



Board of Planning and Appeals

BOPA Regular Meeting

~ Minutes ~

1065 Ridgewood Ave
Holly Hill, FL 32117
www.hollyhillfl.org

Liz Nelson
386-248-9442

Monday, January 4, 2016

6:30 PM

City Commission Chamber

1. Call to Order

Attendee Name	Title	Status	Arrived
Mike Myer	Chairman	Present	
Christopher Via	Vice Chairman	Present	
Edward H Perkins	Board Member	Present	
Dorothy Featherston	Board Member	Present	
Jim Legary	Board Member	Present	

2. Invocation

Invocation was given by Chairman Mike Myer.

3. Pledge of Allegiance to the Flag

Jim Legary led the Pledge of Allegiance.

2. Approval of Minutes

A. Agenda Item (ID # 1251)

Minutes - October 5, 2015

DISCUSSION:

Approve October 5, 2015 Minutes.

FISCAL ANALYSIS:

N/A

STAFF RECOMMENDATION:

Approve Minutes of October 5, 2015 Meeting.

COMMISSION GOAL:

N/A

MOTION:

As determined by the Board

ATTACHMENTS:

- October 5, 2015 (PDF)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Christopher Via, Vice Chairman
SECONDER:	Edward H Perkins, Board Member
AYES:	Myer, Via, Perkins, Featherston, Legary

3. New Business

1. Agenda Item (ID # 1243)

V-2015-03 1219 Bender Avenue Request for Variance: a Request for a Variance from the Maximum Height for a Fence in the R-3 Zoning District to Permit a 6-Foot Tall Fence in Lieu of the Maximum 4-Foot Tall Fence Permitted by Code.

INTRODUCTION: The applicant is requesting a variance from the maximum height of four feet for a fence in the required front yard to allow construction of a six-foot tall fence around the required front yard.

BACKGROUND: The subject property is a non-conforming industrial use that includes a welding shop and a manufacturing business. The property extends from Bender Avenue through to Jarecki Avenue, so the yards facing Bender and Jarecki are both considered front yards. The existing buildings extend almost to the Jarecki right-of-way and are considered non-conforming structures in that they fail to meet the required setbacks. The application in question is directed to the yard area fronting on Bender Avenue. A survey is included as an exhibit.

The property is zoned R-3 single family residential, and the comprehensive plan future land use map designates the area as low density residential. Permitted uses in the R-3 district are limited to single-family dwellings, parks and public buildings, golf courses, churches, home occupations, and utility structures. Therefore, the current use of the property is non-conforming. Fences in residential districts are limited to a maximum of 4-feet in front yards (Section 114-721(c)). In a commercial or industrial district, a fence in the front yard may be up to eight feet tall (Section 114-721(d)).

The existing development in the neighborhood is predominantly residential. The only non-residential development fronts on LPGA Boulevard, and there are six intervening single-family residential uses between the nearest non-residential parcel and the subject property. The balance of the block extending north to Walker Street is residential as well. An aerial view of the neighborhood is included as an exhibit. The

comprehensive plan and the designation of the subject property in the plan and under the land development regulations states a desire to eventually convert the subject property to a residential use.

DISCUSSION: The purpose of designating a use as non-conforming is to begin the process of phasing out that use from its current location. The use is allowed to continue as established but not expand; and once discontinued, the non-conforming use may not then be re-established at that location. A variance is intended to allow relief from the code requirements when there is a hardship unique to the property.

The applicant has submitted the required application including the response to the criteria for granting the variance. A copy of the application is provided as an attachment to this report. The case the applicant cites as justification for the variance is largely based upon the non-conforming use impact on the surrounding neighborhood, and potential damage to vehicles stored on the subject property.

In response to Question #1 the applicant cites the storage of large commercial vehicles on the property as they await repairs and states the requested fence will protect them from public damage. The applicant did not cite any cases of actual damage to vehicles, and the Police Department did not have knowledge of damage to vehicles. There was one reported break-in to the building.

In response to Question #3 the applicant cites the existing 8-foot tall fence around the towing company yard. This property is located in a CC-1 zone and as noted above, and the taller fence is permitted for commercial and industrial zone property.

In response to Questions #6, #7 and #8 the applicant cites the potential for improved appearance to the neighborhood. The appearance of the subject property in the neighborhood could also be improved with a four-foot fence and the addition of landscaping such as trees along the fence that would provide some level of property protection and visual screening.

The staff has several concerns about the proposed variance. First, the hardship appears to be generated by the non-conforming business rather than anything that is unique to the property. Second, the introduction of a six-foot fence is inconsistent with the residential character of the majority of the block between LPGA Boulevard and Walker Street. It is true that the existing business at Bender and LPGA has a six-foot fence, but this is a commercially zoned property fronting on LPGA Boulevard rather than a mid-block property surrounded by single-family homes. Third, there are other security and screening options that can be applied including the construction of an allowed 4-foot tall fence with landscaping and the addition of security camera or some other type of security system if vandalism is an issue.

RECOMMENDATION: Staff recommends the Board of Planning and Appeals not recommend the requested variance to the City Commission as the need for variance is not unique to the property but arises a result of the non-conforming use. Also there are other options in terms of fencing and landscaping and security management that would be equally effective as a taller fence. While providing added screening, the taller fence is not consistent with the character of the residential neighborhood.

COMMENTS - Current Meeting:

Tom Harowski, City Planner gave a summary of his staff report to the Board.

Sylvan Wells, 62 Harvard Street, Ormond Beach, Florida, Attorney representing the applicant stepped to the podium stating that this business has been in operation since 1964. (submitted into record was a copy of the property record from Volusia County Property Appraisers office). Their main client is Florida Power & Light and has been their client since 1977. They want to ensure Florida Power & Light that their trucks and contents are safe from vandalism and/or theft and feel the best way is to be allowed to erect a six (6') foot fence along the Bender Avenue property line. He displayed a picture of the property in question and one other of a property within 100 feet of the subject property that has a 6' fence. Mr. Wells was informed by staff that the property shown has a commercial zoning and is allowed a 6' fence.

Scott Simpson, City Attorney commented that a variance could not be granted to a non-conforming property for any kind of structure, however, the Code states that a fence is not considered a structure and therefore a variance could be granted for a fence.

ATTACHMENTS:

- V-2015-03 Application (PDF)
- V-2015-03 Aerial (PDF)
- V-2015-03 Site Survey (PDF)
- V-2015-03 Location Map (PDF)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Christopher Via, Vice Chairman
SECONDER:	Edward H Perkins, Board Member
AYES:	Myer, Via, Perkins, Featherston, Legary

2. Agenda Item 2016-1

R-1 Front Yard Setback Analysis: a Review of the R-1 Zoning District Identifying Properties with Violations of the Required Front Yard Setback and Identification of Action Items for Board of Planning and Appeals Consideration.

INTRODUCTION: This report is a review of the current developed properties in the R-1 zoning classification with regard to the level of compliance with the required front yard setbacks.

BACKGROUND: As a result of variance applications heard by the BOPA earlier this year, staff was asked to review properties in the R-1 Single-Family Zoning District to determine the level of non-conformance with the required front yard setback. How many units fail to meet the setback? Staff was asked to report back to the Board with

our findings. This report is offered in response to this request and provides an initial discussion of options for the Board's consideration.

DISCUSSION: The R-1 Zoning District requires a 35-foot front yard setback. According to the current code any yard abutting a street is considered a front yard, so a corner lot has two required front yards. Each front yard is required to meet the 35 foot setback to fully comply with the code.

Staff conducted an analysis of all R-1 zoned properties using aerial photographs and a limited amount of survey data that was available for the impacted area as a result of other projects that have been done on streets in the City. We did not do ground truthing of the data, so our conclusions are based purely on aerial analysis. The only method to know for sure the existing setback on any property is to do a survey of the property, but doing a survey of every R-1 parcel would be prohibitively expensive for level of analysis required. There is certainly the potential for some level of error in the data due to tree cover that prevents a clear view of some lots and some registration offsets placing the lot lines on the aerial photos. Nevertheless, we think that there is sufficient information to allow for a reasonable analysis of the existing situation.

Our examination found that about 50% of the R-1 zoned properties do not meet the required front yard setback in some fashion. The actual totals show 189 units meeting the front yard setback; 190 units that do not meet the setback requirements; and 13 vacant parcels. A map of the units is not particularly revealing with regard to an overall pattern.

- Riverside Drive, with a predominance of larger lots tends to have a higher level of compliance than many other neighborhoods, especially when it is considered that many of the corner lots meet setback on the Riverside Drive frontage but not the side street.
- Corner lots tend to show more violations throughout the study area as one or both corners fail to meet setbacks.
- On Riverside Drive lots, violations tend to be smaller than setback violations on streets in interior neighborhoods.
- On Riverside Drive, the number of violations of the setback increases the further north the property is located. About two-thirds of the total Riverside Drive violations are north of LPGA

Given the lack of a specific pattern to the front setback violations, it is difficult to focus in on one specific action that would cure a large volume of the violations. It is more likely that a number of options will need to be considered and that given the nature of development in the City that we will have to endure a higher level of variance requests to address individual problems. That said, the following listing offers a number of options for discussion.

Blanket Reduction of the Required Setback:

One option is to reduce the minimum setback by a set amount, say from 35 feet to 30 feet. A change of this type will impact (benefit) every property in the district, but it will certainly not cure a large number of current violations. The data seems to indicate that the most impact would be felt on Riverside Drive where the existing deep lots have structures that have small intrusions into the required yard. This was the case with the two variance applications the Board addressed earlier this year.

Create a Corner Lot Setback:

It is common for many zoning classifications to apply a lesser setback to the second street abutting a corner lot. For example a corner lot on Riverside Drive could require a 30 or 35 foot setback on Riverside Drive and a setback of 50% of that dimension on a "side corner" yard. A rule of this nature could help many of the corner lots with violations and create opportunities for property owners to undertake additions that are extensions of the current house wall.

Use A type of Setback Averaging

Some jurisdictions offer an opportunity to base the setback of a new home or addition based on the existing setbacks of structures along a given length of the street. This allows new buildings to be placed "in line" with existing structures. Sometimes this is done using the average of existing setbacks along a given length of street. This method requires the selection of an appropriate length of street as the base unit and then determining whether an average is to be used or simply not placing a new structure closer than the closest structure or the average of the closest two or three structures. This system offers some benefits in neighborhoods where there is substantial development that preceded the zoning rule.

As an example, the City of New Smyrna Beach has a rule of this type. The rule reads as follows:

505.10 Nonconforming front yard setback. The front yard setback requirements of this LDR shall not apply on any lot where the average setback of existing buildings located wholly, or in part, within 100 of each side of such lot within the same block and zoning district, and fronting on the same side of the street, is less than the minimum required setback. In such cases, the setback on such lot may be less than the required setback, but no less than the average of the setbacks of the aforementioned existing buildings.

Given that the R-1 has a minimum lot frontage of 95 feet, we might want to consider a longer length of street as the base for averaging as 100 feet would basically be the lot on each side of the subject property. This process also requires some specific knowledge of existing building setbacks, but this data should be easily obtainable by survey. We would also want to count units with setbacks larger than the minimum as being at the minimum. This method would prevent one unit set well back from the road from skewing the average.

Consider Rezoning

In some locations it may be more appropriate to consider rezoning a block or block face to an R-2 or R-3 classification. If examination of the underlying lot pattern shows the lot width in a given area is less than the R-1 lot width minimum, then rezoning may be an appropriate answer. This option may also apply to locations such as Park Circle, where every house violates the setback rule. It may be better to base the zoning on the building setback rather than the lot size.

Make No Change

There is always a null option where no change is made. This option will continue to rely on the variance process to address issues on a case by case basis. One downside to this option is that it tends to be a little costly for property owners, and this is a system that is not designed to promote consistency from case to case. It is certainly possible that cases with similar fact patterns can have different outcomes. In the strict application of the variance process, the City and property owner also need to identify a "hardship" that underlies the need for the variance.

These options are not mutually exclusive. The Board may want to recommend actions in all of these areas to maximize the ability of property owners to comply with the zoning rules and produce a neighborhood design that is more consistent throughout.

RECOMMENDATION: Staff was asked to prepare and analysis of the issue for Board discussion, and we will be guided by the direction of the Board.

COMMENTS - Current Meeting:

Tom Harowski, City Planner, discussed the Staff Report regarding front yard setbacks within the R-1 Zoning District. Staff discovered that about 50% of the R-1 zoned properties do not meet the current required front yard setback. There was discussion among the Board members on different options. They being: blanket reduction of the required setback - create a corner lot setback - use a type of setback averaging - rezoning of a block or block face to an R-2 or R-3 classification, or make no change at all and rely on the variance process to address issues on a case by case basis.

Ronald Strange, 24 Katrinas Drive, Ormond Beach, owner of a vacant lot next to and south of 1650 Riverside Drive, spoke about how the current Code is advantageous to existing homeowners, as they can apply for variances for relief of the setbacks for additions and accessory structures. But new construction has to meet the current setback requirements. He further stated that he is in favor of the averaging of homes within the same block for the setback number.

The Board expressed that the Riverside Drive properties should be treated differently than the interior R-1 zoned lots. Mr. Harowski, stated that he will bring back at the next meeting a proposal for their consideration dealing with setback averaging and an alternative setback number for corner lots.

ATTACHMENTS:

- Planning - R-1 Steback Study Compliance Properties Map (PDF)

RESULT: PRESENTATION**3. Agenda Item (ID # 1247)**

Capital Improvements Plan Annual Update: Required Annual Update of the Comprehensive Plan to Include a Current Five-Year Capital Improvements Program.

INTRODUCTION:

State law requires that each year the City update its five-year program for capital improvements to keep the City's comprehensive plan in compliance with state requirements. The CIP update must be adopted by ordinance and the Board of Planning and Appeals is required to provide a recommendation on the proposed amendment to the City Commission. This report contains the proposed CIP for the five year period covering FY 2015-16 through FY 2019-20

BACKGROUND:

The five year CIP update is done each year after the City Commission finishes its budget preparation. This timing allows the budget to reflect the most current priorities for capital programs. Projects that have been completed are deleted from the program, and City departments are contacted regarding additional projects and priorities that may be included in the program. Where cost estimates for scheduled projects have changes, the costs are modified as necessary.

It is important to remember that the CIP in the comprehensive plan is a plan for anticipated capital projects and not a fixed budget. It is expected that the timing of projects will change as projects move toward implementation; individual project priorities will change; and new opportunities arise. While funding sources are indicated with each project, it is typical and likely that some funding sources will change as individual projects are implemented and the availability of funds from varying sources changes over time.

While the capital projects are on this list because they support and expand the services available to the citizens of Holly Hill, under state law the only projects that must be done are projects that address deficiencies in the designated levels of service for water, sewer, stormwater, traffic, solid waste disposal, parks and schools. The City does not currently have any project that is required to address a level of service deficiency. The projects on the proposed CIP list are service improvement projects and therefore can be adjusted within the CIP or postponed beyond the CIP period as schedule demands and financing dictate. Once the City adopts the amended CIP, staff will send a notice to the Department of Economic Opportunity to demonstrate the City has complied with the requirement to maintain a current five-year plan. The state will not do any further review of the CIP and this amendment is exempt from VGMC review

DISCUSSION:

The proposed CIP is attached in a spread sheet format. The proposed plan has a number of changes from the current plan which was adopted in December 2014. This

year's budget continues to reflect an increased emphasis on renewal and replacement costs and needs for the utilities and public works areas. The following items highlight some of the other key continuing projects and changes reflected in this year's budgeted capital program.

1. The sewer lift station upgrade program has been amended to reflect work completed and revised scheduling.
2. The ongoing water distribution system improvement program is projected through the end of the planning period
3. The stormwater land acquisition and improvement projects have been amended to reflect the recent stormwater master plan update.
4. The continuation of the undergrounding of the overhead utilities on US 1 is shown as a significant continuing project.
5. The Calle Grande FEC Railroad pedestrian crossing is shown as scheduled by FDOT.
6. The Flomich Street Phase I sidewalk project feasibility study has been completed and we are awaiting construction funding.
7. A new sidewalk feasibility study has been proposed for Center Avenue Phase I between Flomich and LPGA and for Center Avenue Phase II between LPGA and 3rd Avenue.
8. New sidewalk projects on 15th Street between Nova Road and Center Avenue and on Flomich Avenue between Center Avenue and US 1 are proposed for feasibility funding this year.
9. The signal replacements on US 1 at 3rd Street has been deleted from the program as this project is completed.
10. The Riverside Park fishing pier was completed and removed from the program.
11. Maintenance projects at Sunrise Park have been shown in the current year as these are part of this year's budget.
12. The 7th Street Neighborhood Park is shown in the current year as funding has been obtained through a FRDAP grant.
13. The other parks based on stormwater pond facilities have been moved to future years, and these may ultimately be dropped from the program due to restricted access locations.

The School Board has issued its five-year capital improvements programs and there are no significant projects planned that will affect the Holly Hill School. The Florida Department of Transportation is in the process of updating its road program, and

the update is not yet finalized. The City has recently benefitted from signal improvements on US 1 at 3rd Street and LPGA Boulevard. We have a pending request for further signal upgrades a 6th Street, 8th Street, Walker Street and Flomich Street. The City has requested design funding for sidewalk improvements on Flomich Street between Nova Road and Decatur Avenue. The City has also applied for feasibility studies for sidewalk improvements on Center Avenue between Flomich Street and LPGA Boulevard and for a follow on phase from LPGA Boulevard to the south city limits. Additional funding is being sought for sidewalks on 15th Street and Flomich Street as part of our ongoing program to improve sidewalk connections serving the Holly Hill School and the central area of the City. The sidewalk improvements will require a 10% local match which is reflected in the proposed budget.

RECOMMENDATION:

Staff recommends the Board of Planning and Appeals recommend the City Commission adopt the amended CIP and incorporate the revised program into the City's comprehensive plan.

COMMENTS - Current Meeting:

Tom Harowski, City Planner, summarized the Staff Report regarding the Capital Improvements Plan Annual Update. State law requires that each year the City update its five-year program for capital improvements to keep the City's comprehensive plan in compliance with state requirements. This report contains the proposed Capital Improvements Plan for the five-year period covering fiscal year 2015/16 through fiscal year 2019/20. This year's budget continues to reflect an increased emphasis on renewal and replacement cost and needs for the utilities and public works areas. Staff recommends the Board of Planning and Appeals recommend the City Commission adopt the amended Capital Improvements Plan.

ATTACHMENTS:

- CIP Annual Update - Jan. 4 BOPA meeting (PDF)

RESULT:	APPROVED [UNANIMOUS]
MOVER:	Christopher Via, Vice Chairman
SECONDER:	Dorothy Featherston, Board Member
AYES:	Myer, Via, Perkins, Featherston, Legary

4. Old Business

None

5. Board / Staff Communications

Tom Harowski, City Planner mentioned that he has received an application for annexation of property located on 10th Street and it will be on the February 1, 2016 meeting agenda.

Chairman Mike Myer stated that he will be out of town on that date and will not be able to attend the February meeting.

6. Adjournment

The meeting adjourned at approximately 8:12 pm.