

MINUTES  
WAVELAND PLANNING & ZONING COMMISSION  
OCTOBER 29TH, 2018

A regular meeting of the Waveland Planning & Zoning Commission was held at 6:00 p.m. on Monday, October 29th, 2018 at the Waveland City Hall, located at 301 Coleman Avenue, Waveland, Mississippi.

**#1) Chairman Meggett, called the meeting to order at 6:00 p.m.** Present were Commissioners Adams, Harris and Watson. Commissioner Boudoin was absent due to illness. Chairman Meggett established there was a quorum present. City Attorney, Gary Yarborough and David Draz, Zoning Official were also present.

**#2) Chairman Meggett introduced and read the following request:**

A.J. Boudreaux, owner of the property commonly known as 206 Sandy St., Legal Description: Pt. 2 & All of 3 & 4, Blk. 1, Hickey Subdivision, is requesting a Conditional Use for an accessory building containing more than five hundred (500) square feet as provided for in Section 601.2 (F) in the current Zoning Ordinance. The purpose of the request is to allow the construction of a seven hundred and fifty (750) square foot accessory building (storage for boat, garden equipment and miscellaneous tools).

The applicant, Mr. A.J. Boudreaux, made a presentation to the Commission regarding his request.

Commissioner's asked the applicant questions regarding the location of the proposed Accessory Structure and the proposed use of the structure. The City Attorney advised the Commission on the findings required for a Conditional Use as stated in the Zoning Ordinance and asked if there was anyone to speak in opposition or support for the requested conditional use. No one came forward. The record indicated that no adjacent property owners would be affected as the area impacted is wooded. The public would benefit from the use as it would allow storage of the boat and other items, such as to make them more aesthetically pleasing rather than being loose in the yard. The Commission also considered whether the proposed use would substantially increase traffic hazards or congestion, substantially increase fire hazards, adversely affect the character of the neighborhood, adversely affect the general welfare of the city, overtax public utilities or community facilities or be in conflict with the Comprehensive Plan, and the Commission found that the proposed use would not import any of those adverse effects.

*Commissioner Watson made a motion to recommend approval of the conditional use to allow an accessory building of seven hundred and fifty (750) square feet. Commissioner Adams seconded the motion. Chairman Meggett called for a vote. Voting yes were Commissioners Adams, Harris and Watson. Chairman Meggett declared the motion passed, with the Board making the finding of fact that the applicant had met its burden of demonstrating his right to a conditional use as requested and as required by 906.3 of Ordinance 349, with the Commission finding that no adjacent property owners would be adversely affected, and that the public would benefit from the use by providing covered storage at the property.*

**#3) Chairman Meggett introduced and read the following request:**

Janine and Michael Walsdorf, current owners of property commonly known as 115 Pine Ridge Dr., Legal Description: Lots 46 & 47, Pine Ridge Subdivision, are requesting a variance from the City of Waveland Zoning Ordinance, Section 701.5 – Minimum Rear Yard for R-1 Single Family Residential District required twenty-five (25) feet. The variance request is to allow an eighteen (18) foot rear yard requiring a variance of

seven (7) feet from the required rear yard. The purpose of the variance request is to allow the owners to build a single family residence on their property.

Commissioner's asked the applicant questions regarding the reason for the requested rear yard variance. The applicant explained with this being a corner lot that because the house will face Pine Ridge Dr. that the lot depth of eight-five (85) feet along Fell Street as shown on the site plan exhibit resulted in the request for the variance to accommodate a new single family home of two thousand and sixteen (2,016) square feet with a building depth of forty-two (42) feet and a width of forty eight (48) feet. In all other respects, the use is in compliance with all ordinances and would be allowed without variance if the house faced the other street. The City Attorney advised the Commission on the findings required for a variance as stated in the Zoning Ordinance and asked if there was anyone to speak in opposition or support for the requested variance, being that: 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district. 2. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. 3. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located. 4. The requested variance will be in harmony with the purpose and intent of this Zoning Ordinance and will not be injurious to the neighborhood or to the general welfare. 5. The special circumstances are not the result of the actions of the applicant. 6. The existence of a non-conforming use of neighboring land, buildings or structures in the same district, or non-conforming uses in other districts shall not constitute a reason for the requested variance. Zoning Ordinance City of Waveland 112 7. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure. 8. The variance is not a request to permit a use of land, building or structures which are not permitted by right or by conditional use in the district involved. No objectors came forward opposing the request.

*Commissioner Adams made a motion to recommend approval of the variance as requested. Commissioner Watson seconded the motion. Chairman Meggett called for a vote. Voting yes were Commissioners Adams, Harris and Watson. Chairman Meggett declared the motion passed, with the Commission making findings of fact that, based on the variance being otherwise allowed by ordinance, and not injury to neighbors, but merely resulting in the direction the home faces, that there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district, that a literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located, that granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located, that the requested variance will be in harmony with the purpose and intent of this Zoning Ordinance and will not be injurious to the neighborhood or to the general welfare, that the special circumstances are not the result of the actions of the applicant, that the existence of a non-conforming use of neighboring land, buildings or structures in the same district, or non-conforming uses in other districts shall not constitute a reason for the requested variance, that the variance requested is the minimum variance that will make possible the legal use of the land, building or structure, and that variance is not a request to permit a use of land, building or structures which are not permitted by right or by conditional use in the district involved.*

**#4) Chairman Meggett introduced and read the following request:**

Dana & Susan Hooper, current owners of property on Aiken St (Parcel # 161B-2-01-068.000)., Legal Description: Lot 6, part of Lot 7, part of Lot 8, Block 1, Gayle Aiken Subdivision, are requesting a variance from the City of Waveland Zoning Ordinance, Section 701.5 – Minimum Rear Yard for R-1 Single Family Residential District required twenty-five (25) feet. The variance request is to allow a thirteen (13) foot rear yard



requiring a variance of (twelve) feet from the required rear yard. The purpose of the variance request is to allow the owners to allow preservation of a large live oak tree in the middle of the lot and build their single family residence on their property.

Mr. Henry Martinez, who was representing the clients made a presentation to the Commission. He explained that in an effort to protect a Large Live Oak Tree which is located very near the center of the two lots making up their property resulted in the plan for the house being moved over to be built wholly on Lot 7. He said they have a tree company that have evaluated the tree and that they have a plan to protect to tree from the construction activity. The purpose of the request was to salvage the tree in compliance with Section 408 of the Zoning Ordinance, and the requested variances are the minimum amounts needed to ensure compliance with that section.

*Commissioner Adams made a motion to recommend approval of the variance as requested. Commissioner Harris seconded the motion. Chairman Meggett called for a vote. Voting yes were Commissioners Adams, Harris and Watson. Chairman Meggett declared the motion passed finding that the request was the minimum amount needed and was necessary to ensure compliance with other City ordinances, namely Section 408 of the Zoning Ordinance, and that the Commission made findings of fact that, based on the variance being otherwise allowed by ordinance, and not injury to neighbors, but merely resulting in the direction the home faces, that there are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district, that a literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located, that granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located, that the requested variance will be in harmony with the purpose and intent of this Zoning Ordinance and will not be injurious to the neighborhood or to the general welfare, that the special circumstances are not the result of the actions of the applicant, that the existence of a non-conforming use of neighboring land, buildings or structures in the same district, or non-conforming uses in other districts shall not constitute a reason for the requested variance, that the variance requested is the minimum variance that will make possible the legal use of the land, building or structure, and that variance is not a request to permit a use of land, building or structures which are not permitted by right or by conditional use in the district involved.*

**#5) Chairman Meggett introduced and read the following request:**

Stephen Hartel, Jr., current owner of the property commonly known as 204 S. Beach Blvd., Legal Description: PT 94, PT 98, PT 103. All 100 & 102, 2<sup>ND</sup> Ward, Waveland, MS, Hancock County, Parcel #161M-0-11-079.000, is requesting the following variances: Variances from the current Zoning Ordinance, Article VII, Section 701., Minimum Lot Width – 100 feet, The purpose of the variance request is to allow the creation of 3 lots fronting on S. Beach Blvd and 1 lot fronting on Favre Street shown on the survey as Parcel “A”, Parcel “B”, Parcel “C” and Parcel “D”. Parcel “A” as proposed would have a lot width of 92.95 feet requiring a variance of 7.05 feet. Parcel “B” as proposed would have a lot width of 93 feet requiring a variance of 7 feet. Parcel “C” as proposed would have a lot width of 93 feet requiring a variance of 7 feet. Parcel “D” as proposed would have a lot frontage width of 20 feet on Favre Street requiring a variance of 80 feet.

**City Attorney, Gary Yarborough told the Commission that they could consider both Items #5 and #6 together and make one motion to addressing both of the items.**

**#6) Chairman Meggett introduced and read the following request:**

Stephen Hartel, Jr., current owner of the property commonly known as 204 S. Beach Blvd., Legal Description: PT 94, PT 98, PT 103. All 100 & 102, 2<sup>ND</sup> Ward, Waveland, MS, Hancock County, Parcel #161M-0-11-079.000, is requesting a review and recommendation for a Final Plat that would divide the property into four (4) Lots. As shown on the proposed Final Plat. .

Chairman Meggett announced that speakers would be allowed five minutes to speak because of the large number of people present regarding these items. City Attorney, Gary Yarborough reviewed the items with the Commission and discussed the Commission's fact finding role relative to what the Zoning Ordinance sections regarding variances and the Subdivision Ordinance sections relative to the proposed final plat. Mr. Yarborough asked if the applicant and his representative would come forward to explain what they are proposing and to respond the previously submitted letters from representatives of residents in the area. Mr. James Simpson with Wise Carter Attorney's, 1105 30<sup>th</sup> Ave. Suite C, Gulfport, MS, came forward and explained what the applicant was asking for and provided a summary of their responses to the points who had been raised in previous letter's from the residents representatives. Specifically he discussed variance criteria and how the requested variances did meet the criteria as stated in the Zoning Ordinance. He also stated that the State Statute 17-1-23(4) clearly provided a process that required any applicant for a subdivision must get permission in writing from all of the affected property owners before a subdivision may be considered by the City. Mr. Yarborough requested that 17-1-23(4) be entered into the record. Mr. Simpson also requested if he could use the remainder of any time he may have left to offer a short rebuttal if necessary. Mr. Yarborough then asked if there was anyone else in favor of the items wished to speak. Norma Jean Soroe, 526 Claremont Blvd, Claremont Harbor came forward and said she had previously provided a letter and deed documentation regarding a small cemetery somewhere on the northern portion of Mr. Hartel's property. Mr. Yarborough explained that State statutes govern those issues and also asked Mr. Simpson if they intended to comply with any law or statute governing cemeteries of this nature. Mr. Simpson said they would. Mr. Yarborough then asked there was anyone present who was opposed to these requested variances or final plat to come forward and present their position on the proposed variances and final plat. Mr. Tom Lundin, Pier 2, Slip 25, Long Beach Harbor came forward. Mr. Yarborough asked him to clarify who he was representing. Mr. Lundin listed the names and addresses of the residents and property owners he was representing. The names and addresses corresponded with those listed at the bottom of the letter he had previously submitted. Mr. Yarborough clarified that as their representative there would be no reason for each resident to speak on this item since Mr. Lundin clearly stated who he was representing. Mr. Lundin stated their reason for opposition to the variances and specifically discussed the criteria for variances and how the requested variances did not meet the criteria and that one of their main concerns was the possibility of a subdivision being developed on Parcel "D". Mr. Yarborough stated that in addition to the many requirements and processes in the Subdivision and Zoning Ordinances that must be met to comply with the requirements, Parcel "D" as proposed would require additional property to create the required accesses and other subdivision and zoning setback and buffering requirements among others. Mr. Yarborough also asked if the two people that also wrote letters in opposition were present. Mr. Lundin said that prior commitments kept them from attending.

Mr. Yarborough summarized for the Commission that a motion to recommend approval would be a finding that the applicant has met the burden of proof for the variances requested and that a motion to recommend denial would be a finding that the applicant has not met the burden of proof for the variances requested. The requirements for a variance are: 1. There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography that are not applicable to other lands or structures in the same district. (The applicant proffered that this is a flag property and only has 280 feet of beach frontage, but still allowing larger lots than adjacent properties).; 2. A literal interpretation of the provisions of this Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other residents of the district in which the property is located. (The applicant submitted the lesser distance frontages to the east and west of this property); 3. Granting the variance requested will not confer upon the applicant any special privileges that are denied to other residents of the district in which the property is located. (Again, these lots

will still be wider than adjacent lots); 4. The requested variance will be in harmony with the purpose and intent of this Zoning Ordinance and will not be injurious to the neighborhood or to the general welfare. (The applicant proffered that the adjacent properties will have larger lots than they now experience, that the access on the north end will only be for a driveway, and they would comply with all setbacks, protect the easement and cemetery on the lot, and would be bound by Mississippi Code Section 17-1-23 to not resubdivide without written consent of adjacent properties); 5. The special circumstances are not the result of the actions of the applicant. (The applicant notes that he inherited the land); 6. The existence of a non-conforming use of neighboring land, buildings or structures in the same district, or non-conforming uses in other districts shall not constitute a reason for the requested variance. (None are claimed); 7. The variance requested is the minimum variance that will make possible the legal use of the land, building or structure. (The amounts are less of a variance than what other adjacent lots use); 8. The variance is not a request to permit a use of land, building or structures which are not permitted by right or by conditional use in the district involved. (The use is allowed in R-1).

*Commissioner Watson made a motion to recommend approval of the variances and final plat as requested and the motion is reflective of findings of the Commission as summarized by the City Attorney. Commissioner Adams seconded the motion. Chairman Meggett called for a vote. Voting yes were Commissioners Adams, Harris and Watson. Chairman Meggett declared the motion passed, with the board making the finding that all elements of the variance required as stated above are met, and the Commission accepts the proffered explanation for each element as submitted by the Applicant. The Commission also makes the finding that the site plan is compliant with the subdivision ordinance containing all requirements contained therein not waived by the prior procedural waiver granted by the City.*

**#7) Chairman Meggett asked if there was anyone present who would like to address the Commission.**

No one responded.

#8) Commissioner Adams made a motion to set the date of Thursday, November 1st, 2018 at 5:00PM for a special meeting to approve the minutes of the October 29th, 2018 meeting and to set the date of the next regular meeting of the Commission for Monday, November 19th, 2018 at 6:00 PM. Commissioner Harris seconded the motion. After a unanimous vote in favor of the motion by all commissioners present, Chairman Meggett declared the motion passed.

#9) Commissioner Harris made a motion to adjourn the meeting at 7:10 PM. Commissioner Adams seconded the motion. After a unanimous vote in favor of the motion by all commissioners present, Chairman Meggett declared the motion passed.

Respectfully submitted,

David Draz, Zoning Official