

# MINUTES

## PLANNING & ZONING BOARD

### REGULAR MEETING AND VARIANCE HEARING

Wednesday, February 15, 2017, 2016 9:30 a.m.

- City Hall Conference Room

1. The meeting was called to order by Bob Glassman *Present:* Bob Glassman, Gail Cortelyou, Ron Anderson, Joey Raspe, and George Lancaster. and Trudy Troiano. *Also present:* City Clerk Kathryn McCullough, Building Official Ed Borysiewicz, and City Attorney Tom Wright,. Public – 1.
2. Approval of Minutes – September 21, 2016  
**Motion:** Motion made by seconded by Board Member Lancaster, to approve the minutes of the September 21, 2016 Planning and Zoning Board meeting.  
**On the Motion:** Unanimous approval.
3. Swearing in Witnesses to Testify Attorney Wright swore in the witnesses who will be testifying at this hearing.
4. Ex-Parte Communications: Attorney Wright read the definition of an ex-parte communication as listed on the agenda. Chairman Glassman reported speaking to several people about the land development regulations. Chairman Glassman did not feel this would influence his ability to make an impartial decision. Board Member Troiano also spoke to several persons about this request. She does not feel that will influence her ability to be impartial.
5. Variance Request: - 201 8<sup>th</sup> Street, George Artz  
Chairman Glassman read the variance request from the application submitted by George Artz. Mr. Artz requests a variance to extend the non-conforming dock to the south to the property line. The dock extension requires a 13variance. The north side dock will remain at the current five foot width. Mr. Artz also requests a variance for one 15,000 lb elevator lift with 13’0” arms into the canal requiring a 9 foot variance.  
Building Official Borysiewicz reported 8<sup>th</sup> Street from West Ocean down about 10 properties is a natural shore line without seawalls. More than 30 years ago property owners were allowed to install T-docks and tiki huts. Mr. Artz’s existing dock, when measured from the platted property line, extends 18 feet into the canal. All other properties are only allowed 5 feet. Mr. Borysiewicz explained Mr. Artz wants to extend the existing non-conforming dock approximately 5 to 7 feet to the southern property line to match the existing footprint of the current dock. This would require a 13 foot variance. On the north side the dock already goes to the property line. He would like to put a elevator boat lift with 13 foot arms in that area. What is normally approved, without a variance, is a seawall, a 5 foot dock and a lift with 12 foot arms which is 17 foot into the canal. An elevator lift with 13 foot arms, from this dock,

would extend would extend 26 feet into the canal which would require a 9 foot variance. There is another ordinance stating a dock and boat lift may not take up more that 25% of the canal. This canal is 100 feet wide so this request is encroaching on that also. Mr. Borysiewicz concluded by saying there are a number of variables with an unusual property involved in this request.

Attorney Wright asked how the existing t-dock got so wide and how did the tiki hut get out there? Was it properly permitted? Mr. Borysiewicz said that was before his time however there permits issued for the original t-docks and the neighbors, on either side, have similar docks of the same width and with a tiki hut.

Chairman Glassman asked how wide is the dock on the north side where Mr. Artz wants to install the lift. Mr. Borysiewicz answered the dock is 5 feet wide on the north side.

Board Member Troiano reviewed the variance request made by Mr. Artz on September 21, 2017 and the stipulations for approval. Attorney Wright reported Mr. Artz stated his dissatisfaction with the stipulations to the City Commission at the Public Hearing on November 10, 2017. Attorney Wright explained the Commission relies heavily on the recommendations of the Planning & Zoning Board. Therefore this variance was sent back to the Board for reconsideration. Attorney Wright reminded the Board there is no entitlement to a variance. Normally an applicant will explain the need for the variance. Mr. Artz did not include the need for this variance with this application. Attorney Wright is concerned that Mr. Artz has changed the variance request so as not to have to move the tiki hut. It should be noted, in the minutes, that any boat lift added to the extended dock would have a problem with extending too far into the canal. It should also be noted that a concern was expressed as to the size of boat that would fit into that configuration. Attorney Wright also stated Mr. Artz created the problem for himself by keeping the tiki hut in its current location.

The Board Members discussed numerous options to the Artz variance request. Board Member George Lancaster stated limitations to the variance request would not be appropriate without Mr. Artz present to answer questions. Mr. Lancaster stated the variance should be denied, approved or continued. Attorney Wright suggested dividing the variance into 2 separate requests and proceed with the post hearing questions.

Variance Request Number 1 – LDR 101-Section 191 (3) City Code 5, Section 35 (10). Requests a variance to extend the non-conforming dock to the south to the property line. The dock addition requires as 13 foot variance. The north side dock will remain a the current 5 foot width.

Question 1. Has the applicant shown good and sufficient cause to grant this variance? Applicant Response: The current dock is in need of replacement. The concrete davit base broke. The dock was built beyond protected mangroves years ago. Ron Anderson, no. Gail Cortelyou, no. George Lancaster, no. Joey Raspe, no. Bob Glassman, no.

Question 2. Will denial of this variance result in unnecessary hardship to the applicant. Applicant response: The home is a rental property with 75 feet of canal frontage. I spend a considerable amount of time here and want to leave my boat on the lift and still allow renters a place to dock their boat. Gail

Cortelyou, no. Joey Raspe, no. George Lancaster, no. Ron Anderson, no. Bob Glassman, no.

Question 3. Granting this variance will not result in public expense, a threat to public health and safety, and it will no create a threat or nuisance, or cause fraud or victimization of the public. Applicant response. No. Joey Raspe, no. George Lancaster, yes. Ron Anderson, yes. Gail Cortelyou, yes. Bob Glassman, no.

Question 4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district. Applicant response. The dock was built past existing mangroves and has been in place for over 20 years. Neighbors to the north and south have docks that extend into the canal. George Lancaster, no. Ron Anderson, no. Joey Raspe, no. Gail Cortelyou, no. Bob Glassman, no.

Question 5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood. Applicant response: No. Properties with mangroves adjacent to the canal cannot have a seawall and attached dock. I have received permits from DEP and the Army Corps for this project. George Lancaster, no. Ron Anderson, no. Joey Raspe, no. Gail Cortelyou, no. Bob Glassman, no.

**MOTION:** Motion made by Board Member Joey Raspe, seconded by Board Member Ron Anderson, to recommend disapproval of the variance to extend the non-conforming dock to the south to the property line.

**ON THE MOTION:** Ron Anderson, yes. Joey Raspe, yes. Gail Cortelyou, yes. George Lancaster, yes. Bob Glassman, yes.

Variance Request Number 2 City Code 5, Section 43 (2). Requests a variance for one 15,000 pound elevator lift with 13'0" arms in to the canal requiring a 9 foot variance.

Question 1. Has the applicant shown good and sufficient cause to grant this variance? Ron Anderson, no. Gail Cortelyou, no. George Lancaster, no. Joey Raspe, no. Bob Glassman, no.

Question 2. Will denial of this variance result in unnecessary hardship to the applicant. Gail Cortelyou, no. Joey Raspe, no. George Lancaster, no. Ron Anderson, no. Bob Glassman, no.

Question 3. Granting this variance will not result in public expense, a threat to public health and safety, and it will no create a threat or nuisance, or cause fraud or victimization of the public. Joey Raspe, no. George Lancaster, no. Ron Anderson, no. Gail Cortelyou, no. Bob Glassman, no.

Question 4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district. George Lancaster, no. Ron Anderson, no. Joey Raspe, no. Gail Cortelyou, no. Bob Glassman, no.

Question 5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood. George Lancaster, no. Ron Anderson, no. Joey Raspe,

no. Gail Cortelyou, no. Bob Glassman, no.

**MOTION:** Motion made by Board Member George Lancaster, seconded by Board Member Ron Anderson, to recommend disapproval of the variance for one 15,000 pound elevator lift with 13'0" arms in to the canal requiring a 9 foot variance.

**ON THE MOTION:** Ron Anderson, yes. Joey Raspe, yes. Gail Cortelyou, yes. George Lancaster, yes. Bob Glassman, yes.

Attorney Wright informed the Board Members Mr. Artz has the option of taking the variance request to the City Commission or asking the Board Members to reconsider. If the request is denied by the Commission, Mr. Artz would have to wait 6 months to reapply and pay an additional fee. It would be in his best interest to ask Planning & Zoning to reconsider his request.

Chairman Glassman polled the members to ascertain availability on March 15, 2107 should Mr. Artz request a continuance of the variance request. Mr. Lancaster will be out of town on that date. Chairman Glassman excused him from the March 15<sup>th</sup> meeting. Board Members Raspe, Troiano, Anderson, Cortelyou and Glassman are all available on March 15, 2017.

#### **Any Other Business**

Chairman Glassman announced he will be resigning from the Planning & Zoning Board effective April 3, 2017. Terms are ending in April for Bob Glassman, Gail Cortelyou and Ron Anderson. Gail Cortelyou announced, after 10 years on this Board, she will also be resigning. Ron Anderson indicated as he has also been on this Board for a very long time, and that he would like to resign, however, will remain on the Board if a replacement cannot be found.

The meeting adjourned at 10:45 AM.



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Kathryn McCullough, City Clerk

There may be attendance and participation of city commission members at this meeting.

If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.