

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JUNE 4, 2009 - 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 6:00 p.m. Let us have roll call.

Call of Roll:

Members Present:

Jeri Hargiss, Secretary
Frank Lamb
Glen Swaney
Willie Robison, Chairman
Billy Mayhand
Barry Taylor
Jim Moss

Staff Present:

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

The Chairman stated the next item on the agenda is the approval of the May 7th minutes. Has everyone read the minutes? The Chair will entertain a motion to approve the minutes as written.

Approval of Minutes:

The minutes of the May 7, 2009 meeting were considered for approval.

Mr. Lamb stated on page 13 it should be Judge Partin not Pardon, probably some of his people would like for him to do that, but it is Partin, and on page 16, middle of the second paragraph, it should read sue instead of suit.

The Chairman will entertain a motion to approve the minutes as corrected.

A **Motion** was made by **Mr. Swaney** and **Seconded** by **Mr. Lamb** to **approve the minutes as corrected.**

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

New Business:

Appeal #2009-03 - William Snyder

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JUNE 4, 2009 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

The Chairman stated next is new business on the agenda, Appeal #2009-03, William Snyder, a variance to allow the existing structure located at 108 Wildwood Circle, a residence, to remain and continue as an encroachment to the rear setback line by ten-feet. At this time, because Mr. Snyder and his wife, being personal friends of mine and he had previously talked to me about his appeal without realizing that I served on the BZA, he went into quite a bit of detail on it, so I feel it would only be proper for me to recuse myself and not participate in any of the discussion nor the voting in any way what so ever. So I turn the meeting over to Mr. Mayhand, the Vice Chairman, at this time.

The Vice Chairman stated Ms. Jones, would you like to abreast us on Appeal 2009-03 at this time?

Ms. Jones displayed a Power Point Presentation of 108 Wildwood Circle showing the ten-foot encroachment on the south side of the home. She stated on the screen you can see the subject property and on the south side is Lake Forest Golf Course. There are residences on both sides of the property and it is zoned R-3. I am showing you the west property line and the east side as well.

Mr. Lamb stated is that green arrow the encroachment?

Ms. Jones stated no, it is actually just showing you where the west property line is. One of my slides is out of order.

Mr. Lamb stated is the front part of the house encroaching?

Ms. Jones stated the front part of the house is fine, just the areas that are highlighted here in red are encroaching.

Mr. Lamb stated I have got you.

Ms. Jones stated the key point is that this is an existing residence and they are not proposing any additions and you do have precedence of approving something similar to this. There is a hardship, in that, it would be difficult to remove the encroachment, since it has been there for such a long time. It does not have any impact on the adjacent properties and I recommend approval.

The Vice Chairman stated is there anyone in the audience that would like to say anything? Would you like to add anything Mr. Madden?

Mr. Madden stated no.

The Vice Chairman stated do any of the Board members have any questions?

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JUNE 4, 2009 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

Mr. Swaney stated the home was constructed in 1989, I believe, according to the literature. Do you happen to know what the rear setback lines were at that point in time, Adrienne?

Ms. Jones stated I think it is shown on one of our maps. I believe the rear setback was twenty-feet and do you want to know how much they are encroaching into it?

Mr. Swaney stated no, no, no. I was wondering back in 1988, 1989 what the setback lines were on it.

Ms. Jones stated they are still the same as they were. In Lake Forest we have a unique situation where we observe the property lines that were established by plat. So we have documents that tell us what the setbacks are for each unit in Lake Forest. So we observe those same setbacks now.

Mr. Lamb stated it is my understanding that Lake Forest setback lines are twenty-feet and they are encroaching ten-feet.

Ms. Jones stated that is correct.

Mr. Moss stated this was approved by the Lake Forest Board at the time. I checked with our Architectural Manager this afternoon and walked the property and it is as it has been. There are ten to fifteen cases and there is just no harm here. No harm, no foul, pardon me.

Mr. Lamb stated it is my understanding that back in 1989 this was in agreement with when the City of Daphne did not say to the Architectural Board you cannot approve variances.

Ms. Jones stated I am not sure. I do not have any documentation on establishing that precedent.

Mr. Lamb stated at the present time can the Lake Forest Architectural Board approve a variance, now that they are part of the City of Daphne, when they want to build on property?

Ms. Jones stated the variance approval process is vested in the Board of Zoning Adjustment. So whether their Architectural Review Committee is still granting them per their covenants, the best legal procedure to do for variance and the one that will stand in Court is one that is approved by the City of Daphne's Board of Zoning Adjustment.

Mr. Moss stated it still rests with the City. She is correct. It absolutely rests with the City now.

Ms. Jones stated absolutely. It is not shared. I will put it that way. Am I right, Mr. Hoffman?

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF JUNE 4, 2009 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

Mr. Hoffman stated that is one hundred percent correct.

The Vice Chairman stated are there any other questions or comments? If not, let the record show there is not any one present to speak in opposition of this appeal. The Vice Chairman will entertain a motion.

A Motion was made by Mr. Swaney and Seconded by Mr. Lamb to approve Appeal #2009-03, as requested. A variance to allow the existing structure located at 108 Wildwood Circle, a residence, to remain and continue as an encroachment to the rear setback line by ten-feet.

Upon roll call vote, **the Motion carried with one ineligible vote.**

Mr. Moss	Aye
Mr. Taylor	Aye
Mr. Mayhand	Aye
Mr. Swaney	Aye
Mr. Lamb	Aye
Ms. Hargiss	Aye

The Vice Chairman stated the appeal is granted and at this time I would like to turn the meeting back over to our Chairman.

The Chairman stated thank you, sir. The appeal has been granted Mr. Madden. As Mr. Snyder's representative you may pick up the variance after nine o'clock in the morning in the Community Development Department. Do you know where it is?

Mr. Madden stated no.

The Chairman stated it is in this building to the left behind the Receptionist desk after you walk in.

Mr. Hoffman stated Mr. Chairman, Mr. Moss was not eligible to vote during the last vote and if we could just have a recap of that vote, please.

The Chairman stated so we can have five ayes and no nays.

Mr. Hoffman stated correct.

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

Mr. Taylor	Aye
Mr. Mayhand	Aye
Mr. Swaney	Aye
Mr. Lamb	Aye
Ms. Hargiss	Aye

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REGULAR MEETING OF JUNE 4, 2009 - 6:00 P.M.
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There being no other business the meeting was adjourned.

Adjournment:

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

The Motion carried unanimously.

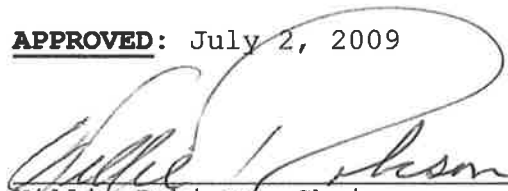
There being no further business the meeting was adjourned at 6:12 p.m.

Respectfully submitted by:



Pat Houston, Recording Secretary

APPROVED: July 2, 2009



Willie Robison, Chairman

/ph