

Planning and Zoning Board Meeting

July 11, 2022

Link to video: https://cityofnsb.granicus.com/player/clip/372?view_id=1&redirect=true

Board members present: Susan Neylon, Stephen Yates, Larry Wheatcraft and Kip Halverson. Absent: Sandra Smith and Carl Hodges

V-2-22: 556 E. 3rd Avenue-The Garlic. The owner requested variances to allow an 8' x 40' freezer unit be located 2.4' from the northern front property line, along 2nd Avenue; and 9.1' from the eastern front property line, along S. Cooper Street. Both streets have required front yard setbacks of 17.5'. The owner placed the freezer on a parking space without a permit. Staff stated that the request does not meet the criteria for variances. Locating the freezer 2.4' from the property line is also in violation of Florida code which requires a minimum of 3'. The freezer can be moved elsewhere on the property.

The applicant stated that he didn't realize that he needed a permit and that there was no other viable location for the freezer since the unit needs to be close to the kitchen and have access to electricity. Kitchen staff accesses the cooler 40 to 60 times per evening. Since the onset of the pandemic, deliveries only arrive once or twice a week rather than daily so more cold storage space is needed. He has landscaped and camouflaged the unit.

One Cooper St. resident commented that parking is an issue and that the unit should be located closer to the kitchen.

A Board member stated that the applicant did a really good job of landscaping. Other board members stated that the criteria are there for a reason and that this request does not meet the criteria.

The motion to approve the request with a condition that the state's 3' setback must be met along with maintained landscaping and paint failed by a 2-2 vote with Wheatcraft and Yates voting YES, and Neylon and Hulverson voting NO.

V-6-22: 2100 Ocean Drive. The owner requested:

1. A variance from Section 804.04.B., allowing a pool and pool deck to be in a front yard; and
2. A variance of 19'-7" to allow a pool deck to be 10'-5" from the east front property line; and
3. A variance of 0'-8" to allow a pool deck to be located 14'-4" from the south front property line.

Staff stated that the variances do not meet criteria and recommended denial stating that this is not a special situation. Pools are not allowed in front yards in the city and approval would be granting a special privilege.

The owner stated that it is the only area where he can build a pool, that he's received no negative feedback from neighbors, and this is not a through street. A 4' baby fence would surround the pool. The owner also stated that he and his wife are lifelong NSB residents and local business owners.

One neighbor expressed opposition stating that she was not informed of the project and opposed a front yard pool stating that another neighbor's request had been denied. One Board member asked if approval would set a precedent, to which the city's attorney replied that it would not.

The motion to approve V-6-22 was approved by a 3-1 vote with Wheatcraft, Yates and Neylon voting YES, and Hulverson voting NO.

PUD-5-22: 3rd Amendment to Regency/Walmart PUD MDA. The applicant requested a 3rd Amendment to the existing recorded Regency / Wal-Mart PUD Master Development Agreement (MDA) and its Conceptual Development Plan (CDP), primarily to allow for the new/proposed use of Multi-Family Apartments within the

platted Lots 7 and 8 (15.5 acres), located east of Walmart and fronting on I-95, along with other minor associated CDP revisions. The applicant proposes five, four-story buildings with a maximum height of 60' which would include 279 units, some enclosed parking, a pool, and clubhouse. The original proposal was for retail space.

The plan meets all MDA requirements, and Staff's recommendation of approval would be subject to these two additional conditions:

- The CDP/future Site Plan contain at least one additional access connection to the proposed multi-Family site, which would ultimately be located and designed in accordance with the TIA and its approved results.
- The pending City Code Enforcement issue concerning maintenance and care of existing landscape islands and areas within the developed Wal-Mart parcel needs to be addressed to satisfy all City staff concerns.

The applicant stated that they have to get Walmart's by-in on everything and that Walmart is a co-signer to the agreement.

One board member asked if landscaping could be enhanced along the frontage of the Walmart property stating that it is ugly. The applicant responded that they would try to do everything they can within their control. Another board member asked what the thought process was in changing from retail to apartments. The applicant responded because it results in a reduction in traffic.

One community member expressed concern about the effect of 279 more units on the city, specifically water and traffic as well as the entrance and egress going through the Walmart parking lot and entrance to Exxon.

The motion to approve the request with the inclusion of the two conditions was unanimous.

A-8-22: 1717 South Glencoe Road. The owner requested **voluntary** annexation, *Comprehensive Plan* amendment, and rezoning: **From** Volusia County Future Land Use (FLU) designation of Rural, and Volusia County zoning designation of A-3, Transitional Agriculture **To** City Future land use designation of Rural, and City zoning designation of A-3, Transitional Agriculture. The 3.1-acre parcel is located on the west side of South Glencoe Road.

The motion to approve the request was unanimous.

ZT-9-22: Variances and Administrative Variances Amendments to Land Development sections 303.05 and 201.00. Between 2012 and 2018 the Planning department averaged four (4) requests for administrative variances per year. From 2019 to 2021, the department received an annual average of 24 administrative variance applications.

After review of the current regulation and definition, Staff requests to update the administrative variance process, criteria, and definition. Some of the proposed updates would be the requirement of notification to adjacent property owners, a limit of one (1) administrative variance per parcel, and the requirement to record an approved administrative variance with the Clerk of Courts (currently required for non-administrative variances). Recording is important as these approvals "run with the land" and recording allows the approval to appear in a title search. Other changes include correcting sentence structure.

Board members asked if this would cut down on the number of variances. Staff responded that the amendments would provide more control and criteria and tighten up definitions. A city resident suggested that an expiration date for the completion of a variance be added to the process.

The motion to approve with the addition of “The variance project shall be completed within 1 year from the date of approval” was unanimous.

ZT-12-22: Chain Link Fence. Staff requested an amendment to LDR 803.03 to prohibit chain link fences from front yards. A fence that is already in place can remain, but the owner would not be allowed to replace it with another chain link fence.

The motion to approve the amendment was approved by a 3-1 vote with Yates, Hulverson and Neylon voting YES, and Wheatcraft voting NO.

ZT-13-22: Pet Grooming. Staff requested an addition of Pet Grooming and Pet Shop to the MU, B-2 and B-3 zoning districts with a definition for a Pet Grooming and Pet Shop and amending the definition of Retail Sales and Services to include Pet Grooming. Staff proposed two different definitions for a pet grooming business based on the size.

Two residents asked if the Venetian Bay Town Center is governed by the PUD or part of the zoning amendment. They were concerned with noise, sanitation and parking should a pet store/groomer be approved. Staff responded that it falls under PUD regulations, not those of the zoning districts. Pet shop and grooming are not included in the Venetian Bay PUD.

The motion to approve the request was unanimous.