BOARD OF ADJUSTMENT

AGENDA REQUEST

TO: Honorable Chairman and members of the Okaloosa County Board of Adjustment

THROUGH: Elliot Kampert, Director

FROM: Planning & Development Review Staff

SUBJECT: 416814-BOA-2017

AGENDA DATE: September 13, 2017

APPLICANT(S): Randall A. Hinely

OWNER(S): Randall A. Hinely

LOCATION: Lot 12, Block A Lido Village at Bluewater Bay

PARCEL INFORMATION:

- Property Appraiser’s Parcel ID Number(s): 22-1S-22-4810-000A-0120
- Subject Property contains: 0.566 acres more or less
- BCC District: (5) Commissioner Windes
- BOA District: (5) Patrick Byrne, II
- Future Land Use Map Designation: Mixed Use-1
- Zoning District: Mixed Use-1
- Current Use: Vacant Lot

SURROUNDING LAND USES:

- North: Detached single family homes
- South: Detached single family homes
- East: Wetlands
- West: Detached single family homes

REQUESTED ACTION: The applicant is requesting a variance to the provisions of Section 6.05.05.4 of the Land Development Code that requires the retention of a twenty-five foot (25') wide vegetative buffer between development activities and wetlands waterbodies. The applicant is seeking to reduce the buffer to five feet (5'). It should be noted that the application incorrectly states that the variance is sought for section 2.07A.01 of the LDC.

ANALYSIS:

The subject property is the last undeveloped lot in Block A of the Lido Village subdivision, and is the one most heavily impacted by the 25 foot buffer zone requirement. As stated by the applicant, the peculiar shape of the parcel does not allow siting of a single family home in compliance with the requirement. If the structure were constructed in such a way as to comply with the buffer requirement, it would intrude into the front setback requirement which would be
inconsistent with the established pattern of development along Lido Circle and Capri Cove and would likely encroach into the sight triangle at the intersection of Lido Circle and Capri Cove at which the parcel is located. This could create a traffic hazard for motorists and pedestrians negotiating the bend.

In addition to the physical constraints associated with the property, the parcel was platted in 1979 prior to the County’s current buffer zone requirements. Neither the wetlands nor the buffer zone are shown on the recorded plat.

**RECOMMENDED FINDINGS:** As provided in Section 11.02.09.3, in order to authorize any variance, the Board of Adjustment must and shall find:

a. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district. Suggested finding: Due to the unusual shape of the lot and its location at the intersection of Lido Circle and Capri Cove, a home cannot be built on the property in a manner consistent with the established pattern of development in the area, and which would not create a potentially dangerous visibility condition for motorists and pedestrians negotiating the bend.

b. That the special conditions and circumstances do not result from the actions of the applicant. Suggested finding: Section 6.05.05.4 of the LDC was developed after the subdivision was platted, and after the creation of the Bluewater Bay Development of Regional Impact. The conditions creating the need for the requested variance were not created by the property’s current owner.

c. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Code to other lands, buildings or structures in the same zoning district. Suggested finding: Granting the requested variance will allow the development of a single family home of consistent with the other homes developed on the surrounding properties. The construction of a detached single family home is the intended use of the parcel pursuant to the Bluewater Bay Development of Regional Impact as well as the Lido Village at Bluewater Bay subdivision plat as recorded in 1979.

d. That literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant. Suggested finding: The literal interpretation of the Land Development Code would require that a home be constructed on the property in such a manner would require a violation of the front yard setbacks, effectively precluding development of the property. Given the property’s location along a bend in the road, obtaining a variance to relax the front yard setback could potentially create a dangerous condition and would result in a structure substantially closer to the road than neighboring structures in contrast to the established pattern of development.

e. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure. Suggested finding: Construction of a detached single family home in a manner consistent with the surrounding properties is a reasonable use of the subject property.

f. That the grant of the variance will be in harmony with the general intent and purpose of the Land Development Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Suggested finding: The requested variance is consistent with the general intent and purpose of the Land Development Code, as well as the Bluewater Bay
Development of Regional Impact which establishes that the subject property is to be used for residential development.

Section 11.02.09.3 further provides that, in granting any variance, the Board of Adjustment may prescribe a reasonable time limit within which the action required for the variance shall be begin or completed or both. Under no circumstances, except in compliance with the finding requirements above, shall the Board grant a variance that allows a use not generally or by special exception allowed in the zoning district. Further, no nonconforming use of neighboring lands, structures or buildings in the same zoning district can be considered grounds for a variance, nor can the permitted use of lands, structures or buildings in other zoning districts be considered grounds for the authorization of a variance.

RECOMMENDED CONDITIONS:

Staff recommends that this variance only apply to the buffer along the eastern sides of the house, and that the 25 foot vegetative buffer be retained on the north and south sides, except for the minimal clearing necessary to allow the grading needed to achieve positive drainage from the structure.

STAFF RECOMMENDATION: Staff recommends that the Board of Adjustment conduct the public hearing and, after consideration of the analysis and recommended findings presented herein, as well as any testimony received during the course of the hearing, decide whether to approve the requested variance. If the Board of Adjustment decides to approve the requested variance, staff recommends that the Board of Adjustment include the recommended condition as part of its approval.

PUBLIC COMMENT/OPPOSITION: None as of the date of this writing (9/1/17).

ATTACHMENTS:
A – Location Map
B – Aerial Photo
C – Existing Land Use Map
D—Future Land Use and Zoning Map
E – Copy of Request Letter
F – Copy of Application
G – Copy of Site Plan
H – Section 6.05.05 of the Land Development Code
I – Lido Village at Bluewater Bay Plat
LETTER OF PETITION

To Whom It May Concern:

In reference to Lot 12, Block A, Lido Village at Bluewater Bay (22-1S-22-4810-000A-0120), I hereby do request a variance from the 25ft set back requirement. Due to the many set back requirements and peculiar shape of said lot by allowing this variance it will enable me to build a residential structure in accordance with adjacent properties as the lot was intended.

Sincerely,

[Signature]

Randall H Hinely
850-259-7393
randyhinely@gmail.com
Hello Sherry,

I am requesting a variance of 20 feet into the wetlands buffer zone which brings us 5 feet from the wetlands line on my Lido Lot.

Randall Hinely
850-897-4150

CAUTION: This email originated from outside the organization. Do not click links or open attachments unless you recognize the sender and know the content is safe.
Applicant name: Randall H. Hinely

Applicant is: Property owner X       Authorized agent* ___

*Attach verification

Applicant address:  

290 Yacht Club DR.  
Niceville, FL 32578

Applicant telephone: 850-259-7393     FAX 850-897-5948

Name of property owner if different than applicant:

Address of property involved: Lot 12 Block A LIDO VILLAGE AT  
Bluewater Bay

Property ID Number: 22-15-22-4810-000A-0120

Land use information: FLUM category  MU-I

Zoning district  MU-I

Size of property: 5.660 acres OR ______________ sq. ft.

Variance request:

1. Specific section of the Land Development Code from which the variance is requested 207A.01 Bulk regulations.

2. Describe exactly what the variance is for.
   Due to the many setback requirements and peculiar shape of the property a variance will enable me to build a residential home in accordance with adjacent properties as the lot was intended.

Standards of review: Describe in as much detail as possible how the variance request meets each of the following standards. Attach additional sheets if necessary.
1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

   The peculiar shape of the property in question does not allow for a residential structure to be placed on property without a variance.

2. That the special conditions and circumstances do not result from the actions of the applicant.

   The parcel in question is a natural parcel that has not been altered by the applicant.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the Land Development Code to other lands, buildings, or structures in the same zoning district.

   Granting of the variance will result in a residential structure that is similar in scope to the adjacent properties.

4. That literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.

   Without a variance from the Land Development Code this parcel will not be able to be utilized in its intended purpose as a residential lot.
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

The variance if granted will make possible the placement of a residential structure in the aforementioned parcel.

6. That the grant of the variance will be in harmony with the general intent and purpose of the Land Development Code, and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The granted variance will allow for a residential unit to be built in a residential neighborhood that is surrounded by similar structures.

Certification: I do hereby certify and affirm that the information represented in this application is true and correct to the best of my knowledge. I also give my permission for county staff to enter upon the property involved at any reasonable time for purposes of inspections or posting of notices.

Randall H. Hinely
Applicant typed or printed name

[Signature]
Applicant signature

8/7/2017
Date

Corporate officer

Corporate seal
Quitclaim Deed

This Quitclaim Deed, Made this 19th day of February, 2008 A.D., Between Carolyn Marcia Hinely, an unmarried woman of the County of Okaloosa, State of Florida, grantor, and Randall H. Hinely, an unmarried man whose address is: 290 Yacht Club Drive, Niceville, Florida 32578 of the County of Okaloosa, State of Florida, grantee.

Witnesseth that the GRANTOR, for and in consideration of the sum of TEN DOLLARS ($10) and other good and valuable consideration to GRANTOR in hand paid by GRANTEE, the receipt whereof is hereby acknowledged, has granted, bargained and quitclaimed to the said GRANTEE and GRANTEE'S heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Okaloosa, State of Florida to wit:

Lot 12, Block A, Lido Village at Bluewater Bay, according to the plat thereof as recorded in Plat Book 5 at Page 154 of the Public Records of Okaloosa County, Florida.

This Deed is being given in compliance with the terms and conditions as set forth in that certain Final Judgement of Dissolution of Marriage recorded in Official Records Book 2781 at page 3767 of the Public Records of Okaloosa County, Florida.

To Have and to Hold the same together with all and singular the appurtenances thereto belonging or in anywise appertaining, and all the estates, right, title, interest, lien, equity and claim whatsoever of grantor, either in law or equity, for the use, benefit and profit of the said grantee forever.

In Witness Whereof, the grantor has hereunto set hand and seal the day and year first above written

Signed, sealed and delivered in our presence:

Kelly Gilling
Printed Name: KELLY GILLINGS
Witness

Amy Richard
Printed Name: AMY RICHARDS
Witness

STATE OF Florida
COUNTY OF Okaloosa

The foregoing instrument was acknowledged before me this 20 day of February, 2008 by

Carolyn Marcia Hinely
who is personally knowing me or who has produced as identification.

K. Gilling
Printed Name: K. GILLINGS
Notary Public 1-12-2010
SURVEY REPORT:

1. No search of the public records was done by Gustin, Cothern & Tucker, Inc. Visible evidence of easements will be shown hereon, but no certification is given that easements, deed overlaps, underground improvements or apparent uses do not exist.

2. No environmental jurisdictional lines have been determined by Gustin, Cothern & Tucker, Inc.

3. Apparent uses are as shown.

4. There may be additional restrictions that are not shown on this survey that may be found in the public records of Okaloosa County, Florida.

5. Bearings shown hereon are referenced to the line as shown above.

6. The distances shown hereon are in U.S. survey feet.


8. Wetlands shown hereon were delineated by WSI, Inc., project # 2915-105.

REVISION #: (9/7/2017) House Relocation

LEGEND:

N/A = Not Applicable
# = Number
— = Distance Not to Scale
L.B. = Licensed Business
L.S. = Licensed Surveyor
P.S.M. = Professional Surveyor and Mapper
O.R. = Official Records
± = More or Less
R/W = Right of Way
Q = Centerline
P = Plat
F = Field
TBM = Temporary Benchmark
BSL = Building Setback Line
(B.D.E.) = Baskerville Donovan Engineers, Inc.
FDEP = Florida Department of Environmental Protection
CORPS = United States Army Corps of Engineers

GUSTIN, COTHERN & TUCKER, INC.
LAND SURVEYING
121 HART STREET
NICEVILLE, FL 32578
(850) 678-5141 L.B. #3501
www.gct-survmap.com

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NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER

LOT 11, BLOCK A, LIDO VILLAGE AT BLUEWATER BAY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 154, PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA

SECTION 22, TOWNSHIP 1 SOUTH, RANGE 22 WEST

LOT 12, BLOCK A, LIDO VILLAGE AT BLUEWATER BAY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 154, PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA

SECTION 22, TOWNSHIP 1 SOUTH, RANGE 22 WEST

TYPE
SPECIFIC PURPOSE / PLOT PLAN
CLIENT
RANDY HINELY

FIELD
N/A
F.B. N/A

DATE
8/4/2017

CERT
NOT APPLICABLE

PAGE: 1

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15-0202.02

SHEET 1 OF 1
SURVEY REPORT:

1. NO SEARCH OF THE PUBLIC RECORDS WAS DONE BY GUSTIN, COTHERN & TUCKER, INC. VISIBLE EVIDENCE OF EASEMENTS WILL BE SHOWN HEREON, BUT NO CERTIFICATION IS GIVEN THAT EASEMENTS, DEED OVERLAPS, UNDERGROUND IMPROVEMENTS OR APPARENT USES DO NOT EXIST.

2. NO ENVIRONMENTAL JURISDICTIONAL LINES HAVE BEEN DETERMINED BY GUSTIN, COTHERN & TUCKER, INC.

3. APPARENT USES ARE AS SHOWN.

4. THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA.

5. BEARINGS SHOWN HEREON ARE REFERENCED TO THE LINE AS SHOWN ABOVE.

6. THE DISTANCES SHOWN HEREON ARE IN U.S. SURVEY FEET.

7. FLOOD STATEMENT: PANEL NO. 12091C047 7 H, DATED 12-06-2002, FLOOD ZONE X AND AE 7'.

8. WETLANDS SHOWN HEREON WERE DELINEATED BY WSI, INC., PROJECT # 2015-105..

REVISION #: (8/7/2017) HOUSE RELOCATION

LOT 12, BLOCK A, LIDO VILLAGE AT BLUEWATER BAY, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 5, PAGE 154, PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA SECTION 22, TOWNSHIP 1 SOUTH, RANGE 22 WEST

LEGEND:

N/A = NOT APPLICABLE
- = NUMBER
± = DISTANCE NOT TO SCALE
L.B. = LICENSED BUSINESS
L.S. = LICENSED SURVEYOR
P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER
O.R. = OFFICIAL RECORDS,
± = MORE OR LESS
R/W = RIGHT OF WAY
Ç = CENTERLINE
(P) = PLAT
(F) = FIELD
TBM = TEMPORARY BENCHMARK
BSL = BUILDING SETBACK LINE
(B.D.E.) = BASKERVILLE DONOVAN ENGINEERS, INC
FDEP = FLORIDA DEPARTMENT OF ENVIRONMENTAL PROTECTION
CORPS = UNITED STATES ARMY CORPS OF ENGINEERS

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Attachment H

6.05.05 Site Preparation Standards: To the extent that is feasible, the performance of development activities and revegetation of altered sites shall be consistent with the following standards.

1. Development shall not involve the unnecessary removal of any native vegetation. Where removal of native trees is necessary, efforts should be made to replant native trees;
2. Site alteration shall occur in planned stages or increments and not exceed the minimum area necessary to prepare the site for the succeeding phase of development;
3. Adequate erosion control measures shall be put into effect prior to commencing site alteration on each increment; and
4. Vegetative buffer strips shall be retained for a distance of twenty-five (25) feet to the banks of all natural watercourses, water bodies or wetlands. The width of the buffer shall be sufficient to prevent erosion, trap the sediment in overland runoff, provide access to the water body and allow for periodic flooding without damage to structures.