



Board of Adjustment

Meeting Agenda – January 26, 2011

Call to Order – 2:00 PM

Pledge of Allegiance

Consideration of Minutes: 12-15-2010

Variance requests:

1) Case # 20100044

Application of Gary Debaylo, agent for Linda Edwards, for property located at 5400 Pali Way. Applicant requests variance to Section 6.23(d)(3) to reduce required side setback from 55 feet to 15 feet for the reconstruction of a dock.

Additional Discussion

Adjournment

Next meeting 2-23-2011

APPEALS

If a person decides to appeal any decision made at this Meeting, they will need a record of the proceeding and, for such purpose, may need to ensure that a verbatim record of Meeting is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105) the city does not furnish verbatim transcripts; interested parties should make the necessary arrangements for verbatim transcripts.

Agenda Material is available for review at City Hall on the Friday preceding the Meeting. In accordance with the American's with disabilities Act and F.S. 286.26, persons with disabilities needing special accommodations to participate in this Meeting should contact Ed Pickhardt at (727) 363-9243 no later than four (4) days prior to the Meeting for assistance.

A **Meeting** of the **Board of Adjustment** was held **January 26, 2011 at 2:00 pm** in the City Commission Chambers at 155 Corey Avenue, St. Pete Beach, Pinellas County, Florida.

Call to Order

Chairman Skipper called the Meeting to order.

Pledge of Allegiance

Roll Call

Present:

Paul Skipper, Chairman
Doug Lampe
Park Lampson

Not Present:

Darrel Pray
Bill Thompson

Also Present:

Karl Holley, Director of Community Development
Pamala Prell, Acting City Clerk
Susan Churuti, City Attorney

1. Approval of Minutes

Mr. Lampson made a motion to approve the Minutes of 12-15-10 as written. Mr. Lampe seconded the motion. The motion was approved by a unanimous voice vote.

2. Case #20100044

Chairman Skipper called upon Ms. Churuti to comment on this case.

Ms. Churuti briefly explained why the Board is hearing this request. On June 29, 2004, a case was filed i.e., Linda Edwards vs City of St. Pete Beach; it has been working its way through the Court system and the City has been ordered into Court Mediation in this matter. Judge Case, a former Chief Judge of the Sixth Judicial Circuit, is the mediator and when he obtained jurisdiction of this case, he suggested that the Board of Adjustment hold a variance hearing before the case came before him to see if it can be resolved at the local level.

Ms. Churuti reported that the Board has an application by Gary Debaylo, agent for Linda Edwards, and that it should be considered like any other variance. She advised that the Board should not be thinking that one party or another has more equity in this matter. The Judge essentially said that as a matter of judicial economy the Court system would prefer that there be a variance hearing, if a variance was available. That was one of the defenses that was filed on behalf of the City that a variance should have occurred prior to the initiation of the litigation.

Ms. Churuti instructed the Board not to favor one party or the other and go through their normal variance procedure. It will require a vote of 2 to grant the variance since there is a quorum of 3 present.

Chairman Skipper called upon Karl Holley to present Case #20100044.

Mr. Holley introduced the application of Gary Debaylo, agent for Linda Edwards, for property located at 5400 Pali Way. Applicant requests variance to Section 6.23(d) (3) to reduce required side setback from 55 feet to 15 feet for the reconstruction of a dock.

Chairman Skipper asked the applicant to come forward.

Gary Debaylo, 6302 Ninth Avenue South, Gulfport, Florida, agent for Linda Edwards introduced himself.

Attorney Joseph Kenny stated that what they are requesting is a variance for an existing dock which has been in the same location for several decades. There have been attempts to relocate the dock within the required setback area unfortunately, due to the existence of sea grasses, the Pinellas County authorities will not issue the necessary permit to construct the dock. That is why they are requesting a variance to allow the dock to be reconstructed in the original footprint because, according to the Pinellas County authorities, that is where the sea grass is the sparsest and is where they will issue a permit for the reconstruction of the dock.

Attorney Kenny provided an Environmental Report issued by Pinellas County for the members of the Board.

Mr. Debaylo explained that the report is basically from the Environmental Management Division and they come out when you submit a dock permit if it's in an environmentally sensitive area.

Mr. Debaylo further reported that they applied for a permit to move the dock over to a certain distance that was okay with the neighbor at the time, the City approved it, all fees were paid and then the permit went to Pinellas County. When the County gets it, they send it to Environmental Management, they send out a Technician and they actually get in the water, survey all the grasses and came back with a report stating that the dock's best location would be in front of the existing dock. He pointed out that by looking at the drawing, the existing dock was actually only 8 feet from the property line and they moved it over as far as they could with the new dock to the sea grass side with the hopes that it would get approval. He reported that they reduced the size of the new dock by approximately 75 square feet and that on the existing dock there was two boat lifts and they are replacing them with a cradle lift.

Upon inquiry, Mr. Debaylo stated that the County did not issue them a permit instead they sent out the Environmental Management Technician. He disclosed that originally in 2004 they got a permit to replace the dock, they got a "stop order" once they tore the whole dock down and that is why they are here today. The City issued the "stop order" because if it's an existing dock that was previously permitted, and you do more than take down the railings and decking you need a new permit. He pointed out that St. Pete Beach also requires a signature from the neighbor for approval. He explained that there was some kind of confrontation between the owner and the neighbor at the time and the neighbor rescinded their signature on the project.

Attorney Kenny stated that he wanted to clarify a few points to make sure that the record is clear. He reported that the dock has been in the same location about 7 feet from the right property line since the late 60s. He disclosed that after 2004 and after the dispute between the owners occurred, there was an attempt to relocate the dock closer to the center property line and that permit was never issued by the County because of the sea grass. So the attempt today is just to re-construct the existing dock in the same exact footprint albeit slightly smaller, it doesn't take up as much surface area and is not as high.

Upon inquiry, Attorney Kenny stated that he was not aware of any option to relocate the sea grass in order to place the dock in the center of the property.

Greg Frazier and Linda Frazier, 5402 Pali Way, provided the Board with a written objection which lays out in detail the history involved with this case. This is not a replacement of an existing dock; this is construction of an entirely new dock raised 28 inches higher than it was at the time Mrs. Edwards purchased the property. In addition, the request for variance is that the setback be reduced from 25% to 6.8%; which means there is an excess of 110 feet of waterfront to build a dock in that area. Mr. Frazier objected to the dock being within 15 feet of his property line. He provided the Board with photographs.

Mr. Frazier further explained that in 2004, they consented to a "repair" to Ms. Edward's dock. He was told they wanted to replace the two lifts that were on the dock that were inoperable and they wanted to re-surface the deck to replace the wooden surface with a new manmade material. He pointed out that reluctantly his wife agreed to allow them to do this because they felt at the time that it would enhance the appearance of what was then a dock in disrepair. He disclosed that when they discovered that they were demolishing the entire dock, and were going to raise it 28 inches higher than what it was they had concerns. He stated that when they noticed this, they immediately came to the City and advised the staff that his wife's consent was obtained by fraudulent pretenses and on that basis, the City issued a "stop order".

He pointed out that their application would lead you to believe that this is merely a replacement of aging wooden components. In addition, they are asking that the width of the cradle be changed from the 12 feet to 15 feet. He stated that now he is concerned that they are planning on bringing in a really large vessel.

Mr. Frazier stated that the applicant would like the Board to believe that if they don't grant the variance she will not have the ability to build a dock within the center third of her property. He referenced the Environmental Report which shows an alternative location for the dock. He felt that Ms. Edwards has 74 feet within the current bearings within which to re-locate her new dock. If she wants to raise it an additional 28 inches, she can certainly do it within the center half of her property.

Mr. Frazier went on to say that this is an undue hardship on him and his wife, it's going to seriously impact not only their privacy but their view and their property values if the Board grants this variance request.

Mr. Frazier respectfully requested that the Board reject this application for a variance.

Mr. Debaylo, in rebuttal, stated that as far as height goes, they are willing to make it the same height as Mr. Frazier's dock; they can make it 12 inches lower than the top of the seawall.

Mr. Debaylo disclosed that he has an email from Environmental Management that says that they went back out in October to look at the issue, and said they would approve this dock in its location. He stated that if the Board approves the variance today the County has no objection of where it's going and the size.

There was a general discussion of the impact of having a dock located at the tip of this property, which may cause damage to the dock from certain types of weather events.

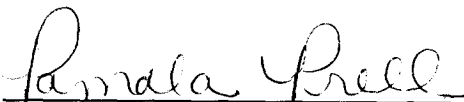
Ms. Linda Edwards, 5400 Pali Way, stated that when she purchased the property she just wanted to get her dock replaced. She wanted it raised simply for safety issues and she assured Mr. & Mrs. Frazier that there is no big boat coming in if she does get approvals. She disclosed that she has a Jet boat and some Jet skis and is enlarging the size of the cradle simply for resale value.

Mr. Debaylo was asked if Ms. Edwards could add the cradle later if she wanted it. Mr. Debaylo replied not without signatures from Mr. & Mrs. Frazier.

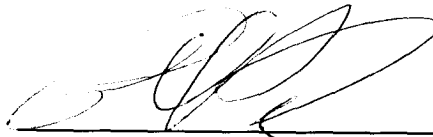
Mr. Lampson made a motion that in Case #20100044 a variance be granted as stated, with two exceptions; 1) the height of the deck be equal to the height of the seawall of the adjoining Frazier property so that it is in line with deck height of the adjoining property and 2) that the width of the lift be 12 feet. The motion was seconded by Mr. Lampe and approved by a unanimously roll call vote.

Karl Holley advised the Board that there is an application submitted for their next meeting which will be held on February 23, 2011.

There being no further business to come before the Board, the Meeting was adjourned.



Pamala Prell, Acting City Clerk



Paul Skipper, Chairman