

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
JANUARY 14, 2014**

The Public Hearing of the Volusia County Planning and Land Development Regulation Commission was called to order by **Frank Severino**, at 9:02 AM 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
JEFFREY BENDER
WANDA VAN DAM
JAY YOUNG
RONNIE MILLS
ABSENT, JEFF GOVE**

STAFF PRESENT:

**IAN WILLIAMS, Assistant County Attorney
SCOTT ASHLEY, AICP, Senior Zoning Manager
BECKY MENDEZ, AICP, Senior Planning Manager
WILLIAM GARDNER, Activity Project Manager
SUSAN JACKSON, AICP, Planner III
CAROL MCFARLANE, AICP, Planner II
BRIANA PETERSON, Senior Assistant
YOLANDA SOMERS, Staff Assistant II
DORA ROCKEFELLER, Staff Assistant II**

APPROVAL OF MINUTES

November 12, 2013

Member Young moved to APPROVE the minutes as written. Member Van Dam seconded the motion. Motion CARRIED unanimously (5:0).

December 10, 2013

Member Van Dam requested Page 4, Lines 38-40 be modified regarding grammar and content as she was reading from the original request to rehear.

Member Young moved to APPROVE the minutes as modified. Member Van Dam seconded the motion. Motion CARRIED unanimously (5:0).

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

1 to be taken on any quasi-judicial matters. All members present disclosed any
2 communication as listed below.

3
4 Members Mills and Severino spoke to Mr. Alex Ford, and members Young, Van Dam,
5 and Bender had received email communications from Mr. Alex Ford regarding case V-
6 12-043. Member Bender stated that he had spoken to Mr. and Mrs. Caruso regarding
7 case V-14-016.

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9 **ITEMS TO BE CONTINUED OR WITHDRAWN**

10
11 **S-14-013** – Application of James Morris, attorney for Joseph Sampson, owner,
12 requesting a special exception for a communication tower exceeding 70 feet above
13 ground level (AGL) on Forestry Resource (FR) zoned property. The property is located
14 on the north side of Osteen Maytown Road, approximately one mile west of its
15 intersection with Lake Harney Road, in Osteen; ±4.36 acres; 9322-01-01-0100.

16
17 Scott Ashley stated the applicant had requested a 30-day continuance to the February
18 11, 2014 PLDRC public hearing.

19
20 There was no public participation.

21
22 **Member Young moved to APPROVE a 30-day continuance of case S-14-013 to the**
23 **February 11, 2014 PLDRC agenda. Member Van Dam seconded the motion.**
24 **Motion CARRIED unanimously (5:0).**

25
26 **S-14-014** – Application of James Morris, attorney for JAS Properties, Ltd, owner,
27 requesting a special exception for a communication tower exceeding 70 feet above
28 ground level (AGL) on Prime Agriculture (A-1) zoned property. The property is located
29 on north side of Osteen Maytown Road, at its intersection of Elizabeth Lane, in Osteen;
30 ±419 acres; 9211-00-00-0020.

31
32 Scott Ashley stated the applicant had requested a 30-day continuance to the February 11, 2014
33 PLDRC public hearing.

34
35 There was no public participation.

36
37 **Member Young moved to APPROVE a 30-day continuance of case S-14-014 to the**
38 **February 11, 2014 PLDRC agenda. Member Mills seconded the motion. Motion**
39 **CARRIED unanimously (5:0).**

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41 **PUBLIC HEARING ON APPLICATIONS**

42
43 **NEW BUSINESS**

44
45 **V-12-043** – Application of Alex Ford, attorney for Sixty - Five Hundred, LLC, owners,
46 requesting a variance to separate nonconforming lots, and variances to the minimum
47 yard requirements for an existing single-family dwelling, proposed addition to the single-
48 family dwelling, and for an accessory structure on Urban Single-Family
49 Residential/Indian River Lagoon Surface Water Improvements & Management Overlay

(R-9W) zoned property. The property is located at 6510 South Atlantic Avenue, New Smyrna Beach; ±5,000 square feet; 8505-01-34-0080.

Scott Ashley presented the staff report.

Alex Ford, 145 East Rich Avenue, DeLand, attorney for Sixty - Five Hundred, LLC, owners, thanked the commission for rehearing the case and thereby allowing him to submit additional evidence. Mr. Ford presented consent forms from next door neighbor Mr. Cecil Moore as well as other neighbors (Evidence 1). Mr. Ford showed photos of surrounding homes to demonstrate the character of various properties in the neighborhood (Evidence 2). Mr. Ford showed photos of the subject property (Evidence 3). Applicant showed surveys that depicted surrounding properties encroaching on the required setbacks (Evidence 4). Mr. Ford showed the Bethune Volusia Beach Plat (Evidence 5), and plans submitted during the permitting process (Evidence 6). Mr. Ford submitted twenty four variances previously approved by the county (Evidences 7 – 30) pointing out that conditions from those cases could apply to, and would be supported by this case.

Member Van Dam spoke to previously approved variances, and the erosion issues that Mr. Ford claimed his client was having.

No public discussion.

As part of commission discussion Member Mills stated that he visited the property and noted the size of the applicant's deck compared to other decks in the neighborhood was substantially smaller. Member Bender stated that he also visited the subject property and that he acknowledges that the applicant's request is reasonable. Member Young stated that he had seen a lot of variance requests over the years and that each variance stands on its own merit. He also stated that he did not understand how erosion issues had anything to do with this case. Member Van Dam stated that she had walked the area and agrees that there were decks that encroached more than the applicants on the required setbacks. She stated that zoning was put into place for a reason, and that she believes the owner has reasonable use of her property. Member Severino stated that the previous variance that was granted a year ago was granted because it fit the characteristics of the neighborhood. He did not feel that the current variance request meets the five criteria needed for approval. Member Young stated that the County Council relies on the PLDRC to make sound decisions based on the five criteria. Mr. Williams stated that the Council, given the area of the requested variance would find that the request was reasonable.

Member Mills moved to APPROVE variances 6, 7, and 8. Member Bender seconded the motion based on the conditions of: No enclosure and obtaining the required permits. Motion DENIED (2:3). Members Van Dam, Young, and Severino were opposed.

V-14-016 – Application of Patricia Doherty Caruso, owner, requesting variances to separate nonconforming lots, and variances to the minimum yard requirements for existing accessory structures on Rural Mobile Home (MH-4) zoned property. The property is located at 2031 Jason Street, Ormond Beach ± 0.46 acres; 4124-02-00-0450.

Scott Ashley presented the staff report.

Member Van Dam inquired if any of the sheds were on foundations. Scott answered that shed # 1 was the only shed on a foundation.

Member Bender stated that he visited the site and that only shed # 2 could be relocated without causing hardship on the applicant.

Member Severino asked Scott if staff had taken into consideration lot coverage. Scott stated that staff had evaluated lot coverage, and the applicant's structures do not exceed the thirty five percent lot coverage requirement.

Patricia Doherty Caruso, 2031 Jason Street, Ormond Beach, owner, and Nelda Davis 205 Conifer Street, Ormond Beach, support. Nelda Davis recounted the events that lead to the acquisition of the sheds on Mrs. Caruso's property.

Member Mills inquired about the existing mobile home to the south of Mrs. Caruso.

Member Severino spoke to the aerial photography of the parcels in the vicinity of the applicant's property.

No public discussion.

Member Bender stated that he had spent a significant amount of time walking this property. He feels that denying these variances would be unjustifiable and present a hardship to the applicant.

Member Van Dam asked Mr. Williams if the granted variance would expire if the property sold. Mr. Williams stated that it would not.

Member Young asked if the commission could set conditions for the approval of the variances. Mr. Williams stated that the commission had the ability to set specific conditions when rendering a decision.

Member Young moved to APPROVE variances 1 - 8 of case V-14-016 consistent with the variance site plan and the additional conditions of: The applicant shall apply and obtain all required building permits, and if any of the existing sheds are damaged in excess of fifty (50) percent of their value, any reconstruction or replacement shall comply with the zoning code, as amended, or the owner/applicant shall apply for a new variance request. Member Bender seconded the motion. Motion CARRIED unanimously (5:0).

STAFF ITEMS

None

STAFF COMMENTS

None

COMMISSION COMMENTS

1 None

2

3 **PRESS AND CITIZEN COMMENTS**

4

5 None

6

7 **ADJOURNMENT**

8

9 Having no further comments from the public, staff, or commissioners, Member Severino
10 thanked everyone and adjourned the meeting at 10:56 AM.