

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF APRIL 7, 2022 - 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
Willie Robison, Chairman

Members Absent:

Herb Cole
Billy Mayhand
Tasha Quinnelly

Staff Present:

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

Staff Absent:

Shawn Alves, BZA Attorney

Chairman called for the **Approval of Minutes** of the December 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 #2022-01**, an Administrative Review filed by Hilton Garden Inn, purporting that the Daphne Code Enforcement Officer erred in his denial of Hilton Garden Inn's sign permit request, has been filed with the City of Daphne Board of Zoning Adjustment. The Chairman opened the floor for public participation.

Mr. Orin Robinson of Victor Sign Company, the agent for Hilton Garden stated in June of last year he was approached to repair lighting and replace the facing of the Hilton Garden sign. He said he had a conversation with Matt Creel, the then Code Enforcement Officer in June of last year and Officer Creel informed him to go ahead and do the electrical repair, hold off on anything else and apply for a sign permit because there were some issues and he needed to check with his superiors and the legal department since the sign was legal nonconforming, and this was a decision Officer Creel could make on his own. Since then Officer Creel has retired. Mr. Kennedy, the new Code Enforcement Officer denied the sign permit and in February sent a denial letter thus, I was required to do an administrative review request of his denial decision. The reason I am here is that we still want to do the repairs and upgrade the sign with the same lettering and colors since it has been there for so long, but if not, we will do something different.

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The Board questioned when the sign had been erected and was it conforming when it was built, and why is it considered legal nonconforming now.

Code Enforcement Officer, William "Billy" Kennedy, clarified that the sign had been in existence prior to annexation in 1988 and it was in excess of 90' tall with two faces of 184" per face. He cited several statements from the Land Use & Development Ordinance and indicated that all city parties agreed it was time for the sign to come into compliance.

The Board questioned was there an ordinance change.

Mr. Kennedy explained yes, due to wind ratings since we have so many wind weather events in this part of region.

The Chairman asked the Board for further discussion and being none, he called for those in favor of the appeal, being none, he called for those in opposition, being none, he closed public participation and asked for an affirmative motion.

A Motion was made by Ms. Courson and Seconded by Mr. Covert to approve Appeal #2022-01, made by Hilton Garden Inn.

Upon roll call vote, **the Motion failed.**

Mr. Covert	Aye
Ms. Courson	Nay
Mr. Wolstenholme	Nay
Mr. Robison	Nay

The Chairman stated the motion failed, you may go by Community Development after 9:00 a.m. in the morning to pick up your paperwork.

The Chairman called the next item on the agenda, **Appeal 2022-02, Frederick & Eleanor Joiner**, a request for a Variance to the Daphne Land Use & Development Ordinance has been filed with the City of Daphne Board of Zoning Adjustment. The request, if granted, would allow the construction of a garage to encroach 18.4' into the 30' rear yard setback. The property is 10512 Secretariat Boulevard, which is zoned PUD, Planned Unit Development. The Chairman opened the floor for public participation.

The applicant, Mrs. Eleanor Joiner, thanked the Board for hearing her plea for an attachment onto their existing two-car garage because her husband is a Leukemia patient and needs her help to do everything. She stated he has 3 to 4 appointments on any given week, and it was a lot to get him into their truck on the slanted driveway outside of the garage in inclement weather. She explained that there is a parked car and furniture inside the existing two-car garage and she pleaded with the Board to grant her request.

Ms. Jones explained the criteria for granting a variance.

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She said this lot and others near the intersection in the Jubilee Farms Planned Unit Development are designed to slope toward the road to facilitate stormwater management.

After citing the criteria from the Land Use & Development Ordinance, Ms. Jones said the application does not meet the established criteria required to approve a variance and recommended denial of the request.

The Board explained the parameters of a variance hardship and informed Mrs. Joiner that her hardship was personal and there was not a hardship on the land at all. The Board reviewed options that were available and suggested that she rethinks this request and withdraw. If the appeal was voted on tonight and it did not get approved she could not come back before the Board for a year with any other request related to this type of variance, but if she withdrew she could submit and pay the fees again at any time.

Ms. Joiner withdrew her appeal.

The Chairman called the next item on the agenda, **Appeal 2022-03, Joseph & Shelby Norton**, a request for a variance to the Daphne Lane Use & Development Ordinance has been filed with the City of Daphne Board of Zoning Adjustment. The request, if granted, will allow the construction of a new residence to encroach 5' into the 15' side yard setback. The land is PPIN #26444, which is zoned R-1, Low Density Single Family Residential. The Chairman opened the floor for public participation.

Mr. Norton, the applicant, stated that he was a resident and business owner in Daphne. He cited his lot was roughly four and a half acres and highly irregular in shape, and narrow where the house is now and the utilities are on the rear of the lot. He also cited that he planned to take down the existing house which was an old fish camp that basically had been added on too many times because the foundation was found to be irreparable, but he wants to go with the same area footprint, hence his need for the variance.

The Board discussed the size and shape of the lot from Main Street to the Bay, and the demolition of the existing house.

Ms. Jones explained that the lot was zoned R-1, Low Density Single Family Residential, meaning the setbacks for the north and south side yard are 15, and the existing house already encroaches 5', but it was built prior to the adoption of the 1987 Land Use & Development Ordinance. The property lines are not straight and there are bulkheads to the west. The applicant meets the criteria for granting a variance due to size, shape and topographic challenges, therefore staff recommends approval.

The Chairman closed public participation for those in favor of the appeal and called for those in opposition, being none, he closed public participation and asked for an affirmative motion.

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A **Motion** was made by **Ms. Courson** and **Seconded** by **Mr. Wolstenholme** to approve **Appeal #2022-03, Joseph & Shelby Norton's**, 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 #26444**, which is zoned **R-1, Low Density Single Family Residential**. The request allows the construction of a proposed new residence to encroach **5'** into the **15'** south side yard setback.

Upon roll call vote, **the Motion carried unanimously.**

Mr. Covert	Aye
Ms. Courson	Aye
Mr. Wolstenholme	Aye
Mr. Robison	Aye

The Chairman stated the motion is approved, you may go by Community Development after 9:00 a.m. to pick up your paperwork.

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

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

The Motion carried unanimously.

The meeting adjourned at 6:53 p.m.

Respectfully submitted by:

Pat Johnson

Pat Johnson, Recording Secretary

APPROVED: October 6, 2022

Willie Robison

Willie Robison, Chairman or
C. Courson, Vice Chairwoman