

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
SPECIAL CALLED MEETING OF MARCH 4, 2010 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

The Chairman stated the number of members present constituted a quorum and the special called 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, Acting Chairman
Jim Moss
Barry Taylor
Frank Lamb

Members Absent:

Billy Mayhand, Vice Chairman
Willie Robison, Chairman

Staff Present:

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

The Acting Chairman stated next item on the agenda is the approval of the December 3rd, 2009 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 December 3, 2009 meeting were considered for approval.

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

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

The Motion carried unanimously.

The minutes of the January 14, 2010 special call meeting were considered for approval.

The Acting Chairman stated that was a special meeting was it not.

Ms. Houston stated yes, sir. It was a special meeting to approve the minutes from the September 3rd, 2009 meeting so that our attorney could file a motion on our behalf with the Baldwin County District Court in the appeal made by Angela Liu.

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Mr. Moss stated those were the minutes from where the lady appealed to operate a clinic out of her home. She challenged our decision with the Circuit Court?

Ms. Houston stated yes, sir.

Mr. Moss stated our attorney has filed a motion to her appeal?

Ms. Houston stated yes, sir.

Mr. Moss stated very good. Do we need to approve those minutes yet?

Ms. Houston stated I do not believe that we will be able to approve them because Mr. Robison is not here. There were only four members present for that meeting and we only needed those four members present at the special call meeting to approve the September 3rd minutes.

Mr. Lamb stated you have three of the four that were there do you have to all four to approve those minutes?

Ms. Houston stated yes, sir. We need all four of those members present to approve those minutes.

Mr. Lamb stated you need all four.

Ms. Houston stated yes, sir.

Mr. Moss stated we have three of the four and we need all four to move forward.

The Acting Chairman stated I am not sure so in that case let us hold those minutes over until the next meeting or should we approve them?

Ms. Houston stated no, sir. The only thing they did in the January 14th meeting was approve the September 3rd minutes. We can hold them over until next month.

The Acting Chairman stated okay, we will hold them over for approval until next month.

New Business:

Appeal #2010-01 Ed Agostinelli

The Acting Chairman stated next is new business on the agenda, Appeal #2010-01, Ed Agostinelli, a variance request to allow a new house being built to encroach the front setback line by ten-feet at 8363 Pine Run in the Timbercreek Subdivision, which is an R-3, High Density Single Family Residential Zone. Ms. Jones, would you like to take us through this.

Ms. Jones stated good evening, it is good to see you all.

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Ms. Jones stated I am glad that you all are doing well. Ms. Jones displayed a Power Point Presentation of Lot 60 in Timbercreek Phase 7, which is located on the south side of Pine Run between Mistletoe Court and Scotch Pine Court.

Mr. Moss stated Ms. Jones do me a favor, please speak a little closer and a little louder into your microphone. My age is catching up with me.

Ms. Jones stated they are requesting a ten-foot encroachment into the front setback. The photo that we have on the overhead is a picture looking directly at the site. You will see that there is a huge piece of construction equipment there. Here is Timbercreek, Phase 7 the arrow points to the particular lot we are discussing tonight. Here is a closer view, and again it is Lot 60 on the south side of Pine Run between Mistletoe Court and Scotch Pine Court. This and many other lots in the immediate area suffer from topo problems, primarily steep slopes. Here is an aerial view and you can see that several of the lots adjoining this are vacant as well or undeveloped. Here is a view of Lot 61, which is next to Lot 60 I am looking at Lot 60 through the woods that are on Lot 61. Here I am stand on Lot 60 looking back towards Lot 61. Here is a view of me standing on the sidewalk in front of Lot 60 and I was hoping to show you the topo issue. As you can see the house is already under construction. They acquired a building permit at the end of 2009. According to the applicant and the application wetlands and natural springs were discovered during the process of clearing and excavation and that is their reason for this application. In this slide I am looking west and again I was hoping that you would be able to see the slope on the property. These are the properties across the street and they both are well developed and notice they both are sitting on a hill.

Mr. Moss stated the slope is pretty severe on the lot they are working on is it not?

Ms. Jones stated it is severe on this lot as well as the other contiguous lots. Yes, it is.

The Acting Chairman stated I see in your notes that all of the adjacent properties are also set back forty feet.

Ms. Jones stated according to the information we have gathered from the applicant who stated that Timbercreek has granted variances of ten-feet along this rode as well. Looking at the site it is easy to see why. They do have a situation where a hardship is created by virtue of the fact that there are slopes on the property and that there are wetlands and springs. Because of that I believe that it would be appropriate to grant approval of this ten-foot setback variance request.

Mr. Moss stated if this is approved what would be the distance from the front of the house to the street?

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Ms. Jones stated my calculation say, and I did try to create a display for you. It may be the fourth or fifth page from the back. Look at the fifth page from the back. Do you have it?

The Acting Chairman stated yes, I do and I see where you have indicated the forty-feet.

Ms. Jones stated what I tried to do was show that if the encroachment was ten-feet, that the house was being shifted, then I tried to super impose that same image on the map by drawing an outline around it and highlighted the area. It is not much. It is just the garage.

Mr. Lamb stated the encroachment is actually the driveway. Is that correct? The carport.

Ms. Jones stated the garage, part of the garage. Yes, sir.

The Acting Chairman stated you are indicating that the setback would be something like forty three-feet instead of forty.

Ms. Jones stated yes.

The Acting Chairman stated the house meets all of the other setback requirements according to the Land Use Ordinance.

Ms. Jones stated yes, sir.

Mr. Moss stated it looks like future neighbors will be making the same request.

Ms. Jones stated absolutely, we have an application for next month.

Mr. Moss stated have we granted any variances in this area before?

Ms. Jones stated Dr. Gupta was the previous application that you granted approval for. I believe it was for ten-feet also.

Mr. Moss stated so we have a precedent for moving forward.

Ms. Jones stated yes, sir we do.

The Acting Chairman stated for the record let me state that apparently there is not a representative present tonight with this request and or no adjacent property owners present in opposition of this appeal.

Mr. Taylor stated I just have one question. I do not know, it is one of those small little nit picky small legal things, but on the third page of the packet it actually says Lot 60, Phase 10, does that matter? Because we are really dealing with Lot 60, Phase 7. I do not want it to come back to haunt us.

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Mr. Hoffman stated that was just a typographical error. The application itself says Lot 60, Phase 7, and that is what matters.

Mr. Taylor stated okay.

Ms. Jones stated the application does have Phase 7, and that would have been my typographical error.

Mr. Taylor stated I was just making sure.

Mr. Moss stated good move out buddy. Point it out. It is a typo and move on, that way we will not end up in Court.

The Acting Chairman stated right.

Mr. Lamb stated that is right. We read this stuff.

Ms. Jones stated thank you. I appreciate you guys reading this stuff.

A Motion was made by Mr. Moss and Seconded by Mr. Lamb to approve Appeal #2010-01, Ed Agostinelli, for a variance to allow the home being built at 8363 Pine Run to encroach the front setback line by ten-feet.

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

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

The Acting Chairman stated the appeal is granted unanimously and it can be picked up, but there is nobody here to talk to.

Mr. Moss stated I imagine Adrienne will hear from them.

The Acting Chairman stated the appeal is granted and that concludes the new business for this meeting if there is nothing additional.

Old Business:

The Acting Chairman stated we will proceed with old business, which would be the election of officers.

Ms. Houston stated Mr. Robison wanted me to place that on the agenda because he is a stickler about it being done every year as stated in the bylaws. So that is why it is there, but I informed him after I had posted the agenda that we did elections in May of last year and that we can carry it over into next months meeting.

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A Motion was made by Mr. Moss and Seconded by Mr. Swaney to table the Election of Officers until next month.

Mr. Lamb stated is Mr. Robison going to continue on as Chairman?

Ms. Houston stated yes, sir he is. He wanted to make sure we did it.

Mr. Lamb stated okay. Mr. Mayhand as well?

Ms. Houston stated yes, sir as far as I know.

The Acting Chairman stated the Election of Officers is tabled until next meeting. Is there any other additional old business? If we could for the record, Adrienne, would you state the status of the Attorney General Opinion letter concerning Timbercreek?

Ms. Jones stated well actually Ms. Pat talked with Mr. Ross today so I will ask her to convey the details of what was said.

Ms. Houston stated when I spoke to Mr. Ross today I asked him had he heard anything concerning the AG's Opinion for Timbercreek and he stated no, but that he had called them to see how it was progressing and he was told that it would not be much longer.

Mr. Lamb stated okay. Thank you.

Mr. Moss stated this is a snide remark, but bingo is taking up a lot of their time.

There being no other business the meeting was adjourned.

Adjournment:

A Motion was made by Mr. Lamb and Seconded by Mr. Moss 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 MARCH 4, 2010 - 6:00 P.M.
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Respectfully submitted by:


Pat Houston, Recording Secretary

APPROVED: April 1, 2010


Glen Swaney, Acting Chairman

/ph