

St Johns County Civic Association Roundtable Growth Management Report on height, May 2007

Committee members include; Marcy Silkebaken, George Jacunski, Ed Mc Donnell, Vivian Browning and Sacha Martin.

The committee reviewed Board of County Commission (BCC) order PNZVAR-2006-05 granting the non-zoning variances for the Vilano Town Center and the history of that project. Both Vivian and Sacha have been involved in implementing Vilano's vision for 9 years.

The Vilano Town Center Mixed Use area was approved by the BCC in May 2006; specifics are outlined in the Land Development Code 3.09.B thru 3.10.09. While the code addressed many issues; the height limitation is clearly illustrated in 3.10.05 B with a maximum of 40 feet to eave and an additional 10 feet for roof structures. Sec. 3.10.05.B. 7 exempted roof structures for housing elevators, stairways, tanks, ventilating fans, solar energy collectors or similar equipment required to operate and maintain the building (provided that such structures shall not cover more than 20% of roof area or extend over 10 feet in height). Height limitations shall not apply to decorative vertical projections such as monuments, spires, cupolas, clock towers and observation towers as long as the tower is appropriately proportioned to the scale of the building, less than 225 sq. feet in area and the highest point of the tower does not exceed 60 feet above grade.

In the first test of these regulations, on October 3, 2006 the developer requested 6 NON ZONING VARIANCES.

The height variance request added an additional floor therefore increasing the total height to 57 feet instead of 50 feet as allowed by the Code.

The Vilano decision to seek variance from the height limitation was based on the following:

- a) The community desired a retail grocery facility in their area to cut down on commuting especially with regard to their senior residents.
- b) It was represented that the town center area selected could not support financially a grocery without an accompanying condo development.
- c) The number of parking spaces required by the grocery/condo development could not be obtained without placing an additional "parking floor" in the condo complex.

Without commenting on the pros and cons of the community's interest in securing a grocery in their area the committee draws the following conclusions.

1. Treating the height issue as a NON ZONING VARIANCE did not provide for sufficient review. Height should always be considered as a ZONING issue, there for requiring review by the Planning and Zoning Agency (PZA) before going to the County Commission (BCC).
2. The variance granted by the Board of County Commissioners was pro forma and failed in the findings of fact to specify the reasons for the variance as described in a, b and c above. Failure to do so neglected to highlight the unique nature of the request for variance and may open the county to other requests (without such compelling circumstances) for similar variations to county height limitations.
3. County Ordinance Sec, 10.04.03 is poorly written, the findings of fact are inadequate, and BCC findings are open to broad interpretation and misunderstanding.
4. A waiver on parking requirements may have been a better solution than a height variance.

Therefore this committee recommends:

- a) The LDC be revised to require all height variances be considered as ZONING, therefore requiring PZA and BCC review and public hearings.
- b) The appropriate portions of the county code be rewritten to require exceptional and unique community circumstances to be demonstrated before any future height variance be granted and that it specifically provide that development enhancement is **not** a basis for variance.
- c) The Comprehensive Plan is amended to address the height issue, therefore, adding another level of review.

The committee also notes that Jacksonville Beach, Neptune Beach and Atlantic Beach have adopted a 35 ft. height limitation by Charter amendment. These communities have set the limit without any variance allowed.

A speaker phone conversation with Steve Lindorff, Jacksonville Beach Planning Director, determined that the Charter referendum adopted by >70% of voters limited all heights to 35'. He also indicated that limit may be causing some challenges for commercial development in the central business district because of the need for parking.

Harry Waldron, County Commissioner for 12 years and on the board when the 35' limit was adopted gave us some back ground. One of the reasons the limit was set at 35' was to accommodate the reach of the fire department's equipment.

Definitions in the LDC;

Height of a Building; The vertical distance from the lowest point of the established grade surrounding the perimeter of the Building to the highest point of the roof or parapet.

Variance: a deviation to the provisions of this Code

Variance, non-zoning: A case-by case deviation to the rules of this Code, when it is demonstrated that compliance with the Code would be a practical impossibility, and/or upon showing of good cause, an alternative to the code is provided that conforms to the general intent and spirit of the Code. The Board of county commissioners may require such conditions that will, in its judgment, substantially secure the same objectives of the standards or requirements so varied or modified.

Variance, Zoning: Variance is the relaxation of the terms of this Code where such Variance will not be contrary to the public interest, and where by reason of the exceptional narrowness, shallowness, or unusual shape of a specific piece of property, or by reason of exceptional topographic conditions or other extraordinary situation or condition of such piece of property, or by reason of the Use or Development of property immediately adjoining the piece of property in question, the literal enforcement of the requirements of this Code would cause either undue hardship to carry out the spirit and purpose of this Code, or would be contrary to the spirit and purpose of this Code. In this context personal, family or financial difficulties, loss of prospective profits and

neighboring violations or hardships created by any act of the owner are not considered hardships justifying a Variance.

Ponte Vedra Zoning District

I. Building and land heights

1. Buildings.

Except as otherwise provided in Section III.B.9-10, no Building shall exceed two (2) Stories in height, with a maximum Building Height of thirty-five (35) feet above the lowest point on the Established Grade at the perimeter of the main Structure. For the purposes of these regulations, a Basement, Garage, Attic Story, Story and Crawl Space that average six (6) feet or greater in height are all counted as Stories. The first Floor living area level must be at least eighteen (18) inches above the centerline of the Street abutting the Lot unless otherwise approved by the County Development Services Department. Alternative Towers Structures, gables, spires or devise or Structures of a similar nature which are attached to or detached from the main Structure shall also have a maximum height of thirty five (35) feet.

St. Augustine Beach

Sec. 6.01,?

F. Building heights shall be a maximum of thirty-five (35) feet for all uses hereinafter set forth; said thirty-five (35) foot maximum to be measured from the greater of the natural ground level or the greater of (i) the minimum required coastal elevation; (ii) the minimum flood elevation; or (iii) a minimum elevation of one (1) foot zero (0) inches above the approved road or roads adjacent to the structure, subject to the following exceptions hereafter set forth.

1. Examples:

- a. Example 1. A proposed structure sits on a site whose natural ground level is fifteen (15) feet above mean sea level and adjacent to a road with an approved road elevation of eleven (11) feet and required coastal construction elevation and minimum flood elevation of 10 (10) feet, its maximum height shall be fifty (50) feet above mean sea level.
- b. Example 2. The same as Example 1, except that the natural ground level is six (6) above mean sea level, its maximum height shall be

forty-seven (47) feet. (eleven (11) feet, + one (1) foot +thirty-five (35) feet).

- c. Example 3. The same as Example 2, except that the road elevation shall be seven (7) feet. The maximum height shall be forty-five (45) feet (ten (10) feet flood + thirty-five (35) feet).

G. Notwithstanding any other provision of this section, structures used in whole or in part, for residential purposes in any commercial zoned district shall not exceed twenty-seven (27) feet in height as measured from the greater of the natural ground level or the greater of (i) the elevation of one (1) foot zero (0) inches above the approved road or roads adjacent to the structure, subject to the exceptions set forth in this section 6.01.03