



**MARTIN COUNTY
BOARD OF ZONING ADJUSTMENT
MINUTES
September 26, 2019
Commission Chambers
2401 SE Monterey Road, Stuart, FL 34996**

Cabell McVeigh, Chairman
Travis Waddell, Vice Chairman
Michael Dooley
John Honan
Scott Rodriguez
Rodney Sturm
Mac Ross

CALL TO ORDER

BOZA Members Present: 5

Vice Chairman, Travis Waddell, Michael Dooley, John Honan, Rodney Sturm and Mac Ross were present. Absent: Chairman Cabell McVeigh and Scott Rodriguez.

Present:

Senior Assistant County Attorney Krista Storey
Deputy Director, Development Review..... Paul Schilling
Principal Planner Peter Walden
Agency Recorder/Notary Mary Holleran

**MIN – 1 BOARD APPROVAL OF MINUTES – July 25, 2019
Agenda Item: 19-1013**

A MOTION was made by Mr. Honan, SECONDED by Mr. Dooley to approve the minutes of the Board of Zoning Adjustment Meeting of July 25, 2019. The motion CARRIED Unanimously.

**QJP – 2 QUASI JUDICIAL PROCEDURES
Agenda Item: 19-1015**

All persons wishing to speak on a Quasi Judicial agenda item are sworn in.

PRESENTATIONS - None

OLD BUSINESS – None

DEPARTMENTAL – Ms. Storey advised that the Agenda would be re-arranged and the Board would hear Agenda Item 19-1025 – Nancy A. Lewandowski and Gerald Bashant, Jr. Request for

a Variance, before Hometown Holding Trust. An Intervener for Hometown Holding Trust was given extra time to appear. Ms. Storey explained the role of the Board of Zoning Adjustment and the procedure the meeting would follow.

NEW BUSINESS

NB – 3 NANCY A. LEWANDOWSKI AND GERALD BASHANT, JR. REQUEST FOR A VARIANCE

Agenda Item: 19-1025

Request for a variance by Nancy A. Lewandowski and Gerald W. Bashant, Jr., to reduce the centerline setback requirements of Article 3, Zoning Districts, Land Development Regulations, Martin County Code, for the R-3, Multiple Family Residential District and the centerline setback requirements of Section 3.16.C.1.b., to permit the construction of an addition to the existing residence. The subject site is located at 2291 NE Park Street, Jensen Beach, Florida.

Presented by: Peter Walden, Principal Planner, Growth Management Department.
Agent for the Applicant: N/A

*** For the Record:**

BOARD MEMBERS: There were no ex parte communication disclosures. No interveners were present.

APPLICANT: Required notices and a complete list of surrounding homeowners that were notified was provided.

COUNTY: Principal Planner Peter Walden reviewed the Executive Summary and displayed a Location Map and the Proposed Variance Site. The requested variance is for an existing lot of record established in 1945 as part of the Jensen Beach Home Sites Plat, with the original Right-of-Way (ROW) platted at 30 ft. wide. The subject property has a zoning designation of R-3, Multiple-Family Residential District, with a 6 ft. rear setback and a 6 ft. side setback. The applicant is requesting to reduce the NE Park Street centerline setback to permit the construction of the proposed 292 sq. ft. residential addition. Also requested is a variance for the property line zoning setback criteria of the R-3 Multiple-Family Residential Zoning District for an existing 2.2 ft. encroachment into the side yard.

Criteria for the granting of the variance was in compliance and provided. The applicant's request for the variance to reduce the NE Park Street centerline requirement from 50 ft. to 35.55 ft, to permit the construction of the proposed 292 sq. ft. residential addition, and a variance for the property line zoning setback criteria of the R-3 Zoning District for an existing 2.2. ft. encroachment into the side yard received staff's approval. The centerline setback is referenced in both the R-3 zoning district criteria and Section 3.16.B.,LDR.

The Board was advised the application for a setback variance is in order and qualifies for an action of approval for a centerline setback variance of 14.45 ft. to reduce the NE Park Street centerline setback requirement from 50 ft. to 35.55 ft. to permit the construction of the proposed residential addition and to reduce the side yard setback requirement of 6 ft. to 2.2 ft. for the existing encroachment of the residence. If the Board concurs and approval is granted, authorization is

requested for the Chairman to sign the variance resolution which has been prepared with an attached survey that provides an illustration of the proposed improvements and reduced setbacks.

Mr. Walden displayed site information about the community, which has many different dwelling units developed over the years, that overlook the centerline setback.

BOARD: Mr. Sturm clarified the location of the construction to the existing structure.

APPLICANT: Marcela Cambor, Cambor Associates, Inc., representing the applicant, indicated the addition to the property was because of the narrow road. She concurred with staff's presentation. She introduced the property owner, MR. GERALD BASHANT.

Mr. Bashant explained the working plans and re-development efforts as the cottage needed many repairs over the years. He provided background on the new addition to be constructed. He provided a letter received from the neighbors who were in support of the variance request.

MEMBERS: Mr. Sturm addressed the drain field. Mr. Bashant explained the location in the back of the property. Mr. Honan was supportive of the cottage being saved.

PUBLIC: None

MOTION:

A MOTION was made by Mr. Dooley to move the applicant's request for a setback variance of 15 ft. from 50 ft. to 35 ft. (**amended from 35.55 ft.**) be granted, as well as the existing 2.2 ft. of encroachment which needs 3.8 ft. for the 6 ft. side yard to be granted as well. The property is unique and meets special conditions and interpretations are there that are not the result of the applicant, granting of the variance will not confer any special privileges denied to others, and the granting of the variance will not create a negative impact to the health, safety and welfare of the neighborhood. The variance appears to be the minimum required for the proposed 292 sq. ft. addition. SECONDED by Mr. Honan; The Resolution shows the proposed addition and the existing current setbacks which will be forwarded to the Board of County Commissioners.

The MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS - OB

OB -4 HOMETOWN HOLDING TRUST REQUEST FOR VARIANCE

Request for a variance by Hometown Holding Trust to reduce the centerline setback requirements of Article 3, Zoning Districts, Land Development Regulations, Martin County Code, specifically the centerline setback requirements of Section 3.16.C.1.b., to permit the construction of an accessory storage structure. The subject site is located on the west side of SE MacArthur Boulevard, immediately west of the existing residence located at 997 SE MacArthur Boulevard, Stuart, Florida.

Presented by: Peter Walden, Principal Planner, Growth Management Department
Agent for the Applicant: Tyson J. Waters, Esq.

Agenda Item: 19-1024

*** For the Record:**

BOARD: Ex parte Communication Disclosures: Mr. Honan drove by the property, stopped and knocked on the door and no one was home. There were no other ex parte communication disclosures. No interveners were present.

COUNTY: Participants were sworn in by the Notary/Recorder.

APPLICANT: Required notices and Return Receipts for surrounding homeowners were provided. A letter in support of the request was provided as Exhibit #1. Mr. Waters provided information from the caretaker of the property concerning no objection to the request and that the interveners would not show up to intervene.

Ms. Storey clarified that certain criteria must be met to qualify as an intervener.

COUNTY: Mr. Walden indicated the Board saw this case before concerning construction of an accessory storage structure on MacArthur Blvd., however this is a different application. A Location Map and an aerial of the property and the proposed variance was displayed. The subject property's zoning designation of HR-1A has a 25 ft. rear setback, is adjacent to the Indian River Lagoon, with a 25 ft. shoreline protection zone or SPZ. The variance request does not affect the zoning setback criteria of the HR-1A Zoning District. The application is only to reduce the SE MacArthur Blvd. centerline setback requirement from 65 ft. to 50.13 ft. for a variance of 14.87 ft. to permit the construction of the proposed 184 sq. ft. private storage structure on the west side of SE MacArthur Boulevard. (Staff report, pg. 5/6).

Mr. Walden provided criteria for the granting of the variance, including special conditions exist, the properties were established out there in the 1950's. Literal interpretation of the provisions of Article 3 would deprive the applicant the rights commonly enjoyed by other properties in the same zoning district. Special conditions and circumstances for this request are not the result of the applications action, the road was divided long before the applicant took possession of the property. The granting of the variance requested will not confer on the applicant a special privilege that is denied to others, there have been several applications for centerline relief on MacArthur Blvd. There is no negative impact to the health, safety and welfare of the neighborhood of the community. The variance requested is the minimum variance required to permit the proposed 184 sq. ft. accessory storage structure.

The Board was advised the application for a setback variance is in order and qualifies for an action of approval for centerline setback variance of 14.87 ft. to reduce the SE MacArthur Blvd. centerline setback retirement from 65 ft. to 50.13 ft. to permit the construction of the accessory storage structure. If the Board concurs and approval is granted authorization is requested for the Chairman to sign the variance resolution which has been prepared for this this item with an attach survey that provides an illustration of the proposed improvements and reduced setback.

BOARD: Mr. Sturm asked to review the Site Plan to review the curb location. Mr. Walden explained the curb and driveway location.

APPLICANT: Tyson Waters, Esq., Fox McCluskey Bush Robinson, PLLC, representing the applicant, provided letters of No Objection. Mr. Waters reviewed the denial of the previous variance request and the applicant's current request to reduce the size of the centerline setback to meet the standard setback requirements. There are no expectations for expansion to MacArthur Blvd. Mr. Waters expressed the concern of the applicant to the sensitivity of MacArthur Blvd., the accessory structure will provide a safety benefit, there will be no additional car traffic, crossing over MacArthur Blvd. to get to the boat. This is a safety issue. There is no visibility issue. They meet their wetland waiver. Landscaping and vegetation that will remain was provided.

ARCHITECT: Mr. Joseph McCarty, Architect representing the applicant, explained the height, elevation, roof line and the pitch, the slab on pilings, floor to ceiling height, and the safety benefit of the accessory structure to be used for storing boat equipment. He indicated they reduced the footprint to comply with the setback requirements and discussed the changes they made.

BOARD: Mr. Dooley asked for explanations of the elevation, the pilings, and the roof issue. He recalled at the last meeting the biggest issue was visual. He raised the issue of providing replacement landscaping in perpetuity.

THE APPLICANT: Fred Ziegler, property owner, expressed his desire to reduce the footprint and comply with the County's requirements, reduce the visibility of the structure and to not disturb the view of the River for the neighbors. He commented on meeting all of the criteria and asked the Board for their consideration of approval. Mr. Waters reiterated the criteria for granting a variance which is in compliance.

BOARD: The Board commented on the development on MacArthur Blvd., this is a unique request and others will want to build and set a precedent. It isn't enough to grant variances on one side of MacArthur Boulevard, they now ask for a variance as well on the other side. The wave breakaway which is determined by the materials of the structure, and a visual landscaping barricade to reduce the visibility of the structure was discussed, along with the efforts of the applicant to minimize the visuals that were discussed at the last meeting, vegetation, and criteria for landscaping replacements in perpetuity.

COUNTY: Mr. Schilling advised the enforcement of landscaping criteria tracts are problematic for enforcement and compliance in perpetuity.

PUBLIC: There were no public comments.

BOARD: Mr. Sturm was opposed previously, he now supports the request as all the setback requirements have been met except for the centerline setback. Mr. Ross supported the request for the unreasonable centerline setback, the applicant made every change they could make on the criteria. Mr. Dooley supported the request to minimize the impact. Mr. Waddell supported the request for the centerline setback. Mr. Honan went along with the will of the Board.

MOTION: A MOTION was made by Mr. Sturm to approve the application for a setback variance for centerline setback variance of 14.87 ft. to reduce the SE MacArthur Blvd. centerline setback

retirement from 65 ft. to 50.13 ft. to permit the construction of the accessory storage structure. Mr. Sturm noted criteria for the granting of the variance was in compliance including special conditions exist, the properties were established out there in the 1950's. Literal interpretation of the provisions of Article 3 would deprive the applicant the rights commonly enjoyed by other properties in the same zoning district. Special conditions and circumstances for this request are not the result of the applications action, the road was divided long before the applicant took possession of the property. The granting of the variance requested will not confer on the applicant a special privilege that is denied to others, there have been several applications for centerline relief on MacArthur Blvd. There is no negative impact to the health, safety and welfare of the neighborhood of the community. The variance requested is the minimum variance required to permit the proposed 184 sq. ft. accessory storage structure. SECONDED by Mr. Ross. The motion CARRIED Unanimously.

COMMENTS

1. **PUBLIC** – None.
2. **BOARD**: - None
3. **STAFF**: The next Board of Zoning Adjustment meeting is scheduled for Thursday, October 24, 2019, at 7:00 pm.

ADJOURN

The Board of Zoning Adjustment meeting of September 26, 2019 adjourned at 8:50 pm.

Respectfully Submitted:

Approved by:

Mary F. Holleran, Agency Recorder
Notary Public

Travis Waddell, Vice Chairman

Date Signed:

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