



MINUTES
COMMUNITY DEVELOPMENT BOARD
May 11, 2022, AT 6:00 P.M.
COUNCIL CHAMBERS
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice a public hearing of the Community Development Board for the City of Neptune Beach was held both in person May 11, 2022, at 6:00 p.m. in the Council Chambers.

Attendance

Board members were in attendance:

Bob Frosio, Chair
Jonathan Raiti, Member
Rene Atayan, Member
William Hilton, Member
Charley Miller, Member
Jeremy Randolph, Member
Tony Mazzola, Alternate Member

Rhonda Charles, Alternate Member was in an attendance.

The following staff members were present:

Samantha Brisolara, Community Development Director
Zachary Roth, City Attorney
Piper Turner, Code Compliance Supervisor

Pledge

Pledge of Allegiance.

Call to Order/Roll
Call

Chair Frosio called the meeting to order at 6:00 p.m.

Minutes

Made by Atayan, seconded by Hilton.

MOTION: TO APRIL 13, 2022, MINUTES AS SUBMITTED.

Roll Call Vote:

Ayes: 7-Hilton, Raiti, Randolph, Atayan, Miller, Mazzola, Frosio
Noes: 0

MOTION CARRIED

May 11, 2022

Swearing in Mr. Roth, City Attorney, asked anyone appearing before the board tonight to raise their right hand to be sworn in.

Variance application V22-05 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for John Harbison Et Al for the property known as 505 Bowles Street (RE# 17310-0000). The request is to vary Section 27-231(c)(3) location of an accessory structure. The request for variance change a one-car garage in to a two-garage encroaching on to the front yard of a corner lot.

John Harbison
ET AL 505
Bowles St

BACKGROUND: An application for a variance was submitted on April 6, 2022, to turn an existing one-car attached garage into a two-car garage.

DISCUSSION: The applicant is requesting a relief from the following Land Development Code provision:

- **Sec. 27-231 (c)(3)**
 - “Front yards on corner lots. The front yard shall be considered as parallel to the street upon which the lot has its least exterior frontage. Where the front yard on corner lots, as defined herein, is not keeping with the prevailing yard pattern, the city manager or designee may waive the requirement for the determination of the normal front yard and substitute a special yard requirement, which shall not exceed the average of the yards provided on adjacent lots.”

Neptune Beach’s determination of the front setback is contradictory in the ULDC. In §27-231 (c)(3), the front setback is based on the shortest width of the lot. However, §27-234 states the front setback is measured from the front of the building, excluding steps, to the front of the lot.” Based on this finding, the front setback should be on Fourth Street.

The inconsistency in the Code has created the necessity for relief.

FINDINGS:

1. The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.

- a. **Applicant Response:** “The house was constructed in 1955. It includes a small single car garage that is not consistent with current standards. With setbacks as currently defined, the house is currently non-conforming because the existing attached garage encroaches 7” into the defined 20ft setback for front yards.”
- b. **Staff Response:** Staff finds that the house was constructed prior to the creation of setbacks for the R-2 Zoning District. Additionally, there is an inconsistency between §27-231(c)(3) Front Yard Setback Requirements and §27-234 Measurement of the Minimum Required Yard Setback. The front setback should be located on Fourth St based on §27-234.

However, §27-231(c)(3) would require the front yard to be placed on Bowles St.

2. The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.

a. **Applicant Response:** “No improvements to this side of the house can be made without the variance. This variance will allow me to make a reasonable improvement to the property so that it will be more consistent with the current homes in the area.”

b. **Staff Response:** Staff finds the variance request is the minimum necessary to allow use of the property. Based on the inconsistency in the LDC, the need for the variance is to forgive a section of the code that does not correlate with the measurement section of the front yard found in §27-234.

3. The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

a. **Applicant Response:** “Any improvements made to the property will be designed to maintain the current character and standards for the area. No site lines will be affected for the intersection. The view for the neighboring properties will be maintained.

b. **Staff Response:** Staff finds that the location of the proposed addition to the garage structure will not negatively impact adjacent or nearby properties, nor would it negatively affect the public in general. The proposed setback for Bowles Street for the addition to the garage is 10'. This provides a clear visibility triangle for traffic stopping at the corner of Bowles and Fourth Streets. Further, there is no proposed changes to structures located to the rear or southerly property lines where adjacent properties are located.

4. The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

a. **Applicant Response:** “The desired improvements made to the property will help make the house more consistent with newer homes or other remodeled homes in the area. It should improve the appearance of the local area thus improving the marketability of neighboring homes. The structure will be built with the essential character of the area maintained.

b. **Staff Response:** Staff finds that the variance will not diminish property values but will likely aid in increasing property values. Additionally, the variance will not alter the essential character of the area surrounding the site.

5. **The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.**

- a. **Applicant Response:** “The improvements planned will be consistent with the existing neighborhood standards.”
- b. **Staff Response:** Staff finds that the variance is in harmony with the general intent of the ULDC. Additionally, the setbacks will be maintained based on the house frontage instead of the shortest width of the lot as is customary in best planning practices.

6. **The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.**

- a. **Applicant Response:** “The house was constructed in 1955 long before the current setbacks were established.”
- b. **Staff Response:** The variance has not been created by the property owner but has been created by an inconsistency in the LDC.

7. **Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.**

- a. **Applicant Response:** “Of the 16 lots on the 2 blocks north and 2 blocks south of 4th street adjacent to Bowles St, it appears that 8 are conforming and are 8 non-conforming if the front of the lot is defined by the narrow dimension. This is simply based upon a review of the lot maps that were printed from the Tax Appraiser website and does include any variances that may have been approved.”
- b. **Staff Response:** Staff finds that any property owner may have been affected by this provision in the past and the board may, in the future, receive additional requests of the same nature until the time the updates to the Land Development Code are codified. Granting of this variance will not provide any special privilege that will not be afforded to other property owners seeking relief due to the inconsistency in the Code.

CONCLUSION: Staff supports approval of the variance based on the inconsistency of code language, which was not brought on by the actions of the homeowner.

RECOMMENDED MOTION:

Move to approve with or without conditions.

OR

Move to deny V22-05 based on the fact that the home was built prior to the creation of the Land Development Code setback language.

Mr. John Harbinson, property owner, addressed the board. He stated that Staff had described the request perfectly. He would like to build a two-car garage with come extra space for a workshop. This location was picked because tying in the roof lines is a concern. Will be using pervious pavers for the driveway that will facing and accessed from Fourth Street.

The floor was opened for public comments. There being no comments, the public hearing was closed.

Board questions for the applicant:

Mrs. Atayan: Is the code in consisted mainly for corner lots. Yes.

Mr. Miller: Will there be an address change? No.

Mr. Mazzola: Where is he front door? It faces Fourth Street.

Made by Hilton, seconded by Raiti.

MOTION: MOVE TO APPROVED VARIANCE APPLICATION V22-05 WITH CONDITIONS: MUST MAINTAIN 20 FOOT SETBACK ON THE FOURTH STREET SIDE AND 10 FOOT SETBACK ON THE BOWLES STREET SIDE.

Roll Call Vote:

Ayes: 7 -Hilton, Miller, Raiti, Randolph, Atayan, Mazzola, Forsio

Noes: 0

MOTION CARRIED

Variance application V22-06 Marshpoint Properties Two, LLC

V22-06 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Marshpoint Properties Two, LLC for the property known as Lots 8, 9, 10, 11, 12, 13, 15 & 16 Block 2 Florida Beach Prado Ferrer Unit 2 (RE# 173292-0000, 173293-0000, 173294-0000,173295-0000, 173296-0000 & 173298-0000). The request is to vary Section 27-231(c)(3) location of an accessory structure. The request for variance would change a one-car garage in to a two-garage encroaching on to the front yard of a corner lot.

Samantha Brisolara, Community Development Director presented the staff report.

BACKGROUND: An application for a variance was submitted on April 13, 2022, requesting relief from the rear setback and side yard setbacks. The applicant is planning to construct a 4,000 square foot, 2-story commercial office building with café and storage in the C-2 Zoning District on lots 8 – 13. The side yard setback variance, if granted, would only apply to lots 8 and 13. The applicant will be re-platting the subject lots into one larger lot prior to construction of the proposed building. The rear yard setback variance, if granted, would apply to all lots listed in the variance request.

Pending the Land Development Code Update and subsequent Future Land Use Map Amendment to the Comprehensive Plan, the subject lots will be located in the NC Overlay within the C-2 Zoning District. The side setbacks for the NC Overlay in the C-2 Zoning District are 0' for internal lots. Additionally, the rear yard setback is 10'. If approved, the side setback variance will be in compliance with the proposed land development code provision for the NC Overlay in C-2.

DISCUSSION: The applicant is requesting a relief from the following Land Development Code provisions:

- **Table 27-229-1**
- "C-2 side yard setback minimum of 10' and C-2 rear yard setback of 10'."

FINDINGS:

- 1) **The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.**
 - a. **Applicant Response:** "1) Lots have irregular rear property lines
2) Lots too small to individually develop. 3) configuration of the alley in rear not practical."
 - b. **Staff Response:** Staff finds that the required improvements for a commercial development on lots 8-13 would be impossible. The LDC requires parking to be located on site, as well as ensuring proper drainage/storage of stormwater on site. The minimum parking size required by LDC §27-548 (b) (1) is 10' wide by 20' deep with curbing or curb stops at 18'. As such, the buildable space would be reduced by 20' at the shortest distance between the depth of the lot.
- 2) **The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.**
 - a. **Applicant Response:** "Smaller than proposed building size does not warrant development. Building would only be 28 ft deep without variance"
 - b. **Staff Response:** Staff finds that lots 8 – 12 are very narrow and would not allow for a commercial structure and parking to be placed on the individual lots. As planned, the lots are to be re-platted prior to construction of the proposed commercial building. This replat will enable the lots to have a larger street frontage. However, the depth of the lots will remain unchanged. As such, the size of the lots is too narrow to allow for the LDC requirements for a commercial structure.
- 3) **The proposed variance would not adversely affect adjacent and nearby properties or the public in general.**
 - a. **Applicant Response:** "Owner owns all adjacent properties."

- b. **Staff Response:** Staff finds that the variance will not negatively impact adjacent or nearby properties. The rear setback will affect a dead-end alley that is currently considered City right-of-way. The alley serves as an access point for City utilities as well as refuse collection. However, city utilities running through the alley are located opposite the lots where the proposed variance is requested. Additionally, refuse collection will still be available to the rear of the proposed structure based on the irregular lot lines. There is no adverse impact on access to the city's utilities or ability to collect refuse.

The property abutting lot 8 is currently used as warehouse/storage. The 10' setback proposed, as well as the intensity of the proposed office and ancillary storage does not indicate a negative impact to the property abutting lot 8.

The property abutting lot 12 is owned by Jacksonville Transportation Authority (JTA). The land is vacant and houses a light pole and lighting fixtures. During development review, the plans will be provided to JTA to allow for comment on the proposed development. Possible impacts to the JTA property would be overflow parking on the property. This can be mitigated through additional land use controls or conditions on the applicant to ensure protection of the JTA property. Staff suggests addition of a condition that overflow parking shall not be located on the vacant JTA property and that violators be towed and cited for failure to comply. Staff additionally suggests the condition that the applicant place no parking signs along the right-of-way of the JTA property. A right-of-way permit will be required.

All other properties in the vicinity are office and warehousing with one small retail convenience shop. The proposed use is compatible with the other uses in the area and no negative impacts are proposed from the variance request.

4) The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

- a. **Applicant Response:** "Extension of buildings already in existence. Plan to convert 2 parking spaces into green zone/green space."
- b. **Staff Response:** Staff finds that property values will likely increase based on the redevelopment of vacant land in the area. The proposed use is consistent with existing uses in the area.

Additionally, the proposed addition of green space will aid in stormwater collection for the proposed structure as well as reduce the amount of concrete on the site. Pervious pavers used for parking areas also adds to the character of the area without impacting the overall impervious surfaces.

5) The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.

- a. **Applicant Response:** "Allowable use not in conflict with ULDC."

- b. **Staff Response:** Staff finds that the effect of the variance is in harmony with the general intent of the Land Development Code for setbacks in commercial areas.

6) The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.

- a. **Applicant Response:** “Irregular lots with impractical alley platted long before owners’ ownership.”
- b. **Staff Response:** Staff finds that the size and shape of the lots, even after re-platting into a larger lot are not conducive for commercial development. The Land Development Code requires onsite parking, loading zone, on site stormwater retention, and other provisions which impact the ability to effectively develop a commercial use.

The current site plan does not show a loading zone. However, staff recommends adding a condition that a loading zone be added to the southeasterly corner of lot 8. This loading zone can double as two compact parallel parking spaces during non-loading times. The dumpster enclosure can be moved to the portion of lot 12 that jets east.

7) Staff Response: Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

- a. **Applicant Response:** “Same as above—alley and irregular lots”
- b. **Staff Response:** Staff finds that granting the variance will not confer upon the applicant any special privilege based on the irregularity of the lots and inability to effectively develop the site for commercial use based on the zoning district and LDC requirements.

CONCLUSION: Staff supports approval of the variance with the following conditions:

- No Parking Signs shall be placed along the right-of-way of the JTA property
- A Loading Zone shall be added to the southeasterly corner of lot 8 and shall double as two parallel compact spaces when not used as a loading zone
- Move the dumpster enclosure to the portion of lot 12 that jets east.

RECOMMENDED MOTION:

Move to approve Variance application V22-06 with the following conditions:

- 1) No parking signs shall be placed along the city’s right-of-way abutting the JRA property.
- 2) A loading zone shall be added to the southeasterly corner of Lot 8 and shall double as two parallel compact parking spaces when not used as a loading zone.

3) Move the dumpster enclosure to the portion of Lot 12 that jets east.

OR

Move to deny V22-06 based on the potential impact to city utilities within the alleyway adjacent to the proposed rear setback distance as well as the location of the side setback to the JTA property located next to lot 12.

Mr. Bakkes, applicant, addressed the Board. Stated that he owns the majority of the properties surrounding the lots. JTA has the corner property that has the "Welcome to Neptune Beach" sign on it. This area has been completely fenced by the City of Neptune Beach. The offices will be used by businesses such as contractor. There will be a restroom and storage on the first floor with offices on the second floor. The dumpster location is negotiable. It can be moved to the property line or front on Marsh Point Road.

There is no place in the area for employees of the surrounding buildings to grab a coffee or snack. Would create a café with beer and wine at the north end of the new building.

The floor was opened for public comments. There being none, the public hearing was closed.

Board questions for the property owner:

Mr. Raiti: Do you own the building to the west of the lots? Yes, I owe 2311 and 2307 Marsh Point. Will there be a setback between that building and the new one? Yes, the new one on lot 8 will be separated from the lot line by 5 feet.

Mr. Hilton: The lots back up to a weirdly shaped alley. Will the façade be facing towards Sky Enterprise and Marsh Point Road while the roll up doors face the alley? That is correct.

Made by Hilton, seconded by Randolph.

MOTION: **MOVE TO RECOMMEND APPROVAL OF VARIANCE V22-06 FOR MARSHPOINT PROPERTIES TWO LLC WITH THE FOLLOWING CONDITIONS:**

- 1) **NO PARKING SIGNS SHALL BE PLACED ALONG THE CITY'S RIGHT-OF-WAY ABUTTING THE JRA PROPERTY.**
- 2) **A LOADING ZONE SHALL BE ADDED TO THE SOUTHEASTERLY CORNER OF LOT 8 AND SHALL DOUBLE AS TWO PARALLEL COMPACT PARKING SPACES WHEN NOT USED AS A LOADING ZONE.**
- 3) **LEAVE DUMPSTER ENCLOSURE ON LOT 8.**
- 4) **REPLAT TO BE APPROVED BY BOARD AND CITY COUNCIL PRIOR TO RECORDING.**
- 5) **THE STORAGE COMPONENT SHALL REMAIN TIED TO THE OFFICES SPACES AND SHALL NOT BE LEASED OR RENTED OUT SEPARATELY.**
- 6) **THERE WILL BE ZERO INTERIOR LOTS, A 5-FOOT SOUTH EXTERIOR SETBACK FOR LOT 8 AND A 15-FOOT SETBACK FOR LOT 13.**

May 11, 2022

Roll Call Vote:

Ayes: 7 -Hilton, Miller, Raiti, Randolph, Atayan, Mazzola, Forsio

Notes: 0

MOTION CARRIED

Application was informed that City Council makes the final decision, and that this application would be forwarded to the June 6th meeting, and they need to attend.

Open
Discussion

There will be a special board meeting will be Monday May 23, 2022, at 6:00 pm to review the final draft of the Unified Land Development Rewrite. The City Council will do their first hearing for adoption in June and the final in July.

Adjournment

There being no further business, the meeting was adjourned at 6:47 p.m.

Robert Frosio, Chairperson

ATTEST:

Piper Turner, Board Secretary