

1 **MINUTES OF THE ORANGE CITY PLANNING COMMISSION MEETING**, held on  
2 Wednesday, December 02, 2020, at 6:00 p.m. in Council Chambers, 201 N. Holly Avenue, Orange City,  
3 Florida.

4  
5 **1. CALL TO ORDER**

6  
7 The meeting was called to order at 6:00 p.m. by Chair Laputka and roll call was taken.

8  
9 **ROLL CALL:**

10  
11 **PRESENT:** Chair: Tom Laputka; Commissioners: Wesley Kihlmire, Amy Campbell, Gaea Nunez,  
12 Ted Marsolek; Staff Members: Becky Mendez, Development Services Director, Neysa  
13 Borkert, City Attorney, Kim Reading, Senior Planner, Melani Beringer, City Clerk.

14  
15 **ABSENT:** Sarah Mazzie

16  
17 **2. PLEDGE OF ALLEGIANCE**

18  
19 **3. APPROVAL OF MINUTES**

20  
21 None at this time.

22  
23 **4. PUBLIC HEARINGS**

24  
25 **A. NEW BUSINESS**

- 26  
27 1. **VARI-11-20-2311:** A variance request to decrease the minimum rear yard  
28 setback for a pool screen enclosure from fifteen (15') feet to eight (8') feet on  
29 property located at 665 Montclair Avenue (Parcel Number 8003-27-00-0050)  
30 zoned Low Density Residential (R-1).

31  
32 Ms. Borkert read the title of VARI-11-20-2311 into the record.

33  
34 Kimberly Reading, Senior Planner, provided a PowerPoint presentation (a copy of which is attached and  
35 becomes a permanent part of these minutes) that described the application for a variance to allow a pool  
36 screen enclosure on the property located at 665 Montclair Ave. She discussed the pool screen enclosure  
37 setback variance, and the five variance criteria conditions.

38  
39 Ms. Reading stated that if the Planning Commission finds that the applicant can meet all five criteria,  
40 staff recommends approving the variance to reduce the minimum rear yard setback from 15 feet to eight  
41 feet for construction of a pool screen enclosure, with the following conditions:

- 42  
43 1. The variance is limited to the attached site plan, date stamped received on November 13, 2020, by the  
44 Development Services Department. Any further encroachments into the required yards will require  
45 approval of a separate variance application and a new as-built survey.  
46 2. The minimum rear yard setback for the pool screen enclosure shall be no less than eight feet.  
47 3. The maximum height of the pool screen enclosure shall not exceed nine feet in height measured at the  
48 eight foot setback.

1 Chair Laputka asked for clarification on the setback requirement without the enclosure. Ms. Reading  
2 stated that the pool and deck currently do not meet the 10ft setback requirement.

3  
4 Chair Laputka inquired about the possibility of misinterpretation of the City Code.

5  
6 Ms. Borkert stated that a misinterpretation as far as any information received from the City prior to a  
7 hearing is not legally binding. Ms. Borkert also stated that such interpretations of the code are meant to  
8 be clarified during public hearing.

9  
10 Chair Laputka asked Ms. Mendez why the code stated a difference in setback requirements between  
11 something like a pool deck versus an entire pool enclosure.

12  
13 Ms. Mendez stated a case could be made that a pool enclosure could be considered different from a  
14 normal attached accessory structure because it allows the passage of light, wind, etc. But that the code  
15 does not make a differentiation between such structures.

16  
17 Commissioner Kihlmire stated that if the pool had been rotated counter-clockwise a bit, that a variance  
18 might not have even been needed.

19  
20 Commissioner Campbell asked if the contractor's lack of knowledge of the City's code was a variance  
21 criteria.

22  
23 Ms. Reading stated that she did mention in the staff report that the contractor was erroneously referring  
24 to the Volusia County Code, but that was not a satisfying criteria, and that there were other items that  
25 could be used to satisfy that criteria.

26  
27 Commissioner Nunez asked if there was a way to simplify or revisit the code to clarify to the applicants  
28 the intent of the code.

29  
30 Ms. Reading stated that in small cases like this, the Director tends to make a written determination of the  
31 code at the time.

32  
33 Brenda and Mike Mondell, 665 Montclair Ave., came forward to state that they originally called the  
34 office to find out what the setbacks were, and were misled about the setbacks. Mr. Mondell also stated  
35 that they have a 6ft fence and a heavily wooded area, so no one would be able to really see the pool  
36 anyways.

37  
38 Chair Laputka opened the public hearing. Seeing none, the Chair closed the public hearing.

39  
40 Commissioner Kihlmire stated that he believes the 9ft height on the screen enclosure was a good  
41 compromise to cause the minimum amount of disturbance to the applicant's neighbors, from which no  
42 complaints were heard from. Commissioner Kihlmire also stated that he wished the contractor had been  
43 more helpful to the applicants by doing their due diligence to find which jurisdiction they were building  
44 in beforehand.

45  
46 Commissioner Campbell mentioned if the Land Development Code should be changed and if this sets  
47 precedent pertaining to the property. .

48

1 Ms. Borkert clarified that variances are property-specific, so precedent is hard to establish for future code  
2 considerations. Ms. Borkert also stated that the contractor's lack of understanding was not the only  
3 variable considered for the criteria, and that the property conditions on the whole are what establish  
4 whether the criteria for approval is met.

5  
6 **Commissioner Kihlmire moved that based upon competent substantial evidence, as  
7 presented, the Planning Commission approve VARI-11-20-2311 with the three  
8 conditions as presented, seconded by Commissioner Nunez, the motion passed by a  
9 4/1 roll call vote with Commissioner Campbell voting "no", of the Planning  
10 Commission.**

- 11  
12 2. **VARI-11-20-2319:** An administrative variance amending the required yards and  
13 maximum lot coverage of the Medium Density Residential (R-2) zoning  
14 classification to the yard widths and lot coverage standards described in the Blue  
15 Springs Villas Planned Development Master Plan located on Leavitt Avenue.

16  
17 Ms. Borkert read the title of VARI-11-20-2319 into the record.

18  
19 Ms. Reading provided a PowerPoint presentation (a copy of which is attached and becomes a permanent  
20 part of these minutes) that described the Blue Springs Villas administrative variance. She discussed the  
21 administrative variance, the Blue Springs Villas background, and the variance conditions.

22  
23 She stated that staff recommends approving the administrative variance applicable to all property within  
24 the Blue Springs Villas subdivision, described in the Development Agreement recorded Book 5425, Page  
25 3432, Volusia County public records as follows:

26  
27 Variance 1: Reduce the minimum side yard from 10 to five feet; and

28 Variance 2: Reduce the minimum rear yard from 30 to 20 feet; and

29 Variance 3: Reduce the minimum front yard from 25 to 20 feet; and

30 Variance 4: Reduce the minimum front yard abutting a side street from 25 to 15 feet; and

31 Variance 5: Reduce the maximum building coverage on any residential lot from 30% to 48%

32  
33 Several Commissioners stated that the blanket variance needed to occur, and that it was a good move and  
34 "the right thing to do" giving all of the properties within Blue Springs Villas the necessary update, as the  
35 intent was obvious in the Development Agreement and accompanying paperwork, despite not being  
36 executed procedurally in the past.

37  
38 Commissioner Campbell asked if the subdivision would be able to be approved as a PUD with the  
39 specifications presented today for approval if it had been brought up through regular procedure.

40  
41 Ms. Mendez stated that if that were the case, it would need to be processed as an ordinance. Ms. Mendez  
42 continued that all the language and intent was present, and that the conditions of the variance request are  
43 consistent with what would have been originally approved. Ms. Mendez also stated for the record that  
44 the required storm water system was designed to accommodate the larger lot coverages.

45  
46 Commissioner Kihlmire asked if the variance would create any new zoning areas.

47  
48 Ms. Mendez stated that the property would remain zoned R-2, just the change in setbacks would occur.

1 Chair Laputka opened the public hearing.

2  
3 Clarissa Bonilla, 661 Gilmore Stage Rd., asked for clarity regarding the variance.

4  
5 Ms. Mendez clarified that site-specific variables for each lot will still determine the buildable areas for  
6 the purposes of personal development, and that the blanket administrative variance does not preclude  
7 homeowners from needing to seek variances if their property setbacks do not allow enough space to build  
8 under the new standard.

9  
10 Chair Laputka closed the public hearing.

11  
12 Commissioner Kihlmire stated that his son used to live in the development and stated that most of the  
13 back yards are only 20 ft. Commissioner Kihlmire went on to say that the rudimentary structures, such  
14 as fences and some sheds, would have an easier time seeking approval with the sought setback changes.  
15 Larger projects, such as additions, could likely still be subject to variance approval.

16  
17 **Commissioner Marsolek moved that based upon competent substantial evidence, as**  
18 **presented, the Planning Commission approve VARI-11-20-2319, seconded by**  
19 **Commissioner Kihlmire, the motion passed by a 5/0 roll call vote of the Planning**  
20 **Commission.**

21  
22 **5. DISCUSSION ITEMS**

23  
24 A. 2021 Planning Commission Meeting Schedule

25  
26 Ms. Mendez stated that the presented calendar was to provide the 2021 Planning Applications and  
27 Development Review Applications schedules. Ms. Mendez also stated that there were no scheduling  
28 conflicts against meeting this upcoming year.

29  
30 **6. STAFF/COMMISSION COMMENTS**

31  
32 Chair Laputka requested an update for the 7-11 on Rhode Island and 17-92.

33  
34 Ms. Mendez stated that the site plan development order is nearly ready to be issued, and that the plan  
35 review for the building permit is under way and will be ready in a few weeks. The demo permit has been  
36 ready for issue for the last few weeks, but the developer seems more interested in the actual building  
37 permit and has not picked up the demo permit.

38  
39 Ms. Mendez stated that DeLand Motorsports had their preconstruction meeting a week or two ago, and  
40 the building permit for DeLand Motorsports is under review.

41  
42 Commissioner Marsolek stated that he noticed an advertisement in the Penny Saver for a food truck in  
43 the rear lot of Dale's Ales.

44  
45 Ms. Mendez said that until they pass any ordinances, the City is preempted from restricting food trucks  
46 on any properties so long as they have their state licenses and proper inspections. Ms. Mendez also stated  
47 that it seems that every few months the food business within the smokehouse outbuilding behind the main  
48 building changes.

- 1 Mr. Marsolek stated that Dale's Ales is a unique property, but he is concerned that all of the little things  
2 they keep adding have the potential to turn into a larger issue of having a lot of stuff that wouldn't  
3 normally be permitted.  
4
- 5 Commissioner Campbell asked if the City has updated the building process to accept fees up front for  
6 permits.  
7
- 8 Ms. Mendez stated she had spoken to the Building Official about collecting fees, and that the City is  
9 accepting plan review fees up front for large commercial projects.  
10
- 11 Chair Laputka asked to take a few moments to revisit the Planning Commission Meeting schedule. Chair  
12 Laputka specifically wanted to address the information that goes to the City Council relative to the  
13 Planning Commission. Chair Laputka Stated that when he served as Mayor and on the City Council, he  
14 always had a document in front of him that told him what the Planning Commission was up to, and that  
15 he is with the understanding that such is no longer the case.  
16
- 17 Ms. Mendez stated that after the last meeting when it was brought up, staff now provides City Council  
18 with excerpts of the minutes.  
19
- 20 Commissioner Campbell asked for clarification on what happens to the minutes from meetings that have  
21 not been approved.  
22
- 23 Chair Laputka stated that those minutes eventually come back to the Commission for approval.  
24
- 25 Ms. Beringer stated that with the recent changes in the Clerk's Office, and lack of staff, the department  
26 has not had time to process the minutes. She went on to state that she has reached out to other departments  
27 for help, and that they are being worked on while the department solicits for a new Deputy Clerk.  
28
- 29 Chair Laputka stated that the Commission will not be able to fill their seventh spot until the zone 2  
30 Council seat is filled and they can confirm their Commissioner selection.  
31
- 32 Ms. Mendez stated that the vacant seat formerly occupied by Vernon Stafford will be coming up on  
33 January 12<sup>th</sup>.  
34
- 35 Commissioner Kihlmire stated that he was pleased with the Blue Springs development and pool enclosure  
36 decisions. He stated that he is happy that it will save residents some money, but that he believes it is still  
37 too dense of a housing development for Orange City.  
38
- 39 Chair Laputka stated that it was somewhat of a surprise when built. He went on to state that when he  
40 came on to the Council later the same year, the question of safety was raised due to a question of the  
41 potential for fire to jump from roof to roof because the buildings are so close together. The Fire Marshal  
42 determined that there was not a significant threat.  
43
- 44 Ms. Mendez stated that the City has gotten better at small-lot subdivision design standards, and that there  
45 are benefits today to designing smaller lot subdivisions.  
46
- 47 Commissioner Campbell stated that it is the last meeting of 2020, and that she didn't think anyone is sad  
48 to see it go. She wished everyone a good holiday season.

1 Commissioner Kihlmire wished everyone a Merry Christmas and for everyone to stay safe.

2  
3 Commissioner Nunez wished everyone Merry Christmas, a Happy New Year, and spoke briefly about  
4 the upcoming VIA Orange City History Book and “reverse Christmas parade” at Orange City  
5 Elementary.

6  
7 Ms. Borkert welcomed Commissioner Marsolek and introduced herself.

8  
9 Ms. Mendez stated that the Florida Planning and Zoning Association Surfcoast Chapter is presenting  
10 Orange City with the award for outstanding innovation and design for the South Holly Avenue  
11 Streetscape project.

12  
13 Ms. Beringer stated that she is presenting the agenda item to the City Council on December 8<sup>th</sup> to reinstate  
14 the terms of Commissioners Kihlmire, Campbell, and Marsolek, and also that there is an applicant for  
15 Seat 2.

16  
17 Chair Laputka stated that he believed it was a fair meeting tonight, and wished everyone well.

18  
19 **7. ADJOURNMENT**

20  
21 There being no further business to discuss, Chair Laputka adjourned the meeting at 7:23 p.m.

22  
23 **RESPECTFULLY SUBMITTED:**

24  
25 \_\_\_\_\_  
26 Elisa Millwater  
27 Development Services Executive Assistant

**APPROVED ON**

\_\_\_\_\_ 02/03/2021 \_\_\_\_\_  
Date