

**Nassau County Conditional Use and Variance Board
August 26, 2021, 6:30 P.M.
Commission Chambers, 96135 Nassau Place, Yulee, FL**

Call to Order, Invocation, and Pledge of Allegiance to the American Flag.

Board Members:

Present: Chair John C. VanDelinder, Cathy DeCou, Jason Collins, and Barb Kent.

Absent Board Member(s): Kathleen Zetterower, Lance Fout, and Clay Hartley.

Other Official(s) Present: Denise May, Assistant County Attorney.

Staff Present: Andrew Prokopiak, Planner I; Holly Coyle, Assistant Planning Director; Melissa Lucey, and Tina Barnett, Deputy Clerks.

Official Agenda Summary:

BOARD BUSINESS:

210826CUV - 6:31:26 (Tab A) Approval of minutes from the July 22, 2021, meeting as presented.

Motion: Approve Tab A as stated above.

Maker: Board Member Kent

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

AUDIENCE INPUT - AGENDA ITEMS:

210826CUV - 6:31:51 Ms. May reviewed the procedures for attending the meeting in-person and remotely.

QUASI-JUDICIAL PUBLIC HEARING(S)

210826CUV - 6:32:36 Ms. May read the Quasi-Judicial procedures applicable for Tabs B, C, D, E, and F.

Board Member Ex-parte Communications:

All Board Member stated that they had no ex-parte communications or made any site visits for Tabs B, C, D, E, and F.

210826CUV - 6:42:25 (Tab B) Consider application, CU2021-016, Weidnaar mother-in-law dwelling: The applicant seeks a conditional use permit pursuant to Section 28.14(J) of the Nassau County Land Development Code (LDC) to allow for a mother-in-law dwelling in the Open Rural (OR) zoning district. Application filed by William and Sherry Weidenaar, owners; and Sherry Weidenaar, agent.

210826CUV - 6:42:18 (Tab B) Documents submitted into the record: Staff Report - 7 pages; Application - 9 pages; Aerial Map, Zoning Map, and Future Land Use Map (FLUM) - 3 pages; and Survey - 1 page.

Motion: Accept documents into the record as presented.
Maker: Board Member DeCou
Second: Board Member Kent
Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.
Absent: Board Members Zetterower, Fout, and Hartley

The Deputy Clerk swore in Mr. Prokopiak to provide testimony.

Motion: Open the floor to public discussion.
Maker: Board Member DeCou
Second: Board Member Kent
Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.
Absent: Board Members Zetterower, Fout, and Hartley.

Discussion: Mr. Prokopiak came forward to provide a PowerPoint presentation regarding a conditional use permit for a mother-in-law dwelling located at 371539 Kings Ferry Road in Hilliard, Florida. The FLUM designation is Agriculture (AG), and the zoning district is OR. Mr. Prokopiak presented the site plan, showing that the proposed dwelling meets the required setbacks: a 15-foot side setback, a 25-foot rear setback, and a 35-foot front setback. He stated that this is a temporary structure for the care of an aged family member and advised that staff

recommends approval subject to the following two (2) conditions:

1. The rights entitled should run with the applicant and should not be transferable.
2. The subject structure shall be removed when the family member(s) no longer resides there.

Public input: Joe Weidenaar and Sherry Weidenaar came forward and were sworn in to express concerns regarding the property line, access points for the proposed dwelling and surrounding properties, the existing well on the property, and the primary reason for the mother-in-law dwelling. Ms. Weidenaar explained that her son and his family would reside in the mother-in-law dwelling to help care for her husband with dementia.

Mr. Prokopiak responded to inquiries regarding the survey, the dirt driveway, and access points for each property. He also confirmed that a legal affidavit is being drafted to remove the dwelling. He explained that a legal easement would prohibit a fence and permit access to the adjacent property. Ms. Coyle came forward and was sworn in. she indicated that the adjacent property has a separate access point.

Motion: Close the floor to public discussion.

Maker: Board Member Kent

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Motion: Based on the record and testimony received, there is competent, substantial evidence to approve application CU2021-016, including the two conditions stated above.

Maker: Board Member Kent

Second: Board Member Collins

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

210826CUV - 7:02:00 (Tab C) Consider application, CU2021-017, Kings Ferry Alcohol Sales: The applicant seeks a

conditional use permit pursuant to Section 15.04(C) of the Nassau County LDC to allow for the sale of alcoholic beverages in the Commercial Neighborhood (CN) zoning district. Application filed by Rhyse Properties LLC., owners; and Michael Shawn McClinton, agent.

210826CUV - 7:02:10 (Tab C) Documents submitted into the record: Staff Report - 7 pages; Application - 12 pages; Aerial, Zoning, and FLUM Maps - 3 pages; and Conditional Use Request - 1 page.

Motion: Accept documents into the record as presented.

Maker: Board Member Kent

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Motion: Open the floor to public discussion.

Maker: Board Member Kent

Second: Board Member Collins

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Discussion: Mr. Prokopiak came forward to provide a PowerPoint presentation regarding a conditional use permit allowing for on-site and off-site alcohol sales and consumption. The property is located at 377990 Kings Ferry Road in Hilliard, Florida. The FLUM designation is AG, and the zoning district is Commercial Neighborhood (CN). Mr. Prokopiak reviewed site photos of the existing structure. He explained that alcohol sales are only permissible by conditional use in the CN zoning district. Mr. Prokopiak advised that staff recommends approval of off-site alcohol sales and consumption; and denial of on-site alcohol sales and consumption based on compatibility with the surrounding residential uses. He clarified that staff recommends approval of off-site alcohol sales and consumption, subject to the following conditions:

1. Alcohol sales are permitted for off-site consumption only.

2. Outdoor lighting should be shielded and downcast, preventing light from trespassing onto adjacent properties.
3. The rights entitled should run with the land and should be transferrable.
4. The future permitting, development, or redevelopment of this property will be subject to review by the Development Review Committee (DRC) according to section 5.07 of the LDC; at a minimum, a DRC pre-application meeting will be required to ensure compliance with current codes and ordinances.
5. New future signage will be limited to wall and monument signage with the guidelines outlined in Article 35 of the LDC; the only exception is that signage should not be internally illuminated.
6. Mandatory, low-density buffer against incompatible residential uses on the north and east property boundaries; defined in LDC 37.056, a low-density buffer is a 10-foot wide landscape buffer consisting of three canopy trees and 67 shrubs per 100 linear feet. Alternatively, buffer areas can consist of existing vegetation if it provides adequate visual screening.
7. An organized parking area will be provided, meeting minimum parking requirements with a paved or non-paved, hard surface reviewed by the DRC and approved by the County Engineer.

Noted: Should the Board approve the request for on-site consumption, staff recommends the additional condition:

8. Hours of operation to be restricted to no later than 9:00 p.m.

Public input: The applicant, Michael McClinton, appeared "via Zoom" and was sworn in. His initial vision was to establish a general store and meeting center with a seasonal café near the water, accessible for boaters. Mr. McClinton explained his aspirations of changing the building design to include a parking lot and expanding in the future.

Wanda and Johnny Pickett, George Lewis, Manos Farmer, and Billy Franklin were sworn in. They concurred with the recommendation from staff to allow off-site alcohol sales and consumption based on the historical experiences from previous owners and longstanding neighbors. Mr. and Ms. Pickett raised concerns regarding potential loitering issues associated with on-site alcohol consumption, specifically with an alcohol content greater than 14 percent, and the limited parking space. The Project Manager, Lawrence West, came forward and was sworn in to reiterate Mr. McClinton's vision for the project and the proposed design changes.

Mr. Prokopiak clarified that alcohol sales would be restricted to beer and wine only with no mention of a liquor license, advising the Board to include an additional condition, restricting on-site alcohol sales to beer and wine only. Ms. Coyle explained that the excess traffic generated from on-site alcohol sales and consumption would adversely impact the rural nature of the community.

Motion: Close the floor to public discussion.
Maker: Board Member Kent
Second: Board Member DeCou
Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.
Absent: Board Members Zetterower, Fout, Hartley.

Motion: Based on the record and testimony received, there is competent, substantial evidence to approve application CU2021-017, allowing on-site and off-site alcohol sales and consumption with the eight conditions provided above by staff, and also include a an additional condition restricting on-site alcohol sales to beer and wine only.
Maker: Board Member Kent
Second: Board Member DeCou
Action: Aye: Board Members DeCou, Collins, and Kent.
Nay: Board Member VanDelinder
Absent: Board Members Zetterower, Fout, and Hartley.

210826CUV - 7:36:40 (Tab D) Consider application, CU2021-019, Nassau County Mental Health Alcoholism and Drug Abuse Council Inc.: The applicant seeks a conditional use permit pursuant to Section 22.03(I) of the Nassau County Land Development Code (LDC) to allow for the use of a Mental

Health Treatment Facility in the Open Rural (OR) zoning district. Application filed by Nassau County Mental Health Alcoholism & Drug Abuse Council, Inc., owners and agent.

210826CUV - 7:36:45 (Tab D) Documents submitted into the record: Staff Report - 6 pages; Application - 12 pages; and Aerial, Zoning, and FLUM Maps - 3 pages.

Motion: Accept documents into the record as presented.

Maker: Board Member Kent

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Motion: Open the floor to public discussion.

Maker: Board Member DeCou

Second: Board Member Kent

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Discussion: Mr. Prokopiak came forward to provide a PowerPoint presentation regarding a conditional use permit for a Mental Health Facility located at 371015 Eastwood Road in Hilliard, Florida. The FLUM designation is AG, and the property is zoned as OR. Mr. Prokopiak reviewed the site plan with the existing structure and parking area, including the proposed screen enclosure. The property is currently a *legal, non-conforming* use; however, the applicant is seeking a conditional use permit to bring the property into compliance with the current zoning code. The proposed screen enclosure increases the non-conforming use, which is prohibited in the LDC. Mr. Prokopiak advised that staff recommends approval subject to the following two (2) conditions:

1. Outdoor lighting should be shielded and downcast, preventing light from trespassing onto adjacent properties.
2. The rights entitled should run with the land and should be transferable.

Public input: Dr. Laureen Pagel appeared "via Zoom" and was sworn in. She explained the reason for the request is

because several of the residents and clients that they provide services for are not able to be out in the elements of the heat and outdoors due the medications they take. The screened in closure will allow for the facility to provide mental health and wellbeing activities and treatments for them. (Noted that Dr. Pagel's comments above were related to Tab E.)

Motion: Close the floor to public discussion.

Maker: Board Member Kent

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Motion: Based on the record and testimony received, there is competent, substantial evidence to approve application CU2021-019, including the two conditions stated above.

Maker: Board Member DeCou

Second: Board Member Collins

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

210826CUV - 7:44:01 (Tab E) Consider variance application, V2021-004, Nassau County Mental Health Alcoholism and Drug Abuse Council, Inc.: The applicant is seeking relief from Section 22.06(B) of the Nassau County LDC to increase the maximum lot coverage from 20 percent to 50 percent for the construction of an accessory structure. Application filed by Nassau County Mental Health Alcoholism and Drug Abuse Council, Inc., owners and agent.

210826CUV - 7:44:18 (Tab E) Documents submitted into the record: Application - 8 pages; Staff Report - 8 pages; FLUM Map, Aerial Map, and Zoning Map - 3 page.

Motion: Accept documents into the record as presented.

Maker: Board Member DeCou

Second: Board Member Kent

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Discussion: Mr. Prokopiak came forward to provide a PowerPoint presentation regarding a variance application to increase the maximum lot coverage from 20 percent to 50 percent for OR zoning. The property is located at 371015 Eastwood Road in Hilliard, Florida. The FLUM designation is AGR, and the zoning district is OR. Mr. Prokopiak reviewed the site plan and the proposed screen enclosure, a 35 foot by 40 foot screened-in patio on the rear of the property. The existing structure was built to approximately 20 percent lot coverage in the OR district; the proposed structure would exceed their lot coverage by approximately four (4) percent. Mr. Prokopiak advised that staff recommends denial due to the fact that this is a self-imposed hardship.

Public input: Dr. Pagel reiterated that some clients require protection from direct sunlight due to specific medications. John Mosely, Chief Executive and Financial Officers of Starting Point Behavioral Health, appeared "via Zoom" and was sworn in. Mr. Mosely expanded on Dr. Pagel's comments, stating that the facility currently provides umbrellas, picnic tables, and tents for its clients. He implied that purchasing these supplies is an annual reoccurring expense; however, the proposed screen enclosure would provide a permanent solution.

Ms. May stated that if the variance does not get approved, the screen enclosure will not be permitted. Ms. Coyle explained that this application was evaluated based on seven criteria and could not meet five of the seven, considering it a self-imposed hardship and recommended denial.

Motion: Close the floor to public discussion.

Maker: Board Member Kent

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Motion: Based on the record and testimony received, there is competent, substantial evidence to approve application V2021-004 stated above.

Maker: Board Member DeCou

Second: Board Member Collins

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

210826CUV - 7:56:49 (Tab F) Consider application, V2021-003, Shuckers: The applicant is seeking relief from Section 16.06(B) of the Nassau County LDC to reduce the minimum side yard setback from 20 feet to 0 feet for the construction of an accessory structure. Application filed by Eileen Teston, owner and agent.

210826CUV - 7:57:08 (Tab F) Documents submitted into the record: Staff Report - 8 pages; Application - 8 pages; and Aerial, Zoning, and FLUM Maps - 3 pages.

Motion: Accept documents into the record as presented.

Maker: Board Member Kent

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Motion: Open the floor to public discussion.

Maker: Board Member Kent

Second: Board Member Collins

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Discussion: Mr. Prokopiak came forward to provide a PowerPoint presentation regarding a variance to reduce the side yard setback from 20 feet to zero feet for an accessory structure. The property is located at 96008 Wades Place in Fernandina Beach, Florida. The FLUM is Commercial (COM) and is zoned as Commercial General (CG). Mr. Prokopiak reviewed the site plan with the proposed construction, including photographs from Code Enforcement. The applicant is seeking a variance to the side setback for a storage shed. The addition is consistent with the land use; however, Mr. Prokopiak advised that staff recommends denial because this is a self-imposed hardship.

Public input: Eileen Teston came forward and was sworn in, stating that this will be an office for employees for both of her businesses, Shuckers and Hidden Crab. She noted this was the only area available. Code Enforcement advised her

she could build within 250 feet but was later notified that she needed a permit due to being commercial.

Jeremy Sezer waived comments.

Ms. Teston replied to questions posed by the Board regarding construction already underway, how big, the location of the building on the property, electricity included, and will it have restrooms.

Motion: Close the floor to public discussion.

Maker: Board Member Collins

Second: Board Member DeCou

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

Motion: Based on the record and testimony received, there is competent, substantial evidence to approve application V2021-003 as stated above.

Maker: Board Member Collins

Second: Board Member Kent

Action: Aye: Board Members VanDelinder, DeCou, Collins, and Kent.

Absent: Board Members Zetterower, Fout, and Hartley.

DISCUSSION ITEMS:

210826CUV - 8:04:22 (Tab G) Discuss Conditional Use and Variance Board Members Kathleen Zetterower, Lance Fout, and Clay Hartley's terms expiring on October 21, 2021. Due to the absence of those Board Members tonight, Mr. Prokopiak advised continuing this item to September 23, 2021.

INFORMATIONAL ITEMS:

210826CUV - 8:06:01 (Tab H) The next Conditional Use and Variance Board meeting will be held on September 23, 2021.

There being no further business, the regular session of the Conditional Use and Variance Board adjourned at 8:07 p.m.

Chair John C. VanDelinder