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1 **PLANNING AND LAND DEVELOPMENT REGULATION COMMISSION**
2 **PUBLIC HEARING HELD**
3 **March 21, 2019**

4
5 The Public Hearing of the Volusia County Planning and Land Development Regulation
6 Commission was called to order by **Ronnie Mills**, at 9:00 a.m., in the County Council
7 Meeting Room of the Thomas C. Kelly Administration Center, 123 West Indiana Avenue,
8 DeLand, Florida. On roll call, the following members answered present, to wit:
9

10 **COMMISSION PRESENT:**

11 **VACANT, Chair**
12 **RONNIE MILLS, Vice-Chair**
13 **WANDA VAN DAM, Secretary**
14 **JEFFREY BENDER**
15 **JAY YOUNG**
16 **STEVE COSTA - ABSENT**
17 **FRANK COSTA**

19 **STAFF PRESENT:**

20 **MICHAEL RODRIGUEZ, Assistant County Attorney**
21 **SCOTT ASHLEY, AICP, Senior Zoning Manager**
22 **SUSAN JACKSON, AICP, Senior Planning Manager**
23 **PATRICIA SMITH, AICP, Planner III**
24 **DAVID STALLWORTH, AICP, Planner II**
25 **SAMANTHA J. WEST, Planner II**
26 **JESSICA R. FLOWERS, Staff Assistant II**
27 **YOLANDA SOMERS, Staff Assistant II**

28 **PLEDGE OF ALLEGIANCE**

29
30 Vice-Chair Mills led the pledge of allegiance.

31 **LEGAL COMMENT**

32
33 Michael Rodriguez, Assistant County Attorney, provided legal comment.

34 **APPROVAL OF MINUTES**

35
36 **None**

37 **Disclosure of Ex Parte Communications**

38
39 Members of the Volusia County Planning & Land Development Regulation Commission
40 were asked to disclose, for the record, the substance of any ex parte communications
41 that had occurred before or during the public hearing at which a vote is to be taken on

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

3
4 No ex parte communications were rendered.
5

6 **PUBLIC HEARING ON APPLICATIONS**

7 **ITEMS TO BE CONTINUED OR WITHDRAWN**

8 Items to be continued or withdrawn will not be discussed unless requested by a
9 commission member, the applicant, or any other affected party. If you wish to speak on
10 any of these items, please advise the commission clerk so that the chair can be advised.
11 It is requested that applicants attend the hearing to answer any questions, which may
12 arise.

13
14 **V-19-024** - Application of Benjamin Hedrick, agent for Laura Ortiz, owner, requesting a
15 variance to the minimum yard requirements and maximum fence height on Urban Single-
16 Family Residential (R-3) zoned property.

17
18 **Member Young MOVED to CONTINUE to the May 16, 2019, public hearing. Member**
19 **Van Dam seconded. Motion CARRIED unanimously (5:0).**

20 **NEW BUSINESS**

21
22 **S-19-021** - Application of Jeffery J. and Latisha Sorce, owners, requesting a Special
23 Exception for Class B Home Occupation on Rural Residential (RR) zoned property.

24
25 Susan Jackson, Senior Planning Manager, stated that the request was for a special
26 exception for a class B home occupation on a 2.61-acre parcel located in Lake Helen.
27 The property is zoned Rural Residential with an Urban Low Intensity future land use
28 designation. The proposed class B home occupation is to allow an online business to
29 sell sporting goods and firearms with inventory storage in an accessory structure on the
30 property. The home occupation is limited to 500 square feet of the structure. The
31 applicant is not proposing any on-site customers, employees, or signage. Ms. Jackson
32 continued that the property was located on Blackjack Trail, which is an unpaved road,
33 and that the additional traffic generated by the special exception would be no more than
34 that of a standard single-family dwelling. She concluded that staff recommended that the
35 special exception be forwarded to the county council with a recommendation of approval
36 subject to the seven conditions provided in the staff report.

37
38 Member Frank Costa asked how the use would be monitored for on-site customers.

39
40 Ms. Jackson replied that if there was a complaint then code compliance would respond.

41
42 Member Van Dam asked if the use could be limited to online sales only.

43
44 Ms. Jackson replied that the code does not restrict the use and deferred to Mr. Rodriguez
45 for legal opinion.

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1 Michael Rodriguez, Assistant County Attorney, replied that the code allows for customer
2 visits. The applicant could offer to include the limitation of online sales only, but staff
3 cannot unilaterally impose a condition that goes beyond the scope of what is allowed by
4 code. Should that condition be volunteered and accepted, then it would be a matter of
5 code compliance to monitor it.

6
7 Vice-chair Mills asked if the discharging of firearms could be limited on the property.
8

9 Mr. Rodriguez replied that the State has preempted local government from regulating
10 firearms on private property.
11

12 Vice-chair Mills asked if there was fire suppression in the building since ammunition and
13 firearms were being stored.
14

15 Mr. Rodriguez commented that there was no specific code provisions but there was ATF
16 (Alcohol, Tobacco and Firearms) guidelines that would have to be met.
17

18 Jeffrey Sorce, 930 Blackjack Trail, Lake Helen, presented that he has spoken to most of
19 his neighbors and has addressed the concerns regarding storage of firearms and
20 ammunition. There was some concerns regarding ammunition, and he would address
21 them as necessary as he wanted everyone to be as safe as possible. There are fire
22 extinguishers present as he also works on vehicles in the. He said his business was
23 99.9% online sales.
24

25 Member Young expressed concern with security due to storage of firearms.
26

27 Mr. Sorce replied that the building was secure with locks on the doors and a security
28 system.
29

30 Member Frank Costa asked what level of FFL.
31

32 Mr. Sorce replied that it was level one.
33

34 Member Frank Costa asked about whether he was going to level three.
35

36 Mr. Sorce replied not at the moment or at this location, but if he was to have a store front,
37 then he may consider it.
38

39 Member Frank Costa asked whether he was buying firearm parts for assembly or buying
40 whole firearms. He also inquired whether the license prevented him from having walk up
41 customers.
42

43 Mr. Sorce replied that he was buying whole firearms and selling as retail online. He also
44 stated that he was not sure his license restricted walk up customers.
45

46 Member Frank Costa inquired about whether the firearms were in a safe or have trigger
47 locks, and if the ATF audits were still every six months.
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1 Mr. Sorce replied that he had not reached that far in the ATF process, but was going to
2 comply with their regulations, and that he believed the audits were every six months.
3

4 Member Van Dam asked for more details about the percentage of online sales.
5

6 Mr. Sorce replied that he would be willing to provide his services to his neighbors should
7 the opportunity arise.
8

9 Member Van Dam inquired of legal whether that would be considered storefront sales
10 and if the special exception would be violated.
11

12 Mr. Rodriguez provided that if code compliance received complaints of traffic and
13 customers onto the site then it could be a violation of the zoning classification relating to
14 a commercial business in a residential zoning classification. He mentioned that if the
15 applicant was to include in the special exception that it was limited to online sales, then it
16 could be a violation of the special exception.
17

18 Mr. Sorce commented that his neighbors could go through the website for purchases as
19 it would be easier for record keeping and compliance with ATF.
20

21 Member Van Dam asked if the applicant was volunteering the condition of online sales
22 only, she would be agreeable to make it a condition of the special exception.
23

24 Mr. Sorce said he was
25

26 Member Bender asked about the different levels of FFL.
27

28 Member Frank Costa replied that level three allows automatic weapons, level two allows
29 manufacturing guns, and level one allows sales. He also commented that the ATF
30 provides thorough audits on a regular basis.
31

32 Member Bender asked how the applicant would receive a firearm for repair if customers
33 are not coming to the facility.
34

35 Mr. Sorce replied that those details had not been determined, but ATF has strict
36 guidelines.
37

38 Public Participation

39 Thomas Rainey, 909 Black Jack Ridge Trail, Lake Helen, spoke about the dirt road and
40 expressed concern about additional traffic and road maintenance. He was concerned
41 about hearing guns all day in the neighborhood. He stated that Black Jack Ridge Trail
42 was a private road and he was concerned about setting a precedent with the property
43 becoming commercial. He asked if firearms could be sold by mail.
44

45 Mr. Rodriguez replied that it was outside his purview as he did not handle gun law. He
46 advised that the ATF license has certain restrictions and requirements and will be the
47 authority on the matter.
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1 Mr. Rainey wanted to know if the guns were not sold through the mail then how would the
2 firearms be transferred and would that mean more traffic down the private road that is
3 maintained by the neighbors.

4
5 Member Young asked about the maintenance of the road.

6
7 Mr. Rainey replied the neighbors contribute to the maintenance of the road. The last
8 repair was about \$4,000.

9
10 Member Bender asked about the property and area zoning.

11
12 Mr. Rodriguez replied it was Rural Residential and that the property was not being
13 rezoned to commercial. The request was for a permitted special exception in the Rural
14 Residential zoning classification.

15
16 Member Bender asked Mr. Rainey if he understood that the property was not being
17 rezoned to commercial.

18
19 Mr. Rainey replied affirmatively.

20
21 Member Frank Costa asked if the special exception ran with the owner or the property.

22
23 Mr. Rodriguez replied that the special exception runs with the property, so it could be
24 marketed as a property with a class B home occupation if this was to be approved.

25
26 Mr. Sorce explained that online firearm sales can only be mailed to another person with
27 a FFL (Federal Firearm License). He would mail the firearm to another FFL person, and
28 that person would complete the transaction. Firearm sales must be a person to person
29 transaction per the ATF. He stated that if the road maintenance was an issue and he
30 would maintain the road as his business grows.

31
32 Commission Discussion

33 Vice-Chair Mills commented that his concerns were gun fire and the road maintenance.
34 He stated he was not sure that this was a proper place for such a use.

35
36 **Member Frank Costa MOVED to FORWARD case S-19-021 to council for with a
37 recommendation of APPROVAL with staff conditions.**

38
39 Member Van Dam asked the motion maker if that included the limitation of online sales
40 only. Member Frank Costa included the online sales only as it was agreed to by the
41 applicant.

42
43 **Motion failed for lack of a second.**

44
45 Member Young commented that he had concerns with traffic on a road that is maintained
46 by the residents.

47
48 Member Frank Costa stated that amazon delivers to houses all the time.

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1 Member Young commented that there was the potential of hundreds of deliveries on a
2 weekly basis.

3
4 Member Frank Costa reiterated that he has experience regarding the operation of selling
5 firearms and that hundreds of deliveries would be very unlikely. He mentioned that the
6 applicant agreed to online sales only and if he entered an agreement for road
7 maintenance with his neighbors, then he thinks this use would be compatible.

8
9 Mr. Rodriguez provided legal comment about the review criteria and cautioned about
10 basing the decision on substantial evidence without too much conjecture as to deliveries.
11 He mentioned someone could live at the end of a street and be an avid eBay buyer and
12 seller with lots of storage at their home. Most of the time, the deliveries will coincide with
13 the mail delivery, with a few items coming in on a FedEx delivery. There is no provisions
14 limiting the number of deliveries to a residential property. When it comes to the special
15 exception, the commission is bound, by code, to review the specific objective standards
16 for the special exception.

17
18 Vice-Chair Mills inquired whether the commission was supposed to take into
19 consideration the amount of traffic generated by the use.

20
21 Mr. Rodriguez stated that the commission needed to review the specific code criteria for
22 a special exception. He instructed the commission that if the applicant met the objective
23 standards, set by code for special exception, then a special exception was to be granted.

24
25 Member Frank Costa commented that the road issue is moot and reminded the
26 commission that the applicant already said he was willing to take care of the road
27 maintenance should it become an issue.

28
29 Member Bender stated that he wouldn't necessarily agree because someone could say
30 that they would buy lunch and then go to lunch and change their mind. He inquired
31 whether the requirement specifically stating no vehicular traffic shall be generated by the
32 occupation in greater volume than what would normally be generated by the residence
33 was subjective.

34
35 Mr. Rodriguez replied that it could be objective. There was a specific traffic count
36 generated by a single-family dwelling, therefore, an objective standard to examine the
37 traffic impact.

38
39 **Member Frank Costa MOVED to FORWARD case S-19-021 to county council with a
40 recommendation of APPROVAL with the following modified conditions:**

- 41
42 1. The class B home occupation shall be limited to 500 square feet within the
43 existing metal outbuilding as shown on the special exception site plan.
- 44
45 2. A revised site plan indicating the specific location of the 500-square-foot
46 home occupation area shall be submitted to the Planning and Development
47 Services Division prior to final approval of the special exception.
- 48
49 3. Any interior building renovations necessary to accommodate the class B

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1 home occupation shall require building permits and inspections prior to the
2 start of the home business.
3

- 4 **4. No vehicular traffic shall be generated by the home occupation in greater**
5 **volumes than would normally be generated by the dwelling unit.**
6
- 7 **5. There will be no employees or independent contractors who are not**
8 **residents of the dwelling unit. The addition of one or more employees or**
9 **independent contractors would require additional approval by the Volusia**
10 **County Council.**
11
- 12 **6. The applicant shall adhere to all the requirements for the class B home**
13 **occupation use pursuant to section 72-283 of the zoning code.**
14
- 15 **7. The applicant shall comply with chapter 50, article 6, section 50-476, Volusia**
16 **County Noise Ordinance.**
17
- 18 **8. The applicant has agreed to limit the use to online sales only.**
19

20 Member Young SECONDED the motion. Motion CARRIED 4:1 (Member Bender
21 opposed).
22

23 **V-19-023** - Application of James Ward, owner, requesting a variance to separate
24 nonconforming lots and variances to the minimum yard requirements on Prime Agriculture
25 (A-1) and Resource Corridor (RC) zoned property.
26

27 Susan Jackson, AICP, Senior Planning Manager, presented the staff report. Ms. Jackson
28 explained to the commission that the request entailed four separate variances, one to
29 separate nonconforming lots and the other three for front yard setbacks. The properties
30 are in the Cape Atlantic Estates which is an unrecorded subdivision. When the
31 subdivision was laid out, the zoning was A-3 which allowed for one acre parcels. In
32 1992, the area was rezoned to A-1, which created the nonconforming status of the lots.
33 Ms. Jackson explained that staff felt that the request to separate the nonconforming lots
34 met all of the criteria for granting a variance and recommended approval. She went on
35 to discuss the remaining three variance requests in regards to existing structures that
36 were already erected on the site. Ms. Jackson explained that the subject property was
37 considered a corner lot due to a platted right of way easement which is where the 100-
38 foot setbacks had to be measured from. However, the existing house, pool and pool
39 enclosure were situated 85 feet from the easement line. She explained that the original
40 home was destroyed in a fire and that the applicant wished to salvage the existing shell
41 of the home in order to reconstruct it on the property, and to use the existing pool and
42 pool enclosure where they are currently situated. She went on to indicate that there were
43 other buildings on the lot that weren't permitted and needed to be removed from the RC
44 portion of the property. She concluded by stating that the requested variances met four
45 of the five criteria and provided conditions for consideration should the commission decide
46 to approve the variances.
47

48 Being that there were no questions of staff, the applicant was provided the floor.

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1
2 James Ward, 3016 Travelers Palm, Edgewater, FL. Mr. Ward explained that they thought
3 they found a good property to build a home for their family and didn't realize the under-
4 lying issues at hand.

5
6 Public Participation. None.

7
8 Commission Discussion. None.

9
10 **Member Van Dam MOVED to approve case number V-19-023, a variance to Section
11 72-206(1), Nonconforming Lots, to separate nonconforming parcels 8447-02-06-
12 3330 and 8447-02-06-3400, a variance to reduce the south front yard setback from
13 100 feet to 86 feet for a new single-family residence, a variance to reduce the south
14 front yard setback from 100 feet to 86 feet for an accessory structure (pool
15 enclosure), and a variance to reduce the south front yard setback from 100 feet to
16 95 feet for a swimming pool on Prime Agriculture (A-1) and Resource Corridor (RC)
17 zoned property, subject to the following condition(s):**

- 18
19 1. The proposed residence, swimming pool and pool enclosure shall be located
20 in the areas as indicated on the site plan submitted to county staff on
21 January 29, 2019.
22
23 2. The applicant shall obtain and complete all required building and
24 development permits and inspections for the proposed residence,
25 swimming pool and pool enclosure as well as any existing accessory
26 structures previously installed on Parcel A without a building permit.
27
28 3. Any existing accessory structures on Parcel A that are located within the RC
29 zone shall either be relocated outside of the RC zone or removed from the
30 property prior to obtaining a Certificate of Occupancy.

31
32 **Member Bender SECONDED the motion. Motion CARRIED unanimously (5:0).**

33
34
35 **V-19-025** - Application of Joseph D. Hennessy, agent for John Wilson, owner, requesting
36 a variance to minimum yard requirements on Urban Single-Family Residential (R-4)
37 zoned property.

38
39 Susan Jackson, AICP, Senior Planning Manager, presented the staff report. Ms. Jackson
40 explained to the commission that the subject property was a corner lot that was zoned R-
41 4, which required a 7,500 square-foot lot. She went on to say the subject property was
42 11,250 square feet and that being a corner lot was required to have two front yards. Each
43 front yard required a 25-foot setback. The proposed home encroached three feet into
44 one of the required yards. She concluded that the request failed to meet four of the five
45 criteria but conditions were provided for consideration pending approval.

46
47 Vice-Chair Mills asked what was the minimum setback was on the north side.

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1 Ms. Jackson replied eight feet.
2

3 Applicant not present.
4

5 Public Participation. None.
6

7 Commission Discussion.
8

9 Member Van Dam inquired as to whether or not the floor plan was standard to the builder.
10

11 Ms. Jackson replied that it was a standard floor plan that was to be developed on the
12 property and the applicant was a builder that was building it to sell.
13

14 Vice-Chair Mills commented that he wished the applicant had been present to speak to
15 the request but seeing as it was a corner lot, he didn't have an issue with the proposed
16 variance.
17

18 Member Bender felt the builder could redesign the home.
19

20 Member Van Dam concurred with Member Bender especially since the corner lot was
21 larger.
22

23 Member Young concurred with Member Bender and Member Van Dam.
24

25 Vice-Chair Mills inquired if it was a spec home.
26

27 Member Bender referred to the applicant and owner and didn't know if the owner was just
28 trying to build the home to sell.
29

30 Ms. Jackson stated that it was unclear if it was a spec home or being built for a family.
31

32 Vice-Chair Mills asked if staff encouraged the applicants to be present at the hearing.
33

34 Ms. Jackson answered in the affirmative.
35

36 Vice-Chair Mills asked how long the applicant would have to wait to reapply.
37

38 Ms. Jackson responded that it was 12 months.
39

40 Vice-Chair Mills asked if they could appeal the decision to council.
41

42 Mr. Rodriguez stated in the affirmative but that they could only appeal what was presented
43 to the PLDRC.
44

45 Member Frank Costa asked staff if the variance was injurious to the surrounding area.
46

47 Ms. Jackson stated that staff felt it was in keeping with the area and was not injurious to
48 the surrounding area. She went on to explain that there was an intended buyer; however,
49 it was a standard floor plan. She went on to explain that while the setback had to be

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1 measured from the property line, there was a bit more area to the right-of-way since there
2 was a ditch running along both front yards.

3
4 Member Frank Costa asked if the approximate measurement was about 45 feet from the
5 roadside and if the other homes on Gardenia faced Gardenia or other avenues.

6
7 Ms. Jackson answered in the affirmative and referred to the aerial photos of the area and
8 pointed out that it was a mixture of homes that faced Gardenia versus those that didn't.
9 She pointed out there was potentially a healthy amount of tree coverage between the
10 home and the traveled right-of-way depending on how much was to be cleared.

11
12 Member Young referred to the written petition for a variance and stated that the floorplan
13 was picked by the buyer of the home.

14
15 **Frank Costa moved to approve case number V-19-025, a variance to reduce the**
16 **south front yard from the required 25 feet to 22 feet for the construction of a single-**
17 **family dwelling on Urban Single-Family Residential zoned property, subject to the**
18 **following condition(s):**

- 19
20 1. **The variance shall be limited to a 22-foot south front yard setback for the**
21 **proposed single-family dwelling as depicted on the variance site plan/survey**
22 **dated December 19, 2018, prepared by Langford Surveying CFL, Inc. The**
23 **variance shall not apply to any other future structures. In addition, the**
24 **proposed single-family dwelling shall not be enlarged, increased, or**
25 **extended further to encroach or occupy any greater area of the property**
26 **without approval of a separate variance.**
- 27
28 2. **The property owner or authorized agent(s) shall obtain and complete all**
29 **required building permits and inspections for the proposed single-family**
30 **dwelling.**

31
32 Member Young SECONDED the motion. Motion CARRIED unanimously (5:0)

33
34
35 **V-19-026** - Application of Jason and Shanna Stone, owners, requesting a variance to
36 allow more than one accessory structure in excess of 500 square feet in size on Urban
37 Single-family Residential (R-3) zoned property.

38
39 Susan Jackson, AICP, Senior Planning Manager, presented the staff report. Ms. Jackson
40 explained to the commission that the requested variance was to allow for a second
41 accessory structure over 500 square feet. She stated that in 2016, a variance was
42 granted for an accessory structure that exceeded the maximum building height and it was
43 5,100 square feet. The proposed accessory structure was to be 6,000 square feet and
44 proposed to be a garage building. She went on to explain that the subject property was
45 zoned for residential uses but the area was developed rurally. If the property was zoned
46 agriculturally, it could have more than one structure over 500 square feet. Ms. Jackson
47 explained that the request failed to meet three of the five criteria for granting a variance,
48 but staff provided conditions for consideration should the commission approve the
49 variance.

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1 Vice-Chair Mills spoke to the subdivision regulations and whether or not the property could
2 be split more than once without infrastructure being provided for the subdivision.

3
4 Ms. Jackson stated that the lots would have to be accessed by a public road and meet
5 other requirements and that it could still be split into several more lots.

6
7 Vice-Chair Mills asked if the proposed structure prevented the lot from being able to be
8 subdivided.

9
10 Ms. Jackson stated that it didn't.

11
12 Being that there were no further questions of staff, the applicant was provided the floor.

13
14 Jason Stone, 2424 East New York Avenue. Mr. Stone mentioned that he restores and
15 collects classic cars and had no intention to subdivide the property and that there were
16 oak trees lining Rocco Lane.

17
18 Member Van Dam asked about the trees between the road and the proposed building
19 and asked if they would remain.

20
21 Mr. Stone replied that he was only going to remove one tree that is invasive in Florida.

22
23 Public Participation. None.

24
25 Commission Discussion. None.

26
27
28 **Member Young MOVED to APPROVE case number V-19-026, a variance to Section
29 72-277(1)e to allow more than one accessory structure in excess of 500 square feet
30 in size on an Urban Single-Family Residential (R-3) zoned property, subject to the
31 following condition(s):**

- 32 1. The proposed accessory structure shall be located in the area as indicated
33 on the site plan submitted to county staff on January 29, 2019, and the
34 structure shall not exceed a height of 15 feet, as defined by the zoning code.
- 35 2. The applicant shall obtain and complete all required building and
36 development permits and inspections for the proposed accessory structure.
- 37 3. Any additions to the accessory structure shall not be permitted without the
38 approval of a separate variance.

39
40 Vice-Chair Mills asked the applicant if he reviewed and understood the recommended
41 conditions.

42
43 Mr. Stone answered in the affirmative.

44
45 **Member Frank Costa SECONDED the motion. Motion CARRIED unanimously (5:0).**

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1 **Z-19-027** - Application of Carolyn Evans, agent for Ronald Scott Caldwell, owner,
2 requesting a rezoning from Prime Agriculture (A-1) to Rural Agriculture (A-2) zoning
3 classification.

4
5 Scott Ashley, Senior Zoning Manager, stated that the request was for a rezoning in the
6 Enterprise area from an agricultural zoning classification that requires a ten-acre
7 minimum lot size to a zoning classification requiring a five-acre minimum lot size. The
8 owner has a potential buyer that would like to subdivide the property potentially into six
9 lots. During the subdivision review process, the actual lot yield that can be created on
10 the property will take into account such things as access and environmental issues. He
11 referred to page sixteen of the package, when speaking of the mixture of the zoning
12 classifications in the area that have minimum lot sizes that range from two-and-a-half
13 acres to ten acres in area. He mentioned that the area had lot sizes consistent or
14 compatible with the Rural land use designation and that the proposed request would be
15 compatible as well. He explained that the two classifications have some similar uses as
16 they both allowed for agricultural uses and single-family and modular dwellings. The main
17 use difference would be that the A-1 zoning allows mobile homes, whereas the A-2 zoning
18 does not. The majority of the area was developed with single-family standard dwellings.
19 He stated that staff was recommending the request be forwarded to county council with
20 a recommendation of approval.

21
22 There being no questions of staff, the applicant was provided the floor.

23
24 Carolyn Evans, 8103 Oak Tree Terrace, DeLand, had no additional information.

25
26 Public Participation – None.

27
28 **Member Young MOVED to forward case Z-19-027 to council with a recommendation**
29 **of APPROVAL. Member Frank Costa SECONDED the motion. Motion CARRIED**
30 **unanimously (5:0).**

31
32 **V-19-028** - Application of Richard T. Crist, agent for John Michael and Shelly Anne
33 Patterson, owners, requesting a variance to minimum yard requirements on Urban Single-
34 family Residential (R-3) zoned property.

35
36 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley
37 explained to the commission that the requested variance was for a home developed in
38 1963 on a corner lot, and was to construct a screen room addition on the rear of the home
39 that extended down the current plane of the home. He explained that the proposed
40 enclosure would encroach into the front yard but would not encroach any further than the
41 current home. He concluded that staff found that the request met the criteria for granting
42 a variance and provided a condition for consideration with the recommendation of
43 approval.

44
45 Being that there were no questions of staff, the applicant was provided the floor.

46
47
48 Richard Crist, 3308 Westmeath Drive, Ormond Beach. Mr. Crist had no additional
49 information.

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1
2 Public Participation. None.
3

4 Commission Discussion. None.
5

6 **Member Young MOVED to APPROVE case number V-19-028, a variance to reduce**
7 **the south front yard from the required 30 feet (30') to 22 feet 6 inches (22'6") for the**
8 **construction of a screen enclosure accessory structure on an Urban Single-Family**
9 **Residential (R-3) zoned property, subject to the following condition(s):**

- 10
11 1. The property owner or authorized agent(s) shall obtain and complete all
12 required building permits and inspections for the proposed screen
13 enclosure in accordance with the variance site plan.

14
15 **Member Bender SECONDED the motion. Motion CARRIED unanimously (5:0)**

16
17 **V-19-029** - Application of Patrick J. Bradbury, agent for the Patrick J. Bradbury Revocable
18 Living Trust, owner, requesting a variance to the waterfront yard on Urban Single-Family
19 Residential (R-3) zoned property.

20
21 Scott Ashley, AICP, Senior Zoning Manager, presented the staff report. Mr. Ashley stated
22 that the case was a rehearing of a 2009 granted variance. He explained that the 2009
23 variance had ten conditions of approval that were now revoked due to the conditions not
24 being met through no fault of the applicant since they purchased the home after the fact.
25 Mr. Ashley stated that the plans submitted for the initial home were in compliance, but
26 had been altered after the certificate of occupancy was issued and the applicant inherited
27 the problem. He stated that staff recommended approval of the variance request, with
28 modified conditions.

29
30 Member Van Dam referred to page seven of 22 and asked about condition eight being in
31 reference to a deck already being there.

32
33 Mr. Ashley stated that the deck was constructed but has been removed since it exceeded
34 the size and that the condition was provided should the applicant decide to reconstruct it.

35
36 Vice-Chair Mills asked what brought about the code violation.

37
38 Mr. Ashley stated that there was construction completed on the site that has been
39 resolved.

40
41 Being that there were no further questions of staff, the applicant was provided the floor.

42
43 Patrick J. Bradbury, 2278 John Anderson Drive. Mr. Bradbury pointed out that the
44 condition was inherited when they purchased the home and they were trying to resolve
45 the issues with the garage being front entry versus the side entry that was approved.

46
47 Public Participation. None.

48
49 Commission Discussion. None.

DRAFT

1 Vice-Chair Mills asked the applicant if he had read the conditions and if he were in
2 agreement.

3 Mr. Bradbury replied about the planting requirement and stated that the seawall was
4 paved which was permitted and approved and that they didn't have anywhere to plant
5 vegetation.

6 Mr. Ashley stated that that condition was in reference to the north side of the property that
7 went with the variance from 2009 and highlighted the portion of the property that was a
8 conservation easement.

9 Vice-Chair Mills asked if it was paved over now.

10 Mr. Bradbury stated that he was referring to the west side of the property where there had
11 been a deck which is paved now.

12 Mr. Ashley stated that there was no room between the house and the seawall and the
13 vegetation requirement had been taken care of during the environmental review.

14 Vice-Chair Mills asked if it was something they needed to take care of in their motion.

15 Mr. Ashley responded in the negative.

16 **Member Young MOVED to APPROVE a variance for a waterfront yard setback from**
17 **the required 4.5 feet to zero feet on an Urban Single-Family Residential (R-3) zoned**
18 **property, subject to the following condition(s):**

1. **The location of the home and seawall shall be consistent with as-built/variance plan prepared by Harts Progressive Enterprise Inc., with a revision date of 12-21-2018. Notwithstanding the existing pier, outside bar, and the masonry planters, no swimming pool or other accessory structures are permitted on the site.**
2. **The home structure shall maintain a two-foot setback on the northern end of the structure, and the roof overhang shall not extend past the seawall resulting in a zero-foot setback.**
3. **Seawall caps shall be designed and constructed one foot (1 ft.) above finished elevation in order to maintain stormwater on-site.**
4. **Stem wall construction is required for buildings in order to minimize fill requirements and alteration to natural topography.**
5. **Native vegetation shall be replanted along seawall as part of a planting mitigation plan to be approved by Environmental Management division.**

DRAFT

- 1 6. Any portion of the buffer area not permitted for permanent disturbance shall
2 be replaced with native vegetation according to County guidelines.
- 3 7. Owner shall dedicate an easement to the County for maintenance of existing
4 storm drainage.
- 5 8. A small 198-square foot raised wooden deck may be permitted on the south
6 side of the dwelling only, subject to compliance with applicable front and
7 side yards requirements, and building and environmental permitting. The
8 deck structure shall not extend beyond the rearmost point of the principal
9 structure.. Member

12 13 Frank Costa SECONDED the motion. Motion CARRIED unanimously (5:0).

14 **OLD BUSINESS**

15 16 **V-19-018** - Application of Randall Kilner, owner, requesting a variance to separate
17 nonconforming lots on Rural Mobile Home (MH-4) zoned property.

18 19 Scott Ashley, Senior Zoning Manager, presented the staff report. Mr. Ashley explained
20 that the requested variance was to separate nonconforming lots that were less than half
21 an acre in size that were across a public roadway from each other. The variance would
22 allow building permits to be obtained to replace a mobile home on the subject property.
23 He stated that the request met the criteria for granting a variance, and staff provided a
24 condition with a recommendation of approval.

25 26 Being that there were no questions of staff, the applicant was provided the floor.

27 28 The applicant was not present.

29 30 Public Participation. None.

31 32 Commission Discussion. None.

33 34 **Member Van Dam MOVED to APPROVE case number V-19-018, a variance to**
35 **Section 72-206(1), Nonconforming lots, to separate parcel 4124-03-00-0230 from**
36 **parcel 4124-03-00-0080 on Rural Mobile Home (MH-4) zoned property, subject to**
37 **the following condition(s):**

- 38 1. Prior to the application of a building permit, the applicant, or their
39 successors or assigns, shall file a Combination of Lots of Record application
40 through the County's Land Development Office to combine portions of Lots
41 23 and 28 as well as a vacated portion of a street out of the Unrecorded Plat
42 number 201.

44 45 Member Young SECONDED the motion. Motion CARRIED unanimously (5:0).

DRAFT

1 **OTHER PUBLIC ITEMS**

2
3 None.

4 **STAFF ITEMS**

5
6 None.

7 **STAFF COMMENTS**

8
9 None.

10 **COMMISSION COMMENTS**

11
12 Vice-chair Mills asked that the struggle the commission had with the special exception be
13 provided to council for the record.

14 **PRESS AND CITIZEN COMMENTS**

15
16 None.

17 **ADJOURNMENT**

18
19 Having no further comments from the public, staff, or commissioners, Vice-Chair Mills
20 thanked everyone and adjourned the meeting at 10:40 a.m.