

**BOARD OF ZONING APPEALS  
MEETING  
AUGUST 28, 2018**

**MEMBERS PRESENT:** John Burrage, Chairman  
Thomas Lengauer, Frank Lepore, Rebecca Rasmussen,  
Paul Sacilotto, Edward Weiner, Charles Wolley

**OTHERS PRESENT:** Lisa Hannon, Zoning Official  
Tamsin Hayes

**CALL TO ORDER/ANNOUNCEMENTS**

- A. Roll Call
- B. Next Scheduled Meeting
  - 1. September 25, 2018
  - Mr. Burrage reviewed quasi-judicial public hearing procedures.
  - Recording Secretary Welch swore in all participants.

**CITIZENS COMMENTS ON AGENDA ITEMS ONLY**

- There were none.

**APPROVAL OF MINUTES**

- A. November 28, 2017
  - Mr. Wolley MOVED, Mr. Lepore SECONDED to approve the November 28, 2017 minutes.  
MOTION CARRIED UNANIMOUSLY.

**QUASI-JUDICIAL PUBLIC HEARINGS**

- A. V-02-18 – Request by Warren R. Ross, Esq., agent, for James E. Campbell and Gail M. Campbell, property owners, pursuant to Chapter 26, Section 16.10, Punta Gorda Code, to allow a rear yard setback of 7.9 feet at its closest point and 9.7 feet at its furthest point instead of 20 feet as is required per Chapter 26, Section 3.13(d), Punta Gorda Code, to construct a new screen enclosure on an existing non-conforming pool deck at a single family residence located in a General Single-Family zoning district.  
Legal: Punta Gorda Isles Section 7, Block 66, Lot 20  
A/K/A: 1609 Montia Court, Punta Gorda, Florida  
Charlotte County Parcel ID: 412212358006
- Ms. Lisa Hannon, Zoning Official, displayed an overhead of the subject property, as delineated in the agenda material, explaining the applicants wished to construct a screened enclosure around an existing non-conforming pool deck which would encroach into the required setback. She entered an amended staff report, as denoted in the agenda material, into the record by reference, reviewing same in detail. She

- concluded staff recommended approval of V-02-18 in order to comply with the Americans with Disabilities Act (ADA) due to recently obtained medical documentation.
- Mr. Sacilotto commented the pool appeared to be closer to the seawall than surrounding properties' pools.
  - Mr. Lengauer asserted he observed a substantial amount of land between the pool and the seawall at the property.
  - Mr. Burrage confirmed the medical documentation was obtained from a medical provider in the City.
  - Ms. Rasmussen inquired as to the portion of a property which the Canal Maintenance Division might require use of during future repair.
  - Ms. Hannon replied the property owner was responsible for property existing within the setback required for seawall.
  - Ms. Rasmussen questioned the homeowner's obligation if the property sold.
  - Ms. Hannon expressed uncertainty regarding same. She advised staff recommended obtaining a survey prior to purchasing property.
  - Mr. Sacilotto questioned if this variance would also allow the current pool and pool deck.
  - Ms. Hannon replied in the affirmative, explaining a screened enclosure could not be installed on a non-conforming pool deck.
  - Messrs. Sacilotto and Burrage voiced dissatisfaction with the pool and associated deck being approved by this variance.
  - Ms. Hannon noted similar instances had occurred.
  - Mr. Lengauer spoke in favor of the variance, pointing out the neighbors did not object.
  - Ms. Tamsin Hayes, applicants' representative, announced the applicants had been advised a screened enclosure would be allowed at the time they purchased the home. She stated the enclosure would not intrude any further into the setback, contending her clients faced hardship in that the pool could not be relocated. She asserted a screened enclosure was medically necessary as Mr. Campbell had an allergy to hornets as well as diabetes, which made him more susceptible to mosquito-borne illnesses. She added Ms. Campbell was allergic to insects as well, though not as severely. She concluded by drawing attention to two similar variances which had been approved.
  - Mr. Wolley questioned why the medical history was not included in the original application.
  - Ms. Hayes responded same had been omitted initially due to confusion regarding the literal definition of hardship, stating she had not known a medical history was required.

- Mr. Lepore inquired as to the legal definition of medical hardship, further inquiring how a screened enclosure would alleviate a burden placed on Mr. Campbell.
- Ms. Hayes responded Mr. Campbell had a medical disability, explaining ADA required reasonable accommodation of individuals with disabilities. She asserted installation of a screened enclosure was the only way to allow the applicants free use of their pool.
- Mr. Lepore confirmed the screening material could not be regulated.
- Mr. Sacilotto pointed out the approval criteria called for consideration of any disability.
- Mr. Wolley questioned if only the Urban Design Division had reviewed the medical documentation.
- Mr. Hannon replied in the negative, explaining the City Attorney had reviewed and commented on same.
- Discussion ensued with regard to the benefit of screened enclosures and fences to prevent drowning as well as the responsibility for such drowning.
- Mr. Burrage called three times for anyone to speak on V-02-18.
- Mr. Wolley MOVED, Mr. Sacilotto SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Sacilotto MOVED, Mr. Lengauer SECONDED to recommend approval of V-02-18 based on the applicant's disability.
- VOTING AYE: Lengauer, Sacilotto, Weiner, Wolley, Burrage.
- VOTING NAY: Lepore, Rasmussen.
- MOTION CARRIED.

#### **STAFF COMMENTS**

- A. Election of Chairman and Vice Chairman
  - Recording Secretary Welch opened the floor for nominations for Chairman.
  - Ms. Rasmussen NOMINATED Mr. Burrage for Chairman.
  - Recording Secretary Welch called for any other nominations; as there were no other nominations, Mr. Burrage was appointed Chairman by acclamation.
  - Mr. Burrage announced five members were up for reappointment.

#### **ADJOURNMENT**

- Meeting Adjourned: 4:43 p.m.

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John Burrage, Chairman

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Sara Welch, Recording Secretary