

**CITY OF DAPHNE
BOARD OF ZONING ADJUSTMENT MINUTES
REGULAR MEETING OF MARCH 2, 2023 - 6:00 P.M.
COUNCIL CHAMBERS, CITY HALL**

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

Members Present:

Clay Covert
Derek Wolstenholme
Tasha Quinnelly
Herb Cole
Carolyn Courson, Chairwoman

Members Absent:

Billy Mayhand

Staff Present:

Adrienne D. Jones, Director of Community Development
Pat Johnson, Recording Secretary
Jay Ross, City Attorney

Staff Absent:

Shawn Alves, BZA Attorney

Chairwoman asked for input regarding the October 6, 2022 minutes presented by staff. There being none, minutes stand approved as submitted.

Chairwoman called for the next order of business: a request for Special Exception as presented on the meeting agenda. She polled the crowd for the number in favor of and opposed to the appeal.

Meeting recessed at 6:10 p.m. for five minutes for each side to select five representatives and reconvened at 6:15 p.m.

A presentation of the report packet was given by the Director regarding application #2023-01 for Bayside Foundation who is seeking to construct a preschool at 306 Dryer Avenue. Article 35, Table of Permitted Uses of the Land Use & Development Ordinance allows a preschool, an institutional use in an R-1, Low Density Single Family Residential Zone with an approved special exception. The existing land was replatted into one lot that is slightly less than an acre. She cited Article 13-3 requirements and reserved further staff comments until after the hearing.

Chairwoman called for questions from the Board. There were none.

The Chairwoman opened the floor for the public hearing, asking for the five in support to come forth, starting with the applicant, then the five in opposition, followed by rebuttal.

Michael Niemeyer, Attorney for Bayside Foundation spoke in favor of Bayside's contribution while proposing no adverse impact to the neighborhood.

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Mr. Niemeyer provided a slideshow highlighting Bayside, the conceptual site plan, examples of other locations in the area where schools exist in residential neighborhoods. The same number of students and teachers would be moving across the street.

Brad Hicks, 1003 Captain O'Neal Drive, Chairman of the Board of Trustees at Bayside, spoke in favor and stated: Bayside and the other schools make Old Daphne a good place. He cited his commitment to making the preschool through kindergarten a beautiful building, and the area stronger and more viable.

Scott Phillips, 203 Potters Mill, Headmaster of the Bayside School, spoke in favor and stated: there are no plans to expand the main campus, but to provide better functionality.

Chairwoman called for questions from the Board. There were none. The Chairwoman called for those with opposition to come forth.

Monica Kurth, 301 College Avenue, spoke in opposition and expressed concerns regarding: the parking lot abutting her backyard, existing Bayside football field, LED stadium lights, drop off and pick up, privacy, devaluing property, safety, flooding and drainage. She read a statement from the special exception application about adversely affecting surrounding properties and character of the neighborhood.

Wayne Mockel, 1412 Second Street, spoke in opposition and expressed concerns regarding: speeding by Bayside students, runoff going into the Bay, and the expansion as a whole.

Paul Kalifeh, 1506 Captain O'Neal Drive, spoke in opposition and expressed concerns regarding: the 27-space parking lot, LED lights in his yard, devaluing of his property, tremendous existing traffic problems, drainage issues, and his belief that they are trying to cause people to move out so that they can buy up the block.

Daphne Robinson, 403 Dryer Avenue, spoke in opposition and expressed concerns regarding: the proposed parking lot, existing loiterers after games, a desire to preserve and restore the existing house, and the desire for Bayside to stay within their existing footprint.

Steve Olen, 437 Village Drive, Councilman for District 2, spoke in opposition and expressed concerns regarding: the proposed parking lot, safety, the proposal to move to the south not being consistent with their footprint, adding more students, the possible construction of a 35' tall building, detrimental traffic impact. Constituents do not want this project, and recommends Bayside use their property on County Road 64 instead.

The Chairwoman closed the floor to the public hearing and offered the applicant the opportunity for rebuttal.

In rebuttal Mr. Niemeyer said: it is the same traffic, no increased enrollment is proposed, changing the footprint by 60', there is no hidden agenda, and he expressed a desire to do anything within reason to relocate.

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Chris Kalifeh, 1300 Old County Road interjected his displeasure with the proposal.

Chairwoman called for questions from the Board.

The Board presented several questions: the number of gymnasiums of similar size on Bayside's campus and the possibility of one of them being used for the preschool; the aversion of moving the football field; the plans for the Early Childcare Center, ECC; how many acres were given to Bayside and what is planned there; why did Bayside not purchase the property recently sold on Belrose Avenue; and what the total student enrollment number is.

Mr. Phillips answered that they only have one gym, they do not have the funds to move everything as suggested. He said the ECC would be converted to the visual arts department and they were given 36 acres and they have no site development plan for the land on County Road 64. Total enrollment is 797 students from 3-year-old preschool to 12th grade.

Mr. Hicks stated someone outbid them in the purchase of the adjacent property on Belrose Avenue.

The Chairwoman commented on the lack of a planned play area for the children.

Jordan Watkins, 56 Fairwood Lane, Fairhope, also a member of the Board of Trustees of Bayside Foundation, indicated that the civil site plan was done for due diligence to show drainage and the parking count only and said the architectural site plan should be in the folder.

Ms. Jones confirmed that the only plans submitted have been given to the Board, and there were no additional drawings provided.

Mr. Watkins stated we would be happy to provide those to the Board and it shows a play area to the south. Also, the plan requires 16 parking spaces for the particular building that is being proposed. By adding those extra spaces, it is beneficial for unloading students on the main campus.

The Chairwoman questioned the plan for drop off and pick up for 117 students.

Mr. Watkins stated staggering pickup on the primary campus would allow us to remove more cars from the right-of-way.

Mr. Phillips concurred with Mr. Watkins regarding the ability to stagger the traffic and said the goal is to direct all of the traffic onto our campus and off the street because everything depends on this project.

The Chairwoman closed public participation and asked Mrs. Jones for her comments.

Mrs. Jones in her closing statement presented the provisions of Section 13-1 referring to the criteria for a Special Exception.

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Mrs. Jones identified seven criteria, five had been met by the application, but two had not been adequately addressed. The burden of proof by the applicant had not been met. She summarized that there was insufficient evidence to determine that the proposed use would not cause undue traffic congestion or create a traffic hazard, and insufficient evidence to determine that the use would be in harmony with orderly and appropriate development of the district. Mrs. Jones reminded the Board of the requirement to justify their final decision and listed the opportunities available to the applicant if the application is denied which included withdrawal or appeal to the Circuit Court.

Hearing no further comments from the Board, the Chairwoman called for an affirmatively stated motion.

A Motion was made by **Mr. Cole** and Seconded by **Mr. Wolstenholme** to **approve Appeal #2023-01, The Bayside Foundation, request for a Special Exception to the Daphne Land Use and Development Ordinance to allow the construction of a private school, i.e., preschool and kindergarten to be associated with Bayside Academy's Early Childhood Center at 306 Dryer Avenue.**

During discussion on the motion, the applicant asked to withdraw their request before the vote was taken.

A Motion was made by **Mrs. Quinnelly** and Seconded by **Mr. Wolstenholme** to **allow the applicant to withdraw the request for a Special Exception in Appeal #2023-01. There was no discussion.**

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

Mr. Covert	Nay
Mr. Wolstenholme	Aye
Mrs. Quinnelly	Aye
Mr. Cole	Nay
Mrs. Courson	Aye

Chairwoman called for a vote on the original motion on the floor. There was no discussion.

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

Mr. Covert	Nay
Mr. Wolstenholme	Nay
Mrs. Quinnelly	Nay
Mr. Cole	Nay
Mrs. Courson	Nay

With regard to the justification for the Board's decision. A motion was made by Mrs. Quinnelly and seconded by Mr. Cole that the justification was based upon lack of sufficient information regarding traffic impact. Upon roll call vote, the justification was adopted unanimously.

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The Chairwoman stated the motion is not approved due to a lack of information on the conceptual site plan, you may go by Community Development after 9:00 a.m. in the morning to pick up your paperwork.

The Chairwoman called the next item on the agenda Election of Officers, and she opened the floor for the nominations for Vice Chair.

Mr. Cole nominated Mr. Wolstenholme for Vice Chairman. The nominations were closed with no other nominations; Mr. Wolstenholme is Vice Chair.

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

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

The Motion carried unanimously.

The meeting adjourned at 8:27 p.m.

Respectfully submitted by:



Pat Johnson, Recording Secretary

APPROVED: June 1, 2023



Carolyn Courson, Chairwoman