

CITY OF ST. AUGUSTINE, FLORIDA

Aggregation Task Force Meeting

September 30, 2004

The Aggregation Task Force met in formal session on Thursday, September 30, 2004 at 3:08 p.m., in the de Aviles Room at City Hall. The meeting was called to order by Commissioner Donald Crichlow and the following were present:

1. ROLL CALL

Members: Donald Crichlow, Commissioner Gerald Dixon, PZB member

Irene Arriola, Realtor

Philip McDaniel, Affected member

Absent: Ronald Stafford, Non-affected member

Geoffrey Dobson, Zoning Attorney for the Committee

City Staff: Mark Knight, Director, Planning and Building Dept.

Karen Rogers, Recording Secretary

2. Approval of Aggregation Task Force Minutes of April 15, 2004

The minutes of April 15, 2004 Aggregation Task Force meeting were approved as presented.

3. Introduction of Ordinance by Geoffrey B. Dobson

Mr. Dobson referred to the two ordinances that he had distributed to the committee. He said that the first ordinance was a pure aggregation ordinance containing a height provision and the second ordinance contained all the exceptions.

Commissioner Crichlow stated that he would label the three page ordinance A and the ordinance with four pages B. He said that to make matters easier he would make a graphic presentation by using the easel and pad with examples of different possible scenarios affecting the ordinance. He said that ordinance A was a straight aggregation ordinance

indicating that if one owned a nonconforming lot it was not buildable.

Mr. Dobson interjected that it meant if one owned two or more nonconforming lots they would be treated as one lot.

Ms. Arriola clarified that a single nonconforming lot could be built on.

Mr. Dobson agreed as long as the lot was not created after the original 1975 Zoning Code was adopted.

Mr. Dixon questioned whether one lot could be sold and then both lots would be buildable.

Mr. Dobson said that would not be possible as regardless of the plat it would be considered one lot, which was a pure aggregation ordinance.

Ms. Arriola said that if there were three lots they could be replatted into conforming lots.

Commissioner Crichlow said that the ability to replat into conforming lots superceded everything. He noted that ordinance A was strict.

Mr. Dixon questioned if one had three lots and two of three were necessary to conform could the third nonconforming lot be sold.

Mr. Dobson replied that it could only be sold to someone else that had a nonconforming lot to combine with.

Commissioner Crichlow questioned whether ordinance A carried the height reduction.

Mr. Dobson clarified that both ordinances contained the height restriction. He added that if a person could demonstrate a genuine hardship they could apply to the Zoning Board for a variance. He said that variances were necessary to protect the City from potential liability for taking someone's property. He said the variance would depend on what the reasonable investment expectation had been when purchasing the property.

Ms. Arriola noted that applying for a variance was not a guarantee but an opportunity.

Mr. Dobson said that before the City could be sued, application had to be made to the board.

Mr. McDaniel clarified that they were considering RS-1 and RS-2, which was widespread throughout the City.

Mr. Dobson noted that the basic theory was that nonconforming lots and uses etc. would disappear through attrition.

Commissioner Crichlow stated that RS-1 and RS-2 zoning had been designated to establish density. He said that currently every nonconforming lot in RS-1 was buildable, and their task was to figure out something fair while being good for the City.

Mr. Dobson said that he thought the intent of the Code was that the nonconforming lots would be aggregated, because people would aggregate for larger and more

expensive homes. He said that another theory was that as land values increased people would still build magnificent homes but on smaller lots; therefore, the homes would be taller and skinnier to achieve the same floor space.

Commissioner Crichlow stated that ordinance B was less restrictive but more involved in order to address the committee's concerns. He referred to the easel and indicated that he had drafted graphic examples of potential situations regarding nonconforming lots. Some of the highlights of the presentation were as follows:

- Height restriction applied to any nonconforming lot to address scale and mass (same in A & B)
- Non-conforming lots of record could be transferred
- A single non-conforming, non-contiguous lot was buildable (same in A & B)
- Four non-conforming, non-contiguous lots could not be built on as single non-conforming lots, but could be subdivided to form conforming lots (same in version A & B)
- Lot coverage, size and setbacks would determine construction
- A nonconforming lot could not be modified to become less conforming
- In the instance of three non-conforming contiguous lots with one house on two lots, the third lot could be sold or built on as long as it was not necessary to make the other two lots conform

Ms. Arriola said that setbacks would be the problem.

Mr. Knight questioned whether the committee had discussed not using full lot coverage or setbacks. He said that setbacks, nonconforming lot size and lot coverage were three issues to be considered.

Mr. Dixon said that he would concur to a little bit of leniency, and he asked Mr. Knight his opinion.

Mr. Knight stated that the larger the percentage the less people would object.

Mr. Dixon stated that he could support 20% lot coverage, and the balance of people would have to apply for a variance. He said that it was the same thing with setbacks with a 20% reduction.

Ms. Arriola said that they had to address both coverage and setbacks.

Mr. Knight said they must address lot size, because many people did not have 20% off lot size, setbacks and lot coverage.

Mr. McDaniel said that 20%-25% was good, but every case would be different, and unique situations would arise. He stated that they would have a hard enough time with the situation, plus they had not decided whether the Commission or the committee would take the matter to the public. He said that they would have a hard time getting the ordinance to the public without objection; therefore, the more generous they could be the better.

The committee continued to use potential examples for discussion during which time considerable confusion was expressed.

Mr. Dobson said that he was concerned about a house that was built on two of three lots and permitted on the basis of reduction of setbacks due to ownership of the third lot.

Mr. Dixon said that was a function of when the house was built.

Mr. Dobson agreed, but added that if it was built after 1975 the PZB assumed that the setback requirements had been met.

Mr. Knight noted that people who built post adoption of the Zoning Code would get a windfall, because they would be able to build more and sell, versus if they sold they could not build more.

Mr. Dobson suggested that the house built prior to 1975 could sell-off the nonconforming lot. He said that the problem with the 20% and the need for variances was that no matter what line the ordinance established someone would want to fudge it.

Mr. Knight agreed and stated that many problems would be solved by establishing a prior to April 1975 timeline.

Ms. Arriola questioned whether the timeline would be used in addition to the percentage or in place of it.

Mr. Dobson replied probably in place of the percentage.

Commissioner Crichlow questioned whether the 20% leeway was post 1975 or pre 1975.

Mr. Knight stated that they were discussing eliminating the percentage. He said that they could add a percentage to pre 1975 structures.

Mr. Dixon stated that he liked that idea of a higher percentage for a pre 1975 structure.

Mr. McDaniel stated that they would have to have a percentage for post 1975 structures.

Mr. Dixon suggested 50% and 25%.

Mr. Dobson said that in the instance of a post 1975 structure there would be a lack of documentation or ability to find documentation.

The committee discussed other potential situations that could occur as the result of the aforementioned suggestions followed by multiple discussions simultaneously.

Ms. Arriola said that in the instance of three contiguous lots under single ownership with a house built in the 1920's that straddled two of the lots and the owner wanted to sell the other lot the property owner would receive a 50% forgiveness on lot coverage, setbacks and lot size. She said that post 1975 with the same scenario, but qualifying on the basis of 25%, the third lot could be sold.

Mr. Dobson pointed out that the property owner probably would not have been able to build post 1975 unless all three lots were under single ownership. Therefore, that property owner would receive the windfall of being able to sell the side yard.

Mr. Knight explained that people that used the system since 1975 would receive a 25% windfall.

Commissioner Crichlow stated that he did not know why they should do that. He explained that post 1975 the property owner knew that they needed all of the property to comply with the Code.

Mr. Dixon disagreed stating that they did not need it all, but the property owner probably needed two non-conforming lots and a portion of the third.

Mr. Dobson said in that case the property owner could approach his neighbor and offer to sell part of that lot.

Ms. Arriola pointed out that they would need a unique situation to make that work in the first place.

Commissioner Crichlow expressed concern about how many of those type situations there were. He questioned whether they were being too lenient by giving the post 1975 property owners a 25% break.

Ms. Arriola questioned the reasonable expectation of a person currently buying property.

Mr. Dobson stated that if the house already existed the third lot could be sold, and when the house was built could be ascertained; however, post 1975 what was in the mind of the building official and the property owner was unascertainable.

Mr. Knight stated that either a mistake was made or the property owner needed the third lot.

Ms. Arriola stated that pre 1975 the City would allow a 50% cushion, but post 1975 would be difficult to determine.

Mr. Dobson said that would be irrelevant because it was not legal.

The discussion continued and referred to structural additions constructed post 1975 on homes built pre 1975 and the problems finding documentation would create, which would be a reason to grant flexibility in a post 1975 situation.

Mr. Dixon stated that the meat of the entire situation was that they did not want property owners to tear down one house on two non-conforming lots and build two houses on the lots; therefore, they wanted enough flexibility in the ordinance to be approved.

Mr. McDaniel stated that they needed to appeal to those citizens that came out against the initial aggregation ordinance.

Ms. Arriola pointed out that most of the speakers had not understood what the ordinance proposed, but they did not want the City messing with their private property.

Commissioner Crichlow suggested putting a percentage on how much one could exceed lot coverage but put a definite number on setbacks, like four feet, which was for safety purposes. He added that four feet was too close.

Mr. Knight added that lot size had to be considered also.

A discussion regarding the suggestion resulted, and the consensus was that using pre and post 1975 regulations worked.

Commissioner Crichlow said that 25% was not a lot, but some people would consider selling property that they had never considered selling before.

Mr. Dixon disagreed and said that those people wanted the yard. He reiterated that the most important part of the ordinance was that three non-conforming lots could not be built on without making the lots conforming, and one house on two lots could not be torn down and replaced with two houses.

Potential scenarios were discussed using the graphs presented by Commissioner Crichlow, and consideration was given to public response to the ordinance.

Commissioner Crichlow stated that the ultimate goal was to preserve the neighborhoods and the density.

Ms. Arriola stated that she agreed that they had to make the ordinance palatable. She said that it was good that the mass and scale restrictions would have to be observed. She stated that she was certain that the PZB would look favorably at the restrictions.

Commissioner Crichlow questioned whether she was accepting mass and scale but allowing increased density.

Mr. Dobson noted that people had the right to go to the PZB for a variance and to appeal PZB's decisions to the City Commission.

Ms. Arriola said that it was a reduction in density from the size, mass and scale not from the number of structures.

Mr. Dobson said that the Department of Community Affairs on density did not want to increase the number of individuals projected to live on Anastasia Island over what was currently permissible in relation to evacuations. And, he said that two houses would increase density more than one house.

A conversation about St. Johns County regarding density and condominiums relating to density ensued.

Commissioner Crichlow questioned whether the modification of the pre and post 1975 language added to Ordinance B was sufficient for the task force to vote on and

recommend to the PZB. He questioned what they would do with the ordinance should they approved it.

Mr. McDaniel said that during the previous meeting they had discussed bringing the ordinance to the Commission to ask whether they wanted the task force to take the ordinance to the public.

Mr. Dixon stated that they should let the City Commission take the ordinance to the public through the normal process. He said that he believed it would go to the PZB as part of the normal process. He added that the City Commission had 2 public hearings or more.

Mr. Knight corrected that there was one public hearing on an ordinance.

Mr. Crichlow stated that the task force could have a public workshop on the matter.

Mr. McDaniel stated that, in fairness, he thought the task force had been charged by the Commission, and he thought that they should go to the public through the Neighborhood Associations, public forum or workshops.

Ms. Arriola agreed.

Commissioner Crichlow questioned whether they were suggesting that the task force set-up public hearings.

Mr. Dixon stated that they should go to the City Commission and ask them for direction.

Mr. McDaniel agreed, and he said that they could leave the option to the Commission instead of giving it to them with the understanding that they were done.

Ms. Arriola said that way the Commission would not get fired at and they could say that there had been public input, similar to the parking garage. She added that other than being off the planet for a year the citizens of St. Augustine had been given ample opportunity to voice their opinion about the VIC parking garage.

Mr. McDaniel stated that the City owed it to the taxpayers to provide that opportunity.

Commissioner Crichlow stated that because the Commission had appointed the task force they should bring the ordinance to them, but he questioned whether the task force should bring it to the Commission before the election. He pointed out that the Commission would not be voting for the ordinance; they would be establishing the premise for public hearing.

Mr. Dixon said that the Commission might direct the task force to handle the public hearings.

Consensus was that they would wait until after the election to present the ordinance to the Commission.

Commissioner Crichlow noted that they were a long way from having the ordinance passed, if it were to be approved. He requested that Mr. Dobson work on the modifications for the ordinance.

Mr. Dobson replied that he would break the D section into two sub parts for pre and post 1975 regulations. He said that if it exceeded lot coverage by 25% or reduced the side setbacks by 25% he would break it into an A and B and D parts.

Commissioner Crichlow stated that they wanted 50% on the pre 1975 regulation.

Ms. Arriola stated that lot coverage; area and setback were the three items to be considered. She wanted to know when the ordinance would take effect and whether it would be retroactive to July of 2003.

Mr. Dobson noted that the City had been holding public hearings and talking about the seawall since 1917.

Mr. Dixon replied that the ordinance would go into effect when it was approved.

Mr. Dobson noted that there would be legal problems making the ordinance retroactive, but the Commission could adopt an ordinance declaring a moratorium pending the adoption of an ordinance; however, that would also be risky from a legal standpoint.

Mr. Knight noted that people had calmed down about the matter; however, public hearing would stir things up again.

Ms. Arriola said that the people she had spoken to had not all embraced the ordinance, but many were greatly relieved at the direction the task force had taken.

Commissioner Crichlow noted that every time someone complained to him about the ordinance he pointed out that the ordinance was for their particular personal interest. He said that the task force and the City's charge was to maintain quality of life; therefore, if people complained they had to realize that the cause was humanitarian.

Mr. McDaniel questioned Mr. Knight regarding where the task force would receive complaint about the ordinance

Mr. Knight replied that citizens would react to the situation of two non-conforming aggregate vacant lots that could not be built on without conforming. He said that those property owners would complain and transfer ownership to avoid the restriction.

Commissioner Crichlow said that the only way to prevent that maneuver would be to set a retroactive date.

Mr. Dixon suggested that the Commission would not agree to that. He questioned whether there were many cases of two aggregate un-built lots, and he was informed that there were many.

MOTION

Mr. McDaniel MOVED to add to item D that pre 1975 lots B and C could exceed lot coverage, setback and lot size by 50% and post 1975, in that particular situation, lot B and C could exceed lot coverage setbacks and lot size by 25% and everything else stood as presented in the B ordinance. The motion was SECONDED Ms. Arriola and approved by UNANIMOUS VOICE VOTE.

4. Discussion concerning how to reach the public regarding the proposed ordinance

(Discussed in Item 3.)

5. Other Business

Commissioner Crichlow questioned whether the task force was interested in working on the architectural overlays of neighborhoods. He said that it would consist of determining the predominant architectures in different neighborhoods. He said that the task force would make recommendations along those lines and somebody would take the recommendation to the residents for input.

Ms. Arriola noted that the task force had agreed that the types of architecture for a neighborhood would be determined by the residents of the neighborhoods.

Commissioner Crichlow said that the matter would be up to the neighborhoods that wanted to participate.

Ms. Arriola clarified that they were talking about residential and not Commercial Medium, which was an area that could really use some help.

Commissioner Crichlow noted that the whole matter had come up when the Mayor had tried to institute a moratorium on building, and it had been agreed that the matter needed to be addressed; moreover, the task force had been considered to handle the subject. He suggested that perhaps they could add some members to the task force, like David Nolan or Paul Weaver or another group could handle the matter.

Mr. McDaniel suggested that the task force have another meeting before taking the ordinance to the Commissioners and think through the architectural overlay proposal.

Mr. Dobson stated that in the case of the architectural overlay proposal his services would not be necessary until the point that the task force was ready to draft an ordinance.

Commissioner Crichlow agreed and suggested that the task force consider the architectural overlay proposal. He said that during the subsequent meeting they would discuss how to approach the Commission.

A brief discussion revealed that the new Commission would not be seated until January, which would give the task force three months.

6. Discussion of Next Meeting Date

After discussion it was determined that the task force would try to meet in October.

7. Adjournment

The meeting adjourned at 4:56 p.m.