

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF OCTOBER 4, 2007 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

The Chairman stated the number of members present constituted a quorum and the regular meeting of the Board of Zoning Adjustment was called to order at 6:03 p.m.

Call of Roll:

Members Present:

Willie Robison
Billy Mayhand, Vice Chairman
Glen Swaney, Chairman
Jeri Hargiss

Members Absent

Walt Crimmins, Secretary
Frank Lamb
Barry Taylor

Staff Present:

William H. Eady, Sr., Director of Community Development
Pat Houston, Recording Secretary

Staff Absent:

Tony Hoffman, BZA Attorney

The Chairman stated you need to know that since we just have four of the five members here this evening it will take a unanimous vote of all four to approve this appeal. They could withdraw their appeal tonight, could they not, and come back in a month, without any increased fees to them.

Mr. Eady stated it only takes four votes.

The Chairman stated okay. Again, we will be happy to go through with it then, because you probably would like to get it resolved one way or another.

Mr. Hyde nodded in the affirmative.

The Chairman stated okay. The approval of the minutes is the next order of business, and since Mr. Lamb is not here we cannot approve the April 5th minutes. Has everyone had a chance to read the minutes of September 6th? If so, the Chair will entertain a motion to accept the minutes as written or you can make changes if you like.

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Approval of Minutes:

The minutes of the September 6, 2007 meeting were considered for approval.

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

Mr. Robison stated Mr. Chairman I would like to have a couple of changes in the minutes. I was reading the minutes and every place that you see Cox, Mr. Cox, starting on page 14, the spelling of his name is Cocke, and we have it spelled Cox. If you can change that to Cocke every place that it is mentioned. Also, on page 8, in my statement, third paragraph down. It says I see Councilman Lake sitting out there and I did get up and excuse myself from a Council meeting a couple of weeks ago when he said we need to talk about a church, and it is written in here, make up something about a church. So if we can have that changed that I said the Councilman said we need to talk about the church not make up something about a church. That is all that I saw.

The Chairman stated okay. I wonder if you can amend that motion to reflect the changes.

Mr. Mayhand stated so moved.

The Chairman stated is there a second to that motion?

Ms. Hargiss stated I second it.

The Chairman stated all in favor signify by saying aye.

The Motion carried unanimously.

New Business:

Appeal #2007-13 - Thomas & Doreen Hyde

The Chairman stated on to new business. Appeal #2007-13 Thomas & Doreen Hyde. Mr. Eady, if you would please lead us through this.

Mr. Eady displayed color transparencies of the northwest corner of Fourth Street and Dryer Avenue. He stated Mr. & Mrs. Hyde are asking for a variance on a parcel of land on the corner of Fourth and Dryer, Parcel 58, Lot 15, as you see there with the small x on it. We have a little bit of a change here. On their application they asked to encroach the front setback line by seven-feet. On their survey it is seven-feet on the side yard setback, on the west side of the lot.

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Mr. Eady stated we need some clarification from them as to which it is. As you can see the survey says seven-feet on the west side yard setback off Dryer Avenue. So we need them to clarify whether they meant the side or the front.

The Chairman stated could you say that once more Mr. Eady? The setback on the street side is what?

Mr. Eady stated the problem is the application that they made said seven-feet on the front and the survey shows the side setback by seven-feet. The west side and the ten-feet on the east side.

The Chairman stated okay. Thank you. I am sorry I interrupted you. Go ahead.

Mr. Eady stated if you could ask them which side they are requesting.

The Chairman stated okay. Which one is it?

Mr. Hyde stated the survey is correct.

The Chairman stated the survey is correct. Okay.

Mr. Eady stated the survey is correct?

The Chairman stated that is what he said.

Mr. Robison stated Mr. Eady is the ten-feet on Fourth Street or Dryer?

Mr. Eady stated ten-feet on Fourth Street, and seven-feet on the west side of Lot 15. As you can see this is from standing in the center of Dryer Avenue looking toward the lot. You can see way down at the end next to Fourth Street is the property corner with a marker on it with a pink ribbon, and this one is the marker for Dryer. The yellow flag is outside the property line on the right-of-way line. These trees are outside of the right-of-way line on the property.

The Chairman stated that yellow flag indicates the right of way line?

Mr. Eady stated yes, sir. From their property line. This is a better shot of the lot. They have a for sale sign on it. So we know what they plan to do with it. You see the large trees, they are classified as significant trees, so they will have to have a permit if they remove them. I call your attention to the paper that I gave you with the yellow dot on it. Substandard lots of records, Item C, the side yard requirements for substandard lots of record may be reduced for each side yard at the rate of one (1) foot for each four (4) feet by which the lot width lacks fifty (50) feet.

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Mr. Eady stated provided in no event shall such side yard be reduced to less than five (5) feet on each side. As best as I can tell the lot is somewhere close to forty seven-feet in width. Total lot. By the Ordinance, if it is only forty seven-feet then it is only shy of three-feet of fifty-feet. So they can only reduce the side yard by one-foot.

The Chairman stated the maximum in lot size either side can be reduced is one-foot based on that document?

Mr. Eady stated yes, sir. That is all I have.

The Chairman stated your department does not recommend approval of this appeal?

Mr. Eady stated no, sir. I do not.

The Chairman stated thank you. Mr. Hyde would you like to address the Board?

Mr. Hyde stated sure. Basically, in order to do something with this lot, to build on this lot, with the current setbacks you would build a house that is seventeen-feet wide. We do not feel that would appropriately represent a neighborhood in Daphne. So our thought was in order to get these easements we would have to build something that would fit in with the neighborhood. We would need to build something around thirty-feet wide. There is a house on Fifth and Dryer that is actually close to Fifth Street, and it is pretty similar to what we would be asking to do.

The Chairman stated the next block up.

Mr. Hyde stated yes, sir. One block up.

The Chairman stated I noticed by the deeds that you bought three lots, right?

Mr. Hyde stated yes, sir. We are in the property behind it, the peach house, and that sits on two lots. Then the single lot that runs along Fourth Street. Without the variance there is not really anything we can do with, and with the variance we can probably get a little more out of it.

The Chairman stated any questions for Mr. Hyde?

Mr. Robison stated I have a couple. I was by there today and went down Dryer, and came up Fourth, and went down Dryer down, to the house which you see with the car parked in the driveway.

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Mr. Robison stated that lot is too narrow to even try and put a house on it. It looks like it would almost be out on Dryer because of the setbacks. It still would not be set back as far as this house is set back, and the rest of them look like they are in a line. Those significant Oak trees look like they are right in the line. If you could not get a permit to remove them, where would you put a house? It does not look to me as if this is a fit for a house to go in there. Just my driving down there and looking at it this afternoon, I, myself, cannot see where one could go. Unless you came out almost onto the gravel at Dryer Avenue there.

Mr. Hyde stated I believe the survey shows what it is. If you look at the survey, the dotted line shows where the house would be.

Mr. Robison stated now, that is not that much difference from there out to Fourth Street. I have another question. Should this variance be granted, do you intend to build a house there or do you intend to sell this at a later date?

Mr. Hyde stated we do not have any definite plans as to what we will do.

Mr. Robison stated in other words so your plans would go with what the BZA says. If it is granted then you might have some definite plans as to what you want to do with it, but if it was not granted tonight you do not know what you would do with it. There is a possibility that you could sell that property, at a later date, and not build a house on it.

Mr. Hyde stated we could, yeah. Well, we could sell the property. I do not know that anybody would want to buy the property unless they could build a house on it.

Mr. Robison stated I mean if a variance was granted tonight you really do not know what you want to do with it. You could sell it or you could build a house there.

Mr. Hyde stated that is correct.

Mr. Robison stated to me that sounds like putting the cart before the horse. Instead of having definite plans saying yes we do plan to put a house there and we are here asking for a variance so we can put a house on it, and not that one cannot be there, and if we sold it at a later date someone would not be able to put a house on it. I have a problem with that.

Mr. Hyde stated I understand that.

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Mr. Hyde stated our thought process was that we might want to sell this property and in order to be able to sell it we needed to have this approval process because we did not feel like anybody would offer us the right amount of money for the lot if they knew they could not build a house on it. It would not be worth anything. Our thought process was to go through the survey and try to get the variance and if we decided to sell it for what we wanted to sell it for then we would do that. If we could not then we would hold on to it and maybe at a later date we might build something on it ourselves. We were trying out our options.

Mr. Robison stated Mr. Eady do you know off the top of your head how far those Oak trees are sitting back?

The Chairman stated looks like they are in the right-of-way line.

Mr. Eady stated I think the flag is on the right-of-way line.

Mr. Robison stated on the right-of-way line. You said seven-feet off that side?

Mr. Eady stated off the west side. Ten-feet of that side.

Mr. Hyde stated it would be ten-feet from that flag to the house.

The Chairman stated any other questions for Mr. Hyde?

Mr. Eady stated that gentleman there wants to speak.

The Chairman stated okay. Ms. Hyde would you like to say something?

Ms. Hyde stated to address the question that you had about our decision in terms of the lot. I think to clarify whether we sell it and someone builds on it or whether we build on it ourselves, there will be something built on it ultimately is what I was thinking. What we were trying to establish, what we are trying to do is make sure that it is something that does fit within our neighborhood and not a house that is seventeen-feet wide, and that is what we are trying to establish here. We love our neighborhood and we want to make sure we put something on there like that, just to clarify.

The Chairman stated thank you very much. Sir, would like to say something? If so, please step up, state your name and address.

Mr. Good stated my name is Austin Good, 505 Dryer Avenue. I live right next door to this lot. My property has been in my family for about seventy-five years. The houses in Olde Daphne are not all jammed up like Lake Forest and all that.

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Mr. Good stated I do think you need to have houses jammed up. I just think we should leave Olde Daphne like it is not all jammed up like Lake Forest. In Lake Forest if you go in the back yard and spit over the fence you will hit the other house.

The Chairman stated so you are against the granting of this appeal?

Mr. Good stated right.

The Chairman stated any questions? If not, the Chair will entertain a motion. The appeal will be made in an affirmative manner.

A **Motion** was made by **Mr. Mayhand** and **Second** by **Mr. Robison** to approve **Appeal #2007-13, Thomas & Doreen Hyde** for a variance to allow a purposed future residential structure to be built on the northwest corner of Dryer Avenue and Fourth Street to encroach the east side yard setback line by ten-feet on the west side yard setback line by seven-feet.

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

Mr. Robison	Nay
Mr. Mayhand	Nay
Mr. Swaney	Nay
Ms. Hargiss	Nay

The Chairman stated I am sorry the appeal is denied. I guess a letter to that effect will be available tomorrow. You have fifteen days to appeal this action and you must notify Community Development, Mr. Eady, in writing of your intentions to appeal. Thank you very much. If there is no other business, the Chairman will entertain a motion to adjourn.

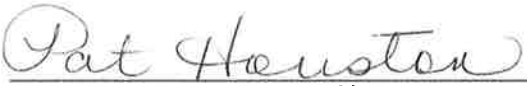
Adjournment:

A **Motion** was made by **Mr. Robison** and **Seconded** by **Ms. Hargiss** to adjourn. **The Motion carried unanimously.**

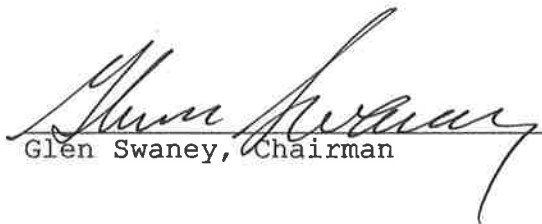
There being no further business the meeting was adjourned at 6:21 p.m.

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Respectfully submitted by:


Pat Houston, Recording Secretary

APPROVED: January 3, 2008


Glen Swaney, Chairman

/ph