

**BOARD OF ZONING APPEALS
MEETING
SEPTEMBER 24, 2019**

MEMBERS PRESENT: Charles Wolley, Acting Chairman
John Bothwell, Samuel Hoagland, Frank Lepore,
Wendy Mueller, Rebecca Rasmussen, Edward Weiner

MEMBERS ABSENT: Thomas Lengauer

OTHERS PRESENT: Lisa Hannon, Zoning Official
Edward Wotitzky, Thomas Robertson,
William Westvang, David Clayman

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
 - 1. October 22, 2019
 - Mr. Wolley reviewed the procedures for quasi-judicial public hearings.

CITIZEN COMMENTS ON AGENDA ITEMS ONLY

- None.

APPROVAL OF MINUTES

- A. May 28, 2019
 - Mr. Weiner MOVED, Mr. Lepore SECONDED approval of the May 28, 2019 minutes.
MOTION CARRIED UNANIMOUSLY.

QUASI- JUDICIAL PUBLIC HEARINGS.

- A. V-03-19 - Request by Edward L. Wotitzky, as authorized agent for Thomas W. and Annette H. Robertson, property owners, pursuant to Chapter 26, Section 16.10, Punta Gorda Code, to allow a side yard setback of 2.0 feet at its closest point instead of 6 feet as is required per Chapter 26, Section 10.3(h)(12), Punta Gorda Code, in order to construct an addition to the existing driveway for a single-family residence located in a General Single-family zoning district.
LEGAL: Punta Gorda Isles Section 11, Block 103, Lot 25
A/K/A: 338 Palm Isles Court, Punta Gorda, Florida
CHARLOTTE COUNTY PARCEL ID: 412212484001
 - Recording Secretary Pues swore in all participants.
 - Ms. Lisa Hannon, Zoning Official, entered the staff report denoted in the agenda material into the record by reference. She reviewed the criteria which must be met in order for a variance to be approved, providing a detailed explanation of the applicants' request as well as staff's findings and conclusions. She noted one objection from an adjacent

property owner had been received and distributed to members. She advised the Public Works Department had requested inclusion of conditions of approval concerning permitting if the request was recommended, concluding staff was unable to recommend approval as the request did not meet the literal criteria of hardship.

- Mr. Weiner verified the existing driveway was approximately 16 feet wide.
- Ms. Rasmussen questioned whether there was a required setback from utility infrastructure.
- Ms. Hannon responded in the negative, noting City staff did not regulate same. She explained any required relocation of utility infrastructure would be done at the property owner's expense.
- Mr. Edward Wotitzky, applicant's agent, asserted the existing driveway met the criteria's definition of undue hardship as Punta Gorda Code had unreasonably restricted use of the property, particularly the driveway's design. He then displayed an overhead view of the subject property, explaining the requested setback would allow for safer ingress to and egress from the property. He noted the applicant's hardship might be perceived as self-created; however, case law stated the self-inflicted hardship rule did not apply to situations in which the hardship arose from circumstances peculiar to the applicant's property. He concluded the property owner had made contact with the neighbor who objected to the request, clarifying the objection resulted from a misunderstanding.
- Mr. Thomas Robertson, applicant, stated the house had been designed to maximize use of the uniquely shaped property, explaining he and Ms. Annette Robertson had thought the original driveway design would be acceptable; however, the layout had led to their cars being damaged on multiple occasions over the past four years.
- Mr. Bothwell inquired whether the neighbor who objected to the request was present this date.
- Mr. Robertson replied in the negative, adding he had explained the request to his neighbor. He opined his neighbors would withdraw their objection.
- Discussion ensued regarding alternatives to the request, with members confirming same were not sufficient for the Robertsons' needs.
- Ms. Rasmussen questioned why alternatives were not considered during design of the house.
- Mr. Robertson replied every option had been considered, opining they had done the best they could under the circumstances.
- Mr. Wolley called three times for anyone to speak on V-03-19
- Ms. Rasmussen MOVED, Ms. Mueller SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.

- Mr. Weiner MOVED, Mr. Hoagland SECONDED to find V-03-19 consistent with the Comprehensive Plan and to recommend approval of the request based upon the evidence and testimony presented this date.
 - Mr. Lepore MOVED, Ms. Mueller SECONDED to amend the motion to include approval be contingent upon proper permitting and to require the property owner be responsible for any expenses related to relocation of utility infrastructure.
 - VOTING AYE: Bothwell, Hoagland, Lepore, Mueller, Weiner, Wolley.
 - VOTING NAY: Rasmussen
 - MOTION CARRIED.
 - Mr. Wolley called for a vote on the amended motion.
 - VOTING AYE: Bothwell, Hoagland, Lepore, Mueller, Weiner, Wolley.
 - VOTING NAY: Rasmussen
 - MOTION CARRIED.
- B. V-04-19 - Request by William Westvang, as authorized agent for Clipper Cove at Bal Harbor, property owners, pursuant to Chapter 26, Section 16.10, Punta Gorda Code, to allow a side yard setback of 0.0 feet at its closest point instead of 5 feet as is required per Chapter 26, Section 10.3(h)(12), Punta Gorda Code; and to permit curb radii of 30 feet and 32 feet, instead of 20 feet, as is required per Chapter 26, Section 9.4(d), Punta Gorda Code, in order to construct an addition to the existing driveway for a multi-family condominium complex located in a general multi-family zoning district.
- LEGAL: Common Area for Clipper Cove at Bal Harbor, CLI 000 0000 COMM
A/K/A: 2000 Bal Harbor Blvd, Punta Gorda, Florida
CHARLOTTE COUNTY PARCEL ID: 412213701000
- Ms. Hannon entered the staff report denoted in the agenda material into the record by reference. She reviewed the criteria which must be met in order for a variance to be approved, providing a detailed explanation of the applicants' request as well as staff's findings and conclusions. She concluded based on the approval criteria, findings and conclusions as well as public safety concerns related to emergency vehicle access, staff recommended approval of this request contingent upon conditions related to permitting, drainage and marking the roadway as a fire lane.
 - Mr. Bothwell confirmed emergency vehicle access to the property was hindered by both vehicles parked on the roadway and the roadway width.
 - Mr. Lepore verified the roadway would be expanded on the north side.
 - Mr. William Westvang, applicants' agent, stated the request would improve access to the property for residents and emergency vehicles, reviewing the proposed plans for same. He noted South West Engineering had surveyed the property and found the property line

was closer than anticipated, which had necessitated the request for a variance. He recalled the requested condition of approval regarding drainage, explaining existing issues would be corrected. He opined the roadway's current width presented a danger to pedestrians and vehicles, concluding the request was intended to increase safety.

- Mr. David Clayman spoke in favor of the request, noting safety would be improved; however, he expressed concern the width of Clipper Cove Village Condominiums' driveway was not sufficient, particularly for emergency vehicles.
- Mr. Wolley called three times for anyone to speak on V-04-19.
- Mr. Weiner MOVED, Ms. Rasmussen SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Weiner spoke in favor of recommending approval given the Fire Department's concerns.
- Ms. Rasmussen MOVED, Ms. Mueller SECONDED to find V-04-19 consistent with the Comprehensive Plan and to recommend approval of the request with staff's conditions based upon the evidence and testimony presented this date. MOTION CARRIED UNANIMOUSLY.

NEW BUSINESS

- Mr. Wolley expressed appreciation for Mr. John Burrage's service on the Board and presented him with a Certificate of Appreciation.

COMMITTEE/BOARD COMMENTS

- Mr. Bothwell stated a safety issue was present in the area of Clipper Cove, expressing uncertainty as to who was responsible for investigating Mr. Clayman's concern.

CITIZENS' COMMENTS

- None.

ADJOURNMENT

- Meeting Adjourned: 5:20 p.m.

Charles Wolley, Acting Chairman

Leah Pues, Recording Secretary