



## MINUTES

PLANNING AND ZONING BOARD REGULAR MONTHLY MEETING  
TUESDAY, AUGUST 15, 2023, 6:00 P.M.  
CITY OF ST. AUGUSTINE BEACH, 2200 A1A SOUTH, ST. AUGUSTINE BEACH, FL 32080

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I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **ROLL CALL**

BOARD MEMBERS PRESENT: Chairperson Kevin Kincaid, Hulsey Bray, Conner Dowling, Larry Einheuser, Victor Sarris, Junior Alternate Rhys Slaughter.

BOARD MEMBERS ABSENT: Vice-Chairperson Chris Pranis, Hester Longstreet, Senior Alternate Gary Smith.

STAFF PRESENT: Building Official Brian Law, City Attorney Jeremiah Blocker, Planner Jennifer Thompson, Recording Secretary Bonnie Miller.

IV. **APPROVAL OF MINUTES OF REGULAR PLANNING AND ZONING BOARD MEETING OF JULY 18, 2023**

**Motion:** to approve the minutes of the Board's meeting of July 18, 2023. **Moved** by Conner Dowling, **seconded** by Larry Einheuser, **passed 6-0** by unanimous voice-vote.

V. **PUBLIC COMMENT**

There was no public comment pertaining to anything not on the agenda.

VI. **NEW BUSINESS**

- A. Land Use Variance File No. VAR 2023-11, for a front yard setback reduction from 20 feet to 12 feet and a street side yard setback reduction from 12 feet to 8 feet for proposed new construction of a 300-square-foot covered front porch and street side handicap-accessible ramp addition to an existing single-family residence in a medium-low density residential land use district on Lot 1, Block 57, Coquina Gables Subdivision, at 400 E Street, St. Augustine Beach, Florida, 32080, Kathleen J. Bice and Marvin D. Krohn, Applicants

Jennifer Thompson: This first order of business is a variance application for 400 E Street. The applicants are requesting a reduction in the front setback from the required 20 feet

to 12 feet, and a reduction of the street side setback, as this is a corner lot, from the required 12 feet to 8 feet. These requested setback reductions are for a proposed 300-square-foot addition for a covered porch and a covered wheelchair-accessible ramp.

Kevin Kincaid: Any questions? Hearing none, may we hear from the applicants, please?

Yuliia Moiseeva, 405 Treaty Oak Lane, St. Augustine, Florida, 32092, Agent for Applicants: I am the agent for the applicants, who are the owners of 400 E Street. We are asking for setback reductions to add a covered porch and handicap-accessible ramp. The covered porch will be a wood-frame structure, and the ramp is for elderly persons in wheelchairs.

Conner Dowling: Will the new porch and ramp be built on the same foundation?

Yuliia Moiseeva: The wooden wheelchair-accessible ramp will be built on the side of the house, and it will be elevated up to the porch addition and made level with the front door, so the elderly persons will have easy wheelchair access from the ramp leading up to the covered front porch and then to the front door of the house. The porch and ramp will be built on a wood pier or post foundation with a wood frame porch structure on top.

Rhys Slaughter: Is there a precedent for doing this under the circumstances that it is only used as a covered porch and a wheelchair ramp, so that moving forward, say in 10 years or so, this won't become a complete remodel with all of this additional square footage converted to enclosed space within the setbacks allowed by this variance, if approved?

Brian Law: If this variance is granted, the approval will be very specific to what the applicants are requesting to build per the variance application. If the property is sold down the road, the new owners would not be able to enclose the porch without a permit, and ideally, as part of their due diligence, zoning would look at that for assessment of an impact fee adjustment for new conditioned space, and there would be a record of how the porch and wheelchair ramp were allowed to be built, per the variance application and approval. This doesn't mean current or future owners couldn't apply to build something else down the road, but to do so, they would have to go through the variance process to change anything not specifically allowed per the approval of this current variance request.

Kevin Kincaid: So, this does not give current or future owners an automatic right to build anything they want within the setback reductions that would be granted by this variance. The variance, if granted, would be specifically limited to what the applicants are requesting to build per the submitted variance application and accompanying plans.

Brian Law: Yes. If the Board decides to grant this variance, I recommend the motion to approve include language stating construction shall be in accordance with the submitted plans, or something of that magnitude. Keep in mind, if the house is destroyed by a natural disaster, terrorist act, or something like that, this variance would no longer exist.

Conner Dowling: What will happen to the little porch currently located at the entrance to the house on the E Street side? This little porch is not raised up but is built at grade.

Yuliia Moiseeva: The porch itself is no longer there, but the concrete slab is still there.

Conner Dowling: I was just curious, as I saw that an enclosed porch not elevated to the level of the house used to be there. It appears, without a graphic scale in my hand, that the new addition will extend slightly beyond the area where that porch slab is, correct?

Yuliia Moiseeva: Yes, the covered porch addition will extend a little further out and to the west of this slab.

Kevin Kincaid: I saw a significant number of names on the petition in support of this variance included in the variance application submittal. I assume nothing has been submitted opposing the variance, as we have nothing in our packets in opposition to this.

Jennifer Thompson: No. We have not received anything in opposition to this.

Kevin Kincaid: I went by and looked at this property, and it looks like the proposed porch and handicap ramp would fit fine in the location the applicants are asking to build them.

Brian Law: Going backwards a little bit, I would like to ask the applicants or their agent to state on the record that they have no intention of doing anything aside from what has been submitted and requested in the variance application and accompanying documents, and that there will be no future enclosures or anything of that nature.

Kevin Kincaid: Okay. Could you state on the record that you have no intention of creating anything different from what is shown on the submitted plans for the variance request?

Yuliia Moiseeva: I would like to ask my clients this, if I may. After checking with them, they have no other plans for this addition aside from what is shown in the application.

Victor Sarris: And just so we don't get ourselves into any trouble, this hardship that is defined in item number one of the considerations for the granting of a variance, as stated on page four of the application, meets the City's criteria for hardships, right?

Brian Law: Only the Board can answer that question.

Kevin Kincaid: I actually had a problem with the hardship, and the way it was written in the application, because the hardship can't be the rule. It's like, if I get a speeding ticket, the hardship can't be the speed limit. Elsewhere in the application, however, it states the proposed addition is for wheelchair access for occupants who are 85 and 95 years old, so I was able to pull that over to the hardship, and for myself, it met my criteria for a hardship. However, one of the first things I noticed in this variance application was the way the hardship stated the setback rules won't allow the porch and handicap-accessible ramp addition that the applicants want to build, but the hardship cannot be the rule.

Yuliia Moiseeva: The hardship is wheelchair access as stated by the Americans with Disabilities Act (ADA), that every person in a wheelchair must have an access.

Jeremiah Blocker: The ADA would not apply here, because the property is not a public facility; and it doesn't meet the threshold for ADA accessibility. I think the premise, and you have already gotten there, is that you have elderly people needing wheelchair access. The ADA would not apply in these circumstances, but we still want to make sure, when the Board puts the reasoning behind its decision on the record, that the hardship is legally sufficient. It has already been stated that it is for wheelchair access for elderly persons.

Kevin Kincaid: The Board has been careful about this in the past, because if we approve this variance, we are approving something that goes on in perpetuity, whereas the people requesting the variance may not. We have declined, in the past, to use medical conditions strictly as a hardship, because medical conditions don't last, but once a variance is approved, the building goes on and the variance lasts for however long the building exists.

Jeremiah Blocker: The Board can deviate, and rely on the humanitarian impacts, but the applicants are not running a business here, so do not rely on the ADA for your decision.

Victor Sarris: So, are we saying that this isn't specific to a medical condition?

Kevin Kincaid: I think the medical condition contributes to it, along with the ability of the occupants to fully utilize their property.

Victor Sarris: Is the medical condition the hardship then?

Kevin Kincaid: Probably, yes, the age and medical conditions of the elderly persons.

Conner Dowling: I would also see the property site and the constraints of this corner lot as a hardship. There are obviously good reasons for the corner street side setbacks, but if this wasn't a corner lot, the side setbacks would be 7.5 feet each, based on the City's current Land Development Regulations (LDRs), and the applicants would not need a variance for a reduction of the required 12-foot street side yard setback to 8 feet.

Kevin Kincaid: Correct, they would only need a variance for the front yard setback.

Conner Dowling: There is a great example on the overhead right now of the aerial view of this property and adjacent properties on this block of E Street, where you can see that the fronts of the houses are all consistent and the roofs are all in a line. This develops a street corridor and these types of neighborhood character things. This is not to say that you can't have front porches extending beyond that, but I think keeping the depth of the proposed front porch to a maximum of 8 feet is a good number, as this still allows a comfortable size porch on which you could have a table and chairs. One other thing I saw, from just a streetscape perspective, so that this addition doesn't come across as so glaring and something that needs a variance, is that potentially, completing the gable of the roofline of the new addition could be done as opposed to continuing up to the top of the existing house gable. This would reduce the scale a little bit, and I think this would make the streetscape potentially better. Also, a couple of other things could be done to the design. We are not here to critique the design, but when you are pushing into a setback,

I feel it is the Board's job to think about things like this and how they will affect the street and the neighbors. To me, these are overall small things that could be done while still achieving the square footage needed for the front porch and handicap ramp addition.

Kevin Kincaid: I know we approved another similar variance maybe last year, on F Street?

Brian Law: You actually just approved one even more recently.

Jennifer Thomspson: Yes, this was for 607 11<sup>th</sup> Street, where a variance was granted to reduce the rear setback from 20 feet to 16 feet, 5 inches for an addition.

Kevin Kincaid: All right, any other questions or comments? Hearing none, do we have a motion?

Rhys Slaughter: I'll motion to approve Land Use Variance File No. VAR 2023-11, as it has been submitted.

Larry Einheuser: I'll second that.

Kevin Kincaid: We have a motion and a second. Any discussion on the motion?

Conner Dowling: I personally would like to see that front addition as an 8-foot-wide porch and the gable roofline changed, for the reasons I stated previously. Otherwise, I would be in favor of approving this.

Kevin Kincaid: My only thought about this is that people will be trying to turn a wheelchair around in this space, and if the applicants are actually going to accomplish what they want and allow people in wheelchairs to use the porch and get around tables and whatever, reducing the width of the porch might make this pretty tight. It would be different if there were complaints from the neighborhood, but the applicants have really made the effort to get the petition in support of this from pretty much everyone around them, and we've heard no opposition to this. I understand what you are saying, but I do not think asking for a front setback reduction to 12 feet for the porch is unreasonable in this case.

Larry Einheuser: I agree.

Yuliia Moiseeva: The proposed additions are designed the way they are because there are electrical wires on the left side, and an electrical pole on the wall. The existing roof is elevated and further extended so as not to interrupt or interfere with any electrical issues.

Conner Dowling: The electrical meter is on the exterior wall in that location?

Yuliia Moiseeva: Yes.

Jeremiah Blocker: Mr. Chair, before the Board votes, I want to make sure we open the floor for public comment.

Kevin Kincaid: Good point. Is there any public comment? Hearing none, we have a motion and a second. Conner, do you want to create an amendment to the motion?

Conner Dowling: Yes, I'll amend the motion to change the roofline, because the issue, to me, is the streetscape and encroachment into the front setback, and seeing that roofline stick out. Reducing the porch depth to 8 feet, which I feel is still acceptable for a porch, and changing the roofline would minimize the impact and visibility of this addition.

Brian Law: There was a motion made and a second to this motion, so that motion needs to run its course, or the motion needs to be withdrawn, and another motion made and seconded, if the original motion on the floor is to be amended.

Jeremiah Blocker: The original maker of the motion would have to agree to amend the motion that was made. This is commonly known as a friendly amendment, and then there would have to be a second to this friendly amendment.

Rhys Slaughter: Perhaps I was the wrong one to make this motion, because honestly, if the applicants were asking for this wheelchair ramp because they have relatives who visit twice a year, I would say yes to it. They should be allowed to have whoever they want, including anyone who is wheelchair-bound, to be able to come into their home, and if this is what they feel is necessary, I just feel like we are not giving up setback areas all the way to the street for a ramp or anything like that. For me personally, it makes sense to move forward on this as requested by the applicants in their variance application. I am not completely disagreeing what you are saying with the proposed amendment to the motion, but I also think it is the applicants' house, and they are the ones who have to look at it every day, and maybe the suggestion itself is enough to motivate them to at least look into what has been suggested in the proposed amendment to the motion. They are the ones who have to deal with wheelchair-bound people in their house every day, and I think they may need a little more space and flexibility to make what they want to do work.

Brian Law: Okay, so we have the original motion that was made and seconded, and the maker of this motion does not seem willing to amend his motion. However, this motion can still run its course, and if the Board's vote is not favorable and the motion does not pass, another motion can be made and seconded and the Board can vote on that. But the original motion must run its course now, and the Board needs to vote on it.

Kevin Kincaid: Okay, we have a motion and a second. The motion is to approve the variance in accordance with the application documents and plans as submitted. Is there any more discussion on this motion? Hearing none, may we have a vote, please?

**Motion:** to approve Land Use Variance File No. VAR 2023-11, for a front yard setback reduction from 20 feet to 12 feet and a street side yard setback reduction from 12 feet to 8 feet, for proposed new construction of a 300-square-foot covered front porch and street side handicap-accessible ramp addition to an existing single-family residence in a medium-low density residential land use district on Lot 1, Block 57, Coquina Gables Subdivision, at 400 E Street, St. Augustine Beach, Florida, 32080, in accordance with the

documents and plans submitted in the variance application. **Moved by Rhys Slaughter, seconded by Larry Einheuser, passed 5-1 by the Board by voice-vote, with Conner Dowling dissenting.**

- B. Land Use Variance File No. VAR 2023-12, for rear and north side yard setback reductions from 10 feet to 5 feet for proposed new construction of a 645-square-foot pool, deck, and screen enclosure addition to an existing single-family residence in the Seagrove Planned Unit Development (PUD) on Lot 7, Seagrove St. Augustine Beach Unit 1, at 508 Weeping Willow Lane, St. Augustine Beach, Florida, 32080, Carmen Pollitz, Agua Construction, Agent for Gary T. and Cynthia A. Oslin, Applicants

Jennifer Thompson: The next item on the agenda is a variance application for 508 Weeping Willow Lane, in the Seagrove PUD. This request is for setback reductions from the 10-foot rear and north side setback requirements for pools, screen enclosures and decks, per Seagrove's PUD ordinance, to 5 feet. In the past, the Board has seen several similar variances in Seagrove, as the setback restrictions per the PUD ordinance are more restrictive than the City's setbacks per the LDRs for pools, screen enclosures, and decks.

Kevin Kincaid: So, the only reason we are here is because the PUD ordinance has more restrictive setbacks than the City's LDRs require. If this property were anywhere else but Seagrove, a variance would not be required for the pool, screen enclosure, and deck.

Jennifer Thompson: Correct. The Seagrove Architectural Review Board did sign off and approve the proposed plans submitted by Agua Construction, agent for the applicants.

Kevin Kincaid: Has there been any opposition to this?

Jennifer Thompson: No. Correspondence in support of the variance from the property owners of 852 Tides End Drive and 611 Poinsettia Street has been submitted.

Kevin Kincaid: So there has been no opposition at all, and this is similar to other variances the Board has approved recently for properties in Seagrove.

Jennifer Thompson: Correct.

Kevin Kincaid: Okay, may we hear from the applicant, please?

Carmen Pollitz, Agua Construction, 2550 North State Street, Bunnell, Florida, 32110, Agent for Applicants: I am Carmen Pollitz, and I represent Agua Construction and the applicants, who are the owners of the property at 508 Weeping Willow Drive. Basically, this variance request is no different from others that have been applied for and granted in Seagrove. The lot is atypical in shape, and the footprint of the house is skewed on the property, so there is not really much of a backyard at all. The pool will still be small, even with the requested setback reductions to 5 feet for the rear and north side setbacks. There is no lot or structure behind this property, as it backs up to A1A South.

Kevin Kincaid: Are there any questions for the applicant's agent, or any public comments?

Kathleen Elizabeth, 931 A1A Beach Boulevard Unit 201, St. Augustine Beach, Florida, 32080: Will any significant trees be cut down to build what the applicants propose?

Carmen Pollitz: No, there are no trees being cut down. A couple of tree limbs may need to be trimmed or taken off, but that is all.

Kevin Kincaid: Any trees with diameters-at-breast-height (DBH) of 30 inches or greater would require approval from this Board before they could be removed, correct?

Brian Law: Yes, any tree with a DBH of 30 inches or greater that is requested to be removed requires application to the Planning and Zoning Board, and the Board's approval of the tree removal request, per the tree regulations in Article V of the LDRs.

Kevin Kincaid: Any other comments, or questions? Hearing none, do we have a motion?

**Motion:** to approve Land Use Variance File No. VAR 2023-12, for rear and north side yard setback reductions from 10 feet to 5 feet for proposed new construction of a 645-square-foot pool, deck, and screen enclosure addition to an existing single-family residence in the Seagrove Planned Unit Development (PUD) on Lot 7, Seagrove St. Augustine Beach Unit 1, at 508 Weeping Willow Lane, St. Augustine Beach, Florida, 32080, in accordance with the documents and plans submitted in the variance application. **Moved** by Kevin Kincaid, **seconded** by Victor Sarris, **passed 6-0** by the Board by unanimous voice-vote.

**VII. OLD BUSINESS**

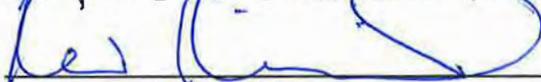
There was no old business.

**VIII. BOARD COMMENT**

There was no further Board comment.

**IX. ADJOURNMENT**

The meeting was adjourned at 6:24 p.m.



Kevin Kincaid, Chairperson



Bonnie Miller, 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).