

# **DRAFT/MINUTES**

## **GLYNN COUNTY BOARD OF APPEALS**

**MARCH 14, 2019 - 10:00 A.M.**

**Historic Courthouse, 701 G Street**

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**MEMBERS PRESENT:** Philip Viviani, Vice Chairman  
Paul Fisher  
Eugene Williams

**ABSENT:** Walter Rafolski, Chairman  
Betty Keller

**STAFF PRESENT:** Stefanie Leif, Planning Manager  
Maurice Postal, Planner III  
Ellis Carter, Building Official  
Dave Carver, Plans Examiner  
Janet Loving, Admin/Recording Secretary

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In the absence of the Chairman, Vice Chairman Philip Viviani called the meeting to order at 10:00 a.m.

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### **MINUTES**

#### **February 14, 2019 - Regular Meeting**

Upon a motion made by Mr. Paul Fisher and seconded by Mr. Eugene Williams, the Minutes of the *February 14<sup>th</sup> Regular Meeting* were approved and unanimously adopted.

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**ZV3931 - 135 Sinclair Plantation Drive, St. Simons Island:** Consider a request for a variance to the required side yard setback set forth in Section 704.4 of the Glynn County Zoning Ordinance to allow the encroachment of an existing building into the side yard setback. This property is zoned FA and is located at 135 Sinclair Plantation Drive, Brunswick. Parcel ID: 04-10329. Robert Shupe, Shupe Surveying Company, P.C. agent for The Betty Macdonald Jones Revocable Trust, owner and applicant.

Mr. Bobby Shupe was present for discussion.

A detailed report from staff was included in the packages for review and was presented by Ms. Stefanie Leif. This report contained background history of the property, previous requests from the applicant, and factors (*along with staff's comments in bold print*) on whether to grant a variance in accordance with Section 1005.3 of the Glynn County Zoning Ordinance as follows:

- a) There are extraordinary and exceptional conditions pertaining to the particular piece of property in question because of its size, shape or topography; **Staff finds no extraordinary or exceptional conditions related to the property. The parcel size is 11.18 acres, which includes two lots, Lots 3 and 4, Oatland Plantation subdivision. The house and garage are located on Lot 3.**
- b) Such conditions are peculiar to the particular piece of property involved; **Staff finds no extraordinary or exceptional conditions related to the property.**
- c) No variance may be permitted for a land use that is prohibited by this Ordinance within the District in which the property is located; **The use and building has been in existence since 2000 and no changes to the building or use are proposed at this time. The detached garage is an allowed accessory use to a primary dwelling within the Forest Agricultural Zoning District. Staff finds that a variance request is not timely since no changes are proposed to the use or building.**
- d) The special conditions or circumstances do not result from the action or actions of the applicant, i.e., a self-imposed hardship; and **Staff finds no special conditions or circumstances related to the property.**
- e) Relief, if granted, would not cause substantial detriment to the public good or impair the purpose and intent of this Ordinance. **The timing for the relief and variance request would have been appropriate in 2000 when the building was constructed within the required setback or will be appropriate in the future at such time the applicant proposes changes to the building or use. Staff finds that this standard is not met.**

Ms. Leif stated that staff's recommendation is for denial of application **ZV3931**.

During discussion, Mr. Fisher asked if anything had changed in this application since the February 14<sup>th</sup> BOA Meeting, to which Ms. Leif replied no. Mr. Shupe also verified that nothing had changed. He then offered to repeat his presentation from the February meeting. However, board members felt that it was not necessary, adding that Mr. Shupe gave an extensive presentation at the February 14<sup>th</sup> BOA Meeting. The Board proceeded to take action on this application but was advised that the floor had not been opened for the public hearing. Once the floor was opened for public comments, Mr. Julian Smith stated that he is opposed to this request; there is no hardship. Mr. Jeff Kilgore exclaimed that "this body has flagrantly violated the rules...they need to read the law or resign!" There being no other comments, the public hearing was closed and a motion was made by Mr. Paul Fisher to approve application **ZV3931**. The motion was seconded by Mr. Eugene Williams. Voting Aye: Messrs. Fisher, Viviani, and Williams. The following members were absent: Ms. Betty Keller and Mr. Walter Rafolski.

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**ZV3965 - 120 Roswell Drive W., Brunswick:** Consider a request for a variance to the required side yard setback set forth in the Planned Development Text (Tanglewood, GC-2003-22). The property is zoned Planned Development Residential (PDR) and is located at 120 Roswell Drive W., Brunswick. Parcel ID: 03-21980. Lamar Smith Signature Homes, LLC, owner and applicant.

Attorney Brian Corey, representing the applicant, was present for discussion.

A detailed report from staff was included in the packages for review and was presented by Mr. Maurice Postal as follows:

A residential building permit application for new construction (RBUI90117) was submitted on September 26, 2018. The applicant submitted a site plan with the application, as required. The site plan was drawn incorrectly by the applicant and showed an erroneous lot configuration with an 84 ft. wide lot, instead of the actual lot width of 65 ft. The placement of the home on the site plan was based on the incorrect lot configuration. The Community Development Department issued a building permit based on the submitted plans. After construction commenced, the Building Inspections Division determined that the home was not compliant with setbacks. Work was stopped and a survey of the lot was requested. Shupe Surveying completed the survey on November 19, 2018. The survey showed that the entire western side of the home intruded into the side yard setback.

The staff's report also contained factors to be considered (*along with staff's comments in **bold print***) in accordance with Section 1005.3.1 of the Glynn County Zoning Ordinance. Mr. Postal stated that staff recommends denial of application **ZV3965** due to the hardship being self-imposed by the applicant.

During a brief presentation, Attorney Brian Corey elaborated on the mistakes and how they occurred with this application, which he stated began with the survey that was done in 2007 by a Computer Aided Design (CAD) Tech who miscalculated the footprint and setbacks of the building. Mr. Stephen Smith, Vice President of Lamar Smith Signature Homes, also elaborated on how these errors occurred.

Mr. Lamar Smith, Lamar Smith Signature Homes, stated that they have been in business for 25 years, and while living in an imperfect environment and dealing with imperfect people, the margin for error is astonishing. Mr. Smith apologized profusely for the errors that occurred with this application. He stated that they are good citizens and good people of this community. When asked what the impact would be if this application were denied, Mr. Smith replied that if they don't get approval of this variance request, they will have to tear down a \$40,000.00 house.

Mr. John Costa explained his duties as an Auto Cad Drawer and elaborated on how the series of errors occurred, which he stated was mainly due to trust.

Mr. Julian Smith (no relation to the applicant) and Mr. Hugh Bourque were present to speak in favor of this request. Attorney Jim Williams was present to attest to the applicant's character and his position in the community.

There being no further discussion, a motion was made by Mr. Eugene Williams to approve application **ZV3965**. The motion was seconded by Mr. Paul Fisher. Voting Aye: Messrs. Fisher, Viviani and Williams. (Members Absent: Ms. Keller and Mr. Rafolski)

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**ZV3963 - Peterson's Subdivision Lots 12-20, St. Simons Island:** Consider a request for a variance to Glynn County Zoning Ordinance Section 507, "Use of Substandard Lots of Record" for lots 12-20, Peterson's Subdivision (Parcel Number 04-02260, 117 Plumbroke Road, 115 Plumbroke Road, 2314 Demere Road, and Parcel Number 04-02312, unaddressed). The lots were platted in 1940 and currently zoned R-9 One-Family Residential. The lots had been downzoned from Medium Residential (MR) to R-9 prior to the county's adoption of Section 507 in 2016. The applicant is seeking a variance for the lots that are subject to Section 507. William Patrick Duncan, owner and applicant.

Mr. Patrick Duncan was present for discussion.

A detailed report from staff was included in the packages for review and was presented by Ms. Stefanie Leif as follows:

Peterson's Subdivision was platted in 1940 and the lots are considered lots of record. The lots were previously zoned Medium Residential but were downzoned to R-9 in 2015. The owners, including Mr. Duncan, applied to the county to downzone the property in order to reduce density in the area, and the county approved the request.

In 2016, the county adopted Glynn County Zoning Ordinance Section 507, "Use of Substandard Lots of Record." This section applies to lots that are under 6,000 sq. ft. in size and/or have lot widths that are less than what is required in the zoning district. For lots that are a certain percentage of "substandard" the lots may be limited to a 1.5 story house, limited in building height, and limited in the number of bedrooms that can be in the house. Peterson's Subdivision lots 12-20 would be restricted in this manner due to the lot widths that are substandard (under 60 ft.) when the required lot width in the R-9 zone is 70 ft.

The applicant is seeking a variance from the regulations in Section 507 to eliminate restrictions imposed by this section for buildings on the lot. The applicant desires to be able to build in accordance with the R-9 regulations without restrictions to number of stories, height of buildings, or number of bedrooms.

The staff's report also contained factors to be considered (*along with staff's comments in **bold print***) in accordance with Section 1005.3.1 of the Glynn County Zoning Ordinance. Ms. Leif stated that staff's recommendation is for approval of application **ZV3963**.

During a brief presentation, Mr. Patrick Duncan elaborated on the history of this property and how he acquired it. He stated that he purchased the property with the intention of building single-family homes which is what he agreed to during discussions with staff. Mr. Duncan stated that it is not his intention to build condominiums. He would like the option of building two-story houses.

Attorney Jim Williams, representing families of adjacent property owners, was present to oppose this request. He also gave a brief history of the property in question relative to adjacent property owners, as well as the on-going legal battle regarding ownership of the road. Attorney Williams asked that this application be deferred and the status of the property remain in its current state until after resolution of the road issue. Mr. Paul Fisher pointed out that ownership of the road has nothing to do with the applicant's request. Ms. Stefanie Leif agreed, stating that the issue of the road is not relevant to this application.

Attorney Fleming Martin, representing Mr. Gloster Buchanan and his family of St. Simons Island, expressed the same grievance as Attorney Williams about ownership of the road and the property in question relative to his clients. Attorney Martin pointed out that he merely wants to make the BOA Members aware of this on-going issue.

Attorney Parker Morgan, representing Ms. Berthenia Gibson of St. Simons Island, stated that the on-going dispute is not just about the road but it involves the property in question (as noted by Attorneys Martin and Williams). He then reminded the BOA Members of their charge as board members. In fact, for the record, the Board was constantly reminded throughout the meeting of the rules of conducting public hearings.

Mr. Hugh Bourque, St. Simons resident, was present to oppose due to on-going litigation and the impact that the Board's decision will have on adjacent property owners. Mr. Bourque also stated that this is not a complete application, pointing out that the applicant did not notify adjacent neighbors of this request in accordance with the guidelines of the Ordinance.

Mr. Julian Smith suggested a deferral. He stated that there is no valid hardship listed in this application.

Ms. Gi Gi Cates was present to oppose this request, stating that if approved adjacent properties would be landlocked.

Ms. Carla Cate stated that if this variance is granted, adjacent owners would not have access to their property. She also stated that the application is not complete, the applicant did not contact adjacent neighbors. Additionally, Ms. Cate stressed that we should not be here without proper representation because the property in question is currently under litigation.

The following residents were also present to oppose: Mr. Rory Napton, Ms. Avis Wilson, Ms. Berthenia Gibson and Ms. Lauren Williams. Opponents expressed concerns about the applicant's lack of communication, road dispute, and on-going litigation issues.

Mr. Dale Provenzano was present to speak in favor of this request. Mr. Jeff Kilgore expressed concerns about the Board's lack of proper procedure relative to conducting a public hearing.

During a brief rebuttal, Mr. Patrick Duncan stated that the issues raised by the residents, i.e., the road dispute and on-going litigation, have nothing to do with his request for a variance at this time. He is merely trying to build homes on lots indicated in his application.

At the end of discussion among the BOA members, a motion was made by Mr. Paul Fisher to deny variance application **ZV3963**. The motion was seconded by Mr. Eugene Williams. Voting Aye (in favor of denial): Mr. Fisher and Mr. Williams. Voting Nay (against denial): Mr. Philip Viviani. Members Absent: Ms. Keller and Mr. Rafolski.

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There being no further business to discuss, the meeting was adjourned at 12:45 p.m.