

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting December 7, 2021

The Planning and Zoning Board met in formal session Tuesday, December 7, 2021, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Grant Misterly, Chairperson and the following were present:

1. Roll Call: Grant Misterly, Chairperson
Mike Davis, Vice- Chairperson
Jon DePreter
Sarah Ryan
Carl Blow
William Masson
Charles Pappas

City Staff: David Birchim, Director, Planning & Building Department
Jacob Fredriksson, Planning & Building Department
Isabelle Lopez, City Attorney
Laura Morse, Recording Secretary

2. General Public hearings for Items Not on the Agenda

- Pat Hughes

Mr. Misterly asked Mr. Birchim to respond to the public comment.

Mr. Birchim suggested they contact the Public Works department.

3. Approval of Minutes

Ms. Ryan asked if the 70% impervious surface ratio for Item 3 had been approved.

Mr. Birchim responded in the affirmative.

Mr. Blow commented about November 2nd, page seven, right column toward the top the last bullet point. He noted what he said was missed in the minutes.

Mr. Misterly stated the minutes would be updated to include a summary of Mr. Blow's statement.

MOTION

Mr. Davis MOVED to APPROVED the August 26, 2021, minutes as presented and the November 2, 2021, minutes as amended with Mr. Blow's suggestions. The motion was SECONDED by Mr. Masson and APPROVED BY UNANIMOUS VOICE VOTE.

4. Use by Exception

4. (a) 2021-0154– Tom Lydon- Applicant & Owner 39 Rohde Avenue

To approve one (1) parking space in the City parking garage for a short-term rental.

Mr. Fredriksson read the staff report and said based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board can APPROVE a use by exception for one (1) short term rental offsite parking space in the municipal parking garage for 39 Rohde Avenue / PID 193750-0000.

Tom Lydon reviewed the application.

Ex Parte Communication:

The Board provided their ex parte communication.

20 certified notices were sent, 0 were returned in favor, 1 returned opposed and 1 had comments, and additional emails were attached.

Public hearing was opened; however, there was no response.

Public hearing was closed.

Mr. Lydon was surprised at the opposition, and noted the space taken in the garage. He said his wife and him were trying to purchase the property for a rental. He said they owned some property and possibly could extend the driveway to create another parking spot.

Mr. Birchim stated if the Board approved a Use by Exception, they would lease a spot, there was no expiration date, and it would be automatically renewed.

The Board discussed:

- Site was a unique lot size
- Thought the parking garage was a last resort
- Thought there was plenty of room to add parking to the site
- Was not in favor of the application
- Payment for spot in garage could vary in future years
- Parking downtown was tight, and the lot had room for another space
- Parking garage should be the last effort to find parking not the first
- Not in favor per community comments that impacted parking on the street
- Could remove pavers to create spot on property

Mr. Lydon noted within the approval for the short-term rental, the plat included parking, but it was behind a chain length fence, and they were not allowed to go past the easement to obtain the parking. He said in order to, they had to go through another process.

Mr. Davis asked if the application could be postponed for thirty days in order for the applicant to search for other options for parking.

Mr. Lydon asked if it was possible to purchase a parking location for thirty or sixty days while trying to sort out the parking situation.

Ms. Lopez noted the parking had to be on site for each bedroom per City ordinance. She said one spot had to be available for each bedroom in the rental, and the parking garage was the only option if that was not feasible.

Mr. Pappas suggested renting the property as a one bedroom since he had one parking spot available and told the applicant he would need to change the application to do so.

Mr. Birchim stated if the registration were changed and advertised as a one/two bedroom it would have to comply with City code. He informed Mr. Lydon the City monitors short-term rentals advertisements to ensure proper listing to avoid being in violation of the code. He said it would be easier to provide the additional parking.

Mr. DePreter asked what condition requirements were needed for on-site parking.

Mr. Birchim stated it had to be a stabilized surface.

Mr. Misterly stated there were two options: Board could vote or continue the application for thirty days for the applicant to add

parking and if so withdraw or if not come back to the Board.

Mr. Lydon stated he wanted to withdraw the application and would work on having the two-bedroom approved for the winter season and would continue to work on the parking spot.

The Board acknowledged the application withdrawal.

4. (b) 2021-0155– Jorge Gallego
Applicant & Owner
172 Cordova Street Unit 6

To approve one (1) parking space in the City parking garage for a short-term rental.

Jacob Fredriksson read the staff report and said based on a review of Section 28-29, and without the support of evidence to the contrary, staff finds that the Board can APPROVE a use by exception for one (1) short term rental offsite parking space in the municipal parking garage for 172 Cordova Street Unit 6 / PID 199990-0106

Mr. Gallego reviewed the application.

Ex Parte Communication:

(None)

4 certified notices were sent, 4 were returned in favor, and 1 had comments.

Public hearing was opened; however, there was no response.

The Board discussed:

- Was the apartment without ample parking
- Other previous applications from same complex
- In favor of a garage parking spot
- Unable to find parking within 400 feet of site

- No established residential parking program
- Board had a precedent of approving

Mr. Blow stated that part of the application had been cut off which asked about justification for action requested and stated “had one designated parking spot on site and can offer a second stabilized parking spot a few blocks away” but then it was cut off. He asked if it was it over 400 feet.

Mr. Gallego explained there were two driveways at 66 Marina Way where he lived and had a second registered short-term rental in the same location that used one of the two spots. He said he could offer that as an alternative, but that location exceeded 400 feet per code.

Mr. Blow stated the parking garage was supposed to be the last resort and if there was a location closer maybe that could be used as an alternative even though it was over 400 feet.

Mr. Gallego said his intention was offer that spot, but he was willing to pay for a spot in the parking garage. He said he would rather have the guest use the closer parking if available for their convenience.

Ms. Lopez asked if the location offered as an alternative an existing short-term rental with excess parking.

Mr. Gallego clarified he had a one-bedroom rental with two parking spots.

Ms. Lopez stated the problem was it was not within 400 feet even though it was more logical. She said it would not meet code.

Mr. Birchim said in the past there had been a Variance granted to the 400-foot rule, but those had been for off-site parking for commercial parking lots. He said 66 Marine Street was zoned Historic Preservation (HP) Zone 1 which would not allow partial parking lots. He stated the application would have to be advertised with a Variance for the 400-

foot rule and a use by Exception for the space at 66 Marine Street.

Mr. Davis pointed out the applicant would be paying for a space yearly and not using it. He informed the applicant if he wanted the parking now, the parking garage solved that, he could return to ask for the variance to use 66 Marine Street next month.

MOTION

Mr. Blow MOVED to APPROVE the Exception 2021-0155. The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:

AYES: Blow, DePreter, Masson, Ryan, Davis, Misterly

NAYES: Pappas

MOTION CARRIED 6/1

5. Conservation Overlay Zone Development

5. (a) 2021-0140 – Rob Garrison– Applicant & Owner 95 Dolphin Drive

Ms. Ryan recused herself from the Item.

To approve a new dock, boat lift, gangway, and modification to an existing seawall in Conservation Overlay Zone 1.

Mr. Fredriksson read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the board can APPROVE the construction of a new dock, boat lift, gangway, and modification to a seawall within Conservation Overlay Zone 1 at 95 Dolphin Drive / PID 219900-0000 as long as it is shown these a wall modification follows the requirements of Sec. 11-29 – Standards for review.(b)(4).

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Rob Pollack, the contractor and Rob Garrison reviewed the application.

The Board provided their ex parte communication.

29 certified notices were sent, 1 were returned in favor, 0 returned opposed and 0 had comments.

Public hearing was opened; however, there was no response.

The Board discussed:

- No issue with the dock
- Would was small enough and would not encroach on the neighbors
- Dock was of a similar scale and not protruding in water way
- Dock seemed reasonable
- Existing seawall would be extended about twenty-four inches
- Original seawall would be higher and no change to the footprint
- Appeared compact
- Supportive as it was a reasonable request
- Aerial view showed dock was comparable to the others¹
- Raising the bulkhead would likely happen more often

MOTION

Mr. DePreter MOVED to APPROVE Conservation Overlay Zone 1 Development 2021-0140 as it meets the requirements for a dock and the improvement to the seawall. The motion was SECONDED by Mr. Pappas.

VOTE ON MOTION:

AYES: DePreter, Pappas, Blow, Masson, Davis, Misterly

NAYES: NONE

¹ Attached to packet

5. (b) 2021-0156 – Blackbox Design– Applicant
Augustine Development Kevin Vandyke– Owner
0 Magnolia Avenue (PID#1919300010)

Mr. Misterly noted this was continued to the January 4th agenda.

To approve a new bulkhead and gangway for an eight (8) boat slip marina and a fifteen (15) room motel in Conservation Overlay Zone 1. To approve the removal of trees in Conservation Overlay Zone 3.

5. (c) 2021-0157 – Augustine Development Group– Applicant
Darden Claire Harting et al Trust– Owner
0 Seminole Drive (PID#1513700000)

To approve the installation of a wooden bulkhead in Conservation Overlay Zone 1.

Mr. Fredriksson read the staff report and said based on a review of section 11-29 and without the support of evidence to the contrary, staff finds that the board can APPROVE the construction of a new wooden bulkhead within Conservation Overlay Zone 1 at 0 Seminole Drive / PID 151370-0000.

By approval of this application, the City does not make representation, approval, or claim to riparian rights to any party.

Bryan Greiner and Robert Balch reviewed the application and plans, and said they tried to keep a modest footprint on the site.

Ex Parte Communication:

The Board provided their ex parte communication

26 certified notices were sent, 1 were returned in favor, 7 returned opposed and 7 had comments and additional emails were attached.

Public hearing was opened.

Tara Meeks spoke in opposition of the application. She said the Conservation Overlay Zone was put in place to preserve and protect the natural function of the wetland and historic natural beauty of the City. She stated other similar application had been opposed by the neighbors and the Planning and Zoning Board set a precedence to deny this request. She felt approving the request would affect her quality of life.

Mr. Misterly asked questions about the map Ms. Meeks provided.

Jennifer Pastore spoke in opposition to the application. She stated in the 80's the same lot had been denied for a bulkhead. She said the City recommended her to move back twenty-five feet from the marsh and asked the Board to request the same from the applicant. She said asked the Board to uphold the neighborhood and protect the marsh.²

Gina Burrell spoke in opposition to the application and pointed out the King Tides were bad and thought the application should be denied.

Curtis Hazel spoke in opposition to the application. He provided several photos for the Board to review related to the King Tides in November. He felt the proposed bulkhead would affect the adjacent areas.

Jim Springfield spoke in opposition to the application. He said he lived a block away, directly behind the property, and with each new development the water level in his backyard rises. He said his property flooded with hurricanes, King Tides, or a heavy rain as it drains to the back-half acre which stayed under water. He said the saltwater intrusion had killed many trees and was costly.

² Attached to packet

Kathy Deagan spoke in opposition to the application. She said the staff report pointed out the water would likely be displaced to the west. She said the bulkhead could cause an issue for visibility as people use the marsh for recreation. She said felt this would benefit the public as a whole. She said adding the bulkhead could impact the mangroves.

Jacqueline Young spoke in opposition to the application due to the flooding in the area.

Tawny Kern spoke in opposition to the application. She said during King Tides she was unable to leave her home and was sensitive to an application that proposed a bulkhead in a Conservation Overlay zone. She asked the City to deny the project and protect the mangroves.

Charles Smith was opposed to the application and supported the information that had been provided from his neighbors.

Public hearing was closed.

Mr. Balch noted the bulkhead design would only elevate the bulkhead by three and a half feet and the depth of the piling was unknown. He understood everyone's concern in terms of adaptation and creative solutions as opposed to causing problems; however, he was not sure that using storms every two years, occasional events determine if a sight was developed.

Mr. Greiner stated that the bulkhead was not encroaching on any wetlands and no mitigation was required. He noted that there were property rights laws and they were not asking for an exception because they were in full compliance with conservation zone development. He said they consulted water management and DEP and were 100% in compliance.

Mr. DePreter thanked the applicant and contractor and asked about the bulkhead, and how the lot for vista purposes would not be developed.

Mr. Greiner stated the lot was not a viable unless they were to do mitigation and they had decided against.

Ms. Lopez clarified Mr. Greiner offered as part of his concession to mitigate the vista. She said that could be added to the Boards order.

Mr. Blow asked for clarification about putting a conservation easement over lot forty-eight in order to guarantee the lot could never be developed.

Mr. Greiner stated that was correct as it would be for conservation or if requested, they would deed it to the City.

Ms. Lopez understood they were offering a recorded conservation easement and a condition to the order.

Mr. DePreter added that would be under the condition of scenic vistas. He asked staff about the house needing to be twenty-five feet back from bulkhead.

Mr. Birchim said with an undisturbed shoreline there was a twenty-five-foot undisturbed natural buffer to the most restricted jurisdictional line in this case was the wetland jurisdictional line. He said with an improved shoreline with a bulkhead, the rear setback was the same as the rear zoning setback.

Mr. DePreter mentioned the staff report and comments from the public that water would likely drain to the west near the surrounding properties. He was unclear of the details of the wall on the drawing provided with of the bulkhead. He asked for more information on a broader drainage plan, and that the bulkhead would affect the surrounding properties was concerning. He stated another concern was mangrove displacement and asked Mr. Greiner for further explanation.

Mr. Greiner assured Mr. DePreter that no mangroves would be displaced.

Mr. DePreter noted one of the criteria was the scenic views for the public.

Mr. Greiner said their understanding that development of conservation zone two was restricted to lot width for the vista. He said the home had a footprint of 700 square foot and would be within in the height restrictions and within the setbacks.

Mr. DePreter thought having photos from the waterfront would have been beneficial. He stated his concerns were the drainage, how it would affect the area and the scenic waterway, and more detail on how much fill would be go onto the site.

Mr. Masson was torn since he was not an expert and felt engineering input would be beneficial. He said he was unsure of what the impact would be to the neighbors and asked if the fill and development would have a negative impact causing the water drain elsewhere.

Ms. Lopez stated the burden of proof was on the applicant to meet the seventeen criteria.

Mr. Greiner said from an engineering standpoint, there was a swell that diverted water; however, half of St. Augustine was built below sea level and the property tapered off near the marsh land and that was the area that would be filled not the rest of the lot. He said within the confines of the lot, the water had been managed appropriately.

Mr. Pappas pointed out a seawall and bulkhead that was denied in June 2017, and he noted on the property records showing Seminole Drive ended at Fern Street due to the ocean. He said where the dock was located, a lot of the water fed in from there and near Atlantic Avenue. He said the area they were discussing was precious to the area for absorption, which could not absorb enough water on a rainy day. He had a problem with the bulkhead because the area had a living seawall and were losing

ability to absorb water. He disagreed with the impact on vegetation and the wildlife. He thought it was impossible to do without disturbing the mangroves. He was not opposed to putting a house on piers without fill.

Mr. Misterly noted the Board had seventeen criteria to consider, and he asked the other Board members to cite which number they were discussing.

Mr. Blow focused on item six; the impact of the floodplain and thanked the applicant for being willing to put a conservation easement over lot forty-eight. He thought that would be positive for the neighborhood. He said based on the testimony and focusing on item six, the flooding was the main concern. He stated the information from staff required the applicant to stay twenty-five feet back from the jurisdictional line if unable to add a bulkhead. He said the footprint would likely be reduced if the bulkhead were to be denied. He said he did not believe there was enough information to analyze the impacts on the floodplain.

Ms. Ryan stated she remembered the case Mr. Pappas' referenced from 2017 and thought the cases had similar issues because the neighbors did not have continuous bulkheads. She said the marsh line did not have other bulkheads around it and it was in its own little island. She was also concerned with number six, the floodplain and the Board had heard testimony that it would impact the neighborhood. She thought number eleven, impact on the shoreline and by taking up the shoreline with fill, the bulkhead would exacerbate flooding. She realized the twenty-five-foot setback was a hardship, and she struggled to support this.

Mr. Greiner stated based on Code, they could fill the lot to one-foot above freeboard elevation, house would be much wider, and would further impact the vista without approval from the Board

Mr. Misterly said they could not build up against the bulkhead and would have to be twenty-five feet back with a fifteen-foot front yard setback.

Mr. Birchim stated that was inaccurate, and any development within 100 feet of the most restrictive jurisdictional line was Conservation Overlay Zone Two and had to be approved by PZB. He said the undistributed twenty-five-foot buffer, was in the Comprehensive Plan as the minimum buffer for development in Conservation Zone Two. He said any development within 100 feet with or without a bulkhead would require approval.

Mr. Greiner heard the Board concerns, and the project would be better served as an open space, which would require substantial investment by the City.

Mr. Davis stated his issue was the floodplain as well. He converted the lot fill into gallons and said it would be around 48,000 gallons water that would have to be diverted. He could not see how the lot could be filled and not have a negative impact to the floodplain.

Mr. Misterly agreed with his fellow Board members and noted the considerable testimony from public. He noted this was probably not a good fit for the site. He cited criteria two, three, and six and said he would not include item seven since the applicant stated there were not mangroves in the area.

MOTION

Mr. Misterly MOVED to DENY the application 2021-0157 for a new wooden bulkhead at 0 Seminole Drive because it does not meet criteria 2, 3, or 6 of the code. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

AYES: Misterly, Masson, Pappas, Blow, Ryan, DePreter, Davis

NAYES: NONE
MOTION CARRIED UNANIMOUSLY³

6. Preliminary Plat Approval

6. (a) 2021-0153– James G. Whitehouse, Esq., St. Johns Law Group– Applicant
Lion Gate of St. Augustine LLC– Owner
32 Davis Street

To approve a preliminary subdivision plat.

Mr. Fredriksson read the staff report and said Based on a review of the applicable city codes, and without the support of evidence to the contrary, staff finds that the Board can APPROVE the preliminary subdivision plat (replat) at 32 Davis Street / PID 119920-0000.

James Whitehouse provided a review of the application.

Ex Parte Communication:

(None)

13 certified notices were sent, 0 were returned in favor, 0 returned opposed and 0 had comments.

Public hearing was opened; however, there was no response.

The Board discussed:

- No issue with the application
- Creating two lots that were buildable without any exceptions
- Survey showed cross hatch pieces were not part of the plat
- Zoned RS-2 which may have affordable housing
- Verified cross patch pieces were not part of the plat, had different owners
- Questioned what would take place with the oak tree

³ Break from 3:51 p.m. until 4:00 p.m.

- Applicant indicated most trees on the lot could be retained
- Any trees that were protected or preserved would return to the Board
- Oddly shaped lot, in its bigger state would have more flexibility to retain trees
- Two lots would have less flexibility to save trees
- Understood the concern of the trees but thought it was outside their purview for the application

MOTION

Mr. DePreter MOVED to APPROVE preliminary subdivision 2021-0153 as it meets the criteria and creating two conforming lots out of an already conforming process. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

AYES: DePreter, Davis, Pappas, Blow, Masson, Ryan, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

7. Other Business

7. (a). Board's approval of the new meeting schedule for 2022

Mr. Birchim noted the meetings would be first Tuesday of every month with a start time of 2:00 p.m.

Mr. Davis MOVED to APPROVED the 2022 Board Meeting schedule as presented. The motion was SECONDED by Mr. DePreter.

Mr. Blow asked about the proposed mobility fee and the HARB having design jurisdiction outside the historic area. He asked if those topics could be added to the end of meeting.

Mr. Birchim stated the mobility fee discussion could have been added to the

meeting; however, the consultant and Public Works director were not available. He said every other month the Board had committed to having workshops if necessary. He said they wanted to discuss the mobility fee recommendation first and then the HARB design jurisdiction.

Ms. Lopez noted she had been tasked by the Board in relation to prior comments and would have the rewrite ready for the January meeting; however, if having both topics on the same agenda was too much, she would be able to present it at the February meeting.

Mr. Pappas asked about July 5th meeting and if that would be an issue.

Ms. Ryan stated she would not be in attendance at the July meeting.

Mr. Birchim stated if the July meeting needed to be rescheduled that decision could be made at a later date.

VOTE ON MOTION:

AYES: Davis, DePreter, Pappas, Blow, Masson, Ryan, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

Mr. Misterly opened public comment for items not on the agenda.

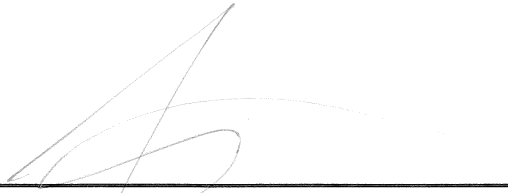
Jan Kelly stated she had relocated in July to St. Augustine and had purchased a home in Lincolnville. She said there had been transients in the area and wanted to know where she could voice her concerns.

Ms. Lopez stated she should address her comments with the City Manager's office.

Public comment was closed.

8. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 4:16 P.M.⁴



Grant Misterly, Chairperson

⁴ Transcribed by Elyse Anderson