

The Franklin County Board of Adjustment met in regular session on Wednesday, March 4, 2009 at 9:00 a.m. in the annex of the Franklin County Courthouse. The meeting was called to order by Chairman Vance Millender, who thereafter presided. The attendance was as follows:

PRESENT

Vance Millender ----- Chairman  
Joe Hambrose ----- Member  
Gil Autrey ----- Member  
Mitch Griner ----- Member  
Michael Shuler ----- Attorney

The first item on the agenda was approval of the minutes of the meeting held February 4, 2009, as mailed. There being no discussion and on motion by Member Griner, seconded by Member Hambrose and by unanimous vote of the members it was agreed approve the February 4, 2009, minutes as mailed.

Agenda item number 4 was moved to second place for consideration of a request for a variance to construct a boat shed 10 feet into the front setback line off of West Bayshore Drive on property described as Lot 6, Block 23, Unit One West, St. George Island, Franklin County, Florida. The request was submitted by Greg Prickett, agent for David and Michlein Watts, owners.

Greg Prickett explained that they are requesting the variance in order to keep from having to cut two large oak trees which are growing in the front yard. Mrs. Rachel Ward of the Planning and Building Department stated that she had not received any objections from the neighbors concerning this request. After brief discussion and on motion by Member Autrey, seconded by Member Griner and by unanimous vote of the members present, it was agreed to recommend approval of this request as submitted

The next item for consideration was a request for a variance to construct a single family dwelling 50 feet into the Critical Habitat Zone on property described as Lot 9,

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Block 35, Unit 4 East, St. George Island, Franklin County, Florida. The request was submitted by Ben Bloodworth, agent for JTB LLC, owners.

Mrs. Ward explained that the property has lots of jurisdictional wetlands. However, the biggest problem is that Mr. Bloodworth does not have enough upland to meet the requirements for a septic tank. She noted that he would need 75 feet from any wetlands for an aerobic system. She stated she is not sure if Mr. Bloodworth can obtain a septic tank permit which is one of the criteria for obtaining a building permit.

Mr. Ben Bloodworth addressed the members and explained that he purchased the property in 2004 based upon an existing septic tank permit that had been previously issued. He said the bank financed the property based on the existing permit as well. However, since then, HRS has refused to re-issue the septic tank permit. He said the lot was platted in 1960; prior to the 1979 Septic Tank Ordinance. He explained that he felt he had a valid hardship.

Mr. Jason Flowers from H.R.S. explained that the decision not to reissue the septic tank was based on the wetlands. He added that Dan Garlick of Garlick Environmental and Associates is in the process of doing a wetlands map of the property. He said with this new information, he feels the state's setback could be met.

Mrs. Ward explained that Franklin County's requirement is 75 feet from the wetlands. She noted that it would require a variance for the septic tank. She said the septic tank variance could not be address at this meeting because the advertisement was only for the house and did not include the septic system.

Mr. Shuler stated that the septic tank issue was not addressed because this problem had only been made known the day before. Mr. Shuler noted that it must be proven that the state requirements can be met before a variance for the septic system can be addressed. He recommended that the request be tabled until the request for septic tank variance can be advertised.

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On motion by member Autrey, seconded by Member Hambrose and by unanimous vote of the members, it was agreed to table this request until the septic tank variance can be advertised.

The last item on the agenda was to consider an appeal of an Administrative Decision to require review for a variance to construct a deck 15 feet into the Critical Habitat Zone on property described as Lot 94, Block 10, Unit 1, Southern Dunes, Alligator Point, Franklin County, Florida. The request was submitted by Daniel Cox, agent for David and Janet Foshee, owners.

Attorney Michael Shuler informed that members that this is a procedural issue. He explained that the owners, David and Janet Foshee and their Attorney Dan Cox were relying upon The Critical Shoreline Ordinance #89-8 to show entitlement of the deck based on it being a water dependent structure. Mr. Shuler presented as evidence Exhibit 1 – a map of Southern Dunes, Alligator Point, Franklin County, Florida and Exhibit 2 – the Critical Shore Line Ordinance 89-8.

Mr. Shuler said according to Section III of the Critical Shore Line Ordinance - by definition the Critical Shoreline District is the 150 feet strip of property landward of the waters of Franklin County. He said this particular parcel of land is land-locked and as such is not entitled to riparian rights.

Mr. Dan Cox, Attorney for the property owners, explained that this lot had previously been advertised for a variance request to build the deck 15 feet into the Critical Habitat Zone. He said he had requested the variance issue be tabled to allow his clients to go to Planning and Zoning to determine, based on Ordinance #89-8, if a variance is needed. He stated that they are pursuing a dual tract so that in the event they are unsuccessful with this attempt to find the deck to be a water dependent structure; then they are still allowed the alternative to pursue the variance without further delay.

Michael Shuler acknowledged that there was no objection to pursuing the variance for the deck.

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Dan Cox introduced Dan Garlick of Garlick Environmental and Associates as an expert witness in wetlands of Franklin County. Attorney Shuler acknowledged his agreement that Mr. Garlick should be considered an expert in wetlands of Franklin County with the stipulation that Mr. Garlick is not considered an expert interpreter of the laws of Franklin County. On motion by Member Autrey, seconded by Member Griner and by unanimous vote of the members it was so agreed.

Mr. Cox asked to introduce into evidence Exhibit 1 – Dan Garlick’s Resume; Exhibit 2 - a site plan for the Foshee Residence and Exhibit 3 - a cross section of the drawing. Attorney Shuler stated that he had no objections to Exhibits 1, 2 or 3. On motion by Member Gainer, seconded by Member Authrey and by unanimous vote of the members it was agreed that these items be entered as Exhibits 1, 2 and 3.

Dan Garlick stated that he had represented at least three separate clients who had been issued variances for this same manner. He said one was in the St. George Island Plantation at the West End for an observation deck. He could not remember the name of the client. He said there was another where a variance was issued for Tommy Lewis fronting on the Apalachicola Bay. And there was a third for a board walk in the River Crest Subdivision.

Mr. Shuler noted that this was different in that the lot does not front on navigable water.

Mr. Garlick stated the wetlands extend from Mullet Pond to the Foshee Property. He stated that the owners could see Mullet Pond from their property. Mr. Cox said he was asking for agreement that this gives the owners the right to build the deck. Also, that this made Mr. Pierce’s Administrative Denial unacceptable. He said he believed visual enhancement was the intention when this ordinance was established.

To this, Michael Shuler argued that the lot did not front on the water and is not water dependent. He repeated the Critical Shoreline District does not apply to this lot. He said that for twenty years the proper procedure for lots not fronting on the water has been to apply for a variance. Much discussion followed.

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Attorney Shuler called Alan Pierce, County Planner to witness on the County's behalf. Mr. Shuler stated that he would like to stipulate that Mr. Pierce be considered an expert witness on wetlands permitting issues. He asked Mr. Pierce to recall the last Planning and Zoning Meeting when Attorney Dan Cox requested Planning and Zoning to determine the deck was in the Critical Shore Line District. Mr. Pierce said the Planning and Zoning Members denied the request because they decided it needed a variance.

Mr. Cox asked the basis for this decision. Mr. Pierce stated the lot was not water dependent. After much discussion and on motion by Member Hambrose, seconded by Member Griner and by unanimous vote, the members agreed to recommend that the Administrative Denial be upheld.

Mr. Cox asked to be allowed to proceed with the variance request and to have it tabled until the April 2, 2009 meeting. On motion by Member Gil Autrey, seconded by Member Mitch Griner and by unanimous vote of the members it was agreed to table this variance request until the April 2, 2009 meeting.

There being no further business, the meeting adjourned at 10:15 a.m.

  
Vance Millender, Chairman

ATTEST:

  
Rachel L. Ward, Zoning Director