



## Planning & Zoning Board Meeting

January 23, 2025 at 6:00 PM

Howey-in-the-Hills Town Hall

101 N. Palm Ave.,

Howey-in-the-Hills, FL 34737

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### MINUTES

**Board Chair Tina St. Clair called the meeting to Order at 6:02 PM.**

**Board Chair Tina St. Clair led the attendees in the Pledge of Allegiance to the Flag**

#### **ROLL CALL**

#### **MEMBERS PRESENT**

Board Member Joshua Husemann | Board Member Alan Hayes | Board Member Richard Mulvany | Board Member Shawn Johnson | Vice Chair Frances Wagler | Chair Tina St. Clair

#### **STAFF PRESENT:**

April Fisher, Town Planner | Sean O'Keefe, Town Manager | John Brock, Deputy Town Manager / Town Clerk

Town Planner, April Fisher, announced to the members of the public that, due to a last-minute request from the applicant, Agenda Item #4 (Consideration and Recommendation: **Ordinance 2024-012 - Watermark Rezoning**) would not be heard during this meeting. The applicant had changed their request and had addition requested that their item be moved to the February Planning and Zoning Board Meeting for consideration.

#### **CONSENT AGENDA**

*Routine items are placed on the Consent Agenda to expedite the meeting. If a Planning & Zoning Board Member wishes to discuss any item, the procedure is as follows: (1) Pull the item(s) from the Consent Agenda; (2) Vote on the remaining item(s); and (3) Discuss each pulled item and vote.*

1. Consideration and Approval of the October 24, 2024, Planning and Zoning Board Meeting minutes.

**Motion made by Board Member Johnson to approve the Consent Agenda; seconded by Board Member Hayes. Motion approved unanimously by voice vote.**

#### **Voting**

**Yea:** Board Member Husemann, Board Member Hayes, Board Member Mulvany, Board Member Johnson, Vice Chair Wagler, Chair St. Clair

**Nay:** None

#### **PUBLIC HEARING**

2. Consideration and Recommendation: **229 Messina Pl. Variance Application**

Board Chair Tina St. Clair introduced the next agenda item and turned the discussion over to Town Planner, April Fisher. Mrs. Fisher explained that the applicant had submitted a building permit request for a swimming pool, pool deck, and screen enclosure, which could not be permitted under the Town's Land Development Code due to the requirement for a 10-foot rear and side setback. Since the proposed structures would encroach upon these setbacks, a variance was necessary. Mrs. Fisher stated that the application was evaluated based on the hardship criteria outlined in the Town's regulations, which require the hardship to be related to the land itself and not self-imposed. Upon review, staff determined that the applicant had not provided sufficient evidence of a hardship unique to the property and, as such, recommended denial of the variance request.

The applicant, Veronica Lucien, spoke on behalf of the request, explaining that they were seeking a seven-foot setback rather than the required 10 feet. She presented a petition signed by six neighboring property owners, all of whom expressed no objections to the variance. She also noted that other properties in the community had been approved for five-foot setbacks, which she believed demonstrated precedent for their request. Marcus Flamingo, a co-applicant, further elaborated that, when they purchased the home, their realtor and a pool company assured them that a pool could be built. He also questioned why the Town's setback requirement was significantly larger than neighboring jurisdictions such as Lake County, which requires only five to six feet.

Board Member Hayes presented findings from Lake County's GIS records, which indicated that several similar homes on smaller lots in the area had pools. He asked whether the applicants had consulted their neighbors or researched how others had complied with setback requirements. Mr. Flamingo responded by emphasizing that some of their neighbors had received five-foot and nine-foot setback variances, and he was unsure why they were being held to a different standard. Board Member Mulvany, a licensed contractor, stated that the pool builder should have designed the pool to fit within the required setbacks. He suggested that a minor adjustment to the layout could allow the pool to fit without the need for a variance.

Board Member Johnson expressed frustration over inconsistencies in past variance approvals, stating that other homeowners had received similar variances, and moved to recommend approval of the variance request. Board Member Husemann seconded the motion, agreeing that the Town had previously granted variances for similar properties in the neighborhood. However, Vice Chair Wagler opposed the motion, arguing that the Land Development Code must be upheld and that variances should only be granted for land-related hardships, not homeowner preferences. Town Manager, Sean O'Keefe, reaffirmed that variances should be based on conditions unique to the land, rather than personal circumstances.

Following discussion, the Board conducted a roll-call vote, resulting in a 3-3 tie. With no majority, the Board did not reach a formal recommendation. Town Clerk, John Brock, confirmed that the variance request would still proceed to Town Council for a final decision at their meeting on Monday, February 10, at 6:00 PM.

**Motion made by Board Member Johnson to recommend the 229 Messina Pl. Variance Application; seconded by Board Member Husemann. Motion failed by roll call vote. The Board was deadlocked and could not come to a consensus for a recommendation either for or against the variance application.**

#### **Voting**

**Yea:** Board Member Husemann, Board Member Johnson, Chair St. Clair

**Nay:** Board Member Hayes, Board Member Mulvany, Vice Chair Wagler

### 3. Consideration and Recommendation: **204 W. Myrtle St. Variance Application**

Board Chair Tina St. Clair introduced the next agenda item and turned the discussion over to Town Planner, April Fisher. Mrs. Fisher explained that the pool for this property had already been permitted and constructed. However, the applicant was now requesting a variance to build a screen enclosure, which was not included in the original approval. Unfortunately, an error occurred during the permitting process, where the pool deck was mistakenly approved at 9.5 feet from the rear property line instead of the required 10 feet. The Town has since taken corrective steps to prevent similar errors in the future.

Mrs. Fisher further clarified that the property is subject to the standard 10-foot rear and side setback requirements. Due to the permitting error, she recommended approval of the variance based on the fact that the screen enclosure would align with the already-constructed pool deck, which the Town had approved in error. She also noted that reducing the deck space to accommodate the setback could create a potential hazard, as there would be limited walking space around the pool. Given these circumstances, staff determined that the variance criteria were met, and she recommended approval of the request.

During the discussion, Board Member Husemann questioned the rationale behind the Town's 10-foot setback requirement, noting that Lake County's requirement is only five feet. He expressed concerns that the Town's stricter setback policy was leading to an increasing number of variance requests, particularly in newer subdivisions with smaller lot sizes. Town Clerk, John Brock, clarified that municipalities have the authority to adopt more restrictive land development regulations than the county. Mr. Brock suggested that, if the Board believed the setback requirement should be reduced, they could work with the Town Planner to propose an amendment to the Land Development Code.

Mrs. Fisher agreed, stating that a high number of variance requests often indicates that a code revision may be warranted. Board Vice Chair Wagler added that past subdivision sales tactics had contributed to confusion among homeowners, as sales representatives often promised features that did not comply with Town regulations. She emphasized that, while variance requests should be considered on a case-by-case basis, the Board is not obligated to approve variances simply because they are requested.

Board Member Husemann ultimately expressed support for the variance request, emphasizing that the permitting error created an expectation that the pool deck and enclosure would be allowed as built. Since the error has already been made and the screen enclosure would not significantly alter the property's impact, he moved to recommend approval of the variance request as it meets the variance criteria outlined in LDC Section 4.13.04.

**Motion made by Board Member Husemann to recommend the 204 W Myrtle St. Variance Application; seconded by Board Member Johnson. Motion approved unanimously by roll call vote.**

**Voting**

**Yea:** Board Member Husemann, Board Member Hayes, Board Member Mulvany, Board Member Johnson, Vice Chair Wagler, Chair St. Clair

**Nay:** None

4. Consideration and Recommendation: **Ordinance 2024-012 - Watermark Rezoning**

*This item was removed from the agenda for this meeting at the request of the applicant and will be reviewed during the February Planning and Zoning Board Meeting.*

**OLD BUSINESS**

None

**NEW BUSINESS**

5. Presentation: **Annual Sunshine Laws / Code of Core Values Presentation**

Town Clerk, John Brock, gave a presentation/training on Sunshine Laws, Ethics, Gifts, and the Town's Code of Core Values to the Board.

**PUBLIC COMMENTS**

*Any person wishing to address the Planning and Zoning Board and who is not on the agenda is asked to speak their name and address. Three (3) minutes is allocated per speaker.*

None

**BOARD COMMENTS**

Board Member Husemann brought back up that Lake County allows for only five-foot setback rules and that the Town's Land Development Code requires ten-foot setbacks. Board Member Husemann asked that the Town Planner review the setback rules and make a recommendation in the future to the Planning and Zoning Board that could possibly amend the Town's Land Development Code.

**ADJOURNMENT**

**There being no further business to discuss, a motion was made by Board Member Husemann to adjourn the meeting; Board Member Mulvany seconded the motion. Motion was approved unanimously by voice vote.**

The Meeting adjourned at 8:14 p.m. | **Attendees: 25**

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Tina St. Clair Chairperson

ATTEST:

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John Brock, Town Clerk