

City of Port St. Lucie

Board of Zoning Appeals

Meeting Minutes

121 SW Port St. Lucie
Blvd.
Port St. Lucie, Florida
34984

Shannon M. Martin, Mayor

Jolien Caraballo, Vice Mayor, District IV
Stephanie Morgan, Councilwoman, District I
Dave Pickett, Councilman, District II
Anthony Bonna, Councilman, District III

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Monday, March 27, 2023

4:30 PM

Council Chambers, City Hall

1. Call to Order

A Special Meeting of the City Council of the City of Port St. Lucie serving as the Board of Zoning Appeals was called to order by Mayor Martin on March 27, 2023, at 4:30 PM, at Port St. Lucie City Hall, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

2. Roll Call

Council Members Present:

Mayor Shannon M. Martin
Councilwoman Stephanie Morgan
Councilman Dave Pickett
Councilman Anthony Bonna

Council Member Not Present:

Vice Mayor Jolien Caraballo

3. Public Hearings

- 3.a** Order No. 22-10, Quasi-Judicial, Public Hearing, An Appeal to an Order of the Planning and Zoning Board Denying a Variance to Allow a 0.31-Foot Setback from the Tesoro PUD Requirements for Accessory Structures and the Rear Property Line for an Existing Screen Enclosure & Pool Deck.

[2022-1006](#)

The Acting City Clerk read Order No. 22-10 aloud by title only.

City Attorney James Stokes reviewed the quasi-judicial procedures for

Public Hearing items 3.a and 3.b. Acting City Clerk Bryan Pankhurst swore in staff and those in attendance who wished to speak on these items.

Mayor Martin inquired if Council had any ex parte communications, to which each Council member responded in the negative.

Bianca Lee, Planner, Planning and Zoning Department, stated she was sworn in and the official file was submitted to the City Clerk at least five days prior to this hearing.

Planner Lee provided a PowerPoint presentation on the request submitted by John Wangle, property owner, for a variance to the setback requirements of the Tesoro PUD, for an existing pool deck and screen enclosure. She noted the Tesoro PUD requires a minimum setback of three (3) feet from the rear property line and the variance is requesting 0.31-foot setback. She showed the location of the subject property, zoning map, and boundary surveys for the pool, pool deck, and screen enclosure. Planner Lee indicated the request was denied by the Planning & Zoning Board on October 4, 2022.

Councilwoman Morgan inquired if the surveys were included when the permits were pulled. Planner Lee stated the Pool Form Board Survey was included but it did not show the enclosure, as it was constructed after the fact and is currently in a failed status.

Mayor Martin stated that Owner Wangle should know the City's setbacks, Architectural Review Committee guidelines, and PUD declarations. She said he was informed by his neighbors that he was building improperly and the enclosure was built anyway. Planner Lee noted owners would typically get HOA approval prior to commencing any accessory structures.

Michael Peter, Deputy Building Official, responded to Council's comments and questions. He clarified this discussion was regarding the screen enclosure, as the pool was permitted and passed inspection. He explained the screen enclosure was constructed without a permit, the inspector failed the enclosure, and the homeowner came in after-the-fact to apply for the permit.

Attorney Nicholas Gieseler with Bartlett, Loeb, Hinds & Thompson & Angelos, PLLC, stated he was representing the applicant, John and

Arlene Wangle. Attorney Gieseler reviewed the PowerPoint presentation that was provided at the Planning & Zoning Hearing in October 2022, opined as to why the Board's determination should be overturned, and discussed the timeline of events. He indicated the applicant is seeking a relief of 2.69 feet from a 3-foot setback, with a new setback line of 0.31 feet. Attorney Gieseler reviewed and discussed the Code standards for a variance application. He noted there is no fencing to keep pests out of the pool and the property line concaves and is not straight. Attorney Gieseler stated the applicant was asking the City to process this variance application as if the screen enclosure had not yet been built, as the application meets all seven standards.

Councilman Picket asked Applicant/Owner Wangle if the HOA or realtor discussed the specific setbacks when he purchased his property, to which he responded in the negative. Mr. Wangle stated the POA has not given him anything in writing or verbally and he has asked for it many times. He explained the history of Tesoro's change in ownership, the challenges he faced in building his pool and enclosure, and his concave property line.

Councilwoman Morgan commented on the concave property line and the property owners association as well as inquired about the commencement permit and final pool inspection. Mr. Peter, Deputy Building Official, stated a Notice of Commencement is typically given to the contractor and is required to be submitted to the Building Department before the first required inspection. He explained with an Owner/Builder Application, the owner assumes all of the responsibilities of a contractor and that Applicant/Owner Wangle signed the Affidavit stating same. Mr. Peter noted the pool deck is part of the landscaping and not part of the pool structure. He indicated the Engineering Department is concerned about the pool deck, because it changed the drainage on the site.

Mayor Martin stated she did not believe that Applicant/Owner Wangle had no knowledge of joining a POA and its restrictions, setback requirements, and property lines. She said the gators and bugs in Florida are not a hardship.

Mayor Martin called on those who wished to speak:

1. Albert Moore, 130 S. Indian River Drive, Fort Pierce, stated he is the

Attorney for the Tesoro POA and they are objecting to the granting of the variance and appeal. He indicated the new developers instructed him to litigate this matter, because they want the screen enclosure removed. He stated this was a classic case of asking for forgiveness as opposed to asking for permission from the POA as well as the City. Regarding the documents, Attorney Moore explained that when someone moves into any type of POA, HOA, etc., the owner is imputed to know the terms of the declaration, bylaws, and articles as recorded in the public records. He stated for the owner to say he was not aware of these documents is not very credible. Attorney Moore explained Owner/Applicant Wangle never went through the Architectural Review Committee and the declaration states each member has to comply with all city, state, and county regulations. He noted if the owner does not comply with the setback requirements, they are in violation of the declaration as well. Attorney Moore stated there are no screened in pools within Tersoro, because that is what the community wants. He indicated the neighbor's letter states the screen structure blocks their view and that they are worried about the structural integrity. He noted the neighbor is on the Finding Committee of the POA and told Mr. Wangle the enclosure was not approved while he was constructing it. Attorney Moore stated there was no legal reason to approve this appeal and asked the Council to deny the request.

Mayor Martin closed the Public Hearing.

Councilman Bonna inquired if animals or alligators have ever been used as justification for a special or extraordinary circumstance. Mary Savage-Dunham and Planner Lee stated they were not aware of any in Port St. Lucie. Councilman Bonna also inquired about the overall neighborhood support, to which Owner/Applicant Wangle stated he had over 75 written statements from neighbors in support. Mayor Martin stated the Council was supposed to be making determinations on facts and this was hearsay information and could not be corroborated.

Councilman Pickett expressed his concerns and explained the information regarding the property line, survey and being in violation was available to Owner/Applicant Wangle yet he still moved forward.

Councilwoman Morgan commented on the issues with local pool builders. She stated when closing on a home, the HOA documents and current survey are required by the title company. She indicated she was going with the facts presented and could not support the approval

of the appeal.

Mayor Martin stated she would not be supporting the appeal as well. She said it is Owner/Applicant Wangle's responsibility to ensure everything on his property is done correctly via the POA/HOA and the City. She stated she agrees with staff's findings as listed in the backup documentation. She said there have been multiple chances to do it the right way and this was unacceptable.

Applicant Attorney Gieseler objected to the consideration of any evidence presented today that was not evidentiary. He requested that any evidence about discussions from the HOA to the applicant that are hearsay and not presented or authenticated here today be preserved for the record. He also asked that any order denying the request, specify which of the seven criteria the applicant did not meet.

City Attorney Stokes stated if Attorney Gieseler does not want such evidence included for consideration, then this Board should not consider the 75 or 300 people that supported Applicant/Owner Wangle, because those individuals did not testify here under oath. City Attorney Stokes indicated his office will prepare the order.

In discussing the motion, City Attorney Stokes reviewed the seven criteria for granting a variance from the Staff Report. Mayor Martin stated the motion is basically Staff's findings as listed in the backup material. She noted for the record that the neighbor of Applicant/Owner Wangle submitted an opposition statement.

Councilwoman Morgan asked if there was a way for the applicant to rectify the situation without a variance, such as removing the screen enclosure. City Attorney Stokes stated he presumed the applicant would have to take the screen enclosure out of the setback, but that was an issue for the HOA and not the City. Councilwoman Morgan confirmed that screen enclosures are not allowed in Tesoro.

Councilwoman Morgan moved to uphold the denial of the variance by the Planning & Zoning Board by reason of the positions as stated in the Staff Report. Councilman Pickett seconded the motion, which passed unanimously by roll call vote. (Clerk's Note: Vice Mayor Caraballo was not present at this meeting.)

3.b Order No. 23-04, Quasi-Judicial, Public Hearing, An Appeal to
an Order of the Planning and Zoning Board Denying a

[2023-304](#)

Landscape Modification to Forego a 6-foot-High Masonry Wall within the Landscape Buffer Required Along the South Side of the Site (P22-319).

The Acting City Clerk read Order No. 23-04 aloud by title only.

Mayor Martin inquired if Council had any ex parte communications, to which each Council member responded in the negative.

Bethany Grubbs, Planner, Planning and Zoning Department, stated she was sworn in and the official file was submitted to the City Clerk at least five days prior to this meeting.

Planner Grubbs provided a PowerPoint presentation on the appeal for a landscape modification for Commerce Lakes Warehouse. She summarized the project as well as reviewed the general information and modification request. She noted there is a major site plan for a related project currently under review for the construction of a warehouse and office building. Planner Grubbs showed the location of the subject property, future land use, zoning, site plan, landscape plan, and existing vegetation. She explained a wall is required in a landscape strip where residential uses abut the industrial property to the south and the rear, per Section 154 of the Landscape and Clearing Code, and this request is to substitute the architectural buffer wall with landscaping. She indicated the Planning & Zoning Board denied the request for a landscape modification on December 6, 2022.

Councilwoman Morgan inquired about the residential abutting the warehouse property. Planner Grubbs explained there was a split land use in zoning; however, the property does abut the Pine's subdivision and there is a buffer.

Applicant Derek Bailey, owner of A Great Home, stated he builds a lot of residential homes and commercial buildings in Port St. Lucie. He presented two aerial shots showing the thickness of the buffer on the south side of the warehouse. He explained the Planning & Zoning Board denied the request, because some residents wanted a wall due to the open storage on a few properties. He noted no outside storage is allowed at his warehouse and he will be putting up a landscape buffer. Applicant Bailey indicated a large RV park across the street was just recently approved and they are not required to put up a wall nor are the other parcels / businesses along the stretch of the drainage ditch, so he would be the only one required to have a wall. Applicant

Bailey read into the record the letter he received from FPL objecting to the installation of the privacy wall. Mayor Martin confirmed the City had a copy of the letter for the record.

Mayor Martin opened the Public Hearing. There being no comments, she closed the Public Hearing.

Mayor Martin stated she was surprised this was denied by the Planning & Zoning Board, considering the City has made many exceptions to this entire corridor with regard to the wall and favored the landscape buffers.

At this time, Councilman Pickett noted one of the neighbors wrote a letter regarding the crane company in the area that was granted a variance to put up a fence with a wind screen. He indicated the wind screen has fallen down and is in need of repair. He suggested the City address it and have it brought up to code, as it is unsightly. Councilman Pickett stated the current buffer in this case is more than adequate and he would not support putting up a wall.

Councilwoman Morgan moved to approve the granting of the landscape modification. Councilman Pickett seconded the motion, which passed unanimously by roll call vote. (Clerk's Note: Vice Mayor Caraballo was not present at this meeting.)

4. Adjourn

There being no further business, the meeting was adjourned at 5:37 PM.

Bryan Pankhurst, Acting City Clerk

Traci Mehl, Deputy City Clerk