

CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting November 3, 2020

The Planning and Zoning Board met in formal session Tuesday, November 3, 2020, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Jon DePreter, Chairperson and the following were present:

1. Roll Call:

Jon DePreter, Chairperson
Christina Opsahl, Vice-Chairperson
Grant Misterly
Sarah Ryan
Mike Davis
Carl Blow
William Masson

City Staff:

David Birchim, Director, Planning & Building Department
Patrick Doty, Senior Development Review Planner
Denise May, City Attorney
Candice Seymour, Recording Secretary

Mr. DePreter announced that item 9(b) would be continued to the December meeting.

2. General Public hearings for Items Not on the Agenda

(None)

3. Approval of Minutes

MOTION

Ms. Ryan MOVED to APPROVE the October 6, 2020 minutes as presented. The motion was SECONDED by Mr. Blow.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

4. Variance

4. (a) 2020-0107 – Colleen Mullan – Applicant and Owner 14 Grove Avenue

To a approve a variance to exceed to the maximum lot coverage for a residential addition in Residential, single-family-two (RS-2) zoning.

Mr. Doty 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 may be able to **DENY** a variance to exceed to the maximum lot coverage for a residential addition in Residential, single-family-two (RS-2) zoning at **14 Grove Ave / PIN 194510-0000**.

Colleen Mullan and Bill Price reviewed the application.

The Board provided their ex parte communications.

2 certified notices were sent, 3 were returned opposed, and 3 had comments.

Mr. Price noted that there was no intent to use the house for commercial purposes and it would be their main residence.

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

The Board discussed:

- Homestead exemption existed on the property which indicated primary residency
- Request followed the existing roofline of the house and had minimal impacts
- Addition did not abut other properties
- Lack of singular disadvantage on the property as most area properties were similar in lot and home size
- Possible disadvantage could be small square footage and lack of a second bathroom

MOTION

Ms. Opsahl MOVED to APPROVE application 2020-0107 for a variance to exceed to the maximum lot coverage for a residential addition in Residential, single-family-two (RS-2) zoning in that the property, because of its size, has a singular disadvantage and because of that disadvantage the owner is unable to make reasonable use of the affected property by having only one bathroom, and that the condition does not exist because of conditions created by the owner and granting the variance is not contrary to the public interest. The motion was SECONDED by Ms. Ryan.

VOTE ON MOTION:

**AYES: Opsahl, Ryan, Blow, Davis,
Misterly**

NAYES: Masson, DePreter
MOTION CARRIED 5/2

5. Conservation Overlay Zone Development

5. (a) 2020-0035 – Ryan Carter, Carter Environmental Services – Applicant
Alan Stevenson, St. Augustine Beach Investments, LLC – Owner
34. N St. Augustine Boulevard

To approve a five-foot (5') by one hundred forty three foot (143') dock with a twelve-foot (12') by twenty foot (20') terminal platform with two (2) boat lifts in Conservation Overlay Zone 1.

Ms. Ryan recused herself from the application as an architect for the property owner.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 a five-foot (5') by one hundred forty three foot (143') dock with a twelve-foot (12') by twenty foot (20') terminal platform with two (2) boat lifts within Conservation Overlay Zone 1 located at **34 N. St. Augustine Blvd. / PIN 213510-0000.**

Ryan Carter reviewed the application.

The Board provided their ex parte communications.

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

Mr. DePreter read additional written comments from Margaret Edmiston and Cynthia and Steven Gray.

Public hearing was opened.

B.J. Kalaidi spoke in opposition to the application stating that the dock requested was too big. She asked that the Board consider the comments from neighboring property owners.

¹ Form attached to original minutes

Alan Stevenson, owner of the property, noted that the application had been approved by the Army Corps of Engineers and he felt that the dock as originally designed had met all the criteria for approval. He decided to make the requested alteration as a compromise to have the dock approved. He noted that the jet-ski dock had increased in size from what was submitted and would be 16x16 feet to allow for maintenance of the jet skis. He added that he understood concerns from the neighbors; however, they were used to seeing nothing on the property, therefore any new proposed dock would affect their vista. He concluded that he had a right to use his property and he had made as many concessions as he could to limit the impacts to his neighbors.

Public hearing was closed.

The Board discussed:

- Percentage of dock compared to water-facing frontage was appropriate
- Applicant was not willing to make any further alterations to the dock as requested by neighbors
- Length of dock was meant to reach standard water depth of negative 4 feet
- Concern for length of the dock, which was longer than originally proposed
- Previous dock approvals with lengths based upon shoaling occurring in the area
- Location from the channel was not as much as concern as the length of the dock affecting neighboring vistas

Mr. Stevenson explained the increased size of the jet ski lift was to help with jet-ski maintenance. He added that the boat lift would still be larger.

Ms. May advised the Board that since the 16x16 jet-ski lift had not been detailed in the previously published meeting packet, then

the Board may consider continuing the application to properly notice the amended plans for transparency to the public.

Mr. Stevenson noted that the application has taken a long time and he asked that the Board make a decision on the application.

Mr. Blow noted that if the application was approved as-submitted, the applicant could return with a new application to alter the size of the jet-ski lift.

MOTION

Mr. Blow MOVED to APPROVE Conservation Overlay Zone Development application 2020-0035 based on the drawings as submitted. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

AYES: Blow, Opsahl, Masson, Davis, DePreter

NAYES: Misterly

MOTION CARRIED 5/1

6. Variance and Conservation Zone Development

6. (a) 2020-0111 – Mark McConnell, Sarah Ryan Architect, LLC – Applicant
Alan Stevenson, St. Augustine Beach Investments, LLC – Owner
34 N. St. Augustine Boulevard

To approve a variance to reduce the minimum roof pitch for a single-family home from 5/12 to 2/12 within Residential, single-family-one (RS-1) zoning. To approve a single family home wider than 75' and 75% of lot within Conservation Overlays Zone 2 within Residential, single-family-one (RS-1) zoning.

Mr. Doty 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 may be able to **DENY** a variance to reduce the minimum roof pitch for a single-family home from 5/12 to 2/12 within

Residential, single-family-one (RS-1) zoning at **34 N. St. Augustine Blvd. / PIN 213510-0000.**

Mark McConnell reviewed the application regarding the variance.

The Board provided their ex parte communications.

23 certified notices were sent, 2 were returned in favor, 2 returned opposed and 3 had comments.

Mr. DePreter read comments from Cynthia and Steven Gray into the record.

Public hearing was opened.

Mr. Stevenson felt that the ordinance which caused the need for the variance was well-intentioned but had the un-intended effect of hindering the design of single-family homes such as the one he had applied for.

B.J. Kalaidi asked that the Board be careful in considering the application.

Charles Pappas did not object to the application; however, there appeared to be procedural issues. He questioned whether the Board could make a variance on the portion of the code referenced in the application.

Public hearing was closed.

Mr. McConnell responded to public comment, noting that neighboring property owners opposed to the application may not be fully aware of how the variance would lessen impacts to their properties. He noted that the request did not bring the height to the maximum allowed.

Sid Ansbacher, attorney for the applicant, responded to concerns regarding whether a variance could be granted on the subject code. He noted that roof-pitch was a common area-variance to prevent for

additional heights or allow for solar roof panels.

Ms. May, in response to Mr. Ansbacher's comments, noted that St. Augustine's code was very clear that a variance required a property to meet all criteria, including that of having a singular disadvantage that caused unreasonable use of the property.

The Board discussed

- Concern that recommended changes to the code had not yet been approved by the City Commission
- Lack of singular disadvantage on the property
- If the Commission decided to amend the code, a variance may not be required; although, that would happen at an indeterminate future date
- If the variance portion of the application were denied but the width of the home was approved, the applicant would have a footprint from which to redesign the roofline

MOTION

Mr. Misterly MOVED to DENY Variance application 2020-0111 because the particular property does not suffer a singular disadvantage that prohibits the owner from making reasonable use of the property nor is the disadvantage not caused by the applicant. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

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 single family home wider

than 75' in Conservation Overlay Zone 2 within Residential, single-family-one (RS-1) zoning located at **34 N. St. Augustine Blvd. / PIN 213510-0000.**

Mr. McConnell reviewed the application.

The Board provided their ex parte communications.

Mr. DePreter Read comments from Cynthia and Steven Gray into the record.

Public hearing was opened.

Mr. Stevenson reiterated that the lot was currently empty and the neighboring property owners may be unhappy with any new structure. He asked that the Board be reasonable and stated that they were not trying to build an oversized home on the property.

B.J. Kalaidi asked wanted to clarify that the property would be utilized as a home and not a rental.

Mr. Stevenson confirmed that the home was intended to be his primary residence.

Public hearing was closed.

The Board discussed:

- Large size of the proposed structure
- Odd shape of the lot and applicant's creative use of the space
- Application was supported by the code
- Size and scale of the proposed home was consistent with other homes in the neighborhood

MOTION

Mr. Blow MOVED to APPROVE Conservation Overlay Zone 2 Development application 2020-0111 primarily due to the unique and odd shape of the lot which creates a situation

where it is necessary. The motion was SECONDED by Mr. DePreter

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

7. Use by Exception

7. (a) 2020-0110 – Katherine Gardiner – Applicant
Jason Christley & Katherine Gardiner – Owner
234 Rainey Avenue

To approve a use by exception for a home occupation for outdoor photography studio within Residential, single-family-two (RS-2) zoning.

Mr. Doty read the staff report and said based on a review of Section 28-29 and 28-347, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** a home occupation for an outdoor photography studio as a permitted use by exception at **234 Rainey Ave / PIN 194460-0000.**

Katherine Gardner was available for questions.

The Board provided their ex parte communications.

16 certified notices were sent, 3 were returned in favor, and 2 had comments.

Mr. DePreter read comments from Cynthia Rogero into the record.

Public hearing was opened.

Charles Pappas spoke in favor of the application as consistent with the unique character of the neighborhood. He added that the applicant's house was the only house on that block that faced Rainey

Avenue and there were few parking problems in that area.

Public hearing was closed.

Ms. Gardner responded to public comments, noting that she had no intent to put out any kind of permanent signage for the business. She added that parking would not be an issue as she had ample room on her property for parking. She also advised that the neighbor most affected by the operation was in favor of the application.

The Board discussed:

- Possibility of including conditions such as no on-street parking and hours of operation
- Low impact of use
- Neighbor opposed was several houses away; whereas immediate neighbors were in favor of the application
- "One Client" was considered one family, more-than-likely arriving in one vehicle

MOTION

Mr. Misterly MOVED to APPROVE Use by Exception application 2020-0110 for an outdoor photography studio as it meets the criteria for an exception including promoting the health, safety, welfare, morals, comfort, convenience, prosperity, and general welfare of the neighborhood with the following conditions:

- **There will be no on-street parking**
- **That hours of operation be limited to 8:00a.m. to 8:00p.m.**
- **Only one customer, defined as a family, at one time**

The motion was SECONDED by Mr. DePreter.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

7. (b) 2020-0112 – Daniel Sparks, Trulieve – Applicant
Creekview Investments II LLC – Owner
1650 US Highway 1 S

To approve a use by an exception for a legally available marijuana dispensary within Commercial, medium-two (CM-2) zoning district.

Mr. Doty read the staff report and said based on a review of Section 28-29 and 28-209, and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the use by exception for a legally available marijuana dispensary at **1650 Highway US 1 S / PIN 134940-0020.**

Daniel Sparks was available for questions.

The Board provided their ex parte communications.

7 certified notices were sent; however, there were none returned.

Public hearing was opened.

B.J. Kalaidi reminded the Board that this would be the third medical marijuana facility in St. Augustine and that neither the county nor St. Augustine Beach had one.

Mr. Misterly noted that the Board had recently approved another such business and this would be the fourth medical marijuana dispensary in the city.

Public hearing was closed.

Mr. Sparks responded to public comment, noting a steep rise in medical marijuana patients since the start of the COVID-19 pandemic. He noted that per statute, dispensaries were treated as pharmacies

and the growing number of patients was a testament to the treatment's efficacy.

The Board discussed:

- Area was highly commercial
- New dispensary opened in St. Augustine Beach
- Other allowed uses, such as liquor stores, which could have more negative impacts than the proposed use
- Distance from other dispensaries was appropriate
- Signage should be low-key
- Additional Trulieve store indicated an increased demand
- Trulieve did not intend to close their northern store at this time
- Hours of operation and distances from schools were regulated by the state
- Pre-schools did not have a distance requirement
- Large number of dispensaries already within city limit

MOTION

Ms. Ryan MOVED to APPROVE Use by Exception application 2020-0112 for a legally available marijuana dispensary within Commercial, medium-two (CM-2) zoning district. The motion was SECONDED by Ms. Opsahl.

VOTE ON MOTION:

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

NAYES: Misterly

MOTION CARRIED 6/1

7. (c) 2020-0114 – Amy Tilbury, Bar Harbor Cheesecake Co. – Applicant
Jimmy Betts – Owner
6 Cordova Street

To approve a use by exception for off-site parking. To approve a use by exception

for the sale of wine within Commercial-low-one (CL-1) Zoning.

Mr. Doty read the staff report and said based on a review of Section 28-29 and 28-347(8) and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** the use by exception to allow for off-site parking within the Municipal garage, for a total of 11 spaces, at **6 Cordova St / PIN 206320-0000.**

Amy Tilbury reviewed the application.

The Board provided their ex parte communications.

6 certified notices were sent; however, none were returned.

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

The Board discussed:

- Concern for overutilization of the garage
- Eleven spaces for 20 seats in the downtown area seemed to be ample parking
- Other available parking in the area
- Proximity to the garage was appropriate for approval
- Parking passes would be provided by the business and be returned after use
- Applicant would likely provide garage parking passes to employees for ease of use

MOTION

Ms. Opsahl MOVED to APPROVE Use by Exception application 2020-0114 for off-site parking. The motion was SECONDED by Mr. Masson.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY²

Mr. Doty 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** the use by exception for the sale of alcoholic beverages with alcoholic content not more than fourteen (14) percent for consumption on the premises at **6 Cordova St / PIN 206320-0000**.

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

The Board discussed:

- Details of the proposed business included the sale of cheesecakes with wine pairings
- Application met with conditions for an exception
- Possibility of live/amplified music which may return to the Board for approval
- Applicant intended 20 seats and an increase would require future Board approval

MOTION

Mr. Davis MOVED to APPROVE Use by Exception application 2020-0114 for the sale of wine within Commercial-low-one (CL-1) Zoning. The motion was SECONDED by Ms. Ryan

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

² Mr. Misterly took a brief recess and was not present for the vote.

8. Preliminary Plat Approval

8. (a) 2020-0108 – Larry Antonatos, Ancient City Surveyors, Inc. – Applicant Ann C. Antonatos – Owner 171 Inlet Drive

To approve a replat of three non-conforming lots into two conforming lots within Residential, single-family-one (RS-1).

Mr. Doty 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 for this property as submitted.

Mike Piesco of Ancient City Surveyors was available for questions.

The Board provided their ex parte communications.

8 certified notices were sent and 1 was returned with comments.

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

The Board discussed:

- Application met code criteria for new lots
- Clarification of survey details taken from FEMA flood zone maps

MOTION

Mr. Misterly MOVED to APPROVE Preliminary Plat application 2020-0108. The motion was SECONDED by Mr. Davis.

VOTE ON MOTION:

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

NAYES: NONE

MOTION CARRIED UNANIMOUSLY

9. Other Business

9. (a) Discussion on docks and bars.

Mr. Misterly gave a brief overview on the reasons for the discussion. He noted staff had advised that an ordinance relating to City Nightlife was forthcoming and the guidance he felt the Board needed would be within that ordinance. He also noted that interpretation of the Code regarding docks may not necessitate Commissioner guidance but could involve staff-provided criteria.

Ms. May advised that there would be updates to the Land Development Code. She noted the already existing 17 criteria, though they did not provide any input regarding the length and width of docks. She said the Board could discuss the creation of more detailed dock criteria to recommend to the City Commission for adoption.

The Board discussed:

- Concern for the steadily increasing size of both boats and docks over time
- The case-by-case nature of dock applications
- Heavy scrutiny proposed docks receive from both the DEP and Army Corps of Engineers prior to final permitting and construction
- Existing criteria were not specific enough to provide guidance regarding the appropriate size of docks
- Creating more specific criteria such as limiting docks to a specific water depth or a length relative to neighboring docks

- Difficulty of creating set criteria that would pertain to all docks in different areas of the City
- Most concerns appear to be related to the terminal platform

Ms. May clarified that when criteria referenced scenic vistas, it referred to vistas from the public right-of-way, and not vistas for private property owners.

The Board continued their discussion, including protection of the vistas of the City from the water.

9. (b) Discussion of potential Land Development Code updates.

(Not discussed)

10. Adjournment

Having no further business, Mr. DePreter adjourned the meeting at 5:15 P.M.³



Jon DePreter, Chairperson

³ Transcribed by Candice Seymour