

# DRAFT

## Board of Adjustment Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE BOARD OF ADJUSTMENT HELD ON THURSDAY, **APRIL 24, 2014**, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

**1. CALL TO ORDER**

**2. PRAYER and PLEDGE OF ALLEGIANCE**

**3. ROLL CALL**

Present: Bennie Clark; Joyce Calvert; Bret McCain; BJ Beavin; William Nunn;  
Chairman Clem Benton, Jr.

Absent: James Crist

Staff Present: Steve McCain, Assistant City Attorney  
Sandra Ramseth, AICP, Senior Planner  
Kori Benton, Historic Preservation Officer  
Clarissa Davis, Planner  
Alicia Rosenthal, Administrative Assistant

**4. CONSIDERATION OF ABSENCES**

Motion was made by Bret McCain, seconded by Bennie Clark to excuse Mr. Crist's absence.

AYE: Bennie Clark, Joyce Calvert, Bret McCain, BJ Beavin, Chairman Clem Benton, Jr.

Passed

**5. CERTIFICATION OF ALTERNATE MEMBER(S)**

Ms. Beavin was made an active member for the meeting.

**6. APPROVAL OF MINUTES**

a. November 21, 2013 Meeting

Motion was made by Bennie Clark, seconded by Bret McCain to approve minutes from the November 21, 2013 meeting.

AYE: Bennie Clark, Joyce Calvert, Bret McCain, BJ Beavin, Chairman Clem Benton, Jr.

Passed

## 7. NEW BUSINESS

- a. Approval of a Variance to deviate from Section 22-187(6) reducing the landscape strip from 10' to 0' for approximately 90' of the south property line. Also, a request to deviate from Section 22-61(b)(3) reducing the driveway width from 14' to 12' to install drive-thru area for proposed Dunkin Donuts.

Ms. Davis gave an overview of the application. Mr. Howard Ehram, Project Engineer from Bowman Consulting, representing Dunkin Donuts, commented. Mr. Clark inquired about the traffic pattern when leaving the gas station. Ms. Davis explained there are two exits, one on North Causeway and the other facing US Highway 1.

Mr. Nunn asked questions about irrigation, a landscape bond and tree mitigation. Mr. Ehram responded that there is existing irrigation on the property and the landscape will be irrigated during the establishment period. He also stated that they have not gotten as far as getting a landscape bond. Ms. Davis mentioned that anytime a landscape plan is introduced, the code section states that an irrigation plan is on site. Mr. Benton stated a landscape bond is only required for site plan approval. Mr. Nunn asked if this variance requires site plan approval and Mrs. Davis responded it does not. Mr. Nunn asked the standard for replacing a 12" live oak tree. Mr. Benton responded that it varies depending on if the site is developed or underdeveloped. Since this is a developed site the protected thresholds are 8" and 12" and up to 12" requires a replacement.

Mr. Clark asked if the drive thru would affect the boats coming in and out of the gas station. Ms. Davis responded that it would not have an effect. Ms. Calvert asked about having enough room in the drive thru to get out on the roadway. Ms. Davis responded that the width of the drive thru has been approved by the Engineering department. Mr. Ehram commented that the drive thru was strategically placed to allow for plenty of stacking and flow through to avoid any issues.

Chairman Benton asked about the two disapproval letters on the project. Ms. Davis responded that the comments were related to the back of the site. They were under the assumption that the area that is mostly trees on the south property line was going to be cleared out. Nothing is going to be permanently removed from the site. There is actually more trees and shrubbery that will be implemented.

Attorney Steve McCain asked Mr. Ehram, if he is familiar with the condition that staff has cited to the board that they are recommending approval with the condition of a 6 foot dumpster. Mr. Ehram stated his client is acceptable with complying with that condition. Ms. Davis stated that the parameters of the code are listed in the screen enclosure section. Mr. Benton noted that the previously stated 12" for tree mitigation is actually 14" in the city code.

Ms. Calvert asked about the location of the air conditioning and if it will conflict with the drive thru. Mr. Ehram responded that there is no additional equipment going

outside of the building where it will conflict with the drive thru. Mr. Ehram also stated an auto turn analysis with a mock drive thru was run, using a F150 truck with large side mirrors to make sure vehicles would be clear of the corner of the building and through the whole process. This drive thru is actually wider than most drive thru's in the city so there is plenty of room.

Motion was made by Bret McCain to approve the variance as stipulated in the document. The motion died due to lack of a second.

Mr. Clark mentioned that if this variance is approved, the person next door could come in asking for a landscape variance back to zero. Ms. Davis stated that when this variance is approved there is going to be a variable encroachment on the landscape strip itself. From an aerial view, the site to the south looks like a backwards "L" with only 85 feet of the parcel fronting US Highway 1. The larger portions of the site face North Causeway as well as Old Dixie Highway.

Mr. Nunn inquired about approving too many landscape variances. Ms. Davis stated that each variance application is very different than the other. Chairman Benton states that each site should stand on its own and we should not compare what we did last month or last year. Mr. Benton stated we try to eliminate negative externalities when we have a required code section specific to landscaping. Each site is independent and completely different, with different considerations and different concerns.

Mr. Clark asked if anything legally can be done if an applicant down the road is denied for a variance. Attorney Steve McCain responded by asking if the concern is about the city being sued or some type of discrimination. Attorney Steve McCain stated the board is charged with considering the evidence that's been presented to it and determining whether there has been substantial competent evidence submitted that satisfies the five criteria. He also stated that this variance is a super majority requirement and in order for a variance to be approved it requires the affirmative vote of 4.

Mr. Ehram stated that this variance request is providing a net increase in landscape and a net increase in the aesthetics of the whole site and all 5 of the criteria have been met. Mr. Nunn asked about how the drive thru is going to effect the drainage on the property. Ms. Davis responded that there is a small retention area to the southeast of the site. Ms. Calvert asked about the location of the palm trees. Ms. Davis responded that there are a number of queen palms on the site that have died and deteriorated and they are proposing to remove and replace the queen palms with Sabal palms. They are over compensating in the landscape area around the drive-thru. Ms. Beavin stated the proposed enhancements will make an improvement to this site. Mr. McCain asked other board members feelings about setting a precedent in approving too many variances. Chairman Benton states you cannot judge one site against another site because they are altogether different.

Motion was made by Bret McCain seconded by Betty Jo Beavin to approve the variance as submitted.

AYE: Bret McCain, BJ Beavin, Chairman Clem Benton, Jr.

NAY: Joyce Calvert, Bennie Clark

Denied

Mr. Ehram commented on the project after the vote and asked if any additional conditions could be met so the variance could be approved and the board chose not to respond.

- b. Approval of a Special Exception to construct a Florida Room addition to a Non-Conforming Structure

Mr. Benton gave an overview of the application. Mr. Jose Cruz-Tovar, owner, brought in duplicate ballots from the neighboring property owners.

Motion was made by Bennie Clark, seconded by BJ Beavin to approve Special Exception.

AYE: Bennie Clark, Joyce Calvert, Bret McCain, BJ Beavin, Chairman Clem Benton, Jr.

Passed

## **8. ELECTION OF BOARD MEMBERS**

Bret McCain and Chairman Clem Benton, Jr. were nominated for Chairman. By show of hands, Bret McCain received 4 votes and Chairman Clem Benton, Jr. received 1 vote.

Bret McCain was elected for Chairman.

Bennie Clark and Joyce Calvert were nominated for Vice-Chair.

By show of hands, Bennie Clark received 2 votes and Joyce Calvert received 3 votes.

Joyce Calvert was elected for Vice-Chair.

## **9. DISCUSSION / OTHER BUSINESS**

Ms. Beavin stated that we owe applicant some feedback to the objections on the project. Mr. Nunn stated that the applicant did not do a good job stating his case. Chairman Benton stated that we can't compare one variance request with another variance request. Mr. Clark asked why the Board of Adjustment is needed. Ms. Calvert explained the need for the Board of Adjustment. Attorney Steve McCain summarized the need for a Board of Adjustment. Mr. Clark stated the board needs to make the best decisions for the city.

## **10. ADJOURNMENT**