

**BOARD OF ADJUSTMENT
DESTIN CITY HALL BOARDROOM
WEDNESDAY, JUNE 7, 2023
5:30 P.M.**

1. CALL TO ORDER:

Chairman Weidenhamer called the Board of Adjustment Meeting to order at 5:30 p.m., on Wednesday, June 7, 2023, at Destin City Hall Boardroom.

2. ROLL CALL & PLEDGE OF ALLEGIANCE:

Present:

Tom Weidenhamer
Daniella Piper
David Emerson
Robert Pinard
James Moomaw

Staff Present:

Kim Montgomery Deputy City Clerk
Steven O'Connor, Principal Planner
Christopher Willis, Planner
Kim Kopp Land Use Attorney

3. APPROVAL OF AGENDA:

Chairman Weidenhamer moved to approve the agenda as presented with Board member Piper providing the second. The motion passed 5-0.

4. APPROVAL OF MINUTES:

➤ **April 5, 2023**

Motion to approve the minutes of the April 5, 2023, meeting was made by Board member Marler, with Board member Emerson providing the second. The motion passed 5-0.

5. PUBLIC COMMENT:

None

6. NEW BUSINESS:

➤ **A. Variance Request - BOA-001074-2023 – Henson Shed (Accessory Structure)
4485B Luke Ave Variance Request.**

Scott Henson Variance Request regarding an existing shed (accessory structure) located at 4485B Luke Avenue (Parcel ID: 00-2S-22-0582-0000-0140). The applicant is requesting relief from LDC Section 7.12.08, Table 7-3, which relates to the setbacks within the Crystal Beach Neighborhood (CBN) zoning district. There is an existing shed (accessory structure) that does not meet the required side setbacks.

The Clerk swore in the all staff and individuals who will be providing testimony for this and the following case.

The City Attorney asked Mr. Henson if he agrees to waiving the reading of the Notice to the public and the application into the record. Mr. Henson stipulated his agreement.

Mr. O'Connor entered the staff report into the record. The City Attorney asked Mr. Henson if he had any objection to the staff report being entered into the record. Mr. Henson stipulated that he does not have any objection.

Mr. Scott Henson, Property owner for the address of said Variance request explained to the members how he and his stepfather built the shed in question 30 years ago when he was just out of college. He also explained that his wife has always insisted that the outside be kept in good repair, and that in all the time that it's been in its present location, none of his immediate neighbors have made any complaints about the shed, including the current neighbor, until recently, which he feels stems from a disagreement they are having with a sewer issue. Who made the complaint, and although he is an engineer, back when he built the shed, he was young and was unaware of the setback rules. He only made sure that it was within his property. He also spoke of how it has been a value to he and his family over the years and he did look into the possibility of moving it but can't because of the way he built his home in the center of the lot.

Chairman Weidenhamer clarified for the record that the north property line that backs up to the powerline easement, where the shed is located, is where he needs the Variance. Mr. Henson stipulated for the record, that is correct.

Board member Piper asked if the neighbor he is referring to who does not have any problem with the shed is the one to the west in Lot 12 and he has no issues with the proximity of the shed to his property. According to Mr. Henson, he does not and spoke of his surprise that the other adjacent neighbor suddenly does after 15-years of owning her property.

Chairman Weidenhamer opened the hearing to the public for any comment. With no one coming forward to speak, he closed the public portion of the meeting.

Committee member Piper asked staff if the setback requirements were different than they are now. According to Mr. O'Connor, the setbacks are based on the plat and have not changed.

Chairman Weidenhamer spoke of how true the setbacks were in place but probably, in the early 90's, his perception of the attitude at that time was a lot more casual than it currently is today.

Board member Moomaw stated for the record that he does not feel that the six criteria were met to grant the Variance.

Chairman Weidenhamer made the motion to approve the Variance request for the shed, seeing no objection from the nearest property owners to the shed with the

consideration that the setbacks to the offending property owner are appropriate, and recommends approval of the request.

Board member Emerson asked Chairman Weidenhamer if he would be willing to amend the motion to add with the stipulation that the shed should be anchored to the ground. The City Attorney advised Chairman Weidenhamer to withdraw his original motion and make new one.

Chairman Weidenhamer withdrew his original motion and motioned for the Board of Adjustment approve the proposed request, BOA-000991-2022, to allow the applicant's shed (accessory structure) to remain in its original, existing location, with the condition that the applicant anchor the shed to the ground, as presented, and obtain any permitting needed from the city of Destin retroactively. Board member Emerson provided the second.

For clarification purposes for the record, the City Attorney asked the Chairman if he stipulates his motion includes that the applicant meets the criteria set forth in 2.25.03(C), based on the applicant's response in the staff report. Chairman Weidenhamer stipulated to that. For the record, Mr. O'Connor read the six criteria that the City Attorney was referring to that staff based their finding on per the requirements of the Land Development Code and Chairman Weidenhamer stipulated to into the record.

A. That special conditions or circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.

B. That special conditions and circumstances do not result from the actions of the Applicant.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings, or structures in the same zoning district.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance and would result in unnecessary and undue hardship on the Applicant.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The Chairman agreed and stipulated to the criteria and called for the vote. The motion passed 5-1 with Board member Moomaw dissenting.

➤ **B. BOA-001141-2023 – Gilligan’s Site Variance Request**

Ms. Melissa Ward of Dunlap & Shipman, P.A., on behalf of Mike Abadie of ABC Amusement Co is requesting approval of a Variance Request, BOA-001141-2023. This application is requesting relief from LDC Section 8.09.03.A.6.a, 8.09.03.A.6.b, & 8.03.00, Table 8-1, which regulates minimum sidewalk and buffer widths within the City’s Old Destin Multi-Modal Transportation District (MMTD). The subject zoning project is located at 530 Harbor Boulevard (Parcel IDs: 00-2S-22-0630-0000-03A1; 00-2S-22-0630-0000-03A2; & 00-2S-22-0630-0000-03A3).

The City Attorney acknowledged that everyone who would be providing testimony was sworn in at the beginning of the meeting. He then asked the applicant if they were in agreement to waive the reading of the application and notice into the record, for which the applicant stipulated that they were. Staff member Steven O’Connor entered the staff report into the record with no objections.

Mr. Robert Kauffman introduced his colleagues who would be presenting and briefly explained the Variance request and how it meets the six requirements in the code. The main item he stipulated to is that the request maintains the safety for pedestrians by increasing and enhancing the existing sidewalk from 5-feet to 8-feet, maintaining the existing buffer as well as allowing additional parking spaces for the site. He then entered into the record their report as Applicant’s Exhibit 1, with no objection from staff.

Ms. Ward presented the request to the Board members and explained the reasonings for the Variance lies with the much needed parking spaces on the northern section of the property in order to provide the need to the clientele who may be parking at the business with large vehicles that carry several people and would be parked for several hours at the business.

Board member Moomaw asked what the required parking count was for the property. According to Mr. O’Connor, at this point, staff does not have that information available to be able to accurately answer the question.

Board member Piper questioned the three foot buffer and asked if it is sufficient to keep pedestrians safe from the traffic.

Ms. Ward spoke of how no matter the size of the buffer, there will always be concern if there is enough and if its sufficient. However, because of the space needed for parking, enlarging the buffer would take away from what he needs for those onsite parking spaces.

Mr. O’Connor added that the 6-foot buffer meets the minimum requirement in the Multi-

modal Transportation District (MMTD) for Highway 98.

Board member Emerson asked if it is in the city plan to increase the sidewalk size throughout the harbor district. Mr. O'Connor explained the intent of the MMTD is to provide multimodal facilities across the entire district. Additionally, the Harbor CRA Master Plan also calls for it as well. Therefore, any site that comes in for redevelopment and does not meet the current codes will have to bring their site up to the current requirements and for the ones that can't meet it, there are certain site specific deviations that can be done.

Chairman Weidenhamer opened the hearing to the public, with no one from the public coming forward, he closed the public portion of the hearing.

Board member Piper spoke of her concern about the buffer not being enough even though it would be wider than what is currently in place. Mr. O'Connor spoke of the requirements of the MMTD is 8-10 feet and is why staff is supporting the request of 8-feet.

Mr. Scott explained that there is a non-mountable curb along the front of the business and how it would take a lot of effort for someone to drive up over the curb to hit someone on the sidewalk.

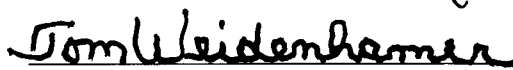
With no further discussion, **Chairman Weidenhamer made motion to recommend that the Board of Adjustment approve Variance Request, BOA-001141-2023 with the condition that the applicant replace the existing 5-foot sidewalk with a new 8-foot sidewalk and no additional buffer than the three foot buffer that currently exists. Board member Emerson provided the second, the motion passed with a vote of 5-0.**

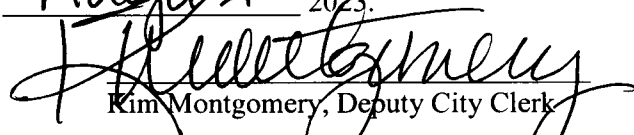
5. OTHER BUSINESS: None

6. ADJOURNMENT:

There being no further business the meeting was adjourned at 6:25 p.m.

Adopted and approved this 2nd day of August 2023.


Tom Weidenhamer, Chairman


Kim Montgomery, Deputy City Clerk