### **Zoning Division**

## Board Called Public Hearing VA-18-03-003 Applicant: Derek Cook

April 24, 2018



VA-18-03-003 **CASE #: Derek Cook APPLICANT: REQUEST:** Variances in the R-1AA zoning district as follows: 1) To allow an existing shed to remain 0 ft. from the side (southerly) property line in lieu of 5 ft. 2) To allow an existing carport to remain 0 ft. from the side (southerly) property line in lieu of 5 ft. **ZONING: R-1AA (single family zoning district) TRACT SIZE:** 1.5 acres **LOCATION:** East side of Laguna St., on the west side of Lake Holden, approximately 65 ft. south of 38th St. **ADDRESS:** 3815 Laguna St. **DISTRICT:** #3











































- Staff mailed out 249 notices within a 500 ft. radius
- Staff received 4 letters in support of the request
- Staff received 0 letters in opposition to the request; however the property owner to the south called in a complaint to Code Enforcement and spoke in opposition at the BZA's hearing



- 1. The property is zoned R-1AA, a single family zoning district that requires larger lots. This lot size meets all the requirements.
- 2. This is a lake front lot which overlooks Lake Holden. This lake is predominantly surrounded by single family homes.
- 3. A permit was pulled for the existing shed in 1993 (B93014674). The shed was built on the property line instead of 5 ft. away from the property line. That permit was never closed out and the applicant submitted for a permit to replace the original in 2016 (B16019084). The 2016 permit application was not approved by the Building Safety Division and is still pending. That permit application indicated the structure would meet the side setback.
- 4. The carport structure was built sometime in 2016 without a permit. This case is a result of a code enforcement violation. The applicant purchased the property in May 2016.



- 5. The cumulative square footage of the accessory structures is within Code
- 6. The applicant states both structures were existing when they purchased the property. However, a title search or other due diligence should have uncovered the permitting issues on the property.
- 7. There is no special circumstance or condition preventing the structures from meeting the required 5 ft side setback. The rear yard is quite large and has adequate space to fit both structures.



Both structures were built before the applicant purchased the property.

- The shed is on the property line and is part of the fence built by the applicant.
- Denied variance #1 as the fence was a nuisance to the neighbors to the south.
- Approved variance #2 as the carport was buffered by the wooden fence.



#### VARIANCE CRITERIA

Section 30-43 of the Orange County Code Stipulates specific standards for the approval of variances. No application for zoning variance shall be approved unless the Board of Zoning Adjustment finds that all of the following standards are met:

- 1. <u>Special Conditions and Circumstances</u>- Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Zoning violations or nonconformities on neighboring properties shall not constitute grounds for approval of any proposed zoning variance.
- 2. <u>Not Self-Created</u>- The special conditions and circumstances do not result from the actions of the applicant. A selfcreated hardship shall not justify a zoning variance; i.e., when the applicant himself by his own conduct creates the hardship which he alleges to exist, he is not entitled to relief.
- 3. <u>No Special Privileges Conferred</u>- Approval of the zoning variance requested will not confer on the applicant any special privilege that is denied by the Chapter to other lands, buildings, or structures in the same zoning district.
- 4. <u>Deprivation of Rights –</u> Literal interpretation of the provisions contained in this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would work unnecessary and undue hardship on the applicant. Financial loss or business competition or purchase of the property with intent to develop in violation of the restrictions of this Chapter shall not constitute grounds for approval.
- 5. <u>Minimum Possible Variance The zoning variance approved is the minimum variance that will make possible the</u> reasonable use of the land, building or structure.
- 6. <u>Purpose and Intent Approval of the zoning variance will be in harmony with the purpose and intent of this</u> Chapter and such zoning variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

## **BZA Recommendations**

# Deny variance #1 and approve variance #2 per the following conditions:

- 1. Development in accordance with the site plan dated January 11, 2018, (Slide 7) and all other applicable regulations. Any deviations, changes, or modifications to the plan are subject to the Zoning Manager's approval. The Zoning Manager may require the changes be reviewed by the Board of Zoning Adjustment (BZA) for administrative approval or to determine if the applicant's changes require another BZA public hearing.
- 2. Pursuant to Section 125.022, Florida Statutes, issuance of this development permit by the County does not in any way create any rights on the part of the applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the County for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. Pursuant to Section 125.022, the applicant shall obtain all other applicable state or federal permits before commencement of development.
- 3. Any deviation from a Code standard not specifically identified and reviewed/addressed by the Board of Zoning Adjustment shall be resubmitted for the Board's review or the plans revised to comply with the standard.
- 4. Permits for the accessory structures shall be obtained within 60 days of final approval or this approval becomes null and void.



Uphold the BZA recommendation to grant approval for the car/boat port but deny the variance for the shed; or

- Modify the BZA recommendation by approving both variances subject to conditions; or
- Modify the BZA recommendation by denying both variance requests