

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF DECEMBER 3, 2009 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

The Vice 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
Glen Swaney
Billy Mayhand, Vice Chairman
Frank Lamb
Jim Moss

Members Absent:

Willie Robison, Chairman
Barry Taylor

Staff Present:

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

The Vice Chairman stated thank you. Next item on the agenda is the approval of the August 6th 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 August 6, 2009 meeting were considered for approval.

The Vice Chairman will entertain a motion to approve the minutes as written with no amendments or deletions.

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

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

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

Mr. Moss stated I abstain since I was not present at that meeting.

New Business:

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Appeal #2009-09 - Paul & Marianne Grundhoefer

The Vice Chairman stated next is new business on the agenda, Appeal #2009-09, Paul & Marianne Grundhoefer, a variance request to allow a detached carport to be built ten-feet six inches from the primary structure at 130 Durnford Hill Court, in lieu of the required twenty-feet, which is an R-1 Single Family, Low Density, Residential Zone. Okay, Ms. Jones, would you take us through this please.

Ms. Jones stated subject property is located at 130 Durnford Hill Court. Ms. Jones displayed a Power Point Presentation of 130 Durnford Hill Court, the home of the request for a variance to build a detached carport. She stated it is zoned R-1 Single Family, Low Density. Here you see the site plan that has been submitted along with the application. The area that is highlighted to the north is the purposed carport and accessory building. Here is an illustration showing the twenty-feet or where the twenty-feet would lay in relationship to the house. The applicant is proposing to construct a detached carport building to be located ten-feet from the residence in lieu of the required twenty-feet as provided in Article 9-12 of the Land Use Ordinance. This picture shows a view looking directly into the back yard northward. This is a picture looking to the west and you may be able to see some of the flags.

Mr. Moss stated I see a pet.

Ms. Jones stated this is a view standing at the corner of the property looking towards the area where the carport will be located and also you see the fence, and the gate, that opens into Schiefflin Lane. This picture shows you the view from Schiefflin Lane looking into the Grundhoefer's back yard. Here is another view of the Schiefflin Lane right-of-way, which is part of the reason for this request. In your packet and as I also showed before, let me see if I can get back to that slide, the area to the north we can show you where Schiefflin Lane is in relationship to the lot. It is sort of the bold dashed line and it actually encroaches into the lot. Now I do not have it in the power point, but I do have it in your packet. I have a plat of the subdivision and it shows that when the original subdivision was developed or proposed it showed the Schiefflin Lane encroachment onto this property only. So this would pose a unique situation where only this property would be affected. The result of the Schiefflin Lane encroachment creates a situation where the setback lines are zigzagged. Here is Schiefflin Lane, and the setback would be offset because of Schiefflin Lane. Now the applicant is proposing to build the carport ten-feet from the residence, in lieu of what the ordinance requires, which is twenty-feet. So the area here in the darker green is the area of encroachment which should be ten-feet.

Mr. Lamb stated how many feet is that?

Ms. Jones stated ten.

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Mr. Lamb stated what is the distance from the rear of the proposed carport to the property line? From there back.

Ms. Jones stated that is five-feet six inches. This slide talks about the previous request that you may remember about this property. It was in 2005 and the applicants asked for the addition of an attached carport storage area. There are different rules for an attached carport than there are for a detached carport or accessory building. The rear setback for an attached structure is the same as it is for the primary structure, which would be forty-feet, and at that time I believe you denied the application for an attached carport. I am not sure what the encroachment was, but I think it was thirty-four-feet which would have been excessive. My fourth point is that the detached accessory structure is five-feet from the side and five-feet from the rear property lines.

Mr. Lamb stated would you back that up for a minute? It is my understanding that a detached accessory building can be built right on the property line.

Ms. Jones stated five-feet from the property line. Here let us look at the next slide which talks about the criteria that is taken directly out of 9-12 of the Ordinance. The criteria for a detached accessory structure is that it one not be on the lot by itself, not in the front yard, not more than a story high, and shall not be closer than twenty-feet to the main building except in an R-4 zone and remember this is an R-1 zone. Also that it maintains not less than five-feet from the sides and not less than five-feet from the rear setback.

Mr. Swaney stated did I just see there where that indicated fifteen-feet from the rear property line?

Ms. Jones stated fifteen feet. No, sir. No more than fifteen-feet high.

Mr. Swaney stated okay. Fifteen-feet high.

Ms. Jones stated yes.

The Vice Chairman stated does this proposal meet those requirements?

Ms. Jones stated it meets all except the one that is highlighted, the one that speaks to being twenty-feet from the main building. They are proposing to be ten-feet which basically says they get to encroach into this setback by ten-feet.

Mr. Moss stated is this an unusual situation that affects this lot only in that subdivision?

Ms. Jones stated it is the only one that is affected by the encroachment of Schiefflin Lane.

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Mr. Moss stated thanks.

The Vice Chairman stated is Schiefflin Lane being used as a thoroughfare? Driveway?

Ms. Jones stated not a thoroughfare, but I think it is being used as a driveway for many of the residents. I think that is my last slide.

Mr. Lamb stated it seems to me that several years ago we had an accessory building on Old County Road across from Bayside Academy that was on the property line and the adjoining property owner was upset. At that time it seemed to me that you could build an accessory building all the way up to the property line, but you are saying five-feet from it.

Ms. Jones stated five-feet because usually there are drainage and utility easements that run along those rear and side property line. So we are always trying to keep people from putting structures over utility easements anyway.

Mr. Lamb stated you can put a driveway right on the property line.

Ms. Jones stated yes.

Mr. Swaney stated I do recall numerous cases in Lake Forest where the sheds are five-foot or so from the property line. Directly below the large dashed line for Schiefflin Lane is that a sewer easement or should I say a drainage easement.

Ms. Jones stated drainage and utility easement.

Mr. Swaney stated how wide is it?

Ms. Jones stated twenty-feet. You have the site plan and boundary survey in your book.

Mr. Swaney stated we are not encroaching on the drainage and utility easement?

Ms. Jones stated no.

Mr. Swaney stated okay.

The Vice Chairman stated any other questions for Ms. Jones at this time? Is there anyone that would like to speak on behalf of the petitioner? If so, please step forward and state your name for the record.

Mr. Broom stated my name is Kent Broom and I am a Landscape Architect and the Grundhoefer's hired me to come up with a proposal that would work for their backyard. I do a lot of this, master plans for residents.

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Mr. Broom stated I looked at this property and saw a unique situation with the forty-foot setback in the back, as far as Schiefflin Lane which basically takes up about half of their back property. I felt like we could probably come up with some ideas that would work for their backyard as far as a storage, carport, swimming pool, and a future cabana, but in order for this to work we might have to encroach on that twenty-foot setback. I talked to Adrienne and she said we will try to come up with something. I felt this was the best avenue to have everything work and have this great property look its best and functional without interfering with any of the neighbors or the right-of-way. As you can see the structure is five-feet six inches off the back property line and that includes that forty-foot setback for that right-of-way. So basically from the other property line we are almost forty six-feet off that far property line which is to the north. It is not showing on there, but it is right up in there.

Mr. Moss stated excuse me sir. Is that pool existing?

Mr. Broom stated no, this is all proposed.

The Vice Chairman stated do you have those same plans with you?

Mr. Broom stated this is the same plan that you are seeing right up here.

The Vice Chairman stated may I see them?

Mr. Broom stated sure.

The Vice Chairman stated I think yours may be a better view than what we are seeing up there. It may look a little better to me.

Mr. Swaney stated is the carport going to be an open structure?

Mr. Broom stated yes.

Mr. Swaney stated thank you.

The Vice Chairman stated thank you very much. You may continue.

Mr. Broom stated that is all I have to say, thank you.

The Vice Chairman stated does anyone else have anything to say?

Mr. Broom stated I am sorry, if I may.

The Vice Chairman stated go ahead.

Mr. Broom stated just to let you know Schiefflin, if they would pull that drawing back up, this is two lots up from their property. Schiefflin actually ends another lot up this way. The pavement stops and becomes a trail back to these houses.

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Mr. Broom stated so it is not maintained by the City or anything else, but the City has access to the property and as you go closer to his property you can see how it whines around there and then that fence is in back of his property and that easement goes up to this fence here and you can see that this structure is built right on the property line. There is thirty-feet between this person and that property and it is not even being used except by this person.

The Vice Chairman stated I asked Ms. Jones a minute ago if this structure would meet those requirements, but I do not know. Do you have any drawings of what the structure would actually look like? You said it would be like a carport with a storage area in the rear or something to that effect.

Mr. Broom stated that is correct, but I do not have a drawing of the actual structure.

The Vice Chairman stated does it meet the height requirements and all that?

Mr. Broom stated yes.

The Vice Chairman stated any other questions? Thank you.

Ms. Jones stated I will add something. My recommendation for this is approval because it is in the rear of their property and the encroachment is on themselves and not anyone else. Also as I have placed in your report an email that I received from Richard Merchant, the Building Official, asking for his opinion on this and he also supports this variance.

The Vice Chairman stated are there any comments from our Attorney?

Mr. Hoffman stated no sir.

Mr. Swaney stated I have one question. I just wanted to make certain. Obviously, there are not any people here speaking in opposition tonight?

Mr. Moss stated no, your report shows all of the neighbors approving it.

The Vice Chairman stated have we heard all of the comments? If so, the Chair will entertain a motion.

A Motion was made by Mr. Swaney and Seconded by Mr. Moss to approve Appeal #2009-09, Paul & Marianne Grundhoefer, for a variance to allow a detached carport to be built ten-feet six inches from the primary structure at 130 Durnford Hill Court, in lieu of the required twenty-feet.

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Upon roll call vote, the Motion carried unanimously.

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

The Vice Chairman stated the appeal is granted and we have some paperwork you can pick up in the Community Development office tomorrow morning around 9:00 a.m.

Mr. Moss stated I have something. There is a mistake in the September minutes. It was a statement I made. I know we are not bringing them up tonight, but they are on the agenda. Can I make a correction to those, since it is my correction, in case I am not here for the next meeting?

The Vice Chairman stated you can make it with Ms. Houston and she can make the correction before they come up for a vote at the next meeting.

Mr. Moss stated Pat look on page 36, third paragraph down. Mr. Moss stated I would like to make a comment to Ms. Jones I really statement about. That is not what was said. I really appreciate and approve what you said when you said that you are just looking for an answer you are not looking for confrontation. You just want an answer. I just wanted it to be on the record that I appreciated and was supporting her there. If you can make those corrections I am good with it.

Ms. Houston stated okay.

There being no other business the meeting was adjourned.

Adjournment:

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

The Motion carried unanimously.

There being no further business the meeting was adjourned at 6:15 p.m.

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REGULAR MEETING OF ~~APRIL 6, 2006~~ ^{Dec 3, 2009 ph} 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Respectfully submitted by:

Pat Houston
Pat Houston, Recording Secretary

APPROVED: March 4, 2010

Billy W. Mayhand
(ACTING CHAIRMAN)
Billy Mayhand, Vice Chairman

/ph