

MINUTES
PLANNING & ZONING COMMITTEE
REGULAR MEETING AND VARIANCE HEARING
Wednesday, September 16, 2015 9:30 a.m. - City Hall Conference Room

1. The meeting was called to order by Chairwoman Marie Flood. *Present:* Bob Glassman, John Dalton, and Ellen Berle *Also present:* Building Official Ed Borysiewicz, Melanie Rider, Utility Clerk and City Attorney Tom Wright *Excused:* Ron Anderson, Joe Raspe and Gail Cortelyou *Public:* 1
2. Approval of Minutes- Regular Meeting July 15, 2015 Approved as written.

City Attorney Tom Wright swore in anyone who might provide testimony in this proceeding.

3. **Peter Lecompte 561/571 8th Street**- LDR 101 Section 26 (2) Requests 2 variances. The first for a dockside shelter, overhang required to be within 3'0" of waterway. Requesting an 11'0" variance to be 12'0" from waterway. The second is a maximum floor area variance. Requirement is 80 square foot per lot. Requesting that instead of building two dockside shelters at 80, one for each of his lots, he is requesting one slightly larger at 96 square feet for hit two lots.

Ed Borysiewicz explained that existing in the back yard currently is a pool and davits. Mr. LeCompte would like to install a tiki hut and in order to still be able to utilize the davits he would have to have it set back further than the city code requires from the water's edge. Code requires structure to be 3' from the water's edge he would like to have it be 12'. Ed continued to explain that he would also like to have it be slightly larger than the code, 96 sq. ft. instead of the code which is 80. Mr. Lecompte is able within the code to place two tiki huts, one on each lot he is only wanting the one. The Board is here to address the variance request as to the location of the structure.

1. What is the good and sufficient cause that explains why this variance should be granted? **Response:** If the setback variance is not granted and the tiki is put at proper setbacks it would eliminate use of the davits would cause major changes to the property. If the variance for size is granted it would eliminate the possibility of a second tiki on the property.
2. What are the unnecessary hardships that would result if the variance is not granted?
Response: The major changes in the property would result in a financial hardship on the applicant.
3. If this variance is granted would there be any increase to public expense that would not otherwise occur? Would it create a threat to public health and safety? Would it create a nuisance? Or cause fraud or victimization of the public?
Response: no increase to public expense; no threat to public health and safety; any nuisance; any fraud or victimization to the public.
4. What are the unique or peculiar physical/geographical circumstances or conditions that apply to this property, but do not apply to other properties in the same zoning district?
Response: No.
5. If the variance is granted, would it confer upon the applicant any special privilege that is denied to other properties in the immediate neighborhood in terms of the established development pattern?
Response: No. all property owners have the right to request a variance.

Chairwoman Flood then called for discussion. Mr. LeCompte was asked if he had spoken to his neighbors and what they had thought. He replied that he has several letters include with his application. All neighbors are for the variance, and none are opposed to his knowledge. Tom Wright spoke up and explained that he is really requesting two variances; one for size, and one for setback. He also stated that he has the ability within the code to build two tiki huts on the property, one for

each lot. If the board did grant the variance they might want to think about possibly restricting that the property from having another tiki in the future. John Dalton stated that the neighbors on each side have already put plantings much higher than the proposed tiki hut all the way to the water, so there is no reason why it would disrupt their views. Chairwoman Marie Flood replied with her opinion; if we grant this variance and allow the applicant to put the tiki where he wants to it will be setting precedence. Then we would have to allow everyone to do it and even though the neighbors are agreeing today, neighbors fight and that might not be the case later down the line. Mr. LeCompte spoke up and stated that he is willing to put that he will not be allowed another tiki hut on his deed. He also stated that he does not believe it would set precedence because this is the reason the city has a planning and zoning board. Every property owner has the right to apply for a variance and have their request be looked over and discussed and decided upon individually, every situation is different. Bob Glassman added that Mr. LeCompte has included that he has several letters from neighbors, but he did not see one from the neighbor to the north. Mr. LeCompte added that he has spoken to his neighbor and he was going to write a letter but didn't get it in on time. Mr. LeCompte stated that his neighbor did not mind the change and that there were 12ft mangroves between the two properties anyway, so no view would be disrupted but, the board would have to take his word for it. Chairwoman Flood closed the hearing.

On the Variance Request Standard for Recommendation to the Commission, the Board went through the 5 criteria questions:

1. Has the applicant demonstrated good and sufficient cause to grant this variance?
Board Response: Bob Glassman, John Dalton and Ellen Berle agree, Marie Flood disagree. Condition Met.
2. Will denying this variance result in unnecessary hardship to the applicant?
Board Response: Bob Glassman, John Dalton and Ellen Berle agree, Marie Flood disagree. Condition Met.
3. Granting the variance will NOT result in increased public expense, create a threat to public health and safety, create a public nuisance, or cause fraud or victimization of the public.
Board Response: Unanimous Agree. Condition Met.
4. Are there special conditions and circumstance which are unique or peculiar to this property, but do not apply to other properties in this zoning district?
Board Response: John Dalton and Bob Glassman agree and Marie Flood and Ellen Berle disagree. Locked at 2 - 2. Condition Not Met.
5. Granting the variance would NOT confer any special privilege that is denied by this chapter to other properties in the same zoning district AND is consistent with established development patterns in the immediate neighborhood.
Board Response: Bob Glassman and John Dalton agree and Ellen Berle and Marie Flood disagree. Locked at 2 - 2. Condition Not Met.

Motion: Made by John Dalton to recommend approval to the City Commission with the restriction of adding a second tiki hut in the future, seconded by Bob Glassman.

On the Motion: Roll Call Vote: John Dalton, Ellen Berle and Bob Glassman Agree, and Marie Flood disagreed. Motion Passed.

Chairwoman Flood called adjournment at 10: 30 a.m.

Melanie T. Rider, Utility 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.