

MINUTES OF THE REGULAR MEETING OF THE CITY OF STUART BOARD OF ADJUSTMENT HELD IN CITY HALL, 123 SOUTHWEST FLAGLER AVENUE, STUART, FLORIDA ON APRIL 26, 2007

Those present: John Pasqualone, Chairman
Philip Harvey, Vice Chairman
Bonnie Landry
Dr. E.E. Griffith

Those absent: Mark Mathes

Also present: Tom Reetz, Senior Planner
Murriah Dressel, Planner II

I. CALL TO ORDER: Chairman

Chairman Pasqualone called the meeting to order at 7:03PM.

II. ROLL CALL: Secretary

Those answering roll call and others present are referenced above.

III. APPROVAL OF MINUTES: April 12, 2007

No minutes in packet

**MOTION:
SECOND:**

Motion carried

Chairman Pasqualone, This is a request to consider relief from City of Stuart Code of Ordinances, Section 18-234(d)(2)a. to allow the reduction of the required setback from 5 feet to 0 feet in order to construct a proposed dock.

Property Location: SE Cardinal Way

Property Owners: Donna Jean Dorney

Applicant/Representative: John Yudin, Guy & Yudin, LLP

BOA Case #07040001

Are there any ex-parte communications that need to be disclosed? All, no.

Swearing in.

Tom Reetz, Subject parcel is located along Krueger Creek and is zoned R1A. The applicant is requesting to relocate an existing dock. Staff has reviewed the application and based on the conditions established in Section 10-02 A and B recommend approval of the request based on the findings.

John Yudin, Presentation.

Bonnie Landry, So you are moving the whole dock over to the property line?

John Yudin, Yes

Chairman Pasqualone, And you have a DEP permit in hand right?

John Yudin, Yes

Dr. Griffith, There is supposed to be a five foot setback which now is what he is calling these pilings that have been placed in there.

Tom Reetz, If you follow the dashed line out to the water, that is actually the riparian property line that they should set back five feet from but they are asking to set on that riparian line.

Dr. Griffith, So the pilings have nothing to do with you, someone else put them in right? But your dock would be up against the pilings?

John Yudin, Yes.

Chairman Pasqualone, The placement of those pilings by Cardinal Crary Creek, LLC, is that what created the hardship for your client because now it has created a narrower berth area for your boat?

John Yudin, Yes

Dr. Griffith, At one time, this was one piece of property that one person owned?

John Yudin, Yes. It is zoned residential, but they broke it up into pieces to make boat moorings.

Bonnie Landry, Are you saying that the property that you purchased does not have any homes going on it?

John Yudin, Yes.

Joan Schmidt - 310 Cardinal Lane
Lanny Chase - 311 Cardinal Way
Mary Madden – South side of Dorney property
John Coescini – North neighbor of Dorney's,
All opposed

Mary Madden, Wanted to submit pictures of docks.

Chairman Pasqualone, You cannot submit pictures unless you have filled out an application as an intervener and paid the fee.

Dr. Griffith, Previously we would allow people to submit pictures or hand in petitions and now I guess the requirement is that they have to approach the City with a fee to submit whatever evidence they would like the Board to consider, is that correct?

Chairman Pasqualone, As I understand that process, if they are going to be an intervener they will present evidence in opposition of the applicants request which would be in the form of petitions, pictures, legal documents etc...as I understand it.

Dr. Griffith, Now my question is how does the public get informed that there is this requirement? If we post a sign, typically that is what we do and neighbors within a certain area get a note that this person is requesting this variance. Now on that particular sign does it say that they have to come and give the City money to submit pictures or whatever they want to present. How do they know to do that?

Chairman Pasqualone, That is something for the City Attorney to answer.

Dr. Griffith, Where is he tonight?

Chairman Pasqualone, Not here. As I understand it, the residents have a right to an appeal process and there are sweeping changes going on with procedures.

Dr. Griffith, Could we make a note that we would like to make sure the attorney addresses that and make sure that in these cases in the interim that they be told that we aren't snubbing them and we want to hear what they have to say and this is what they would have to do procedurally to get that information to us.

Murriah Dressel, If the City Attorney feels that it is appropriate or something that needs to be regulated then I'm sure we'll go ahead and change or add that into the process.

Dr. Griffith, I imagine these people didn't have any idea of what the procedures are and I if we are going to get real formal here on how we are doing this then whenever we are getting presented a visual we should have some way that the crowd can see the visual as well.

Chairman Pasqualone, I would agree, but since we are in the middle of a discussion item, perhaps we could talk about this after and you folks are certainly welcome to stay and listen. But there are changes going on that impact you and you don't know the rules and procedures and you come and want to be heard, which is your right but then there are other issues.

Bill Dorney, I think the disagreement with the neighbors started when we decided not to share a dock. We talked to the Maddens and they said they didn't want our dock on their side so we moved it to the other side. All we are trying to do is beautify the area and be equal with everybody else.

John Yudin, You haven't been presented with any evidence that our proposed dock will in any way inhibit, ingress or egress any of the property owners here and haven't been

presented with any evidence or testimony or commentary that the proposed dock structure does not meet any of the requirements for the variance and in short there has been no valid reason put forth in terms of what is provided in the Code as to why our request should be anything but granted.

Chairman Pasqualone, To review our packet, we have a DEP permit issued for this property, regulatory review is granted.

Dr. Griffith, Have we ever had a variance on a dock before?

Tom Reetz, No

Dr. Griffith, When you read the criterion, I don't know how any of them relate to a hardship for a dock unless I'm not reading these eight very well.

Murriah Dressel, A few of them could relate. But no, we have never had an application for a dock variance.

Bonnie Landry, I agree with what the Chairman said. If they have a permit from the Department of Environmental Protection and there is a section that says "neighbors or parties who will be substantially affected by the proposed activity are allowed to request an administrative hearing of the department's decision and it looks like they have had a permit since November and if there was a hearing, we wouldn't be here tonight so it sounds as though that would have been their way to not allow the dock if they wanted to appeal it as neighbors they could have gone to the DEP.

MOTION: Bonnie Landry moved to approve the variance to request to consider relief from City of Stuart Code of Ordinances, Section 18-234(d)(2)a. to allow the reduction of the required setback from 5 feet to 0 feet in order to construct a proposed dock.

SECOND: Harvey

Motion carried 3 to 1

Chairman Pasqualone, We are still convened and I think we do have an issue with the changes going on. If it is the pleasure of the Board, I would be happy to write a letter to Mr. Nicoletti or ask Staff to get clarification or convey our concerns that there are changes going on and this seems to have a negative impact in the community because they are not aware of the rules so when they post the notice for Public Hearings, perhaps they can post in that notice how they can obtain a copy of the City Rules and Regulations. I would not think there is a way to share all of the rules and regulations and rights in a public hearing notice, but if we can guide them to the procedures in the notice would that satisfy your concern Dr. Dr. Griffith?

Dr. Griffith, Who came up with the idea of the \$400.00 to submit letters or pictures? I guess maybe we have been pretty laid back in the past few years of serving on the committee.

Philip Harvey, In the past several months we have had photographs presented to us.

Chairman Pasqualone, At the last meeting after the ruling of the famed 701 site.

Dr. Griffith, So was that that our attorney's recommendation because I don't remember us voting that we wanted to have people submit \$200 or \$400 before they can present evidence. Where did that come from.

Murriah Dressel, It may be on the books and may have been on the books for some time but our City Attorney is fairly new to the City Staff as well and maybe it was something that should have been done but really wasn't. Our hearings have been informal and maybe it's being a little more formalized. I'll find out and make sure that it is made known to the public what the expectations are at these meeting.

Dr. Griffith, If they are getting a letter, maybe it should state in the letter if they are giving anything more than testimony, they need to do these things. You would think that there would be some way that they could present information without having to kick out \$400.00.

Bonnie Landry, It's a good point because if you want to write a letter you can send a letter and that is put in the evidence so why couldn't someone mail you pictures? How is that any different than a letter?

Murriah Dressel, That's right, we did include a letter we received in the mail in your packet.

Chairman Pasqualone, I think that when rules are changed like this, in fairness to us we need to have some orientation to that whether we have to call a special meeting.

Murriah Dressel, I think everyone would enjoy that.

Bonnie Landry, I think that is a good idea. What about putting the eight (criteria for required findings listed in section 10.02.02) for granting a hardship in the notice and that will help them understand what we are doing.

Chairman Pasqualone, Keep in mind we are all common citizens. The layperson doesn't know rules and regulations. They rely on a citizen board of their peers to make decisions much like you do with CRA stuff. When you go to the City Commission or County Commissioners they don't have orientation classes. You are expected to be prepared to present evidence or follow the proper procedures when you appear. If we are going to put out Public Notice, we should advise them what their rights are when making a presentation or maybe give them a list of procedures.

Murriah Dressel, As of now, we are sending out a generic notice of public hearing saying who the board is, what type of hearing it is, time and place with our phone numbers. It is a confusing process if you don't do this day in day out. You don't know what is expected.

Philip Harvey, But if they know the eight criteria, it makes a big difference.

Chairman Pasqualone, I believe that is subjective too. Your idea and my idea of whether you are say...blocking my light could be very different.

Dr. Griffith, I think if you are giving them the eight items and you are also telling them how to present their data then they will feel like they had their say and we didn't already make a decision.

IV: COMMENTS FROM THE PUBLIC:

V: NEXT BOA MEETING: May 24, 2007

VI: ADJOURN: 8:12 PM

Chairman Pasqualone, there being no further business before the Board the meeting is adjourned.

APPROVED

RESPECTFULLY SUBMITTED

John Pasqualone, Chairman

Michelle Vicat, Board Secretary