



JUNE 1, 2020 BOARD OF ZONING & ADJUSTMENT MEETING

1. CALL TO ORDER
2. ROLL CALL
3. APPROVAL OF MINUTES

Documents:

[BOAMIN 2020.9.1.PDF](#)
[BOAMIN 2020.4.6.PDF](#)
[BOAMIN 2021.5.4.PDF](#)

4. ITEMS FOR DEFERRAL
 - A. ZA21-000025 VARIANCE- 3641 ANCIENT OAKS CIRCLE
5. PUBLIC HEARING
 - A. ZA21-000028 CALLAWAY SUBDIVISION APPEAL

Documents:

[CONSERVATION SUBDIVISION DENSITY APPEAL STAFF REPORT 210528.PDF](#)

6. HEARING OF PERSONS NOT LISTED ON THE FORMAL AGENDA
7. OTHER BUSINESS
8. COMMUNICATIONS FROM STAFF/ZONING BOARD
9. ADJOURN

**MINUTES OF THE BOARD OF ZONING ADJUSTMENT
CITY OF GULF SHORES, ALABAMA
REGULAR MEETING OF SEPTEMBER 1, 2020**

MEMBERS PRESENT:

Chairman Craig Olmstead, Vice Chairman Grant Brown, Board Member Erin Kaiser, Supernumerary Board Member Richard Lamar, Supernumerary Board Member David Stewart

MEMBERS ABSENT: Board Member George Harris, Board Member John Tuberville

STAFF PRESENT:

Building Official Brandon Franklin, Secretary, Mell Davis

CALL TO ORDER:

Chairman Olmstead called the meeting to order at 4:00 p.m.

ROLL CALL:

The Secretary called the roll.

APPROVAL OF MINUTES: Regular Meeting of August 11, 2020

Supernumerary Board Member Richard Lamar made a motion for approval of the minutes, seconded by Vice Chairman Grant Brown. The minutes were unanimously approved by a vote of 4-0 with Chairman Olmstead abstaining.

PUBLIC HEARINGS:

A. Variance- CCLV2020-02

The applicant asked for a variance From the Coastal Construction Line (CCL) setback for a single family dwelling located at 1901 West Beach Boulevard. Article 8-2E of the Zoning Ordinance and Chapter 7, Article 7 of the Code of Ordinances requires all new construction to be located north of the CCL line.

Chairman Craig Olmstead opened the public hearing.

There were no public comments

Chairman Craig Olmstead closed the public hearing.

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Vice Chairman Grant Brown made the motion to approve CCLV2020-02 Coastal Construction Line variance request located at 1901 West Beach Blvd. Supernumerary Board Member Richard Lamar seconded the motion, it passed 5-0.

B, Variance- CCLV2020-03

The applicant asked for a variance From the Coastal Construction Line (CCL) setback for a single family dwelling located at 1903 West Beach Boulevard. Article 8-2E of the Zoning Ordinance and Chapter 7, Article 7 of the Code of Ordinances requires all new construction to be located north of the CCL line.

Chairman Craig Olmstead opened the public hearing.

There were no public comments

Chairman Craig Olmstead closed the public hearing.

Vice Chairman Grant Brown made the motion to approve CCLV2020-03 Coastal Construction Line variance request located at 1903 West Beach Blvd. Supernumerary Board Member Richard Lamar seconded the motion, it passed 5-0.

OTHER BUSINESS:

None

ADJOURN:

There being no further business to come before the Board, the meeting adjourned at 4:15 p.m.

Chairman

Secretary

Date

**MINUTES OF THE BOARD OF ZONING ADJUSTMENT
CITY OF GULF SHORES, ALABAMA
REGULAR MEETING OF APRIL 6, 2021**

MEMBERS PRESENT:

Chairman Craig Olmstead, Vice Chairman Grant Brown, Board Member George Harris,
Board Member John Tuberville

MEMBERS ABSENT: Board Member Erin Kaiser, Supernumerary Board Member Richard
Lamar, Supernumerary Board Member David Stewart

STAFF PRESENT:

Director of Planning & Community Development, Lee Jones, Zoning Administrator, Andy
Bauer, City Planner Jennifer Watkins, City Engineer, Mark Acreman, Secretary, Mell Davis

CALL TO ORDER:

Chairman Olmstead called the meeting to order at 4:00 p.m.

ROLL CALL:

The Secretary called the roll.

APPROVAL OF MINUTES: Regular Meeting of September 1, 2020

Deferred to May 4th meeting due to lack of quorum.

PUBLIC HEARINGS:

A. ZA21-000023 Birdie Townhomes Variance Amendment

The applicant seeks to amend the conditions of the November 1, 2016 variance approval in order to modify the height and location of the required buffer fences at Birdie Townhomes. Birdie Townhomes is a two-story, 16 unit multi-family development under construction at 1695 Regency Road.

Chairman Craig Olmstead opened the public hearing.

Several residents from the Regency Condominium Home Owners Association spoke that they had reached a binding agreement with the developer to allow for a 6ft fence along the northern property line.

Residents from who live on the south side of the property opposed the applicant's request to build a 6ft fence as opposed to the 8ft fence that the Board of Zoning Adjustment required at their November 1, 2016 meeting. Several residents also voiced concerns about the lighting at the development and asked the developer to consider something less glaring.

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REGULAR MEETING OF APRIL 6, 2021**

Chairman Craig Olmstead closed the public hearing.

Applicant, Greg Kennedy explained to the Board Members that 2 extra feet of fence on the southern property line would not make much of a difference with privacy or deflection of light. He also said that lumber is 268% higher than just 5 months ago and would create a higher added expense that he believes isn't necessary.

Vice Chairman Grant Brown made the motion to amend the 2016 variance to allow the fence along the northern property line be 6ft and the fence along the southern property line to be 8ft in height for the first ±350 feet of the property to the property pitch point and 6ft high along the remainder of the property line to its western boundary. Board Member Turberville seconded the motion, it passed 4-0.

OTHER BUSINESS:

None

ADJOURN:

There being no further business to come before the Board, the meeting adjourned at 5:05 p.m.

Chairman

Secretary

Date

**MINUTES OF THE BOARD OF ZONING ADJUSTMENT
CITY OF GULF SHORES, ALABAMA
REGULAR MEETING OF MAY 4, 2021**

MEMBERS PRESENT:

Chairman Craig Olmstead, Vice Chairman Grant Brown, Board Member Erin Kaiser, Supernumerary Board Member Richard Lamar, Supernumerary Board Member David Stewart

MEMBERS ABSENT: Board Member George Harris, Board Member John Tuberville

STAFF PRESENT:

Zoning Administrator, Andy Bauer, City Planner Jennifer Watkins, City Engineer, Mark Acreman, Secretary, Mell Davis

CALL TO ORDER:

Chairman Olmstead called the meeting to order at 4:00 p.m.

ROLL CALL:

The Secretary called the roll.

APPROVAL OF MINUTES: Regular Meeting of September 1, 2020 & Regular Minutes of April 6, 2020

Deferred to June 1st meeting due to lack of quorum.

PUBLIC HEARINGS:

A. ZA21-000025 3641 Ancient Oaks Circle

The applicant seek a variance in order to reduce the required 30 foot rear setback, as stated in Table 7-1B: Area and Dimensional Requirements for Residential Districts, to 10 feet in order to build a single family residential home on property located at 3641 Ancient Oaks Circle.

The lot is located within Ancient Oaks Subdivision. Ancient Oaks Subdivision Covenants and Restrictions require minimum square footages for houses:

- 1,700sf for a one story house; and
- 2,100 sf for a two story house (1,200 1st floor and 900sf 2nd floor)

The applicant's do not believe a one-story, 1,700sf house can be constructed on the property due to the imposition of the 30ft rear setback and the pie shaped nature of their lot. Additionally, the applicants believe a two-story house will be out of place because all of the houses within Ancient Oaks Subdivision are one-story. Mr. & Mrs. Albarado submitted

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seven proposed house plans with their variance application. The house plans range in size from 2,753sf to 5,851sf.

City staff indicated the lot does not have an extraordinary or exceptional physical condition and the literal enforcement of the setbacks will not prevent the construction a 1,700sf, one story, single family house as required by the Ancient Oaks Covenants and Restrictions. Staff recommended denial of the variance.

Chairman Craig Olmstead opened the public hearing.

Residents who live in the neighborhood objected to the requested variance brought up concerns regarding drainage issues, the size of the proposed house versus the current character of the neighborhood. CDD staff point out the 20ft drainage easement on West property line.

Chairman Craig Olmstead closed the public hearing.

Board members discussed the variance request was too general in nature. The Board suggested to the applicant to come back with a more specific request with limited encroachments into the setbacks.

The applicant requested that the variance be deferred until the next scheduled meeting.

Vice Chairman Grant Brown made the motion to table the variance request until the next scheduled BZA meeting on June 1st. Board Member Kaiser seconded the motion, it passed 5-0.

OTHER BUSINESS:

None

ADJOURN:

There being no further business to come before the Board, the meeting adjourned at 4:45 p.m.

Chairman

Secretary

**MINUTES OF THE BOARD OF ZONING ADJUSTMENT
CITY OF GULF SHORES, ALABAMA
REGULAR MEETING OF MAY 4, 2021**

Date



TO: Craig Olmstead, Chairman, and Members
of the Board of Zoning Adjustment

DATE: June 1, 2021

FROM: Andy Bauer, AICP
Zoning Administrator

Via: Lee Jones, AICP, PLA
Director

SUBJECT: Administrative Appeal – ZA21-000028 - Article 11-10 D. Conservation Subdivision
Density Determination

SUMMARY: Mr. David Dichiara, Engineering Design Group, LLC. requests clarification to
Section 11-10 D., *Density Determination*, of the Conservation Subdivision regulations as it
relates to current and future Conservation Subdivision applications.

BACKGROUND:

December 14, 2009 – A revised Zoning Ordinance was adopted, which included a Conservation
Subdivision option for development on lands that are constrained by environmentally sensitive
areas.

February 8, 2021 – Mr. David Dichiara submitted an application for a 56-lot Conservation
Subdivision to be located in the 17000 block of State Highway 180.

April 20, 2021 – City staff provided the applicant with their interpretation of how density is
calculated in Conservation Subdivisions. Due to a difference of opinion between the applicant
and City staff in how density is calculated, the applicant decided not to utilize the Conservation
Subdivision option, and revised his application to a conventional subdivision.

APPEAL PROCEDURE: Section 17-4 A., *Procedure*, of the Zoning Ordinance allows any
person aggrieved or affected by any decision of an administrative officer of the City of Gulf
Shores the right of to appeal such decision before the Board of Zoning Adjustment.

1. Upon receipt of an appeal application, City staff shall examine such appeal and
forward all documents, plans, papers or other materials constituting the record to the
City Attorney for his review and opinion as to whether or not the appeal falls within
the jurisdiction of the BZA.
2. The City Attorney, Donald Stewart, has reviewed the file and appeal application, and
he has determined the appeal falls within the jurisdiction of the Board of Zoning
Adjustment.
3. The concurring vote of four (4) members of the BZA shall be necessary to reverse
any order, requirement, decision or determination of the administrative official or to
decide in favor of the appellant.

ISSUE: Article 11-10 D., *Density Determination*, establishes how density is to be calculated for Conservation Subdivisions. This section reads:

“The maximum number of Lots shall be determined by the minimum Lot size of the Applicable District, the minimum Lot size as required by City or County Health Department Standards for septic tank use (or similar Density limitation where applicable), or the maximum Density of the Applicable District, whichever is most restrictive. **Furthermore, density determination shall also take into account the amount of land necessary for internal streets and other subdivision requirements.** In making this calculation, the following shall not be included in the total acreage of the Parcel:

1. Bodies of open water over 5,000 sf of contiguous area; and
2. Wetlands, as defined by the City or by the Army Corps of Engineers pursuant to Section 404 of the Clean Water Act.”

The language in question is the sentence, “**Furthermore, density determination shall also take into account the amount of land necessary for internal streets and other subdivision requirements.**”

The applicant believes the intent of this sentence is to include the land area dedicated to internal streets in the calculation of density for Conservation Subdivisions. The Zoning Administrator has interpreted this particular sentence to mean that the land necessary for internal streets and other subdivision requirements shall be removed from the total developable acreage of the parcel prior to calculating permitted density.

ANALYSIS: The Zoning Ordinance indicates a Conservation Subdivision is a subdivision, wherein portions of the site containing environmental features are left substantially undeveloped for preservation and/or recreation but where the developer may otherwise build the number of lots permissible under the base zoning district for the entire site by clustering such dwellings on the portion(s) of the site not containing said environmental features. A basis of Conservation Subdivisions is to achieve similar densities compared to the development of a property utilizing the underlying zoning and conventional subdivision regulations.

Prior to providing a determination to Mr. Dichiaro, the Zoning Administrator researched the history of the language in the ordinance. The results of this research are provided below.

1. **Author of the Ordinance.** The Conservation Subdivision Regulations were added to the Zoning Ordinance upon adoption of the 2009 comprehensive Zoning Ordinance re-write. The Zoning Administrator contacted the author of the Zoning Ordinance, Jason Fondren of KPS Group, Inc. Mr. Fondren states in an email dated April 22, 2021, the density of a conservation subdivision is determined by estimating the land area necessary for street rights-of-way and subtracting that land from the gross tract area before dividing by the minimum lot size of the zoning district.
2. **Planning Director’s Review of the Ordinance.** The second document is a review of the draft Conservation Subdivision language by Steve Foote, former City of Gulf Shores

Planning Director. Mr. Foote reviewed the draft language for Density Determination, and included a note about the intent of this section.

His review ultimately led to the addition of the sentence in question. He stated in his review notes that the density determination should not be a math calculation, but rather should be based on what is, “achievable,” “drawn with roads, retention, etc.” This note indicates that density should be based on what is achievable after required roadways and other subdivision requirements are accounted for.

RECOMMENDATION: Staff recommends the Board of Zoning Adjustment uphold staff’s interpretation that the density calculation for Conservation Subdivisions excludes the land necessary for internal streets and other subdivision requirements.

Attachments: Applicant’s written request and supplemental information