

The Franklin County Board of Adjustment met in special session on Monday, December 18, 2006 at 9:00 a.m. in the Franklin County Courthouse, Suite 303, Apalachicola, Florida. The meeting previously scheduled for December 5, 2006, was rescheduled due to an incorrect advertisement in the newspaper. Attendance was as follows:

PRESENT: Vance Millender
Joe Hambrose
Bryant Hand
Gil Autrey
Richard Harper

Member Joe Hambrose opened the meeting while awaiting Chairman Vance Millender's arrival. The first item on the agenda was approval of the minutes of November 1, 2006, as mailed.

On motion by Member Hand and seconded by Member Autrey, the minutes were unanimously approved.

Chairman Millender and Member Richard Harper arrived at this time and Mr. Hambrose turned the meeting over to Chairman Millender.

The next item for consideration was a request for a variance to construct a single family dwelling 15 feet into the front property line setback on both Gulf Shore Boulevard and Dunes Boulevard, and 20 feet into the Critical Habitat Zone on property described as Lot 97, Block 10, Southern Dunes Subdivision, Alligator Point, Franklin County, Florida. The request was submitted by Florida Environmental & Land Services, Inc., agent for Mary Ann Tatum, owner.

Mrs. Rachel Ward explained that this was a continuation of a request which had been before the board on November 1, 2006. She explained that the advertisement had been printed incorrectly in that it listed the variance request as 10 feet into the front line setback. Ms. Ward stated that the variance was previously discussed, but had to be re-advertised to amend the variance request to 15 feet into the front setback line. She reminded the board that they had instructed Ms. Tatum that she need not be present for this further action.

Ms. Ward explained that Ms. Tatum had met all the requirements asked of her for building in the Critical Habitat Zone. After brief discussion and on motion by Member Hambrose, seconded by Member Hand and by unanimous vote of the members, it was agreed to recommend approval of this variance request.

The next item on the agenda was a request for consideration of a special exception to allow a restaurant as a tourist oriented commercial facility in a C-1 District for property described as lying in Section 32, Township 8 South, Range 6 West, further described as 500 Highway 98, Eastpoint, Franklin County, Florida. This request was submitted by Michael Keller, agent for That Place on 98.

Ms. Ward explained that this request was for an existing restaurant which has been in service for a number of years. She explained that this request is being made to assure his ability to rebuild in the event the building is ever damaged or destroyed by any form of accident or natural disaster such as with Hurricane Dennis. She further explained that with a special exception a restaurant which serves seafood is allowable as a tourist oriented facility.

Mr. Keller said he has owned the restaurant for ten years and it was in operation before he bought it. Mr. Millender asked if the restaurant sold oysters. Mr. Keller assured the board that he did in fact sell seafood.

On motion by Member Gil Autrey, seconded by Member Bryant Hand, and by unanimous vote of the members present, it was agreed to recommend approval for this special exception as requested.

Member Richard Harper commented that he would like to have it noted that by approving this special exception for a restaurant in the C-1 District, that it in no way set a precedent for such future development.

The board then heard a request for a variance to construct stairs five feet into the Critical Habitat Zone on property described as Lot 8, Block V, Unit One, Lanark Beach Subdivision, located at 2230 US Highway 98, Lanark Beach, Franklin County,

Florida. Gary Ulrich of Ulrich Construction presented the request as agent for Curtis and Cheri Barineau, owners.

Ms. Ward informed the members that Mr. Ulrich had agreed to modify his original request to build the steps only one foot into the Critical Habitat Zone. She noted that pile dependent structures such as docks and decks are allowed in the Critical Habitat Zone. She noted the steps will be connected to the dock.

Ms. Ward explained that Mr. Ulrich had submitted an application for a building permit for the house which indicated the stairs in the Critical Habitat Zone. She said the plans for the house were approved, but it was noted on the plans, by the building official, that the stairs were not approved because there had been no variance granted for the stairs in the Critical Habitat Zone.

Some discussion followed concerning the order of applying for a variance. Member Harper explained to Mr. Ulrich that he was taking a big chance by starting construction before receiving the variance. It was stressed to Mr. Ulrich the importance of seeking the variance first, then beginning construction. He informed Mr. Ulrich that there is no guarantee that a variance will be approved.

Mr. Ulrich said he was under the mistaken impression it was acceptable to apply for a variance after the start of construction. However, he understands now and he will certainly do it the correct way in the future.

Mr. Ulrich presented the members with pictures which indicated the neighboring houses located further into the Critical Habitat Zone than he requested. After much discussion and on motion by Member Gil Autry, seconded by Member Millender, and by unanimous vote of the members present, it was agreed to recommend approval of the variance request to construct the steps one foot into the Critical Habitat Zone.

The board then considered a request for a variance to construct a vertical retaining wall behind an existing rock revetment within the Critical Habitat Zone on property described as Lots 3 and 4, Block 56, Unit 5, St. George Island, Franklin County, Florida. The request was submitted by Helen Pitts Hankins, Owner.

Ms. Ward told the members that she had looked at the lots in question and would recommend approval of the request. She explained that erosion had already claimed two other lots located in front of these lots.

Member Millender inquired about the height of the wall. Ms. Ward noted that it should be no more than four feet in height.

After brief discussion, and on motion by Member Harper, seconded by Member Hambrose and by unanimous vote of the members present, it was agreed to recommend approval of this variance to construct a vertical retaining wall behind the existing rock revetment, contingent upon the wall being no more than four feet high from the natural grade elevation.

Member Harper requested that Ms. Ward ask the owners to take pictures before and after construction to make sure the height of the wall is not more than four feet.

The last item on the agenda was for consideration of a request for a variance to construct a single family dwelling 15 feet into the front setback line off of Alligator Drive on property described as Lot 5, Block C, Unit One, Peninsular Point, Alligator Point, further described as 1265 Alligator Drive. The request was submitted by Jim and Betty Cummins, owners.

Ms. Ward explained that the home owners have to build further into the front setback line in order to fulfill the DEP requirements to build 60 from mean high water or the 30 year erosion zone.

Mr. Cummins explained that he is contesting the DEP Ruling. If he is successful, he will not need to go the full 15 feet into the front setback. However, if he is not successful, he will need the 15 feet.

Ms. Ward stated that she recommended approval of this request. Mr. And Mrs. Cummins are building a 1,000 square foot print house with two stories.

On motion by Member Hambrose, seconded by Member Hand and by unanimous vote of the members present, it was agreed to recommend approval of this request.

Member Richard Harper commented on the rescheduling of the December 5, 2006 meeting. The newspaper had incorrectly advertised the date. He expressed concern that the interest of the citizens be uppermost in the decisions made by the Franklin County Advisory Board of Adjustment.

Ms. Ward assured Mr. Harper that although the newspaper had incorrectly advertised the meeting; the notices sent to all interested parties did, in fact, state the correct date and time of the meeting.

Mr. Harper made a motion to communicate to the county attorney and the Franklin County Board of Commissioners as follows:

- 1) The Advisory BOA strives to comply with all requirements of law and ordinance.
- 2) The Advisory BOA strives to allow full access for public participation for its citizens and for all parties conducting business with the BOA.
- 3) The Advisory BOA requires critical legal advice from the county attorney on a regular basis and desires that this legal advice always protect the interests of the citizens of Franklin County and all parties who conduct business with the BOA.
- 4) It is the desire of the Advisory BOA that requested and necessary legal advice from the county attorney be given from the perspective that the integrity and credibility of this board with “the people” will always be considered as our first priority.

Mr. Hambrose seconded the motion. This motion was approved by unanimous vote of the members present.

There being no further business, the meeting adjourned at 9:30 a.m.

Vance Millender, Chairman

ATTEST:

Zoning Administrator, Rachel L. Ward
