

**FLAGLER COUNTY  
PLANNING AND DEVELOPMENT BOARD  
REGULAR MEETING  
Flagler County Government Services Building  
Board Chambers  
1769 East Moody Blvd., Bunnell, FL  
MEETING MINUTES  
Tuesday, June 14, 2016 at 6:00 PM**

*Adopted July 12, 2016*

1 **MEMBERS PRESENT:** Chairman Michael Boyd, Robert Dickinson, Michael Duggins, and Mark  
2 Langelo

3  
4 **MEMBERS EXCUSED:** Laureen Kornel and Arthur Barr

5  
6 **STAFF PRESENT:** Adam Mengel, Planning Director; Wendy Hickey, Planner; and Gina Lemon,  
7 Development Review Planner III

8  
9 **BOARD COUNSEL:** Kate Stangle, with Broad and Cassel

10  
11 Chairman Boyd called the meeting to order at 6:15 p.m.

12  
13 **1. Roll Call.**

14 Attendance was confirmed by Gina Lemon and quorum was present.

15  
16 **2. Pledge of Allegiance.**

17 Chairman Boyd led the Pledge of Allegiance to the Flag.

18  
19 **3. Approval of Minutes.**

20 Approval of minutes of the January 12, 2016 and May 10, 2016 Regular Meetings

21  
22 Mr. Duggins noted a correction on page 5 in the May 10, 2016 minutes, changing public road to  
23 private road.

24  
25 **Motion to approve the minutes as amended made by Mr. Langelo, seconded by Mr.**  
26 **Duggins. Motion carried unanimously.**

27  
28 **4. Quasi-judicial requiring ex parte communication and disclosures:**

29 **Application #3030 – APPLICATION FOR A VARIANCE IN THE R-1 (RURAL**  
30 **RESIDENTIAL) DISTRICT** for a reduction in the minimum rear yard setback for swimming  
31 pool and pool screen enclosure from 10 feet to 0 feet on 0.23 acres located at 10 Pamela  
32 Parkway, Palm Coast, FL; Parcel #40-10-31-3900-00000-0270; Owner: John V. and Charlotte  
33 A. Dougherty, Husband and Wife; Applicant: Rich Smith d/b/a Hammock Communities, Inc.

34  
35 No ex parte communications were disclosed.

36  
37 Mr. Adam Mengel, Planning Director: presented a detailed staff report and PowerPoint which  
38 depicted the location, zoning and future land use of the subject parcel, along with background  
39 and ownership and building information, noting the subject parcel consists of lots 27 and 28 of

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1 the Likens subdivision and that although the parcels were not purchased at the same time, they  
2 do not have a unity of title and are only bound together for tax purposes.

3  
4 Mr. Mengel then read into the record the staff recommendation. Based on the provided  
5 application and supplemental information, the Planning Department recommends that the  
6 Planning and Development Board make a finding that all criteria listed in the guidelines at LDC  
7 section 3.07.03.E have been met and therefore recommends approval of a 10 foot rear yard  
8 pool/screen enclosure setback variance for 10 Pamela Parkway.

9  
10 Rick Smith agent for the applicant stated “under the current Land Development Code we can  
11 build a block fence on the property line, and what we propose to build is a 3 foot stem wall  
12 which would replicate a fence and put the pool within stemwall. The appearance from the  
13 adjacent lot on the south side would be no different for the pool or if we put a fence up, or a  
14 wall. So, at the end of the day as you can understand the criteria for a block fence is about the  
15 same criteria as we have for this pool. So at the end of the day I think it would be the same if not  
16 better.”

17  
18 Mr. Langelo asked staff if there was a typo in the staff report and proceeded to read into the  
19 record the applicant response for criteria 3, “The proposed location of the pool will impair or  
20 impede the use of the adjacent property”.

21  
22 Mr. Mengel responded that is a direct quote from the applicant’s submitted response to criteria  
23 3. He added we believed there was a typo made and we should have noted that in the report.

24  
25 Mr. Langelo asked what would be the reason for a setback for a swimming pool.

26  
27 Mr. Mengel responded it would be buffering and drainage.

28  
29 Mr. Langelo asked if what you are trying to buffer is more of a physical aspect.

30  
31 Mr. Mengel responded that it is both the physical aspect and the physical activity.

32  
33 Mr. Langelo asked if the lot was in the wetland isn’t there a wetland conservation easement that  
34 is dedicated as a wetland so that no one can build on it. Do you have any official topo that is  
35 showing the wetland?

36  
37 Mr. Mengel replied I would have to hunt it down. I can say it is heavily vegetated.

38  
39 Mr. Langelo asked do we have wetlands in the Hammock? Have we ever?

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1 Mr. Mengel replied I think we have had some isolated wetlands. The official record we use is  
2 the Wetland Mapper an application that is from U.S. Fish and Wildlife. We have had several  
3 surveys come up drilled down on a parcel specific basis have had wetlands. Typically they are  
4 isolated wetlands if they are not going to be on the intercoastal or on the coast.

5  
6 Mr. Langelo asked there has been no response from the School Board? Have they indicated if  
7 they intend to build or not to build.

8  
9 Mr. Mengel responded that there has been discussion in the past and it is safe to say that the  
10 wetlands have impacted the future development of this parcel. There is no intended use for the  
11 property at this time. There is a provision within the Comp Plan that prohibits schools from  
12 being sited in a coastal hazard area I do believe this site has a portion of the property within the  
13 special flood hazard area, at least on the barrier island. So, there may be some learning center  
14 here in the future but it will not be a school.

15  
16 Mr. Langelo asked if the County sells this off to an individual developer and they would  
17 mitigate the wetlands if it is a conservation easement we would not have an issue if that was a  
18 wall.

19  
20 Mr. Mengel replied that is right, in fact as Mr. Smith said it could be a wall today but so from  
21 that property if it developed you would not know there is a pool there unless you look over the  
22 wall.

23  
24 Mr. Duggins stated that for Lot 28, you stated the pool couldn't be built on lot 28 because of the  
25 drainfield. The drainfield not on lot 28 it is with the house on lot 27. They do have a few  
26 hundred feet of lot to work with. It just seems to me that something like this brings our variance  
27 and setback code to a point of nothing. It just seems to me that they have plenty of places to put  
28 the pool on that other lot. I do not think the entire area is a wetland I think it is a buildable lot.

29  
30 Mr. Mengel replied I didn't hint that lot 28 was a wetland at all. Where I was heading was when  
31 you look on their survey to the east of the home on lot 27 there is the septic tank and drainfield  
32 for me knowing what I want to do from a design standpoint I don't want to have my pool  
33 beyond my septic tank there may be some rules with the Health Department for that separation  
34 requirements. What I was getting at was if you wanted to put the pool there you would have to  
35 relocate the septic tank and drainfield to lot 28 to have the pool in your side yard on 27 not to  
36 say it is not impossible. The other side of it is I did not want to penalize the owner because they  
37 have two lots. I thought you could meet all the criteria on lot 27. Who knows what their purpose  
38 is for 28? They may want to put another home there in the future or maybe their home in the  
39 future or maybe relatives or children or they want to sell it for now it is combined for tax  
40 purposes for convenience, I don't want to take that away from them. I did want to acknowledge

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1 it was there but I did want to go though the design aspect. I just didn't think you wanted to  
2 leapfrog it over the septic tank.

3  
4 Mr. Duggins stated I was just looking at a 200 foot lot and you can do a lot of things on a 200  
5 foot wide lot.

6  
7 Mr. Smith added, if I could respond to that it is their intention to one day expand on to that lot  
8 with an in-law suite, an additional home or to sell the lot they do not have immediate plans for  
9 that lot.

10  
11 Mr. Duggins asked do they have to have it in the back? I don't care if they have a sink hole  
12 behind them it's like putting a one story house right on the property line. It would still be a  
13 concrete block wall of a house. Could they move the pool forward some? It is at zero now.

14  
15 Mr. Smith noted that there is only 20 feet and at the end of the day a retaining wall through the  
16 building department could be permitted on the property line without going to the Planning  
17 Board. Which would be identical to the stemwall that holds the pool up the pool is setback by  
18 the nature of the stemwall probably a foot and a half from that wall from the outside edge of that  
19 wall there is no deck on that side so at the end of the day any entertaining would be 10 feet  
20 from the property line so you don't have the opportunity to sit up against that property line and  
21 entertain. So, if you were standing behind the house you would not know there was a pool there  
22 except for somebody's head popping up over the wall not any differently than you would had  
23 that retaining wall be built there for a deck on the back of the house.

24  
25 Mr. Duggins asked will the pool be flush with the stemwall?

26  
27 Mr. Smith replied yes, so in the big picture they could have a pool deck all the way out to that  
28 stemwall or they can have a pool. So, at the end of the day it looks absolutely identical from  
29 afar.

30  
31 Mr. Duggins stated I just have a problem with a zero setback on any piece of property unless  
32 you live in a zero lot line development.

33  
34 Mr. Dickinson stated if I am looking at the detail on the site plan, there is 1.5 feet to the property  
35 line; I assume that is going to be the retaining wall. There is not going to be a deck there; is  
36 there going to deck to the east and the west and not to the south and up against the house?  
37 Obviously it's going to be pavers.

38  
39 Mr. Smith stated yes, that is correct.

40

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1 Mr. Dickinson asked if the screen enclosure is going to stand on top of the stemwall?

2

3 Mr. Smith replied that is correct.

4

5 Mr. Dickinson asked is there a possibility in the 1.5 feet between the screen enclosure and the  
6 pool deck, could there be a hedge screen planting of some kind within the screen enclosure like  
7 podocarpus or something like that?

8

9 Mr. Smith replied I think we can make that arrangement to have landscaping; it is not a big area  
10 obviously.

11

12 Mr. Dickinson stated in 1.5 feet, there are some plant materials that can be put in a small space.

13

14 Mr. Smith replied we can use some kind of pots or some kind of planter boxes or something like  
15 that.

16

17 Mr. Dickinson stated I am not sure it has to be that elaborate, it can be planted between the  
18 pavers and the stemwall. It is not necessarily something that is going to be instant in its effect,  
19 but on the future buffer from the adjacent property not only the adjacent property but the  
20 homeowner it will be something that will grow into maturity and I say that inviting that option  
21 because there is no deck proposed for that location. The two lots are still independent of each  
22 other they have not been bound together officially with a binding lot agreement.

23

24 Mr. Mengel stated they were bought separately. They were purchased under separate deed and  
25 were combined for the convenience of tax collection parcel assessment purposes there is no  
26 formal binding for these two lots.

27

28 Mr. Dickinson asked about the 20 acre school site, if a developer came in and did something  
29 other than R-1, a non-compatible land use would require the standard buffering?

30

31 Mr. Mengel replied yes that was correct.

32

33 Mr. Dickinson stated looking at their photograph and in my experience, I do see quite a bit of  
34 cypress green plant material without having a wetland determination especially adjacent to this  
35 home site.

36

37 Mr. Langelo stated I own a piece of property on the beach on A1A and I am encroached by  
38 ocean setbacks and I had limited space to put a swimming pool on my property and mine is  
39 among one of the larger ones on the beach. We wanted to put a pool in this was years ago and  
40 we went to our neighbor and got an agreement in writing to allow the pool from 7.5 to 1.5. So

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1 we did put a pool in with the agreement from my neighbor this was like 30 years ago the 1½  
2 was not big enough so we had to do it 2 feet. We found you couldn't clean the pool, you  
3 couldn't walk around the pool, it was dangerous along the edge. Luckily, we found out before  
4 we got too far and I put a little fake wall up you couldn't stand or walk on; it was just too  
5 dangerous, but we did have an issue like this and we went to the neighbor. I don't know if that  
6 goes on any more.

7

8 Mr. Mengel replied no, the closest we have come is an administrative variance where we have  
9 the notice to the adjacent owners for 6 inches or whatever the percentage was; that is the closest  
10 we have had.

11

12 Chairman Boyd opened public comments.

13

14 John Dunham, 15 Pamela Parkway, spoke in favor of the application.

15

16 Chairman Boyd asked the Board for a motion.

17

18 **Motion made by Mr. Langelo to approve, seconded by Mr. Dickinson.**

19 **Motion carried 3/1 with Mr. Duggins dissenting.**

20

21 **5. Staff Comments.**

22 None.

23

24 **6. Board Comments.**

25 Mr. Langelo asked if we were advertising for a new board member.

26

27 Mr. Mengel replied yes we are. Pam Richardson's seat was an at large seat; I don't know if it was  
28 related to the Realtors profession it is my understanding we have an ad in motion right now.

29

30 **7. Public Comments.**

31 None.

32

33 **8. Adjournment.**

34 Motion to adjourn made by Mr. Langelo at 6:38 p.m.

35

36 Drafted by: Wendy Hickey

37 Reviewed by: Adam Mengel