



MINUTES
COMMUNITY DEVELOPMENT BOARD
April 13, 2022, AT 6:00 P.M.
COUNCIL CHAMBERS
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice a public hearing of the Community Development Board for the City of Neptune Beach was held both in person April 13, 2022, at 6:07 p.m. in the Council Chambers.

Attendance

Board members were in attendance:
Bob Frosio, Chair
Greg Schwatzenberger, Vice-Chair
Jonathan Raitti, Member
Rene Atayan, Member
William Hilton, Member
Charley Miller, Member

The following staff members were present:

Samantha Brisolara, Community Development Director
Zachary Roth, City Attorney
Piper Turner, Code Compliance Supervisor

Pledge

Pledge of Allegiance.

Call to Order/Roll
Call

Chair Frosio called the meeting to order at 6:00 p.m.

Minutes

Made by Hilton, seconded by Schwatzenberger.

MOTION: TO APPROVE FEBRUARY 9, 2002 MINUTES AS AMENDED AND MARCH 9, 2022, MINUTES AS SUMMITTED.

Roll Call Vote:

Ayes: 7-Hilton, Raitti, Randolph, Atayan, Miller, Schwatzenberger,
Forsio

Noes: 0

MOTION CARRIED

Swearing in Mr. Roth, City Attorney, asked anyone appearing before the board tonight to raise their right hand to be sworn in.

Variance application Michelle Lynn Larson Et Al & Anthony Rummell R/S 1515 Kings Road
V22-04 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Michelle Lynn Larson Et Al and Anthony Jay Rummell R/S for the property known as 1515 Kings Road (RE# 178620-0000). The request is to vary Sections 27-328(a)(2) location of an accessory structure. The request for variance is for an after the fact detached accessory structure for the storage of a boat.

Samantha Brisolara, Community Development Director presented the staff report.

I. BACKGROUND: An application for a variance was submitted on March 14, 2022, for a detached garage (boat shed). The applicant submitted for a variance on the March 9, 2022, Community Development Board meeting. The application was denied due to the lack of findings for approval. The applicant is resubmitting for a variance of only one provision of the code as he has worked to come into compliance for his previous variance requests.

II. DISCUSSION: The applicant is requesting a relief from the following Land Development Code provision:

- Sec. 27-328 (a)(2) a. "On multiple frontage lots, through lots and corner lots, accessory structures may only be located in any required interior side yard and/or required rear yard but not less than three (3) feet from any of those lot lines."

III. FINDINGS:

1. The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.
 - a. Applicant Response: "The carport is positioned to be used on the property while keeping the large oak tree in the front yard without having to take down the tree."
 - b. Staff Response: Staff finds that a tree in the front yard hinders the ability to maneuver the boat safely and successfully to the side and back yard. Additionally, the tree is a heritage tree and should be protected at all costs.
2. The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.
 - a. Applicant Response: "The carport was shifted slightly on the side yard so that access was obtainable to use structure as intended. Front post[s] of structure are less than 2' & 4' from the front of the residence."
 - b. Staff Response: Staff finds that the variance is the minimum necessary to allow the reasonable use of the land for a boat carport without further harming the natural state of the land.
3. The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

- a. Applicant Response: "The proposed structure does not encroach on the side or front setbacks."
- b. Staff Response: Staff finds that the setbacks of the structure comply with the regulations of the R-1 zoning district.
- 4. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.
- a. Applicant Response: "The structure is a nice wood post & beam and architecturally sound with the community. I believe it raises the value of the property and neighborhood."
- b. Staff Response: The location of the boat carport extends only 2 feet beyond the front facade of the house and does not diminish property values or alter the character of the area surrounding the site. The minor extension beyond the front of the house is not recognizable to the naked eye.
- 5. The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.
- a. Applicant Response: "With the reduction in overall height and the addition of the pervious driveway I believe this structure is in harmony with the U.L.D.C for the intended purpose of the structure given the current tree location."
- b. Staff Response: Staff finds that the proposed use of the structure is subordinate to the principal use of the single-family home and is therefore in harmony with the general intent of the Accessory Structures section of the Land Development Code.
- 6. The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.
- a. Applicant Response: "The structure is shifted to accept the tree location in the front yard directly next to the driveway."
- b. Staff Response: Staff finds that the location of the heritage tree impacts the ability of the property owner to successfully place the boat carport in a location that is behind the front façade of the house. The protection of the city's tree canopy is priority in relation to the location of the structure pursuant to the city's comprehensive plan policy A.1.6.12 "Protect the City's existing tree canopy..."
- 7. Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.
- a. Applicant Response: "The variance for location of carport has a direct relation with the tree location of this property alone." b. Staff Response: Staff finds that granting the variance will not confer the applicant any special privilege that would be denied to other lands buildings or structures in the same zoning district.

IV. CONCLUSION: Staff supports approval of the variance based on the findings stated above. The applicant may move forward with permitting but must comply with all other provisions in Article V, Accessory Structures and Uses as stated in the Land Development Code.

V. RECOMMENDED MOTION: a. I move to approve OR (approve with conditions) Variance Application V22-04

Mr. Anthony Rummell, 1515 Kings Road, applicant and property owner, addressed the Board. Stated he had made some changes to the original plan. The roof will be lowered to 13 feet 6 inches and will meet the code and a driveway will be added on the Kings Road side of the property. The position of the structure was placed where it is because of a large tree that would have had to be removed in order to comply with the setbacks.

The floor was opened for public comments. There being no comments, the public hearing was closed.

Board Discussion:

Mrs. Atayan: Has worked with the city to make a great compromise.

Mr. Hilton: Be careful of compromising. Has to meet the test of the finding of fact by saving the trees.

Mr. Miller: Ok with approving with conditions.

Mr. Ratti: The tree canopy should be protected. Two-sided lots limit the options.

Made by Miller, seconded by Hilton.

MOTION: MOVE TO APPROVED VARIANCE APPLICATION V22-04.

Roll Call Vote:

Ayes: 7 -Hilton, Miller, Raitti, Randolph, Atayan, Schwartzenger, Forsio

Noes: 0

MOTION CARRIED

Special Exception
SE22-01 Juanita
Stephens 120
Lemon St Smart
Balance Massage

An application for a special exception was submitted by Juanita Stephens on March 16, 2022, to operate a Massage Therapy business at 120 Lemon St., Neptune Beach, FL 32266. The property is in the Central Business District.

Samantha Brisolara, Community Development Director presented the staff report.

I. BACKGROUND: An application for a special exception was submitted on March 16, 2022, to operate a Massage Therapy business at 120 Lemon St., Neptune Beach, FL 32266

The applicant was operating out of 120 Lemon St, without obtaining a business tax receipt or special exception. She was unaware of the requirements and had been told by her landlord that the building had a blanket business tax receipt and that she would not need one.

Code Enforcement only became aware of the massage therapy business when Ms. Stephens placed a sign advertising her business. Once Officer Dehm made contact with Ms. Stephens, she was more than willing to comply and has provided staff with all documentation pertaining to her business operations.

II. DISCUSSION: The applicant is requesting a special exception, as listed in Section 27-226 of the Land Development Code, to operate a Day Spa in the Central Business District (CBD) Zoning District:

- Sec. 27-226(k)(3) d. Uses by special exception: "Day spa;"

III. FINDINGS:

1. The proposed use is consistent with the comprehensive plan.
 - a. Applicant Response: "The business is located with two other businesses in one building creating a mix of uses."
 - b. Staff Response: Staff finds that the business is consistent with comprehensive plan policy A.1.4.2 (C) (5), Town Center which states that the area shall contain a mix of commercial uses and compatible residential uses that encourage an urban-intensive, pedestrian oriented neighborhood ambiance.
2. The proposed use would be compatible with the general character of the area, considering the population density; the design; density; scale; location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses.
 - a. Applicant Response: "The special exception would be compatible with the lower intensity businesses in the same office complex. The operating hours will be during daylight hours and part-time."
 - b. Staff Response: The Central Business District is the most intense zoning district in our city (meaning allows the most uses). The use, if approved, would be operating part-time and before dusk, which is outside of the busiest time in the CBD (typically, after dusk). The nature of the business is low impact which is compatible with the office uses in which it shares a building.

While the use is low impact, there are no similar uses in the area.
3. The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community.
 - a. Applicant Response: "Due to the low impact nature of the business, there will be no environmental impacts."
 - b. Staff Response: Staff finds there are no substantial environmental impacts beyond typical solid waste generated by the building. There are no hazardous materials used for this type of use.
4. The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety and welfare of the community.
 - a. Applicant Response: "I will only have one client at a time and all clients must have an appointment. No walk-ins will be allowed as to be courteous to other businesses in the same space."
 - b. Staff Response: The use as proposed is on an appointment basis only. As such, the typical turnaround time for a massage is a 1-hour time slot. This type of slow turn around does not adversely impact traffic, pedestrians, or parking.
5. The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan.
 - a. Applicant Response: "The proposed use is not detrimental to future development as it is for a personal service that is low impact."
 - b. Staff Response: The proposed use is consistent with other uses in the Central Business District. Due to the low impact of the business, any future development of the area, would not create any non-conformities or nuisances.

6. The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area.
 - a. Applicant Response: n/a
 - b. Staff Response: Staff finds that this question was not on the Special Exception Application and the applicant was not afforded the opportunity to provide a response. However, due to the interior and low impact nature of the business, there would be no inconsistencies with existing or permissible uses in the area and the business would not create any nuisances as proposed.
7. The proposed use would not overburden existing public services and facilities.
 - a. Applicant Response: "No overuse of public services or facilities is required to operate. A small amount of water is used to operate the towel and rock steamer."
 - b. Staff Response: Staff finds that the proposed use would not require a high level of service for the water and sewer facilities and the solid waste created by this use would be minimal as the towels and rocks are taken with the business owner for proper sanitizing.
8. The proposed use meets all other requirements as provided for elsewhere in this Code.
 - a. Applicant Response: "Parking only requires one space which is available by pay to park in front of the building. I have a designated parking spot for my own vehicle. I also have applied for the business tax receipt and am awaiting approval for it to be processed."
 - b. Staff Response: Staff finds that the use requires only one parking space per LDC, Table 27-540-1, which requires one (1) space per 300 square feet of gross floor area. In the CBD, parking requirements are further reduced by 50% (Sec. 27-540 (b)). Due to the low turnover, and the applicant having a designated parking space, the parking requirement would be met for the use.

Additionally, the two office uses also require only one (1) space per 400 square feet of gross floor area. The structure at 120 Lemon Street has a gross floor area of 1,668 square feet. If this is divided equally between the three businesses, each business is required to provide two (2) spaces. However, since they are in the CBD and are allotted a 50% reduction, each business is only required to supply once (1) parking space. There are four (4) pay to park spaces available for use in front of the building.

All other provisions of this code are met by the proposed use provided by the applicant.

IV. CONCLUSION: Staff supports approval of the Special Exception based on its low impact and compatibility with the surrounding uses. Further, the use is consistent with the Town Center designation in the Comprehensive Plan.

V. RECOMMENDED MOTION:

- a. I move to approve /approve with conditions Special Exception SE22-01.
- b. OR
- c. I move to deny Special Exception SE22-01 based on lack of similar uses in the area as stated by Finding #2

Ms. Stephens, applicant, addressed the Board. Stated she stated that she was given the opportunity to rent space to operate a massage therapy business in the location. Her business is conducted in daylight hours only between 8:30 am and 6:00 pm by appointment only. She has another business location at the Beach so the impact will be low. Can only work on 4 to 5 clients a day. There is a parking space available in front of the building for clients to use.

The floor was opened for public comments.

Mary Phillips, Atlantic Beach, supports the applicant.

Michelle Tipton works with applicant and supports and asked the board to approve the applicant.

Lori Canderi, friend, stated that the applicant cares about her clients and the community will be well served by her.

John Tipton, supports the approval.

There being no comments, the public hearing was closed

Board Discussion:

Mr. Miller: Meets the proposed code as well as the current one.

Mr. Ratti: Would any future business owner need their own special exception? Yes, that is correct.

Made by Hilton, seconded by Miller.

MOTION: **MOVE TO RECOMMEND APPROVAL OF SPECIAL EXCEPTION APPLICATION SE22-01.**

Roll Call Vote:

Ayes: 7 -Hilton, Miller, Raitti, Randolph, Atayan, Schwtzenberger, Forsio

Notes: 0

MOTION CARRIED

Application was informed that City Council makes the final decision, and that this application would be forwarded to the May 2nd meeting, and they need to attend.

ULDC
revisions
discussion

Board discussion and review of Article V Accessory Structures and Use; Article VI Concurrency; Article VII Protection of Potable Water Wellsfields; Article XIII Parking & Loading; Chapter 8 Buildings and Building Regulations; Article VII Coastal Construction Code; Article XV Advertising; Article XVIII Nonconforming Lots, Uses and Signs

Vice-Chair Scwtzenberger read a statement as he would not be able to attend next month's meeting. A proposed map was shared with the board and members of the audience.

"Over the past several months through participation in CDB meetings, observation in city council meetings, my own research, and consistent resident feedback, I have come to the conclusion that there are a couple of main areas of the proposed code that are driving a wedge between the residents and their own city government. To me these are the R4 Overlay guidelines and the proposed changes in C1 zoning.

It was thru re-reading the following section of our code that I was inspired and then had an idea I wanted to share.

Article IV / Land Use

Sec. 27-215. - Purpose and intent.

(a) The City of Neptune Beach, Florida is a residential community. The primary goals of the city, upon which the comprehensive plan was developed, are to preserve the natural beauty, pleasant environment and unique character of the city; to retain the quality of our existing residential neighborhoods by encouraging the residents to maintain and improve their property and protect these areas from the encroachment of detrimental and noncompatible land uses; and to insure that future residential areas are well planned and provided with full and adequate urban services.

// This language Runs contradictory to the proposed zoning use changes in C1. but also provides excellent guidance on how to move forward.

I want to pass you each a zoning map with a slight change that will be good reference for the rest of my short statement.

Take a look at C1 both east and west of third St. There is a clear visual distinction, and it only makes sense to have a zoning distinction between C1 west of third and the smaller C1 area east of third. With BOA certain to redevelop in the future, have we considered a flex zoning zone? A mix of residential and commercial? The BOA redevelopment will be critical to the future of NB.

PUD's have also been a point of contention, with some residents asking for them to be removed completely. Residents are also wary of a PUD becoming a workaround for certain types of special exceptions that are explicitly excluded.

I propose keeping C1 west of third zoning as is, with the same special exceptions in place now... other than one change : an additional special exception allowing mixed use in terms of additional residential units. This idea is consistent to what was approved in our most recently passed Comprehensive Plan in Chapter 2, Page 20. (Given that much of the corridor is already residential, it is worth considering allowing mixed-use development in the C-1 zoning district that would allow for "missing middle" housing such as second-floor residential, bungalow courts, and employee housing.) In addition, and to create the zoning distinction, I propose to have a step down flex zone within the first block of the R4 overlay, with a hybrid of CBD components mixed in with Residential units as described in the R4 overlay zone.

Neptune Beach, up to this point, has done a beautiful job of mixing old with new. What I am asking you to consider is progress for the city, but within the guidelines and roots of our recently passed comprehensive plan."

Chair Forsio opened the floor for general comments from the public.

Shellie Thole, 124 Margaret St, C-1 is peaceful and quite and should remain that way. She is depending on the board to listen.

Chuck McCue, 1908 Third St, controlled growth is good. Prefers to have development of Atlantic Blvd. Worried about Coffee shops or restaurants on Third St. Would like office type uses. The C-1 would go from Atlantic Blvd to Bay Street and not extend to Seagate.

Scott Wiley, 723 Davis St, not in favor of C-1 changes. PUDs need to be removed from the Code completely.

David Bais, 800 First St, agrees with the previous speakers. Concerned with the Dover Kohl understanding of the city and what the citizens wanted. Examples: R-4 changed setbacks, Floor Area Ratio removed, impervious surfaces increased. We need more time to review before approval. The Comp Plan is a 25-year document. Needs to be taken seriously and slow.

Rob Johnson, 700 Valley Forge Rd N, the code has to be enforced. Setbacks, no one wants larger structures, slow down traffic, keep it the way it is. Don't let money rule the community.

Caitlin Baiata, 453 Bowles St, C-1 is the biggest elephant in the room. Everybody loves it. Remove all special exceptions from C-1.

Public Comments were closed, and the Board discussed the proposed changes.

Mr. Hilton reminded everyone that the Board is here to make a recommendation and the citizens should reach to City Council with their concerns.

Article V Accessory Structures and Use:

These types of structure would encourage short term rentals. Pull out section 27-328(4) completely.

Change the 5-foot setbacks from the eaves not the exterior wall.

Typos in lettering.

27-330 the wording needs to be redone.

27-331-add a 15-day extension allowable if requested in writing

27-332(a) remove last line

27-332 (e) remove word "extra"

27-340 Accessory apartments. Remove entire section.

Article VI Concurrency:

27-350(a) Change "encourage" to "shall"; add comma between designee and to 27-351-Get with Public Works concerning water and seer gallon capacity per day

Article VII Protection of Potable Water Wellsfields: No comments

Article XIII Parking & Loading:

27-532 last line "the parking space required shall be rounded up to the nearest whole number

27-536-move all definitions to section 27-15 and make sure motorized vehicle complies with new ordinances

Fix typos especially Community Design back to Community Development

27-541 Change Community Development to either "Director" or "Department" to be consistent.

In lieu fees to be assessed on full number of spaces required, not on any reduced credit such as in the CBD. Clarify in text. 27-542-bike racks should be made out of aluminum
Chapter 8 Buildings and Building Regulations: No comments
Article VII Coastal Construction Code” No comments
Article XV Advertising: 27-596-add a process for submitting an art project and if changes are to be made once a mural has been approved and installed.
Article XVIII Nonconforming Lots, Uses and Signs: 27-706-Create retrofits, add RC overlay retrofits. There was some discussion on how this would work and how far do you go.

Open
Discussion

Chuck McCue: 27-563 cc vs watts for electric bikes. Bank of America and Regions Banks properties could use a wall along Second Street instead of landscaping. Prefers the spiral type of bike racks.

Board comments: The courts at Jarboe Park should be used for all types of sports. How do you determine what is art? It is hard to regulate. Fence height-should it be measured from the finish level of the house or the nature grade?

Adjournment

The next board meeting will be May 11, 2022, at 6:00 pm. There being no further business, the meeting was adjourned at 9 :27 p.m.

Robert Frosio, Chairperson

ATTEST:

Piper Turner, Board Secretary