

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JANUARY 3, 2013 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

Chairman: the number of members present constitutes a quorum and the regular meeting of the Board of Zoning Adjustment called to order at 6:00 p.m. Let us have roll call.

Call of Roll:

Members Present:

Frank Lamb
Willie Robison, Chairman
Larry Cooke
Billy Mayhand
Philip Durant

Members Absent:

Jim Moss

Staff Present:

Adrienne D. Jones, Director of Community Development
Tony Hoffman, BZA Attorney
Pat Houston, Recording Secretary

Chairman: we have a quorum. The first order of business is approval of the October 4th, 2012 meeting minutes. If there are no other corrections, additions or deletions to the minutes, The Chair will entertain a motion.

Approval of Minutes:

The minutes of the October 4th, 2012 meeting were considered for approval.

A **Motion** was made by **Mr. Lamb** and **Seconded** by **Mr. Durant** to **approve the minutes.**

The Motion carried unanimously.

Chairman: before we get into the business of the day I would like to take this opportunity to welcome Mr. Philip Durant to the BZA, the first meeting that he has attended and he votes right out of the chute. I am always thankful when we have young adults who are willing to give of their time back to the City that they live in. Philip has been very active within the city, he is a graduate of Daphne High School.

**CITY OF DAPHNE
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REGULAR MEETING OF JANUARY 3, 2013 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

Chairman: he attended the University of South Alabama, and he has his own IT consulting business, and is very involved in the civic activities of the City. So welcome you aboard Philip.

Mr. Durant: thank you, Mr. Chairman.

New Business:

Appeal #2012-07 Angele G. Trione

Chairman: next item on the agenda is Appeal #2012-07 Angele G. Trione, a variance request to combine two lots to establish the lot area as twelve thousand, nine hundred and eighty five square feet, in lieu of the required fifteen thousand square feet. The property is Lot 29 & 30, Block 3, Yuille Belrose Wharf, which is zoned R-2, Medium Density, Single Family Residential. Ms. Jones if you would bring us up to speed and take us through this.

Ms. Jones: (displayed a Power Point Presentation of Lot 29 & 30, Block 3, Yuille Belrose Wharf and the surrounding area) I would be glad to, I am going to pick up where you left off. For R-2 zoning the minimum setbacks are thirty-five feet for the front and rear, ten feet on the sides and the minimum lot area is fifteen thousand feet. All of the lots in the subdivision are classified as substandard lots of record. In combining the two lots the applicant finds that the property is still deficient in area, which is the reason that we are here tonight. They are seeking twelve thousand, nine hundred and eighty five square feet to be the minimum area for this lot, which was approved by the Planning Commission in December as being one lot. The slide shows the property adjacent to the subject property. This house is at the corner of Belrose and Sixth, which is essentially behind City Hall. This is the property to the east, which is the little yellow building that sits behind Mancini's. This house is across the street and this is also across the street at the northeast corner of Sixth and Belrose. So you see that the area is all residential and some commercial. As the little yellow house is actually zoned B-1 and in the future will be for office use. In our findings there are no topographic conditions peculiar to the property. The condition of the lot is not self-imposed and it is an unnecessary hardship in meeting the fifteen thousand square foot minimum area. Would approval create a detriment to the public good? The answer to that would be no. There is no way that the lot could be made conforming because there is no additional land that they could use to make it conform to our current regulations.

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JANUARY 3, 2013 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

Ms. Jones: with saying that I recommend approval of the twelve thousand, nine hundred and eighty five square foot variance request.

Chairman: thank you, Ms. Jones. Does anyone have any questions for Ms. Jones? If not, is there a representative or owner here to speak in favor of this appeal? If you would Sir, please speak loudly and state your name and address because this is being recorded, and we do not have our extra microphone tonight.

Ms. Johnson: yes, we do. He just needs to pick it up and turn it on.

Chairman: oh okay. Push the little button up and flip it on.

Mr. Burmeister: I am Rick Burmeister. My address is P.O. Box 878, Daphne, Alabama, 36526. This property we are talking about tonight is owned by my mother-in-law. My daughter and son-in-law want to build on the two lots that we have combined.

Chairman: does anyone have any questions for Mr. Burmeister? Thank you very much. I would like to make a comment. As I told Ms. Jones earlier today, I wish I had been the one who said this, but I will steal it from him, Ron Scott, who is on the City's Planning Commission, a city Councilman, and formerly an employee with the Baldwin County Planning Department. I was talking to him the other day and he made this comment about nonconforming, which this is a nonconforming lot, he said, you have two nonconforming lots, so therefore you take the two nonconforming lots and put them together and you now have one nonconforming lot, which pragmatically and practically speaking, makes a lot better sense to have one nonconforming lot that is closer to fifteen thousand square feet than it is to have two nonconforming lots, and I thought to myself and I said it makes sense does it not. I wish I had been the one that thought of that because we have dealt with a lot of nonconforming lots in Olde Towne Daphne just by the way they were laid out. As a matter of fact, we had one just around the corner on Magnolia and down on Captain O'Neal, a lot of record. We have been dealing with those lately. We are trying to clean up some of these issues. I do not know how the Board will vote, but I do know which way I will vote.

Mr. Mayhand: I just have one statement, I guess, if you could clarify it as such. I noticed that you said something about building. If you are planning to build on it just keep in mind that lot size when you draw up the plans.

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JANUARY 3, 2013 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Chairman: I do have a question concerning the driveway that is presently there. What are your plans on that? The driveway that is there will probably be in the middle of the lot or close to it.

Mr. Burmeister: well, it is my son that lives in the other house. My son lives in what was the old Trione house. My mother-in-law Angele, she and Red lived there and my son actually lives there now.

Mr. Lamb: is that the yellow house?

Mr. Burmeister: no, sir, the gray house, the one next to the fire station. The yellow house was another side of the family, the rest of the clan. The whole corner was family. My son lives in this house, which shares the driveway that circles here, as you saw on the survey. Hopefully, my son and daughter can get along, otherwise, we will put up a fence.

Mr. Lamb: what are the plans for the driveway? If they build a house there that driveway is going to have to go.

Mr. Burmeister: well, that driveway can still be used because the house, as we have looked at it, is going on the other side of it and having that for yard.

Chairman: Ms. Jones with that driveway staying there and now not being a part of that property would that effect it?

Ms. Jones: no, it would be an agreement between the property owners for continued access if they ever sold the lot, then again, it would have to be an agreement between the property owners.

Mr. Lamb: do they have to have an easement?

Ms. Jones: only if they chose to.

Mr. Burmeister: the driveway comes on around the house and exits on Sixth Street.

Mr. Lamb: okay.

Mr. Burmeister: so that is actually a circular driveway from Belrose to Sixth Street. So even if we had to take up the driveway the other house still has access.

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JANUARY 3, 2013 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Chairman: do you have any idea of how much of a footprint the house will be that you are planning to build there? How close it will come to that driveway?

Mr. Burmeister: it is probably going to be less than eighteen hundred. Eighteen maybe nineteen hundred. It will be more of something like they did over on Magnolia, coming off the ten foot setback on the east side, coming over forty feet, if that far.

Chairman: so everything is within the conforming, I will use that word, on the setbacks and everything. The only thing we have on the agenda is the combining of the two lots. So should they build a house and want to encroach on the setbacks they would have to come back again to encroach on the setbacks?

Ms. Jones: no, what we are actually approving would be that this is one lot. Once it is recorded it would be recorded as one lot. The plat will show the setbacks, the interior box that you see on the overhead that is the area in which they can build a house or place a house. So they know what the existing setbacks are so it is going to be encumbered upon them to make sure that whatever they have planned will fit. So there is nothing else that we would need to do.

Mr. Mayhand: that was my point.

Chairman: that is what Mr. Mayhad was trying to get across to them.

Ms. Jones: they would not have to come back.

Chairman: so they cannot come back and ask for a variance to encroach the setbacks or could they?

Ms. Jones: they could if they wanted to, but I think what Mr. Burmeister thoughts are that the plans that they are looking at will fit within the buildable area of the lot and not require any encroachments.

Mr. Lamb: and the setbacks are for R-2?

Ms. Jones: the setbacks are for R-2, absolutely.

Chairman: I have no other questions. Does anyone else have any questions? Thank you, Mr. Burmeister. Is there anyone here tonight that would like to speak in opposition to this appeal?

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JANUARY 3, 2013 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Chairman: let the record show that there is not anyone here to speak in opposition of the combining of the two lots, public participation is closed. The Chair will entertain a motion and it must be done in the affirmative.

A Motion was made by Mr. Mayhand and Seconded by Mr. Lamb to approve Appeal #2012-07, Angele G. Trione, for a variance to combine two lots thereby establishing the lot area as twelve thousand, nine hundred and eighty five square feet, in lieu of the required fifteen thousand square feet. The property is Lot 29 & 30, Block 3, Yuille Belrose Wharf, which is zoned R-2, Medium Density, Single Family Residential.

Upon roll call vote, the motion carried unanimously.

Mr. Cooke	Aye
Mr. Mayhand	Aye
Mr. Lamb	Aye
Mr. Durant	Aye
Mr. Robison	Aye

Chairman: your appeal for a variance is granted. You can pick up your paperwork in the Community Development office in the morning after nine o'clock. Thank you.

Mr. Burmeister: thank you.

Chairman: if there is no other business, the Chair will entertain a motion to adjourn.

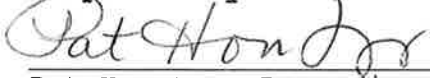
Adjournment:

A Motion was made by Mr. Lamb and Seconded by Mr. Cooke to adjourn.

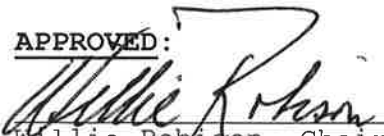
The motion carried unanimously.

There being no further business the meeting was adjourned at 6:19 p.m.

Respectfully submitted by:


Pat Houston, Recording Secretary

APPROVED:


Willie Robison, Chairman