



Volusia County - PLDRC Meeting May 21, 2020

SPEAKER:
Ms. Kelly, can you hear me?

SPEAKER:
Can you hear me?

SPEAKER:
We've got a problem.

SPEAKER:
Hello, this is Steve.

SPEAKER:
Hi Steve.

SPEAKER:
I don't see you, Steve.

SPEAKER:
I am going to leave my video off this morning.

SPEAKER:
OK. We can hear you.

SPEAKER:
Are we ready?

SPEAKER:
We are ready to go.

SPEAKER:
OK.

SPEAKER:
The May 21, 2020 hearing for the planning and land development regulatory commission is now called to order. If I can please get everyone to stand 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. I would like to thank everyone for joining us this morning for the PLDRC webinar. We are getting feedback. You want to pause for a moment?

SPEAKER:
Can we fix that?

SPEAKER:

We are having technical difficulties here. If you will just bear with us for a moment. We are getting a little bit of an echo coming back. Maybe if we turn the volume down a little bit. OK. We are having a little bit of technical difficulty. We will be with you momentarily. If you are just joining us, we are having a little bit of technical difficulty, and we will be with you just in a moment. OK. Alright. I think we've got it solved.

OK, let me see where I was at. Ms. Somers, can you please have a roll call, please?

SPEAKER:

Good morning. Ms. Wanda Van Dam.

SPEAKER:

Here.

SPEAKER:

Mr Jeffrey Bender.

SPEAKER:

Here.

SPEAKER:

Mr Frank Costa.

SPEAKER:

Here.

SPEAKER:

Mr Jay Young. Mr Jay Young.

SPEAKER:

Present.

SPEAKER:

Thank you. And Mr Steve Costa.

SPEAKER:

Here.

SPEAKER:

Mr Ronnie Mills.

SPEAKER:

Here.

SPEAKER:

Ms. Edith Shelley email this morning she will not be in attendance.

SPEAKER:

Thank you, Ms. Somers. We do not have any minutes to consider this morning. We can go on to my comments and say that because of the circumstances of applicants not being able to present their case in person, we will give you the opportunity to request a continuance to a later date to be determined. So if anyone has a case this morning and they would like to continue it based upon they couldn't be here in person, they may do so, but we need to do it before your case is being heard.

OK. After staff has presented your case today, the commission has an opportunity to ask any questions of staff. Ms. Somers will engage your microphones at that time. I will ask you to state your name and address for the record. This would give you the opportunity to add any pertinent information and answer any questions the committee may have about your case. We also have requests to speak for and against the cases being heard today. In the case is being heard and it is time to have public participation, Ms. Somers will engage your microphones so 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 and answer any questions the commissioners may have. I will be asking all motions to be voted on to be done by roll call. And at this time I would like to turn it over to Mr Soria for legal comments.

SPEAKER:

Thank you. This is Paulo Soria, Senior Assistant County Attorney. This is a legal notice to be read into the record. Decisions by this body and special exception cases which rezone real property from one classification to another pursuant to the zoning ordinance are recommendations only to the County Council and 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 an appeal to County Council. What this means is that no new evidence to be presented at the time of the County Council public hearing on the appeal. An aggrieved party that appeals such a decision is confined to the record made before this body. Hearings by this body on reasonings, special exceptions and variances are quasi-judicial in nature, meaning that this body is acting more like a court unless they take into account all oral, written or demonstrated evidence presented. Their decisions on these cases must be based on competent substantial evidence in the record. Competent substantial evidence has been defined as that evidence a reasonable mind what except to support a conclusion. Thank you, Mr Chair.

SPEAKER:

Thank you. While on legal comments I would like to ask the commission to disclose for the record any ex parte communications that have occurred before or during the public hearing at which a vote is to be taken on any quasi-judicial matter. At this time I would start to my immediate right with Ms. Van Dam.

SPEAKER:

None.

SPEAKER:
Mr Bender.

SPEAKER:
None.

SPEAKER:
Mr Frank Costa.

SPEAKER:
None.

SPEAKER:
Mr Steve Costa.

SPEAKER:
Yes. I've had no particular medication.

SPEAKER:
You did, sir, or you did not?

SPEAKER:
Did not have any.

SPEAKER:
Thank you, sir. Mr Jay Young.

SPEAKER:
Nine.

SPEAKER:
And myself, Ronnie Mills, I did not have any. OK. It looks like if anyone would like to have their items continued, if you will notify us at this time. Ms. Somers, does anyone like to continue their case?

SPEAKER:
No. The first applicant is logging in now. It will be momentarily.

SPEAKER:
We don't have any items to be continued or withdrawn. We will move on to new business. I will ask Ms. Van Dam to read the first case into the record please.

SPEAKER:
First cases Z-20-043 application of Heath Frank, owner, requesting a rezoning from the rural agricultural A-2 classification to the role education RR classification.

SPEAKER:

Thank you, Ms. Van Dam. It is my understanding that, Ms. Van Dam, you need to recuse yourself from this case?

SPEAKER:

That is correct.

SPEAKER:

She is accusing herself from the case. Can I get a request case?

SPEAKER:

This is a rezoning address. Classification from rural agriculture to RR. The purpose for the rezoning is that they can subdivide – I forgot to move this forward – two subdivide the parcels. And it would be able to be separated into three separate parcels. I am not able to move this forward. Please. Thank you. The property is located on the south side of Lime Street proximate to 88 feet west of the intersection and DeLand Avenue in the DeLand area. The property is 5.8 acres in size with 399-foot lot width. It conforms to A-2 standards in the proposed zoning requires a 1-acre lot size with 100 foot lot width. It will conform to the RR standards if the proposed rezoning is approved.

Differences in the potential setbacks from the A-2 existing zoning to the proposed RR, basically with the lot width is 100 feet last for the RR zoning, the front side and rear yards are basically 10 feet last in each case, front from 50 feet to 40 feet, sides from 25 feet to 15 feet, and rear from 50 feet to 30 feet. 50 feet to 40 feet. The maximum building height allowed in the current zoning is 45 feet. The maximum building height in the proposed RR would be 35 feet.

So the area is a mixed area. It is a mix of agriculture and single-family uses. If we can go back to the previous slide, if you can see on the map there, to the east you will see a lot of smaller parcels. That area is already zoned RR. This property is right on the transition between the A-2 and RR. Adjacent to what are three parcels of approximately an acre each. To the north are several smaller parcels and then further east there is a lot of several smaller parcels.

To the west is the larger 5 acre plus properties. In both cases agricultural uses are permitted. For the A-2 it allows all types of agricultural uses and allows for the sale of any type of agricultural products produced on the premises. In the RR zone, the proposed zoning, agricultural uses can only be accessory to the single-family use.

In comparing the zoning, the purpose of the A2 zoning is to preserve rural areas in the county that have some agricultural value but are also suitable for rural estate living and as I said, it allows all agricultural pursuits. The purpose of the RR zoning is for development and personal agricultural pursuits. The agriculture is only sensory to a single-family dwelling already having been put on the property.

When we review this rezoning, we find it meets all the criteria it is consistent with the plan, the comprehensive future land use is rural in this case. Rural typically allows one dwelling unit per 5 acres, however, it does allow for you to split the load to a maximum of one dwelling unit per 1 acre if it is within 660 feet of that type of development. In this case, it is.

It is not anticipated to create any additional impacts on the environment or the natural resources, it may have a positive effect on the economy by being able to be split into three lots rather than one. There is no appreciable impact to governmental services and we do not find that is detrimental to the health and safety and welfare's.

Staff does recommend that the board forward the rezoning application to the County Counsel for final action with the recommendation of approval. This case was originally supposed to go to the previous PLDRC meeting and at the time there was public opposition and I believe that has been provided to you in your case. With that, I am happy to answer any questions.

SPEAKER:

Thank you, Miss Jackson. Is there any questions for staff? I see you have your mic on?

SPEAKER:

No, I don't have any questions.

SPEAKER:

Alright. And I don't see anyone that has any questions for staff, so we move on to Ms. Somers, is the applicant present?

SPEAKER:

Yes sir.

SPEAKER:

Good morning.

SPEAKER:

Good morning, will you state your name and address for the record?

SPEAKER:

Would you like to add anything to that report? We will see where the public dissipation and if we do we will give you an opportunity to do a rebuttal at the end of the comments. Thank you, sir. Ms. Somers, do you have any public participation for this case?

SPEAKER:

No sir, we have no public participation.

SPEAKER:

That is done in the public participation room and no we do not have any.

SPEAKER:

We do not have any. We do not have any public participation, so we are going to move on. And what I will do now is I will close the board of public participation and open it up for commission discussion. Anyone like to comment on this case?

SPEAKER:

For the record, the commissioner received this morning an email regarding the environmental comments. They were left out, your staff report package. We do have environmental comments, environmental permitting has no objection to the proposed rezoning, however, the applicant needs to be aware that the rural residential requires a tree removal permit for clearing and land alteration of any kind.

SPEAKER:

Thank you, ma'am. Mr. Frank Costa, I see you have your mic on, give me questions?

SPEAKER:

I do, there is no one here for public participation, but if you look at your packet there are seven or eight emails of opposition and I am wondering from the developer if he has had any kind of any community meeting with the neighbours?

SPEAKER:

Any particular reason?

SPEAKER:

There is one to the east and one to the West out there. The distance of these ones that are in opposition, on here. And I would imagine they may not be here but if this goes to counsel and it is a live open meeting that you are going to have a train of folks in here looking at what I am seeing in this package. I would strongly suggest if you get past this is submission, if not your life is going to be miserable like hell. That is my two cents.

SPEAKER:

I see you have your mic on?

SPEAKER:

He's got my comment on that one.

SPEAKER:

Okay. We have any further comments on this case, if not, I will entertain a motion.

SPEAKER:

I will make a motion to submit to County Council with the recommendation of approval is case Z-20-843. With the recommendation of approval.

SPEAKER:

Okay. Do I have a second?

SPEAKER:

I will second that.

SPEAKER:

Okay, I got a motion to forward the rezoning application creations 200432 County Council for recommendation of approval and I will also have a second, any comments on the motion?

Hearing none, I would like to make a comment myself. I know we do have opposition with this and truthfully, I would like to see more participation from the folks that do have the opposition, at least through the County Council. And that is where I am at now. I will take a roll call on this, and I will start with Mr. Jeffrey Bender. Mr. Frank Costa.

SPEAKER:
Yes.

SPEAKER:
Mr. Jay Young.

SPEAKER:
Yes.

SPEAKER:
Mr. Steve Costa.

SPEAKER:
Yes.

SPEAKER:
Myself as a no, so motion to approval by about of 3 to 2. We go to Council of recommendation of denial, is that correct?

SPEAKER:
Yes.

SPEAKER:
The motion is technically going with a recommendation for approval. You can make a further motion to recommend denial if you want, if the commission as a whole as a body would like to express its recommendation, right now, the question asked was the motion to recommend, which failed.

SPEAKER:
Okay, thank you sir. Advise this that we can make a recommendation of denial otherwise it would be simple with no recommendation. Is anyone would like to make a motion today?

We do not have any so we are going to forward the County Council without any recommendation, is that right?

SPEAKER:
It would be, I would describe it as the recommendation for that the County Council approved the rezoning failed at the commission level.

SPEAKER:
Okay, sir. Let that be noted in the record and we will move on to the next case.

SPEAKER:

Next case is V-20-058 application Joie Kelly, agent for Dana and Martha Lucinda Rubush, owners requesting variances to the minimum yard requirement and urban mobile home MH five zone property.

SPEAKER:

Thank you Ms. Van Dam. Ms. Jackson can have the staff report in this case?

SPEAKER:

Yes sir, there are nine variances associated with this case. In five structures. It is an enclosure that goes over a well and its equipment, variance one is to reduce the north foot yard from 20 feet to 7.3 feet for an existing 14.31 square-foot accessory structure. A variance to is to reduce the east side yard from 5 feet to 0 feet for the same structure.

Variance three and four are associated with a trashcan enclosure that is basically attached to the well pump enclosure. Variance three is to reduce the north front yard from 20 feet to 13.6 feet for an existing nine square-foot accessory structure and variance for is to reduce the east side yard from 5 feet 2.2 feet for an existing 9 foot accessory structure.

Variance five is to a covered deck or what they call a tiki bar structure and the variance is to reduce the east side yard for 5 feet 2.4 feet for a 400, 49.92 square-foot accessory structure. Variants six and seven are associated with the dock. Variant six is to reduce the east side yard from 15 feet to 0 feet. In variant seven is to reduce the west side yard from 15 feet to 0 feet.

Variance eight is associated with hundred foot accessory structure, a shed that is located on the dock and variance nine is also associated with that same structure, variance eight is to reduce the south, front yard from 5 feet to 0 feet and variance nine is to reduce the west side yard from 5 feet to 0 feet to afford that 100 ft.² shed. The location of the property is the south side of Lewis Street approximately 200 feet east of its intersection with Nellie Street in the Edgewater area. The property zoned MH5 requires 5000 ft.² lot area and a 50 foot lot width, the property is 6550 ft.² with a 50 foot, a 52 foot lot with so it is a conforming lot, the required setbacks that are applicable in this case are a front setback of 20 feet, five setbacks of 5 feet and for the principal structure, the waterfront said that would be 5 feet before the accessory structure which is applicable in this case, it is 5 feet.

A little bit of background, in 1984, between 1984 and 2002, previous owners of this property, you can see all the structures here, where they are located on the property, previous owners of the property are folks that constructed, replaced, all of the structures on the property. The current owners purchase the property in 2015 and all the structures were already in place where they are sitting there today.

They have been there for approximately 18 years. The owners became aware that these structures were all unpermitted when applying for their own a building permit to reduce the repairs on the existing dock. They are required to rectify the permitting issue and they have to obtain after the fact to building permits and so trying to seek those permits, they are having to request these variances in order to keep the structures where they are located. And have been located for the past 18 years.

I'm going to go over each of the structures just a little bit more in detail. The wall pump enclosure structure one built in approximately the 1980s, and measures 2.7' x 5.3' for a total of 14.31 ft.² and it encroaches 12.7 feet to the north front yard and .2 feet over the east property line, the applicant has stated that they are willing to relocate the structure onto the property.

Structure two is a trashcan enclosure also built in the 1980s that measures 3' x 3' for a total of 9 ft.². It encroaches 7.4 feet into the North front yard and 4.8 feet into the east side yard. Structure three is the covered tiki deck, it is used for growing and entertaining. Can you show the structure? There is the structure. Is there another picture that goes with that? Go back. There it is.

It was built between 1987 and 2002. It measures 9.6' x 5.2' for a total of 49.92 ft.². It encroaches 4.76 feet into the east side yard. Structure four is the dock, it is a 690 ft.² dock which includes a covered boat lift. It was built in 1987 with a building permit, and at that time, it was approved with 10 foot side yard setbacks. The permit was approved, with that actually looked at it this morning, rather than the required 15 feet.

In 2002, the previous owner was cited for unpermitted construction of the dock for replacing decking and constructing retaining walls. The owner of the property at that time expanded the dock to the current size and configuration without approval of a building permit. Currently, the dock encroaches 10 feet, it encroaches 15 feet into both the east and west side and basically goes right up against the property line.

The final structure is this shed that is located on the west side of the dock, up adjacent to, as you can see, the retaining wall in the west side property line. It is a 10' x 10' aluminum shed. For the dock permit in 2002 it showed the shed on the dock at that time. This particular structure currently encroaches 2 feet over the west property line, but the applicant has agreed to be located to be fully within the property. It also encroaches 5 feet into the waterfront yard.

In reviewing these variance requests, staff recommends for variance 1 and 2 that we recommend approval because they meet criteria. For three and 4 we recommend denial because they fail to meet all the criteria. There are no special circumstances that would necessitate locating a trashcan enclosure in the front yard. Literal interpretation of the code is not depriving the applicant a common right and it is not the best way to make reasonable use of the land. However, we do find that the current owners are not responsible for the placement of the structure. It appears to be in harmony with the area. It has been in place for 18 years and there have been no complaints.

Variance 5-9, staff recommends denial as we find they fail to meet two of the criteria. There is no special circumstance to dictate and it is recognized that literal interpretation of the code is going to require either moving the structures or demolishing these structures, which may cause an unnecessary hardship. A literal interpretation does not deprive the applicant of a common right.

We do find, however, that the current owners are not responsible for placement of the structure. It is the minimum variance to allow the structures to remain where they have been for the past

18 years. Again, we find it to be in harmony with the area. They have been in place were 18 years. There has been no complaint. In your staff report packet you will see several other properties with very similar structures and docks down on that canal front.

I also want to point out that the dock, as it is situated, does not impede the neighboring properties. It appears to be 60 feet from the nearest other dock. I think that is worth pointing out because a lot of times we are dealing with these and they do impede the other docks adjacent to it. With that, should the commission find that the applicant has provided competent and substantial evidence to support the variance, considerations are provided for your consideration. I would be happy to answer any questions.

SPEAKER:

Thanks, Ms. Jackson. Any questions for staff? Mr Young, you have your microphone, you have any questions?

SPEAKER:

No, not at this time.

SPEAKER:

Thank you, sir. Ms. Van Dam?

SPEAKER:

Ms. Jackson, can you help me understand, in 2002 they were cited for unpermitted construction on the dock? But how is it they were not required at that time to obtain the building permit?

SPEAKER:

Darren is here. He might have the answer to that.

SPEAKER:

(Inaudible). At that time what they were cited for is (inaudible) repair and replacement of the boards on the dock. (Inaudible). They did not include structural permits at that time.

SPEAKER:

I can't hear him.

SPEAKER:

(Inaudible)

SPEAKER:

We can't hear him.

SPEAKER:

Let's try this again. Darren Ebersole, planning and development. In 2002, the previous owners were cited for wetland alteration without a permit. The as built that are included in our staff report are from that wetlands operation permit that they came in and had to go receive. They did not receive voting permits because at the time they said that they were doing replacement of boards on the dock. It never went through any building permit process.

SPEAKER:

So they came in and stated they were replacing boards, but there was never any type of an inspection to see the size of the dock? So it wasn't known? That is what I am trying to figure out. If they were excited, how is it that they –

SPEAKER:

They were cited for wetlands alteration without a permit. Not for building without a permit.

SPEAKER:

So the fact that the dock was not built as it was supposed to be built was never noticed or not taken into consideration?

SPEAKER:

Sam, do you have something to add?

SPEAKER:

Samantha has some information with regard to the wetland.

SPEAKER:

The wetland alteration permit was only for 256 ft.² of the dock. It is that small piece up front and for that seawall right there. It wasn't for the expansion of the dock or anything else. They did not get a wetland alteration permit for the rest of the structures there.

SPEAKER:

The county did not approve building permits or even review building permits for the current configuration of the dock.

SPEAKER:

So the bottom line is it was never permitted in the first place.

SPEAKER:

Correct. The only approved permit that we have was the one that was done in the 80s.

SPEAKER:

Ms. Van Dam.

SPEAKER:

Sorry, could we put the aerial up again, please? OK. Now, looking at this, there's quite a bit out into the water. Is the part in there, there is space on any side, is the part that is out on the water just the boat lift and the deck is actually up from that going side to side? Is that what we are looking at there?

SPEAKER:

If you can see my cursor right here, this is the boathouse and slip. And then just beyond that is the dock. The dock stops right beyond the boathouse.

SPEAKER:

It might help to see, there is a photograph looking at the dock out into the water.

SPEAKER:

There is one.

SPEAKER:

Yep. That is what it looks like. I think he recently took that picture. It looks like that little piece of deck actually comes in and then there is more deck that goes along the whole front edge. Which is a little deceiving looking at this, but it looks like that roof structure attaches to a deck that extends out about five additional feet and then that attaches to the dock structure that extends from property side to property side. Now flip back to the survey. So if you look down here at the survey, see the blue line? That's the configuration of the roofed over structure attaching to the deck and then the deck further in the stretches from property line to property line. Which looks like that is probably what was expanded in 2002.

SPEAKER:

OK. Alright. Thank you. Any other questions for staff? I don't see any. Ms. Somers, is the applicant online?

SPEAKER:

Yes, sir. Ms. Kelly.

SPEAKER:

Yes. Can you hear me? OK, awesome.

SPEAKER:

Can get your name and address for the record?

SPEAKER:

I'm sorry?

SPEAKER:

And your name and address for the record?

SPEAKER:

Joie Kelly. I matched 2296 Enterprise Rd. in Deltona.

SPEAKER:

Thank you, Ms. Kelly. You heard the staff report. Anything to add to it?

SPEAKER:

I just wanted to clarify, the portion of the decking that is north of the boat lift is actually over ground. And then the portion between the boathouse and that deck, I believe that is the area in question.

SPEAKER:

OK.

SPEAKER:

And just a little history, this all arose when we applied for a permit to replace the decking and zoning reviewed it. It should have been a wetland alteration permit. The current owners pulled a permit in 2018 to put a pool in. None of these items were an issue with zoning at the time. That is why we are asking that they be approved, so we can just replace the decking.

SPEAKER:

Alright. OK. Let me see if I have any of the commissioners that would like to ask any questions. Ms. Van Dam.

SPEAKER:

Can you tell me the repairs they wish to do on the deck at this time, do you know if they are on the portion of the deck that is over land or is it the portion of the deck that is out into the water?

SPEAKER:

It is on both.

SPEAKER:

The part that is over the water?

SPEAKER:

Over the deck that is over land and then the dock that is over the water.

SPEAKER:

OK. So they do need to do repairs on the decking that is from property line to property line over land?

SPEAKER:

Yes, ma'am.

SPEAKER:

OK. Thank you.

SPEAKER:

OK. Mr Frank Costa.

SPEAKER:

I have two questions for the applicant. Ms. Kelly, the first question is what is your relationship to the owners? Are you counsel or developer?

SPEAKER:

I am the contractor.

SPEAKER:

Contractor. OK. The second question is since they purchased in 2015, have they made any alterations and/or additions to this property since 2015 to current? With or without permits?

SPEAKER:
2018.

SPEAKER:
In 2018?

SPEAKER:
They pulled a permit for the pool?

SPEAKER:
Did any of these other items come up?

SPEAKER:
Negative.

SPEAKER:
And this all stems from the current request, correct?

SPEAKER:
Yes, sir.

SPEAKER:
OK. Thank you.

SPEAKER:
OK. Do we have any other questions for the applicant? OK, Ms. Kelly, is that all you would like to state at this time? What I will do is I will ask for public participation and if there is anyone who has any comments or anything I will give you an opportunity to come back and answer those questions or to address those concerns.

SPEAKER:
Thank you.

SPEAKER:
Is that all you have, Ms. Kelly?

SPEAKER:
Yes.

SPEAKER:
OK. Thank you. Ms. Somers, do we have any public participation on this one?

SPEAKER:
No, we do not.

SPEAKER:

No, we don't have any online.

SPEAKER:

OK. Ms. Kelly, we don't have any other public participation. Is there anything else you would like to add before I close it to public participation?

SPEAKER:

No, sir.

SPEAKER:

OK. Thank you very much. At this time I'm going to close the floor to public participation.

SPEAKER:

I have a question.

SPEAKER:

Yes, Mr Costa.

SPEAKER:

Thank you. Ms. Kelly, have any of the neighbors expressed opposition or support to what is going on here?

SPEAKER:

they signed affidavits and they have no issues.

SPEAKER:

Do we have the in the packet?

SPEAKER:

They are not in the packet. I'm not sure if they submitted them to us.

SPEAKER:

Yes, we did.

SPEAKER:

For the record, you're telling me to that the neighbours to the left and right of the property are not in opposition of what is currently there?

SPEAKER:

They are not in opposition and I have copies, the affidavits I said that.

SPEAKER:

That is important to note. Thank you.

SPEAKER:

Okay, does anyone else have any questions? Okay, I'm going to close the public participation and open it up for to commission discussion for comments.

SPEAKER:

This is a technical question, over legal and anything else, back to the previous case and how it applies to this case. What is your vote to have this past with us missing panel number? Is it majority rule or as a certain number?

SPEAKER:

Is this for the zoning question that was a previous motion or is this for...

SPEAKER:

In this particular case, how many yes votes for this variance?

SPEAKER:

The regulations require four members regardless of the number of members present to approve any Provo in part. You need four.

SPEAKER:

I just want to get a clarification on that. And secondly regarding the case, I am going through all of this. I get to the last page which is the environmental folks County, the environment specialist, then have any particularly an issue with the variance request in general. I also look at this package and see that all of these items that we are addressing today were done by the previous owner's time between 1984 and 2002. Or rather in 2015 when the current owners purchase this. During that time, the county Weatherby code or permitting tax had the opportunity to review these changes, I think twice until occasion they did pull the permit and 87.

Then we fast-forward to current and according to the applicant since they purchased it in 15 they have had, they did call a permit for a pool structure. Again, there was the opportunity to view and cite them for all these cases more recently than what we are dealing with right now. Here we are to get today and we are looking at basically having them to the repair, remove or replace on different structures, of which have been there and have seen and looked at on different levels for over the last several years and now we are putting the burden on these particular owners.

My support is as long as it meets current building codes, condition by staff we were to approve it. My vote would be an approval of just go ahead and take care of all the variances in one shot.

SPEAKER:

Okay, Mr. Costa, Ms. Van Dam, do you have something to say?

SPEAKER:

Question for staff, please, variance six and seven, we have them described as being from 15 feet to 0 feet for an existing boat dock. Are we referencing over water or decking overland?

SPEAKER:

I believe that is applying to the decking that extends from property lines of property line that other portion doesn't appear to extend, if it is 20 feet it would be to be applied to that.

SPEAKER:

I'm sorry, my hearing is not what it should be. I did not catch that, the dock itself is not property line to property line but overlying decking is property line to property line?

SPEAKER:

It is.

SPEAKER:

Variance six and seven should be written up as existing deck...

SPEAKER:

Yes.

SPEAKER:

This we are counting as dock, that is what she is saying is over land.

SPEAKER:

That is all part of the dock.

SPEAKER:

May I speak?

SPEAKER:

Can you see what I am drawing?

SPEAKER:

No, it is not coming up on our screen.

SPEAKER:

This part is considered part of the dock as well is this part here. This is the part, these two wings, I can't draw fine enough to show you but the two wings on the side that was expanded. Let's see if I try a different colour if it shows up better.

SPEAKER:

Are those wings overland or overwater?

SPEAKER:

According to the applicant she is saying overland but they are still part of the dock.

SPEAKER:

Okay. If we approve a dock with a 0 foot setback, does that prevent them from expanding the portion that is overwater out to the east or the west? Or are we now, if we give approval, are we then...

SPEAKER:

I think if you condition it, they would end up going probably over the square footage but let's not take that chance. I think you could condition it that it is for the existing configuration not to be expanded...

SPEAKER:

You can't...

SPEAKER:

Ms. Van Dam.

SPEAKER:

Okay. We would like, we should add a condition that it cannot be existing, it cannot be expanded.

SPEAKER:

I would also like to bring up just in the abundance of caution although the applicant has committed to moving the structures that are actually encroaching over the property line that we add to that as a condition that they must be moved to be held within the subject property.

SPEAKER:

We could not give a variance. Anyways. Ms. Van Dam, any other concerns you have there?

SPEAKER:

One other question on the trashcan enclosure, on the photos I saw it look like there were trash cans sitting on the drive. Do we know if it would be any type of hardship for them to do away with the trashcan receptacle?

SPEAKER:

I think that needs to be outspoken.

SPEAKER:

Okay, any other comments by the commissioners?

SPEAKER:

Ms. Kelly, I would like to ask you, you wanted to mention something and I know I am closing the floor but I don't want to go unheard. What did you have that you would like to add to that?

SPEAKER:

Well, I wanted to ask the question if they are considering the dock portion that it is overland when it is actually a deck. There is a dock that is overwater which is the portion that you see on the area to the south of the red line to the boat lift.

SPEAKER:

The thing is, as they are probably going to condition it to the point where you can't make all the alterations to the boathouse to the point where it would make it larger or extend further into the waterway or to the property line.

SPEAKER:

And that's fine, we have no issue with that. What we are trying to do is to repair the wood that is on the decking in the dock.

SPEAKER:

Okay. My question is the last time it was repaired was when they repaired it, did they extend it further into the water?

SPEAKER:

We don't know, that was the prior owners.

SPEAKER:

I took but when you made the repairs and you had to get the permit...

SPEAKER:

I have not made the repairs at this time.

SPEAKER:

They did back in 2000.

SPEAKER:

The permit I looked at this morning, it doesn't appear it was extended further into the water, that the existing configuration, minus the wings what was permitted.

SPEAKER:

Okay, alright. Any other commission discussion on this matter? Alright, I will entertain a motion.

SPEAKER:

I have an additional question for staff.

SPEAKER:

Go-ahead, Mr. Costa.

SPEAKER:

Thank you. You mentioned that they had agreed to move the structure, I missed that comment, which structure we talked about?

SPEAKER:

There are two structures that are slightly over the property line, the well pump enclosure which would be structure one right up here. And the shed is 2 feet, a little bit on the other property they have agreed to move back fully onto their property.

SPEAKER:

Okay. That is not even, that is just the requirement.

SPEAKER:

We can't give their instances to allow it to be off their property.

SPEAKER:

I understand. Okay, I just wanted clarification on that. Both structures have to do with structures one and two area, is that correct?

SPEAKER:

Yes.

SPEAKER:

Okay. Alright, thank you.

SPEAKER:

Miss Jackson, I have a question. Is there anything preventing them when they move it to go ahead and move it to the 5 feet setback?

SPEAKER:

They could do that.

SPEAKER:

If they are going to move it, I would think that they can go ahead and move it the 5 feet rather than the zero on the property line.

SPEAKER:

You're talking but the shed?

SPEAKER:

I'm talking about the shed if the variances eight and nine.

SPEAKER:

Is it if I put them in the middle of the driveway?

SPEAKER:

The shed, the one down here by the water...

SPEAKER:

I'm not talking about the well pump.

SPEAKER:

I'm talking but the variance in moving them to the 5 feet required by code.

SPEAKER:

That would be variance nine.

SPEAKER:
Variance nine?

SPEAKER:
What about variance five that would need to be moved as well, I believe. The Tiki bar?

SPEAKER:
No, it is .4 feet from the property line, it is not over.

SPEAKER:
We are looking at variance eight...

SPEAKER:
That is to the waterfront, it is sitting right on the deck or dock, let's use the same terminology.

SPEAKER:
Right at the water line, and therefore, he needs a variance from the waterfront setback from 020 feet, from 5 feet to 0 feet.

SPEAKER:
My point is they are going to move it, they can meet that 5 foot setback to both the side yard and the waterfront.

SPEAKER:
I think there is an elevation difference that would have to go up on the back yard.

SPEAKER:
Do we have a picture for that?

SPEAKER:
Do you see this?

SPEAKER:
The wall.

SPEAKER:
But variance nine, they would be simply moving it to the side, not away from the water but to the side.

SPEAKER:
Right. They move it this way.

SPEAKER:
That could be 5 feet

SPEAKER:
Alright. Okay. Can I get a motion on this? Mr. Frank Costa.

SPEAKER:

I'm sorry, I did not put my mic on, but I would be happy to make a motion. I will make a motion to approve case number V-20-058 for approval of variance 1,2, three, four, five, six, eight and nine with conditions as outlined by staff, which include but are not limited to building permits regarding building permits on everything.

Limiting all these variances are limiting to the existing footprint of the structures. And also any damage more than 50% that will require the structures that they were a place to meet current code and setbacks.

SPEAKER:

Okay.

SPEAKER:

Along with the other three or four recommendations here by step.

SPEAKER:

Alright. Motion to approve all the variances with the staff recommended conditions and to not to exceed any other size or to any existing units we are talking about.

SPEAKER:

Can we review those conditions again, the staff recommended just to go over them?

SPEAKER:

Sure. You'd like me to read them off to you?

SPEAKER:

If we can have a second discussion, I will second.

SPEAKER:

OK.

SPEAKER:

Alright. I've got a motion and a second. Jay, I believe the recommendations are in the packet, are they not?

SPEAKER:

Yeah.

SPEAKER:

On page 9 of 27. Wait a minute. Yeah. Nine and 27. OK. I've got a motion, and I also have a second to approve all the variances with staff recommended conditions. The structures not to exceed any sizes they are today and encroachments and also to move the pump shed, if I'm correct, Mr Costa, into the property? Is that right?

SPEAKER:

Correct. I am not adding to meet the current setbacks. I am just adding to put it onto their property. That is my motion. I also got a second. I'm going to open up for commission discussion on the motion in a second. Ms. Van Dam.

SPEAKER:

Mr Costa, are you suggesting approval of the variance nine to zero or to the 5 feet off the property line?

SPEAKER:

To zero.

SPEAKER:

Mr Bender?

SPEAKER:

I can support this, but I think only if we go to variance nine going to the 5 feet to come into compliance. Other than that I am not going to support it.

SPEAKER:

If we do this as one motion and it is not approved then entities are approved, is that correct?

SPEAKER:

That's right. Mr Costa, would you like to reconsider or go by each individual variance rather than all combined?

SPEAKER:

No, actually, I would like clarification on a nine from staff, if possible. Is there adequate space and would this cause and unburden hardship to the owners to move it to five as opposed to zero? In other words, retaking the shed and basically deconstructing it and reconstructing it?

SPEAKER:

I don't know the answer to that. I think the applicant would be best to answer that.

SPEAKER:

Mr Chair, can we allow that?

SPEAKER:

We can. But what the point of it is there going to have to move it anyway because it's over the property line.

SPEAKER:

That is my question, if they are deconstructing it I would agree with the 5 feet. We are talking about removing two poles and replacing two poles and from whatever they are over, that is a whole other panel. But if we are talking about deconstructing the entire shed to be able to move it to the zero lot line than I am in agreement with you. If it is a matter of, and you can see what I am pointing at, but if you are looking at that corner, if it is only supported by 4 x 4's, if you are moving those 4 x 4's in eight to 9 inches to support the roof up, that is a different animal than

taking this entire structure and moving it over. That is my question. Since I can't see inside I don't know.

Let me say this, though. What the applicant talk. I'll hold what I'm going to say. If not, I will go ahead make a change or.

SPEAKER:

I will let the applicant answer that question. Ms. Jackson, even if they move the 4 x 4 in, what about the roof overhang? It still can overhang the property line, can it?

SPEAKER:

If there is an overhang it is really small on that side. It can't overhang the other property.

SPEAKER:

OK. So even if they were to move them and they would have to do something to the roof. I am going to let Ms. Kelly answer that question. If it is going to be totally reconstructed to move it in or if alterations can be done. Ms. Kelly, can you answer that question, please?

SPEAKER:

Yes, sir. No, the plan was to remove the portion over the property line with minimal.

SPEAKER:

How much is that portion?

SPEAKER:

Which would be the overhang. I believe it is two foot.

SPEAKER:

Is the actual structure of the building or just the overhang of the roof on the property line?

SPEAKER:

I'm not really sure because the surveyors didn't really locate it for us.

SPEAKER:

What kind of a burden would it be to move this 5 foot and from the property line in order to get your other variances?

SPEAKER:

It would be a big burden.

SPEAKER:

In order to get your other variances through, could you live with that? Could you move five feet –

SPEAKER:

What is the question again? Say that again. I'm getting back noise.

SPEAKER:

On variance nine, if we were able to get you to move that 5 feet, I think you would get a yes would on the other eight variances. My question is, is that acceptable or not?

SPEAKER:

Yes, sir.

SPEAKER:

Think. Mr Chair, I change my motion that on variance nine it go from zero to the 5 foot setback.

SPEAKER:

So you are going to deny variance nine? Because the 5 feet is the code.

SPEAKER:

Yes. Correct.

SPEAKER:

OK. Do I have a second on that?

SPEAKER:

Steve. Any member may second.

SPEAKER:

OK. Can I get a second on that?

SPEAKER:

I will second that motion.

SPEAKER:

OK. We revised the motion to deny variance nine and to approve variances one through eight with staff recommended conditions and to not increase the size of any of the structures that are currently there and if it exceeds more than 50% damage it will have to meet current code. Is that correct?

SPEAKER:

Clarification on this. In variance nine it seems it needs to move 5 feet from the water and 5 feet from the side.

SPEAKER:

Variance eight is –

SPEAKER:

Variance eight addresses the water line.

SPEAKER:

OK. I'm good.

SPEAKER:

OK. Any discussion on this motion? Hearing none, I will take a roll call. Ms. then them. Speak my guess. Mr Bender.

SPEAKER:
S.

SPEAKER:
Mr Steve Costa.

SPEAKER:
Yes.

SPEAKER:
Mr Frank Costa.

SPEAKER:
Yes.

SPEAKER: Mr Jay Young.

SPEAKER:
Yes.

SPEAKER:
Myself. Yes. Motion passes and we will move on. That will do it for what business we have today. I would like to ask Mr Soria one question. It goes back to our first case. If we change to where it was a majority rule, that recommendation, should it go through in the zoning issue?

SPEAKER:
Mr Chair, I was actually going to correct the effect of the motion of what actually occurred. So for reasonings in special exceptions or for any other recommendations that amend the land development, it only requires the majority vote of the members present. It does not require a minimum of four. That still only pertains to variances. So the effect of the commission's vote is to recommend to the County Council for approval by a three to 2 vote with Ms. Van Dam recusing herself. We will clarify that in the staff report going to County Council.

SPEAKER:
I would like to make a comment there. That was changed probably within the last year, was it not? Therefore that is why we got a little bit sidetracked. So that motion on the zoning will go through with a recommendation of approval with a vote of three to two.

SPEAKER:
Someone will contact the applicant and informed them as such? He left the meeting thinking he was denied.

SPEAKER:
We will let him know.

SPEAKER:

I am sure staff will let him know. That was changed, like I said, within the last year. That is why wasn't catching it. Then after reviewing this in your question previously got me to thinking about that. Thank you anyway.

SPEAKER:

Shame on me for not catching it sooner. We moved so quickly through it that it took me a little while to process what happened.

SPEAKER:

That was just changed in the last year. That is why there was a little bit of confusion there on my part.

SPEAKER:

Very good. Thank you.

SPEAKER:

Alright. We are going to move on to any old business. I don't think we have any. So any other public items? I don't hear any. Any staff items? OK. Any staff comments? And I hear none. Commission comments? Ms. Van Dam.

SPEAKER:

Hypothetical. Someone comes in requesting a building permit to repair an existing dock. It is approved. However, the repairs on the dock are greater than 50%. Which was made part of the condition. Now, does that condition then go to the dock after the repair or does that condition go to the dock as it exists now when they come in for the permit?

SPEAKER:

The description for the 50% of repair is that they have to meet the current building code that is different from the zoning aspect. So they get to keep their variance to the zoning but now they need to comply with existing and current building standards. If that makes them unable to comply with your approved variance then they have to come back before this commission.

You have two different codes that are technically independent of each other and acting on the same structure. Right now you have approved a variance for the setback to the dock. They trigger that 50% provision in the building code kicks in and forces them to redesign. If the redesign is in violation of your order they need to come back to this commission.

SPEAKER:

Thank you.

SPEAKER:

OK. Any other comments from the commission? Alright. And I do believe, Ms. Somers, we will be back into a regular theme next month? Is that not correct?

SPEAKER:

Right now we are planning for virtual as well. But as the building opens up, like last month we didn't have public participation at all in this building. This month we have public participation available in the training rooms. Next month we will hopefully be allowed in the chambers. We are looking at wonderment as virtual, at least.

SPEAKER:

Mr Chair, I will just clarify on that. There are two things at play. Members of the public participate using Zoom or Meet Me or some other virtual facility and they are not in the building with the commission. That is something that we can provide. The governor's executive order still currently in place allows members of the commission to participate remotely. So you can kind of have a hybrid type meeting with members of the public in attendance here but various members to the commission either being physically present or participating through some remote process. And that is something that we can look at as circumstances dictate and as the effects of COVID-19 start to reveal themselves later on down the line next month.

SPEAKER:

So even with the social distancing we are looking at even as a commission site if we can't meet that social distancing we will have some sort of virtual on our commissioners as well.

SPEAKER:

You still can. Right now the County Council does meet both physically and certain members of the County Council appeared virtually. The public participation component is actually in the building itself. It is not a kiosk, and it is not appearing through Zoom or the Go To Meeting or anything like that. They are actually here. But the option is still for members of the commission or members of the Council do not physically be present.

SPEAKER:

Thank you.

SPEAKER:

But I think, Yolanda, we are still gearing towards members of the public not permitted in the building, or are they not allowed in the building?

SPEAKER:

Right now they are allowed in the training rooms. County Council allowed members of the public to be in the chambers. We have them take you can sit and where they can. It is not been determined since that meeting on Tuesday whether or not they will open the chambers to the public yet.

SPEAKER:

I will say it is very limited seating meeting the social distancing in the chambers. But in case people were wondering when we get back to actually physically being here. And I don't see any members of the press. Is there anyone online that would like to make a comment, press or citizen?

SPEAKER:

No, sir.



SPEAKER:

Okay, thank you. This meeting is adjourned.

SPEAKER:

Thank you, see you in 30 days.