

**MINUTES  
TOWN OF LAKE CLARKE SHORES  
PUBLIC HEARING – VARIANCE REQUEST  
FEBRUARY 14, 2017**

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**I. A) CALL TO ORDER, ROLL CALL**

Mayor Robert M. W. Shalhoub, called the meeting to order at 6:30 p.m.

The following members and officials were present:

Robert M. W. Shalhoub, Mayor  
Valentin Rodriguez, Jr., President Pro Tem  
Malcolm K. Lewis, Council Member  
Gregory Freebold, Council Member  
Daniel Clark, Town Administrator  
Mary Pinkerman, Town Clerk  
Wes Smith, Chief of Police  
Charles Schoech, Town Attorney

The following official was absent:

Thomas C. Mayes, Jr., Vice Mayor

**II. PUBLIC HEARING PRESENTATIONS**

Mayor Shalhoub explained that variance requests, special exceptions and administrative reviews will now be determined by the Town Council after being heard by the Zoning Board of Adjustments (ZBA).

**A) Presentation by Town of request and recommendation of the ZBA**

Mr. Schoech noted that this will be a quasi-judicial hearing requiring disclosure of visit and sworn testimony. He also noted that the determination made by the Town Council must be based on the evidence presented during the hearing. He noted that the ZBA heard this request on January 12, 2017 and based their recommendation to grant the variance on the requirements set forth by the Town Code of Ordinances which are based on State Statutes. He noted that the ZBA found that the applicant met the requirements of the code, but placed conditions on the request. It would be up to the Town Council if they want to follow the conditions as set forth by the ZBA, if they want to add to the conditions or if they want to grant the request without any of the following conditions:

Side setback adjusted from 4 feet to 7.5 feet  
6 foot fence required along north side of addition  
No side entrance on addition  
Addition must have a hip roof  
No kitchen  
Must be kept as single family residence – cannot be used as separate apartment

The Town Council had various questions regarding the notification process, hardship, impact to neighbors, and setbacks. Mr. Schoech explained that the Town Council is required to follow Town Codes when determining if the request should be approved. If the applicant meets these requirements, the request must be granted.

Mr. Schoech noted that any correspondence or discussions prior to the hearing must be disclosed. Members of the Town Council noted that they had received emails from Mr. Heier's neighbor, Mike Zuloaga, stating that he would be unable to attend the hearing because he would be out of town and asking the Town Council to postpone the hearing to another date so that he could be present to voice his displeasure with the variance. Mayor Shalhoub and Council Member Freebold noted that they had spoken to Mr. Zuloaga and had been to his home. It was noted that copies of the correspondence from Mr. Zuloaga were provided to Mr. Heier and to the Town Clerk for inclusion in the record.

**Motion made by Council Member Freebold to receive into record the correspondence from Mr. Zuloaga, seconded by President Pro Tem Rodriguez; Motion carried (4-0).**

**B) Presentation by Applicant – Ryan Heier, 8324 Pine Tree Lane**

Mr. and Mrs. Heier were sworn in by Mr. Schoech. Mr. Heier noted that although Mr. Zuloaga wanted to have the meeting postponed, he had followed Town regulations and would like to begin work on the addition as soon as possible so that the project could be completed before the rainy season starts. Mrs. Heier noted that they had spoken with the neighbors on both sides of their property and modified the plans for the addition to address their neighbor's concerns before they applied for the variance.

It was noted that there was no opposition from any of the neighbors during the January 12, 2017 Zoning Board of Adjustments hearing.

**C) Presentation by members of the public (3 minute limit)**

None

**D) Rebuttal by Applicant if necessary**

None

**III. COUNCIL COMMENTS**

The Town Council discussed the impact that the variance could have for the area, postponing the hearing, and the fact that they must follow codes to determine whether the variance should be granted.

Mayor Shalhoub noted that unless the ZBA misapplied the facts, which they did not this case, the Town Council, according to law, must follow the ZBA's recommendation to grant the variance. He asked Mr. Schoech if they could add additional conditions to those stipulated by the ZBA. Mr. Schoech noted that the Council could add to or remove conditions as they deemed fit.

#### IV. COUNCIL CONCLUSION (FINDING OF FACTS AND CONCLUSION OF LAW)

**President Pro Tem Rodriguez made a motion, to approve the variance as recommended by the Zoning Board of Adjustments, with conditions as noted below, seconded by Council Member Lewis; Motion approved (4-0).**

Side setback adjusted from 4 feet to 7.5 feet  
6 foot fence required along north side of addition  
No side entrance on addition  
Addition must have a hip roof  
No kitchen  
Must be kept as single family residence – cannot be used as separate apartment  
No second story on addition

#### V. ADJOURNMENT

**Council Member Freebold made a motion to adjourn the meeting at 7:23 p.m., seconded by President Pro Tem Rodriguez; Motion approved (4-0).**

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Robert M. W. Shalhoub, Mayor

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Mary Pinkerman, Town Clerk

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