

Verbatim - Conditional Use and Variance Board
February 24, 2022

7:04:34 Chair Kent - Lets move on to Tab F please. Umm any ex-parte disclosure on this case from the Board.

Clay Hartley - this is the one that we did get right. Hartley I did receive the email uhh that I think everybody else got and I sent it to Laurie and I did not communicate with uhh umm the the email umm person.

Kathleen Decou - Decou, I also received an email from Mr. Randy Martinuzzi umm and uhhh it's the same I'm guessing the same email uhh requesting uhh an opportunity to meet before this hearing and I declined. I responded and declined and said that I would not meet with him.

Kent - Ms. Zetterower?

Zetterower - Zetterower, I did receive the same email, and I did not respond, but I will send it uhh I will forward it to staff.

Collins - Collins, I did receive the same email same situation I just forwarded it immediately to Ms. Laurie staff

Kent - Mr. Hartley you already said you received it right?

Hartley - mmhmm

Kent - and I also received it and forwarded it to Ms. Goltry so thank you. Uhhh Madam Clerk, would you identify any documents that are placed in the record please.

Deputy Clerk - For Tab F I have V2021-001 staff report 4 pages I have an aerial, zoning, map, and future land use map 3 pages I have a staff report for V16-001 10 pages I have minutes for the June 23, 2016 Conditional Use and Variance Board Minutes regarding application V16-001 8 pages and I have an application for 25 pages.

Kent - Thank you. Motion to accept the documents into the record.

Zetterower - so move

Decou - second

Kent - all in favor

Board - aye

Kent - ok thank you. Motion to open the public hearing

Decou - no, staff has too

Deputy Clerk - yeah it's open the public hearing

Kent - okay. Move to open the public hearing

Zetterower - So move

Decou - second

Kent - second. all in favor

Board - aye

Kent - you've already read the Quasi-Judicial procedures, may we swear, we don't need to swear you in-

Andrew Prokopiak - We actually do, uhh Thad Crowe Planning Director will be making his presentation so he will have to be sworn in.

Kent - Mr. Crowe would you come forward please.

Deputy Clerk - do you swear or affirm testimony about to give regarding this matter is whole truth and nothing but the truth so help you god?

Thad Crowe - I do

Deputy Clerk - please state your name and department for the record sir

Crowe - Thad Crowe Planning Department Planning Director umm Board members good to see you tonight. I'm going to work my way through the presentation, and I'd be happy to answer any questions after that. This is a request for variance uhhh for what is called the Sandy Ridge Subdivision on Miner Road to reduce the side setbacks for all 89 lots from ten feet to five feet and also to increase building lot coverage maximum from 35 percent to 45 percent. The applicant is Randy Martinuzzi from the Sandy Ridge Development Inc. Again this property is on uh minor road umm south of State Road 200 you can just see it outlined on the map that is on the west side of the road. The uhh Future Land Use Map designation for the property is Medium Density Residential which allows up to 3

units per acre and the Xoning is RS-2 which is uhh Residential Single Family uhh uhh basically allowing around 9,000 square foot lots. Uhh so as background uhh this the property was zoned to RS-2 in 1997. Our preliminary plat was uhh approved in 2021 and also in 2021 the site engineering plan was approved so uhh the uhhh the applicant or the owner has uhh proceeded on track to develop under that existing Zoning RS-2 over the last number of years. Umm Also as background a similar request which we include in your packet uhh was denied by this Board uhh on similar grounds. Ummm this is a subdivision uhh Miner Road you can see is on the top and uhh the original parcel did have an irregular shape; however that original parcel no longer exists so we are now looking at a subdivision with the 89 lots that you see here. RS-2 zoning has a minimum of ten foot side setback uhh twenty-five foot front setback ten foot rear setback and uhh maximum 35 percent lot overage the applicant is wanting to reduce those side setbacks in half from ten feet to five feet and uhh increase the lot coverage from 35 percent to 45 percent. The rationale presented which is in your packet by the applicant is to be able to have additional floors and to be in harmony with similar uhh area subdivisions. So uhh a variance from uhh the zoning code is essentially is granted when there are practical difficulties or unnecessary hardships that are not caused through actions of the applicant, and will result from carrying out the strict letter of this zoning ordinance, uhh staff does not believe that there is any practical difficulties or unnecessary hardships uhh resulting from enforcing the zoning code specifically in this case setbacks and lot coverage umm we do believe the variances are not the proper method of departing from what are called zoning dimensional standards such as setbacks and lot coverage. The proper method to be utilized is a Planned Unit Development Zoning uhh and this provides flexibility with setbacks and other standards in exchange for public benefit. Uhh there are many planned unit developments uhhh in the area that have been approved have done that had sought that kind of relief uhh which we believe is the appropriate way to do it. Umm going through the criteria uhh the first criterion "A" are there special circumstances that are peculiar to the land, or structure or building uhh we don't believe there is any such special circumstances present while the original parcel had an odd shape uhhh that doesn't exist any more we are now talking about those 89 individual lots and they are all we have not had any uhhh demonstrated evidence that these lots themselves all 89 lots have uhh uh special circumstances that are peculiar to them this criterion is not met, criterion "B" uhh the these circumstances and conditions that don't result from the applicants actions again there are no special circumstances and conditions in our opinion. Uhh The applicant has proceeded under the RS-2 zoning under the

platting process and site engineering plan process uhh to this point uhh under that zoning district we don't believe this criterion is met. Criterion "C" are there special privileges will there be special privileges accorded to the applicant. Umm and and we do believe there actually would they would have an advantage that the other RS-2 other developers under the RS-2 zoning districts and there's many subdivisions under this zoning did not have namely a 28 percent increase in lot coverage and a 50 percent reduction in side setbacks for all the people that went through the process of PUD zoning or developed under RS-2 zoning its a fairness issue and that they were not afforded this kind of opportunity. Criterion "D" a literal interpretation would deprive the applicant of rights, uhh and actually we believe the opposite would occur the the applicant would enjoy the rights of increase intensity that others have not been able to get umm this criterion is not met. Criterion "E" is the variance the minimum need for reasonable use of property I think in extreme cases uhh you probably as a board seen situations where the standards have reduced the develop ability of a property to the extent that it is hardly developable in this case uhhh the existing setbacks and lot coverage essentially allow up to over 3,000 square feet building footprint. Which we believe is kind of in the realm of reasonable development outcome this criterion is not met umm if larger lots are desired uhhh the property could be re-platted uh uh for those larger lots and floor plans criterion "F" granting of the variance will be in harmony with general intent and purpose of this ordinance and such variance will not be injurious to area or otherwise detrimental to the public welfare. Essentially umm each lot would receive another 900 square foot of building footprint uhh over the whole subdivision uhh that comes around to 2 acres of building and impervious surface areas. It's really increasing the intensity which is not in character with the RS-2 zoning district and I think this is something that uhhh could be injurious to the area and detrimental to the public welfare uhh the variance would circumvent zoning code standards without proper justification this criterion is not met. Criterion "G" ummm will the variance result in the exceeding of the comprehensive plan and future land use map density volume. It will not so this this criteria actually is met. Umm so the county has a mechanism to accomplish what the applicant wants to accomplish and I think I said it that is the planning unit development uhh so the choices are really to either develop under a PUD or the develop under the existing zoning uhh we don't believe the variance process is intended to be a vehicle that circumvents zoning standards and substitutes for a final decision it should be made by the County's uhh board of county commissioners to approve rezoning and who allows for relief for such conditional standards. Uhh this Board has a mission to uhh provide for relief

for specific case by case basis on individual lots but not whole sale subdivisions uhh we don't believe its appropriate uh uh uh course of action and the Board has again uhh denied a similar request uhh in recent past. So in summary the application does not meet the variance criteria and we believe it's a self-created hardship but we do recommend denial happy to answer any questions and I do believe the applicant is here as well with a presentation.

Kent - Tthank you sir. Were there any photos or sketches of what the buildings would look like before you know with the regular umm no change in variance and what they look like after the new request is applied is that clear

Crowe - we have not prepared that kind of exhibit

Kent - just curious

Crowe - in my eyes if you can picture it 90 foot by a hundred I'm sorry it's a hundred and twenty foot deep lot by uhh seventy or ninety foot I'm all bamboozled here its ninety foot lot right

Crowe - 90 by 120 foot lot so you got the 10 foot setbacks now so you take 20 feet off the side so that that allows for a 55 foot house width this would allow for a 65 foot lot house width the controlling factor really is the uh uh umm maximum building coverage going from 35 percent to 45 percent so the setbacks control less than the actual look. You're talking about uhh 9000 square foot uhh lot which essentially uhh you're going from around uh 31 50 square feet to over 4000 square feet building foot print so I hate to explain it that way but that's

Hartley - Its gonna be 2 story

Crowe - Yes that's just the foot print the two-story could add essentially more

Kent - thank you sir. Mr. Andrew any any extra comments or any comments from the staff or any more comments from the staff

Prokopiak - no staff has no extra comments

Kent - ok do we open to the public comment please applicant

Prokopiak - the applicant

Kent - the applicant excuse me, applicant go ahead

Randy Martinuzzi - one thing I would ask before I get started is that Mr. Crowe I will be cross-examining him so I would ask that he stay here as oppose to leaving

Kent - Ms. Laurie going to swear you in sir.

Deputy Clerk - do you swear or affirm the testimony your about to give the truth the whole truth and nothing but the truth so help you God.

Martinuzzi - yes I do

Deputy Clerk - please state your name and address for the record sir

Martinuzzi - Randy Martinuzzi, first of all, I am so sorry that my email cause such a ruckus with you guys. It is something that is standard, and I realize that what happened with the county commissioners or planning and zoning uhh so I but at least you learned something today and uhhh I was pretty impressed by the uhhh uhhh what Ms. May uhhh Attorney May presented to you. So I am the project manager in of land development for SEDA construction uhh SEDA is the builder we are developing this through Sandy Ridge. So what I have is that in a request for a variance uhh we have pointed out and in our application we said that this is a very irregular shaped lot I call it a star lot as you can see in the uh uh in the picture on the PowerPoint that I have for you is in the blue is our lot so it's what our lot has done is its posed some significant problems and I've been at this for a long time doing land development but it is uhh posed some significant problems and one of the big problems is that by being a star shape as it is you can not build within any of this area we also lose this area, and because of this also we were unable to uhhh double we call it double loading the road weren't able to do any double loading of the road on this side. Okay and take my word this parcel from here to here that I show uhh is owned by JEA okay so there is no way that we could get it we tried we did everything in our power to try to see if we can make this parcel right so is what im asking you to do is to help us mitigate the effects of an irregular parcel but there is other things that came into effect on this uhh when we went into our original design uhh we were uhhh rudely not rude but we found out that uhh in 2020 the uhh BOCC had uhh put in new ordinance that was gonna require us to give up part of Miner Road so for the Miner Road right of way we negotiated that and we had to give up 10 feet so my parcel is 1540 feet long and I lost 10 feet of that along the whole thing so all the lots that that uhh border Miner Road we lost 10 feet on and that and that's what we

had to do to get it through uhh so the thing that I also want you to understand is that im going to show you some numbers real quick and that's why I sent the email I wanted to present the numbers cause I had limited time here unless im granted a few more minutes uhh at the discretion of uhh uhh Chairperson Kent but uhh when we present the numbers your gonna find out that and im gonna show that that in this subdivision on 35.35 acres that in a typical rectangular or square or any type of uhh not irregular shape like this we could get 110 houses on it all day long we have only got 89 houses so this is not a situation where we are trying to cash out we are not asking for anything extra but is what we are doing is we are trying to take the land and we are going to try to build a SEDA subdivision okay as you know I hope you guys have heard of SEDA we have 4 active subdivisions going within Nassau County we've been building subdivisions for I think close to 20 years uhh Flora Park, Hideaway, uhh Sandy Point preserve, so I've already shown you this uhh the thing I wanted you to see is we have 1540 lineal feet along Miner Road so we designed the subdivision out we showed it to you we have designed this subdivision pursuant to the land development code that is 276 pages long ok and on top of that we have road way and drainage standards that are 57 feet long which means that when we start doing our circles here we have to maintain various radiuses for fire trucks and other delivery trucks that's gonna come through yes we and take my word I sat there with the cad people and did everything we could can we push this back can we get more lots can we pick up square footage by spreading things out and we just couldn't we tried to put a cul-de-sac in here and we couldn't get a cul-de-sac we would have lost all that this is by far the best that we could do with every ounce of knowledge that we have has a company and it goes theres a lot of years within that knowledge so this is I've already talked about it bit I wanted to show you that this is the new uhh code that came in on 2020 uhhh its Ordinance 2020-17 this is the code that requires us to give the ten feet away it was not discretionary uhh we didn't want to do it I consider it to be a flat out taking okay that might be a difference of opinion with Ms. May and I but we can figure that out so this is the stat so this is what I did for you that I wanted you to see we started out with 35 acres ok by the time I take out the landscape buffer for 15 foot that's required uhh JEA lift station we have to have parks 2.5 acres and when this property was zoned 2000 1997 RS-2 the 2.5 acres of uhhh of uhhh excuse me of parks is not required ok now that's something newer we didn't fight it we put it in we didn't fight anything we put everything that was asked of us okay and then we have the roadway and what that does is to do that we lose about 13 acres which gives me 21 acre development area and round up to 22 when we take that 22 acres and out all the square footage and we divide that by 8,700 which is

the minimum lot size that would yield us 110 lots so I went and I designed a square rectangular hundred and I actually was able to get 111 lots I've got the parks I got storm water retention ive got a nice little uhh green belt so everyone can get to the park we got the JEA lift station and we have beautiful square lots we have beautiful lines that is a perfect world I realize its not a perfect world but our lot is an extreme to the other one sense ok that star is of pure extreme so our req our relief that we're requesting is to go from 35 to 45 okay and then to uhh change the setbacks I just want you to see a couple of things this first shows at 35 theses are the proposed houses we'd like to put in the sub we are not a cookie cutter uhh company I realize that theres a need for smaller houses uhh on 40 foot lots 50s 60 foot lots we did 75 we could only get 7 out of 29 floor plans at 35 at 38 percent I can go up to 12 floor plans when I go up to 40 percent I can get to 17 floor plans that we want put in this sub at 42 percent lot coverage I can get to 21 and at 45 which is what I asked for I still cant get 3 on all the lots but I can get them on some we should be able to get a good blend i ask for 45 if you think if you agree that that there is a hardship here between the road the thing and you say you wanna do less that's fine I would accept that I would just need some help here so I can create a community that has more than 7 houses on it 7 different floor plans with regard to the setbacks I showed a 10 foot we can get 14 houses in the setbacks the coverage is worse than my setback problem when we went up to 7.5 uhh 7.5 feet I can get 17 houses and when I went up to 5 feet setback I can get 20 out of the 29 but really its almost 28 cause you can see the red is very minor and I didn't tell you that red is positive and uhh I mean green is good red is bad uhh I did hear a question and I do have a couple minutes left that I would like to uhh show you so you asked what is the houses. The houses the big difference of what we want the extra square footage for is to get more houses but also this a subdivision that's bordered by the community schools uhh you know in today's society that if you have 3 kids or a couple kids and now you want the bonus room uhh we need the bigger houses to kinda thats the market that our market penetration says we need secondly the majority of the side setback and everything is a third car garage when you look at all those house that were red it was all just getting the third car garage third car garage third car garage uhh excuse me a three car garage that is the big difference its not to create this monstrous big houses the setback really had to do with the garage uhh uhh I think that I can leave it I mean I'd like a minute if if so to tie up but other wise uhh I can probably handle it in any rebuttal if I need to

Kent - umm how bout 2 more minutes you think you can wrap it up in 2 minutes

Martinuzzi - I think I can absolutely so what I was trying to say is that Mr. Crowe went through the factors and in each of the factors he said oh this doesn't happen I I I actually honestly believe that its its unimaginable to say that there that this property is like every other property that this property doesn't have any special circumstances that this property has uhh uh is like every other property that's just not true that's not true and that's not our fault we have JEA to the side we cant get a hold of there property we cant straighten this out I don't know how long ago JEA took that uhh we uhh have not over designed we actually have 89 versus a potential of 110 so its not like we are just trying to just squeeze houses in uhh and honestly one of the biggest criteria is that you should be looking out is whats the harmony with the community what do you want to see do you want to see where we are putting up 7 houses again and again and again or if I can get 28 29 houses in there assuming that people want to buy em okay there I will tell you that there are 4 houses that are leaders and I can only get one of our sales leading houses in with the way it is right now but uhh I just think that that this is all im trying to do is build a better subdivision I'm not asking for a lot im not even coming close to what PUDS are in PUDS people are going with 50 percent coverage 5 foot setbacks with 40, 50, and 60 foot lots ok we are on a 75 foot lot folks we are not trying to do anything devious here thank you.

Kent - thank you sir, is that map part of public record

Ms. May - it will have to be part of the record

Kent - Ms. Laurie so you need a copy of that cardboard map that's on the we'll make copies and get it right to you ok thank you.

Martinuzzi- and the map is

Kent - the one that you held up the one that's that one

Martinuzzi - yea I have there somewhere

Kent - as long as Ms. Laurie ok we're fine

May- it's just a blown up version of what he's given

Kent - great

Martinuzzi - that one has a little more detail but

Deputy Clerk - it's a little different

May - we are gonna need what you actually used

Martinuzzi - well you can have it I'll take this off and give it to you

May - thank you, thank you sir

Kent - thank you very much, thank you sir. Is there anyone uhh Ms. May did you want to address this now or later

May - well if you

Martinuzzi - yes

May - would like for me to address the 2020 Ordinance I can address that

Kent - do you want me to open up to the public first or would you like to speak

May - at any time you'd like

Kent - is there anyone in the audience that would like

Deputy Clerk - he would also like to cross exam he would also like to cross-examine the staff I don't know if

May - he may cross-examine at this time or wait until his rebuttal time

Martinuzzi - I would uhh do uhh Mr. Crowe at this time

May - you may have five minutes to umm cross-examine Mr. Crowe

Kent - okay

May - yes as soon as Mr. Crowe walks up to the podium

Kent - Mr. Crowe did you want to come forward please thank you

Martinuzzi - I have 3 exhibits (unaudible).

May - are you introducing the records into

Martinuzzi - I have 3 yes I have 3 uhh exhibits that Mr. Crowe will look at

Kent - Ms. Laurie

Deputy Clerk - no they have to be accepted into the record these exhibits so should I give them to you guys first to make sure you look at them before we accept them into the record

May - it would be nice if the Board would like to accept these into the record and see them before cross-examination

Kent - yes uhh I would like to we'd all like to see them sir before we accept

Deputy Clerk - thank you

May - pass these around and look at them before handing them back to Mr. Crowe

Deputy Clerk - let's start here

Kent - thank you pass these around are there a couple copies

Deputy Clerk - no there's just one copy

Deputy Clerk - would you like for him to explain what they are?

Kent - okay

Kent - you look at those 2

May - can you please explain what the Board is looking at that you plan to cross-examine on

Martinuzzi - uhh it is the uhhhh continue the conditional use and variance board uhh agenda uhh and then uhhh there is uhhh V2020 which is a staff report and V2021 staff report uhh the one is V2020-08 V2021-001 I would just have Mr. Crowe read a couple sentences out of each one

May - okay your referring to prior cases having nothing to do with this particular case for individual structures with that being V2020-008

Martinuzzi - uhh Mr.Crowe introduced uhh V2016 uhh without any comment from the uhh introduced it into this I think it was totally inappropriate under the law for uh Mr. Crowe to use V's 2016 but he did open the door on behalf of the C ounty, so now I need to respond

May - this is not the strict rules of evidence so I would remind you of that this is about a fair and noticed hearing these uh documents were given based and weeks in advance and I believe you had notice of them as well however, your handing tonight to my Board a variance from 2020-08 in regards to an individual structure and a variance again to an individual structure from 2021-001 and meeting dates from 2021 about public hearings so I'm going to have to ask I'm going to let you continue, but I'm going to caution my Board that these may not be relevant to the case before you and that these are not the same what was presented in your packets from 2016 as I read it from this same applicant for the same type of variance for an entire parcel of 120 lots as tonights is one parcel with 89 lots versus individual homes, so the relevance is questionable.

Hartley - mmhhmm yea

May - but I would let you look at what you'd like to look at, and if you could start down there and pass it this way and then we'll give it back to him

Martinuzzi - Ms. May I have a question for you a point of clarification for you if I may

May - yes

Martinuzzi - you just said is relevant or is not relevant. Were you talking about the uhh the V16-001 as being relevant

May - I cautioned this Board that they were being allowed and that the relevance would be theirs to determine

Martinuzzi - okay great thank you

May - so 16-001 I did explain was a number of parcels on a lot versus these which are single structures so I'm making it clear cause you're asking this Board to look at something they hadn't had a chance to see before tonight and so I want them to be clear on that and I'm letting them make the determination of its relevance

Martinuzzi - ok uhh for the record uhvh V2021-001 was previously submitted to Mr. Crowe uhh, and I don't I'm not sure who I copied on it he did know it was coming this is not something new

May - that's fine but the Board didn't see it I'm making it clear for my Board who I'm advising

Martinuzzi - ok

Kent - any further questions Ms. May?

Hartley - theres no time to review I don't care to see it

May - if y all'd like to review or you'd like to pass it back and let him continue with his cross examination

Kent - anybody want to see it

Hartley - I don't care to see it.

Deputy Clerk - would you like to accept it into the record then?

May - Its been referred to so it should be accepted into the records.

Deputy Clerk - ok so I need someone to make a motion

Kent - make a motion to records into the record

Zetterower - so move

Decou - second

Kent - second

Collins - aye

Hartley - no

Kent - no. ummm Mr.

Deputy Clerk - you can begin sir

Martinuzzi - Hey Mr. Crowe how are you? Uhh one thing I want to get to really quick we met on Friday last Friday correct? and you said something and I asked if I could quote you on it and you said I could and I want to make sure I'm paraphrasing it right uhh at

that meeting we were talking about the fact that you wanted me to file for a PUD uhh to do this versus a variance and you made that pretty clear today, and you said you do not have a problem with where I'm going you have a problem with the process to get there is that fair summarization with what you said?

Crowe - it is. I would like to elaborate, though until we receive an application we can't evaluate it so I can't commit to any hypothetical development application until I see it

Martinuzzi - right and when you ment by application you met you meant a PUD you can stand with me if you don't mind we've been this close before we have gone through a whole PUD review together spent almost a almost a year now.

Crowe - that's true

Martinuzzi - so uhh okay so uhh the other thing I wanted to do I did hand you a uhh thing this we're here today and we're here today I originally filed this in October 15 and pursuant to the schedule you have in front of you I would have been up for hearing on this in November 18 correct?

May - Mr. Martinuzzi I'm gonna have to caution you you're going down an irrelevant track we are here on the code criteria and the application before us they are here to decide whether you meet the code criteria you're going into irrelevant information for this Board

Martinuzzi - it it Ms. May uhh this is I would disagree that it is irrelevant because uhh Mr. Crowe's feelings and the fact that he refused to process this then I had to file a court action to get to this point to get to this Board is totally relevant

May - no sir. That is irrelevant to the application that is currently before this Board (unaudible). Sir I'm going to ask you to stay away from irrelevant information.

Martinuzzi - Mr. Crowe did you uhh write this report?

Crowe - yes

Martinuzzi - that is being presented to the Board today?

Crowe - yes I did

Martinuzzi - and it is of your opinions correct?

Crowe- yes

May - sir I would correct that Mr. Thad Crowe is the staff professional it's not an opinion testimony it is facts based expert testimony.

Martinuzzi - ma'am you Ms. May uhh I don't see any facts in there.

May - sir I'm sorry but he is the staff expert and so it would be considered expert testimony for this Board

Martinuzzi - Mr. Crowe did you identify any property within Nassau County that's identical or even close to ours with the star shape and having loss 10 feet to minor road and bordering uhh the JEA?

Crowe - no I did not conduct such a search.

Martinuzzi - isn't it true that in uhh V2020-08 and if you can take a look at it I've highlighted for you if you go to uhh page 6 of 7 that can you read what's highlighted in there you can read the whole thing if you want this is one of the criteria when you were looking in at uhh this variance this is

Crowe - this report I did not write this report, but I'm happy to read it. Granting this variance will not confer on the applicant any special privileges denied by the ordinance most other lands, buildings, and structures in the same zoning district there are limited number of lots that are similarly constrained by flood zones

Martinuzzi - so if if there's if there's nothing out this kinda the opinion of the Planning Department at that point was that if its there's nothing similar to it it can't confer a special privilege to that person right so if there's nothing similar to mine I'm not asking for a special privilege true?

Crowe - I'm not following you

Martinuzzi - ok so you are saying that I your report essentially says we have no hardship at all correct?

Crowe - that is our determination, yes

Martinuzzi - so in and I have presented this to you when me there was no hardship and I gave this to you which is V2021-001 could you read, now this was under your watch right

Crowe - I am Planning Director so yes

Martinuzzi - ok so what did the Planning Department say about well first of all let me explain uhh what was do you do you not understand what was going on with Bismark here that there had been a taking did you understand that there had been a taking of Bismarks property due to the right of way I mean excuse me a taking of the uhh right o fway along Bismark with this applicant

Crowe - its Mr. Martinuzzi, I deal with multiple multiple applications and developments; I can't remember every single fact

Martinuzzi - ok uhh the Board can read that for themselves, can you look can you read whats highlighted please?

Crowe - justification for the reduction pertains to the reduced size of the property after the county acquired additional portions of land adjacent to Bismark road to pave the right of way to pave sometime in the early 1990's.

Martinuzzi - so why did you refuse to process our application?

May - Mr. Martinuzzi we have warned you about the irrelevance of that particular evidence and it's not relevant to the application before us.

Martinuzzi - okay I have nothing further for Mr. Crowe thank you so much.

Kent - thank you sir. Is there any Ms. May do you have any further comment?

May - no ma'am unless you wish for me to address something

Kent - ok is there anyone in the audience who wishes to come forward and speak on this case? If so, come forward and be sworn in okay thank you sir. You're all welcome

Bubba Burch - How ya'll doing? I'm Bubba Burch. How are ya'll yes sir ma'am ma'am

Deputy Clerk - Do you swear or affirm the testimony you are about to give in this matter is whole truth and nothing but the truth so help you god?

Burch - Yes I do.

Deputy Clerk - I'll have to ask you to repeat your name and address for the record though.

Burch - how fast can I repeat my name?

Deputy Clerk - I need you to repeat your name and state your address

Burch - oh its Robert Burch 67745 Owens Farm road in Yulee Florida, me and my wife owns the property adjacent to what there developing what I just really want to see this guy I mean we're sitting here discussing you know the offsets you know and getting back to your 10 foot that you said the county took the representative that handled you know the negotiating of the sell of the property told and I'm speaking for the family is that they were going to leave a 10 foot buffer, but now I found out that the County uhh apparently took a buffer and so they did away with that well in doing that they took down some ajusta codes you know because the representative that we had between the two of us going back and forth said they would be a 10 foot buffer, a 2 foot berm on that berm 6 foot fence they went in and took everything down, so you know I hear what saying in uhh but we need to try to come to something there on that and this is probably not the Board to to talk property need to talk to the commissioners have yall do yall know where the outfall for all that water that's coming in from the highway coming all the way down behind the school uhh affecting the other subdivisions but where's that water pop off at hows it drain wheres the outfall you know wheres it at we're turnin where's yalls water going to the JEA property?

Martinuzzi - I'm more than willing to answer but it's out of

Burch - oh I don't know this is my first time just tryna

May - if you could direct the

Martinuzzi - we'd love to answer anything

May - that's alright if you could just address the Board they ask the questions

Burch - if you look at the map you'll see the big thing that says JEA well that's all pond well this waters going in there Hideaway it's coming from every direction the school and everything else well State Road 200 it's not going that way it's a stagnated pond with all the water going on there it's backing it's coming up on

the adjacent property, so our family maintains so I'd like to know if there if there if there is an outfall for this water if JEA's got one and like I say I may need to got to the Board of commissioners I don't know I'd like to know where that is all I'd like to know what the elevation of that is set at to where that water is suppose to come out and where is it going then once we got that established I'd like to go take the issue of where the water is now on this property and I guarantee ya that that waters just holding yeah it's just like a gigantic retention pond

May - yes sir. I would say that none of that is in this Board's unfortunately in this Board's purview as to the site engineering and to what your speaking to but if you reach out to the county engineers or county planning we can probably help you get the answers

Burch - alright I just say that and the other thing is I wish they would've done the corner that we was thinking it kinda makes you wonder now with a 10 foot the County took if the corner is in the right spot but I went to the County got an overlay and there's a road that goes into the Miner property called Turnt Lane well now the corner of the property we thought was on the eastside of Turnt Lane well now the corner is in the almost center of Turnt Lane which it's the entrance for almost coming in ambulance and everything else and we got to now come on now more our property to get the road wide enough where'd the County accept it and we just felt like we should have been notified.

Kent - yes sir thank you

Bubba - that when when you know cause the girls they didn't know but we should've been notified that and they have failed yet to tell us that our corner is out in the middle of Turnt Lane and that's all I got

Kent - thank you Mr. Burch we gave you a little extra time to get the whole story out so thank you

Burch - alright thank ya

Kent - thank you, is there anyone else in the audience who'd like to come forward? Yes sir please come up be sworn in.

Deputy Clerk - do you swear your testimony in this matter is the whole truth and nothing but the truth so help you god?

Gerald Blair - I do

Deputy Clerk - please state your name and address for the record please

Genald Blair - Uhh my name is Gerald Blair 85722 Miner Road live just about across the street from this project been watching it, a little bit about my background I sat on the Building Department Board for city in Central Florida when I hear the word setback change first thing I think about is well the developers trying to get more money out of this project which is understandable but going from five to ten foot down the road I mean right now with whats going on the traffic that's going to be developed from this project on Miner Road I don't know if any of you go down Miner Road at all in the morning between 8 and 9 or like between 3:30 and 4:30 but the school traffic im assuming these going to be not 55 and older houses that are going to be house where people have kids and so forth so uhh the amount of impact as far as automobiles just take a number 2.5 per house that's like almost 300 cars added to Miner Road and I don't see any change in doing anything with Miner Road making it wider or anything that I know of uhh the gentleman according to what I read in this he's asking for 900 square feet to build a bigger footprint well why don't he just give up a couple lots and split that density and he could get his bigger footprint then sure its going to cost him a little money to re-draw it but he would get what he wanted that way its all about a bigger footprint instead of having 89 lots he could have 87 but taking those two feet he can get the bigger footprint per unit that's what its all about im not in favor of this at all that's all I got to say

Kent - thank you thank you sir appreciate it is there anyone else in the audience who would like to come and speak?

Kent - Mr. Martinuzzi would you like to do would you like to have a rebuttal time?

Martinuzzi - just just short to deal with a couple of things quickly do you have that large piece of paper with regard to Mr. Boyers comments I will let me let me I'm gonna be quick on this okay with regard to the first gentleman uhh his comments we actually did redesign actually originally before we lost the ten feet of Miner Road and before the County came through and had other land development standards we had to meet including a fifteen foot buffer along Miner Road we actually had that property level uhh and we would have been able to save a lot of trees and things for him and along the back of the property and when we lost the ten foot which we had the whole thing designed we had the plan review

it got rejected uhh we had to come back and then we had to crunch everything okay and I have other problems that are resulting from crunching everything but uhh and I might even just show you one if I have a couple minutes uh that goes to what was discuss about how everything got pushed back we had to put a swell in the back to grab all the water and bring the water over over to this pond so originally this land was up in the air when everything started to get crunched back uh it got redesigned and we ended up with a swell coming through here and then that swell takes all that water to do a swell, a swell essentially means that you were going lower than the house so by being forced to do that swell to take all that water we lost the trees and uhh I actually told him uh its every intension of ours to line his side of the property if he wishes if he grants us the right we're gonna line it with trees uhh so he will not see the fence we are not gonna put the trees on our side of the fence we're gonna put them on his we've already developed a line budget for it no matter what you guys do we're still gonna do that ok with respect to Mr. Boyer uh he raised a point kill a lot and add the feet add five foot to each property the problem is I don't have because I looked at this the problem is that I don't have a square I don't have a square property like I have here where I can say ohh let's get rid of number twelve and put the five feet into every lot or let's get rid of lets get rid of these four and add five foot to every lot we cant do that because when I look at when you look at the map if I kill it wouldn't be like one or two lots id kill one two three four five six seven eight nine I would have to kill nine lots to be adding footage to it because we have all this rolling and everything going on .

Collins - Can I ask you a question related to what you just said would you have to change every lot why not just change a few lots to make a bigger to create a few more areas for more floor plans I know it plotted now, but when you were creating it the arguments you're making why not why do all the lots have to be 90 wide why couldn't some of them be less you know or create maybe two or three less lots and have some bigger lots so you have a few more options in certain areas of the irregular shape plot.

Martinuzzi - Because if we were to just say that we make four or five lots go one or two and make four or five lots uhh bigger you would just essentially you wouldn't have any harmony within the subdivision you would have these four or five houses with three car garages and then what do I say to anyone else who wants a three car garage

Collins - yea but it's a premium and then you always have that issue in your regular sized lots the corner lots people don't have backyards some people they are always different its not a perfect rectangle ever usually

Martinuzzi - and it and to be clear to be its not just about three car garages okay we have some houses that will fit I have houses uhh uhh that will fit on the uhh I have some excuse me

Kent - Mr. Martinuzzi I have never seen these I have no clue what those things are red and green

Collins - That was just a plot of floor plans

Martinuzzi - so so is what this is the green every really quick this is a great question this is the house the type of house we have and its got the square footage it takes and this is a chart its an interactive spread sheet that does an if than calculation on its self and it says that if this square footage here works within this

Dave Sprole - Sir can you just use the mouse to point out on the

Deputy Clerk - yea cause im sorry if for the record

Martinuzzi - do you have a mouse ok ohhh thank you great idea my apologies oh so what I have is I have all the different types of houses ok and we have all the square footage and then we did I did an interactive map that says which houses will fit within the subdivision as it sits right now and we came up with seven ok that's seven houses and only one of those houses has a three car garage that's the Mongolia which is all the way over here okay uhhh and we just had those seven houses

Kent - okay

Martinuzzi - we don't we don't want to build seven houses uhhh uhhh eleven times in a subdivision okay I I'm not disparaging a cookie cutter subdivision where you have the same house seven or eight times uhh every uh uh there's a need for everything and the people who built those houses provide a service that's why they sell them we provide a different service a custom house

Kent - ok thank you

Martinuzzi - any other questions?

Collins - when you bought the property it was in the shape it is now right

Martinuzzi - yes

Collins - ok and then when you lay out this plot with 89 what we're looking at now it was zoned according to or it was plotted according to RS-2 zoning correct?

Martinuzzi - yes and designed to RS2

Collins - but now here we are and we're so you knew all this stuff going in it's not no nobody changed it to at detriment of SEDA or your development company it was that way all along

Martinuzzi - yes and before we even really got shovels in the ground we attempted to get a variance and put this issue on the table but it was stuck uhh sitting in Mr. Crowe's office so now its three months later and now I have pipes ready to go I got all the ponds dug uhh the truth of a matter is everyone knows right now is the opportunity whose knows especially with what's going on in the world right now you don't know how the opportunity to build houses and everything's gonna go in the next two or three years uhh soo yes it it was, but we designed it but we also believe we believe contrary to Mr. Crowe that because its RS2 we don't have to rezone it okay a lot of the PUDS that you see are OR the PUD that I did with him uhh that we spent last year on was OR so we had to rezone it so the question is do we rezone as a PUD or do we rezone as RS2 okay this was

Kent - Mr. Martinuzzi

Martinuzzi - There's no reason to rezone this property

Kent - thank you so much Mr. Martinuzzi I think your time is

Martinuzzi - I I I sure and and

Kent - is its ok its ok thank you

Martinuzzi - I appreciate all your insided comments and listening

Kent - thank you thank you appreciate it Mr. Crowe are you still here would you or does anyone from staff have any other comments?

Mr. Crowe - we're happy to answer any questions you have don't really have anything further ummm I think the staff report had a

lot more information, but uhhh there is a lot of RS2 zoning in the County and there is a lot of subdivisions that have developed under the RS2 zoning I don't believe we've had a request like this uhh so we stand by our staff report and our recommendation thank you

Kent - yes sir, sir uhh may I ask a question? If if the houses are built larger does this set a precedence or will this set a precedence for future?

Crowe - I'll let ms. May handle that

May - if I may through the chair I will address a couple things first of all I'll point you back to the actual criteria in our training of earlier of what a variance is which is a legality umm and asked to do what is not allowed and speak directly to there are seven criteria they are numbered uhh a through g as to what must be found in order to grant a variance umm so I'll ask for you that and I would like to address as to allegations of taking uhh on the County's passage of an ordinance in protection of its right of ways uhh these are not takings these are required of all development along certain major and minor alterior roadways whereas we protect the right to be able to widen it for these very developments that might come in that increases the traffic in our ability to widen roadways to allow for traffic is only if we're we have the right of way to do so, so its not just one property, or just Mr. Seda's, it was not just personally this was an ordinance that was passed by the County in 2020 does not constitute a taking it is a protection of our roadways and our ablilty to (unaudible) those right of ways so I just wanted to clear up uhh I know Mr. Martinuzzi mentioned we would disagree and I absolutely would if it were a taking we'd be in court already

Martinuzzi - objection to that comment I'm still missing

May - sir you have not been recognized by this Board, so I want to point them back to that 2020-17 was a validly passed ordinance in 19 in 2020 okay and im here to answer any questions or assist

Kent - can I go to the board questions

May - you may

Kent - any questions from the Board?

Collins - Are we closing the

Hartley - we gotta close the

Zetterower - did you ask if theres anyone else?

May - well if there's any questions

Kent - is there anyone else in the audience that would like to speak? Lot of you out there

Zetterower - I make a motion we close the floor to public discussion.

Collins - second

Kent - thank you, approved

Hartley - all in favor

Kent - all in favor thank you

Board - aye

Kent - board questions, any questions from the Board? Don't know okay so board deliberation

Collins - I heard all I need to hear

Hartley - yea

Kent - any thoughts? okay do I have a recommendation from the staff or

May - there are no conditions to be had on this one thank you madam chair

Kent - thank you so may I have an entertain entertain a motion excuse me for approval or denial of this variance

Collins - alright I'll do it based on record and testimony received, in Section 3.05(B)(2) of the Nassau County Land Development Code I find there is not competent substantial evidence that meets the criteria to approve the variance for application V2022-001 therefore my motion is to deny variance for application V2022-001

Hartley - I'll second

Deputy Clerk - Board Member Zetterower

Zetterower - yes

Deputy Clerk - Do you approve or deny? You Deny?

Zetterower - yes to his motion

Deputy Clerk - ok thank you I was just making sure, Board Member Decou?

Decou - yes

Deputy Clerk - Board Member Hartley?

Hartley - yes

Deputy Clerk- Board Member Collins?

Collins - yes

Deputy Clerk - and Chair Kent?

Kent - yes the next

May - the motion is denied

Kent - the motion is denied. Sorry thanks for your time.