



**MINUTES OF THE REGULAR MEETING OF THE
COMMUNITY DEVELOPMENT BOARD
February 19, 2012**

1. CALL TO ORDER. - 6:00pm

Acting Chair Kirk Hansen verified the presence of a quorum with the attendance of Jason Burgess, Kelly Elmore, Kirk Hansen, Brea Paul and Patrick Stratton. The meeting was called to order at 6:00pm. Also present were NS Mayport Liaison and ex-officio board member Matt Schellhorn, Principal Planner Erika Hall, Building and Zoning Director Michael Griffin, and City Attorney Alan Jensen. City Commissioner Maria Mark was a member of the audience. Ms. Hall reported that member Sylvia Simmons was absent due to a vacation scheduled prior to her appointment to the board, and that member Harley Parkes was absent due to illness.

A. 2013 ELECTION OF OFFICERS

Mr. Hansen nominated Brea Paul as Chair, and Mr. Burgess seconded the nomination. Mr. Elmore nominated Kirk Hansen, and with there being no second and no additional nominations, Mr. Hansen called for a vote. The Board voted unanimously, 5-0, to elect Ms. Paul as Chair of the Community Development Board for calendar year 2013.

B. 2013 SCHEDULE

Ms. Hall provided board members with a copy of the 2013 schedule of meetings, application submittal and public hearing notice deadlines. There was no discussion.

2. ADOPTION OF MEETING MINUTES - SEPTEMBER 18, 2012.

Ms. Paul called for a motion to approve the minutes of the September 18, 2012 regular meeting. Mr. Hansen moved that minutes be approved as written. Mr. Stratton seconded the motion and it carried by a vote of 5-0.

3. OLD BUSINESS. *None.*

4. NEW BUSINESS.

A. ZVAR-13-00100043, 698 BEACH AVENUE (Emly Purcell, owner)

(a) Request for a variance from provisions of Section 24-157(b)(1), reducing the required front setback (east, adjacent to Beach Avenue) from 20.00' to 13.80', to replace an existing chain link fence with a 6'-high shadowbox privacy fence.

(b) Request for a variance from provisions of Section 24-157(c)(1), reducing the required street side setback (north, adjacent to 7th Street from 10.00' to 0.00', to construct a new 6'-high shadowbox privacy fence.

Staff Report

Ms. Hall presented a brief history of the property and an overview of current redevelopment activities, as also detailed in her staff report. She stated that the applicant has requested to construct a six (6) foot high shadowbox privacy fence around the entire property, and she explained that, due to the suggested location of two segments of the proposed fence, the applicant requires variance from two provisions of Section 24-157.

Segment "A" is proposed to be located within the required front yard, approximately 13.80' from the property line. This segment is subject to Section 24-157(b)(1), which states "within required front yards, the maximum height of any fence shall be four (4) feet". Therefore a variance of 6.2' is necessary to install the 6'-high fence in the proposed location.

Ms. Hall noted that the proposed location of Segment "A" was the previous location of a 4'-high chain link fence. That chain link fence, now removed, was considered to be in compliance with both the height and location requirements with Section 24-157 because the Beach Avenue yard was previously considered the street side yard. However, current renovations included re-orientation and re-addressing of the existing non-conforming house which was constructed in 1926, such that it now fronts onto Beach Avenue.

Segment "B" is proposed to be located directly on the northern property line, adjacent to 7th Street. This segment is subject to Section 24-157(c)(1), which states "for corner lots located on rights-of-way that are fifty (50) feet or less in width, no fence, wall or landscaping exceeding four (4) feet in height shall be allowed within ten (10) feet of any lot line which abuts a street". Therefore a variance of 10' is necessary to install the 6'-high fence in the proposed location.

Ms. Hall noted the presence of a substantial topographic depression in the rear yard of the subject property as the primary rationale for this variance request, explaining if the fence were constructed in accordance with Section 24-157(c)(1), it would have an effective height of 5' or less, thus compromising the property owners' privacy in their pool and outdoor living area. She added that the sidewalk located within the southern shoulder of the 7th Street right-of-way is a high-use path to the public beach access at the eastern terminus of the street, just a block away.

Applicant Comment

Todd Bosco, Bosco Building Contractors, spoke on behalf of property owner Emly Purcell. He stated that privacy in the rear yard was the most

pressing concern, and that the depression would serve as on-site retention.

**Public
Comment**

Murray Benz (675 Beach Avenue) said she lived directly across Beach Avenue from the subject property and greatly appreciated the improvements being made. She added that she understood the property owners' concern over privacy due to the inordinate amount of foot traffic along the 7th Street path during season.

**Board
Discussion**

[The Board addressed part (b) of the variance request out of order].

Mr. Hansen expressed concern that approval of this variance would set a precedent, to which Mr. Elmore responded that the nature of the subject property – the shape and topography of the parcel, the age and non-conformity of the structure, the proximity to the street – resulted in a unique set of circumstances unlikely to be matched by future applicants. Because the variances are reviewed on a case-by-case basis, he did not feel this was precedent-setting.

Mr. Stratton said he believed the property satisfied the conditions for a variance, as it met the first condition under grounds for approval (exceptional topographic conditions). Mr. Hansen agreed.

Mr. Elmore noted that the intersection of Ocean Boulevard and 7th Street is a high traffic area, he would encourage landscaping outside the fence to soften the starkness of the proposed 6'-high privacy fence. Mr. Stratton agreed he would like to see plantings to soften impact of the fence, but Ms. Paul reminded that if the fence were located directly on the property line, any landscaping would occur within the public right-of-way. She cautioned that such landscaping could easily interfere with passage along the sidewalk in the adjacent right-of-way.

Board members discussed possible approval of a lesser variance - nine (9) feet instead of the requested ten (10) feet – noting offset could be used to accommodate landscaping. Mr. Elmore asked if that would be amenable to the property owner. Ms. Purcell approached the podium and explained to the Board that she had spent over two million dollars improving the property, and it should be evident that the fence would be nicely done.

Mr. Burgess asked Ms. Purcell if a reduced variance of nine (9) feet would be amenable, to which she replied she would prefer ten (10) feet, but it was entirely the Board's decision.

Mr. Stratton then inquired as to the steepness of the slope and how close it was to the property line. Ms. Hall responded that the depression was at least one (1) foot and possibly more, and that there was a rapid drop-off to the south of the property line. Mr. Bosco reiterated the existing topographic depression was to be utilized to meet storm water

detention/retention facility requirements, and therefore could not be filled.

Motion

Mr. Hansen moved that the Community Development Board approve ZVAR-13-00100043(b), request for a variance from Section 24-157(c)(1), reducing the required street side setback (north, adjacent to 7th Street) from 10.00' to 0.00', to construct a new 6'-high shadowbox privacy fence, finding that the subject property, which is a corner lot surrounded by streets on three sides, is impacted by a topographic variation that lessens the property owners' ability to screen and maintain privacy in accordance with Section 24-157 within the rear and side yards adjacent to 7th Street. Mr. Stratton seconded the motion and it passed unanimously, 5-0.

Board Discussion

[The Board next addressed part (a) of the variance request.]

Mr. Elmore stated that in contrast to the unique circumstances that supported approval of a variance for Segment "B", he saw nothing that differentiated this front yard from others in the vicinity. While the existing house has special conditions due to age and proximity to the street, those same conditions are evident all along Beach Avenue. He then asked if there was some special need to construct a 6'-high fence in that location.

Mr. Bosco responded that the main concern was to address the privacy of the rear yard, where the pool and outdoor living area are located. However, at this time, no real plans had been developed for this interior side yard.

Motion

Mr. Burgess moved that the Community Development Board deny ZVAR-13-00100043(a), request for a variance from Section 24-157(b)(1), reducing the required front setback (east, adjacent to Beach Avenue) from 20.00' to 13.80', to replace an existing chain link fence with a 6'-high shadowbox privacy fence, finding that the subject property did not meet any of the specific grounds for approval of a variance as provided in Section 24-64(d). Mr. Hansen seconded the motion and it carried unanimously, 5-0.

B. REV-2013-01

Review of Chapter 17 provisions regarding flags

Staff Report

Mr. Griffin presented the City Commission's request that the Community Development Board review Chapter 17 provisions and make a recommendation as to the regulation of flags. He explained it has been staff's interpretation that only US flags are permitted in accordance with Chapter 17 regulations. He then summarized provisions regarding flags from several neighboring and nearby jurisdictions, including the City of Neptune Beach, City of Jacksonville Beach, City of Jacksonville and St

Johns County.

**Board
Discussion**

Mr. Stratton asked what was driving the request, to which Mr. Griffin responded that there had been a code enforcement action against a commercial establishment for flying a non-US flag. Mr. Stratton replied that he felt anyone should be able to fly a national flag.

Mr. Elmore agreed, so long as the flag was flown on private property in residential areas; however, in non-residential areas, such a flag could be perceived as advertising.

Mr. Stratton repeated and asked for confirmation, that according to current interpretation, the commercial establishment owner would have been allowed to fly an American flag and would not have been cited, but because he flew a non-American national flag, he was cited for advertising. Mr. Stratton then asked what if the intention of the flag was merely patriotism to country of origin.

Mr. Burgess stated that he was strongly in favor of anyone being able to fly a national flag other than a US flag, and Mr. Stratton concurred. Mr. Hansen noted that national flags are often integral to the recognition of an establishment or product.

Mr. Burgess stated he thought business owners should be allowed to have at least one additional flag – in addition to a US flag. Ms. Paul agreed, but said she would like a maximum size defined. Further discussion regarding the appropriate number and size of flags to be permitted ensued.

Motion

Mr. Elmore moved that the Community Development Board recommend to the City Commission revision of Chapter 17 provisions regarding flags, to permit one (1) flag in addition to the already permitted US flag, with a maximum size of twenty-four (24) square feet. Mr. Burgess seconded the motion and it carried unanimously, 5-0.

[The Board took a two-minute break from 7:12pm to 7:14pm, at the request of Mr. Stratton.]

C. REV-2013-02

Review of use-by-exception for used car lots in Commercial General zoning districts, particularly within the Mayport Corridor

**Staff
Report**

Mr. Griffin reminded the Board that last spring the City Commission had placed a moratorium on used car lots in the Commercial General (CG) zoning district in order to give staff time to evaluate the permitted uses, uses-by-exception and application review procedures, in order to make recommendations as to improvements. That moratorium is due to expire on March 12, 2013.

Mr. Griffin reported that staff has been working to improve administrative procedures to ensure better compliance with zoning regulations as well as specific conditions placed upon granted uses-by-exception. He explained that all such uses shall be monitored to ensure continued compliance with all requirements related to ingress/egress, off-street parking, refuse service areas, screening and buffering, as well as adverse impacts to and compatibility with adjacent properties. Additionally, those properties located within the areas delineated as the commercial corridor must also comply with the commercial corridor development standards.

Mr. Griffin asked the Board to make a recommendation to the City Commission as to whether or not they felt these measures would sufficiently address the issue of used car lots and other automotive-related uses within the Commercial General zone along Mayport Road.

**Board
Discussion**

Mr. Elmore stated that he believes the use-by-exception process provides a means to ensure compliance with existing zoning and land development regulations, and allows additional conditions to be placed on the approval, as needed. He emphasized that he believes the Board should recommend complete compliance within 90-120 days of final approval by the City Commission.

Mr. Griffin responded that failure to comply within the specified time would not result in code enforcement action, but a return to the City Commission, which could then act to amend or revoke an approved use-by-exception.

Motion

Mr. Hansen moved that the Community Development Board recommend to the City Commission no revisions be made to the current list of permitted uses or uses-by-exception at this time, but that staff be allowed to implement improved administrative procedures which utilize more thorough site plan review and compliance monitoring. Mr. Elmore seconded the motion and it carried unanimously, 5-0.

D. REV-2013-03

Review of proposed revisions to City Code Chapter 8 Floodplain Management Ordinance as required by the State of Florida for adoption as part of the 2010 Florida Building Code.

**Staff
Report**

Mr. Griffin explained that floodplain management regulations consistent with the National Flood Insurance Program (NFIP) are considered either technical or administrative. The technical provisions were incorporated into the 2010 Florida Building Code (FBC) which was adopted on March 15, 2012, while the administrative provisions must be adopted by local governments and incorporated into municipal codes. The Federal Emergency Management Agency (FEMA) has established June 3, 2013 as the date by which Atlantic Beach must adopt said administrative provisions. That is also the date on which the new flood maps will be

adopted.

Mr. Griffin said the proposed ordinance is a boilerplate which has been reviewed and approved by the State of Florida Division of Emergency Management. Further, he has reviewed the draft and modified it for consistency with the Atlantic Beach municipal code. He asked the Board to review the draft and make a recommendation to the City Commission to adopt.

***Board
Discussion***

Mr. Elmore asked if the ordinance in any way limited local government's authority. Mr. Griffin replied that it did not. He explained that floodplain management is a federal program in terms of oversight; however, states have the authority to designate administrative duties.

Motion

Mr. Elmore moved that the Community Development Board recommend adoption of the proposed revisions to City Code Chapter 8 Floodplain Management Ordinance as required by the State of Florida, finding that the provisions are consistent with the goals, objectives and policies of the 2020 Comprehensive Plan, as adopted; the purpose and intent of Chapter 24, Land Development Regulations, of the Atlantic Beach Municipal Code, as adopted; and the 2010 Florida Building Code, as adopted. Mr. Burgess seconded the motion and it carried unanimously, 5-0.

5. **REPORTS.** *None.*

6. **ADJOURNMENT - 7:25 PM**

Brea Paul, Chair

Attest