

**PLANNING AND ZONING BOARD MINUTES  
THURSDAY, JUNE 17, 2021 - 1:30 PM  
CITY HALL, COUNCIL CHAMBERS, VERO BEACH, FLORIDA**

**PRESENT:** Vice Chairman, Robin Pelensky; Members: Jeb Bittner, Jose Prieto, Theodore Perry, Alternate Member #1, Richard Cahoy and Alternate Member #2, Elliese Shaghnessy **Also Present:** Planning and Development Director, Jason Jeffries; Senior Planner, Gayle Lafferty; City Attorney, John Turner and Deputy City Clerk, Sherri Philo

**Excused Absence:** Steve Lauer

Today's meeting was called to order at 1:30 p.m.

**I. PRELIMINARY MATTERS**

**A. Agenda Additions and/or Deletions**

None

**II. APPROVAL OF MINUTES**

**A. Regular Meeting – June 3, 2021**

**Mr. Bittner made a motion to approve the minutes of the June 3, 2021, Planning and Zoning Board minutes. Mr. Prieto seconded the motion and it passed unanimously.**

**III. PUBLIC COMMENT**

None

**IV. PUBLIC HEARING**

[Legislative]

- A. An Ordinance of the City of Vero Beach, Florida, Amending the Land Development Regulations by Amending Chapter 62, Article IV, Industrial District, and Article VII, Airport Master Plan Land Use Zones, to Add Craft Distilleries to the List of Permitted Uses in the M, Industrial and ALI-1, Airport Light Industrial Zoning Districts; Amending Chapter 60 (Appendix. Definitions) to Add a Definition of Craft Distillery; Providing for Codification; Providing for Conflict and Severability; Providing for Correction of Scrivener's Errors; and Providing for an Effective Date (#Z21-000007-TXT)**

The Vice Chairman read the Ordinance by title only.

Mr. Jason Jeffries, Planning and Development Director, went over staff's report accompanied by a Power Point presentation with the Board members (both attached to the original minutes). Staff recommends approval of the text amendment.

Mr. Ray Hooker, of Indian River Distillery, who has been sworn in, said that he is present today to answer any questions of the Board.

The Vice Chairman opened and closed the public hearing at 1:38 p.m., with no one wishing to be heard.

Mr. Jeffries reported that Mr. Hooker is looking to establish their business on Airport property and he felt it would be a good addition to the City. He asked if the Board moves to approve the text amendment that they include in their motion that it is subject to House Bill (HB) 46 becoming effective.

**Mr. Prieto made a motion that the Board approves the Ordinance amending the Land Development Regulations by amending Chapter 62, Article IV, Industrial District, and Article VII Airport Master Plan Land Use Zones, to add craft distilleries to the list of permitted uses in the M, Industrial and ALI-1, Airport Light Industrial Zoning Districts; amending Chapter 60 (Appendix. Definitions) to add a definition of craft distillery; providing for Codification; providing for conflict and severability; providing for correction of scrivener's errors and providing for an effective date subject to HB 46 becoming effective. Mr. Bittner seconded the motion and it passed 5-0 with Mr. Cahoy voting yes, Mr. Perry yes, Mr. Bittner yes, Mr. Prieto yes and Mrs. Pelensky yes.**

**[Quasi-Judicial]**

**B. Variance Application Submitted by Collin Kitchell to Reduce the Required Side Property Line (Riparian) Setback for Docks in Section 31.05 (A)(5) from 15 Feet to 0 Feet Located at 724 Shore Drive (#V21-000004)**

The Deputy City Clerk swore in staff and all witnesses present for today's hearing en masse.

Mr. Jason Jeffries, Planning and Development Director, who has been sworn in, gave a Power Point presentation to the Board members (on file with the City Clerk's office).

Mrs. Pelensky referred to the survey that established the riparian property lines (attached to the original minutes). She said it looks like the variance is for 29.15-feet and not 15-feet.

The Deputy City Clerk swore in Ms. Danessa Chambers.

Ms. Danessa Chambers, Assistance City Engineer, who has been sworn in, explained that the 29.15-foot is one (1) of the survey distances so as they are setting the property lines and the riparian right lines they will essentially give location and distance for each of the lines they set and that number represents one (1) of those lines that are composing that area. She thought that it was the full length of the channel to the property line.

Ms. Gayle Lafferty, Senior Planner, who has been sworn in, went over staff's report with the Board members (attached to the original minutes).

Mr. Bittner asked are there variances in place on the other canals in the community. He asked are they encroaching the setbacks.

Ms. Chambers said they have a lot of existing conditions including this property and their neighboring properties and other terminations of canals where prior to the Code being implemented docks were installed, which none of them meet the current requirements. So, if they wanted to reconstruct even the exact same dock in the same place, it wouldn't meet the current Code. The way

the Code is written is almost more tailored to Vero Isles where they don't actually have any homes at the end of the channel. Everyone has a nice perpendicular access to the waterway. She explained that once you start getting into these tight locations if you take the riparian right lines there is no constructible space and the property owners do have a right to the water given that their property fronts the water.

Mr. Blaine Bergstresser, of Kimley-Horn, who has been sworn in, stated that he is present today on behalf of the applicant. He stated that they worked with the City's Public Works Department, as well as the City Surveyor on setting these riparian rights. They also had their own surveyor go out there twice based on comments they received from the City in order to meet the City's standards. He noted that they have this shifted as far as they could to the west, almost up against the riparian right, so they could fit a boat there and not negatively affect the neighbor to the east. He asked if there are any public comments that he be allowed to respond.

Mrs. Pelensky asked how does the neighbor on the east get their boat in and out.

Ms. Chambers said they would back out.

The Vice Chairman opened the public hearing at 1:56 p.m.

Ms. Cheryl Connell, who has been sworn in, submitted photographs and remarks on the survey and application (attached to the original minutes)

At this time, Mrs. Pelensky asked if any of the Board members had any ex parte communication.

There were no ex parte communications reported.

Ms. Cheryl Connell, who has been sworn in, said that she lives just east of the applicant. She said that she has many concerns about how she is going to get a boat in or out of her canal. She said that she read staff's report and it seems like the information was taken directly from the applicant's request for a variance. She doesn't see that there was any study done on how her water rights would be impacted. She said that she has lived here since 1978 and there has always been a boat docked there. There has never been any exceptional or unique hardship on anyone having a dock at the end of the canal. She said they have three (3) canals and only one (1) has a boat lift, which is located on Silver Shores Road. Therefore, the information in staff's findings were not correct. She said this will cause her a unique and unusual hardship because she wouldn't be able to use her waterfront. She wouldn't be able to use her dock and it would devalue her home. She put on the doc cam the survey with her remarks. She said the boatlift at 722 Shore Drive was not included. Also, the survey shows a 15-foot boat dock and a 30-foot boat. The boat is twice as big as the dock. She said this is all about a boat lift, which is what she is opposed to because she wouldn't be able to get her boat out. Also not accurate on the survey is Mr. Jay Kramer's house. She said that Mr. Kramer has a large waterfront and he has a 30-foot boat. She asked why Mr. Kramer's boat was not shown on the survey. She said there is no way that she could back her boat out. She said that she would be landlocked. She would have a waterfront home with no waterfront. She said the survey is not accurate. She hopes the Board will deny the variance because it is going to impact her property negatively.

Mr. Will Collins, who has been sworn in, said there are several homes in this community that have lifts at the end of the canals. He said the applicant went out of his way to communicate with the neighbors. He said there are neighbors in this community who feel this isn't something that would

hurt their neighborhood. He does not agree that what is proposed would inhibit access to that dock.

Mr. Jeffries read into the record an email from Mr. Collin Kitchell and a letter from Mr. and Mrs. Kramer in support of the variance (attached to the original minutes).

Mr. Bergstresser reported that the survey they provided was done by a licensed surveyor of the State of Florida and they coordinated with the City Surveyor on how to set the riparian lines. He stated that there are four (4) posts shown in the survey, which shows the boat lifts. He explained that the reason they are requesting a zero setback is so they could push the dock as far as they can to the west and not affect Ms. Connell coming in and out from her existing dock.

Mr. Prieto said from what they can see in the survey the applicant is within his riparian lines.

Mr. Bergstresser said that is correct. The dock and the boat would be within the riparian lines.

Mr. Bittner asked what does the application state regarding impact on adjacent properties.

Mr. Jeffries read from the application, item 3 – “If granted, will the variance be compatible with the physical characteristics of the neighborhood” and the response states, *“There are three (3) canals in the neighborhood and each house that is at the end of a canal has a boat dock and lift.”* He then read from the application, item 4 – “If granted, will the variance be in harmony with the intent and purpose of the Code” and the response states, *“The intent of the Code is to not negatively impact your neighbors by having a dock/boat block a person’s access to the water. Staying inside the riparian rights allows all neighbors water access.”*

There was no one else wishing to be heard.

Mr. Cahoy said the neighbor who spoke earlier reported a hardship being created as to her rights. He asked where it was stated that the neighbors would not be impacted, was this neighbor considered.

Mr. Jeffries explained that the hardship that the neighbor to the east has regarding putting in a lift is because of her existing condition of her dock. She would have to cross her neighbor’s riparian lines so that is a self-created hardship.

Ms. Chambers explained that the hardship of the lift, regardless of the neighboring improvements, exists and that is because their riparian rights are so limited and their orientation of their existing dock. So even if no one adjacent to them had docks and they were the only ones, in order for them to stay in their rights to water access they would have a hardship in installing a lift.

Mr. Prieto said that he sees this as an improvement of trying to get access to these types of lots.

Mr. Cahoy said that he sees this as a violation that they are giving safe harbor to. He also sees it as a precedent that may apply to other properties and give adverse consideration to.

**Mr. Prieto made a motion that the Board approves the variance application submitted by Collin Kitchell to the required side property line (riparian) setback for docks in Section 31.05 (a)(5) from 15-feet to 0-feet located at 724 Shore Drive based upon competent substantial evidence. Mr. Perry seconded the motion and it passed 4-1 with Mr. Cahoy voting no, Mr. Perry yes, Mr. Bittner yes, Mr. Prieto yes and Mrs. Pelensky yes.**

**V. PLANNING DEPARTMENT MATTERS**

None

**VI. BOARD MEMBERS' MATTERS**

None

**VII. ADJOURNMENT**

Today's meeting adjourned at 2:44 p.m.

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