

**PLANNING AND ZONING BOARD MINUTES  
THURSDAY, MAY 4, 2023 - 1:30 PM  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**PRESENT:** Chairman, Jeb Bittner; Vice Chairman, Jose Prieto; **Members:** Robin Pelensky, Jason Ground, Timothy Velde (arrived at 1:41 p.m.), Alternate Member, Elliese Shaughnessy and Alternate Member, Jake McCrae **Also Present:** Senior Planner, Gayle Lafferty; Planning Director, Jason Jeffries; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

\*Please note that Mr. Timothy Velde arrived at 1:41 p.m., and did not take his seat at the dais.

Today's meeting was called to order at 1:31 p.m.

**I. PRELIMINARY MATTERS**

**A. Agenda Additions and/or Deletions**

Mr. Jason Jeffries, Planning Director, requested that the Board hear item 4-B) before item 4-A).

**II. APPROVAL OF MINUTES**

**A. Regular Meeting – March 16, 2023**

**Mr. Prieto made a motion to approve the minutes of the March 16, 2023 Planning and Zoning Board meeting. Mrs. Pelensky seconded the motion and it passed unanimously.**

**III. PUBLIC COMMENT**

None

**IV. PUBLIC HEARINGS**

**[Quasi-Judicial]**

**A. Variance Application Submitted by Barry G. Segal, P.A. on Behalf of Lisa McLaughlin for a Reduction of Front Yard Setback and Allowance of an Eight Foot Fence/Wall Located at 535 Point Lane (#V23-000003)**

\*Please note that this item was heard after item 4-B) on today's agenda.

The Chairman read Variance Application #V23-000003 submitted by Barry G. Segal, P.A. on behalf of Lisa McLaughlin by title only.

Mr. John Turner, City Attorney, asked if any members of the Board visited the site.

Mr. Bittner stated that he and his wife attended an open house on the property when it was for sale, which was over a year ago.

There were no ex parte communications reported.

The Deputy City Clerk swore in Mr. Jason Jeffries and the audience present for today's hearing en masse.

Mr. Jason Jeffries, who has been sworn in, went over staff's report accompanied by a Power Point presentation with the Board members (attached to the original minutes). He noted that the property owner is seeking two (2) variances, one (1) is related to the front yard setback for a new accessory structure and the other is to allow for the installation of a wall along East Causeway Boulevard in excess of five (5) feet. He reported that staff did a search of variances granted and the City has never granted a variance for a wall over six (6) feet. He asked that if the Board is favorable in granting the variance for the accessory structure that they make it clear that it is only for allowing the accessory structure in the front yard at a setback of 15-feet.

Mr. Bittner asked on the 17<sup>th</sup> Street corridor from the base of the bridge to the traffic light on A1A, are there any other walls that received a variance that are higher than five (5) feet.

Mr. Jeffries thought there were walls that were six (6) feet.

Mr. Bittner questioned so there are six (6) foot walls along East Causeway Boulevard. Mr. Jeffries said that was correct.

Mr. Bittner said every corner lot in the City has two (2) front yards. He asked how is this different than any other corner lot.

Mr. Jeffries said that would be a question for the applicant to answer as part of their justification for the variance.

Mr. Barry Segal, Attorney representing the applicant, said they have no problem with the proviso that Mr. Jeffries mentioned as to restricting this variance. He said the intent is for the accessory structure only, not to allow further uses into the front yard. He said this property is different than two (2) corner properties because the two (2) corner properties would have intersecting perpendicular roads. This happens to be a road that runs next to his client's property. It is not the traditional corner lot. He said it was just bad luck that this property has East Causeway Boulevard along its boundary. He showed a survey on the doc cam (marked as Exhibit A, attached to the original minutes). He said in order for the structure to be completed something has to budge, which would either be the Live Oak Tree or the setback. He agreed that the setback is there by definition and that the Code is set up for square and rectangle lots to have a front yard, a rear yard, and two (2) side yards. He said this is a unique circumstance. This is clearly not a result of the action of the homeowner. He said this would affect the physical characteristics of the neighborhood in a positive way in that if they grant this variance the structure would be moved further off the cul-de-sac. He felt that this would be a great benefit to the property and to the community. He said everyone has driven by this property at some point in time because everyone that comes to Vero Beach drives over the bridge to A1A. He said that road has only increased in capacity. He said this house was built decades before the Alma Lee Loy Bridge was constructed and they continue to suffer from the effects of all the traffic that goes by.

He said this is an exceptional unique hardship. They have two (2) bridges in the City limits and this bridge has an impact on residential neighborhoods and only on this side of the bridge. As to the question, "*Will this variance be compatible with the physical characteristics on the neighborhood,*" he felt that he and staff parted a little because in staff's mind there is not a precedent for a wall of this nature. However, the response to that is the subdivision that was completed on the eastern end of Causeway Boulevard and A1A was the location that variances were granted for walls that were at least six (6) feet tall. He then showed on the doc cam a photograph of a wall on Route 60 behind TJ Max (marked as Exhibit B, attached to the original minutes). He said the wall to the top of the crown was eight (8) feet, nine (9) inches and the wall to the top of the embellishment was about 10 ½ feet. He said this wall has been in place for over a decade and he felt that it fit in well with the neighborhood. He said that he was not aware of anyone that had issues with the wall. He felt it served its purpose and it was a similar situation to what his client is exposed to at the base of the 17<sup>th</sup>

Street Bridge in terms of the traffic. He felt that they had a situation in the City where they have test driven this and they have seen that it works. He said they were not looking for a 10-foot wall, but felt that an eight (8) foot wall would be compatible with the neighborhood. He said the neighbors of his client who wanted to join in on the variance request were present today in support of this. He said currently there is a wooden fence that has been there probably as long as the house has been there. He said his client is not looking to do a block or stucco wall, but a designer wall. They chose a wall of eight (8) feet because that would allow for protection of the property from the visual and sound of the traffic. They feel this variance would be consistent with the intent of the Code. He felt it would be unfair to force these residents to live with the traffic without giving them some form of relief. This would allow them to live in harmony with the roadway. It was his understanding that if this variance was granted there were two (2) neighbors to the east that would be asking for a variance so they could have that same wall constructed. He felt that would be a very nice appearance to the area and would have some consistency to it. They believe that both variances were warranted.

Mr. Bittner asked where are they proposing to build the wall relative to the property line.

Mr. Segal said it would most likely be up to the property line.

Mr. Bittner said because there was no access from the property to the other side of the fence, who would maintain the landscape strip.

Mr. Segal said they would have access to it, but it would not be a direct access. He said his client's landscapers would have to take care of it.

Mr. Bittner asked who would pick up the trash on the outside of the wall. He said there was not a gate.

Mr. Jeffries said they could put in a gate.

Mr. Bittner asked if they were proposing a gate through the wall.

Mr. Segal said it was not his client's responsibility. It would become a code enforcement issue.

Mr. Prieto said there is a fence there now, so this was the same thing, just higher.

Mrs. Pelensky referred to the photograph shown of the wall on Route 60.

Mr. Jeffries said that wall was constructed by the Florida Department of Transportation (FDOT) as part of the State Road 60 project and it is located in the right-of-way. He noted that there was not a variance granted for that because it was within the right-of-way.

Mr. Bittner asked are they proposing that any future walls on 17<sup>th</sup> Street would be of the same design or would they have a "Heinz 57" variety of walls.

Mr. Segal felt that if the owners of the three (3) properties were granted a variance, they would all agree to be consistent with the fence.

Mr. Bittner asked if he was suggesting that if they grant a variance for the first three (3) properties that everyone else who wanted a fence would have the same thing or that every other property owner would have their own choice of fence material.

Mr. Segal felt that was a dangerous game if they were to start legislating what property owners could

do with their properties. He said that he understood the benefit of consistency, but felt it would be difficult to do.

Mr. Bittner agreed stating that was his concern in that this is the entry feature to the Island.

Mr. Segal said whatever happens it was going to be a drastic improvement to what is there now.

Mr. Prieto asked is the landscaping requirement on the outside of the wall or on the inside of the wall.

Mr. Jeffries reported that it is required on the outside of the wall.

Mrs. Pelensky said depending on how close the new foundation is to the root of the Live Oak Tree, with all the protection in the world the tree might not make it.

Ms. Lisa McLaughlin, applicant, who has been sworn in, said that she would be happy to do whatever type of vegetation the Board would like. She also would be happy to move the fence back to make it look pretty with the vegetation. She felt it would nice be and would diminish the “Heinz 57” aspect. She noted that this was a very unique little area.

Mr. Ground said it appears that there are Palm Trees that run along the north side of the property. He asked if they ran the full length of the property.

Ms. McLaughlin answered yes. She said the Palm Trees are on the inside of the fence that is currently there. She said that if she received the variance for the setback she could put the wall on the other side of the Palm Trees to make it look nice.

Mr. Ground felt that might help the mismatch of styles.

The Chairman opened the public hearing at 2:19 p.m.

Mr. Trevor Ohlrich, who has been sworn in, said that he owns the adjacent property. He said this fence (wall) is wind rated up to 130 miles per hour and it has a Field Transmission class rating of 26, which is sound transmission so it will help them. He said that he has vegetation that is eight (8) feet tall and they do not block the noise because sound goes right through them. He said that they do not have a problem with the setback on this property for the building. He said they are trying to keep this wall aesthetically pleasing with color. He noted that the fence is insulated and will absorb the sound.

Mr. Jay Mitchel, who has been sworn in, said that he and the rest of the neighborhood would very much like to see this plan move forward.

The Chairman closed the public hearing at 2:22 p.m., with no one else wishing to be heard.

Mr. Bittner said none of this was going to make the area quiet so it becomes an aesthetic thing and this is the entry to the Island. He asked is there a way for the Planning Department to create a corridor with special guidelines so that they all have to be setback so far from the sidewalk, a certain height of vegetation, etc., that would give some uniformity to the design.

Mr. Jeffries said there could be a Code amendment to have a wall standard along an arterial road. He noted that the picture of the wall that was shown by Mr. Segal was constructed by FDOT and was also on an arterial road and it was within the right-of-way.

Mr. Bittner said that he was a little reluctant because they were letting a single issue drive and set precedence for an entire corridor. He said it was not that you have to build it. Preexisting conditions would remain, but if someone wanted to improve it they would have to do it in this fashion. He said that he understood the applicant's desire and what the issue is, but he was not sure that this was the mechanism, which could set a precedent. He said it would open up a box of other issues for the City. He felt that they might be able to address this in another fashion.

Mr. Turner noted that they were here on the applicant's request for a variance. He said they should limit their direction to that.

Mr. Prieto said that he does not have a problem with the setback for the building.

Mr. Bittner said that he didn't know how moving it 10-feet forward would impact the end result and it would avoid creating a precedent.

Mr. Bittner asked if the Board could make two (2) separate motions.

Mr. Turner asked how the application was written.

Mr. Jeffries said it is one (1) application and they are requesting two (2) variances.

Mr. Turner said it would be okay if the Board wanted to think of this as two (2) separate matters.

Mr. Bittner questioned so they could vote to approve a variance with a condition on one (1) matter and deny the other matter.

Mr. Turner said that is correct.

Mr. Bittner felt that the question of a barrier that is significantly higher than what is currently in the Code was a bridge too far for a single variance. He said that he would propose that they deny the request for the fencing and that they come back in a more uniform way so they could think about what they need as far as setbacks, what type of materials, etc., for the corridor between the base of the 17<sup>th</sup> Street Bridge to the traffic light on A1A.

Mr. Jeffries asked that they make sure that when a motion is made that it is worded that they were approving an accessory structure with a front yard setback of 15-feet.

**Mr. Bittner made a motion to approve the portion of the variance applicable to the front yard setback of an accessory structure along East Causeway Boulevard with a setback of 15-feet and also to deny the variance to the existing wall and fence standards. Mr. Ground seconded the motion and it passed 4-1 with Ms. Shaughnessy voting yes, Mr. Ground yes, Mrs. Pelensky yes, Mr. Prieto yes and Mr. Bittner no.**

**[Quasi-Judicial]**

- B. Site Plan Application Submitted By Mills, Short & Associates on Behalf of Christ Church Vero Beach, Inc. to Construct a 16,800 Square Foot School Building, 3,400 Square Foot Chapel and 4,368 Square Foot Pavilion Located at 665 20<sup>th</sup> Street (#SP22-000007)**

\*Please note that this item was heard before item 4-A) on today's agenda.

The Chairman read Site Plan Application #SP22-000007 submitted by Mills, Short and Associates on behalf of Christ Church Vero Beach, Inc. by title only.

Mr. Jeffries handed out to the Board members a copy of a request for deferral of the public hearing from Christ Church Vero Beach (attached to the original minutes). He reported that Section 65.24 (e)(4) of the Code allows an applicant to request a deferral of a public hearing.

Mr. Turner noted that the request would be made of record for the Board's consideration on the request to defer action. He said the Board can grant or deny the request by a motion.

**Mrs. Pelensky moved that the Board grants the request to defer the Site Plan Application. Mr. Prieto seconded the motion and it passed 5-0 with Ms. Shaughnessy voting yes, Mr. Ground yes, Mrs. Pelensky yes, Mr. Prieto yes and Mr. Bittner yes.**

## **V. DISCUSSIONS**

### **A. Permitted Uses In Commercial Districts**

Mr. Jeffries briefly went over the revised definitions of the draft Ordinance on the commercial districts accompanied by a Power Point presentation with the Board members (attached to the original minutes).

Mr. Turner excused himself from the meeting at 2:58 p.m.

Mr. Bittner said that storage facilities should not be in a commercial district, but in an industrial district.

The Board members agreed.

### **B. Neighborhood Protection**

This item was not discussed.

## **VI. PLANNING DEPARTMENT MATTERS**

None

## **VII. BOARD MEMBERS' MATTERS**

Mr. Ground suggested that at a future meeting they discuss the minimum parking requirements. He thought it would be helpful to look at adding some flexibility or reducing some of the requirements.

Mr. Jeffries said the City already has a very flexible parking code. He noted that he would be bringing the parking code back before the Board to look at updating it.

Mr. Ground said anything that adds flexibility was good.

## **VIII. ADJOURNMENT**

Today's meeting adjourned at 3:41 p.m.

/sp