

Board of Zoning Appeals
Minutes
November 10, 2009

I. Call to order

Chairman Guy Taylor called the regular meeting of the Board of Zoning Appeals to order on November 10, 2009 at 5:30PM in the Building Department Conference Room, 1301 Palm Boulevard. Other members present were Frances Anderson, Arnold Karig, Mike Layman and Tom Miller; also Secretary Douglas Kerr was present. Mr. Kerr explained that the meeting was advertised in compliance with the Freedom of Information Act.

II. Approval of Minutes

The next item on the agenda was the review of the minutes of the August 11, 2009 meeting. Mr. Miller made a motion to approve the minutes and Ms. Anderson seconded the motion. The vote was unanimous in favor of the motion.

III. Home Occupations

Mr. Taylor explained that the Board acted as a quasi-judicial body and all comments made were treated in the same manner as court testimony and therefore any person who would like to speak to the Board should be sworn in. He then swore in all members of the audience that would be speaking.

7 Dune Ridge Lane

Mr. Kerr explained that the applicant is requesting a special exception to allow the establishment of a home office for a business that would provide services for procurement, security and water purification. He explained that the applicant has indicated that there will be no business related traffic coming to the house, no exterior evidence of a business and no employees working at the house.

Mr. Taylor asked the applicant if there was anything he wanted to explain beyond what his written application stated. The applicant, Mr. Charles Jackson, answered that the application states most of the facts, but he basically will be doing work with the federal government over the phone with no one coming to the house. Mr. Karig made a motion to approve the request and Mr. Miller seconded the motion. Mr. Taylor stated that he noticed that the application included a letter on letterhead that included the Dune Ridge Lane address and he asked how the applicants came to filing this request. Mr. Jackson answered that the address on the letterhead was in anticipation of tonight's meeting. Ms. Anderson explained that she was confused about the location of the business.

Mr. Jackson answered that all of this contacts and the majority of the physical work would occur in Washington D.C., but because he would like to do some of the administration from his home, he is requesting that his home be approved for office work. The vote was unanimous in favor of the motion to approve the request.

#17- 24th Avenue

Mr. Kerr explained that the applicant is requesting a special exception to allow the establishment of a home office for a general contracting business. He explained that the applicant has indicated that there will be no business related traffic coming to the house, no exterior evidence of a business and no employees working at the home.

Mr. Layman made a motion to approve the request and Mr. Karig seconded the motion. Mr. Taylor explained to the applicant that employees, subcontractors and other business related people should not be coming to the house at a frequency that is unusual for the neighborhood. The vote was unanimous in favor of the motion to approve the request.

239 Forest Trail

Mr. Kerr explained that the applicant is requesting a special exception to allow the establishment of a home office for a fishing charter business. He explained that the applicant has indicated that there will be no business related traffic coming to the house, no work at the home other than office work, no exterior evidence of a business and no employees working at the house. However, he explained that the boat that is used for the business will be kept in the driveway, as it has been parked in the past.

Ms. Anderson asked the applicant where she would meet her clients. Ms. Ramsey, the applicant, answered at the marina. Mr. Miller asked is she had her captain's license and Ms. Ramsey answered yes. Mr. Miller asked where she would park. Mr. Ramsey answered at the marina. Mr. Taylor asked if the boat was parked in the drive and if it were visible. Ms. Ramsey answered yes. Mr. Taylor asked if there were any signs on the boat. Ms. Ramsey answered that the boat name was on the boat and that she has given the LLC which she formed the same name as the boat. Mr. Taylor explained that he would defer to the Zoning Administrator to determine if the name on the boat constituted a business sign. Mr. Taylor asked how large the boat is. Ms. Ramsey answered 17 feet long. Mr. Karig made a motion to approve the request and Mr. Layman seconded the motion and the vote was unanimous in favor of the motion.

412 Merritt Boulevard

Mr. Kerr explained that the property owner would like to construct an elevated pool and deck on the back of the house and it is his opinion that the rear yard setback (30 feet) must be met from the adjacent property line. He explained that the applicant's opinion is that the adjacent property line should be considered a side line and therefore have a side yard setback requirement (10 feet). He explained that the subject property has frontage on Merritt Boulevard and Palm Boulevard with the house oriented towards Palm Boulevard. In a typical application of the ordinance, he explained that he determines that front line is the line adjacent to the road and the rear line is the line that is on the opposing side of the lot and generally parallel to the front property line. In his opinion, the front property line in this instance is the line adjacent to Palm Boulevard and the rear property line is the line that is on the opposing side of the lot and generally parallel to the front property line.

Ms. Messier, the applicant, addressed the Board and explained that the house is oriented towards the creek and the creek is the rear yard and that the line between this house and the house to the north of the property should be considered a side line, just as it is for the neighbor. She added that the effect of not interpreting the setbacks requirements as she has will be to push the pool closer to the neighbor to the east of the property.

Mr. Kinghorn, the property owner, addressed the Board and explained that the property is very unusual in its configuration and that they would prefer to have an elevated pool. He added that all of the neighbors believe that the location requested is more desirable.

Mr. Taylor explained that as he understood it, there is not an issue if the pool is not elevated. Mr. Kerr answered yes, this was correct. Mr. Taylor explained that the house is roughly the same distance from the front property line and the rear property line, so the matter of which is the front and which is the back is almost immaterial, because the distance requirement is the same for both: 30 feet. Mr. Taylor asked the applicant what size pool could be built in compliance with the Zoning Administrator's opinion and elevated. Ms. Messier showed sketches of pools that could be built, but stated that they would be small and they would be pushed very close to the neighbor on the eastern side. Mr. Taylor asked what the size was of the largest pool that could be built. Ms. Messier answered 10 feet by 18 feet.

Mr. Layman asked Mr. Kerr what his determination would be of the subject line if the Merritt Boulevard right-of-way was considered the front property line. Mr.

Kerr answered that the line would be considered a continuous line from the arc of Merritt Boulevard and therefore, it would be considered a front line and have a 30-foot setback requirement. He explained that lots that have only a small amount of frontage on a road, such as flag lots on a cul-de-sac, are required to meet the front yard setback within the interior portion of the lot and they are not considered to have met their setback because of the flag pole portion of the lot.

Mr. Taylor explained that it appeared to him that there was plenty of room to build a pool, either in-ground or elevated. Mr. Karig stated that there had been a lot of mention of the uniqueness of the lot and as he understood the process for appeals, the only thing the Board should be considering is if the Zoning Administrator interpreted the requirements correctly, which he thought he had.

Mr. Layman explained that he was sympathetic to the applicant's desires for an elevated pool, but he did not see any basis for overturning the Zoning Administrator's opinion and he therefore made a motion to affirm the Zoning Administrator's opinion. Mr. Karig seconded the motion and the vote was unanimous in favor of the motion.

IV. Miscellaneous Business

Mr. Kerr explained that City Council would be considering an amendment to the home occupation regulations, which would allow multiple businesses to operate out of a single residence. He explained that all other regulations governing home occupations would remain intact, but an owner would be allowed to have multiple businesses. The Board generally discussed the amendment and did not see any problem with such a requirement being enacted.

V. Adjournment

With no other business, the meeting was adjourned at 6:40PM.