

**BOARD OF ZONING APPEALS
MEETING
JUNE 24, 2008**

MEMBERS PRESENT: Lynne Matthews, Chairman
Henry Bauman, David Brower,
Richard Kilmer, James McClary, Ray Rose

MEMBERS ABSENT: Randy Fassett, Larry Hofmeister

OTHERS PRESENT: Teri Tubbs, Zoning Official
Lisa Hannon, Zoning Coordinator
Thomas Fero, Eileen Cavanaugh, J. Michael Rooney

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - July 22, 2008
- C. Last Scheduled Meeting - April 22, 2008

APPROVAL OF MINUTES

- A. Meeting of April 22, 2008
 - Mr. McClary MOVED, Mr. Bauman SECONDED approval of the April 22, 2008 minutes.
MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS

- A. Results of City Council Action on May 21, 2008
 - 1. AP-01-08 - Appeal of Administrative Decision of the Zoning Official per the City Code of Ordinances, Chapter 26-16.2, regarding replacement of individual non-conforming signs on an existing non-conforming sign structure located at Block 35, Lots 2, 3, 4, 5 and 6, PUG a/k/a 205-225 Wood Street
 - Ms. Teri Tubbs, Zoning Official, announced AP-01-08 had been withdrawn by the applicant.
 - 2. V-03-08 - Request for variances by Punta Gorda Lodging, LLC, to the Land Development Regulations that were in effect at the execution of the Developer's Agreement between the City Marketplace, LLC and the City of Punta Gorda, dated August 13, 2003, and that govern the property known as the City Marketplace Property generally addressed as 115 Tamiami Trail, pursuant to Section 26-11(b), Page 26-184 City Code of Ordinances, Revision 31. Request for a variance to Section 26-7(l)6.7, page 26-34, to allow construction of a new building to be 58 feet in height to the top of the structural roof, instead of 50 feet as permitted in the Central Business District (CBD); and Section 26-10(5)(5.4.)(B)3.b, page 26-161 to allow 3 driveways to enter a single street from a

single property instead of 2 driveways as permitted and to allow the minimum distance between the driveways on a single street to be 36 feet, instead of 50 feet as required; and Section 26-10(5)(5.4)(B)3.k, page 26-162, to allow the minimum distance from the intersecting right-of-way lines to the interior drive be 38.8 feet, instead of 40 feet as required; and Section 26-10(5)(5.4)(B)12a.vi, page 26-164, to allow a driveway to abut an internal property line instead of being five feet away from the property line as required by City Code Revision 31.

- Ms. Tubbs announced V-03-08 had been approved by a 4 to 1 vote by the City Council with the following conditions: City Council retains architectural review of final design; developer to apply for permits within 9 months of variance approval or renegotiation of developer's agreement and commence construction within 12 months; use restricted to hotel; height limitations of decorative elements to comply with current Code regulations.

NEW BUSINESS

- Deputy City Clerk Stewart swore in all participants.
- A. Public Hearing
- 1. V-04-08 - 101 Donna Court - Request for a variance to the Land Development Regulations per Section 26-16.10, page 26-196, of the City Code for new construction to allow a 15 foot rear yard water side setback for a pool and pool enclosure instead of 20 feet as required by City Code Section 26-3.13.(d) on page 26-26, for a new home and pool.
- Ms. Tubbs displayed an overhead of the site location, as delineated in the agenda material, stating the lot in question was platted in 1958 and was smaller than the current minimum lot size requirement for this zoning district. She noted the strict and literal enforcement of the zoning regulations would not create an undue hardship as distinguished from a mere inconvenience as this request was for new construction, adding although the lot was undersized, it was still buildable, and staff found no hardship. She acknowledged the lot size was 872 square feet less than a standard lot; however, a slightly smaller house could be constructed to allow room for a somewhat smaller, rectangular pool within the required setbacks. She concluded the application did not meet the criteria required for a variance; thus, staff recommended denial of the request.
- Ms. Matthews confirmed the lot was under new ownership and the hardships had been discussed with the Developer prior to closing on the sale of the property.

- Mr. Thomas Fero, applicant, maintained it was difficult to construct a home and pool on the lot as it was ten feet shorter than any normal lot, opining criteria had been met to qualify for the variance.
 - Mr. Brower inquired if a two story home was considered and what the associated, additional cost would be.
 - Mr. Fero stated both residents were handicapped, adding a two story home with an elevator would cost an additional \$50,000.
 - Mr. Bauman questioned the difficulty in constructing a smaller home.
 - Mr. Fero expressed uncertainly as to how small a home could be constructed as he did not read the Code, reiterating his preference to apply for the variance. He added the previous home was granted a similar variance for a 15' setback.
 - Mr. Bauman clarified 15' was allowed by Code on the previous structure, built in 1959.
 - Ms. Matthews confirmed no feedback had been received from neighbors, either for or against the request. She then called three times for anyone else to speak on V-04-08.
 - Mr. Kilmer MOVED, Mr. Bauman SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
 - Mr. Bauman MOVED, Mr. Kilmer SECONDED to recommend denial of V-04-08 based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
2. V-05-08 - Request for a variance to the Land Development Regulations by Eileen Cavanaugh, Agent for Plaza Camille, per Section 26-16.10, page 26-196, of the City Code to allow non-conforming signs be re-established on an existing non-conforming sign structure that is 19 feet in height and 106 square feet in area, instead of 5 feet in height and 16 square feet in area, as is required in the City Center Zoning District per Section 26-11.4.(e)(7)(a) on page 26-126.
- Ms. Tubbs displayed an overhead of the site location, stating the building was constructed in 1975 and met the development standards in place at that time. She explained reducing sign size to be in conformance with Code requirements would increate an undue hardship on the businesses at this location due to the existing configuration of the building and parking lot and their reliance on exposure of the sign to attract new customers from East Marion and East Olympia Avenues. She noted this hardship was not generally shared by most other properties within the City Center (CC) zoning district, adding granting the variance would not be injurious to or be incompatible with contiguous uses, the surrounding neighborhood or be otherwise detrimental to the public's welfare. She clarified the request was to allow sign faces to be installed on the existing, non-conforming sign structure and was due to damage from Hurricane Charley in 2004. She stated the variance requested did not involve a

use nor was it in conflict with the Comprehensive Plan. She noted if the variance was granted, sign permits for each individual business, along with signed, sealed structural engineering would be required to ensure the sign structure was sufficient to accommodate the additional wind loading of the additional signs. She recommended approval of V-05-08 with the following condition: if the building was ever demolished or the property redeveloped, the sign must be removed at that time.

- Mr. McClary commented trees installed by the City along Wood Street would obscure the shopping center and sign, making it difficult to identify the stores within.
- Mr. Kilmer questioned how the request differed from the previous application.
- Ms. Tubbs indicated the previous application was an appeal to the decision that each sign was an individual sign face, advising upon extensive research, she determined a permit was required along with structural information. She announced the previous application fee had been applied to the current request.
- Mr. Matthews questioned if the intent of the request was to approve a scenario similar to what was in place prior to Hurricane Charley as being eleven smaller signs below the header sign.
- Ms. Eileen Cavanaugh, agent for the applicant, confirmed same, indicating they desired to replace up to eleven individual signs previously allowed under one permit.
- Mr. Rose clarified a variance would not be necessary in the event of a tenant change.
- Mr. Bauman questioned the size requirements for each tenant.
- Mr. Tubbs replied the total area would allow each face the equivalent of 12" by 72".
- Ms. Cavanaugh suggested a total amount of square footage be allowed as opposed to regulating each tenants' individual needs, adding one tenant did not desire a sign. She agreed to limit any individual sign to 24" in height.
- Ms. Matthews proposed allowing up to eleven signs with an area of 12" by 72"; however, no sign could exceed 24" by 72".
- Mr. Brower questioned if the request was for a single variance or ten individual ones.
- Ms. Tubbs explained as each sign face was on a single structure, one request accommodated eleven tenants.
- Mr. Brower clarified numerous properties in the City Center District had non-conforming permitted signs, questioning replacement of same in the event of another hurricane.
- Ms. Tubbs displayed various sign types within the City Center District, responding each case was considered individually.
- Mr. Brower expressed concern for individually addressing similarly situated properties without equal treatment under the law. He stated he was in favor of allowing the sign;

however, he was opposed to granting approval under the variance procedure as it would enable eleven, new, non-conforming uses.

- Ms. Tubbs advised the variance would address the non-conformity.
- Mr. Kilmer opined visibility in viewing 12" by 72" signage from either Marion or Olympia Avenues would be difficult, especially in light of the trees blocking same. He spoke in opposition to granting the variance.
- Ms. Cavanaugh contended the Plaza Camille sign was grandfathered and would remain for some time, suggesting the new design would improve the current appearance and aid the businesses occupying the building.
- Mr. J. Michael Rooney stated he owned the nearby building at Olympia and Wood Streets, indicating he had no objection to the request. He spoke of the unintended consequences of an uncooperative tenant that may desire separate signage, suggesting a rewrite of code to address same.
- Ms. Matthews called three times for anyone else to speak on V-05-08.
- Mr. Bauman MOVED, Mr. McClary SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Ms. Matthews commented she felt all businesses had the right to advertise with signage, suggesting approval of what was previously located on the property. She added a provision should be included to limit the size and number of signs.
- Mr. Brower stated he had reservations on approving the request by variance; however, he concurred the request should be allowed.
- Mr. Rose questioned if the motion should include a provision in the event the building was destroyed.
- Mr. McClary MOVED, Mr. Brower SECONDED to recommend approval of V-05-08 based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.
- Mr. Bauman MOVED, Mr. Brower SECONDED to AMEND the motion to include the following provisions: no sign should be larger than 24" by 72"; to allow a maximum of eleven sign faces; and the variance continue only with the current use. MOTION CARRIED UNANIMOUSLY.
- Mr. Kilmer questioned if additional restrictions could be added to prohibit removable, free standing signs.
- Ms. Tubbs announced the City Center District allowed restaurants to display menu boards in the right-of-way (ROW).

- Mr. Bauman opined Code was being enforced with limitations on interpretation, suggesting clarification be made to same by revisiting the Code.
- Ms. Tubbs announced same was forthcoming.

OTHER BUSINESS

A. City of Punta Gorda Comprehensive Plan 2025

- Ms. Lisa Hannon, Zoning Coordinator, stated CDs were now available, inviting members to submit their comments prior to July 9, 2008.

ADJOURNMENT

- Meeting Adjourned: 5:08 p.m.

Lynne Matthews, Chairman

Sheri Stewart, Deputy City Clerk