

Fort Myers Beach Local



Planning Agency

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

Minutes

Tuesday, August 9, 2022

9:00 AM

ORDER OF BUSINESS**I. CALL TO ORDER**

Members present: Vice Chair Jane Plummer, Anita Cereceda (via phone from Spain) Scott Safford, Patrick Vanasse and Karen Woodson.

Excused: Forrest Critser

II. INVOCATION**III. PLEDGE OF ALLEGIANCE****IV. APPROVAL OF MINUTES**

A. Draft minutes June 14, 2022

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

Motion passed 5-0 with LPA Member Critser excused.

V. PUBLIC HEARINGS

A. VAR 20210114 Approve/Approve with Conditions/Deny; 5155 Williams Drive to allow a garage and habitable space 5.5-feet and 7-feet --respectively-- closer to a side-yard property line than allowed-for under current LDC requirements.

The applicant is seeking variances from LDC Sec. 34-638 (Table 34-3), to allow a garage and habitable space closer to a side-yard property line

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: Vice Chair Plummer and LPA Member Safford disclosed a drive-by. No disclosure from other members. Vice Chair Plummer read the

title of the variance.

Jason Smalley from Planning and Zoning reviewed the variance request. LPA Member Safford questioned what the setback would have been under the previous code. Mr. Smalley replied that he would have to clarify because he reviewed the request under the existing code. LPA Member Cereceda requested clarification of the setback.

Mr. Smalley replied that it would have required 13 feet under the current code because it was an addition to the primary structure. He noted the two variances were to expand the house. LPA Member Vanasse explained the 30% setback and noted that the applicant requested setbacks plus or minus two feet. Mr.

Smalley appreciated LPA Member Vanasse's point but indicated that the living space in the rear of the house would still require a reasonably large variance request.

Applicant Marc Jones stated that he bought the home for his retirement. He thought the setback was 7.5 feet and explained how he intended to expand the back area and garage for new living areas. He stated that he did not think his neighbor objected to the expansion of the rear corner.

LPA Member Woodson questioned whether Mr. Jones would consider redesigning so there would not be such a large variance. Mr. Jones responded that there was no space to expand the house on the other side. He stated that his lot was pie-shaped and the front had more room. He noted there could be some design changes, but it would significantly affect the master bedroom and bath.

LPA Member Cereceda clarified that 30% was not an option because the variance request was just that. Town Attorney Herin, Jr. replied that LPA Member Vanasse was correct with his 30% analysis, but that was not before the LPA. LPA Member Cereceda suggested they table or continue the request to allow the applicant to come back with a new plan. She stated that the project did not meet the criteria for a variance request. Mr. Jones responded that he did not think there was a way to redesign the space to fit what they wanted in the building. He did not think it was an unreasonable request. Vice Chair Plummer stated that the LPA could not change the criteria for him and referred to the findings and conclusions in the report.

LPA Member Vanasse explained how the 30% setback applied to his property. After discussion, Mr. Jones agreed to work with the town planners on a redesign, but he did not want to have to hire an architect or engineer. LPA Member Vanasse recommended that Mr. Jones reviews the code when planning his changes. Town Attorney Herin, Jr. explained why hiring an architect or engineer would help the applicant with the design. Mr. Jones stated that he consulted with two contractors who reviewed the structure and felt the proposed changes were doable. LPA Member Cereceda commented that the LPA needed something on paper.

Public comment:

Scott DePaul, a next-door neighbor, was against any construction on the south side of the applicant's property. Vice Mayor Plummer stated that construction by the pool was not part of the applicant's plan.

Public comment closed.

LPA Member Cereceda moved to continue the hearing until November 8, 2022, at 9:00 a.m.; second by LPA Member Safford.

LPA Member Safford discussed the unintentional consequences of changing the setbacks and felt they had to consider amending the code again. Town Attorney Herin, Jr. suggested that the LPA direct staff to add the discussion to their next agenda. LPA Members Cereceda and Safford agreed with LPA Member Vanasse.

Motion passed 5-0 with LPA Member Critser excused.

B. Comprehensive Plan amendment to adopt a Property Rights Element **Recommend transmittal and approval of the Property Rights Element as an amendment to the Comprehensive Plan**

Community Development Planner Sarah Propst reviewed the property rights element and noted the language reflected the language of the law. Staff recommended that the LPA recommend approval of the property rights element to the Town Council. LPA Member Vanasse questioned the timing of the action. Planner Propst explained that the property rights element had to be adopted before they could process future amendments to the Comprehensive Plan.

LPA Member Vanasse moved to approve; second by LPA Member Safford. Motion passed 5-0 with LPA Member Critser excused.

C. Newton Park CPD Amendment

Newton Park CPD Amendment to Conditions of Approval and Adoption as an Ordinance

Planner Propst reviewed the amendment. Newton Park requested the opportunity to serve alcohol without a special permit. She added that the department received two letters of objection from adjacent property owners. Staff recommended that the LPA recommend approval.

Town Attorney Herin, Jr. swore in those providing testimony. Ex parte communications: LPA Member Safford stated that he walked by the property almost daily. No disclosures from other members.

Planner Propst summarized the letters of objection. Town Attorney Herin, Jr. explained that alcohol was currently allowed on the property and the amendment would remove the special event permit requirement. LPA Member Cereceda noted that the amendment was consistent with what the LPA did at the Mound House but conceded that the Mound House was not germane to the discussion.

LPA Member Woodson stated that they were not discussing the sale of alcohol as the letters of objection indicated. LPA Member Safford addressed the letters and noted it was a policing issue. He felt there were not enough police to enforce the laws. He commented that the letters did not have anything to do with the amendment request. No public comment.

LPA Member Woodson moved to approve and modify condition number 7 to allow the park to be operated similar to the changes made in recent years to the Mound House and consistent with the Town Council operational directions; second by LPA Member Safford.

Motion passed 5-0 with LPA Member Critser excused.

VI. HISTORIC PRESERVATION

A. 171 Egret St Request for Historical Recognition

171 Egret St, Request for historical recognition of a single-family structure, originally constructed in 1961 and subsequently remodeled. Mr. Smalley noted the department received several applications and staff requested guidance regarding how

the LPA would like to receive future applications. He reviewed the application and noted staff could not establish

the scope of work on the structure or whether the structure met the requirements. The owner did not respond to requests for more information or to attend the meeting. LPA Member Vanasse questioned the status of the Historic Preservation Advisory Committee. LPA Member Safford stated that HPAC would typically review applications. He noted that Recognition designations required the home to be at least 50 years old. Town Attorney Herin, Jr. recommended that both applications be tabled so staff can verify that HPAC must review the applications before presenting them to the LPA.

LPA Member Safford moved to table both applications; second by LPA Member Vanasse

Motion passed 5-0 with LPA Member Critser excused.

B. 139 Palermo Cir Request for Historical Recognition

139 Palermo Cir, Request for historical recognition of a single-family structure, originally constructed in 1953 with multiple subsequent renovations.

LPA Member Safford moved to table the application; second by LPA Member Vanasse

Motion passed 5-0 with LPA Member Critser excused.

VII. ADMINISTRATIVE AGENDA

LPA Member Cereceda had to leave the meeting. No agenda.

VIII. LPA MEMBERS ITEMS/REPORTS

LPA Member Vanasse made a motion, but before it was seconded, Town Attorney Herin, Jr. suggested that the LPA hear from Planner Propst regarding changes to the setbacks. Planner Propst explained the change between the first and second hearing to the Town Council. Vice Chair Plummer indicated that the change affected small lots that the LPA did not want. LPA Member Vanasse suggested looking at an administrative review, variance, or deviation process where they could add tolerances and avoid a public hearing. Vice Chair Plummer suggested that the LPA address the topic in October. LPA Member Vanasse discussed staff helping applicants to come up with potential alternatives to their application rather than just saying no. He questioned whether they needed to hire more staff to offer a better service. Town Attorney Herin, Jr. responded that staff did spend time with applicants to come up with solutions to issues; however, the applicants did not always agree with the solutions.

Mr. Smalley questioned how they would flex measurements on an existing structure. LPA Member Vanasse replied that his comments were not specific to any case or staff member, but the feelings he heard expressed were that Town Hall started with a no. He felt that it would be great if the perspective was changed to indicate that the town wanted to work with applicants to eventually come up with a yes. Town Attorney Herin, Jr. discussed a previous application that was continued by Town Council.

LPA Member Woodson stated that November 8 was election day and questioned changing their November meeting.

LPA Member Vanasse stated that the LPA still did not receive more detail regarding the budget and they would not have a chance to discuss anything before it went to Council. Vice Chair Plummer noted she would like to have the details so the LPA could understand the budget. LPA Member Vanasse stated that he would attend the budget meetings and voice his opinion as a resident. He questioned whether the LPA should have a say on some of the items coming up with the budget. LPA Members Safford and Woodson supported allowing LPA Member Vanasse to represent the LPA at the Town Council meeting.

Planner Propst stated that she would get the numbers for the LPA. No items from other members.

IX. LPA ATTORNEY ITEMS/REPORTS

No items.

X. COMMUNITY DEVELOPMENT ITEMS/REPORTS

No items.

XI. ITEMS FOR NEXT MONTHS AGENDA

No specific items.

XII. PUBLIC COMMENT

No public comment.

XIII. ADJOURNMENT

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

Motion passed 5-0 with LPA Member Critser excused.

The meeting was adjourned at 10:44 a.m.

Minutes adopted as presented, September 13, 2022. Motion by LPA Member Cereceda and seconded by LPA Member Safford with Member Critser absent. Passed 6-0.



Amy Baker, Town Clerk