

# MINUTES

## PLANNING & ZONING COMMITTEE

### REGULAR MEETING AND VARIANCE HEARING

Wednesday, November 18, 2015, 2014 9:30 a.m.

- City Hall Conference Room

1. The meeting was called to order by Chairwoman Marie Flood. *Present:* Ellen Behrle, Bob Glassman, Gail Cortelyou; Joey Raspe and John Dalton. *Also present:* Building Official Ed Borysiewicz, Cathy Henninger, City Clerk and Attorney Tom Wright *Excused:* John Curry and Ron Anderson Public: 3

2. Approval of Minutes Regular Meeting September 16, 2015 Minutes were ratified by: Motion: Marie Flood, seconded by Ellen Behrle to approve the minutes of 9/16/15.  
On the Motion: Unanimous consent.

Chair Flood stated that both Ron Anderson and John Curry were excused for good cause from attending today's meeting. She requested a discussion of the board make-up with the addition of the two new members. Chair Flood stated the board is full and cannot accept additional members at this time.

The membership of the Board is as follows:

Full members: Marie Flood, term expires 2016

John Curry, term expires 2016

Gail Cortelyou, term expires 2017

Bob Glassman, term expires 2017

Ron Anderson, term expires 2017

Alternate: Ellen Behrle, term expires 2016

Attorney Wright stated that the Commission will need to resolve the appointments at the next Commission meeting and he will discuss it with Mayor Ellis. He explained per code if a member misses 2 or 3 meetings the Board and declares the position vacant and proposes a replacement. Cathy explained that it was difficult arriving at a quorum for some meetings.

Joey Raspe and John Dalton were thanked by Attorney Wright and moved to the audience seating.

Chair Flood stated Mr. Curry has requested to move to an alternate position due to a health issue. Her recommendation would be to move Ellen Behrle to a full member and John Curry to an alternate position.

**Motion:** Made by Chair Flood, seconded by Gail Cortelyou to recommend to the Commission to move John Curry to an alternate and move Ellen Behrle, full time resident to a full member.

**On the Motion:** Unanimous approval.

Witnesses were sworn in who would be testifying in this hearing by Attorney Wright.

**Sunshine Law Discussion-** Attorney Wright stated there has been an anonymous complaint against the City regarding the sunshine law. He spoke to the Board about the Sunshine Law at the request of Mayor Ellis. Attorney Wright will be meeting with each of the Boards of the City. He explained how crucial compliance with the sunshine law is. He stated it is the responsibility of each board member to know the rules and abide by them. He stated that members of a Board may not speak to any other board members regarding any business of the board. Attorney Wright stressed that this **does** include emails, texts and phone conversations as well. Any discussions concerning board business are to be held in the public meetings in the sunshine. Attorney Wright stated that this law is not taken lightly by the State of Florida, Attorney General Office. If rules are broken, the individuals could face action including hearings in Tallahassee and serious fines. Attorney Wright explained ex-parte communication and suggested that it be included in the agendas of the various boards going forward. Ex-parte communication is to be disclosed at the beginning of a meeting. It does include site visits to property that is on the agenda. Marie Flood and Bob Glassman both expressed ex-parte communications and stated it would not interfere with their deliberations or decisions concerning this case.

3. Irene Epperson, 100 12<sup>th</sup> Street - Variance request is for the construction of a 1,050 sq. ft. detached addition conforming to all the setback, height and pervious area requirements. (LDR 101-10).

Ed Borysiewicz explained that the variance is to add a detached guest house structure from the main house. The proposed detachment is the issue, not the size. Ed explained to the Board that Ms. Epperson is aware the guest house will have no kitchen, stove, washer or dryer. Attorney Wright stated that this could be thought of as an accessory to a single family home. He explained that since there are two lots, the owner could have chosen to add a second home, utilizing a building right for a new home. If the Epperson Family were to have chosen that they would have had more flexibility going forward. The variance is an addition to the existing home without the connection. Attorney Wright stated for the record that the City has a limited number of dwelling unit rights and if in the future the owners would want to change this structure to a single family home and there were no building rights available, nothing could be done to add the building rights. Mr. Stratton and Ms. Epperson were then introduced. Mr. Stratton, architect for the project explained the homeowner requested clean simple construction with the least impact. Ms. Epperson thanked the Board for this opportunity and she has no plans to rent her home. She is asking for the variance to add the addition, detached addition as a place for her to stay while family is visiting. Attorney Wright stated a unity of title will need to be filed on this property should the Board decide to recommend this variance for approval. A question concerning the height of the new addition was asked and the addition will be raised to meet FEMA regulations, but will remain a one story addition, but will be well below the height set back.

Chairwoman Flood then shared the applicant questions and responses to determine good and sufficient cause for a variance.

1. What is the good and sufficient cause that explains why this variance should be granted?  
**Response:** 100 12<sup>th</sup> Street is a combination of 2 lots that could be divided into separate parcels with a 2 separate single family homes without cause for a variance. Rather than increase the density, this application requests the addition of a 1,505 SF detached dwelling unit (guest house). The proposed design is much more compact in scale and would have lesser impact, but requires a variance.
2. What are the unnecessary hardships that would result if the variance is not granted?

**Response:** If variance is not granted the parcel will need to be legally separated. The existing house straddles the existing platted lot lines; therefore a new plat would need to be created which would require positioning the new structure much closer to the Ocean Drive right of way. Additionally, if the variance is not granted the size of the new structure will need to be increased, and an additional curb cut and driveway will need to be constructed.

3. If this variance is granted would there be any increase to public expense that would not otherwise occur? Would it create a threat to public health and safety? Would it create a nuisance? Or cause fraud or victimization of the public?

**Response:** Granting of this variance will not increase any public expense, will not create a threat to public health or safety, will not create a nuisance, nor will it cause fraud or victimization of the public. The new detached structure will be elevated above the existing structure to meet current FEMA requirements which is safer and more secure than the option of putting an addition onto the existing structure. If variance is granted the design will have lesser impact.

4. What are the unique or peculiar physical/geographical circumstances or conditions that apply to this property, but do not apply to other properties in the same zoning district?

**Response:** The parcel of land is unusually large at 28,101 SF and comprised of two platted lots that could be divided into 2 separate lots with 2 separate single dwelling units without the need for a variance. This application for variance has the same outcome with lesser impact.

5. If the variance is granted, would it confer upon the applicant any special privilege that is denied to other properties in the immediate neighborhood in terms of the established development pattern?

**Response:** No special privileges would be conferred if the variance is granted. The lot could be divided into 2 separate parcels with 2 separate single family homes without cause for a variance. There is a similar situation of more than one unit detached dwelling units on a single parcel at 200 12<sup>th</sup> Street.

Chairwoman Flood then called for discussion from the Board.

On the Variance Request Standard for Recommendation to the Commission, the Board went through the 5 criteria questions:

1. Has the applicant demonstrated good and sufficient cause to grant this variance?

**Board Response:** Unanimous approval.

2. Will denying this variance result in unnecessary hardship to the applicant?

**Board Response:** Flood: yes; Cortelyou: yes; Glassman: yes; Behrle: no .

3. Granting the variance will NOT result in increased public expense, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public.

**Board Response:** Unanimous approval.

4. Are there special conditions and circumstance which are unique or peculiar to this property, but do not apply to other properties in this zoning district?

**Board Response:** Unanimous yes.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

**Board Response:** Cortelyou, Glassman; Berhle –no; Flood: yes.

**Motion:** Made by Marie Flood, seconded by Bob Glassman to make the recommendation to the

City Commission to include the unity of title as a requirement of the approval of this variance.

**On the Motion:** Role Call Vote: Glassman, Behrle; Flood : No Cortelyou: Yes

Discussion ensued concerning the elements of a kitchen. Chair Flood proposed there should be no kitchen. Code Official Borysiewicz explained per building codes a range, washer and dryer are the elements determining a kitchen is in place. Other appliances were also discussed. A microwave, dishwasher and refrigerator are allowed per Mr. Borysiewicz.

**On Amended Motion:** Made by Chair Flood, seconded by Ellen Behrle to recommend to the City Commission approval of the variance request with two (2) restrictions, a unity of title is required to be filed on this property (treat as one lot) and that there is no range; washer dryer and dishwasher be allowed in the guest home addition. .

**On the Motion:** Roll Call Vote: Unanimous approval.

Attorney Wright reiterated that the City has a limited number of dwelling units available and in the future nothing would be able to be done to split this property back into two (2) separate lots unless there was a dwelling unit available in the City. The City has no additional dwelling units once the allotted ones are depleted.

4. Any Other Business- None

Chairwoman Flood called adjournment at 10:30 a.m.



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Cathy Henninger, City Clerk

There may be attendance and participation of city commission members at this meeting.

If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.