

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting August 6, 2019

The Planning and Zoning Board met in formal session Tuesday, August 6, 2019, 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
Karen Zander, Vice Chairperson
Sarah Ryan
Carl Blow
Jon DePreter
Christina Opsahl
Maurice Morrisette

City Staff: David Birchim, Director, Planning & Building Department
Amy Skinner, Deputy Director, Planning & Building Department
Patrick Doty, Senior Development Review Planner
John Cary, City Attorney
Candice Seymour, Recording Secretary

Mr. Birchim introduced Patrick Doty, Senior Development Review Planner.

Ms. Zander spoke in memory of long-time PZB member Gerald Dixon who had recently passed away.

2. General Public hearings for Items Not on the Agenda

(None)

3. Approval of Minutes

MOTION

Ms. Ryan MOVED to APPROVE the June 18, 2019 minutes as presented. The motion was SECONDED by Mr. Blow and APPROVED BY UNANIMOUS VOICE VOTE.

MOTION

Mr. DePreter MOVED to APPROVE the July 2, 2019 minutes as presented. The motion was SECONDED by Ms. Ryan and

APPROVED BY UNANIMOUS VOICE VOTE.

MOTION

Mr. Blow MOVED to APPROVE the July 23, 2019 minutes as presented. The motion was SECONDED by Ms. Ryan and APPROVED BY UNANIMOUS VOICE VOTE.

4. Variance

4. (a) 2019-0069 – Donald Crichlow, C/o Don Crichlow & Associates – Applicant John and Joanne Rosenberg – Owner 39 Water Street

To approve a variance to decrease the minimum side yard, front yard and secondary front yard building setbacks and increase the maximum lot coverage for a home addition and a proposed detached garage with a studio.

Mr. Birchim read the staff report and said based on a review of Section 28-29 staff finds that the Board can APPROVE a

Variance to reduce the front, secondary front, and side yard building setbacks and to increase the maximum lot coverage for new home additions at **39 Water Street**.

Don Crichlow reviewed the application.

The Board provided their ex parte communications.

14 certified notices were sent, 2 were returned in favor.

Public hearing was opened.

B.J. Kalaidi voiced concern that the studio above the garage would turn into a vacation rental. She felt that the character of the neighborhood would be changed with the lifting of structures to prevent flooding. She questioned the demolition of the existing garage.

Public hearing was closed.

The Board discussed:

- Setback variance triggered by raising of deck
- Wrap-around porch will remain one story
- Storm water management for garage
- Building would be raised to 14 feet
- Proposed garage would be two-story with studio/office above
- New building permit would be pulled for garage demolition
- Location of addition on neighboring property
- No additional parking requirements
- Owner may be creating a disadvantage because he was asking for further development on the small lot
- Neighboring property owner was comfortable with the application and had a three-story addition being built next-door to the proposed two-story garage

- Concern for use as vacation rental was valid, but could not be prohibited and the application appeared to indicate that it would not be used for such

MOTION

Ms. Ryan MOVED to APPROVE application 2019-0069 at 39 Water Street to approve a Variance to decrease the minimum side yard, front yard and secondary front yard building setbacks and increase the maximum lot coverage for a home addition and a proposed detached garage with a studio as presented. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

**AYES: Ryan, Opsahl, Morrisette,
DePreter, Blow, Misterly**

NAYES: Zander

MOTION CARRIED 6/1

5. Use by Exception and Conservation Overlay Zone Development and Preliminary Plat Approval

5. (a) 2019-0066 – Ellen Avery-Smith, Esq., c/o Rogers Towers, P.A. – Applicant
CBC National Bank, John R. Perrill – Owner
Lewis Speedway, PID 102820-0009

To approve a use by exception for thirty-eight (38) single-family homes and associated amenities. Approval of tree removal from Conservation Overlay Zone 3 and construction of homes within the Conservation Overlay Zone 2. Approval of the preliminary subdivision plat for this development.

Mr. Birchim read the staff report and said the following:

- Based on a review of Section 28-2 and 28-29, staff finds that the Board can **APPROVE** a use by exception

for single family homes at this location;

- Based on a review of 23-38, staff finds that the Board can **APPROVE** the preliminary subdivision plat for this development;
- Based on a review of Section 11-29, staff finds that the Board can **APPROVE** Conservation Overlay Zone Two (COZ 2) development (development within 100 feet of wetlands);
- Based on a review of Section 11-29, staff finds that the Board can **APPROVE** the removal of 10 significant trees, and;
- Based on the lack of data for the remaining tree canopy, staff finds that the Board can **CONTINUE** the removal of the tree canopy for lots 1-8 and the northwest retention pod area until a tree survey is submitted for analysis

There was Board discussion regarding splitting the decision for the use-by-exception from the Conservation Overlay Zone development and possibly continuing the entire application until staff could review the tree survey which had just been submitted by the applicant. There was consensus to hear the use-by-exception first.

Ellen Avery-Smith asked that she be able to present the application so that both the Board and the public could understand the application fully and the applicant could receive feedback from the Board. The Board asked that she keep her presentation to items regarding the exception portion of the application.

Ms. Avery-Smith reviewed the application pertaining specifically to the use by exception.

Ex Parte Communication:

19 certified notices were sent, 1 was returned in favor, 1 returned opposed and 2 had comments.

Public hearing was opened.

Felice Thomas was concerned with development impacts, specifically safety concerns for the neighboring school. She noted that the commercial park in front of the property had few businesses. She added that the noise and traffic from the school may be a detriment to selling homes in the area.

Ruth Hill was concerned with drainage impacts of new development. She felt that if the area was designated a conservation zone, it should be conserved. She added that the neighboring creek was a wildlife corridor and should be respected.

Linda Buschman noted that there was a large concentration of single family homes and when the schools released students, traffic was excessive. She felt that there were enough single family homes in the area and adding more would be a negative impact. She also noted that the starting price for the proposed homes was excessive for what the applicant called "work-force housing."

Charles Pappis noted that the land was very sensitive and recommended a higher density with a smaller footprint to create less impactful development.

Maryann Pohle observed that the high-school football games were loud in that area and insurance may be difficult to obtain so close to the water. She said she would rather see the property go to the high school.

Diane Mills was concerned with traffic impacts and the safety of area students.

Ed Slavin spoke against the application recommending that the City make efforts to conserve the property.

B.J. Kalaidi felt that the property should be used for affordable housing rather than workforce housing. She spoke against the application.

Public hearing was closed.

Ms. Avery-Smith responded to public comment, noting that the proposed development would not impact the wetlands or archeological zone on the north portion of the property. She added that the development, based on the surrounding single-family neighborhoods, would be a compatible use for the area and a lower density than what was currently allowed.

The Board discussed:

- Brief history of the zoning of the property including past PUDs and rezoning
- Archeology Zone and the process which would not hinder or alter the development of the property but would catalog archeological resources on the property
- Approving the use by exception would not lock in the proposed plat
- Application was for a less intense use than what the property was already zoned
- Opportunity to maintain existing allowed uses with an aim to help in the City's endeavor to promote more affordable housing
- Concern for traffic and safety impacts of development on the property
- Construction of allowed uses would only come before the Board if there were conservation overlay zone development
- Proposed use may not meet criteria to approve the exception
- A more dense, smaller footprint, development may benefit the area and be more consistent with the City's Comprehensive Plan

- Possibility of approving exception with the understanding that the approval was not tied to any specific site plan

MOTION

Mr. Blow MOVED to APPROVE only Use by Exception application 2019-0066 for an exception to build single family homes in RGO as submitted. The motion was SECONDED by Mr. Morrisette.

VOTE ON MOTION:

AYES: Blow, Morrisette, DePreter

NAYES: Opsahl, Ryan, Zander, Misterly

MOTION FAILED 3/4

MOTION

Ms. Zander MOVED to DENY Use by Exception application 2019-0066 for Lewis Speedway PID 102820-0009 for a use by exception for 38 single family homes because the applicant did not make an adequate case that the use by exception would promote the public health, welfare, morals, order, comfort, convenience, prosperity, or general welfare. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

AYES: Zander, Opsahl, Ryan, Misterly

NAYES: Morisette, DePreter, Blow

MOTION PASSED 4/3¹

6. Conservation Overlay Zone Development

6. (a) 2019-0079 – Charlene Morgan, Brandon Construction, Brandon Eklund – Applicant

Mike Germond – Owner
7 Ponce De Leon Ave

To approve the removal of significant trees within Conservation Overlay Zone 3.

¹ Brief recess from 4:06p.m. to 4:16p.m.

Mr. Doty 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** removal of the trees at the subject property including four (4) preserved trees (two Southern Magnolias, two Sugarberrys) within Conservation Overlay Zone 3 located at **7 Ponce de Leon Avenue / PIN#: 15740-0000**

Brandon Eklund reviewed the application.

The Board provided their ex parte communications.

23 certified notices were sent, 2 were returned in favor, 1 returned opposed and 2 had comments.

Public hearing was opened.

Ed Slavin felt that the application had not been properly noticed as the agenda did not list the type of trees.

Roman Pytel gave a brief presentation regarding Lighthouse Park and the tree canopy, including how some of the trees proposed for removal helped with the cooling of his own home.²

B.J. Kalaidi spoke against the application.

Richard Busam noted that this was the last high-dune lot in the area and was filled with archeological resources and recommended researching the whole lot.

Pat Puckett was opposed to cutting trees on the property.

Public hearing was closed.

Mr. Ecklund responded to public comment and noted that the owner of the property was willing to keep the magnolia on the north and possibly a portion of the sugarberry.

² Presentation attached to original minutes

The Board discussed:

- Pool in the front of the house would keep dune at close to the same elevation
- Trees within city right-of-way would not be impacted
- Sewer connection with lift station as addressed by Barry Pineda, engineer on the project
- Getting an arborist's opinion on cutting one of the two main trunks of the sugarberry
- Desire to see more detail on the site plan regarding location of sewer, pool deck, and other site features
- Wall for the pool terrace in the front and possible effects on the trees in the right-of-way
- Possibility of shifting the entry-way to save the magnolia to the front of the property
- Lot coverage concerns

MOTION

Mr. Blow MOVED to CONTINUE Conservation Overlay Zone Development application 2019-0079 to the September 3, 2019 meeting. The motion was SECONDED by Mr. DePreter

VOTE ON MOTION:

AYES: Blow, DePreter, Morisette, Opsahl, Ryan, Zander, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY³

7. Other Business

7. (a) Discussion and Public Comment Related to the Draft Housing Element Goals, Objectives and Policies for the Comprehensive Plan

Ms. Skinner introduced the subject.

³ Ms. Zander departed at 4:55p.m.

The Board discussed:

- City encouragement of flood-proofing and lifting historic homes within the City
- Encouraging rehabilitation of homes may decrease amount of affordable housing
- City needed to decide whether it would be a tourist town, or put more focus on the residents

The Board continued moving through the element per page with the following discussion, clarifications and recommendations:

- Concern for certain sections with specific language, some of which were required by state statute
- Include language that keeps the Comprehensive Plan current with state statute
- Split the first sentence of 1.7.1 into two sections
- Mobile homes were allowed in Open Land zoning
- Bi-annually meaning every two years
- Lincolnville Community Redevelopment Agency and effects of such programs on property values
- Policy 2.2.3 allowing mobility fee exemption for affordable workforce housing
- Policies 2.25 and 2.26 Density bonus program and whether a PUD or similar instrument may be a better option
- Ways to keep affordable housing affordable
- State regulation that required local governments to reimburse developers for potential profit loss if mandating affordable housing regulations
- Encouraging owners to live in their homes rather than renting them out
- Clarifying policy regarding government actions displacing

residents and the requirement to re-locate displaced residents

- Recommendation to reference Florida Building Code
- Clarifying language to read "stronger and safer housing"
- Offering residents tools on how to build in flood zones
- Altering language regarding transportation to read as less car-centric
- Short-term rentals and housing and clearly addressing them in the element
- Language regarding affordable accessory units on properties

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

Ms. Skinner announced that the next Workshop would be August 20, 2019. She said that September 17, 2019 was a possible date for an additional workshop.

7. (b) Discussion of new State Law regarding tree removal on residential properties

John Cary reviewed and facilitated discussion regarding the subject, noting that the new law stated that the City could not require a notice, application, permit, or fee for removal, pruning, or trimming of a tree on residential property if the property owner obtained documentation from a certified arborist or Florida Licensed Landscape Architect that the tree presented a danger to persons or property. He added that the law also prohibits the City from requiring mitigation for such trees. He gave examples of how the law would work in practice and explained that further detail regarding the law would be clarified with future litigations involving the law. He said an Attorney General's opinion could be sought if the Board needed further clarification.

Public comment was opened and the Board heard from the following member of the public:

- Ed Slavin

7. (c) Discussion and Recommendation regarding Ord. 2019-11, amending Sec. 28-29(5), concerning waivers of the one year time limitation between PZB applications

Mr. Birchim presented the ordinance.

MOTION

Mr. DePreter MOVED to RECOMMEND APPROVAL to the City Commission Ordinance 2019-11. The motion was SECONDED by Mr. Blow and APPROVED BY UNANIMOUS VOICE VOTE.

Board Member Comments⁴

Mr. Misterly asked staff to draft an ordinance that addressed lot coverage variances for structures in HP districts that need to meet ADA requirements. He asked that the language be for structures that require such changes to comply with changing codes.

8. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 6:12 P.M.⁵



Grant Misterly, Chairperson

⁴ Ms. Ryan departed at 6:06p.m.

⁵ Transcribed by Candice Seymour