

MINUTES

Thursday, March 21, 2019
Board of Zoning Appeals Meeting
Council Chambers-Glennon Center Lower Level
7:00 p.m.

<p>1. Call to Order</p>	<p>Lisa Marie Johnson, Chair, called the meeting to order.</p> <p>Present: Lisa Marie Johnson, Tony Stone, Michael Stone, Greg Walden, Clint Parker, Jim Aranyi and Susan Britt (staff)</p> <p>Absent: Walt Krasinski</p>
<p>2. Approval of Minutes a. Feb. 20, 2019</p>	<p><u>MOTION</u> Michael Cole motioned to approve the minutes as presented. Tony Stone seconded.</p> <p>VOTE: Ayes, Unanimous</p>
<p>3. Review the Following Statement to be Heard: Case No. 01-19: Request for Variance to Municipal Code of Ordinances, Chapter 10, Article II (Residential Waterfront Construction), Division 1– “Buildable Area” for maintenance and reconstruction of an existing grandfathered dock located at 9071 Tulagi Court. The original dock was permitted in the current location via granting of a variance on April 24, 1998.</p> <p>a. Presentation of the Staff Findings of Fact</p>	<p>Chairman Johnson briefed the public on the procedures for the public hearing before the Board of Zoning Appeals.</p> <p>Ms. Johnson then outlined the particulars of the case to be heard.</p> <p>Susan Britt presented the Staff Findings of Fact (attached to the official record).</p>
<p>4. Administer the Oath and Receive Testimony in the Above Case</p>	<p>Chairman Johnson administered the Oath to all parties that wished to present testimony on the case in question.</p> <p>The appellant, Shawn Pierce, presented the case for appeal. His hardship as presented is that special conditions and circumstances exist pertaining to this particular property which require the granting of a variance in order to enable the applicant to build a pier or dock to service a waterfront lot.</p> <p>Mr. Pierce stated when he purchased this property in</p>

October 2018, a condition of the mortgage company was that the dock be repaired in its entirety due to liability concerns. The mortgage company then put the funds into escrow for the necessary repairs

It was then that the dock contractor brought to Mr. Pierce's attention that the original dock was granted as a variance to the Waterfront Construction regulations by the Board of Zoning Appeals on April 23, 1998. The variance was to the Buildable Area for an encroachment of approximately 4.5 feet to add a covered boat lift. There were conditions placed by the Board that *"the dock and lift were to be installed per the attached surveyor's plat labeled as "Proposed Plan I."*

By the current survey from Pittman Surveying, the contractor pointed out that the dock was not constructed in the manner as approved by the Board. The steps and small fixed pier were not approved as they currently exist. Therefore, the contractor informed Mr. Pierce applicant of the need to request the variance.

Ms. Johnson asked if the board had questions for appellant.

Mr. Stone stated that he had no question for the appellant but did have a question for Ms. Britt. He asked what was the extent of the encroachment of the current dock outside the Buildable Area? Ms. Britt stated that it encroached beyond the Buildable Area by 4.5 feet. With 1.5 feet being the nonpermitted small stationary platform. The current dock does not extend beyond one-third the length of the cove so does not impede boat traffic.

There were no other questions.

Speaking on behalf of the Appellant: None

Speaking on behalf of the Objectors: None

Comments by Others Present: None

Ms. Johnson noted for the record that 10 property owners had been identified within 200' of the subject property and notices were sent by certified mail. Of those, 5 neighbors had responded without objection to the requested variance. Ms. Britt noted that these responses would be entered into the official record.

	<p>Mr. Walden then noted that the property owners directly adjoining the subject property on both sides had responded in favor of the variance.</p>
<p>5. Motion on Appeal, Discussion and Action by the Board</p>	<p><u>MOTION</u> Michael Cole motioned to approve the variance to repair and maintain the existing dock with the condition that the nonconformity would not be extended. Tony Stone seconded.</p> <p>DISCUSSION: There was no further discussion by the board.</p> <p>VOTES: AYES Unanimous on all five required findings</p>
<p>6. Review the Following Statement to be Heard: Case No. 02-19: Request for Variance to Municipal Code of Ordinances, Chapter 10, Article II (Residential Waterfront Construction), and Division 1 – “Buildable Area” and Division 1 – “Buildable Area” for construction of a fixed dock and boat shelter located at 4027 Windward Drive.</p> <p>a. Presentation of the Staff Findings of Fact</p>	<p>Ms. Johnson outlined the particulars of the case to be heard.</p> <p>Susan Britt presented the Staff Findings of Fact (attached to the official record).</p> <p>Ms. Britt then noted for the record that 9 property owners had been identified within 200’ of the subject property and notices were sent by certified mail. Of those, 4 neighbors had responded without objection to the requested variance. Ms. Britt noted that these responses would be entered into the official record.</p> <p>Ms. Johnson had one question of Ms. Britt for clarification. She stated that if the dock were to be reconstructed within the correct Buildable Area it would extend into the traffic lanes for access to the public dock at Pitcairn Park and that the appellants wished to construct the new dock in an area that reduce potential for this conflict. Ms. Britt stated that was correct.</p> <p>Mr. Stone asked if the property owner of 4026 Windward approved of the outlined encroachment of the Projected Property Line. Ms. Britt stated that the approval was included in the variance application and was part of the official record.</p> <p>Mr. Aranyi noted that the appellants should remove all portions of the existing dock including the pylons as this was a future safety concern.</p> <p>Mr. Walden asked Ms. Britt how was the recommendation of the total approved dock length of 45’ measured? Ms. Britt stated that the length is measured extending from the 570’ contour line (high water containment level of the lake).</p>

<p>7. Administer the Oath and Receive Testimony in the Above Case</p>	<p>Ms. Johnson noted that all who are to provide testimony were already sworn and that still under oath.</p> <p>The appellants, Bart and Elizabeth Davis, presented the case for appeal. The hardship as presented is that special conditions and circumstances exist pertaining to this particular property which require the granting of a variance in order to enable the applicant to build a pier or dock to service a waterfront lot.</p> <p>The current dock was approved in 1989 prior to the adoption of the Residential Waterfront Construction Ordinance. The dock was constructed with a 15’ setback from the property line. The 15’ setback was the City’s requirement at this time, so the dock was originally constructed in compliance with the regulations as they existed in 1989.</p> <p>They are requesting a variance to remove the existing grandfathered dock and replace it with a new fixed dock and boat lift. Removal of the grandfathered dock requires that it be replaced in conformance with the current Residential Waterfront Construction regulations. However, the Buildable Area for this lot extends into the boat traffic path for the public dock at Pitcairn Park.</p> <p>Given this intrusion, placing the dock within the Buildable Area would result in an impediment to public access and would cause unsafe boating conditions. That is why Mr. and Mrs. Davis applicant are requesting a variance, so they can build a new dock in an area that would make the new dock even more nonconforming than the existing grandfathered dock.</p> <p>Ms. Johnson asked if the board had questions for appellant.</p> <p>There were no other questions.</p> <p>Speaking on behalf of the Appellant: None</p> <p>Speaking on behalf of the Objectors: None</p> <p>Comments by Others Present: None</p>
<p>8. Motion on Appeal, Discussion and Action by the Board</p>	<p><u>MOTION</u></p> <p>Michael Cole motioned to approve the variance with the condition that the entire existing dock be removed including the pylons and that the total length be limited to 45’.</p>

	<p>Jim Aranyi seconded.</p> <p>DISCUSSION: There was no further discussion by the board.</p> <p>VOTES: AYES Unanimous on all five required findings</p>
9. Recognition of Outgoing Members	<p>Ms. Johnson stated that there were 2 outgoing members of the board and new appointees would begin their terms on April 1st. At this time the Board wished to express their gratitude to those outgoing members for their service. Greg Walden for 12 years of service to the Board, Michael Cole for 3 years of service, and Clint Parker for one year of service.</p>
10. Adjournment	<p><u>MOTION</u> Tony Stone motioned to adjourn. Michael Cole seconded.</p> <p>VOTES: AYES Unanimous</p>