

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF AUGUST 2, 2007 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

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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 6:05 p.m.

Call of Roll:

Members Present:

Barry Taylor  
Willie Robison  
Billy Mayhand, Vice Chairman  
Glen Swaney, Chairman  
Walt Crimmins, Secretary  
Jeri Hargiss

Members Absent

Frank Lamb

Staff Present:

William H. Eady, Sr., Director of Community Development  
Pat Houston, Recording Secretary  
Tony Hoffman, BZA Attorney

The Chairman stated Pat there are six Board members present who will be voting tonight.

Ms. Houston stated Ms. Hargiss, Mr. Crimmins, yourself, Mr. Mayhand, and Mr. Robinson.

The Chairman stated thank you. The first order of business is the approval of the minutes. It is my understanding that Mr. Lamb needs to be present to approve or make corrections to the minutes from the April 5th meeting. Is that correct? Since Mr. Lamb is not here tonight we cannot approve the April 5<sup>th</sup> minutes.

Mr. Hoffman stated yes, I believe that would be appropriate, Mr. Chairman.

The Chairman stated we will just move those minutes unto the next monthly meeting for approval at that point in time.

Mr. Hoffman stated yes, sir.

The Chair stated on to the May 3<sup>rd</sup> meeting minutes. Four of the members who attended that meeting are here tonight. If everyone has had a chance to read those minutes the Chair will entertain a motion to accept the minutes as written.

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---

**Approval of Minutes:**

The minutes of the May 3, 2007 meeting were considered for approval.

A **Motion** was made by **Mr. Robison** and **Seconded** by **Mr. Crimmins** to **approve the minutes.**

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

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| <b>Mr. Robison</b>  | <b>Aye</b>       |
| <b>Mr. Mayhand</b>  | <b>Abstained</b> |
| <b>Mr. Swaney</b>   | <b>Aye</b>       |
| <b>Mr. Crimmins</b> | <b>Aye</b>       |
| <b>Ms. Hargiss</b>  | <b>Aye</b>       |

**New Business:**

**Appeal #2007-09 - Steve & Daphne Robinson**

The Chairman stated let us begin with Appeal #2007-09, Mr. Eady, if you are ready.

Mr. Eady displayed color transparencies of the vacant lot on the corner of Old County Road and Dryer Avenue. He stated Steven and Daphne Robinson have requested a variance to the Daphne Land Use and Development Ordinance of the City of Daphne. The request, if granted, would allow them to build a proposed residential structure located on the northeast corner of Old County Road and Dryer Avenue and encroach the rear setback line by twenty-feet on the east side. It is an R-1 Low Density Single Family residential lot, and as you can see there are a number of Live Oak trees on the site. The new setback would actually move the home up more to the left to save some of those trees.

The Chairman stated one quick question before you get away from your plot plan. I noticed that the encroachment will be a tad over twenty-feet, instead of forty-feet it will be reduced to a little over twenty-feet. Is that correct?

Mr. Eady stated yes, sir.

The Chairman stated thank, you.

Mr. Crimmins stated the other thing, Mr. Eady, is that I noticed that you recommended approval. Is that because the removal of these two Live Oaks is contrary to the goals and objectives of the Land Use Ordinance?

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**BOARD OF ZONING ADJUSTMENT MINUTES**  
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---

Mr. Eady stated I am sorry. I did not understand you.

Mr. Crimmins stated part of the recommendation says removal of the Live Oaks would be contrary to the goals and objectives of the Ordinance. Would you for the record state which part of the Ordinance this is referring to?

Mr. Eady stated in our Ordinance we try and the save all trees we can in the City of Daphne. The fact that we have so many here and as you can see by the line here there is not anything in the rear, and moving the home back a small distance will not be detrimental to anything in the neighborhood. We felt like saving the trees would be more important.

The Chairman stated to go back to the forty-foot setback line as it exists now. It does not really matter about the fact that if the house faces Old County instead of Dryer Avenue?

Mr. Eady stated no, sir.

The Chairman stated would either of the Robinsons like to come up and make a presentation?

Ms. Robinson stated I just wanted to say what our goal here is. My name is Daphne Robinson and I grew up there, and he went to kindergarten in the old house. So I have a lot of history with that property. We really love this community, and what we are trying to do is build a home that will co-exist with what is there. The library has conveyed their approval and I hope every one of you received a copy of the letter from them doing so. So that is really what our goal is.

The Chairman stated where the location of those trees are now that you are trying to save, there is no doubt in your mind that you can save them doing this.

Ms. Robinson stated we believe we can. We actually had a tree company come and look at them and trim them up. We wanted to make sure that the trees were viable because we presented this to you. If we had to abide by the existing setbacks we would have to cut down four or five trees.

The Chairman stated is there anybody here tonight in opposition to this setback appeal? Is there any additional information that you would like to add?

Ms. Robinson stated whatever you would like for me to add that will help.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
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---

Mr. Mayhand stated I have a question for you? What is the status of the church behind you? Is it directly behind you?

Ms. Robinson stated it is. It is directly behind us. In fact, the position of the property where it sort of angles to the Mimosa tree is, at that point, about where it is.

Mr. Mayhand stated do they still have active service there?

Ms. Robinson stated no, sir. It is a museum now. They actually presented a letter supporting us, and I hope you all got a copy.

The Chairman stated we did. Any additional questions?

Mr. Crimmins stated I have another one for Mr. Eady. When we grant a variance it should be something running with the land that keeps it from being used. So what we are saying here is that the preservation of trees that is required by another part of the Ordinance is equated with the position that runs with the land. Am I understanding that correctly?

Mr. Eady stated yes, sir.

Mr. Crimmins stated is there anything in our Ordinance that states that equivocally?

Mr. Eady stated no, sir. It is just an accepted fact.

Mr. Crimmins stated okay.

Ms. Robinson stated I do have a copy of what we looked up in the Land Use Ordinance in preparing our application. In Section 19-5 it has a special section on the protection of trees. It says significant trees are hereby protected under this Article and cannot be cut down or intentionally harmed without the expressed written permission of the City of Daphne Horticulturist. So in reading that it seems that it is the goal of City to maintain and preserve those trees.

The Chairman stated what size is the house footage wise? It does not appear to be overly large.

Ms. Robinson stated it is actually two stories.

Mr. Robinson stated it is twenty-four hundred square feet footprint and eleven hundred square feet on the second floor.

The Chairman stated I understand. A moderately sized house for that area.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF AUGUST 2, 2007 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

---

The Chairman stated any additional question? If not, the Chair will entertain a motion.

A Motion was made by Mr. Crimmins and Seconded by Mr. Mayhand to approve Appeal #2007-09, Steve & Daphne Robinson for a variance to allow the proposed residential structure to be located on the northeast corner of Old County Road and Dryer Avenue to encroach the rear setback line by 20.0-feet.

Upon roll call vote, the Motion carried, unanimously.

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| Mr. Taylor   | Aye |
| Mr. Robison  | Aye |
| Mr. Mayhand  | Aye |
| Mr. Swaney   | Aye |
| Mr. Crimmins | Aye |
| Ms. Hargiss  | Aye |

The Chairman stated your variance is approved and you can pick up the paperwork tomorrow morning from Pat. Thank you very much.

**Appeal #2007-10 Verizon Wireless**

The Chairman stated the next order of business is Appeal #2007-10, let us begin, Mr. Eady.

Mr. Eady displayed color transparencies of 27250 U. S. Highway 98. He stated Verizon Wireless has requested a special exception to the Land Use Development Ordinance to construct a cellular tower at 27250 U. S. Highway 98, which is behind the Space Savers Storage units. It is in a B-2 General Business Zone. The yellow highlight shows you the spot. It abuts up to Yancey Branch. The circle shows you the locations access and fall zone.

Mr. Crimmins stated the fall zone is going to be as tall as the pole right?

Mr. Eady stated one hundred and eighty-feet.

Mr. Crimmins stated that is not getting anywhere near that subdivision is it.

Mr. Eady stated I have a better picture.

Mr. Crimmins stated okay.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF AUGUST 2, 2007 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

---

Mr. Eady continued to display color transparencies. He stated this shot shows all of the towers in the area relative to this site by their color, and I do not know where they all are located.

Mr. Crimmins stated Mr. Eady that says five hundred foot buffer zone on it. Is that important to this at all?

Mr. Eady stated no, sir. It is not really of any importance, it is just showing you what is in a five hundred foot radius.

Mr. Crimmins stated okay.

The Chairman stated do you happen to know what height of the T-Mobile tower is?

Mr. Eady stated I do not know. They may know.

Mr. Crimmins stated our Ordinance says a maximum of one hundred and eighty-feet.

Mr. Kirkpatrick stated I believe the T-Mobile monopole tower is around one hundred and fifty. For clarification while we are asking for one hundred and eighty, ten-feet on top is really a lighting rod. The monopole structure itself will be one hundred seventy-feet, and we are leaving room for the lighting rod at the top.

The Chairman stated I have to confess that looking at your coverage table pictures I am a little puzzled.

Mr. Kirkpatrick stated I can explain.

Mr. Eady stated this is the aerial view of that site with the one hundred and eighty-foot buffer. I cannot guarantee that this is the exact spot of the cell tower, but this is where it will be and this shows you the fall zone.

The Chairman stated what is that large building?

Mr. Eady stated a warehouse.

Mr. Crimmins stated is any of that area residential?

Mr. Eady stated some of the area back here to the right is residential. It is a fairly new subdivision that has not been opened up yet. The rest of the area in here is not residential, it is all zoned B-2.

The Chairman stated anything additional you would like to add?

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**BOARD OF ZONING ADJUSTMENT MINUTES**  
**REGULAR MEETING OF AUGUST 2, 2007 - 6:00 P.M.**  
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---

Mr. Kirkpatrick whatever you guys would like to hear. For the record my name is Tim Kirkpatrick and I am Outside Zoning Counsel for Verizon Wireless. You talked about the pretty confusing pictures of site coverage.

Mr. Eady stated I was teasing Mr. Kirkpatrick earlier that we could see these same pictures on the 10:00 o'clock news tonight for the weather report.

Mr. Kirkpatrick stated looks like a bad storm. What we are trying to do is finish the build out of coverage for the Daphne area. Looking at the current Verizon Wireless coverage without the proposed site you will notice that this reflects the existing sites. If you would notice around the sites that we have in the community thus far they are all sites where we are able to co-locate on. I believe this will be the first tower, and ideally the last monopole that we will be proposing to construct. The problem is that the T-Mobile site we wanted to co-locate on when we did engineering runs on it we found out that it is to capacity. What that means is not only is there not room, but if there was room the structure itself is maxed out, capacity wise. It cannot hold the rack, antenna and collect cable that run these antennas sat upon. We would much rather be able to go and co-locate on an existing structure for multiple reasons. One reason is it is much faster and faster saves money. You do not have to bother the city with the layout of the zoning process, and you do not have to lay out the capital to build a new site. Every time we can co-locate hands down we do. As a matter of fact, we have a co-location that we are working on with a city for a water tower and I will show you why. If you will look at the map that you have you will notice right around the site is blue, and that is the absolute strongest coverage. As you get away from it then it is green, and then yellow, and as you move up into the area for coverage it is red and black. The red is moving into a weak coverage, maybe an on street coverage as opposed to vehicle coverage, but a very weak coverage at that point. The site that we are proposing to the City you will notice is all black. The co-location we are proposing on the water tower will hopefully take care of this immediate area. The site this evening that we are drafting is right here. Now, from that if you would flip to the Verizon proposed height it will probably be easier to see it. If you flip back and forth between those two pages you can see the difference in what this MOB Yancey Branch site does for the coverage, not only along Highway 98 right there, but around the entire residential area that surrounds on all sides of Highway 98 going north and going south. It would fill in those coverage areas. It was not that long ago probably five to seven years ago you would not even talk about wanting in-house coverage. People use to say they did not care about using cell phones in their house, but there has been quite a change since then.

**CITY OF DAPHNE  
BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF AUGUST 2, 2007 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

---

Mr. Kirkpatrick stated now everybody want to use a cell phone not only in their cars as they drive home, but in their houses too. So that really speaks the need that we are addressing for our customers, and that kind of lays out why we are here. The structure that we are proposing is a monopole kind of like this. We are designing it to hold three carriers. I know on the T-Mobile tower they have four carriers on it already with a spot for two others, and they may want to co-locate on our site.

The Chairman stated I understand. I do not see a whole lot of difference here in the two sheets. On the second sheet the tower is thirty-feet lower.

Mr. Kirkpatrick stated right. I apologize the graphics are not very well distinguished. These maps are not very good. Please understand that while it is science, radio frequency engineering does play into it. When you are looking at those maps part of the coverage itself is not stacked. What I mean by that is that this site is effectively designed to cover this area and this site will cover a similar area, and they will bump into each other. They are designed to actually butt up to each other so the calls can hand off. So if you are driving down the road it does not drop your call and so on to the next tower and to the next tower. So they are designed so that they butt up to each other, but at the same time are flexible because when there is only one person using their phone in this range the circle gets big. The coverage goes out. When there are about forty people doing it the capacity is eaten up and actually the coverage circle shrinks down. In lowering the height we lose some of that control. Not only do we lose some of it on the outer perimeter of a weaker coverage perhaps, but we also lose it on that other side because it does not flow through there. I agree with what you are saying. When you look at it the graphics are not very good.

The Chairman stated okay. You said you would have preferred to use the T-Mobile tower.

Mr. Kirkpatrick stated that was our first run at it had it been designed to add on to the top of that monopole.

The Chairman stated is there anybody here tonight to speak in opposition of this appeal? Any additional questions or comments?

Mr. Crimmins stated I have one about the one hundred and eighty feet. How far is it off the property line?

Mr. Kirkpatrick stated we had it surveyed and we are one hundred and eighty three feet off the property line.

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BOARD OF ZONING ADJUSTMENT MINUTES  
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---

Mr. Crimmins stated from the boundary of the residential zone you have more than one hundred and eighty feet. Is that correct?

Mr. Breuman stated it is one hundred and eighty-three-feet from the boundary of the residential.

Mr. Crimmins stated from the contour.

Mr. Breuman stated yes, sir that is correct.

Mr. Crimmins stated so when construction is complete it will not be more than one hundred and eighty-feet.

Mr. Kirkpatrick stated that is correct.

Mr. Crimmins stated okay.

The Chairman stated any additional questions? If not, the Chair will entertain a motion.

A **Motion** was made by **Mr. Crimmins** and **Seconded** by **Ms. Hargiss** to **approve Appeal #2007-10, Verizon Wireless for a special exception to allow a one hundred and eighty-foot cell tower to be constructed at 27250 U. S. Highway 98.**

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

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| <b>Mr. Taylor</b>   | <b>Aye</b> |
| <b>Mr. Robison</b>  | <b>Aye</b> |
| <b>Mr. Mayhand</b>  | <b>Aye</b> |
| <b>Mr. Swaney</b>   | <b>Aye</b> |
| <b>Mr. Crimmins</b> | <b>Aye</b> |
| <b>Ms. Hargiss</b>  | <b>Aye</b> |

The Chairman stated the appeal is approved and you can pick it up on tomorrow.

Mr. Kirkpatrick stated thank you.

The Chairman stated is there any additional business to come before the Board tonight? If not, the Chairman will entertain a motion to adjourn.

**Adjournment:**

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

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BOARD OF ZONING ADJUSTMENT MINUTES  
REGULAR MEETING OF AUGUST 2, 2007 - 6:00 P.M.  
COUNCIL CHAMBERS, CITY HALL**

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There being no further business the meeting was adjourned at 6:36 p.m.

**Respectfully submitted by:**

  
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Pat Houston, Recording Secretary

**APPROVED:** September 6, 2007

  
\_\_\_\_\_  
Glen Swaney, Chairman

/ph