

**BOARD OF ZONING APPEALS
MEETING
DECEMBER 18, 2018**

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

MEMBERS ABSENT: Thomas Lengauer

OTHERS PRESENT: Lisa Hannon, Zoning Official

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting
- 1. January 27, 2019

CITIZENS COMMENTS ON AGENDA ITEMS ONLY

- There were none.

APPROVAL OF MINUTES

Note: Mr. Lepore arrived at 4:02 p.m.

- A. October 23, 2018
- Mr. Weiner MOVED, Mr. Wolley SECONDED approval of the October 23, 2018 minutes.
MOTION CARRIED UNANIMOUSLY.

QUASI-JUDICIAL PUBLIC HEARINGS

- Mr. Burrage reviewed quasi-judicial public hearing procedures.
- Recording Secretary Welch swore in all participants.
- A. V-04-18 - Request by Andrey Nikitin, property owner, for a variance to the Land Development Regulations pursuant to Chapter 26, Section 16.10 and Section 17.6, Punta Gorda Code, to allow a new single-family residence to be constructed in a General Single-Family zoning district (GS-3.5) on a non-conforming lot of record containing 9,042 square feet instead of 9,600 square feet as required per Chapter 26, Section 3.4(g)(1), Punta Gorda Code; and to allow construction of a new swimming pool, deck and screen enclosure with 15.0 foot rear yard setbacks at the closest points instead of 20 feet as is required per Chapter 26, Section 3.13(d), Punta Gorda Code.
- Mr. Burrage noted this item had been presented to the Board and City Council previously.
- Ms. Lisa Hannon, Zoning Official, announced V-04-18 had been amended to request a 15-foot setback, reviewing the staff report and application, both delineated in the

agenda material, in detail. She noted the Canal Maintenance Division reported the seawall at this property was in good condition, and no repairs were scheduled at this time. She concluded staff recommended approval of V-04-18.

- Mr. Burrage confirmed the only amendment pertained to the rear yard setback, questioning whether the Russian doctor's report, as delineated in the agenda material, was valid in the United States.
- Ms. Hannon replied the City Attorney advised staff to not question disabilities deeply.
- Mr. Bothwell confirmed the setback requirements had not changed between the purchase of the property and this date, further confirming the subject lot was buildable.
- Mr. Wolley referred to the site plan, as delineated in the agenda material, confirming a number of details on the proposed lay-out.
- Discussion ensued regarding regulations for pool cages, decks and walkways.
- Mr. Burrage called three times for anyone to speak on V-04-18.
- Mr. Weiner MOVED, Mr. Hoagland SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Ms. Rasmussen expressed hesitance to allow new construction to violate setback requirements, particularly as the requested setback had increased. She asserted prospective property owners should have been aware of the setback requirements, further asserting the home's design could be amended to accommodate the pool.
- Mr. Weiner MOVED, Mr. Hoagland SECONDED to find V-04-18 consistent with the Comprehensive Plan and to recommend approval of the request.
- Mr. Bothwell agreed the home could be redesigned to allow a pool which met City Code.
- Mr. Wolley noted the proposed pool was less than the doctor's recommendation, opining the applicant could build a similar pool even if the variance was denied.
- Mr. Burrage expressed concern regarding the applicability of the Americans with Disabilities Act in this case due to the nationality of the applicant's doctor.
- Mr. Lepore noted endless therapeutic pools used flowing water to reduce the space needed to swim laps. He expressed concern the pool enclosure was not marked on the site plan. He then questioned if realtors were required to disclose zoning restrictions.
- Mr. Bothwell replied realtors were required to disclose a lot's square footage, expressing uncertainty regarding disclosure of zoning restrictions. He asserted a competent realtor would do so, noting prospective property owners should perform due diligence.

- Mr. Weiner confirmed none of the pools constructed close to seawalls which were depicted in the agenda material were built following the current pool setback requirement.

- VOTING AYE: Hoagland, Weiner.
- VOTING NAY: Bothwell, Lepore, Rasmussen, Wolley, Burrage.
- MOTION FAILED.
- Mr. Burrage concluded the Board recommended denial of V-04-18.

STAFF COMMENTS

- Mr. Burrage opened the floor for nominations for Vice Chairman.
- Mr. Wolley NOMINATED Mr. Weiner.
- Mr. Burrage called for any other nominations. As there were no other nominations, Mr. Weiner was appointed Vice Chairman by acclamation.

ADJOURNMENT

- Meeting Adjourned: 4:42 p.m.

John Burrage, Chairman

Sara Welch, Recording Secretary