

**BOARD OF ZONING APPEALS
MEETING
OCTOBER 28, 2008**

MEMBERS PRESENT: Lynne Matthews, Chairman
Henry Bauman, David Brower, Larry Hofmeister,
Richard Kilmer, James McClary, Ray Rose

MEMBERS ABSENT: Randy Fassett

OTHERS PRESENT: Teri Tubbs, Zoning Official
Joan LeBeau, Chief Planner
Lisa Hannon, Zoning Coordinator
Michael Haymans

CALL TO ORDER/ANNOUNCEMENTS

- A. Roll Call
- B. Next Scheduled Meeting - November 25, 2008
 - Ms. Matthews announced the Board's December 2008 Meeting had been rescheduled to Tuesday, December 16, 2008, at 4:00 p.m.
- C. Last Scheduled Meeting - August 18, 2008

APPROVAL OF MINUTES

- A. Meeting of August 18, 2008
 - Mr. Kilmer MOVED, Mr. Bauman SECONDED approval of the August 18, 2008 minutes.
MOTION CARRIED UNANIMOUSLY.

OLD BUSINESS

- A. Results of City Council Action on September 17, 2008
 - 1. V-07-08 - Request for a variance to the Land Development Regulations per Section 26-16.10, page 26-196, of the City Code to allow an LED, static, changeable message sign on the north wall of the Charlotte Harbor Event and Conference Center instead of individual letters attached directly to the building street frontage as required per Section 26-11.4(a)(1) and (a)(4), page 26-124, and that the LED, static, changeable message sign extend 9.5 inches from the building face instead of 6 inches as required per Section 26-11.4(a)(4), page 26-124, and that the copy on the LED, static, changeable message sign may change electronically, instead of individual letters and numbers attached to the sign as required per Section 26-11.3(c)(1), page 26-119, and that the electronically changing sign message will be permitted, instead of prohibited per Section 26-11.6(d), page 26-127, and request for a variance to the Land Development Regulations per Section 26-16.10, page 26-196, of the City Code to allow a ground sign for the Charlotte Harbor Event and Conference Center that is located in

the City Center zoning district and is less than 15 feet from the fronting right-of-way as required per Section 26-11.4(7), page 26-126, and that the sign be permitted in conjunction with a facade sign instead of prohibited per Section 26-11.4(7)c., page 26-126.

- Ms. Teri Tubbs, Zoning Official, announced V-07-08 had been approved by City Council with specific conditions by a three to two vote.

NEW BUSINESS

- Recording Secretary Kelly swore in all participants.
- A. V-08-08 - 321 Harvey Street - Request for a variance to the Land Development Regulations per Section 26-16.10, page 26-196, of the City Code on an existing structure to allow an existing side yard setback of 1.6 feet for an existing pool and concrete equipment pad, instead of 5 feet as required by City Code Section 26-3.7(g)(3), and to allow a new lot line to be established that surrounds the southerly 6.8' x 31' of an existing pool and pool enclosure with a newly established 3.2 foot rear yard setback instead of 15 feet as required per City Code Section 26-3.7(g)(4), page 26-15, and to allow the side yard setback from the newly established lot line to be 2.8 feet on the south side and 3 feet on the north side, instead of 5 feet, as required per City Code Section 26-3.7(g)(3), page 26-15.
- Ms. Tubbs displayed an overhead of the site location, as delineated in the agenda material, noting the pool on this property was constructed in 1983. She attested to staff's Findings #1 through #8, also provided in the Board's agenda packet, stating there was no way of knowing why or how the pool was built across lot lines 25 years earlier. She explained the property owner needed to sell the two lots on which the pool encroached and thus was requesting relief from the required rear and side yard setbacks. She mentioned the application met many of the required criteria, opining current economic conditions deserved due consideration. She stated the Urban Design Division must recommend denial due to the literal criteria of variance requests; however, in that all parties to this transaction were in support of the variance and the fact that there was no threat to life, safety and health, staff did not take issue, from a practical standpoint, with the request outside of the literal interpretation of City Code. She mentioned two letters of support had been received.
- Mr. Kilmer clarified the yellow area on the overhead represented the requested setback for an existing pool. He confirmed the two existing Lots 12 and 13 would have the setback criteria as marked in red; thus, those lots would still maintain a 15 foot setback from the existing pool.
- Ms. Tubbs agreed that was correct.

- Ms. Matthews asked which lots were owned by the applicant.
- Mr. Michael Haymans, applicant's attorney, replied Ms. Jane Watson and Ms. Martha McCormick, applicants, owned Lots 1 and 2, stating both were born and raised at that location. He continued Ms. Watson owned Lots 3, 12 and 13; thus, this had been family property for many years. He stated Ms. Watson's spouse had passed away, adding the applicants' family home was destroyed in August 2004 by Hurricane Charley. He clarified both applicants now resided together on Lot 3 and utilized the pool for health reasons. He explained Ms. Watson and Ms. McCormick wished to sell Lots 12 and 13 in order to provide for themselves for the remainder of their lives.
- Ms. Matthews questioned the result if the Board denied the request.
- Ms. Tubbs replied the application would still be presented to City Council for a final decision.
- Mr. Hofmeister asked why Lot 2 was not being considered, stating it seemed there was an encroachment on same.
- Mr. Haymans replied the request was for a variance from setback requirements on Lot 2 for a portion of the walkway which extended out. He explained if the variance was granted on Lot 3, Lots 1, 2, 12 and 13 would not have any need for a variance. He mentioned the applicants were sisters.
- Ms. Tubbs interjected the red lines on the overhead were slightly off-center, adding the garage did not overhang a property line in any way but rather was set back two and one-half feet from same.
- Mr. Bauman asked if a variance request was anticipated from the future owners of Lots 12 and 13.
- Mr. Haymans replied he did not foresee same. He expressed his belief the hardship criteria had been met, requesting the Board's favorable consideration.
- Ms. Matthews called three times for anyone to speak on V-08-08.
- Mr. Kilmer MOVED, Mr. Hofmeister SECONDED to close the public hearing. MOTION CARRIED UNANIMOUSLY.
- Mr. Kilmer MOVED, Mr. Bauman SECONDED to recommend approval of V-08-08 based upon the evidence and testimony presented. MOTION CARRIED UNANIMOUSLY.

OTHER BUSINESS

- A. City of Punta Gorda Comprehensive Plan 2025 - Update
 - Ms. Joan LeBeau, Chief Planner, announced the Comprehensive Plan had been transmitted to the Department of Community Affairs (DCA). She noted the City had since received their Objections, Recommendations and Comments (ORCs) in which the DCA had requested minor changes to the Future Land Use Element. She stated end

users had been asked how best to address the ORCs. She explained the comments centered around land use intensities within those future land use designations; thus, staff would be looking at floor area ratios in commercial areas. She concluded there would be additional public meetings in the future, inviting members to participate.

ADJOURNMENT

- Meeting Adjourned: 4:25 p.m.

Lynne Matthews, Chairman

Mary Kelly, Recording Secretary