

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION  
PUBLIC HEARING HELD  
February 10, 2009**

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, CHAIRMAN**  
**GARY HUTTMANN, VICE CHAIRMAN - ABSENT**  
**JIM RUSSELL, SECRETARY**  
**TAVER CORNETT**  
**JEFF GOVE**  
**STONY SIXMA**  
**JAY YOUNG**

**STAFF PRESENT**

**MICHAEL DYER, Assistant County Attorney**  
**BECKY MENDEZ, AICP, Senior Planner**  
**SCOTT ASHLEY, AICP, Planning Manager**  
**JOHN H. STOCKHAM, ASLA, Planner III**  
**CHRISTIAN NAGLE, AICP, Planner II**  
**YOLANDA SOMERS, Zoning Secretary**

**APPROVAL OF MINUTES**

**Approval of October 14, 2008 PLDRC Minutes**

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

**Approval of November 11, 2008 PLDRC Minutes**

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

**Approval of December 9, 2008 PLDRC Minutes**

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

## **Approval of January 13, 2009 PLDRC Minutes**

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

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

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

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

### **Disclosure of Ex Parte Communications**

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

- Jay Young stated none
- Taver Cornett stated none
- Jim Russell stated none
- Frank Severino stated none
- Stony Sixma stated none
- Jeff Gove stated none

## **CONTINUED AND/OR WITHDRAWN ITEMS**

NONE

## **CONSENT AGENDA**

NONE

## **NEW BUSINESS**

NONE

## **OLD BUSINESS**

NONE

## **VARIANCE AND SPECIAL EXCEPTION APPLICATIONS**

### **NEW BUSINESS**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

## **STAFF ITEMS**

NONE

## **COMMISSION COMMENTS**

NONE

**PRESS AND CITIZEN COMMENTS**

NONE

**ADJOURNMENT**

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

  
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Frank Severino, Chair

4/13/10  
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Date

  
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James Russell, Secretary

4/13/10  
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Date