

## CITY OF ST. AUGUSTINE

### Planning and Zoning Board Meeting February 2, 2010

The Planning and Zoning Board met in a formal session Tuesday, February 2, 2010 at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Carl Blow, Chairperson and the following were present:

**1. Roll Call:** Carl Blow, Chairperson  
Grant Misterly  
James McCune  
David Toner  
John Valdes

Absent: Deltra Long (Excused)  
Bill Leary, Vice Chair (Excused)

City Staff: Mark Knight, Director, Planning & Building Department  
David Birchim, Planning Manager  
Carlos Mendoza, Assistant City Attorney  
Carly Mason, Recording Secretary

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### **2. Approval of Minutes**

Mr. Misterly referred to page six, third paragraph and asked that it be corrected to read *questioned whether the property owner's view would be obstructed*.

The minutes of the January 5, 2010 Regular PZB meeting were approved as amended.

### **3. Use by Exception**

#### **3. (a) 2010-0003 – Krista Monahan –The Lovely Pearl Tattoo Studio – Applicant Joseph S. Deuschle – Owner 247 San Marco Avenue<sup>1</sup>**

**To allow a tattoo studio as a permissible use by exception.**

Mr. Birchim delivered the staff report and said based on section 28-2, staff found that the board could APPROVE a use by

exception to allow a tattoo studio if it could be determined that the proposed use was appropriate for the location or DENY a use by exception to allow a tattoo studio if it could be determined that the proposed use was not appropriate for the location.

Krista Monahan, applicant, stated that her hours of operations would be in accordance with the adjacent businesses. She addressed the following:

- Public health – sterile, clean business, provide education on tattoo safety and promote a positive atmosphere
- Morals – considered tattooing a Fine Art, she had a college education in Fine Arts, and she would be open and honest with clients
- Order – would be responsible for type of clientele she attracted, and she would maintain the overall business

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<sup>1</sup> Staff report attached to original minutes

- Comfort – met with and listened to surrounding business owners, and she would maintain ongoing contact with surrounding owners
- Convenience – easy parking access, reasonable hours, willingness to be available to meet as necessary
- Appearance – high end, boutique style sophisticated shop with feminine influence including fine art work
- Prosperity – neighborhood and surrounding businesses to profit by attracting new clientele
- General Welfare – positive light in the neighborhood, providing a clean, high quality experience

Mr. Blow questioned the hours of operations and the number of employees.

Ms. Monahan replied that she would have no employees, and her hours of operation would be Tuesday – Saturday from 11:00 a.m. – 7:00 p.m. with appointment only scheduling on Sundays.

Mr. Blow reported that 19 certified notices were mailed, five were returned in favor and two were opposed.

Public hearing opened; however, there was no response.

Mr. McCune stated that he supported the application, as he felt the exception met Code requirements. He said tattooing had become mainstream, and the proposal would meet the prosperity and general welfare of the neighborhood.

Mr. Toner asked if there was an age requirement, and he also pointed out the

proximity of her studio to the Florida School for The Deaf and Blind.

Ms. Monahan advised the board that 16-17 year olds could be tattooed with parental consent, however, she indicated that she had no interest in, nor would she tattoo anyone under the age of 18. She said she was strict on her policy against tattooing minors, and she was aware of her location as related to the school bus stop. She said her business would be located approximately one city block from the bus stop and should not pose a problem with the children. She further indicated her willingness to meet with parents if they had concerns, and she would work to solve any issues.

Mr. Mysterly supported the application and expressed appreciation that the applicant had reached out to her neighbors, as well as meeting the criteria for an exception.

Mr. Blow asked staff if the exception would run with the applicant, and the response was affirmative.

**MOTION**

**Mr. Valdes MOVED to APPROVE application F2010-0003 as submitted. The motion was SECONDED by Mr. Toner.**

**VOTE ON MOTION:**

**AYES: Valdes, Toner, McCune, Mysterly, Blow**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

**4. Variance**

**4. (a) 2010-0002 – Steven M. Schuyler, Architect –Applicant  
David & Janice Cowburn – Owners**

**147 Oneida Street<sup>2</sup>**

**To reduce the required side yard building setback for a new garage with living space on the second floor.**

Mr. Birchim delivered the staff report and said based on section 28-29, staff found that the board could approve a variance to reduce the required side yard building setbacks to four feet for a garage with living space at 147 Oneida Street, as submitted.

Steven Schuyler, applicant, said he provided a plan describing the addition, which would not be considered a separate unit, as the owners' intention was to renovate the property. He said the proposed addition would be a first step toward the renovation, and it could be built as a free-standing structure linked to the main house. He said currently the owners would like to move the addition back an additional 10-15 feet, and he furnished a new set of drawings and photos for the board's review. He requested some flexibility in connection with the position of the structure, considering that final approval from the owners was pending.

Mr. Blow asked staff about potential legal or procedural issues surrounding the changes to the application and additional material submitted.

Mr. Knight replied that the relocation of the structure lowered the criteria for the variance and could be dealt with as long as the garage size remained the same and only encroached four feet into the side yard setback.

Mr. Valdes said he concurred with the applicant regarding moving the structure.

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<sup>2</sup> Staff report attached to original minutes

Mr. Blow reported that 25 certified notices were mailed and five were returned in favor.

Public hearing opened; however, there was no response.

Mr. Misterly questioned whether the addition would be used as a rental and whether it included a kitchen, and the response to both questions was no.

Mr. Misterly questioned whether the driveway would impact the tree roots.

Mr. Schyuler replied that the same curb cuts would be used, and currently there was a driveway apron, so there should be no disruption to the tree.

Mr. Valdes said he liked the idea of the addition, especially when it was related to the restoration of an older structure

**MOTION**

**Mr. Valdes MOVED to APPROVE application F2010-0002 as submitted to include the same size garage as depicted on the drawings submitted and setbacks to sit no further forward or back of the existing structure as depicted on the drawings. The motion was SECONDED by Mr. Misterly.**

**VOTE ON MOTION:**

**AYES: Valdes, Misterly, McCune, Toner, Blow**

**NAYES: None**

**MOTION CARRIED UNANIMOUSLY**

Mr. Blow mentioned one further clarifying point on the floorplan, confirming that the structure would not be used as a rental.

Staff replied that there was no plan for a rental indicated, and the testimony would be on record.

## **5. Conservation Zone Development**

### **5. (a) 2009-0071 Thompson Rains, Rains Marine Construction, Inc. – Applicant Bernard & Janice Sisko – Owners 219 Coquina Avenue<sup>3</sup> (Previously Tabled)**

#### **To install a dock and boatlift.**

Mr. Birchim said the applicant had indicated that a permit had been reviewed and approved by the FDEP for construction of the dock. He said all applicable federal and state permits and building permit were required prior to construction. He said by approval of the dock, the city would not make a representation, approval or claim or riparian rights to any party.

Thompson Rains, applicant, said he had the survey of the waterway completed, and he made the proper revisions to the dock. He said the width of the dock was reduced to 20 feet, and the fixed boat lift was replaced with a floating dock that could house two personal watercrafts. He indicated that the dock was shifted six feet to the south to avoid putting the platform in the vegetation. He concluded that the survey had two PVC pipes included to indicate egress the creek.

#### **Experte Communication:**

Mr. Blow indicated that he visited the site and met with homeowners, Mr. Rains, and the homeowner's attorney.

Mr. Misterly indicated that he met with the homeowner's attorney to discuss his concerns.

Mr. Toner and Mr. Valdes indicated that they had a discussion with the homeowner's attorney. Mr. Toner said he drove by the

site, and Mr. Valdes noted that he was familiar with the site.

Mr. Blow said 14 certified notices were mailed and two were returned in favor, and six were opposed with comments.

Public hearing opened.

David Abraham, neighbor, said he reviewed the revised application and he appreciated the adjustments, and he indicated support for the revised application.

Martha Walley, neighbor, said she was in support of the application.

Pubic hearing closed.

Mr. Misterly asked if a ladder would be installed for dock access, and he requested that the dimensions be clarified for the record.

Mr. Rains replied that an aluminum ladder would be attached to the wooden dock. He said the dock was partially on land and water.

Mr. Valdes said the survey would not extend eight feet to the West of the existing dock as shown on the survey.

Mr. Blow said the dock would be 21 feet from the fence.

Mr. Valdes said he was in favor of the application; however, he had concern about jet skis. He said kayaks and canoes would be safer. He said boats needed to use caution and speed control when moving through the creek.

Mr. Blow noted that the floating dock was an advantage for the application.

<sup>3</sup> Staff report attached to original minutes

**MOTION**

Mr. Blow **MOVED** to **APPROVE** application F2009-0071 to include dimensions be no further than eight feet beyond waterward of the existing dock. The motion was **SECONDED** by Mr. Misterly.

**VOTE ON MOTION:**

**AYES:** Blow, Misterly, Toner, McCune, Valdes

**NAYES:** None

**MOTION CARRIED UNAMIOUSLY**

**6. Other Business**

**6. (a) Review of Section 28-31 Withdrawal or amendment of applications**

Mr. Knight said a previous general consensus from the board indicated that a change from five to ten days would be acceptable. He said the board had the option to table an item if documents were presented at the meeting.

Mr. Schyuler said that as an applicant it would be nice to have the option of submitting information at the last minute; however, the board could use their discretion when receiving last minute material. He said perhaps the board would consider tabling certain items depending on the type of last minute material submitted.

Mr. Knight used Mr. Schyuler's last minute submittals as an example. He indicated that the board would generally table such items to allow time for review.

Mr. Toner said the change from five to ten days would allow the procedure to remain the same, and he felt that the change would be a benefit for the citizens.

**MOTION**

Mr. McCune **MOVED** to **APPROVE** changing the application information deadline from five to ten days. The motion was **SECONDED** by Mr. Toner and approved by a **UNANIMOUS VOICE VOTE**.

**6. (b) Discussion Regarding Tethered Balloons**

Mr. Knight questioned whether the board would like to consider limiting or banning tethered balloons, swing rides, and bungee cord attractions in the City limits.

Mr. Valdes questioned whether the aforementioned would go before the board for approval.

Mr. Knight replied that the items would appear as a Use by Exception.

Mr. McCune said he could not see a need for a tethered balloon; however, he was not in support of banning such items.

Mr. Valdes asked if the rules could be changed from a Use by Exception to a Variance.

Mr. Knight replied that the Use by Exception could be changed to a Temporary Variance.

Mr. Misterly asked how the Cathedral Parish carnival would fit in with changes made for temporary structures. He supported drafting a Code; however, he would not want to impact the carnival.

Mr. Knight replied that temporary structures would be allowed.

Mr. Blow said he concurred with Mr. Misterly and noted that he would not want to ban the rule completely. He suggested a procedure

for reviewing the item and the option to apply conditions.

Mr. Valdes questioned the definition for temporary versus permanent use for exceeding the 55 foot height limit.

Mr. Knight replied that the uses were as follows:

- Seasonal: 30 days, three times a year
- Temporary: four days or less than six months
- Permanent: more than two years
- Any timeframe between six months and two years could either be temporary or permanent

Mr. Birchim asked if that would be 10 days per calendar year, and the response was affirmative.

Mr. Blow questioned whether an attraction would need to apply for a variance to continue operating beyond a ten day period.

Mr. Knight replied that the applicant would need to apply for a height variance.

Mr. Misterly said he was in favor of setting restrictions before any problems arose.

Mr. Knight said staff would make some adjustments to the rule and return next month with additional details for the board to review.

Mr. Toner said the type of rides were not appropriate for the City, and noted that the activities should be located in another area within St. Johns County, but not within the City limits. He said he was in support of regulating a policy.

Mr. Blow suggested that staff review other locations such as Sanibel Island, St. Simons

Island, or Palm Beach to see how those cities handled these situations.

## 7. Adjournment

Having no further business, Mr. Blow adjourned the meeting at 3:13 P.M.<sup>4</sup>

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Carl Blow, Chairperson

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<sup>4</sup> Transcribed by Carly Mason