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2 **PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION**
3 **PUBLIC HEARING HELD**
4 **February 10, 2009**
5
6

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

11
12 **FRANK SEVERINO, CHAIRMAN**
13 **GARY HUTTMANN, VICE CHAIRMAN - ABSENT**
14 **JIM RUSSELL, SECRETARY**
15 **TAVER CORNETT**
16 **JEFF GOVE**
17 **STONY SIXMA**
18 **JAY YOUNG**
19

20 **STAFF PRESENT**

21
22 **MICHAEL DYER, Assistant County Attorney**
23 **BECKY MENDEZ, AICP, Senior Planner**
24 **SCOTT ASHLEY, AICP, Planning Manager**
25 **JOHN H. STOCKHAM, ASLA, Planner III**
26 **CHRISTIAN NAGLE, AICP, Planner II**
27 **YOLANDA SOMERS, Zoning Secretary**
28

29 **APPROVAL OF MINUTES**

30
31 **Approval of October 14, 2008 PLDRRC Minutes**

32
33 Member Sixma **MOVED** for the **APPROVAL** of the Minutes. Member Young
34 **SECONDED** the motion. The motion **CARRIED** unanimously.
35

36 **Approval of November 11, 2008 PLDRRC Minutes**

37
38 Member Sixma **MOVED** for the **APPROVAL** of the Minutes. Member Young
39 **SECONDED** the motion. The motion **CARRIED** unanimously.
40

41 **Approval of December 9, 2008 PLDRRC Minutes**

42
43 Member Sixma **MOVED** for the **APPROVAL** of the Minutes. Member Young
44 **SECONDED** the motion. The motion **CARRIED** unanimously.

1
2 **Approval of January 13, 2009 PLDRC Minutes**

3
4 Member Sixma **MOVED** for the **APPROVAL** of the Minutes. Member Young
5 **SECONDED** the motion. The motion **CARRIED** unanimously.
6

7 **PUBLIC HEARINGS ON SPECIAL EXCEPTION AND ZONING CASES**

8
9 **Chairman Severino** explained the procedure for forwarding the Commission's
10 decisions to the County Council and invited the public to speak for or against any of the
11 cases being heard.
12

13 **Michael Dyer, Assistant County Attorney**, explained that decisions by this body on
14 special exception cases and cases which rezone real property from one classification to
15 another pursuant to the Zoning Ordinance are recommendations only to the County
16 Council and do not constitute a final hearing. New evidence may be introduced at the
17 County Council public hearing. Decisions on variances made by this body constitute
18 final action, subject to an appeal to the County Council. What this means is that no new
19 evidence may be presented at the time of the County Council public hearing on appeal.
20 An aggrieved party that appeals such a decision is confined to the record made before
21 this body. Hearings by this body on rezoning, special exceptions and variances are
22 quasi-judicial in nature meaning that this body is acting more like a court and must take
23 into account all oral, written or demonstrative evidence presented. Their decisions on
24 these cases must be based on competent, substantial evidence in the record.
25 Competent, substantial evidence has been defined, as that evidence a reasonable mind
26 would accept to support a conclusion.
27

28 **Disclosure of Ex Parte Communications**

29 Members of the Volusia County Planning & Land Development Regulation Commission
30 Board are asked to please disclose, for the record, the substance of any ex parte
31 communications that have occurred before or during the public hearing at which a vote
32 is to be taken on any quasi-judicial matters.
33

- 34
- 35 • Jay Young stated none
 - 36 • Taver Cornett stated none
 - 37 • Jim Russell stated none
 - 38 • Frank Severino stated none
 - 39 • Stony Sixma stated none
 - 40 • Jeff Gove stated none

41 **CONTINUED AND/OR WITHDRAWN ITEMS**

42
43 NONE
44

45 **CONSENT AGENDA**

46
47 NONE

1 **NEW BUSINESS**

2
3 NONE

4 **OLD BUSINESS**

5
6 NONE

7
8 **VARIANCE AND SPECIAL EXCEPTION APPLICATIONS**

9 **NEW BUSINESS**

10
11 **V-09-005** - Application of **Joseph Formoso, Formoso Homes, Inc, agent for owners,**
12 **John and Tracy Hohman, owners,** requesting a **Variance** for a front yard setback on
13 Stone Island Road from the required 30 ft. to 25 ft. on R-3(1) (Urban Single Family
14 Residential / Low Impact Urban) zoned property. The property is located on the west
15 side of Stone Island Road, approximately 500 feet south its intersection with Stone Trail,
16 in the community of Enterprise; ± 12,969 sq. ft. (Nagle)

17
18 **Christian Nagle, AICP, Planner II,** presented the staff report by summarizing the
19 request for a front yard setback to build a dwelling and inground swimming pool. The
20 property is located on the west side of Stone Island Road and about 500 feet south from
21 the intersection with Stone Trail. The property is about 29 percent larger than the
22 minimum required lot size in the R-3 zoning classification. The proposed dwelling
23 includes an angled-entry garage, and is about 882 sq. ft. in size with a double car
24 garage door as well as a single car garage door. This is about twice the size of a
25 normal size garage. The proposed swimming pool meets the setback requirements and
26 will be constructed at a later date. There are five criteria in granting the variance per
27 Section 1003.01 of the Zoning Ordinance, staff finds the application does not meet any
28 of the five criteria, therefore staff recommends denial of the request.

29
30 **Becky Mendez, AICP, Senior Planning Manager,** stated that the applicant has
31 submitted a statement from the Architectural Review Board of the Stone Island
32 Homeowners Association stating they have reviewed the building plans and design of
33 the proposed dwelling and has no objections to the request.

34
35 **Member Cornett** asked what is the nature of the property in the rear of the property
36 was.

37
38 **Mr. Nagle** replied that it was homeowners' association property that is used for a
39 recreation area and has stables on it.

40
41 **Member Cornett** asked about the effects on the swimming pool and screen enclosure if
42 the dwelling was to be moved towards the rear.

43
44 **Mr. Nagle** replied that the swimming pool and screen enclosure would have to be
45 scaled back to meet the required setbacks.

46

1 **Member Cornett** asked about an easement issue.

2
3 **Mr. Nagle** replied there is not an issue at this time. However if the size of the proposed
4 dwelling and swimming pool were not down sized then they would encroach into the
5 easement if the variance was denied, and staff would not approve the encroachment
6 into the easement.

7
8 **John Hohman, 390 Stone Island Road, Enterprise, FL 32735**, stated that he and his
9 wife purchased this property within the last two years and we did not know there was a
10 setback issue of 5 feet until the building permit was submitted.

11
12 **Joseph Formoso, Formoso Homes**, stated that he has been building homes in Stone
13 Island for about 15 years and all the houses he had built were with a 25 ft. front yard
14 setback, so the house and plan were drawn and proposed on this setback. He was not
15 aware nor checked with Zoning about the setback requirements. The hardship would
16 be an economic one and ask that the request be granted.

17
18 **Mr. Cornett** asked what the front yard setback in the Stone Island PUD.

19
20 **Mr. Nagle** replied 25 feet for a front yard.

21
22 **Member Russell** asked the owner why the garage was so large and in the shape that it
23 is.

24
25 **Mr. Hohman** replied that it was a normal three-car garage and that the depth and size
26 would be due to the angle.

27
28 **Mr. Formoso** stated that the HOA requires a side-entry or courtyard garage and does
29 not allow a front entry garage.

30
31 Member Cornett commented that the HOA in Stone Island has always been careful
32 about compatibility of the neighborhood.

33
34 Member Cornett moved to **APPROVE** Variance case V-09-005 subject to the following
35 condition:

- 36
37 1. Approval is subject to the submitted plot plan dated September 20, 2006 by
38 Blackwell & Associates Land Surveyors, Inc.

39
40 Member Sixma **SECONDED**. Motion **PASSED** 5 to 1, Member Russell opposed.

41 STAFF ITEMS

42
43 NONE

44 COMMISSION COMMENTS

45
46
47 NONE

1 **PRESS AND CITIZEN COMMENTS**

2

3 NONE

4 **ADJOURNMENT**

5

6 Having no further comments from the public, staff or Commissioners, Chairman
7 Severino thanked everyone and adjourned the meeting at 9:32 am.

8