

Board of Zoning Appeals
Minutes
June 7, 2016

I. Call to order

The regular meeting of the Board of Zoning Appeals was called to order on June 7, 2016 at 5:30 p.m. in the City Hall Conference Room, 1207 Palm Boulevard. Members present were Pete Doherty, Carolyn Holscher, Arnold Karig, Glen Thornburg and Jay Leigh; also Secretary Douglas Kerr was present.

Mr. Kerr acknowledged that the meeting had been advertised in compliance with State law and the properties had been posted.

II. Approval of minutes

The next item on the agenda was the review of the minutes of the May 3, 2016 meeting. Ms. Holscher made a motion to approve the minutes and Mr. Thornburg seconded the motion. The vote was unanimous in favor of the motion.

III. Home Occupancies

Mr. Karig explained that the Board acted as a quasi-judicial body and all comments made were treated in the same manner as court testimony; 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.

2802 Hartnett Boulevard

Mr. Kerr explained that the applicant was requesting a special exception to allow the establishment of an office for a pet sitting business.

Ms. Holscher asked if the pets would be limited to cats and dogs. The applicant, Rebekah Boyd, answered yes only cats and dogs. Ms. Boyd explained that her business would involve checking on and walking client's pets at their homes.

Mr. Thornburg asked the applicant if there would ever be an occasion that dogs that do not belong to her would be at her house. Ms. Boyd answered only if she was watching a friends' dog.

Ms. Christina Carlson, 2805 Cameron Boulevard, explained that her property backed up to 2802 Hartnett and she was concerned about noise and sanitation. She explained that she has already noticed other people's dogs at the house and she has seen reviews of the business online that suggest she is already keeping other people's dogs at her home and the business is not limited to office work only at the home.

Mr. Doherty asked what constituted watching a “friends” dog, someone that does not pay? And how many dogs would potentially be at the house at once?

Ms. Boyd answered, yes that a friend’s dog would be someone who is not paying her and there would never be more than one dog other than her own at the house.

Ms. Carlson explained that she felt that the applicant has already shown an interest in having clients’ dogs at the house and she does not want to be put in a position of having to be the watchdog neighbor that has to check to see how many dogs are on the property. She stated that she thought it would be everybody best interest if the business was not allowed to be established at this home from the onset.

Ms. Holscher explained that she would like to have an opportunity to look at the website that has been mentioned and look into the matter further and she made a motion to continue the case until the next meeting. Mr. Leigh seconded the motion and the vote was unanimous in favor of continuing the case.

1 Tabby Lane

Mr. Kerr explained that the applicant was requesting a special exception to allow the establishment of an office for a commercial property maintenance business.

The applicant, Mike Efremov, explained that this was really a paper company and he would only be using the mailing address of the house, but all work would be done away from the home.

Ms. Holscher asked if there would be any signs visible at the house. Mr. Efremov answered no, nothing would be visible from the house.

Mr. Doherty made a motion to approve the request and Mr. Leigh seconded the motion. The vote was unanimous in favor of the motion.

IV. Appeals

#5- 5th Avenue

Mr. Kerr explained that the next request was an appeal of his decision as the City’s Zoning Administrator. He explained that this was not like a variance or special exception request in that there were no criteria that the applicant needed to meet. The Board’s role would be to determine whether or not the Zoning Administrator was interpreting the code correctly. He explained that Section 5-4-12(g) included a mathematical equation that involves averaging the

setback of the neighboring houses and the applicants believe that it is being incorrectly interpreted and the code allows for a greater reduction in setbacks than what the Zoning Administrator is allowing. He stated that the Board should read the Code and review the request and make a ruling as to what the correct interpretation of the Code is.

Mr. Kerr stated that the Code reads:

“The zoning district front yard setback requirements for dwellings shall not apply to any lot where the average setback of existing buildings located within one hundred feet (100’) of each side of the dwelling within the same block and *fronting* on the same street is less than the required front yard setback. In such case the average setback on such lot shall not be less than the average setback of the existing buildings.”

He stated that the disagreement about the code comes down to which of the neighboring houses are *fronting* on the same street, 5th Avenue. He stated that it was his interpretation of the code that all of the three other houses on the block are fronting on 5th Avenue, because the code dictates that those lots have front yards and front property lines abutting 5th Avenue. He stated that the applicants believe that because the houses on the corner lots have addresses to the other streets, Ocean Boulevard and Carolina Boulevard, they are not fronting on 5th Avenue and therefore should not be included in determining the average setback.

The applicant’s attorney, Mr. Hamlin O’Kelly, explained that the City’s code does not include a definition of the term *fronting*. He stated that it does include a definition for *frontage* and *front yard*, but not for *fronting*. He distributed pictures of the houses on the corners, 416 Carolina Boulevard and 415 Ocean Boulevard, and stated that both houses have front doors facing their respective roads, not 5th Avenue, and both have addresses on their respective roads, not 5th Avenue, he stated that therefore he believed that the correct interpretation of the code was that they were not fronting on 5th Avenue and therefore should not be included in the setback calculation.

Mr. Leigh explained that from looking at the photographs he agreed that 416 Carolina Boulevard is not fronting 5th Avenue, but he felt like because the stairs, driveway and mailbox of 415 Ocean Boulevard were on 5th Avenue, he felt like it was fronting 5th Avenue.

Mr. Kerr stated that if the Board was going to provide a new interpretation of the Code, he would hope that there would be some detail given about what factors should be considered when making a judgement: front door location, driveway location, mailbox location, or something else.

Mr. Karig stated that as he saw the Board’s role in the process they were to determine if an error had been made in interpreting the Code and he could not find anything that suggests an error was made.

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Mr. Thornburg stated that on his personal home he was faced with a very challenging setback situation and he had to include a curved wall in the design of his house to comply with the ordinance and he felt that things such as this can contribute to the house's character and ultimately result in a higher resale.

The owner, Ms. Linda West, explained that she wanted a rectangular design for the house and would not be interested in having a curved wall in the design.

Mr. Doherty explained that he also had a house on a corner lot and when the City Council changed the Code to require corner lots to meet the front yard setback on both street sides, this severely limited owner's ability to develop those lots.

Mr. Doherty stated that City Council could choose to clarify the ordinance by including a definition of fronting.

Mr. Kerr stated that Council could change the code to include a definition of fronting. He stated that in 2002 City Council amended the code to require corner lots to have front yards on both streets and he had distributed the comments from the public hearing and he felt that the discussion at the time indicated that it was their intent to have all of the houses on a block to have the same front yard requirement, which he felt supported the position that they are all fronting on the same road.

Mr. Doherty stated that he cannot see that any error was made in interpreting the code and therefore made a motion to affirm the determination made by the Zoning Administrator. Mr. Thornburg seconded the motion. The vote was unanimous in favor of affirming the Zoning Administrator's interpretation.

V. Miscellaneous Business

Mr. Kerr stated the only thing he had to discuss was the date of the next meeting, which was scheduled for July 5th, the day after a holiday. He asked if members of the Board would be travelling or if they would rather meet the following week. The Board members agreed that July 5th would work for their schedules.

VI. Adjournment

With no other business, the meeting was adjourned at 5:45 PM.