

TOWN OF WINDERMERE

Development Review Board Meeting Minutes

August 18, 2020

Present were Chair Frank Chase, Board Members; Molly Rose, Jennifer Roper, and Peter Fleck. Town Manager Robert Smith, Liaison Bill Martini, Town Planner Brad Cornelius, and Town Clerk Dorothy Burkhalter were also present. Absent were members Norma Sutton and Stephen Withers.

Chair Chase called the meeting to order at 6:30pm. He then led everyone in the Pledge of Allegiance.

1. OPEN FORUM/PUBLIC COMMENTS:

Manager Smith commented on public that had submitted comments as well as signed up to speak. Chair Chase opened the floor to the public. First to speak was Mr. Frank Krens of 727 Forest Street. He questioned the operating rules for the Micro-Brewery. Manager Smith stated that discussion regarding rules and operation will take place in the future. Mr. Krens then stated he is in favor of the Brewery. Mr. Jonathan Huels and Mrs. Brandi Haines deferred until later items on the agenda are heard.

2. NEW BUSINESS:

a. MINUTES:

i. July 21, 2020 Meeting Minutes

Member Roper stated that the Pledge was not done prior to the last meeting as stated in the minutes. Chair Chase also clarified the he abstained due to his mother's property being "directly adjacent to the request," instead of across the street. With the clarifications, Member Rose made a motion to approve the minutes with the corrections. Member Roper seconded the motion. All were in favor. Chair Chase read his Form 8B into the record.

b. GENERAL ITEMS FOR CONSIDERATION:

i. Z19-11: 11W 5th Avenue - Owner 111 5th Ave, LLC – Request for Conditional Use Approval for Micro-Brewery and Taproom

Manager Smith stated that Member Fleck did speak with him regarding a possible conflict with work he performed on Mr. Ata's dock. He further stated that after discussion and review, there is not a conflict with Member Fleck voting on this item. The floor was then turned over to Mr. Brad Cornelius, Town Planner. Mr. Cornelius explained that there are two separate hearings regarding 111 W 5th Avenue. One for the Conditional Use and the other for the Major Development approval for commercial development. He then stated that the conditional use to allow alcohol can be rescinded by provisions in the Code. Mr. Cornelius then commented on the standards. He further commented on the production output, operation of the micro-brewery, on-site operation, proposed hours, deliveries, shared-use dumpster, parking and traffic, noise/live entertainment, and public responses received. Mr. Cornelius completed his presentation and turned the floor over to Mr. Andrew McGhee. Mr. McGhee, resident and co-founder of Windermere Brewery introduced himself and Dr. Joseph Ata. He then gave a presentation regarding the proposed Conditional Use and a Micro-Brewery. He then commented on micro-breweries/taprooms, product output, adults/minors, sales on-site/off-site, odors and control, flexible operating hours, entertainment noise, smoking prohibition, deliveries/pick-ups, waste water upcycling, production of non-

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alcoholic beverages, server safety training, ride share services, alcohol off-site/only within approved boundaries, and traffic and parking. Discussion from board member followed regarding; minors, water drainage into septic, dedicated septic system, zoning type, close of business by 10:00pm, upcycling for irrigation, outdoor seating/seating, entertainment/sound, and proximity from the winery and church/school. Chair Chase opened the floor to the public. First to speak was Ms. Brandi Haines of 836 Oakdale Street. She commented on the concerns for the immediate neighbors and operating hours. Mr. McGhee stated that the immediate neighbors have replied with approvals. Discussion with the Board began. Chair Chase stated that conditions could be placed in the motion. Member Roper questioned the number of seating. Mr. McGhee explained the number will be set by the Health Department. Chair Chase stated his concerns as traffic, neighbors, and noise. Member Roper stated her concerns regarding the church, parking, and that patrons may leave and drive through the neighborhoods. Member Rose stated that the residential use does not make sense being surrounded by commercial and the church. Discussion followed. Member Rose stated that the Town Council needs to reduce the hours to 10:00pm. Member Fleck commented that as he has heard the clarifying information in the meeting, he would support the request. Comments regarding parking was made. Manager Smith reminded everyone that Dixie Cream closes at 2:00pm. Member Rose made a motion to recommend approval of the Conditional Use request with the restriction of operating hours no later than 10:00pm on any day. Member Fleck seconded the motion. Voting was as follows: Rose – aye, Roper – no, Chase – no, Fleck – aye. Motion ended in a tie vote. Manager Smith stated that this item will go before the Town Council on September 8th.

ii. Z20-07: 111 W 5th Avenue – Owner 111 5th Ave, LLC – Request for Major Development Approval for Commercial Development

Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius introduced this item. He then stated that the Town Council placed a condition on the past approval. Mr. Cornelius explained that the condition was that when a request for the Major Development came in, the development would need to go through the review process. He then reviewed the process and introduced the request. Mr. Cornelius explained that the analysis being presented is based on the micro-brewery. He also commented on the Design standards and how some may not comply with the proposed. Mr. Cornelius then commented on the site plan, square footage, setbacks, septic, traffic, parking, landscape plan, building elevations, renderings, and dumpsters. He then turned the floor over to Mr. McGhee. Mr. McGhee stated that he wanted to clarify that this approval is not contingent to the Brewery. Mr. Cornelius stated that he agreed that the approval is not for the Brewery. Member Roper questioned the distance for loading/unloading and the handicapped parking space. Mr. Cornelius stated that there are no concerns with the parking space. Member Roper questioned if the Floor Area Ratio is met. Mr. Cornelius stated yes. Member Roper questioned the septic system. Mr. Cornelius stated that any changes to the existing septic would need approval from the County. Member Rose stated that the septic will be based on the type of business that goes in. Member Rose made a motion to recommend approval of the Major Development Approval for Commercial Development request. Member Roper seconded the motion for discussion. Member Roper stated that in the packet it states that the proposed use is under separate review this approval does not bind anything to the conditional use. Mr. Cornelius agreed. Member Roper clarified that it is a redevelopment plan of a commercial building. She then commented on the need for the landscaped buffering. Some discussion followed. Member Roper stated she would like to include in the motion that the landscape buffering continues down the entire west side of the fence. Member Roper amended

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the motion to include that the entire westside of the fence be buffered with landscaping. Member Rose was friendly to the amendment. Member Fleck commented on security concerns with adding more landscaping. Chair Chase agreed with Member Fleck. Member Roper withdrew her amendment to the motion. Member Rose was friendly to the removal. Roll call vote was as follows: Rose – aye, Chase – aye, Roper – aye and Fleck – aye. Motion carried 4-0.

A recess was called at 8:29pm. The meeting was called back to order at 8:38pm

iii. Z20-10: 826 Oakdale Street – Owner Will and Anna Headley – Request for Variance to Allow a Floor Area Ratio of 51.1% and Impervious Area Ratio of 48.4%

Chair Chase turned the floor over to Mr. Cornelius. Mr. Cornelius reviewed the variance request which is to allow a bathroom addition to the back of the home. He then explained that the home was originally built in 2005/2006, permitted through Orange County. Mr. Cornelius stated that the FAR would increase to 51.1% instead of 38% allowed by code. He then stated that the pervious is currently 47.9% and with the addition it will be 48.4% which code is maximum of 45%. Mr. Cornelius stated that the existing site is non-conforming which is why this is before the Board. Mrs. Anna Headley, owner/resident of 826 Oakdale Street introduced herself. She then explained that she is requesting the variance to add an outdoor bathroom near the pool. Mrs. Headley stated she has two small children that is causing the need for the addition of the bathroom. Mr. Headley stated that the bathroom would not be visible to the neighbors or the road. Mr. Cornelius stated that all responses received were in favor except one. He explained the negative comment was related to a general stormwater issue in the area. Manager Smith stated that there is a stormwater issue in the area, however, the town will be working that area and the homeowner should not be penalized for the Town's issue. Mrs. Brandi Haines of 836 Oakdale Street stated she's not in opposition/favor as long as there is stormwater retention being done. Member Rose questioned if any existing concrete could be removed. Member Roper requested a site plan to show the concrete and retention. Discussion followed regarding pervious/impervious, berms/swales, offsetting the increase, and possible underground retention. Mr. Cornelius stated that the owners have enough space for aboveground retention. Further discussion ensued. Member Fleck made a motion to recommend approval of the site conditional an Engineer creating compensating storage to mitigate the impervious amount that's over code. Mr. Cornelius suggested stating the entire lot as a whole. Motion died for lack of a second. Further discussion followed regarding stormwater storage/runoff and pervious/impervious. Member Fleck made a motion to recommend approval with the condition that the owners provide engineered stormwater plans to accommodate for all impervious on site. Member Rose seconded the motion. Roll call vote was as follows: Rose – aye, Chase – aye, Roper – aye, and Fleck – aye. Motion carried 4-0.

iv. Z20-11: 11214 Lake Butler Boulevard – Owner Lewis and Janet Ashenheim – Request for Variance to Allow a 1,474 square foot addition to a Non-Conforming Detached Garage with a Guest Suite.

Chair Chase introduced this item. Manager Smith reiterated his comment from earlier in the meeting regarding a potential conflict with Member Fleck. As previously stated, there is no conflict. Mr. Cornelius introduced this request. He explained that the request is to enlarge the existing non-conforming detached garage that's in front of the home. Mr. Cornelius commented on two non-conforming issues. One

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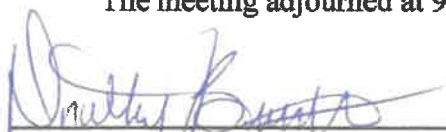
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being that the detached garage is non-conforming due to being in the front yard, per code allowed in side/rear yards. Number two, it doesn't meet the required set-back, currently 11 ½' from the side set back instead of the required of 14.2'. He then stated that the code restricts enlargement of non-conforming structures to no more than 10% of the floor area. Mr. Cornelius stated that the garage will double in size to allow for bedrooms and a bathroom, no kitchen. He then commented that 14 responses were received in favor and 2 in objection, 1 is an immediate neighbor who has signed in to speak. Mr. Cornelius stated that the addition will meet the setback requirement and be within the maximum FAR and ISR for the property. Member Roper questioned if the front setback would be met. Mr. Cornelius stated yes. Discussion followed regarding the requirements for an Accessory Structure and/or an Accessory Dwelling. Mrs. Ashenheim, owner of 11214 Lake Butler Blvd, introduced herself. She explained that there currently is a sink, coffee pot and a microwave in building. Mrs. Ashenheim stated that due to the large family, the extra space is needed. She then commented that all cooking takes place in the main home. Mrs. Ashenheim commented that this is their home and reassured that it would not be rented out. Member Roper questioned if the non-conforming was permitted. Mr. Cornelius stated yes, it has been permitted. Mr. Dirk Arace, home designer for Mr. and Mrs. Ashenheim, introduced himself. He then clarified the dwelling unit and the 45%, this request would apply for it. He then commented that due to the lot and pool, there is not another location for it. Member Rose stated that there is not a front setback issue. Mr. Arace commented on the total lot square footage. Chair Chase turned the floor over to Mr. Jonathan Huels, attorney for neighbor Mr. Shure. Mr. Jonathan Huels of Lowndes Law Group – 215 Lake Eola Drive Orlando, FL 32801, and representative for Mr. Shure introduced himself. He stated that after review of the request, Mr. Shure is in opposition to this request. Mr. Huels commented that the size of the request, the character of adding of bedrooms and a bathroom, and the proximity of this request is what's in opposition. He then reminded the Board that the burden is on the applicant to supply substantial evidence that the applicant meets all criteria for a variance. Mr. Huels further commented on the objection for Mr. Shure. A few being diminishing of property values, possible future of an AirBNB or rental, commented on Town's code regarding non-conforming structures, and future requests, application discrepancies, and an additional structure in the rear. Mrs. Ashenheim stated that the small structure in the rear was a child play house and has been removed. Some discussion followed. Member Fleck commented on the short-term rentals. Mr. Cornelius stated that the code prohibits rental of an accessory structure. Mr. Huels questioned if the Town wanted to be responsible for enforcing the no rentals. He then stated that he feels the burden has not been met. Mr. stated that variances are processed on a case by case basis, not precedent setting. Some discussion followed. Member Roper made a motion to deny the variance on the non-conforming building. Member Rose seconded the motion. Roll call vote was as follows: Roper – aye, Chase aye – Rose – no, and Fleck – no. Motion ended in a tie 2-2. Chair Chase stated that this item will be heard by the Town Council on September 8, 2020.

4. ADJOURN:

Member Rose made a motion to adjourn. Member Fleck seconded the motion. All were in favor

The meeting adjourned at 9:44pm.



Dorothy Burkhalter, Town Clerk



Frank Chase, Chair

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <i>Chase Frank W.</i>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <i>Development Review Board</i>
MAILING ADDRESS <i>935 Ockdale St.</i>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:
CITY COUNTY <i>Windermerc, FL 34786 Orange</i>	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
DATE ON WHICH VOTE OCCURRED <i>July 21, 2020</i>	NAME OF POLITICAL SUBDIVISION: <i>Town of Windermerc</i>
	MY POSITION IS:
	<input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Frank W., hereby disclose that on July 21st, 20 20:

(a) A measure came or will come before my agency which (check one or more)

- Inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, _____;
- inured to the special gain or loss of my relative, Jean W. Horgedan (Mother) _____;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

Item 220-08 regarding 711 W. 2nd Ave is adjacent to rental property owned by my mother, Jean W. Horgedan and located at 727 W. 2nd Ave.

I personally could have a future interest in the property located at 727 W. 2nd Ave.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

7/21/20
Date Filed

[Signature]
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.