



**TOWN OF LAKE PARK  
SPECIAL CALL  
PLANNING & ZONING BOARD  
MEETING MINUTES  
JUNE 22, 2017**

**CALL TO ORDER**

The Planning & Zoning Board Meeting was called to order by Chair Judith Thomas at 6:02 p.m.

**ROLL CALL**

Judith Thomas, Chair	Present
Martin Schneider, Vice-Chair	Present
Lawrence Malanga	Present
Charlesmagne Metayer	Present
Joseph Rice	Present

Also in attendance were Town Attorney Thomas J. Baird; Nadia DiTommaso, Community Development Director, Scott Schultz, Town Planner and Board Secretary Kimberly Rowley.

**APPROVAL OF AGENDA**

Chair Thomas requested a motion for the approval of the Agenda. Vice-Chair Schneider made a motion for approval, and the motion was seconded by Board Member Metayer. The vote was as follows:

	<b>Aye</b>	<b>Nay</b>
Joseph Rice	X	
Martin Schneider	X	
Lawrence Malanga	X	
Charlemagne Metayer	X	
Judith Thomas	X	

**The Motion carried 5-0, and the Agenda was approved.**

**APPROVAL OF MINUTES**

Chair Thomas requested a motion for the approval of the Minutes of the May 30, 2017, Special Call Planning & Zoning Board Meeting. Board Member Rice made a motion for approval, and the motion was seconded by Board Member Metayer. The vote was as follows:

	<b>Aye</b>	<b>Nay</b>
Joseph Rice	X	
Martin Schneider	X	
Lawrence Malanga	X	
Charlemagne Metayer	X	
Judith Thomas	X	

**Chair Thomas stated that she had spoken with the Town Clerk’s Office regarding her attendance at the May 30<sup>th</sup> P&Z Meeting and requested that the Minutes reflect accordingly. The Motion carried 5-0, and the May 30, 2017, Special Call Planning & Zoning Board Meeting Minutes were approved.**

**SCHEDULING OF AUGUST 2017 “SPECIAL CALL” PLANNING & ZONING BOARD MEETING**

Ms. DiTommaso addressed the Board regarding the consideration of a Special Call P&Z Meeting during the week of August 21<sup>st</sup>. She explained that Staff is in receipt of a time sensitive Application which is moving forward relating to breweries in the Park Avenue Downtown District (PADD). Agenda packets will be distributed one week prior to the Special Call Meeting, and the dates for consideration are Tuesday, August 22 or Wednesday, August 23<sup>rd</sup>.

Upon discussion, Vice-Chair Schneider proposed Wednesday, August 23<sup>rd</sup> at 6:30, which was seconded by Board Member Metayer. The vote was as follows:

	<b>Aye</b>	<b>Nay</b>
Joseph Rice	X	
Martin Schneider	X	
Lawrence Malanga	X	
Charlemagne Metayer	X	
Judith Thomas	X	

**The Motion carried 5-0, and August 23<sup>rd</sup> at 6:30 p.m. was confirmed for the Special Call Planning & Zoning Board Meeting.**

**PUBLIC COMMENTS**

Chair Thomas explained the Public Comment procedure.

**ORDER OF BUSINESS**

Chair Thomas outlined the Order of Business.

**NEW BUSINESS**

**I. PZ CASE 17-010: VARIANCE APPLICATION: VACANT LOT; SOUTHEAST CORNER OF HAWTHORNE DRIVE & 9<sup>TH</sup> STREET**

**A VARIANCE REQUEST FOR RELIEF FROM TOWN CODE SECTION 78-64(4)(B) REGARDING SIDE YARD SETBACK.**

**APPLICANT: ALVIN BELLEFLEUR, AGENT FOR ISOVEST, LLC.**

*The Town Attorney asked the P&Z Board Members to declare any and all ex-parte communications prior to considering the Variance Application, as this is a quasi-judicial proceeding wherein the P&Z Board will render the final Order. There were no ex-parte communications declared, and all witnesses presenting information were sworn in by the Town Attorney.*

**STAFF PRESENTATION – PZ CASE 17-010**

Scott Schultz, Town Planner, addressed the P&Z Board Members and thanked them for making time for the Special Call Meeting. Mr. Schultz stated that Notices were mailed to all residents via Certified Mail within 300’ of the subject parcel, and eight (8) of the Notices were still in transit.

Mr. Schultz reviewed the details of the Variance Request for the side yard setback for a vacant property located on the southeast corner of Hawthorne Drive and 9<sup>th</sup> Street, as follows.

**Applicant/Agent:** ALVIN BELLEFLEUR  
**Owner:** ISOVEST, LLC  
**Existing Zoning:** R1-A SINGLE FAMILY  
**Future Land Use:** RESIDENTIAL LOW DENSITY

**Adjacent Zoning**  
North: R1-A SINGLE FAMILY  
South:  
East:  
West: R1 SINGLE FAMILY  
C-1 BUSINESS DISTRICT

**Adjacent Existing Land Use**  
North: RESIDENTIAL LOW DENSITY  
South:  
East:  
West: RESIDENTIAL LOW DENSITY  
COMMERCIAL

Mr. Schultz reviewed the background of the variance request and explained the parcel is a peculiar pie shaped lot having 88’ of frontage along Hawthorne Drive and 42’ of frontage along a utility easement to the south. Hardships at the site include protected trees, underground Seacoast Utility infrastructure and the irregular lot shape. Mr. Schultz presented street view visuals/aerial images to illustrate the existing hardships, encroachment and set-backs, protected Live Oak Trees, and Seacoast underground utilities. He stated that other arrangements/angles were considered by the Applicant and their Architect, but the hardships would have been greater.

Mr. Schultz stated the request is for a variance to Town Code Section 78-64(4)(B) Side-Yard Setback, for a reduction to the western side yard setback of 6.64 feet, which would result in a new building setback of 8.36 feet. The minimum side yard setback for corner lots is 15'. Mr. Schultz stated that due to the lot shape, only the corner of the building will encroach into the required setback which is a triangular area roughly 18' north to south, and 6.5' at the widest point.

Mr. Schultz stated that the applicable portions of the Comprehensive Plan that apply to this case are as follows:

<u>CHAPTER/SECTION</u>	<u>TEXT</u>
<p><b><u>Future Land Use Element, Objectives and Policies 3.4.2, Objective 1:</u></b></p>	<p>“It is the Town’s intent to promote development and redevelopment in accordance with the Future Land Use Plan Map...”</p> <p><u>Staff Response:</u> The Future Land Use Map identifies the subject site as low density residential. The requested variance is the minimum variance needed to allow for the development of a single-family home.</p>
<p><b><u>Future Land Use Element, Objective 5:</u></b></p>	<p>As a substantially built-out community in an urbanized area, the Town shall promote redevelopment and infill development in a manner that is considerate to existing neighborhoods and uses, the built and natural environments, and neighboring jurisdictions.</p> <p><u>Staff Response:</u> In order to promote this infill development, a variance is needed. The proposed single-family home will be consistent with the neighboring residential community.</p>

Mr. Schultz reviewed the Findings of Fact and the seven (7) Variance Criteria from Code Section 78-185 that the Board will be looking at and which Staff has evaluated, as follows:

CRITERIA 1: That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

*Special conditions do exist at the subject property as it relates to:*

***PROTECTED TREES, UNDERGROUND SEACOAST INFRASTRUCTURE AND IRRUGULAR LOT SHAPE***

CRITERIA 2: That the special conditions and circumstances do not result from the actions of the Applicant.

*Special conditions and circumstances are not the result of actions by the Applicant since they did not cause the irregular parcel shape, underground infrastructure or trees at the site.*

CRITERIA 3: That granting the variance requested will not confer on the Applicant any special privilege that is denied by this Chapter to other lands, buildings or structures in the same zoning district.

*Granting of a variance will not confer on the Applicant any special privilege that is denied of others in the same zoning district since others have been able to develop their lands with a single family residence in this zoning district.*

CRITERIA 4: That literal interpretation of the provisions of this Chapter would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter, and would work unnecessary and undue hardship on the Applicant.

*Literal interpretation of the Land Development Code would deprive the Applicant of rights enjoyed by others in the same zoning district since physical hardships at the site prevent other configurations.*

CRITERIA 5: That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

*The waiver requested is the minimum variance that will make possible reasonable use of the land. Denial of the variance would render the property virtually unusable for its intended use of a single-family home.*

CRITERIA 6: That the granting of the variance will be in harmony with the general intent and purpose of the Land Development Regulations of the Code, and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

*Staff finds that granting of the requested variance is in harmony with the general intent and purpose of the Land Development Regulations since what is requested is:*

- the minimum variance needed to make reasonable use of the land*
- the proposed use is single-family which is consistent with the neighborhood.*
- the variance requested is along 9<sup>th</sup> Street and will not be injurious to adjacent private property*

CRITERIA 7: That the variance would not be contrary to the Comprehensive Plan of the Town.

*The variance requested is not contrary to any policy or goal of the Comprehensive Plan.*

*The proposal will preserve two protected trees, which aligns with multiple policies of the Comp Plan in Chapter 8 – Conservation*

### **STAFF RECOMMENDATION**

Mr. Schultz stated Staff is recommending approval of the Variance Request as it meets all seven (7) Variance Criteria required. He stated that both Staff and the Applicant are available for questions.

### **PUBLIC COMMENTS**

Sherry Petchauer, a Town Resident who resides directly across from the empty lot, addressed the P&Z Board and stated she is not in favor of the development of the lot. Her concerns include the small lot size; poor visibility/traffic accidents at the corner of Hawthorne Drive and 9<sup>th</sup> Street; and danger to the children gathering at the site for the bus.

Linda Mauney, a resident of Hawthorne Drive, addressed the P&Z Board. Her concerns expressed are the bad traffic at the corner of 9<sup>th</sup> Street & Hawthorne Drive; two nearby properties which are in very bad condition; the small lot size and she feels the neighborhood should be upgraded rather than lowering the property values.

### **BOARD COMMENTS/DISCUSSION**

Board Member Rice asked the Applicant, Alvin Bellefleur, if the site was purchased sight unseen and when was he made aware that variances would need to be in place in order to build on the property. Mr. Bellefleur replied he was made aware by Town Staff during a meeting regarding the proposed development of the lot prior to his purchase of the property. Board Member Rice questioned the Town Attorney if the prior knowledge of the need for a variance would fall under the special circumstances referenced within *Variance Criteria 2: Special Conditions*. The Town Attorney responded that the Board would make that determination based on the testimony presented by the Applicant and Staff, and the evaluation of the Variance Criteria.

Vice-Chair Schneider asked Staff what is the front set-back for this property. Mr. Schultz replied the front property set-back is 35', unless the block face on the street is established at 25'. Ms. DiTommaso confirmed that the surveyor confirmed the setback is 25'. There was discussion regarding the setback from the porch, whether the porch is covered or not covered. Vice-Chair Schneider questioned Staff if the back is a utility easement or an unimproved alley that could potentially be developed in the future. Ms. DiTommaso stated she is unaware of any future development of the utility easement as an alleyway.

Chair Thomas asked Staff about the removal and replacement of protected species (Live Oak Trees). Chair Thomas questioned if the subject lot was ever a part or portion of another lot. Mr. Schultz replied that there are other pie-shaped lots within the Town, and he is not aware that this lot was ever a part of another parcel. Chair Thomas stated that there must certainly be a way for the Applicant to reconfigure the house to make it fit on the lot. Ms. DiTommaso stated that Staff had previously discussed alternate designs with the Applicant. Chair Thomas agreed with the concerns raised during the *Public Comments*, regarding the visibility triangle at Hawthorne Drive & 9<sup>th</sup> Street, and stated if the house is allowed to be constructed it would be difficult to see southward to Park Avenue if a privacy fence is constructed. Ms. DiTommaso stated there is visibility criteria within the Code and therefore, if the Applicant would come forward in the future to install a privacy fence, the Applicant would have to respect the visibility triangle requirements in the Code.

Chair Thomas asked Mr. Bellefleur why he chose to build this home which is going to require a variance. Mr. Bellefleur stated that he looked at many different configurations and this design was the only configuration which allowed the least amount of encroachments onto the setbacks. Secondly, a custom home wouldn't fit or be consistent with the other homes in the neighborhood. Chair Thomas inquired if the easement is an "active easement" and if Seacoast Utility has been contacted. Mr. Schultz replied that it is an active easement with an active, underground sewer line and that Seacoast Utility has reduced their setback requirements from 15' to 5'. Mr. Schultz stated that if Seacoast utility were to impose their setback requirements, the subject lot would be undevelopable.

Vice-Chair Schneider asked the Applicant if the front porch is raised or at ground level, and whether the front porch is covered. Mr. Bellefleur responded that the porch is raised 4" and it has a separate roof. Vice-Schneider asked if the front porch could be removed and the building moved forward. The Applicant replied that there would still be an encroachment if the building was moved forward. There was discussion regarding encroachment and set-backs. There was brief discussion about the consideration of shifting the house forward and the shortened driveway.

Board Member Malanga expressed concern that it appears the live wires coming from the power pole in the alley would come directly above the house. Board Member Malanga asked the Applicant for verification of the location of the air conditioning unit.

Board Member Metayer expressed concern regarding visibility and traffic. Mr. Schultz reminded that there are visibility triangles requirements in the Town Code, which would be met.

## **BOARD RECOMMENDATION**

Upon conclusion of the discussion, Chair Thomas asked for a motion. Board Member Rice made a motion to deny with emphasis on Variance Criteria #2 and #4 not being met, and the Applicant's prior knowledge of the circumstances on the proposed site. Vice-Chair Schneider seconded the motion to deny with emphasis on Criteria #5 and he believes that there is a way to reduce the variance. Board Member Malanga agreed with the denial and he believes there are changes/redesign that could be made. Board Member Metayer agreed with the motion to denial as he believes there are modifications that can be made. Chair Thomas stated she feels that three

(3) Variance Criteria, are not being met - specifically Criteria #3, Criteria #5 and Criteria #6. The vote was as follows:

	Aye	Nay
Joseph Rice		X
Martin Schneider		X
Lawrence Malanga		X
Charlemagne Metayer		X
Judith Thomas		X

**The vote was 5-0 in favor of DENIAL of the Variance Application.**

*The Town Attorney advised he will prepare a Final Order for the Board indicating that the Variance Application was denied because Criteria #2, Criteria #3, Criteria #4, Criteria #5 and Criteria #6 were not met.*

**PLANNING & ZONING BOARD MEMBER COMMENTS**

Chair Thomas welcomed Board Member Malanga and Board Member Metayer to the P&Z Board. Board Member Metayer welcomed Jennifer who is observing how the Planning & Zoning Board works.

**COMMUNITY DEVELOPMENT DIRECTOR COMMENTS**

Ms. DiTommaso stated there are exciting projects coming up with quite a few site plans moving forward to the Board. She confirmed that the next Special Call Planning & Zoning Board Meeting is scheduled for July 10<sup>th</sup> at 7:00. Chair Thomas stated that she will not be present for the July 10<sup>th</sup> Special Call P&Z Board Meeting. Ms. DiTommaso stated that there will be an August 7<sup>th</sup> Planning & Zoning Board Meeting, as well as a Special Call Planning & Zoning Board Meeting on August 23<sup>rd</sup> at 6:30 p.m.

**ADJOURNMENT**

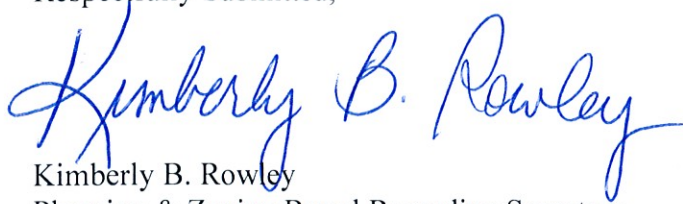
There being no further business before the Board, Chair Thomas for a motion to adjourn. Board Member Rice made a motion to adjourn, and it was seconded by Board Member Metayer. The vote was as follows:

	Aye	Nay
Joseph Rice	X	
Martin Schneider	X	
Lawrence Malanga	X	
Charlemagne Metayer	X	
	X	

The vote was 5-0 and the Meeting was adjourned at 6:53 p.m.



Respectfully Submitted,



Kimberly B. Rowley  
Planning & Zoning Board Recording Secretary

**PLANNING & ZONING BOARD APPROVAL:**



Martin Schneider on behalf of  
Judith Thomas, Chair  
Town of Lake Park Planning & Zoning Board

DATE: July 10, 2017