

Minutes
PLANNING & ZONING COMMITTEE
REGULAR MEETING AND VARIANCE HEARING
Wednesday, October 21, 2009 9:30 a.m. – City Hall Conference Room

1. Call to Order, Roll Call – Chair Bill Danaher called the meeting to order at 9:30 a.m. Present were: Bill Danaher, Ron Anderson, Bob Glassman, Marie Flood and John Curry. Excused: Ron Foster. Also present: Attorney Thomas Wright, Building Official Edward Borysiewicz, and City Clerk Vickie Bollinger. Public: 12, including Mayor Sutton, Vice-Mayor Zahn, Commissioner Vorick.
2. Approval of Minutes: Regular Meeting August 19, 2009
Approved as written.
3. Discussion
 - A. Variance Request – Dockside Shelter, Lot 1 Marina Subdivision – 400 Sadowski Causeway, Ocean Landing Inc., Terry Fisher, Owner

Administration of Oath to all Witnesses on All Matters – City Clerk

Clerk administered the oath to all witnesses for the variance.

Disclosure of Ex Parte Communication - Committee Members – None.

Building Official Borysiewicz stated that there is a canvas shed at the KCB Marina between the charter boats and the boat ramp. It was erected about 8 months ago without a permit. Mr. Fisher was told he needed a permit and is present. The shed is considered a dockside shelter and is located properly in the required setbacks. However, dockside shelters may be no larger than 80 square feet and this one is about 450 square feet. The requested variance is for the size of the dockside shelter.

Building Official Borysiewicz said that Mr. Fisher plans to remove this canvas shed and erect a permanent building containing a bathhouse and workshop in the near future. The permanent building will not be a dockside shelter and requires a 15-foot setback on the water side. In order to locate the permanent building in the same location as the canvas shed, a variance will be needed for a 13-foot encroachment into the setback. Building Official Borysiewicz said the applicant has asked if this can be considered at this time.

The committee discussed the size of the canvas shelter, the setbacks of the shelter, and the additional variance for the permanent structure.

Attorney Wright advised that the permanent structure would require a separate variance as it was a change in use and a change in the intensity of the development. He stated it would be difficult to grant a variance without documents or plans.

The committee agreed that the variances should be considered separately and that additional documents were needed before considering a variance for the permanent structure. Mr. Fisher agreed to wait and apply for a separate variance for the permanent structure.

The Committee considered the following standards and responses, making comments and asking questions.

1. The applicant shall demonstrate a showing of good and sufficient cause.
Response: Due to the design of the structure, it is secured to the inside dock bulkhead and sidewalk for stability and wind protection. This was done as per the engineered drawings,

previously submitted to the City, with the exact setbacks on the engineered drawing. At the time, I was unaware of the 15' setback requirement for this type of simple structure.

Comment: Building Official said the applicant submitted engineered plans and has met all requirements. Chair Danaher stated there wasn't much room to put a structure that would not inhibit traffic flow or use of the boat ramp.

Vote: Curry - yes, Anderson – yes, Glassman – yes, Flood – no, Danaher - yes **Vote: Yes**

2. Failure to grant the variance would result in unnecessary hardship to the applicant.

Response: This customary marina accessory structure and uses are permitted for the marina, Section 101-17, for the purpose of storing equipment and providing shade for the owner and customers to make small repairs out of intense heat or rain.

Moving the structure to the 15' setback would prevent it from being securely anchored to the dock bulkhead and sidewalk, as it currently is, thereby not following the engineered drawing, and not being as sturdy.

Comment: The location of the structure is important. The structure could be re-engineered, but at the 15-foot setback it would be in the traffic pattern. The variance is for a dockside shelter and does not involve the 15-foot setback. The variance is about size: the current structure is 450 square feet, but only 80 square feet is allowed. The applicant did not get prior approval for this structure or even a building permit.

Vote: Curry - yes, Anderson - yes, Glassman – yes, Flood – yes, Danaher - yes **Vote: Yes**

3. Granting the variance will not result in increased public expenses, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public.

Response: No to all.

Comment: None.

Vote: Curry - yes, Anderson - yes, Glassman – yes, Flood – yes, Danaher - yes **Vote: Yes**

4. Property has unique or peculiar circumstances, which apply to this property, but which do not apply to other properties in the same zoning district.

Response: We are the only licensed marina currently operating in the City of Key Colony Beach. We strive to keep the property in a presentable, aesthetic condition, and feel that this shade structure is not an eyesore, and definitely poses no hardship to anyone in the zoning district.

Comment: The flow of traffic is not inhibited by the placement of the structure.

Vote: Curry - yes, Anderson - yes, Glassman – yes, Flood – yes, Danaher - yes **Vote: Yes**

5. Granting the variance will not give the applicant any special privilege denied other properties in the immediate neighborhood in terms of established development patterns.

Response: No, because this is the only marina in the City of Key Colony Beach.

All other marinas in the Marathon area have numerous shade structures and work areas throughout their properties.

Comment: The size of this structure is the issue. Committee members understood the need for the structure and its size. However, it should have been permitted long ago. The normal dockside shelter does not provide a lot of room to get out of the sun. The placement of the structure allows adequate room for traffic. Committee members had no disagreement with the need for the structure, but agreed this should not be happening after-the-fact.

Vote: Curry - yes, Anderson - yes, Glassman – yes, Flood – yes, Danaher - yes **Vote: Yes**

Motion - Moved by Marie Flood, seconded by Ron Anderson, that granting this variance would have minimal impact on the city and to recommend approval of this variance request at the current size and with no enlargement of the structure. Roll Call Vote: Yes-Curry, Anderson, Foster, Flood, Danaher. Unanimous approval.

B. Color of Newly Painted Home – 601 12th St.

City Clerk confirmed that service had not been completed to the owners of the above referenced residence.

Attorney Wright advised the committee that without proper service the discussion should be of a general nature only and not include the above referenced residence. He said the discussion should be limited to the future and whether city code was adequate regarding painting a structure.

Building Official Borysiewicz stated the owners of the above referenced property hired a licensed contractor and met all city codes which do not require a building permit to paint a residence or prior approval of paint color. He said when the painting of this residence was almost completed several neighbors complained about the color.

Building Official Borysiewicz provided pictures of several structures in the city of various colors. He requested input from the committee as to whether city codes should be amended to address painting houses – should a permit be required and/or approval of paint color. He read code section 6-56 and LDR sections about architectural style and materials should be harmonious with the existing structures in the neighborhood.

Attorney Wright said that code 6-56 was more relevant to this discussion and reminded the committee that there has been no violation; discussion should be about whether the city should regulate paint colors.

Committee members commented/discussed: Paint color is subjective and not everyone will agree; there are flowers of all different colors that should be considered acceptable; and house color has never been a problem in the city. Committee members agreed that the city should not dictate the color of someone's house and the code does not need to be amended.

Public comment:

City Clerk read a letter from William & Renee Picha, 701 12th Street, objecting to the color of the residence at 601 12th Street.

Mike, 85 Coral Lane, stated that the overall beauty of the city is what drew him to the city. The code provides latitude to owners and he would not want all the houses to look the same.

4. Any Other Business

Building Official Borysiewicz stated he wanted to inform the committee of a new type of boat lift that is available. It is an elevator lift in which the boat cradle sits on a dock and the entire dock is lifted. This allows the owner to walk about the entire boat when it is out of the water. This new type of boat lift will be presented to the city commission. In response to a question, he said this lift will require commission approval to install it and it may encroach further into canals than other types of lifts.

Charlie Lankford commented on house colors using color charts to explain what is considered a pastel and what is not.

There being no further business, the meeting adjourned at 10:05 a.m.

Vickie L. Bollinger, City Clerk

Note: A mechanical recording has been made of the meeting of which these minutes are a part, and a copy is on file in the office of the City Clerk, as a public record.