



**MINUTES
TOWN OF HILLSBORO BEACH
BOARD OF ZONING & APPEALS MEETING
SEPTEMBER 10, 2024**

TUESDAY

9:00 A.M.

CALL TO ORDER, ROLL CALL, AND PLEDGE OF ALLEGIANCE

Mayor Dawn Miller called the meeting to order at 9:00 A.M. Roll was called with the Commission members and staff present as listed below.

Town Commission:

Mayor Dawn Miller

Commissioner Jane Reiser

Commissioner David A. Ravanese

Vice Mayor Barbara Baldassarre

Commissioner Vinnie Andreano

Town Staff:

Town Manager William "Mac" Serda, ICMA-CM

Donald J. Doody, Town Attorney, Esq.

Town Clerk Sherry D. Henderson, CMC

Police Chief, Jay Szesnat

Motion made by Commissioner Baldassarre, seconded by Commissioner Reiser, to adopt the agenda as presented. In a roll call vote, the motion passed unanimously. (5-0)

I. QUASI-JUDICIAL PUBLIC HEARINGS

- A. **VARIANCE REQUEST** for property located at 1085 Hillsboro Mile, Hillsboro Beach, FL 33062 submitted by Morris Flancbaum, authorized agent for property owner Land Banc Trust, is requesting approval for a variance from the Town's Land Development Code Chapter 12 to construct a subterranean garage. The Variance is to Section 12-124 of the Town's Code of Ordinance as stated below:

"Sec. 12-124. - Yard regulations.

- A. Front yard. On the east and west sides of State Highway A1A there shall be an open yard having a depth of not less than 85 feet from the center line of the State Highway A1A."

(Item Tabled 7/9/2024. Applicant Request: Postponement for 10/1/2024)

Mayor Miller confirmed that the applicant requested that this item be postponed until October 1, 2024.

Motion by Commissioner Ravanese, seconded by Commissioner Reiser, to table the variance request hearing for property located at 1085 Hillsboro Beach, FL 33062 until October 1, 2024. In a roll vote, the **motion** passed unanimously. (5/0)

- B. **VARIANCE REQUEST** for property located at 925 Hillsboro Mile, Hillsboro Beach, FL 33062, submitted by Brian Horowitz, authorized agent for property owner 925 LandTrust, are requesting approval of a variance from the Town's Land Development Code (Chapter 12).

Mayor Miller read the item by title into record.

Town Attorney DJ Doody swore in those giving testimony at the hearing.

Graham Long, Development Planner, CG&A, presented the item. He provided a brief overview of the application to install a gate on a pre-existing property wall, adjacent to A1A on the West side of the parcel and would require a variance from Code Section 12-263A. The applicant is proposing the gate be 20-feet from the edge of pavement. Code Section 263A requires 40 feet to install a gate.

Mr. Long clarified that the primary stated reason for the request was safety concerns and trespassing; the property is located two blocks North of the drawbridge and there had been instances of pedestrian and vehicular trespassing on the property; there is currently no gate on the West side of the property.

Mayor Miller inquired whether to comply with the Town Code section, and not require a variance, a gate could be located on that area of the property. Mr. Long explained that the applicant would have to install additional walls to connect to the front ones to comply and that they would put the gate in the middle of the parking area; this would create a circulation issue due to the size of the parcel.

Mr. Long clarified that the subject structure is a guest house of the main residence which is located on the East side of A1A. He added that the main house is still under consideration and would be up for site approval in the next meeting.

Mayor Miller asked whether there would be enough space for only one car to queue, instead of two, if the gate were moved up to 20 feet, thereby causing a back-up on A1A. Mr. Long stated that they would ensure the East side of the site plan is compliant with the two-car stacking requirement; he further clarified that the West side of the property is not where most cars going to this address would be entering. Mr. Long added that if the gate

were moved back to 40 feet from the edge of the pavement, approximately one quarter to one third of the guest house parking area would be eliminated.

Mayor Miller inquired how allowing the gate to be placed 20-feet closer than allowed by Code would impact traffic turning around or coming across the bridge. Mr. Long stated vehicles would presumably turn around in the middle of the street or on another property and affirmed that they would not be special or unique to this property.

Commissioner Andreano acknowledged this was on the West side and not the primary residence which would have sufficient area for parking; that in the event they had a party, guests would be directed to enter at the main house. He speculated that almost all properties in the area have similar issues because there is not much room, and stated he believed it is not the responsibility of the property owner to worry about cars on A1A having access to turn on their property.

Mayor Miller stated that she had read that all the parking the applicant needs is on the East side of the property and asked how not allowing them to build the gate would cause hardship for the owner. Mr. Long indicated that the other hardship stated was trespassing by pedestrians. Mayor Miller indicated that would be the case for everyone on A1A. Mr. Long highlighted that Code Section 12-263 applies to all zoning districts, and to both the East and West sides of A1A, so the 40-foot requirement is universal. He further explained that North of the 925 Hillsboro Mile property, parcels on the West side are too narrow to accommodate a guest house or any other structure. Mayor Miller stated that the purpose of the Code Section was to avoid back-up on A1A and place the burden on property owners to place gates back sufficiently to avoid gates lining A1A.

Mayor Miller asked whether there were any other special hardships unique to this property. Mr. Long stated he could see the 900 and 923 parcels having the same issue based on their location; properties located further North on the West side could have a gate without creating an issue with cars being backed up before the draw bridge.

Mayor Miller inquired whether there was anything that would distinguish this property from their neighbors at 900 and 923 Hillsboro Mile. Mr. Long indicated that he believed 923 had two driveway entrances on the West side and one of them could accommodate a gate at 40 feet; he did not believe the property at 900 had either a wall or gate. Town Manager Serda clarified that the property at 900 Hillsboro Mile has a gate. Mr. Long clarified that there was less space on the 925 lot as compared to the other two lots.

Commissioner Ravanese stated that 20-feet is not on the roadway, and he had observed that the ordinance was intended primarily for residences on the East side but applies to both sides so a variance may be in order. Mayor Miller stated the Commission should focus on whether there was a hardship and clarified that they could have a wall, in which

case that would not place the burden of ingress and egress on others traversing A1A. Mayor Miller did not believe there was a hardship in terms of parking on the West side of the property and inquired whether there were other hardships to be considered. Mr. Long stated he was aware only of those that were previously stated.

Vice Mayor Baldasarre expressed a concern that cars could get rear-ended while waiting for the gate to open, and that drivers could inadvertently run into the gate due to the limited space if it were placed at 20 feet.

The applicant, Mr. Howard Dvorkin of 925 Hillsborough Mile, stated this is purely a safety issue for the young boarder at the guest house; that individual was later identified as his daughter. Mr. Dvorkin added that they have had dozens of people knocking on the door, including at night; homeless individuals; people trying to fish from his dock; drug users and others, in which case he has called the police numerous times. With regards to backing up, he stated that the average car is 10 feet to 11 feet in length whereas the gate would be at 20-feet. He expressed concern that the situation would get worse if the variance were not granted, and added that at 40 feet, parking on that property would not be possible. Mr. Dvorkin reiterated that there is a gate on the East side of the property and there were many other gates on other properties on the West side.

Mayor Miller stated that she sympathized in terms of safety and asked why complying with the Code at 40 feet would be a hardship. Mr. Dvorkin stated it would not be an option to eliminate the parking which he is required to provide by Code; he added there would be construction on the East side for the next three years so there would be no place for them to park. Mr. Dvorkin indicated that construction vehicles would park on the property and reiterated the safety concerns for his young daughter with people knocking on the door weekly, sometimes at night; he added that he needs to protect his daughter.

Commissioner Reiser stated that the gates referenced by Mr. Dvorkin were installed before the Code was changed, and it was for the betterment of the Town. The issue of call boxes was discussed; Mr. Long clarified that the Code spoke to gates as well as gate opening devices and requires that both be located at a sufficient distance for two vehicles to queue.

Commissioner Ravanese indicated that 20 feet would be sufficient for a vehicle to turn; Mr. Dvorkin added it would be sufficient for K-turns and clarified that the main house could take two to three years to complete. Commissioner Reiser highlighted that this would be a temporary situation and Mr. Dvorkin indicated there would still be an issue with people continuing to trespass without a gate.

Vice Mayor Baldasarre stated that she does see the safety issue.

Mayor Miller opened the Public Hearing.

Ms. Robyn McCarty of 921 Hillsborough Mile testified by Zoom that her concern was with traffic backing-up; allowing the gate at 20 feet would create a choke point with vehicles going in and out. She stated that the structure was very recently built so this is a self-imposed problem, and the safety issue was not considered when it was being designed. Ms. McCarty felt the owner could have accommodated the 40-foot requirement at that time. She stated that she understands the safety issue, but also has the same problem since she does not have a gate on the West side of her property. Ms. McCarty added that the Commission could consider a variance but did not see a hardship.

Ms. Deb Tarrant of 1083 Hillsboro Mile provided comments by Zoom. Ms. Tarrant affirmed the comment made by Commissioner Reiser regarding the older gates being the only ones 20 feet from the edge of the pavement and stated that the ordinance was enacted because of the problems being caused. Ms. Tarrant indicated that every guest house has the same issue since the West side of A1A is narrow and requests from applicants with guest houses for gates at the 20-foot point have been denied many times for that reason. Ms. Tarrant added that every driveway can be a turn-around point and they all have pedestrian trespassers although some areas are worse than others. She agreed with Ms. McCarty that the location of this property makes the gate a potential liability and service vehicles for the guest house would cause stacking issues. Ms. Tarrant stated that they fully understand the safety concern and suggested that in the event the Commission approves the variance, they should consider whether the Ordinance should apply only to properties on the East side.

Mayor Miller inquired whether 20 feet would be sufficient to accommodate larger vendor vehicles such as landscapers or delivery trucks. Mr. Long indicated the 20 feet could be an issue for those types of vehicles.

Mayor Miller closed public hearing, there being no others to speak.

Discussion ensued; highlights included the fact that the Code Section was enacted to avoid traffic backing up on A1A and the owner was aware of the 40-foot setback requirement when the guest house was built in which case the hardship claimed was self-imposed. While there was an understanding of the safety concerns, there was general agreement that the applicant could comply with the Town's Code and address safety at the same time without imposing traffic and creating other safety issues for everyone else in that area. Other highlights included discussion regarding Code standards; no evidence of a unique hardship that could not be remedied while complying with the Code; the subject structure is not a primary residence; and a review of calls made to the police did not appear to be unusual for the area.

Motion by Commissioner Reiser, seconded by Commissioner Ravanese, to deny the request for variance on the basis that this is a temporary situation and not a true hardship for the applicant. In a roll call vote, the **motion** passed 4-1 with Commissioner Andreano voting No.

II. ADJOURNMENT

Motion made by Commissioner Baldasare, seconded by Commissioner Ravanese, to adjourn the meeting. In a roll call vote, the **motion** passed unanimously. (5/0)

There being no further business before the Board of Zoning and Appeals, the meeting was adjourned at 9:57 a.m.

ADOPTED THIS 12th DAY OF November 2024.

By: _____

Dawn Miller, Mayor



ATTEST:

Sherry D. Henderson, CMC Town Clerk

**TOWN OF HILLSBORO BEACH
1210 HILLSBORO MILE
HILLSBORO BEACH, FL 33062**