



Fort Myers Beach Local Planning Agency

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

Minutes

Tuesday, June 14, 2022

9:00 AM

ORDER OF BUSINESS

I. CALL TO ORDER

Members present: Vice-Chair Jane Plummer, Forrest Critser, Scott Safford and 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 May 31, 2022

LPA Member Safford commented that some questions seemed to be missing during the public hearing discussion. LPA Member Vanasse clarified that he requested additional background information besides what was on the spreadsheet.

LPA Member Woodson moved to approve the minutes with comments and clarification; second by LPA Member Vanasse.

Motion passed 5-0 with LPA Members Cereceda and Heil excused.

V. PUBLIC HEARINGS

A. VAR20220031 177 Hercules Dr. Variances (4) Setbacks for new home, garage, and porch.

Approve/Approve with Conditions/Deny VAR20220031 for 177 Hercules Dr. allowing four variances for setbacks for a new home, garage and porch.

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

communications: LPA Member Vanasse - emails and drive-by; LPA Member Woodson - emails; Vice-Chair Plummer - two conversations with the applicant and drive-by; LPA Member Critser - emails and drive-by and LPA Member Safford - emails and familiar with the property.

Cynthia Shanosky, applicant, introduced architect John Orgren from MHK Architects. Ms. Shanosky indicated she was trying to build a small home on a large lot far from the water to protect the view corridor. She stated that the week after she submitted her design to the engineering firm, the town's code changed. She noted the new home design followed the intent of the new restrictions. She commented that the resident who opposed her request had not seen the design.

Ms. Shanosky utilized PowerPoint to continue her presentation. Slides included: Variance Request #1 - Proposed Design, Without Porch and With Porch; Variance Request #2 for 1 foot; Variance Request #3 - Side Setback Relief of 5 feet; Variance Request #4 - Accessory Structure vs. Rear Relief; 25' Setback Photo and Photo of Proposed Side Setback 3x That of any Neighbor.

Community Development Director Jason Green utilized slides to review the four variance requests and Existing Conditions; Buildable Area; Proposed Waterfront Elevation; Side Setback; Rear Setback; Ord. 22-01 Additional Setback Requirements; 3a. Additional Street Setbacks; 3b. Minimum Number of Structural Protrusions and Allow for Additional Length of Front Porch.

Director Green reviewed the criteria based on Section 34-87 and recommended denial for all variances. He added that proposed conditions were drafted. Vice-Chair Plummer questioned whether the need for a variance would change if the applicant detached the garage and left it in the same location. Director Green explained flood regulations and other possible conflicts. LPA Member Vanasse clarified that if the garage was attached, it was a primary structure, but if it was detached, it was an accessory structure. Director Green explained the waterfront requirement and indicated it was greater than the variance request proposed by the applicant.

LPA Member Vanasse questioned the timing issue of the application submittal and whether the ordinance provided relief to applications in process. Director Green noted that the change to the code applied to homes 7,500 feet or larger and was not related to Ordinance 22-01.

Town Attorney Herin, Jr. explained that the LPA could not go outside the relevant criteria and consider something else when determining whether to grant or deny the variance(s). LPA Member Vanasse questioned whether a deviation process could be used to provide relief. Director Green replied affirmatively.

Vice-Chair Plummer questioned whether the design would have been approved before the changes. Director Green responded negatively and indicated the rear setback was not changed and the other three requests were related to 22-01.

LPA Member Vanasse questioned the location of the live oaks. Mr. Shanosky replied that the oaks were to the west of the small cottage structure

and to the south towards Hercules. The garage was pushed back to save the oaks. LPA Member Safford questioned whether the trees would be in the way if the garage was moved back. Mr. Shanosky replied that a gap was between the trees for a driveway. LPA Member Vanasse questioned whether everything could be shifted four feet closer to the water. Mr. Shanosky replied that if the variance was denied, they would detach and rotate the garage, which would force them to build the house 24 feet forward.

Mr. Orgren stated that the garage was a separate structure and felt it met the rear setback for an accessory structure. The 35-foot setback from Hercules to the front of the garage was for the master suite above it. He noted the porches were longer than the new requirements to make them more functional.

Ms. Shanosky mentioned they were away from the park and the neighbor who would be affected by the rear setback supported the request. She indicated it would be very costly for them to reconfigure the plans.

No public comment.

LPA Member Vanasse empathized with the applicants but noted they had to follow the criteria for a variance process. He indicated they could build a reasonable home on the footprint and there was no hardship. He added that he could support a deviation.

LPA Member Woodson appreciated what the applicants were trying to do, but she did not know how they could get around the requested variances. LPA Member Safford questioned the deviation process. LPA Member Vanasse responded that the process was time-consuming and costly. He recommended that staff create a hybrid process between the deviation process and variances in the Comprehensive Plan. Discussion was held regarding the history of deviation requests for single-family residences.

Vice-Chair Plummer felt it was a unique situation and the applicants were trying to make the neighbors happy and save the oaks. However, she noted they could move the house four feet forward without changing the design, which would relieve the back and side setbacks. She did not think it was injurious to the neighbors and did not think it was a common plan. She felt that adding the porch made the house more interesting. Director Green stated that even if the house was moved four feet, the length of the structure and an additional 12 feet required a variance.

Town Attorney Herin, Jr. suggested tabling the matter to allow the applicants to reconfigure their plans and return to the LPA. The discussion was held regarding whether the canopy of live oaks had to be preserved. LPA Member Vanasse questioned whether staff would look at the tree ordinance for verification.

LPA Member Critser empathized with the applicants and felt the design was beautiful. He noted that the views were not blocked from the neighbors and would vote to approve the variances.

LPA Member Safford felt the design was unique but questioned whether it was extraordinary except for the park and trees. He recommended tabling the hearing and having the applicant return with a slightly modified design.

Town Attorney Herin, Jr. read the section of the code that addressed unique and extraordinary circumstances. He noted that whatever was next door was not inherent to the property.

Director Green stated that the footprint was 65 x 30 plus a 10-foot encroachment of the 35-foot-long porch, and they could build a 3,600 square foot house by code. He requested a five-minute recess to discuss timelines with the applicants and the architect.

LPA Member Vanasse moved to recommend denial based on the criteria; second by Vice-Chair Plummer.

Motion failed 4-1 with LPA Members Cereceda and Heil excused.

LPA Member Critser moved to recommend approval of the variances as presented by the applicant and they met all five of the criteria; second by Vice-Chair Plummer.

LPA Member Safford struggled with the side setback and the porch.

Motion failed 4-1 with LPA Members Cereceda and Heil excused.

The discussion was held by all parties on how to move forward.

Vice-Chair Plummer moved to approve the rear setback variance because it met the criteria and deny the other three variances; second by LPA Member Woodson.

Motion carried 5-0 with LPA Members Cereceda and Heil excused.

LPA Member Vanasse requested that administrative deviations be evaluated and a percentage deviation from setbacks. Director Green replied that the staff was working on it.

VI. ADMINISTRATIVE AGENDA

Director Green suggested a meeting late in July instead of August 9, 2022 and will contact members regarding availability.

VII. LPA MEMBERS ITEMS/REPORTS

LPA Member Woodson questioned the status of licensing jet ski and parasail businesses. Town Attorney Herin, Jr. replied that staff was working on it.

Vice-Chair Plummer reminded members that financial paperwork was due.

No items from other members.

VIII. LPA ATTORNEY ITEMS/REPORTS

No items.

IX. COMMUNITY DEVELOPMENT ITEMS/REPORTS

Director Green revealed that Chair Heil resigned because she moved off the island.

X. ITEMS FOR NEXT MONTHS AGENDA

Several items were in the works.

XI. PUBLIC COMMENT

No public comment.

XII. ADJOURNMENT

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

The meeting was adjourned at 11:14 a.m.

Minutes adopted as presented, August 9, 2022. Motion by LPA Member Safford
and seconded by LPA Member Vanasse with LPA Member Critser excused.
Passed 5-0.



Amy Baker, Town Clerk