CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JUNE 6, 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:

Larry Cooke
Billy Mayhand
Frank Lamb
Philip Durant * Arrived at 6:01 p.m.
Willie Robison, Chairman
William Scully
Thomas Warner

Staff Present:

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

Chairman: The first order of business is approval of the May 2nd, 2013 meeting minutes.

Approval of Minutes:

The minutes of the May 2nd, 2013 meeting were considered for approval. There were no corrections, additions or deletions.

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

The Motion carried unanimously.

New Business:

Appeal #2013-03 Single Malt, LLC

Chairman: The next item on the agenda is Appeal #2013-03, Single Malt, LLC, a variance request to allow the rear setback to be twenty-feet, in lieu of, the required forty-feet. The property is Lot 2 of Via De La Rosa Subdivision, which is zoned R-1, Low Density, Single Family Residential. Ms. Jones if you would like to start us off please.

Staff Presentation: Ms. Jones displayed a Power Point Presentation regarding Lot 2 of Via De La Rosa Subdivision and the surrounding area and the Chairman called for questions of staff, none were posed.

Mr. John Crane introduced himself as a registered Engineer in the State of Alabama, helping Mr. Paul Kalifeh, the owner, figure out the best way to get things done for this subdivision. He stated the potential buyer, will purchase Lot 2 provided the variance is approved to fit a one story house on it. Mr. Clay Rankins, the potential buyer, concurred.

Discussion: Chairman opened the floor for discussion. The Board questioned the need for a variance since all encroachments were self-imposed and not a hardship on the land. Petitioners were asked when the subdivision was originally approved and what kind of variances would be needed for the remaining lots or should the entire subdivision be resized to fit more suitable houses within it because from what can be seen on the plat the Board would see more variance requests of this type, and the response was that the original plat was recorded in 2007, and that Lot 2 is unique because it is situated in front of the Via De La Rosa and Potters Mill detention ponds, therefore, it will not affect anyone. The Board asked the Attorney whether conditions could be placed on approval subject to the map presented. After hearing affirmative responses the Chairman called for a motion.

A **Motion** was made by **Mr. Mayhand** and **Seconded** by **Mr. Durant to approve Appeal #2013-03, Single Malt, LLC, a variance request in accordance with the illustration provided attached hereto, noted as Exhibit A. The property is Lot 2 of Via De La Rosa Subdivision, which is zoned R-1, Low Density, Single Family Residential.**

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

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

Chairman: your appeal for a variance is denied, you have fifteen days from today to notify Community Development in writing of your plans to appeal this decision with the Circuit Court of Baldwin County.

Chairman: you can pick up your paperwork in the Community Development office in the morning after nine o'clock. Thank you.

New Business:

Appeal #2013-04 Jubilee Square, LLC

Chairman: The next item on the agenda is Appeal #2013-04 Jubilee Square, LLC, a variance request to allow the aggregate area of the Jubilee Retail Overlay District pylon sign panel space to be nine hundred and ninety square feet, in lieu of, the allowable nine hundred square feet, as noted in Article 39-16(b)(2)(a). The property is 6850 U.S. Highway 90, which is zoned B-2, General Business.

Staff Presentation: Ms. Jones displayed a Power Point Presentation of the pylon sign presently at 6850 U.S. Highway 90 and the requested additional ninety square feet rendition with dimensions shown, and the Chairman called for questions of Staff.

Discussion: The Board wondered as to why this appeal was before them since they did not have authority to grant anything over what the Land Use and Development Ordinance specifically allowed. They questioned whether the Council should be involved in this request. The Attorney assured the Board that they were the only authority recognized within the City to grant variances, if they deem that a hardship existed, even if it states shall not exceed. Chairman opened the floor for discussion.

Mr. Andrew Prescott, a representative with the Burton Property Group introduced himself as such and withdrew this appeal.

Chairman: Let the record show that this appeal has been withdrawn and public participation is closed.

Discussion: Chairman opened the floor for discussion about the By-Laws. Board agreed with Staff that they should look over the By-Laws by sections concerning membership, the definition for the words "shall", "will" and "may", "should" when related to meetings, whether the Board can have a meeting by conference call, delegating a secretary, hearing of cases, and fines for setback violations. The Attorney informed the Board, that as a governing body, all meeting must be open to the public. Does anyone else have any questions or statements? If not, the Chair will entertain a motion to go off the record into Executive Session to discuss some legal matters.

Staff Presentation: Mr. Hoffman stated based upon the Attorney Client relationship, I believe that an Executive Session is mandated to discuss legal matters with my clients.

A Motion was made by Mr. Lamb and Seconded by Mr. Mayhand to go into Executive Session to discuss impending litigation.

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

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

The Executive Session was called at 7:14 p.m. and the regular meeting reconvened at 7:40 p.m.

Chairman: Chair entertained a motion to adjourn.

Adjournment:

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

The motion carried unanimously.

There being no further business the meeting was adjourned at 7:42 p.m.

Respectfully submitted by:

Pat Johnson

Pat Johnson, Recording Secretary

APPROVED: November 7, 2013

Willie Robison

Willie Robison, Chairman