



CITY OF HOLLY HILL, FLORIDA

BOARD OF PLANNING AND APPEALS

MINUTES • SEPTEMBER 7, 2021

City Commission Chamber

BOPA Regular Meeting

6:00 PM

CITY HALL
1065 RIDGEWOOD AVENUE
HOLLY HILL, FL 32117

City Clerk's office: (386) 248-9441 - Fax: (386) 248-9448

I. CALL TO ORDER

Attendee Name	Title	Status	Arrived
Arthur J. Byrnes	Board Member	Present	
Mike Myer	Chairman	Present	
Robin D. Hanger	Board Member	Present	
Dennis Smith	Board Member	Present	
Tony Cassata	Board Member	Present	

II. INVOCATION

Robin Hanger led the invocation.

III. PLEDGE OF ALLEGIANCE

Mike Myer led the Pledge of Allegiance.

IV. BOPA MINUTES APPROVAL

Minutes were approved. Robin Hanger motioned, Arthur Byrnes seconded.

1. Minutes - BOPA July 12, 2021

(Requested by Eleni Deligianis, Board of Planning and Appeals)



V. MINUTES APPROVAL

VI. AGENDA ITEM

- VARIANCE - 826 Daytona Avenue - Request a Variance from the Requirements of Sec. 114-742 (2) A. 2 Requiring that Accessory Structures in All Zoning Districts be Located Behind the Principal Structure on the Lot. Such Request is Made in Order to Place a 121 Square Foot Gazebo on a Parcel in the R-3 (Single-Family) Zoning District, Located on the West Side of Daytona Avenue, Approximately 300 Feet North of 8Th Street, and More Particularly Known as 826 Daytona Avenue; V-2021-01 (Charles Morris, Applicant) (Brian Walker, City Planner).

(Requested by Brian Walker, Board of Planning and Appeals)

Brian Walker, Community Development Director/City Planner summarized his staff report.

The applicant is requesting a variance from the requirements of Sec. 114-742 (2) A. 2 requiring that accessory structures in all zoning districts be located behind the principal structure on the lot. Such request is made in order to place a 121 square foot gazebo on a parcel in the R-3 (Single-Family) zoning district, located on the west side of Daytona Avenue, approximately 300 feet north of 8th Street, and more particularly known as 826 Daytona Avenue.

Staff recommends with conditions, approval of the request for a variance from the requirements of Sec. 114-742 (2) A. 2, requiring that accessory structures and uses in all zoning districts be located behind the principal structure on the lot, as applied to a 121 square foot gazebo on a parcel in the R-3 (Single-Family) zoning district, located on the west side of Daytona Avenue, approximately 300 feet north of 8th Street, and more particularly known as 826 Daytona Avenue. Staff recommends the following conditions be attached to the approval of the variance request: 1. The gazebo cannot be enlarged or modified nor can it be replaced with anything but another gazebo of the same size or smaller. 2. The variance applies to the gazebo only and nothing else. 3. The gazebo is decorative only and can be used for sitting and enjoying the outdoors in a manner similar to a porch. It cannot be used for storage or any other purpose. 4. The gazebo must meet all setback requirements for the R3 zoning district and can't be moved to another location without going through the variance process again. 5. The gazebo must be well maintained and shall not be allowed to deteriorate, rot, become a home to vermin, or otherwise become a source of blight or it shall become subject to code enforcement action by the City.

Motion to recommend the variance by Dennis Smith, and seconded by Tony Cassatta. Board voted unanimously to recommend approval.



VII. ORDINANCES

1. AN ORDINANCE OF THE CITY OF HOLLY HILL, VOLUSIA COUNTY FLORIDA, ANNEXING BY VOLUNTARY PETITION APPROXIMATELY 1.23 ACRES IDENTIFIED AS PARCEL NUMBER 4244-01-07-0081 CONTIGUOUS TO THE CITY OF HOLLY HILL; REDEFINING BOUNDARIES OF THE CITY OF HOLLY HILL TO INCLUDE SAID PROPERTY AND THE ADJACENT RIGHT-OF-WAY OF 8TH STREET; DIRECTING THE CITY CLERK TO FILE THE ORDINANCE WITH THE CLERK OF THE CIRCUIT COURT, WITH THE CHIEF ADMINISTRATIVE OFFICER OF VOLUSIA COUNTY AND WITH THE DEPARTMENT OF STATE; PROVIDING FOR CONFLICTING ORDINANCES; PROVIDING FOR SEVERABILITY; AND PROVIDING AN EFFECTIVE DATE.

(Requested by Brian Walker, Board of Planning and Appeals)

Brian Walker, Community Development Director/City Planner summarized his staff report.

The applicant is requesting to annex a parcel of approximately 1.23 acres, located approximately 350 feet west of Nova Road N on the north side of 8th Street. The parcel is more specifically known as 1012 8th Street. This application precedes a comprehensive plan amendment and a rezone.

Staff recommends the City Commission annex a parcel of approximately 1.23 acres, located approximately 350 feet west of Nova Road N on the north side of 8th Street and more specifically known as 1012 8th Street.

Motion to recommend the annexation by Arthur Byrnes, seconded by Robin Hanger. Board voted unanimously to recommend approval.



2. AN ORDINANCE ADOPTING LARGE SCALE COMPREHENSIVE PLAN AMENDMENTS IN ACCORDANCE WITH CH. 163, PART II, FLORIDA STATUTES; CREATING THE PROPERTY RIGHTS ELEMENT TO ADD GOALS, OBJECTIVES FOR PROPERTY RIGHTS IN ACCORDANCE WITH FLORIDA STATUTES SECTION 163.3177(6)(I)1; REPEALING ALL ORDINANCES AND PARTS OF ORDINANCES IN CONFLICT HEREWITH; AND PROVIDING AN EFFECTIVE DATE.

(Requested by Brian Walker, Board of Planning and Appeals)

Brian Walker, Community Development Director/City Planner summarized his staff report.

A request by the Community Development Department, Planning Division, to approve a Large Scale Comprehensive Plan Text Amendment, creating the Property Rights Element, adding Goals, Objectives and Policies to ensure that private property rights are considered in local decision making in accordance with House Bill 59.

Under current Florida law, local governments create and adopt local comprehensive plans to control and direct land use and development within their jurisdictional boundaries. While the Florida Department of Economic Opportunity oversees the local comprehensive plan system at the state level, local governments have a great deal of independence with respect to the regulation of private land uses. HB 59, which was signed by Governor DeSantis on June 29, 2021, became effective on July 1, 2021. The new law amends various sections of Florida Statutes related to local government regulation of land.

Statutory provisions in Chapter 163, Florida Statutes, related to comprehensive plans, were amended to require each local government to adopt a property rights element into their comprehensive plan. Inclusion of the property rights element is intended to protect private property rights and to ensure they are considered in local decision-making.

House Bill 59 adds Section 163.3177(6) (I), Florida Statutes. Each local government is now required to adopt a property rights element into its comprehensive plan. This new

element must be adopted by the earlier of the date of its adoption of its next proposed plan amendment, or the date of the next scheduled evaluation and appraisal of its comprehensive plan pursuant to Section 163.3191, Florida Statutes. HB 59 includes a model property rights element that may be used for the required comprehensive plan amendment. City staff propose the following language, which is based on the model version:

PROPOSED AMENDMENT

10. PROPERTY RIGHTS ELEMENT

GOAL 1: To respect judicially acknowledged and constitutionally protected private property rights.

Objective 1.1: The following policies are to ensure that private property rights shall be considered in local decision making.

Policy 1.1.1: The right of a property owner to physically possess and control his or her interests in the property, including easements, leases, or mineral rights. Policy 1.1.2: The right of a property owner to use, maintain, develop, and improve his or her property for personal use or for the use of any other person, subject to state law and local ordinances.

Policy 1.1.3: The right of the property owner to privacy and to exclude others from the property to protect the owner's possessions and property.

Policy 1.1.4: The right of a property owner to dispose of his or her property through sale or gift.

Staff recommends approval of the proposed amendment to create a Property Rights Element in compliance with HB 59 / Florida Statutes. The item is tentatively scheduled to be heard by the City Commission for first reading on September 28, 2021, and the second reading (public hearing) is to be scheduled at the next available City Commission meeting subsequent to DEO and VGMC review.

Motion to recommend by Robin Hanger, and seconded by Dennis Smith. Board voted unanimously to recommend approval.



VIII. OLD BUSINESS

None.

IX. BOARD/STAFF COMMUNICATIONS

None.

X. ADJOURNMENT

Meeting motion to adjourn at 6:33PM.

Eleni Deligianis

Eleni Deligianis, Assistant

9/7/2021

Mike Myer

Mike Myer, Chairman

9/7/2021