

**BOARD OF ZONING APPEALS  
MEETING  
MAY 25, 2010**

**MEMBERS PRESENT:** Lynne Matthews, Chairman  
Henry Bauman, Richard Kilmer,  
James McClary, Ray Rose, Robert Sween

**MEMBERS ABSENT:** David Baird

**OTHERS PRESENT:** Teri Tubbs, Zoning Official  
Lisa Hannon, Zoning Coordinator  
Paul Schaefer, Charlie Council, Bill Hughes,  
Charles Zajicek, James Townsend, Jeff Ziemer,  
Max Reese, Larry Cover, Ann Teichmiller, Maryann Hughes,  
George Guttschalk, Kay Mooney

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting - June 22, 2010

**APPROVAL OF MINUTES**

- A. Meeting of March 23, 2010
  - Mr. Kilmer MOVED, Mr. Bauman SECONDED approval of the March 23, 2010 minutes.  
MOTION CARRIED UNANIMOUSLY.

**PUBLIC HEARINGS**

- Recording Secretary Kelly swore in all participants.
- A. V-04-10 - Pursuant to the City of Punta Gorda Code of Ordinances, Chapter 26, Article 16, Section 16.8, this is a request for a variance to allow 3 driveways to enter a single street from a single parcel instead of 2 driveways as permitted by the City of Punta Gorda Code of Ordinances, Chapter 26, Article 10, Section 10.3(h)(10), to provide ingress/egress access to a proposed garage to be constructed on the parcel.  
LEGAL: Block 260, Lot 25, Punta Gorda Isles Section 15 of the Public Records of Charlotte County, Florida, a/k/a 3541 Tripoli Boulevard, Punta Gorda, Florida.
- Ms. Teri Tubbs, Zoning Official, displayed an overhead of the subject location, as delineated in the agenda material, stating the subject property was a combination of two lots with an existing single family structure on Lot 26. She explained the proposed garage addition would be located on Lot 25 and would be connected to the single family residence via an enclosed hallway, displaying elevations depicting same. She clarified due to the location of an existing utility hub containing Lift Station #73, a Florida Power & Light (FPL) power pole, hand hole and guy wires along with Century

Link's station box, the only ingress/egress path for the proposed garage addition was to have a third driveway. She noted the proposed driveway would not exceed 16 feet as permitted through the property line and right-of-way (ROW), adding the total impervious area of the property would not exceed the permitted maximum of 60%. She advised an attached garage was admitted by right in the single family and Special Residential Overlay (SRO) districts. She commented on a written statement of opposition, as delineated in the agenda material, noting same referenced the Burnt Store Isles (BSI) deed restrictions; however, she explained no public agency could enforce deed restrictions. She then displayed two photographs of structures, provided by the applicant's representative, at 200 Madrid Boulevard and 442 Macedonia Drive. She concluded with a recommendation for approval of V-04-10.

- Mr. McClary clarified V-04-10 was specific to the proposed driveway in front of the new addition.
- Ms. Tubbs responded that was correct, stating City Code had no limitation on garage size.
- Ms. Matthews asked if residential living space was planned for the proposed addition.
- Ms. Tubbs replied affirmatively, specifically a small guest suite with no kitchen.
- Mr. McClary asked if the applicant approached FP&L with a request to relocate their guy wires, acknowledging the lift station could not be moved.
- Mr. Kilmer asked if the two lots were purchased simultaneously.
- Mr. Paul Schaefer, applicant's representative, agreed the guy wires contributed to the access problems; however, the telephone box and water meters were prohibitive.
- Mr. Kilmer commented the sketch provided in the agenda material indicated a room in the rear, questioning the purpose of same.
- Mr. Schaefer replied it was intended to be used as a guest room. He advised the two lots were not purchased at the same time, adding the adjacent lot was only recently placed on the market.
- Mr. Kilmer clarified the adjacent lot was purchased for the purpose of constructing the garage. He asked if any consideration had been given to either City Code or deed restrictions prior to that purchase.
- Mr. Schaefer replied affirmatively, stating he met with Mr. Randy Cole, Building Official, and Mr. Richard Abel, Plans Examiner, as well as Ms. Tubbs and Ms. Lisa Hannon, Zoning Coordinator. He expressed his belief the above described connection between the two structures would allow the homeowner to proceed as desired.
- Mr. Charlie Council, Burnt Store Isles (BSI) Civic Association (CA) Board President, commented a number of issues associated with this property were specific to BSI's

deed restrictions and thus appropriate for consideration by the BSI CA Board. He noted the applicant had submitted the necessary documents to the BSI CA Board for their consideration.

- Mr. Bill Hughes spoke in opposition to this variance, stating many challenges to the deed restrictions had been unsuccessful; thus, the community was able to maintain its character. He asserted this proposal was in opposition to BSI's deed restrictions, urging the Board to vote against V-04-10.
- Mr. Charles Zajicek confirmed Board members had driven past the subject property.
- Mr. James Townsend submitted a prepared statement into the record, requesting the Board recommend denial of the variance. He asserted BSI properties were intended to accommodate single family homes with garage space for two or three vehicles, adding the applicant had the option to either purchase or rent off-site storage.
- Mr. Jeff Ziemer announced he was a local realtor who had sold a number of homes in BSI, adding he had been asked about "kill and combine" situations such as this. He stated the access problems associated with the second lot had been obvious when purchased. He noted many of his customers utilized off-site storage facilities for additional vehicles.
- Mr. Max Reese stated he resided on the east side of the applicant's property, adding he believed the proposed garage did not meet the community's standards.
- Mr. Larry Cover expressed concern with regard to a negative effect on property values and appearance standards being lowered. He stated he felt it would be difficult to prohibit the site from becoming a repair shop if the property was sold in the future.
- Ms. Ann Teichmiller stated she resided one lot over from the proposed garage and driveway, adding she was in favor of the project. She pointed out City Code prohibited operation of commercial activity in BSI as had been suggested earlier, noting the applicant would be paying much higher taxes and upkeep.
- Mr. Schaefer commented on a stated concern regarding the appearance of multiple garages, pointing out a condominium complex on Tripoli Boulevard had a wall of garages and multiple, oversized driveways. He further noted the community had already allowed detached garages, as depicted on Charlotte County's tax rolls. He mentioned the applicant had taken pains to ensure a positive, aesthetic appearance of the structure, including the rear view across the canal.
- Ms. Maryann Hughes asserted the continuous garage doors at the condominiums referenced by Mr. Schaeffer were clearly for a multi-family situation. She suggested the applicant improve the front appearance as well as the rear.

- Mr. George Guttschalk asserted BSI was constructed to be a boating and golfing community and had established deed restrictions to assure same. He opined the previously allowed garages represented a step to circumvent the deed restrictions, respectfully requesting the Board deny V-04-10.
- Ms. Kay Mooney questioned whether the applicant had ever considered a side-entry garage so as to promote a more favorable appearance from the front.
- Mr. Schaefer referred to an overhead of the floor plan, stating there simply was insufficient physical space to accommodate a side entrance.
- Ms. Matthews called three times for anyone to speak on V-04-10.
- Mr. Kilmer MOVED, Mr. Rose SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Ms. Matthews confirmed operation of a repair shop was not an allowable use in residential districts.
- Ms. Tubbs agreed, noting the Board could impose certain conditions and safeguards if approval was recommended.
- Ms. Matthews clarified the two lots could not be re-split in the future once a structure was in place.
- Mr. Kilmer commented this was a request for a third driveway, adding anything located at the end of same was not a part of the application. He stated it seemed this property was purchased without due diligence, adding he believed the situation had been created by the applicant as the structure was not required, which was contrary to the criteria which the Board must consider. He clarified the conditions could be reasonably corrected simply by not constructing the garage.
- Mr. McClary confirmed the property owner had every right to construct the proposed garage under the current LDRs. He questioned whether BSI's deed restrictions had been codified by the City.
- Ms. Tubbs replied a portion of deed restrictions were adopted by the City. She explained Section 26-3.13 reflected those which had been adopted.
- Mr. McClary clarified BSI's deed restrictions were still in full force.
- Mr. Sween asked if BSI had approved construction of the garage.
- Ms. Tubbs replied staff did not become involved in deed restriction approvals or denials as same were outside of the City's purview.
- Ms. Matthews explained the Board could not consider BSI's deed restrictions in making their decision. She then commented on the eight required criteria, one of which was "the granting of the variance would not be injurious to or incompatible with contiguous uses ..." She opined V-04-10 was not compatible with contiguous uses of other

properties in the area. She expressed agreement with Mr. Kilmer's earlier statement as well; thus, she believed two of the eight criteria had not been met.

- Mr. Rose confirmed the Board must base their decision on the driveway alone.
- Mr. McClary pointed out the applicant could construct the garage and simply drive over his lawn.
- Mr. Rose confirmed the applicant had contacted the City prior to purchase of the second lot; thus, he felt due diligence had been done.
- Mr. Kilmer reminded members this Board was not created to grant relief to those who had created their own difficulties.
- Mr. Bauman observed the maximum of two driveways had already been met by the arcing of same; thus, it seemed the driveway which was the subject of this variance request would be allowed if one portion of the former was closed.
- Ms. Tubbs agreed; however, the property was located on a curve, which caused some safety concerns with regard to backing out onto Tripoli Boulevard.
- Mr. Sween MOVED, Mr. Bauman SECONDED to recommend denial of V-04-10 based upon the evidence and testimony presented.
- VOTING AYE: Bauman, Kilmer, Sween, Matthews.
- VOTING NAY: McClary, Rose.
- MOTION CARRIED.

#### **NEW BUSINESS**

- A. Resolution #2870-10 - Quasi-judicial Hearing Procedures and Rules
  - Ms. Tubbs drew members' attention to a copy of Resolution #2870-10, as delineated in the agenda material, explaining same outlined quasi-judicial hearing procedures as well as rules for ex-parte communications. She noted Resolution #2870-10 was being presented to all of the City's boards/committees for informational purposes only.

#### **STAFF COMMENTS**

- A. Results of City Council Action on April 21, 2010
  - Ms. Tubbs reported V-03-10, a request from AT&T Mobility LLC for a 150 foot cellular tower, was approved by City Council on April 21, 2010, as had the resolution modifying the agreement between TowerCo and the City which would provide for alterations to the ground space infrastructure to support additional carriers.

#### **MEMBER COMMENTS**

- Mr. Kilmer commented City Council often did not follow the Board's recommendation, stating he had discussed same with one Councilmember. He explained a suggestion was made to hold a joint workshop for the Board and City Council to allow members to express their feelings and discuss the rules under which they must operate.

- Consensus of the Board was approval of same.
- Ms. Matthews then announced Mr. Sween would be away in June and July 2010.

**ADJOURNMENT**

- Meeting Adjourned: 5:03 p.m.

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Lynne Matthews, Chairman

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Mary Kelly, Recording Secretary