

**PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION
PUBLIC HEARING HELD
JUNE 14, 2016**

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**
- WANDA VAN DAM**
- JEFFREY BENDER**
- JAY YOUNG**
- RONNIE MILLS**
- JOSEPH ALLEVA**

STAFF PRESENT:

- JAMIE SEAMAN, Deputy County Attorney**
- SCOTT ASHLEY, AICP, Senior Zoning Manager**
- SUSAN JACKSON, AICP, Senior Planning Manager**
- DANALEE PETYK, Planner II**
- SARA PAYNE, Staff Assistant II**

APPROVAL OF MINUTES

- **January 12, 2016**
- **February 9, 2016**
- **March 8, 2016**
- **April 12, 2016**
- **May 10, 2016**

Member Van Dam requested the following minutes be amended:

- **January 12, 2016**, page 10, line 42 to read:
 - ...that there may ***not*** be a need for cell towers in the distant future.
- **April 12, 2016**, page 31, line 30 to read:
 - ...permits and inspections for the ***two*** referenced accessory structures,...

Member Mills moved to APPROVE the January 12, 2016, as amended, February 9, 2016, March 8, 2016, April 12, 2016, as amended, and May 10, 2016 minutes.

Member Alleva seconded the motion. Motion CARRIED unanimously (7:0).

Jamie Seaman, Deputy County Attorney, provided legal comment.

1 **Disclosure of Ex Parte Communications**

2
3 Members of the Volusia County Planning & Land Development Regulation Commission
4 Board were asked to please disclose, for the record, the substance of any ex parte
5 communications that had occurred before or during the public hearing at which a vote is
6 to be taken on any quasi-judicial matters. All members present disclosed any
7 communication as listed below.

8
9 **Cases Z-16-052 and S-16-053**

10 All members received emails as well as a letter from John Wine, all of which are in the
11 record. In addition, Member Young had a telephone conversation with Jay Asbury.

12
13 **ITEMS TO BE CONTINUED OR WITHDRAWN**

14
15 **V-16-003** – Application of Alex Ford, Esq., attorney for The Estate of John A. Bollman
16 III, owner, requesting a variance to the side yard requirement for an accessory structure
17 (dock) on Urban Single-Family Residential/Indian River Lagoon Surface Water
18 Improvement and Management Overlay Zone (R-9W) zoned property. The property is
19 located at 6750 Turtlemound Road, New Smyrna Beach; ± 7,200 square feet; 8505-01-
20 49-0210.

21
22 Scott Ashley, AICP, Senior Zoning Manager, explained the applicant had requested a
23 30-day continuance to be heard at the June 14, 2016 PLDRC hearing. He has
24 requested an additional 30-day continuance in order to settle a legal matter related to
25 the property. The staff recommends a continuance to the PLDRC hearing of July 12,
26 2016.

27
28 **Member Gove moved to grant a 30-day continuance to the July 12, 2016 PLDRC**
29 **hearing.**

30
31 **Member Young seconded the motion. Motion CARRIED unanimously (7:0).**

32
33 Chair Severino asked if there were any other applicants who wanted to request a
34 continuance or withdrawal.

35
36 **Z-16-052** – Application of John Wine, agent for Cornelius B. Prior, Jr., owner, requesting
37 a rezoning from Urban Single-Family Residential (R-4) zoning classification to Urban
38 Two-Family Residential (R-6) zoning classification. The property is located on the south
39 side of Starlight Drive, Ormond Beach; ± 3.87 acres; 3227-00-02-0090; 3227-02-00-
40 0140.

41
42 **S-16-053** – Application of John Wine, agent for Cornelius B. Prior, Jr., owner,
43 requesting a special exception for multifamily standard or manufactured dwellings on
44 proposed Urban Two-Family Residential (R-6) zoning classification. The property is
45 located on the south side of Starlight Drive, Ormond Beach; ± 3.87 acres; 3227-00-02-
46 0090; 3227-02-00-0140.

47
48 Michael Woods, Law Firm of Cobb Cole, attorney for John Wine, agent for Cornelius B.
49 Prior, Jr., owner, 351 E. New York Avenue, DeLand, Florida. Mr. Woods explained that

1 he is requesting a continuance in an attempt to resolve concerns voiced by the attorney
2 representing one of the adjacent property owners, as well as the boards of various
3 home owners associations and a condo association.

4
5 Scott Ashley, AICP, Senior Zoning Manager, stated staff had no objections to the
6 request for a continuance.

7
8 **Member Gove moved to grant a 30-day continuance to the July 12, 2016 PLDRC**
9 **hearing.**

10
11 **Member Young seconded the motion. Motion CARRIED unanimously (7:0).**

12
13 Chair Severino clarified that the approval of the continuance is the public notice for both
14 cases and no other notice will be sent or advertised.

15
16 **PUBLIC HEARING ON APPLICATIONS**

17
18 **S-16-043** - Application of Robert Weaver, Weaver Construction, Inc., agent for Weaver
19 Recycling, Inc., requesting a special exception for processing, packaging, storage, retail
20 or wholesale sales of agricultural products not raised on the premises on Prime
21 Agriculture (A-1) zoned property. The property is located at 4323 SR 44, New Smyrna
22 Beach; ± 10 acres of a 60-acre parcel; 7216-00-00-0033.

23
24 Scott Ashley, AICP, Senior Zoning Manager, gave the staff report. Mr. Ashley
25 explained the business had been granted a special exception in 2001 and 2009 for
26 processing, packaging, storage, retail or wholesale sales of agricultural products not
27 raised on the premises. He said the yard trash processing facility has been run in good
28 compliance without code enforcement issues and is in good standing with local and
29 state agencies. He said the only change to the site has been an addition of a second
30 driveway in order to better serve the subject parcel and an excavation pit to the east,
31 owned by the applicant. He stated because the applicant has been operating over the
32 years without incident, he is requesting a permanent special exception not requiring a
33 renewal.

34
35 Chair Severino inquired if the staff recommended conditions were consistent with the
36 2001 and 2009 special exception requests.

37
38 Mr. Ashley answered in the affirmative.

39
40 Member Van Dam asked staff, given the current request from the applicant is to
41 approve a permanent special exception, to confirm the special exception would expire if
42 it were not used for twelve months.

43
44 Mr. Ashley answered in the affirmative.

45
46 Robert Weaver, Weaver Construction, Inc., agent for Weaver Recycling, Inc., owner,
47 3620 Lettuce Lane, Samsula, Florida. Mr. Weaver agreed with the staff report and had
48 nothing to add.

1 There being no public participation, the floor was opened for commission discussion.

2
3 Chair Severino asked if there was no discussion to move forward with a motion.

4
5 **Member Young moved to FORWARD case S-16-043 to county council for final**
6 **action with a recommendation of approval, for a Yard Trash Processing Facility**
7 **on Prime Agricultural (A-1) zoned property, subject to the following staff**
8 **recommended conditions:**

- 9
10 **1. The applicant shall continue to be registered with the FDEP for a Yard**
11 **Trash Processing Facility, and comply with the applicable provisions of**
12 **Rule 62-709 F.A.C.**
13
14 **2. The type of materials delivered to, held, and processed on the site shall be**
15 **limited to vegetative-type land clearing debris only. No other solid waste**
16 **shall be brought to the site, and no excavation or landfill operation shall be**
17 **permitted.**
18
19 **3. A 50-foot wide wetlands protection buffer shall be maintained adjacent to**
20 **any wetlands on the site.**
21
22 **4. Nothing on the site shall exceed 25 feet in height above the existing**
23 **property grade elevation of ± 45 feet.**
24
25 **5. The hours of operation shall be limited to 7:00 a.m. to 5:00 p.m., Monday to**
26 **Friday, and 9:00 a.m. to 5:00 p.m. on Saturday.**

27
28 **Member Gove seconded the motion. Motion CARRIED unanimously (7:0).**

29
30 **V-16-046** – Application of Arthur Mark Winn, owner, requesting a variance to separate
31 lots on Rural Residential (RR) zoned property. The property is located at 2330 Chapel
32 Hill Drive, DeLand; ± 0.47 acres; 6944-08-00-035C.

33
34 Scott Ashley, AICP, Senior Zoning Manager, gave the staff report. Mr. Ashley
35 explained the subject parcel is in a subdivision approved in 1978, consisting of lots one-
36 half (1/2) acre in size. He said when the 1980 Uniform Zoning Ordinance was adopted,
37 the subdivision lots became nonconforming to the Rural Residential (RR) zoning
38 classification one acre requirement. He said the subject parcel was under common
39 ownership with an adjoining lot until 1989, when it was sold to the applicant. At the time
40 of the transaction, neither buyer nor seller understood their properties were
41 nonconforming lots. The applicant's desire is to sell the subject vacant lot, but a future
42 owner would not be able to apply for principal or accessory structure permits without
43 separating parcel 6944-08-00-035C from the original owner's adjacent parcel 6944-08-
44 00-0362.

45
46 Arthur Mark Winn., owner, 122 Lake Molly Avenue, DeLand, Florida. Mr. Winn agreed
47 with the staff report and had nothing to add.

48
49 There being no questions for the applicant, the floor was opened for public participation.

1
2 There being no public participation, the floor was opened for commission discussion.

3
4 Chair Severino asked if there was no discussion to move forward with a motion.

5
6 **Member Gove moved to APPROVE variance case V-16-046, a variance to Section**
7 **72-206(1) Nonconforming lots to separate parcels 6944-08-00-035C and 6944-08-**
8 **00-0362 on Rural Residential (RR) zoned property.**

9
10 **Member Van Dam seconded the motion. Motion CARRIED unanimously (7:0).**

11
12 **CPA-16-002** – Application of Glenn Storch, attorney for Miami Corporation, owner,
13 requesting an amendment to the comprehensive plan by amending *Appendix 1 Maps*
14 *and Figures* by amending *Map Figure 2-10 Farmton Local Plan Spine Transportation*
15 *Network*.

16
17 Susan Jackson, Senior Planning Manager, gave an overview of the staff report
18 regarding the large-scale map amendment to the comprehensive plan updating the
19 state intersection realignment of Osteen Maytown Road with S.R. 415. She explained
20 the proposed realignment shifted the roadway northward to align with the Doyle Road
21 and State Road 415 intersection.

22
23 Glenn D. Storch, attorney for Miami Corporation, owner, 420 South Nova Road,
24 Daytona Beach, Florida. Mr. Storch explained the present spine transportation network
25 made it difficult to find Maytown Road, which cut through the Osteen community, and
26 entered into S.R. 415 at a curve causing an unsafe traffic condition. He then presented
27 an overview of the present and future road network (Evidence 1 PowerPoint
28 Presentation). He stated the proposed road realignment would bypass the community
29 of Osteen and be done without county funds because the project would be fully funded
30 by the Miami Corporation. He then said that Miami Corporation had obtained
31 approximately two-thirds of the right-of-way necessary to make the realignment over
32 time. He then said the proposed road realignment had been reviewed with the City of
33 Deltona, the Department of Transportation, and Volusia County Traffic Engineering, to
34 which all parties agreed the proposed plan was the best plan.

35
36 Member Van Dam inquired about:

- 37
- 38 • **Completion of the Osteen Maytown Road connection**
 - 39 ○ Mr. Storch stated the new intersection was proposed to be completed in
40 2040.
 - 41 • **Future connection with Interstate 95 and impact on the Osteen Maytown**
42 **Road Project**
 - 43 ○ Mr. Storch stated when the Interstate 95 connection is opened in 2040, it
44 will put pressure on the area roadways. He said that it was critical to be
45 prepared to complete the Osteen Maytown Road connection at that time.
46 He said, although the majority of the right-of-way has been obtained,
47 because the Farmton Local prohibits work on the Osteen Maytown Road
48 project until 2026, there was no intention of starting the project until then.
49 He affirmed that the property for the Interstate 95 connection has been
acquired.

- 1 • **Assurances the Osteen Maytown Road Project would not begin prior to**
2 **2026**
 - 3 ○ Mr. Storch stated there was nothing in place to make this guarantee, but
4 since funding is not budgeted for another 10 years, the owner would not
5 want to begin the project until he is required to.
- 6 • **Right-of-Way acquisition**
 - 7 ○ Mr. Storch stated that the right-of-way acquisition was for the realignment
8 designed to go to the north, bypassing the Community of Osteen, to Doyle
9 Road. He said that he did not have the proposed site plan with him, but
10 he could make it available. He said the right-of-way acquisition was done
11 in advance to avoid the property being developed for other uses.
- 12 • **Alternative plans**
 - 13 ○ Mr. Storch explained that alternative routes were reviewed. The proposed
14 plan alleviated impacting Lake Gibson, Lake Dixon, and a bike trail. He
15 said traffic models indicated the connection with a local four-lane highway
16 would be too far north, encouraging drivers to continue using Maytown
17 Road through the Community of Osteen, to reach S.R. 415. He
18 commented that he anticipated that two-lane Doyle Road would eventually
19 be converted into a four-lane road.
- 20 • **Final plan**
 - 21 ○ Mr. Storch said county Traffic Engineering, the Department of
22 Engineering, and the City of Deltona all agree that the realignment
23 connection with Doyle Road was the best plan; not only due to traffic
24 generated by using S.R. 415, but traffic traveling to reach I-4. He said if it
25 were decided to move forward with the project prior to 2026, and the
26 Community of Osteen agreed, it could be considered. He then reiterated
27 the funding to begin the project was not budgeted prior to 2026.

28
29 Mr. Storch expressed his commitment to the project and the assurances he gave, that
30 the project would minimally impact the citizens of Osteen.

31
32 There being no further questions of the applicant, the floor was opened to public
33 participation.

34
35 There being no public participation, the floor was opened for commission discussion.

36
37 Chair Severino asked if there was no discussion to move forward with a motion.

38
39 **Member Mills moved to FORWARD to county council with a recommendation of**
40 **approval of the proposed amendment being consistent with the Comprehensive**
41 **Plan, for transmittal to the Department of Economic Opportunity for expedited**
42 **state review, and to Volusia Growth Management Commission (VGMC) for**
43 **certification.**

44
45 **Member Bender seconded the motion. Motion CARRIED (7:0).**

46
47 **CPA-16-003** – Application of Ralph and Alice Barlow, owners, requesting an
48 amendment to the comprehensive plan by amending the future land use map from the
49 Agricultural Resource (AR) designation to the Rural (R) designation. The property is

1 located at 4160 State Road 11, DeLand; ± 13.91-acre portion of the 19.97-acre
2 property; 6015-00-00-0051; 6037-02-00-0202; 6037-02-00-0231; 6037-02-00-0251.
3

4 **CPA-16-003** – Application of Ralph and Alice Barlow, owners, requesting an
5 amendment to the comprehensive plan by amending the future land use map from the
6 Agricultural Resource (AR) designation to the Rural (R) designation. The property is
7 located at 4160 State Road 11, DeLand; ± 13.91-acre portion of the 19.97-acre
8 property; 6015-00-00-0051; 6037-02-00-0202; 6037-02-00-0231; 6037-02-00-0251.
9

10 Susan Jackson, AICP, Senior Planning Manager, gave an overview of the staff report
11 regarding the large-scale comprehensive plan amendment for future land use. She
12 explained the applicants' desire to reconfigure the current four subject parcels into three
13 more proportionately divided parcels for future conveyance to their heirs. She said in
14 order to do so, a future land use amendment and rezoning were required, which would
15 allow for the development of two additional dwellings.
16

17 Hugh Gordon, Jr., speaking by request of Ralph Barlow, owner, 1624 Hazen Road,
18 DeLand, Florida. Mr. Gordon said that before the zoning was changed by the county
19 approximately 15 years ago, Mr. Barlow could have done what he is now requesting to
20 do. He then thanked Dan Eckert, County Attorney, and Palmer Panton, Director of
21 Planning and Development Services Division, for their assistance to the Barlow's. Mr.
22 Gordon then asked that the Barlow's be refunded their application fee because, in his
23 opinion, there was an error made by the County of Volusia. He said the Barlow's were
24 not properly notified when the zoning change was made.
25

26 There being no questions of the applicant, the floor was opened to public participation.
27

28 There being no public participation, the floor was opened for commission discussion.
29

30 Chair Severino requested staff comment regarding the requested refund.
31

32 Jamie Seaman, Deputy County Attorney, stated only county council could waive fees
33 and the request would be made at the appropriate time to the county council. She said
34 that the record was unclear as to why the map lines were moved, and it appears to have
35 been done without official action of any board. She explained that staff cannot waive
36 fees; however, a recommendation can be made to the county council requesting the
37 fees be waived because of undue hardship.
38

39 Chair Severino asked if there was no discussion to move forward with a motion.
40

41 **Member Mills moved to FORWARD to county council with a recommendation of**
42 **approval of the proposed amendment, consistent with the Comprehensive Plan,**
43 **for transmittal to the Department of Economic Opportunity for expedited state**
44 **review, and to Volusia Growth Management Commission (VGMC) for certification,**
45 **and refund of the application fees associated with said case.**
46

47 **Member Young seconded the motion. Motion CARRIED (7:0).**
48

1 **Z-16-047** – Application of Ralph and Alice Barlow, owners, requesting a rezoning from
2 the Prime Agriculture (A-1) classification to the Transitional Agriculture (A-4)
3 classification. The property is located at 4160 State Road 11, DeLand; ± 13.91-acre
4 portion of the 19.97-acre property; 6015-00-00-0051; 6037-02-00-0202; 6037-02-00-
5 0231; 6037-02-00-0251.

6
7 Susan Jackson, AICP, Senior Planning Manager, presented the staff report. Ms.
8 Jackson explained the applicants' desire is to reconfigure the subject four parcels into
9 three more proportionately divided parcels for future conveyance to their heirs. She
10 said in order to do so, a future land use amendment and rezoning were required, and
11 the rezoning request is subject to the approval of its companion case CPA-16-003.

12
13 Hugh Gordon, Jr., speaking by request of Ralph Barlow, owner, 1624 Hazen Road,
14 DeLand, Florida. Mr. Gordon had nothing to add.

15
16 There being no questions of the applicant, the floor was opened to public participation.

17
18 There being no public participation, the floor was opened for commission discussion.

19
20 Chair Severino asked if there was no discussion to move forward with a motion.

21
22 **Member Mills moved to FORWARD case Z-16-047, to county council for final**
23 **action with a recommendation of approval, a request for rezoning from Prime**
24 **Agriculture (A-1) to Transitional Agriculture (A-4) Classification, and refund of the**
25 **application fees associated with said case. Case Z-16-047 is subject to approval**
26 **of the companion future land use amendment, CPA 16-003.**

27
28 **Member Young seconded the motion. Motion CARRIED unanimously (7:0).**

29
30 **Z-16-048** – Application of Corey D. Brown, Esq., attorney for Tymberidge, Inc., owner,
31 requesting a rezoning from Mobile Home Park (MH-1) zoning classification to Mobile
32 Home Park and Recreational Vehicle Park (MH-2) zoning classification. The property is
33 located at 3200 S. Nova Road, Port Orange; ± 11.24 acres; 6337-01-01-0045.

34
35 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
36 explained that the property is known as the Shady Village Mobile Home Park, which has
37 been in existence since the 1960s. He said the park consists of 58 mobile home units
38 on approximately 7.5 acres and the owner's desire is to develop approximately three
39 acres, on the west side of the mobile home park, for recreational vehicles. He stated if
40 the rezoning was approved, a final site plan would be required.

41
42 Member Gove inquired of staff if density requirements for recreational vehicle use would
43 be the same as mobile home use.

44
45 Mr. Ashley answered in the affirmative.

46
47 Member Van Dam inquired if there were time constraints on how long a recreational
48 vehicle could remain parked on the property and would the dimensional and perimeter
49 requirements be similar to the mobile home park use.

1
2 Mr. Ashley explained there were no parking time limits for a recreational vehicle. He
3 indicated that the perimeter and setback requirements were similar to the mobile home
4 park use. He said the square footage allowed for a recreational vehicle was 1,500
5 square feet in comparison to 5,000 square feet for a mobile home unit. He indicated
6 there would be, at a future date, a requirement for a community center, which would be
7 used as an emergency shelter. He said that under State statute, the property could
8 include permanent recreational vehicles, known as a park model. He explained this
9 type of recreational vehicle was meant to be permanent, but could be moved, and would
10 be limited to 1,500 square feet.

11
12 Member Young expressed concern about ingress and egress during high event times,
13 such as Race Week.

14
15 Mr. Ashley explained Traffic Engineering looked at the traffic patterns based on the
16 zoning request. He said although special events may have a higher impact on traffic
17 numbers, larger recreational vehicles, when parked at a final destination point, usually
18 remain stationary. He reiterated that the project would go through the site review
19 process, and at that time, it may be determined the applicant would be required to
20 widen the driveway apron or create either a turn lane or a turn taper to expedite moving
21 the larger vehicles off the roadway.

22
23 Glenn D. Storch, attorney for Tymberidge, Inc., owner, 420 South Nova Road, Daytona
24 Beach, Florida. Mr. Storch pointed out that his client's property was surrounded by
25 mobile home parks and commercial property and the change would complement the
26 area. He stated that rezoning to allow large recreational vehicles would reinvigorate the
27 mobile home park. He said the ingress and egress would be designed as one-way in
28 and out of the mobile home park. He explained that park models had little to no profit
29 margin and he did not anticipate his client to invest in that type of development. Mr.
30 Storch acknowledged the project would require a site plan review and any concerns
31 would be dealt with at that time.

32
33 There being no questions of the applicant, the floor was opened to public participation.

34
35 There being no public participation, the floor was opened for commission discussion.

36
37 Chair Severino asked if there was no discussion, to move forward with a motion.

38
39 **Member Young moved to FORWARD case Z-16-048, to county council for final**
40 **action with a recommendation of approval, for rezoning from the Mobile Home**
41 **Park Classification (MH-1) to Mobile Home Park and Recreational Vehicle Park**
42 **(MH-2) Classification.**

43
44 **Member Van Dam seconded the motion. Motion CARRIED unanimously (7:0).**

45

1
2 **V-16-049** – Application requesting a variance to separate lots on Rural Residential (RR)
3 zoned property. The property is located on Whooping Crane Drive, DeLeon Springs; ±
4 0.70 acres; 6037-04-05-0060.

5
6 Scott Ashley, AICP, Senior Zoning Manager, gave the staff report. Mr. Ashley
7 explained the subject parcel is in the Tomoka Woods subdivision. When the 1990
8 Comprehensive Plan was adopted, the zoning for the subdivision was changed to the
9 Rural Residential (RR) zoning classification, making most of the lots nonconforming.
10 The applicants did not know their property was nonconforming until an after-the-fact
11 shed permit was applied for. Because the subject parcel had been under common
12 ownership with an abutting property until it was recently sold to the applicants, they
13 could not secure a good nonconforming lot letter. Mr. Ashley stated the applicant's
14 desire is to address the code compliance issue by obtaining a permit, and without
15 separating parcel 6037-04-05-0060 from the adjoining parcel 6037-04-05-0070, that
16 cannot be achieved.

17
18 Applicant, 2249 Whooping Crane Drive, DeLeon Springs, Florida. The applicant agreed
19 with the staff report.

20
21 There being no questions of the applicant, the floor was opened to public participation.

22
23 There being no public participation, the floor was opened for commission discussion.

24
25 Chair Severino asked if there was no discussion to move forward with a motion.

26
27 **Member Mills moved to APPROVE variance case V-16-049, a variance to Section**
28 **72-206(1) Nonconforming lots to separate parcels 6037-04-05-0060 and 6037-04-**
29 **05-0070 on Rural Residential (RR) zoned property.**

30
31 **Member Young seconded the motion. Motion CARRIED unanimously (7:0).**

32
33 **V-16-050** – Application of Joseph Huck, owner, requesting a variance to separate lots
34 on Forestry Resource (FR) and Resource Corridor (RC) zoned property. The property
35 is located on Sundy Trail, DeLand; ± 14.75 acres; 7115-00-00-0120.

36
37 Scott Ashley, AICP, Senior Zoning Manager, gave the staff report. Mr. Ashley
38 explained when the 1990 Comprehensive Plan was adopted, the zoning for the area
39 was changed to the Forestry Resource (FR) and Resource Corridor (RC) zoning
40 classifications, which made any lot less than 20 acres nonconforming. He said the
41 applicant recently purchased the parcel and did not know it was nonconforming until he
42 applied for, and could not obtain, permits for work he intended to do. Based on prior
43 common ownership, the applicant cannot secure a good nonconforming lot letter, and
44 he cannot move forward without separating parcel 7115-00-00-0120 from adjoining
45 parcel 7115-00-00-0130.

46
47 Joseph Huck, owner, 755 East Lacy Circle, Deltona, Florida. Mr. Huck agreed with the
48 staff report and had nothing more to add.

1 There being no questions of the applicant, the floor was opened for public participation.

2
3 There being no public participation, the floor was opened for commission discussion.

4
5 Chair Severino asked if there was no discussion to move forward with a motion.

6
7 **Member Mills moved to APPROVE variance case V-16-050, a variance to section**
8 **72-206(1) Nonconforming Lots, to separate parcel 7115-00-00-0120 from parcel**
9 **7115-00-00-0130 on Forestry Resource and Resource Corridor (FR/RC) zoned**
10 **property.**

11
12 **Member Van Dam seconded the motion. Motion CARRIED unanimously (7:0).**

13
14 **V-16-054** – Application of Gary Butler, agent for Gary and Traci Hershberger, owners,
15 requesting a variance to front yard requirements for an existing single-family dwelling on
16 Urban Single-Family Residential/Indian River Lagoon Surface Water Improvement and
17 Management Overlay Zone (R-9W) zoned property. The property is located at 6687
18 Engram Road, New Smyrna Beach; ± 5,000 square feet; 8505-01-48-0690.

19
20 Scott Ashley, AICP, Senior Zoning Manager, gave the staff report. Mr. Ashley
21 explained in 1989, the subject property was granted a building permit that included
22 construction of a four-foot wide cantilever deck. The deck was expanded by the
23 previous owner from a four-foot wide cantilever deck to an eight-foot wide ground-
24 supported deck. The work was done without a building permit or variance for
25 encroaching into the front yard setback. The current owners' desire is to replace and
26 expand the deck from eight feet to twelve feet, further encroaching into the front yard
27 setback. Mr. Ashley stated staff could not support the requested variance and then
28 clarified the alternative offered for consideration by the commission. He said if the
29 PLDRC found the front yard variance appropriate, Conditions 1 and 2 (page 5 of 25 of
30 the staff report) would be amended to read:

- 31
32 1. The variance is limited to the existing eight-foot wide front deck, with the current
33 front yard setback of 18 feet, as depicted on the property survey prepared by
34 James Marvin Bunn, Professional Surveyor Inc., sealed July 21, 2015. The front
35 yard deck shall not be enlarged, increased, or extended further to encroach or
36 occupy any greater area of the property without approval of a separate variance.
37 The front deck shall not be roofed, walled, enclosed or converted to a room, or
38 other structure.
- 39
40 2. The property owner or authorized agents shall obtain and complete all required
41 building permits and inspections of the existing front yard deck.

42
43 Member Mills asked staff if the issue arose because the expansion was not a cantilever
44 deck. He also asked if the commission granted the current 18-foot front yard setback,
45 could the commission approve the additional three feet needed for a 12-foot wide deck,
46 if it were cantilevered.

47
48 Mr. Ashley stated, in 2008, the Property Appraiser's Office first noted the deck had been
49 expanded. He then referred to the original schematic of the structure showing the

1 cantilever deck (page 20 of 25 of the staff report) that had been approved. Sometime
2 prior to 2008, the original owner removed the cantilever deck and replaced it with a
3 larger ground-supported deck. Mr. Ashley stated the issue being addressed arose
4 when the current owner came in for a permit to replace and expand the existing deck.
5 Mr. Ashley stated staff could not support the requested deck expansion because the
6 applicant already enjoyed an extension beyond what would normally be allowed.
7 However, he stated staff could support a variance for setbacks that would allow the
8 existing eight-foot wide deck to remain.

9
10 Member Young said it appeared the existing eight-foot wide deck extended beyond the
11 other houses and asked how the deck post supports impacted the setback
12 encroachment.

13
14 Mr. Ashley indicated the applicant's existing deck was relatively in line with the other
15 decks. He then explained that when the deck was converted from a cantilever deck to a
16 ground-supported deck, the front yard setback was measured to the existing support
17 posts.

18
19 Gary Hershberger, owner, 6687 Engram Road, New Smyrna Beach, Florida. Mr.
20 Hershberger confirmed that his neighbor to the north had an eight-foot wide deck. He
21 said he would prefer having a 12-foot wide deck but would be content if the commission
22 approved replacing the existing eight-foot wide deck.

23
24 Gary Butler, agent for Gary and Traci Hershberger, 1441 Jim Hunt Road, Clermont,
25 Florida. Mr. Butler gave his credentials as a contractor and confirmed the existing deck
26 was unsafe, not properly permitted, and needed to be replaced. Mr. Butler
27 recommended the deck be expanded to 12 feet to accommodate ADA requirements for
28 the owners' friends. He requested the commission approve the request for the 12-foot
29 wide deck with the understanding the ground support posts would remain at the current
30 18-foot setback and the additional footage would be cantilevered from the ground
31 support posts. He said if this suggestion was not acceptable to the commission, he
32 would request approval of the existing deck at the existing setback with the modification
33 that the ground support posts come up through the deck to support the railing.

34
35 Member Young stated the neighbor to the north may have an eight-foot wide deck but
36 the house was set back further and that extending the applicant's deck to 12 feet would
37 be excessive.

38
39 Mr. Butler explained that the roof lines of the houses give the illusion of a smaller deck
40 then stated the decks in question were eight foot in width.

41
42 Member Mills inquired if the existing 18-foot setback were approved, would it allow the
43 ground support posts to come up through the deck to support the railing.

44
45 Mr. Ashley stated the ground support posts and overall structure would be required to
46 meet the 18-foot setback. If the ground support posts were moved back, the setback
47 would be measured from the overall structure and not from the ground support posts.

1 There being no further questions of the applicant, the floor was opened to public
2 participation.

3
4 There being no public participation, the floor was opened for commission discussion.

5
6 Chair Severino asked if there was no discussion to move forward with a motion.

7
8 **Member Young moved to DENY variance case V-16-054, a variance for a front**
9 **yard setback from the required 25 feet to 14 feet for a proposed deck and**
10 **APPROVE a variance for a front yard setback from 25 feet to 18 feet for an**
11 **existing front yard deck on Urban Single-Family Residential/Indian River Lagoon**
12 **Surface Water Improvement and Management Overlay Zone (R-9W) zoned**
13 **property, subject to the following staff recommended amended conditions:**
14

- 15 1. The variance is limited to the existing eight-foot wide front deck, with the current
16 front yard setback of 18 feet, as depicted on the ~~Variance Site Plan~~/property
17 survey prepared by James Marvin Bunn Professional Surveyor Inc., sealed
18 July 21, 2015. The front yard deck shall not be enlarged, increased, or extended
19 further to encroach or occupy any greater area of the property without approval
20 of a separate variance. The front deck shall not be roofed, walled, enclosed or
21 converted to a room, or other structure.
22
- 23 2. The property owner or authorized agents shall obtain and complete all required
24 building permits and inspections of the existing front yard deck.
25

26 **Member Gove seconded the motion. Motion CARRIED unanimously (7:0).**
27

28 **V-16-055** – Application of Bill Bohlen, agent for DeLand Open Bible, owner, requesting
29 variances to setbacks for a house of worship on Rural Residential/Thoroughfare
30 Overlay Zone (RRC) zoned property. The property is located at 2179 North Spring
31 Garden Avenue, DeLand; ± 41,382 square feet; 6032-00-00-0500.
32

33 Scott Ashley, AICP, Senior Zoning Manager, gave the staff report. Mr. Ashley
34 explained during the staff report preparation phase, staff was not made aware that the
35 sheds causing the need for the variance had been delivered to the subject parcel. The
36 applicant confirmed the sheds meet the setbacks in the requested variance; however, if
37 the placement of either shed is not in compliance with the requested setbacks, it would
38 be moved. Mr. Ashley further stated the carport structure addressed in Variance 2 had
39 been relocated to south side of the property eliminating the need for the variance;
40 however, after discussions with the applicant, it was agreed that the carport would be
41 totally removed from the property. Staff recommends approval of requested variances
42 1, 3 and 4, with amended staff recommended conditions to include a condition that the
43 18 foot x 20 foot carport shall be removed as part of the building permitting process.
44

45 Member Mills inquired if the two existing sheds would be removed.

46
47 Mr. Ashley confirmed the two existing sheds in the rear yard would be removed and
48 replaced by one of the new sheds.
49

1 William Bohlen, agent for DeLand Open Bible Church, owner, 390 Lake Charles Road,
2 DeLand. Mr. Bohlen agreed with the staff report and added that the church food
3 ministry had grown significantly and is in need of storage.
4

5 Member Mills inquired of the applicant if the new shed was for food storage only and
6 Member Van Dam asked if any of the food needed refrigeration.
7

8 Mr. Bohlen responded that the shed would only be used to store nonperishable food
9 items. He stated to the best of his knowledge, none of the food stored in the shed
10 would need refrigeration.
11

12 There being no more questions of the applicant, the floor was opened for public
13 participation.
14

15 There being no public participation, the floor was opened for commission discussion.
16

17 Chair Severino asked if there was no discussion to move forward with a motion.
18

19 **Member Young moved to APPROVE variance case V-16-055, variances to**
20 **setbacks for a house of worship on Rural Residential/Thoroughfare Overlay Zone**
21 **(RRC) zoned property, as amended.**
22

23 (1) A north yard setback from the required 50 feet to 13 feet for a proposed 12-foot
24 by 28-foot accessory shed

25 ~~(2) A north yard setback from the required 50 feet to 8 feet for an existing 18-foot x~~
26 ~~20-foot accessory carport structure;~~

27 (3) A south yard setback from the required 50 feet to 24 feet for a proposed 16-foot
28 by 40-foot accessory shed;

29 (4) An east yard setback from the required 50 feet to 25 feet for a proposed 16-foot
30 by 40-foot accessory shed on Rural Residential/Thoroughfare Overlay zone
31 (RRC) zoned property, subject to the following amended conditions:
32

33 1. Prior to the commencement of any site work or construction of site
34 improvements, the applicant shall obtain all required permits for the two
35 proposed accessory storage shed and for the existing accessory carport.

36
37 2. The variance approval is to the structures as depicted on the variance survey/site
38 plan stamp received April 29, 2016, prepared by Blackwell and Associates Land
39 Surveyors, Inc. The referenced structures shall not be enlarged, increased, or
40 extended further to encroach or occupy any greater area of the property without
41 approval of a separate variance.

42
43 3. As depicted on the variance site plan marked-up of a Blackwell & Associates
44 Land Surveyors, Inc. prepared survey March 3, 2016, the labeled 11.8-foot by
45 46.7-foot shed and 9.9-foot shall be demolished and/or removed from the
46 property.
47

- 1 4. The 18 foot x 20 foot carport shall be removed as part of the building permitting
2 process

3
4 **Member Alleva seconded the motion. Motion CARRIED unanimously (7:0).**

5
6 **OLD BUSINESS**

- 7
8 • None
9

10 **OTHER PUBLIC ITEMS**

- 11
12 • None
13

14 **STAFF ITEMS**

- 15
16 • None
17

18 **STAFF COMMENTS**

- 19
20 • None
21

22 **COMMISSION COMMENTS**

- 23
24 • Late request by applicants to continue their case to another PLDRC hearing.
25 Items discussed
26 ○ *Notification of concerned citizens of a continuance (Member Mills)*
27 Mr. Ashley explained that for both cases Z-16-052 and S-16-053, several
28 emails from concerned citizens were received late by the staff and it did
29 not give the applicant's attorney adequate time to act. After the emails
30 were reviewed, the applicant's attorney decided the evening prior to the
31 hearing it would be best to postpone in order to address the expressed
32 concerns. He stated the emails received did not indicate who would
33 attend the hearing and no one submitted a Request to Be Heard card. Mr.
34 Ashley explained the public notice procedure for a condominium. He
35 added that a new staff report containing the emails and the petition
36 submitted as evidence will be done for the July 12, 2016 hearing.
37

38 **PRESS AND CITIZEN COMMENTS**

- 39
40 • None
41

42 **ADJOURNMENT**

43
44 Having no further comments from the public, staff, or commissioners, Chair Severino
45 thanked everyone and adjourned the meeting at 10:48 a.m.