

DRAFT



CITY OF FORT PIERCE
BOARD OF ADJUSTMENT

Board of Adjustment Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY BOARD OF ADJUSTMENT HELD ON THURSDAY, **DECEMBER 6, 2018**, 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: **William Nunn; Joyce Calvert; Bennie Clark; James Crist; Ryan Collins; Rebecca Isaac; Bret McCain, Chairman**

Staff Present: **Benjamin Bryan, Interim City Attorney
Rebecca Grohall, Planning Director
Rebeca Guerra, Assistant Planning Director
Alicia Rosenthal, Executive Assistant**

4. **CONSIDERATION OF ABSENCES**

All members were present.

5. **CERTIFICATION OF ALTERNATE MEMBER VOTING STATUS/EXCUSE NON VOTING ALTERNATE**

Ms. Isaac and Mr. Collins were voting members for item 7b.

6. **APPROVAL OF MINUTES**

- a. Minutes from the June 28, 2018 meeting

Motion was made by James Crist, and seconded by William Nunn to approve the minutes from the June 28, 2018 meeting.

**AYE: James Crist, William Nunn, Joyce Calvert, Bennie Clark, Chairman Bret McCain
Other: Ryan Collins (ABSTAIN), Rebecca Isaac (ABSTAIN)**

Passed

7. NEW BUSINESS

a. Variance - Dak Digital Billboard - 2711 S. US Highway 1

Ms. Grohall gave an overview of the Variance application and answered questions from the Board.

Don Cuozzo, Managing Partner of Dak Digital, provided additional information on digital billboards. Mr. Cuozzo stated that St. Lucie County and Department of Transportation (DOT) requires a 1,500 foot separation for billboards, where as the city requires a 5,000 foot separation for billboards. Mr. Cuozzo explained that the state can grab the billboard to show amber and silver alerts and other emergency messages such as hurricane evacuations. Mr. Cuozzo stated if the billboard was approved, they would offer the city the ability to put messages on the billboard. Mr. Cuozzo said they would also provide enhanced landscaping around the residential area and asphalt cut outs for a neighborhood entrance. Mr. Cuozzo communicated the state requirement of a 8 second message flash and he also explained that DOT has done a massive study across the state of Florida and they have not found any additional traffic incidents anywhere near the billboards. Mr. Cuozzo answered questions from the Board on the removal of the palm trees, City of Stuart billboard distance and adjusting the message flash time.

No one spoke against the billboard.

Board deliberation ensued.

Mr. Crist stated he was not in favor of the billboard due to aesthetic appearance, the billboard being a distraction and causing traffic issues.

Mr. Nunn stated he is not a big fan of digital signs and they are distracting.

Chairman McCain has no issues with approving the reduction of the distance. He stated it adds a huge value to the city by broadcasting amber and silver alerts and hurricane evacuations.

Motion was made by William Nunn, and seconded by James Crist to deny the Variance.

AYE: **James Crist, William Nunn**

NAY: **Bennie Clark, Joyce Calvert, Chairman Bret McCain**

Other: **Ryan Collins (ABSTAIN), Rebecca Isaac (ABSTAIN)**

Failed

Board discussion ensued on placing conditions on the sign.

Mr. Bryan said you can place conditions if they are relevant to what you are voting on.

Mr. Cuozzo stated the sign does not exist without the Variance and we accept the conditions.

Motion was made by William Nunn, and seconded by James Crist to deny the reduction of the billboard distance from 5,000 feet to 2,815 feet.

AYE: **Bennie Clark, James Crist, William Nunn**

NAY: **Joyce Calvert, Chairman Bret McCain**

Other: **Ryan Collins (ABSTAIN), Rebecca Isaac (ABSTAIN)**

Passed

Ms. Grohall said to approve a Variance you need a 4/5 majority vote.

Mr. Bryan stated the motion was to deny the variance and it passed 3-2 and a better motion might have been to approve the Variance and have it lose 2 to 3, but the intent is absolutely clear that the Variance is not being granted anyway you try to configure it.

b. **Variance - BDG Edwards, LLC - 2496 Edwards Road**

Chairman McCain recused himself due to being a relative of the applicant. Mr. Nunn was the acting Chair and Ms. Isaac was the voting alternate.

Ms. Grohall gave an overview of the application and answered questions from the Board.

Carlos Yepes, Applicant, explained the reason for the Variance is to produce a left turn lane for the southbound traffic on 25th Street. Mr. Yepes stated there is currently a striped median and they want to chanelize the traffic by putting a concrete barrier, which will protect the driver that is making a left hand turn. Mr. Yepes stated they have pre-approval from Department of Transportation (DOT) and DOT is also requiring a deceleration lane on 25th Street for the northbound traffic. Mr. Yepes said they are providing a great buffer on the north side of the property and this is the minimum DOT will accept. Mr. Yepes answered questions from the Board regarding the pedestrian walkway, type of landscape buffer and existing oak trees.

Ms. Grohall stated at the time of site plan approval and building permit the applicant would be required to have a tree survey and the city forester verifies the survey and calculates the mitigation.

Janet Collins, Property Owner, provided history on the property. Ms. Collins explained that in 2013, the Department of Transportation (DOT) wanted a zero setback on the north corner. Ms. Collins said they were told one oak tree is a specimen tree but the rest of the oak trees are on the way out because of how old they are.

Carroll Collins, Property Owner, stated they have an approval from DOT for a 10 foot setback but DOT repeatedly said they wanted a zero setback. Mr. Collins explained they have had a number of requests to buy the property in the last 5 years and this is the best project and it will be an asset to the City of Fort Pierce.

Mr. Crist made a motion to approve the Variance with enhanced landscaping along 25th Street and Edwards Road and a buffer on the eastern residential side. Ms. Isaac seconded the motion.

Mr. Bryan asked Ms. Grohall if the motion needs to be more specific if a condition is being placed on the approval. Ms. Grohall stated it would be helpful to have a numeric value.

Mr. Nunn said it seems like everytime we get a new applicant they want to reduce the landscaping.

AYE: Ms. Isaac, Mr. Clark, Mr. Crist

NAY: Mr. Nunn

OTHER: Ms. Calvert (ABSTAIN)

Mr. Bryan called for a 10 minute recess.

Mr. Bryan explained since one of the members declined to vote on the project the additional

alternate will vote. Mr. Bryan stated in light of the requirements that there be four people voting in favor of the Variance, it is only fair to go ahead with five people.

Motion was made by James Crist, and seconded by Bennie Clark to seat the second alternate, Mr. Collins.

AYE: **William Nunn, Bennie Clark, James Crist, Rebecca Isaac**

Other: **Joyce Calvert (ABSTAIN), Ryan Collins (ABSTAIN), Chairman Bret McCain (RECUSE)**

Passed

Motion was made by James Crist, and seconded by Bennie Clark to approve the Variance and exceed city landscape requirements by 25%.

AYE: **Rebecca Isaac, Ryan Collins, James Crist, Bennie Clark**

NAY: **William Nunn**

Other: **Joyce Calvert (ABSTAIN), Chairman Bret McCain (RECUSE)**

Passed

8. **ELECTION OF CHAIR AND VICE-CHAIR**

This items was moved before New Business.

Mr. Nunn nominated Mr. McCain as Chair and Mr. McCain nominated Mr. Crist as Chair. Mr. Crist declined.

Mr. Crist nominated Mr. Clark for Vice-Chair. Mr. Clark declined. Chairman McCain nominated Mr. Nunn as Vice-Chair.

Motion was made by William Nunn, and seconded by Bennie Clark to elect Mr. McCain as Chair.

AYE: **Joyce Calvert, Bennie Clark, James Crist, William Nunn, Chairman Bret McCain**

Other: **Ryan Collins (ABSTAIN), Rebecca Isaac (ABSTAIN)**

Passed

Motion was made by Chairman Bret McCain, and seconded by Bennie Clark to elect Mr. Nunn as Vice-Chair.

AYE: **Bennie Clark, James Crist, William Nunn, Joyce Calvert, Chairman Bret McCain**

Other: **Ryan Collins (ABSTAIN), Rebecca Isaac (ABSTAIN)**

Passed

9. **DISCUSSION / OTHER BUSINESS**

10. **ADJOURNMENT**

TO: Vennis Gilmore, Planning Analyst

FROM: Kori Benton, Senior Planner

DATE: November 15, 2018

SUBJECT: **Variance – BDG Edwards – 2496 & 2498 Edwards Road**
Technical Review Project# 12000006.

The St. Lucie County Planning & Development Services Department has completed a review of the November 2, 2018 distribution of Technical Review Project# 12000006.

Background

The request seeks to construct a proposed 3,000 sq. ft. convenience store with gas; the applicant is requesting a 7 foot variance to reduce the landscape buffer along the north 95 feet of the northwest boundary of the property from 10 feet to 3 feet. The 7 foot variance is being requested in order to meet the geometric requirements by the City and FDOT for a left turn into the property from S. 25th Street for southbound traffic. The subject site is zoned (C-3), General Commercial Zone with a Future Land Use of (GC), General Commercial. Per City Code Sec. 22-110. – Application for a Variance; Appeals to the board of adjustment for a variance may be made by the property owner of the area involved or their designated representative by filing an application with the department of development and the board of adjustment. The subject site has a total of 2.31 acres.

Review Comments

1. Does the proposed driveway conform to City/FDOT corner clearance standards for a commercial driveway?
2. Will a decorative wall or appropriate species of vegetation be utilized to mitigate the reduction in landscape buffer width?
3. The St. Lucie County Board of Adjustment conditionally approved a variance in 2012 to reduce the driveway setback distance from the north property line from 25 ft. to 10 ft. The condition of approval pertained to preservation of oak trees on site. A copy of this approval will be provided to staff.
4. The site previously obtained a development permit for a vehicle sales facility, which encompassed a tree removal and tree preservation plan. A copy of this approval will be provided to staff.

Please contact me at 772-462-2518 if you have any questions or would like to discuss the presented comments.

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**BOARD OF ADJUSTMENT
RESOLUTION NO. 15-007**

File No.: BA 320154849

**A RESOLUTION APPROVING A VARIANCE FOR
CERTAIN PROPERTY LOCATED AT THE NORTHEAST
CORNER OF THE SOUTH 25TH STREET AND EDWARDS ROAD
INTERSECTION IN ST. LUCIE COUNTY, FLORIDA**

10 **WHEREAS**, the Board of Adjustment of St. Lucie County, Florida, based on the testimony and
11 evidence, including, but not limited to the staff report, has made the following determinations:
12

- 13 1. Petition of Carroll Collins for a Variance from the provisions of Section 7.05.06(C)(2)(c)
14 of the St. Lucie County Land Development Code to allow the installation of a driveway
15 which will encroach 15 feet into the minimum side setback distance of 25 feet from the
16 property line.
17
- 18 2. On June 24, 2015 this Board held a public hearing on the petition, after publishing a
19 notice of such hearing, installing a sign on property and notifying by mail all owners of
20 property within 500 feet of the subject property.
21
- 22 3. After consideration of the testimony presented during the public hearing, including staff
23 comments, exhibits, and the standards of review for granting variances set out in Section
24 10.01.02, St. Lucie County Land Development Code, the Board of Adjustment has made
25 the following determinations:
26

27 *The requested variance has met the standards of review as set forth in Section*
28 *10.01.02, St. Lucie County Land Development Code and is not in conflict with the goals,*
29 *objectives, and policies of the St. Lucie County Comprehensive Plan, because*
30

- 31 a) *The requested variance is located on a vacant parcel adjacent to a major intersection*
32 *and no objection was received from adjacent property owners.*
33
- 34 b) *The granting of the requested variance would not impair or otherwise injure other*
35 *property or improvements in the area in which the subject property is located.*
36
- 37 c) *The requested variance meets the general spirit and intent of the St. Lucie County*
38 *Land Development Code and the St. Lucie County Comprehensive Plan.*
39

40 **NOW, THEREFORE, BE IT RESOLVED** by the Board of Adjustment of St. Lucie County,
41 Florida:
42

- 43 A. Petition of Carroll Collins for a variance from the provisions of Section 7.05.06(C)(2)(c) of
44 the St. Lucie County Land Development Code to allow the installation of a driveway that
45 will encroach 15 feet into the minimum side setback of 25 feet required for nonresidential
46 driveways, for the property depicted on the attached map as Exhibit "A" and described
47 as follows:
48

**JOSEPH E. SMITH, CLERK OF THE CIRCUIT COURT
SAINT LUCIE COUNTY**
FILE # 4090752 07/13/2015 at 03:04 PM
OR BOOK 3767 PAGE 597 - 600 Doc Type: RESO
RECORDING: \$35.50

June 24, 2015
File No. BA 320154849

BOA Resolution No. 15-007
Page 1

1 The South 395.97 feet of the West 219.98 feet of the West 1/2 of the West 1/2 of the
2 Southwest 1/4 of the Southwest 1/4 LESS the South 40 feet for road right-of-way and
3 LESS the West 40 feet, lying and being in Section 21, Township 35 South, Range 40
4 East, St. Lucie County, Florida.
5

6 LESS AND EXCEPT
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8 The West 10 feet of the following described parcel: The South 395.97 feet of the West
9 219.98 feet of the West 1/2 of the West 1/2 of the Southwest 1/4 of the Southwest 1/4
10 LESS the South 40 feet for road right-of-way and LESS the West 40 feet, lying and
11 being in Section 21, Township 35 South, Range 40 East, St. Lucie County, Florida.
12

13 AND LESS
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15 A parcel of land situated in Section 21, Township 35 South, Range 40 East, St. Lucie
16 County, Florida. Being more particularly described as follows:
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18 Commencing at the Southwest corner of said Section 21; thence North 89°57'23" East,
19 along the South line of said Section 21, a distance of 50.03 feet; thence North 02°10'51"
20 West, departing said South line, a distance of 40.03 feet to a point of the intersection of
21 the Easterly right of way line of South 25th Street and the Northerly right of way line of
22 Edwards Road, being the Point of Beginning.
23

24 Thence North 02°10'51" West, along said Easterly right of way line, a distance of 20.00
25 feet; thence South 46°06'44" East, departing said Easterly line, a distance of 28.81 feet
26 to the said Northerly right of way line of Edwards Road; thence South 89°57'23" West,
27 along said Northerly line, a distance of 20.00 feet to the Point of Beginning.
28

29 Location: Northeast corner of the South 25th Street and Edwards Road
30 intersection
31

32 Property Tax ID#: 2421-333-0001-0009
33

34 B. Based on the evidence presented, this variance request is approved, with the following
35 conditions:
36

- 37 1. Prior to the issuance a Vegetation Removal Permit, a Landscape Plan consistent
38 with Land Development Code Section 7.09.04 shall be approved by the
39 Environmental Resources Department.
40
- 41 2. Prior to the issuance of a Vegetation Removal Permit, a site inspection shall be
42 conducted by the Environmental Resources Department to verify that tree protection
43 measures, including but not limited to, root pruning, root barricades, and tree
44 protection barricades have been installed.
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- 46 3. The driveway shall be constructed in a location and manner that avoids impacts to
47 the two (2) native live oak trees measuring 53 inches and 40 inches in diameter at
48 breast height, as shown on the submitted tree survey.
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4. The issuance of County development permit does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

5. All other applicable state or federal permits must be obtained before commencement of the development.

C. An appeal from the Board of Adjustment's action may be processed in accordance with Section 10.01.07, of the St. Lucie County Land Development Code.

D. This variance shall expire twelve months from the date of adoption unless a building permit is approved or an extension is granted in accordance with Section 10.01.06, of the St. Lucie County Land Development Code.

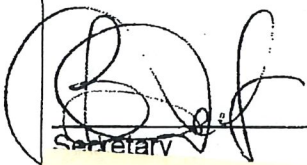
After motion and second, the vote on this resolution was as follows:

Chairman Richard Pancoast	AYE
Commissioner Ron Knaggs	AYE
Commissioner Buddy Emerson	ABSENT
Commissioner Bob Lowe	AYE
Commissioner Michael Jacquin	AYE

PASSED AND DULY ADOPTED This 24th day of June, 2015.

ATTEST:

BOARD OF ADJUSTMENT
ST. LUCIE COUNTY, FLORIDA


Secretary


Chairman

APPROVED AS TO FORM
AND CORRECTNESS:


Asst. County Attorney

If under County provisions hold native inches and removing half. If mitigation required by County 2 to 250.00 county of 101 inch

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME McCain - Bret - Ruffner	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Fort Pierce Planning Board of Adjustment
MAILING ADDRESS 3021 Fairway Drive St. Lucie	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY Fort Pierce, FL 34982	NAME OF POLITICAL SUBDIVISION: City of Fort Pierce
DATE ON WHICH VOTE OCCURRED 12/6/18	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Bret McCain, hereby disclose that on December 6th, 20 18:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, Mother & Father In-Law;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The property owner of the applicant is a relative of mine. They are my Father In Law and Mother In Law.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

12/6/18
Date Filed

Bret McCain
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.