

Planning and Zoning Board Meeting

September 9, 2024

Agenda and Video of the meeting can be found [here](#).

Present: John Frankhouser, Stephen Yates, Larry Wheatcraft, and Curtis Hodges. **Absent:** Jon Hall, Kip Hulvershorn and Thomas Bien. The minutes of the August 5, 2024 regular meeting were approved **unanimously**.

OLD BUSINESS

V-10-24: Review two variance requests to allow for a new single-family house and garage for a property located at 1825 Beacon Street. The parcel, which has been owned by the same family for 80+ years, currently has two single family homes built in 1952 and 1968 respectively. A pool and deck were built in 1993. The homes were severely damaged by recent hurricanes. The owners want to replace the two buildings with one new single-family home and garage that would meet current building codes including appropriate wind loads. The property is a legally platted 50'X330' lot and zoned R-1. The property owner is asking for a reduction of the required side yard building setbacks to be 5' instead of the required total of 20'. The owner is also requesting a variance for maximum building height. The parcel has a significant elevation grade change from front to back. To keep from removing portions of the dune to facilitate an allowable building height, a height variance of 8' would be needed. City staff have determined that the owner has met the required criteria for the variances. Staff recommended the following conditions: limit any fill over 6 inches to the driveway area only; maintain lower elevations outside of the driveway to retain storm water; gutter both sides of the house and garage to discharge storm water away from neighboring properties. **A motion to approve V-10-24 (2 variances) with the 3 conditions was passed unanimously.**

NEW BUSINESS

S-3-22: Request for approval of minor revisions to the previously approved but not yet recorded final plat for Shell Pointe Phases 1 and 2. While the current plat was unanimously approved by the City Commission on June 27, 2023, it has not yet been recorded with the Volusia County Clerk. Thus, any revisions would not be a replat, but simple revisions. This request is for two minor revisions: (1) revisions to lot lines and dimensions for three previously approved lots (# 52, 53, 54) for the intent of providing model homes within these lots, near the primary site entrance at Pioneer Trail; and (2) changes to two previously approved names as a result of copyright issues: for the Shell Pointe plat and community to now be named Ardisia Park, and for the primary roadway through this plat area to be now named Junonia Boulevard. Staff recommended approval. Chair Wheatley recused himself from the vote. **A motion to approve S-3-22 was passed unanimously (3-0).**

V-14-24: Review a requested Coastal Construction Setback Line (CCSL) variance to allow for a paver walkway, decorative fountain, and outdoor shower with a foot wash at 2903 Hill Street. The owner received a permit from the NSB Building Department to replace an existing dune walk over that was damaged by a previous hurricane. Dune walkovers and seawalls are allowed to go east of the CCSL without a variance. However, permits are required from DEP and Volusia County. A dune walkover permit was issued by the DEP on March 10, 2022. This permit does not authorize the paver walkway,

decorative fountain, outdoor shower, and foot wash that were installed east of the CCSL. An after-the-fact Beach and Dune permit was issued by Volusia County on May 10, 2024 and submitted to the NSB Building Department for the additional amenities that were installed. It is on hold pending the outcome of this variance application. City staff determined that the applicant did not meet all the required criteria, thus, does not recommend approval. **A motion to approve V-14-24 was denied unanimously.**

V-2-24: 833 Maralyn Avenue: Review four variance requests to facilitate the development of four lots between Maralyn Avenue and Maple Street. The property, zoned R-4, consists of seven platted lots and a section of vacated right-of-way (ROW). If the proposed variances are approved, the next step for the applicant will be to subdivide five of the parcels into four lots with an east/west configuration, fronting on S. Atlantic. Two of the platted lots meet the minimum lot size requirements and are not subject to the variance request. The current lot configuration is not suitable for development due to the extent of ROW loss from the lots along S. Atlantic Avenue, and the angle of the lots at the corner of Maralyn and S. Atlantic. Thus, the applicant proposes to reorient the parcels and vacated ROW at the northeast corner east-west, and the two parcels at Maple Street would be combined with a 50' wide lot to the west to give them additional depth. See Exhibit C in agenda packet for current and proposed lot layouts:

- Variances 1 and 3 are to Lots 1 and 4, respectively, and are to allow a driveway to be off the secondary front yard on a corner lot. The LDR requires driveways to be off the primary front yard. In this case, that would put four driveways in relatively close proximity along S. Atlantic. If approved, this would allow one driveway to be off Maralyn Avenue and the other off Maple Street, and two off S. Atlantic. The City's Engineering Department suggested the driveways to be off the side streets.
- Variance 2, Lot 2, is to allow a lot to be 41.5' wide at the rear property line, a variance of 8.5' from the required 50.0' width. The proposed lot exceeds the minimum required square footage. The proposed lot is 50.0' wide for the first 99.10' of the parcel, thus less than an inch shy of meeting the minimum required depth.
- Variance 4 is to allow Lot 4 to be one foot less than the required width for corner lots in the R-4 zoning district. The lot meets the minimum standards for depth and area.

Staff determined that the applicant met the required criteria and recommended approval.

Public participation: One resident spoke in support of the proposed variances, citing the minimal nature of the requests. One resident voiced concern that the east/west orientation of the lots would provide a less aesthetically pleasing view to the neighbors across the street on Maple, showing the long side of the house rather than the front. **A motion to approve V-2-24 (4 variances) was passed unanimously.**

V-18-24: Review a requested boat dock variance to allow for an existing covered boat slip to exceed 360 sq ft in connection with a proposed second uncovered boat slip at 2868 Sunset Drive. Following discussion, the applicant requested a continuance to gather more documentation. **A motion to continue V-18-24 for 60 days was approved unanimously.**

V-16-24: 3101 Saxon Drive, a variance to allow a house to be rebuilt 0.3' from the secondary front property line along E. 21st Avenue. The property owner proposes to raze the bulk of the existing

structure, leaving the exterior walls in place along E. 21st Avenue. The house is located 0.3' from the E. 21st property line. When the houses in the neighborhood were built in the mid-1950s, there was a surveying error of about 5'. All the corner lots in this area are extremely close to the secondary front property line and were constructed with the setback intended to only be 5.0', not the 15.0' required by the R-2 zoning in place currently. The primary front yard setback, along Saxon Drive, is 30.0'. As the proposal increases the amount of livable space, a variance of 14.7' is required. The LDR states that "should such nonconforming structure, or nonconforming portion of structure, be destroyed by any means other than deterioration through time, to an extent of more than 50 percent of its appraised value at time of destruction, it shall not be reconstructed except in conformity with the provisions of this LDR." The proposed construction will clearly take the value considerably below 50% of the appraised value and will require the house to be reconstructed in conformity to the LDR. City staff determined that the applicant did not meet the required criteria for a variance, and they recommended denial of the variance request. Staff noted that the lot is large enough to design a house that isn't this close to the property line. **A motion to approve V-16-24 was denied 1-3, with Mr. Yates, Mr. Hodges, and Mr. Wheatley voting, NO.**

V-17-24: Review a requested variance to allow for existing block walls over 6' in height, and existing rear access stairs within the side yard building setback at 1194 North Peninsula Avenue. The subject property (zoned R-1) has a newly constructed three-story single-family home, inground swimming pool, sea wall, and boat dock. A permit for a 6' fence along the side yard was approved. However, during the final inspection for the CO, it was noted that portions of the fence were higher than 6'. The grade of the neighboring property where the measurement is taken varies which puts the wall in and out of height compliance. The pool access stairs are approximately 32 inches inside the property line. There was no permit for the stairs. City staff determined that not all the required criteria for the variances were met. Public participation: Three residents spoke in favor of granting the variances. One resident (neighbor) spoke in opposition to the variances. He presented the Board with a petition signed by 34 residents asking for the variance requests to be denied.

Board discussion: Mr. Frankhauser stated that the wall could be a potential hazard. The vote was separated into two motions. **A motion to approve V-17-24 (variance 1) was denied unanimously. A motion to approve V-17-24 (variance 2) was denied unanimously.**

COMMENTS OR STATEMENTS BY MEMBERS OF THE BOARD

Member Hodges commented that the City Commission did not approve a Zoning Text Amendment to allow pain management clinics in the B-3 district as a special exception with conditions. This had been unanimously approved by the P&Z in June. Mr. Hodges was disappointed for the applicant doctor who made the request and wondered if the Board could have provided more information to the Commission.