

ORDINANCE 2004 - 57

AN ORDINANCE AMENDING ORDINANCE 97-19, AS AMENDED, KNOWN AS THE "NASSAU COUNTY ZONING CODE"; SPECIFICALLY AMENDING SECTION 3.04, PLANNING AND ZONING BOARD; AMENDING SECTION 5.03, CONDITIONAL USES; AMENDING SECTION 5.05, VARIANCE; AMENDING SECTION 5.06, PROCEDURE FOR APPEALING DECISIONS OF THE PLANNING AND ZONING BOARD OR THE CONDITIONAL USE AND VARIANCE BOARD; PROVIDING AN EFFECTIVE DATE.

WHEREAS, the Board of County Commissioners had found it in the best interest of the citizens of Nassau County to further amend Ordinance 97-19, as amended.

NOW, THEREFORE, BE IT ORDAINED this 13th day of December, 2004, by the Board of County Commissioners of Nassau County, Florida, that Ordinance 97-19, as amended, shall be further amended as follows:

1. **Section 3.04 - Planning and Zoning Board:** The Planning and Zoning Board shall act as the Local Planning Agency (LPA) which serve as an advisory body to the Board of County Commissioners on all planning and zoning related matters, except for matters involving variances and conditional uses.

A. Establishment of the Planning and Zoning Board: The Board of County Commissioners shall appoint the members of the Planning and Zoning Board. The Planning and Zoning Board shall be composed of ~~nine (9)~~ seven (7) members. ~~Each member shall serve a three (3) year~~

~~staggered term whereby, the terms of four (4) two (2)~~
members shall expire one (1) year from the date of the
adoption of this ordinance, and ~~the terms of four (4) one~~
(1) member's term shall expire two years from the adoption
of this ordinance, ~~the following year~~ and the terms of ~~one~~
~~(1) four (4) members shall expire the next year three years~~
from the date of the adoption of this ordinance. After the
initial term, any re-appointment shall be for a three (3)
year staggered term.

B. Powers and Duties:

1. Review all requests for rezoning of property, zoning amendments, Comprehensive Plan text amendments, Land Use Map amendments, and amendments to ordinances that affect land use, and make approval/non-approval recommendations to the Board of County Commissioners for their final determination.

2. Review all site plans, with the exception of those approved by the Planning and Zoning Development Review Committee as stated in Article 28, Section 28.16~~(B)(4)~~ (A), and make recommendations to the Board of County Commissioners.

3. Submit written recommendations to the Board of County Commissioners relative to the various requests

where applicable that fall within the purview of the Board of County Commissioners to approve/deny.

4. Elect a chairman and vice-chairman of the Planning and Zoning Board members. A new chairman and vice-chairman from Planning and Zoning Board members. A new chairman and vice-chairman shall be selected each year by the members of the Planning and Zoning Board. No person shall serve two (2) consecutive terms as chairman.

5. Establish the time, place and date of the monthly Planning and Zoning Board regular meeting plus workshops.

6. Develop rules and procedures for the conduct of hearings, both quasi-judicial and legislative, which, at a minimum, when appropriate, includes the right of the party:

a. Present his/her case by oral and documentary evidence;

b. Submit rebuttal evidence, and conduct such cross-examination as may be required for a full and true disclosure of the facts;

c. Be accompanied, represented and advised by counsel or represent himself/herself;

d. Be promptly notified of any action taken by the Planning and Zoning Board affecting substantive or procedural rights taken in connection with any proceedings.

e. The Planning and Zoning Board shall receive into evidence that which could be admissible in civil proceedings in the courts of this State, but in receiving evidence, due regard shall be given to the technical and highly complicated subject matter which must be handled and the exclusionary rules of evidence shall not be used to prevent the receipt of evidence having substantial probative effect. Otherwise, however, effect shall be given to rules of evidence recognized by the laws of Florida.

f. Majority of the Planning and Zoning Board shall constitute a quorum for the purpose of meetings and transacting business. Failure to receive a majority vote shall constitute denial.

1. Hear and decide appeals where it is alleged there is an error in any decision made by the ~~Planning~~ Director Growth Management Coordinator or staff as it relates to the Zoning Code or Comprehensive Plan.

2. **Section 5.03 - Conditional Uses:** The following procedure shall be followed when requesting a conditional use:

A. An applicant requesting a conditional use must submit an application to the Planning and Zoning Growth Management Department. The applicant shall provide the following information as part of the conditional use application.

1. The legal description of the property for which the conditional use is requested;

2. Description of the property according to street;

3. The names and addresses of the owners of the property;

4. A detailed description of the conditional use requested;

5. Current zoning classification of the property;

6. Reason for requesting the conditional use;

7. Any other data which the Conditional Use and Variance Board may deem necessary such as architectural drawings or sketches of all buildings showing front, side, rear elevations, and setbacks, etc.

8. The signature of the applicant or his authorized agent.

9. A complete list of all property owners, mailing addresses and legal descriptions of all property within three hundred (300) feet of the parcel for which the conditional use is requested. This information must be taken from the latest Nassau County tax rolls.

10. The Future Land Use Map 2010 designation contained in the adopted Comprehensive Plan.

B. Upon completion and receipt of the application, the ~~Planning and Zoning~~ Growth Management Department shall review the application and provide written recommendation based upon the Goals, Objectives and Policies of the Comprehensive Plan and existing land use regulations. The ~~Planning and Zoning~~ Growth Management Department shall place the application for Conditional Use as well as a written recommendation on the agenda of the next Conditional Use and Variance Board meeting. The Conditional Use and Variance Board shall hold a public hearing to review conditional use requests and may make a decision within sixty (60) days from the date the request was received.

C. The applicant or his representative shall appear before the Conditional Use and Variance Board to provide evidence concerning the proposed conditional use.

D. The ~~Planning and Zoning~~ Growth Management Department shall be responsible for giving due public notice of public hearing held by the Conditional Use and Variance Board.

E. The Conditional Use and Variance Board has the power to deny, approve, or disapprove with conditions, any conditional use requested. When a conditional use has been approved with conditions, the Conditional Use and Variance Board may, as it deems necessary for the protection of public health, safety and general welfare, impose certain conditions, limitations, or restrictions on the use requested and its premises. Conditional uses along with all conditions and safeguarded attached thereto shall be non-transferable and granted to the applicant only.

F. Any conditional use permit granted by the Conditional Use and Variance Board shall allow only those use or uses specifically described in the application and is subject to the terms or conditions expressed therein. The expansion or extension of the conditional use beyond the scope or terms of the conditional use permit shall be unlawful and is in violation of this ordinance.

G. If the Conditional Use and Variance Board denies a petition for a conditional use permit, the denied petition cannot be resubmitted nor can any action be taken on a new petition for basically the same conditional use on the same premises, within twelve (12) months after the date the last petition was denied.

3. **Section 5.05 - Variance:** A variance from the provisions of this ordinance is granted when practical difficulties or unnecessary hardships that are not caused through actins of the applicant, will result from carrying out the strict letter of this zoning ordinance. The following must be completed when requesting a variance:

A. File an application with the ~~Planning and Zoning~~ Growth Management Department. The necessary forms and instructions can be obtained from the ~~Planning and Zoning~~ Growth Management Office.

B. The application for a variance shall include, but not be limited to, the following information which shall be provided by the applicant:

1. If the applicant is other than the owner(s) of the property, the signed written consent of the property owner(s) must be attached.

2. A complete legal description of the property for which the variance is requested, along with a scaled

diagram showing the setbacks and the location of the proposed construction.

3. The location and current zoning classification of the property being considered for the variance.

4. Describe the variance requested. A variance may be authorized only for the reduction of minimum street frontage, lot area and required yards (front, side, rear) or for the increase of height of structures and site coverage only when such increases are not in conflict with the adopted Comprehensive Plan and Florida Building Code. A modification to lot requirements shall not be granted a variance when such modification will result in an increase of density/intensity of use beyond that permitted by the Future Land Use Map 2010 for the underlying land use of the area. A variance shall not change the functional classification permitted or permissible by the Comprehensive Plan and Future Land Use Map, as currently adopted.

5. A complete list of all property owners, mailing addresses and legal description of all property within three hundred (300) feet of the parcel for which the variance is requested. This information must be taken from the latest Nassau County tax rolls.

C. Upon receipt of the completed application and the required zoning fee, the ~~Planning and Zoning~~ Growth Management Department will review the application and prepare a written report regarding the consistency of the "Request for Variance" with the adopted Comprehensive Plan and current land use regulations. The ~~Planning and Zoning~~ Growth Management Department will submit ~~his~~ its report and the application to the Conditional Use and Variance Board for action.

D. The ~~Planning and Zoning~~ Growth Management Department shall establish a date and time to hear the variance request and shall advertise the public hearing in a manner prescribed by law.

E. Before making a final decision on a variance request, the Conditional Use and Variance Board shall consider the criteria established in Section 3.05(B)(3) of this ordinance. The Conditional Use and Variance Board has sixty (60) days for the date the application is received to make a final decision. Variances along with all conditions and safeguards attached thereto shall be granted to the property and is non-transferable.

F. If the Conditional Use and Variance Board denies a variance application, the denied application cannot be resubmitted, nor can any action be taken on a new

application for basically the same variance on the same property, until twelve (12) months after the date the last petition was denied.

4. **Section 5.06 - Procedure for Appealing Decisions of the Planning and Zoning Board or the Conditional Use and Variance Board:** Any person or agency aggrieved by any decision of the Planning and Zoning Board or the Conditional Use and Variance Board may file an appeal with the Board of County Commissioners. The appeals procedure shall include the following actions:

A. **Filing of Appeal:** The notice of appeal, stating the grounds for the appeal, must be filed with the County Clerk within thirty (30) days of the date the action being appealed was rendered. The notice of appeal shall be filed on forms established and provided by the County Clerk and shall include all pertinent information required thereon, including appropriate filing fees. The ~~Planning and Zoning~~ Growth Management Department, upon notification of the filing of the appeal by the County Clerk, shall transmit upon request to the County Clerk all materials constituting the record upon which the action appealed was taken.

B. **Stay of Work:** An appeal to the Board of County Commissioners stays all work on the project and all proceedings in furtherance of the action being appealed

until final determination has been made by the Board of County Commissioners.

C. Hearing of Appeals: The Board of County Commissioners, within fifteen (15) days after receipt of the notice of appeal, shall set a reasonable date for hearing the appeal and give due public notice. Published notice of the hearing shall be in a form prescribed by the Board of County Commissioners and placed in the designated newspaper at the applicant's expense. The applicant shall file proof of publication with the Clerk of the Court prior to the hearing. The applicant must be given due notice of the hearing and applicant and petitioner may appear in person at the hearing or be represented by his agent or attorney.

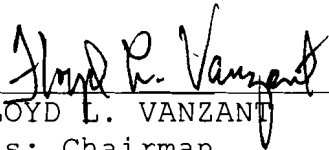
D. Decision: In exercising the powers granted by this Ordinance, the Board of County Commissioners, by majority vote of its members, may reverse, affirm, or modify the order, requirement, decision or determination being appealed, and to that end shall have the powers of the Planning and Zoning Board, the Conditional Use and Variance Board, or ~~Planning and Zoning~~ Growth Management Department and may issue the necessary permit. Rulings and decisions to the Board of County Commissioners shall become effective thirty (30) days after the date of such ruling or

decision. This will allow either party ample time to file an appeal with the Circuit Court.

E. Appeal of Board of County Commissioners Decisions: Any person or persons jointly or severally aggrieved by a decision of the Board of County Commissioners may appeal in the Circuit Court which serves the jurisdiction in which the Board of County Commissioners is located. This appeal must be filed within thirty (30) days after the Board of County Commissioners has rendered its decision.

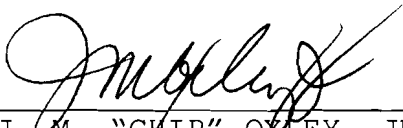
5. Effective Date: This Ordinance shall become effective upon its being filed in the office of the Secretary of State.

BOARD OF COUNTY COMMISSIONERS
NASSAU COUNTY, FLORIDA



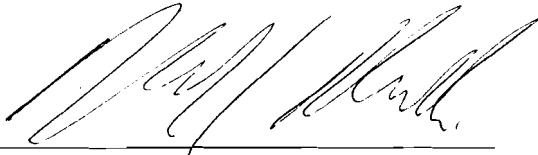
FLOYD L. VANZANT
Its: Chairman

ATTEST:



J. M. "CHIP" OXLEY, JR.
Its: Ex-Officio Clerk

Approved as to form by the
Nassau County Attorney

A handwritten signature in cursive script, appearing to read "Michael S. Mullin", written over a horizontal line.

MICHAEL S. MULLIN

h/anne/ords/zoning-code-amd-adjustment-board-2004