

A Meeting of the Board of Adjustment was held on Wednesday, July 29, 2009 at 2:00 p.m. in the City Commission Chambers at 155 Corey Avenue, St. Pete Beach, Pinellas County, Florida.

Pledge of Allegiance

Roll Call

Present: Doug Lampe, Park Lampson, Steve McFarlin, Richard German, Director of Community Development Karl Holley and Deputy City Clerk Pamala Prell

Absent: Paul Skipper

Call to Order

Mr. McFarlin called the meeting to order. He explained the rules and procedures for the meeting and swore in those audience members who intended to speak regarding a case on the agenda.

Mr. Holley pointed out that there were several letters provided to the board members regarding cases on the agenda. He asked the members to review the letters. Copies of these letters are on file in the Planning Department's records.

Case #20090023 Application of Eileen and Michael Guenther for property located at 111 10th Avenue. Owners request reduction of required rear yard setback from 20' to 8.36 feet and reduction of required side yard setback from 7' to 4.5 feet for construction of a carport.

Mr. Holley explained the application which is on file in the Planning Department's records.

Ms. Eileen Guenther, 111 10th Avenue, explained that they have a detached garage off the alley and next to it is a concrete parking pad for their two cars. She explained that they park in the rear of the property because most of the traffic for the Historic Museum (on 10th Ave.) parks in front of their house. She stated that when they re-roofed the garage they found newspapers from 1929 which was the lining of the roof. She disclosed that the structure is contributing to the Pass-a-Grille Historic District. She explained that the garage has two wooden barn doors that open with a 2x4 that holds the doors closed. She stated that she would like to put up a carport on the concrete pad with a metal roof like the garage has. She advised that the house is being re-roofed with a metal roof so it all matches. She stated that the roof of the carport will match the garage.

Mr. McFarlin asked for audience comments. There were none. Mr. McFarlin closed the public session.

Mr. Lampe stated that he looked at the property and he felt that the carport would be compatible with the other structures on the property.

Mr. Holley requested that the board make a requirement that the architectural character of the carport be consistent with the architectural character of the garage.

Mr. Lampson made a motion to approve the variance as requested including that the carport roof will be compatible with the roof system that is existing. The motion was seconded by Ms. Pray. The motion was approved by a unanimous roll call vote.

Case #20090024 Application of William R. Zalla for property located at 2931 East Vina Del Mar Boulevard. Applicant request increase in the allowable structure height from 30' to 31' 5" for construction of a residence.

Mr. Holley explained the application which is on file in the Planning Department's records.

Mr. Zalla, owner/applicant, stated that he would like to be allowed to have the point of the roof 1'5" higher than the existing code requirements.

Mr. McFarlin asked Mr. Zalla what his hardship was.

Mr. Zalla stated that in order to comply with FEMA and go 2 inches above the 100 year flood zone to build a three-story home if can't be done with a lower roof pitch and lower ceilings. He testified that he will have nine foot ceilings on the first level and eight feet ceilings on the second level. He explained that the first level has 12" beams and 12" AC/heat ducts, so that makes it 7'11". Mr. Zalla stated that the height increase was not for the entire structure just one point of the roof.

Mr. Holley reported that he has reviewed the plans that were submitted with the variance application. Upon inquiry, Mr. Holley advised that there is only one variance being requested by the applicant.

Mr. McFarlin stated that he felt that the hardship was created by FEMA and insurance regulations. He stated that he thought that the request was reasonable.

Mr. McFarlin asked for audience comments. There were no comments and Mr. McFarlin closed the audience comments.

Mr. Lampe stated that if the variance is approved that he would like to have the facts, as presented by Mr. Zalla, verified before a vote is taken.

Mr. McFarlin asked if the case could be continued. Mr. Holley advised that the case could be continued.

Mr. Zalla stated that the drawings are complete and if the variance is granted they will be submitted to the Planning Department. He testified that they did not submit any drawings because they were waiting for the outcome of the variance request. He testified that his intent today was to apply for a permit if the variance is granted.

Mr. McFarlin recessed this case to the end of the meeting to allow Mr. Zalla time to go get the drawings for the board to review. Mr. Zalla agreed to get the drawings and return to the meeting.

Case #20090025 Application of Chuck Fest for property located at 266 South Tessier Drive. Owner requests increase in the allowable residential dock length from 34' to 58' for reconstruction and enlargement of an existing dock.

Mr. Holley explained the application which is on file in the Planning Department's records. He also pointed out that the applicant is also requesting a variance to the side separation requirement for the boat dock. He asked the board to consider if they wanted to hear the variance for the boat lift at this time or whether they want to do it at another meeting. Mr. Holley advised that all legal requirements have been met and the case can be heard at this meeting, based upon the advice of the City Attorney.

Mr. McFarlin pointed out that he thought that there were three variance requests in the application. He stated that they were tie poles, dock, and boat lift.

Mr. Fest, 6617 Valee Drive, Tampa, owner/applicant testified that there currently is a dock on the property but his boats do not fit. He stated that his hardship was the depth of the water. He testified that at low tide the dock was out of the water. He disclosed that there are two boats he wants dock. He explained that the current dock sticks out 40 feet and the sides of the dock are within the setbacks. He stated that the tie poles for the boat are at the end of the dock. He submitted photos of other docks in the neighborhood that are in very close proximity to his dock which variances have already been granted. He pointed out that two houses down from him the tie poles are less than 5 feet from the adjacent neighbor. He stated that his neighbor to the west has a tie pole on his property line and causes a nuisance for him to get his boat to the dock. He explained that his boat has been tied to the existing dock; he showed photos of the boat tied to the existing dock. He testified that the proposed dock is 2 feet lower than the current dock and will improve the neighbors view. He stated that his dock builder was in attendance to answer any questions. He stated that his hardship was the water's depth and that he did not want to dredge and disturb the oyster beds near the dock or his neighbors. He stated that he has made many renovations to improve the property which should increase the taxes.

Dennis Walker, 111 145th Avenue, East, Madeira Beach, stated that he works for D&J Marine Construction who is building the dock. He testified that the boat has a draft of 4-5 feet and they can't get that water depth without the variance request, which is the minimum needed.

Mr. McFarlin pointed out that there were no signatures from his surrounding neighbors on the drawing for the proposed dock.

Mr. Fest testified that his neighbor to the west of him lives in North Carolina and he sent them documents and they were never returned. He stated that the house has a renter and he did not have a problem with the proposed dock. He also testified that the neighbor to the east of him is objecting to the dock and sent a letter after the application was already submitted to the City.

Mr. Lampe disclosed that the neighbor who lives in North Carolina sent the City a letter opposing the dock.

Mr. Holley stated that the sign off by the neighbors is for administrative approval and not for board action.

Mr. Fest stated that his understanding was that the tie poles are part of the dock structure and that variance is part of the dock variance request.

Mr. McFarlin stated that the City addressed this issue over one year ago and there was an ordinance passed that changed the language from keeping docks in the center third of the lot and not going over half of the length of the water front; to keeping docks in the center-half of the property; the tie poles were the issue and the City was getting many requests for variances. He pointed out that the new rules would allow Mr. Fest's dock to extend out 34 feet without a variance.

Mr. Fest stated that his boat is 37 feet long and it won't work unless he dredges. He stated that if he moves the tie poles to 34 feet he could not get the boat in and out because of the neighbors' docks.

Mr. McFarlin asked if there was anyone who wished to speak against or in support of the application.

Ms. Brenda Green, 306 S. Tessier Drive, stated that by power-of-attorney that she is representing her mother Dorothy Green who is an adjacent neighbor. She testified that their family has owned the house for almost forty-years. She testified that their property is immediately adjacent to Mr. Fest's property and the most affected by his proposal. She pointed out the proposed boat lift would be within five feet of their property line. She testified that her first contact with Mr. Fest was in the form of a letter that he placed in her mother's mailbox saying "he wanted her support on the improvements he wanted to make on this retirement home". She testified that when she called to explain to Mr. Fest that her mother was recovering from surgery "he responded by saying that he could bring the approval forms right over for her signature". She stated that after consulting with a Dock Contractor and City Code Officials about his plan, she sent him a letter on her mother's behalf on July 24, 2009, declining to approval his proposal and advising him of her mother's preference not to have the view of the canal downgraded. She testified that the board members should have a copy of the letter. She stated that the letter asked him

to modify his design "in keeping with the existing code". She testified that she then received a second letter from him in which he stated "that she was confused", she replied in writing "that again my mother declined to approve". She stated this was followed by a brief encounter with him, over the side yard hedge, where he stated "he would put the boat up on a lift and their view certainly would be obstructed". She stated that "we strongly oppose his plans to build an over-the-top extravagant structure completely out of character with the existing surroundings and we do not want our view of the little canal downgraded". She stated that she was also concerned about safety and navigation issues from their own dock if Mr. Fest installs his landing pier. She stated that she disagreed that there would not be any navigation problems created by the proposal. She also did not agree that his property renovation would enhance the neighboring properties and asked that the Board deny his request.

Mr. Tim Nelson, 246 S. Tessier Drive, stated that he did not support the project. He explained that he did get a variance for his dock because he did not want to block the view of this neighbors and he put his boat lift on an angle. He also stated that he has trouble getting his boat out because of the water's depth. He explained that if you plan the tides right you can get the boats out. He testified that Mr. Fest has had his boat at his dock several weekends and did not seem to have any problem docking the boat. He stated that his proposed dock is going out to far and the dock is oversized, he felt that it would hurt the property values and would set a precedent. He stated that this is a quiet family-based residence neighborhood.

Mr. Stewart Hostetter, 235 S. Tessier Drive, stated that he agreed with the previous speakers and did not support the request. He testified that he lives across the street from Mr. Fest's residence. He pointed out that the applicant has recently purchased the home and he should have considered the depth of the water before buying the home. He stated that he felt the request was excessive. He asked that the Board not approve the variance.

Ms. Bonita Jerrod, 305 S. Tessier Drive, stated that she objects to the variance request because it will have a negative impact on the neighborhood. She stated that she felt that Mr. Fest's boat was too large for the canal. She requested that the Board deny the request for the variance.

Todd McGaughey, 255 S. Tessier Drive, stated that he felt that the dock is excessive for the small canal and that it would block views and harm wildlife and also cause problems for boats that want to turn around in the small canal. He requested that the variance be denied.

Mr. Fest stated that he felt that his neighbors are confused because he is not increasing the size of the existing dock. He testified that he was asking for a 40 foot main structure and tie poles that go out farther than what exists now. He testified that he is not going any further out than any of his neighbors' docks. He testified that his boats don't have "bridges or tuna towers" on them. He stated that the boat that will be on the lift is a "flats boat". He testified that at high tide from the top of the seawall to the water level is three feet, which is as high as the water gets. He testified that he felt because the neighbors

had docks similar to what he needs he did not think there would be a problem with this request. He testified that his proposed dock is lower, nicer and smaller than the existing dock. The tie poles are the main issue. He stated that if anyone has a better idea that he is open to suggestions. He stated that he would like to show the drawings to Ms. Green so she would see exactly what he was proposing.

Mr. Dennis Walker stated that he did not understand why Ms. Green supported the variance to her neighbor on the left for the dock to be three feet from the lot line. He pointed out that the aerial photos show that the dock is similar to what is already in the neighborhood. He testified that the Maximo Marina canal is only 250 feet across and they have large boats than Mr. Fest and the canal behind his property is 270 feet across. He testified that the current dock is 12 x 40; which is 480 sq feet, which is what is being proposed just in a different configuration. He pointed out that he felt that the testimony today from the neighbors may have been "a bit orchestrated, because they said the same things".

Mr. McFarlin closed the public comments.

Mr. Lampson stated that he looked at the docks in the neighborhood. He stated that he understood the hardship because of the depth. He stated that he "tentatively" agrees to the dock but not the boat lift in its proposed location.

Ms. Pray stated that she felt that when the neighbors did not approve that the application should have not have been filed until all the neighbors agreed with the proposal, especially the boat lift. She stated that there is another large boat in the canal and if that boat can get in and out Mr. Fest should be able to get his in and out. She did not support the request as presented.

Mr. Lampe stated that he "takes issue with the neighbors questioning the man's character about when he uses his property, he bought it, it's his right to use it whenever he wants to". He stated that he was concerned that the boat lift could be changed in the future to hold a different type of boat rather than a flat boat. He stated that he would support the request if the boat lift is removed.

Mr. McFarlin stated that he felt that the water is shallow and variances have been granted before and sometimes the County will require docks to go out farther because of the water depth. He pointed out that the City has just modified their dock ordinances to be located in the center-half of the property. He stated that he has to consider the neighbors opinions. He stated that he felt that the structure needs to remain in the center-half of the property because both property owners are objecting to the request. He asked that they present something to the Board with the dock in the center-half of the property.

Mr. Lamp stated that he felt that the boat lift should be eliminated and then try to center the dock as Mr. McFarlin suggested.

Ms. Pray felt that Mr. Fest should bring back a proposal that his neighbors support.

Mr. Holley pointed out that if the dock extends greater than 35 feet, even in the center-half of the property, it would still require a variance.

Mr. McFarlin and Mr. Lampe both stated that they felt having the dock located in the center-half of the property would cause less impact on the neighbors, than the current proposal.

Mr. Lampe stated that he would like to see the boat lift eliminated and try to center the dock.

Mr. Fest pointed out that the tie poles are set outside the boat because "there is a tie pole on his property line from the neighbor, directly off his anchor pole". He displayed photos to show the tie poles. He testified that the neighbors' tie poles are in the way of him getting his boat anchored.

Mr. Lampe suggested that Mr. Fest bring back another plan that his neighbors support. He pointed out that the City received 11 letters in opposition in addition to the audience comments.

Mr. Fest asked if he could get a variance for the distance, if he can fall within the side setbacks.

Mr. Lampe suggested that Mr. Fest remove the boat lift and reapply for next's months hearing.

Ms. Pray made a motion to deny the variance, without prejudice as requested. The motion was seconded by Mr. Lampe. The motion was approved by a unanimous roll call vote.

Case #2009-0026 Application of Bruce and Karen Turpin for property located at 402 Pass-a-Grille Way. Owner request reduction of required side yard setback from 4.2 feet to 2.8' for construction of a residential addition.

Mr. Holley explained the application which is on file in the Planning Department's records.

Ms. Karen Turpin, 402 Pass-a-Grille Way, testified that the application was for an addition to the home to add a master bathroom. She stated that the variance is being requested so they can continue the line of the existing house so that it does not look like an addition. She pointed out that in order to meet the side yard setbacks the addition would have to be "squeezed in" and would look like an addition. She stated that she wanted to maintain the historic look of the house, so that the addition fits the look and charm of the area. She submitted a letter of support from their neighbor. She disclosed that the home is not on the Historic Register but was in the Historic District. She pointed out that the addition would be the same height and the same roof line.

Mr. McFarlin pointed out that a few months ago a variance was approved for a garage addition that was "set back". He did not feel this request would have any impact on the surrounding neighbors.

Mr. McFarlin called for public comments regarding this case. There were no comments. The public session was closed.

Ms. Pray made a motion to approve the variance application as presented. The motion was seconded by Mr. Lampe. The motion was approved by a unanimous roll call vote.

Case #20090027 Application of Laura Bentinch-Smith for property located at 5409 Leilani Drive. Owner requests reduction of rear yard setback from 20' to 13' for construction of an accessory structure.

Mr. Holley explained the application which is on file in the Planning Department's records. Mr. Holley pointed out that the application is requesting a two foot reduction, when in fact it is a 7' reduction. He explained that the Code provides for accessory structures to encroach 5 ft into the required rear setback; but there is a provision in another section of the Code that specifies that unenclosed accessory structures in waterfront yards must meet the full waterfront yard setback of 10 feet; so the reduction is from 20' to 13'.

Ms. Bentich-Smith, 5409 Lelani Drive, stated that she was under the impression that they needed a 2 ft variance when actually, as Mr. Holley pointed out, is 7 feet.

Mr. Holley pointed out that the structure is already there so the neighbors know where the structure is located.

Ms. Bentich-Smith stated that the tiki-hut is located on the side of their home near the road and is not blocking the neighbors view; there are trees going from the corner of the seawall; there is a vinyl fence that continues to the house. The tiki-hut is hidden by the trees and the neighbors have no objection to its location. She disclosed that without the variance the tiki-hut will be in view of the neighbors. She stated that she wanted to have the tiki-hut under the shade trees. She disclosed that a paver pad was installed for the floor of the tiki-hut, which was permitted and inspected by the City. She stated that if the tiki-hut has to be moved back so will the paver pad. She pointed out that it will be expensive to redo the pad and the tiki-hut which will result in a financial hardship. She requested that the variance be granted. She showed photos of the tiki-hut and its location.

Upon inquiry, Ms. Bentich-Smith advised that the paver pad was installed within the last year. She advised that she did not know that the tiki-hut should be back farther, but they tried not to block anyone's view. She advised that "a Seminole Indian" who built the tiki-hut told her that they did not need a permit.

Mr. Holley pointed out that the Building Official observed that the structure was under construction and did not see a permit for the work. He stated that there is a Florida Law that exempts the Seminole Indian Tribe from obtaining and/or paying for permits from local jurisdictions; but the requirement only applies to properties that are owned by the Seminole Indian Tribes. Mr. Holley advised that an after the fact permit may be required which would be a decision that will be made by the Building Official.

Mr. McFarlin asked for audience comments.

Mr. Jack Samorajczyk, 5414 Lelani Drive, stated that he supports the variance and complimented them for the improvements made to the property. He pointed out that it did not obstruct any views. He advised that he did some on line research and found that "if the Seminole Indian builds a tiki-hut that they did not need a permit in the State of Florida". He pointed out that they stopped construction right away when the City asked them to.

Mr. Lampe stated that he was opposed to "asking for forgiveness and not for permission." He stated that he understands that people get incorrect information. He stated that he felt that the variance should be granted.

Mr. McFarlin stated that he visited the site and if the tiki-hut is moved it would be more in view of the neighbors. Mr. Lampe agreed.

Mr. Lampe made a motion to grant the variance as requested. The motion was seconded by Ms. Pray. The motion was approved by a unanimous roll call vote.

Case #20090024 Application of William R. Zalla for property located at 2931 East Vina Del Mar Boulevard. Applicant request increase in the allowable structure height from 30' to 31' 5" for construction of a residence.

This case was recessed until this time, when Mr. Zalla had the drawings of the structure for the Board to review.

The case was reopened at this time.

Mr. Zalla showed the drawings of the proposed structure to the board members, his comments were inaudible. He answered questions from the board members regarding the drawings.

Upon inquiry, Mr. Zalla testified that the proposed home was insurable, by Citizens Insurance Company of the State of Florida.

Mr. Lampe stated that he was not sure if there was a personal hardship, but the proposed drawings did present a hardship, but the structure could be re-designed.

Mr. McFarlin stated that he felt that regulations change all the time and some times the ordinances do not fit all of the proposed developments. He felt that Mr. Zalla is not being extravagant and he is asking for 1.5 feet of height on the tip of the building that would not impact any neighbors.

Ms. Pray made a motion to approve the variance as requested. The motion was seconded by Mr. Lampson. The motion was approved by a unanimous roll call vote.

Mr. Holley advised that at the next meeting there will be several sets of minutes on the agenda for approval by the Board.

Mr. McFarlin thanked Mr. Holley for his presentations of the cases by use of the ordinances, which he stated was helpful.

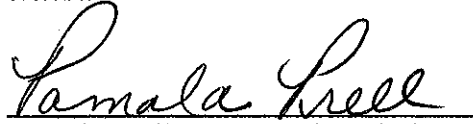
Adjournment

Being no further business, the meeting was adjourned at 3:45 p.m.



Paul Skipper, Chairman

Attest:



Pamala Prell, Deputy City Clerk