

JANUARY 18, 2018 6:30 pm
TOWN OF BEVERLY SHORES
BOARD OF ZONING APPEALS
MEETING MINUTES

Call to order Pledge of Allegiance and Roll Call of Board members. Present Vytas Kasniunas, Mary Fulghum, John Daraska. Absent Richard Saul and John Janssen, Attorney Connor Nolan was also present.

First Order of Business: Bagnall 413 Lake Front Drive. A preliminary hearing was held regarding the homeowner's request to install a handicap chair lift in the town right of way and the side lot of the home.

Second Order of Business: Veselica 426 E. Bellevue Wetlands Permit.

Disclosure of potential conflict of interest. Member Fulghum disclosed her potential conflict due to her home being within 300 feet of the subject property and also potential bias because she had learned that her husband, Geof Benson, sent a letter opposing the request. She had not learned about his letter until the date of this BZA meeting. She had not read his letter. She also explained that she had received a widely disseminated email opposing the permit but as soon as she recognized the topic, she did not read its contents. She further stated she has no financial interest in the petition, and that she believes she has no bias that will affect her ability to make an impartial decision. At her request, Attorney Connor Nolan explained that an Indiana statute prohibits communication with any BZA member before the hearing to influence the member's action on a pending matter.

Building Commissioner's Report. Building Commissioner Hans Lagoni explained Petitioner Veselica's building permit application was denied due to noncompliance with Zoning Ordinance § 155.223(A)(1), the proposed construction was within a delineated wetland and also within 25 feet of the wetland.

President Kasniunas noted that this hearing the BZA would address only the Petitioner's wetland permit and not any steep slope issue that also may be associated with the property. The board reviewed the proofs of publication and posting as well as notices to property owners within 300 feet and determined those requirements were completed properly, and the hearing could proceed.

On behalf of Applicant Nancy Veselica, her spouse, Gregory Veselica, provided the following information and assertions:

In 1976, Gregory Veselica initially purchased the subject parcels and other parcels. He sold two adjoining parcels, and donated six other parcels to the Great Marsh. He retained lots 17 and 18, because of the high dune with great views.

In 1979, when he purchased the subject parcels there were no Beverly Shores' building restrictions on property regarding wetlands and the property appeared dry. Also, a 1983 Army Corp of Engineers wetlands map provided by Paul Bruska showed the property was not wet and nor was the property across street. Later, in 2002, Gregory Veselica returned from extended work in Europe and he observed water and wetland on the property. He observed this was at the same time the Great Marsh restoration project was completed. He believed that a right was taken away by the wetland creation. Further he noted that gravel added to the road may have kept water on property.

He explained that to cause minimal impact to the wetland property they proposed to use a box culvert to support the driveway access that would minimize the wetland fill to approximately 350 square feet (sq. ft.). They will also use a gabion-style retaining walls for the driveway to reduce damage to the dune. He also offered that he and his wife currently live on 18 acres with 13 acres of wetlands and they will be good stewards of the wetlands on this property.

He further explained that the footprint of the proposed house is small and to reduce damage to dune they will use 12 helical pylons with concrete caps so that the structure will "move with the dune." The septic was placed at the top of the dune to reduce potential contamination of the wetland below. All excavation will be conducted by compressed air trenching which will help protect root systems. He claimed that they had done everything to design the home to meet their needs, the Town's needs, and minimally impact flora and fauna.

He further opined that because of the unique aspects of their situation that granting the wetlands permit will not open up a housing boom in Beverly Shores' wetlands. He then pointed to the fill that was allowed for a driveway of another property on Bellevue (Ganz property) that the Town allowed and should similarly be allowed for his property. He also claimed that the Beverly Shores 25 foot wetland setback requirement existed only in Beverly Shores and that the National Park Service allowed building within 25 feet of a wetland.

He noted that IDEM may allow this proposed fill, as evidenced by certification submitted with the materials and that the USACE has told him it cannot deny access to property. He suggested the Town of Beverly Shores' rules and regulations may need to be examined and the attorney (for/on?) the Building Committee state the Town's wetland rules may be too restrictive.

Board Comments:

President Kasniunas stated that precedents do not occur in zoning cases as each case has different circumstances. He also noted that the Ganz' driveway fill on Bellevue was pre-existing from a previous access road to that property.

Members Fulghum and Daraska asked questions about the helical pylons that Petitioner Veselica described. He explained that this type of pylon "corkscrewed" into the sand dune and when a level of torque was achieved that would support the proposed structure the pylon was capped with concrete. The house will be built on the pylons and different levels of the home will be built at different elevations on the slope, without cutting into the dune. It was unclear whether the pylons would be visible after the house was built.

President Kasniunas asked how deep the fill would be in the wetland? Petitioner Veselica explained it would only be two feet deep.

Building Commissioner Lagoni asked if the retaining walls could be moved out of wetland and the Petitioner responded that moving the retaining walls out of the wetlands would cause more disruption to the dune.

John Daraska asked about documentation from the U.S. Army Corps of Engineers (USACE). The Petitioner responded that he had filed an application, had an email from USACE employee, Paul Leffler and the Commissioner Lagoni had several conversations with them. The Petitioner said that the USACE indicated they would have issued permit if there had been no Town restrictions.

Petitioner stated that a right was taken away from his property and that his request should be granted so he could can build as he would have been able to in 1979.

Public Comment

Bob Stanley, 23 E. Stillwater, described himself as a supporter the Environmental Restoration Group (ERG) and had come to the meeting to oppose the Petition with the concern that it would set a precedent. He said that the he had heard that no precedence will be set, so that there was no longer that concern. He also stated he had experience with groups in Chicago parks projects to protect wetlands and prairies and had experience with these types of issues. He felt that the approximate 350 sq. ft. fill was minimal and water would flow through the box culvert. His environmental concerns were addressed by the Petitioner's planning.

Scott Vlieck, 21 S. Beach, asked if he had applied for building permit in 1979 and the Petitioner replied he had but never built. In response to a follow up question s to when the Beverly Shores wetland ordinance went into effect Commissioner Lagoni stated it was 1984.

Larry Jensen, 81 Alyce stated he was involved in the wetland ordinance when people wanted to add wetlands to the National Lakeshore in early 90's. He explained that the Town decided that it could handle protections through Town ordinances without giving the land to the National Park. He believed that wetlands map at the time became basis for when the ordinance applies.

Jensen expressed concern that a septic put at top of a steep dune with slopes to 60% might have rapid flow through the high permeability sand and also run off which could run downhill and into the wetland. He also explained that a mosquito study was performed that determined when septic systems overflow the surface of the wetland becomes a breeding ground for mosquitos particularly mosquitos that carry West Nile Virus. According to Mr. Jensen, the state expert in the study stated that wet ground or muck is worse than open water in supporting mosquitos. Mr. Jensen believes that the run off would create more muck and mosquitos and West Nile Virus.

Gregory Veselica said he probably agreed with the study but asked “[h]ow many existing septic systems in Town are 40 feet from water table?” Mr. Jensen noted the study was run on septic waste in Town and found that septic waste got into drinking water. President Kasniunas asked if sand was a natural filter and Mr. Jensen agreed it was depending on the flow rate and distance the bacteria will be taken out as the waste moves through the ground.

Larry Stanton, 515 Myrtle, stated that the Beverly Shores Comprehensive Plan uniquely values its dunes and its wetlands and also noted that section 155.220(B) ties protection of the wetlands to the general welfare. He asked that the Board pay attention to and enforce the law and quoted Indiana State law regarding variance criteria from lawyers Greg Lyman and Margaret Williford. Mr. Stanton then noted that the Board had to initially make a determination that the variance will not affect general welfare, but the ordinance recognizes that diminished wetlands will affect the general welfare.

Secondly, Mr. Stanton noted that the variance should not have a substantially adverse effect on value of surrounding properties. Mr. Stanton stated that people move to Beverly Shores because they can rely on people not building in wetlands. He felt it was necessary for this Board to be consistent so that people can rely on the Town enforcing its ordinances.

Mr Stanton noted that a third variance requirement was the need for variance due to the peculiar circumstances of property. Mr. Stanton noted that this property is not unique in Beverly Shores. Mr. Stanton further noted that denying the variance would not result in an unnecessary hardship because the property was assessed at \$68,000, and given that it must have cost much less when it was purchased and if it were maintained as vacant it would keep that value. Finally, Mr. Stanton noted that approval would substantially interfere with the Town’s Comprehensive Plan that repeatedly discusses the need to protect and preserve the wetlands.

Carol Dickerman, 505 Myrtle, stated she owned seven lots on Charing/Myrtle and was threatened by this permit. She had bought multiple lots with no intention to build on them and had turned down builders who had offered to buy the lots. She explained she counted on the Town to stop anyone from building near her. She did not want to see anybody building on the wetland property.

Barry Webber, (Beverly Shores address not recorded), asked if there is a conflict in Town ordinance re: wetland protection vs. right to access the property.

There was then a brief discussion as to the location of Dickerman’s property and if it was on the wetlands map. Commissioner Lagoni pointed to Ordinance 208-(12-19-83) and explained that the wetlands map was used as a guide and property owners must get soil borings and the borings that indicate whether there wetlands are present.

Rosemary Gemperle, 81 Alyce, stated that if standing water is not present that does not mean there can be no wetland there. She supported Larry Stanton’s position that disrupting the wetland disrupts the entire ecosystem and asked the Board to reject the permit application.

Toots Foy, 424 E. Myrtle noted that there was a house built in the early 2000's near her that was built in a wetland and since then the property undergoes wet-dry-wet cycles. She stated wetlands are not a place to build and also opposed the application.

Ed Kleese, 704 Rogers, also opposed the request to build in the wetlands and asked that we not change the law. He also stated that granting the request would create precedence and open the door will open door to other people doing the same thing.

Carol Dickerman asked if the wetland in the Town ROW be filled in?

Susan Zucker, 6 Merrivale supported Larry Stanton's position. She noted that the beginning of the wetlands section of the ordinance is filled with statements regarding protecting our wetlands. She noted that the zoning does not allow it, so it should not be allowed. She stated that she came here because of the uniqueness of the Town. She was concerned that once we start granting permits to fill wetlands that "we will wake up and live in Chesterton." She inquired if it were possible to avoid wetlands/steep dune and still build on the property.

Bob Stanley expressed concern by the lack of science in the people who opposed the permit. He stated that the damage to the wetland would be "immeasurable" and would not harm the general welfare. He stated there is no expert testimony that this project will adversely impact the wetland or the dune.

Tim Griffin, 8 Beach stated he was moved by the predicament of the owners, but precedent will be set if the BZA grant a permit in this case. He described his own predicament that when he bought his property he had 95 feet of frontage and we needed 100 feet, so he wined and dined a neighbor to try and get another 5 feet and they said no, and were crushed. Then we learned that we did not need the 100 feet because we had more than an acre of property.

Susan Vance, 8 Beech, stated that distinguishing features present with this case will not set precedent. In particular she noted the lengths the property owners have gone to discern appropriate measures to minimize impact on the property and also that the petitioner had a building permit 1979 and the Town should allow it now, to be fair.

Toots Foy stated that we do not know what will happen to the wetland across the street from this property if this permit is granted.

Geof Benson, 116 S. Wells noted that Gregory Veselica purchased the property in 1979. He did not understand if it was already a conforming parcel why was in 2013 the parcel was combined and switched to Nancy Veselica's name. Gregory Veselica responded that it was for "portfolio management" reasons. He explained he was still traveling to Europe for work and Nancy was here to sign papers.

Larry Stanton asked how then was the parcel buildable in 1979.

Paul Zucker, 6 Merrivale, stated that we are not scientists but we understand the science and reports. If we fill all wetlands and level all of the dunes we will lose the unique character of the Town.

Close of Public Comment:

President Kasniunas the closed the public comment period. Attorney Nolan then explained the difference between a permit application and a variance request and the different criteria for each.

Member Daraska noted that in his service on other boards of the Town, the discussions always were to increase lot size so the Town would not become like any other “curb and gutter” community. Also, he noted the public comments reflected Beverly Shores is the only community where the woods prevail and not the homes. He stated that timing, especially the date property was purchased, was affected by changing attitudes and changing laws. He pointed to the 20,000 minimum sq. ft. buildable lot requirement as an example. He had purchased buildable lots to protect them from development. He also felt that in Beverly Shores, the ordinance supported the woods and not the homes. He noted that the Town officials who were elected, were elected for their support of the Town ordinances, and that the Board should support the wants and needs of the Town.

President Kasniunas inquired if there were alternatives to the wetland predicament such as a bridge.

Gregory Veselica explained that filling in the wetland would be necessary to lower the grade of the bridge to be level with the road.

President Kasniunas suggested it may be possible do a trade and request that Petitioner create an equivalent-sized wetland for the cost of \$15,000-\$20,000. Attorney Nolan agreed that the ordinance allows the Board to condition the permit on the creation or restoration of an equivalent-sized wetland.

Member Fulghum stated that everyone was present at this meeting due to of their love for the area. She expressed that petitioner gave an outstanding presentation, especially regarding the efforts to minimize the adverse impact their project would have. She remained concerned about giving a permit in this case was not in the public interest due to its potential precedence and its ability to inadvertently create an argument for people to fill more wetlands which the ordinance and comprehensive plan intended to protect.

Vytas Kasniunas stated there is a concern that denial of a permit could be render this property useless.

Member Fulghum stated that she did not believe the value was useless even if a permit was not granted.

Gregory Veselica stated that this was least invasive method to construct on this property. It would be more and more invasive to the dune to build in another location, or to try and access the property from another direction.

President Kasniunas asked for a motion to grant or deny the permit. Member Fulghum made a Motion to Deny permit which Member Daraska seconded.

Vote: 2 to 1

Aye:

Mary Fulghum

John Daraska

Nay:

Vytas Kasniunas

Board discussion of procedural matters followed. Any votes on a petition require a majority of the full Board (at least three votes) in order to pass, which includes a motion to continue.

Mary Fulghum moved to continue the public hearing until the next regular meeting on February 15, 2018. John Daraska seconded that motion which passed 3-0.

Meeting Adjourned.

Beverly Shores Board of Zoning Appeals

February 15, 2018

6:30 P.M.

The meeting of the Beverly Shores Board of Zoning Appeals was called to order at 6:30 p.m. at the Beverly Shores Administration Building. Roll call was taken, present; Vytas Kasniunas, John Daraska, Mary Fulghum, John Janssen.

Board attorney Connor Nolan explained the difference in the supporting findings between a request for a permit and a variance.

First Order of Business: Veselica 426 E. Bellevue Request for Wetlands Permit

Member V. Kasniunas related that the previous day he was approached by a resident who advised they would not be able to attend the meeting and provided a letter addressed to Chairman of BZA, Member V. Kasniunas and when he read the letter it was signed simply Beverly Shores residents. He stated the letter included the article from Sand Tracks and a copy of a letter from a soil engineer dated April 23, 2008 and basically stated that since the wetlands were man-made, people should be allowed to fill it in. Also included was a redacted case from 2008 that apparently involved the authors' property and the soil engineer in their particular case ascertained that the wetlands did not exist at one time although it is now in existence.

Member V. Kasniunas related there were additional letters that are more straight forward.

Bob Stanley read his letter included in the record. He had received Larry Stanton's email as did others. Mr. Stanley has belonged to environmental organizations his entire adult life. Mr. Stanley saw Mr. Stanton's position as two items; the wetlands will be damaged and a precedent would be set. Mr. Stanley refuted both concerns stated by Mr. Stanton and was in favor of the requested permit.

The following individuals had submitted letters to the BZA, their letters were entered into the record and located in the Clerk's office to attach to these minutes.

Larry Stanton email opposed to permit included in record.

Eileen S. Heisler opposed to permit.

Marsha Metzcus opposed to permit.

Ed KCleese opposed at the previous meeting and because of the situation suggested the meetings be recorded.

Bob Stanley in favor of permit.

Brian Horwood opposed to permit.

James Pritchett opposed to permit.

Lee Smith opposed to permit.

April Neri opposed to permit

Neal and Shelly Mulconrey opposed to permit.

Ellen Benya opposed to permit.

Benjamin Pollock opposed to permit.

Monique Rub opposed to permit.
Piers Torres opposed to permit.
Marc & Eileen Heisler opposed to permit.
Geof Benson opposed to permit.
Susan Krupp in favor of permit.

Member V. Kasniunas disclosed a contact with a resident regarding his suggestion for a fee or replacement of wetlands for any that was filled as a result of this permit and the possible involvement of the Shirley Heinze Fund. He advised he was provided information regarding this Fund.

Member V. Kasniunas inquired if the Board wanted to allow additional testimony and the Board agreed by consensus.

Carol Dickerman 505 Myrtle advised her home was built in the 50's and there were not the regulations we have today. She stated they were not permitted to construct a road and they had to move the materials in by crane. They do not need a garage, there are many homes without garages. He can build a house up there if he can figure a way not to harm the dunes but he doesn't have to build a road across the wetlands. She also wanted to know if the Army Corps of Engineers have issued a permit and what the fire and street departments have to say about this since there is a 50' wide dedicated right of way.

Larry Jensen 801 Alice commented that he thought the issue about wetlands was the creation of new wetlands instead of the exchange for another piece of land. Member V. Kasniunas replied that this in fact could be the repair, improvement or expansion of an existing wetlands.

Susan Loeb 515 E. Myrtle stated that her concern was about the statement that this would not create a precedent. She did not see anything special about this project that would preclude there being a precedent and in the future if someone else wanted to fill a wetland to install a road, how could it be prevented if in fact it was similar enough to this project.

Bob Stanley 23 Stillwater responded and opined future petitions would have to mirror exactly this project for this project to be a precedent.

Member J. Jannsen stated that there was a similar project to this one several years ago when he was on the Town Council and it was over a driveway, but it apparently was not a strong precedent since no one had remembered it and cited it in this instance.

Greg Veselica, petitioner along with his wife, and engineer Charlie Ray, advised that they took serious the comments from the prior meeting. To address the proposals of the Board, he tasked his engineers to see if they could reduce or eliminate the amount of wetlands fill with the construction of a bridge or culvert. He advised they have been able to reduce it to 100 square feet of fill initially and with a new design today it has been reduced further. He also looked into wetlands mitigation and spoke with Lakeshore Land Bank which has as the smallest parcel of land they sell for mitigation to be 100th of an acre that would be created in the NIPSCO wetland bank, which is

reportedly the only registered wetland mitigation in Porter County. He did in fact ask about the Shirley Heinze Foundation but was told the Shirley Heinze would have to contact them to obtain land for mitigation.

Charlie Ray advised after talking with IDEM and the Army Corps of Engineers, the problem is that Beverly Shores has a 25' easement around wetlands in which there is no building and before the Army Corps of Engineers will give them a permit they would have to get a variance from Beverly Shores. So they need a variance from the 25' wetland easement restriction instead of the permit they were applying for. He stated that Greg Veselica has approached Beverly Shores about this but they have stated they would not give a variance until they had the Army Corps permit, but the Army Corps will not issue the permit until the variance is approved. Mr. Ray advised that the bridge would span the wetlands but the 25' easement is in the roadway and they would put in a strip foundation but it would be in that easement, not in the wetlands.

There was discussion about these proposals and it was questioned if this were a matter for the BZA or the Town Council since the dedicated right of way was involved. Member V. Kasniunas stated the first step was the BZA granting a permit that allows building in the wetlands, that does not address the other issue of a potential steep slope variance, which is dependent on the presentation to the building site committee but if the permit for building in the wetlands is denied then the rest isn't relevant.

Member M. Fulghum asked how they plan to get materials to the top of the dune.

Mr. Ray advised the first project would be the installation of the bridge over the wetlands so the contractors would not violate any wetland regulations. They are all very aware of the wetlands regulations and would not want to violate them.

Member M. Fulghum also asked how they planned to get materials to the septic site on the dune. Mr. Ray explained the process they would use so that tree root structures would not be damaged.

Mr. Ray responded to questions concerning the pylons for the construction and the flexi-core construction of the footings for the bridge.

After additional discussion on the retaining walls and septic system, Member V. Kasniunas stated that three BZA members voted at the last meeting and no decision was made and they could re-vote tonight. He stated that they have a quorum but not the full board and therefore before they could take any action three of them must vote the same before any action could be taken. He restated their choices, they could say no, and that is the end, they could say yes, or they could say yes with multiple conditions. He stated they could end up with a 2-2 vote which means they stay all night discussing this, or wait until the Town Council appoints a fifth member and bring that member up to speed on the request.

Member M. Fulghum made the motion to deny the permit, motion seconded by Member J. Daraska. Members Fulghum and Daraska voted in favor of the motion, and Members Janssen and Kasniunas voted against the motion. The vote is 2-2.

Member V. Kasniunas recommended that they come up with a compromise with sufficient conditions to address the concerns of the residents who have spoken.

Member J. Jannsen made the motion to approve the permit with following stipulations; working with an organization to replace whatever wetlands that need to be replaced, he also commented that since the building commissioner is in favor of the flexi-core that is to be used, he also advised the permit would not allow retaining walls within the wetlands or within 25' of the wetlands. There was no 2nd to the motion, the motion died for lack of 2nd. Member V. Kasniunas advised they would have to wait until the Town Council appoints a permanent replacement. Town Council President Donna Norkus was present and advised it could be done on Tuesday at the next Council meeting. There was some discussion that this would have to wait until after the Plan Commission meeting after the Town Council meeting. Board Attorney Connor Nolan addressed this and advised that the replacement is for the Town Council President's citizen appointee from the Plan Commission, so the action can be taken by the Town Council President at the next Town Council meeting. Member V. Kasniunas stated if the Town Council President does that on Tuesday then a special meeting can be set so the person can be brought up to speed if the petitioner is available. Member V. Kasniunas asked if the new person could meet with them and go through the packet without a meeting. Attorney Connor Nolan advised the Board could call an Executive Session reference pending litigation.

Member J. Jannsen made the motion to continue this matter to the March 15, 2018 meeting, seconded by Member M. Fulghum, motion approved by unanimous voice vote

Second Order of Business: Bagnall 413 E. Lakefront Developmental Standards Variance

Member V. Kasniunas asked if the next petitioners were present, the Bagnalls. Sally Bagnall and Scott Vliek advised they were they were the petitioners representatives. Member V. Kasniunas advised they needed to see if the petitioners did what they were supposed to do. He asked if there was a list of the surrounding property owners, owner notifications, affidavit of notice, publication notice, proof of posting, and power of attorney. The materials appear to be in order. Member V. Kasniunas asked the building commissioner, Hans Lagoni about the petition. Hans advised the request is to install an incline elevator on the west side of the house, this is a 50' wide lot, the building was issued a variance from the BZA 6 or 7 years ago to allow them to building on a 50' wide lot, because of that the house is right at 15' on either side since the house is 20' wide, so now to build any type of structure into the side yard setback this would require a variance. He also advised there was a request for responsible accommodation under ADA. The petitioner provided application and approval from the BMV for disability registration as attested to by a physician and with appropriate redaction of the document.

Member J. Jannsen advised that he had gone by the residence and noticed on the east side there was a vacant lot and asked why the elevator could not be placed on the eastside instead of the west side. Mr. Vliek advised there were utilities buried along the

east side of the resident and because of the configuration of the elevator it would not be practical to install it on the east side.

Member V. Kasniunas asked if there was any comment from the public on this petition.

Margaret Holsten commented that they did not show how this was going to be configured. Member V. Kasniunas invited her to view the diagram the Board had been provided.

A member of the public expressed a concern about the potential noise of the equipment. Mr. Vliek advised they were not sure about the amount of noise involved, if it was the one they were shown there was no excessive noise.

Member V. Kasniunas advised the board received an email from Mark Sencha the resident on the west side of the Bagnall property and he was opposed to the installation on the west side. He was not opposed to the installation of the elevator but felt it should be on the east side of the house. Member M. Fulghum asked if this was a permanent structure or if it could be removed once it was no longer needed. Mr. Vliek replied that it could except for the steel pylons although it might be possible to cut the pylons below grade level once the rails were removed.

Member J. Daraska made the motion to approve the variance. There was no second to the Motion and the Motion died for lack of a second.

Member J. Jannsen stated that he would prefer it located to the eastside of the residence.

Member J. Jannsen made the motion to approve the variance with the exception that the elevator be placed on the east side of the house between the house and the stairwell, motion seconded by Member J. Daraska.

Member M. Fulghum advised she was not familiar with the equipment and would like more information before making a decision.

The motion was amended that the elevator be placed on the east side, and the stairs and that when the elevator is no longer needed it is to be removed. Motion with amendment made by Member J. Jannsen, and seconded by Member J. Daraska. The motion carried by the yes votes from Members Kasniunas, Jannsen, and Daraska. Member M. Fulghum opposed.

Attorney Connor Nolan advised they had draft minutes from the previous meeting if they wanted to approve them tonight. Member V. Kasniunas suggested they wait until the matter was done.

Member J. Jannsen made the motion to adjourn, seconded by Member J. Daraska. Meeting adjourned.

Town of Beverly Shores
BOARD OF ZONING APPEALS MEETING MINUTES – March 15, 2018
Administration Building – 500 S. Broadway

The meeting was 33 minutes in duration.

Roll Call - Board Members: Vytas Kasniunas, John Janssen, Mary Fulghum, John Daraska, and Greg Lyman were present.

Veselica Wetland Permit Matter- Vytas Kasniunas circulated a request from the attorney for the Veselicas that requested a continuance in that matter until April 2018 and V. Kasniunas explained that if the continuance was not approved then the Veselicas would reapply.

Greg Lyman recused himself because previously he had conversations regarding the Veselica matter outside the BZA meetings and, as a member of the bar, had an ethical duty as an attorney to recuse himself.

John Janssen made a motion to continue the Veselica matter until April, the motion failed for lack of a second.

Review of Minutes

The Veselica wetlands permit application was one of the matters heard at the previous January and February 2018 meetings. Some members could not open the files circulated. The members indicated that they would individually review the January 2018 and February 2018 minutes once they received the draft minutes a pdf or docx file format. No minutes were approved.

Adjourn:

Motion to Adjourn by John Daraska

Seconded by Mary Fulghum

Approved by unanimous vote.

Town of Beverly Shores
BOARD OF ZONING APPEALS MEETING MINUTES – April 19, 2018
Administration Building – 500 S. Broadway

The meeting was approximately 45 minutes in duration.

Roll Call - Board Members: Vytas Kasniunas, John Janssen, Mary Fulghum, John Daraska were present.

Review of Minutes

The members reviewed and offered corrections to the January 2018 and February 2018 minutes but no minutes were approved.

Adjourn:

Motion to Adjourn by John Janssen

Seconded by Mary Fulghum

Approved by unanimous vote.

Town of Beverly Shores
BOARD OF ZONING APPEALS MEETING MINUTES – June 14, 2018
Administration Building – 500 S. Broadway

The meeting was 2 hours and 45 minutes in duration.

Roll Call - Board Members: Vytas Kasniunas, John Janssen, Mary Fulghum, John Daraska were present. Board Member Greg Lyman recused. Carol Westbrook, named as temporary replacement was present.

Veselica Matter

Member V. Kasniunas instructed the four board members who had previously heard testimony regarding the Veselica project to disregard all previous evidence and information and only consider the information and evidence presented at this meeting. Member Kasniunas explained that no prior testimony or public comments could be considered because this was “an entirely new matter.”

Todd Leith, attorney, represented Petitioner. Charles Ray, project engineer, was also present. The written report of John McQuestion, soil engineer, was presented. Discussion ensued regarding need to balance harm to the environment against economic loss. A history of the wetland determination since petitioner’s 1979 acquisition of the property was presented.

Charles Ray introduced Flexicore panel option for use to cross wetland for access to property providing a 3-D model for consideration. Discussion ensued, including public comment.

Motion to grant the Special Permit conditioned on a \$25,000 bond to be used to remediate the wetlands as determined by the Board of Zoning Appeals. Bond is to be a cash bond or a letter of credit. Further motion to close the public hearing and accept the findings as presented by Petitioner made by C. Westbrook, seconded by J. Janssen. Friendly amendment offered by M. Fulghum, accepted to change wording of Finding #6. Passed 3-1. Janssen, Westbrook, Kasniunas voting for; Daraska and Fulghum voting against.

Approval of Minutes

No unapproved minutes from past meetings were voted upon.

Adjourn:

Motion to Adjourn by John Janssen
Seconded by Mary Fulghum
Approved by unanimous vote.