



Fort Myers Beach Local Planning Agency

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

Minutes

Wednesday, October 20, 2021

1:30 PM

ORDER OF BUSINESS

DRAFT

I. CALL TO ORDER

Members present: Chair Megan Heil, Anita Cereceda, Forrest Critser, Scott Safford, Patrick Vanasse and Karen Woodson.
Excused: Jane Plummer.

II. INVOCATION

Chair Heil.

III. PLEDGE OF ALLEGIANCE

IV. SUNSHINE LAW, PUBLIC RECORDS, AND ETHICS

A. Town Attorney Presentation

Town Attorney Herin, Jr. reviewed the Sunshine Law, Public Records Law, Ethics Law and Ex Parte communications.
Community Development Director Jason Green provided handouts concerning rezoning, variances and special exceptions. He noted it was important to reference findings and considerations in motions. He reviewed the role of the LPA.

V. REORGANIZATION

A. Selection of Chair and Vice Chair

LPA Member Safford nominated Megan Heil for Chair; second by LPA Member Critser.
Motion approved 6-0 with LPA Member Plummer excused.

LPA Member Safford nominated Jane Plummer as Vice Chair; second by LPA Cereceda
Motion approved 6-0 with LPA Member Plummer excused.

VI. APPROVAL OF MINUTES

A. September 14, 2021

LPA Member Safford moved to approve the minutes; second by LPA Member Critser.
Motion approved 6-0 with LPA Member Plummer excused.

VII. PUBLIC HEARINGS

A. VAR20210073 6036-38 Estero Boulevard Pool Setback

Approve/Approve with Conditions/Deny VAR20210073 6036-38 Estero Boulevard Pool Setback

Town Attorney Herin, Jr. swore in those providing testimony for public hearings A and B. Ex parte communications: LPA Members Cereceda and Woodson utilized Google maps. No disclosures from other members. Chair Heil revealed the applicant had a scheduling issue and was unable to attend the meeting. Town Attorney Herin, Jr. recommended that the hearing be continued until the applicant could attend.

Chair Heil moved for a continuance to Tuesday, November 9, 2021, at 9:00a.m.; second by LPA Member Safford.
Motion approved 6-0 with LPA Member Plummer excused.

B. VAR20210039 71 Chapel Street Setback Variance

Approve/Approve with conditions/Deny VAR20210039 71 Chapel Street Setback Variance

Owner Ron Yanke described his property and noted he intended to demolish the current structure and build a two-story home.

Assistant Community Development Director Carl Bengé reviewed the property information, variance request, proposed building and staff findings and recommendations. He noted that staff recommended approval with conditions.

Sara Propst from Community Development clarified that the lot was existing and buildable. Assistant Director Bengé indicated that drainage would be reviewed but did not affect the variance request. LPA Member Safford questioned whether the applicant was aware that the roof overhang was the 10-foot marker, not the structure of the building. The applicant was not aware and was not in favor of the condition. Mr. Yanke stated that he would like to put the building at 10 feet. LPA Member Vanasse indicated that the LDC allowed for roof overhangs in setbacks. Assistant Director Bengé commented that the applicant planned to eventually install a pool in the back.

Public comment:

Susan Bonfigli, neighbor, questioned whether the overhang would block emergency vehicles on the narrow street. Assistant Director Bengel replied that the property line did not go all the way to the street. Mr. Yanke confirmed that the new structure would not go further than the current structure.

Public comment closed.

LPA Member Cereceda moved to approve the variance; the conditions justifying the variance are not the result of the applicant, that the variance granted is the minimum variance that will relieve the applicant of his burden and that the granting of the variance will not be injurious to the neighborhood or public welfare, the conditions of approval and the conditions or circumstances of that property are not general or recurrent and the staff conditions of approval 1-4; second by Chair Heil.

LPA Member Safford disagreed that the roof overhang should be included. LPA Member Cereceda indicated that the applicant could redesign the house to fit.

Motion approved 6-0 with LPA Member Plummer excused.

C. LDC Amendment, Subdivision V, Commercial Boulevard Zoning District
Recommend Approve / Deny Recommended Amendments to Land Development Code Subdivision V, Commercial Boulevard Zoning District.

Community Developer Propst presented recommended language to amend the CB zoning district provided in the packet of information. She clarified that she was referring to the entire Sea Grape parcel, not a particular business on the parcel. LPA Member Cereceda suggested that it would be helpful to identify all properties in CB zoning.

Public comment:

Attorney Beverly Grady from Roetzel and Andress represented the owner of 2815 Estero Blvd., adjacent to the Sea Grape Plaza across the street from the library. She noted that the CB zoning was the most restrictive she had ever seen. She distributed documents including a zoning map, aerials, a 1997 ordinance and a memo from Bill Spikowski. She reviewed the parcel's history and questioned whether a financial institution with five drive-thru windows qualified as retail. She noted the owner intended to open a furniture and design facility in the building. Attorney Grady questioned whether furniture, sales and design fell under retail. She stated that the sale of furniture was not listed in the permitted use section. She revealed that Wells Fargo sold the building with a deed restriction that it could not be used as a bank. She discussed the fact that five drive-thru windows had a more significant impact than an office. She shared specific language she drafted to address the situation. LPA Member Vanasse felt that a physical bank was

a retail use. Town Attorney Herin, Jr. commented that the proposed language in subsection A. of the agenda packet seemed to address the situation. Planner Propst felt that the proposed language submitted by Attorney Grady addressed the issue on the parcel.

LPA Member Vanasse questioned whether the code allowed for an expedient interpretation of use. Planner Propst replied affirmatively and described how Council could review the use. LPA Member Cereceda noted that the definition of financial institutions included products and services. Public comment closed.

LPA Member Vanasse moved to recommend approval of staff's recommended language and add language substantially similar to what Attorney Grady proposed with a recommendation to clarify the current parcel versus any historical parcel; second by LPA Member Cereceda. Motion passed 6-0 with LPA Member Plummer excused.

D. LDC Section 34-638, Minimum Setbacks and Size for Large Homes and Lots
Recommend Approve / Deny Recommended Amendments to Land Development Code Section 34-638, Minimum Setbacks.

Planner Propst provided options to address multiple lots being consolidated to build large homes in single-family neighborhoods. The first option included removing setbacks between individual lots and pushing them to the outside. She displayed a slide titled Option 1: Adding up the Setbacks for clarification. The second option and slide were examples of lot percentages, which Planner Propst felt was more proportionate. Community Development Director Green discussed losing the view corridors and Planner Propst displayed slides of building massing examples and a building massing diagram. Chair Heil questioned whether they could give property owners a carrot to keep the first floor open. Planner Propst replied affirmatively and read a setback exemption.

Director Green commented that they were discussing parcels, not lots, to prevent people from getting around regulations. LPA Member Vanasse discussed using specific terms and buyers had certain expectations when they purchased their property. Town Attorney Herin, Jr. indicated that Florida law stated that a property owner was not entitled to a particular type of zoning in perpetuity.

LPA Member Cereceda suggested including visual examples when they meet with Town Council. Discussion was held regarding dates for the joint meeting and the next LPA meeting.

No public comment.

E. LDC Text Amendment Article II Noise Control**Recommend Approve / Deny Recommended Amendments to Land Development Code Article II Noise Control**

Planner Propst stated that the building official was uncomfortable with the language, so it had to be reworked. Director Green commented that the building official indicated that nothing in the language worked. He noted that they could modify setbacks and provided examples.

LPA Member Vanasse suggested that new property owners be presented with ways to be good neighbors when designing their houses. LPA Member Cereceda agreed. Discussion was held concerning ways to try and buffer the noise.

VIII. ADMINISTRATIVE AGENDA - No items.**IX. LPA MEMBERS ITEMS/REPORTS**

Chair Heil brought up the old LPA action item list and questioned whether they could receive it in the future.

No items from other members.

X. LPA ATTORNEY ITEMS/REPORTS - No items.**XI. COMMUNITY DEVELOPMENT ITEMS/REPORTS**

Consensus was reached to meet with Town Council on November 1, 2021, and the next LPA meeting will be on Wednesday, November 17, 2021, at 2:00 p.m.

XII. ITEMS FOR NEXT MONTHS AGENDA - No items.**XIII. PUBLIC COMMENT** - No public comment.**XIV. ADJOURNMENT**

LPA Member Safford moved to adjourn the meeting; second by Chair Heil. Motion approved 6-0 with LPA Member Plummer excused.
The meeting was adjourned at 4:53 p.m.

Minutes adopted as presented, November 17, 2021. Motion by LPA Member Safford and seconded by LPA Member Plummer with LPA Member Cereceda and Critser excused. Passed 5-0.



Amy Baker, Town Clerk