


MEMORANDUM

TO: Mayor England
Vice Mayor Kostka
Commissioner George
Commissioner Samora
Commissioner Rumrell

FROM: Max Royle, City Manager 

DATE: January 9, 2020 ✓

SUBJECT: Allowing Chickens by Exception: Appeal of Decision by the Comprehensive Planning and Zoning Board to Allow by Exception to Section 3.02.03.4.1 of the Land Development Regulations the Keeping of Chickens at 313 A Street (Lot 14, Block 49, Coquina Gables Subdivision, Ms. Pamela Holcombe, Appellate)

BACKGROUND

Section 3.02.03 of the Land Development Regulations lists prohibited land uses in the City. Subsection A.1 states that the following is prohibited:

"Keeping, breeding, or raising of bees, insects, reptiles, pigs, horses, cattle, goats, hogs, or poultry."

In October 2019, Ms. Jennifer Grace Wildasin of 313 A Street applied to the Comprehensive Planning and Zoning Board for a variance to Section 3.02.03.A.1. Her reason for the application was so that her son could have chickens for emotional support and well-being.

The Planning Board reviewed the application at its November 19, 2019, meeting and by a 7-0 vote decided the following:

- To deny the variance but to approve the request to have the chickens "based on the unique circumstances set forth by the applicant..." (from the minutes of the meeting) The Board also approved the variance application fee (\$407.50) being refunded to Ms. Wildasin.

In December, within the 30 day-period allowed for an appeal, Ms. Pamela Holcombe of 312 A Street appealed the Board's decision to the City Commission. In her notice, she listed the grounds for the appeal:

1. Lack of procedural due process.
2. Failure to apply the correct legal standard to the application.
3. Ms. Wildasin didn't request an accommodation for "equal" use of a dwelling under the federal or state Fair Housing Acts.
4. Ms. Wildasin sought a preferential use denied to non-handicapped individuals.

ATTACHMENTS

Attached for your review is the following information:

- a. Pages D-E, Section 10.02.03 of the Land Development Regulations concerning the limitations on the granting of variances.
- b. Pages 1-26, Ms. Wildasin's application to the Planning Board for the variance.
- c. Pages 27-41, the minutes of the Planning Board's November 19th meeting when it reviewed the application and voted to approve the exception and deny the variance. The minutes of that part of the Board's meeting when the application was presented and discussed are shown on pages 28-33.
- d. Pages 42-56, Ms. Holcombe's appeal of the Board's decision.

ISSUES

There are two: First, the Land Development Regulations don't have any provisions for approving an exception to any of its regulations. A variance is approved or denied in accordance with the standards listed in Section 10.02.03 of the Regulations (pages D and E attached). This states the limitations on the granting of a variance. Section 10.02.03.B lists the seven conditions, which state the justification as to whether a variance is to be granted or denied.

Second, nowhere in the regulations is there a provision for refunding an application fee for a variance.

CONDITIONS GOVERNING APPEALS

Section 12.06.04 of the Land Development Regulations states the requirements when an appeal of a Planning Board decision is made to the City Commission:

“When a decision is appealed to the city commission, the commission shall conduct the hearing in compliance with the following procedures as supplemented where necessary:

A. *Scope of review.*

- 1. The city commission's review shall be limited to the record and applicable law.
 - 2. The commission shall have the authority to review questions of law only, including interpretations of this Code, and any constitution, ordinance, statute, law, or other rule or regulation of binding legal force. For this purpose, an allegation that a decision of the decision-maker is not supported by competent substantial evidence in the record as a whole is deemed to be a question of law. The commission may not reweigh the evidence but must decide only whether any reasonable construction of the evidence supports the decision under review.
- B. The city commission shall find whether in its opinion error was made, and within the terms of this Code affirm, reverse or modify the decision appealed as it deems just and equitable.

- C. Appeals from the decision of the city commission shall be appealed to the circuit court."

Please note concerning the above conditions:

- Your review is to be limited to the record and applicable law, meaning your review is to be limited to Ms. Wildasin's application, the minutes of that part of the Planning Board's November 19th meeting when it denied the variance but granted the exception and whatever law or laws apply to the approval of the exception.
- Your review is also limited to questions of law and interpretations of the Land Development Regulations.
- You are not to reweigh the evidence but are to "decide only whether any reasonable construction of the evidence" supports the Planning Board's decision.
- You are to find whether the Board made an error and whether to support (affirm), reverse (deny), or modify the Board's decision.

SUGGESTED PROCEDURE FOR THE HEARING

It is the following:

1. Have Mr. Law make an initial presentation as to what occurred at the Planning Board's November 19th meeting and why the Building Department advised Ms. Wildasin to apply for a variance.
2. Have the City Attorney explain the process for the appeal hearing, i.e., what you are being asked to do, what the Land Development Regulations prescribes you do when you hear an appeal, and to answer any questions you may have concerning the process.
3. Ms. Holcombe presents her appeal.
4. Ms. Wildasin presents the request she made to the Planning Board for a variance.
5. Public comment
6. Commission discussion and decision

ACTIONS REQUESTED

There are two:

First, that you decide whether to affirm, reverse, or modify the Planning Board's decision to grant an exception.

Second, whether the \$407.50 is to be refunded to Ms. Wildasin, as the Planning Board voted be done.

received, the board shall make the required findings based on the cumulative effect of granting the variance to all who may apply.

B. Required considerations for the granting of a variance. The comprehensive planning and zoning board is authorized to grant a variance arising out of the dimensional, topographical, physical, and environmental conditions of the specific property for which the variance is sought, taking into account whether such conditions constitute a hardship precluding the reasonable use of the property. No variance shall be granted which is in violation of the comprehensive plan of the city. In making the determination, the board shall consider the factors enumerated below. The presence of a single factor shall not warrant either the granting or denial of the application. Instead the board shall weigh each factor as to whether the public health, safety and welfare warrant the granting or denial of the application. The burden of demonstrating factually that the granting of the application is warranted is on the applicant:

1. The nature of the hardship, whether it is as a result of an inability to make reasonable economic use of the property consistent with the provisions of these land development regulations, circumstances in common with other property owners, or personal to the applicant, it being the intent of this provision that an inability to make reasonable economic use of the property acts in favor of the granting of the variance and personal hardship and hardship in common with others act against the granting of the variance.
2. The precedential effect of the variance, it being the intent of this provision that the prior granting of similar variances to persons similarly situated shall act in favor of the granting of the variance and the prior denial of similar variances shall act against to the granting of the variance.
3. Whether the granting of the variance will create a precedent. The creation of a precedent shall act against the granting of the variance.
4. Whether the hardship is self-created; that is, whether the applicant acquired the

Sec. 10.02.03. Limitations on granting variances.

A. Initial determination. The comprehensive planning and zoning board shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be

property following the adoption of the regulation from which the variance is sought or the hardship is as a result of construction or other activities undertaken by the applicant following the adoption of such regulation. Acquisition of the property following the adoption of the regulation shall act against the granting of the variance. Acquisition preceding the adoption of the regulation shall act in favor of the granting of the acquisition.

5. Whether the variance requested is the minimum variance that will permit the reasonable economic use of the property.
6. The effect of the variance on neighboring properties. The absence of an effect on neighboring properties will act in favor of the granting of the application. An adverse impact upon neighboring properties or the immediate neighborhood will act against the granting of the application.
7. Increases in congestion on surrounding streets, increases in the danger of fire or flooding will act against the granting of the application.

C. Conditions and limitations.

1. Except as provided in paragraph C.2., variances shall be nontransferable and granted to the applicant only, and variances shall be commenced within one (1) year from the effective date of the final order granting same.
2. The zoning board may attach the following conditions to any variance:
 - a. The variance is transferable and runs with the land when the facts involved warrant same or where construction or land development is included as part of the variance.
 - b. The time within which the variance commences may be extended for a period of time longer than one (1) year. Failure to exercise a variance by commencement of the use or action approved thereby within one (1) year, or such longer time as approved by the board, renders the

variance invalid, and all rights granted thereunder shall terminate. Transfer of the property by the applicant, unless the variance runs with the land, terminates the variance.

- c. Any other conditions and safeguards it deems necessary or reasonable.
3. The violation of any condition when made a part of the terms under which a variance is granted shall be deemed a violation of this Code.
4. Whenever the zoning board has denied an application for a variance, no further application shall be filed for the same variance on any part or all of the same property for a period one (1) year from the date of such action. If two (2) or more applications for the same variance on any part or all of the same property have been denied, no further application shall be filed for the same variance on any part or all of the same property for a period of two (2) years from the date of such action denying the last application filed.
5. The time limits in paragraph 4. may be waived by the affirmative votes of a majority of a quorum of the zoning board when such action is considered necessary to prevent injustice or to facilitate the proper development of the city.

City of St. Augustine Beach Building and Zoning Department

2200 A1A SOUTH ST. AUGUSTINE BEACH, FLORIDA 32080

WWW.STAUGBCH.COM

BLDG. & ZONING (904) 471-8758 FAX (904) 471-4470

To: Comprehensive Planning & Zoning Board
From: Bonnie Miller, Executive Assistant
CC: Brian Law, Building Official
Date: 11-6-2019
Re: Variance File No. VAR 2019-16

Variance 2019-16 is for a variance to Section 3.02.03.A.1, Prohibited uses, of the City's Land Development Regulations, to allow the keeping of chickens in a backyard chicken coop at 313 A Street.

Section 3.02.03. Prohibited uses.

A. In addition to the uses prohibited under Section 3.02.02 and Table 3.02.02, and other provisions of this Code, the following uses are prohibited:

1. Keeping, breeding, or raising of bees, insects, reptiles, pigs, horses, cattle, goats, hogs or poultry.

The property owner of 313 A Street, Jennifer Grace Wildasin, requests a variance to allow her to keep approximately eight (8) chickens as emotional support animals for her 9-year-son. Documentation is included with the variance application verifying the child's medical condition and learning difficulties. A letter from a doctor with Ascension Medical Group, St. Vincents Primary Care in Jacksonville, who saw the applicant as his patient on October 16, 2019, states the chickens serve as emotional support animals because they help him focus, care and nurture, and that the chickens are important for the child's emotional well-being. The Building and Zoning Department has no objections to the requested variance to allow the applicant to keep the chickens she has in the existing chicken coop in her back yard.

Sincerely,

Bonnie Miller

Bonnie Miller
Executive Assistant
Building and Zoning Department

City of St. Augustine Beach Building and Zoning Department
Variance Application

2200 A1A SOUTH ST. AUGUSTINE BEACH, FLORIDA 32080
WWW.STAUGBEACH.COM BLDG. & ZONING (904) 471-8758 FAX (904) 471-4470

1. Legal description of the parcel for which the variance is being sought:

Lot(s) 14 Block(s) 49 Subdivision 3-30 COQUINA GABLES

Street Address 313 A ST. St Augustine, FL 32080

2. Location (N, S, W, E): — Side of (Street Name): A ST.

3. Is the property seaward of the Coastal Construction Control Line (CCCL)? Yes ☐ No ☒ (Circle one)

4. Real estate parcel identification number: 1713800000

5. Name and address of owner(s) as shown in St. Johns County Public Records:

Jennifer Wildasin

6. Current land use classification: Single Family Residence

7. Land use variance being sought: Prohibited uses / Keeping (8) children

8. Section of land use code from which the variance is being sought: 3.02.03 A1

9. Reasons for which the variance is being sought: SUPPORT ANIMALS on property

For 9 year old Son who has been diagnosed with the

following:

• ATTENTION DEFICIT HYPERACTIVITY DISORDER

• MILD NEUROCOGNITIVE DISORDER DUE TO TBI • FRONTAL LOBE FUNCTIONS

• DYSLLEXIA • SPECIFIC LEARNING DISORDER, READING & MATH

10. Supporting data which should be considered by the Board: 9 year old son has severe

DYSLLEXIA, Son WAS SEVERELY BEATEN AT 3 mos of age
by Biological Father.

****All agents must have notarized written authorization from the property owner(s)****

****Variances shall be recorded prior to issuance of the building/development permit****

**** Please note that if you are a resident within a development or subdivision that has covenants and restrictions, be aware that approval of this application by the Comprehensive Planning and Zoning Board does not constitute approval for variation from the covenants and restrictions.****

Date: October 21, 2019

Variance File #: VAR 2019-16

Applicant's name: Jennifer Grace Wildasin

Applicant's address: 313 A Street, St. Augustine Beach, FL.
32080

For land use variance at: Same as above

Charges

Application Fee: \$400.00 Date Paid: 10-21-2019

Legal Notice Sign: \$7.50 Date Paid: 10-21-2019

Received by: BM

Date: 10-21-2019

Invoice #: I200132

Check #: 271

- 3) Was the property acquired after parts of the current Land Development Regulations (which are relevant to the requested variance) were adopted? Please explain factually.

N/A

- 4) Explain how the variance requested is the minimum variance that will make possible the reasonable use of the land, building or structure.

My Son Cole uses these ANIMALS AS Support For HIS DISABILITIES - SINCE THE START OF THIS Farming Experience, Cole HAS taken Extreme Responsibility with the ANIMALS - See Supporting Documentation

- 5) Explain how the granting of a variance will not alter the character of the neighborhood, diminish property values, or impair the appropriate use or development of adjacent properties.

WE ARE keeping A Small Amount & keep it clean & tidy, this should NOT effect any of the AFOREMENTIONED.

- 6) If the variance were approved, what would be the effects on traffic congestion in nearby streets, danger of fire, and on-site or off-site flooding?

N/A



St. Johns County, FL

Tax Bill

[My Tax Bill](#)

Estimate Taxes

[Tax Estimator](#)

2019 TRIM Notice

[2019 TRIM Notice](#)

2018 TRIM Notice

[2018 TRIM Notice](#)

Summary

Parcel ID	1713800000
Location Address	313 A ST SAINT AUGUSTINE 32080-0000
Neighborhood	Coquina Gables (717)
Tax Description*	3-30 COQUINA GABLES LOT 14 BLK 49 OR4757/1016 *The Description above is not to be used on legal documents.
Property Use Code	Single Family (0100)
Subdivision	Coquina Gables Subdivision No 1
Sec/Twp/Rng	3-8-30
District	City of St Augustine Beach (District 551)
Millage Rate	17.0863
Acreage	0.110
Homestead	N

Owner Information

Owner Name	Wildasin Jennifer Grace 100%
Mailing Address	313 A STREET SAINT AUGUSTINE, FL 32080-0000

Map



**THIS DOCUMENT IS
NOT RECORDABLE**

Prepared by and return to:

Amy Marie Vo, Esq.
St. Johns Law Group
104 Sea Grove Main Street
St. Augustine, FL 32080
(904) 495-0400
File Number: 19-0576

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this **8th** day of **July, 2019** by and between **CWTR Homes, LLC, a Florida Limited Liability Company**, whose post office address is **652 Casa Fuerta Lane, St. Augustine, FL 32080**, grantor, and **Jennifer Grace Wildasin, an unmarried woman**, whose post office address is **313 A Street, St. Augustine, FL 32080**, grantee:

(Whenever used herein the terms "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives, and assigns of individuals, and the successors and assigns of corporations, trusts and trustees)

Witnesseth, that said grantor, for and in consideration of the sum of **TEN AND NO/100 DOLLARS (\$10.00)** and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained, and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in **St. Johns County, Florida** to-wit:

Lot 14, Block 49, Coquina Gables Subdivision No 1., according to the map or plat thereof, as recorded in Map Book 3, Page 30, of the Public Records of St. Johns County, Florida.

Parcel Identification Number: 171380-0000

Subject to taxes for 2020 and subsequent years; covenants, conditions, restrictions, easements, reservations and limitations of record, if any.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.


To Have and to Hold, the same in fee simple forever.

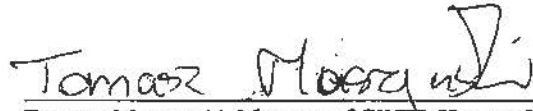
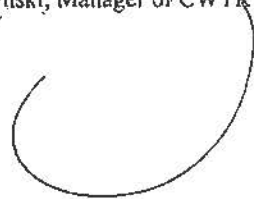
And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances, except taxes accruing subsequent to **December 31, 2018**.

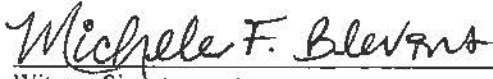
In Witness Whereof, grantor has hereunto set grantor's hand and seal the day and year first above written.

**THIS DOCUMENT IS
NOT RECORDABLE**

Signed, sealed and delivered in the presence of:

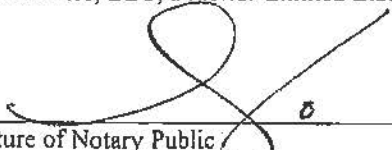

Witness Signature
Print Name: Amy Marie Vo


Tomasz Muszynski, Manager of CWTR Homes, LLC



Witness Signature
Print Name: Michele F. Blevins

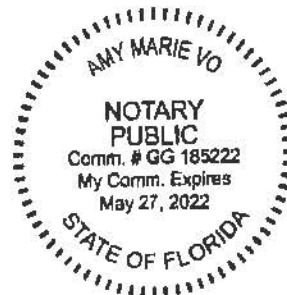
STATE OF FLORIDA
COUNTY OF ST. JOHNS

The foregoing instrument was acknowledged before me this 8 day of July, 2019 by Tomasz Muszynski Manager of CWTR Homes, LLC, a Florida Limited Liability Company, on behalf of the Limited Liability Company.


Signature of Notary Public
Print, Type/Stamp Name of Notary

Personally known: ☒ OR Produced Identification: _____

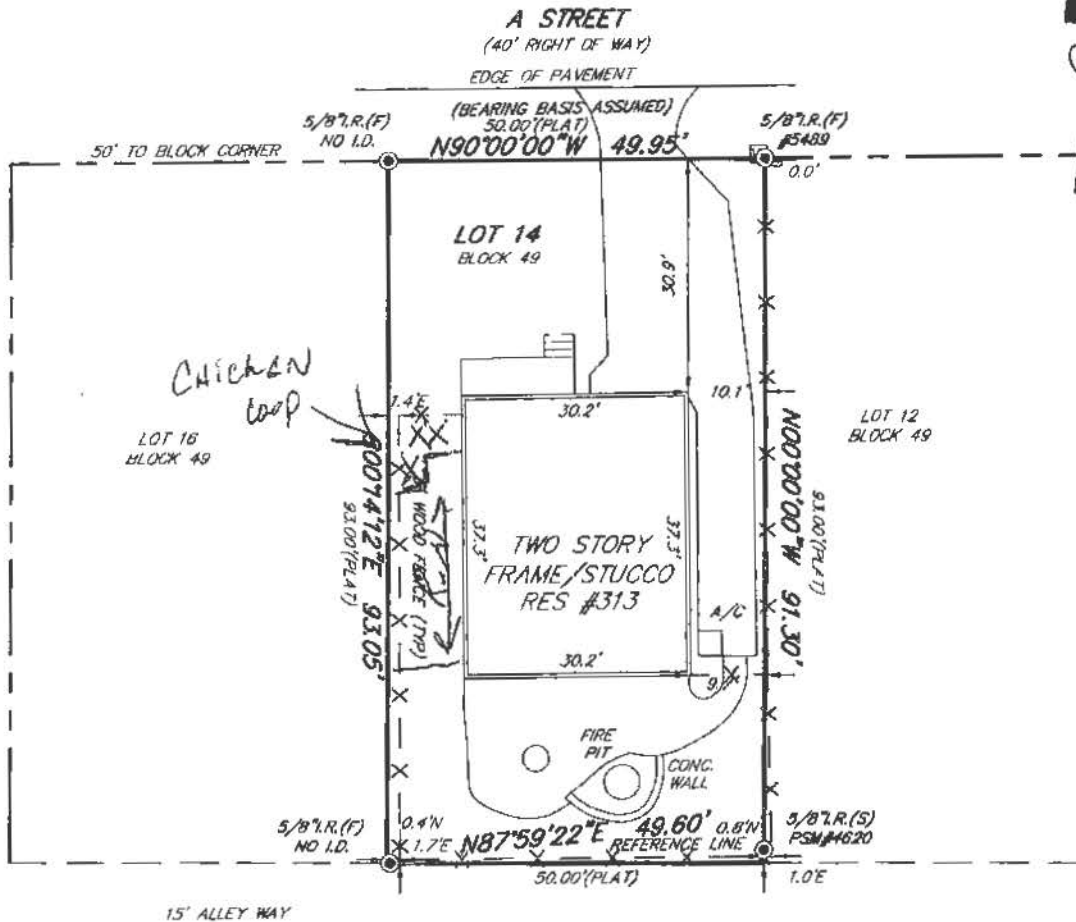
Type of Identification Produced: _____



MAP SHOWING SURVEY OF

LOT 14, BLOCK 49, CORUINA GABLES SUBDIVISION, ACCORDING TO THE MAP ON PLAT THEREOF AS RECORDED IN MAP BOOK 3, PAGE 30, OF THE PUBLIC RECORDS OF ST. JOHN'S COUNTY, FLORIDA.

CERTIFIED TO:
JENNIFER GRACE WILDASH
AMERIS BANK
ST. JOHN'S LAW GROUP
FIDELITY NATIONAL TITLE INSURANCE COMPANY



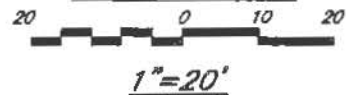
AREA = 0.11 ± ACRES
OR 4,650 ± sq. ft.

LEGEND

A/C - AIR CONDITIONER PAD
ID. - IDENTIFICATION
N.A.V.D. - NORTH AMERICAN VERTICAL DATUM
sq. ft. - SQUARE FEET
I.P.(F) - IRON PIPE FOUND
I.R.(F) - IRON ROD FOUND
I.R.(S) - 5/8" IRON ROD SET (PSM#4620)

RES. - RESIDENCE
C/L - CENTERLINE
± - DENOTES NOT TO SCALE
W - WATER METER
X - EXPOSED CONCRETE
C - COVERED AREA
W - WELL

GRAPHIC SCALE



THIS SURVEY IS PROTECTED BY COPYRIGHT AND IS CERTIFIED ONLY TO THE PARTIES LISTED ABOVE AND ONLY FOR THIS PARTICULAR TRANSACTION. ANY USE OR REPRODUCTION OF THIS SURVEY WITHOUT THE EXPRESS PERMISSION OF THE SURVEYOR IS PROHIBITED. USE OF THIS SURVEY IN ANY SUBSEQUENT TRANSACTION IS NOT AUTHORIZED. THE SURVEYOR EXPRESSLY DISCLAIMS ANY CERTIFICATION TO ANY PARTIES IN FUTURE TRANSACTIONS. NO PERSON OTHER THAN THOSE LISTED SHOULD RELY UPON THIS SURVEY.

GENERAL NOTES:

- Encroachments as shown hereon are only those above ground, visible objects observed by the surveyor.
- No underground structures, utilities or foundations were located or determined by this survey.
- This survey does not reflect or determine ownership.
- This survey made without benefit of an abstract of title. Its right-of-way or easements of record were furnished to this firm except as shown.
- All distances, bearings or angles are as field measured. Used or plot measurements are noted if different.
- The certification of this survey is a professional opinion based on the existing field and documentary evidence available at the time this survey was prepared.
- This office has not abstracted this parcel of land for any recorded claims of title easements or restrictions. This surveyor shall not be held liable for the existence of any such claims.
- The specific rights implied by this survey are not transferable.
- The measurements for this survey were made in accordance with the United States Standards.
- For building setbacks call the appropriate county codes enforcement office.
- Use of this survey for purposes other than that which it was intended, without written verification, will be at the user's sole risk and without liability to the surveyor.
- Nothing herein shall be intended to give any rights or benefits to anyone other than those the survey was prepared for.
- All disputes here under shall be resolved by binding arbitration in accordance with rules set forth by the American Arbitration Association.
- This survey is certified to the field date.
- This surveyor's liability shall not exceed the fee as stated by this surveyor.

NOTES:

- According to the Federal Emergency Management Agency FIRM Map No. 125146-0382J effective date: 12/07/2018, the property described hereon appears to lie in Zone X.
- Basis of bearing structure: BEARING BASIS ASSUMED

JOI NO.	LAST FIELD DATE	SCALE	F.B./PAGE	CHK. BY	DWG. BY
19-0713	07/01/2019	1" = 20'	748/32	N.H.F.	R.J.B.

TYPE: BOUNDARY

©

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NICHOLAS H. FRANKLIN
6170 A1A SOUTH #316
ST. AUGUSTINE, FLORIDA 32086
(904) 471-6877 FAX (904) 471-6878

Not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper. Additions or deletions to survey maps or reports by other than the signing party is prohibited without the written consent of the signing party.

Nicholas H. Franklin

NICHOLAS H. FRANKLIN, P.L.S. #4820
FOR LANDTECH AND ASSOCIATES

Neurology Division - Neuropsychology Clinic
807 Children's Way
Jacksonville, FL 32207

Phone: (904) 697-3600
Fax: (904) 697-3543

CONFIDENTIAL

**THIS REPORT IS NOT TO BE RELEASED WITHOUT THE EXPRESSED
WRITTEN CONSENT OF THE PATIENT OR GUARDIAN**

Name:	Cole Wildasin	Date of Evaluation:	5/31/2019
Date of Birth:	6/11/2010	Date of Feedback:	6/17/2019
Age:	8 years, 11 month(s)	MRN:	31753283
School:	To be determined	Grade:	Rising 3rd

REASON FOR REFERRAL: Cole Wildasin is an 8-year-old male with a history of shaken baby syndrome at 3 months of age, which resulted in significant brain damage. He is currently experiencing significant learning difficulties in the school setting. This referral was requested by his family. An evaluation was requested to further assess all neurocognitive sequelae associated with his brain injury and assist with his educational planning.

EARLY DEVELOPMENTAL HISTORY: Cole was adopted at approximately 3 months of age following an incident of shaken baby syndrome that left him with significant brain damage. His early developmental history prior to this time is unknown. He suffered from significant bilateral acute and chronic subdural hemorrhage, as well as occipital skull fracture. He did develop seizures as a result of this brain injury, which appeared to have resolved over time. He also had 7 fractures throughout his body. He had to remain hospitalized for several weeks. He is currently in good health. He is not taking any medications at this time. His hearing is within normal limits. He does wear prescription glasses for his vision. Given his significant brain injury, there were some mild delays in his early developmental milestones. However, he received early physical, speech and occupational therapy, which aided his development.

EDUCATIONAL HISTORY: Cole does have a history of significant learning difficulties. He has had an individual education plan (IEP) under the classification of traumatic brain injury since first enrolling in school. Cole used to have a 1-on-1 assistant when he attended school in Philadelphia. This service has not been available since relocating to Florida 2 years ago. He has received ongoing language therapy, physical therapy and occupational therapy since early infancy. He attended the 1st grade at Hartley Elementary School in Jacksonville. His mother then transferred him to a private school, Veritas Classical, for the 2nd grade. He is repeating the 2nd grade school year this year. His academic skills remain significantly behind grade and age level. His mother is unsure whether his current private school is an appropriate academic fit given Cole's learning needs. Cole does receive private tutoring twice a week, as well as private speech therapy at least 1-2 times a week. Nonetheless, despite all these extra support services he is still struggling to pass his classes at school. He did undergo a speech and language evaluation through the school district on 10/19/2018. He was administered the Test of Language Development, Primary, 3rd Edition. His results were as follows: Spoken Language Composite = 76; Listening Composite = 82; Organizing Composite = 76; Speaking Composite = 79; Semantics Composite = 83, and; Syntax Composite = 72. These findings were indicative of below average language skills.

FAMILY HISTORY: Cole lives with his mother. He has been in his mother's care since 3 months of age. He is an only child. The family relocated from Philadelphia to Florida approximately 2 years ago. Little information is known regarding his biological family history.

PSYCHOSOCIAL HISTORY: No significant behavioral problems were reported. However, Cole has developed some avoidance behaviors at school. He does tend to give up easily as much of the classwork he is expected to complete is far above his skill level. This has negatively impacted his self-esteem. He does have some difficulty staying focused and paying attention. He needs more one-on-one assistance and supervision to carry out his routines.

TESTS & PROCEDURES 5/31/2019:

Behavior Observations

Review of Available Records

Wechsler Intelligence Scale for Children, 5th Ed. (WISC-5)

Woodcock-Johnson Tests of Academic Achievement, 4th Ed. (WJ-4)

Comprehensive Test of Phonological Processing, 2nd Ed. (CTOPP-2)

Beery Visual Motor Integration Test (VMI-6)

WRAVMA Wide Range Assessment of Visual Motor Abilities

NEPSY-II (Auditory Attention and Response set)

Jordan Left/Right Reversal Test.

Wide Range Assessment of Memory and Learning, 2nd Ed.

Behavior Assessment System for Children, parent, teacher forms

BEHAVIOR DURING TESTING: Cole is a right handed 8 year 11 month old male. He wore his regular prescription glasses. He entered into formal testing willingly, although he appeared depressed and despondent during initial testing with academic achievement tests. Rapport was quickly established and well maintained throughout testing. Eye contact was low initially, although after his first break and when non-academic tests were begun, his eye contact, mood and affect normalized. He often smiled and showed enthusiasm for some activities. He was cooperative, compliant, friendly, and socially appropriate. He is right-handed and used an age appropriate tripod grip. He struggled to blend even very simple 3 letter consonant-vowel-consonant words. When Cole experienced some difficulties with test activities, a brief return to depressed mood was seen, but he quickly returned to normal mood with encouragement and praise. He displayed inattention, distractibility, impulsivity and mild in-seat restlessness. Perseverance and motivation appeared to be satisfactory. Cole's impulsive and inattentive behavior did contribute to occasional errors, such as missing the operands in math calculation items or becoming distracted from task. He needed reminders to continue looking at visual stimuli during memory tasks. In general, these results indicate accurately the current level of functioning in the areas tested.

SUMMARY OF TEST RESULTS AND CONCLUSIONS: Cole Wildasin is an 8-year-old male with a history of shaken baby syndrome at 3 months of age, which resulted in significant brain damage. He is currently experiencing significant learning difficulties in the school setting. This referral was requested by his family. An evaluation was requested to further assess all neurocognitive sequelae associated with his brain injury and assist with his educational planning.

Cole was administered the Wechsler Intelligence Scale for Children - Fifth Edition (WISC-V). His results were as follows: Verbal Comprehension Index = 86, 18th percentile; Visual Spatial Index = 81, 10th percentile; Fluid Reasoning Index = 74, 4th percentile; Working Memory Index = 74, 4th percentile; Processing Speed Index = 83, 13th percentile; Full-Scale IQ = 76, 5th percentile. These findings revealed that Cole's intellectual skills in the domains of verbal comprehension, visual-spatial reasoning, and processing speed were relative strengths and in the low average range. In contrast, his fluid reasoning and working memory skills were relative weaknesses and in the very low range. The findings revealed numerous areas of relative strength that included Cole's bilateral fine motor speed and dexterity, his vocabulary fund, and his verbal memory for both contextual and non-contextual verbal information, which were all within normal limits.

The findings also revealed the following areas of weakness: 1) significant difficulties with staying focused, paying attention, and impulsivity consistent with a diagnosis of attention deficit hyperactivity disorder, combined presentation (ADHD/C); 2) significantly below average reading and math skills consistent with a diagnosis of specific learning disability for both math and reading, and; 3) significant deficits with executive functions

(planning organizational skills) and working memory consistent with a diagnosis of mild neurocognitive disorder due to traumatic brain injury (shaken baby syndrome). Overall, these findings are indicative of a neurocognitive profile consistent with brain damage due to shaken baby syndrome. The neurocognitive domains of attention, planning and organizational skills, and working memory are highly sensitive to traumatic brain injury.

In regard to Cole's academic skills, it should be noted that his reading skills were generally at the kindergarten equivalency level. He demonstrated significant deficits with his phonological awareness, phonological memory and rapid naming skills consistent with a diagnosis of a more moderate to severe dyslexia. He struggled to blend even simple 3 letter consonant-vowel-consonant words. His math skills were a relative strength, but still significantly below grade level expectations. Specifically, his math skills were generally at the first grade equivalency level. In addition to his phonological processing deficits, Cole also struggled with his visual perceptual orientation of written symbols (letter reversals). Given these findings, Cole will need to be in an academic environment that can provide him with highly intensive support and accommodations for his areas of identified need. Furthermore, he would likely benefit from additional specialized intervention to address his severe reading deficits (i.e. private tutoring with a reading specialist trained in working with children with dyslexia). His current academic curriculum will also need to be modified and adjusted to that of his current academic skill level (i.e., his academic skills are generally at the kindergarten to first grade equivalency level at this time). Cole may benefit from placement in a school such as Morning Star given his neurocognitive profile and academic needs. In a public school setting, Cole would definitely need an individual education plan (IEP). It is also recommended that Cole's academic skills be evaluated on a regular basis to monitor his progress and development, and modify his academic intervention and plan as needed. Based on these findings, Cole meets criteria for:

DSM-V: Attention deficit hyper activity disorder, combined presentation
 Mild neurocognitive disorder due to traumatic brain injury
 Specific learning disorder, reading (dyslexia)
 Specific learning disorder, math

ICD-10: Frontal lobe and executive function deficits

RECOMMENDATIONS:

1. Academic Plan and Accommodations for the School Setting:

- Individualized Educational Plan (IEP): Cole should receiving services through an IEP to address his learning needs or equivalent level plan in a private school setting. In general, Cole would benefit from a more structured classroom setting, and increased structure and consistency in routines involving completion of his academic work.
- Cole will need extra academic support for all core subject areas, but particularly in areas that place greater strain on his reading skills, written expression, language needs, as well as his attention and planning and organization difficulties. Cole's academic plan should include regular follow-up testing of his academic skills to monitor his progress and gauge effectiveness of interventions. The data from his regular follow-up testing should be used to tailor and modify his academic plan as needed.
- Extended time: Cole should be given extended time for exams and tests, particularly any timed tests, activities or exercises that place greater strain on his areas of deficit (math, attention and planning and organization skills, written expression and handwriting speed).

Specific accommodations recommended for the classroom setting include:

- Preferential seating
- If possible, work on the most difficult material early in the day.

WILDASIN, COLE (id #201405257, dob: 06/11/2010)



Ascension Medical Group St Vincents Primary Care CR210

Date: 10/16/2019

RE: Cole Wildasin, DOB: 06/11/2010, PT ID #201405257

To Whom It May Concern :

This letter is regarding my patient Cole Wildasin who is a nine years old boy with a history of shaken baby syndrome at 3 months of age which resulted in significant brain damage. He has significant learning disabilities.

Patient is taking care of chickens for a long time and is actually very responsible young boy when it comes to feeding them and cleaning their pen. They serve as his emotional support animals because they help him focus, care and nurture.

I feel that these chickens are important for his emotional well being.

I saw Cole Wildasin in the office today.

Please contact us at 904-450-8120 if you have any questions and our fax number is 904-230-1066.

Sincerely,

A handwritten signature in black ink, appearing to read 'Navneet K. Grewal'.

Electronically Signed by: NAVNEET K GREWAL, MD

Violation Id	Parcel Id	Property Loc	Owner Name	Owner Phone
Owner Address				Owner Email
V2000006	1713800000	313 A ST	WILDASIN, JENNIFER GRACE	(904)495-5854
313 A ST, SAINT AUGUSTINE, FL 32080-0000 USA				cjriney@icloud.com

General:

Violation Date	Status	Status Date	Use Type	User Code	Cust Id	Customer Name	Complaint Name	Complaint Phone	Complaint Email
Tenant Name			Tenant Phone			Tenant Email			Tenant Other
10/23/19	Open		R-2	RES			Heather Hall		

Description:

The complaint was generated by the neighbor just to the south of described property. The contents of the complaint were described as the observation of chickens noted in the yard of the accused with minor noise by the fowl.

An interview was established with the property owner of the chickens relative to an explanation of their possession. It was observed that there were approximately 8 chickens (hens) noted in the side yard in a small enclosed area. The owner (Ms. wildasin) stated that the chickens were transferred from her prior out-of-town home into St. Augustine Beach when she moved into her new home in the City. She further explained that the chickens were utilized as a type of therapy for her disabled child. As she explained, this child suffers from physician-documented traumatic psychological issues relative to past experiences. The complete etiology of the signs and symptoms are unknown by this officer and were not fully explained in detail.

Information was relayed to Ms. Wildasin relative to the SAB City Code. It was explained that the Code language is clear, that fowl are not allowed within the SAB City Limits. Ms. Wildasin asked if there was another option relative to possessing the chickens, to which she was told a variance was possible and staff would further advise her about the variance process.

A conversation was re-established with Ms. Wildasin. Information was relayed to her concerning application for a variance relative to the scenario in question. The application has been submitted and the hearing is scheduled for the next regular monthly meeting of the Planning and Zoning Board, which is Tuesday, November 19, 2019.

Conditions:

Ordinances:

Ordinance Id	Description	Compliance Deadline
SEC. 3.02.03	Sec. 3.02.03. - Prohibited uses.	

A.

In addition to the uses prohibited under section 3.02.02 and Table 3.02.02, and other provisions of this Code, the following uses are prohibited:

1.

Keeping, breeding, or raising of bees, insects, reptiles, pigs, horses, cattle, goats, hogs, or poultry.

Activities:

Ordinance Id	Activity Type	Inspector	Date	Start Time	End Time	Status
SEC. 3.02.03	CE-MONITORING	BILL	10/01/19	11:30	12:00	Open

Comment: Awaiting disposition of Planning and Zoning Board to rule on the application for a variance.

Notes:

Created	Modified	Note
10/23/19	10/23/19	Awaiting disposition of the variance application. TBA

**Pamela M.M. Holcombe
312 A Street
St. Augustine Beach, Florida 32080**

November 19, 2019
Via email and hand delivery

Planning and Zoning Board
City of St. Augustine Beach
2200 SR AIA South
St. Augustine, FL 32080

RE: Variance File No. V 2019 -16

Dear Planning and Zoning Board members:

I write with regards to the application for a variance scheduled for tonight's agenda regarding the keeping of chickens at 313 A Street, Variance File No. V 2019 -16. Please be assured that writing this letter gives me no pleasure as a both a lifelong animal lover and current member of the Florida Bar Companion Animal committee. Unfortunately, I must register my objection to the proposed variance regarding the keeping of eight chickens at 313 A Street.

The reasons for the objection are numerous, including the public health hazard of creating a human avian vector for the transmission of communicable diseases, the public health hazard of increased rodent and poisonous snakes drawn to the keeping of backyard chickens and sanitation issues related to the chicken feces and the nuisance value of the odor and noise caused by eight chickens and impact on property values.

The reasons for the City of St. Augustine Beach's prohibition on the keeping of livestock seem self-evident. The City has a relatively densely population and permits very small lots for single family homes where neighbors live closely side by side and by definition such areas are inappropriate for the keeping of livestock. In the case of 313 A Street, this appx 50 x 100' foot block is surrounded by five immediately adjoining or abutting properties who would be subject to greatly increased noise and odor from the proposed flock of chickens.

The keeping of backyard chickens creates a vector between wild birds, domesticated fowl and humans which allows the transmission of highly contagious and potentially deadly diseases which are prevalent in Florida. In support of the human avian vector for disease transmission, I attach herewith the with University of Florida IFAS Extension publication titled Avian Diseases Transmissible to Humans. As noted in the publication, Florida is susceptible to many varieties of dangerous and deadly mosquito borne diseases such as encephalitis, including the West Nile virus and Avian flu.

The keeping of backyard chickens, eggs, and feces creates a well-known attraction for rodents at poisonous snakes and other vermin and dangerous wildlife to a densely populated urban residential area. Unfortunately, where we reside there is the possibility for many varieties of poisons rattlesnakes, cottonmouth, copperhead, coral snakes., other prevalent poisonous varieties of snakes. The public health hazard of rodents attacked buy chicken feces and odor are also a concern as well as the public health risks of the chicken feces themselves such as salmonella and tuberculosis.

Again, the nuisance value of the keeping of eight chickens which defecate approximately 70 to 80 times per day per chicken and the smell of their feces will impact upon neighbors' property values and their peaceful enjoyment of their property this is also true for the impact of the noise of chickens which can reach approximately 60 decibels per chicken and be louder with a group of chickens.

As a final note, I have been only recently made aware that the basis for the variance is the claim that these eight chickens will be serving as emotional support animals. This information was not included in the public notice provided to me at my residence and I would request that if the committee is not inclined to deny the variance request, that the matter be put over to the next meeting to allow time to respond to the emotional support animal issue.

As a threshold matter, the application for variance based on a request for emotional support animal accommodation does meet, or even address, the applicant's burden of proving that the applicant requested requires accommodation does not place an undue burden on the city or how applicant's interest outweighs the City's interest in protecting its citizens. See *Buaghman v City of Elkhart*, TX 2018 WL 1510678 (E.D Tex. 2018) The question of whether a city ordinance is against the keeping of livestock is susceptible to the federal Fair Housing Act requirements in is very fact specific and is related to the particular animal for which the emotional support accommodation is requested. The information provided in the variance request provides no information as to the specific animals for whom the emotional support documentation is being provided. I cannot provide caselaw citation on this issue without a review of the actual prescription from the position I am unable to formulate a comprehensive response which would address the request. Based upon my understanding, there has been no prescription for any particular chicken to serve as a support animal, which in itself is facially deficient basis for a request for accommodation. Furthermore, under the FHA any emotional support animal must directly relate to the applicant's ability to use and enjoy the property. While the activity of caring for chickens may be helpful to the child's ability to concentrate or complete tasks, this does not appear to have any relation to the child's ability to use or enjoy the dwelling unit as it is currently situated. As a final note, there is a substantial question of whether animals which are not kept in the home would qualify as emotional support animals, but again I cannot address this issue based upon limited information available to me with this variance application.

The city does have the ability to question the authenticity and reasonableness of the application for the emotional support animal. Unfortunately, where a prescription for an emotional support animal is generated after the issuance of the violation, the question of the good faith basis for the application is in question and I would urge the city to use all due diligence to thoroughly investigate this request and provide additional time for public comment on the issue.

Thank you for your courtesy in and attention to this matter and please do not hesitate to contact me with any questions or concerns.

Very truly yours,



Pamela M.M. Holcombe

Cc: City Manager

Avian Diseases Transmissible to Humans¹

Michael A. Davis, Gary D. Butcher, and F. Ben Mather²

Introduction

Anyone who keeps birds, whether as pets or as production animals, should be aware that certain avian diseases are *zoonotic*, that is, they can be transmitted to humans. People rarely catch avian diseases and should not be discouraged from keeping birds because avian diseases do not pose a serious threat to most people. Bird owners should be aware of zoonotic diseases, however, and should certainly seek medical assistance if they suspect they may have contracted a disease from a bird.

Diseases that infect both animals and humans are called *zoonoses*. The infectious agents can be bacterial, fungal, protozoal, or viral. The seriousness of the disease in humans varies with human hosts' age, overall health, and immune status (immunodeficient or immunosuppressed people experience more severe disease). The severity of the disease in humans is also affected by the virulence of the organism, the infective dose, and the route of infection. The effect of these diseases on the commercial poultry industry in Florida is minimal, but because there are many small flock owners within the state, these owners should be aware of these zoonoses.

Chlamydiosis, salmonellosis, avian influenza, eastern equine encephalitis (EEE), and avian tuberculosis infections may be serious or life-threatening.



Figure 1.
Credits: UF/IFAS

Avian Influenza (Bird Flu)

Avian Influenza (AI) receives a lot of attention in the media because of its virulence in birds. The main strain of concern in humans continues to be Highly Pathogenic Avian Influenza (HPAI) H5N1. More than 700 infections have been reported to the World Health Organization (WHO) since November 2003 (<http://www.cdc.gov/flu/avianflu/h5n1-people.htm>). These infections have occurred in Asia, Africa, the Pacific, Europe, and the Near East. The first reported case of human infection with HPAI H5N1 in the Americas was in 2014 and occurred in a traveler who had recently returned from China. There have been no reported cases that originated in the United States. In cases where evidence is present, humans who have contracted

1. This document is PS23, one of a series of the Animal Sciences Department, UF/IFAS Extension. Original publication date August 1997. Revised August 2015. Reviewed December 2018. Visit the EDIS website at <https://edis.ifas.ufl.edu> for the currently supported version of this publication.
2. Michael A. Davis, director, UF/IFAS Extension Baker County; Gary D. Butcher, professor and avian diseases Extension specialist, College of Veterinary Medicine; and F. Ben Mather, associate professor emeritus and poultry Extension specialist, Animal Sciences Department; UF/IFAS Extension, Gainesville, FL 32611.

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avian influenza have been in areas where there is constant close contact between birds and humans or in cases where the humans were exposed to infected bird secretions. It is important to note that poultry that originate from areas of the world where the virus is common are not allowed to enter the United States legally. All commercial poultry that enter Florida from other states are required to have an entry permit and come from influenza-free flocks.

The incubation period for H5N1 in humans is believed to be from 3 to 7 days followed by a rapid onset of viral pneumonia. Other typical flu-like symptoms include fever, sore throat, muscle aches, cough, chest pain, lethargy, vomiting, and diarrhea. The rate of death in humans with this virus is over 40%; however, the disease is extremely rare in humans, and this strain is not present in the United States.

Chlamydiosis

Chlamydophila psittaci is a bacterial organism that occurs worldwide and affects more than 100 avian species. The disease is also referred to as parrot fever when it occurs in psittacine birds (psittacine refers to parrot-like birds). It is referred to as ornithosis in other birds.

Chlamydiosis is primarily transmitted by the inhalation of contaminated fecal dust and is spread by carrier birds that act as the main reservoir for the disease. The organism is secreted in both the feces and nasal secretions. The carrier state can persist for years. *C. psittaci* can survive drying, which allows it to be transmitted on contaminated clothing and equipment. It can also be transmitted from bird to bird, from feces to bird, and from bird to human. Human-to-human transmission can occur as well, mainly by exposure to infected saliva. Infection in humans is extremely rare and is often misdiagnosed.

Treatment for *C. psittaci* usually consists of tetracycline or macrolides in both humans and birds, although the treatment span may be different. Tetracycline is not recommended for children or pregnant women. In Florida, chlamydiosis is a reportable zoonotic disease for both health and livestock officials. This means that if a case of the disease is confirmed then this information must be reported to the Florida Department of Agriculture and Consumer Services.

Additional information about the disease can be found at: <http://www.cdc.gov/pneumonia/atypical/psittacosis.html>

Salmonellosis

To date, more than 2500 different serotypes of *Salmonella* have been recognized. *Salmonella* bacteria are widespread in the environment and are associated with animals including birds, reptiles, mammals, and amphibians (typically in the gastrointestinal tract). Although *Salmonella* bacteria are very common, actual disease is rare because most strains are not pathogenic. Fewer than 15 serotypes are responsible for the majority of human infections. Common clinical symptoms in all species include diarrhea, vomiting, and a low-grade fever. Other symptoms include dehydration, weakness, septicemia, and headaches. The incubation period for salmonellosis varies between 6 and 72 hours, although most cases have an incubation period of 12 to 36 hours. *Salmonella* bacteria are typically transmitted via the fecal-oral route, usually via improperly cooked food that has been contaminated with feces.

Most cases of salmonellosis are mild and do not require the administration of antibiotics or other drugs. Resting and drinking plenty of water will usually clear the infection within a few days. In cases where a pathogenic strain of *Salmonella* has infected a human and is causing clinical disease, antibiotics can be administered. Some strains of *Salmonella* have developed resistance to some antibiotics.

Additional information on *Salmonella* and serotypes of the organism can be found at <http://www.cdc.gov/salmonella/> and <http://www.cdc.gov/salmonella/reportspubs/salmonella-atlas/serotyping-importance.html>

Colibacillosis

Colibacillosis is caused by an *Escherichia coli* infection. Like *Salmonella*, *E. coli* are found in the intestinal tract and on the skin of animals and are part of the normal bacterial flora. *E. coli* strains vary considerably in their ability to cause disease. Many strains are not pathogenic, but some can cause disease. Eating food that has been contaminated with a virulent strain can result in severe illness. In poultry, most *E. coli* infections are a result of complications and the *E. coli* are considered opportunistic agents. In poultry, *E. coli* may cause septicemia, chronic respiratory disease, synovitis, pericarditis, infectious cellulitis, and salpingitis. Humans with *E. coli* infection usually present with diarrhea and a possible fever. Complications for less common types of *E. coli* infection include dysentery, shock, and purpura (purple rash).

The incubation period is 12 hours to 5 days, although most cases will develop within 12 to 72 hours. Treatment of most cases of *E. coli* involves treating the diarrhea and dehydration that can occur. More severe cases may require the use of antibiotics or other drugs and hospitalization. Antibiotic resistance is a major problem when treating *E. coli* infections.

Additional information about colibacillosis in poultry can be found at: http://www.merckvetmanual.com/rvm/poultry/colibacillosis/overview_of_colibacillosis_in_poultry.html

Encephalitis Viruses

Viruses that cause encephalitis, such as Eastern Equine Encephalitis, St. Louis Encephalitis, or West Nile, are all present in wild bird populations within Florida. These viruses are mosquito-borne, with passerine birds (song birds such as swallows, starlings, jays, and finches) serving as the most common reservoir. They are transmitted to humans and other animals via mosquitos that have previously taken a blood meal from an infected animal. These types of viruses are not transmitted from person to person or from the consumption of chicken meat or eggs.

Many people may be bitten each year by a mosquito that is carrying encephalitis virus, but not everyone who is bitten will become sick. These viruses typically cause clinical disease only in vulnerable people—usually children younger than 15 years of age and adults over 50 years of age. Most epidemics of encephalitis viruses occur between late August and the first frost of the season, but in areas with a year-round mosquito season, cases may occur at any time of the year. Symptoms of encephalitis viruses include high fever, headache, vomiting, lethargy, joint stiffness (especially of the neck), convulsions, tremors, and coma.

The Florida Department of Health and many other mosquito-control districts around the state use adult chickens to monitor for these viruses. These “sentinel chickens” are housed in coops that are very similar to those that would be used by owners of backyard flocks. When bitten by a carrier mosquito, the chickens do not develop the disease, but they will produce antibodies to the virus. By routinely testing for the presence of antibodies, health officials can determine the significance of the virus in an area. The encephalitis viruses are all considered reportable animal diseases to the Florida Department of Agriculture and Consumer Services.

Additional information about encephalitis viruses can be found at: Eastern Equine Encephalitis: <http://www.cdc.gov/EasternEquineEncephalitis/>, St. Louis Encephalitis: <http://www.cdc.gov/sle/>, and West Nile Virus: <http://www.cdc.gov/westnile/>

Avian Tuberculosis

Avian tuberculosis is caused by the bacterium *Mycobacterium avium*. This bacterium is closely related to the bacteria that cause human and bovine tuberculosis. In bird species, *M. avium* causes a chronic debilitating disease with tubercular nodes. In humans, infection with *M. avium* will typically cause local wound infections with swelling of lymph nodes in the region of the infection. Infection with this bacterium is extremely rare and is of most risk in severely immunocompromised individuals.

Infection in humans is caused by ingestion of food or water that has been contaminated with feces from infected birds (called “shedders”). Most *Mycobacterium* infections are treatable with antibiotics, but *Mycobacterium avium*, highly resistant to antibiotics, is the exception. Surgical excision of infected lymph nodes is often necessary to eliminate the infection. Poultry flocks with this disease must be euthanized because no treatment is available. Fortunately, *M. avium* is not found in the commercial poultry industry today, but rare cases are found in small flocks where birds are held for several years.

Additional information about avian tuberculosis in humans can be found at: <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC1830337/>

Newcastle Disease

Newcastle Disease is a serious respiratory disease in poultry that is caused by a paramyxovirus. In poultry, the disease is highly contagious, and the highly pathogenic form, termed velogenic, can kill entire flocks of wild and domesticated birds. The velogenic form is not found in the poultry industry in the United States, but it is common in many other countries. This paramyxovirus can also infect humans, although the disease presentation is very different in humans as compared to poultry. In humans, after initial exposure the paramyxovirus causes a mild and localized infection in the eye called conjunctivitis. The conjunctivitis tends to last from 5 to 10 days and resolves completely without treatment. Typical symptoms include slight discomfort because of the localized swelling, and a “bloodshot” look in the eyes. Conjunctivitis caused by this paramyxovirus is so mild that people infected with it may

not even realize that they have the condition. Topical eye drops and ointments are available to reduce any discomfort and inflammation.

People are most at risk of contracting this disease when

- administering live-virus vaccines to birds,
- performing post-mortem examinations on actively infected birds, and
- working in a lab to isolate and concentrate the virus for study.

Additional information about Newcastle Disease can be found at: <http://www.inspection.gc.ca/animals/terrestrial-animals/diseases/reportable/nd/fact-sheet/eng/1330202454619/1330202602677>

Cryptosporidiosis

Cryptosporidiosis is caused by a protozoan of the genus *Cryptosporidium*. In poultry such as chickens and turkeys, the disease may cause respiratory illness, but it can also result in gastroenteritis and diarrhea. Cryptosporidiosis in humans is associated with abdominal pain, nausea, and watery diarrhea that will typically persist for 3 to 4 days. In immunocompromised individuals, the disease can cause persistent, severe diarrhea with associated malabsorption of nutrients and weight loss.

The disease is spread by the ingestion of protozoal oocysts, typically by the fecal-oral route. There is an incubation period that lasts from 3 to 7 days. This protozoan is related to other protozoal species that cause coccidiosis; however, anticoccidial drugs are not effective against *Cryptosporidium*.

Additional information about *Cryptosporidium* can be found at: http://www.merckvetmanual.com/nvm/poultry/cryptosporidiosis/overview_of_cryptosporidiosis_in_poultry.html

Conclusion

People who keep poultry or other birds should be aware that some avian diseases can be passed to humans. Although it does not happen often and the probability of catching an avian disease is low, people who keep birds and especially people who have underdeveloped immune systems or whose immune systems are weakened by illness or age should take common-sense precautions when handling or managing birds. The following practices will

help to reduce the probability of contracting disease from birds:

- Practice biosecurity for your flock.
 - Additional information on biosecurity can be found at: <http://healthybirds.aphis.usda.gov/>
- If you suspect that one of your birds is ill, make sure to get it checked by a veterinarian.
- Avoid contact with the feces or fluids of birds unless you are wearing the proper protective gear.
- Wash your hands thoroughly with soap and water after handling any bird.
 - If soap and water are not available, use hand sanitizer or alcohol-based wipes.
- Do not allow children to nuzzle or kiss poultry—including baby chicks.



St. Johns County, FL

Parcel Results

49 Results

Parcel ID	Owner	Property Address	Legal Description	Map
1641710001	SEA OAKS		13/73-74 SEA OAKS ROWS	Map
1641710010	BEAUVAIS MARK	308 A ST	13/73-74 SEA OAKS LOT 1	Map
1641710020	AYCOCK JENNY JO SPIVEY	310 A ST	13/73-74 SEA OAKS LOT 2	Map
1641710030	HOLCOMBE WILLIAM F,PAMELA HOLCOMBE PAMELA	312 A ST	13/73-74 SEA OAKS LOT 3 BLK 1	Map
1641710050	VAN ORMER WILLIAM A JR,MARGARET E VAN ORMER MARGARET E	2 SEA OAKS DR	13/73-74 SEA OAKS LOT 4 & 5	Map
1641710060	STEVENS CATHERINE C,G SEFTON ETAL STEVENS G SEFTON STOKES MATTHEW STRIDER,SHANNON STEVENS STOKES SHANNON STEVENS	20 OCEAN PINES DR	13/73-74 SEA OAKS LOT 6	Map
1641710070	RY TY ONE LLC	22 OCEAN PINES DR	13/73-74 SEA OAKS LOT 7	Map
1641710080	TREDIK DOMINIQUE M,WILLIAM J TREDIK WILLIAM J	24 OCEAN PINES DR	13/73-74 SEA OAKS LOT 8	Map
1641/10090	KRUEGER HOLLY M	26 OCEAN PINES DR	13/73-74 SEA OAKS LOT 9	Map
1641720010	MERCADO ERWIN IRA ETAL MERCADO ERWIN	1 SEA OAKS DR	13/73-74 SEA OAKS LOT 1	Map
1641720030	KELLEY CHRISTOPHER M,KARAL KELLEY KARAL	5 SEA OAKS DR	13/73-74 SEA OAKS LOT 3	Map
1642700000	SLOAN CLAIRE M *** BLASS-HIROSE HILLARY ANN	428 A ST	19 S200 OF W170FT OF LOT 10	Map
1700400001	COQUINA GABLES SUBDIVISION NO 1		3/30 COQUINA GABLES	Map
1713001000	MC LEAN DANIEL,ALLISON MC LEAN ALLISON	302 B ST	3-30 COQUINA GABLES LOT 1 BLK	Map
1713100000	CONNAWAY CHARLES E *** CONNAWAY RICHARD E CONNAWAY ROBERT W	308 B ST	3-30 COQUINA GABLES LOTS 5 & 7	Map
1713200000	CURRAN LISA A	301 A ST	3-30 COQUINA GABLES LOT 2 BLK	Map
1713300000	GRAY JOHN OWEN JR ETAL ZEE HILLY	304 B ST	3-30 COQUINA GABLES LOT 3 BLK 49	Map
1713400000	SEW KOOL RENTALS LLC	303 A ST	3-30 COQUINA GABLES LOT 4 BLK 49	Map
1713500000	COLLINS JASON,LAURIE COLLINS LAURIE	307 A ST	3-30 COQUINA GABLES LOT 6 & 8	Map
1713600000	LITTLE WILLIAM J,REGINA M LITTLE REGINA M	310 B ST	3-30 COQUINA GABLES LOT 9	Map
1713600100	STELLA & BEACH LIMITED LIABILITY COMPANY	309 A ST	3-30 COQUINA GABLES BLK 49	Map
1713600110	STILIP MARTIN ETAL HALL HEATHER	312 B ST	3-30 COQUINA GABLES LOT 11	Map
1713700000	LOWERY PHILLIP B SHELLEY B LOWERY SHELLEY B	311 A ST	3-30 COQUINA GABLES BLK 49	Map
1713700130	904 VENTURES LLC	316 B ST	3-30 COQUINA GABLES LOTS 13 &	Map
1713800000	WILDASIN JENNIFER GRACE	313 A ST	3-30 COQUINA GABLES LOT 14 BLK	Map
1714000000	O'BRIEN HUGH ETAL DAVERN ELLEN J	315 A ST	3-30 COQUINA GABLES LOT 16 BLK	Map
1714200000	JONES ROGER S,KIMBERLY R JONES KIMBERLY R	301 B ST	3-30 COQUINA GABLES LOT 2 BLK	Map
1714400000	HOTZ PETER ET AL DELANDY-HOTZ MARTHA E	303 B ST	3-30 COQUINA GABLES LOT 4	Map
1714400050	DEMARTINI ANNE LEAR	306 C ST	3-30 COQUINA GABLES LOT 5 BLK	Map
1714400060	HOTZ PETER,MARTHA DELANEY	305 B ST	3-30 COQUINA GABLES LOT 6	Map



St. Johns County, FL

Parcel Results

49 Results

Parcel ID	Owner	Property Address	Legal Description	Map
1641710001	SEA OAKS		13/73-74 SEA OAKS ROWS	Map
1641710010	BEAUVAIS MARK	308 A ST	13/73-74 SEA OAKS LOT 1	Map
1641710020	AYCOCK JENNY JO SPIVEY	310 A ST	13/73-74 SEA OAKS LOT 2	Map
1641710030	HOLCOMBE WILLIAM F,PAMELA HOLCOMBE PAMELA	312 A ST	13/73-74 SEA OAKS LOT 3 BLK 1	Map
1641710050	VAN ORMER WILLIAM A JR,MARGARET E VAN ORMER MARGARET E	2 SEA OAKS DR	13/73-74 SEA OAKS LOT 4 & 5	Map
1641710060	STEVENS CATHERINE C,G SEFTON ETAL STEVENS G SEFTON STOKES MATTHEW STRIDER,SHANNON STEVENS STOKES SHANNON STEVENS	20 OCEAN PINES DR	13/73-74 SEA OAKS LOT 6	Map
1641710070	RY TY ONE LLC	22 OCEAN PINES DR	13/73-74 SEA OAKS LOT 7	Map
1641710080	TREDIK DOMINIQUE M,WILLIAM J TREDIK WILLIAM J	24 OCEAN PINES DR	13/73-74 SEA OAKS LOT 8	Map
1641710090	KRUEGER HOLLY M	26 OCEAN PINES DR	13/73-74 SEA OAKS LOT 9	Map
1641720010	MERCADO ERWIN IRA ETAL MERCADO ERWIN	1 SEA OAKS DR	13/73-74 SEA OAKS LOT 1	Map
1641720030	KELLEY CHRISTOPHER M,KARA L KELLEY KARA L	5 SEA OAKS DR	13/73-74 SEA OAKS LOT 3	Map
1642700000	SLOAN CLAIRE M *** BLASS-HIROSE HILLARY ANN	428 A ST	19 S200 OF W170FT OF LOT 10	Map
1700400001	COQUINA GABLES SUBDIVISION NO 1		3/30 COQUINA GABLES	Map
1713001000	MC LEAN DANIEL,ALLISON MCLEAN ALLISON	302 B ST	3-30 COQUINA GABLES LOT 1 BLK	Map
1713100000	CONNAWAY CHARLES E *** CONNAWAY RICHARD E CONNAWAY ROBERT W	308 B ST	3-30 COQUINA GABLES LOTS 5 & 7	Map
1713200000	CURRAN LISA A	301 A ST	3-30 COQUINA GABLES LOT 2 BLK	Map
1713300000	GRAY JOHN OWEN JR ETAL ZEE HILLY	304 B ST	3-30 COQUINA GABLES LOT 3 BLK 49	Map
1713400000	SEW KOOL RENTALS LLC	303 A ST	3-30 COQUINA GABLES LOT 4 BLK 49	Map
1713500000	COLLINS JASON,LAURIE COLLINS LAURIE	307 A ST	3-30 COQUINA GABLES LOT 6 & 8	Map
1713600000	LITTLE WILLIAM J,REGINA M LITTLE REGINA M	310 B ST	3-30 COQUINA GABLES LOT 9	Map
1713600100	STELLA & BEACH LIMITED LIABILITY COMPANY	309 A ST	3-30 COQUINA GABLES BLK 49	Map
1713600110	STILIP MARTIN ETAL HALL HEATHER	312 B ST	3-30 COQUINA GABLES LOT 11	Map
1713700000	LOWERY PHILLIP B,SHELLEY B LOWERY SHELLEY B	311 A ST	3-30 COQUINA GABLES BLK 49	Map
1713700130	904 VENTURES LLC	316 B ST	3-30 COQUINA GABLES LOTS 13 &	Map
1713800000	WILDASIN JENNIFER GRACE	313 A ST	3-30 COQUINA GABLES LOT 14 BLK	Map
1714000000	O'BRIEN HUGH ETAL DAVERN ELLEN J	315 A ST	3-30 COQUINA GABLES LOT 16 BLK	Map
1714200000	JONES ROGER S,KIMBERLY R JONES KIMBERLY R	301 B ST	3-30 COQUINA GABLES LOT 2 BLK	Map
1714400000	HOTZ PETER ET AL DELANDY-HOTZ MARTHA E	303 B ST	3-30 COQUINA GABLES LOT 4	Map
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CITY OF ST. AUGUSTINE BEACH
2200 A1A South
St. Augustine, FL 32080

INVOICE #

I2000132

INVOICE DATE: 10/21/19

DUE DATE: 11/20/19

ACCOUNT ID: O-000085 PIN: 468497

WILDASIN, JENNIFER GRACE
313 A ST
SAINT AUGUSTINE, FL 32080-0000
USA

PERMIT INFORMATION

APPLICATION ID: 1085

LOCATION: 313 A ST

OWNER: WILDASIN, JENNIFER GRACE

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
		Permit App Id: 1085		
1.0000	PZ ADVER	Advertising Sign zoning Permit App Id: 1085	7.500000	7.50
1.0000	PZ VARIA	Application for Variance Permit App Id: 1085	400.000000	400.00
			TOTAL DUE:	\$ 407.50

PAYMENT COUPON - PLEASE DETACH AND RETURN THIS PORTION ALONG WITH YOUR PAYMENT

CITY OF ST. AUGUSTINE BEACH
2200 A1A South
St. Augustine, FL 32080

INVOICE #: I2000132
DESCRIPTION: Permit App Id: 1085
ACCOUNT ID: O-000085 PIN: 468497
DUE DATE: 11/20/19
TOTAL DUE: \$ 407.50

WILDASIN, JENNIFER GRACE
313 A ST
SAINT AUGUSTINE, FL 32080-0000
USA



CITY OF ST. AUGUSTINE BEACH

Date: 10/21/2019 Time: 04:37 PM

Invoice Payment

Customer: O-000085

Name: WILDASIN, JENNIFER GRACE

Invoice: I2000132

Permit App Id: 1085

Item 1	7.50
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Advertising sign zoning	
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Item 2	400.00
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Application for variance	
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407.50

Chk#: 271

Batch Id: BM102119

Ref Num: 628 Seq: 3 to 4

Cash Amount:	0.00
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Check Amount:	407.50
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Credit Amount:	0.00
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Total:	407.50
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Thank You for your payment!

**NOTICE OF PUBLIC HEARING
APPLICATION FOR LAND USE VARIANCE FILE NO. VAR 2019-16**

The Comprehensive Planning and Zoning Board of the City of St. Augustine Beach will meet Tuesday, November 19, 2019, at 6:00 p.m. at City Hall, 2200 State Road A1A South, St. Augustine Beach, Florida, 32080, to consider the application of Jennifer Grace Wildasin, St. Augustine Beach, Florida, PERTAINING TO LOT 14, BLOCK 49, COQUINA GABLES SUBDIVISION, AKA 313 A STREET, PARCEL IDENTIFICATION NUMBER 1713800000, SECTION 3, TOWNSHIP 8, RANGE 30, AS RECORDED IN MAP BOOK 3, PAGE 30, OF THE PUBLIC RECORDS OF ST. JOHNS COUNTY, FLORIDA, for a variance to Section 3.02.03.A.1, Prohibited uses, of the City of St. Augustine Beach Land Development Regulations, to allow the keeping of eight (8) chickens in a back yard chicken coop on the premises of an existing single-family residence in a medium-low density residential land use district at 313 A Street, St. Augustine Beach, Florida, 32080.

Persons interested may appear and be heard at the time and place specified. If any person decides to appeal any decision made by the Board with respect to any matter considered in the hearing, he or she will need a record of the proceedings, and for such purpose, may need to ensure a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

Jane West, Chairperson



MINUTES

PLANNING AND ZONING BOARD MEETING

TUESDAY, NOVEMBER 19, 2019, 6:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A SOUTH, ST. AUGUSTINE BEACH, FLORIDA 32080

I. CALL TO ORDER

Chairperson Jane West called the meeting to order at 6:00 p.m.

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

BOARD MEMBERS PRESENT: Chairperson Jane West, Vice-Chairperson Elise Sloan, Kevin Kincaid, Hester Longstreet, Steve Mitherz, Berta Odom, Chris Pranis, Senior Alternate Dennis King.

BOARD MEMBERS ABSENT: None.

STAFF PRESENT: Building Official Brian Law, Jeremiah Mulligan, substituting for City Attorney James Wilson, Recording Secretary Lacey Pierotti, Executive Assistant Bonnie Miller.

IV. APPROVAL OF MINUTES OF PLANNING AND ZONING BOARD MEETING OF OCTOBER 15, 2019

Motion: to approve the minutes of the October 15, 2019 meeting. **Moved** by Ms. Odom, **seconded** by Mr. Mitherz, **passed 7-0** by unanimous voice-vote.

V. PUBLIC COMMENT

There was no public comment.

VI. NEW BUSINESS

- A. Request for flexible setbacks to move proposed new construction of a single-family residence forward 7.5 feet to allow a 17.5-foot front yard setback and a 32.5-foot minimum rear yard setback, for a total of 50 feet for combined front and rear yard setbacks, to save trees, and request to remove a 36-inch diameter-at-breast-height (DBH) oak tree in the proposed building footprint on Lot 16, Block B, Ocean Walk Unit II Subdivision, at 47 Lee Drive, Kyle and Tammy Larson, Applicants

Ms. Miller said this is a request for flexible setbacks per Section 6.01.03.A.3 of the City's Land Development Regulations (LDRs), which allows flexible setbacks to save trees. The property owners are asking to move the house they want to build forward 7.5 feet so it will have a 17.5-foot front yard setback and a 32.5-foot rear yard setback for a combined total of 50 feet. Moving

the house forward 7.5 feet will save a number of trees, including several large oaks, a couple of magnolia trees, and most importantly, this will reduce the risk of damage to a historic, 300-year-old, 48-inch DBH oak tree. Unfortunately, the applicants' request also includes approval from the Board to remove a 36-inch DBH oak tree in the footprint of the home. This oak would have to be removed even if the 25-foot front setback was maintained. The request includes a tree inventory, analysis and evaluation of the trees on the lot prepared by James King, a certified arborist.

Ms. West said the 48-inch DBH oak appears to be right on the east-side property line and it's not clear to her how an adjustment in the front and rear setbacks would have any impact on that tree.

Ms. Miller said the arborist's report explains the issues with the 48-inch DBH oak tree.

Mr. Mitherz said he went out to look at the property and saw that there was no sign posted on it.

Ms. Miller said this isn't a zoning application, it's a request allowed per the LDRs. It isn't subject to the same notification requirements as an application, therefore, a zoning sign is not required.

Mr. Mitherz said if he was an owner of a house on either side of this property and was affected by how the house would be situated, he'd want to know why he wasn't notified about it.

Ms. Miller said there are no notification requirements for this, unlike applications for variances or conditional uses, which require mailed notice to property owners within 300 feet, legal advertising in *The Record*, and a zoning sign, which the applicants pay for, posted on the property.

Ms. West asked why, procedurally, this is in the form of a request instead of a variance. She has the same concerns about the lack of notice. She understands the applicant is going a different way by travelling along the request path, but it doesn't provide notice to the community. Moving forward, it would be helpful to not have these posed in the form of a request.

Kyle and Tammy Larson, 215 A Street, St. Augustine Beach, Florida, 32080, applicants, said the reason this isn't submitted as a variance is because what they're asking to do is allowed per City Code. It requires the Board's approval, but they're not asking to do something outside the Code.

Cora Johnston, 740 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, Generation Homes LLC, contractor for the applicants, said Mr. and Mrs. Larson were very intent on trying to save absolutely as many trees possible, so Mr. Larson did the research and found in the Code that this flexibility in the setbacks to save trees was allowed. A lot of the neighborhoods Generation Homes has built in, like Anastasia Dunes and Sea Colony, also allow variables in setbacks to save trees.

Mr. Larson said saving these trees will be in keeping with all the trees in the rest of the neighborhood. If he were a property owner on either side of his lot, he'd much rather all those trees be preserved, as they provide shade and a nice environment for everyone.

Motion: to approve the request to move the proposed new single-family residence forward 7.5 feet to allow a 17.5-foot front yard setback and a 32.5-foot rear yard setback, for a combined total of 50 feet for front and rear yard setbacks, and to approve the request to remove a 36-inch DBH oak tree in the building footprint of the proposed new single-family residence at 47 Lee Drive. **Moved by Mr. Kincaid, seconded by Ms. Odom, passed 7-0 by unanimous voice-vote.**

- B. Land Use Variance File No. VAR 2019-16, for a variance to Section 3.02.03.A.1 of the City's Land Development Regulations, Prohibited Uses, to allow the keeping of chickens on the premises of a single-family residence in a medium-low density residential land use district on Lot 14, Block 49, Coquina Gables Subdivision, at 313 A Street, Jennifer Wildasin, Applicant

Ms. Miller said this is a request for a variance to Section 3.02.03.A.1, Prohibited Uses, of the LDRs, which include as prohibited uses the keeping, breeding, or raising of bees, insects, reptiles, pigs, horses, cattle, goats, hogs, or poultry. The applicant is requesting the variance to keep approximately eight chickens on her property at 313 A Street, with the hardship stated that the chickens are emotional support animals for her nine-year-old son. The chickens are all are hens, so no breeding is going on. Documentation has been submitted with the application verifying the child's medical condition and the child's doctor, Dr. Grewal, was verified by staff as a licensed medical doctor with Ascension Medical Group at St. Vincent's Primary Care in Jacksonville. Dr. Grewal wrote the letter included in the variance application stating he saw the applicant's son as his patient on October 16, 2019 and agrees the chickens serve as emotional support animals as they help the child focus, care and nurture, and they're important to his emotional well-being.

Ms. West said she has a procedural question as to whether a variance is the proper mechanism to address this particular issue because if you look at Section 10.02.03 of the LDRs, which pertains to limitations on granting variances, the Board first has to determine whether the need for a proposed variance arises out of the physical surroundings, shape, topographical condition or other physical or environmental conditions that are unique to the specific property involved. As she doesn't see how any of that is triggered in this particular case, she asked for advice from counsel as to whether a variance to the Code to allow the keeping of chickens is appropriate.

Mr. Mulligan said his reading of the Code is that this probably would not be an appropriate application for a variance, as variances are typically directed at something specific to the land and this is not really what they have here. St. Johns County has now passed an ordinance to allow a certain number of chickens per property in all residential zoning districts, but this City hasn't changed the portion of the Code that prohibits the keeping of chickens. The appropriate mechanism would be to change the Code if the community feels it is appropriate. From the strict legal perspective, the applicant's request doesn't seem to fit the guidelines for a variance.

Ms. West agreed and said she doesn't think the applicant is in front of the right board, because this is a code violation and going forward with a variance would definitely set a precedent.

Mr. Kincaid said he's not sure that's true. This applicant is bringing before the Board a specific set of circumstances that is not going to apply to everybody, and it really has nothing to do with the chickens. He'd be ashamed to send the applicant away and tell her she should go before another board, as he thinks they can do better than that. While he doesn't know the Board's legal boundaries as far as variances go, he doesn't think changing the Code is the way to go either, as he doesn't want to wake up every morning to chickens squawking all over the City. The Board needs to address the specifics of the application and not send the applicant away, as he doesn't think the application is about changing the Code to allow everyone in the City to keep chickens.

Mr. Mulligan said variances are structured to focus on the land, not on the user of the land. He understands the application and what the applicant desires to do but disagrees that it would not be precedent-setting, because it would set a precedent if the variance is granted, so if the next person who applies to keep chickens is denied, granting this variance would give someone who is denied a variance to keep chickens the ability to appeal and then potentially litigate the issue.

Ms. West said asked if a conditional use permit would be appropriate with these circumstances.

Ms. Longstreet said conditional use permits are usually granted to go with property owners, not the land, so if the applicant and her family moved out, they'd have to take the chickens with them.

Jennifer Wildasin, 313 A Street, St. Augustine Beach, Florida, 32080, applicant, said she comes be-

fore the Board as a mom because honestly, most people probably wouldn't pay the \$500.00 fee it cost to apply for this variance but for the fact that the chickens have been an emotional support to her son. She's submitted her son's medical records supporting this, and her next-door neighbor who lives on the side of her house where the chicken coop is kept has seen everything, is here tonight, and supports the keeping of the chickens. Other neighbors are also not opposed.

Ms. Sloan said she is a clinical psychologist who used to work in neuro-psychology so she greatly empathizes with the applicant's issues and what she's struggling with. She asked how long the applicant had the chickens before she moved to her home in the City earlier this year.

Ms. Wildasin said they got the chickens in the spring, moved here in July, and as there wasn't a homeowner's association in her neighborhood, she didn't realize they weren't allowed. They brought the chickens with them when they moved because her son had grown attached to them, as he takes care of them and gets up every morning to let them out of the chicken coop, makes sure they have food and water, and collects the eggs throughout the day. He has them all named and at night he makes sure they're locked up in the chicken coop. His commitment surprised her, so her heart just sunk when all this came up because he's really focused and loves these chickens.

Ms. Sloan asked if it was all right to have chickens where the applicant lived when she acquired them. St. Johns County's new guidelines allow up to five hens per residence.

Ms. Wildasin said she moved here from off Watson Road, which is in the County. Nobody said anything about her having chickens when she moved here, so she figured it was fine.

Ms. Sloan said the letter written by the doctor for the applicant's son said to call him with any questions, however, a Health Insurance Portability and Accountability Act (HIPAA) release form was not provided, so she's not going to call a doctor and ask him to talk about one of his patients without a release form. Also, she has great concerns with the precedent this might set. She cautioned the applicant that she needs a better letter from the doctor for emotional support animals, as what the doctor wrote doesn't sound like he's diagnosed or interviewed the applicant's son for that or that the child's been given a specific diagnosis for emotional support animals, which actually requires more of a prescription. She greatly empathizes with what the applicant is dealing with and is thrilled that her son has found something to do that really gives him some purpose, but she's concerned with the precedent-setting that would go with approving the variance. It's always difficult to find hardships, which are not easy to come by, for variances.

Mr. Mitherz asked what the structure is on the left side of the house looking at it from the front.

Ms. Wildasin said that's an eight-foot-by-twelve-foot shed. The chickens are kept in the coop on the other side of the house.

Mr. Pranis asked if having the chickens is the only current single violation documented on this property.

Ms. Wildasin said yes.

Ms. West asked for public comment and said the Board members received copies of a letter written by Pamela Holcombe, 312 A Street, St. Augustine Beach, Florida, 32080, which will be incorporated into the record of this meeting.

Pamela Holcombe, 312 A Street, St. Augustine Beach, Florida, 32080, said it is with the saddest of hearts she brings her comments to the Board's attention, but the Board has already properly identified the issue of the slippery slope, and what could happen once a precedent is set. This is

a great concern, as the beach is a very small area with very dense living arrangements especially on the small blocks of the lettered and numbered streets. She believes Ms. Sloan has correctly identified that supporting documentation is needed for emotional support animals, which she has not seen, but she's familiar with emotional support animal (ESA) law and what is being described here is a therapeutic activity that would not qualify under the Fair Housing Act although it can apply to city ordinances when properly submitted. There's a balancing test between the City's strong interests and that of the applicant, who must show his or her interest overcomes the City's interest in enforcing its ordinances. There isn't sufficient interest for her to address the issue nor was the ESA issue flagged on the notice mailed to her at her home. The practicalities, if this variance is granted, is that the City is creating a human avian vortex, and unfortunately, Florida has West Nile Virus and various forms of encephalitis. She loves animals, so she'd encourage the applicant to get in touch with the local 4-H Club to see if there's a way they could take the chickens and keep her son involved with them. Legally, she disagrees with staff, and doesn't think this request complies with prescribed ESA law. She asked that any action be deferred until these issues can be addressed, as this is something she doesn't think can be reached tonight.

Mr. Pranis said he thinks this will set a precedent, whatever decision is made going forward. He hates to pass this to the Commission, but maybe that's where it has to go, as he doesn't think a variance is the proper channel, it needs to go higher, and he doesn't want to set a precedent.

Mr. Mitherz said he doesn't want to set a precedent either, the Commissioners can make that decision if they like. The issue stretches his heartstrings a little, for sure, and he was on the Board when the issue of allowing residents to keep chickens was brought up some years ago. He voted against it then and doesn't think a variance is the proper way to bring this before the Board.

Ms. Sloan agreed, and said the hardship is going to be hard to find for all the reasons they always have with finding hardships. A hardship can't be something self-created by the applicant, and in this case, the hardship the applicant has stated is something she created herself by moving here and not checking out the City's ordinances that prohibit the keeping of chickens. Unfortunately, the onus of doing this is on the applicant, so she thinks the variance is not the way to go, although it would be nice to help the applicant out. The County's new rules limit the number of chickens that can be kept on one property to five hens, so she's not sure why one needs eight hens for emotional support animals. She thinks the chickens serve more for the child's behavior of taking care of them, so it may be more appropriate to bring this back in a different manner.

Ms. Longstreet said she thinks this should be a conditional use permit, as from this standpoint, they might be able to look at it differently. She feels for the parents and especially the child, as she's a pet lover herself, and knows the bond that's created when a child gets used to having, loving, and taking care of pets, and it doesn't matter what kind of pet it is or if it's one pet or eight.

Mr. Kincaid said he doesn't mind passing this on to the Commission, but if the Board decides to do this, he thinks they should pass it on with a strong recommendation and an explanation of where they're coming from and why they think there's no way to solve the issue at this level. He certainly doesn't think the hardship is that difficult to find, as he thinks the hardship is with the patient, and not that somebody moved here without knowing chickens were not allowed. He doesn't want to set the tone that someone shouldn't move here because the City doesn't support emotional support animals, as that's a bad message to put out. He'd like to know what the mechanism is to change this from the current application to an application the Board can deal with. If that can be done tonight, then they don't have to send the applicant anywhere else and the City doesn't have to send out any messages. He thinks it'd be fairly easy to word it to be

specific to this issue, this person and this set of circumstances, and perhaps this should be a conditional use permit. He asked if there's a way the Board can move forward with this.

Ms. West said she thinks all the Board has to do is make a motion that the variance application be resubmitted as a conditional use permit, which doesn't require the hardship consideration.

Mr. Mulligan said he thinks the Board is on the right path, but he doesn't think they can change this to a conditional use permit on the spot right now, as procedurally, this isn't something that could be done. Also, in looking at the Code and the limitations on granting conditional use permits, there may be some problems with that as well. He gets the sentiment, but it might make sense to kick this up to the Commission to allow them to analyze the situation and make the decision if they want to create the precedent that's been talked about or if there's some other mechanism or tool that can grant some relief here, and maybe in the meantime, legal counsel can spend some time racking their brains to see if there's something that will work within the Code to allow this to go through, if that's the will of the Board. The problem with a conditional use is that the Code establishes certain uses that may be allowed by conditional use, but keeping chickens, which is a prohibited use, isn't something that can be allowed by conditional use.

Ms. Odom said she's the queen on trying to find hardships, as precedents are set when variances are approved. She agreed that if they could go some other route, as with a conditional use application, there wouldn't be a need for a hardship. It's a slippery slope, as the applicant's son needs these support animals, and a lot of documentation has been provided to back this up.

Ms. Sloan said yes, but there are specific guidelines for emotional support animals and the letter written by the child's physician does not meet them. It's a simple matter, as the physician hasn't stated how long the applicant's son has been his patient, or stated a specific diagnosis, etc. Having the documentation to meet the guidelines protects the applicant, who said she's willing to get this from the doctor, because if everything is in order, it can't be challenged by other people.

Ms. West said what she doesn't want is for the Board to be in the position of denying the variance, so she asked if counsel suggests the applicant withdraw the application, or something else.

Mr. Mulligan suggested, especially considering the nature of the potential for ongoing code enforcement action, that the applicant not be asked to withdraw the application, but rather, pass it to the Commission to allow the Commissioners to review the application as is. In the meantime, this will give counsel time to see if there's something else that can, or should, be done.

Mr. Kincaid said if the City hasn't changed the laws and they don't work now, how is passing this to the Commissioners to let them work within the same set of boundaries going to work? He doesn't think this would help anybody, not the Commission, and certainly not the citizens.

Mr. Mulligan said the Board is welcome to come to a different conclusion. His thought process is that the City Commission might be in a better position to make the determination as to whether or not they want to set precedent to allow a resident to keep chickens on her property.

Ms. West said she'll make a stab at a motion to approve this variance with the caveat that the Board, upon advice of counsel, does not think a variance is the appropriate mechanism, however, the Board recommends approval given these unique set of circumstances demonstrated by the applicant. She'd also like to include in the motion that to avoid the precedent-setting effect of a variance, the Board requests the City Commission find another vehicle to approve of the chickens.

Mr. Pranis said he doesn't see how the Board can approve the variance if it's not really a variance.

Ms. West said this could be put in the motion. She just doesn't know another way around it, the Board has a pending agenda item, so they either have to vote in favor of it, against it, or have the applicant withdraw it, because they can't change it into something else right now.

Ms. Odom said the Board could deny the variance with the caveat for the conditional use, because it's going to go to the Commission anyway, and the paperwork and documentation associated with the variance application should be incorporated into what is sent to the Commission.

Ms. Longstreet asked if they could not include the word "variance" in the motion, instead, she suggested the motion say the Board approves of the applicant being allowed to keep said chickens for the time they are at the address of the applicant's property.

Ms. West said okay, the motion is to approve the request of the applicant to use the chickens as contemplated in the application based on these unique circumstances the applicant has demonstrated, and deny the variance. So, this is to approve the request and deny the variance.

Mr. Kincaid suggested, because it's not a variance now, the Board put in the motion that the City shall refund the applicant for the application fee she paid to submit the variance.

Ms. West said absolutely.

Motion: to approve the request of the applicant based on the unique circumstances set forth by the applicant and provide the basis of this motion to the City Commission but deny Land Use Variance File No. VAR 2019-16 and refund the variance application fee to the applicant. **Moved** by Ms. West, **seconded** by Mr. Kincaid, **passed 7-0** by unanimous voice-vote.

C. Conditional Use File No. CU 2019-06, for a conditional use permit for food and/or beverage service or consumption outside of an enclosed building in a commercial land use district on Lots 65, 66, 67, 78 and 79, Atlantic Beach Subdivision, at 451 A1A Beach Boulevard, Peter Darios and Michael Rosa, Agents for Somewhere on A1A Partners LLC, Applicants

Mr. Law said about three years ago, the former Coquina Beach Surf Club property was purchased by the applicant, who are reapplying for a new conditional use permit for outdoor dining as the conditional use permit granted to the former owner for outdoor dining was non-transferable. The Board has been given copies of the prior conditional use permits granted to the previous owner and is tasked with making a recommendation to the City Commission to approve or deny the conditional use request for outdoor dining with any conditions they see fit to recommend.

Mr. Pranis asked why condition number four in the conditional use order granted March 1, 2016, which refers to music, was struck out.

Ms. Sloan said the reference to music was struck because compliance with the City's noise ordinance is regulated by the Police Department and not part of the purview of a conditional use.

Mr. Mitherz asked how many tables and chairs the applicant is asking to put outdoors in the dining area under the canopy. He also asked if the blue tarp currently on the building is for repair work.

Peter Darios, 421 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, applicant, said he and his partner, Mike Rosa, bought the former Coquina Beach Surf Club in 2016, and they also own Sunset Grille Restaurant. They've decided it's time to do something with the Coquina Beach Surf Club site and are applying to reinstate the conditional use permit granted for outside seating. The former business had about 45 seats under the canopy on the north side of the building. The blue tarp is up to section off this area while clean-up, painting, and repair work is being done.

Mr. Mitherz asked when the new business plans to open.

Mr. Darios said as soon as possible. Ideally, they'd like to open by February, but as remodeling work usually takes more time than expected, they don't have a set date for opening at this time.

Ms. Odom asked what the hours of operation will be.

Mr. Darios said they'll be serving breakfast, lunch and maybe dinner, so a ballpark opening for breakfast might be 7:00 a.m. He really isn't sure about any other hours of operation at this time.

Sonia Kulyk, 114 13th Street, St. Augustine Beach, Florida, 32080, said she's delighted the building is opening again, as it was a fabulous place in the past and they always enjoyed it. She knows Sunset Grille probably has adequate parking, but the residents of 13th Street have worked really hard to make their street resident-parking only. If you exit the former Coquina Beach Surf Club property and make a right-hand turn onto 13th Street, you can't see the sign that says resident parking only. She'd like to request a left-turn only sign be put up on the 13th Street right-of-way so vehicles exiting the property from the 13th Street side know that parking for restaurant patrons is only allowed on the restaurant property, and not on 13th Street. Over the years, rumors have been flying as to what was going to open on this property, so she's relieved to hear it will simply be a restaurant and not some of the other creative things she heard it might be.

Bradley Leavitt, 200 12th Street, St. Augustine Beach, Florida, 32080, said he has no objections to a new restaurant, the only question that comes to mind relates to music. He would have no issue with a soft-toned guitar with no loud amplification, but he would object to a five-piece rock band at 10:00 or 11:00 p.m. at night, so he asked if there were any plans to have music.

Mr. Darios said there are no plans for any music at this time.

Mr. Kincaid said for clarification, music is regulated by the City's noise ordinance. Any residents blasting music from a five-piece band in their yard are subject to the same noise regulations, which are enforced by the City's Police Department, as commercial businesses that have music.

Motion: to recommend the City Commission approve Conditional Use File No. CU 2019-06 for five years subject to the following conditions: 1) The requirements in condition numbers 13, 14, and 15 in the previous conditional use order dated March 1, 2016 issued to the former owner of 451 A1A Beach Boulevard be incorporated as conditions in the new conditional use order, if granted by the City Commission; 2) The applicant shall be required to provide signage indicating restaurant patrons should turn left when exiting the restaurant property, as residential parking only is allowed on 13th Street. **Moved** by Mr. Kincaid, **seconded** by Ms. Odom, **passed 7-0** by unanimous voice-vote.

D. Conditional Use File No. CU 2019-07, for a conditional use permit for proposed new construction of eight (8) single-family residences on Lots 1-8, Block 43, Coquina Gables Subdivision, in a commercial land use district on four lots west of A1A Beach Boulevard on the south side of E Street and four lots west of A1A Beach Boulevard on the north side of F Street, between E and F Streets, at 103 E Street and 104 F Street, Leonard and Renee Trinca, Applicants

Ms. Miller said this application is a request to build eight single-family residences on eight lots, all zoned commercial, on the west side of A1A Beach Boulevard, running four lots west of the Boulevard on the south side of E Street and four lots west of the Boulevard on the north side of F Street. The action requested from the Board is a recommendation to the City Commission to

approve or deny this conditional use application. If the Board moves to recommend approval, the recommendation from staff is that the single-family homes built on these eight lots be required to comply with the regulations for single-family residences built in medium density residential zoning, pertaining to setbacks, lot coverage, and impervious surface ratio (ISR) coverage. Staff has received two letters from neighboring property owners regarding this application, both of which have been copied to the Board, and entered as part of the record of this meeting.

Len Trinca, 7 F Street, St. Augustine Beach, Florida, 32080, applicant, said he's been a resident of St. Augustine Beach since 1972, and he's had the eight lots he owns on the west side of A1A Beach Boulevard on E and F Streets, which he's tried to promote as commercial lots, for sale for two years. The area surrounding these lots is basically a residential area, with only one commercial business across the street from the lots he owns on F Street. Most of the commercial portion of A1A Beach Boulevard is farther to the north, starting at around B Street. He's had many people interested in buying individual lots and putting homes on them, in fact, he has a contract on one of the lots now, subject to the approval of this application to allow single-family homes. Looking at the surrounding neighborhood, it really makes sense to have houses on these lots, as the eight lots together aren't really big enough to provide parking for a restaurant or any another business.

Ms. West asked what the total acreage of the eight lots is.

Mr. Trinca said as the alleyway between the lots on E and F Streets has been vacated, the lots are all 50-foot-by-100-feet, so the eight lots together comprise 40,000 square feet, which is just under an acre. A conceptual site plan of the single-family residences proposed on these lots has been designed by architect Mike Stauffer and submitted with the application, and all construction will adhere to the building regulations and setbacks for the houses, garages, pools, etc.

Mike Stauffer, 1093 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, architect, said the site plan is basically just a conceptual drawing showing an idea of what the proposed houses will look like on the lots. Obviously, as each of these eight lots are sold individually, every homeowner will have their own custom design for what they want to build. The intent is to meet all requirements of current City Code, including lot and ISR coverage, building height, setbacks, etc., for medium density residential zoning, with the proposed site plan showing this is possible.

Mr. Mitherz asked if these homes will be actual residences or transient rental properties.

Mr. Trinca said they could be transient rentals, as the lots are all zoned commercial.

Ms. West asked Mr. Trinca if he ever had a contract to buy these lots when he had them listed as commercial.

Mr. Trinca said no. He had the lots listed with a commercial broker, who never had anyone interested in them for a commercial use. There was someone interested in putting up condos on the lots, but this never went anywhere.

Ms. West asked for public comment and said the Board members were given copies of two letters from neighboring property owners, one from Frank O'Rourke, 101 F Street, and one from Mr. and Mrs. James Minich, 10 F Street. Both letters will be incorporated into the record of this meeting.

Frank O'Rourke, 826 A1A Beach Boulevard Unit 11, St. Augustine Beach, Florida, 32080, said he owns the commercial property at 101 F Street and sent the letter the Board members received regarding Mr. Trinca's application, which he is opposed to, for the reasons stated in the letter. He thinks it's very important to maintain the character of the City and the property that is zoned

commercial, which has been eroding away for years now, for commercial use. The market changes all the time, and everyone thinks right now that vacation rentals are the way to go, but this could change in five, or two years. Allowing residential homes on commercial property is a permanent change, as these homes won't go away. These eight lots comprise the last mid-size commercial parcel in the City, they're directly on A1A Beach Boulevard, and designed to be commercial, not residential. Allowing residences to be built on them will severely affect his commercial property, as he'll therefore be surrounded by residential homes. He was before this Board and the City Commission a few years ago fighting for outdoor seating for a coffee shop. This was opposed by his residential neighbors, who said they didn't like the noise, even though these same people built homes on commercial lots, which are allowed to have noise. Mr. Trinca is asking \$2.3 million for the eight lots as a whole, which is maybe beyond what it's worth, and also why he hasn't been able to sell them as a commercial parcel. Allowing homes to be built on this parcel is a permanent decision that won't go away, and this will negatively impact his commercial property and business.

Ms. West said if some of the Board members recall, the City held visioning workshops a while back with planners Lindsay Haga and Brian Teeple, and a big part of the discussion included ensuring A1A Beach Boulevard remain commercial and encouraging walkability along the Boulevard. She understands why Mr. Trinca may not perceive this part of the Boulevard as the most walkable section right now but that's because these lots are currently vacant. Obviously, if little shops were built along there, which was definitely what was contemplated in those visioning workshops, this would be aligned with what the City is trying to accomplish with its one very walkable commercial corridor. She personally has a problem with this conditional use request and agrees this is a very unique parcel. She'd hate to lose the vision of what they're trying to accomplish in the City.

Ms. Odom said Mr. O'Rourke makes some very valid points in his letter, many of which they've seen happen in the past, referring to transient rentals and what happens when the income from them isn't good and the property owners want to sell them. If someone wants to buy an individual lot and apply for a conditional use permit to build residential on this one lot, this is the way it should be done, instead of allowing residential uses on all the lots under one blanket conditional use permit. She shares some of the same sentiments as Ms. West, as she'd like to see shops and commercial businesses on the commercial lots fronting the Boulevard.

Ms. West asked why this request is being submitted as a conditional use, instead of a rezoning application, as allowing residential structures on all eight lots would be permanent.

Mr. Kincaid said residential uses are allowed on commercial property by conditional use. He doesn't think this Board has ever denied a conditional use application to build residential in commercial. They recently approved a similar conditional use request for single-family homes on six lots zoned commercial not directly on the Boulevard, but in the middle of the block west of the Boulevard, around 6th Street. This parcel also had been for sale for several years with the owner not being able to sell it. He doesn't agree this is part of the walkable section of the Boulevard, as these eight lots are kind of an island, due to their location. He has a house across the street, on F Street, and doesn't think developing the lots with commercial uses will make this section of the Boulevard more walkable, because it's just too far away from other businesses. Mr. Trinca has a group of lots he hasn't been able to sell commercially, so if there are any market issues, it may be that there is no commercial market right now. He doesn't think they should hamstring the property owner, if he's got another way to utilize his property, he's all for that.

Ms. West said she doesn't think the Board is here to make sure people generate a profit from their property. The applicant knew full well when he bought these lots that they were commercial.

Mr. Kincaid said the applicant could use the property commercially, even with residences on it, as transient rentals. Whether the homes will be used as vacation rentals is really not part of the Board's deliberation process. The applicant is asking to take this piece of commercial property that is currently unusable, or at least unwanted at the price he has it listed for sale, and build homes which will allow him to sell the lots individually. That he already has a contract on a lot contingent upon the approval of this conditional use application shows evidence this will work in his favor. He's not seeing the hardship on the City's part that allowing houses to be built doesn't work for the City, and he's also not seeing a detriment to the City that somehow, the City's better off with a big vacant piece of land as opposed to having more homes. He just doesn't get that.

Ms. Longstreet said she doesn't see a hardship aside from the one created by the applicant himself. He bought commercial lots, so that's his problem, and he needs to stick with commercial uses. She voted no to other applicants asking to build houses on commercial lots, as the City doesn't have that much commercial property left. She wants to see bike shops, bagel and donut shops, and other mom-and-pop businesses, not houses, on commercial lots along the Boulevard.

Ms. Sloan said these are all good points, but she wants to clarify there is no hardship involved with a conditional use application. Staff's recommendation, if the Board considers recommending approval of this application to the Commission, that the conditional use permit be granted as transferable and run with the land, is a good one, but staff also recommends the time limit within which the use be commenced be extended from one year to two. If the Board recommended the conditional use be granted to require the use to commence within one year, as is the case with most conditional use permits, it will expire and the applicant will have to reapply, so this is kind of like a back-door catch if the lots don't sell and homes aren't built on them within a year. She also highly agrees with staff's recommendation that if the conditional use permit is granted, the properties be regulated as medium density residential regarding setbacks, lot and ISR coverage.

Mr. Mitherz said he can't support this, as he'd rather see commercial development on these lots, and agrees that maybe the price the applicant is asking for the parcel as a whole is the problem.

Mr. Pranis said he thinks they've set precedent in approving similar applications to build houses on commercial lots, so this could be an issue. Maybe there could be a compromise to separate the two lots on the Boulevard out for commercial development only and approve the conditional use for the other six lots not directly on the Boulevard to allow houses to be built on them.

Ms. West said her understanding of conditional use permits, per Section 10.03.02 of the City's LDRs, is that they do not have the same precedential effect as granting a variance. However, because this is a conditional use and not a rezoning, there is a requirement in the City's Comprehensive Plan under Policy L.1.3.2 that requires a 15-foot vegetative buffer between residential and commercial uses. Having spent so much time working on the Comprehensive Plan and the Future Land Use Map, there's a reason why these lots are designated commercial, and it has definitely been identified in the City's visioning workshops as a parcel that should contribute to the economic viability of the City's most walkable Boulevard. She feels very strongly that switching it over to residential is going to cause an issue and is not the way to go.

Mr. Kincaid asked if anyone can point to any single similar application requesting residential use on a commercial lot that the Board has denied.

Mr. Law said in the past two years, he believes the Board has recommended approval of all the applications that have come before them for individual lots and for the five or six lots near the Courtyard by Marriott. The Board did turn down a variance request with a recommendation to

approve a conditional use request for the property south of Obi's Restaurant, on the east side of 6th Street. The Commission has turned down only this same property on 6th Street for which the Board denied the variance while recommending approval of the conditional use permit. The property owner has since reapplied for the conditional use, without asking for a variance this time.

Motion: to recommend the City Commission deny Conditional Use File No CU 2019-07. **Moved** by Ms. West, **seconded** by Ms. Sloan, **passed 5-2** by voice-vote, with Ms. Odom, Ms. West, Ms. Sloan, Ms. Longstreet, and Mr. Mitherz assenting, and Mr. Kincaid and Mr. Pranis dissenting.

E. Concept Review File No. CR 2019-01, for proposed Embassy Suites St. Augustine Beach Phase II, consisting of a 42-unit addition to the existing 175-unit Embassy Suites hotel in a commercial land use district at 300 A1A Beach Boulevard, Thomas O. Ingram, Esquire, Sodl & Ingram PLLC, Agent for Key Beach North LLC, Applicant

Ms. West said as this is a concept review, per the LDRs the Board shall issue no order, finding, or indication of approval or disapproval of the concept review proposal, and no person may rely on any comment concerning the proposal, or any expression of any nature about the proposal, made by any person during the concept review process as a representation or implication that the particular proposal will be ultimately approved or disapproved in any form.

Mr. Pranis said as he is employed by the management company that operates Embassy Suites, he asked if he should recuse himself from this agenda item.

Mr. Kincaid said as there will be no vote and no action taken by the Board, he asked what Mr. Pranis is recusing himself from.

Mr. Mulligan said in looking at the Code, Mr. Pranis' recusal is appropriate.

Ms. West said the Board doesn't want any appearance of impropriety.

Mr. Miller said as stated by Ms. West, in regard to the purview for concept review, there won't be a vote, motion, or recommendation made by the Board, this is strictly for the Board's review, and for the Board and public to provide feedback about the proposed 42-unit addition on the north side of the Embassy Suites property adjacent to Pope Road. The proposed 42-unit addition will be a three-story structure consisting of two stories of habitable hotel suites with parking underneath. The site plan meets the City's parking requirements, setback requirements, ISR coverage, and complies with building height regulations per Section 6.01.04 of the LDRs.

Tom Ingram, Sodl & Ingram PLLC, 233 East Bay Street Suite 1113, Jacksonville, Florida, 32202, attorney and agent for applicant, said he represents Key Beach North LLC, the owner of the Embassy Suites property at 300 A1A Beach Boulevard. Also present are Shawn Gracey, Executive Vice-President of Hospitality for Key International, Jason Kern, the hotel manager for Embassy Suites, and Kris Rowley, an engineer with Zev Cohen and Associates, the engineering firm for the proposed addition. As stated, the project is a 42-unit addition on the north side of the hotel property, with two stories of suite units over parking, for a total of three stories. In designing the plans for the addition, the goal was to avoid as much as possible any disputes as to whether the intent of the Code has been met. The parking has been designed to accommodate the additional rooms, and the aesthetics and architecture designed to match that of the existing hotel. The key difference is that the new addition is one story shorter than that of the existing hotel structure.

Ms. West said Section 12.02.06.F of the LDRs cites criteria the Board is tasked with considering for concept review, such as characteristics of the site and surrounding area, concurrency re-

quirements, the nature of the proposed development, traffic, parking, paved areas, preservation of natural features, conformity of the development with the Comprehensive Plan, concerns and desires of surrounding landowners and other affected persons, etc.. So, the Board is supposed to consider criteria for concept review, they're just not supposed to issue any sort of finding.

Mr. Mitherz asked if the egress from A1A Beach Boulevard has been changed, as the plans for Phase II show a two-way ingress and egress, which is different from what is currently there now, which is ingress from the southern entrance and egress from the northern entrance.

Mr. Ingram said there's no change to ingress or egress, so they'll have to discuss this internally with the engineers and get back to the Board about this before the next round.

Mr. Mitherz asked if a Department of Environmental Protection (DEP) permit will be provided anytime soon, so the Board can see it before it makes a recommendation to the City Commission.

Mr. Law said the DEP permit can't be issued until he, as the Director of Building and Zoning, writes a letter stating the proposed addition conforms with the Code. He can't write that letter until the City Commission approves the final development application. Until the DEP permit is issued, the Building Department won't accept or review any plans for the addition.

Mr. Mitherz asked for clarification on the St. Johns County Fire Department's concern as to how the elimination of the existing Fire Department access road and turnaround on the north side of the building, which will be eliminated with the proposed addition, will be addressed.

Mr. Ingram said they're working with their engineers who specialize in fire code compliance, and some design changes have been identified to address these issues before the final development application comes before the Board and the City Commission. Normally, the Commission doesn't review fire code compliance, it's more of a fire marshal and building department issue.

Ms. West said in Judge Lee Smith's April 2019 order finding in favor of the City against Embassy Suites' application for a splash park, the court found there was competent and substantial evidence of an adverse visual impact on the surrounding environment in violation of the Code, yet the splash park remains on all the site plans submitted for Phase II. She asked exactly how this jives with the fact that Embassy Suites is still suing the City for not allowing the splash park

Mr. Ingram said the splash park or splash playground is not part of this application and would not be approved by virtue of approving the final development application for Phase II. The footprint of the splash park pad is still on the site, covered with artificial grass, and it will remain in place if the 42-unit addition is approved. The splash park is a subject of an appeal to the district court of appeal. It's been fully briefed by both parties, who are waiting for a decision from the court. The experience of Key International and Embassy Suites in St. Augustine Beach has been very good, they've disagreed rather strongly on only one issue regarding a splash park in the hotel, but the overall relationship has been strong and productive. Sheet A-101 in the plans shows the splash park equipment, which is an error that will be fixed in the next round of submittals.

Mr. Mulligan said the current status of the splash park is that the circuit court has ruled on it and upheld the City's decision to not allow it. The application before the Board tonight is simply a concept review, there will be no decision to approve or deny it, so it's just a discussion.

Ms. West said Section 6.03.05 of the LDRs addresses off-street parking design standards and says the Planning and Zoning Board may modify the requirements of this section where necessary to promote a substantial public interest relating to environmental protection or aesthetics. She

asked if Embassy Suites considers the placement of a parking lot on the ocean with very close proximity to the County pier to be an aesthetically positive use of their oceanfront land.

Mr. Ingram said the parking area proposed for the 42-unit addition to Embassy Suites is the same relative location to the ocean as the parking for Pier Park's parking, which is the County's parking area providing public parking, so there is some precedent for parking in that location relative to the ocean. Efforts have been made to address the aesthetics, as the proposed parking area is directly below the conference center space that is frequently used by guests. City Code requires 1.15 parking spaces per hotel unit, so the parking has been designed to comply with this.

Ms. West said she doesn't think having parking on the beach is an appropriate aesthetic use. Also, Section 3.02.02.01 of the LDRs states 35 feet to the roof ridge is the allowable height with an allowance for architectural detail to 40 feet, but the 40-foot height shall not exceed 40 percent of the building perimeter on any side. She asked how Phase II complies with this.

Mr. Law said the section of the LDRs referred to by Ms. West pertains to the mixed-use district, which has no applicability to the 42-unit addition to Embassy Suites. The 35-foot building height maximum is a standard based off one foot above adjacent grade, or one foot above the crown of the road. However, an additional 10 feet is allowed for a parapet wall or roof structure to hide mechanical equipment and piping and water heaters, etc., on the roof. The plans include a great page that explains all that and shows the code references, and also a mechanical roof layout plan.

Ms. West said given the fact that Embassy Suites is located adjacent to Anastasia State Park, she asked how the proposed addition complies with Policy CC.2.7.2 of the City's Comprehensive Plan, which requires developments proposed adjacent to state parks to be environmentally compatible by providing at least 25 feet of native natural buffer. She didn't see this in the landscaping plans.

Mr. Ingram said the Code was recently amended by the City of St. Augustine Beach to require all landscaping to be native. They have some oleander plants existing on the property now and there has been some discussion about relocating some of those, but otherwise, the landscaping will be a combination of native plants all along the northern boundary. The property adjacent to this northern boundary is actually controlled by the City of St. Augustine Beach by interlocal agreement with St. Johns County. It was originally a right-of-way and he believes it is still a right-of-way used as a parking lot to serve the beach, and this parking lot is not part of a state park.

Ms. West said she parks on Pope Road quite a bit, and readily acknowledges the parking lot on Pope Road is not a state park, but the hotel property extending past the parking lot is adjacent to a state park, so she asked how the 25-foot natural buffer is to be addressed, as she didn't see it in the landscaping plans. She also asked if the hotel property is located in a coastal high hazard area, and if so, how the proposed addition complies with Policy CC.4.2 of the Comprehensive Plan, which requires the City to restrict the intensity of development within coastal high hazard areas.

Mr. Law said as of December 2018, the Embassy Suites site shifted from a high velocity wave action zone, which is your coastal high hazard area, to an AO-3 flood zone, which is an area of shallow flooding with the base flood depth that's been established by the federal government. There are government agencies coming together on one job here, with the federal government under the Federal Emergency Management Agency (FEMA) and the Florida Building Code (FBC), and a property in an AO-3 special flood hazard as designated on the Flood Insurance Rate Map (FIRM) effective December 7, 2018. Chapter 3109 of the FBC applies to structures seaward of the CCCL, which was established in January 1988 by the DEP, and up and down all coastlines are what are called reference monuments. St. Augustine Beach is around reference monument 143-144

with a reference volume elevation of about 17 feet, four inches per the National Geodetic Vertical Datum (NGVD), based on the sea level datum of 1929. With the flood map changes, they no longer use the NGVD, but the North American Vertical Datum (NAVD) of 1988, which converts distance differently as measured in yards and meters as it takes into account the roundness of the earth. So, a structure may comply with FEMA, but that's not good enough, which is why the bottom floor of the structure must be non-habitable space such as parking garages, breakaway components, and sheer walls. This becomes a huge engineering analysis, and if it's decided not to use the 17-foot, four-inch elevation, a site-specific engineering is allowed. As Embassy Suites is already built, under substantial improvement protocols, this structure will be extended the lateral addition protection, because the DEP hasn't changed anything since it was built. At this point, the habitable floors will match what's already there and comply with Chapter 3109 of the FBC, and the downstairs will be given the provision of the new definition of allowable use. The bottom line is the hotel building is not within the high velocity wave action zone, which is what's usually defined as a coastal high hazard area, it is in an AO-3 special flood hazard area.

Ms. West said there's no distinction in the Comprehensive Plan regarding restricting development in a velocity zone, it only refers to restricting development in a coastal high hazard area. She's raising this because it's a factor they're going to have to consider, as obviously, the proposed 42-unit addition is increasing the intensity of development within a coastal high hazard area.

Mr. Law read aloud the definition of coastal high hazard area Section 2.00.00 of the City's LDRs, and said per this definition, a coastal high hazard area is a VE or a V special flood hazard area.

Ms. West asked if the policy she's referring to in the Comprehensive Plan doesn't apply then.

Mr. Law said he's not saying that at this time, as he'd have to review the Comprehensive Plan and the proposed changes to it that are in the works right now, but a coastal high hazard area is a VE or V special flood hazard area per the definition in the LDRs.

Ms. West asked for any other Board comments or comments from the public. There were none.

VII. OLD BUSINESS

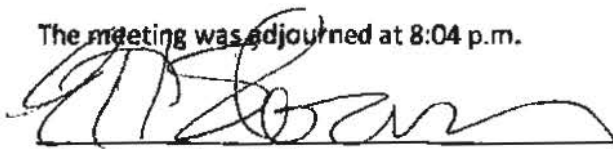
There was no old business.

VIII. BOARD COMMENT

There was no further Board comment.

IX. ADJOURNMENT

The meeting was adjourned at 8:04 p.m.



Elise Sloan, Vice-Chairperson



Lacey Pierotti, Recording Secretary

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE AUDIO/VIDEO CAN BE OBTAINED BY CONTACTING THE CITY MANAGER'S OFFICE AT 904-471-2122.)

City of St. Augustine Beach Building and Zoning Department Appeal of Decision Application

2200 A1A SOUTH ST. AUGUSTINE BEACH, FLORIDA 32080
WWW.STAUGBCH.COM BLDG. & ZONING (904)471-8758 FAX (904) 471-4470

- Legal description of the parcel for which the appeal application is being sought:
 Lot(s) 14 Block(s) 49 Subdivision 33 Kogua Cable
 Street Address 313 A Street, St Aug Bch FL 32080
- Location (N, S, W, E): S Side of (Street Name): A Street
- Is the property seaward of the Coastal Construction Control Line (CCCL)? Yes ☐ No ☒ (Circle one)
- Real estate parcel identification number: 1713800000
- Name and address of applicant: PAMELA M. M HOLCOMBE
312 A Street
- The purpose of this application is to appeal a decision made by the: Building and Zoning Department: _____
 Comprehensive Planning and Zoning Board: X
- The decision being appealed took the form of a: ^{Request} Variance (File No. and Date) 2019-16
 Development Order (File No. and Date) _____
 Development Requirement _____
 Land Use Determination _____
- Please state the interests of the person(s) seeking the appeal in this specific case: _____
Pamela M. M. Holcombe (300 ft radius)
see attached appeal

9. Please state the specific error alleged to be made in the case under appeal: _____

See attached appeal

10. Please state any additional documents included with the application to support your appeal: _____

Complete Variance File

Hearing Book for Nov 19 2019 hearing

11. Please check if the following information required for submittal of the application has been included:

☐ Legal description of property

☐ List of names and addresses of all property owners within 300-foot radius

☐ First-class postage-stamped legal-size envelopes with names and addresses of all property owners within 300-foot radius *will supplement*

☐ Other documents or relevant information to be considered

12. Please check one of the following statements, whichever applies:

☐ If applicant is appealing a decision made by the **BUILDING AND ZONING DEPARTMENT:**

I hereby request an appearance before the City of St. Augustine Beach Comprehensive Planning and Zoning Board for a public hearing concerning the above-mentioned appeal.

☒ If applicant is appealing a decision made by the **COMPREHENSIVE PLANNING AND ZONING BOARD:**

I hereby request an appearance before the City Commission of St. Augustine Beach.

In filing this application for an appeal of a decision, the undersigned acknowledges it becomes part of the official record of the Comprehensive Planning and Zoning Board or the Board of City Commissioners and does hereby certify that all information contained is true and accurate, to the best of his/her knowledge.

Signature of Applicant _____

Printed Name of Applicant DAMELA M. M. HOLCOMB Date Dec 19 2019
3:10 p.m.

Address of Applicant 312 A St St Aug Bch 3208 Phone 904 236 6247

**** Please note that if you are a resident within a development or subdivision that has covenants and restrictions, be aware that approval of this application by the City Commission does not constitute approval for variation from the covenants and restrictions.****

Appeal of Decision File #: VAR 2019-16

For appeal of decision at: 313 A Street, St. Augustine Beach
Fl. 32080

Charges

Application Fee: \$300.00 Date Paid: 12-19-2019

Legal Notice Sign: \$7.50 Date Paid: 12-19-2019

Received by DM

Date 12-19-2019

Invoice # I2000502

Check # 1372

Instructions for Applying for an Appeal of Decision

Per Section 12.00.03.B of the City of St. Augustine Beach Land Development Regulations, notice of a time and place of any required public hearing before the City Commission with respect to appeals from decisions of the Comprehensive Planning and Zoning Board shall be mailed by the Building and Zoning Department to the applicant or appellant, and to all property persons who, according to the most recent tax rolls, own property within 300 feet of the property which is the subject of the application or appeal. The list of property owners within 300 feet of the property for which the appeal application is submitted may be obtained from the St. Johns County Real Estate/Survey Department, telephone number 904-209-0804. A copy of this list, along with stamped envelopes with the names and addresses of all property owners within 300 feet of the property for which the appeal application is filed, must be submitted along with this application and the appeal application fee of \$307.50, which includes the legal notice sign fee.

Per Sections 12.06.02.12—12.06.03 of the City of St. Augustine Beach Land Development Regulations: *“A developer, an adversely affected party, or any person who appeared orally or in writing before the Comprehensive Planning and Zoning Board and asserted a position on the merits in a capacity other than as a disinterested witness, may appeal the decision on a development plan, variance, conditional use permit for a home occupation, or an appeal under Section 12.06.01 reached at the conclusion of an administrative hearing to the City Commission by filing a notice of appeal under Section 12.06.01 reached at the conclusion of an administrative hearing to the City Commission by filing a notice of appeal with the Department within thirty (30) days of the date of the decision.”* The notice of appeal shall contain a statement of the decision to be reviewed, and the date of the decision, a statement of the interest of the person(s) seeking review, and the specific error alleged as the grounds of the appeal.

Hand Delivered
on Dec 19 2019
@ 3:05 pm

Pamela M.M. Holcombe,

Appellant

Hearing of November 19, 2019
Variance File No. 2109-16

v.

Planning & Zoning Board
City of St. Augustine Beach

Appellee,

NOTICE OF APPEAL AND APPEAL

Appellant, Pamela M.M. Holcombe, pursuant to City of St. Augustine Beach Code of Ordinance Sec. 12.06.03 hereby serves this notice of appeal and appeal of the decision taken by the City of St. Augustine Beach Planning and Zoning Board (hereinafter the "Board") at its November 19, 2019, meeting with regards to the application for variance submitted by the owner of 313 A Street, Jennifer Grace Wildasin, and assigned Variance File No. 2109-16 by the City.

Statement of the decision to be reviewed, and the date of the decision.

Appellant appeals the Board's approval of the request of Wildasin to keep 8 chickens at 313 A Street which decision was taken at the Board meeting held on November 19, 2019.

A statement of the interest of the person seeking review.

Appellant owns and resides at a neighboring residence at 312 A Street within 300 feet and is entitled to notice by law.

The specific errors alleged as the grounds of the appeal.

This appeal encompasses a number of points of error with regards to the Board's decision to allow the keeping of chickens at 313 A Street (hereinafter the "Property"), including lack of procedural due process, failure to apply the correct legal standard to the application, however, the

most telling point is that Application did not a request an accommodation for “equal“ use of a dwelling under the federal or state Fair Housing Acts (hereinafter collectively referred to as the “FHA”), and rather sought a preferential use denied to non-handicapped individuals, and the request is fatally flawed as a result.

Factual and procedural background.

On October 21, 2019, Jennifer Grace Wildasin (hereinafter the “Applicant”) submitted a Variance Application to the City of St. Augustine Beach Planning and Zoning Department (hereinafter the “Department”), requesting “support animals” on the Property for her son who has been diagnosed with a range of cognitive disorders and that the family “currently keeps 8 egg laying hens that are support animals” for the disabled son. Applicant further stated that the son “uses the animals as support for his disabilities” and that the keeping of the chickens has allowed the child to take “extreme responsibility with his animals.”¹ On November 6, 2019, the Department provided a letter summary to the Board providing that the child’s doctor “states the chickens serve as emotional support animals because they help him focus, care and nurture and they are important for the child’s emotional well-being.”

The Application was noticed for hearing on November 19, 2019, and Appellant was served with notice at her home. Prior to hearing on the Application, the Department made publicly available certain documents, including the Application, public records as to the deed, survey and property appraiser records and violation details of a complaint, regarding the keeping of the chickens from a “neighbor just to the south of the property”, in which the identity of the

¹ As a former 4-H member and junior leader, Appellant is very sympathetic to the benefits of animal husbandry for all children in encouraging personal responsibility, emotional growth, and responsibility for the care of others.

complaining neighbor is not disclosed, but the complaint was not made by Appellant. The documents made available to the public totaled 13 pages and did not include medical records or the ESA prescription from the medical provider.

At the hearing, Applicant stated that she had not been aware of the City's restriction on the keeping of livestock before moving to the City, and that none of her neighbors objected to the keeping of the chickens. The Applicant obtained a "prescription" for the keeping of the chickens after the learning of the violation of the City's restrictions on the keeping of livestock. Appellant provided a written objection to the Application on public health and nuisance grounds and provided a short verbal summary of her position. During the Board's consideration of the Application, the decision was taken to reclassify the Application for a variance to a "Request" (by which Appellant presumes the Board meant a request for reasonable accommodation under the FHA which permits the use of emotional support animals in the face of restrictions on such animals under the correct circumstances). Despite the reclassification, the Board proceeded to approve the Request without the proper consideration of the factors by which a FHA request for reasonable accommodation is determined.

Summary of Grounds for Appeal

The decision of the board was erroneously taken for a number of reasons, both substantive and procedural. The Board's decision was in error in failing to correctly apply the law relating to requests for ESAs and the City's failure to use proper procedural safeguards deprived Appellant of the ability to properly address the issues presented in the Request and of procedural due process.

The Board failed to apply the correct legal standards to the Request as it failed to consider the necessary elements of a request for reasonable accommodation under the FHA. First, and most critically, the Application/Request was, and is, fatally flawed, in that it requested *preferential use*

of the Property rather than a reasonable accommodation to allow the child *equal use* of a dwelling in the same manner as a non-disabled child. It further appears that the medical prescription issue does not qualify as a reasonable accommodation under the FHA, as neither the medical records nor the prescription relate in any fashion to the child's inability to equal use and enjoyment of the dwelling, rather the prescription provides that the activity of chicken keeping is helpful for the child's emotional and mental development.

The procedure used in approving the Request failed to provide Appellant with due process in that the Department failed to provide the necessary documentation to fully inform Appellant of the grounds for challenge to the Application and that due process should have necessitated the resetting of the matter for reconsideration at a later meeting after the Board decided to reclassify the Application to a Request.

Failure to apply the FHA's correct legal standard.

The federal Fair Housing Act² protects a person with a disability from discrimination in obtaining housing. Under this law, a landlord or homeowner's association must provide reasonable accommodation to people with disabilities so that they have an *equal opportunity* to enjoy and use a dwelling. 42 U.S.C. § 3604(f)(3)(B). The very nature of the Request asks for *preferential, not equal*, opportunity to enjoy and use the dwelling, thus does not fall under the FHA's protection as a reasonable request for accommodation.

² The Florida Fair Housing Act mirrors the protections provided in the federal FHA. Florida statute 760.23(9) protects against discrimination against: "(a) A refusal to permit, at the expense of the handicapped person, reasonable modifications of existing premises occupied or to be occupied by such person if such modifications may be necessary to afford such person full enjoyment of the premises; or (b) A refusal to make reasonable accommodations in rules, policies, practices, or services, when such accommodations may be necessary to afford such person *equal opportunity* to use and enjoy a dwelling." (*emphasis added*).

Unfortunately, the on the spot change from a variance Application to a Request ensued after much discussion by the Board of the issue as it related to hardship and other legal standards by which a variance is properly considered. The Board spent very little time considering whether this was a proper request for a reasonable accommodation under the FHA. Furthermore, the Board appeared to assume that staff ensuring that the doctor was in fact treating the child was dispositive of the validity of the ESA request, where it is actually only the beginning of the permissible inquiry as to whether the accommodation is reasonable under the FHA. Doubtless, Applicant's failure to make her request in the proper legal avenue handicapped the Board's ability to analyze the issues presented under the correct legal standard. Only Board Member Sloan even began to address the factors necessary to determine whether the Applicant's request for accommodation would be considered legitimate and reasonable under the FHA. As a result of its failure to apply the correct legal standard, the Board reached an erroneous decision to allow Applicant's Request for reasonable accommodation.

The Request is fatally flawed as it exceeds the scope of the FHA's protection.

The federal Fair Housing Act (FHA) protects a person with a disability from discrimination in obtaining or using housing. Under this law, reasonable accommodation must be provided to people with disabilities so that they have an *equal opportunity to enjoy and use a dwelling*. 42 U.S.C. § 3604(f)(3)(B) (*emphasis added*). The very nature of the Request at issue asks for a *preferential, not equal*, opportunity to enjoy and use the dwelling, thus, by its own nature, does not fall under the FHA's protection as a reasonable request for accommodation.

There is no doubt that the use of emotional support animals (“ESAs”) may qualify as reasonable accommodations under the FHA.³ If an individual with a disability uses a service animal or an ESA, a reasonable accommodation under the FHA may include waiving no-pet rules or a pet deposit or other restrictions that apply to non-disabled individuals.⁴ What the FHA does not provide is the extension of “a preference to handicapped residents,” *United States v. California Mobile Home Park Management Co.*, 29 F.3d 1413, 1418 (9th Cir. 1994). Furthermore, “accommodations that go beyond affording a handicapped [person] ‘an equal opportunity to use and enjoy a dwelling’ are not required by the Act.” *Hubbard v. Samson Management Corp.*, 994 F. Supp. 187, 191 (S.D.N.Y. 1998) (quoting *Bryant Woods Inn, Inc. v. Howard County*, 124 F.3d 597, 605 (4th Cir. 1997)).

In this case, the Applicant’s Request is not for equal treatment under the FHA but for preferential treatment to allow the child to engage in a use of the Property, chicken keeping, a use denied to other non-disabled child, and not for equal use of the dwelling unit.

The doctor’s note does not properly prescribe an ESA as contemplated by the FHA.

As noted above, the Board failed to inquire as to the nature of the disability and how the use of the ESA would ameliorate any limitation on the child’s *equal use* of the Property. The Board instead appeared to rely on the fact that Department staff had verified that the prescription was written by a treating physician, however, that is only the beginning of the inquiry under the FHA.

³ *Fair Housing of the Dakotas, Inc. v. Goldmark Prop. Mgmt., Inc.*, 3:09-cv-58 (D.N.D. Mar. 30, 2011): “... the FHA encompasses all types of assistance animals regardless of training, including those that ameliorate a physical disability and those that ameliorate a mental disability.”

⁴ See *Bronk v. Ineichen*, 54 F.3d 425, 428-429 (7th Cir. 1995).

An individual who requests a FHA reasonable accommodation for an ESA may be asked to provide documentation so that request may be properly reviewed for reasonableness and the scope of accommodation is not unlimited.⁵ It is important to keep in mind that these FHA protections only apply to an accommodation as to the applicant's ability to equal use and enjoyment of the dwelling unit.

The doctor's note from Naveet K. Grewal, M.D., dated October 16, 2019, (hereinafter the "Prescription") advises that caring for chickens assists the child to "focus, care and nurture" and that the chickens are important for the child's "emotional well-being". And as correctly noted by Board Member Sloan, the Prescription is, in all actuality, a directive for the child to engage in an activity, chicken keeping, which is helpful to the child's emotional development, rather than for a particular ESA. While this is certainly a laudable goal, it is clear that this Prescription is not for the purpose of allowing the child to enjoy the equal use and enjoyment of the Property. Furthermore, the very detailed three pages of medical notes describing the child's deficits are devoid of any mention that the child's disability prevents him in any way from equal use and enjoyment of his housing. As a practical matter, the child can engage in the activity of chicken keeping at a location where it is not prohibited, and Appellant is very sympathetic to the developmental benefits of animal husbandry for all children. Finally, as noted by Board Member Sloan, there are a range of animals that are permitted to be kept at the Property, and presumably, the act of caring for other such animals, a use permitted to other non-disabled children, would serve a similar function to support the child's emotional well-being.

⁵ *Hawn v. Shoreline Towers Phase 1 Condominium Association, Inc.*, 347 Fed. Appx. 464 (11th Cir. 2009).

The prescription does not prescribe the use of an ESA that is in any way related to an accommodation to allow the child equal use of the dwelling as a non-disabled child. Therefore, the ESA Prescription does not fall within the reasonable accommodation protections of the FHA.

LACK OF PROCEDURAL DUE PROCESS

The procedure that was followed with regards to this particular variance application failed to provide procedural due process to Appellant for more than one reason, including the failure to provide complete documentation relating to the request and the Board's decision to change the nature of the submission from a variance Application to a "Request" at hearing without setting the matter over to a later hearing with proper notice.

Failure to provide the public with complete information.

The agenda and publicly available information relating to the Variance Application failed to include complete documentation regarding the request, most notably omitting the October 16, 2019 doctor's note that forms the purported "prescription" for the ESA and the supporting medical documentation from Nemours. The omitted documents were material and directly relevant to the request.⁶ The omitted information is critical to determining whether the Applicant's request accommodation for an ESA falls within the protections of the FHA. Failure to provide that complete information prior to the Board meeting and decision deprived Appellant of the ability to respond to legal issues and deficiencies raised in the variance application.

Failure to reschedule the matter for subsequent hearing.

The Board's choice to make an "on the spot" change from the properly noticed variance Application to a "request" without resetting the item to a future agenda for consideration as a

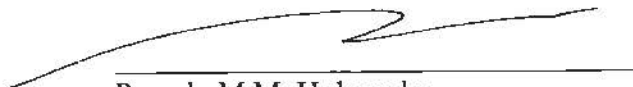
⁶ Appellant appreciates that the documents may have been omitted by the Department due to a good faith, but misguided, concern over protection of health care information.

“request”, failed to provide basic procedural due process to Appellant or others who may have wish to respond to the Request. Appellant does not dispute that the proper avenue for Applicant was to make a “reasonable request for accommodation” under the FHA and that such requests should not incur a fee. Failure to provide proper notice of the change in the nature of the application, and allow Appellant or others to respond, deprived Appellant of procedural due process.

CONCLUSION

Based upon the foregoing, the Board’s decision to approve the Request should be reversed and the Applicant’s Request should denied as a matter of law as the Request is fatally flawed as the accommodation requested is for preferential, and not equal, use of the dwelling and is not properly supported as required by the FHA. At a minimum, the Request should be remanded to the Board for rehearing and reconsideration, with proper notice, publication of documents and opportunity for the application of the correct legal standards.

Respectfully submitted this 19th day of December, 2019.



Pamela M.M. Holcombe
312 A Street
St Augustine Beach, FL 32020
pmmholcombe@outlook.com

CERTIFICATE OF SERVICE

On this 19th day of December, 2019, a True and accurate copy of the foregoing was hand delivered to the Building and Zoning Department of the City of St. Augustine Beach, 2200 A1A South, Florida, 32020.



Pamela M.M. Holcombe

CITY OF ST. AUGUSTINE BEACH2200 A1A South
St. Augustine, FL 32080**INVOICE #**

I2000502

ACCOUNT ID: HOLCO005 PIN: 067677

INVOICE DATE: 12/19/19

DUE DATE: 01/18/20

HOLCOMBE, PAMELA
312 A STREET
ST. AUGUSTINE, FL 32080
USA**PERMIT INFORMATION**

APPLICATION ID: 1085

LOCATION: 313 A ST

OWNER: WILDASIN, JENNIFER GRACE

QUANTITY/UNIT	SERVICE ID	DESCRIPTION	UNIT PRICE	AMOUNT
		Permit App Id: 1085		
1.0000	PZ ADVER	Advertising Sign zoning Permit App Id: 1085	7.500000	7.50
1.0000	PZ APPEA	Appeal Permit App Id: 1085	300.000000	300.00
			TOTAL DUE:	<u>\$ 307.50</u>

PAYMENT COUPON - PLEASE DETACH AND RETURN THIS PORTION ALONG WITH YOUR PAYMENTCITY OF ST. AUGUSTINE BEACH
2200 A1A South
St. Augustine, FL 32080INVOICE #: I2000502
DESCRIPTION: Permit App Id: 1085
ACCOUNT ID: HOLCO005 PIN: 067677
DUE DATE: 01/18/20
TOTAL DUE: \$ 307.50HOLCOMBE, PAMELA
312 A STREET
ST. AUGUSTINE, FL 32080
USA

CITY OF ST. AUGUSTINE BEACH

Date: 12/19/2019 Time: 05:13 PM

Invoice Payment

Customer: HOLC0005
Name: HOLCOMBE, PAMELA

Invoice: I2000502
Permit App Id: 1085
Item 1 7.50
Advertising Sign zoning
Item 2 300.00
Appeal

307.50

Chk#: 1372
Batch Id: BL122019
Ref Num: 810 Seq: 1 to 2

Cash Amount: 0.00
Check Amount: 307.50
Credit Amount: 0.00

Total: 307.50

Thank You for your payment!