

**PLANNING AND ZONING BOARD
MINUTES
CITY COMMISSION CHAMBERS
THURSDAY, MAY 11, 2023
6:00 P.M.**

Chair Fountain called the Planning and Zoning Board to order at 6:00 p.m. in the City Hall Chambers located at 120 E. Pomelo Street, Lake Alfred, Florida.

Chair Fountain provided the invocation followed by the Pledge of Allegiance.

Board Members in Attendance: Chair Ike Fountain, Vice-Chair Brenda Arnold, Board Member Herb Nigg, Board Member Ron Pestone, Board Member Scott Gearhart, Board Member Bancroft Fisher, Alternate Board Member John Reinert (6:07 PM), and Alternate Member Cathy Long. A quorum was present.

Board Members Absent: Board Member Wanda Daley.

Staff: Community Development Director Ameer Bailey, City Attorney Seth Claytor, City Clerk Linda Bourgeois, and City Planner Erika Tulloch.

Chair Fountain presented the minutes from April 13, 2023, Planning and Zoning Board meeting for approval.

Board Member Pestone made a motion to approve the meeting minutes for April 13, 2023. The motion was seconded by **Vice Chair Arnold**. The motion was unanimously approved.

City Attorney Claytor reviewed the meeting procedures, swore in the staff and audience members providing testimony, and asked if there was a need for an interpreter. There was no need for an interpreter. He reviewed the quasi-judicial requirements with the Planning and Zoning Board members.

Board Member Pestone thanked the city staff for the printed agenda packet.

Chair Fountain introduced the first item of business.

City Planner Erika Tulloch presented the first case. There were twenty-five mailers without any responses and the case was noticed pursuant to state law.

1.) Variance: 340 W Pierce Street

Applicant: Jacinto Navarro

Request: A request for a variance to the ten (10) feet minimum side accessory setback.

Property Information

Address: 340 W Pierce Street

Parcel ID: 26-27-32-513200-000020

Land Use: Residential (RES)

Zoning: Vintage Residential Neighborhood (VRN)

Variance from Section: § Section 2.1.6.C of the Unified Land Development Code (ULDC) Development Standards Table.

Variance Criteria

- Special circumstances due to peculiarity
- Not an action from the applicant
- No special privilege
- Common rights
- Minimum variance required
- Harmonious intent

According to Table 2.1.6.C of the ULDC, the side setback for accessory structures in the Vintage Residential Neighborhood (VRN) district is a minimum of 10 feet from the property line. The permit application was denied for not meeting the required setback.

After being informed by the City of the non-compliance, the applicant mentioned that he attempted to rectify the problem but had a great challenge removing the shed to a setback of ten feet (10') as the equipment used for the removal process was getting stuck.

On December 27, 2022, on a site visit conducted by the Code Enforcement officer, it was revealed that the shed was moved a distance of 8'9" from the fence/ property line. He was informed of the variance process for which he later applied in March 2023. Thus, the applicant is hereby requesting a variance to the ten feet (10') rear setback.

Sec. 9.9.3.D states that a variance shall not be granted unless the appropriate reviewing board/official affirmatively finds that each of the following criteria listed above has been met.

The board discussed the following:

- There is a fence line so the neighbors would not see the 18x12 shed.
- The shed has been on the site since 2014.
- There were other code violations on the property when the shed violation was discovered.

Property Owner **Jacinto Navarro** spoke and said he had purchased the shed from Sheds for Less who was paid to pull a permit prior to installation. The company told him the setback requirements were five feet and he had just signed the paperwork. He said it cost him \$10,000. He continued and shared his experience about attempting to move the shed, once he was found in violation, by renting a skid steer and using pipes underneath it to move it. The pipes kept sinking in the sand and he moved it the best he could.

Alternate Board Member Reinert asked why it took so long to find the shed in violation and Community Development Director Bailey shared with the Planning and Zoning about how the Code Enforcement process worked. She said the City has been working with the applicant for a while now.

City Attorney Claytor shared that the Code Enforcement violations are typically complaint-driven

and said the Code Enforcement action(s) and/or violations are not relevant or germane to whether or not the variance should be approved or denied.

Board Member Nigg asked if the applicant would have to do anything else with the shed if the Planning and Zoning Board voted for approval.

Community Development Director Bailey said that, in the event the variance is approved, the permit would be approved, the inspections would occur, and then the process would be completed.

City Planner Tulloch read the variance conditions into the record.

Conditions:

1. The variance shall only apply to the shed at 340 W Pierce Street.
2. That the applicant be permitted to allow the installation of a shed with a minimum side accessory setback of 8.5’.
3. That the applicant be permitted to allow the installation of a shed not measuring more than 216 sqft (18’ x 12’).
4. The shed may not be modified without an additional permit(s).
5. The shed shall meet all other requirements of the Lake Alfred Unified Land Development Code.
6. That the approval of this variance request shall not constitute a variance or additional waiver from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the ULDC.
7. The applicant shall apply for, receive, and finalize all necessary City of Lake Alfred building permits for this shed by May 11, 2024, or this approval shall be voided.

Chair Fountain opened the floor to public comments and seeing no one, he closed the floor to public comments.

Alternate Board Member Reinert moved to grant the variance request by the applicant with conditions of approval, after hearing competent substantial evidence that meets all the variance criteria as set forth; and I hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records. The motion was seconded by **Board Member Pestone**. The motion was unanimously approved.

Chair Fountain introduced the next business item for consideration.

City Planner Tulloch presented the next case. There were two mailers without any responses and the case was noticed pursuant to state law.

2.) Variance: 711 Griffon Avenue

Applicant: John Bannon on behalf of JMBI Development LLC

Request: A request for a variance to the minimum fifteen feet (15’) side street principal setback.

Property Information

Address: 711 Griffon Avenue
Parcel ID: 262719-489375-003120
Land Use: Residential (RES)
Zoning: Vintage Residential Neighborhood (VRN)
Variance from Section: **§ Section 2.1.6.C** of the Unified Land Development Code (ULDC) Development Standards Table.

Variance Criteria

- Special circumstances due to peculiarity
- Not an action from the applicant
- No special privilege
- Common rights
- Minimum variance required
- Harmonious intent

The applicant sought confirmation from City staff in October 2022 about the setback requirement for the lot. They were informed that 711 Griffon Avenue (lot 312) will be treated as a corner lot and therefore will need to meet the side street principal setback of fifteen feet (15'). On April 11, 2023, the applicant submitted a variance application to reduce the minimum side-street setback from fifteen feet (15') to thirteen point four feet (13.4'). No permit application has been submitted for review.

John Bannon, the applicant on behalf of JMBl Development, LLC., said the variance allows for the builder to maintain the forty-foot-wide footprint. He said they were okay with the staff conditions and that this was a unique situation. He explained that this was a misunderstanding on his part, referencing the side setbacks for public versus private roads.

Community Development Director Bailey explained the Unified Land Development Code did not differentiate between the two types and said this was a minimum variance request.

Alternate Board Member Reinert suggested they consider building the house at an angle.

A discussion ensued and it was shared that there would be a utility easement issue, that they would not want a driveway on the main road, and that was not the applicant's request. Further discussion surrounded the fact that there were no other variances needed for this lot and properties, in general, could have multiple variances requested.

Chair Fountain opened the floor to public comments.

Jerry Rodriguez, the builder, agreed and said there would not be any more requested variances. He requested consideration of the Planning and Zoning Board to extend the one-year building permit requirement to two years.

Chair Fountain closed the floor to public comments.

A discussion ensued regarding the conditions as specified in the ULDC and that the code required the residential building permit to be pulled for construction.

City Planner Tulloch read the conditions of approval into the record.

Conditions:

1. The variance shall only apply to the property at 711 Griffon Avenue.
2. That the applicant be permitted to construct a new residential structure with a side street setback of 13.4 feet from Airedale Way.
3. The new residential structure shall meet all other requirements of the Lake Alfred Unified Land Development Code.
4. ~~No additional variance(s) be granted for future accessory structures that do not meet the required side street accessory setbacks as outlined by the ULDC.~~
5. No primary or accessory structure shall be located on or across the ten-foot (10') utility easement on the lot along Airedale Way.
6. That the approval of this variance request shall not constitute a variance or additional waiver from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the ULDC.
7. The applicant shall apply for, receive, and finalize all necessary City of Lake Alfred building permits for this residential structure by May 11, 2024, or this approval shall be voided.

The Planning and Zoning Board discussed condition number four which would limit any future accessory structures.

Alternate Board Member Reinert asked for the definition of accessory structures and Community Development Director Bailey read the definition of the ULDC into the record.

Alternate Board Member Reinert made a motion to remove condition number four from the conditions. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

Board Member Gearhart moved to grant the variance request by the applicant with conditions of approval, after hearing competent substantial evidence that meets all the variance criteria as set forth; and I hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

Chair Fountain introduced the next business item for consideration.

Community Development Director Bailey presented the case. There were two mailers without any responses and the case was noticed pursuant to state law.

3.) Variance: 715 Griffon Avenue

Applicant: John Bannon on behalf of JMBI Development LLC
Request: A request for a variance to the minimum fifteen feet (15') side street principal setback.

Property Information

Address: 715 Griffon Avenue
Parcel ID: 262719-489375-003120
Land Use: Residential (RES)
Zoning: Vintage Residential Neighborhood (VRN)
Variance from Section: **§ Section 2.1.6.C** of the Unified Land Development Code (ULDC) Development Standards Table.

Variance Criteria

- Special circumstances due to peculiarity
- Not an action from the applicant
- No special privilege
- Common rights
- Minimum variance required
- Harmonious intent

The applicant sought confirmation from City staff in October 2022 about the setback requirement for the lot. They were informed that 715 Griffon Avenue (lot 311) will be treated as a corner lot and therefore will need to meet the side street principal setback of fifteen feet (15'). On April 11, 2023, the applicant submitted a Variance application to reduce the minimum side-street setback from fifteen feet (15') to fourteen point two feet (14.2'). No permit application has been submitted for review.

If approved by the Planning and Zoning Board, the staff is recommending the following conditions:

1. The variance shall only apply to the property at 715 Griffon Avenue.
2. That the applicant be permitted to construct a new residential structure with a side street setback of 14.2 feet from Airedale Way.
3. The new residential structure shall meet all other requirements of the Lake Alfred Unified Land Development Code.
4. ~~No additional variance(s) be granted for future accessory structures that do not meet the required side street accessory setbacks as outlined by the ULDC.~~
5. No primary or accessory structure shall be located on or across the ten-foot (10') utility easement on the lot along Airedale Way.
6. That the approval of this variance request shall not constitute a variance or additional waiver from any applicable development regulation unless specifically noted in the conditions of approval and consistent with the ULDC.

7. The applicant shall apply for, receive and finalize all necessary City of Lake Alfred building permits for this residential structure by May 11, 2024, or this approval shall be voided.

Alternate Board Member Reinert made a motion to remove condition number four from the conditions. The motion was seconded by **Board Member Nigg**. The motion was unanimously approved.

Board Member Nigg moved to grant the variance request by the applicant with conditions of approval, after hearing competent substantial evidence that meets all the variance criteria as set forth; and I hereby authorize the Chairman to sign a Development Order to be recorded in Polk County Public Records. The motion was seconded by **Vice Chair Arnold**. The motion was unanimously approved.

Board Member Comments:

Alternate Board Member Reinert spoke about how close the homes were in Eden Hills saying there were only ten feet from foundation to foundation.

A discussion ensued regarding the current setback requirements, new legislation that will impact Master Planned Communities, and the city's ULDC is designed to provide a variety of development standards to serve a diverse population.

Board Member Nigg asked if this development was in the Green Swamp Area of Critical State Concern and it was shared that it was.

Board Member Long shared her disappointment with the last few meetings and encouraged the Planning and Zoning Board Members to treat everyone with respect.

A discussion ensued about changing the development standards regarding lot sizes, the Planning and Zoning Board is a recommendatory board, and the City Commission has the final authority on setting the standards through City's policy.

Board Member Pestone asked if the Planning and Zoning Board would get to review the developments coming into the City.

Community Development Director Bailey said it depends on what level of review the development required. She provided examples of situations where the developments may come before the Planning and Zoning Board and others where it would not be appropriate for the board review based upon the Unified Land Development Code requirements.

Board Member Pestone spoke about people buying in developments that don't allow for on-street parking and said they may not know that they can't park on the street when they purchase the home. This is a quality-of-life issue.

A discussion ensued about the choices of roadway widths during the development process, the Home Owners Associations (HOA) being the enforcement agency, and the smaller lots being more economical for affordability.

Chair Fountain asked for an update on the Quite Zone research.

City Attorney Claytor shared he had reached out to the City of Winter Haven and they shared it was a very difficult and onerous process. They have been working on it for a long time.

Alternate Board Member Reinert asked about continuing to review the Planning and Zoning Board's by-laws. He mentioned some areas such as board composition, board absences, and vacancies.

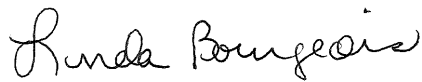
Board Member Pestone suggested a workshop to discuss the by-laws in detail.

After a brief discussion, it was agreed that the Community Development Department would email the by-laws back out to the Planning and Zoning Board for recommendations to be sent to the director.

The next Planning and Zoning Board meeting is scheduled for June 8, 2023.

Without any further business, the Planning and Zoning Board meeting was adjourned at 7:43 PM.

Respectfully submitted,



Linda Bourgeois, BAS, MMC, ADAC
City Clerk