipulation.

12  
13 Mr. Williams explained Condition 5 was the main concern, but noted the condition could  
14 be worded to explain why it did not meet the criteria. He added that the site is unique  
15 as Mr. McDonald cannot build without a variance and neither owner could sell without  
16 the separation of lots. He also expressed concern with Mr. Dunaway not being included  
17 in the application.

18  
19 Mr. Morris replied that Mr. Dunaway would provide consent for the application and was  
20 willing to record any granting of a stipulation into the Public Record.

21  
22 Mr. McDonald requested clarification of how he could demonstrate a condition not  
23 allowing for a mobile home to a prospective buyer.

24  
25 Mr. Williams replied that a rendition letter would be sent to him and would include all  
26 conditions.

27  
28 Mr. Morris offered his assistance in recording the stipulation, free of charge, to Mr.  
29 McDonald.

30  
31 **Member Young moved to APPROVE V-14-002 with the following condition:**

- 32  
33 **1. A restriction will be placed on both affected properties (McDonald and**  
34 **Dunaway), limiting dwelling units to single-family standard or manufactured**  
35 **modular only, not mobile homes as defined in the MH-3 zoning classification**  
36

37 **Member Gove seconded the motion. Motion CARRIED unanimously (6:0).**

38  
39 **V-14-003** – Application of Michael Carroll, agent for Jessica Sherrill, owner, requesting  
40 variances to the maximum fence height; and variances for the minimum yards  
41 requirements for accessory structures on Rural Residential (RR) zoned property. The  
42 property is located at 245 Violetwood Road, DeLand; ±0.55 acres; 62033-00-00-0331.

43  
44 Scott Ashley, Senior Zoning Manager, presented the staff report, noting the lot  
45 consisted of three (3) street fronts and a four-foot fence height was the maximum  
46 allowed.

47  
48 Mike Carroll, 301 Flagler Avenue, Edgewater, agent for owner, explained the necessity  
49 for a fence.

Member Severino asked the applicant if he had read and was in agreement with the staff report and recommended conditions.

Mr. Carroll replied he understood the conditions but was concerned with Condition 3 as the owner did not intend to use the right-of-way of Violet Terrace.

Mr. Ashley stated staff was agreeable to removing Condition 3 as the owner was not planning to use this location.

Member Van Dam asked if removing Condition 3 removed any future responsibility for permitting, should they decide to use right-of-way.

Mr. Ashley replied it did not remove any future permitting responsibility.

**Member Mills moved to APPROVE V-14-003 subject to the following staff recommended conditions:**

- 1. The maximum fence height of six feet shall be set back 10 feet from the east property line for a fence segment of 110 feet to begin in alignment of the northeast corner of the house and shall be set back 25 feet from the north property line for a fence segment of 100 feet as depicted on the variance site plan.**
- 2. If either of the accessory structures (metal shed and/or wood shed) is damaged in excess of 75 percent of its assessed values, as determined by the Volusia County Property Appraiser, any reconstruction of the structure shall thereafter comply with the zoning code.**

**Member Young seconded the motion. Motion CARRIED unanimously (6:0).**

## **PUBLIC ITEMS**

None

## **STAFF ITEMS**

None

## **STAFF COMMENTS**

None

## **COMMISSION COMMENTS**

None

## **PRESS AND CITIZEN COMMENTS**

1 None

2

3 **ADJOURNMENT**

4

5 Having no further comments from the public, staff, or commissioners, Member Severino  
6 thanked everyone and adjourned the meeting at 10:30 a.m.

7

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