

**CITY OF APALACHICOLA**  
PLANNING & ZONING BOARD  
QUASI-JUDICIAL PUBLIC HEARING & REGULAR MEETING  
MONDAY, September 14th, 2015  
Community Center/City Hall – 1 Bay Avenue

MINUTES

Present: Tom Daly-Chairman, Joe Taylor, Fred Vogt, Lynn Wilson-Spohrer, Geoff Hewell, Jim Bachrach, Uta Hardy, Revena Ramsey-Permitting, Lee Mathes-City Clerk, Attorney Pat Floyd, Trudie Downs –Court Reporter

I. Quasi-Judicial Public Hearing & Special Meeting- 6:00 PM

1. The applicant, Brett Woodward Blue Current Development, LLC behalf of FD Apalachicola, LLC request a special exception relating to proposed new construction for use as a Family Dollar Store within the C-3 (Highway Commercial) zoned area located at the corner of Hwy 98 and Clairmont Avenue, more specifically described as 1.16 Acres of Block 5 (Neels Addition).

Jim Bachrach made motion to deny motion to disqualify themselves, 2<sup>nd</sup> by Geoff Hewell. None opposed. Motion carries. (See attached court report)

2. Decision on special exception request @ corner of Hwy 98 and Clairmon Avenue, 1.16 acres of Block 5 (Neels Addition), For – FD Apalachicola, LLC, Contractor – To Be Determined.

Geoff Hewell made the motion to deny the Special Exception, Second by Jim Bachrach. All in favor. None opposed. Motion carries. (See attached court report)

II. Regular Meeting – Immediately Following

- 1) Approval of August 10<sup>th</sup>, 2015 Minutes.  
Jim Bachrach made motion to approve, 2<sup>nd</sup> by Geoff Hewell. Motion carried.
- 2) Review, Discussion and Decision on permit issuance for Renovations to include a 4 ft x 22 ft addition and a 6 ft x 12 ft deck (Variance Approved by BOA for addition & deck on 8/27/15) @ 89 Avenue D, Block 30, Lot(s) 1, For – William & Debbie Cagle, Contractor – Byrd's Construction, LLC.

Uta Hardy asked - the basis for variance approval.

Caroline Kienzle, Chair for BOA and that's why she's answering. We approved it unanimously. I don't know if you have drawings of what you have but there's a porch and the house extends 4 ft further than the porch and so basically we allowed them to take and make the porch meet up with the rest of the house so it squared it off. And then they're making the porch into a bedroom. It's a nonconforming structure and we had discussion about what the front door and the side door and the setback would be and if you wanna go into that Dennis Winterringer is here, he's on our board, but basically that's it. We approved it unanimously.

Geoff Hewell asked Carrie if everything being done is to west side.

Carrie Kienzle stated Yes.

Jim Bachrach made motion to approve, 2<sup>nd</sup> by Geoff Hewell. Motion carries.

Fred Vogt likes proposed window replacement, suggests size of hardiboard planks be in 4"-5". Making this as a recommendation.

The Cagles mention the 2<sup>nd</sup> thing they wanted approval on was the fence, it's in the original proposal but it's not on the agenda.

Geoff Hewell asked what height was.

Mr. Cagle stated 40 inches.

Geoff Hewell made motion to approve fence as submitted, 2<sup>nd</sup> by Jim Bachrach. Motion carries.

- 3) Review, Discussion and Decision on permit issuance for a 12 ft x 27 ft addition w/ 3ft x 3ft hallway/breezeway and a 5ft x 5ft deck (Variance Approved by BOA for addition & deck on 8/27/15) @ 222 9<sup>th</sup> Street, Block 162, Lot(s) 1, For – Amy Gallant, Contractor – Self. Caroline Kienzle state BOA approved it and we had all for but 1, Dennis Winterringer. As you can see the addition is continuing in the nonconforming way and that's because the scale of the addition and the direction of the addition, the placement, would fit with the original shotgun house and the shotgun behind and not create some addition that wasn't appropriate to the other buildings.

Geoff Hewell asked did they extend the non-conforming.

Caroline Kienzle stated they did.

Uta Hardy stated if you actually approved it, was it because of hardship?

Mr. Winterringer stated he had concern about it because it made the structure more nonconforming than it already was. Was already nonconforming on front of lot and side of lot on Avenue L side and making the addition structure in the back of the house made it more nonconforming. Doesn't remember what square footage was but it was very substantial. The setback from Avenue L since it's a corner lot is 15 feet, and the way they presented the application with the plans, presented a setback I think of 5 feet from the property line. The existing house pretty much sits right on the property line right now.

Caroline Kienzle added what she'd like to say, Geoff she wasn't expecting you to ask that, we have a problem, a wonderful problem. We have all these historic homes and some of the historic homes that are very large are set back and they conform and everything is hunky dorie but, we have these little shotguns that are treasures and we're going to have to, I feel, have more and more of these decisions we're going to make and this board, the Board of Adjustment voted to allow this. The hardship is in destroying the integrity of the historic buildings. That's the hardship. That's what we can't do. Now these people have a hardship in that they are going to have a baby and they need to build a home and they needed a decision and so. But I feel very proud of our decision and it was our decision and we gave them the variance.

Uta Hardy – Certainly appreciate that you gave it. Her concern is that the wording has to be specific for this one case and this one case only. The minute you start saying it's pretty and it fits better, whether you like it or don't like it, we should all go back and re-review our Planning & Zoning guides because every single other person will come, buy one of those houses, disregard whatever and come to us and say well you know we need more space and all of a sudden you will not be able to just comply with our guidelines.

Caroline Kienzle - They did vote and they did give the variance and they came to us with a hardship that they are going to have a baby and they need to build and we said the hardship was the baby.

Uta Hardy - You understand what I mean, it has to be stated.

Chairman Daly - This is an existing structure that was in place before our existing code. The whole idea is that we want to preserve and make these productive parts of our community to honor the tradition and heritage of these homes and doing it in a way it's livable. I think from time to time we're going to have to make exceptions. I don't necessarily agree in new homes and that kind of thing but where it is trying to make use of an existing historic structure in my mind that's important. In my mind that makes a difference.

Geoff Hewell - Why don't we change the Land Use Code. It's as simple as that. You make it a rule and make it a law and that's what we'll go by.

Chairman Daly - He thinks we should take a look at it but I want to do it in a way that it's not across the board it's really structured towards these historic homes and making them useable structures for the community.

Fred Vogt - He understood both sides of the argument and one thing that persuades me to go with the Board of Adjustments side if you will is the fact that this new addition, this small dimension, is the part facing out towards Avenue L. If this were turned 90 degrees I'd have some reservations. I'd really have some reservations if that particular property line that faces Avenue L if that was an adjoining neighbor, you got really close to the adjoining neighbor I would be reluctant to say Ok. But in this case, I'm inclined to agree with Board of Adjustment in terms of its shape and where it's positioned and obviously the argument for being more sensitive to the historic homes in town. I do have a technical question, I assume that the overall land, lot coverage was checked.

Caroline Kienzle - Yes they are way under. Excuse me for speaking out of turn but it's, they're taking the whole thing, the other structure, it's all on one lot so they're way under their coverage.

Sterling Buskirk - curious if you give options for you don't want it to happen can you build the addition to meet the setbacks and still attach it to the home, or you'll want them to tear the house down and build a house back that gives them enough room or go with what.

Chairman Daly - well that's why my preference is to preserve the older structures, that I would prefer to do that than tear them down or make them unusable.

Sterling Buskirk - I'm just curious because you wanna keep the integrity of the community but you won't allow for them to have the room they need for a larger family.

Chairman Daly - And that's why we have to do this very carefully but right now my focus is trying to preserve this home so they can have a useful life.

Dustin - One of the concerns is the setbacks off the alley. It calls for 25 feet and it does come 31 feet on front and 26 1/2 on the back end of the addition so it is, it's not within the 25 feet it's past the 25 feet. And it's roughly 30 feet from the back of the lot. One thing though is it is close to the property line but the property line itself is about 30 feet off the back of the curb for the road. So it sits considerably back from the street. We're not hugging the street by no means.

Dennis Winterringer - couldn't hear all the conversation but the back is 25 feet from the lot line. Is the application now outside of the 25 foot setback? Is the proposed structure now outside the 25 foot setback?

Caroline Kienzle - we didn't give them a variance for that.

Dustin stated it's over 25 feet. It's compliant.

Dennis Winterringer - Other question is there was some change in the design, the foot print of the house, wondered if that's been changed now since submitting to you.

Chairman Daly- I think what came to Planning & Zoning originally I think they redid before Board of Adjustment.

Dustin- Yes.

Elizabeth Wright-She lives in neighborhood and got Public Notice but was unable to attend meeting. She doesn't understand how it's oriented now and asked if someone could explain.

Chairman Daly - Just to clarify its being referred to as breezeway but it's really an enclosed hall.

Elizabeth Wright's - concern was as to where it'd be placed because she didn't want it to ruin the shotgun style character of the home. I totally agree with the concern of people will just tear it down if they can't add on. Her other concern is the hardship thing kinda bothers her, and this is a different situation, because Ms. Sanchez came in with a hardship and you turned her down.

Chairman Daly - that's different and we don't want to get into that conversation tonight please. It's a totally different situation.

Elizabeth Wright - that hardship is such a subjective thing and she's just suggesting we watch in making decisions. That's just the comment she wanted to make, she's not opposing.

Creighton Brown - He lives a block or block and 1/2 away. Moved there because he loves the houses up there, loves the history of that area and their house is a perfect example of what should happen. Knowing the laws are really made for new dwelling and the old dwellings need to have flexibility. Particularly up there where things are, you know the history of there is such that it leads itself in a confusing situation and that's part of the beauty in it. They've already demonstrated the willingness to a beautiful restoration of that house and I think part of saving the houses up there is going to be being flexible enough to allow them to be used. I know myself am completely for this.

Chairman Daly - Just so it should be noted Creighton just built a new home, very nice home a few blocks away. I appreciate that Creighton.

Jim Bachrach - based on Board of Adjustments expertise and hardship that I think is in place, I make a motion to approve with the specific determination of what the hardship is, Uta Hardy 2<sup>nd</sup> with precise wording of hardship,

Caroline Kienzle - BOA already gave the Variance all they have to do is approve the permit issuance for the structure.

Dennis Winterringer - the board has 2 responsibilities; you are the architectural review board so you have the responsibility to make the call on this particular application and you have the responsibility to make a decision on the site development plan.

Joe Taylor asked Amy to tell them about siding and all those little other things. What will it look like? It's a little hard to see from the drawing.

Amy Gallant - It's going to have the same novelty siding, same color.

Dustin - 5 inch novelty siding, wood.

Amy Gallant - The goal here is to continue with the aesthetic that we've cultivated already that was really there before we ever got there. The need for the variance was because it's nonconforming to begin with and we'd like it to fit.

Joe Taylor asked, So your telling me the windows and siding will match what's already there.

Amy Gallant - It's going to have the same skirt around the bottom.

Dustin - metal roof, everything.

Joe Taylor - I just didn't see that by the drawing.

Chairman Daly – It will replicate everything you've done.

Joe Taylor – Same overhangs?

Dustin – Yes.

Lynn Wilson –Spohrer – Totally in favor of it. I'm from the architectural review and sides with the fact that it was approved by variance and that it protects those homes, I'm in favor of it. I'm concerned about the Special Exception being in need, being worded because I'm afraid it's setting a precedence and I'm concerned with the way our government is going with the Quasi-Judicial that if we start to include personal, subjective, we didn't need it, we don't need it, the fact that you're wonderfully going to have a baby, this is just a conversation with the board.

Chairman Daly – It's kinda our decision making process.

Amy Gallant – Right. I get that part.

Lynn Wilson-Spohrer - If we have wording because of need, emergency or personal problem, or they come to us in tears and things then we're setting a precedence and then it'll be subject to potential law suit or well you like this person better than that person, this person was Hispanic and therefore you didn't vote but your anglo and you did vote. I think that's a very dangerous, slippery slope for Planning & Zoning to go forward from that and I would really hope that we would illuminate wording which potentially could become a Quasi-Judicial prejudicial situation.

Chairman Daly – It is a situation that I personally have been trying to move forward to get something put together that will accommodate these uniquely historic structures.

Lynn Wilson-Spohrer – Well and I think everything in it we've already done it. And you've got a move to stand on; don't add into it, personal or emergency. I think our approval should eliminate that wording.

Chairman Daly – Hardship has a different meaning, I agree we have to be more specific.

Lynn Wilson-Spohrer –We stand on it historically, architecturally, zoning, variance, we stand on all that and we don't need to add any personal circumstances to it.

Chairman Daly – I'm not disagreeing with you but it's already been said and I don't think it's going to be dramain to the future.

Uta Hardy – Concerns with wording it just perfect.

Caroline Kienzle – We've given the variance all you have to is approve permit.

Uta Hardy –Removed her motion to 2<sup>nd</sup>.

Jim Bachrach made motion to approve was based on recommendation by BOA, 2<sup>nd</sup> by Joe Taylor. Opposed were Uta Hardy and Geoff Hewell. Motion carries.

- 4) Review, Discussion and Decision on permit issuance for shingle to metal roof @ 43 6<sup>th</sup> Street, Block 15, Lot(s) 8 – 10, For – George Friedrich, Contractor – Unknown  
Geoff Hewell made motion to approve, 2<sup>nd</sup> by Fred Vogt. Motion carried.
- 5) Review, Discussion and Decision on permit issuance for a 10ft x 16ft deck @ 64 15<sup>th</sup> Street, Block 98, Lot(s) 1-2, For – Robert Robinson, Contractor – James Pendelton.  
Geoff Hewell made motion to approve, 2<sup>nd</sup> by Lynn Wilson-Spohrer. Motion carried.
- 6) Review, Discussion and Decision on permit issuance for 20ft x 15ft storage shed @ 145 Avenue L, Block 152, Lot(s) 10, For – Sterling Buskirk, Contractor – Self.

Geoff Hewell asked Sterling everything meets setbacks, everything is tied down. Asked what's the materials?

Sterling Buskirk replied yes sir. Sterling stated materials going to be Board & Batting wood to match the other two structures on property.

Geoff Hewell inquired about roof.

Sterling Buskirk state Tin, screw down metal roof to match existing.

Geoff Hewell made motion to approve looks all in order Mr. Cairman.

Chairman Daly stated he had motion to approve, any further questions or comments.

Lynn Wilson-Spohrer had concerns with location of the doors & windows.

Sterling Buskirk stated he was trying to get approval for the structure before he did the final drawings. He'll have electric but for plumbing it'll be hose for water supply.

Fred Vogt inquired on lot coverage.

Sterling Buskirk stated right now its 1432 sq ft existing coverage. He's going to add 300 sq ft that's 28% lot coverage. The 3D dimensions are deceiving but its 28% lot coverage. He can still add another 12% but he's trying to keep it small to keep his little court yard.

Revena Ramsey stated from what she calculated once the structure is built there'll be 230 sq ft of lot coverage left allowable.

Lynn Wilson-Spohrer inquired on trees.

Sterling Buskirk stated not cutting any trees.

Tom Daly stated he is outside the historic district.

Chairman Daly asked any further comments, questions, observations. Do I have a motion to approve?

Geoff Hewell stated you had one (motion) and had a second.

Chairman Daly stated had a motion, and a second.

Revena Ramsey asked who 2<sup>nd</sup>.

Geoff Hewell stated he approved and pointed to Jim Bachrach stating he 2<sup>nd</sup> it about 30 minutes ago.

Jim Bachrach stated no he didn't.

Revena Ramsey informed Chairman we didn't have a second.

Chairman Daly apologized he thought there was a second. We have a motion.

Fred Vogt 2<sup>nd</sup> the motion.

Jim Bachrach asked could we have a discussion.

Chairman Tom Daly verifying we are discussing Sterling.

Revena Ramsey stated that was her understanding that we did not have a second on it.

Jim Bachrach supports it but using Sterling as an example not enough information to make a good decision. When he gets it permission could he bring back a more defined site plan/drawing.

Sterling Buskirk stated for his permit he'll have complete drawings and all that.

Jim Bachrach made statement that's too late for P&Z Board.

Uta Hardy stated a few months ago they approved something based on drawing and pictures looked nice and everything fit on the lot and then they moved something totally different in.

She personally will not approve anything that she cannot see what's going on.

Chairman Tom Daly asks him to come back with a plan showing windows & doors.

Sterling Buskirk asked as it stands right now he can't build it?

Geoff Hewell stated no he can't.

Lynn Wilson-Spohrer stated she thinks he needs to come back with something showing windows/doors, site plan.

Sterling Buskirk asked if they needed a survey and stated that the surveyor wouldn't even show the houses because they were so dilapidated so he restored them completely to original.

Lynn Wilson-Spohrer inquired on setbacks of structures.

Sterling Buskirk stated one is on property line and one is 3 ft. and ones 2 ft.

Lynn Wilson-Spohrer stated on the elevation are there windows/doors/single door/double door/driveway.

Sterling Buskirk stated he understood but before he put all his effort into detailed drawings is it possible to get approved for size of structure on the property.

Lynn Wilson-Spohrer stressed they can't because once they do that he could have no windows, doors.

Sterling Buskirk stated what if he says there's no windows/doors would I get approved.

Lynn Wilson-Spohrer stated no.

Geoff Hewell asked why. Does it say they can't have any windows & doors? Does it have to have windows & doors?

Chairman Tom Daly stated it could be a shop.

Lynn Wilson-Spohrer stated she likes it but she'd like it better if it had some windows & doors on it.

Uta Hardy thought it was in historic district.

Sterling Buskirk stated it's not in historic district.

Chairman Tom Daly stressed it's a shed. Presume there's no windows.

Lynn Wilson-Spohrer asked Sterling Buskirk if there were going to be any windows/doors.

Sterling Buskirk stated no windows and only 1 door.

Lynn Wilson-Spohrer wanted him to show them where the door would be located and asked if it was a double door. 1 set? To the garden, alley, to the end?

Sterling Buskirk stated 1 french double door in the front. To the garden.

Sterling Buskirk stated he'll draw it for the board and bring it. Just trying to make sure he can comply before putting all his efforts into a full detailed set of plans.

Betty Webb makes recommendation to table for a moment to allow Mr. Buskirk to do a drawing they are looking for and address it later in the meeting.

Chairman Tom Daly stated a good idea and thanked Betty Webb.

Lynn Wilson-Spohrer made motion to approve w/revisional drawing, 2<sup>nd</sup> by Jim Bachrach.

Uta Hardy opposed. Motion carried.

- 7) Review, Discussion and Decision on permit issuance for New Single Family Residence @ 39 7<sup>th</sup> Street, Block 25, Lot(s) 6, For – Hale Smith, Contractor – Galloway Construction, Inc.

Chairman Tom Daly stated it looks like a good plan for a very difficult lot. Given a lot of thought. For most of you who don't know this is a lot that's very significant impression the intent was to build without fill.

Geoff Hewell asked height of piers.

Heath Galloway with Galloway Construction stated depends on where you coming from 7 on highest. You gotta get above base flood with 1 ft free board now. Plan is not to fill.

Jim Bachrach asked if it met all setbacks.

Heath Galloway stated as far as he's aware of.

Chairman Tom Daly asked if wood shingle siding at top.

Heath Galloway stated hardy siding. This is the preliminary plan. He's like Sterling he hasn't finished the details until they get a review from P&Z. Make your suggestions to me but I'd like to get a permit based on what was submitted.

Fred Vogt asked if they were going to rethink the horizontal railings.

Uta Hardy stressed the new FEMA 1' freeboard.

Chairman Tom Daly question regarding depth of pilings.

Heath Galloway stated there's a footer.

Chairman Tom Daly statement does he want to come back with a final.

Heath Galloway stated if you like what we have here I want to put it in and go with it like it is.

Geoff Hewell stated the horizontal (railings) is a difference of opinions.

Fred Vogt asked how he arrived at 2/12 roof pitch?

Heath Galloway stated the owner did that with the architect he didn't have anything to do with that. He's the builder.

Fred Vogt thinks 3/12 works aesthetically speaking.

Heath Galloway repeated the concerns being horizontal railing & 3/12 roof pitch.

Geoff Hewell stated don't you think that the building dept. have rules on elevation, railings and roof pitch they'd know better than we do. We don't need to stick that in there just like horizontal railings and all. If this is what the guy wants and it fits in with the building and codes why not let him build it.

Fred Vogt stated the building dept. doesn't see the aesthetic decision of roofs or railings.

Chairman Tom Daly stated it's really our job as the architectural review board.

Fred Vogt thinks there could be some aesthetic improvement in changing the railings and roof slope.

Geoff Hewell made motion it stay and no improvement needed. He's not approving the whole structure he's just saying there's no reason an owner can't put that pitch roof & railings, he thinks it looks great.

Chairman Tom Daly stated the motion is to accept it as is.

Geoff Hewell stated that's correct.

Jim Bachrach stated that's not what the motion is.

Geoff Hewell changed his motion.

Geoff Hewell made the motion to accept plans as is, 2<sup>nd</sup> by Jim Bachrach. Motion carried.

Lynn Wilson-Spohrer questioned why the wood is running vertically on 2 sides and horizontally on 2 sides.

Heath Galloway stated for the porch, the owner wants vertically on porch.

Lynn Wilson-Spohrer stated it's just unusual is all. The other element is there's practically no overhang on 2 corners. She stated it looks like it's only a 2" overhang from the two elevations.

Heath Galloway repeated the boards concerns horizontal railing, 2/12 pitch roof and overhang, if he can get an approval based on those 3 changes.

Fred Vogt stated suggestions being made to hopefully improve the aesthetics not to give you a hard time.



Heath Galloway stated he's just trying to build what people want and pleasure the community at the same time.

Geoff Hewell made motion to approve as is, 2<sup>nd</sup> by Jim Bachrach. Motion carried. (final)

- 8) Review, Discussion and Decision on permit issuance for a Florida Room vs Screen Porch (P&Z Approved a screen porch to be built 10/13/14) @ 101 21<sup>st</sup> Avenue, Block 11 Philaco Shores, Lot(s) 13, For – David Glidden, Contractor – Self.

Lynn Wilson-Spohrer made motion to approve & accept as it's already built.

Motion dies for lack of 2<sup>nd</sup>.

- 9) Review, Discussion and Decision on permit issuance for 6ft Vinyl Privacy Fence @ 101 21<sup>st</sup> Avenue, Block 11 Philaco Shores, Lot(s) 13, For – David Glidden, Contractor – Self. (Note: Survey shows fence encroaching. Encroachment Agreement required if approved)

Betty Webb stated it's been brought to her attention there's some sort of property agreement issued in the past for the closed roadway. She asks the board to Table so further research can be done for the agreement.

Tabled

- 10) Review, Discussion and Decision on permit issuance for Demo of Home @ 205 9<sup>th</sup> Street, Block 166, Lot(s) 9, For – Cliff Butler, Contractor – Unknown.

Mr. Cliff Butler, owner, stated individuals keep entering the home and doing drugs. He's had Chief of Police involved. The Franklin County Building Official, Robin Brinkley has issued a letter in regards to condition of home.

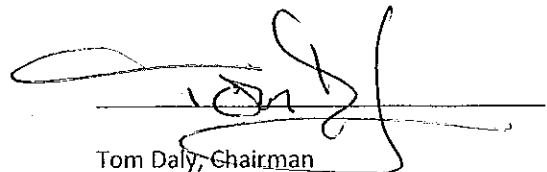
Geoff Hewell made motion to approve demolition according to the county letter, 2<sup>nd</sup> by Jim Bachrach. Motion carried.

- 11) Old Business

- 12) Other Business For Discussion

Barbara Sanders presented documentation requesting the board do an emergency approval for a deck to go over the retention pond at the back of her office building. She stated it's for an event for the Chamber and it'd be nice to be able to sit outside.

Geoff Hewell made motion to approve, 2<sup>nd</sup> by Lynn Wilson-Spohrer. Motion carried.



Tom Daly, Chairman