



Volusia County - PLDRC Meeting April 16 2020

April 16 is now called to order. The United States of America, a nation under God, justice for all.

SPEAKER:

Good morning, everyone. I would like to thank everyone for joining us this morning on the webinar. As you can see, we are doing our recommendations and maintaining our social distancing this morning. Some of the commissioners are at their home and some of them are here today with us.

So, if I could, Yolanda Somers, can we get a rollcall.

YOLANDA SOMERS:

Shelley.

EDITH SHELLEY:

Here.

YOLANDA SOMERS:

Wanda Van Dam.

SPEAKER:

We have a revision for the 2018 minutes to consider. Is there any discussion on those minutes? Shelley, I see you have your microphone on. Do you have a comment? If I could get you to mute your microphone these. OK.

I would entertain a motion.

JAY YOUNG:

I would make a motion. We have checked the minutes and it looks good as well. I recommend three motions for all three minutes.

SPEAKER:

I will second that.

SPEAKER:

I will accept the minutes from January 16, February 2020 and a revision from October 18, 2018. All those in favour signify by saying aye. I need a roll call. Mrs Somers?

YOLANDA SOMERS: Frank Costa? Edith Shelley? Steve Costa? Mister Jay Young? Mister Jeffrey Bender? Miss Wanda Van Dam? Edith Shelley?

ALL: Yes.

SPEAKER:

After your case has been presented today and there's been an opportunity for questions, Yolanda Somers will engage your microphones at that time. I will ask you to state your name and address for the record. This will give you an opportunity to add any pertinent information and answer any questions the commission may have about your case.

We also have requested to speak for and against the cases heard today. When the cases being heard and is found to have public participation, Yolanda Somers will engage a microphone so you can be recognised. At that time, I would like you to state your name and address for the record. Will be limiting you to a three-minute time limit. I will give the commissioners an opportunity to ask questions they may have for you.

Also, after the comments have been heard I will give the applicant an opportunity to address any concerns and if there are any questions the commissioners may have.

OK, and also, I will ask all motions to be voted on to be done by Roll Call. At this time, I would like to turn it over to Mister Rodriguez for legal comments.

MICHAEL RODRIGUEZ:

Decisions by this body and special expects and cases on real property from one classification to another but you into the zoning coordination is do not constitute the final hearing. New evidence may be introduced to the County Council public hearing. Decisions on variances made by the body constitute final action subject to an appeal to the County Council. This means is that no new evidence may be present at the time of the County Council public hearing on the appeal.

If there are appeal is made on the record before his body, hearing spotters body on reason is, special exceptions are variances requires you in nature meaningless acts as a court. Their decisions on these cases must be based on competence, substantial emphasis on the record. A reasonable mind would accept the conclusion.

SPEAKER:

Venture, Mister Rodriguez. While on legal comments, I would like the commission to comment on any vote in a judicial manner and Yolanda Somers, if I could get a roll call please.

YOLANDA SOMERS:

Mister Jay Young?

JAY YOUNG:

I.

YOLANDA SOMERS:

Mister Frank Costa? Edith Shelley? Jeffrey Bender? Wanda Van Dam? Jerry Ronnie Mills?

ALL:

None.

SPEAKER:

OK, thank you. And if Mrs Shelley could turn off her microphone please.

We do have items to be continued and withdrawn. We do have case of the 2004 one as requested to be withdrawn. That does not require any action this commission. We also have

three other items of request for a continuance and we will handle those individually. The first case will be V-20-037 and they want to appear in person but that will not happen until we estimate at least June 18. Mrs Jackson, can we have the background on that?

SUSAN JACKSON:

They have requested a variance or continuance to their variance case in order that they can attend a physical meeting. We believe that is probably a 60 day continuance to the previous meeting.

SPEAKER:

OK. Thank you, Miss Jackson. Do any of the commissioners have a question for staff? Miss Shelley, if you have your Michael, can you silence that so I can recognise when you want to speak. Thank you.

OK, there is no questions on that. I will entertain a motion.

EDITH SHELLEY:

I will make a motion to continue item V 2003 7 to the planning commission meeting.

JAY YOUNG:

I second that.

SPEAKER:

I have a second, Miss Summers, can I get a rollcall on the acceptance?

YOLANDA SOMERS:

Mister Jay Young?

JAY YOUNG:

Yes.

YOLANDA SOMERS:Mister Frank also?

FRANK COSTA:

Yes.

YOLANDA SOMERS:

Mister Steve Costa?

STEVE COSTA:

Yes.

YOLANDA SOMERS:

Miss Edith Shelley? Ms Wanda Van Dam? Ronnie Mills?

ALL:

Yes.

SPEAKER:

The motion carried to carry it through to the June meeting.

Our next is Mister Watts. Miss Jackson, can I have comments on that please?

SUSAN JACKSON:

yes, we received an email requesting a continuance. They have revised information and additional information in order to be able to address the information. We are suggesting a 60 day continuance. To the meeting in June.

SPEAKER:

Thank you, Miss Jackson. Any questions. On this on? Mrs Shelley?

EDITH SHELLEY:

I was going to make a motion.

SPEAKER:

Having no comments on this. For the commission, go ahead and make your motion, Mrs Shelley.

EDITH SHELLEY:

I vote to continue 0402 June 18 18.

JAY YOUNG:

I second that.

SPEAKER:

I have a motion continues V0 040 and I have a second. Yolanda Somers can I get a roll call please?

YOLANDA SOMERS:Mister Jay Young?

JAY YOUNG:

Yes.

YOLANDA SOMERS:

Frank Costa?

STEVE COSTA:

Yes.

WANDA VAN DAM:

Yes.

RONNIE MILLS:
Yes.

SPEAKER:
Our next cases Frank to May 21 and if I could have a staff comment on that?

SUSAN JACKSON:
Pardon me? Yes, we received an email about this case. He did not specify he wanted a physical meeting. He did not require additional information to my knowledge so a 30 day continuance should be sufficient.

SPEAKER:
OK. Any commission questions on this one? Hearing none, I will entertain a motion.

SPEAKER:
Yes, I move items the V2004 three be continued for 30 days.

SPEAKER:
I motion. The Z-20-043.

YOLANDA SOMERS:
Mister Jay Young?

JAY YOUNG:
Yes.

YOLANDA SOMERS:
Frank Costa?

FRANK COSTA:
Yes.

YOLANDA SOMERS:
Jeffrey Bender?

ALL:
Yes.

SPEAKER:
OK, now we will move into the new business and I ask Miss Van Dam if she will read the case out please.

WANDA VAN DAM:
And owner of requesting variances to the medium yard requirements and the maximum lot coverage requirements, and Urban Mobile Home MH-5 zone property.

SPEAKER:

Thank you, Mrs Van down. Miss Jackson can I get the staff report on that please?

SUSAN JACKSON:

Would you like me to advance the slide? OK. This case, there are six variances associated with this case. Variance one is to reduce the front yard setback from 20 feet to 8.7 feet for a carport. Variance two is to reduce the red West side yard from 5 feet to 0 feet for an 8.3 x 9 put 9 foot level shared. Variance three is to produce the west side yard from 3 feet to 0 feet for a 10-point to shed. Then to reduce the west side yard from 0 feet to 3 feet for a deck. Variance five is to increase the maximum allowable lot coverage from 35% to 48%. And variance seeks is to reduce the east side yard from 15 feet to 4.5 feet for an existing boat left.

The property is located sorry, can you allow me to advance?

It is located on the south side of Charles Street. It is approximately 634 E. of the intersection with Nellie Street in the Edgewater area. The property is owned MH-5. MH-5 requires 5000 ft.² of Lot area and 50 feet in width. The property is 4500 ft.² and 50. It is a legal nonconforming lots. There was a variance granted a 1988 to separated from an adjacent property. It is substantial is less than 500 feet. It is typical because's waterfront. It is in the lagoon water management zone. The appropriate setbacks are fronts, 20 feet. Side, 5 feet. Rear, adjacent to the waterfront, 25 feet.

A little bit of background, in 2003, the applicant purchased the property. In 2006, there were permits obtained to construct or replace a mobile home and it included a screen room and a deck at that time. It was found at that time everything was in compliance with setbacks and with the Indian River Lagoon requirements.

In 2007, a sea wall was permitted and since that time, there have been several shots, additional decking, a carport and additional concrete pad without the benefit of permits.

The total lot coverage with the additional structures is 40% which exceeds the allowable lot coverage of 35% per standard code. The new code instruction is also subject to the Indiana river requirements.

They were issued a notice of violation with building without permits in 2018. The applicant is asking for these variants unable to apply for building permits to legitimise the existing structures.

This case was originally scheduled to go to the January 2020 appeal DRC meeting was having multiple co-complaints come in at the mean time and they have been added to the staff report. It is mainly because of the survey. The survey indicates there was a shower removed however it has not been removed and also, due to the boats lift that you see in the photograph on the right-hand side, the survey shows the boat lift, but it does not show it as of what it appears to be as close to the property line is what the photograph show.

These have been added to the staff report and are additional variances. So, when we review these particular variances, let me just advanced the slide. When we review all the additional variances, we find that that they fail to meet five of the criteria. We find that there is nothing peculiar about the parcel or the structures that would have prevented them from meeting

setbacks or lot coverage if they were properly permitted. These items could have been caught in advance.

All the issues are the direct result of the's action. Literal interpretation of the code does not deprive the owner of commonly held rights although it is the minimum variance to allow them to get building permits for the structures where they are currently located. It is not reasonable use of the property. The shed and carport can be moved or removed from the property and the loss coverage can be reduced from the current 48%.

The variances are also considered to have potentially injurious effects to the area, encroachment of the carport into the front yard may cause stacking of vehicles and impact the line of sight issues along the roadway. The location of the sheds do not provide room for maintenance around without impinging on the neighbours property. The lot coverage especially in that overlay may negatively impact stormwater and native vegetation requirements put in place to protect the environmentally sensitive water body and the expansion of the boat lift appears to impede access to the neighbours dock.

Both adjacent property owners have complained about the infringements on their property. There are some pictures of the existing structures. As you can see in the top, the left-hand side, the carport that has been included and going to the right, you see the boat lift and that was in 2007 and in 2020, there are appears to be construction going on and it has moved closer to the property line. The instances we are providing in the staff report are based on measurements we have done. These distances have not been surveyed so they are our best guess.

In the left-hand corner, you see the sheds and you see the deck. And you see a tree that is growing out of the deck and apparently that is one of the reasons the applicant as for not wanting to move the shed was to protect the tree.

In the lower right-hand use in aerial photograph of the entire property. So, staff recommends denial of all six variances because they fail to meet all five of the criteria for granting said variances however should the appeal DRC find the applicant has given competent and substantial evidence to seek approval, we have provided conditions for consideration.

I will be happy to answer any questions.

SPEAKER:

Thank you, Miss Jackson. Do we have any questions for staff?

JAY YOUNG:

I do.

SPEAKER:

When you want to speak, just turn the microphone on and I will recognise you by the icon on my set here. OK?

JAY YOUNG:

Thank you.

Will you repeat what was there in 2006 again. I lost a little bit.

WANDA VAN DAM:

In 2006, that is when a permit was issued for the mobile home and a screen room and a deck and at that time, the permit was issued for those and they all met setbacks.

In 2007, there was a permit issued for a seawall. That is the last permit we have heard of.

JAY YOUNG:

thank you. All the rest is not permitted.

WANDA VAN DAM:

Correct.

SPEAKER:

Any other questions.?

WANDA VAN DAM:

On the deck, the boat left, we were able to find an original permit for the boat lift or has that not been permitted either the original or the current configuration?

SPEAKER:

We searched our records for a permit for the original dock and we do not find one. We do see two miscellaneous permits in the records, but we do not believe those were for the boat dock. They usually for things like electrical or plumbing. A dock is usually listed as as a sensory structure or identified more clearly. We do not believe there was every permit held for the dock and there has been no permit pulled for any revisions to that dock.

SPEAKER:

Thank you.

SPEAKER:

Any more questions for Steph? OK. Hearing none. I will move on to... Is the applicant attending the webinar?

SPEAKER:

They are online. Hang on a second. Diane L Petcovic?

DIANE:

can you hear me?

SPEAKER:

Can you state your name and address for the record please?

DIANE:

yes, I am Diane L Petcovic of 124 char Street Edgewater.

SPEAKER:

Is there anything you would like to add to that?

DIANE:

there is a lot of information that I haven't seen my research and this last issue we just talked about - were you talking about the boat dock or the boathouse? There are two different things. The boat dock is a, you know, concrete structure, whatever? Which are we talking about for the permit?

SPEAKER:

The boat lift or the boathouse, not the dock. If you are referring to something that goes across the back of your property, we are referring to the structure that goes out into the water.

DIANE:

OK, you are talking at the boat lift that holds the boat. That is what we are talking about? I did find a permit for that for the original owners who had a 1990. What you found, I don't know. I did not own the property until 2003. And the boathouse was existing and the records show at the time that a permit was pulled for the boathouse to be built. That is as much as I know. If you can't find that, that is something that we need to relocate. We need to find a permit because it was there originally.

SPEAKER:

You can always provide us with with that permit information. Our records may be incomplete given the time when it was built.

DIANE:

unfortunately, I didn't put it in. I wasn't here in 1990 so I don't know how we would go back in time however that is still something that I will look into after we're done here because that is important.

SPEAKER:

OK. Understood.

DIANE:

The next question I had about what you are talking about at the beginning, and it is just something that I think I have a ready talked to people about can't it cleared up. If you go to the book page 25 it shows my lot is 50 x 131'. That is 6550 ft.². The map book is dated December 1957. I understand that is old but this area is old. There are some really old stuff here in South water. You keep talking about it, the irregular lot and you are looking at the measure point on the (unknown term) I had done.

There are two points. My plat is 50 x 131. You can only find measured points and that is what he measures. I am really confused - I checked with the tax people. She said I'm paying taxes on 6550 feet. We verified. I don't know what point you are looking at. You did not measure all the

way to 131 feet. But that is still not considering my lot is much bigger is what you are looking at. Correct?

SPEAKER:

Your lot is the size of your survey as far as we are considered so it is 50 feet divided by 90 feet. Deep. According to the survey that I am looking at.

DIANE:

OK. I'm looking at the survey in the bottom right-hand corner and you are looking at the measure point. That is not the platted point. That is why I'm confused. Are you still there?

SPEAKER:

The sound just cut out.

DIANE: am I back?

SPEAKER:

You're back.

DIANE:

That's really unclear. If I can use only 50 x 90 who pays the tax on the rest of it because you can see by the plat, as is one 31 x 50, so I'm really confused about how we are cutting it shall by measurement point. I don't understand it. How do we do that?

SPEAKER:

Mr Rodriguez?

DIANE:

you can do that anyone my property. There was another spot were remeasured 140.

SPEAKER:

I don't know what you are looking at because the plat, the survey of your property in front of us, is not what you are describing.

SPEAKER:

Legal counsel on this one. The surveys we are showing and what is up on the screen does show a lot with a 50 feet and a loss with 131 feet. There is a marking for a measurement 441-point to 9 but the survey does accurately reflect the boundaries of the lot 50 x 131 which corresponds with the measurements and dimensions of the lot of the plat. Took a look at the dimensions to the far left and you will see north 20°, 5° and 55 with a little dot is, that is the lot dimension.

SPEAKER:

they go to the middle of the canal?

SPEAKER:

That is the measurement of the lot.

It looks like there are other dimensions that were measured on the survey because you look at the eastern boundary measurement and you add 90 feet and there is a point and then the secondary point on the other side going out to 104 but the lot dimension is accurately reflected as 131. There is no inconsistencies or discrepancies.

SPEAKER:
OK.

SPEAKER:
Can I interject? If that was the case, is the variance different? Is that what we're looking at, Mister Rodriguez? I know you have to do your calculations on that but variance five...

MICHAEL RODRIGUEZ:
Variance five will be based on the overall area.

SPEAKER:
Can somebody get me the calculations?

While we're doing the calculation, variant six at they can provide the permit, proof of permit for the boathouse. Is that correct, Miss Jackson?

SUSAN JACKSON:
The way it shows, the boat lift it appears to be expanded so it still needs a permit for the expansion and it needs a variance because it is exceeding 50 feet.

SPEAKER:
OK. OK. Variant six because it has been expanded. OK. Did anybody get a calculation on that yet? Wanda Van Dam?

WANDA VAN DAM:
6530 feet, I came up with 33%. Obviously, there needs to be doublechecked.

SPEAKER:
If that is the case, variance five would not be needed, Mister Rodriguez.

MICHAEL RODRIGUEZ:
If that is how the numbers correspond. OK.

SPEAKER:
That's good. Does that answer some of your questions, Diane? It is based on legal, they just said that based on if it comes up to 33%, you would not need variance five.

SUSAN JACKSON:
We don't let the variance go by so it might be needed if you're able to do that. In the meantime, we can...

SPEAKER:

While she is doing that we can move on and address any other concerns you had, Miss Petcovic?

DIANE:

this is a neighbourhood that is very old and at one point in time, is my presentation able to shop at the bottom here? How do we get that, Yolanda?

YOLANDA SOMERS:

It's on the screen now.

DIANE:

Can you see that?

YOLANDA SOMERS:

It's visible.

DIANE:

So if you go down to the next one, OK, this is my written commission for variance. I answered all the questions, honestly and accurately, to the best of my knowledge. However, question number two, is the reason why the neighbour has filed complaints after the variance was requested by me. And in number two, the answer to my question was that all of my other neighbours are enjoying their non-compliant decks and sheds and to me, that is a hardship.

So, because at that answer, they thought I threw them under the bus and they were about to get a non-compliance notice in the mail. Now, I did this in November and they still haven't gotten a notice so is that what you guys will do after this parent meeting? After it over? You will turn this into form enforcement, and you will give them all to my neighbours? Is that how this works?

SPEAKER:

We're just here is a variance board and we make recommendations on zoning. We have nothing to do with code enforcement. I don't have any idea what they will or will not do.

DIANE:

OK, very good. Thank you. So, you know the next slide, OK, the reason I have not been able to take care of this problem since 2019, I think you actually got my first notice in 2018. Anyway, I have been, this is a hardship. I know it is my hardship and not yours. It might not even be valid for this but it is a big deal to me because I have been fighting a disease for four years and I'm doing the best I can to comply to everything you have asked me to do. I will not give up until the day I die.

This is what everything looks like and if you go to the next slide, this is my resume to show that the very path the last I had a job and was capable of working, and I have not had a job since then which is why I have not been able to also take care of the issues and the concerns that are before me from the county. I have no way of doing it. And also, when you are chronically ill and then you have a life-threatening disease, it is really hard to focus on anything other than getting better. Let's go ahead and move on. I will not spend time of this. This is my problem! Although it is affecting this issue.

Luckily, today, this is what my skin looks like. As you can see, I am not a quitter. I do not give up easily. And I'm going to keep going until the day I die. We're going to get through this one way or another and I will work with everybody that I need to every single day. So that is me. That is Diane. Just to let you know. So go ahead and go down.

Alright, this is very interesting and we didn't realise this until January. This was the little map of my lot which is 50 x 131 and that's the other reason I need to clear that up at the beginning, that is my lot size because this is an important thing. What happened years ago was that the zoning department in Volusia County changed it from a fish camp to an MH-5. The reason I know that is because the neighbours here are very old. They have been hit 40 years. No one ever knew it had changed over to her MH-5. What happened overnight, 400 taxpaying residents became non-compliant. When we calculated all of the lots, 25 lots were being compliant. That leaves us 375 non-compliant lots.

Now, that is a big deal because these people are scared to death that you are going to turn them in. That is why the neighbours turned me on and that is why people are fighting here now. My goal, sure, maybe I can get a variance, let's just work with the neighbourhood itself. How do we solve something that be? These people are scared to death. You cannot believe what happens when I put that sign up for variance.

I have had somebody pats on the back, oh, Diane, make it happen, and then some threatening people. Oh, get out. We got all going on here. It's fine. We did have to work with people we don't like. Isn't that what we do in life? But front to back is 20 feet. That is 20 x 50. The rear setback is 25 x 50. Then, of course, we have the two setbacks of five. When you added a lot, it turns out that 47.48%, almost half of my lot I am not allowed to use.

That is huge and I can only do things a half of it. I think that is the big panic in this little tiny neighbourhood where our lots are so small. Everybody has their sheds on the property line and at the end of this presentation, there are pictures of carports that are all the way out to the street and right or wrong, that is what it is. This is what I did with my lot.

This map here shows we aren't allowed to use almost 50% of our property and I really need to be explained to the property owners on how that can be. It is obviously not working out because these people already have structures within the setbacks. Like I said, 375 property owners have what I have. I do not stick out like a sore thumb. My property is set up and it is not something odd in the neighbourhood. I look exactly like everybody else.

When I called the county back in 2003 I do not get the right information. Let's work with what we have today and move forward. Can we talk about this map? Is this normal? 50% is not used?

SPEAKER:

It is normal for all properties to have a front and rear and side setback. They vary depending on the zone classification area so maybe more and some may be less but yes, it is normal code requirements.

DIANE:

I guess you didn't exactly answer that the right way.

Is it OK... To take away 50% of someone's property? Because that is what we're doing here. There is 50% that is unusable. So, is that normal? Is it normal to take away 50%?

SPEAKER:

That is not what we're debating here. We need to stay focused on the variances at hand.

SPEAKER:

Yes, may I interject you? If we could just consider here today your variances. It is not for us to decide what is normal and what is not normal. That is opinions. What we're doing is based on facts. If I could, if you don't have any other information to add, to these variances, I mean, you have provided some for variances five and six which we are considering, and I'm sure the commissioner may have a question or two but do you have anything else to add is far as the facts to this case?

DIANE:

OK, let's move to the next slide because the slide here is a fact.

This is how the boats are set up and everyone has a problem getting the boat in and out. My lot is in the middle and that is my boathouse. Each lot on either side. I went to measure the distance and you can see from one neighbour, there is 24 feet between his boat and my boat. On the other side there is 20 feet. Anybody who does have a complaint, we can all complain about that. It is very difficult to get both in and out so it takes a lot of practice and just due diligence. You just have to do it until you can get your boat in. That is kind of how the boat thing works here. So that is once again a fact, you know, that exists.

SPEAKER:

I understand what but we need to do, we are considering your property for your setbacks. We can look at the general area and see how that affects you, but as far as the actual distances of the boathouses, their properties are not being questioned here this morning. We're looking at is yours and so, if you can just give us any more information that would support your request for these variances.

DIANE:

I guess I misunderstood the hearing. I thought the planning department did the report and that I was allowed to show you my viewpoint but it sounds like what you can't take into consideration anything going on around me, going on around me, only within my lot. That is all we can consider. Is that correct?

SPEAKER:

Mr Rodriguez, would you like to give legal counsel?

MICHAEL RODRIGUEZ:

It is based on the variance and that is listed in your staff reports. Therefore, the arguments that you have raised by the applicant, requesting the variance, they have to be base that they meet the standards listed in the code. For the granting of a variance.

SPEAKER:
Right.

OK, I understand your concerns and I understand your frustration but we do have to stick to the facts of the case based upon your lot and The five criteria that we have to consider. I will ask again, is anything specific you want at your vouchers?

DIANE:
Thank you very much for clarifying that because that was not my impression. Look ahead a move to the next slide and that will show that my carport, although it is out further than it is supposed to be, that the vehicles under the carport are completely clear of anything, any visibility issue, and that was mentioned in the report. However, you can clearly see, backing out of my driveway, and then, my neighbour's car is probably on the way but other than that, it works.

SPEAKER:
OK. Would you like to move onto the next slide?

DIANE:
Yes, please.

This is a picture of the carport on the other side which would be the south facing side and the tree, which is an old cedar, the carport is as close to that as we could have gotten it. It could not have been moved back any further.

SPEAKER:
Can I get the next slide please?

OK, alright. You ready to go to the next one?

DIANE:
We will go through this then we can move on. A picture of a shed which you have a ready seen and it will see walk in one door and go out the other. I'm sorry, I'm a tree harder. I came here from Seattle. I was in the 80s standing in front of the bulldozers not letting them cut down the old growth trees. I apologise for that. It's my personality. My life is about saving trees and that is a fact.

SPEAKER:
OK, the next one?

DIANE:
Yep.

SPEAKER:
OK.

DIANE:
OK the next one is a variance for the carport. Once again, like you said, it doesn't matter because we are only looking at my property. I will run through the slides and then they may not be of use to you because they just show my neighbourhood.

SPEAKER:
Hello?

SPEAKER:
We're still here, we're looking at the slides.

DIANE:
I won't say anything about them. I will just let you look at them.

SPEAKER:
At these photos from your direct neighbours or are they in the area? What are they?

DIANE:
they are the waterfront park. We have four streets in South waterfront Park that run East and West. All four streets are set up the same. You saw at the beginning, the slide she showed you, from her report, it looks like little mobile home park, one after the other. Those pictures are from all over the neighbourhood and I still have 300 more but I knew you would not have time for them.

SPEAKER:
Thank you for that. We get where you're coming from this.

DIANE:
I just wanted to give you my opinion.

SPEAKER:
OK.

SPEAKER:
Somebody has feedback?

DIANE:
In closing, this is what I need for the variance and you have a list there. I will not go through the list of variances I need. Also, this variance is not only important to just me but it is also important to a lot of other people who live here. Because I am the type of person I am, I don't leave other people out. I will not abandon them. If it happens that we do not succeed on this, we will be back. What we have to do, what I want to do, is help out my neighbours, because we have now created an environment here of people, I mean, they were going after each other's throats and

we have a quiet, loving neighbourhood. We had people who were just getting along but now it's changing.

I understand the world is changing and maybe things like that all over the place but it does not have to be like that here. That is my goal.

SPEAKER:

OK, thank you. It illustrated your thoughts pretty well. Is there any questions for the applicant? Mister Frank Costa?

FRANK COSTA:

Thank you, Mister chair. Can we go to 33 please?

DIANE:

We are actually not able to put the pages up.

FRANK COSTA:

Just on the right of what is on-screen I think is the same.

Let me ask the questions to the applicant. What you did you purchase this property?

DIANE:

Purchase was in 2003.

FRANK COSTA:

(inaudible)

DIANE:

can you repeat that?

FRANK COSTA:

Was the carport present when you purchase the property?

DIANE:

No.

FRANK COSTA:

Was it permitted?

DIANE:

no. I got the wrong advice.

FRANK COSTA:

Yes or no is fine for these. The metal shed?

DIANE:

No.

FRANK COSTA:

number five, think we did that one. Number six, the boat lift. Was that present?

DIANE:

yes.

FRANK COSTA:

Did you extend it?

DIANE:

I will guess the length of it is 15 feet. Now it is about 18 feet.

FRANK COSTA:

Was a permitted?

DIANE:

No.

SPEAKER:

I don't have any more questions from staff or commissioners. What we will do is (inaudible)

SPEAKER:

Why did you not get permits for those structures?

DIANE:

Once again, I will tell you the reason and I know is invalid after what you told me just a few minutes ago, it is based on everybody else in my neighbourhood and what I was told. Right or wrong, I'm not going to argue with you about that. It is not the thing to do but what I'm telling you is when I inquired into thousand three, that is what I was told. You did not need need permits for the sheds and carports. Anything over 3 feet, you needed a permit for.

SPEAKER:

Any other questions? Mister Young?

JAY YOUNG:

Did you check with the county to verify that?

DIANE:

Yes, in 2003.

JAY YOUNG:

And the county said you did not need a permit.

DIANE:

That's what I was told and also the neighbour told me the same thing. Both sources. I checked around the neighbourhood and asked the county. No requirements for chefs and counties and decks lower than 3 feet high.

JAY YOUNG:

And all of these are under 3 feet high?

DIANE:

There is an additional deck that exceeds that now.

JAY YOUNG:

How about the metal shed?

DIANE:

they didn't say they had to be less than 3 feet, they said they did not need a permit because they were not considered permanent structures. They were carports and sheds, they were not considered permanent structures at the time I got them.

JAY YOUNG:

Thank you.

SPEAKER:

OK, Frank Costa.

FRANK COSTA:

I have a question real quick. The metal sheds and the carport, you said you installed those. How long have they been on the property?

DIANE:

OK, actually, I hired someone to install them. I didn't personally but they are my responsibility. They have been there 10 years or more.

FRANK COSTA:

The carport and the sheds of been there for 10 years or more?

DIANE:

Yes, correct.

FRANK COSTA:

(inaudible) a code violation?

DIANE:

Correct.

FRANK COSTA:

You got a code notice that you are in violation? For all just a particular one?

DIANE:

One for the shed and one for the carport, they were different. They came in the mail. I was, you know, whatever.

FRANK COSTA:

What would have happened for that to occur? It sounds like...OK.

DIANE:

can I interject really quickly? It is happening all over the neighbourhood. People are turning people in all over the neighbourhood. It's not just me. I'm not the only one. You know, that is why I care so much about taking care of this problem for everybody, not just me, because I will not be the last person you see. You will see a lot more after me.

FRANK COSTA:

We will just focus on you today. Thank you for your information.

DIANE:

Thank you.

SPEAKER:

I don't see any other questions for the applicant. I do have a question for staff. Ms Jackson, when was this term from designation from MH-5?

SUSAN JACKSON:

Since 1980.

SPEAKER:

OK, was the designation for fish came city different as setbacks and things of that nature?

SUSAN JACKSON:

I did not know this was a fish camp. I don't know the history and I don't know if there would've been any setback at that time.

SPEAKER:

OK. That was my question. For thank you for your input, and an opportunity we address any questions or concerns after public participation. OK, Yolanda Somers, do we have anybody, any letters, emails, anything in a post to this case?

YOLANDA SOMERS:

Yes, several.

SPEAKER:

OK, was their email sent in on this case?

YOLANDA SOMERS:
Yes.

SPEAKER:
Do we have those for the record?

YOLANDA SOMERS:
Yes, they are there on-screen.

SPEAKER:
OK, commissioners can see those. I think the commissioners email these. Is that correct?

YOLANDA SOMERS:
Yes, they were sent out this morning.

SPEAKER:
OK, all the commissioners have seen these. Do we have public participation online?

YOLANDA SOMERS:
Yes, Mister and Mrs Hauser, Marc Jones, Janet.

SPEAKER:
We will take them one at a time. Can you get those online and we will ask them their name and address for the record.

YOLANDA SOMERS:
Hauser?

SPEAKER:
Name and address for the record please.

SPEAKER:
Penny Hauser, (inaudible).

SPEAKER:
Tom Hauser, (inaudible).

SPEAKER:
Thank you for participating in our weapon up this morning. And if I can get you to please give us any information that you have and reminding you this will be limited to 3 minutes for you. I would ask you to please just state facts and that should be plenty of time. OK?

SPEAKER:
OK, thank you.

I am nervous, sorry. There is a lot of information that Diane spoke about. This code violation from 2017 per my records, nothing was said to us about any of these violations. We have plenty

of photos and my concern is that no shoulder on the lawn. I don't know how anybody can maintain...some photos from her property, trespassing on my property, (inaudible).

We also, if you look at the rail, on the line, she has a deck, two sheds, behind the shed is another deck. Those are all on the property. (inaudible) with bamboo. I have photos of that. She was making like a fence out of all these buildings and sheds. I mean, I don't know how latticework and bamboo can be but she has made her property private but we get to look at all of it. (inaudible) I don't see any support letters.

I don't see any support letters from any of the neighbours. When we bought the property, her property was an empty lot for years. (inaudible) don't cause (inaudible). We rented our property for 15 years so I have nothing else to say.

SPEAKER:

Excuse me, Council interjecting. We read the property (inaudible) and we went through the rail and to check the property and the sheds. Nothing was said to us about the sheds. (inaudible) generally would have been pretty nice and all of a sudden this wall of sheds was put up. We are trying to be good neighbours. Never said a word to her. (inaudible) looking outside.

We're good neighbours are never said a word about this. We are not the ones that are the bad guys here. We did not turn her in for those sheds but this has come about through her. (inaudible) that is all I have to say.

SPEAKER:

OK. If you add up all those graphic, it is 48 feet of stuff on the property line. You can see the deck is 10 and the sheds, 28 and (inaudible) 18 and the deck behind that is another 10.

SPEAKER:

OK, I hate to stop you but we are limited to 3 minutes.

SPEAKER:

Number one is that we just can't see out of driveway. She parks and there's a spot (inaudible) can you show the video of Diane trespassing on the lawn? Remember, where I live there.

SPEAKER:

OK. I will have to be sure to because you are limited to 3 minutes, OK? I think I have understood what your concerns are. I'm going to ask the commissioners if any of them have any questions for you, OK? Where the video running right now and it will run right through it will be able to see it.

Do any of the commissioners have any questions? I don't see any. I do have one question for you. The applicant stated that those sheds have been there for 10 years. Is that about the time you think it also has been?

SPEAKER:

That's not true. Maybe five?

SPEAKER:

Maybe six? We don't know. We don't live there.

SPEAKER:

That is a good enough answer for me. I would just try to get a more definitive answer from maybe some other participants. Thank you for your time this morning and your comments.

Yolanda Somers, do we have another participant?

YOLANDA SOMERS:

Mister Mark Jones.

SPEAKER:

Mark Jones, will you state your name and address for the record please? Are you there? Is the online?

YOLANDA SOMERS:

I think is online. We can move to Ms Moody and go back.

SPEAKER:

Mrs Moody, you there?

SPEAKER:

Hello?

SPEAKER:

Can use the your name and address for the record please.

JANET MOODY:

Yes, Janet Moody, I own the property at 126 Charles Street. We don't live there but it is kind of like our vacation home because where there a lot.

SPEAKER:

You have information you want to add to this case? Reminding you you are limited to 3 minutes, OK?

JANET MOODY:

Yes, when we bought the property, the property next to us, 124, gotta live there, easy enough to get our pontoon out because there wasn't any structure in front of it so we could kind of manoeuvre at a little bit and move it out.

I'm not sure when it was, a couple of years after, she started building an addition so she could walk around and go fishing in the canal there and wash her boat off. And when she was, we were there when she was building it. We were out there. You know, we did not know about the codes and all of this on the property setback and all of that but I did make a thing about, a comment, is this permitted?

She looked at me and says, "Shh, we don't talk about permits here", and maybe I don't know the facts, it her property, she can build it if she wants to? Since then, we have realise that because she has built that walkway in front of there, we can't (inaudible) and the additional pole. We can't get our pontoon out!

SPEAKER:

And when she was building that, I asked, I said, Diane, I don't think I can get my boat. She says Jim, you can get it out. Just go to the site. I said, Diane, that is too close. The reason I found out about that, she asked me, I didn't have to open it. I opened the letter because I was confused. My wife is confused. She is meant to be (inaudible) her coat. She cannot get out. Can't get the boat out.

The other side, there are barbs that come out. You know, I have been getting upset. I had PTSD. I was in Vietnam. I get angry. I get really mad about this. I can't get my boat out between her and the neighbour next door. They extended it out. Me looking at it, knowing, thinking, it's a property. It is her property. But there are codes you have to build by.

SPEAKER:

OK. Thank you for your participation this morning but you're three minutes are up.

SPEAKER:

We can't (inaudible)

SPEAKER:

You're three minutes are up and I appreciate your participation this morning. I will check and see if any of the commissioners have any questions for you. Any questions for the speaker?

SPEAKER:

That's all he has to say.

SPEAKER:

That's it. How long ago was it that the dock or boathouse was extended? Do you know, Mister Moody? Mister Moody? Hello? OK. Mister Moody? Hello?

SPEAKER:

Yes, sir!

SPEAKER:

Do you know approximately how long ago it was extended?

SPEAKER:

The extension was put on?

SPEAKER:

Yes.

SPEAKER:

Probably about four, three years ago. And I have a witness.

SPEAKER:

Thank you for your participation this morning and we will take your consent into consideration. OK, Yolanda Somers, who is the next participant?

YOLANDA SOMERS:

Miss Jones.

SPEAKER:

Thank you for participating this morning and I remind you your comments will be limited to 3 minutes. You may proceed. State your name and address for the record please.

ELEANOR JONES:

Eleanor Jones. We own the lot at 31 Charles St. It's east of Mr Moody. My husband Mark is online, he's having difficulties with audio. I'm not sure if he can respond. I wanted to add Mark's father, Penn Jones, was the South waterfront Park homeowners Association's president for 20 years.

All of these lots are 50 feet wide... They are all the same lots. They have all the same restraints on them. We are lucky that we have a chain link fence around or lock. We have a concrete sea wall... Mr Moody's boatlift... He was able to get his boat out prior to Diane expanding the boatlift. Which, again, was unpermitted.

She said she had a permit for the boat lift that the previous owner permitted. As far as we are concerned, there is a 15 stack... If you build your structures to close on the property line, other people are inconvenienced and can't get their boats out. They have to be 15 feet from the property line.

When you add a walkway completely around, and when you look at the pictures, you can see the boat lift is not. It is 24 feet on one side but she didn't measure how many feet it is on the other side on her presentation. It's inconveniencing the Moodys because they own this property but now they can no longer get their boat out. That's because of her being unpermitted and I don't feel that's right. And now we are being inconvenienced because we are trying to help the Moodys get the boat out, which means we can't get our boat out. It's a mess.

SPEAKER:

Alright. Your time has run out and I do appreciate your participation in this webinar. I will check to see if any of the commissioners have questions for you. I don't see any. I don't have any question so we will move on. Ms Somers, do we have any other public participation? And is there anybody in the webinar audience that is signed up for this webinar that would like to speak in favour or opposition to this case? Please let us know now. Is that it, Ms Somers?

YOLANDA SOMERS:

I believe so. I don't have any others.

SPEAKER:

If you will get Miss Petcovic back on the line to make her closing statements, we will move on.

SPEAKER:

Ms. Petcovic?

DIANE PETCOVIC:

I'm here.

SPEAKER:

Please state your name and address for the record.

DIANE PETCOVIC:

This is Diane Pekovic at 123 Charles St. in Florida...

SPEAKER:

Would you like to address any of those concerns?

DIANE PETCOVIC:

I've been here 17 years and the other neighbours have been here close to the same amount of time. This is the first time I've ever heard of any of these comments before. It would have been nice if they brought this to my attention at the time so we could have done at the time. I don't mind people complaining. I think complaints are valid and how we move forward in a system. But if you don't tell me, I have a problem with it. That's all I have to say but thank you very much.

SPEAKER:

Thank you Miss Petcovic. Now we will close it for public participation and open it for commissioner discussion. Ms. Shelley, would you like to go ahead?

SPEAKER:

It goes to the permits. We get this a lot and people need to be very aware that permits are needed. I know Miss Petcovic said she checks with neighbours and perhaps talk to someone with the county, but again, these issues would have been addressed in the permitting process. I do have a question for staff. Is there any feedback from staff regarding the questions raised about the variance in lot size?

SPEAKER:

I've been texting back and forth with other staff. It appears that based on scaling the survey, the law is 6500 ft.² and 35% of that is 2275 square feet of lot coverage based on... The lots a bit bigger. That would allow 2290 square feet of lot coverage. I don't know what their actual lot coverage is. That would be a little bit more difficult to calculate because there are strange dimensions on that. I don't have a number of what her actual lot coverage is right now.

SPEAKER:

What does that mean in regards to the request for variant five? Does that mean we will pull that? Leave on that today?

SPEAKER:

We could to a variance to either permit the lot coverage that exist today or to not exceed 35%.

SPEAKER:

Thank you. Any comment from legal?

MICHAEL RODRIGUEZ:

It will depend on the true lot coverage and structures on there. I'm going through the matrix in our staff report. If are going to set the denominator in our formula, I think it 6550, which would be the square footage, which is the $50 \div 131$. We have the matrix of the properties listed, but if they are not listed, I can't be clear if they are not additional...

There is additional decking and concrete placed on the property, which may actually affect what the true lot coverage is as the structure is placed on it. The surveyed concrete structure is not added in the overall matrix. That pushes our lot coverage if you include the structure. Pushing 46%. We could, if we want to establish what the coverage is at the present time...

YOLANDA SOMERS:

According this table in the staff report, I don't have it in the PowerPoint presentation, it says there is approximately 2174.9 ft.² of lot coverage... It looks like everything is listed there. That would actually take it under the 35%. According to Mr Ashley, it appears to be about 31% lot coverage. Somebody could do it... I can't do a quick...

If somebody can do a quick calculation of 6500 ft.²... 2174.9 ft.² divided by 6500, that should give you the existing lot coverage.

SPEAKER:

34.4 percent.

RONNIE MILLS:

Whatever the calculations allot to...

SPEAKER:

The calculation equates to 34.6 percent.

YOLANDA SOMERS:

So it's actually under the 35% requirements. So it does not require the variance.

RONNIE MILLS:

Thank you. If there are no comments from the commissioners...

SPEAKER:

Wait just a moment. Ms Van Dam?

WANDA VAN DAM:

I wanted to ask a question of staff as soon as they are available.

SPEAKER:

Can you pull Scott on? We are currently debating whether or not the concrete needs to be calculated into the calculation. Scott, can you answer that please?

SCOTT ASHLEY:

Looking at the survey, I don't know if it's elevated. There is wood decking that's elevated. The decking will be about 6 inches height, they consider that a structure. We would consider that part of the lot coverage calculation. That was not looked at and what I did because I did not have the information. In the staff report, the covered deck is included.

SPEAKER:

The covered deck is included but if the concrete is at ground level, does that count towards lot coverage?

SCOTT ASHLEY:

No, it does not.

SPEAKER:

So the 33.4% is accurate based on this drawing?

SCOTT ASHLEY:

Except for the front concrete, I didn't miss that part. Because that was slightly under. It covers more area and shows it is under the lot coverage. Based on the 6500.

SPEAKER:

The wood deck does not appear to be in this table. The covered deck is. 180 ft.². I don't know that the full wood deck is and it appears to be elevated. We would have to add that into the calculation. That would likely push her over 35.

SPEAKER:

If it's at 34.6, yes. Could well do that.

RONNIE MILLS:

Can we modify variance five to be whatever we allowed to remain?

SPEAKER:

You could. It would be that the lot coverage for this lot would constitute that which is already deemed... That's an easy one. The structure in question is the wood deck. If the area, that can be calculated, then we do have a fixed percentage. But we can't say that the variance will be that the lot coverage is based on the actual and no other structures can be added to the property. That is the threshold.

RONNIE MILLS:

OK. It was my question. Any other questions... Yes, Ms Van Dam.

WANDA VAN DAM:

Miss Jackson, looking at the two drawings on the screen right now... The one on the left, the blue is a separate shed from the purple, is that correct?

SUSAN JACKSON:
Yes.

WANDA VAN DAM:
The purple shed is not being taken into consideration here because it is far enough... If the blue shed is removed, the purple shed can remain and it does not need a variance.

SPEAKER:
Is correct. It's 6 feet from the property line...

SPEAKER:
Can we put a picture of the front of the sheds with the tree?

SPEAKER:
I think it's the next slide. That one?

SPEAKER:
Yes.

SPEAKER:
The shed on the left could remain because it does not need a variance. The small one, to the right, it looks like there is space between that tree because there is something sitting there. It looks like there is space between that tree and the shed.

My question is, could that not always be moved forward enough to get it off from the lot line because at the moment, we are at zero lot line. If you leave the shed behind the main one and we leave the shed where it is, where it zero lot line. So...it appears as though that smaller shed could be moved forward to at least get it from the zero lot line and the small shed behind the larger one could be removed in its entirety.

SUSAN JACKSON:
It might require moving up the deck. I don't know how many feet that is to the tree or how much is behind there.

WANDA VAN DAM:
And the boat left. We don't know. There is question whether it was originally permitted and we don't know what distance from the lot line it was but it currently appears to be 4.5 feet from the lot line, right?

SUSAN JACKSON:
Correct.

WANDA VAN DAM:
Thank you.

RONNIE MILLS:

Any more questions for staff or any more comments? I don't hear any. From the public participation we had this morning, the participation this morning, the biggest concern was the boat dock where they couldn't get their boats in and out.

As far as the lot coverage, I don't think the wood deck presents a problem. If the sheds are being put in there as a fencing apparatus, I can understand the neighbours on the zero lot line. I am not inclined to approve the variance for a zero lot line.

So, that is just my opinion. But I will this time, if nobody else has any comments, I will entertain a motion.

SPEAKER:

Are we going to take a vote per variance?

RONNIE MILLS:

For each one because I think we will have an issue if we do them all at the same time. Especially we disapprove them. If I could get a motion for variances individually, I would appreciate it.

Miss Shelley?

EDITH SHELLEY:

I think I misunderstood.

RONNIE MILLS:

When you make a motion, do them individually for variants one, two, three and so forth. But do them one at a time.

EDITH SHELLEY:

That is what I was asking. I will make a motion to deny, let's say, case number V-20-015 – A motion to deny variance one.

JAY YOUNG:

I second that.

RONNIE MILLS:

Any motion on that?

SPEAKER:

I didn't hear a lot. Mister Steve Costa?

STEVE COSTA:

Yes, this is Steve. I did not hear a lot of that concern about the carport. You know? I understand the need to maybe deny it but I may be often too supporting.

RONNIE MILLS:

Any other discussion on the motion? Frank Costa?

FRANK COSTA:

The outlook we were given, looking at the pictures, I just want to caution all of us before we start jumping into this. It looks to me, even if these are selected pictures, quite a few of these are basically all zero loss line structures and if we're going to go down this, we could be opening a heck of a can of worms here.

SPEAKER:

Can make a comment?

RONNIE MILLS:

Of course.

DIANE:

They might be allowed, they didn't get variance, but they didn't go through the process or could have gone through the process. Thanks!

RONNIE MILLS:

Any other comments? OK. I am hearing none. We will take a vote on it then. We have a motion to deny variance one and we also have a second. All those in favour, no, I have to take a roll call! I'm sorry. Here we go again. The old way of doing things. Yolanda Somers, can we get a roll call please?

YOLANDA SOMERS:

Jay Young?

JAY YOUNG:

I deny.

YOLANDA SOMERS:

Steve Costa?

STEVE COSTA:

No.

YOLANDA SOMERS:

Edith Shelley?

EDITH SHELLEY:

Yes.

YOLANDA SOMERS:
Wanda Van Dam?

WANDA VAN DAM:Yes.

YOLANDA SOMERS:
Motion fails.

RONNIE MILLS:
I would entertain another motion.

SPEAKER:
V-20-015 - to approve with staff conditions.

RONNIE MILLS:
To get a second?

SPEAKER:
I second that.

MICHAEL RODRIGUEZ:
I want to clarify staff question because we had a motion to deny the variance. OK, and that motion fails. It does not automatically grant the variance because - that will be the call to the question.

RONNIE MILLS:
I have a motion and a second. Any discussion on the motion? Staff recommended conditions? Any discussion? I see Mister Steve Costa.

STEVE COSTA:
(inaudible)

RONNIE MILLS:
Edith Shelley?

EDITH SHELLEY:
I'm just honoured for the vote.

RONNIE MILLS:
I have a motion to approve variance one and also I have a second. Yolanda Somers, can I get a roll call please?

YOLANDA SOMERS:
Frank Costa?

FRANK COSTA:

Yes.

YOLANDA SOMERS:
Steve Costa

STEVE COSTA:
Yes.

YOLANDA SOMERS:
Wanda Van Dam?

WANDA VAN DAM:
Yes.

RONNIE MILLS:
It past 4 to 3. Is that correct?

YOLANDA SOMERS:
Yes.

SPEAKER:
V 20 -015 to deny variance two.

JAY YOUNG:
I will second that.

RONNIE MILLS:
Any discussion on the motion? Hearing none. We will take a vote on it. Yolanda Somers a roll call please.

YOLANDA SOMERS:
Jay Young?

JAY YOUNG:
Yes.

YOLANDA SOMERS:Frank Costa?

FRANK COSTA:
Yes.

YOLANDA SOMERS:
Edith Shelley? Jeffrey Bender? Wanda Van Dam? Ronnie Mills?

ALL:

Yes.

YOLANDA SOMERS:

Motion passes 6 to 1.

RONNIE MILLS:

Variance three, and we get emotionally?

SPEAKER:

I will make a motion on V-20-015 – to deny variance three.

RONNIE MILLS:

Do I have a second?

JAY YOUNG:

I will second that again.

RONNIE MILLS:

Can I get a second and a discussion on the motion? Hearing none. May I have a rollcall please?

SPEAKER:

Jay Young?

JAY YOUNG:

Yes.

SPEAKER:

Frank Costa?

FRANK COSTA:

no.

STEVE COSTA:

Yes.

SPEAKER:

Edith Shelley?

YOLANDA SOMERS:

Motion passes 6 to 1.

RONNIE MILLS:

Variance four, I was a commotion on that one.

SPEAKER:

Yes, sir! I will make a motion, V-20-015 – to deny variance four.

RONNIE MILLS:

I have a motion to deny variance four. Do I have a second on the motion?

JAY YOUNG:

I will second.

RONNIE MILLS:

Thank you. Any discussion on that? Can I get a rollcall?

YOLANDA SOMERS:

(Takes rollcall)

Motion fails, 3 to 4.

RONNIE MILLS:

I will entertain another motion for variance four. Does someone want to put one forward?

SPEAKER:

I will make a motion. Case V-20-015 – two of fruit with staff conditions.

SPEAKER:

Moved for a second.

RONNIE MILLS:

I have a motion to approve variance four with staff recommended conditions. I also have a second. Do we have any discussion on the motion? Seeing none. Yolanda Somers, can I get a call please?

YOLANDA SOMERS:

(Roll Call)

Motion passes, 4 to 3.

RONNIE MILLS:

OK. On variance five, I would like free motion on that, if I could get one, but please keep in consideration of what Mister Rodriguez said about the existing structures that are left but I think we will follow with 35%.

MICHAEL RODRIGUEZ:

It is going to fall under what... If the one structure that is in question, it was not calculated as part of the overall calculations for lot coverage is the deck. The deck that you granted a variance for to be at 0 feet from the property line. That deck in area just by looking at the survey is going to be greater than the area that the concrete pad, and the concrete pad alone, if I added to the overall matrix, pushed the property lot coverage to 36%. We are already looking at the lot coverage that is most likely at 36+ Without giving a definitive number. I would advise this council if there is going to be a motion that the motion be made to approve and let the votes fall to avoid

the double vote because if you have a motion to approve and that fails, then the action is complete. We usually don't have votes to approve and then that fails and then denied. If it does, to go to the negative and the positive.

I believe that the board wished, when this was discussed to grant a variance to allow them lot coverage from 36% to the current lot coverage on the property taking into account the area of the wood deck. That is the easiest way for you to make a motion on this.

RONNIE MILLS:
Ms Van Dam?

WANDA VAN DAM:
Some of these have been denied and they will be possibly removed. If we approve the lot coverage which includes those, does that give the right to then replace those structures with another structure, if it meets setbacks, it's still going to increase the coverage?

MICHAEL RODRIGUEZ:
Yes. If done pursuant to permits and abiding by... In this account, taking that into account, if we set the number to the already existing than they would be able to add those structures if the dimensions are equal to as long as they fall within the setbacks. If we allow a higher lot coverage but they elect not to replace them, that's fine. That's for this counsel and commission to take into account, in increasing the maximum allowable for the lot coverage.

SUSAN JACKSON:
May be able to put the sheds on top of the existing deck, it would not create an existing lot coverage issue. As long as we meet set books, we would be well to do that.

EDITH SHELLEY:
Because we have already denied two of the items, I would not be comfortable in increasing her coverage to 36%. I am only comfortable in leaving it at the allowed 35%.

RONNIE MILLS:
The only thing with that is we have approved the deck...

EDITH SHELLEY:
But we have also taken out two items. I believe it's possible, as I heard Mr Rodriguez saying... If we removed two items for variances, I would not be comfortable in increasing it to 36%. I would only be comfortable in keeping at the allowed 35% which would be doable considering we've denied two things.

RONNIE MILLS:
Would anyone like to take a shot at that? Wanda Van Dam?

SUSAN JACKSON:

I am asking Yolanda to look at pictures. If they are on the ground, then it will change it. Give us a second. She is looking through them. Do you have a picture you can put up? I think you can just go forward in the slides. Right there. In the bottom. If they are able to open the doors, that shed must be already... There's a...

SPEAKER:
Can't tell.

SPEAKER:
Yeah. Can we confirm with Diane L Petcovic?

MICHAEL RODRIGUEZ:
The two sides whose variances were denied, they cover 143.37 ft.² in total.

SPEAKER:
If they are on top of the deck, they don't increase the lot coverage. That one might be on the ground. Can you bring Diane L Petcovic back online? Miss Petcovic, can you tell us, the two sheds, are either one of them on level ground or are they on top of the deck?

DIANE PETCOVIC:
All of the sheds are on the ground and the deck is attached to the sheds. Right now, the sheds are already consuming a certain amount of area covered. If you were to remove those, there is no deck underneath.

SUSAN JACKSON:
OK. Thank you. So removing the sheds will reduce the lot coverage.

WANDA VAN DAM:
Back to my statement, I will not be in favour of increasing it beyond the 35%.

STEVE COSTA:
I have a question for the applicant.

RONNIE MILLS:
That was Mr Steve Costa.

STEVE COSTA:
have you given any thoughts of what you will do with the sheds now that they have denied the setback requirements... Or are you going to move them to the property?

DIANE PETCOVIC:
To be honest with you, I have no idea what I'm going to do. I want to go through the process one step at a time and find out what happens. I cannot answer that question for you right now. I have no idea. I have no money. Most likely, I will sell the property at a loss and let someone else deal with it because I'm too... To deal with it. I really can't answer that.

RONNIE MILLS:

Is that it, Mr Costa?

STEVE COSTA:

This is for staff. How many square feet is equal to 1%? 65 square feet, is that it? So 1% would be 65.

MICHAEL RODRIGUEZ:

65 and a half. I think the overall, 65.50... You're looking at 65 1/2 is 1%. The overall area of the two sides that variances were denied, I think was about 130.

SPEAKER:

OK. Alright. I'm ready to make a motion to approve variance five.

RONNIE MILLS:

Let me get Mr Frank Costa on there. Go ahead, Frank.

FRANK COSTA:

Here's a question. Both for legal and for staff. Are we not supposed to vote based on the information that was presented to us by staff?

SPEAKER:

The motion is made if you believe there is evidence to support... Your motion is made in that regard.

FRANK COSTA:

The variance here is to increase from 35 to 48. Based on staff calculation that the law was only... Forget about adding the deck back in because there was never factored into the original percolation. They are well underneath the 35, so does variance five just die a natural death here without a vote?

SUSAN JACKSON:

I think what we are calculating, it may be more lot coverage than 35% because we did not calculate in the wood deck. I think that's why, I believe the motion is going to be to accept the lot coverage as it is on the lot. Not the 48%, that is incorrect because it's based on incorrect circulation of the lot.

SPEAKER:

So this motion is to change that 48% to the existing percent, then I'm OK with it.

RONNIE MILLS:

Don't think we have any other participation from the commission. I will entertain a motion. Steve, if you want to go ahead.

STEVE COSTA:

Yes. I will make a motion for case number V-20-015 to approve variance five amended to a lot coverage ratio of the existing coverage with staff conditions.

SPEAKER:

I would second that.

RONNIE MILLS:

I have a motion to approve variance five with amended to covered to the existing coverage to the approved structures, and with a staff recommended conditions. Any discussion on the motion? Ms. Shelley?

SPEAKER:

No, I'm just muted to vote.

RONNIE MILLS:

Yolanda, if you could get a roll call?

YOLANDA SOMERS:

Steve Costa?

STEVE COSTA:

I'm concerned about it. No.

FRANK COSTA:

Yes.

STEVE COSTA:

Yes.

EDITH SHELLEY:

No.

JEFFREY BENDER:

No.

WANDA VAN DAM:

No.

YOLANDA SOMERS:

Motion carries. Factor two.

RONNIE MILLS:

This is for the existing boat lift. Any discussion on that motion?

SPEAKER:

Any chance we can pull up the picture, the two pictures side-by-side?

YOLANDA SOMERS:

Working on it. Mr Costa?

STEVE COSTA:

Looking at the picture, this is of the original post supposedly permitted deck - boatlift or boathouse, either or. You can see they've added another 8 feet to the right, I'm not sure if that is East or West. At the same time, the property to the right has also increased its footprint almost by double, if not triple. When there's an argument of not being able to get their boat out, is this an issue of two people tying themselves into a knot or just the one? If that's the case, I have an issue with denying this variance as well.

The photography shows this is not the case of one owner going... When you have a neighbour doing the exact same thing and potentially impeding their own access of the boats.

SPEAKER:

We don't know if the neighbours... You need to consider that into your equation.

RONNIE MILLS:

if we were to deny variant six, they would have to bring that to 15 feet. The boathouse was permitted previously. It looks like it falls within that 15 feet also even with the addition. How are we supposed to determine that? It looks like it falls within the 15 feet, even with the addition. How are we supposed to determine that. Mr Young.

JAY YOUNG:

I agree with the neighbor and looking at it it looks like the neighbor did extended out, but he did not extend the with the visit just further out. It looks like he extended further out. That is my opinion right now.

RONNIE MILLS:

Ms. Van Dam.

WANDA VAN DAM:

If the original boat was permitted and has a permit it should say At what distance from the lot line it was permitted, so if that has previously been permitted then at this point, and Mr Rodriguez will have to jump in, we cannot deny something that may have been previously permitted. So how do we word this? Because at this point we do not honestly know if it was permitted or not.

MICHAEL RODRIGUEZ:

At this point they are seeking a variance to reduce the 4 1/2 feet. Is that the variance? Denying the variance will leave it in its current state and if in the current state it is not in violation because it was permitted, and they have at least they have the vested right to have it there, but it is a permitted structure, therefore, we need to lie on the permit.

WANDA VAN DAM:

And the permit should state what the width was.

MICHAEL RODRIGUEZ:

We have to see what the dimensions of the permit are and if you believe that his confidence of substantial evidence to support the permit location for this boathouse or boatlift or whatever it is, then so be it. the question at issue, though, if it is whatever is attached are on the water is not on the property because this is a platted canal as a right away and if we have distance from the property line, in this case, we are going to have to rely on what the permit said.

Without having the permit in front of his I cannot render an opinion or determine what it is one way or another.

WANDA VAN DAM:

So if we made a motion to amend the request you the previously permitted distance from the lot line, if there is a permit.

MICHAEL RODRIGUEZ:

If that is a case you would be legitimizing the permit to be consistent and allow the structure to be at that reduced amount it will not be consistent with allowable setback and should the structure be damaged the property owner could still replace it at that distance that is reportedly permitted, and can't state whether the structure is permitted or not. We are relying on an applicant is saying there was a permit prior to her purchase.

DIANE PETCOVIC:

There was a permit for the dock at 14 x 14 but there was an original dock permit. So that is in the files and what ever they chose to be from the setback line, I would assume then we could consider that a legal nonconforming structure at its original permitted location.

SPEAKER:

Provided it was built where the site plan said it was going to be built and if it was not built then you have the permit for the structure, but it was built in the wrong place, so then the setback would need to be 15...

SPEAKER:

Yeah.

SPEAKER:

If it was approved and they wanted to come back to us to get that setback because of an approval that was done by permit then I can see they can't come back to us for a year to get that setback requirement.

RONNIE MILLS:

But if the dock was not built where it was permitted then they would need to wait the year, correct?

SPEAKER:

That is what I was saying, but it must've been approved...in other was the permit had to be finalized at some point and if it wasn't caught then they have to come back to get that original setback approved and that would take them a year to do so because I can't comport again for a year.

(Comment from floor)

SPEAKER:

Can't hear Ms. Van Dam's comment.

WANDA VAN DAM:

Sorry. I don't think they should need to wait a year if we make the motion and if the permit for the dock is the acceptable location and that would be the end of it, correct? And for approved by permit.

SPEAKER:

Yes.

WANDA VAN DAM:

I would be more happy of approved by permit because it may not be in the right location so that is where I'm going with this.

JAY YOUNG:

The way I understand it if we approve it to be old permit, if it is in the position of the old permit it would be OK and they would not have to make any further adjustments or they could still cut it back and make it be compliant and they would not need a variance, correct? If it is not in the right location now and we approve it for the original permit they can easily constructed to the original permit and would not need a variance, correct? Legal? Is that correct, legal?

MICHAEL RODRIGUEZ:

I am trying to wrap my head around the entire question.

JAY YOUNG:

Whether the dock is in the right location or not to the old permit, if it is in the right location to the old permit it's OK. If it is not and they moved back to the original location of the old permit they would not need a variance.

MICHAEL RODRIGUEZ:

That is correct.

JAY YOUNG:

Either way than one year would kick in if they did not want to comply to the old variance.

MICHAEL RODRIGUEZ:

If they are seeking a variance from the original location and if there was a denial they would have to wait another year in order to place this structure in a location that is different from what was previously approved.

JAY YOUNG:

Right, but if they move back into the original location they don't need a variance.

MICHAEL RODRIGUEZ:

And if they need it and do have the proper setbacks they also do not need a variance.

RONNIE MILLS:

Any other comments by the commission members? I will entertain a motion for Variance 5 – I mean 6.

JAY YOUNG:

I make a motion we deny Variance 6.

RONNIE MILLS:

OK. Do I have a second?

SPEAKER:

Second.

RONNIE MILLS:

I've got a motion to deny Variance 6 and a second on that motion. Any discussion on the motion? Here and none, Ms. Somers, can I get a roll call?

YOLANDA SOMERS:

Jay Young?

JAY YOUNG:

Yes.

YOLANDA SOMERS:

Frank Costa?

FRANK COSTA:

No.

YOLANDA SOMERS:

Steve Costa?

STEVE COSTA:

No.

YOLANDA SOMERS:

Edith Shelley?

EDITH SHELLEY:
Yes.

YOLANDA SOMERS:
Jeffrey Bender.

JEFFREY BENDER:
No.

YOLANDA SOMERS:
Wanda Van Dam.

WANDA VAN DAM:
Yes.

YOLANDA SOMERS:
Ronnie Mills.

RONNIE MILLS:
Yes.

YOLANDA SOMERS:
Motion carries 4 to 3.

RONNIE MILLS:
That handles that case. Let us take a five minute recess now that we've got this one under our belt, see where we can approve to move them quicker. Be here until midnight. We are going to take a five minute recess.

(Recess)

RONNIE MILLS:
Can you hear me now? We're back. We have to move onto the next case. Could you read the next case please?

WANDA VAN DAM:
Application of William, requesting the variance to allow more than one accessory structure over 500 ft.², and urban single family residential zoned property R-4. V-20-034.

RONNIE MILLS:
Thank you. Staff report please.

SUSAN JACKSON:

There is one variance associated with this case. The variances to allow one more structure over 500 ft.² in area. The location of the property is Popwell Trail 840 feet north of the intersection with Daytona Beach. It is owned R-4. That require 7500 ft.² of lot area and 75 feet lot with. It is a conforming lot. It is to .784 acres. It has a yellow highlight.

The applicant wants to construct an 832 ft.² detached garage. The property contains a single family home and a barn. Only one structure is allowed in the zoning over 500 ft.² in size. In evaluating the request, we looked at the lot area, it is actually 15 times larger than the R-4 requirements, lot area being able to be subdivided. They need to be a blissful structure. They can be divided into as many as four.

When we evaluate the criteria, we have to find, let's go to the slide, it shows the variance site plan, the proposed structure would meet all required setbacks and, if you look at the photographs, it shows the location to the right, the location of the proposed structure. It is buffered by trees and will not be visible to any off-site properties.

The photograph that is below the variance site plan shows the existing structures that are already on the site.

Anyway, where we had to evaluate the criteria, we do find that it fails to meet three of the five criteria so technically we have to recommend denial. We find that it does not meet criteria two, three and four. The request is a direct result of the desires of the applicant, literal interpretation of the court does not deprive the owners of the commonly held pride and it is not the medium variant use of the land. There are other options.

We do find there are special circumstances within the law, primarily the size of the lot and the fact you could subdivide it and have for structures over 500 ft.² in size.

The variance would not be considered injurious to the area. The area is highly wooded. It would meet all setbacks. The applicants have provided competent and substantial evidence to support approval. We have provided a condition for your consideration.

RONNIE MILLS:

Thank you, Miss Jackson. Any questions for staff? OK. Ms Jackson, I have a question for you. I read in a report where it was attached to the home they wouldn't need the variance. Is that correct?

SUSAN JACKSON:

That's correct. It would be considered part of the principal structure if it was attached and it would increase the square footage of the printable structure.

RONNIE MILLS:

OK. Thank you very much. OK. I seen a lot of questions for staff. So, Yolanda Somers, is the applicant online?

YOLANDA SOMERS:
Yes, sir. Mister Mesick?

SPEAKER:
Yes, man.

RONNIE MILLS:
Please state your name and address for the record please.

SPEAKER: My name is William E Mesick and I live at 1749 Popwell Trail.

RONNIE MILLS:
Do you have anything to add to what was said this morning?

WILLIAM E MESICK:
It is separated into stalls because at a point they had a stable back there. The structure is very old. I opened up a stall selectable my motorcycle in there because it is not good to leave them out the rain. It is basically unusable for a garage because it has also supporting poles in there that you cannot take out. My reason for the detached garage is a lot of times, I work inside.

The house is about 20 years old. There is no way I can match up my own sliding unless I painted the whole damn place which I don't think it's possible. Anyways, I would just like it, I don't become hurting anybody I having this garage.

(Laughter)

I don't know what else I can tell you. If you have any questions, let me know.

RONNIE MILLS:
Have you looked at the recommendations?

WILLIAM E MESICK:
They want to keep it in the R-4 zoning. I bought this property, I am 84. I bought this so I could retire. I have two daughters, two and 3 miles away. The only other way to find a property like this is to go into other counties a long way away from my children. We are a close-knit family. They are here all the time. I like it.

RONNIE MILLS:
What I'm saying Sir...

WILLIAM E MESICK:
We need the garage.

RONNIE MILLS:
If we approve this and staff would like to see this with conditions. It is limited to 2 structures over

500 ft.² meeting that you could not add any additional structures or expansion to the structures. The you OK with that recommendation?

WILLIAM E MESICK:

Yes, sir. All I want is the garage. The pole barn is useful to me.

RONNIE MILLS:

Does anybody have any questions for the applicant? Hearing none. Yolanda, do we have any public participation on this?

YOLANDA SOMERS:

We received an email from Mister Hathaway but did not contain any information. We reached out. We have not heard. I do not believe there is anyone online. If so, please say you are.

RONNIE MILLS:

I will give a second for that to occur. Alright. If there is no one in the public who wishes to speak to this case, we will move on to close this for public participation now will put it up for commission discussion or emotion. Yes, Miss Van Dam?

WANDA VAN DAM:

Given the size of the property and the amount of coverage here, unless there is further discussion, I would like to make a motion to approve the variance.

RONNIE MILLS:

I see Mister Young is on the panel. Go ahead.

JAY YOUNG:

I would like to make a comment. I'm very familiar with this piece of property because I only live about a mile from it. It is out in the woods and I see no problem with that. In fact, there is about less than half a mile by the rocks row. There is a trailer park development back up their on Laurel Drive in that area. I don't see any problem with that. It is very rural, in fact. The property behind it has nothing there it all at the moment. I have no problem approving it. I have been by there 1 million times.

SPEAKER:

I will second the motion.

RONNIE MILLS:

Let's make a motion to approve it. We also have a second. Miss Shelley, do you have anything for us the moment?

EDITH SHELLEY:

No.

RONNIE MILLS:

Can I get a roll call? Yolanda.

YOLANDA SOMERS:

Jay Young.

JAY YOUNG:

I approve.

YOLANDA SOMERS:

Frank Costa?

FRANK COSTA:

Yes.

YOLANDA SOMERS:

Steve Costa?

STEVE COSTA:

Yes.

YOLANDA SOMERS:

Edith Shelley?

EDITH SHELLEY:

Yes.

YOLANDA SOMERS:

Motion passes unanimous.

SPEAKER:

V-20 – 035 requested variance to separate nonconforming plots on rural RRs own property.

RONNIE MILLS:

Miss Jackson, would you like to give the staff report?

SUSAN JACKSON:

Yes. It is to separate one parcel from two adjacent parcels and it's easier to talk about it looking at the graphics. To separate Parcel A that you can see in the middle of the aerial Parcel B to the right and Parcel C to left. Located on the north side of... Road and 175 E. of the land area and it is zoned Rural Residential (RR). It requires 1 acre and 100 foot with an Parcel A, the subject property is approximately 9.88 acres so it is just shy and has 130 foot lot width.

Parcel B is 2.39 acres and C is 1.06 acres and they both have the correct amount of lot with and both are conforming. It's just Parcel A that is not. These parcels were approved in 1988 to the (unknown term) unrecorded subdivision and they were zoned R1 at the time and required a 20,000 square-foot lot size, so they all confirmed at that time.

They were administratively rezoned in 1984 to Rural Residential (RR) with the West Volusia administrative rezoning and that is what caused the nonconformity to Parcel A. They were owned in common ownership, all three parcels were owned in common ownership between 1989 and 2015. And then between Parcel A and C up until 2018.

They are now owned separately and if the owner of Parcel A wishes to build on that property to pull a single family residential permit a variance is required to separate Parcel A from C and B. We find it meets all five criteria for said variance and therefore, recommend approval.

RONNIE MILLS:

Thank you, Ms. Jackson. Any questions for the staff? Ms. Shelley.

EDITH SHELLEY:

No question.

RONNIE MILLS:

Hearing none. Yolanda, is applicant present or online?

PHILLIP MOORE:

Mr Moore. And yes, I'm here.

RONNIE MILLS:

Would you please state your name and address for the record?

PHILLIP MOORE:

I live at 433 (unknown term) Circle in DeLand Florida.

RONNIE MILLS:

Do you have anything you would like to add?

PHILLIP MOORE:

No, sir. I done just in the future I will do some checking when it says plus or - or acre lands.

RONNIE MILLS:

Alright. Mr Young, do you have any questions?

JAY YOUNG:

No.

RONNIE MILLS:

Mrs. Somers.

YOLANDA SOMERS:

We did have public comment.

RONNIE MILLS:

Did we all receive a copy of that?

YOLANDA SOMERS:

Yes. I do not see anybody online for public comment.

RONNIE MILLS:

OK. I will close the floor to public participation and open it up for commission.

SPEAKER:

Make a motion to approve V-20-035.

RONNIE MILLS:

OK. Do I have a second?

SPEAKER:

Second.

RONNIE MILLS:

I have a motion to approve C-20-035. Do I have a second? Mr Frank Costa?

FRANK COSTA:

(Inaudible)

RONNIE MILLS:

I have no comments so we will move to rollcall.

YOLANDA SOMERS:

Jay Young?

JAY YOUNG:

Yes.

YOLANDA SOMERS:

Frank Costa?

FRANK COSTA:

Yes.

YOLANDA SOMERS:

Wanda Van Dam?

WANDA VAN DAM:

Yes.

YOLANDA SOMERS:

Motion carries.

RONNIE MILLS:

You have your motion. Move on to the next case please.

SPEAKER:

V-20-036 requesting variances to the minimum yard and maximum offense hide on residential art for its own property.

RONNIE MILLS:

Thank you Ms. Van dam. Miss Jackson would you give us a staff report?

SUSAN JACKSON:

Three variances associated at the first is to reduce the west side yard from 25 feet to 16.43 feet. For an addition to an existing single-family home and variance to to increase maximum fence height allowed in west front door to 4 feet to 6 feet, and variance three, to increase maximum fence height allowed in the north front yard from 4 feet to 6 feet. It is located on the east side of Broadway to 13th Street to sell. Require 7500 square feet lot area and it is a conforming lot.. The property is 25,425 ft.² and the appropriate setbacks are from 25 feet inside is 20 feet combined...

It has three front yards adjacent to Broadway on the west, the 13th on the South and 14th on the North. 14th Street is unpaved county maintained road. 13th to the south is a paved county maintained road and Broadway Avenue to the rest is 160 foot right-of-way containing a 20 foot wide unpaved county maintained road.

Normally the three funds adjacent to the right of way require a 25 foot setback and the east side appears to be at the end of the plat right-of-way would be consider the side yard and allowed 8 feet there is a 1 foot non-vehicular access along the property lines and these particular structures are existing.

The technician that reviewed these consider the vehicular access to be considered side yards, therefore, approve the house addition in the fences as if they were side yards rather than front yards.

So in order to legitimize the existing location of house and fences variances are required. In evaluating this request on the circumstances associated with the slippery staff does recommend approval because we feel the various successfully meets all five criteria for granting the various subject to condition. there is a variance site plan is you can see. The addition you can see goes within 8 feet of the property line adjacent to Broadway Avenue.

Although this variance site plan shows a fence on one side there is a fence along the other side as well, the 14th Street side. Here's some photographs of what it looks like in the field. You can see there's a great deal of space between the fence and the roadways associated with those front yards. And there is the staff recommendation including condition recommended that the approval be subject to. Happy to answer any questions.

RONNIE MILLS:

Thank you Ms. Jackson. Any questions for staff? Mr Costa, would you like to speak? Hearing no comment. Is the applicant present?

STEVE COSTA:

Yes, he is.

RONNIE MILLS:

I should say online.

SEAN ABERNETHY:

I am here.

RONNIE MILLS:

State your name and address for the record.

SEAN ABERNETHY:

I'm Sean Abernathy.

RONNIE MILLS:

...I believe so. Can you refresh my memory?

RONNIE MILLS:

It is on the screen right there.

SEAN ABERNETHY:

Yes.

RONNIE MILLS:

OK. And everything is fine with that?

SEAN ABERNETHY:

I believe so, yes.

RONNIE MILLS:

You have anything to add to the staff report?

SEAN ABERNETHY:

I think it is self-explanatory. I don't think we have any questions. Everything looks good.

RONNIE MILLS:

Does anyone have any questions for the applicant? Seeing none. Is there any public participation?

YOLANDA SOMERS:

I do not know of any.

RONNIE MILLS:

Would anyone like to speak on this case? We will close the floor to public participation and open it up for commission discussion. Mr Frank Costa.

FRANK COSTA:

I have no discussion but ready to make a motion. Put the motion into approved case V-20-036 the staff recommendations.

SPEAKER:

Second.

RONNIE MILLS:

I have a motion to approve V-20-036 any discussion of the motion? Hearing none, Ms. Somers, can get roll call.

YOLANDA SOMERS:

Jay Young.

JAY YOUNG:

Yes.

YOLANDA SOMERS:

Frank Costa?

FRANK COSTA:

Yes.

YOLANDA SOMERS:

Steve Costa?

STEVE COSTA:

Yes.

YOLANDA SOMERS:

Edith Shelley?

EDITH SHELLEY:

Yes.

YOLANDA SOMERS:

Wanda Van Dam?

WANDA VAN DAM:

Yes.

RONNIE MILLS:

Congratulations, Sean. You've got your various.

SEAN ABERNETHY:

Thank you so much.

RONNIE MILLS:

V- 20 - 039 requesting variance in two separate nonconforming lots and to the middle yard requirements on transitional agricultural a prison property.

SUSAN JACKSON:

There are three variances, variance 12 Tuesday rear yard from 40 feet to 3.81 feet for an existing pole barn and variance to to reduce the rear yard from 40 feet to 25.3 and variance 32 separate the subject parcel from the parcel to the south it.

There is a location map and a photograph directly to the right shows the subject parcel and the parcel that it was previously owned in conjunction with. The property is located on the north side of West McKenzie Road and west of Interstate 4 zoned A3 requiring 1 acre and 150 foot lot with and the property is just site of 1 acre.

Setbacks applicable are front at 40 feet, side at 25 feet and for it 40 feet. Property contains a single-family home call pole barn and partially constructed sets restructure an applicant purchase property in July 2016 and the applicant constructed 1580 ft.² pole barn 3.81 feet from rear property line, 36.2 foot encroachment. Recently construction began on a 43 second accessory structure 25.3 feet from the rear property line.

And the partially constructed structure. Both have been built without permits and have become code violations. It is owned in three but does not have exemption. These structures need to be permanent and they need to meet principal structure setbacks. Variants are needed in order to rectify the code enforcement issues and obtain permits for both of these structures.

The nonconforming lot history, the subject parcel was held in common ownership with the parcel to the south. It was subdivided in 1993 and the South parcel was assigned a new parcel number. Both parcels are under separate ownership and they both have single family homes on them. The survey indicated that the subject property was slightly less than an acre so, in an abundance of caution, we thought it best to include that as a variance in this case so they did not run across this problem in the future.

So, with that, stuff evaluated the criteria and found that one, it does not meet two of the five criteria, it does not meet criteria one or two, nothing to do with a lot of structures, and variance, criteria two, it is a direct result of the actions of the applicant. It meets criteria is 3, 4 and five. If it has to be moved to relocated exhibit could be deemed an unnecessary hardship.

It is the minimum to get the variance for the pole barn and we do not feel it is injurious to the area because the lot is so heavily wooded. I will go back to the photograph. It is best if you see

it. This aerial photograph down here in the lower right hand side, you can see the area to the north, it is a large parcel and it is very heavily wooded. Because of that, we do not feel it is injurious to the area involved.

Variance two, the partially constructed structure. It fails to meet three of the five criteria. It does not meet one, two or three. It doesn't meet three because it was stopped in the early part of construction so we feel that a portion of it could be moved or it could be, the construction could be stopped, and relocated to meet setbacks. However, we do find that it meets criteria for and five, not injurious to the area involved, and to allow the permits were this pole barn is being constructed currently.

Variance three, when find a middle five criteria for granting that variance and recommend approval of that. Should be found the applicant has given competent and substantial evidence, we have provided conditions for staff report.

RONNIE MILLS:

Any questions for staff? Wanda Van Dam?

WANDA VAN DAM:

Is that how it is today and no further work has been done on that structure?

SUSAN JACKSON:

That is correct.

RONNIE MILLS:

Anything else? Miss Jackson, I have a question here. This RC zoning, does it have an agricultural exemption?

SUSAN JACKSON:

It does not.

Property appraisers recognised it as an agricultural and use and had an agricultural zoning and in that case we would not require permits and they would not need to meet setbacks but when they do have an agricultural purpose as recognised by the property appraiser's office, we did not consider a better fit agricultural use and therefore any structures on the property are not in support of an agricultural use and therefore must meet setbacks and must be permanent.

RONNIE MILLS:

OK. Was that a policy change? I mention this because, if it was used for agricultural purposes, not necessarily an exemption.

SUSAN JACKSON:

I will ask if he has that recollection.

SPEAKER:

For the record, Scott Ashley. The changes in the mid-2000, if this was agriculturally zoned property, and they demonstrated a use, they would not need a permit but they would need

County zoning requirements for setbacks. It was not until 2006 and 2008 there was another change for Florida's legislature that exempted nine residential farm buildings on a farm for meeting any local code requirements.

SPEAKER:

OK, is the policy then of the county to make that determination by agriculture exemption because it does, the reason I mention this is because, to get an agriculture exemption, you need a certain amount of acreage.

SCOTT ASHLEY:

Looking at the use, the intent, the property appraisers. They need to provide that. It could be fencing, turning it into different land. They could consider feedlot and given assessment or give them a plan, a commercial plan, where maybe there are leasing the property for raising sheep or something. They need to show there is a contract or someone else using the property for agriculture use and then they will give an assessment.

RONNIE MILLS:

That was my question.

Any other questions? I hear none. Is the applicant present, Yolanda Somers? Or is he online?

YOLANDA SOMERS:

Mister Sanchez? He shows up there...

RONNIE MILLS:

Have you got his line open?

YOLANDA SOMERS:

Yes.

RONNIE MILLS:

Mister Sanchez? Mister Lopez? OK...

YOLANDA SOMERS:

I have no other people here for that case other than him.

RONNIE MILLS:

OK. Should we pursue? Or just...I mean, technology is showing he is present.

YOLANDA SOMERS:

Correct.

RONNIE MILLS:

If it shows he is present, we will continue. He needs to email you or something if you can't get through to you if you want to comment on this.

OK, we're going to move this on to commission discussion at the moment and see what our commissioners may have in opinions on this. Wanda Van Dam?

WANDA VAN DAM:

I'm hoping he can come online. I have no issue with variance one or three but given the newness of the construction of that, if that's the right term, I need some help on variance two as to why we shouldn't... Make that one meet setbacks.

RONNIE MILLS:

OK. Any other discussion? I kind of agree with you but, here is where we go with this. If this was a residential lots, that setback for that side yard, is it not, Miss Jackson?

SUSAN JACKSON:

I believe it is.

RONNIE MILLS:

And that would only be five on a residential lot.

SUSAN JACKSON:

If it was that RR zoning. I have to speak into the microphone. If it is over 500 ft.², it needs to meet principal structure setbacks. But, if it is a side yard, 25 feet in this case is what it needs to be.

RONNIE MILLS:

It is 25.3.

MICHAEL RODRIGUEZ:

It is a really weird one.

SUSAN JACKSON:

And is to be a 40 foot setback. It does say that in variance two. Are set back a 40 feet.

RONNIE MILLS:

On that zoning, I guess my point is, if this was a residential lot, what with the rear yard setback be?

SUSAN JACKSON:

It depends on what the zoning classification would be. It could be 20 feet. It could be 25 feet. The structure, the accessory structure, how many extra feet is it? 843 ft.². It would have to meet principal structure setback so that, say it is 25 feet at most.

RONNIE MILLS:

OK. OK, this is my train of thought. He is out there in the middle of nowhere. He can meet the set back with requirements of zoning. 25 for, I mean, to me it seems sufficient enough. Is it the least amount he can do? That is a question I guess we would have to ask him.

Still can't get him online? Mister Lopez?

YOLANDA SOMERS:

He seems to have locked out.

JAY YOUNG:

I notice from looking at the bottom picture, I see on the drawing there is a well. Looking on the bottom picture, I see it looks like there is a well pump and a tank and what have you which would make it kind of a problem for him to move that forward a little bit. So I am inclined to go with it because it looks to me like there is a pumping for that well, the drawing for the well. If I'm looking at the bottom picture, it looks like there is a pumping tank and all of that so I am kind of reasoning that he has backed that way because of the fact that that pump is in the way and his location is kind of tied down. I'm inclined to go with it. Thank you.

RONNIE MILLS:

Steve Costa?

STEVE COSTA:

I want to point out one thing for the council to consider. The property appears to be out in the middle of nowhere. That area is rapidly developing though. The property next door to which is owned for multi-family residential units. There is a property directly to the east and I'm currently marketing the property. You are going to have three or four storey buildings next to it. I don't know that changes opinion but that is where we are at with that.

>> If I could just point out the applicant. His English is not his first language.

So he may have difficulty communicating. I believe that he was working with his son to be able to communicate to us today. So I don't know if that has some impact on why he is not speaking online.

>> Okay.

>> I believe I've met in applicant before doing some construction work. It is challenging to understand what he is saying. But he's a very nice gentleman. And he did ask if he could buy things from the owners and the property declined so he tried to rectify it that way too.

>> Any other comments from staff? Mr. Frank Costa.

>> I'm ready to make a motion. 2-30129 approval with staff recommendations.

>> The Chair: Do I have a second.

>> I will second that. This is J. Young.

>> The Chair: Mr. Young. I have 1, 2, 0, 3 with staff recommended conditions. Any discussion on the motion? Mr. Young do you have a discussion on the motion.

>> No.

>> Anyone else? Okay. Can I get roll call please.

(Roll Call)

The motion carries unanimous. Chair next one please.

>> Michael Santos on planned unit very much property. V-20-042.

>> The Chair: Can we have the staff report please.

>> Yes, sir. This is a variance to a lot coverage issue to the spruce creek PD. It's a variance to section 2.1.3 of the Spruce Creek development to increase the maximum lot coverage from 30% to 30 -- to 34.6%. The property is located on the west side of Lindberg lane, approximately 150 feet north from its intersection with slow flight drive in the caps caps port original caps caps.

>> CAPTIONER: In the -- the situation is we agreed that that agreement limits them to a 30% lot coverage but it doesn't define how to calculate lot coverage in that event we have to rely on how the co- calculates it. We look at it from the grown up which is by principal and accessory buildings.

In the Spruce creek development. All have to be approved before the county will issue a permit. And when they approve a plan that comes before them, they don't count those -- the types of open -- like porches or open roof areas like covered porches. Whereas the county does count those towards meeting lot coverage.

So in this case, the architectural review board calculates the lot coverage at 29.9%. So it's below their 30% threshold.

When we calculate it as they originally presented it, we calculated it at 35.8%. The applicants have stated that they will remove the roof over an outdoor kitchen. And you can see that on the variant slight plan to the right --

To the left. And when they remove that, the calculation drops to 34.6%. So that's what the variance is for. From 30% to 34.6% lot coverage.

I would like to point out that our standard code allows a 35%. So they are under our normal standard code for lot coverage

In evaluating this clearance it fails to meet two or three criteria.

It fails to meet three or four literal interpretation. It does not deprive the applicant of common rights. All of Spruce Creek is requiring the same requirement and not meeting the minimal use of the land. However we do find it meets criteria 1, 2 and 5. Special circumstances are associated with the properties in Spruce Creek because of the interpreting of lot coverage. The applicant is not responsible for the coverage. And the review board has already approved the plans. And it meets our standard lot coverage requirement of 35% or less.

If the board finds that the applicant has provided competent and substantial evidence we do provide conditions for your consideration.

>> The Chair: Thank you, miss Jackson. Any questions for staff. Michel I will.

>> No, sir.

>> The Chair: Okay. Hearing none. Is the applicant online? .

>> Good afternoon. Chair yes, Mrs. Santos, can he get your name and address for the record, please.

>> Yes, dawn desantos.

I'm here with my husband Michael desantos we currently reside at Exclusion Drive in Port Orange. Cams.

>> The Chair: You Heard About the Conditions in the Staff Report. Do You Have Anything to Add to That.

>> Well, the Only Thing I Would Like to Add Is on Literal Interpretation, Number 3, That the Entirety of spruce creek Subdivision Has a Lot Coverage of 30%. Back in 1995, by Believe It Was, the Developer's Agreement Was in Fact Modified to Include 45% and Unfortunately that was for all future development. Unfortunately they did not include units 1 and 2 of the or not subdivision in that increase in maximum lot coverage. So just the exception to the entirety of Spruce Creek the majority of Spruce Creek does in fact have a 35 maximum.

>> I will refer to Scott with regards to that.

>> The app is correct. Units 1 and 2. And the unit 2 is broken into subdivisions A through D. They have a 30% lot coverage.

That is based on the historic Spruce Creek document and it's called the existing development under the nine 5 area. The area is on the deed document and based on the restrictions with the 95 document. The future document tracks like Cams eagles nest and Other Subdivisions Have a 35% Lot Coverage.

>> The Chair: Thank You. So Mr. Santos Have You Looked at the Conditions in Any Event This Variance Is Approved.

>> Yes, We Have.

>> The Chair: Do You Have Any Problem with Those Conditions.

>> Actually, No, We Do Not. I Work Individual Closely with Ben Walker while he was doing his initial review for the zoning and we had discussed the remove of the roof area over top of the outdoor kitchen which would bring us down tot 34.6. And we take no exception to any of those conditions.

>> The Chair: Okay. Alright. Let me see -- let me see if we have any questions for you. It looks like we do not -- from the commission. Let me see if we have any public participation from this case.

>> We do have two online. Mr. Buckman and Mr. Lawrence.

>> The Chair: Mrs. Santos I will give you a chance to respond Toni public concerns once the speakers have spoken. So if we could get them online.

>> Apparently they have no comment. They have left.

>> The Chair: Okay. They then we will get back to unless you've got anything else to add, Mr. Santos we will post this to public communication and move on to public discussion.

>> I would like to add -- just a little bit of history. When Mike and I purchased that the lost back in 2019 in April. We had a concept planning to. We spoke with a local architect down here. Everyone here -- we were trying to sell our home in New York to move down here.

When we actually had concept plan. And we met with the ARC before we did final plans in September of 18 and said okay, this is what we are looking at. This is what our ideas are. You know, get their input. Get their thoughts.

It was recommended by folks here in the creek that we would meet with them on a preliminary basis. Which we did do. They took no exception to anything that we were proposing. And we carried on with the full set design plan, landscaping plan, drainage plan. Met with the ARC again in November of 19. It was actually approved in one meeting.

You know, providing all of the information that they require. And meeting all the requirements of the developers agreement. And our thought, the 30% coverage as well. So it was a little -- we were actually hoping to be under construction last January. We see that's not going to happen now.

We are currently residing here.

We did sell our home in New York. We moved in September. We are renting a home right now. And we are looking forward to just getting our home under construction. If we have to go for a complete redesign on it to try and knock down to below 30%, it's a modest element. It's just 2400 square feet. It's a single storey for age reasons, of course. And we are hoping that if we do have to go back and reinvent the wheel, so to speak, it's going to take 1, a lot of time, and 2, a lot of money. If we had known back in 2018 we certainly wouldn't have gone this route.

So whatever consideration the board members could give us is certainly appreciated.

>> The Chair: Thank you very much. And now we will close this to public participation and open it up for commission discussion or a motion. Mr. Young.

>> Well, I've been this a couple times in my endeavor with Spruce Creek. And I make the motion we approve the 20-0302 with the Klee conditions since they varied the one for us. So I recommend we approve it with the three staff conditions.

>> The Chair: Do I have a second.

>> I will second.

>> I will second that.

>> The Chair: I have two seconds.

Thank you very much. We got a motion to approve V20-042 with these staff recommended conditions. And we also have a second. Any discussion on the motion? I don't any we are going to have.

That let's do a roll call. Miss Summers.
(Roll Call)

The motion carries unanimous.

>> It's difficult to hear.

>> The Chair: We will try to speak a little louder.

>> I would like to thank the board for your consideration. All stay safe and well.

>> The Chair: You too. Thank you very much.

>> Thank you. Our next indicate.

>> V-20-044. Application of Dustin Voss and Che yen Mills owners requesting a variance on property.

>> The Chair: Thank you, miss van dam.

>> Yes, sir, there is one variance associated with this case. It's a variance to reduce the north side yard from 25 feet to 16.5 feet for a 750 square foot accessory structure. The property is located on the road. Property requires 2.5 achers and 150-foot lot width. The property is 3 achers in size and 198 lot width. It is a conforming lot.

So in September of 2019, a notice of violation was issued on this property for construction without a permit. They were building a dog kennel in the rear of the property. And you can see in the bottom -- the survey graphic with the yellow lines around it, you can see the little red box where the dog kennel is located. Thank you.

The yellow indicates what the setbacks are. So it shows that encroaching into the setbacks by approximately 8.5 feet. That particular location was chosen by the owners because it's kind of covered in a little bit of a wooded area of the property to shield it as much as possible from the property to the north. And where it's located it meets the rear yard setback to the east. And of course all the other setbacks it just encroaches into the north side yard.

This being agriculture real property so it has to meet set backs and therefore must meet a 25-foot setback. When staff met its advance, we found -- I wanted to show you a picture of the dog kennel. So it's a fairly substantial dog kennel and it's patiently under construction. We are stopped in the middle of completing that construction. But it's got a metal roof. It's a nice looking dog kennel.

And you can see the trees in the background. So when staff evaluated it, we found that the variance failed to meet three of the five criteria. It does not meet criteria one, two or three. There are no special circumstances associated with the lot or the structure. The applicant is responsible for the need for variousian. Because they didn't attempt to get permits in advance. They would have known what the setback was. And literal interpretation does not derive the deprive the applicant of rights. This would allow the structure or patiently constructed structure to remain where it is and it would not be for the area. It's located on the owner's property and shielded from view from the most affected neighbor to the north. Its 90 feet from the near property line and over 150 feet from the nearest house. So there are letters of support in your

agenda panel. And should that appeal, you find that the applicant has provided competent and substantial evidence. We have provided conditions for your consideration.

I would also like to note that -- it's a large dog kennel. It looks like there's a lot of dogs there. But any property that is greater than one acre in size but less than 5-acres in size is allowed to have up to 8 dogs. And if they are a hobby breeder -- that is something they would have to register for -- they would be allowed to have additional dogs. But in this case just for his own personal dog he is allowed up to 8 dogs. So with that I'm happy to answer any questions.

>> The Chair: Any questions for staff? I don't see any. Is the applicant present, Ms. Summers or are they online.

>> Mr. Vos.

>> The Chair: Mr. Voss you can state your name for the record.

>> I live at 68th avenue?
Springs.

>> The Chair: You heard the staff report and the condition it's approved do you have anything to add or would you like to comment on those.

>> Yes, I'm a first time property and homeowner. I because the property I think three years ago. And I guess I was just really unaware of a lot when it goes to building something like this or anything -- a structure. And that was my fault. I guess I was just really unaware. But I've done everything that y'all needed. And as far as engineered plans, you know everything. A lot of money tied up into it.

The property resurveyed. I've done everything I've needed up to this point. I'm not a breeder by no means. These are just my personal dogs. I have seven dogs as of right now that I use for my -- what I do, you know.

>> The Chair: My question is did you see the staff recommended conditions? There's -- evidently there's a metal shed that would be removed. Are you familiar with that condition.

>> Yes, sir. It's ongoing right now.

I tried to apply for a permit. And something was wrong with the title company. I guess -- I'm working on getting it unified right now through the county. I guess when I because the property -- I guess the title company, they never said nothing about.

It so they -- I paid \$150 to get it unified and processed right now. So that's ongoing right now.

>> The Chair: So the shed was there when you purchased the property.

>> No, sir.

>> The Chair: Okay.

>> It's supposed to be temporary. It's been removed. I just don't have anywhere to put a few thing. All I got is a garbage right now.

>> The Chair: So 90 days will give you sufficient time to do something.

>> Yes, sir.

>> The Chair: Okay. Alright. Any questions for the applicant? Okay. I'm going to see if there is any public participation. If there is, I will give you a chance to come back and address any concerns or comments.

>> Okay. Thank you, sir.

>> The Chair: Alright. Ms. Summers do we have any public participation.

>> We do. We received some that were emailed out to you this morning and last night.

>> The Chair: Okay.

>> Ms. Fleshman Fleischmann is online as well as her reputation.

>> The Chair: Can we hear from her.

>> Miss Nika.

>> 231231 North Boulevard. Chair let me let me remind you do have a 3 minute lymph for your comments.

>> We just wanted to note we sent a letter to the property owner and they had some concerns. If you could please review the letter and look at what is outlined in that letter. They are concerned there may be injuries to their property and to themselves as they do have some medical conditions, and that that could be impacted with these kennels and with these dogs. So we asked the board to please consider that letter and to reference that when are you making a decision.

>> The Chair: Okay. Are there any questions for the speaker? Ms. Shelly? She just turned it back on.

Any questions? When you say there's an impact on their condition, would the difference be made from the 8 feet that -- 8.5 feet if he had to move it in a little bit further? What would be the difference.

>> Mr. Chair, this property owner is actually located to -- they are not the ones adjacent -- let me get the directional on the survey. These are the -- let me make sure I get my north, souths and east correct.

>> Niece are the eastern property owners, not the ones from the north.

>> We are aware there are 3 make acres of land and additional feet remaining to move where it's located in our client. And based on where their home is, and the fact that it was located so far back. Closer to their home on the eastern side.

So we are trying to make sure you understood their concerns and consider that. You understand that the nature of the request is not for the set back. It will be the on the north side.

>> The Chair: Okay.

>> To interject, where the kennel is located it's 90 feet to the rear property line. And that's set back is a 40-foot setback. So it far exceeds the setback requirement.

>> The Chair: Mr. Frank Costa do you have a question, sir.

>> I thought she was mentioning that the folks who were off the proposing that they would be okay with.

This I don't think that's the case. I think I misunderstood what she was trying to say. There are no conditions that are accepting of what is in front. Us today. Is that correct.

>> Correct.

>> The Chair: Okay. Thank you. And we will go to our next participant for the public.

>> Ms. Fleischmann.

>> I believe I misunderstood what you said. There are no conditions that they would be accepting what is in front of them today. Is that correct.

>> Correct.

>> Okay.

>> Ms. flesh man are you flesh man are Mrs. Fleischmann --

>> The Chair: If you can turn the volume down on your computer a little bit.

>> (indiscernible).

>> Are you looking online.

>> I am, you can hear me.

>> (indiscernible).

>> The Chair: Whatever you are livestreaming on I need for you to turn it down so we can hear you -- your comments.

>> (indiscernible).

>> Okay. Does that make it better?

>> The Chair: Yes. If you will state your name and address for the record.

>> Is it better.

>> The Chair: We can still hear it a little bit. You can turn it down further.

>> Yes.

Okay. And you are hearing me okay now.

>> Are you leaving your livestream on I need you to turn it down so we can hear you.

>> I think it's that.

>> It's being recorded.

>> I don't have anything on. It's just repeating over and every.

>> You can turn off your livestream. There's a delay with the livestream. So if you turn it off you won't have that.

>> I'm sorry but I'm not more proficient with this means of communication. My name is Brenda Fleischmann. I live at -- my husband raffle and I live at 610 is daily in the springs. Chair are you on the phone, madam.

>> Turn off your livestream.

>> Okay.

>> The Chair: Just shut your website off for a moment.

>> I'm just in front of my computer.

Namely. I'm sorry about this. But any way, we are to the north of Mr. Voss app property. We are heavily impacted by the dog kennel. So it has been -- we felt compelled to speak up. Because we are -- according to your numbers, the 150 feet from the dog kennel to our front door -- to our house. Which is very much going to be impacted by the noise and the smell of the dog kennel.

Another thing that we are concerned about is the level of any water, any excess water that it will effect the ground water in our well. Because topographically speaking, the dog kennel and the well are on the same -- at the same elevation.

And not much of a mound in between them. It could easily seep into our well. And my husband already has bacterial concerns. And we would hate to see our water contaminated.

But chiefly, this is going to effect the value of our property -- value of our property as well as our not being able to enjoy living here if those dogs bark all the time, which I'm inclined to think that wall Walper Hounds do.

And even worse would be the smell.

>> The Chair: My question would be 8.5 feet make any difference.

>> Did that come through?

>> The Chair: Would 8.5 feet make any difference?.

(Audio Difficulties)

>> The Chair: Madam, you can hear me.

>> Did that come through.

>> No, not realism you know it wouldn't.

>> The Chair: Well I think that's the reason I was asking.

>> But if he had to relocation the dog kennel, that would be much better.

>> The Chair: But he is allowed to put it from within 8.5 feet from where it is now.

>> Closer to his house than ours.

>> You can hear me? Ours.

>> The Chair: Does anyone have any questions for the speaker?

Thank you for your input and we will take that into consideration. Do we have anybody else, Ms. capsomers.

>> No, and for the record, Ms. Fleischmann's property is to the east which is marked by this arrow right here. And the setback is from the north.

>> The Chair: Okay.

>> The Chair: Mr. Frank Costa I see you online.

>> Yes, sir.

>> You currently own dogs.

>> Yes, sir.

>> How many.

>> Yes, sir.

>> Are they currently on this property.

>> No, sir.

>> So they haven't resided on this property. They haven't been there for any amount of time.

>> No, sir.

>> For the neighbors to have gotten accustomed to the dogs barking or not barking.

>> No, sir. They have not been there.

>> Alright. Thanks.

>> Thank you.

>> The Chair: Any other questions? Mr. Voss you heard the public participation, their concerns. Is there anything you would like to add to that or comment on.

>> No. I know she said she lived to the north.

That's not right. She lives to the east. My neighbor to the north is actually the property that it would be encroaching on but I've known him for 15 to 20 years.

We are pretty close friends. And he's the one that read the letter. As far as the smell goes, I don't know where she is thinking it's going to smell. It's nothing like that. And the barking -- you know they make sprinkler systems now to where if a dog barks it's like a little mister. They quit barking so she wouldn't have to worry about that. And the elevation, her house is -- I think probably 10 to 15 feet higher than my elevation in the property in the back where the dog pen is. So I'm not sure about that. What she is saying.

>> The Chair: Okay. Any other questions for the applicant? Okay. Alright. Sir. We are going to close the floor for public participation and open it up for commissioner discussion.

>> Mr. Mills, MRs. Fleischmann Would Like to Say Something.

>> The Chair: Would Any of the Commissioners Like to Hear What the Speaker Had to Say?.

>> I'll Listen to Her. Go Ahead.

>> I'm Sorry. We Misspoke. We Are to the East. But Other Than That It Does Not Change Anything I Said. I misspoke at first.

We are not to the north. We are to the east.

>> The Chair: Thank you very much for correcting that. Ms. Vandam.

>> Yes, I just want to comment in a I don't want the public speaker to think that we aren't taking her concerns into consideration. But the issue is not whether or not he is allowed to have the

dogs or the kennel. The issue is whether or not he can go into a setback. And given the size of the property, the tree coverage and the fact that he does have a letter of support from the neighbor that is to the north, I'm inclined to make a motion to approve case number V-20-044 with the staff recommendations.

>> I will second that motion.

>> The Chair: Okay.

>> Ms. Fleischmann has her hand up again.

>> The Chair: We have closed the floor to public participation. We already have a motion on the floor. Where was I? We have a motion and a second to approve V-20-044 with the staff conditions.

>> Correct.

>> I'm sorry I make a motion that we approve V-20-044 with the staff recommended conditions.

>> I second that with the staff recommendations.

>> The Chair: A second on it. Any discussion on the motion? Hearing none, Ms. capsomers can I have a roll call.
(Roll Call)

The motion passes unanimous.

>> The Chair: Next one.

>> Thank you.

>> The Chair: You're welcome.

>> Next application for Joseph Hopkins. LLC owners requesting a variance to offstreet parking requirements on shopping center B3 zone property.

>> The Chair: Can I get the staff report on that.

>> Just a second here.

>> Are you doing it? One more slide. So this variance is to allow the maximum allowable offstreet parking requirements to increase to 156% of the minimum required spaces. The property is located -- it's a commercial property and it's located on the west side of ocean Shore build and Ormond Drive. The B3 requires a 10-acre lot area. The property is 10.6 acres and it exceeds the lot width on all three sides.

Ocean Shore Boulevard Cams and Cams Long Wood Drive. So this is the mall. And it's currently riding from a bank to a restaurant. An 84-seat restaurant. The restaurant code allows

five spaces per 1,000 gross floor area whereas a bank could be 1 per 1,000. So the appear captain wants to add 11 additional spaces. And you can see in the graphic to the right the areas where the circles are. Those currently are -- I'm not sure if they are landscape island but they are not parking spaces currently. And the applicant wants to insert parks spaces into that area.

So what that would do is currently that parking lot exceeds our max -- our maximum code allows 125% of the minimum requirement. This site, however, is currently approved at 154% of the minimum requirement.

That occurred apparently in 2009 when it was undergoing -- the shopping center itself was undergoing a renovation for the anchor tenant. And it was not approve the through the variance process but through the final site line process. So now it's coming before us for a variance to increase the parking by 11 additional spaces which equatings to 2% greater than its currently approved at through the final site plan approval process.

This particular parking lot also serves -- it sort of serves that overflow parking for beachgoers. The parking lot doesn't just serve the properties within the development. Because it is used by out of town folks that are trying to get to the beach when they are not allowed to drive on or there's no other parking in the area. So it does serve as kind of a community purpose as well.

So in evaluating this, we find that the variance actually meets all five criteria and have recommended approval subject to the three conditions that are provided. Do you if you have any questions I would be happy to answer.

>> The Chair: Any questions for staff? Hearing none. Is the applicant present? Mrs. summers.

>> RANSMIT

>> Mr. Hopkins.

>> The Chair: Okay. You heard the staff report. Are there any recommended conditions on this one.

>> Yes, any are on the screen.

>> The Chair: Have you seen the recommended conditions in any event that this passes.

>> Yes, sir, I have. And we accept the conditions.

>> The Chair: Alright. Sir. Is there anything you would like to add to the report.

>> I think all of these numbers going back and forth with regard to the parking and the percentages and so forth, I think the reality is that when the council adopted the revised parking standards back in 2012, this particular restaurant had 84 seats and ten employees with only 15 stalls being required would require about 6.2 persons per vehicle to attend the restaurant. And you know it starts to be unrealistic in a certain sense and I think when staff wept back and looked at the ITE manual and saw the recommendations from ITE which would be 33 spaces, it

helped justify our position. And with Ann anchor tenant, they are always nervous about other restaurants or other tenants and so forth taking advantage of the parking field.

So the need for the additional parking is propagated by the anchor tenant and we would appreciate the commission's support and get this moving.

>> The Chair: Thank you, sir. Any questions for the applicant? Hearing none I will see if we have in the public participation. Do we have any public participating.

>> No, I do not.

>> The Chair: We don't have any public participation. So we are going to close the floor to the public and open it up for commission discussion.

>> I move to approve. Chair turn on your microphone.

>> I move to approve V-20-045 with staff recommended conditions.

>> I will second.

>> I will second that motion. Chair we have a motion and a second. Any discussion on the motion? Seeing none. Yolanda can I get a roll call, please.
(Roll Call)

The motion carries unanimous.

>> The Chair: Thank you very much. Ms. Vandam.

>> Thank you very much.

>> The Chair: Are you welcome, sir.

>> Next case is V-20-046 application of Jessica Gow attorney for Michael J. and I will Saka hill owners requesting variance to the minimum yard requirements on a zone property.

>> The Chair: Thank you very much, Ms. Vandam. Can we get the star report.

>> There are three variants, variant one is to reduce the south side yard from 20 feet to 22 feet for an existing single family dwelling and veryiance two to reduce the existing yard from 5 feet to 3.5 feet for an existing structure and variance 3 Toronto increase the fence height from 4 feet to 6 feet. The location of the property is on the northwest corner of the intersection of chestnut avenue and Blue Springs area. It requires 75 feet lot width. The lot is conform us. It is 12090 square feet.

And as you can see it is a corner lot so the corner lot requires two fronts and adjacent to the rights of ways and two side. So the required setbacks adjacent to the front are 25 feet. And then the sides are 20 feet combined with a minimum of 8 and one side yard.

In addressing the variances, the variance for the single family home, the existing home. It was built in 1987. It was permitted and constructed. And it encroaches 3 feet to the front yard. The encroachment wasn't noted at the time and noiarants why obtained for it. So not exactly sure were why the encroachment was there but it's been there since 1987. So this variance is being presented in order to legitimize it in its current location. Variance two is with regard to a shed in the rear yard. And you can see the shed in this photograph to the right. At the top right.

The shed is seen in the rear of the property. And it's within the 5-foot setback. It encroaches 1.44 feet into the side yard setback. As you can see there's a fence and the vegetation has grown up around it. It appears to have been put there in about 2009. So it's been there for a little over ten years.

And then variance 3 is to the fence. Which you can see in the bottom two photographs are the fence in question. That fence is along Chestnut Avenue. And it appears to have been constructed in about 2010. In nine 5 there had ban fence permit polled. And that allowed a 6-foot fence at the 25-foot setback which is where the house is sitting.

If you look at the actual variance site plan, where the house is along Chess Nut Avenue. Yes, that is perfect, Yolanda. That was approved going straight off the house. But around 2010 it appears to have been removed and replaced.

Now it's where that red line is. And it is -- at its closest point 11.3 feet from the front property line. But as you can see over time -- I think it's a cedar bush or whatever has grown up. The fence appears to be much further back from the Roy right-of-way as can be seen in the photographs here.

Any way in order to maintain the shed and the fence in their current locations the variants are being requested.

When we evaluate these requests for variants in the house we find it meets all five criteria and recommended approval for variants 1. And for variants 1 and 3, we find that the variants fail to meet three of the criteria and therefore have to recommend denial. I would like to point out a correction to the staff report. The staff report actually says it fails twocy Terwillegaria. But I counted it up when I was writing my talks points up and it's three. So what -- for variants 2 and 3 it does not meet criteria 1, 2 or 3. There is no special circumstances with the lot or structures. The applicant is responsible for the need of the variances and literal deterioration is it not deprive the application for right. However we do find it meets criteria 4 and 5. This is the minimum variants that will allow these structures to be able to obtain permits for their current location.

And we find it would not be endureious to the area involved. They have been located in these locations for over ten years they are hidden by trees and vegetation. The shed is buffered by that fence that exists on the property line. And the fence along the chestnut street does not impair site distance. And it's locate on the inside -- it's the shielded basically from the inside. Because it's located on the inside of the trees.

So, however, we have provided -- should they find that the applicant provided evidence to support approval of the variants, we have provided condition for your consideration.

>> The Chair: Thank you, Ms. Jackson. Any questions for staff? Mr. Frank Costa.

>> Yeah, I've got a question on variants 3. That fence is within the setbacks, correct? From a front yard.

>> It's within the setback area, yes.

>> Of the front yard. Okay.

>> Yes.

>> And it was a side yard. Would it still meet the setback.

>> If it was a side yard it could go within 8 feet or -- so it would be okay.

>> And if it was a side yard, then they could also have a 6-foot fence opposed to a 4.

>> Correct.

>> Okay. Thank you.

>> The Chair: Ms. Shelly did you have a question? Ms. Chile.

>> No.

>> The Chair: Your.

>> Mike: Your mic was on. That's the reason I asked. Any other questions for staff. Is the applicant online, Ms. Summers.

>> Yes. Ms. Gow.

>> This is Jessica Gow on behalf of the property owners. First we want to thank staff for the report and we just want to give some context and background on the variants requests. In nine 5 the land owner applied for a permit. The permit was issue but never received a final inspection once the fence was installed the eastern side of the fence was installed in approximately 2010. It received honorable approval on July 11st, 2019. IE county. It would be acceptable. However the property is a earn coulder lot which full frontage as you can see. And as a result the fence is 2 feet too high in the eastern side yard. Again if this was a more typical lot with maybe only one front yard, the fence high would be per miserable.

In terms of the shed, the LAN owners at the time understood base on the documentation provided by the shed company that all required building approvals and code requirements would be secured and followed. Unfortunately that did not occur and the shed now does encrouch a

little over a foot into the side yard setback. It is anchored into the ground and would be difficult to move for the LAN owners.

So we would like to request that the board consider the fence and shed remain in their existing locations. Chair do we have any questions product public.

>> I have Mr. Brown online.

>> Hello. My name is an chasm he was on the phone but he is working he asked me why if that plan is --
We need more -- we are the neighbor.

>> The Chair: Excuse me for a moment. You want to state your name and address for the record, please.

>> Iliana, 665 Bruce Springs -- 1635 West Bruce Springs Avenue. We had a joint property in the the west side.

>> The Chair: Go ahead.

>> So my question is that -- you guys say he needs to increase the fence 4 to 6. So if they increase, we need to increase too.

>> Madam are you asking if they are allowed to have a 6-foot fence do you have to make yours a 1-foot 6-foot fence.

>> Yes.

>> She says she is to the west over here.

>> Yes, you don't need to make any fence 6-foot high.

>> Okay.

>> The Chair: Okay. Did that address your concerns.

>> Yes.

>> The Chair: Okay. Thank you for calling. Do we have anybody else, Mrs. Summers.

>> No, we do not.

>> The Chair: Okay. Mrs. Gow do you have any other comments would you like to make since you had a speaker. It shouldn't reflect anything that you previously said.

>> I think we are all good. We just want to thank staff for their work on this one and thank the board for their consideration.

>> The Chair: Thank you very much. Any questions, Mr. Binder.

>> I was just wondering if she was okay with the conditions.

>> The Chair: I didn't get an opportunity to ask her that. Miss Gow, in any event that thesearians are passed have you got any comment on those.

>> No we find them all to be acceptable.

>> The Chair: Thank you very much.

>> Thank you. Chair if we don't have any questions for the applicant, then we move on to close the floor and open it up for commission discussion or a motion. Come on, guy, it's after lunch. Let's go. Go ahead, Mr. Costa.

>> I will make a motion to approve case B-046 about variants 1, 2 and 3 with all Steph recommended conditions.

>> This is Mr. Young I will second.
That.

>> The Chair: I have a mowing to approve V-20-046. And I also have a second. Any discussion on the motion? Can I get a roll call, Ms. Summers.

(Roll Call) roll.

>> The motion passes unanimous.

>> The Chair: I know it's just about 1 o'clock. We only have three more cases ahead of us. If you want to struggle through.
It we will take a 5-minute break and come back and finish up. Is everyone in agreement to that.

>> Let's push through.

>> I vote for push through. Yes, sir.

Chair everybody okay with that.

>> Sure.

>> The Chair: Let's take a 5 minute break and we will come back and finish this up.

>> The Chair: We going to move on. Ms. Shelly and Mr. Steve Costa and Mr. Frank Costa. Are you back on.

>> Yes, sir. We back on.

>> The Chair: I have you paused up here on the screen. There you go. Ms. Vandam will you go on with the next case, please.

>> Next case is V-20-049. Application of Paul and Kimberley Waterloo owners. Requesting variances to sub standard lot minimum yard requirements on residents R-9 zoned property.

>> The Chair: Thank you, Mrs. Vandam. Do you want to give you a staff report.

>> Yes, sir. Variances associated with this case. Variance one is to allow construction on a sub standard lot. Variance 2 is to increase the maximum allowable lot coverage from 35% to 35.5%. Variance 3 to reduce the minimum front setback from 25 feet to 15.79 feet for a front porch and stairway. And variance 4 to he radio introduce the minimum rear yard from 20 feet to 10.52 feet for a covered porch. The location of the property is on the west side of Oreo Avenue approximately 235 feet north with Toroneda avenue. A 75 square foot lot area and width. The property is only 4,40 square feet with a lot width. It's non-confirm forming and less than substandard lot because it's less than 5 feet. The lot is he will I believe for building permits subject to the variants to allow construction tonight a substandard lot.

The required set backs in the R9 zoning district are front 25 feet and rear 20 and side 7. So the background of this particular property is that the.

Lot is currently developed with a house and detached garage that were build in the 1930st. The combined square feet of these structures is 1,881 square feet. And the current property -- the current structures, the house, encroaching into the front yard, the rear yard. And the garage inn Kroetschs into the side yard. The applicant, the new owners of this property were going to renovate the house but have decided that it's not in good enough condition to actually renovate. And therefore they want to demolish the existing structures and replace it with a new house. The design of which is built to the size and scale of the original house and in keeping with the Ormond Beach community.

A lot of the homes there in the aerial any are all built in the same sort of line. They all encrouch on to that front property line. They were built -- the historic residential Pat certain to have the front porch that encouraged community interaction and so forth.
So

So the square footage of the new house is less. It's at 1,561 quarter feet and it will include an attached garage. I actually do have graphics. This is the existing house that is there. The front, as you can see -- it has an enclosed -- I don't know if that used to be a porch. A lot of times they have been enclosed over the years. Or if that was originally part of the house and then the front steps. There's the side yard.

And you can see in the second photograph you can see the side yard and the garage that is right basically up against the property line there. And then in the third photograph it shows -- it doesn't have a rear porch but it has a rear entry. And then that bump out there. And that all encroaches into the -- encroaches into the rear yard. So it can maintain the listing encroachments as a legal structure.

But when you tear down that structure that legal nonconformities extinguished and therefore they have to make setbacks so here's a photograph of the proposed structure. What they are showing here is a front porch and stairs, similar to what the other house looks like. And that would encroach the same amount as the existing house does. In terms of the side yard setback, this proposed foot footprint will not encroach into the side yard. The garage is attached to the building so it reduces the encroachments with regard to that much and in the rear of the property, which is the lower left hand picture, it shows a rear porch. The porch is about 10 feet by 10 feet.

That encroaches a couple -- about three additional feet. Then the current house foot footprint encroaches. They could redesign that they could elongate. That but that is -- if I go to the variant site plan. What you will see on the variant site plan. You will see the gray area is the existing house. You see the garage up against the property line. And then the house where its encroachments are. That encroachment right there is encroaching into the rear setback.

And where the proposed structure is -- if you could follow that line around, and then the porch extends back of the existing gray line just a few more feet.

So in evaluating these variances, with regard to variance 1, 2 and 3. So that's the sub standard lot -- let me explain that. It was in 1914. In that, the lots ranged from 40 to 65 feet in width. And some have been combined in the larger parcels but many still remain at their existing size. And it does have a good non-conforming lot letter.

And then with regard to the variance for lot coverage. The current lot coverage is at 42% for the existing structures. If this -- all the variances are approved for the new house to be constructed on the property, it will actually reduce the existing lot coverage by 6.5%. The proposed lot coverage is 35.5%. Our normal code allows 35%. So it's only a half a percent greater but a reduction of 6.5% is on the lot now.

On the yard basically it's a 9-foot encroachment. Again it's for the open porch and the stairway. And they are wanting to minimize.

>> Mike: The existing character of the house which is in keeping with the character of the neighborhood and the adjacent properties. And it's to encourage that community interaction with the open front porch type of design. Kind of new urbanism concept. And then the rear yard setback is for the 10-foot deep back porch. So when we evaluate these particular variances we find that variances 1, 2 and 3 -- so that's the substandard lot. The lot coverage and the front yard setback. We find that they meet all five criteria for granting said variances. Variance 4 to the rear yard. We fail it fails to meet two of the five criteria. Basically literal interpretation does not deprive the applicant of a common right because they could redesign that rear porch to minimize the encroachment. And it's not the minimum variance necessary.

We do find that it meets criteria 1, 2 and 5. The special circumstances related to the lot -- it's a substandard lot. It's already developed. It's already gotten got encroachments that the appear can'ts are not responsible for these current conditions. And it's not endurable to the owners involved. The applicants' intent is to meet the sea local plan and blend in with the community. It has characteristics in keeping with the neighborhood and it's in harmony with the surrounding neighbors and is it doesn't encroach further into the front yard than the adjacent properties.

So we have provided conditions for consideration should the applicant provide competent and substantial evidence for this board to consider approval of the variants. Happy to answer any questions.

>> The Chair: Thank you, Ms. Jackson. Any questions for staff? Ms. Vandam.

>> Ms. Jackson. Page 25 of 47. The rearview. It looks as though the it looks like the appear captain has knocked it back to 10 feet.

>> Yes, ma'am.

>> And I can understand not making it quite as deep. But if they do that, it appears as though they would need to eliminate that window. Did that come up at all in the discussions.

>> I don't know that that discussion was had. But I do see that.

>> Okay. Thank you.

>> The Chair: Any other questions for staff? Ms. Jackson, I know they are requesting on variance 4. But how much further does the proposed construction to what is existing now.

>> I have that number in here somewhere.

>> The Chair: Okay. The.

>> The existing house is at 1.4 feet from the property line and 1.5 from the house. So an diggal 5.5 feet into the set back from where the garbage currently sits.

>> The Chair: From the existing -- where it sits now.

>> Yes.

>> The Chair: Does anyone else have any questions for staff? Hearing none. Is the applicant online, Mrs. Summers.

>> Mr. Waterloo.

>> Hi, this is Paul Waterloo. Good afternoon.

>> The Chair: If you will state your name and address for the report.

>> It's Paul Waterloo. 4114 oreo Avenue in Port Orange.

>> The Chair: You heard the staff comments and staff recommendations in the event if these were approved do you have any comment on either.

>> No, I do not.

>> The Chair: Do with we have any public participating, Yolanda.

>> We don't.

>> I did putting to --

I think there was quite a bit --

I don't think I have to say much but I did putting to four or five slide with additional pictures I would like to show you.

>> The Chair: Alright, sir.

>> Basically if you go down to the summary. That was covered and essentially -- I'm really just going to talk about the rear porch. And that porch would be an additional 3.5 feet closer to the late line. Neck slide, please. So there's the existing house with the garage that is essentially a half a foot from the late line. And we will restore the set backs to 7 feet on both side. And just make it more balanced with the lath. Next slide.

The biggest difference would be on the back of the yard. The main structure would be on the rear lat and the proposed porch would come back 10 feet. It is 16 feet wide. And it's hard to tell from this picture. But essentially it's a split level house where the door in the back is the garage. You go up a half a flying of stairs and you would go over to the main living level, which would mimic that flight of stairs. And then there's another flying of stairs going up to the -- flight of stairs up to the bedroom by the garage and half a flying of stairs going up to the second floor.

So the ability to make the porch wider. We really can't do that with the layout of the house maintaining that back door there, which is part of the garage. Without going into detail.

And also if we were to have a 6.5-foot wide rear porch, that's not much more than a walkway. And that porch does face west. And we would like to see if we could -- you know we would like to have a cover over it to protect us from the sun and enjoy it. And just when you look down to the property below.

It neck bibi bee -- below it. Neck Next slide, please.

So the door and the window on the left in the picture. Picture on the right is a picture of the window, looking from inside the window out toward cardinal Avenue. And of what you can see is there is about a 6-foot elevation difference. So you really can't see anything about the roofs of their homes. Carr and the owner behind us, he did sent a letter to Volusia County and he has no problem with the proposed setback. Next slide, please.

This is a better view of the back of the existing house. Ask you can see the small edition on the back of the adjacent house on Cardinal Avenue and we saw that roof. You can't see anything

but the roof on there. From a privacy issue we will not be encroaching on the neighbors and the neighbors to the north which would be that house to the left of hours, that's their garage. So really -- and then their house is next to that. And they have the original by the sea house. So really what we look for is a 10-foot rear opened porch and the whole house will be balanced on the lot. And it will go back 3.5 feet further than the existing garage.

But the whole back of the house inside the structure will be within the allowable setbacks. That's all I have. Thank you.

>> The Chair: Thank you, sir. Any questions for the applicant? Hearing none. We will go to public participating. I will give you a chance to address any of the concerns that they may have. Yolanda.

>> Only public participating we have is the letter he had in the slide which was sent out to you this morning. And I have no one online.

>> The Chair: Alright. Mr. Waterloo, it seems like no one else is going to speak. So we are going to go ahead and close the floor to public participation and open it up for commission discussion or a motion.

>> I have a question.

>> The Chair: Ms. Shelly.

>> He why, Yolanda would you please go back to the begin of his presentation, of many Waterloo's presentation. I just have a clarification. It says 4114. The very first slide. And he stated that he lives at 4114. But the item number that we are looking at states 4144. So which is the correct address, please.

>> The correct address is 4114.

>> Thank you. So your application is for 4114. Not 4144.

>> Yes, that's an error. And a cover page.

>> On my staff report. Great. Thank you. I just wanted to clarify the address.

>> The Chair: Thank you, Ms. Shelly. Do you want to address that, Ms. Jackson.

>> Yes, I think it was a typographical error ask didn't get caught in the review process.

>> The Chair: So we are dealing with 4114Oriole Avenue, correct.

>> Scott you can just doublecheck that?

>> The Chair: Alright. Thank you Ms. Shelly for noticing that. Any other questions for staff or a motion.

>> I will make a motion.

>> The Chair: Okay.

>> I will be glad to make a motion for case number V-20-049 subject to staff comments for approval.

>> I will make a second.

>> The Chair: I got a motion to approve V-20-049 with staff recommendations. Is there any discussion on the motion? Hearing none. Ms. Summers can I have a roll call please.
(Roll Call)

Motion carries unanimous.

>> The Chair: Thank you, Mr. Waterloo. And we will move on to the next case. Mrs. Vandam.

>> Excuse me, Mr. Waterloo.

>> Yes.

>> So did you approve all four variances.

>> The Chair: Yes, sir, we did.

>> Thank you very much. Have a great day.

>> Thank you.

>> The Chair: Mrs. Vandam. Move on to the next case.

>> Next case is V-20-050. Application of Tina Kenny, owner, requesting variance to the minimum yard requirement for an accessory structure sing.
Family R-zone property. Chair thank you. Ms. Jackson.

>> There are two variances. One is to he reduce the side yard from 1 feet to 1.5 feet for an attached carport and the variance 2 is to reduce the 25 feet to 29 feet. It's on the north of Essex drive. About 225 east of the intersection of Ormond drive. The zone R5. Is requires 5 feet of lot area and property feet width. It's 260 square feet with lot width. It is a conforming lot. It is oddly shaped a as you can see in the aerial photograph. The aerial plot line. It's a trapezoid with an aerial on the street and much wider in the rear and the house sits at an angle on the lot. If we look at the survey you can see in the survey how the house actually sits at an angle on the lot.

The house meets all required setbacks. The appropriate setbacks are front 25 feet, rear 20 and side 5. So the house meets those setbacks but it was built in the 1950s. And apparently in the

1980s a carport was attached to the west side of the house. We don't have any permit history. But it did exist.

In 2017 with hurricane Irma the carport was damaged. The owner actually filed to replace the carport but was told that it didn't meet setbacks. And that was in 2018.

They removed the carport in 2019. And at that point they lose any lawful nonconformities that may have been associated with the carport at the time. They are grandfathered in when it's removed.

So now the owner wants to replace the carport. In order to have a meaningful area for that carport, it will encroach 3.8 feet into the west side yard and 1.5 feet into the west yard if it's put into alignment with the house.

It's because of that angle that causes -- I guess the -- is that the western side? The western-most side to but on the side yard the property would only be 7.5 feet wide and that's simply not wide enough for a standard-sized car to pull in and be able to open the doors.

The carport -- the applicant states that the carport is needed to assist with helping happy birthday -- handicapped member of the family accessing the house without contending with weather conditions. You see in the bottom right hand corner is sort of a graphic of the design of how the carport would be attached to the house.

Right above that is a photograph showing the existing house the carport has been removed. And you can see that there's a fence right along the side of the property where there's a slab underneath there where the carport would be located.

In evaluating the variance criteria for both variances 1 and 2, technically the staff has to recommend denial because we find this variance fail to meet 3 of the 5 criteria of the 5c Terwillegaria. There's no special circumstance associated with the lot or the structure.

The previous -- we don't find a report of a previous carport permit. So it's likely not a legal nonconforming structure.

The applicant with the current request is responsible for the need for the variance and literal interpretation does not deprive the applicant of common rights. It's not considered a right to have a carport.

However we find that it does meet criteria 4 and 5. It is the minimum variance necessary to allow a standard-sized carport that would achieve the applicant's objectives. It's basically a one-car port and it would not be injurious to the area.

There are several examples of carports that encroach into the side yards of neighbors. So it would not appear to be out of character with the area. I thought I had photographs. They are in your staff report. Several photographs of other properties that have similar carport situations. So with that we have provided to the board -- the applicant has provided competent and substantial evidence to support the variances. We have provided conditions for consideration.

>> The Chair: Thank you, Mrs. Jackson. Any questions for staff? Okay. Hearing none. Is the applicant online, Ms. Summers.

>> Yes.

>> You can guys hear me.

>> Good afternoon, commission. Can I hear you.

>> The Chair: You can state your name ask address for the record, sir.

>> John Zembol. 150 south Palmeno avenue. Representing the owner, misty in a Kenny.

>> The Chair: You've heard the staff report and I assume you have seen the staff recommendations. In any event that these variousians are approved do you have any comment on either one.

>> The conditions I have no objection to the conditions. Ms. Kenny because them with these conditions. She bought the house without the carport. Outside of her control the hurricane damaged the structure. She sought to rebuild it. Gained insurance and insurance claims to rebuild the structure. And we were -- we applied for a building permit assuming that it met the conditions as it existed prior.

Ms. Kenny has been diligently trying to bring this above board to reconstruct this, just to get back to where she was prior to the hurricane. So if staff has any questions I would be happy to answer them. Oh, I also provide Adler this morning to Yolanda from the neighbor directly adjacent to the proposed carport which states he does not contest the proposed carport. And further would recommend approving as he would like her to be able to enjoy the same type of condition that many on the block already do to care for her daughter.

>> The Chair: Thank you. I will ask the commissioners if they have any questions for you. Does anyone have any questions for the applicant?

>> The Chair: Seeing none. Do we have any public participation, Mrs. Summers.

>> No we do not but I did receive the letter that he spoke of.

>> The Chair: Alright. Sir. If you have nothing more to add we will close it to public participation and open it up for commission discussion. Okay. Opening it up for -- closing for public participation and opening up for commission discussion or a motion.

>> This is Jay. I will make a mowing that we approve V-20-050 with the three conditions that are staff recommended.

>> The Chair: I have a motion toy a prove. Can I get a second.

>> I will second.

>> The Chair: I got a second. Any discussion on the motion? Hearing none, Ms. Summers you can take roll call, please.

(Roll Call)

Motion carries unanimous.

>> The Chair: Okay.

>> Great, thank you, staff for your report and thank you, commission for the special circumstance stance meetings.

>> The Chair: Alright we will move on to the next case. Mrs. Vandam.

>> Next and last case, V-20-051 application of Timothy and Heather BEAGLing requesting variance to allow an accessory structure on urban single R-5 zone property.

>> The Chair: Thank you, Ms. Vandam. Ms. Jackson.

>> Yes, the single variance is to allow a structure exceed 50% the square feet area of the existing structure. Cloone is -- I don't know what is causing that. We are having feedback issues I will keep going. Hopefully it goes away.

>> The Chair: Okay. Go ahead. You won't have it now.

>> I need to advance this slide -- excuse me.

>> The Chair: Yes, Ms. Shelly.

>> We have no audio.

>> I can't hear.

>> Test, 1, 2, 3.

>> We have no audio.

>> The Chair: Hold on a minute.

>> You can hear it now.

>> Yes.

>> Yes.

>> We are back. Alright.

>> The Chair: Okay.

>> So the location of the property is at the southwest corner of the intersection of Old Kings Road and Linda Lane in the Hollywood area. The property is 2400 square feet and with 160-foot lot width it's conforming. It's a corner lot to front yard adjacent to Linda Lane and Old Kings Road and the two properties south of there are assay scent to the south and west property lines they are 25 feet from the road and the side yards are 5 feet. It also is located at the end of a deadened road. The property is 4.8 times the lot area requirement for the R-5 zoning district. Based on lot width it could be split into three separate parcels. In October of 2019 the owner applied for a building permit for a 30 x 40 detached garage. That equals 1200 square feet accessory structure. In the R-5 zone accessory structures are limited to 50%. The square foot area of the principal structure. The house that is already on the property is only -- it's a modest sized house.

It's 1,3919 square feet. Based on the size of the house that would lymph the accessory structures to 695 square feet. Therefore in order for the applicant to achieve his 30 x 40 detached garage, he is requesting a variance to allow the maximum allowable size of accessory structures to increase from 695 to 1200 square feet.

The structure as proposed meets all required setbacks you can advance the slide? I don't know what is going on with the slide. Are you on a different slide than I am.

So there's the variance site plan. Mine is not showing that. There we go. Okay. So you see on that variance site plan, where the location of the accessories structure is proposed is on the south side of the house. It meets the setback to Convince Road and it far exceeds the setback to the side property line which is adjacent -- you can see on in photograph it's assay scent to a whole bunch of trees, the location to where this will go. It is not visible to any other properties. And of what that side property line is adjacent too is retention near on the adjacent property. It's a storm water area.

So when we evaluate this particular variance, we do find that it fails to meet one of the five criteria. Criteria 4. Basically it's not the reasonable variance to make use of the land. However we do find it meets criteria 1, 2, 3 and 5. We do find there are special circumstances with the lot. The lot is over four times the size needed in an R-5 zoning classification. The property is located at the end of a dead-end street. And because of the modest house size, it severely lymphs the size of accessory structures that are allowed on the property.

The applicant is not responsible for the size of the house or the size of the lot. Literal interpretation of this code requirement would limit the property to only 8% lot coverage based on the size of the house and the 51-cent rule where under normal circumstances we allow up to 35% lot coverage we also find it would not be endurable to the area.

It is visibly buffered from adjacent properties and we have three letters of support included in your staff report. Should the commission find that the applicant has provided competent and substantial evidence we have provided a condition for your consideration.

>> The Chair: Thank you, Ms. Jackson. Any questions for staff? Hearing none. Is the applicant online, Ms. Summers.

>> Mr. Baggily.

Mr. Bagly would you unmute your mic.

>> You can hear me?

>> The Chair: Yes, sir, can I get your name and address for the record.

>> Yes, Timothy BEAGLY with his wife Heather. At Daytona Beach, Florida. Chair I'm sure are you familiar with the staff report and the recommended conditions in any event this is passed. Do you have anything to add or concern about.

>> No, sir. The only thing I'm concerned about is getting this building to protect my property. I have trailers and lately there has been a lot of theft on trailers and I have a lot of equipment and tools that I would like to protect.

I cannot protect them unless I get this building. I have half of my stuff in storage right now and half the stuff in my garage. And I still have the little shed I moved from one area of the property in my backyard which is supposed to be gone but lifted up until I get this shed.

>> Anything else.

>> No, sir. Chair do the commissioners have questions for the applicant? Hearing none we will turn it over to public participation and see if anyone else would like to speak to this case. Ms. Summers do we have any public participation participation.

>> No we do not.

>> The Chair: Hearing none, if you have nothing else to add, we will go ahead and close it to public participation and open it up for commission discussion or a motion. Do you have anything else to add.

>> No, sir. Thank you.

>> The Chair: Thank you.

>> The Chair: Mr. Young.

>> Yeah, I'm very familiar. I have a neighbor -- I shouldn't say is a neighbor. A friend who lives two doors down. Two or three doors down. This is -- nothing wrong with the neighborhood as far as this action. I think it's kind of -- that neighborhood is kind of like that. And it's only about a mile from where I live. So I'm in favor of it. I don't see any problem with it. It's congruent with the neighborhood. Chair do you want to make a motion.

>> I will make a motion that we approve V-20-051 with the one condition that staff recommended.

>> I will second that.

>> The Chair: I got a motion tie prove V-20-051. With the staff recommended condition. Any comments on the motion? Hearing none, Mrs. Summers can I have a roll call please.

>> Yes, sir.
(Roll Call)

Motion carries unanimous.

>> The Chair: We are moving on. I don't think we have any old business. Any other public items.

>> No, sir. Chair staff items.

>> No, sir.

>> The Chair: Commission comments? Ms. Vandam.

>> I will say something I think it went really, really well. I'm surprised. Chair don't be surprised, Jay.

>> And also too, I will comment that after seeing the reading in the pair about one of the judges I'm impressed that nobody showed up in their pajamas this morning.

>> The Chair: Ms. Vandam did you have a comment.

>> I was just going to say I think Ms. summers has done a great job getting getting this.

>> Umpire: Up to speed as quickly Saddam Hussein she did and you did a great job conducting the meeting and I also think it went very well today.

>> The Chair: Ms. Shelly. Are you muted Ms. Shelly.

>> Okay. Chair go ahead.

>> I wanted to concur with Ms. Vandam. Staff did a great job. You did a great job as our chairman and I think it went really well and I appreciate all the hard work by the staff and the commission.

>> The Chair: Thank you. Mr. Frank Costa.

>> I'm assuming we will do this again. If not two more times between now and chambers. From where I'm sitting I would like to be able to see all of this on here.

I'm Ms. Ing Ms. Vandam on my list of names. I don't see her as an attendee.

>> I am too, Mr. Costa. Chair that's true.

>> I would like to see them all so we know who is present. Especially since we don't have cameras. The council chamber cameras I can only see Ms. Jackson, Ronny and Jeffrey. I'm assuming she is out on the outskirts. Do we have availability on my end?

>> The Chair: She is. One of the thing -- the reason you can see Mr. Binder and myself on the attendees on the staff is because we brought our laptops in and we are also on the livestream with you guys.

>> We don't have video of you individually. I just have you on the overall view camera. The chamber camera. That's off the edges.

>> Because of the shot, Mrs. Vandam did not want to be on the camera.

>> I checked it on the live feed and on the live feed you can see a much wider angle.

>> The Chair: Alright.

>> I think it went pretty well considering all the potential for a crash and burn.

>> The Chair: Any other commission comments? Ms. Vandam.

>> I was looking for the like buttons for your comments. Heart heart.

>> I'm sorry I just want to point out one thing. On one of the cases we did today we had an existing pole barn that we approved I think it was less than 3 feet from a property line but it did not have the condition that if it was destroyed by 50% or more that it need to be rebuilt to confirm to the setbacks. And wondering if that is something that can be made standard language on these in Kays like cases like that so we don't miss. It I would have brought it up had I thought of it. But I didn't think about it until the neck case.

>> I will ask -- if a structure that gets a variance gets destroyed more than 350%, does that variance carry over to a rebuild of that structure.

>> With the variance, what we did was created a variance to the setback so that property has a new setback. And therefore any new structure be could built within that setback.

>> I think that pole barn. It's only applicable to that pole barn. It's not for any other structure. Just for the pole barn.

>> The thing is with the variance it's not necessarily a nonconforming use because they received a variance. So if they have a variance to place the pole barn within that, then they can replace another pole barn with that setback.

>> So we missed putting that condition in the staff report. And normally we do put that in there. So it's something we will keep an eye on, future variance requests.

>> The Chair: Okay.

>> Thank you.

>> The Chair: Any other comments commission?

>> The Chair: Okay. I would like to make a comment. I thank the staff for all of their effort. I know how much effort they have put into this. And it went well as I knew it would. And I do appreciate their time and effort to this. Going back to Mr. Frank Costa's comment. I believe we may only have one more meeting we don't know that yet. With them over the webinar. And then we should be back to normal conditions hopefully. But as everyone knows, their prediction is -- we have no idea how long it's going to last.

But in saying that do we have any press and citizen comments? Okay. This meeting is adjourned. Stay safe.