

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting October 1, 2019

The Planning and Zoning Board met in formal session Tuesday, October 1, 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
Jon DePreter
Christina Opsahl
Maurice Morrisette
Mike Davis

City Staff:

David Birchim, Director, Planning & Building Department
Amy Skinner, Deputy Director, Planning & Building Department
Patrick Doty, Senior Development Review Planner
Isabelle Lopez, City Attorney
Candice Seymour, Recording Secretary

2. General Public hearings for Items Not on the Agenda

The Board heard from the following member of the public:

- B.J. Kalaidi

3. Approval of Minutes

MOTION

Ms. Ryan MOVED to APPROVE the August 6, 2019 minutes as presented. The motion was SECONDED by Mr. Morrisette and APPROVED BY UNANIMOUS VOICE VOTE.

Ms. Ryan clarified an item on page 3, saying she believed bullet 15 should reflect encouragement of soft-armoring rather than hard-armoring. She also noted that there should be an additional discussion point regarding clarifying the NFIP standards for construction in floodplains.

MOTION

Ms. Ryan MOVED to APPROVE the August 20, 2019 minutes as amended. The motion was SECONDED by Ms. Opsahl and APPROVED BY UNANIMOUS VOICE VOTE.

4. Use by Exception

4. (a) 2019-0085 – Mike Davis, A.D. Davis Construction – Applicant
Solar Stik Properties LLC – Owner
13 N. Leonardi Street

Mr. Davis and Ms. Ryan recused themselves.¹

To reduce the minimum side yard setback from 5' to 1.6' and to increase maximum building height from 15' to 22' for a second story addition.

Mr. Doty read the staff report and said based on a review of Section 28-29 and

¹ Forms attached to original minutes

without the support of evidence to the contrary, staff finds that the Board may be able to **APPROVE** a Variance to decrease the side setback from five (5) to one point six (1.6) feet for the existing structure and eastward expansion of an open air work shop as well as a Variance to increase the maximum height of the existing structure to twenty-two feet (22') at **13 N. Leonardi Street/PIN # 111420-0000**.

Troy Blevins reviewed the application.

The Board provided their ex parte communications.

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

Public hearing was opened.

- B.J. Kalaidi was concerned with the Board recusals required to hear the meeting and spoke in opposition to the application.

Public hearing was closed.

The Board discussed:

- Secondary variance option
- Approximate distance from sub-station was 15 feet
- Possible regulations regarding distance from the sub-station
- Building was not within the King Street Entry Corridor
- Application was a positive use of the Variance process
- Step-back height approach kept the building from towering over the street or neighboring structures, and there were no immediate structures currently in the area

MOTION

Mr. DePreter MOVED to APPROVE the application 2019-0079 as illustrated by staff, it meets the intent of the code for a

variance. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

AYES: DePreter, Opsahl, Morrisette, Zander, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. Conservation Overlay Zone Development

5. (a) 2019-0079 – Charlene Morgan, Brandon Eklund, Brandon Construction – Applicant
Mike Germond – Owner
7 Ponce De Leon Ave

To approve the removal of two (2) significant trees (Hackberry/Sugarberry tree) within Conservation Overlay Zone 3.

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 two (2) significant trees (Hack/Sugarberry) within Conservation Overlay Zone 3 located at **7 once de Leon Avenue/PIN 15740-0000**.

Brandon Eklund reviewed the application, adding that the property would be connected to sewer and the pool deck would be a raised wooden deck. He clarified that the only tree being requested for removal was the Hackberry.

The Board provided their ex parte communications.

22 certified notices were sent, 1 was returned in favor, 2 returned opposed and 3 had comments.

Public hearing was opened.

- Debbie Wicker was concerned with storm water run-off should the trees

be removed. She added that there was an additional oak that was not listed on the plans situated near the subject hackberry.

- Roman Pitel said the alley became a river during heavy rain. He was concerned with the protection of the existing dune in the area once the tree was removed which could be washed out into the road.
- B.J. Kalaidi spoke against the removal of the trees. She felt the house could be constructed to save the trees.

Public hearing was closed.

There was discussion regarding drainage requirements for the property which would be reviewed by the Building Official to ensure that the drainage was not impacting neighboring properties.

Mr. Eklund clarified that storm water drainage from the roof could be directed to Ponce de Leon Avenue if necessary. He added that the Oak referenced during public comment was likely in the right-of-way and would not be removed.

The Board discussed:

- Request that an arborist address whether the Hackberry could survive with one leader removed
- Laurel Oaks that had previously been requested to remain were noted by an arborist to be at the end of their life
- Possibility that the Board approve removal of one leader of the Hackberry tree and, if an arborist deemed the tree to be a danger after-the fact, then state law would allow the removal

MOTION

Ms. Ryan MOVED to APPROVE Conservation Overlay Zone Development

application 2019-0079 at 7 Ponce de Leon Boulevard for the removal of one significant tree within Conservation Overlay Zone three as discussed with removal of the leader leaning towards the footprint of the proposed house and obtaining an arborist report to determine the survivability of the remaining leader. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. (b) 2019-0082 – John Long – Applicant and Owner **Fiddler Crab Ln / PIN # 158571-9060**

To approve the removal of nine (9) significant trees (nine Southern Red Cedars) within Conservation Overlay Zone 3.

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 eight (8) significant trees (southern red cedars) within Conservation Overlay Zone 3 located at **Fiddler Crab Lane/PIN # 158571-9060.**

John Long was available for questions.

The Board provided their ex parte communications.

12 certified notices were sent, 6 were returned in favor, and 1 had comments.

Public hearing was opened.

B.J. Kalaidi voiced concerns regarding continuing drainage problems affecting areas outside of Pelican Reef in the county. She felt that developers did not know how to

properly build on treed lots and that the proposed pool was not necessary.

Public hearing was closed.

The Board discussed:

- Tree within proposed pool deck would be removed and pool built with the home
- Matching removed trees with arborist report numbers as 8, 9, 10, 11, 12, 13, 14, and 15
- Applicant to keep trees along the street
- Site would be filled, but applicant would ensure the protection of the trees along the front.

MOTION

Ms. Zander MOVED to APPROVE application 2019-0082, John Long, owner/applicant a Fiddler Crab Lane PIN # 158571-9060 to approve the removal of 8 significant trees, all southern Red Cedars in Conservation Overlay Zone 3 with the site plan as presented. The motion was SECONDED by Ms. Ryan.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

5. (c) 2019-0083 – Ryan Carter, Carter Environmental Services, Inc. – Applicant Patricia & Roland Anderson – Owner 4 Lighthouse Avenue

To approve the construction of a three hundred foot (300') long dock with two (2) associated boat lifts within Conservation Overlay Zone 1.

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 the construction of an extended dock platform in Conservation Overlay Zone 1 located at 4 Lighthouse Avenue/PIN # 157080-0040.

Ryan Carter reviewed the application.

The Board provided their ex parte communications.

24 certified notices were sent, 5 were returned in favor, 2 returned opposed and 5 had comments.

Mr. Birchim explained a land-swap between the property owner.

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

The Board discussed:

- Comparison of neighboring terminal platforms
- Two proposed no-profile boat lifts
- Orientation of the boat slips and proximity to nearby mooring ball radius
- Clarifying property ownership and land-swap with City

MOTION

Ms. Zander MOVED to APPROVE the application 2019-0083, Ryan Carter, Applicant, Patricia & Roland Anderson, owners, at 4 Lighthouse Avenue to construct a three hundred foot long dock with two associated boat lifts within Conservation Overlay Zone 1 as depicted in drawings and site plans provided. The motion was SECONDED by Ms. Opsahl

VOTE ON MOTION:

AYES: Zander, Opsahl, Davis, Morrisette, DePreter, Ryan, Misterly

NAYES: NONE

MOTION CARRIED UNANIMOUSLY²

² Brief recess from 3:16p.m to 3:25p.m.

5. (d) 2019-0086 – Scott Patrou, Ginn & Patrou Holdings, LLC – Applicant
Curt Fenelon, Augustine Bluff Associates, LLC – Owner
435 Flagler Boulevard

To approve the construction of a four hundred sixty-five foot (465') long dock with three (3) associated boat lifts and a bulkhead within Conservation Overlay Zone 1. To approve the construction of three (3) condominium units in Conservation Overlay Zone 2.

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** the construction of a dock platform and three (3) boat slips with two (2) boat lifts, as proposed, in Conservation Overlay Zone 1 and the construction of a bulkhead and three (3) unit condominium building in Conservation Overlay Zone 2 on the subject property located at **435 Flagler Boulevard/PIN # 128480-0000**. He clarified that any tree removal would have to be addressed and approved by the Board at a subsequent meeting as it was not advertised.

Scott Patrou responded to Board concerns regarding Conservation Overlay Zone 3 development stating that he may not need to remove any trees.

There was discussion regarding the completeness of the application wherein the applicant suggested that only the portion of the application relating to the dock be heard.

There was Board consensus to hear the application to provide board feedback and allow for public comment.

The applicant reviewed the application pertaining to the dock.

The board discussed the following:

- Previous dock was approved by DEP and SJRWM
- Previous real estate listings stated that the property would not allow for a dock
- Commission approval for an easement, land lease, or street vacation would be required to allow for the property right to build the dock

The Board provided their ex parte communications.

78 certified notices were sent, 6 were returned in favor, 14 returned opposed and 12 had comments.

Public hearing was opened.

B.J. Kalaidi said the application should be denied. She felt if the application was complete, there could have been a decision. She voiced concern regarding the waterway being cluttered.

Mark Matthews agreed that the Board had an incomplete packet. He reminded the Board that the property where the dock was to be put was still owned by the City and would require a vacation or a lease. He asked that the Board table or deny the application.

Edward Richards did not feel there was enough information to determine what would be placed on the property.

Richard Rumrell, representing Corona del Mar Condominium Association, reviewed the history and orientation of existing neighboring docks. He provided a diagram showing the proposed dock shifted so it would not interfere with the Corona del Mar dock. He provided additional information for the Board and confirmed that if the dock were shifted as proposed, Corona del Mar residents would be amenable to the dock.³

³ Information attached to original minutes

Debbie Wicker felt the public right-of-way should remain open for the public.

Charles Pappas felt the application was too abstract and was not in favor of considering portions of the application separately.

Roger Everette said that the local neighborhood association had been asking the City to install a kayak ramp in the subject right-of-way. He spoke against the City allowing the applicant to build on City-owned property. He also noted that the Property Appraiser's map noted the right-of-way as owned by Davis Shores Ocean View rather than the City.

Vernon Grandgeorge had no objection to the application. He felt that the project would enhance the street. He suggested the applicant develop a public kayak launch on the right-of-way property.

Public hearing was closed.

The Board discussed:

- Ownership information from the property appraiser did not clearly indicate City ownership
- Lack of information to make a decision
- Possibility that the Commission could grant access to the property before the dock was considered
- Length of the dock appeared too long
- Location of the dock
- Possibility of working with the City to provide a public access benefit such as a kayak ramp
- Concern for eroding City property
- Desire to see more detailed site plan with details relating to other docks

The Board discussed the desire to have the City Commission approve the request to utilize the land prior to hearing the finalized application.

Applicant clarified with the Board that the Commission was the only body that could approve an easement, lease, or licensing agreement to allow for construction of the dock. He received guidance from the Board to return with a complete packet that included a detailed site plan, architectural drawings, consider public access options, and consider parking requirements and storm water management planning.

Mr. Patrou asked for a continuance to allow him time to go before the City Commission with the requested information.

MOTION

Mr. DePreter MOVED to CONTINUE Conservation Overlay Zone Development application 2019-0086 to the December 3, 2019 meeting. The motion was SECONDED by Ms. Ryan.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY⁴

6. Other Business

6. (a) Discussion and Recommendation of Ordinance to Amend Sec. 28-29(b)(1) VARIANCES, to allow lot coverage variances for required accessibility in zoning districts HP-1, HP-2 and HP-3

Mr. Davis and Ms. Ryan recused themselves from discussion due to the ordinance's potential effect on current projects.⁵

Mr. Birchim reviewed the draft ordinance.

⁴ Brief recess from 4:51p.m. to 4:58p.m.

⁵ Forms attached to original minutes

The Board discussed:

- Clarify language within the ordinance to include only existing structures as of the effective date
- Applicable handicap accessibility additions would include only items under roof
- Without the ordinance, HP-district structures had to request a rezoning to PUD

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

- B.J. Kalaidi
- Charles Pappas

Public comment was closed.

The Board continued discussion regarding the following:

- Addition of impervious surface ratio limits once the Comprehensive Plan update was adopted could affect the ordinance

MOTION

Mr. DePreter MOVED to RECOMMEND APPROVAL of the ordinance 2019-43 providing for variances to exceed the maximum lot coverage for handicap accessibility for existing structures in HP-1, HP-2, and HP-3 to the City Commission with the amended language as discussed. The motion was SECONDED by Mr. Misterly.

VOTE ON MOTION

AYES: DePreter, Misterly, Morisette, Opsahl, Zander

NAYES:

MOTION CARRIED UNANIMOUSLY

6. (b) Discussion of changes to the future land use designation of properties located within the Public/Semi-Public future land use category and the proposed addition of Institutional future land use category

Amy Skinner, Deputy Director, Planning and Building, reviewed the subject. She stated that affected property owners were being noticed and a public workshop would be held to receive further public feedback. She reviewed affected properties and facilitated Board discussion regarding the following:

- Only Mission Grounds and Buckingham Smith property were being recommended for Institutional Land Use, other properties were recommended to a Land Use compatible with their current zoning
- Concern for restricting existing allowed uses by re-designating land-use for the Mission Grounds
- How Land uses were determined for affected properties to reduce limitations on property owner rights
- Language regarding density and intensity of adjacent Land Use would remain
- Timeframe for finalization would include additional discussion at the November 5, 2019 meeting

Public Comment was opened, and the Board heard from the following:

- Charles Pappas
- Ellen Avery-Smith
- B.J. Kalaidi

Public comment was closed.

There was Board consensus that a final recommendation be made after staff received feedback from affected property owners.

Discussion continued regarding the following:

- Recommendation to provide a reason for choosing specific land use designations
- Restating potential of existing non-conformities within new land-use categories for churches

6. (c) Discussion and Recommendation of Ordinance 2019-38 HEMP, regulating the cultivation, distribution and retail sale of hemp to comply with State Law

John Cary, Assistant City Attorney, reviewed the ordinance.

The Board discussed:

- Small scriveners' errors
- The reason for the need to regulate hemp as it was previously illegal
- What items and materials the ordinance regulated
- Use by right for any fixed location that allowed retail sales
- Specific requirements per state statute that needed to be met to allow for sale of hemp
- Concern that the ordinance was over-regulation

Public comment and the Board heard from the following members:

- B.J. Kalaidi
- Charles Pappas

The Board continued discussion regarding the following:

- Enforcement concerns
- Recommendation to allow hemp sales at farmer's markets

MOTION

Ms. Opsahl MOVED to RECOMMEND APPROVAL of Ordinance 2019-38

regulating the cultivation, distribution and retail sale of hemp to comply with State Law. Providing for repeal of conflicting ordinance, providing for severance and invalid provisions and providing for an effective date. The motion was SECONDED by Mr. Morisette.

Ms. Zander expressed her concerns that the ordinance was unnecessary regulation beyond what the State had implemented.

Mr. Misterly noted the concern for the exclusions of items made with hemp fibers at farmers markets.

VOTE ON MOTION

AYES: Opsahl, Morisette, Davis, DePreter, Misterly

NAYES: Ryan, Zander

MOTION CARRIED 5/2

Selection of Chair and Vice-chair

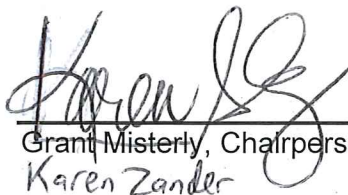
Mr. Birchim advised that the October meeting was typically when the Board selected the new chair and vice-chair for the year.

MOTION

Ms. Ryan MOVED to nominate Karen Zander for Chair and Jon DePreter as Vice-chair. The motion was SECONDED by Mr. Misterly and APPROVED BY UNANIMOUS VOICE VOTE.

7. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 6:22 P.M.⁶


Grant Misterly, Chairperson
Karen Zander

⁶ Transcribed by Candice Seymour