



Fort Myers Beach Local Planning Agency

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

Minutes

Thursday, April 14, 2022

1:30 PM

ORDER OF BUSINESS

I. CALL TO ORDER

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

II. INVOCATION

LPA Member Critser.

III. PLEDGE OF ALLEGIANCE

IV. APPROVAL OF MINUTES

- A. Draft minutes March 22, 2022
LPA Member Woodson moved to approve the minutes; second by LPA Member Critser.
Motion passed 5-0 with LPA Members Cereceda and Heil excused.

V. PUBLIC HEARINGS

- A. VAR20220021, 292 Ohio Ave, is seeking a 3.5-foot variance for an in-ground pool closer to a side-yard property line.
Approve/Approve with Conditions/Deny VAR20220021. Jesse Hallman, owner of the property at 292 Ohio Ave., is seeking a 3.5-foot variance from LDC Sec.34-1174(d)(1)(d), to allow an in-ground pool closer to a side-yard property line than allowed for under current LDC requirements.

Town Attorney Herin, Jr. swore in those providing testimony.

Ex parte communications: All LPA Members disclosed a drive-by and LPA Member Woodson and Vice Chair Plummer spoke with the property owner, Jesse Hallman.

Attorney Beverly Grady with Roetzel & Andress represented Mr. Hallman. She utilized PowerPoint for her presentation and distributed a hard copy to LPA Members. Slides included: Request for Variance; The Legislative History of Ordinance 22-01; Memos to LPA; Council First Reading 1/10/2022 and Minutes; Council Public Hearing 2/7/2022; LDC 34-1174 Accessory Setbacks; Review of 292 Ohio Avenue; Gulf-Bay-View Subdivision Plat Book 8, Page 69; Site Plan; Current Side Setback 27' 6"; Accessory Structures Should be Encouraged and Pool Permit Per-dates Change in Ordinance 22-01. Attorney Grady requested that the variance be recommended for approval.

Community Development Director Jason Green noted that the side setbacks changed in 2021, which increased side setbacks to 10 feet for lots of this width. He explained how the measurements were taken. Staff recommended denial because the property had room for the pool in the backyard. Town Attorney Herin, Jr. stated that the property owner was seeking a side setback variance and discussions concerning rear setbacks were not relevant to the request. He cautioned LPA Members that site visits could not serve as a basis for their decision. He stated their job was to determine whether the applicant met the requirements of the code for the variance.

Director Green stated the pool was measured from 18" outside the water's edge. He verified that it would be 5 feet if it was on a non-waterfront property. Waterfront property used to be 10 feet, but now it is 11 feet because Town Council incorporated 15% of the total width. LPA Member Vanasse was surprised that the ordinance changed after the LPA made its recommendation to Town Council.

Attorney Grady indicated that the pool would not fit in the backyard. Mr. Hallman explained that a pool in the back would be too narrow. LPA Member Vanasse noted that the plans showed 15' 6" as the width of the pool, so they would be looking at a 3-foot variance for a pool width of 12 feet.

Mark Ludvigsen, neighbor, reviewed improvements made to the property. He stated the width of the pool area was only 11 feet, not 15' 6". He explained that if the pool were in the backyard, it would be 7 feet wide. He described previous communications regarding side setbacks.

Director Green stated that the principal structure setbacks on waterfront lots applied to all the structures. Town Attorney Herin, Jr. added that all structures had to comply with the code; however, the applied criteria was now 15% instead of footage. LPA Member Vanasse felt they needed to discuss de minimus issues.

Director Green stated that the property owner had room to design a functional pool on the lot if the stormwater area was moved. LPA Member Vanasse questioned where the pool could be placed. Mr. Ludvigsen described why the measurements did not allow them to put the pool in the backyard.

No public comment.

Vice Chair Plummer reviewed the criteria. LPA Members agreed that the variance request met the criteria.

LPA Member Vanasse moved that the LPA reviewed the variance criteria, believed the applicant met the criteria and recommended a 5-foot variance to allow a 6-foot setback; second by LPA Member Critser.
Motion approved 5-0 with LPA Members Cereceda and Heil excused.

- B. VAR20210114, 5155 Williams Dr, variance to reduce required side-yard setbacks for a garage and bedroom expansion by 5.5 feet and 7 feet**
Approve/Approve with Conditions/Deny VAR20210114, variance to reduce required side-yard setbacks for a garage and bedroom expansion by 5.5 feet and 7 feet. THE APPLICANT HAS REQUESTED A CONTINUANCE UNTIL AUGUST

VI. ADMINISTRATIVE AGENDA

Director Green stated the Historic Preservation Advisory Committee had a quorum and could meet next month. LPA Member Safford will give the HPAC records to the Town Clerk.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse discussed the 15% change made by Town Council that affected non-waterfront homes. LPA Member Safford noted the LPA discussion intended to help prevent the massing of homes. Director Green explained why the 15% and the 7,500 square foot footprint limit were discussed, modified and changed by the Town Council after the LPA's discussion.
No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

X. ITEMS FOR NEXT MONTHS AGENDA

CIP in May or June.

XI. PUBLIC COMMENT

No public comment.

XII. ADJOURNMENT

LPA Member Safford moved to adjourn; second by LPA Member Woodson.
Motion approved 5-0 with LPA Members Cereceda and Heil excused.

Meeting was adjourned at 3:12 p.m.

Minutes adopted as presented, May 31, 2022. Motion by LPA Member Woodson and seconded by LPA Member Safford, with LPA Members Heil, Critser and Cereceda excused. Passed 4-0.



Amy Baker, Town Clerk