



**Town of Ponce Inlet  
Planning Board  
Regular Meeting Minutes  
March 28, 2023**

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1    **1.    CALL TO ORDER AND PLEDGE OF ALLEGIANCE:** Pursuant to proper notice,  
2 Chairman Cannon called the meeting to order at 5:30 p.m. in the Council Chambers, 4300 S.  
3 Atlantic Avenue, Ponce Inlet, FL, and led attendees in the Pledge of Allegiance.

4  
5    **2.    ROLL CALL AND DETERMINATION OF QUORUM:**

6  
7    Board members present:

8           Mr. Oebbecke, Seat #1  
9           Mr. Kaszuba, Seat #2  
10          Mr. White, Seat #3; Vice-Chairman  
11          Mr. Cannon, Seat #4; Chairman  
12          Mr. Carney, Seat #5  
13          Mr. Iyampillai, Alternate #1  
14          Mr. Burge, Alternate #2

15  
16   Staff present:

17           Mr. Disher, Planning & Development Director / Interim Town Manager  
18           Ms. Hunt, Deputy Clerk  
19           Mr. Mendenhall, Principal Planner  
20           Ms. Rippey, Senior Planner  
21           Attorney Schumer, Town Attorney

22  
23    **3.    ADOPTION OF AGENDA:** There were no changes.

24  
25    Chairman Cannon moved to adopt the agenda as presented; seconded by Mr. Oebbecke. The  
26 motion PASSED by consensus, 5-0.

27  
28    **4.    APPROVAL OF MINUTES:**

29           **A.    February 28, 2023**

30  
31    Chairman Cannon moved to approve the February 28, 2023 meeting minutes as presented;  
32 seconded by Mr. Kaszuba. The motion PASSED by consensus, 5-0.

33  
34    **5.    REPORT OF STAFF:**

35  
36           **A.    Administrative Variance Applications** – Mr. Mendenhall stated there were no  
37 Administrative Variance requests submitted for consideration; there are several bills proposed in  
38 the state legislature and staff is watching them closely: HB 55, Trees in the Right-of-Way; HB  
39 105, Vacation Rentals; HB 1515, local ordinances; HB 325, flood disclosure; HB 439, land use &  
40 development regulations (could change regulations of Future Land Use criteria for the  
41 Comprehensive Plan, by removing/changing the definition of urban sprawl); HB 89, building

42 construction; HB 359, local government Comprehensive Plan (changes to challenge process for  
43 Code amendments); HB 575, building permits; HB 653, annexation/contraction (making it more  
44 difficult for a municipality); HB 661, authorized access to sanitary sewer lines; HB 671, building  
45 permit applications and changing time allocations for review; HB 765, building permit issuance  
46 regulations and fee reductions; HB 847, floating vessels and platforms; HB 859, flood damage  
47 prevention; HB 1071, prohibiting municipalities from exempting drone deliveries. Mr.  
48 Mendenhall provided a Q&A session regarding the potential negative/positive impacts of these  
49 bills on the town. Attorney Schumer referenced HB 671 and noted that the Florida Building Code  
50 allows the municipality to revoke a building permit that was approved in error.  
51

52 **B. Other Reports & Updates** – Mr. Disher clarified that some permits are issued  
53 over-the-counter and others are fast-tracked (3-5 days), a building permit application that requires  
54 a more comprehensive review (new construction/remodel) can take longer; he reported that the  
55 Marine Science Center is moving ahead with its remodel/expansion plans and will present in  
56 phases. Mr. Kaszuba asked if the MSC is going to off-load its education component to a facility in  
57 New Smyrna Beach; Mr. Disher stated that is not what they are proposing on these plans, they are  
58 proposing a larger education room.  
59

60 **6. CORRESPONDENCE/DISCLOSURE OF EX-PARTE COMMUNICATION:**  
61 Chairman Cannon stated he spoke with the property owner to the south of the subject property to  
62 find out what date the original dock (in serious disrepair) was constructed and the state permitting.  
63

64 **7. HEARING OF CASES:**  
65

66 **A. Variance 14-2023, 4520 South Peninsula Drive – Charles & Kimberly Dunn,**  
67 **Agents on behalf of Hellenic Properties 1, LLC.** Ms. Rippey stated the variance request is to  
68 allow construction of an access walkway and dock totaling an increase of 1,825 square feet over  
69 the maximum permitted by code; noting that the applicants plan to build a new walkway and dock  
70 in the general location of the existing dilapidated walkway and dock. She reviewed the criteria;  
71 and confirmed that all legal noticing requirements had been met. She added that there was one  
72 written response from an adjoining property owner who expressed concerns of flooding from  
73 stormwater runoff once the primary structure is built, and met with two residents in person. She  
74 stated that upon reviewing the criteria, all seven requirements were met and staff recommended  
75 approval with the following conditions: *1) The purpose, use, and physical extent of the variance*  
76 *shall be limited to that of the subject property and proposed access walkway and dock depicted on*  
77 *the Variance site plan; 2) The duration of Variance 14-2023 shall run with the property; and 3)*  
78 *The access walkway and dock shall otherwise be permitted and constructed pursuant to all*  
79 *applicable requirements of the LUDC and Florida Building Code.*  
80

81 The Board discussed condition #1 and determined that the submitted drawings appeared to show  
82 a dock with a width that could not possibly fit within the established riparian lines and meet  
83 required setbacks and thus holding the applicants to the configuration as shown could become a  
84 contradiction to the code as the applicants had not requested a variance to setbacks. Staff responded  
85 that the drawings were merely to provide a visual illustration and not to be used to determine any  
86 other aspect as typically regulated by code. Staff agreed to remove condition #1 as an unnecessary  
87 condition. The Board also discussed the mean-high water line (MHWL), which was established in  
88 1947 and has moved approximately 20 to 30 feet; and recommended that the Code be reviewed to

89 provide relief to other property owners in this similar situation, due to the 2012 Code change.

90

91 The Board questioned Staff extensively on how the property complied with criteria #1 for granting  
92 a variance. The Board asked how the conditions and circumstances were peculiar to the land and  
93 not typical of other lands in the same zoning if the properties to the south had similar conditions.  
94 Staff responded that no other lot has the same lot configuration and the distance between the  
95 median-high water line and navigable waters is not the same as the other properties. Staff continued  
96 stating that the unique circumstance is that the lots to the south were able to construct their docks  
97 as they were not subject to the size limitation that was enacted in 2012 with the adoption of new  
98 LUDC language that is now limiting the current owners from constructing a dock without first  
99 obtaining a variance.

100

101 Dr. Dunn stated that town staff have been very professional and pleasant to work with and he  
102 appreciates their recommendation and this board's consideration. He added that his purchase of  
103 this property is contingent upon approval of the variance. Ms. Dunn stated she is excited to become  
104 a Ponce Inlet resident and they have been working on purchasing the property for nearly two years.

105

106 Chairman Cannon opened public comment – hearing none, he closed public comment.

107

108 Chairman Cannon moved to approve Variance 14-2023 with conditions #2 and #3, and the  
109 elimination of condition #1 as outlined in the staff report; seconded by Vice-Chairman White. The  
110 motion PASSED 4-1, with the following vote: Mr. Oebbecke – yes; Mr. Kaszuba – yes; Vice-  
111 Chairman White – yes; Chairman Cannon – no; Mr. Carney – yes.

112

113 **8. BUSINESS ITEMS/PUBLIC HEARINGS:** None.

114

115 **9. PUBLIC PARTICIPATION:** Chairman Cannon opened public participation – hearing  
116 none, he closed public participation.

117

118 **10. BOARD DISCUSSION:** None.

119

120 **11. ADJOURNMENT:** The meeting was adjourned at 6:55 p.m.

121

122 Prepared and submitted by,

123

124 Peg Hunt

125 Peg Hunt

126 CMC/Deputy Clerk

127

128 Attachment(s): QJ Worksheets – VAR 14-2023

Town of Ponce Inlet  
Quasi-Judicial Criteria Worksheet

**Applicant(s):** Charles and Kimberly Dunn, Agents, on behalf of Hellenic Properties 1, LLC      **Case #:** VAR 14-2023  
**Property address:** 4520 S. Peninsula Drive      **Public Hearing date:** March 28, 2023

**Application request:** For a variance to allow an access walkway and dock exceeding 700 square feet.

The Planning Board may not approve or recommend approval of an application unless it makes a positive finding, based on substantial competent evidence, on each of the following, to the extent possible: (LUDC Section 6.6.4, Variance Review Criteria):

**6.6.4.E – Variance Review Criteria**

1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and not typical of other lands, structures, or buildings in the same zoning classification;

Yes  No, if no explain: No special conditions demonstrated

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

Yes  No, if no explain: \_\_\_\_\_

3. Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would create an unnecessary and undue hardship on the applicant;

Yes  No, if no explain: \_\_\_\_\_

4. Strict adherence to the provision does not promote the purpose for which it is intended;

Yes  No, if no explain: \_\_\_\_\_

5. The variance does not conflict with a town policy such as preservation of dunes, water conservation, or preservation of natural vegetation;

Yes  No, if no explain: \_\_\_\_\_

6. The variance is the minimum variance that will make possible the reasonable use of the land, building or structure;

Yes  No, if no, explain: \_\_\_\_\_

7. The variance is in harmony with the general intent and purpose of the LUDC and does not injure the area involved.

Yes  No. If no, explain: \_\_\_\_\_

I, JOHN CANNON do hereby recommend **APPROVAL** of **DENIAL** of the application as presented.  
[CIRCLE ONE]

Signature: John J Cannon

Date: 3/28/2023

Town of Ponce Inlet  
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**6.6.4.E – Variance Review Criteria**

- Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and not typical of other lands, structures, or buildings in the same zoning classification;  
 Yes [ ] No, if no explain: lot configuration is unique being very narrow with dry land being far from navigable water
- The special conditions and circumstances do not result from the actions of the applicant;  
 Yes [ ] No, if no explain: related to lot configuration not actions of applicant
- Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would create an unnecessary and undue hardship on the applicant;  
 Yes [ ] No, if no explain: \_\_\_\_\_
- Strict adherence to the provision does not promote the purpose for which it is intended;  
 Yes [ ] No, if no explain: \_\_\_\_\_
- The variance does not conflict with a town policy such as preservation of dunes, water conservation, or preservation of natural vegetation;  
 Yes [ ] No, if no explain: \_\_\_\_\_
- The variance is the minimum variance that will make possible the reasonable use of the land, building or structure;  
 Yes [ ] No, if no explain: \_\_\_\_\_

7. The variance is in harmony with the general intent and purpose of the LUDC and does not injure the area involved.

Yes  No. If no, explain:

I, John Carney do hereby recommend **APPROVAL** or **DENIAL** of the application as presented.  
[CIRCLE ONE]

Signature:  Date: 28 MAR 2023

Town of Ponce Inlet  
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**6.6.4.E – Variance Review Criteria**

1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and not typical of other lands, structures, or buildings in the same zoning classification;  
 Yes    No, if no explain: \_\_\_\_\_
2. The special conditions and circumstances do not result from the actions of the applicant;  
 Yes    No, if no explain: \_\_\_\_\_
3. Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would create an unnecessary and undue hardship on the applicant;  
 Yes    No, if no explain: \_\_\_\_\_
4. Strict adherence to the provision does not promote the purpose for which it is intended;  
 Yes    No, if no explain: \_\_\_\_\_
5. The variance does not conflict with a town policy such as preservation of dunes, water conservation, or preservation of natural vegetation;  
 Yes    No, if no explain: \_\_\_\_\_
6. The variance is the minimum variance that will make possible the reasonable use of the land, building or structure;  
 Yes    No. If no, explain: \_\_\_\_\_



7. The variance is in harmony with the general intent and purpose of the LUDC and does not injure the area involved.

Yes  No. If no, explain: \_\_\_\_\_

I, Michael J. Kaszuba do hereby recommend **APPROVAL** of **DENIAL** of the application as presented.  
[CIRCLE ONE]



Signature: \_\_\_\_\_ Date: March 28, 2023

Town of Ponce Inlet  
Quasi-Judicial Criteria Worksheet

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**6.6.4.E – Variance Review Criteria**

1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and not typical of other lands, structures, or buildings in the same zoning classification;  
 Yes    No, if no explain: \_\_\_\_\_
2. The special conditions and circumstances do not result from the actions of the applicant;  
 Yes    No, if no explain: \_\_\_\_\_
3. Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would create an unnecessary and undue hardship on the applicant;  
 Yes    No, if no explain: \_\_\_\_\_
4. Strict adherence to the provision does not promote the purpose for which it is intended;  
 Yes    No, if no explain: \_\_\_\_\_
5. The variance does not conflict with a town policy such as preservation of dunes, water conservation, or preservation of natural vegetation;  
 Yes    No, if no explain: \_\_\_\_\_
6. The variance is the minimum variance that will make possible the reasonable use of the land, building or structure;  
 Yes    No, if no, explain: \_\_\_\_\_

7. The variance is in harmony with the general intent and purpose of the LUDC and does not injure the area involved.

Yes  No. If no, explain: \_\_\_\_\_

I, SKIP WHITE do hereby recommend **APPROVAL** of **DENIAL** of the application as presented.  
(CIRCLE ONE)

Signature:  Date: 3/28/23

Town of Ponce Inlet  
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**6.6.4.E – Variance Review Criteria**

1. Special conditions and circumstances exist that are peculiar to the land, structure, or building involved and not typical of other lands, structures, or buildings in the same zoning classification;

Yes [ ] No, if no explain: This is markedly different from other uses.

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

Yes [ ] No, if no explain: These circumstances existed prior to applicants purchase & property

3. Literal interpretation of this code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification and would create an unnecessary and undue hardship on the applicant;

Yes [ ] No, if no explain: Other like properties enjoy waterway access.

4. Strict adherence to the provision does not promote the purpose for which it is intended;

Yes [ ] No, if no explain: \_\_\_\_\_

5. The variance does not conflict with a town policy such as preservation of dunes, water conservation, or preservation of natural vegetation;

Yes [ ] No, if no explain: \_\_\_\_\_

6. The variance is the minimum variance that will make possible the reasonable use of the land, building or structure;

Yes [ ] No, if no, explain: \_\_\_\_\_

7. The variance is in harmony with the general intent and purpose of the LUDC and does not injure the area involved.

Yes [ ] No. If no, explain: \_\_\_\_\_

I, John Mark Oebbecke do hereby recommend **APPROVAL** or **DENIAL** of the application as presented.  
[CIRCLE ONE]

Signature:  Date: 3/28/23