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SPEAKER:

The May 2021 meeting is now called to order. If anyone, may ask please sell it to audio devices today. Join me for the Pledge of Allegiance. I pledge allegiance to the flag of the United States of America and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

Good morning everyone. I would like to thank everyone for joining us this morning. In the chambers, and those of you who are on the PLDRC webinar. There are forms for the arrear of the building year. If you could please fill those out and hand them over to Ms Cushing's on my immediate left here.

You will you recognized by the time the cases brought forward. Ms Cushing, may I please have roll call?

(Roll Call)

RONNIE MILLS:

Thank you, Ms Cushing. We do have minutes for April 15, 2021 this morning. Is there any discussion of the minutes? If not, I will make a motion of approval...

SPEAKER:

I second.

RONNIE MILLS:

OK, I have approval to pass the mission -- minutes for April 15, 2021. Is there any discussion on the motion? All those in favour, say I.

(Multiple speakers)Any opposed? Motion carried unanimously.

OK, for those joining us in the webinar, after your staff has presented your case today and the commissioners have had opportunity to ask questions of staff, Ms Sommers will engage with the microphones and you can state what you want in the record. You can state any pertinent information or answer any questions the commissioners have about your case.

We also may have request to speak for or against the case is being heard today, when the case is being heard in this time, I do have all participation for you joining us in the chambers. I will ask you to

come forward so you can be recognized.

For those of you who are joining us through the webinar, Ms Yolanda Somers will engage your microphones you can be recognized. At that time, I would like you to state your name and address for the record. We will be limiting you to a three minute time limit. I will give the commissioners an opportunity to ask any questions they may have of you.

After the comments have been heard, I will give the applicant an opportunity to address any concerns the speakers have, or answer any questions the commissioners may have. At this time, obligated over to Mr Paolo Soria for legal comment.

PAOLO SORIA:

Thank you, Mr chair. I also want to introduce Chris Ryan and we stolen from the city of (Name) and we are very glad to have him here.

(Laughter)

I would just like to explain for the numbers of commission and the public that decisions by this body, on special exception cases and acacias -- cases with zoning property with the zoning councils do not constitute a final hearing. New evidence may be introduced at the County Council public hearing.

Decisions on variances made by this body constitute final action, subject to a appeal to County Council. What this means is that no new evidence may be presented at the time of the County Council public hearing on the appeal.

The party that appeal such a decision may be confined to the record for this body, hearings by this body on rezonings, special exceptions and variances are quasijudicial in nature – meaning this body is acting like a court and must take into account all oral, written and presented evidence presented.

Their decisions on this cases – a reasonable mind would accept a supported conclusion. Thank you, Mr chair.

RONNIE MILLS:

Thank you, Mr Soria. Also, I would like to ask you to dispose for the record any ex parte communication that have occurred before or during the public hearing. On which the vote should be taken on any quasijudicial matters. I will start on my immediate right with Mr (Name).

SPEAKER:

None.

SPEAKER:

None.

SPEAKER:

None.

SPEAKER:

I had a conversation with (Name) B 21-055.

SPEAKER:

Mr Costa?

SPEAKER:

None.

SPEAKER:

Yes, I had a conversation with the attorney also.

SPEAKER:

Alright, I had a conversation with Mr Alex forward on case B 21-055. OK, that takes care of the legal part.

Alright, do we have any cases to be continued or withdrawn, Ms Jackson?

SPEAKER:

No, sir.

SPEAKER:

OK, thank you very much. We will move right into our new business of the day. If I get Ms Shelley to read in the first case.

EDITH SHELLEY:

Yes, sir. Case number V-21-0 27, variances to the minimum requirements of urban single-family R 3 zone property at 301 Harbor Trail Florida.

RONNIE MILLS:

Thank you, Ms Shelley. Ms Jackson, can I get the staff report?

SPEAKER:

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SUSAN JACKSON:

Yes, Sir. There are variances with this case with seven structures. The property is located in the northeast corner of the intersection of still trail and Harbor Trail enterprise area. It is zoned R-3 and it is with an 85 foot cloth wit. The property exceeds the standards. It is 1.9 acres in area and 194 feet in lot with.

It is a waterfront lot. It is actually a corner waterfront lot. It adjoins two water bodies – Battle Creek (?) and the portion of Lake Monroe. So it is subject to our front yard, to waterfront yards and two side yards.

I have a graphic that shows... Do you see the graphic that shows the right-hand lower portion of the screen? This graphic shows how the yards affect this property, where there is orange, it shows the front side yard and the 5 foot accessory structure setback in the waterfront and rear yards, where no structures can go. The yellow area is were accessory structures can go. The clear area in the middle is where the house is, and there is a little portion that shows where other structures can go.

So, setbacks that are applicable to this for the principal structure are a front setback of 30 feet, side would be 20 feet combined with a minimum... Of 8 feet and one side yard, and waterfront 25 feet, set back square accessory structure under (unknown term) square feet and under 30 feet and waterfront 5 feet.

In 2005, the owners made several unpermitted improvements to the property, and they have been cited by code enforcement and that is why we are here so they can obtain permits for their unpermitted structures.

So, in going through the structures and the associated variance, the structure 1 which is associated with variance one and two is a 53.6 ft.<sup>2</sup> pergola it was built as a separate entrance to the dock, built in 2005. It encroaches 4 feet into the water front yard.

Also, 10.17 feet into the required front yard. Structure 1 is located – if you could see my cursor on the screen – it is located right here. It is this red structure right here.

So the variants associated with that structure are to reduce the north water front yard from 5 feet-1 feet. And variance 2 reduce from 30 feet to 19.3 feet to the existing 53.6 foot pergola.

Structure 2 is a 72 ft.<sup>2</sup> pergola also built into the entrance of the square backyard. Also built in 2005. It

encroaches 2.5 feet to the water front yard, and 8.25 feet into the required front yard. That pergola is variance 3 and 4. It is located right here, where my cursor is on the screen. I don't know if you could see it.

So, the variances associated with that are to reduce the north water front yard from 5 feet to 2.5 feet. Then to reduce it to the 30.5 feet for the existing square structure pergola. The next one is as shed to store boating supplies. It was installed in 2005 and encroaches into the front yard by 3 feet. So the variance 5 is to reduce the front yard from 30 feet to 27 feet for the 49 ft.<sup>2</sup> shed.

Variance 3... Well, that is variance 5. That is located right here, where my cursor is – that little tiny square there. Structure 4: this is associated with variant 6. It currently is 1277 ft.<sup>2</sup> dock.

This is a little bit of a interesting situation. So it is currently a dock because it extends out into the water, and you can moore about to the structure. The property already has one talk associated with it and that dock meets all of the accessory requirements. They want to keep that dock.

We do not have the ability to have a second dock on the property. We do not have a variance criteria for that or a allowance for that. So, in evaluating this variance, we are considering that the structure needs to be modified to be considered a deck, which means that the dock needs to be basically cut back so that all portions of the structure are located above the main high water line.

Once it is modified, it will be approximately 1188 ft.<sup>2</sup> and then it can be treated as a deck. So this variance evaluation is based on it being modified to be a deck.

As a deck, it is over 500 ft.<sup>2</sup> in size, and therefore must meet principal structure setbacks, and therefore will encroached what he 5 feet into the required front yard.

So variant six is to reduce the water front yard from 20 feet to 0 feet for an elevated wood deck. That is the blue structure right here. You could see that it shows it out over the water. It needs to be modified to meet the main high water line.

Structure 5 is associated with variant 7, which is this green portion right here on the map – the graphic – It is a 10 x 14' storage room addition that was added onto the rear of the principal structure of the principal house. It is located on the canal side of the house and, which is required to meet a 25 foot water front yard.

It encroaches 14.7 feet into the water front yard so variant seven is to reduce the water front yard from 25 feet to 10.3 feet for a storage room addition to the principal structure.

Variant six, structure six, which is variant eight and nine, which is right here, it is a 24 foot fence that is 7 feet high.

It is in the front and waterfront yards, but they do not allow fences over 4 feet in height and this is 7 feet in height. So variance eight is to increase the maximum front yard fence height from 4 feet to 7 feet, and variance nine is to increase the maximum water front yard from 4 feet to 7 feet.

Then finally, structure seven is actually the existing original house, it was built in 1998. Prior to it being built, there was a variance approved for the placement of the home to reduce the front yard setback stone trail from 30 feet to 20 feet and that was approved.

At the same time, they had asked for a waterfront setback but then withdrew that request. What we see with the survey of the existing house and where it has actually been located, we feel it must just have been located incorrectly on the lot in comparison to what was permitted.

Instead, the house does meet the front setback but it does not meet the water's front setback of 25 feet. A corner of the house injuncts 24.7 feet into the water front yard. So this is in an abundance of caution to legitimize the location of the existing house.

Variance 10 therefore is to reduce the water front yard from 20 feet to 23.3 feet for the existing single-family house. So, when we evaluate all of these variants, we recommend approval of this last variance.

Variance 10 for the principal structure because that means all criteria. For variances one through nine, we have to recommend denial because we find that they failed to meet two of the five criteria.

There are no special circumstances associated with the lot, and these structures have been permitted so the setbacks would have been known. There is room on the property to have met the requirements for all of these accessory structures. In the applicant is responsible for not obtaining permits.

However, we find that it meets three of the criteria. Criteria three literal interpretation of the quote is going to require removal of location of the structures that may work and unnecessary hardship because they have existed as they are so located for the past 16 years without complaint.

There is the minimum variance that will allow permits for the structures, and they are not considered accessible to the area. Should PLDRC find that applicant is competent with substantial evidence to support variant, we have permitted conditions and we have also received a letter of support from a neighbour that was provided to you this morning.

There were a couple of photographs provided I think by the applicant, if you have any questions I'm happy to answer.

RONNIE MILLS:

Thank you, Ms Shelley, you had a question?

EDITH SHELLEY:

Yes, I had a couple of questions. On the staff report, it states when you are on variance, page 2 of the staff report, variant seven. States that a storage room addition to the principal structure, however, in the report from the applicant, it states it is not attached to the house.

On page 22. So, I am just pointing that out because I would like some clarification on that. Your report states that it is attached and the applicant states that it is not attached and on variants eight, the staff report keeps mentioning 7 feet for existing fence however, the applicant's petition states that the existing fence is 6ft.

SUSAN JACKSON:

I believe our staff member that is responsible got a measure for the fence so in an abundance of caution, let us say the 7 feet because if the variance is granted for 6 feet and it is 7 feet, he is still out of compliance.

With regards to the storage structure, when you look at the photographs of that structure, which are contained in your staff report, it sure looks like it is attached. I would still say it is attached from looking at the photographs.

EDITH SHELLEY:

I just wanted to let her bring those out to if it would allow the applicant to...

SUSAN JACKSON:

If it is not attached in any way and can stand independently from the principal structure, then I would say it does not need a setback because it could be within 5 feet of the property line.

EDITH SHELLEY:

Thank you.

RONNIE MILLS:

Mr. Costa?

FRANK COSTA:

In 2005, the not permitted structures will put up. Were they cited?

SUSAN JACKSON:

They were cited recently, and I'm not sure what triggered that case, it might have been a neighbour complaint but I am not sure. The applicant will have to answer that.

FRANK COSTA:

Because I do not see any applicant complaints within the file.

SUSAN JACKSON:

There aren't.

FRANK COSTA:

My second question to you is regarding on the recommendations of number two, explain to me again why you are recommending that that be removed back beyond the high mean water line.

SUSAN JACKSON:

Because as it is constructed, it is considered a dock because you can pull a boat up to it and more it. They already have one dock on the property. It is right here and that dock meets all of the setback requirements and size requirements and so forth.

They want this is a dock. They have to remove this. We only have the ability to have one dock parceled and no way to provide a variance to that either.

FRANK COSTA:

Regardless, if it is surrounded on two sides or three sides by water?

SUSAN JACKSON:

It is one property.

FRANK COSTA:

One option to they have thing?

SUSAN JACKSON:

To modify this to be a deck.

FRANK COSTA:

Other than modifying, is there any other process?



SUSAN JACKSON:

I will defer to her legal counsel.

SPEAKER:

The definition of the dock is provided in your staff report so it is on the waterline and used to secure or access the boat. Staff interpretation is this meets the criteria of the dock and the commission does not have the authority to grant use variance.

It would require an amendment to the code or a potential rezoning to some special districts such as a PUD.

FRANK COSTA:

Let me ask it this way then because the pictures show that the dock is actually mourned into the water by itself. What if the dock just extended over the waterway but did not actually touch land inside?

It just jutted out above the water, would that be permissible as a deck as opposed to a dock?

SPEAKER:

No, I think the definition is that it is over the water.

FRANK COSTA:

OK. Thank you.

RONNIE MILLS:

Any other questions?

SPEAKER:

The definition is over the water because looking at the pictures with the latticework and everything, while it seems the you can moor it, how can you use that as a dock when it looks more like a deck, is the definition that it is over the water line?

SPEAKER:

On page 7 of your staff report, understructure 4, there is an italicized portion midway through the second paragraph and that sites to the definition of a dock. So a dock is a platform or boathouse extending over the water from the seawall or shore that is used to provide access to boats.

So, you can only have one dock on the property regardless of how many waterfront, in this type of situation, how many sides of your property from the water or have the water encroaching onto your property.

So this is kind of an odd situation where we are looking at the definition and we call it as a dock because we think it meets the definition of a dock is being over the water and being you know, used to potentially secure or used to access about.

FRANK COSTA:

That is part of my concern. I read it as used to secure or provide access to a boat and in looking at it, I mean, the argument could be made that you could not secure or provide access to about the same way that if I was on the second floor of my house and my car was on the first floor, I may have access to it by jumping off the roof (Laughs).

SUSAN JACKSON:

I would also like to point out that the water level fluctuates, and right now it looks pretty low in this photograph, but there are times when it is not the low and you could easily park about at this structure.

SPEAKER:

Sometimes you can have a long dock. Sometimes it is very hard to moor a boat, depending on the tide.

FRANK COSTA:

OK, sure.

RONNIE MILLS:

Is that all of the questions? Alright, is the applicant present?

SPEAKER:

Good morning, Sir can I get your name and address?

SPEAKER:

My name is Bob (Name), from (unknown term) Avenue, before I begin my presentation, I would like to address the issue on the dock, deck. The question is not moot because my clients have, in fact, already reduced the size so it is no longer over the water.

I would provide you these three pictures taken this morning to show...

RONNIE MILLS:

Could you give those to Miss Cushing on my far left there, sir? Now, they will keep those pictures and become part of the record sir.

SPEAKER:

The staff and I – though it is moot – The staff and I discussed the dock situation at length. Paolo and I wrestled with it, and I have some of my exact argument when they said it is a dock.

Yes, it extends over the water. But access from that dock or deck, was practically impossible. In mean high water, where it is right now, not low-water, that deck is over 6 feet above the water. There are no ladders coming on permit and there's a lattice in front of it.

It is very difficult to figure how you are going to more through that lattice and how you were going to get up, even if you can jump out of your second-story window into the boat, you are going to have a hard time scrambling up without some way to do it.

That does not fit in there very well at all. At any rate, it is not relevant now because they have already gone ahead and changed the deck and cut off the required amount, or the amount required by the staff and it is gone. There are pictures now to show you exactly how to set up, and I have put the screening so the underside of the deck does not show.

Basically, we are asking you to allow these variances or the various structures, they have been there without any detrimental effects for over 16 years. These structures have been built to make the property more artistically appropriate and to make the property more enjoyable.

We are asking you to approve and to allow this couple to continue to have their structures and use their structures, where they are presently located.

Almost all requested variances or buildings, are almost too close to the block line or to the waterline. This is not just an oddly shaped lot. This is a weirdly shaped lot. If you could look at that graphic up there, this lot has three front yards – the staff said to, but there are actually three front yards in that thing.

There are two waterfronts. The waterfronts eliminate their side yard setback. The side yard setback on the east would be 5 feet, not a problem. But when you say even all the canal is outside of their boundary, they eliminate the side yard. So there is no side yard there.

Their backyard – the north side of the property – is actually a minimum of 800 feet from that deck. At one point, it is over 1300 feet. But that canal in their – the they call it Bethel Creek, it is a canal – so they are kind of hemmed in there.

So the staff says there is room to put those structures inside the variances or inside the setbacks. I

don't know where you would put those, unless you would put those in the front yard because of setbacks – the waterfront setbacks – would eliminate any place to put the structures: the pergolas, shed... Who is good to put a pergola in the front yard and what use would it serve?

The dock that is supposed to be an entry is a long way from the front yard. They put the second pergola in there as an entry into their backyard. I do not know what they would do in the front yard, but if you look at that graph, it is hard to perceive where you would put the pergolas. They do add to the property.

The 7 foot fence is probably not 7 feet, as they said. I am not withstanding that. The fences put up to shield the neighbours from looking at garbage cans, equipment, and stuff of that nature. So the neighbours didn't see it. It doesn't block any views from the road or anywhere else; it doesn't harm anyone. We would like to stay at 7 feet, not so much for us but more for the neighbours.

But if it has to come down, it has to come down. You have many neighbours here today. You have over 60 neighbours who have signed documents requesting you approve these variances. The neighbours don't have a problem with any of them.

The staff contends that the criteria have not been met in two instances. Even if the house had been put where it is supposed to be, some 20 feet in this direction to the south, it would still require variances to put in the pergolas, to put in the shed, for the deck, for the storage park, and if I might answer your question well I'm thinking of it – it is connected to the house. No question. It is. I asked the same question and unfortunately it is connected to the house.

If you look at that graphic there is no place you could put those particular structures on the property other than the front yard – a very small area in the front yard – with all the variants.

So let us look at the first condition: "Conditions and circumstances exist, which are peculiar to the land, structures on building involved, and which are not applicable to other lands" Signed the (Name). Staff says we do not meet this requirement. This is a weird lot. It is different from anything else.

It is just so peculiar that you just can't use it practically without a variant. That is why we are here. These structures have been there 16 years. They haven't bothered anybody, and it just adds to the enjoyment of the property. That is why we are asking you to allow it.

I think we have shown that there are special conditions here that weren't created by us; house was in place what was supposed to be, unbeknownst to us, and the shape of the lot is weird.

The staff says we have not met the second condition: "The special conditions and circumstances are

not the result of actions by the applicant." Now, I'm not sure what they mean by special conditions there because I looked at the graphic up there, and it sure seems like they didn't create those front yards. They didn't create the waterfronts, or the canal, and they bought a piece of property and build on it because it looked like an ideal spot for a house.

But they didn't do anything but put the house on it, and somebody put the house – the builder – who worked with the law. I think we have answered the second condition: we did not create the special conditions.

Criteria three says, "The literal interpretation of the provision with the ordinance will deprive the applicant of right commonly enjoyed by other properties in the same zoning classification, other terms and conditions, and would not work in unnecessary and undue hardship on the applicants."

That is not enough. That does not tell this case. It is more than that. If you look at that area, the area to the east and northeast of them, all of the neighbours have similar structures – I don't know if they are permitted or not permitted – they have all crowded the canal because that is the purpose of living there! They all want to be on the canal, in the canal, and they want to enjoy being there.

It is more than just that. They are actually fitting in to that area with all their structures, and with their use of the land. It goes right along – that was right along with the fifth consideration: "The grant variances harmony with the general intent and purpose of the ordinance, Volusia County, and it is in harmony with the neighbourhood." They all have structures like this. They are all within the 25 feet. I don't know if they'll have variances. If they'll have permits. But it is.

It is just part of the community there. There is no real need to cause them to move or eliminate the structures. We ask you to grant these variances because they are causing no problem to anyone – the staff points that out – they haven't done anything. They fit right in, and it is good.

There are 16 neighbours – over 60 neighbours – who have signed positions to support this application. No one as opposed to it. It is not bothered any of the neighbours.

I have one more picture I will submit to you. That is a picture of the neighbour on the north side of the canal.

RONNIE MILLS:

Can I get you to the microphone, sir? To the microphone?

SPEAKER:

This is a picture of the neighbour on the north side of the canal on their property, who is watching the

destruction of the deck. No objections have been raised by him whatsoever.

He is really not a very vocal neighbour anyway. We would ask you to grant the variances, all of the variances that we have asked for that will add to the use of the property, the enjoyment of the property to no detriment, no harm to anybody, no harm to the environment or anyone.

Thank you. I can answer questions if you have them.

RONNIE MILLS:

Thank you Mr Foster. Do have a questions for the up get?

SPEAKER:

I do. Are we withdrawing variant six is the midpoint now?

SPEAKER:

No, it still requires a variance. Even though it is a deck. It still has to meet the setbacks of the waterfront.

SPEAKER:

Follow you that. OK, thank you.

RONNIE MILLS:

Any other questions?

SPEAKER:

Just to clarify on that, so everything has been taken out from the waterfront mainline?

SPEAKER:

Yes.

SPEAKER:

So it will be considered a deck based on that already being done?

SPEAKER:

Yes.

SPEAKER:

Yes, sir.

SPEAKER:

Thank you.

SPEAKER:

I would point out that the conditions that the staff has put on here, if you approve this, we have no objection to any of them at all.

SPEAKER:

OK.

RONNIE MILLS:

Any other questions for the applicant?

STONY SIXMA:

Yes, I would like to ask, Bob, this is a question that was asked earlier: do you know how all of this sparked up?

SPEAKER:

Pardon?

STONY SIXMA:

I know there were no complaints. Do you know how all of this came to fruition here?

SPEAKER:

Yes. Another was a complaint. My clients have a motorhome. They had parked outside to the west of the property, in that white area. But it was in the 30 foot setback.

So it was sent there. The staff made a visit to the site a while ago. Lots of staff. They walked around and walked around, and they look at the pergolas, the sheds, and had some discussion about it. But, yes, that is how it came about.

SPEAKER:

I have one more question for you, Bob. The staff, I take it you guys have seen what they did to the so-called second dock – no it is a deck – does that meet your approval to that point?

SPEAKER:

I'm sorry, can you repeat the question?

SPEAKER:

Are you making me redo all of this?

(Laughter)

SPEAKER:

I am just saying did you see the pictures that we just got submitted to us on how they adapted the so-called 'second'. So the deck is not in the water. Is that...

SPEAKER:

So long as it does not beat one of those criteria that is over the water, and it is not used to secure or access the boat, and it is a dog. But it does still need various criteria. It must be the maximum size of the accessory structure of the setbacks.

SPEAKER:

OK.

SPEAKER:

At this point in time if it is outside the waterline it is not considered a dock, and you can create a variance for the setbacks for the deck.

SPEAKER:

Right, OK. That is it.

SPEAKER:

Alright, can you make a concession to that in case it was not brought back far enough?

SPEAKER:

OK.

RONNIE MILLS:

Alright, we will move forward. I will give a chance to address any concerns.

EDITH SHELLEY:

Sir, online we have Julian Milligan.

RONNIE MILLS:

OK, Miss Milligan, are you there? Is she still there? Miss Milligan, if you would turn on your



microphone. Are you there?

SPEAKER:

OK, can you hear me now?

RONNIE MILLS:

Yes, you can state your name and address.

SPEAKER:

Julian Milligan, 65 Trail, Florida.

RONNIE MILLS:

And you have some, you would like to add to this case?

SPEAKER:

Only that the neighbour there, this property is certainly in keeping with the nature of our community, and I certainly have no objection to any of the modifications that they have made.

RONNIE MILLER:

OK, thank you so you are stating that you are in favour?

SPEAKER:

I am, I have another neighbour sitting with me, may she speak as well?

RONNIE MILLER:

She can. I just need her name and address for the record.

SPEAKER:

Hello, I'm live on (Name) trail. I agree with Julie, this is a beautiful home and I do not understand the problem with it.

I mean it. I heard everything so I get that it might need the variances, but it is beautiful and it adds to our neighbourhood, and I have no objections at all with the way things are on that property.

RONNIE MILLS:

OK. Well, I thank you for your participation this morning. Thank you for calling in and participating on the webinar.

SPEAKER:

Thank you.

RONNIE MILLS:

Thank you, Ms Cushing, do we have anyone else?

SARAH CUSHING:

Yes. Ms. Susan (Name).

RONNIE MILLS:

Miss (Name)? Are you there?

SPEAKER:

This is Susan (Name) and I'm at 1432 Stone Trail, and I've lived here on Stone Island for over 30 years, and I have to say that the home you are considering is a beautiful home, and to everything they have added has made it a nicer home and it fits in well with the area.

I would certainly recommend that you approve all of the variances that they have requested.

RONNIE MILLS:

Thank you for commenting on that this morning, and we appreciate your participation.

SPEAKER:

Thank you.

RONNIE MILLS:

Miss Cushing?

SARAH CUSHING:

There is no one else online.

RONNIE MILLS:

Is there anyone here who would like to comment on this case? For public participation and open up commission discussion for the motion.

SPEAKER:

I would make a motion.

SPEAKER:

I would like to make a couple of comments if that is possible. I just want to point out this is something

that we see quite a lot and nothing against what you have done to your property but when it was said the special conditions come about because of the process of going after permits, back at the beginning when you are building these items on your lot.

Would have circumvented this process and, unfortunately, we see things because a neighbour or someone will start to complain which happens all the time. They see something, and when staff goes out to inspect the property, they find all of these violations.

This could all – and I really have an issue which I do not understand why people do not come and check out the fact that just because you own the property, I have learned this as a property owner.

You want to cut down a tree, you better check even though it is on your property, just make a phone call and you would circumvent this whole process. Thank you.

RONNIE MILLS:

Any other comments?

SPEAKER:

I understand the concern for that, and I think especially in communities such as this and communities that are still developing over time, have a way of looking at that and you know, it think it is a twofold effort to figure out where permits are needed.

I look at certain, sometimes I think we all look at it and say I did not think I needed a permit for that and that makes perfect sense. I know where it brings the most concern to me is in the environmental part of it and it does not look like there any environmental issues here.

I do understand neighbours concerns and things like that. It sounds like a lot of times you hear people saying I just did not know that I needed to get one and I think that is an effort that can work both ways but as property owners. I definitely understand why some people feel like putting up a pergola may not require a permit and I think there are other reasons why.

But if uncle does help, that was going to be my one question, is there a specific reason why, do you have any answers as to why they did not go further permits in 2005?

SPEAKER:

I think you have already covered it. To put up a pergola, do you really need a building permit to put up a pergola? To build a deck when you are an experienced builder and you know how to do it and build a really substantial, fine deck.

And yes, it extends over the water, you have a picture in your file that shows when this deck was built, it was not over the water. The water was not that high. The mean high water was not that high.

SPEAKER:

Thank you for the clarification and again, like you said, I think it is a tough road sometimes her property owner, but it sounds to me like this is a very conscientious property owner in regards to neighbours.

SPEAKER:

Have an objection – I thought you were finished.

SPEAKER:

Alright, I will entertain the motion, no.

SPEAKER:

I think this is a really unique situation. And to the applicants, the fence, I mean I do not think a whole lot of people would think, especially for the pergolas in the shed, why would you ever need a permit?

I think about that either, so that is beyond the point here, I will serve the said and see how it goes, case B - 21 - 007. I want to put up for approval with the five staff recommendations included.

SPEAKER:

Second.

RONNIE MILLS:

OK, I got a motion to approve variances one through 10, for variance B - 21 - 007 with the staff recommended conditions and I believe there are five of those, correct?

SPEAKER:

Yes, correct.

RONNIE MILLS:

Five conditions from Mr. Stony Sixma and Ms. Shelley, all those in favour say I?

(Multiple speakers)

RONNIE MILLS:

No post, motion carries.

SPEAKER:

I would like to let the neighbourhood know that when you're putting up a pergola, make a phone call.

(Laughter)

RONNIE MILLS:

OK, move on to our next case, please.

EDITH SHELLEY:

Yes, case number B - 21 - 055 the yard requirements on urban zoned property at 545 Lake set drives and portions of Lake 545 Lakeside Drive.

RONNIE MILLS:

Thank you, Ms. Shelley. Can I get the staff report please?

EDITH SHELLEY:

Yes sir, this is another interesting case. The applicant is requesting variance to allow an existing dock/boathouse in existing shed to remain in their current locations.

Variance one is to reduce the east front yard from 30 feet to 12.6 feet for the existing shed, variance to is to reduce the west side yard from 15 feet to 15.8 feet for an existing dock/boathouse in variance three is to reduce the east side yard from 15 feet to 8.7 feet for the existing dock boathouse.

The existing of the property is on the west side of Lake Win (?) Drive approximately 6 feet south west of its intersection in the land area. The property is zoned R3 which requires a lot width of 85 feet, the property exceeds these requirements and is approximately 17,800 ft.<sup>2</sup> with the hundred 70 foot lot width.

The situation here is that the property was triangular shape.

If you look at this, the property was a triangular shape, as you can see on the variant site plan. The owner of the property built the dock and this shed is actually not on its property. They ended up being on the neighbour's property.

So, in order to rectify that situation, they are working out a property exchange so that these little squares that are attached to the bottom of this triangle will become part of the subject property.

That is where the variances come in because the property that is being purchased does not provide enough room in the case of the dock to meet setbacks and in the case of the shed within this setback

and adjacent to the drive anyway.

So that is the background of the situation, when we reviewed the variance request for variance one associated with the shed, we find that it fails to meet one of the criteria, and therefore have to recommend denial.

The applicant is responsible for the situation. They are the person that put the shed there. However, we find that it meets four criteria. There are unique circumstances associated with the property. It is a strange shape.

Literal interpretation of the code may work on unnecessary hardship. It has been located where it is for the past approximately 13 years. It is the minimum variance to allow permits to be obtained for the shed, where it is currently located.

The same answer all applied to variants two and three, with regards to the boathouse as well. It fails to meet one of the criteria and therefore staff has to recommend denial for that as well.

If the applicant provides competent and substantial evidence to support the variance request, there are five conditions that have been provided for your consideration and I will say that the applicant will be discussing some modifications to those conditions should you consider approval of these variants.

RONNIE MILLS:

Thank you Miss Jackson, any questions for staff? Mr. Ford, if I can get your name and address for the Ford.

SPEAKER:

Thank you Mr Speaker. I am Alex Ford, located at 545 Lake Winnismet (?) drive, I am the attorney for Paul and Tammi Montgomery sitting in the back row there. They are the property owners of the main property. Our variance request is basically to permit after-the-fact permitting furred to accessory structures.

One being the boathouse and stop, the other being a garage or shed and both of which are partially on my client's property partially on adjoining property.

It is noted in the staff report, there is also an easement for the canal out to the lake, those items are on but that does not apply unfortunately to the garage and the shed.

Anyways, so we requested to allow the dock and boathouse to stay where they are rather than the standard for dock and boat houses, you have to be at least 15 feet away from the side lot line and so I

believe it is currently impossible to meet that criteria and I will explain that a little bit.

Then on the garage/shed, the two things we had asked for, one was in the front yard so we asked for a variance on that and the other is a side yard setback. We since have cured the setback issue from the purchase of the adjoining owner which is still in place.

There is little hair on that because he has to under contract with him, he has to cure his issues and we have to cure our issues. So if we get through this process today, we still have a few steps and he has a few steps. So we are working on that.

But we think it will all happen, he is represented by an attorney and getting him through that process. So, I have some exhibits for you. I don't know if they're going to show to you or if you have them already.

SPEAKER:

Those are the ones we gave to you already.

SPEAKER:

OK. So the minutes are there for the application. It is not up there, but that is OK. The thought is the application. The reason why it is here and I want to share you that it is not in your agenda – I guess you guys have it there – but that shows the adjoining property owner did join in the application and then the next exhibit I have is the petition from all of the neighbours just basically showing neighbourhood support.

There are over 46 and we had a couple of additions we received today. If you can scroll back down to the next exhibit? There we go. That is just showing, as of yesterday, the neighbours who signed the petition were in the immediate area. This is out on Lake Winnemessett. For those of you who are familiar with Lake Winnemessett, they are very specific the people are very protective of Lake Winnemessett.

So my clients are the property owners of the adjoining application. The next exhibit... Can we move onto that one? This one shows the original – I believe the original – it is a 1926 plaque of the property. In green, I have outlined where my clients property goes.

If you will note, look at that exhibit and just take note of it in your mind where the lake is. You can see that my clients property has a little tip there that reaches out into the lake.

But there is very little waterfront showing on this flat. Then if we go to the next exhibit, this one is what I call the current flat. It was a 1947 re-flat of the original one.

My client's property is in green and there is very little lakefront. Please note the outline of the lake there and take note of that. I also want to mention the canal is not shown on either of these flats. The canal is basically the South line there of that Lot 1. It is shaded in green.

Then if we go to the next exhibit, remember I asked you to... It is kind of hard to see... But the red outline is my client's property. Remember I asked you the configuration of the lake? Look at how much it has changed since those flats. So, the surveyor, when he went out for both the 1926 and 1947 floods, he saw something a little bit different from what we see today.

So you could see how the access to the lake is substantially different than it was shown on the flat. Nowadays, the tip of the property does not reach out into the water. So, if you go to the next exhibit you can see this as a closer version of the outline of my clients property.

Can we go to the next? Thank you. This... Well, you cannot really see it. What I highlighted this exhibit – this is a excerpt from the survey of my clients property. But you cannot really see... I highlighted in yellow, the canal, you could see the little yellow pink highlighting and it says 'easement of 05271'. There we go. That is the easement we referred to. It is the easement for two of the staff report. I refer to these myself.

The survey also shows to a approximate location of the canal. As a approximate because a lot of water bodies in Florida, this lake does have a rise and fall. I don't know when this lake was built. It is not showing on the 26 of 47 flats. That doesn't mean it wasn't there. It just wasn't showing.

But it is referenced in the easement that I mentioned earlier, and as mentioned in your staff report. That easement was dated and 96 to 5. So another canal was there since at least 1965. If we can go to the next slide. OK, good. My highlighting shows on this one.

This survey among this is the same survey, but the pink highlighting is the approximate location of the 15 foot setback from what I believe are the two side flat lines.

Now, you don't have it as a physician in your code of the Waterview flat lines. You have a side flat line and the rear flatline. I don't believe there is a rear lot line of this property. By definition, the rear lot line is the furthest... Let me look at it here. Let me just pull it up really quick. I had it on unicode... There we go. "It is the property line most distant from them was parallel to the rear lot line." So I would say there are no rear lot line because those both intersect with the front line.

So I believe, I'm not sure, I don't think staff agrees with me on this – but I don't think it is particularly relevant – I don't think there is any place in the property where you couldn't have a dock. If my



interpretation of side lot line is correct, there is no place that is more than 15 feet away from a side lot line that intersects with the water.

On the other hand, what to say there is definition of the waterfront a lot line, which is not in your code, but if there were then we could use the canal front as a waterfront lot line.

We really wouldn't have need – we wouldn't have need to acquire the additional property, and without acquiring the additional property we wouldn't need the variance because it is right there in the middle of the property, where I believe it should be.

I don't think it makes sense to make it anywhere then other where it is exactly right now. So, if we can... Also, I want to point out on that particular exhibit, if you look at the bottom left – the tip of the triangle there – you can see there is really no place physically even to put a dock and a boat house.

That intersection there would not even get you into the water anyway. So, that is a additional condition that should potentially be considered.

OK, the staff said we met all criteria except for one. The one being that we didn't meet the condition of, "Special conditions and certain circumstances that do not meet the conditions." So I'm going to look at this one. We show the special conditions and certain conditions the staff found. They are any particular shape.

So the book has to go to where the water is. There are minimal options for re-impacting wetlands. OK, somewhere to the argument I heard last time, which of those are result of the applicant's actions? None of them are.

So I believe we meet all five conditions. So I do not think – granted, the structures were built without permits. You know, that is something I should have mentioned in the beginning.

But I don't think any of the special conditions result from the fact in construction without permits. They are all either – God created the land and the weather. The original developer developed the lot lines, long before my client came to work.

So I believe you made all five conditions. The main thing or to focus on right now is the conditions for approval. If you determine that we do meet those conditions, can we go to the next exhibit? I have provided – I believe I have provided revisions to paragraph 1, which I believe staff is in agreement with that one.

The reason I asked for the 90 day extension is that we have all of these moving parts and pieces with

the adjoining property owner, and if we are going to make that happen – the lot line adjustment – then we may need to come back for an extension.

So I asked for a 90 day extension for good caution. The next change was just a grammatical change in paragraph two. I think staff is in agreement with that. That exchanger requested was to paragraph 5. The first one says it is a correction because we are talking about a cut and a boathouse, whether it fits in the back porch expansion.

Then the main thing – I think staff is in agreement with all of these changes – the main request I have is to eliminate the second sentence of the staff recommendation. That is the requirement to come back for a variance if there is damage or destruction to the structures.

My reasoning for that is that there really is no reason required. The social conditions, special circumstances don't change. They are still the same. I think that if we are coming – granted, the structures are there and have been there for a long time. But if they were not there right now, if they're coming for you right now they do not meet these criteria. So I think if it does have a certain circumstance that is a good condition.

If we do need to have a condition, I would like to argue the point little bit further and say well, let us just apply it to the garage and shutter, not to the dock itself. The canal is not going to move. The access to the water is not going to change.

If constructs within the parameters of the current dock and boat house, I don't think you should – if it does get destroyed, I don't think he should have to come back for those variants.

With that, if you have any questions, I would be glad to answer them.

RONNIE MILLS:

Thank you, Mr Ford. Do any questions for Mr Ford? Mr Bender?

JEFFREY BENDER:

Yes, my only question goes back to the sizable structures that it looks like – is there any reasons why it was permitted?

SPEAKER:

I think, I cannot remember exactly what my client said. I think the words were "Young and foolish". He very much regrets that he did this. He very much acknowledges that he should've done it the right way to begin with. That is the reason. There is no excuse for it.

RONNIE MILLS:

Any of the questions for the applicant?

SPEAKER:

One thing I would like to say is that I was out there and reviewed it yesterday. They did a heck of a job and talk again. That was the only place they could possibly put what they did out there. I am impressed, you know, they tucked in and did the way it was done.

I took some pictures. It doesn't protrude into the canal whatsoever. So, you know, they did a fine job. It is the only place that boat docks have been. So, they did a good job on that.

RONNIE MILLS:

OK.

SPEAKER:

Going back to the last case, it makes that one looked like a normal lot. This one is a tough lot. There is no backyard...

SPEAKER:

It just takes away your backyard entirely.

SPEAKER:

Yeah. I never noticed it before because I drive by it all the time. The just clear – the neighbours included all that aside. So I was like, wow! That is a crazy lot right there. They did a good job with it.

RONNIE MILLS:

Mr Bender?

JEFFREY BENDER:

My only question, if we approve it today orders of the goes wrong with that words that put us?

SPEAKER:

Basically, something goes wrong with that then we will come back to you. Most likely, only on the dock and the boathouse. I don't know. You know, there is a possibility we could establish a different lot line than the survey shows.

I think that is unlikely. I think that if that happens, we would probably come back to you and assert the easement gave us the right to do it and we should be permitted to do it within the easement.

Staff does not like that idea. I understand that is a kind of crazy situation in some people's mind. But in my mind, I see docs and boathouses – actually, your county code does say... I might have anticipated that question.

The county code has a special provision that didn't quite apply to this. But it is close. In section 72-279 says, "Printable and accessory structures" here's the key language, "Other than boat docks, boathouses and walkways should not be erected and planted easements."

I say that is close and not quite. This is action at a flatted easement. It is a private easement. It didn't show up. I mentioned several times into that show up on either of those flats I showed you. Can we go back? Can we go back to the... Can you scroll back to the original – the 1926 plaque?

That is going to read something interesting because... Yes. One more. One more, Susan. Thank you. So you look at that plat, there is an easement all the way around that part of the lake. Now, I know this lake fairly well.

Actually, I am in a group who owns property around this lake. My grandfather used to pull his father fishing around this lake. So I have been around a lot.

You notice it says 'Lakeshore' all the way around. That is a platted easement. Now, this – our property, if you take about where you see the divided road kind of in the centre? Our property is part of the re-plat which is part of the right, to the east of that road.

I do not know if that other part has ever been replanted, and I might check that. But if not, you have all kinds of docs and that platted easement for Lakeshore. That easement has existed all over the county, where you have docks, boathouses in platted easements.

Again, this is not a platted easement, but I think the idea we would come back to on is that we want to be able to do it within the easement. Now, there are a lot of reasons staff does not like it and I understand completely. I don't think we need argue that right now. (Laughs)

JEFFREY BENDER:

Thank you for clarifying.

RONNIE MILLS:

Mr. Bender?

JEFFREY BENDER:

The thing I'm most concerned about is if for some reason the real estate transaction is not successful,

for them to acquire feasible interest for the garage as a historic building. Do we have the right to grant a variance over something that they do not own yet?

RONNIE MILLS:

That is the issue, and that is why it is conditioned in such a way, and written in such a way that the variance only comes into effect once the Montgomery's have acquired feasible ownership of the property. In which case, this commission does have jurisdiction.

We cannot grant a negative variance, which is why we are requesting feasible transaction in the lot line adjustment. We were trying to plan against a future transaction and taking the lot as it will appear in the future.

Then they came in today and got that commission, I would recommend that you do not have the authority but we are conditioning it as such that your approval only goes into effect once one owner owns all of the land under control and they do have the authority and jurisdiction.

SPEAKER:

Also something with that, Mr. Bender, if that were to happen we would be coming back to you. I do not think, in all honestly, we would try to establish anything at that point with the garage. On the boathouse, I think we would still have to come back to you, I think we would have arguments to support but we are not there.

I do not think we are going to be there, I am the one who prepared the contract with the joining owner, I think there is very serious motivation on his part to make this happen, and so I do not think we will go there. But I do not want to suggest that I agree with everything that Paolo said.

I will just not argue that now because I do not need to. We are in agreement with the staff commission. Now, the amount of property that they are acquiring and the few simple interest area, it is still requiring a variance because it is not going to be enough to meet the setbacks.

That is probably the variance around that building.

SPEAKER:

Correct. If I could address that, we actually tried to convince the owner to convey more property and they said no. We will do this, but we do not want to do any more than that.

SPEAKER:

I have a question for legal staff too. If this by some weird chance happens not to happen, there is a timeframe that they can come back in for a variance on something they have already applied for

variance, is that going to kick in?

SPEAKER:

I think that only applies if you are denied a variance, I'm not sure there is a restriction if you are granted one, but in which case, this commission could waive that restriction in the event that the condition fails and allow Mr. Ford and his client.

SPEAKER:

That was my other concern that there was that cause of the timeframe. Might make a note of that.

SPEAKER:

I am not sure if you'd still have jurisdiction at that point, but we would work that it with legal staff and there be a new application or request for the condition and I do not know the answer to that.

SPEAKER:

Susan, would you please put Mr. Ford's comments regarding your recommendations versus what he would like to say? Thank you. Then I would like to note, staff's comments regarding Mr. Ford's recommendations.

SUSAN JACKSON:

Yes ma'am, with condition one, the extension language, we are fine with that frame extension up to 90 additional days, if for good cause shown they have not been able to be successful. So we are good with condition number one. Condition number two, we are fine with that. That is just a grammatical improvement.

Condition five, we are fine with the revised language because, frankly, it was our mistake. The other changes that they want to make to condition five, I do not believe we are in support of. Those are standard conditions that we put in all of our variances that are of similar nature after-the-fact commits to a nonconforming structure.

If you want to change it to be 75%, that is what our code requires. So we could maybe change it to that but I feel that to be consistent with how we treat all other variances that come before this board and in fact, if we happen to forget to put that condition in this board reminds us and asks to put it in.

So based on that, my recommendation is to keep the condition as is with the exception of fixing the typographical errors.

SPEAKER:

Thank you.

SPEAKER:

To clarify, Susan, that condition is the 50% rather than the 75% correct?

SUSAN JACKSON:

Yes sir, that is what would be consistent with how we treat other variances.

SPEAKER:

It may be noted that the code calls for 75%, is that correct?

SUSAN JACKSON:

That is the way that I read it.

SPEAKER:

Yes, it is 75% normally for nonconforming structures and 50% in coastal, high hazard areas. Yes, that is my understanding of the commission's actions is that they placed this in here to when they grant the variances for existing structures because otherwise, your granting of the variances actually legitimizes the structure and without this condition.

They can build it back the way you approved it in the variance certificate, damage destroyed because you have set the setbacks or appropriate zoning regulations for that particular piece of property when you granted it.

SPEAKER:

Does that not obtain with the 75%?

SPEAKER:

No, the 75% puts a limit on the amount of the structure that can be destroyed if they go over that, they need to build it back to the normal land development code standards. The variance for that particular structure goes away and this commission has used it to kind of legitimize existing structures on which to extent.

RONNIE MILLS:

You made a comment that is normally 50% in the high hazard, is this considered high hazard?

SPEAKER:

I do not know.

SUSAN JACKSON:

I do not believe so, that is normally along the coast or the St. John's River.

RONNIE MILLS:

Another comment I would like to make, there will not be any problems making at the 75%?

SPEAKER:

That is up to the commission. This is your condition, and whether or not you feel that it mitigates for the harm caused, or potential harm caused by the granting of the variance.

SPEAKER:

The adjacent properties all agreeing to it, I cannot see how the 75% would be detrimental.

SPEAKER:

On the second alternative condition that I proposed, I have distinguished, excuse me - between the garage and the boathouse and dock. Mr. Stony Sixma comments justify that distinction, he said there is no other place where you would put a dock and boathouse so I realize this is an after-the-fact request.

But if there is really no other place to put it, and if you keep it with the size it is right now which is the way phrased that condition, I really do not think we should have the same standard would apply to the dock and boathouse as he might to the garage.

And that is the second alternative that I proposed.

RONNIE MILLS:

Mr. Bender?

JEFFREY BENDER:

I would agree, because unless I am missing something, in the case that we have just finished. When we dealt with this particular requirement by staff, to say if it was damaged more than 50%, it could be built back in its exact same place without having to come back for...

SUSAN JACKSON:

Less than. If it is damaged less than 50% that can benefit. It is damaged more than 50%. Then it would have to receive another variance.

JEFFREY BENDER:

I misread that. I do not recall it being written that way.



SUSAN JACKSON:

If any of these structures are damaged more than 50% they replace that cost. They may be replaced provided that the building permit is obtained in the location of the structure applies with the requirements.

JEFFERY BENDER:

So it looks like it can be built right where it is.

SUSAN JACKSON:

No, more than 50%, it would have to flight to the normal zoning requirements. Not the variance requirements, that is with that states. The applicable zoning permits so that would be the standard setback requirements of that zoning classification. Not the variance requirements.

SPEAKER:

I'm not completely familiar with the last application, but again I want to emphasize on this one, the dock and boathouse, there is really no other place to put it. So I think that is a distinction.

SPEAKER:

I would agree, I want to look at that as well. If you put that Jock and boathouse in any other place, it is going to block that for anybody else trying to get in and out of the lake.

RONNIE MILLS:

OK, any other questions for the applicants? Alright, Mr. Ford we will see if we have any public participation and you have an opportunity to come back if we do. Anyone else would like to comment on this case? Hearing on, I would like to close this and put it up to the floor for discussion.

SPEAKER:

If your going to make exception to the 75% of this case, then from here on out, on every other case that we hear we are going to be pushing to go from 50-75% to match with the code.

RONNIE MILLS:

I think we have.

SPEAKER:

I am looking at the next few down here, and they are recommending 50. I think we have to match it with the code. The one previously, we do not change it at 75. We left it at 50.

So, yes. If we are going to make this change me to make this change universal at this point. Going forward. We cannot go backward, but going forward so we certainly can. Unless it is going into a high

coastal area.

SUSAN JACKSON:

Yes, that is controlled by the building code as well.

SPEAKER:

Certainly, that to be in conflict with the code.

RONNIE MILLS:

That is what I am saying. I don't know how we got to 30% (Laughs) Alright, like Ms (Name) said, I think we blended it in.

SPEAKER:

I concur with (Name) as well. Thank you.

RONNIE MILLS:

As far as the argument and requiring 75% on the dock and boathouse, is there any discussion on that? The reason I say that is because Mr Ford wanted to eliminate that requirement because in his argument, if it were, he would be back in here getting the same variance.

Then we will be looking at the same criteria in determining whether it would belong there or not.

PAOLO SORIA:

I heard his argument and I go back to his own argument and go back to 9026 and see how much that lake is changed. So, it doesn't mean it could currently state in this current condition. It can change again. Maybe not in the next five years, but then the next 10 or 15, I could change how this overall looks in this canal. The overall location.

So I would keep that in there with a 75%. This is being extremely generous with 75.

RONNIE MILLS:

OK. Alright, any other discussions? OK. I will entertain... As far as the staff has not had any objections to the addition of the 90 day extension – a real good with that? If we approve the variance? OK.

What other major change or the conditions that we need to look at?

SPEAKER:

I think I will try to make a motion on this. So in case B-21055, I will make a recommendation of approval with the staff, five recommendations they have. But I also want to add the applicant's

proposed revised conditions. But on 5 of the staff recommendation, they changed 50 to 75%.

RONNIE MILLS:

OK.

SPEAKER:

Mr chair, to clarify, for 5, the correction would read that it would be "the shed, dock and boathouse cannot be enlarged or altered in any way that increases in nonconformity. If anything is over some 5%, everything would need to be attained for approval for new variance." Right? That is correct.

SPEAKER:

I will second that.

RONNIE MILLS:

Alright, and we are including the 90 day extension for those regulations, correct?

SPEAKER:

Yes.

RONNIE MILLS:

And the verbiage in line 5 also going from dock and boat house and residents back porch? Then as Mr Paolo Soria just stated.

SPEAKER:

Yes I seconded. Right? OK, we've a motion to approve variances 1, 2 and 3 of B-2105 five, with the staff are committed conditions as stated previously on the amendments and changes of those recommendations.

We have a second for Mr Frank Costa. Any discussion on the motion? All those in favour signify by saying aye.

(Multiple speakers)

And he opposed? Motion carried unanimously. Alright, Ms Shelley?

EDITH SHELLEY:

Yes, case Z 1-21-0 72. This property is located at 5620 Burts Park Road in DeLeon Springs.

RONNIE MILLS:

Thank you, Ms Shelley. Ms Jackson, can you get the summary?

SUSAN JACKSON:

Yes researcher. So this is a 1.03 acre portion to a 6.71 acre partial from a rural to a transition of a R-3. So this is for them to spit off a smaller portion of the parcel to build a retirement home.

It is located on the west side of the terminus of Burts Park Road, approximately 2000 feet west of intersection with front Street and the CSX Railroad in the DeLeon Springs area.

So the applicant is requesting to resolve a parcel B only. You could see it in the graphic here. Both parcel B and parcel A will meet – parcel B able be zoned A-3, which is 150 lot with. Then the next parcel requires 150 lot with. Both meets zoning standards, and the existing structures on parcel A will continue to meet setbacks and so forth.

There are also one other 1 acre parcels in the area that are developed with single-family lots. There is also A-4 parcels in the area which allowed 2 1/2 acre properties. There is also B-7 commercial Marino further in the north on Burts Park Road.

The key differences in the zoning classifications, as he could see in the chart below, they are very much the same.

Basically, it is just the acreage requirement for the lot size, and it looks like the rear yard is 10 feet less. The front yard is 10 feet less for the A-3 zoning classification. Everything else appears to be the same. So, when the analyse and review criteria, we find it meets all of the criteria consistent with the plan. A-3 is conditionally compatible with the rural land use designation applied to this property. It does have an impact the economy or value of the area. It has mineral impact on governmental services, and it is not injurious to the health, safety and welfare of the public.

A recognition is for this occasion to the can to counsel with a final action with a recommendation of approval. Happy to answer any questions.

JEFFREY BENDER:

Thank you, Ms Jackson. Are there any questions for staff? Ms Shelley?

EDITH SHELLEY:

Yes, we have a question. On page 20, and my question is just a point of understanding – putting the environmental impact assessment has determined that the rezoning request is inconsistent with the comp plan. What do they need to do regarding that?

SUSAN JACKSON:

Where is it saying that?

EDITH SHELLEY:

Page 20 of the 50th conclusion. The first paragraph, last substance, "This environmental impact has determined that the rezoning request is inconsistent with the we comprehensive plan."

SUSAN JACKSON:

I think this allows the rural density of wonderful unit per 5 acres. However, there is also a caveat to that designation that if there are properties within 660 feet of the property that have a lesser density, like 1:1 acre, then the property can be developed at that density as well.

But I think they are taking the more extreme approach and saying that it is a 1:5 density when it really could go down to 1:1.

SPEAKER:

Quick question. Speak back go ahead.

SPEAKER:

Will this cause a problem for the applicant?

SUSAN JACKSON:

No.

SPEAKER:

Moving forward?

SUSAN JACKSON:

No.

SPEAKER:

Sorry to interrupt. See were saying there were 1:1. Is exhibit B showing there are a few adjacent around?

SUSAN JACKSON:

If you're looking at the property adjacent map you can see the parcel location and you could see right across the street, there are three parcels of the same size. The north of it as well the are other smaller parcels.

I mean, if you look further to the east, do you see all of the smaller lots? Those are there as well.

SPEAKER:

Thank you, thank you for clarifying.

RONNIE MILLS:

Any other questions for staff? OK. Is the applicant present? Yes, sir. Can you get your name and address of the record?

SPEAKER:

I am Wendell K Johnson. My address is one of 5 to 6, South boundary Street in DeLand.

RONNIE MILLS:

OK, so you heard the report what you would add?

SPEAKER:

Just that the owners of the parcel have a bit of a property and they lived here for 15 years or so. They maintained a apartment like setting. It has become too much at their age, but they would like to continue to live and enjoy what they have created.

So they have a verbal agreement to sell. There is no attachment to plan, redevelop, or further develop the parent parcel. That is going to be of course maintained as in the 5+ acres. So it is just a matter of them wanting to continue to live where they have spent so many years of work, making it beautiful, a parcel. So that is the nature of the request.

RONNIE MILLS:

OK, sir. Any questions for the applicant? Alright, you could have a seat. Let's see if we have any public participation. I will give you an opportunity, if so, to come back and respond to it. Do we have any public participation?

SPEAKER:

No.

RONNIE MILLS:

To have record of that?

SPEAKER:

I do not have a record of an email.

RONNIE MILLS:

OK.

FRANK COSTA:

Do any neighbour recommendations at all?

SUSAN JACKSON:

We have not.

RONNIE MILLS:

OK, we will open it up for discussion or a motion.

EDITH SHELLEY:

I would like to make a motion that we reform application case Z-21-02 with a final action of her condition for approval.

SPEAKER:

Second.

RONNIE MILLS:

I do not know who is said that.

EDITH SHELLEY:

Frank.

RONNIE MILLS:

OK, I have an application for the zoning for the final recommendation of approval, one from a Shelley and one for Mr Costa. Anyone in opposed? I want a favour say I.

(Multiple speakers)

Motion approved.

Alright, can you move onto the next case?

EDITH SHELLEY:

Alright so we are looking at the 2200 parcel land.

SUSAN JACKSON:

So they want to increase the maximum height from 4 feet-6 feet. The property is located on the northwest corner of Kappler Road on Mimosa Lane in the DeLand area. It is zoned R-3 and Arthur Beck requires a bit of lot area of 10,000 ft.<sup>2</sup> and what with of 85 feet. The property exceeds this requirement. It is 70,000 injured square feet and 135 feet in lot with.

It is a corner lot. It is at the corner of Kepler and Mimosa Lane. Kepler is a thoroughfare road connecting US Highway 92 and State Road 44. So it's a pretty busy road.

Mimosa Lane is a neighbourhood road. It is a local road and provides access to the immediate neighbourhood. So, the yards adjacent to these roads are considered in front yards, and fences in front yards are not to exceed 4 feet in height.

The existing fence appears to be unpermitted, and it put in place in 2003. The current owners, who are the applicants, have stated that it has become unsightly and it is sort of deteriorating. They would like to replace it because they feel that it provides a measure of safety and security to the applicant's family.

They have small children who play in the rear yard. The variant site plan shows where the green area is on this graphic, it shows where the fence would be in the front yard – so the front yard reaches back 25 feet from the actual driveway along Kepler Road.

Then along Kepler Road, and it would come attached to the house of the front façade phase of mimosa. It is intended to block visibility and provide safety to the rear of their house.

So, when we review those variance request, we find that it fails to meet for the five criteria. There are no unique circumstances associated with the property. It is a standard corner lot. The applicant is responsible for the variance. The lot is not deprived the applicant of commonly held rights. It is not used to make it readable use of the land.

However, we find it meets criteria 5. It does not seem to be injurious and it is having the same amount away from the travelled road. It doesn't have any site visibility issues along the roadway or intersection. We do see that it does – there is a difference in grade from the crown of the road of Kepler to the rear yard, and the applicant has provided photographs.

I don't know if I have them here. I don't. They're in your staff report. They show the difference in the great elevation that it is quite a bit higher at Kepler Road, than it is to the backyard.

So, we don't see that it is injurious to the area to replace the existing 6 foot fence that has been there for 18 years without complaint with the new 6 foot fence.



We have provided two conditions for your consideration, should the applicant provide competent and substantial evidence for you to support this variance. I am happy to answer any questions.

RONNIE MILLS:

Thank you, Ms Jackson. Any questions for staff? Hearing none, is the applicant present? OK, if I could get your name and address for the record.

SPEAKER:

Michael Groover, 2200 Mimosa Lane.

SPEAKER:

Rebekha Groover, 2200 Mimosa Lane.

RONNIE MILLS:

Would you like to add to that?

SPEAKER:

We have lived in the house since 2011. I understand there is not permitted additionally, but we were not around for that permits.

We are going to the correct process of trying to get a permit for the after mentioned fence and that is when this arrives.

At this point, honestly it is a safety thing. We have three kids and a little playground in the backyard. I am sure everyone here is familiar with Kepler. It is not exactly a terrible road, but there are random stragglers the block down it.

As long as we can keep what we already have, without, we are not trying to raise it 8 feet or anything crazy, we're just trying to replace what is already there.

SPEAKER:

And it is not a hindrance to any site, honestly. Driving down Kappler, I know there is only a handful of six-foot fences but they are all wood, they are all falling apart.

We are just trying to beautify Kappler and ensure the safety of our children, and the safety of anybody walking by, and that fence – if it were to fall down, God forbid, is a safety concern for them too.

Since we are on a ditch, people do walk into the ditch to get off the road.

SPEAKER:

Held it together with bubblegum as long as we can (Laughs)

RONNIE MILLS:

OK, let me see if we have any questions for you.

PAOLO SORIA:

I do, are you replacing it with the wood or vinyl?

SPEAKER:

Vinyl.

PAOLO SORIA:

It would be a vinyl fence?

SPEAKER:

That is kind of what started this. They were like, "Yeah, you can only have a wood fence" and I was like, "what? I'm not doing that."

SPEAKER:

I just, especially our younger kids are under the age of 10. They are very rambunctious. We do have trees to help provide but it still would not hit right where we need it for their safety.

PAOLO SORIA:

My point is I would not remove your wooden fence until you have the vinyl on hand. it is about a 10 week lead time as of yesterday.

SPEAKER:

We wanted to go ahead and proceed with the order, I do not know if we are going to get approved, but I'm going to order this right now.

SPEAKER:

When we are waiting, we are trying to follow all of the (unknown term).

SPEAKER:

Did you say BFC?

SPEAKER:

Yes.

SPEAKER:

Great company, I have used him.

(Laughter)

SPEAKER:

You've seen recommendation staff is provided in the event this is approved. Do we want to increase that to 75%?

SPEAKER:

My recommendation exactly.

SPEAKER:

I would like to increase that to 75% on recommendation number two.

RONNIE MILLS:

OK, let us see if we have any public participation and, if we do, I will give you the opportunity to answer any concerns they may have. Ms. Shelley, do we have any public participation on this case?

EDITH SHELLEY:

Yes, we have a Mr. Charles Beaman.

RONNIE MILLS:

What was last name again?

EDITH SHELLEY:

Beaman. It looks like he has left the online forum.

RONNIE MILLS:

OK, do we have anybody in the audience that would like to speak for this case? Hearing none, then we are going to close it to public participation and open it up to discussion or motion.

PAOLO SORIA:

I'm glad to make a motion.

RONNIE MILLS:

Ms. Shelley?

EDITH SHELLEY:

I moved to approve variance for case number B - 21 - 074. The recommendation for approval granting the variance, subject to the 75% change.

RONNIE MILLS:

Granted.

SPEAKER:

I will second that.

SPEAKER:

OK, I have a motion to approve case B - 21 - 074 with the staff recommended conditions with the change from 50% to 75%. From Ms. Shelley and a second from Mr. (Name), discussion and motion? All those in favour, confirm by saying I.

(Multiple speakers)

RONNIE MILLS:

Motion carried unanimously. Ms Shelley can you move to the next case?

EDITH SHELLEY:

Yes sir, it's caseV-21-075 to separate the lots and minimum yard requirement on prime agricultural zoned property located at 3661 and 3616 Road in Smyra Beach.

RONNIE MILLS:

OK, excuse me for a moment. On that last case, V-21-074, was Miss Groover here?

EDITH SHELLEY:

That was her mother-in-law. They was with her and they just walked out.

RONNIE MILLS:

I apologize for not getting that out because she did not come forward when I asked. Can I get the staff report on this case?

EDITH SHELLEY:

OK, this is another one of several variances. There are six variances and one is to separate nonconforming lots and to address setbacks for existing structures on one of the lots.

The location of the property is the eastern terminus of the road in the Sam Sulla area and parcels are zoned A-1 which requires a 10 acre lot size with 150 foot lot width, both parcels A and B are 5 acres in area, but they have 660 feet of lot. so they are conforming to the lot area but not the lot width.

As far as nonconforming parcels of the structure go, this separation of the lots parcel B has a residence on it that has been there since at least 1973, and also has an existing garage and several accessory structures.

Parcel B, I do not have the graph that shows which one is A and B, but you do in your staff report.

Parcel B has a resident since at least 2000. Prior to 2001, the properties were held in common ownership, but has been in separate ownership ever since then.

In 2020, the applicant purchased lot A and the home, and wishes to replace it with a single family residence and a new barn. In order to obtain the building permits they need to be able to separate the nonconforming lots.

Variance one therefore, is to separate parcels 0042 from parcel 0043. It was found there would be structures on one of the parcels that do not meet the minimum setbacks.

The parcel A, which is partially the subject parcel, it is possible that most of these buildings, these structures, were used for agricultural purposes in the past.

But the property does not currently have an agricultural exemption on it and therefore, we cannot consider them agricultural structures and they are not used for those purposes I believe.

Going through the structures, structure one which is a 576 ft.<sup>2</sup> foot garage, and this is associated with variance two. It appears that the structure was placed on the structure in 1985 and no record of a permit.

It is located 20 feet from the west property line and the applicant would like to leave it where it is and utilize it so variance two is to reduce the minimum side yard from 50 feet to 20 feet for the existing 576 ft.<sup>2</sup> garage.

Variance three is associated with structure 2, is a 400 ft.<sup>2</sup> concrete block structure. It appears to have been placed on the structure in 2005 and there is no record of permit.

Structure was fenced in the past. Indicating that it could have been used as part of an animal pen. It is located 11.6 feet from the South property line. So therefore variance three is to reduce the minimum

rear yard from 50 feet to 11.6 feet for the existing 400 square-foot structure.

Variance number four is associated with structure three, and 80 ft.<sup>2</sup> shed. It appears to have been built in 2010 and we have no record of permit. It also appears to have been fenced in the past.

Indicating it may have been used as an animal pen. It is located 40 feet from the south property line so therefore, variance for is the request to reduce the minimum yard from 50 feet to 14 feet for the existing 80 square-foot shed.

Variance five is associated with structure four. It is a 400 ft.<sup>2</sup> concrete structure, it appears to have been placed in the property in 1985, we have no record of permit, the structure also appears to have been used as an animal pen, there is indication of fencing around it.

It is located 14.3 feet from the south property line. Therefore variance five is to reduce the minimum rear yard from 50 feet to 14.3 feet for an existing 400 square-foot accessory structure.

Variance six is associated with structure five, which is a 216 square-foot carport. This was built in 2020 with no permit. It is part of an animal plan, apparently.

It is located 65 feet from the north property line, and therefore variance six is to reduce the minimum front yard from 100 feet to 65 feet for the existing structure.

Additionally, I would like to mention that there are apparently shipping containers that are located on the property that appear to be being used for accessory structures, storage type pieces.

Our code does not permit the use of storage containers for storage of any type. So these need to be removed from the property, or not used as an accessory structure.

So, when we review the request, the variance one, which is for the nonconforming lot, we find that it meets all five criteria and therefore recommend approval.

Variance two through five, we find that they have failed to meet one of the five criteria.

We do not find that there are special circumstances associated with the property. However, we find that it meets criteria two through five.

The applicant is not responsible for placement of the structure, they were all there before purchase of the property. Literal interpretation of the code, they were necessary hardship and these structures have been so located for several years without complaint.

The variances are the minimum to allow the structures to remain in their current locations and obtain permits, we do not consider it injurious to the area involved.

Variant six, which is the carport which was recently put there by the current applicant, we find that it fails to meet three of the five criteria.

Again, no special circumstances with the property, applicant is responsible for placement of the structure.

Literal interpretation of the code would require removal or relocation. It does appear to be an act structure however, because there is not one defined agricultural use, its placement is not a commonly enjoyed right.

It does meet criteria for and five though, the variance would be the minimum to allow building permit to be obtained for it in its current location and it is not considered available to the area involved.

Should the applicant provide competent and substantial evidence, we have provided for consideration.

SPEAKER:

I am curious about condition four. Any shipping container or similar unit used as an accessory structure must be removed. I understand that. It says, or it uses was seized within 90 days. Can they stay? If they are not used as accessory structures? I thought that the containers cannot be on the property at all.

SPEAKER:

Well, they can. They would have to meet setbacks, but they can be used for any kind of accessory structure. That is all the code states. The quote states that it could not be there. See? Well, I thought it could not be there. I am sorry, then. Then, what could they be left there to use for, then?

SPEAKER:

Decoration.

SPEAKER:

Can make for good chicken coop.

SPEAKER:

So, they had to be painted with flowers or something?

SPEAKER:

Beauty is in the eye of the beholder. You might like them just the way they are.

(Laughter)

SPEAKER:

OK. Thank you, then.

SPEAKER:

OK. Any other questions.? OK, Ms. Jackson, I hate to keep on beating this fourth – my course to death, but you stated that one of the structures, I think, was going to be used for agricultural properties – my purposes, but it is not for our purpose use?

SPEAKER:

That is right, they do not have the permit for the (unknown term), but they may have in the future. See? It is my understanding that it does not necessary have to be the agricultural exemption to be agricultural use.

SPEAKER:

Our interoperation – Mike interoperation is that it does. We do not have any thing stating that it is IQs.

SPEAKER:

I understand you use that as a tool, but it simply was to build an agricultural barn to house chickens, let's say, you do not put the chickens in the yard before you put the barn in there. So, you cannot get your agricultural exemptions until you have it.

SPEAKER:

It is a chicken and exit switch. Me? There you go. Like I said, I do not want to beat it to that, but I have to bring it up every time we went into this. OK. As applicant present? Can I get your name and address for the record?? My name is Keegan Graham. 1415 Medan Road.

SPEAKER:

You heard the staff report, is there anything like to add to that? Speed? Recently it started with the demolition of the mobile home to build a new single-family residence. Upon obtaining the letter, it was the neighbouring property on the parcels between 1981, that triggered every thing else. The current owners but the partners regionally, everyone was there except for the carport, which they install for their horses.



They do have pleasure horses, which does not classify as our culture. Therefore they do not have the exception. We are basically trying to build a house, a new house.

(Laughter)

SPEAKER:

OK. Does anybody have any questions for the applicant?

SPEAKER:

I do. I'm curious about the containers.

SPEAKER:

Honestly, there is only one shipping container. The shipping containing all of the contents, they moved from Seattle to here, they retired. So, it has everything that will go into the house. It is all their personal contents.

SPEAKER:

And then once that happens they would remove them? I was just curious if you're going to use them for decorations. Any other questions for the applicant?

SPEAKER:

And your intent is to keep the current buildings in their current format?

SPEAKER:

If you can come to the microphone. Can I get your name and address for the record?

SPEAKER:

Deborah Truax, 3660 Mustang Road New Smyrna Beach. I have some pictures of the before and after, because we do intent to keep the structures where they were. We have done what we can to clean the property up, it was horrible. There was a hoarders episode.

We have done everything that we can to get where we are at. Speed? So these variances are to keep the instructors there and build a new house? Which I assume is the builder you are going to follow all code and conduct.

SPEAKER:

Absolutely. Speak Mike any other questions for the applicant? Let us see if we have any further participation. If we do, we will give you time to respond to that. We have any further participation in this discussion?

SPEAKER:

No sir. See? Does anybody want to participate in this case? We are going to close the board. Forward motion. The? Looks like it is on me. I'm going to try and push them. I make a motion for approval in case number V-21 – 075. He approve the variances, outlined one through six, and with staff recommendations.

SPEAKER:

I second that. To the 75%.

SPEAKER:

I will seconded to the 75%.

SPEAKER:

And I asked the board one question. Because they are using those accessory containers, to store all of their furniture in, we have a 90 day that they need to be moved within 90 days, but I doubt the house will be billed within 90 days.

SPEAKER:

I would say because do that within 365, based on the time timeline, it can be seven months plus before the house is ready.

SPEAKER:

Could be not just modify that to be 90 days after completion of the house?

SPEAKER:

Or 20 days after Seo?

SPEAKER:

90 days after seal. So, the house takes two years to be built for some reason, it will be there. If it only takes three months, it can be removed three months after that.

SPEAKER:

The windows are in order, they are seven months arena.

SPEAKER:

So, 90 days after CO, I would go without.

SPEAKER:

So, I would amend the motion to be 90 days after CO, and with a 75.

SPEAKER:

That I could support.

SPEAKER:

Any other discussion on the motion? OK. I have a motion to approve V-21 – 075, through six, with all the staff recommendations an amendment to 75 and with accessory structure that are to be removed, here 90 days after the CO has been obtained. Is there any discussion on the motion? All those in favour. Any opposed? Motion carried unanimously.

SPEAKER:

Can I get the next phase please?

SPEAKER:

Case fee – 21 – 076, at 122 Charles Street Edgewater.

SPEAKER:

Can I get the staff report and this one please?

SPEAKER:

The applicant are seeking variance to legitimize the replacement of two existing accessory structures, a shed and at an existing dock. The property is located on the south side of Chelsea, east of the intersection, with Nellie Street and the East water area. It requires us 5000 square-foot area, and a foot of 50 feet. The property exceeds these requirements, at 6550 ft.<sup>2</sup> in size of the 50 lot width.

Structure one, let me see... There we go. Chapter 1 is a letter -- metal shed, and it is associated with variance one. It is a 80 square-foot shed, the property, for the properties appraises information, it was placed on the property in 2001, however the neighbours believe it has been there for longer than that.

It was built before, or placed on the property before the current applicants purchase the property. It is located approximately .3 feet from the Western property line. Therefore, variance one is to reduce the minimum west side yard from 5 feet 2.3 feet for the existing 80 square-foot shed. Variance two is associated with structure two.

This is 100 square-foot shed. It was constructed in 1987, also prior to price applicants purchase. It is located approximately 3.3 feet away from the Western property line. Therefore the variance request is to reduce the minimum west side yard from 5 feet to 3.3 feet for the existing hundred square-foot shed.

In variances three and four are associated with the existing dock. This structure is constructed on top of the seawall, and it was recently modified by the applicant to extend 1 foot beyond the seawall. Prior to that, it was considered a deck. But, now that it extends beyond the seawall, it is considered the dock and it must meet the dock setbacks of 15 feet to the side yard. But, this extends across the entire back of their property.

Therefore, the variance three is to reduce the minimum west side yard from 15 feet to 0 feet, for the existing dock. A variance four is to reduce the east side yard, from 15 feet, for the existing dock. Let me point out that the dock measures meet the dock size requirements, at 520 ft.<sup>2</sup>.

In reviewing variances one and two, which are for the sheds, we find that the variances failed to meet one of the five criteria, there is no special circumstances associated with the property full stop however, we find that it meets, they meet 3 to 5. The variance is not as a result of the applicant's actions. Literal interpretation may cause hardship, have been located there for 50 years without complaint.

The minimum variance to have the structures located and have permits, is what is being requested. We do not find them injurious to the area. We have letters of support for that neighbour that is on the adjacent side, the most affected neighbour. For variances three and four, for the dock, we find that it fails to meet three of the five criteria.

Again, there is no special circumstances associated with the property. The requests are the result of actions of the applicant, as they were the ones that modified what was previously a deck. Literal interpretation of the code does not deprive them of a commonly enjoyed right. We do find, however, that it meets criteria four and five. It is the minimum variance to obtain permits for the dock as currently constructed.

We do not consider it injurious to the area. It does not exceed the maximum size for the dock, and it does not appear to impede mode traffic or access to the neighbouring properties. It is somewhat of a common dock situation, in that area, along those canals. Again, there are a lot of letters of support from the neighbours. Should the PLDRC find that the applicants have provided competent and substantial evidence, we have provided three conditions for your consideration.

SPEAKER:

Thank you, miss Jackson. Any questions for staff? Is the applicant present?

SPEAKER:

Good morning. Can I get your name and address for the record, please?

SPEAKER:

Penny Houser, and Thomas Houser, 122 Charles Street. See? You've heard the status report this morning, anything you would like to add to that?

SPEAKER:

Just the fact that this whole thing came about because one of our pilings broke. We went to a dock company and had them survey it, the Finder will be needed to do to get it properly permitted. I think a planet came out and looked it over. That is when we, the two buildings and the dock itself were found to be noncompliant. That is how we got here. We just want to bring everything into compliance. That is what it is all about for us.

RONNIE MILLS:

Does anybody have any questions for the applicant?

RICHARD FELLER:

I do... Just give me once again. So, in looking at this... Forgive me, I will actually come back in one second.

RONNIE MILLS:

OK. Alright, let's see if we have any participation. And if we do that we will have an opportunity to come back before the Commissioner has another question. Then open you back in another second

(Multiple speakers)

RONNIE MILLS:

Just have a seat hearing to be get this resolved. Ms. Cushing do we have...

SPEAKER:

Ms. Peca Vic are you online? Ms. Peca Vic, if you would just turn your microphone on? Is she still with us? Ms. Peca Vic? If you can hear us, we cannot hear you.

Alright, we are just going to have to move forward.

SARAH CUSHING:

Also online we have a Mr William Porter.

RONNIE MILLS:

Mr Porter, are you with us?

SARAH CUSHING:

I apologize he has gone off-line at this point.

RONNIE MILLS:

Alright, anyone else?

SARAH CUSHING:

No, no more online.

SARAH CUSHING:

I'm sorry, Ms. Peca Vic is now online. She just needs to enter the pin that was just provided to her, and then she will be able to speak.

RONNIE MILLS:

OK. Mr Feller did you have your, that you would like to ask?

RICHARD FELLER:

I, it was going to be to the owners. I know this area well and I remember hearing about this in co-board hearing that I attended. There is a lot of nonconforming structures they are. As a look at the request for variance, it took me back. I thought that there was a time and – forgive me if I am wrong – that you were opposed for variance for other neighbours to have stuff like this. Is that true? Just curiosity because I know that there has been some issue around the area because things have been built for so long, and people are adding things, and what can stay and what can go? I am just curious as to what your take is on that?

SPEAKER:

We did opposed to variance on the east side.

RICHARD FELLER:

He said of your property?

SPEAKER:

Yes. There is some circumstances around that that are different, quite a bit different in that those structures were recently put in. When I say recently I am saying less than 10 years. They are very offensive. They are really -- they are right on the line.

SPEAKER:

... And 20 plus if you add them all up.

SPEAKER:

It's actually on our property by two and a half inches.

RICHARD FELLER:

So just out of curiosity, but this is a variance to do with the same thing to do with the property line. So just like the others are, they are either to the property line or little over. So you are expressing a variance to go from 5 to 0,...

SPEAKER:

We did not put those as there, they have been there for over 30 years.

RICHARD FELLER:

So you're saying if they have been there for over 30 years they are OK, but if some of the El Cid after the fact that... I'm curious why...

SPEAKER:

She rented the property and we didn't want to be bad neighbours. So when this came to board, she put up a ramp. Then she put bamboo on the ramp. Then she put two more structures of sheds. Then she put Jackie on the back. And bamboo. So when you put all that, I think we have 40 feet of fence I guess you would say. So when we try to talk to her about these variances, she would not talk to us. She got dead -- she did not give us consideration to work with her. She was not willing to work something out, but she wasn't willing to work with us. She couldn't even have enough consideration to her she was going to these variants, to talk to us.

RICHARD FELLER:

I just want to stay out of the neighbour to neighbour thing. I am just really concerned that it is not a proved should not allow the variance of them in the past is that correct? Were the variance for other structures like this in the neighbourhood, do you know the answer for that? I think I do know the answer for that but I could be wrong. Is it uncommon for other properties to have these structures as well to?

(Multiple speakers)

SPEAKER:

You denied them.

RONNIE MILLS:

As a variance board was posted look at each individual variance severally. And I understand that there

are other things like this in the area. We have to look at what's in front of us today. We need to be consistent

(Multiple speakers)

RONNIE MILLS:

We just need to take this in hand.

JAY YOUNG:

Yeah, I would just like to make a comment because I am very familiar with this area. Williams Road which is in the picture is my father-in-law. I have been in that neighbourhood for 50 years. That plays is a hodgepodge of all kinds of stuff. I don't think that anything that happens there is out of place. So I have to say that this is the norm here. So I don't see any problem with it. If you go to the property -- if you drive to that property, everything in there is unusual. I don't think you can find anything that is normal or meets code.

RONNIE MILLS:

Any other questions for the applicant? Did we ever get them online?

SARAH CUSHING:

We are still waiting on her to connect her audio.

RONNIE MILLS:

What is her name again?

SARAH CUSHING:

Miss Diane Peca Vic.

RONNIE MILLS:

Ms. Peca Vic, we are going to give you a few more seconds or we are going to have to move forward. Turn your mic on. OK.

RONNIE MILLS:

We are going to move on now. Is there anyone in the audience I would like to speak to this case? If we can take and you can use iteration, Mr Feller and what you have talk about previous the.

SPEAKER:

I will make a motion to say that we have approved the 21 motion 376 as amended.



SPEAKER:

All second that one.

SPEAKER:

Amended to 75% please.

SPEAKER:

Amended to 75% please, sorry.

SPEAKER:

Although this is a coastal area, 50% would apply.

SPEAKER:

OK, then we will leave it at 50%, I am all for that.

SPEAKER:

Then I will would withdraw my 75% request.

SPEAKER:

As I said, with the staff conditions. Am I mistaken? OK, I'm correct that to 3.

RONNIE MILLS:

Alright, we have a motion or case. V 21 – three seven six four variances one through 4 to approve those. With the staff are commended conditions, and we are leaving the fit percent in instead of changing it to 75. Any discussion on the motion? Mr Feller?

RICHARD FELLER:

The other thing I would like to say is that I support the motion because I believe that these areas have changed. I will say this, I hope that the neighbour to neighbour's stuff can end from all sides. I will say this. Everything in our area is nonconforming and strange. How people go about it is different. I support the fact of making these come into play and making them work, but I support it for everybody. When I look back at things I wonder why things were done a certain way. That is my perspective.

SPEAKER:

I just wanted to update you. Ms. Peca Vic was able to text or type to Yolanda and say that she is in support of the variances.

RONNIE MILLS:

I'm glad that we were able to get some communication there. All those in favour say I?

SPEAKER:

I.

RONNIE MILLS:

It carries unanimously.

RONNIE MILLS:

OK, we need to move on. Can I get the next case please?

EDITH SHELLEY:

Case number V – 21 – zero seven seven. Variance of the minimum yard on tourists on eight Ocean Edge Drive Beach.

RONNIE MILLS:

Thank you Ms. Shelley.

SPEAKER:

This is a variance to reduce the rear yard setback from 20 feet to 6 feet for a bathroom edition. The property is located on the south side of Ocean Drive a proximally 212 feet east of an intersection between's date a one a and Bridgestone area. It's zoned... And lot width of 40 feet. It's 403,000 ft.<sup>2</sup> and 80 feet in lot width. The property is within the O'Brien subdivision, which was plotted in 1946. As you can see by the graphic here it is a strange shape and trapezoidal.... And the rear measures 40 feet. It contains a house that was built in 1955. The house was built on an angle. As you can see that the house itself does not meet setbacks. It was built 8 feet from the rear property line and at the corners where it is closest, 11 point 6 feet to the front property line. So, it is an older house and it is a basic two bedroom two bathroom home and they would like to add an additional bathroom to the rear of the house. The bathroom itself would increase the existing nonconformity from 8 feet to 6 feet. So an additional 2 feet at its closest point. The bathroom edition as you can see in this graphic over here is a just he had this rate here. It is just increasing it a little bit rate here. So this is the point of where it is the closest. So, when we evaluate this variance, we actually recommend approval as we find it meets all five criteria for evaluating the variance requests. However, we do have that subject to particular conditions included in your staff report.

SPEAKER:

Thank you Ms. Jackson, any questions for staff?

SPEAKER:

Could you ask that again?

SPEAKER:

For the amount of coverage on the plot?

SPEAKER:

It meets the amount of coverage, with the addition. I believe that is in the staff report somewhere

SPEAKER:

Is the applicant present? Can I get your name and address for the record Sir?

SPEAKER:

You've heard this daft reclamation, is there anything you like to add to that? Speed? I heard the staff recommendation. It is very limited lot, and we feel that this is the best place to put it. The backyard is entirely fenced. Nothing is changed.

SPEAKER:

Alright. Any questions for the applicant? All right, sir. You can have a seat and we will see if we have any comments. If we do, I will give you the opportunity to come back and address those. Do we have any public participations?

SPEAKER:

Yes, sir. Does anybody in the audience like to speak to this case? We are going to close the public participation, and opening up for the commission to make a motion. See? I will make a motion on this. I look took a look at it, and you cannot do much more with it. I make a motion that we improve variance of 21 – 077 with the two staff conditions.

SPEAKER:

I have a motion to approve V -21 -077, with the two staff recommended conditions and the second for Mr Sixma, any of favour, any discussion on the motion? All those in favour signify by saying I. Any opposed? The motion carried unanimously. Micheli, can I get the next place, please?

EDITH SHELLEY:

V – 21, – 0 78. Requesting variances to the minimum yard requirements on urban single-family residential zoned property. Located on 4227 S. Atlantic Avenue, Port Orange.

SPEAKER:

The applicant is seeking to variances. One is for the proposed addition to the existing residence. One is for the existence shed. The property is located on the northeast corner of the intersection of North Avenue, in the Port Orange area. The property is zoned R9, which needs an area.

The property exceeds this. It is a corner lot. It is, it has frontage on Atlantic Avenue, and the Siegel Street extension. This extension is, it is applauded right-of-way. It contains the applicant's driveway to the house, but it is also a boardwalk to provide beach access. There is no vehicular access to the beach here, it is just a boardwalk for pedestrian access.

So, that requires that it is subject, this lot is subjected to front yards. But, in the R9 classification, it allows one of the front yard to be reduced to 15 feet. In this case, that 15 feet is utilized adjacent to Siegel Street Extension. The lot is already developed, with an existing house that was constructed in 1956. The existing house is approximately 3700 ft.<sup>2</sup>.

The applicant wants to construct an addition onto the house. The addition will be proposed at two stories, attached to the southern side. You can see in this graphic that it is the yellow area that is adjacent to Siegel's side of the house. This would approach into the 15 foot, well front yard, by approximately 3.4 feet. So, variance one is to reduce the south side yard from 15 feet to 11.6 feet. And your staff report, it says that 20 feet.

That is a typographical error, it should be 15 feet. I do not know how an error can get to all of the reviewing that we do. I think there was a gremlin in our computer system. So, while reviewing, you can see on the photograph here that it is twisted sideways, so that the house is in the same configuration as the side planned is that is up there. In the event, while reviewing it we found that there was a shed that is near the north property line that does not meet the 5 foot setback for an accessory storage.

It is about 120 ft.<sup>2</sup> in size. It appears, by aerial photographs, to be have located their sense 1999. So, approximately 22 years. It is located too unhappy from the north property line. Therefore, variance to is to reduce the north side yard from 5 feet to 2.5 feet, for the existing shed.

When we reviewed the variance requests, for variance one, we recommend denial, as the variance fails to meet two of the five criteria. Literal interpretation of the code does not deprive the applicant of the common right, and it is not the minimum variance use of the land. But, we do find that it meets criteria one, two and five. There are unique circumstances associate with the property.

Being adjacent to the right-of-way, that is not for vehicular access, if it were a normal interior lot it would meet setbacks with this proposal. The circumstances are not the result of the actions of the applicant, and we do not find it to be injurious to the area. There are similar variances that have been granted to the side yards, for the corner lot situation.

Forbearance two, we feel that it meets one of the five greater. There is not any special associations that are associated with this. It should have met 5 feet. However, we do find that it meets four of the

criteria. It is not a result of the applicant, as it was there as a part purchase the property for sub-literal interpretation of the code may cause the necessary project to remove it. It is existed over 22 years without complaint.

It is not considered injurious to the area. We have provided two conditions for your consideration, should the applicat provide competent evidence for the board to consider these requests.

SPEAKER:

Thank you, Ms. Jackson. Any questions?

RICHARD FELLER:

Just one question. The class occasion for stop if this did not have the walking action, this addition will fall within normal setbacks is that correct?

SPEAKER:

If it was another lot adjacent to it, yes it was.

SPEAKER:

That is something that I have never realized. If you recall, this corner lot, has a walkway for supper does not make sense.

SPEAKER:

OK. As the applicant presents? Good morning, sir. Can I get your name and address?

KENNETH MEISTER:

Kenneth Meister, South Atlantic Avenue Port Orange. Just to clarify, it does say that this is a certain scruffy, it is 4272. I do not know if it covered some other areas, but the under roof living space is 2402. The addition, the same thing, the same living space, it is 1600 ft.<sup>2</sup>. For the edition.

Just a little background that I thought that would be helpful. I moved out here three years ago. This house was in foreclosure, it was a mess. I put a lot of money into it to fix it up. It is a three-bedroom home, and at this point, Lot 2 needs some more space. So, that is the reason for the addition.

You probably know this area, there are a lot of homes along these walkways, down in this area, and most of those homes are very close to the walkways. They restrict the use of the ocean, etc. This addition, if you can see from the drawing, is 27 feet up the walkway, after completion. So, you can look at, as far as access to the public in every thing else, we try to keep it as small as possible, to get some additional footage.

Then, the last thing, just to clarify, I think there was an earlier number and with the setback request is. There is an earlier drawing that, a survey that took it off of a different point. So, the request is 10.3 off of one of the corners, instead of 11.6. If you see 11.6, that is from a different version of the application.

RONNIE MILLS:

Miss Jackson, did you?

SUSAN JACKSON:

We should be able to make that change. And we advertise, we just do it as a setback. We do not put numbers and advertisement. So, we can make the change.

KENNETH MEISTER:

And one more thing. I do not ask any neighbours, but I did have a neighbour who sent me an email, the one that is closest to me on the south side of the walkway. He sent me an email and were in support of the request, if that helps.

RONNIE MILLS:

If you want to make the email a part of the public record, you may do so.

KENNETH MEISTER:

Should I read that into the record? Or standard?

SPEAKER:

Was a given to you in the packet this morning?

SPEAKER:

Is it from Dan Epperson?

SPEAKER:

(Name).

SPEAKER:

So, that was a different neighbour. But, I have another one if that helps.

SPEAKER:

There it is, up on the screen. Oh my gosh, I apologize for that.

RONNIE MILLS:

I do not think I have another email for this case. Anyway...

SPEAKER:

That is it.

RONNIE MILLS:

This is 79. This is M&A. If you want to forward that to Ms. Somers, they have to put in the record.

SPEAKER:

Mr Meister, if you can summarize the email, then we can have this part of the record. You will not have to read it verbatim, but just so we note what is putting in.

SPEAKER:

Regarding the discussion about the possible addition to your health, it does not support all of the various codes, but as your closest neighbour I am supporting your request. The improvements that you have been made are positive, and benefit the community and would make for nicer placement.

SPEAKER:

We would take that into consideration. See? If I can add, can you send that, Mr Meister, to this email. We will put that into evidence for your case.

RONNIE MILLS:

All right, sir. Anything else?

SPEAKER:

That is all I have.

RONNIE MILLS:

I will see if you have any questions for you. Any questions for the applicants? OK. Do we have any public participation on this case? Anybody in the audience would like to speak to this case? OK, we will close this. Emotions are in discussion.

SPEAKER:

I will make a motion. We approve the two grants request, with staff recommendations. Just making sure that this does not include the... This is the waterway, the 50% will be a...

SPEAKER:

I would amend the variances.

SPEAKER:

I will second that.

RONNIE MILLS:

OK. We have a motion to approve V-21 – 078, with the two staff recommendations with the amendment for variance 11.6 to 10.3 feet. For variance one. Any discussion? All those in favour say I.

(Multiple speakers)

RONNIE MILLS:

Any opposed? Motion carried unanimously.

EDITH SHELLEY:

Case V-21-079... In the DeLeon Springs area.

RONNIE MILLS:

Thank you Ms. Shelley. Can I get the staff report in this?

SUSAN JACKSON:

The applicants are speaking -- seeking to construct a swimming pool at the rear of their home. For additional variances for additional structures that are on their property, that do not appear to have -- building permits. The location of the property is on the west side of Cortez Avenue in the DeLeon Springs area. It is zoned R three, which requires a 10,000 ft.<sup>2</sup> lot with the minimum lot width of 85 feet. The property exceeds these requirements at 10,054 ft.<sup>2</sup> with 189 foot lot width. So, variance one is associated with the pool. As you can see on the screen, the location available for the pool at the rear of the house is affected by this strange lot configuration. I don't know what to call this kind of lot.

(Laughter)

SPEAKER:

Convoluted.

SUSAN JACKSON:

So, the lot has three front yards and three side yards. It is developed within existing single-family home. And they want to construct the pool at the rear of the home, which is customary. It is going to encroach somewhere. So variance one is to reduce the west front yard from 30 feet to 10 feet. So, that aside along here is... Which road is this? It must be Park Avenue. That is considered a front yard which requires a 30 foot setback. Therefore any sort of pool or accessory structure Conoco in the front



yard. So therefore that variance request, variance to his in association with a shed. It was found during the zoning review of the pool. It does not appear to have permits and appears to have been constructed around 2012 or 2014, by aerial photography. Variances needed to have permits to keep it in its location.

Variance to is to reduce the south side yard from 5 feet to 1 foot for an existing metal shed. Variance three is associated with the existing fence. There is a six-foot unpermitted fence in the front yard, that was also identified during the zoning review for the pool. A variance is needed to allow it to remain and be able to obtain a permit after the fact.

So variance three is to increase the fence height in the East, North and West front yards for an existing fence. And variances four and five are associated with the porch addition to the rear of the house. There is an unpermitted porch addition, you can see it here. It has the X through it. That is an addition through the house and it appears that that was not permitted. Per the property appraiser's records it appears to be added, or at least a portion of it, was added in 2008. So variance for is to reduce the west side yard from 8 feet to 2 feet for the existing porch and to an variance five is to reduce the front yard from 30 feet to 18 point two six for the existing porch. When we review these variance requests for the pool, we find that it fails to meet five of the criteria. Literal interpreting of the code does not deprive the occupant right or reasonable use of the land. It may be considered injurious. Pools in front yards can be considered an attractive nuisance. We do find it meets criteria one and two. There are unique circumstances associated with the property, with a weird shape that it is. Those circumstances were not caused by the applicant.

Variance to which is the shed, we find that it fails to meet two of the five criteria. They are not unique circumstances in regard to SS restructures that they could have met the 5 foot yard setback. The circumstances are results of the applicant. We do find that it meets criteria three, four, five. Literal interpretation may cause an unnecessary hardship in having to remove or move the existing shed without complaint.... We do not consider it injurious to the area. It has been there for seven years without complaint.

With regard to variance three, which is the fence. We find that it fails to meet two of the five criteria. The need for the variance is the result of the applicant -- actions of the applicant as they have constructed the fence. It is not a common right to have a six-foot fence in a front yard. We find that it meets criteria one. The unique circumstances are that the property has three front yards. Criteria four and five as well, it is the minimum variance to allow the fence to remain where it is located and be able to obtain permits. We do not consider it to be injurious to the area.

With regards to variance four and five, which is the porch addition. We find that it fails to meet two of the five criteria. There are no unique circumstances with regard to the porch addition. The need for the

variance appears to be the result of actions of the applicant. We do find that it meets criteria three, four, and five. It is not a common right however it might be considered an unnecessary hardship to remove the porch. With the memo variance to allow the applicants to remove... Should the applicant provides essential evidence, we have three can editions for your consideration. We did receive an email of concern, however I do not know if their concerns are actually concerned with these variance requests. I believe that that email was provided to you and a packet this morning or in a packet sent out earlier.

Happy to answer any questions.

RONNIE MILLS:

Thank you, miss Jackson, any questions for staff?

RICHARD FELLER:

The mail that you're talking about, do you know where it is on the map? Do you know which property this is?

SUSAN JACKSON:

No I do not.

RONNIE MILLS:

Any question for staff? Is the applicant present? Yes sir, can I get your name address for the records?

SPEAKER:

Jusuel Galarza, 498 Cortez Avenue. For the shed, we have fixed it and the setback is around 6 feet on the side of the fence. And for the variance for the fence, the only reason that we have those 6 feet fence is so that they do not see any of our equipment and stuff. We are afraid that if it is lower that someone might just come in and take whatever. That is why we would rather keep those 6 feet fence is there. Also for privacy reasons. If anything we could take the fence near the driveway, but we would rather keep it there as well.

For the porch however, we have had that there forever. We never had any concerns, not even the neighbour that is nearest to us or that is most affected has any concern with it. We do not have any concerns from them. They have never told us anything and I feel like all of this came about because we wanted to make a pool for the past decade. We have never had any concern with any neighbours or anyone or in the surrounding area. It is just brought to you now since we wanted to make a pool.

RONNIE MILLS:

OK, let's see if we have any questions for you.

(Multiple speakers)

SPEAKER:

The neighbour,...

SPEAKER:

So the moment the bottom right-hand corner of the screen?

SPEAKER:

Yes.

SPEAKER:

Did you say that you move this shed? In that bottom of variance to, you move that?

SPEAKER:

Yes.

SPEAKER:

Do we need that variance anymore?

SPEAKER:

We just recently moved it a couple of months back. So did not cover it.

RONNIE MILLS:

So it is your testimony that setback meets variance two?

RONNIE MILLS:

You are for sure 5 feet away?

SPEAKER:

Yes.

RONNIE MILLS:

Yeah, I just want to make sure that you won't have to move it again (Laughs). Let's if we have any other public participation. Are you familiar with this email that we received about the oak trees. It says septic and drain field? Where is yours?

SPEAKER:

Right next to the black car in the front lawn. I guess around our front door, in that area. That's where our septic tank is.

RONNIE MILLS:

As far as our back flush on the pool, that would be contained on your property.

SPEAKER:

Yes.

SPEAKER:

OK, alright. I think you address those concerns that they had.

SPEAKER:

One of the question that I have really quickly, that white fence that goes up this

SPEAKER:

The one that's around 4 feet. The metal ones are around 4 feet.

SPEAKER:

I assume that these are considered both front roads, and that's why there is a six-foot on that side.

SUSAN JACKSON:

Yes, anything on adjacent to a road is considered a front yard.

RONNIE MILLS:

Can you say your name address for the record ma'am?

SPEAKER:

...Where the house that is closest to where the pool would be located. Our side yard is closest to the road on Park Avenue. Our drain field is on that side yard there where our drain field is located. My main concern is in the main digging of the pool to fill it, there is a large oak tree on the corner of the property on Park Avenue. On our adjacent property. The drain field flush area, where there is room to flush and to our drain field and might...

RONNIE MILLS:

Well he cannot let his runoff go onto your property.

SPEAKER:

That is why I wanted to bring it to your attention that we are only about 20 to 30 feet from the property

line is where our septic tank, I mean where are drain field is.

RONNIE MILLS:

So you are concerned that the pool might be too close to your drain field?

SPEAKER:

Yes, because when we have floods and hurricanes, the pools fill up and then the water has to go somewhere. Also, last year we had a sinkhole happen. That is another concern of mine during the digging and construction of the pool.

RONNIE MILLS:

I don't think that there has been a direct effect from the digging of the pool in direct effect to a single. Could be wrong, but I do not think that there is.

SPEAKER:

It is just a concern that I wanted to bring up, on the corner of Park Avenue and Cortez Street there was a sinkhole. They had to come and repair the road on Park Avenue because of it, last year.

RONNIE MILLS:

OK,. Mr Feller, you had question?

RICHARD FELLER:

So, I just wanted to make sure that if we were to approve a fence on that corner, it was not impeding anybody's viewer anything. Do you have any comment on that?

SPEAKER:

Are you asking me? No, I do not have a problem with the 6 foot fence at all. Our actual driveway is much further down so we do not have a problem with seeing there.

RICHARD FELLER:

OK then.

RONNIE MILLS:

OK, take you for your comments ma'am and we will take that into consideration.

Do we have any other public participation? Is there anybody in the audience that would like to speak to this case. I would like to open up for commission discussion.

SPEAKER:

Would you be able to grant him a rebuttal to Mr Galarza. You're the concern that the speaker had?

SPEAKER:

I heard that hers of the tank is there. But if we make the pool we will take that into consideration and we will not mess anything up. I will make it clear that it won't have anything to do with that. Yeah, I don't know. I would tell them that if we do get approved then I will take that situation seriously and take some precautions.

RONNIE MILLS:

Isn't there a code that you can't divert water from your pool area?

SPEAKER:

You cannot dump water onto your neighbour's property (Laughs), Without the proper permits unless it is part of the local drainage patterns. When the construction comes in, that is when the contractor should be aware of it. They should be aware that it is not OK to dump water on your neighbour's property.

RONNIE MILLS:

I thought that there had to be berms in place in order to keep that from happening.

SPEAKER:

Susan, I don't know if you know about F about the printing system in order to describe the checks that our land development and building permitting group goes through when they permit these types of structures.

SUSAN JACKSON:

When there building is inspected, there is a typical flow area that it would go – reached you. This pool is fairly far away from the actual property line so any sort of pool. When you get rain in the pool. A little bit too much, it usually automatically pumps off. It probably would not even reach the property. But, they can put that on the side not adjacent to the property owner as well. It does not have to be facing that. And you can tell your pool contractor to make sure that happens and that would protect that septic tank a little bit more.

(Multiple speakers)

RONNIE MILLS:

Is there any other, that you would like to make?

SPEAKER:

No.

RONNIE MILLS:

We are going to close the floor to public participation, and open up commission discussion.

SPEAKER:

I have spoken too much. I feel like I'm speaking too much today. But, I will make a motion in this case, V-21-079, that we approve the variances one through five, with the staff recommendations, with the three staff recommendations.

I would say that we are in the area that we can do the 75%.

SPEAKER:

I would second that motion.

RONNIE MILLS:

I have a motion to approve variances 1 to 5, with the staff recommendations, with the amendment of the 50% to 75%, recommendation three.

SUSAN JACKSON:

I would like to clarify that the applicant has stated variance to is no longer needed.

RONNIE MILLS:

OK. Going back to my...

SPEAKER:

So, are you sure? Because if I take it out... I will amend my emotions not include variance to, then. So, it will be variance one, three, four and five.

RONNIE MILLS:

Because variance two has been withdrawn.

(Laughter)

SPEAKER:

I would strongly urge you to keep variance two in play.

SPEAKER:

We are going to give the benefit here, and do the original motion, with variances one through five, and

with amendment to 75.

RONNIE MILLS:

So, we have variance, o has been withdrawn.-21-079, variances 1 to 5, with staff recommendations. An amendment to 75% all in favour say I. Any opposed? Motion favoured unanimously.

SPEAKER:

Mr chair, I would like to say I like your knowledge on septic systems. You must have a lot of background.

(Laughter)

RONNIE MILLS:

I try to keep it to myself. Micheli, can I get the next place, please?

EDITH SHELLEY:

V-21-080 application for variance the minimum yard requirements on urban single home.

SUSAN JACKSON:

The applicant is seeking a variance to legitimize at the newly constructed house. It is a requirement to satisfy the lender's requirements. The property, the variance, specifically, is to reduce the front yard setback from 30 feet to 29.1 foot for newly constructed single family residence. The property is located on the north side of Salvador Street. It is about west of its intersection, with Gunter Street in the Glenwood area.

The property is owned three, which requires 85 feet of lot width. The property exceeds these requirements. Is 470 feet in size. The home is very newly constructed, in January 2021. It received it certificate of occupancy. The lender required in as built survey, and he saw that in the front area of the did not meet the setback. Everything else met the setback, but this was off a little bit.

So, they are requiring the condition of the loan, that the variance be changed to legitimize it location. Ember reviewed this request, we find that it meets all five criteria, successfully. Therefore, we recommend approval.

RONNIE MILLS:

Thank you, Ms. Jackson. Any questions from staff? Hearing him. His applicant presents?

SPEAKER:

Good morning. for the reckoned, I am they met, from 1635 Salvador Street in the land. I want to thank



stop helping us to this. This is the perfect case by which the county may want to look up admission appearances. Maybe your computers also came across this property and also what is error. This is a very slight discrepancy. So, you can literally take a dribble and start shaving away a portion of that Western corner.

But, we just appreciate the staff support. We hope that we can work with staff and you have a better process for this so that we do not have such light and potentially minor errors come to you all.

RONNIE MILLS:

Thank you for your comments. Any questions for the applicant? Do we have a public registration?

EDITH SHELLEY:

No, sir.

RONNIE MILLS:

We will close the door to public approximation open up to commission discussion.

SPEAKER:

I would like to make a motion.

SPEAKER:

I second that.

RONNIE MILLS:

I have a motion to approve V-21-080. Any discussion on the motion? All those in favour say I. Any opposed? The motion carries anonymously. Thank you all much. Ms. Shelley, can I get a next case, please?

EDITH SHELLEY:

V-21-081, there is a separate nonconforming lot on forest resource owned property.

RONNIE MILLS:

Thank you Ms. Shelley. Can I get information?

SPEAKER:

I am on the wrong case. Hold on. We are on 81, correct?

RONNIE MILLS:

Correct.

SUSAN JACKSON:

This is an exempt case, so we cannot actually show the parcels, but trust me there are three parcels involved. So, you would like to separate the three plots, to result in three separate lots in the forestry resource on classification. The property requires 20 acres, with a lot width of 150 feet.

All of the lots meet the 150 lot width, but they do not meet the 20 acre minimum. Parcel a is 9.9 acres. I think I have that. There we go. Parcel a is 9.1 acres. Parcel B is 5.1 acres, and parcel C is 5.1 acres. So, in 1975, each of these properties will develop with a single family home. In 1980, the properties rezoned a one. A1, at that time required 5 acres, so all of the lots were conforming.

In 1982, parcel a was included as part of a subdivision. Then in 1984, the minimum lot size was administratively changed to 10 acres. It rendered all three of them nonconforming at that time. In 1994, there was an administrative rezoning for these properties to change, which required the 20 acre lot minimum. Therefore, they are more nonconforming. All of the parcels were purchased by the applicant at separate times. Parcel eight was purchased in 1993. Parcel B, in 2002. Parcel C in 2012.

So, the common ownership between a and B occurred in 2002. Then, for all three parcels, in 2012. Currently, the applicant and the owner of all three parcels would like to sell one of the parcels. In order for that person to be able to obtain building permits to construct a single-family home, or do any improvements, this variance is required.

So, staff evaluated their request and finds that it meets all five criteria. Therefore, we recommend approval.

RONNIE MILLS:

Thank you, Miss Jackson. Any questions for staff? OK. It is the applicant present? I might add that the applicant is exempt from stating their name and address. So just comment on what Steph had to report.

SPEAKER:

I want to clarify that parcel B is where I currently reside. In 1994 I bought parcel A, hoping that the child that I was pregnant with would live there. And then I believe in 2013 or 2014 I bought parcel C. Then I had had a second child. So then I was hoping to have a family area for us to live. The older I get the more I realize that they are not coming back home as they are at Mayo. I'm wanting to reduce my liability financially and physically as I get older. And I want to sell off parcel aid to a friend of mine who I know is going to be a great neighbour.

When I bought them I bought them in separate years and a got separate taxes. And have separate

agricultural exemptions. What I thought I had was agriculture but I thought that that was what I had back in 1994. I was hoping that you would be able to prove this so that I can have a great neighbour and it doesn't impact anybody. There is three separate houses, three separate properties. I guess I'm done talking.

RONNIE MILLS:

Any questions for the applicant? And let's see if we have any public participation?

SPEAKER:

We have it Mindy Underhill. Online.

RONNIE MILLS:

Ms. Underhill? Can you make sure that your microphone is on?

SPEAKER:

Also online we have a Mr Jacob Pearson.

RONNIE MILLS:

Mr Pearson? If you can hear us there, just turn your mic on.

SPEAKER:

Hello? Can you hear us?

RONNIE MILLS:

Can you say your name first?

SPEAKER:

Melinda Underhill. On Hill road, Pearson. Yeah, we are unable to look up any of the parcel information because I guess it is redacted from the property appraiser's site. We just need some clarification. Obviously parcel C is adjacent to my property so my question would be parcel a is the one that is being sold, looking to be sold and that's why she is applying for this?

RONNIE MILLS:

so what we're doing is repeating on conforming lots and bringing them into conformance. So it's taking it from the process of rezoning. That is basically what it is. OK? Can you hear me?

SPEAKER:

Can you hear me now?

RONNIE MILLS:

Yes I can.

SPEAKER:

Sorry we are having difficulties with this. So given everything was rezoned in 1984, how does that affect the rest of us? We are all at our, would that not be a special exemption just for her and what about the rest of us who are adjoining neighbours? As far as how that zoning would affect us?

RONNIE MILLS:

if you were in a nonconforming then you would have to do the same thing that she is doing....

SPEAKER:

I'm having a problem hearing you, go ahead. Could you repeat what you just said please? (Static)

SUSAN JACKSON:

There is some wind noise coming from your sitde, thank you. I don't know as I don't have the ability to look at a map and tell you, but if it is also zoned forest resource and it does not have a minimum of 20 acres, then you would be subject to the same situation. It is a nonconforming lot.

If it has ever been owned in conjunction with the any at the budding properties, it would be considered a lawful nonconforming lot if it has never been owned in conjunction with the adjacent property owners. If it does not mean the lots is currently the you would have to go to the same process as this particular property owner, for variance to separate lots. This is not an administrative action where we are re-zoning everybody's property. We are just rezoning for this particular application.

SPEAKER:

OK, thank you for this explanation.

RONNIE MILLS:

Did you have any other public participation?

SPEAKER:

Mr Jacob Pearson is back on.

RONNIE MILLS:

Mr Pearson, can you hear us? Make sure that you microphone is turned on as we are not getting any audio. His microphone is on?

SPEAKER:

He says his microphone is on.

RONNIE MILLS:

Mr Pearson, can you hear us? OK, we are going to have to move on.

SPEAKER:

There are no other public participants.

SPEAKER:

I do understand the public apprehension, as as a neighbour I want to know what what's going on in my neighbourhood.

RONNIE MILLS:

OK, are you good with that? (Laughs)

SPEAKER:

Yes.

RONNIE MILLS:

What anybody else in the audience like to speak to this case, do me to open it up for a motion?

SPEAKER:

V-21-081 make a mac recommendation for approval for, no comments from staff.

RONNIE MILLS:

I make a motion to seek approval for V-21-081.. Any those in favour signify by saying I, any opposed?

SUSAN JACKSON:

In the sense 713 Paddington Place in the Deltona area.

RONNIE MILLS:

Ms. Jackson can I get the staff report?

SUSAN JACKSON:

... They want to pull permits from the and they are requesting a variance to the rear yard setback. So the variance is to reduce the south rear yard from the required 20 feet to 12 feet for a proposed covered screen room. The location of the property is on the south side of Paddington Place, approximately 329 E. from covenant and gardens placed in the Deltona area.

The property is owned are for it which require 7500 feet and a lot with of 75 feet. The law meets this exactly. The staff report says that it's 40 but it's 20. That's a gremlin like it's in our system.... There is a very small concrete pad in the back, it's actually right here underneath here. Maybe it is 3 feet wide or deep. Sitting at 24 feet, the house, it only leaves of 4 feet for a covered porch. The applicants would desire to build a 12 foot wide and extended across the whole rear of the house. When staff reviews this request, we find that it fails to meet four of the five criteria.

There are no you unique circumstances also seated with the property. The need for the variance is for the desire of the applicant to have a 12 foot wide porch on the rear of their property. The literal interpretation of the code does not deprive the applicant of a common right. It is not the mental variance to make use of the land. A different design of the porch or different location could either reduce the request or eliminate the request for the variance. However, we do find that it meets criteria five.

We do not find that it would be injurious to the area. If it were a screen room with a pool, without an actual roof overhang on top of it, it could go with in 10 feet of the rear property line. You will see that that there is a 10 foot easement, otherwise you go 5 feet if the easement was not there. So we can provide five with application condition, with approval of this application variance.

RONNIE MILLS:

OK, is the applicant present. Can I get your name address for the record please?

SPEAKER:

Yohelis Rodriguez, 713 Paddington Place, Deltona.

RONNIE MILLS:

Is or anything else that you would like to add to that? Is there any other questions that we have for the applicant? Let's see if we have any public participation, and if we do all give you a chance to come back.

SPEAKER:

I wanted to as a question about the concrete pad that is existing. Are you trying to send it?

SPEAKER:

We are trying to extend it to 12 feet and do a covered... Sorry (Laughs) I'd speak Spanish not English. We don't want the screen all close, we just want to do a roof. It's actually the roof, I don't know if it's there but it's 13 and the concrete is 12. I don't know and that's us...

SPEAKER:

You are allowed a roof overhang. So, it is not going to be a screened room?

SPEAKER:

At the beginning we were going to do it like that and then we said OK, we don't want to do the screen around so we changed our minds.

SPEAKER:

OK, thanks.

SPEAKER:

The neighbour to the right, are there how is their house set further back than your house?

SPEAKER:

I'm sorry, which one?

SPEAKER:

If you look at the neighbour directly to your right, does that house it further back? When you step out your back door, is there house further back? Do you know the answer to that?

SPEAKER:

I have not paid attention to that. I'm sorry, I'm really sorry.

SPEAKER:

That's OK.

RONNIE MILLS:

To have any public participation on this sir?

EDITH SHELLEY:

No sir.

SPEAKER:

Motion V-21-082.

SPEAKER:

I have a motion to approve V-21-082. Any question on the motion?

SPEAKER:

I may have fallen asleep, so question on my part. So there is an existing pad, currently?

SPEAKER:

The pad is not 12 feet wide, it is just a little concrete strip rate along the back. You can see in this photograph it is just a little concrete strip at the back.

SPEAKER:

So they are adding a concrete strip plus this agreement, or just the screen overhang, I should say.

SPEAKER:

Is a screen room with a covered porch.

SPEAKER:

She said there would be no screen room.

SPEAKER:

Is a screen room, and she does not need it so we want to change it to a screen roof. What you told us in the staff report processes that you wanted it to be able to provide shade and so forth.

SPEAKER:

So, the screen room does not require the sides to be screened, but it does require a solid roof to be on top of it.

SPEAKER:

That would be correct.

SPEAKER:

She is putting a solid roof on the top. Are we good?

SPEAKER:

Yes, I am fine.

SPEAKER:

No further discussion on the motion. All of those in favour say I, anybody opposed?

SPEAKER:

S-21-085, Special condition for a farmworker on 3271 Chamberlin Street, Deltona.

RONNIE MILLS:

Can I get the staff report please Ms. Jackson?



SUSAN JACKSON:

... Location is at the Eastern Chamberlain of the Deltona area. It is known for history resource, which requires 20 acres with a minimum lot width of 150 feet. This is a legal nonconforming lot. It is only 10.4 acres in size. I do believe they meet the lot width, but they have provided documentation that it is a legal nonconforming lot.

The owners of the property breed and train horses for rodeo competitions, and they also raise capital in their training program. Therefore, it is an agricultural operation. They are in the process of developing the property for that. They have not quite build those, they have not built the principal structure yet. They are in the process of doing so. As well as, they are requesting this living facility because they want on-site management of the animals that will be kept on-site.

They proposed location for the farm working living the city is in the middle, here. You see it is like 100' x 100' area. But in the report it says that they are requesting 1800 ft.<sup>2</sup>. But, after discussions with the applicant, they would like to have 2000 ft.<sup>2</sup>. So, I am putting that up for your consideration. The staff report also says that the principal structure will be 100 ft.<sup>2</sup>, but the applicant has—and that is what the survey says, but that is apparently a misrepresentation. The applicant has stated that the principal house will not be greater than 2200 ft.<sup>2</sup>.

So, when we review the criteria for a farmworker living facility, we find that it meets the criteria. The minimum floor area exceed 720 ft.<sup>2</sup>. It will not be within 50 feet of any other detached dwelling. It will not be within 100 feet of any property line. Water and sewer requirements will be met. It will be required to show adequate landscape material, along the edges of the property, at the time of the building permit.

We are unsure if it meets the requirement at this time for if it does not, they will need to plan additional plant material. It is proposed to be a single-story concrete block home. As I said, approximately 2000 ft.<sup>2</sup> in size. There are no plans to expand the use. There is an existing AG clarification on the property for dairy and speed lot. Based on the size of the property, they are permitted one farmworker living facility.

First special exception, when we evaluate those criteria, we find that it meets all of the criteria. It is consistent with the intent of the zoning ordinance. It will not adversely affect the public interest. It will meet all agency requirements. We do not anticipate it to create excessive traffic, one single-family unit creates about nine point something trips per day.

It is not anticipated to create a public nuisance or be dangerous to the public. It will not materially alter the character of the neighbourhood or the environment. So, with that, we recommend that the case be forwarded to the County Council for final action, with the recommendation of approval subject to the

four conditions in your staff report. We did receive an email, letter of opposition to this, which was provided to you this morning.

So, I just wanted to point that out for your consideration as well. Happy to answer any questions.

RONNIE MILLS:

Thank you, Ms. Jackson. Your question Mr Philip.

RICHARD FELLER:

I do have a question. And to forgive me, because you may have went over. We talked about accessory dwelling, working facility. Does it have anything to do with this?

SUSAN JACKSON:

It will not. So, we're going to keep our found worker regularity in the place that they are.

RONNIE MILLS:

You have a question Mr Costa.

FRANK COSTA:

Is a current working farm?

SUSAN JACKSON:

It is in the process of being a current working farm. As my understanding. But, I do believe they have animals out there at this time. The applicant will be able to, they are building the ag structures and so forth. Right? So, what I'm seeing in the picture and the satellite, those are existing structures? Horse paddocks or whatever? Do you know how long they have been in operation?

SUSAN JACKSON:

The applicat is in audience.

RONNIE MILLS:

I have a question. The farmworker residents, does not fall under single family residence? You cannot have multiple families in a farmworker facility?

SUSAN JACKSON:

It would fall under the definition of a family, which the definition of a family is up to six unrelated people. So, you can have 10 related people, and up to six additional unrelated people. Any single-family house can have that. Any dwelling, let me rephrase that. Any dwelling can have up to six unrelated people in it, and as many related people as they are.

RONNIE MILLS:

OK. So, my question, I guess, is this going to be - that we established in your staff recommended conditions the size of this?

SUSAN JACKSON:

I had 1800, but with phone calls with the applicant they requested 2000.

RONNIE MILLS:

And the main structure is 4000?

SUSAN JACKSON:

I have that wrong as well. I have 4100 ft.<sup>2</sup>, in the staff report. But, the applicant has stated, in phone conversations subsequent to the staff report going out, that the principal home will only be 2200 ft.<sup>2</sup>. So it will be about half the size.

RONNIE MILLS:

So, basically, which was suggesting is that we increase recommendation 2 from 1800 to 2000?

SUSAN JACKSON:

If that is what the applicant has requested, it is an additional 200 ft.<sup>2</sup>, yes.

RONNIE MILLS:

Well, I believe my other questions for the applicant. Thank you very much. Is applicant present? Can I get your name and address for the record, sir?

JOSE PEREZ:

Jose Perez, 3271 Chamberlin Street.

RONNIE MILLS:

Is there anything that you would like to add to that? We do not want to Ourselves at 2200 for the main house. So, when we get up there, we would still be around that number. Not that it is specifically going to be 1800 2200 ft.<sup>2</sup>, for the homes.

RONNIE MILLS:

OK. So, what is the main structure going to be?

SPEAKER:

For the rain when it is going to be approximately 2200 or less. For the farmers house, it is going to be

2000 or less.

RONNIE MILLS:

OK. 2000 level stop see? Mr Chair, just to clarify, he does not need a special exception to construct the main primary structure. That can be any size, as long as it is within the appropriate zoning districts. The special request is for the farming housing facility.

RONNIE MILLS:

The farming housing facility does not have the same requirements as an additional structure on the property, that you can have within the specific size of the main structure?

SPEAKER:

As Ms. Jackson pointed out, there are restrictions for, you cannot be 50 feet away from any additional dwelling in it. It has to be at least 100 feet away from the property. She went to those criteria, and the stock report says that this particular request meets those criteria.

SUSAN JACKSON:

Just to clarify. There are no size limitations on the farm worker living facility. The size requirement is that it exceeds 750 ft.<sup>2</sup>, and this does.

RONNIE MILLS:

OK. Is there anything else that you would like to add? Any other questions for the applicant? OK. When you are doing to 2000 ft.<sup>2</sup>, how many family units are you planning on living in the 2000 ft.<sup>2</sup>? The farmworker facility. Not the main facility.

JOSE PEREZ:

Only one family there. Then, the owners of the residence.

RONNIE MILLS:

Have you had any complaints from the adjacent property owners?

JOSE PEREZ:

So far we have not.

RONNIE MILLS:

And you are using this for horses you said?

JOSE PEREZ:

So, we train for rodeo events and open. So, we have horses and cattle on the property.

SPEAKER:

Mr Perez, just a question, how long have you had your agricultural classification? How long has the farm been in operation?

JOSE PEREZ:

So it is been in operation for two years. And the agricultural exception is been two years old? Or maybe just a little bit less, we got after we got the property.

SPEAKER:

I would just like to remind the commission that because it is been in operation for more than a year, he is subject to the rights of Farm act, which protects operating farms for more than a year from public or private nuisances subject to certain, do not leave dead horses around type criteria.

RONNIE MILLS:

In the staff report, we were told that it was not built yet. But it was not in operation yet. But, now, you are telling us that it is been in operation for over a couple of years.

JOSE PEREZ:

Well, we have been building it up, but we are at the point where we want to live there and be there 24 seven. So, we have more horses now, and we are breeding more. We have more cattle and more training.

SPEAKER:

(inaudible)

SPEAKER:

So, it is a modified agricultural process, that is functioning.

RONNIE MILLS:

OK. We have any other public participation? If we do, I will give you a chance to come back. OK? Do we have anything Ms Cushing?

SARAH CUSHING:

Online we have (Name).

RONNIE MILLS:

Mr Montclair? SARAH CUSHING: it says that his mic is life, but the email that I was provided to you this morning was also from the same individual.

RONNIE MILLS:

OK. Well, he does say we have a letter of opposition here. OK. We are going to close the floor for public participation, and opening up for commission discussion. I would like to say that I'm glad you able to clarify that it is actually a working facility.

SPEAKER:

I will make a motion that we forward the special exception case to County Council for final action. With our recommendation of approval.

SPEAKER:

I will second that.

RONNIE MILLS:

OK.

SPEAKER:

Can I please clarify the conditions. Do you want the conditions to reflect an 1800 square-foot living area or 2000?

SPEAKER:

Do we have to make that clarification? Or cannot just be done as a goes to the county's office?

SUSAN JACKSON:

It will limit the size of the facility.

SPEAKER:

The way that it is written here on page 3, it only specifies the minimum floor size. Not a maximum.

SUSAN JACKSON:

But condition too, it states that the farmworker living facility will be limited to the maximum of 1800 feet. So, the applicant was requesting that to be...

SPEAKER:

The only reason that I asked, as it is proposed, it still meets setbacks quite a bit. So, if they wanted to go bigger, not that I'm saying... They will still have room to do that. But, by putting a limit on it now, is just putting an arbitrary limit on it.

SPEAKER:

Do we have to put a limit on it?

SPEAKER:

Is their maximum size?

SUSAN JACKSON:

No, there is no maximum size. You can eliminate that condition if you choose to. See? So, they can technically put it 10,000 square-foot house on it.

SUSAN JACKSON:

Typically report limits based on with the applicant has requested they are going to do. Or, if you do not want to limit it to a size, you do not have to. But, as you said, it can be built any size at that point. It is subject to it being, at least, either 720 or 750 ft.<sup>2</sup>.

SPEAKER:

And meeting all setbacks and requirements for stops me? I guess, maybe, then, since I seconded, can we ask the applicant if he has objections to a maximum?

SPEAKER:

Well he requested 2000, so...

SPEAKER:

So, let's amend the recommendation to do two thousand square-foot.

SPEAKER:

This is (Name), is the participant is been able to hear me now?

RONNIE MILLS:

Yes we are. See? I am sorry about that. I had to switch over to a phone call, my computer was not bringing the audio through. So, I would like to object to this motion, on the basis that it is going to provide a public nuisance.

SPEAKER:

I have many a public nuisance regarding this. They have dogs that bark from the home. They currently do have, as I read through this report, and on-site caretaker that is there a 24 hours, so I don't think they need any more on-site personnel. Adding people to this area, the activities are going to increase. The sound problems that I am hearing or going to increase. There would be recreation activities that are going on. In the sounds carry. Very distinctly. My lot back straight into the farm area.

There are trucks going across the back and forth of my property all day. Pickup trucks, dump trucks, farm vehicles, personnel vehicles, passing fourth the backyard of my lot daily. And I feel like adding more personnel on site is only going to exacerbate that area.

RONNIE MILLS:

We are to have a motion on the floor ma'am, but we do respect your comments. You commenting on this will be reflected. This is just a recommendation going to the County Council. So you will have the opportunity to address them as well. We did get your comment in a little bit late here.

SPEAKER:

I apologize for that, that was due to my system issue here.

RONNIE MILLS:

I understand completely. What I am saying is that you will have the opportunity to address this with the County Council when it goes before them, OK? They are going to make the final decision on this.

SPEAKER:

Thank you.

RONNIE MILLS:

Thank you, ma'am. OK, we have a motion on the floor to approve – send direct relation to approval S-21-085 with the right recommendations to increase the 2000 ft.<sup>2</sup> instead of the 1800. The recommendation as stated. We also have a second from Mr Young. Any discussion on the motion? All of those in favour signify by saying I. Any opposed? The motion carried unanimously.

OK, we have one more here.

EDITH SHELLEY:

Case V-21-086, requesting variances to the minimum yard requirements are rural residential (RR) zoned property feet On 296 Mitnik Drive, Deltona.

RONNIE MILLS:

Thank you Ms. Shelley. Ms. Jackson can I have the report?

SUSAN JACKSON:

The applicants are seeking to variance to the minimum front yard and side euros for a proposed detached garage. Variance one is to reduce the front yard from 40 feet to 25, for the proposed garage. And variance to is to reduce the south side yard from 15 feet to 8 feet for the proposed garage. The location is on the west side of Mitnik Drive. Approximately 395 feet south of its intersection with



(Name)'s plane in the area. It is a zoned residential which requires a 1 acre lot area with the lot width of 100 feet. The property does not meet these standards but they have provided evidence that they are a legal nonconforming lot.

So, the proposed garage is proposed to be 24 x 41'. It is 984 ft.<sup>2</sup>. The accessory structures would or greater than... Size must meet Prince. X. So, in this case the front setback to Mitnik Drive would be 40 feet and the side setback would be 15 feet. If it were in the rear, the rear setback would be 40 feet. The proposed location of this particular location is that they feel that putting it where it might meet the setback requirements in the rear of the lot, they would have to remove a lot of the larger trees in the area. They do not want to remove those trees. I also need to point this out, it's also within the enterprise overlay zone which has additional requirements. It is not requirements that this board grants variances to, but I just want to make you aware that the structure must architecturally compatible with the primary residence. That code requires that any garages must be recessed 2 feet from the primary structure. So, if this variance is granted they will be required to obtain a waiver through our development review community to allow the structure to not recess those 2 feet.

When we review the variance request we have to recommend a (unknown term). We feel that we find - we find that it fails four of the criteria. There are no circumstances that makes it preventing the need for setbacks. The literal interpretation of the code does not prevent the garage to be located elsewhere and the lot without need of a variance. It is not the minimum variance needed to make reasonable use of the land. A different location could reduce or eliminate the variance request. We do find however that it meets criteria five. It is not considered injurious to the area. In fact in voiding impacting the large trees is something that would support the character of the enterprise area. It is known for its tree coverage. So if they are wanting to save those trees, it is actually a good thing. We have provided two conditions in the stock report, should the applicant provide this board with competent and substantial evidence to support those requests.

RONNIE MILLS:

Thank you Miss Jackson, any questions from staff?

FRANK COSTA:

On page 3 you said that there were structures that need permitting after the fact? You did not list those into the staff recommendations. With an oversight or those totally separate issues?

SUSAN JACKSON:

What paragraph are you?

FRANK COSTA:

... Encoding wetland and alteration building permits for that dock, deck and fence.

SUSAN JACKSON:

So, they will need to be permitted. They do not appear to need variances.

FRANK COSTA:

So, it had nothing to do with this variance approval. It is an act that is correct.

(Multiple speakers)

FRANK COSTA:

So it is a code issue then. I just wanted to clarify that.

RONNIE MILLS:

Miss Jackson, you have made that in this staff report about the trees. On the south side there it would have an impact. But on the north side, would it still impact the trees? If they were to move it further behind?

SUSAN JACKSON:

Do you mean over here?

RONNIE MILLS:

Yes.

SUSAN JACKSON:

It's possible. I see symmetry coverage here but it's hard to know without looking at the property and see where the trunks are. It looks to me like to get the vehicle back here they would have to remove trees. I am guessing that this is where their septic system is.

RONNIE MILLS:

OK.

SUSAN JACKSON:

The lake is in the rear so, septic start typically in the front yard. As just a guess though, I don't know for sure.

RONNIE MILLS:

Is applicant present?

SARAH CUSHING:

Yes or, they are present online. Mr Robertell?

SPEAKER:

I'm sorry, did you call me?

RONNIE MILLS:

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

SPEAKER:

Just hang on one second, I am actually at work trying to this at the same time. What was the question?

SPEAKER:

We just need your name and address from the record.

SPEAKER:

Paul Robertell, 296 Mitnik Drive, Deltona Florida.

RONNIE MILLS:

Are you familiar with the staff report?

SPEAKER:

I'm sorry, say that again?

SPEAKER:

Do you want to say anything to this case?

SPEAKER:

Yes, any setbacks on the other side would put the garage in front of the house. Where is putting on the other side gives us the area open, leaving the house out to the open, where you are not blocking any of the house off.

RONNIE MILLS:

OK.

SPEAKER:

I still want a nice view of our house, because it is a nice looking house.

RONNIE MILLS:

What about your neighbour to the south side?

SPEAKER:

The neighbour, on that side, is fine with it. Has anybody sent in any letters or anything about it, or? We get along well with them and they know that we have been trying to do this for the past five years.

RONNIE MILLS:

Alright, sir. Let's see if we have any questions for you. Does anyone have any questions for the applicant? Alright, if we don't have anything else to add sir, then we will see if we have any public participation. If we do then we will give you the opportunity to come back into a rebuttal on them. OK?

SPEAKER:

Yes sir.

RONNIE MILLS:

Do any public participation?

SARAH CUSHING:

No, sir.

FRANK COSTA:

Let's take a motion to approve, with the staff recommendations.

SPEAKER:

Second.

RONNIE MILLS:

I have a motion to approve V-21-086. All those in favour signify by saying, and anybody opposed?  
Motion carried unanimously.

SPEAKER:

Thank you very much!

RONNIE MILLS:

Ms. Jackson, do we have any other business.

SUSAN JACKSON:

No sir. But I do want to inform you that we do have the appeal hearing, the variance case where they wanted a side yard setback on a corner lot, and it was in front of the condominiums. In the blue soon

beach area. The Council upheld the PLDRC commission.

RONNIE MILLS:

Was there any other staff comments?

SUSAN JACKSON:

No, there were no soft comments. (Laughs)

SPEAKER:

Elicits he was running my department and he may be seen around depending on what is assigned. Chris really likes public comment – I mean public records and the sunshine well. So if the commission so desires, I'm sure he is more than willing to give a presentation on the do's and don'ts of sunshine law as well as public records for this commission.

SPEAKER:

It's good to have you on board Mr Ryan.

SPEAKER:

Armour in the past, and I have been here a long time. They used to require us to go to a sunshine class. I went to her three times to a sunshine class. We don't have to do that anymore?

SPEAKER:

It is not a staff tutorial requirement, but we do have staff attorneys available in the event that any commission member needs a refresher or wants to do a presentation before the commission on sunshine law conflicts, ethics codes, stuff like that.

SPEAKER:

Will the women's legal voters usually has a seminar once a year, and we used to get paid to go to them. To pay the court.

RONNIE MILLS:

Be careful, J.

SPEAKER:

They used to pay is the go to the class, is what I am saying.

RONNIE MILLS:

Commission comments.

SPEAKER:

First, I want to thank the staff for the excellent job in securing our partners spaces this morning. It was pleasant coming in. Also, I can no longer complain that I cannot get into the back door because now I have a pass that gets me through. And I want to thank you for that, because I have never been into the building across the street, which is an extort building -- historic building full stop I spent a lot of time walking around and looking at everything, then I did getting my ID.

That being said, can you email me the link to the deck versus dock definition? As well as the ordinance for the statute that applies to one dock per property? Please. Also, the portion of the talks about 75 versus 55% of the rebuild. Lastly, because I'm also one of the ones that always asked all of the question about court enforcement, is there a possibility that either one-on-one or have summary from code enforcement come up and give us a five minute of how they operate?

Once I get a phone call, a complaint, to see something, do they look at other items or do they look at it specifically? I would like to look and hear from them how they function in the field, so we have a better idea, rather than me asking what triggered that event? That would be helpful for me to understand.

SUSAN JACKSON:

I will say a lot of the time what triggers it is that they get code enforces one thing, then we get a survey and we see a lot of other things. Or we review our permit files and do not find permits. If we are going into a setback, or whatever, we bring them forward, because we would not want them to come forward for variance on one item, when there is all of these other items.

That might cause him to have to come back again, and spent all of that money again, to go through the same process.

SPEAKER:

I totally agree full stopped just from where I sit, it will be, I would like to know how they operate in the field, same with building inspectors, to know what they are doing that we never see. To give us a better appreciation for that.

SUSAN JACKSON:

I am sure code enforcement will be happy to do that. I will try to get that on a smaller agenda.

RONNIE MILLS:

Any other comments? OK. I would like to ask, how much longer we going to have to deal with this webinar? Is that something that is mandated? Is that something that we are providing?

SPEAKER:

That is something that is not mandated. You are not required to have this availability. We kept it up in order to provide the public increased access. But, now that the current CDC guidelines have opened it up to those who are fully vaccinated, it is not necessary to have that kind of webinar type of program.

We will talk with the in growth management director to see if make sense to keep this a public participation, increase public accessibility for stop there is no mandate to keep this type of webinar process.

RONNIE MILLS:

Because unless I can get on a Skype screen or something of that nature, it makes it, as you can see today, we have plenty of times we are trying to get the participant on the line. Then, if they think they can get online and make their comments, and not be able to, I think we are doing an injustice. Because they said, if I would've known that, I would've com in rather than participating on the webinar.

And in line with that, the adjacent property owner needs to realize that when they buy a residential property, if it is adjacent to forestry or another special probably, date could expect that kind of change. I do not want to get into that, because we already had a motion on board. But, other than that, that is all I got. Is that everything?

SPEAKER:

The only thing I will add that other people apply for variances and changes in their properties, there is a plan in place to come through and work that whole thing out. So, I wholeheartedly agree with you on that.

RONNIE MILLS:

We have press or citizen comments? It does not look like we do. This meeting is adjourned.

(Laughter)

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