

MINUTES

PLANNING & ZONING BOARD

REGULAR MEETING AND VARIANCE HEARING

Wednesday, September 21, 2016 9:30 a.m.

- City Hall Conference Room

1. The meeting was called to order by Bob Glassman *Present:* Bob Glassman, Joey Raspe, George Lancaster and Trudy Troiano. *Also present:* Kathryn McCullough, City Clerk, Building Official Ed Borysiewicz, Assistant Building Official Steve Britske and Attorney Tom Wright. Absent: Ron Anderson and Gail Cortelyou. Public – 1.
2. Approval of Minutes – April 20, 2016
Motion: Motion made by Board Member Troiano, seconded by Board Member Lancaster, to approve the minutes of the April 20, 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: Chairman Glassman reported he was at the site. He has spoken to no one about this variance. Board Member Lancaster reported he drove by the site on both 8th Street and 9th Street. He did not exit his vehicle. He has spoken to no one about this variance. Board Member Raspe reported driving by the site. Board Member Troiano drove by the site and viewed the site from the canal via her boat. Attorney Wright asked the Board Members if these actions would influence their ability to make an impartial decision. All responded in the negative.
5. Variance Request: - 201 8th Street, George Artz
Chairman Glassman read the variance request from the application submitted by George Artz. Mr. Artz is asking to rebuild a current nonconforming dock to the current width and to extend the dock to the property line. LDR 101-191 & City Code 5-35 (10). Mr. Artz is also requesting approval of two (2) 15,000 lb. elevator lifts that require 13' arms into the canal. City Code 5-43(2). Chairman Glassman explained the Army Corps of Engineers (ACOE) has issued a permitted. The ACOE has exclusive jurisdiction over navigation. Building Official Ed Borysiewicz gave a brief history of the situation. Sometime in the late 1970's and early 1980's the ACOE would not permit a seawall when mangroves were present. The alternative, at that time, was T docks approximately 40 foot parallel to the property and extending roughly 18 feet into the canal. The previous owner of the Artz' property was granted a variance in 1992 to extend the existing T dock 20' on the south side and a narrow extension with a pair of davits. Mr. Artz is currently requesting a 13' variance to square off the dock and to extend to the property line. In addition Mr. Artz is also applying for two (2) 15,000 lb. elevator lifts which will require approval for the lift arms to extend and additional 13' into the canal. Attorney Wright said there

should be two separate variance requests, one for the dock and the other for the elevator lift arms into the canal.

Mr. Artz, 201 8th Street, introduced himself. He explained the davits have deteriorated to the point requiring replacement. He would also like to get a larger boat, somewhere in the 30' to 33' range. Mr. Artz understands he can rebuild the dock to the current footprint without a variance. He also stated he only needs one (1) 15,000 lb. elevator lift and one smaller lift to handle a jet ski or a smaller boat. Mr. Artz advised he did not realize the dock was non-conforming. Board Member Raspe commented elevator lifts arms are 12' to 13' off the seawall when the lift is up position. When lowered below the water level, to launch the boat, the arms are over 18' away from the seawall. This would put the arms over 30' from the dock which encroaches the 25% rule for a 100' wide canal. Mr. Borysiewicz asked if Mr. Artz intends to rebuild the entire dock or is he trying to retain the tiki hut. Mr. Artz replied he would like to retain the tiki hut. Board Member Troiano noted no other boatlifts at the other T-docks on the canal. She questioned if this is due to the length of the arms. Mr. Borysiewicz reported no other variances have been requested for elevator lifts in this area. Board Member Lancaster asked if there was a problem turning boats around in the canal. Board Member Raspe answered it would take an experienced captain to turn a large boat in that area. Board Member Troiano asked if the dock width was 5' would the lift arms meet the 25% rule. Mr. Borysiewicz responded a dock with of 5' would meet the 25% rule. Board Member Raspe asked if it would help Mr. Artz if the dock was extended to the property line. Mr. Raspe also asked if Mr. Artz would consider removing the tiki hut. Mr. Artz said he would like to keep the tiki hut but would remove it if necessary. Attorney Wright asked if the letters from neighbors Melanie Richards and Jose Salavarri, both opposing approval of the variance, are to be entered into evidence. Mr. Borysiewicz indicated both letters should be entered into evidence. Attorney Wright stated the Richards opposition letter is entered into the record as exhibit 1; the Salavarri opposition letter is entered into the record as exhibit 2. Board Member Raspe did not see either letter as opposed to extending the dock, rather only in opposition to the elevator lifts. Attorney Wright said it would be possible to grant both variance requests if approval is conditioned on a dock width of no greater than 5'. Attorney Wright also stated a smaller tiki could be rebuilt as long as it is within the footprint of the current tiki. Board Member Lancaster asked if Mr. Artz would have to obtain another permit from the ACOE and DEP if the dock width is decreased. Mr. Borysiewicz said sometimes the ACOE will require a new permit. Board Member Raspe asked the current water depth at the dock. Mr. Artz replied the depth is 12' to 14'. During deliberations many restrictions to approval of the variance were discussed. Mr. Borysiewicz asked if it possible to ask the post hearing questions once if the variance request is considered in two motions. Attorney Wright agreed asking the post hearing questions one time would be appropriate.

Chairman Glassman asked if he is permitted add clarifying statements to the post hearing questions. Attorney Wright indicated that would be appropriate.

Question 1. Has the applicant shown good and sufficient cause to grant the variance? Chairman Glassman added, is there a logical reason for this variance? Joey Raspe, yes. Trudy Troiano, yes. George Lancaster, yes. Chairman Glassman, yes.

Question 2. Will denial of the variance result in unnecessary hardship to the applicant? Chairman Glassman added, would not granting the variance be a hardship? Would the applicant suffer when no one else does? Trudy Troiano, yes. George Lancaster, yes. Joey Raspe, yes. Chairman Glassman, yes.

Question 3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat or nuisance, or cause fraud or victimization of the public. Chairman

Glassman added, even though the ACOE approved the request for navigational uses, the Committee must consider if there is a threat. George Lancaster, yes. Joey Raspe, yes. Trudy Troiano, yes. Chairman 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. Board member Raspe asked for clarification on this question. Attorney Wright explained this is a lot without a seawall, it has mangroves and it has a T dock. This is not uncommon in the Coury Subdivision but it is unusual in this part of the City. Joey Raspe, yes. Trudy Troiano, yes. George Lancaster, yes. Chairman Glassman, yes.

Question 5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood. Chairman Glassman added it the intent for the Committee to focus on the overall Land Development Regulation (LDR) and what is happening in the neighborhood. Trudy Troiano, yes. George Lancaster, yes. Joey Raspe, yes. Chairman Glassman, yes. Attorney Wright told the committee as they have found all the criteria has been met, it is appropriate to make a motions concerning this variance request adding any restrictions the Committee wished to impose.

MOTION: Motion made by Trudy Troiano, seconded by Chairman Glassman, to accept the variance request allowing the extension of the dock to the property line with the stipulation the width of the dock is restricted to a 5 foot width. The tiki hut may remain the same size, or reduced size, with the stipulation it not extend over the dock on the waterside, however it may be moved back toward the land side.

ON THE MOTION: George Lancaster, yes. Joey Raspe, yes. Trudy Troiano, yes. Chairman Glassman, yes. Motion passed unanimously.

MOTION: Motion made by George Lancaster, seconded by Trudy Troiano, to approve two (2) 15,000 pound boatlifts with the following conditions: Condition 1, the arms of the boatlift cannot extend more than 12 feet from the dock. Condition 2, the width of the dock cannot exceed 5 feet. Condition 3, the arms of the boatlift must be in the up position at all times.

ON THE MOTION: Joey Raspe, yes. Trudy Troiano, yes. George Lancaster, yes. Chairman Glassman, yes. Motion passed unanimously.

This variance request will be heard by the City Commission at the first meeting in November.

Meeting adjourned at 11:10 AM



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.