

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 6, 2021 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Chairman called to order the regular meeting of the Board of Zoning Adjustment at 6:00 p.m. Roll was called thereafter and the number of members present constituted a quorum.

Members Present:

Willie Robison, Chairman
Carolyn Courson, Vice Chair
Clay Covert
Derek Wolstenholme
Billy Mayhand

Members Absent:

Herb Cole

Staff Present:

Adrienne D. Jones, Director of Community Development
Pat Johnson, Recording Secretary
Shawn Alves, BZA Attorney

Chairman called for the **Approval of Minutes** of the March 4, 2021 meeting. There were no corrections, additions or deletions.

The Minutes were approved unanimously.

Chairman called for the next item on the agenda, **Appeal #2021-02, Gary & Eulalie Felis**, a request for a Variance to the Daphne Land Use & Development Ordinance filed with the City of Daphne Board of Zoning Adjustment. The request, if granted, will allow the encroachment of a proposed addition into the 40.0' rear yard setback by 8.5'. The property is 1407 Old County Road, which is zoned R-1, Low Density Single Family Residential.

Ms. Jones displayed a Power Point Presentation showing the perimeter and layout of the house at 1407 Old County Road. She read excerpts from Article 21 of the LUDO regarding the conditions for granting a variance citing that it is based on a hardship of the land. She stated the property is 10, 950 square feet in area and the two-story house was constructed on Parcel A, in 1996 as found in the Baldwin County Property Appraisal Link and Parcel B was sold. According to the owners the addition is needed for them to age in place because one of them has limited mobility which makes it difficult to access the second story. Ms. Jones noted there was no hardship on the land because there is plenty of room to do the addition on the east side of the house, therefore, staff recommended denial of the variance.

The Board discussed setbacks, notes on the recorded plat and configuration of the lot not being typical, Old Towne Daphne location and detriment to the public.

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 6, 2021 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Chairman opened the floor for public participation.

Mr. Felis stated Gary Felis, 1407 Old County Road, my wife and myself moved here in 1978 and built this house in 1996 on Parcel A and we sold Parcel "B" to the Bedsole's in 1989. The main reason we are requesting to encroach is to age with the home so everything will be accessible on the same level years down the road. He cited the addition would be just under 800', on the southwest rear of the house because all of the utilities are located on the other side, and ecstatically it would look better on that side plus the neighbors do not have a problem with it. We want to get everything on the same level.

The Board discussed when the property was purchased, a 10' strip of land believed to be owned by the City, the location of the addition compared to existing neighbors, future structures, the room locations currently in the house, handicap accessibility, and the age of the applicants.

Ms. Rice stated Leigh Rice, I am the Architect helping the Felis' with their addition. When I originally started drawing this, since it is my first house in Daphne, I was not aware of the side setbacks. The northwest side is the best place for the addition because of the way the house is laid set-up and the configuration of the lot. The east side of the lot is the in and out side and the utilities and a number of trees are located on that side also. Nothing will be screwed up by adding it on the west. The Felis' designed the house when they were young and now that they are older they do need more accessibility. If they are not able to add onto the house they will not be able to stay there much longer. I would say the hardship on the lot would be that it would make it hard to do what they are trying to achieve on the other side.

The Board discussed ADA accessibility regulations.

Ms. Rice asked could the orientation of the lot be switched?

Mr. Alves stated no, the setbacks are based on the front of the lot.

The Board questioned the size of the addition and it possibly being smaller.

Ms. Rice stated what we are showing is 28' x 28', the absolute maximum and we had not considered making it smaller. The reason we are asking for that is it did not work well any smaller for what they want to do in the bathroom and closet. If they needed two beds and one was a medical bed they would need that space. Whenever you are talking about handicap accessibility it takes one and half more room. The amount of space is not to make it grander, it is to make it more livable and usable.

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 6, 2021 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

The Board discussed the plans for the additions as Mr. Felis passed around a rendering of it, and Ms. Jones cited that the Ordinance does not allow for the Board to grant variances for ecstatic's and if they were considering approval it should be for the least amount and for an actual hardship on the land, and not because the sewer and gas lines are on the east side.

Mr. Felis stated it is true that the utilities are located on the east, but the problem is the bedrooms are upstairs and it seems as though we would be in the same fix if we shifted it.

Ms. Jones asked Ms. Rice if she had done any renderings of the addition being on the other side of the house and of the setbacks with the addition, and Ms. Rice answered no because she did not want to incur a hundred dollars an hour expense unnecessarily to the Felis's, but the hardship is in ruining the character of the neighborhood, in her opinion by placing the addition on the east side.

The Chair closed public participation for those in favor of the appeal and asked for those in opposition, being none, he closed public participation, and called for an affirmatively stated motion.

A Motion was made by Mr. Covert and Seconded by Ms. Courson to approve Appeal #2021-02, Gary & Eulalie Felis, request for a Variance to the Daphne Land Use & Development Ordinance filed with the City of Daphne Board of Zoning Adjustment. The request, proposes to encroach into the 40.0' rear yard setback by 8.5'. The property is 1407 Old County Road, which is zoned R-1, Low Density Single Family Residential.

The Chairman called for a roll call vote.

Mr. Covert	Aye
Mr. Mayhand	Nay
Mr. Courson	Aye
Mr. Wolstenholme	Aye
Mr. Robison	Aye

Upon roll call vote, **the Motion carried.**

The Chairman stated your variance is approved. You can pick up the paperwork from Community Development and asked Mr. Alves if they needed do a roll call vote to go into executive session, Mr. Alves replied yes and Chairman asked for what reason and how long, Mr. Alves replied for fifteen minutes to discuss pending ligation with Mr. Chris Conte, AMIC, the Attorney hired to represent the City. Ms. Pat roll call.

Mr. Covert	Aye
Mr. Mayhand	Aye
Ms. Courson	Aye
Mr. Wolstenholme	Aye
Mr. Robison	Aye

CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MAY 6, 2021 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL

Upon roll call vote, it was unanimous to go into Executive Session.

Executive Session begin at 6:58 p.m. and convened at 7:40 p.m.

There being no other business Chairman called for a Motion to Adjourn.

A Motion was made by Mr. Mayhand and Seconded by Mr. Wolstenholme to adjourn. There was no discussion of the motion.

The Motion carried unanimously.

The meeting adjourned at 7:42 p.m.

Respectfully submitted by:



Pat Johnson, Recording Secretary

APPROVED: June 3, 2021



Willie Robison, Chairman