



Fort Myers Beach Local Planning Agency

**Council Chambers
2525 Estero Blvd.
Fort Myers Beach, FL 33931**

Minutes**Tuesday, August 10, 2021****9:00 AM**

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Vice Chair Jane Plummer, Forrest Critser, Jane Plummer, Scott Safford, Karen Swanbeck and Patrick Vanasse.

Excused: Chair Megan Heil

II. INVOCATION

LPA Member Swanbeck.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

A. June 3, 2021

LPA Member Critser moved to approve the minutes; second by LPA Member Vanasse.

Motion passed unanimously with Chair Heil excused.

V. PUBLIC HEARINGS

A. VAR20210033 101 Gulf Drive Pool and Fence Location and Street Setback Variance

Recommend Approval/Denial of Variance 20210033 101 Gulf Drive Pool and Fence Location and Street Setback

Town Attorney Herin, Jr. swore in those providing testimony. Richard Dobbs, owner, reviewed his request for variances.

Ex parte communication: All LPA Members conducted a drive-by except for LPA Member Safford, who utilized Google maps.

Mr. Dobbs described his lot and where the fence and proposed pool would be located. He indicated that the property across the street on Gulf Drive was similar to what he was requesting. Assistant Community Development Director Carl Bengé reviewed the background of the request. He utilized PowerPoint for his presentation. Slides included: 101 Gulf Drive Variance and Staff Findings and Recommendations. Staff recommended approval with conditions. Assistant Director Bengé noted the fence did not affect the visibility triangle.

No public comment.

LPA Member Vanasse moved to approve the request with conditions 1-5 of the staff findings and recommendation report; second by LPA Member Safford.

Motion passed unanimously with Chair Heil excused.

B. VAR20210043 2842 Seaview St. Variance to Pool Location and Street Setback

Recommend Approval with Conditions of VAR20210043 2842 Seaview St Variance to Pool Location and Street Setback

Ex parte communications: All LPA Members conducted a site visit and LPA Member Safford disclosed that he previously managed the property.

John Cowart from Waldrop Engineering represented the applicant. He utilized PowerPoint for his presentation. Slides included: Location Map; Property Overview; Variance Requests; Site Plan; Variance Criteria; Approved Variances; Staff Report and Conclusions.

Community Development Director Jason Green stated that the open-air structure in Condition 6 should be removed.

Assistant Director Bengé reviewed the background of the property. He displayed the site plan for 2842 Seaview St. and stated that staff recommended approval with conditions.

No public comment.

LPA Member Critser moved to approve the request with the findings and conditions of the staff report and noted that the open-air structure was removed; second by LPA Member Vanasse.

Motion passed unanimously with Chair Heil excused.

C. VAR20210058 506/508 Carlos Circle Variance for Pool Location and Street Setback

Recommend Approval of VAR20210058 506/508 Carlos Circle Variance for Pool Location and Street Setback

Ex parte communication: All LPA Members disclosed a drive-by or Google maps.

Jack Holsem, owner, displayed a site plan. He questioned a condition requiring a 10-foot buffer from the property line inward. He noted it was a small yard and bushes would be up to the edge of the pool. He preferred to place the bushes in the right-of-way or limit the buffer to three feet to make room for chairs around the pool. He requested using pavers up to the three-foot buffer. Mr. Holsem stated that he was aware they would have to meet drainage requirements.

Assistant Director Bengé reviewed the background of the request. He displayed a site map of 506/508 Carlos Circle. He noted that staff recommended approval with conditions. Director Green stated there was room for the pool to be shifted back or slid forward. Mr. Holsem testified that the distance from the house to the proposed pool was five feet, not 15 or 20 feet.

Director Green noted a neighbor sent a letter. He stated that the pool would butt up to the five-foot setback and would be behind the front facade of their house.

Public comment:

Mr. Holsem stated his street did not have any traffic and he requested that the buffer be reduced.

Dee Holsem commented that the spot was very secluded and there were only garages across the street so they would not be intruding on anyone. They planned on installing hedges.

Robert Burandt, a neighbor on Estero Blvd., stated that the house was a short-term rental and he was concerned about the noise.

Public comment closed.

Vice Chair Plummer supported increasing the 18-inch measurement around the corner for safety. LPA Member Vanasse noted there was room to redesign the pool. Town Attorney Herin, Jr. stated that the issue of the 18- inches was not before them; it was whether they wanted to reduce the buffer. LPA Member Critser supported the request and noted their other properties were spectacular.

LPA Member Vanasse moved to approve the request with the findings and recommendations from staff with one amendment to the condition to allow a three-foot encroachment to the ten-foot buffer at the corner of the pool and that the pool be no further than 10 feet from the home; however, if the pool was further than 10 feet from the home, the encroachment exception did not apply; second by LPA Member Critser.

Motion passed unanimously with Chair Heil excused.

D. SEZ20210050 Special Exception for Consumption on Premises and Video Arcade for Adults

Recommend approval/denial of SEZ20210050, a Special Exception for Consumption on Premises (2COP) and Video Arcade for Adults Attorney Robert Burandt represented Suzanne Bahan, who could not be present. He stated that the LDC (Land Development Code) did not specifically allow or disallow the use of an adult video arcade with consumption on-premises. He requested that outdoor seating be allowed since they did not plan on serving alcohol outside the confines of the existing structure. They did not plan on installing machines outside or providing entertainment. He stated that 185 Old San Carlos Blvd. had gone through many changes and the owner wanted to do something different on the beach.

He indicated there was no on-site parking, but spaces were available for rent across the street.

Assistant Director Bengé reviewed the request and noted the property was within 500 feet of Lynn Hall Memorial Park. Slides included: Property Information; Special Exception; Site Plan; Exception and Staff Findings and Recommendations. He noted that staff recommended approval with conditions.

Director Green stated that the code allowed them to provide off-site parking within 750 feet. Vice Chair Plummer questioned the adult video category. Director Green replied that adult entertainment was a use addressed in the code and this request was not that. Town Attorney Herin, Jr. added that the word *adult* was chosen because it was geared toward customers 21 years and older. Director Green commented that the state would regulate the type of machines. Attorney Burandt stated that he was not familiar with the machines, but they were popping up in the area. He understood that people paid money to play the videos and received a prize if they won.

Director Green stated it was not up to them to determine the legality of the machines. Town Attorney Herin, Jr. reiterated that it was an adult arcade, not adult entertainment.

Public comment:

Patrick Cooley, an adjacent business owner, stated that the adult arcade was a small gambling hall and would be the only bar in the area. He commented that the businesses were usually in low-income areas and he did not feel it was suitable for their area.

Public comment closed.

Vice Chair Plummer expressed concerns about the whole idea and questioned whether they wanted that type of business since it was not addressed in the code. Director Green replied that arcades, in general, were not addressed. Vice Chair Plummer felt the business would do better in another location with parking.

LPA Member Safford stated that a marijuana dispensary would be better suited to that location. He questioned whether people would spend their money in the area or stay at the arcade. Town Attorney Herin, Jr. noted that the code allowed the town to interpret uses not specifically stated. He directed them to the highlighted section on page 104 of their packet. He noted the first step was to determine whether it fit the definition in the code. LPA Member Vanasse felt that it did not fit into current definitions. It was up to Town Council to make a policy decision regarding whether they wanted that type of business on the island. He commented that if they felt it did not fit into a box, it became a recommendation for denial.

LPA Member Critser felt it was needed and he did not think it would be a sleazy business. He added that it would provide recreation for a particular age group. LPA Member Swanbeck agreed with LPA Member Vanasse and felt it was a bigger conversation. LPA Member Safford agreed that further discussion was needed and they did not have any public feedback. He felt that Town Council should make a policy decision. LPA Member Critser commented that if they did not disagree with the business but needed a clear picture of the policy, he could go along with that. He thought the business was needed.

Director Green reminded them they needed to decide on consumption on-premise. The majority of LPA Members did not have a problem with consumption on-premise.

LPA Member Vanasse moved to recommend denial based on the definition of the code that it did not fit in the commercial recreational use and needed further discussion and a policy decision from Town Council and he moved to recommend approval for consumption on-premise with a deviation from 500 feet, and no outdoor consumption with the recommendations and conditions for approval from staff; second by LPA Member Critser.

Motion passed unanimously with Chair Heil excused.

(LPA Member Vanasse left the meeting.)

VI. ADMINISTRATIVE AGENDA

No items.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Swanbeck revealed that she would not be able to continue her participation with the LPA.

Vice Chair Plummer indicated that they would celebrate and honor Dan Hughes at their next meeting.

Director Green noted that applications for renewal were due in September. No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS**A. Comprehensive Plan Level of Service Discussion**

Director Green stated that the memo outlined the policies in the Comprehensive Plan related to levels of service. He cited examples in the plan.

ITEMS FOR NEXT MONTHS AGENDA

Director Green noted several items would be on the agenda. He suggested they change the October meeting or skip it entirely due to potential new members and other conflicts. Town Attorney Herin, Jr. suggested allowing an hour for new member orientation at the October meeting. Director Green will check availability for the week of October 19-22, 2021.

X. PUBLIC COMMENT

No public comment.

XI. ADJOURNMENT

LPA Member Plummer moved to adjourn; second by LPA Member Safford.

Motion passed unanimously with Chair Heil excused. The meeting was adjourned at 11:02 a.m.

Minutes adopted as presented, September 14, 2021. Motion by LPA Member Safford and seconded by LPA Member Critser with LPA Member Vanesse excused. Passed 5-0.



Amy Baker, Town Clerk