



City of Palm Coast

City Hall
160 Lake Avenue
Palm Coast, FL 32164
www.palmcoastgov.com

Meeting Minutes Planning & Land Development Regulation Board

Chair Michael Beebe
Vice Chair James Jones
Board Member Robert Cuff
Board Member Glenn Davis
Board Member Sybil Dodson-Lucas
Board Member Christopher Dolney
Board Member Ray Henderson
School Board Representative Chuck Nies

Wednesday, September 16, 2015

5:30 PM

City Offices at City Marketplace (3rd Wednesday)

RULES OF CONDUCT:

>Public comment will be allowed consistent with Senate Bill 50, codified at the laws of Florida, 2013 – 227, creating Section 286.0114, Fla. Stat. (with an effective date of October 1, 2013). The public will be given a reasonable opportunity to be heard on a proposition before the City's Planning & Land Development Regulation Board, subject to the exceptions provided in §286.0114(3), Fla. Stat.

>Public comment on issues on the agenda or public participation shall be limited to 3 minutes.

> All public comments shall be directed through the podium. All parties shall be respectful of other persons' ideas and opinions. Clapping, cheering, jeering, booing, catcalls, and other forms of disruptive behavior from the audience are not permitted.

>If any person decides to appeal a decision made by the Planning and Land Development Regulation Board with respect to any matter considered at such meeting or hearing, he/she may want a record of the proceedings, including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made.

>If you wish to obtain more information regarding Planning and Land Development Regulation's Agenda, please contact the Community Development Department at 386-986-3736.

>In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact the City Clerk's Office at 386-986-3713 at least 48 hours prior to the meeting.

>The City of Palm Coast is not responsible for any mechanical failure of recording equipment

>All pagers and cell phones are to remain OFF while the Planning and Land Development Regulation Board is in session.

A. Call to Order and Pledge of Allegiance

Chair Beebe called the meeting to order at 5:38PM.

B. Roll Call and Determination of a Quorum

Present: 7 - Chair Beebe, Vice Chair Jones, Board Member Cuff, Board Member Davis, Board Member Dodson-Lucas, Board Member Dolney, and Board Member Henderson

Excused: 1 - School Board Representative Nies

C. Approval of Meeting Minutes

1 [15-374](#) MEETING MINUTES OF THE JULY 15, 2015 PLANNING AND LAND DEVELOPMENT REGULATION BOARD MEETING

Attachments: [MeetingMinutes PLDRB 7 15 15](#)

Approved as presented

Approved: 7 - Chair Beebe, Vice Chair Jones, Board Member Cuff, Board Member Davis, Board Member Dodson-Lucas, Board Member Dolney, and Board Member Henderson

Excused: 1 - School Board Representative Nies

D. Public Hearings

Order of Business for Public Hearings (PLDRB may make inquiries at any stage):

Open Hearing

Staff Presentation

Applicant Presentation (if applicable)

PLDRB Questions of Applicant or City Staff (if applicable)

Public Comments/Presentations

Rebuttal by Applicant, City Staff, or Public (if applicable)

Close Hearing

PLDRB Discussion

PLDRB Action

2 [15-356](#)

APPLICATION 2929 IS A REQUEST FROM THE FIFTEEN FOOT MINIMUM STREET SIDE SETBACK AT 2 FIELDING LANE.

Attachments: [PLANNING STAFF REPORT 2929](#)
[APPLICANT JUSTIFICATION - LETTER TO THE BOARD](#)
[LOCATION MAP 2929](#)
[FLUM MAP 2929](#)
[ZONING MAP 2929](#)
[APPROVED FENCE PERMIT 4-7-2015 - 2015040081 - -
07-11-31-7010-00090-0240 - 2 FIELDING LN - KANEVSKY, E
EXHIBIT](#)
[AS BUILT SURVEY FOR FENCE](#)
[APPLICANT PHOTOS 2 FIELDING](#)
[APPLICANT SURVEY ILLUSTRATION](#)
[APPLICANT PHOTOS](#)
[PERMIT RECEIPTS](#)
[SUPPORT PETITION 2929](#)

Mr. Tyner, Planning Manager of the City of Palm Coast, gave a brief introduction of the application # 2929 item and then introduced Ida Meehan, Planner with the City of Palm Coast, who gave a presentation which is attached to these meeting minutes.

Mr. Elliot J. Kanevsky, applicant, made a presentation to the PLDRB which is attached to these meeting minutes.

Vice Chair Jones: Previous survey, was that submitted by the applicant?

ANS: Ms. Meehan: I'll let the applicant answer.

ANS: Mr. Kanevsky: I did not submit the permit, my vendor did.

Vice Chair Jones: Is the lot in fact, non-conforming?

ANS: Mr. Tyner: The lot is conforming.

Vice Chair Jones: Ida, can you go back to the survey supplied by the applicant when they applied for the (fence) permit? This is the survey that you or your agent submitted (addressing Mr. Kanevsky) but that is not how the fence was built? What happened, did you come home from work one day and say hey, you put the fence in the wrong place?

ANS: Mr. Kanevsky: I did not see this permit. The fencing company on his own submitted the permit.

Vice Chair Jones: No, that is not what I'm asking, the fencing company on his own deviated from the plan (submitted with the permit)?

ANS: Mr. Kanevsky: Let me finish, I didn't submit the permit, I didn't get the permit?

Vice Chair Jones: Sir, it is your agent that did, it doesn't make any difference if it was you or the fencing company.

ANS: Mr. Kanevsky: When it came to installing the fence we both agreed to install it the way it was (actually) installed, because of the trees and the way it was shaped. I asked him (the fence contractor) if that was ok, and he assured me it was ok. And that was Atlantic Fence, Todd.

Mrs. Lucas: Ida, how often does this type (irregular shaped lots) of case come before the PLDRB?

ANS: Ms. Meehan: I have a short history but I'm a good researcher. I went through the staff reports we had a case over two years ago. It was a corner lot (home) with a screen enclosure with a taper, with an irregular shape. In that case, staff supported the request, it was prior to the fence being installed. We recommended five feet (variance) to allow access to the rear yard. We tried to minimize the variance and we were able to work with the applicant to minimize the variance. The difference in this situation, is that the fence is already built. The variance is already in place and there is no opportunity to work with the applicant.

Mr. Davis: When did the City fall short on doing the inspection, that would show the fence was changed from the original permit?

ANS: Ms. Meehan: There is a six month window to call for the final inspection. This (permit) was filed in April, in June someone called in a complaint about the fence. (However), they (the contractor or the applicant) would have had six months (from the time the permit was issued) to call in for the final inspection.

Mr. Davis: The screen enclosure could be cut back and give a lot more room?

ANS: Mr. Kanevsky: Yes

Mr. Dolney: Prior to 2008 and the LDC changes what was the setback?

ANS: Ms. Meehan: 20'.

Mr. Dolney: When you are measuring your setback are you measuring from the road? What is that boundary?

ANS: Mr. Kanevsky: From the property line.

Mr. Dolney: If there is excess right of way, than is there room to build on it?

ANS: Mr. Tyner: I do know that when they (Public Works) will need (access) for swale repair (which may involve specialized equipment), the easement should suffice.

Mr. Dolney: What year was this house built?

ANS: Ms. Meehan: 2006.

Mr. Dolney: For SFR 1 (Single Family Residential 1) it is the same (referring to the zoning setbacks) for a corner?

ANS: Mr. Henderson: It is 20' on a corner.

ANS: Mr Tyner: It is 15' on SFR 1 and SFR 3.

Mr. Henderson: How wide is that (referencing the video)?

ANS: Mr. Kanevsky: It is about 12 1/2 feet.

Mr. Cuff: Ray, does the staff have any input on Atlantic Fence's track record with the City as far as permitting goes?

ANS: Mr. Tyner: No.

Mr. Henderson: When this fence was put in was the screen enclosure already built?

ANS: Mr. Kanevsky: Yes.

Mr. Henderson: When they (Atlantic Fence) came to you with the plans for this fence, you could see that you had a problem when they (Atlantic Fence) showed you the plans?

ANS: Mr. Kanevsky: I didn't see the plans.

Mr. Henderson: You had them (Atlantic Fence) put in a fence but you didn't see the plans?

ANS: Mr. Kanevsky: I didn't see the permit application plans. We walked the property, we said we want a fence, here is where we want it, and he put it in.

Mr. Henderson: I thought I heard you say that you had agreed (with Atlantic Fence) this is where you wanted the fence put in?

ANS: Mr. Kanevsky: Yes, I did agree with Atlantic Fence to put a fence along the side of my house at a cost of \$8,000.

Mr. Cuff: I saw someplace, that the code complaint was (an) anonymous complaint? Then during another part of the presentation I thought Staff said that that the code complaint was initiated by a building inspector?

ANS: Mr. Tyner: No, I was questioning Ida, and she clarified for me, that it was an anonymous complaint.

Mrs. Lucas: Did the homeowner seek at any time remedy from the fencing company?

ANS: Mr. Kanevsky: Remedy for what?

ANS: Mr. Henderson: For putting the fence in wrong?

ANS: Mr. Kanevsky: It depends on your decision (referring to the PLDRB). If you tell me I have to take it down I might have to seek remedy from the fencing company.

Mrs. Lucas: Did the homeowner speak to the fencing company at all since this problem has arisen?

ANS: Mr. Kanevsky: Well there was a while that he wouldn't return my calls or acknowledge when I was trying to put this variance application together.

Mrs. Lucas: But it is where you wanted it (the fence)?

ANS: Mr. Kanevsky: Yes, I'll agree to that, it is a fence around my property.

Chair Beebe: In the permit process, once the permit has been approved and the contractor has installed the fence, there is not an inspection that takes place during the installation. The inspection is only a final inspection once the contractor or the owner submits the project for a final inspection, is that correct?

ANS: Ms. Meehan: I believe the contractor or the home owner have six months to call for a final inspection.

Chair Beebe: So there isn't an inspector that comes out during the project, looks at it and says whoa, we have a problem?

ANS: Ms. Meehan: No

Vice Chair Jones: So the City has six months after the fence has been put in to inspect it?

ANS: Chair Beebe: No the owner (contractor) has six months to apply for the final inspection.

Chair Vice Jones: Did you apply for a final inspection?

ANS: Mr. Kanevsky: The fence company said they would do that for me as part of (my) contract with the fence company.

Mrs. Lucas: Was there any point in time where you had some retainage, or did you pay the fence company outright?

ANS: Mr. Kanevsky: Upon completion of their work, yes.

Mrs. Lucas: You didn't withhold anything (payment) to say this is not what I wanted?

ANS: Mr. Kanevsky: It is what I wanted. I wanted a fence. I didn't know that it isn't what you (City) wanted.

Mr. Kanevsky: Made a rebuttal presentation at approximately 6:38PM.

Chair Beebe opened the meeting to Public comment at 6:41PM.

Mr. Richard Lauria addressed the PLDRB on behalf of the applicant.

Mr. David Hartman addressed the PLDRB on behalf of the applicant.

Ms. Jessie McGee addressed the PLDRB on behalf of the applicant.

Ms. Claudette O'Dell addressed the PLDRB on behalf of the applicant.

Chair Beebe closed Public comment at 6:47PM.

Mr. Davis: The anonymous call is what brought this (case) before the (PLDRB) Board, correct Ray?

ANS: Mr. Tyner: That is my understanding.

ANS: Ms. Meehan: That is correct, however, it would not have passed inspection in the current configuration.

Chair Beebe: Explain what the alternative recommendation (from the City is), should we choose to go that route?

ANS: Ms. Meehan: So there is 15' required (setback); right now the variance they (applicant) would need to keep the fence where it is (now) 11'. But what we (City staff) are saying is the variance should be 4' not 11'.

Chair Beebe: So how much fence (linear feet) would have to be moved, approximately?

ANS: Mr. Tyner: Our recommendation is that we have to follow the criteria, what we are saying is that for the section here (referring to the presentation) that is impeding him (applicant) to walk in the back we would allow that section to go out to 5", where they have room to pass and then be in compliance with the remainder of the yard.

Mr. Henderson: So you would have a bubble in the fence?

ANS: Mr. Tyner: I mean as much as practical, they would have to come in as part of the recommendation, it is not a recommendation but if you all (PLDRB) decide (to grant the variance) we would go through and make sure that (the fence) would be aesthetically (pleasing) that would be the maximum (footage) allowed in that section.

Mr. Davis: If the fence was put in originally as (proposed on the approved permit application), would it meet the criteria?

ANS: Mr. Tyner: Yes, it is based on the code.

Ms. Katie Reischmann (legal advisor to the PLDRB) addressed the PLDRB to clarify the request that is before them and suggested that the PLDRB let the applicant respond to the alternate recommendation that they PLDRB was discussing.

Chair Beebe: Would you be willing to consider the City's recommendation for an alternative solution which is a variance of 4' instead of 11'.

ANS: Mr. Kanevsky: If you are asking me if I would be willing to do that (move the fence) I would say no.

Mr. Henderson made a statement for the record that he would be willing to offer (to

the applicant) a conditional variance of 4' instead of the 11' variance.

Denied

Approved: 6 - Chair Beebe, Vice Chair Jones, Board Member Davis, Board Member Dodson-Lucas, Board Member Dolney, and Board Member Henderson

Denied: 1 - Board Member Cuff

Excused: 1 - School Board Representative Nies

- 3 [15-357](#) APPLICATION 2922 IS A REQUEST FOR VARIANCE-LANDSCAPE BUFFER REDUCED FROM 35 FEET TO 20 FEET, A VARIANCE OF 15 FEET.

Attachments: [PLANNING STAFF REPORT 2922](#)
[APPLICANT JUSTIFICATION - LETTER TO BOARD](#)
[LOCATION 2922](#)
[FUTURE LAND USE 2922](#)
[ZONING 2922](#)
[SURVEY LOT 3](#)
[PRELIMINARY SITE PLAN](#)
[EXHIBIT for lot 3 and 4](#)

Mr. Tyner, Planning Manager, made an introduction for item #2923 and then introduced Ms. Ida Meehan, Planner with the City of Palm Coast. Ms. Meehan made a presentation to the PLDRB which is attached to these minutes.

Mr. Henderson: It is both lots (referencing the map on the presentation)?
ANS: Ms. Meehan: Yes.

Mr. Michael Chiumento, representing the applicant, made a presentation to the PLDRB and his presentation is attached to these minutes.

Mr. Henderson: Didn't I just hear you say that in 2002 it (landscape buffer setback) changed to 25'?
ANS: Mr. Chiumento: It (Land Development Code) says 35' however you can go down to 25' if all these other conditions are met.

Mr. Tyner addressed the PLDRB regarding Mr. Chiumento's comments.

Mr. Dolney: What is the rear setback?
ANS: Mr. Chiumento: 10'.

Mr. Dolney: What is Dr. Allison's rear setback?
ANS: Ms. Meehan: 10'.

Mr. Dolney: It is a four lane roadway right in front of this property and there are no plans for taking (land) for easement or right of way expansions?
ANS: Mr. Tyner: We will be widening Old Kings (Road) and we believe we have sufficient right of way.

Vice Chair Jones: So the curb cut that Dr. Olsen did to enter this property is just above that 35' buffer?
ANS: Ms. Meehan: Yes.

Vice Chair Jones: In fact if we made this (referring to the current application) 35(!) you could still use that curb cut?

ANS: Ms. Meehan: Yes.

Vice Chair Jones: So the owners' (of the property) today are the same owners as when we did the Land Development Code (LDC) changes?

ANS: Ms. Reischmann: Yes, according to the (Flagler) Property Appraiser's Office.

Mr. Henderson: So they were aware of the requirements the whole time?

ANS: Ms. Reischmann: The 2000 Ordinance.

Vice Chair Jones: Did the property owners get told of the changes to the LDC (in 2008)?

ANS: Ms. Reischmann: Yes.

Ms. Katie Reischmann addressed the PLDRB regarding the historical variance process.

Mr. Dolney: Why is this being denied, just because our code says 35(!)?

ANS: Mr. Tyner: Yes.

Vice Chair Jones: What is the applicant's recourse, if we deny this variance, can they come back to us for another request when they have a technical site plan?

ANS: Ms. Reischmann: One year.

Chair Beebe opened the meeting to the public at 7:43PM.

Mr. Greg Johnston, member of the LLC that owns the property, addressed the PLDRB.

Ms. Carol Bech, realtor, listing agent for the property, addressed the PLDRB.

Ms. Kay Johnston, realtor, listing agent for the property, addressed the PLDRB.

Chair Beebe closed the public comments to the public 8:05PM.

Mr. Chimento addressed the PLDRB with rebuttal comments and closing remarks.

Mr. Henderson: Are you saying that the variance can be granted on a conditional basis?

ANS: Mr. Chimento: You can attach conditions on the variance. Correct?

ANS: Ms. Reischmann: Yes.

Mr. Henderson: Is that what you are saying?

ANS: Mr. Chimento: Yes, that is what I'm saying.

Vice Chair Jones: What conditions would you suggest?

ANS: Mr. Chimento: Well, I would start out with that this site plan will come back to you for approval eventually, hopefully in about 4 or 5 months, and as long as it is in "substantially the same form" and you approve it, then the variance would go along with it (the site plan approval). And if you deny it (the site plan), then the variance would expire or whatever terminology you wish to use.

Mr. Tyner addressed the PLDRB regarding his concerns about a conditional acceptance of this variance.

Ms. Reischmann clarified an earlier statement regarding the timeframe when an applicant may apply again for a variance with the PLDRB.

Chair Beebe: Without any time limit? So they (applicant) could bring one (variance) back next month?

ANS: Ms. Reischmann: Correct.

Mr. Cuff: What is the big white area that covers most of lot 4? Is it future development?

ANS: Mr. Chimento: Yes, Sir.

Mr. Cuff: So we give you this (the variance) and you build something else?

ANS: Mr. Chimento: It is a building pad.

Mr. Cuff: So it is not a site plan for lot 4 except for parking and access roads?

ANS: Mr. Chimento: Shared parking and access roads, correct.

Mrs. Lucas: Can the concerns of the Traffic Engineer be included in a conditional agreement?

ANS: Mr. Henderson: No.

Mrs. Lucas: Are there any remedies that (the staff) can offer in this case?

ANS: Mr. Davis: First of all being a traffic engineer for 36 1/2 years and doing these types of things, I agree with the traffic engineer, without seeing what is going to be there, you can't distinguish whether or not it is going to require a traffic signal.

Chair Beebe: I think what Sybil is asking, has the staff considered any alternatives to a complete denial of the application, much like you did in the previous application?

ANS: Mr. Tyner: No because it is raw land and we haven't gone through the technical aspects of the site plan yet.

Mr. Henderson: Is there a possibility to accept this variance with a stipulation that it only goes to this particular plan?

ANS: Mr. Tyner: I will reiterate, Mr. Henderson, staff from a technical standpoint to make that recommendation, we are very uncomfortable with that because to make it look like the plan our traffic engineer may have a different circulation. He may have a one way in and a one way out. He may want to pull the access to the curb cut to the north and have better access.

Ms. Reischmann reviewed with the PLDRB their role regarding approving the variance.

Mr. Davis proposed the following motion: To deny the application at this time, but we direct staff to come back to the PLDRB with a proposed ordinance to change the landscape setbacks from 35' to 20' in the Old Kings Road overlay area. The motion did not receive a second, therefore the motion died.

Mr. Dolney proposed the following motion: To approve the application at this time, conditioned by the fact that the applicant can not make any substantial changes to the existing concept plan and that Staff will apply all existing LDC to the concept plan, and that the site plan must come back to the PLDRB, and that that the Staff is asked to put together an ordinance dealing with the landscape setbacks in the Old Kings Road development area.

Approved as amended

Approved: 4 - Vice Chair Jones, Board Member Dodson-Lucas, Board Member Dolney, and Board Member Henderson

Denied: 3 - Chair Beebe, Board Member Cuff, and Board Member Davis

Excused: 1 - School Board Representative Nies

4 [15-361](#)

APPLICATION 2923 IS A REQUEST FOR VARIANCE-LANDSCAPE BUFFER REDUCED FROM 35 FEET TO 20 FEET, A VARIANCE OF 15 FEET.

Attachments: [PLANNING STAFF REPORT 2923](#)
[APPLICANT JUSTIFICATION - LETTER TO BOARD](#)
[LOCATION 2923](#)
[FUTURE LAND USE 2923](#)
[ZONIING 2923](#)
[PRELIMINARY SITE PLAN](#)
[SURVEY LOT 4 DENOTED](#)
[EXHIBIT for lot 3 and 4](#)

Ms. Ida Meehan, Planner for the City of Palm Coast, presented the item to the PLDRB.

Chair Beebe opened the item to the public at 8:39PM; no public approached the podium.

Mr. Henderson made a motion to deny the application and it was seconded by Mr. Davis. The motion did not pass by a vote of 4 to 3.

Mr. Cuff made a motion to approve the application with the same motion as the last item (with the exception it does not need to come back to the PLDRB), with the stipulation that because we have no site plan what so ever except a common driveway, that the applicant is subject to all of the City's site plan criteria for the parcel covered by lot 4 and that if it fails to meet any of those (criteria) then the variance as it applies to lot 4 is also conditioned on that (meeting all the criteria) and goes away.

Approved as amended

Approved: 6 - Chair Beebe, Vice Chair Jones, Board Member Cuff, Board Member Dodson-Lucas, Board Member Dolney, and Board Member Henderson

Denied: 1 - Board Member Davis

Excused: 1 - School Board Representative Nies

E. Board Discussion and Staff Issues

Mr. Davis discussed potential conflict of interest issues.

Mr. Henderson discussed perception that the City is a difficult place to do business.

F. Adjournment

The meeting was adjourned at 8:46PM.

*Respectfully submitted:
Irene Schaefer, Recording Secretary*

[15-398](#)

ATTACHMENTS TO MINUTES

Attachments: [Staff Presentation for Application # 2929](#)
[Applicant Presentation # 1](#)
[Applicant Presentation #2](#)
[Applicant fenceexhibits1](#)
[Applicant fenceexhibits2](#)
[Applicant fenceexhibits3](#)
[Applicant fenceexhibits4](#)
[Applicant fenceexhibits5](#)
[Applicant fenceexhibits6](#)
[Applicant fenceexhibits7](#)
[Applicant fenceexhibits8](#)
[Applicant Petition Signed by Neighbors](#)
[Staff Presentation for Application # 2922](#)
[Staff Presentation for Application # 2923](#)
[Applicant Presentation-Old Kings LLC Variance Application](#)
[Powerpoint 09.16.2015](#)
[Letter from Alfred L. Alson, M. D.](#)