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***Town of Micanopy***

***Planning & Historic Preservation Board***

***Regularly Scheduled Meeting***

***Tuesday • June 25, 2019 – 7:00 pm***

1. Call to Order: 7:00 p.m.

2. Invocation & Pledge of Allegiance to Flag:

3. Roll Call:

Board Members

Ann Baird, Vice Chair -- Present

Tom Brady -- Present

H. Grace Fuller -- Present

David Massey -- Present

Fro Warren, Chair -- Present

Scott Walker, Town Attorney -- Present

Patty Polk, Deputy Town Clerk -- Present

4. Agenda Approval:

***Motion made and seconded (Baird/Fuller) to approve the agenda as submitted; passed 5-0***

5. Approval of Previous Meeting Minutes:

June 5, 2019 Special Called Meeting Minutes

***Motion made and seconded (Massey/Baird) to approve the June 5, 2019 special called meeting minutes as submitted; passed 5-0***

To allow time for board member review, the May 28, 2019 minutes will be approved at the July meeting. Massey questioned the May 28 minutes and the status of the request to Dustin Burch, 202 NE Tahota Ave, to come back to this Board to discuss the unpermitted dog pen in his front yard. Warren stated that the matter will come before the Board and that the Town Attorney has been notified about the situation.

6. Citizen’s Forum:

* Stoney Slaton, NW Seminary Ave, is new to Town, introduced himself, and indicated that he is here to learn and may get involved in the future.

7. Public Hearings:

1. Action: Variance to Build on Non-Conforming Lot (less than ½ acre)

Parcel: 16720-028-016

Location: 102 SW 6th St, Micanopy, FL 32667

Owners: Nansea C. Markham

Quasi-Judicial Hearing

1. The Board shall determine whether it has jurisdiction over the matter. Yes
2. Members of the Board shall, if necessary, state whether they have a conflict of interest or must otherwise disqualify themselves from hearing the case. None
3. Members of the Board shall disclose and place on the record any ex parte contacts relating to the matter before the Board. None

Attorney Walker swore in witnesses.

1. Introduction of the petition by the Town. Chair Warren read the public notice as submitted.
2. Presentation of Applicant’s Case. Nansea Markham, owner, stated that a previous house on the property had burned to the ground leaving the remaining chimney. She would like to build a new house on the parcel. The Board questioned the location of the property, which was located and identified on a map as being on the SW corner of SW 6th St and W Smith Ave. Fuller questioned if this is the same property the Town sold and it is not; that property being adjacent to the parcel.
3. Presentation of Staff’s Case. None
4. Presentation of Affected Party’s Case. None
5. Rebuttal by Applicant. None
6. Rebuttal by Staff. None
7. Rebuttal by Affected Parties. None
8. Public Input. Melanie Barr welcomes a house on this lot instead of the parcel remaining vacant. Chair Warren stated that at this point the house is not the question; today we are discussing a variance to allow building on a non-conforming lot (less than ½ acre parcel), and he believes that allowing this variance will not affect the neighborhood in a negative way.
9. Deliberation and Vote of Board.

Attorney Walker summarized Section 10.06 of the Land Development Code (LDC) Variances and that a variance cannot be a self-imposed hardship. Attorney Walker recommended Nansea as an excellent artist and jewelry maker and hoped that she continues producing historic broaches; she will be an asset to the community.

*10.06 VARIANCES*

*10.06.01. Generally*

*A. The Planning and Historic Preservation Board may grant a variance from the strict application of any provision of this Code, except where prohibited by state law such as in the case of use variances and concurrency management.*

*B. Any person desiring to undertake a development activity not in conformance with this Code may apply for a variance in conjunction with the application for site plan review or other development approval. A development activity that might otherwise be approved by the Town must be approved by the Planning and Historic Preservation Board if a variance is sought. The variance shall be granted or denied in conjunction with the application for development review.*

*10.06.02. Procedures*

*A. An application for a variance shall be filed with the Town on a form available from the Town.*

*B. The Town shall place the application on the next available agenda of the Planning and Historic Preservation Board allowing time for notice and staff review of the application.*

*C. The Planning and Historic Preservation Board shall hold a quasi-judicial hearing on the matter pursuant to the procedures set forth herein.*

*D. The decision of the Planning and Historic Preservation Board on a variance shall be final. Review of the Planning and Historic Preservation Board decision may be sought pursuant to the procedures set forth herein.*

*10.06.03. Limitations On Granting Variances*

*A. The Planning and Historic Preservation Board shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the Board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board shall make the required findings based on the cumulative effect of granting the variance to all who may apply.*

*B. The Planning and Historic Preservation Board shall not vary the requirements of any provision of this Code unless it makes a positive finding, based on substantial competent evidence, on each of the following:*

*1.There are practical or economic difficulties in carrying out the strict letter of the regulation.*

*2.The variance request is not based exclusively upon a desire to reduce the cost of developing the site.*

*3.The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.*

*4.The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.*

*5.The effect of the proposed variance is in harmony with the general intent of this Code and the specific intent of the relevant subject area(s) of the Code.*

*C. In granting a variance, the Planning and Historic Preservation Board may impose such conditions and restrictions upon the premises benefitted by a variance as may be necessary to allow a positive finding to be made on any of the foregoing*

*factors, or to minimize the injurious effect of the variance.*

Holly Morris, NE Cholokka Blvd, questioned what makes this lot non-conforming? Chair Warren responded that the lot is under ½ acre. Fuller questioned Ms. Markham if she plans to live in the house she plans to build, and she does; she currently lives in High Springs, her family has been in this area since the 1700’s in Alachua County, and she feels like she is coming back home at this point.

***Motion made and seconded (Fuller/Brady) to approve the variance to build on non-conforming lot, parcel #16720-028-016, located at 102 SW 6th St, Micanopy; passed 5-0***

1. Preparation of Final Order – Polk will prepare the documents for signatures.
2. Approval of Final Order – Signatures from Town staff and Chair Warren.

8. New Business: None

9. Old Business:

* Evaluate the Town Hall South Rear Entrance Steps – Chair Warren stated that this is for discussion only. He believes that the Town Commission is going to obtain a group of engineers or architects to call upon when situations like this arise. Attorney Walker explained the term for this as Consultant’s Competitive Negotiation Act (CCNA). Chair Warren explained that the stairs are ADA non-compliant. Our current architect consultant has advised Chair Warren that because we currently have a handicap ramp, this is not a pressing matter; and that is why we are taking our time with this request. Fuller questioned if one option is to simply close those stairs and not do anything? Chair Warren stated that this has not been discussed. Fuller would like to put on the record that if this project will put the large tree located close to that door at risk, then she would rather close the stairs and people can walk the few extra steps around the building. Chair Warren does not think the stairs would require a ramp and the tree may not be at risk. Massey inquired as to the original driver to this? Warren responded that Commissioner Roberts was concerned that these stairs may not be up to code. Attorney Walker stated that he does not know where they’re at, but that there was some discussion by the Town Commission and Paul Stressing at the June 2019 meeting to do some architectural drawings and work on the fire station renovation and expansion; potentially piggy backing on an existing contract that Stressing already has in place with another municipality. If so, he may do the drawings for this project as well. Attorney Walker and Chair Warren will bring this up at the next Town Commission meeting.
* Documents from Attorney Walker – Attorney Walker explained that there are 3 groups of documents that we talked about:
* (1) Airbnb: - there really is nothing we can do other than grab our funds for business license tax (occupational license) and collect the associated county tax. H. Grace Fuller questioned what restrictions Micanopy has after someone applies for an Airbnb and they split the place into multiple units? Attorney Walker stated that the State of Florida has jurisdiction under the Division of Hotels.

(2) Sign Ordinance - a complex matter, we talked a little bit about *Reed v. Town of Gilbert, Arizona 2015*, which was a supreme court case that said that you cannot regulate free speech with regulations on signs and that governments are regulated through strict scrutiny. Any restrictions you place on verbiage and signs is basically a restriction on free speech, so you have to have a set reason and rational basis for any restrictions that are imposed. So, by virtue of that case, the ruling pulled into question almost every sign ordinance in every city. Walker acknowledged that the International Municipal Lawyers Association (IMLA) ordinance which was provided by Attorney Lee in 2015 to the Board has some problems, based on *Reed V. Gilbert*. Also provided as an example by Attorney Walker had been the complex 50-page Orange County sign ordinance. Walker intends to ask Sandra Joseph with North Central Florida Regional Planning Council (NCFRPC) for guidance to determine if she has an ordinance that will fit with our small municipality, that we can use as our base ordinance, and which will probably be the quickest and easiest way to get through this.

(3) Accessory uses and structures - Attorney Walker gave a short history of why we are discussing accessory structures; we had some uses for accessory buildings come before this Board and our code does not really restrict placement of accessory buildings. Massey still questions what defines a primary building and an accessory building; what makes a building primary? *(LDC 1.05.02)* Walker has the document that we went through in detail but he may not have all the notes. Chair Warren will have the detailed changes to this document with underscore and strikethrough before the next meeting. We just need to have town staff send the edited document to Sandra Joseph with the Boards’ comments; get her opinion; and if she needs assistance from Attorney Walker, he will provide support.

* Comprehensive Plan Amendment CPA 19-01 – Chair Warren produced a series of documents to the Town Commission meeting (attached). Warren will ask town staff to send out these documents to the Board. NCFRPC will send the document with any changes to the Department of Economic Opportunity and they have 60 days to report back with any comments; followed by a second and final reading before the Commission.

10. Board Member Comments

* Ann Baird discussed the shredded rubber tire mulch on playgrounds; on some municipal playgrounds, wire has been found in shredded rubber, and many municipalities are banning its use. There are reportedly harmful effects from tire mulch, especially in the heat. Maybe we should consider an alternative play surface.
* H. Grace Fuller at the last Town Commission meeting, Commissioner Blakely brought up the topic of septic systems and what they are doing to our water across the county. Commissioner Blakely said that there are grants available, and it may be time to consider putting in a sewer system with consideration of where to put a treatment plant. Chair Warren answered that prior to putting in a sewer system, we should research what happened in Hawthorne because he believes that it almost bankrupted that city. Additionally, Chair Warren stated that from the research he has done on this topic: a properly working septic system should have no ill effect on the ground water. Run off from factories, farms, and golf courses do so much more damage than septic tanks. Fuller countered that the downtown does need some assistance in this area. Warren stated that there are many options available not requiring a sewer system, and he believes that we could donate some property for a system that would help with the downtown density situation.
* Chair Warren report – discussed Town Commission meeting. Town Commission minutes will be posted on our website, *micanopytown.com*, when approved. There will be a fish fry starting early on July 4, 2019 at the Micanopy Museum. Thank you to everyone in attendance and thank you all for being cordial, as always.

11. Adjournment: 7:59 pm

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MINUTES APPROVED:

As submitted\_\_\_\_As amended\_\_\_\_ at Planning & Historic Preservation Board Meeting\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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JP Warren, Chair Patty S Polk, Recorder