

MINUTES ARE NOT VERBATIM

**BOARD OF ADJUSTMENT
MEETING MINUTES
August 9, 2017**

The regular meeting of the Okaloosa County Board of Adjustment was held Wednesday, August 9, 2017 at 1:30 p.m., in the Okaloosa County Administration Building, 1st Floor Commissioners Chambers, 1250 Eglin Parkway N., Shalimar, Florida.

Board Members in attendance were Scott Kearney, Pat Byrne, Chairman Payne Walker and Bob Ambrose. Vice Chairman Fred Schor was not present.

Staff in attendance were Elliot Kampert, Growth Management Director; Lisa Payton, Code Enforcement Supervisor; Carlos Jones, Code Enforcement Officer and Teresa Mullins, Administrative Assistant II, Recording Secretary. Assistant County Attorney Kerry Parsons was also present as counsel to the Board.

A. CALL TO ORDER

Chairman Payne Walker called the meeting to order and read the opening statement regarding this Quasi-Judicial Hearing into the record.

B. ROLL CALL

Ms. Teresa Mullins conducted roll call.

C. APPROVAL OF MINUTES FOR: July 12, 2017

Motion to approve the minutes as written made by Pat Byrne; Second by Bob Ambrose; approved unanimously.

D. ANNOUNCEMENTS

None

E. ADDITIONS, DELETIONS, OR CHANGES TO THE AGENDA

None

F. ACCEPTANCE OF THE AGENDA

Motion to accept the agenda made by Pat Byrne; Second by Scott Kearney; approved unanimously.

G. OATH TAKING

Ms. Mullins swore in those who wished to address the Board.

H. DISCLOSURES

Assistant County Attorney Kerry Parsons addressed the Board, asking if any of the members had ex parte communications regarding this request.

The Board members present each stated that they had not discussed this issue with anyone.

Attorney Parsons asked the Board if any of the members had visited the site.

The Board members present each stated that they had not visited the site.

I. OLD BUSINESS

None

J. NEW BUSINESS

- 1. 415365-BOA-2017**, a request for a Special Exception, as submitted by Douglas and Michelle Weinmann, pursuant to Okaloosa County Code, Appendix E, as amended, Section 11.02.09.2, Section 1A.04.05.7, and Section 2.21.05.10 to allow the keeping of up to 20 chickens (no roosters). The property is currently zoned **Residential 1 District (R-1)** and the future land use map designation is **Low Density Residential (LDR)**. A general location of the property is 715 Forest Shores Drive in the unincorporated area of the County generally referred to as Mary Esther, Florida on the South side of Highway 98. The property contains 1.93 acres more or less.
District 4

Mr. Elliot Kampert informed the Board that in June of 2015 the Okaloosa County Board of County Commissioners amended the Land Development Code in order to clarify in which zoning districts and under what conditions poultry and livestock may be kept within unincorporated Okaloosa County. Mr. Kampert further informed the Board that the keeping of more than 4 chickens in an R-1 District must be approved by way of Special Exception by the Board of Adjustment as provided in Section 1A.04.05.7 of the Land Development Code. Mr. Kampert noted; however, that should the Board approve the keeping of chickens, that approval must include the following conditions:

- Roosters are prohibited.
- No person shall slaughter any chickens or ducks on any residential property.
- The sale of eggs or any other products is prohibited.
- The chickens or ducks shall be provided with a house/coop and must be kept in the house/coop during non-daylight hours. The space per bird in the house/coop shall not be less than four (4) square feet per bird.
- The house/coop must be impermeable to rodents, wild birds and predators, including dogs and cats.
- Ducks must be provided a wading pool (a children's "kiddie pool" with a minimum radius of no less than 48 inches will suffice) which must be maintained with clean, fresh water.
- During daylight hours the chickens or domesticated ducks may be kept either in the hen house/coop or a fenced enclosure in order to allow open air ranging.

- The top of any fenced enclosure must be covered with fence or chicken wire to prevent the birds from leaving the enclosure and to prevent the entry of predators.
- Enclosed areas may not be any closer than five feet (5') from any property line,
- All fenced enclosures shall be so constructed and maintained as to prevent the harboring of rodents or other pests within the enclosure.
- Houses/coops and covered enclosures may not be located in the front yard.
- Odors from chickens or ducks, their manure, or other chicken or duck related substances shall not be detectable at the property boundaries.
- Houses/coops and enclosures shall be kept in a neat condition, including provision of clean dry bedding materials and regular removal of waste materials. All manure not used for composting or fertilizing must be removed promptly.
- All feed and other items associated with the keeping of chickens or ducks that are likely to attract or to become infested with or infected by rodents or other pests shall be kept in secure containers or otherwise protected as to prevent rodents and other pests from gaining access.
- No dog or cat that kills a chicken or duck will, for that reason alone, be considered a dangerous or aggressive animal.
- Any chicken or duck kept in an R-1, R-2, or R-3 District must have a leg band or bands providing the telephone number of its owner.

Mr. Kampert informed the Board that when granting a special exception to allow chickens in the R-1 District, they must consider the following:

- The size of the property involved;
- The Nature and character of the adjacent and surrounding areas;
- The impact upon the adjacent and surrounding area and zoning districts;
- The potential for nuisance such as water pollution, dust, odor, noise, vermin; and
- The type and number of animals to be kept or harbored.

Mr. Kampert stated that, per section A1.04.05.7, the minimum size lot on which chickens may be kept in the R-1 District is one half (½) of an acre. Mr. Kampert noted that, for this requested Special Exception, the property in question is 1.93 acres in size. Mr. Kampert stated that, as written in their application, Douglas and Michelle Weinmann wish to keep up to 20 chickens on the subject property which they purchased in May, 2015. Mr. Kampert further stated that in their letter of request and shown on the site plan provided, the chickens will be kept in a 33' x 44' (1,452 square feet) enclosed run area within which there will be two (2) 4' x 8' (32 square feet) coops which provides a total of 64 square feet of coop space. Mr. Kampert noted that section 2.21.05.10.e.IV of the LDC requires 4 square feet of coop are per bird which would limit the number of birds to 16 unless additional coop space is added. Mr. Kampert further noted that the site plan provided by Mr. & Mrs. Weinmann shows the enclosure and coops in the front yard which is specifically prohibited by section 2.21.05.10.e.IX of the LDC. Mr. Kampert stated that staff have made Mr. & Mrs. Weinmann aware of that requirement and they have indicated that they are willing to move the coops and enclosure to their back yard. Mr. Kampert stated that staff have received complaints from two (2) nearby, one (1) of which is adjacent, property owners as of the date on which the staff report was written.

Mr. Kampert further stated that staff have no objection to this proposed Special Exception provided that the applicant adhere to all of the conditions required by the LDC.

Mr. Pat Byrne asked how wide the lot is and was informed by a visitor that the lot is 100 feet wide.

Mr. Byrne asked staff when the Land Development Code was amended to allow chickens in residentially zoned areas.

Mr. Kampert stated that the change was approved by the Board of County Commissioners in June of 2015.

Chairman Walker asked if the plans submitted meet all of those requirements.

Mr. Kampert stated that the plans still show the enclosure and coops in the front yard, and they will have to be moved to the back yard. Staff will have to make sure that the coops and enclosures meet the requirements.

Chairman Walker asked about having the structures inspected to make certain.

Mr. Kampert noted that chicken coops are not included in the Florida Building Code so no permitting is required; however, if the Board wishes to add such a requirement, it is within this Board's right to do so.

Mr. Pat Byrne asked if the waterside was considered to be the back side of the property.

Mr. Kampert stated that the front yard is deemed to be the side on which the property is addressed and meets the road, so therefore, the coops and chickens will have to be moved to the waterside of the property if the Board approves this Special Exception.

Mr. Byrne asked staff for the width of the lot as the dimension was illegible on the survey provided.

After some discussion, Mr. Kampert stated that the lot was one hundred feet (100') wide.

Mr. Byrne asked if there were restrictive covenants for this neighborhood.

Mr. Kampert stated that the County does not enforce restrictive covenants; therefore, staff did no research regarding restrictive covenants for this request.

Mr. Byrne stated that, in the staff report provided to the Board, staff mentioned that the Land Development Code was amended regarding chickens, and asked when that change occurred as well as what was the policy prior to that change.

Mr. Kampert stated that it was changed because it was ambiguous, in that it allowed anything someone claimed as a pet, to include pigs, sheep and chickens. Mr. Kampert further stated that the Land Development Code was amended regarding chickens in June of 2015.

Chairman Walker asked staff what determines the back yard from the front yard.

Mr. Kampert stated that the front yard is determined by the leading edge of the house as it faces the road.

Mr. Byrne noted that the applicant could keep up to four (4) chickens without action by this Board.

Mr. Kampert stated that they would be allowed to keep four (4) chickens only if approved by an Administrative Adjustment. Mr. Kampert further stated that an Administrative Adjustment requires notification of the surrounding homeowners and approval by the Planning Official, but only allows four (4) chickens if approved. Mr. Kampert stated that the reason the applicants are seeking a Special Exception is that they want to have more than four (4) chickens.

Chairman Walker noted that it's not four (4) chickens per acre, its four (4) chickens per lot, no matter how much larger than the minimum lot size that lot is.

Chairman Walker invited the applicants to address the Board.

Mr. Douglas Weinmann, 715 Forest Shores Drive, presented the Board with a large scale map so that they could more easily see the lot and the location of the chicken coops. Mr. Weinmann further stated that he has several neighbors who wish to speak as well regarding the history of the neighborhood and the reason for the complaints about the chickens. Mr. Weinmann stated that the chickens have been the means to fuel the feud that has arisen in the neighborhood in the last year. Mr. Weinmann further stated that he was born and raised in Pensacola and spent twenty-seven (27) years in the Marines, and it is during times such as that where one gains perspective on what sort of life they want to have. Mr. Weinmann stated that of their six (6) children, the older three (3) were raised mostly in urban areas of Southern California where he was based. Mr. Weinmann further stated that he would not recommend Southern California for raising children. Mr. Weinmann stated that when their three (3) youngest children were born they faced a time in society wherein children spend their time with electronic devices instead of playing outside and their knowledge of produce, such as eggs and milk, is that they are found in the grocery stores without having any notion of where it really comes from. Mr. Weinmann stated that it was a conversation with a farmer regarding raising children that encouraged them to seek such an experience for their children. Mr. Weinmann further stated that they decided to have the children take care of chickens, because there is a direct correlation between how happy a chicken is in terms of the eggs it lays, i.e. happy chicken = more eggs, unhappy chicken = less eggs. Mr. Weinmann stated the issue with the Norris family began slowly after they moved to the subject property in the summer of 2015 with requests to stay off their lawns, etc. Mr. Weinmann further stated that things have now escalated to the point where the children are afraid to go out in the yard when Mrs. I. Norris was outside in her yard. Mr. Weinmann disclosed other incidents involving Mr. and Mrs. J. Norris, concluding with an issue involving the repaving of the neighborhood's private road where he inadvertently offended Mr. J. Norris. Mr. Weinmann stated that neither Mr. nor Mrs. J. Norris ever came over to talk to the Mr. & Mrs. Weinmann about having issues with the chickens.

Ms. Michelle Weinmann, 715 Forest Shores Drive, provided the Board with a file containing pictures, information regarding the research they did before getting the chickens and copies of some of the complaints made as well as the outcome of those so included. Ms. Weinmann noted that they have never had issues with neighbors throughout their time as homeowners until this happened. Ms. Weinmann state that the family researched the area to make sure chickens were allowed, and researched how best to keep and raise chickens, noting that half of the chickens they have are bantams which are half (½) the size of a typical chicken. Ms. Weinmann stated that they started to build the coop in April of 2016, and secured it with hurricane straps to secure the structure and with hardwire mesh up to 12 inches below grade to help keep predators out. Ms. Weinmann further stated that the chicken coops have open air bottoms and the shavings are only located where the chickens lay their eggs while the feces fall thru a wire mesh base to a pan at the bottom at bottom of the coop; therefore, there are no feces in the shavings as chickens don't go to the bathroom where they lay their eggs. Ms. Weinmann noted that all of the complaints date from the time she sent Mr. J. Norris an email regarding the paving of the community's private road. Ms. Weinmann read the email she sent to Mr. J. Norris into the record. Ms. Weinmann stated that the complaints regarding the chickens began after she sent this email which was over a year after they began keeping the chickens. Ms. Weinmann stated that, because of an initial complaint from Ms. D. Norris, Code Enforcement Office Carlos Jones along with a representative from PAWS inspected the coops and informed Ms. Weinmann that they were not allowed to keep chickens in their zoning district. Ms. Weinmann further stated that she has had Mr. Jones at her house a dozen times, as well as PAWS who found the complaints unfounded. Ms. Weinmann stated that the Norris' even complained to Florida Fish and Wildlife at which time Ms. Weinmann further stated, that they chose to put up a privacy fence along the property line dividing their property from Mr. & Ms. J. Norris. Ms. Weinmann stated that her younger children are afraid to go outside in their yard if Ms. I. Norris is outside in her yard. Ms. Weinmann further stated that the accusations on the complaints made by Ms. D. Norris became more colorful, claiming that a raccoon was trapped, drowned and burned it in the fire pit; that dead chickens are being burned in the fire pit and other complaints, such as obnoxious odors that Ms. D. Norris says pervade her yard. Ms. Weinmann stated that she has many neighbors present who support them, and letters in the packet from supporters who were not able to attend today's meeting.

Mr. Bob Ambrose commended them for the packets they prepared for the meeting and asked if they killed chickens on and off their property as alleged among the various complaints.

Ms. Weinmann stated that they have spent too much money on the chickens, the chicken yard and the coops to think of killing the chickens, who are pets for their children.

Mr. Weinmann stated that they have covered the coops and done everything to protect the chickens although three (3) chickens were lost during the tropical depression due to a tear in the roof of the coop.

Ms. Weinmann stated that they used netting on the top of the coop based on information from the University of Purdue. Ms. Weinmann further stated that they were out of town

when the storm came through, but she included pictures of the limbs that were knocked down. Ms. Weinmann stated that they repaired the tear as soon as they were able.

Mr. Kearney asked about their studies of their Code and yet claimed ignorance when Code Enforcement arrived.

Ms. Weinmann stated that they read in the newspaper that that chickens were allowed and never realized that they were not in compliance. Ms. Weinmann further stated that they and all their neighbors live on the waterfront, and research showed that the waterfront side is deemed to be the front yard within the State of Florida.

Mr. Kampert stated that the County must abide by the Land Development Code, which defines the front yard as the side from which the address is derived. Mr. Kampert further stated that there is no leeway given for those lots that are waterfront.

Chairman Walker asked about Ms. Weinmann's statement that they are in compliance now.

Ms. Weinmann stated that what she meant is that they will be in compliance, with the exception of the front yard/back yard issue, if the Special Exception is granted.

There being no further questions from the Board, Chairman Walker invited the opposition to state their case.

Ms. Dian Norris, 721 Forest Shores Drive, introduced herself and presented to the Board a packet of pictures that she stated were taken of the Weinmann's property and chickens. Ms. D. Norris referred to each picture in turn, explaining what they showed:

- **Page 1:** Ms. D. Norris stated that this picture shows that while Ms. Weinmann stated that her property was unique, it is not, as there are 15 lots in the subdivision that are similar in size and layout. Ms. D. Norris further stated that the coops, built one (1) year apart, are placed in the front yard, which is violation of the Land Development Code. Ms. D. Norris noted that the chicken coops are within two hundred fifty feet (250') from her front door and prevailing wind carries the odors to her front door and front of her yard, which also affects her parents. Ms. D. Norris stated that the chicken coops are not in the center of the Weinmann's yard, they are up against the eastern boundary of their lot.
- **Pages 2 & 3:** Ms. D. Norris stated that her home is elevated to eleven feet (11') above grade and the chicken coops are easily visible from her front door.
- **Page 4:** Ms. D. Norris stated this picture shows the fence installed by the Weinmann family noting that the top of the coops are still visible from her front door and fencing does not stop odor from traveling.
- **Page 5:** Ms. D. Norris stated that the coops are situated less than twenty-five feet (25') from her parent's property line that is shared with the Weinmann family and the yellow coop is fifteen feet, six inches (15'6") from her parent's property line which is a violation of Ordinance 15-10 which states that a chicken coop cannot be closer than twenty feet (20') to the nearest property line of an adjacent property. In addition, Ms. D. Norris stated, there is no covered run for the yellow chicken coop which is a violation of Ordinance 59.15.10 which stated that an

enclosure must be covered with fence or chicken wire to prevent the birds from leaving or predators from entering. Ms. D. Norris stated that the covered run for the first coop extends to the Weinmann's property line in violation of 50.15.10 which states that enclosed areas may not be closer than five feet (5') from any property line.

- **Pages 6 & 7:** Ms. D. Norris stated that these pictures show that the chickens have been allowed to free range on her parent's front yard which is a violation of Ordinance 15.9 and 15.10 which requires that chickens be kept so that they are not accessible by predators. Ms. D. Norris noted that these pictures were taken last summer. Ms. D. Norris stated that on two (2) separate occasions in the spring of 2016 she was awakened by the sound of a chicken being killed, which greatly disturbed her. Ms. D. Norris stated that she believes that the Weinmann family began with eight (8) chickens, which immediate predation reduced to five (5) chickens, after which they added an additional six (6) chickens, bringing the total to eleven (11) as visible on picture 7. Ms. D. Norris further stated that predation brought the number of chickens down to seven (7) about the time the second coop was being built. Ms. D. Norris stated that with only seven (7) chickens remaining of an original fourteen (14) the predation rate is fifty percent (50%) as of May of this year. Ms. D. Norris further stated that she contacted Ms. Lisa Payton, Code Enforcement Supervisor on May 19, 2017 as her mother, Ms. I. Norris, called to inform her that the Weinmann family had 12 baby chickens in there house and were building a second chicken coop. Ms. D. Norris stated that her intent in filing the complaint with Code Enforcement was to stop the Weinmann family from building the second chicken coop because she was tired of all the damage to her parent's property. Ms. D. Norris stated that she contacted Ms. Payton who provided her with copies of Ordinance 15.9 and 15.10., informed her that the Weinmann family was in violation and that she could file a formal complaint. Ms. D. Norris stated that she filed a formal affidavit of complaint with Code Enforcement May 22, 2017.
- **Page 8:** Ms. D. Norris stated that the picture shows a mound of "cedar shavings and feces" that are in a pile along the property line shared with her parents seven and one half feet (7 ½') from her parent's house. Ms. D. Norris further stated that the mound pictured remained in place for two (2) months in violation of 15.9 and 15.10. Ms. D. Norris stated that the mound as pictured was swarming with gnats and the smell was terrible. Ms. D. Norris further stated that Code Enforcement visited the Weinmann property for the first time on May 24, 2017 and left a note asking that Mr. & Ms. Weinmann contact Code Enforcement. Ms. D. Norris stated that, despite the note from Code Enforcement attached to their door, on Memorial Day weekend, the Weinmann family built their second chicken coop. Ms. D. Norris further stated that this chicken coop is downwind and now she has nineteen (19) chickens to see, hear and smell. Ms. D. Norris asserted that the new chicken were preyed on almost immediately with her mother informing her on June 10, 2017 that one of the new chickens had already been killed on the Weinmann's property.
- **Pages 9 & 10:** Ms. D. Norris stated that on June 18, 2017 she saw two (2) turkey buzzards feasting on a chicken carcass on her parent's front lawn directly across

from the chicken coop. Ms. D. Norris stated that the carcass was swarming with flies and the smell was terrible.

- **Page 11:** Ms. D. Norris stated that this is a picture, taken June 18, 2017, of older chicken remains found on her parent's lawn. Ms. D. Norris further stated that the smell from the coops is awful on her parent's property as well as on her own.
- **Page 12:** Ms. D. Norris stated she walked to her parents on June 27, 2017 and was hit with the smell of dead animal as soon as she opened her door. Ms. D. Norris further stated that she went out to her Mother's and saw a piece plastic on the burn pile, at the Weinmann home, which was swarming with flies and noticed a chicken carcass beside the plastic that was also swarming with flies. Ms. D. Norris stated that the stench was unbearable. Ms. D. Norris further stated that it was this event that caused her to call the Animal Welfare Department, the Health Department and the Florida Fish and Wildlife Department in order to file complaints with all of them. Ms. D. Norris stated that, on May 30, 2017, the Weinmann's received notification from Code Enforcement stating that they are in violation and now they want the County to grant them a Special Exception to allow them up to 20 chickens. Ms. D. Norris noted that the square footage of coop space that they have will not meet the Code requirements for twenty (20) chickens, which would be eighty (80) square feet. Ms. D. Norris informed the Board that, according to some named University sources, one hen produces one hundred (100) plus pounds of feces in a year and multiplied that amount by twenty (20) for emphasis. Ms. D. Norris stated that she would like to see the Weinmann family's plan to deal with all of the manure that the chickens will produce. Ms. D. Norris further stated that chickens carry 3 diseases which are communicable to humans and named them.
- **Page 13:** Ms. D. Norris noted that the Weinmann family's property has a two percent (2%) grade down toward the sound. Ms. D. Norris stated that chicken feces has and will continue to run down into the sound during heavy rains.

Ms. D. Norris asserted that chickens only lay eggs for two to three (2 to 3) years and asked what the Weinmann family intends to do with the chickens once they stop laying eggs. Ms. D. Norris further stated that, although Ms. Weinmann refers to the chickens as pets, the Code states that chickens are not pets. Ms. D. Norris stated that she has "had enough of the chickens" and respectfully asks the Board to deny the Weinmann's request for Special Exception. Ms. D. Norris further stated that she would like to see the chickens removed and the chicken coops torn down as they were built without permits. Ms. D. Norris stated that her mother also wishes to address the Board and thanked the Board for their time.

Mr. Ambrose asked Ms. D. Norris if she witnessed the killing of chickens on the site as that was stated on one of the complaints.

Ms. D. Norris stated that she never claimed to see the Weinmann family killing chickens, she was talking only about predators.

The Board had no further questions for Ms. D. Norris.

Ms. Irma Norris, 717 Forest Shores Drive and adjacent property owner, addressed the Board using the help of note cards, stating that her problems with the chickens began soon after the Weinmann family acquired them in the spring of 2016. Ms. I. Norris stated that she found the chickens often in her front yard digging in her flower beds. Ms. I. Norris further stated that the Weinmann children helps gather up the chickens on two (2) occasions. Ms. I. Norris stated that she told the Weinmann children that they should tell their parents to do something about the chickens. Ms. I. Norris stated that she also told Mr. Weinmann, when she saw him out by the coop, to keep the chickens out of her yard as she has gotten tired of having to deal with them. Ms. I. Norris stated that the Weinmann family attempted to correct the issue but the chickens continued to escape to her yard as shown in her daughter's pictures. Ms. I. Norris further stated that just last week the chickens were loose in the Weinmann's yard, with one of the hens in her front yard. Ms. I. Norris stated that they found the first dead chicken on their front lawn was in late spring of 2016. Ms. I. Norris stated that her husband found the dead chicken and told her it smelled terrible. Ms. I. Norris further stated that she cleaned up the remains of the chicken and the smell was very bad. Ms. I. Norris stated that two months later she found chicken feathers and bone parts, and on Father's Day they found the most recent dead chicken, led to the site by the turkey buzzards as shown in her daughter's picture. Ms. I. Norris stated that those chicken remains smelled so bad that she had to change close because the stench lingered so. Ms. I. Norris further stated that in cleaning up the fresh kill she also found evidence of an older carcass. Ms. I. Norris stated that she also saw one of the new small chickens dead on the Weinmann's property recently. Ms. I. Norris further stated that in April of 2017, the Weinmann family began dumping their cedar shavings next to their garage from containers they were bringing out of the house. Ms. I. Norris stated that the containers held a dozen small chickens. Ms. I. Norris noted that the Weinmann family's garage is near to her grill, and she hasn't been able to use her grill, which she usually uses two (2) to three (3) times a week, due to the awful smell, gnats and flies coming from the cedar shavings dumped by the Weinmann family's garage. Ms. I. Norris stated that the Weinmann family moved the pile of cedar shavings over the Memorial Day weekend immediately after her husband took a picture of the pile of shavings. Ms. I. Norris further stated that she is now able to use her grill. Ms. I. Norris stated that on June 27, 2017 while taking out her garbage she smelled dead animal and saw a turkey buzzard sitting on the fence by the area where her daughter took a photo of the carcass by the Weinmann family's burn pile. Ms. I. Norris further stated that she saw the same turkey buzzard and smelled the same stench the next day. Ms. I. Norris stated that every time she takes her garbage to the curb she smells chicken feces. Ms. I. Norris further stated that she smells chicken feces every time she works in her front yard. Ms. I. Norris stated that she would like to see the chickens removed from the Weinmann's property and the chicken coops torn down because she is tired of the whole situation.

Ms. D. Norris stated that her father would also like to address the Board.

Mr. Ambrose stated that the meeting has gone on almost an hour and he believes he has heard enough to make a decision.

Attorney Parsons informed the Board that this is a Quasi-judicial Public hearing; therefore, those who wish to address the Board must be allowed to do so per the Sunshine

Law. Attorney Parsons noted that the Board does have the ability to limit the time allotted to each individual if they so choose.

A brief discussion ensued.

Chairman Walker asked Mr. Jim Norris if he had new testimony to provide the Board regarding this case.

Mr. Jim Norris, 717 Forest Shores Drive, had difficulty hearing, but stated that he believes he has information to add as and wishes to review what is written in the Code as well.

Chairman Walker stated that the Board would limit Mr. J. Norris' testimony and all further testimony to three (3) minutes per person.

Mr. J. Norris introduced himself to the Board and noted that Ms. Weinmann stated that she and her husband built two (2) chicken coops; however, she left some things out of that statement. Mr. J. Norris stated that on May 22, 2017 after his daughter filed the complaint, there was one (1) chicken coop; however, on May 24, 2017, when Code Enforcement came out to their property, there were twelve (12) chickens that they kept inside their house. Mr. J. Norris further stated that on that day there were at least two (2) adults and (2) children at that home at that time the Code Enforcement Officer knocked, but no one answered the door. Mr. J. Norris stated that the Weinmann's didn't call Code Enforcement and then went and built the second chicken coop fifteen and one-half feet (15 1/2') from his front yard side property line, which, he further stated, no "law abiding patriot" would do. Mr. J. Norris further stated that he would like to review the Codes involved and began to do so stating that Ordinance 15-9 Section 1 paragraph 10b say that the keeping of poultry is not considered customarily incidental to residential property and is prohibited in R-1, R-2 & R-3 except: as a special exception.

Chairman Walker interrupted Mr. J. Norris, informing him that the Board has all of the referenced Chapters and Sections of the Land Development Code already and that they were provided by staff.

Mr. J. Norris emphatically stated that, in that case, there is only one decision that the Board can make as those coops and chickens are in the front yard where they are not allowed.

Chairman Walker informed Mr. J. Norris that the Board has heard from both proponents and opponents regarding the front yard/back yard issue. Chairman Walker thanked Mr. J. Norris for his testimony. Chairman Walker asked if there were any other opponents with new and compelling information that wished to address the Board, and there being none, allowed those speaking on behalf of the Weinmann's request to address the Board.

Ms. Patsy Richey, 713 Forest Shores Drive and adjacent property owner, addressed the Board on behalf of the request, stated that she has a neighbor 2 properties away who had brown free range chickens which did get killed in the neighborhood which may solve some of the dead chicken issues. Ms. Richey further stated that she really wanted to speak regarding the children, who, she stated are learning responsibility from raising and

caring for the chickens. Ms. Richey further stated that she is sorry that the children aren't allowed to sell the eggs as she enjoyed watching them go door to door because it teaches them about business as well.

Ms. Elizabeth DeHart, 705 Forest Shores Drive, spoke on behalf of the applicant, stating that she thinks that Mr. and Mrs. Weinmann are doing an excellent job raising and teaching their children. Ms. DeHart further stated that when the children visit her, they talk about the chickens with enthusiasm and their eyes glow, which is completely different than those children who spend their time sitting in front of video games.

Ms. Stacy Vickery, 701 Forest Shores Drive, stated that she has visited the Weinmann family home and has seen the chicken coops. Ms. Vickery further stated that her children play with the Weinmann children. Ms. Vickery stated that the chicken coops are very clean and don't smell at all, and they are luxurious with swings and balls available for the chickens. Ms. Vickery further stated that this issue begins with the issue of keeping the road private or grant it to the County, when the Norris family wanted to give the road to the County while the rest of the residents wanted to keep the road private. Ms. Vickery stated that when it came time to repave the road all of the residents paid approximately four thousand five hundred dollars (\$4,500.00) to have the road repaved and the Norris family was difficult to deal with. Ms. Vickery stated that Ms. D. Norris attempted to thwart the road paving at every turn, making false accusations and again did not want to pay when it was time to seal the road. Ms. Vickery stated that the issue with the chickens began directly after the issue with sealing the road and she believes it is nothing more than retaliation by the Norris family.

Ms. Druscilla Beuerlein, 719 Forest Shores Drive, stated that she lives two doors down from the chickens and has never smelled or heard the chickens.

Mr. Michael DeHart, 705 Forest Shores Drive, stated that he wanted to reiterate what Mr. Weinmann said about putting down roots. Mr. DeHart further stated that he believes that the Board should give some leeway to the Weinmann family given that they have done their best to comply with all of the regulations as those regulation became known to them. Mr. DeHart stated that the Weinmann family has spent quite a bit of money for these chickens and it would be a total shame Board denies this request.

Ms. Richey quickly stated that she would like to speak to the front yard/back yard issue and asked that the neighborhood not be required to move their sheds to the waterfront but fix the Code issue instead.

Ms. Weinmann informed the Board that the Code Enforcement Officer, Mr. Carlos Jones, who has been involved throughout this situation is present and asked if he would be allowed to speak.

Mr. Kearney stated that he has questions for Mr. Jones.

Chairman Walker informed Ms. Weinmann that, as there are questions for Code Enforcement, the Board will request Mr. Jones to testify.

Chairman Walker questioned Board counsel regarding rebuttal.

Attorney Parson stated that, in the rebuttal portion of the hearing, only the parties directly involved, which would be the Weinmann family and the County, may give testimony.

Ms. Weinmann stated that she is amazed that the Norris family has been watching her house so closely as to know who visits, who is home, etc. Ms. Weinmann further stated that this is why her children are afraid to go outside, and also why they put up a privacy fence on the property line shared with Mr. and Mrs. J. Norris. Ms. Weinmann stated that Ms. D. Norris lives in an elevated house, and can see over the tree tops, but there is nothing they can do about that beyond the fence they have put up. Ms. Weinmann further stated that Mr. Jones can verify that the chicken coop and run are not right up against the fence but, rather, are at least twenty feet (20') from the fence. Ms. Weinmann stated that she has no idea where the Norris family is getting all dead chickens, but her family has only lost 3 chickens total. Ms. Weinmann stated that the plastic bag in the burn pile was a just an empty cedar shaving bag that the children didn't throw away appropriately.

Mr. Weinmann stated that, referring to building the second coop, that building coops isn't something he enjoys, and had he known it was an issue, he wouldn't have built it.

Ms. Weinmann stated that they travel a great deal and she did not get the notice; however, when Officer Jones came to the house she was home and spoke with him at that time. Ms. Weinmann further stated that she has dealt with Code Enforcement, the Health Department, Florida Fish and Wildlife and PAWS, some multiple times and they all noted no smell, with the complaints deemed unfounded.

Mr. Kearney reminded the Chairman that he had a question for Code Enforcement Officer Jones.

Chairman Walker called Officer Jones to address the Board.

Mr. Kearney stated that there seem to be conflicting statement between the Weinmann family and the Norris family and asked Officer Jones if he ever had any validation for the complaints during his many visits to the Weinmann property.

Officer Carlos Jones stated that he never found any validation, and visited the site also with the Health Department and PAWS who also found no merit to the complaints. Officer Jones further stated that the coops and runs are immaculate and the only issues he found were that the Weinmann had chickens without County approval and the location of the chicken coops in the front yard.

Mr. Kearney stated that he understands the front yard/back yard issue; however, it just make sense that with waterfront properties, the waterfront side should be the front.

Mr. Kampert stated that he understands the issue; however, staff and the Board must abide by the Land Development Code, Appendix A, Definitions; which defines a front yard as:

The front of a lot shall be construed to be the portion nearest the street or streets

Mr. Kampert stated that there is no exception or consideration for waterfront homes that are allowed in the Land Development Code.

Mr. Ambrose stated that he believes this Board does not have the authority to make a change to that requirement.

Mr. Kampert stated that changes to the Land Development Code are the responsibility of the Board of County Commissioners. Mr. Kampert further stated that sheds, coops and other such structures, have to be placed in the side or back yard as it is currently defined in the Land Development Code.

Chairman Walker closed the testimony portion of the hearing and opened Board discussion.

Mr. Byrne noted that that he had a good friend who kept chickens in an urban area and has had no problems with his neighbors or with odor from the chickens. Mr. Byrne stated that he is concerned about allowing twenty (20) chickens given that the lot is only one hundred feet (100') wide. Mr. Byrne further stated that he didn't believe they should have to move the coops to the waterfront.

Chairman Walker noted that moving the coops to the back is not up for question as it is required by Code and only the Board of County Commissioners can change the Code. Chairman Walker also noted that with twenty (20) chickens there are bound to be odors.

Attorney Parsons reminded the Board that they have the power to reduce the number of allowable chickens below the number requested, so long as all of the conditions are met. Attorney Parsons restated the required conditions for the Board.

Chairman Walker noted that the Code would allow the Weinmann family to have four (4) chickens without the intervention of this Board.

Mr. Kampert stated that even asking for four (4) chickens would require an application for Administrative Adjustment and there is no guarantee that an Administrative Adjustment would be approved.

Mr. Kearney stated that he was disappointed to hear that the children were selling eggs; however, obviously they will not be selling any eggs in the future. Mr. Kearney further stated that, per Code Enforcement, there is no validation for any of the complaints. Mr. Kearney stated that he lives in Holt and has chickens himself and doesn't have facilities nearly as nice. Mr. Kearney further stated that his children have learned a great deal in taking care of the chickens. Mr. Kearney stated that he believes that twenty chickens would be too many and suggested that sixteen was a more reasonable number given a lot of approximately two (2) acres and based on the limit of 4 chickens per half (1/2) acre as allowed by Administrative Adjustment.

A brief discussion ensued regarding parliamentary process.

Motion made to approve with a limit of 16 chickens provide that they concede to all of the other conditions made by Scott Kearney; second by Bob Ambrose

Chairman Walker opened discussion of the motion on the table.

Mr. Byrne suggested keeping the number down to the number of chickens they currently have, which is twelve (12).

Chairman Walker if the conditions are not being met as claimed by the neighbors what would then occur.

Attorney Parsons stated that if a complaint is made regarding those conditions, Code Enforcement would have to go out to investigate to see if the complaint is valid. Attorney Parsons stated that if a complaint is found to be valid, then there could be fines or even revocation of the Special Exception.

Chairman Walker stated that if, upon investigation, Code Enforcement finds no validity to the complaint then nothing would happen.

Attorney Parsons agreed, stating that Code Enforcement would close the case with a finding that the complaint was unfounded.

Mr. Ambrose suggested that the Board go ahead and approve the motion on the floor.

Motion to approve with a limit of 16 chickens provide that they concede to all of the other conditions made by Scott Kearney; second by Bob Ambrose; approved unanimously.

Mr. Byrne noted for the record that any request to change the definition of front and back yard in the Land Development Code would be through the Board of County Commissioners.

A brief discussion ensued.

- 2. The next regular meeting** of the Board of Adjustment is scheduled to be held on September 13, 2017 at 1:30 p.m., **at the Okaloosa County Administrative Complex, 1250 Eglin Parkway N, first floor Commissioner's Chambers, Shalimar, Florida.**

L. ADJOURNMENT

Motion to adjourn made by Scott Kearney; second by Bob Ambrose; approved unanimously.

Prepared by *Teresa A. Mullins*
Teresa A. Mullins, Recording Secretary
8.14.2017