



Martin County

Administrative Center
2401 SE Monterey Road
Stuart, FL 34996

Meeting Minutes Board of Zoning Adjustment

Travis Waddell, District 1
Cabell McVeigh, District 2
Michael Dooley, Vice-Chair, District 3
John Honan, District 4
Joseph P. Connelly, District 5
Mac Ross, Chair, Countywide
Rodney Sturm, Countywide

Thursday, February 22, 2024

7:00 PM

Commission Chambers

CALL TO ORDER

Mr. Ross, Chair, called the meeting to order at 7:01 pm. A quorum was present.

ROLL CALL

Present: Michael Dooley, Vice-Chair
John Honan
Joseph Connelly
Mac Ross, Chair
Rodney Sturm

Not present: Travis Waddell
Cabell McVeigh

Staff Present:

Deputy County Attorney.....Elysse Elder
Growth Management Director.....Paul Schilling
Senior Planner.....Barbara Counsellor
Growth Management Development Review Administrator Elizabeth Nagal
Agency Recorder/Notary.....Rebecca Dima

MINU APPROVAL OF MINUTES

MINU-1 July 27, 2023

The Board is being asked to approve the minutes from the May 25, 2023, meeting.

Agenda Item: 24-0632

MOTION: Mr. Sturm motioned to approve the minutes of the Board of Zoning Adjustment Meeting of July 27, 2023. **SECONDED** by Mr. Ross. The motion **CARRIED** 5-0 with Mr. Waddell and Mr. McVeigh absent.

QJP-Q QUASI-JUDICIAL PROCEDURES

Quasi-Judicial procedures apply when a request involves the application of a policy to a specific application and site. It is a quasi-judicial decision. Quasi-Judicial proceedings must be conducted with more formality than a legislative proceeding. In Quasi-Judicial proceedings, parties are entitled – as a matter of due process to cross-examine witnesses, present evidence, demand that the witnesses testify under oath, and demand a decision that is based on a correct application of the law and competent substantial evidence in the record.

Agenda Item: 24-0631

NEW NEW BUSINESS

NPH-1 KILEY FAMILY TRUST VARIANCE REQUEST (QUASI-JUDICIAL)

Request for a variance by Michael K. and Pamela J. Kiley, Trustees of the Kiley Family Trust to reduce the west side setback requirements of Article 3, Zoning Districts, Land Development Regulations (LDR), Martin County Code, for the HR-1, Single Family Residential District to permit the construction of a single-story addition and to permit existing encroachments into the front and east side yard setbacks by the single-family dwelling on the subject property located at 8615 SE Mangrove Street, Hobe Sound, Florida.

Presented by: Barbara Counsellor, Senior Planner

Requested by: Tonya VanDenHeuvel, Esq., Russell Kerr PA

Agenda Item: 24-0633

***For the Record:**

BOZA: Ex-parte communication disclosures: None. Intervener(s) present: None.
All persons wishing to speak on Quasi-Judicial agenda item(s) were sworn in.

STAFF: Ms. Counsellor provided NPH-1, a copy of agenda item, staff report, and a copy of her work history.

BOZA: Mr. Sturm asked if there was any Public Comment.

STAFF: Ms. Counsellor stated she had received two calls asking what was being done and she explained that the Property Owners were asking to be able to build an addition for a

handicap bathroom and bedroom and she had no further inquiries.

BOZA: Mr. Ross asked if we knew who had asked those questions.

STAFF: Ms. Counsellor stated they were neighbors located on Sable Street, the next street North (8520 & 8500 Sable St.) and both had variances themselves previously.

BOZA: Mr. Sturm stated he thought that some of small variances could be handled administratively by staff, he asked if he was correct about that.

STAFF: Mr. Schilling stated there is if it is a variance request that is under a foot only.

APPLICANT: Ms. VanDenHeuvel provided presentation, the Affidavit of Mailing, and advertising check payment.

BOZA: Mr. Dooley asked if there was an HOA in relation to this property.

APPLICANT: Mr. Michael Kiley, property owner, was sworn in and explained that there was a voluntary HOA, however it was disbanded recently due to lack of participation.

BOZA: Mr. Ross asked about trees affected by this addition.

APPLICANT: Mr. Kiley stated they are keeping an Avocado tree located on the west side.

PUBLIC: The following people spoke regarding this item: None.

MOTION: Mr. Dooley motioned that the Applicants request be approved. **SECONDED** by Mr. Sturm. The motion **CARRIED** 4-1 with Mr. Connelly Opposed and Mr. Waddell and Mr. McVeigh absent.

**NPH-2 MELINDA KELLY MILLER LIVING TRUST VARIANCE REQUEST
(QUASI-JUDICIAL)**

Request for a variance by Melinda Kelly Miller, Trustee of the Melinda Kelly Miller Living Trust to reduce the side yard setback requirements of Article 3, Zoning Districts, Land Development Regulations, Martin County Code for the HB-1AA, Hotel Motel District to permit the construction of a single-family residential dwelling and appropriate accessory structures on the subject property located at 1085 NE Doubloon Drive.

Presented by: Barbara Counsellor, Senior Planner

Requested by: Patricia Lentini, 2GHO, Inc.

Agenda Item: 24-0633

***For the Record:**

BOZA: Ex-parte communication disclosures: None. Intervener(s) present: None.
All persons wishing to speak on Quasi-Judicial agenda item(s) were sworn in.

STAFF: Ms. Counsellor provided NPH-2, a copy of agenda item, staff report, and a copy of her work history.

BOZA: Mr. Sturm asked for clarification regarding lots 11 & 12 mentioned as coming in for future variance requests.

STAFF: Ms. Counsellor explained that due to the current zoning district in this area future property owners will require variances requests.

STAFF: Mr. Schilling explained that due to the old zoning codes it will require each property owner to come in individually to request the variances needed.

BOZA: Mr. Sturm asked if it wouldn't be more logical and fairer to do an overall zoning for this subdivision rather than having each lot done individually.

STAFF: Mr. Schilling explained the nuances involved in this and stated that it could actually impact this neighborhood negatively regarding setbacks in the future.

BOZA: Mr. Connelly asked what the side setbacks would be for a 3-story home if not in this hotel/motel zoning and in a typical residential zoning district.

STAFF: Ms. Counsellor stated it would be about 15 feet.

STAFF: Ms. Elder asked to have Mr. Schilling sworn in.

Mr. Paul Schilling was sworn in, and certified that everything previously stated by him was the truth, the whole truth and nothing but the truth.

STAFF: Ms. Counsellor clarified that Single Family structures at 3 stories in a category B would average 15 feet for this size lot and home. The Applicant is asking for 20 feet.

BOZA: Mr. Connelly asked if this type of lot requires the first floor be used as non-living space, and therefore requires the structure to go up for living space.

STAFF: Mr. Schilling confirmed this.

BOZA: Mr. Sturm stated he understands that but has a problem bypassing what he sees as the proper way to do this but understands it is the way it must be done due to the unique zoning regulations here.

BOZA: Mr. Connelly asked how many other lots remained in this subdivision that may have these variance requests brought before the Board.

STAFF: Mr. Schilling stated it is hard to know for certain as not all the properties are purchased at this time so it is unpredictable as to how many would need the variances once purchased and construction plans are made.

BOZA: Mr. Sturm stated that looking at the map it appears about 9 or 10 could still make the same case.

BOZA: Mr. Connelly reiterated that the first floors would require the living areas to have to be on the second levels due to FEMA flood requirements.

STAFF: Ms. Counsellor stated that with the current code definition for “Story” having finished floor and ceiling this will continue to come up in this subdivision. This home will be 3 stories with the first floor as non-livable area like a garage.

STAFF: Mr. Schilling suggested reviewing the lot surveys to see the footprints allowable due to the restraints on these lot.

BOZA: Mr. Ross asked to clarify that other lots had already received similar variances here.

STAFF: Ms. Counsellor confirmed that.

BOZA: Mr. Connelly asked if the other 2 homes did not go up to 3 stories.

STAFF: Ms. Counsellor explained that at the time of those homes being constructed the definition for Ocean view for the bottom level was different and was not considered a story.

BOZA: Mr. Connelly asked if we knew how close those other homes were to their neighbor’s property lines.

STAFF: Ms. Counsellor stated they were all 20 feet at those times.

BOZA: Mr. Connelly clarified that basically the applicant is doing the same thing now within current codes.

APPLICANT: Ms. Lentini provided presentation, the Affidavit of Mailing, and advertising check payment.

BOZA: Mr. Sturm asked how long the Applicant has owned the property.

APPLICANT: Ms. Lentini stated 2 years.

BOZA: Mr. Sturm asked if the Property Owner was aware that this variance would be required when they purchased the lot.

APPLICANT: Mr. Dan Siemsen with 2GHO stated that many of the other properties were built at the 20' and therefore the Applicant did not become aware of the current conditions until they began planning the home. He also noted that they have received calls from some neighbors asking about the reason for this variance and he explained the situation currently to them.

PUBLIC: The following people spoke regarding this item: None.

BOZA: Mr. Sturm understands the need but is uncomfortable going thru these one-by-one giving variances when it seems the right answer would be to change the zoning.

BOZA: Mr. Dooley asked what the process would be to change the zoning. Would every homeowner of Galleon Bay have to come forward and would they need 100% of votes or is it an 80% threshold.

STAFF: Mr. schilling explained that there could be a variety of scenarios. One would be the individual property owners come in another would be multiple lot owners apply together, but he has not seen that happen before due to differing opinions. Generally, this is treated on an individual basis, and he believes that the HOA would need to be involved due to their responsibility for the roads etc. if this were to be done overall and would still have each lot looked at individually.

BOZA: Mr. Dooley states that it looks like there may be about 6 or 7 more lots that could need to go through this process.

BOZA: Mr. Ross clarifies that what is before the board today is not what is the most efficient process it is a lot-by-lot basis and therefore today we are looking at this lot and this lot only.

BOZA: Mr. Connelly asked if the variances in the past were given by this board and why are we giving a variance to the property if this is what the zoning is for this property.

BOZA: Mr. Honan explained that due to County changes regarding stories definition and setbacks this is unique to this property and subdivision.

BOZA: Mr. Dooley said he can't imagine anyone would be coming in to build a hotel/motel now on this property as its future land use is now likely residential, therefore there are all kinds of things going on with this and is no fault of the owner.

STAFF: Mr. Schilling stated that when this land was platted originally in 1985 the zoning at the time was appropriate for the land use, the developer chose not to re-zone.

BOZA: Mr. Strum asked if a hotel/motel is no longer possible on this land.

BOZA: Mr. Dooley said he will defer to staff; however, he believes that if future land use calls for it to be a residential component now then it would have to be changed again for the future land use.

STAFF: Ms. Elder confirmed the future and use is currently residential.

MOTION: Mr. Honan motioned that the Applicants request be approved. **SECONDED** by Mr. Dooley. The motion **CARRIED 5-0** with Mr. Waddell and Mr. McVeigh absent.

BOZA: Mr. Sturm stated that for the record he feels this is an abuse of the definition of the Board of Zoning Adjustment.

DEPT DEPARTMENTAL
DEPT-1 ANNUAL ELECTION OF NEW OFFICERS

The Board is asked to elect a new Chairman and new Vice Chairman at the first meeting of each calendar year.

Requested by: Elysse Elder, Deputy County Attorney

Presented by: Elysse Elder, Deputy County Attorney

Agenda Item: 23-0831

MOTION: Mr. Honan makes a motion to keep the Board the same with Mr. Ross as Chair and Mr. Dooley as Vice-Chair. Mr. Connelly Seconded. The motion **CARRIED 5-0** with Mr. Waddell and Mr. McVeigh absent.

COMMENTS

1. PUBLIC – None.
2. MEMBERS – None.
3. STAFF – Mr. Schilling thanked the Board Members for their work and dedication to the BOZA.

ADJOURN:

The Board of Zoning Adjustment meeting of February 22, 2024, adjourned at 7:49 pm.

Respectfully Submitted:

Approved by:

Rebecca Dima, Martin County,
Growth management Department
Agency Recorder/Notary

Mac Ross, Chair

Date Signed

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