

**Board of Adjustments and Appeals
Regular Meeting
March 26, 2003**

The Board of Adjustment and Appeals (BAA) of the City of Titusville, Florida, met in regular session in the Council Chambers, on Wednesday, March 26, 2003.

XXX

Chairman Donald Prather called the meeting to order at 6:31 p.m. Present were Members Richard Thornburg, Mike Boggs, Robert Donaldson, John Hudgens, and Sid Chehayeb. Also in attendance were City Attorney Dwight Severs, Walt Johnson, Economic Development Director, Chuck Bogle, Fire Marshal, Chuck Denman, Stormwater Administrator, Planner Don Land, Redevelopment Specialist Wes Hoaglund, and Recording Secretary Tammy Holton. It was determined that a quorum was present.

XXX

Chairman Prather asked the entire assembly to recite the Pledge of Allegiance to the Flag.

Chairman Prather granted a request to amend the agenda to bring New Business item number six to the first agenda item.

XXX

First item of business was the approval of the minutes from the January 29, 2003 and February 26, 2003 regular meetings. Member Donaldson made a motion to approve the minutes January 29, 2003 as submitted. Member Chehayeb seconded the motion. There was a unanimous voice vote for approval. Member Boggs made a motion to approve the minutes of February 26, 2003 as submitted. Member Donaldson seconded the motion. There was a unanimous voice vote.

XXX

Chairman Prather confirmed the quasi-judicial procedures verifying that all persons wishing to speak before the board have signed an oath card; confirmed that all agenda items had been properly advertised and call for members' statements, if they have visited any of the sites. The members confirmed that they had visited the sites and spoke to no one. Chairman Prather stated that he had visited the Trusswood site and was questioned regarding his presence; he stated he did not speak to any one regarding the variance.

XXX

New Business:

Variance #12-2003 Towne Realty on behalf of Harbor Towne of Titusville - The applicant requests variances to Section 39-61(d)(2), Number of parking spaces required, and Section 59-667(a) Height, yard and area requirements. Located at the southeast corner of Indian River Avenue and Max Brewer Causeway. Wes Hoaglund gave an overview of the request. Member Thornburg asked if the project had been brought before the board before. Mr. Hoaglund told BAA that it had. Member Thornburg asked why there was not a reference to the previous variance. Don Land answered that the information was in the staff comments section of the

report. Discussion followed. Member Thornburg told staff that the report was lacking, previous minutes with information from that request should have been included to let new members know what actions BAA had previously taken. Don Land informed BAA that this project was completely separate from the previous request for the property. All proper procedures had been followed for this new venture. Chairman Prather requested having more information on BAA's previous actions before deciding on this issue. Discussion followed. Don Land again told BAA that this was a new applicant and a new project, but the same piece of property. Discussion followed. Chairman Prather recommended to BAA to table until more information could be provided.

John Evans, 1702 South Washington Avenue – In favor. Stated that the applicant was aware of the previous variance and asked that BAA listen to the current applicant so they could address all the concerns and then after if necessary ask the item be tabled. Member Thornburg was not sure if all members on the board currently were able to participate during the last variance request on this property, stated he would like to have the benefit to review the previous action of the board before rendering action. Discussion followed. Chairman Prather passed gavel to make a motion. Motion was made by Member Prather to table this item until the next meeting in April to be able to obtain previous documentation for BAA to review correctly. Motion was seconded by Member Thornburg for discussion. Member Chehayeb recalled for BAA that the previous applicant asked for a height of 80 feet, the City then asked for a height of 80-100 feet, BAA approved 80 feet. Discussion followed. There was a roll call vote.

- Chairman Prather – yes
- Member Chehayeb – no
- Member Thornburg – yes
- Member Hudgens – no
- Member Donaldson – no
- Member Boggs – no

Motion did not carry. Wes Hoaglund apologized to BAA for not having all documentation for this item. Discussion continued on Variance #12-2003.

John Evans, 1702 South Washington Avenue – In favor. Mr. Evans informed BAA that to his client a 30-day delay would have been a long delay for this proposed project. Gave a history of Towne Realty and their current and past projects. Mr. Evans then told BAA that Towne Realty conducted a market study for the area of Titusville, thus prompting the applicant to ask for a higher density. Staff has reviewed and all other boards had given approval. Mr. Evans reported to BAA that the applicant has met all the regulations and requirements. Mr. Evans then called Wes Hoaglund as an expert witness for the project and asked Mr. Hoaglund in his opinion did this project meet all the code requirements. Mr. Hoaglund indicated that it did.

Kohn Bennett, 4080 Old Settlement Road, Merritt Island – In favor. Informed BAA that he is the General Manager for Towne Realty. Mr. Bennett reviewed for BAA the life safety codes for the proposed buildings. Mr. Bennett also addressed the issue of parking for the project. Stated that additional parking space as required by codes lessen the aesthetics for the property, lessening the landscape for the project. Member Hudgens questioned Mr. Bennett about the welfare of the residents in regards to limited parking spaces. Member Hudgens stated that most families would have more than one vehicle per family. Mr. Bennett stated the site would have 471 spaces, more than the code requires. There would also be an additional 30 spaces of on-street parking. This would allow for 2.4 spaces per unit. Member Thornburg asked about the number of units and how that was determined. Discussion followed. To lower height, four buildings would need to be constructed, not beneficial for Titusville. Member Thornburg questioned why 210 units. Mr.

Bennett told BAA that a study was done to determine the best need for the area; the study showed that number of units would fit this area. Discussion followed.

Jill C. Halliday, 324 South Washington Avenue - In favor. The downtown businesses will prosper from this project. The added tax base will benefit Titusville. The additional height would not be a problem for the area.

Walt Johnson, 67 Broad Street – In favor. Informed BAA that the Space Coast Economic Development Commission (SEDC) voted unanimously for this project. This is a situation that Titusville has been looking for years. There will be a huge revitalization of the downtown area because of this project.

Bob Telfer, 2885 Player Court – In favor. This project is the answer and solution for the revitalization of the downtown area. Mr. Telfer compared Titusville to Cocoa, Titusville has all the charm of a landfill, and this project will attract people with discretionary income to spend.

Louis V. Cianfroga, 815 South Washington Avenue – In favor. Told BAA that this project was needed for a long time, it would be a terrible tragedy if this project were not approved. After a height of 80-feet, there is not much difference for additional height. This would be a step in the right direction for Titusville to continue to grow and revitalize the whole community not only the downtown area. This company has built other up-scale projects and are first class and good quality. This developer is in the community and will stay in this area. A hundred and twenty units would maximize the open space and will enhance the community. Additional buildings would minimize the project and downtown.

Ken Ward, 355 Pine Street – In favor. Mr. Ward told BAA that he is the engineer of record for the project. Three buildings with 120 units is a much better project, open space would be better aesthetically pleasing. Mr. Ward stated that he is a huge supporter of the downtown area. This project will bring additional population and services will follow. Fire issues have been discussed with the Fire Marshall and we are prepared to meet all requirements.

Loys Ward, 1707 South Washington Avenue – In favor. Mr. Ward told BAA that he had served on the CRA and was instrumental in written the ordinance that is being reviewed. The requested density would be appropriate for the downtown area. The original height requirement was to take into account neighbors; there are no neighbors for this project. Requested the board approve.

Member Chehayeb questioned staff on what determinations were used for the breezeway, site plan does not show breezeway. Wes Hoaglund told BAA that because of the unusual shape of property, setbacks would be calculated different thus altering the breezeway calculation. The project was calculated two different ways and could have possibly been calculated many other ways. Discussion followed. Member Thornburg asked for clarification on variance for parking. Mr. Hoaglund informed BAA of the request from the applicant. Discussion followed.

Member Thornburg made a motion for approval of Variance #12-2003 with staff recommendation and parking of 2.2 spaces and that the applicant work with staff for more on-street parking. Member Chehayeb seconded the motion.

Member Thornburg - yes

Member Boggs – yes

Member Donaldson –yes

Member Chehayeb – yes

Member Hudgens – yes

Chairman Prather – no

Variance #7-2003 Loys Ward - The applicant requests a variance to Section 35-55(f), Stormwater management performance standards, and Section 39-114(b)(1), Fire hydrants, of the Land Development Regulations (LDR's). Located at the west side of south Washington Avenue, south of S.R. 50 and east of Kennedy Point Yacht Club. Don Land gave an overview of the request. Member Chehayeb asked Mr. Denman about the denial of the slope. Mr. Denman stated it calls for a 4.1 slope; this is the first project with four vertical walls and a wet pond. Discussion followed. Member Chehayeb inquired if treatment for stormwater would not be adequate. Mr. Denman stated that is one of the reasons for denial, stormwater would stage on the walls, this is too far away from the intent, and maintenance would be an issue. Discussion followed.

Loys Ward, 1707 South Washington Avenue - In favor. Informed BAA that he represented the applicant. This is a justified request and codes are being met. Without this variance and due to the shape of the property the project will not work without the slope of the retaining walls. Mr. Ward presented BAA with a map of the area. Footprint has been reduced twice due to wetlands on site, as determined by FEMA. Mr. Ward stated that he did not think the applicant is over building the site. Stated Mr. Denman is incorrect there are not four walls, only 2 sides slopes are 5.1 meeting codes and erosion would not be a problem. Discussion followed. Mr. Ward reviewed with BAA the codes that relate to this project. Mr. Ward stated that the site is totally enclosed and adequately fenced with a 6-foot fence, this satisfied the safety requirements as set forth by codes. Discussion followed. Mr. Ward presented BAA with some photos of other projects similar to his request. Mr. Ward stated that the fire issue caught applicant totally by surprise. Mr. Ward asked for clarification of the current codes. Mr. Ward stated that the applicant was caught in the middle of the code change and requested that the BAA consider this. Member Thornburg told Mr. Ward that fire is an important issue, how could you protect contents in the facility. Mr. Ward told BAA that the fire codes being set now were not a requirement when property was purchased, the new codes would cause applicant to incur additional cost. Discussion followed. Member Chehayeb asked staff if this was a new fire code. Mr. Bogle stated it was not new codes for the City of Titusville; code change Mr. Ward spoke of was a State adopted standard with general fire protection. Discussion followed.

Dan Lundstrom, 3727 East Ocean Boulevard, Sewalls Point – Reported to BAA that he is the developer of the project. Reviewed issues previously discussed on retention. All concerns from staff are being addressed; this is the owner's responsibility to maintain the property. The property is configured this way, thus allowing for this particular design. Mr. Lundstrom stated that he had worked with other developers to make this project workable. Requested BAA take all of this into consideration and grant approval of this request. Member Thornburg asked if a request for additional fire hydrants would be acceptable. Mr. Lundstrom stated that he would have to evaluate the additional cost. Mr. Bogle informed BAA that he would be willing to meet with the applicant to discuss options available to meet codes and deter developer's cost. Discussion followed. Chairman Prather suggested that BAA divide the variance into two separate sections, Part A Stormwater and Part B Fire Hydrant requirement. Dwight Severs told BAA that they could divide the variance into two sections and vote accordingly.

Member Thornburg made a motion to approve Part A of Variance #7-2003 as presented by applicant based on the unique situation. Member Hudgens seconded the motion. Member Chehayeb asked if the motion was for use of the retaining wall or retaining wall as it appears in the plan. Member Thornburg told BAA that he intended the motion to state use of the wall only.

Member Hudgens – yes

Chairman Prather – yes

Member Thornburg - yes
Member Boggs – yes
Member Donaldson – yes
Member Chehayeb – yes

Motion was made by Member Thornburg for denial of Part B for Variance #7-2003 since it does not meet criteria. Motion was seconded by Member Chehayeb.

Chairman Prather – yes
Member Chehayeb – yes
Member Thornburg – yes
Member Hudgens – yes
Member Donaldson – yes
Member Boggs - yes

Variance #8-2003 Condev Development Corporation - The applicant requests a variance to Section 59-32(e)(1), Accessory Building and Structures, Rear Yard Setbacks. Located at 1223 Goldfinch Court. Don Land gave an overview of the request.

John Evans, 1702 South Washington Avenue – In favor. Mr. Evans told BAA that he represented the applicant Condev Development, and stated that staff’s summary is correct. Pool contractor was not aware of second survey.

Member Thornburg made a motion for approval of Variance #8-2003 with staff recommendations and conditions. Member Boggs seconded the motion.

Member Chehayeb – yes
Chairman Prather – yes
Member Hudgens– yes
Member Thornburg - yes
Member Boggs - yes
Member Donaldson – yes

Variance #9-2003 Trusswood Truss Manufacturing Company - The applicant requests a variance to Section 59-464(a)(3)(a), Fences and Walls, High Security Fences. Located at 3620 Bobbi Lane. Don Land gave a brief overview of the request. Chairman Prather asked if there were complaints and where the complaints came from to prompt this request. Don Land told BAA that the request came from Knox McRae. Discussion followed.

Richard Stadler, 1820 Garden Street – In favor. Representing the owner of Trusswood. Gave BAA a history of the business and growth within the last year. Owner would like to satisfy the complaints of residents with a sound barrier fence; will be aesthetically pleasing.

Member Thornburg made a motion for approval of Variance #9-2003 with staff recommendations and conditions. Member Donaldson seconded the motion.

Member Hudgens – yes
Chairman Prather – yes
Member Thornburg - yes
Member Boggs - yes
Member Donaldson – yes
Member Chehayeb – yes

Variance #10-2003 Hamid Hafizi – Don Land provided BAA with a letter dated March 24, 2003 from the applicant requesting withdrawal of application for variance.

Variance #11-2003 Steven and Susan Servider - The applicant requests a variance to Section 59-106(b), Height, yard and area requirements. Located at 108 Ojibway Avenue. Don Land gave an overview of the request.

Member Donaldson made a motion for approval of Variance #11-2003. Member Chehayeb seconded motion.

Member Donaldson – yes

Member Chehayeb – yes

Chairman Prather – yes

Member Hudgens – yes

Member Boggs - yes

XXX

Adjournment:

The meeting adjourned at 9:11 p.m.