

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 7, 2021 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Chairman called to order the regular meeting of the Board of Zoning Adjustment at 6:00 p.m. Roll was called thereafter and the number of members present constituted a quorum.

Members Present:

Clay Covert
Derek Wolstenholme
Carolyn Courson, Vice Chair
Billy Mayhand
Willie Robison, Chairman

Members Absent:

Herb Cole

Staff Present:

Adrienne D. Jones, Director Community Development
Pat Johnson, Recording Secretary
Tyler Thule, Attorney

Staff Absent:

Shawn Alves, BZA Attorney

Chairman called for the **Approval of Minutes** of the September 2, 2021 meeting. There were no corrections, additions or deletions.

The Minutes were approved unanimously.

Chairman called the item under new business on the agenda, **Appeal #2021-05, Joscelin Steiner**, a request for a Variance to the Daphne Land Use & Development Ordinance filed with the City of Daphne Board of Zoning Adjustment. The property is PPIN #98903, a vacant lot, which is zoned R-1, Low Density Single Family Residential. The request, if granted, proposes to allow up to a 25'encroachment into the 40.0' front yard setback, and up to a 15'encroachment into the 40.0' rear yard setback in order to construct a residential dwelling.

Ms. Jones displayed a Power Point Presentation of the rendering submitted by the applicant and stated that the lot was more rectangle in shape than square as most typical lots were, located south of the unimproved section of New Wharf Street; zoned, R-1, which has a minimum 40'front and rear setback, and a 15' side yard setback. She cited that the property had an irregular shape, existing topographic challenges, and a gully to the south, but no wetlands as determined by qualified professionals, EcoSolutions, Inc.

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She then emphasized Section 21-1(f)(3) of the Ordinance related to the power of the BZA to grant a variance and also cited that three of the four basic criteria necessary to grant a variance was met with this application, but she let it be known the applicant did not provide a rendering of the house they planned to build on the lot, and she would let them speak on why they did not do so.

The Board discussed the criteria for not granting a variance based upon personal hardship and personal gain, and the buildable area.

Ms. Jones reiterated that a hardship is based on the land itself and in this appeal the hardship is the gully and the shape of the property, and she would calculate the buildable area per this request.

The Chairman asked the Board for further discussion and being none, he opened the floor for public participation.

The agent, Bill Johnson stated he had the property under contract and he was acting on behalf of the owner, Joscelyn Steiner. Based on the existing setbacks the buildable area is only 20' wide and 230' long. He cited it was not very conducive to build a house since the property runs past the pavement approximately 40', and it has been hard to get clarification of where the front and rear of the lot is, which is the whole idea of why he was asking for the variance.

On behalf of adjoining property owners, Starke Irvine presented drawings to the Board prior to the meeting commencement. The renderings illustrated what the neighboring land owners felt would be appropriate on the site.

The Board discussed the rendering.

Mr. Johnson stated he was unaware of what they submitted and he did not spend the money to get a plot plan drawn due to the fact that he was not sure if he was going to be able to use the property or not, but he wishes to build a long one-story millennial house that would roughly follow the blue layout of what was shown on screen including a porch.

Ms. Nancy Bolton Beck, mother of Joscelyn Steiner, was present in support of the application, she cited a hardship would be on her daughter and perhaps not on Mr. Johnson because she had bought the property with the intentions of building a home on it years ago, certainly wider than 20', but Ms. Steiner has since moved to Auburn, and she is trying to sell it. Therefore, if the variance is not granted it would cause her daughter a hardship because it would be difficult to sell the lot with such a confining buildable area.

The Chairman asked Ms. Beck, did she say that it would be a hardship for them if they did not sell the land?

Ms. Beck replied yes.

The Chairman stated self-imposed hardships or financial gain do not qualify as criteria for a variance.

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The Chairman stated because a house on the lot would definitely increase the value of the lot and that certainly cannot be considered in granting a variance.

Ms. Beck stated she was sorry, she misunderstood, she thought you considered the hardship on a person.

Mr. Starke Irvine cited he had no dog in this fight, but his partner had owned the property years ago and his daughter sold it to Ms. Steiner. The property has been in an undeveloped state over forty years and the City probably did not have setbacks back in those days, and nobody thought about this back then. Some of the adjoining property owners asked him to look into this and they are not opposed to a variance because they recognize it is not buildable as it is right now, and they are the ones who presented the alternative renderings to you tonight for consideration to allow a substantial size home to be built on this lot. They are not against a variance so that they can use the property.

The Chairman asked are you alluding to another piece of property on a different site?

Mr. Irvine stated no, on this site because on the southeast side is a significant ravine that we all know about and if you move to the west it lays out about five thousand square feet, where a nice home can be built with a 30' setback from Wharf Street, and 20' off the rear allowing them ample space to build a nice home.

The Board discussed the width of the renderings submitted by Mr. Irvine, and the Chairman read aloud a letter submitted by Mr. Wayne Mockel, 1412 Second Street, stating his opposition to the variance as requested showing total transparency to all involved.

Mr. Ken Bedsole, 305 Wharf Street, cited he was not against the variance, but he was opposed to a house being 15' from the road.

The Chairman closed public participation for those in opposition and called for an affirmatively stated motion, however, he reopened public participation at 6:30 p.m. for those in favor of the variance

Mr. Johnson stated the road ends and I do not know the plans for the extension of Wharf Street, but there is no road where I am proposing the 15', however there is a 52' right-of-way, but the road ends.

The Chairman stated the house directly across from this property driveway come out on Wharf Street and 15' is a little close.

Mr. Johnson stated he is proposing 35' up to that point, up until the road ends, and from there is 15'.

The Chairman stated have you given any other thought to another plan.

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Mr. Johnson stated there are obviously ways to work it out. It is just what I proposed initially. I do not have to have 15' right there. I would like more than a 40' setback.

The Chairman stated I cannot tell you which way to go. I can only make suggestions. If you leave it as is and it is voted on tonight and denied it cannot come back before this Board for any type of request for one year. However, if you withdraw it and come back in December with a different plan, and repay the fees we can vote on it at a later date. I do not know what the vote will be I am just suggesting.

Mr. Johnson asked for a few minutes to discuss this with his wife.

The Chairman read the letter written by Mr. Irvine that was attached to the alternative renderings he submitted to the Board citing the adjacent property owners concerns asking the Board to consider how they felt about this application.

After discussion with his wife Mr. Johnson withdrew the appeal.

The Chairman closed public participation for those in favor of the appeal and for those in opposition to the appeal at 6:36 p.m.

The Chairman stated the appeal is withdrawn you may resubmit at a later date convenient for you.

The Chairman stated next on the agenda is the election of officers.

The Chair opened the floor for the nominations for Chairman.

Mr. Mayhand nominated Mr. Robison for Chairman. The nominations were closed with no other nominations, Mr. Willie Robison is Chairman.

The Chair opened the floor for the nominations for Vice Chairman.

Mr. Mayhand nominated Ms. Courson for Vice Chairman. The nominations were closed with no other nominations; Ms. Carolyn Courson is Vice Chairwoman.

There being no other business Chairman called for a **Motion to Adjourn.**

A **Motion** was made by **Mr. Mayhand** and **Seconded** by **Mr. Wolstenholme** to **adjourn. There was no discussion of the motion.**

The Motion carried unanimously.

The meeting adjourned at 6:40 p.m.

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Respectfully submitted by:



Pat Johnson, Recording Secretary

APPROVED: December 2, 2021



Willie Robison, Chairman