

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, **JULY 27, 2023, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.**

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: James Crist; KeAndrea Davis; Darrell Drummond; Jaimebeth Galinis, Chair

Absent: Charles Hayek

Staff Present: Sara Hedges, Interim City Attorney
Vennis Gilmore, Assistant Planning Director
Ryan Altizer, Senior Planner
Alicia Rosenthal, Planning and Development Organizer

4. CONSIDERATION OF ABSENCES

Motion was made by Darrell Drummond, and seconded by KeAndrea Davis to approve the absence of Mr. Hayek.

AYE: KeAndrea Davis, Darrell Drummond, James Crist, Chair Jaimebeth Galinis
Passed

5. APPROVAL OF MINUTES

- a. Minutes from the March 23-2023, meeting

Motion was made by Darrell Drummond, and seconded by KeAndrea Davis to approve the minutes from the March 23, 2023 meeting.

AYE: KeAndrea Davis, Darrell Drummond, James Crist, Chair Jaimebeth Galinis
Passed

6. PUBLIC HEARINGS

a. Variance - 7-Brew Drive-Thru - 2610 Rolyat Street

The clerk introduced the Variance for 7-Brew Drive Thru located at 2610 Rolyat Street.

The chair asked the Board attorney to explain the Quasi-Judicial Hearing procedures.

Before commencing this Quasi-Judicial Hearing, the Interim City Attorney, explained to the Board of Adjustment that they serve in both a legislative and quasi-judicial role. When acting as a legislative body, the Board engages in law-making activity by passing laws and establishing policies. When acting as a quasi-judicial body, the Board applies those laws and policies and is held to stricter procedural requirements. Quasi-judicial proceedings are less formal than proceedings before a circuit court but are more formal than the normal Board meeting. Quasi-judicial proceedings must follow basic standards of notice and due process; and, decisions must be made based on competent substantial evidence. Therefore, Board members have a duty to conduct the quasi-judicial proceedings more like judges than legislators. That is why the Commission has established the uniform procedures for quasi-judicial hearings that will be followed today.

The Chair called the proceeding to order.

The clerk confirmed the City complied with advertisement and notice requirements.

The Chair inquired with the Board regarding ex-parte communications and asked the Clerk to call the roll:

Mr. Drummond - no

Mr. Crist - no

Ms. Davis- no

Madam Chair Galinis - yes

The Chair opened the public hearing.

The clerk was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation:

Vennis Gilmore, Assistant Planning Director, gave an overview of the application. The applicant is seeking to reduce the requirement of a 10-foot landscape strip/buffer to 0-feet along the Kerr Street property line. The need for a variance is the result of the St. Lucie County (SLC) staff comment issued during the Right-Of-Way (ROW) permit package review. Due to the ROW dedication requested along Kerr St, the project is unable to comply with the required 10-ft landscape buffer along the Kerr Street ROW. Mr. Gilmore highlighted the applicant intends to have larger landscape buffers along the other property borders, and they intend to install street trees and shrubs to add to the beautification of the existing streetscape of Kerr Street. It is the recommendation of staff to grant approval of the requested

variance based upon the justification presented by the applicant with respect to the criteria for granting a Variance.

Board questions for Staff: Mr. Drummond asked what is going to happen along Kerr Street and who will maintain the street trees. Mr. Crist asked the definition of street trees.

Applicant questions for Staff: None

Applicant presentation: Zach Middlebrook, Applicant Representative from MetroGroup Development, sworn, explained the process 7-Brew has gone through to get to this point. He stated the property was annexed into the city and both streets the property is on are owned by St. Lucie County. He noted the donated right-of-way (ROW) dedication was recently approved by St. Lucie County. Mr. Middlebrook said if St. Lucie County does not approve the trees in the ROW, the six trees will be planted somewhere on the site. Mr. Middlebrook said Chris Ossa, Civil Engineer from Kimley-Horn and Associates, is available for any engineering questions.

Board questions for Applicant: Ms. Davis asked if 7-Brew will be maintaining the street trees. Mr. Crist asked if the site is irrigated and the type of grass being used. Mr. Middlebrook stated 7-Brew will maintain the ROW if it looks unsightly. He said they are maximizing the residential landscape buffer along the homes in the back on Okeechobee Road.

Public comment: None

Board comment: Mr. Crist said the applicant will most likely have to maintain the street trees. He also said he wants the site to look presentable. Mr. Drummond said he would love to see something to beautify Kerr Street and a commitment from the owner to maintain the street trees.

Applicant final comment: None

The Chair, seeing no one else, closed the public hearing.

Motion was made by KeAndrea Davis to approve the Variance as is. Motion failed.

Motion was made by KeAndrea Davis and seconded by Jim Crist to approve the proposed Variance with the condition that the applicant will install street trees and shrubs to add to the beautification of the existing streetscape along Kerr Street.

AYE: Darrell Drummond, James Crist, KeAndrea Davis, Madam Chair Jamiebeth Galinas

Mr. Middlebrooks said if the county does not approve the street trees in the ROW the Variance will need to be refiled in 30 days.

Ms. Hedges said the motion states that the trees are to be planted along Kerr Street and there are no exceptions to that. If the county denies the request, the applicant would have to come back to the Board to address.

Mr. Gilmore stated that per city code, the applicant has to place a certain number of trees along the property line.

Motion was made by KeAndrea Davis and seconded by Jim Crist to withdraw the approved motion.

AYE: James Crist, KeAndrea Davis, Darrell Drummond, Madam Chair Jamiebeth Galinas

Ms. Hedges asked the Board if the intent is to have the trees planted along Kerr Street if permitted by the county, and if not the trees will be planted elsewhere.

Motion was made by KeAndrea Davis, and seconded by James Crist to approve the Variance to reduce the requirement of a 10-foot landscape strip/buffer to 0-feet along the Kerr Street property line with the condition the proposed trees, at least six of them, be planted along Kerr Street as long as approved by St. Lucie County and if not approved by St. Lucie County the six trees are to be planted elsewhere on the property.

AYE: KeAndrea Davis, Darrell Drummond, James Crist, Chair Jaimebeth Galinis
Passed

b. Variance - R and B Dixie Properties - 2135 Old Dixie Highway

Mr. Crist recused himself per 286.012 of the Florida State Statute.

The clerk introduced the Variance for R and B Properties located at 2135 Old Dixie Highway.

The Chair called the proceeding to order.

The clerk confirmed the City complied with advertisement and notice requirements.

The Chair inquired with the Board regarding ex-parte communications and asked the Clerk to call the roll:

Ms. Davis- no
Mr. Drummond - no
Madam Chair Galinis - no

The Chair opened the public hearing.

The clerk was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation:

Ryan Altizer, Senior Planner, gave an overview of the application. The applicant is requesting a Variance to allow for a reduction to the setback requirement to 8.3 feet along the front property line and a Variance, to allow for a reduction to 8.3 feet for the landscaping buffer requirement due to a taking by FDOT. Florida Department of Transportation took a part of the property in fee simple, through eminent domain, as a part of a bridge construction project. Prior to this taking, the property met the front set back requirement with a setback of 43.1 feet. However, this taking resulted in a reduction of the front set back by 31 feet at the south property line and 38 feet at the north property line. This reduction left the setback currently at 8.4 feet and reduce the landscape buffer from 16 feet to 8.4 feet.

Board questions for Staff: Chair Galinas asked what the catalyst was for the application and if the city approached the property owner requesting the Variance. Mr. Drummond also asked what triggered the application.

Applicant questions for Staff: None

Applicant presentation: Douglas Vitunac, Attorney and Applicant Representative, sworn, stated the applicant is being proactive to make sure the property has no problems going forward. He noted the applicant's eminent domain attorney recommended the Variance to solve problems before they happen.

Board questions for Applicant: None

Public comment: None

Board comment: Mr. Drummond asked if the approval is granted, will any Variances be needed on the property for future applications. Mr. Altizer stated no Variances will be needed regarding the front setback and landscape buffer.

Applicant final comment: None

The Chair, seeing no one else, closed the public hearing.

Motion was made by Darrell Drummond, and seconded by KeAndrea Davis to approve two Variances to allow for a reduction to the setback requirement to 8.3 feet along the front property line and to allow for a reduction to 8.3 feet for the landscape buffer requirement.

AYE: KeAndrea Davis, Darrell Drummond, Chair Jaimebeth Galinis

Other: James Crist (ABSTAIN)

Passed

7. DISCUSSION / OTHER BUSINESS

8. COMMENTS FROM THE PUBLIC

There were no comments from the public.

9. ADJOURNMENT

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, JAMES CRIST, hereby disclose that on July 27, 20 23 :

(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, _____ ;
- 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:

previous business dealings in construction

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.

7/27/23
Date Filed

James A. Crist
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.