

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING AND PUBLIC HEARING

Wednesday, April 20, 2022 - 9:30 a.m.
Marble Hall

1. Call to Order/Pledge of Allegiance/Roll Call: Chairperson Joey Raspe called the meeting to order at 9:30 a.m. in the morning followed by the Pledge of Allegiance and Roll Call.

Present: Chair Joey Raspe, Mike Yunker, Tom DiFransico. **Excused:** George Lancaster, Lin Walsh. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Ryan Benninger, Building Official Gerard Roussin, Building Inspector Gerald Leggett.

Public Attending: 3 Marble Hall

2. Approval of Minutes: The Planning Zoning Board accepted the minutes from March 16, 2022, as written.

3. Administration of Oath to Witnesses: City Clerk Silvia Gransee administered the Oath of Witness to all wishing to give testimony in today's hearing.

4. Citizen Comments and Correspondence: City Clerk Silvia Gransee reported not having received any citizen correspondence and there were no comments from the audience.

Chair Joey Raspe stated that Board Member DiFransico would like to add an agenda item. Board Member Tom DiFransico stated that with all the information that was received on the R2B Zoning comments by the Board that he believes the Board should address the issue. Board Member DiFransico further stated that he is aware that a workshop will be held but was unsure if the Board could talk about the issue at this meeting or at the later meeting. City Attorney Ryan Benninger stated that the Commission had already addressed the matter but if there would be some discussion it would be permissible, but as far as he is aware the workshop will address further discussion. Chair Joey Raspe asked if the Planning & Zoning Board will be part of the workshop which Attorney Ryan Benninger stated he will check on. City Clerk Gransee also stated that the topic was not an agenda item, and that the public was not aware of the topic being discussed.

5. Disclosure of Ex-Parte Communication – Board Member Tom DiFransico stated that himself and City Attorney Ryan Benninger had a phone conversation on Monday where some of the agenda items were briefly discussed, but which will not affect any of his decisions he will be making today. City Attorney Ryan Benninger confirmed that this conversation does not fall under the Ex-Parte Communication Act.

Board Member Mike Yunker stated regarding Item 8 on the agenda, Ordinance 2022-473, stated that he is the General Manager for Castillo de Sol Condominium and that he has been reviewing the ordinance and had a lot of discussion with other Condominium Managers regarding this type of ordinance. Board Member Yunker stated that he does not believe that this will affect his decisions but wanted it known to the Board and have guidance from the City Attorney if he should excuse himself from the issue.

6. Proof of Publications: All affidavits and legal notices were accepted as sufficient.

7. Variance Request: Chair Raspe read the variance request for 200 15th Circle – Owner: Thomas E. Carden. Chair Joey Raspe stated that the variance request is a two-part request for height and setback, and that both will be addressed separately. Chair Raspe further stated that the first variance request to be addressed is the height

setback.

a) Height Variance Request

Mr. Thomas Carden, owner of 200 15th Circle, made his statement to the Planning & Zoning Board. Mr. Thomas Carden stated that it is difficult to build a two-story house above flood on stilts with the upcoming changes in flood maps. Mr. Carden continued by saying that he is only two feet above flood with the current design, and that is why he is requesting the variance.

Building Official Gerard Roussin stated that the Building Department does support the request for a height variance as they do understand the upcoming changes in the FEMA flood maps and proposed LDR changes once the Comp Plan is finished. Building Official Roussin stated that this request would be within the proposed new LDR's even though the variance is a little bit more than what has been granted in the past, as far as the 34-foot height the Board has somewhat adopted, but the Building Department would fully support the variance request as is. Board Member Tom DiFransico asked Building Official Roussin if this design incorporates the additional 2-foot free board that was incorporated at CRS. Building Official Gerard Roussin stated that he does not believe the design incorporates the additional 2 foot of free board, but he stated that the height is still there if needed. Board Member DiFransico stated that he believes that if the variance was granted based upon the new LDR's, the new requirements of the new LDR's should be in place when granting a variance. Building Official Roussin stated that he does not know if that can be legally done as it is not part of the code and does not know if that could be legally mandated and that should be a question for the city attorney. Chair Joey Raspe asked the Building Official if once the LDR is approved, if it then becomes part of the City's rule to have the additional 2 feet of free board incorporated. Building Official Roussin confirmed the question and stated that a sticking point of adopting the additional 2 feet of free board was the CRS ranking for the city, as well as looking at properties that were being redeveloped, to give them their second floor of living space if the first floor was brought into code along with the 2 feet of free board. Building Official Roussin stated that this property does not require this at this time and believes that when the new maps come out this property's elevations will go down one foot compared to now. Building Official Roussin further stated that the Building Department fully supports this variance but would not ask for the free board at this time. Mr. Thomas Carden stated that he could make it work since he is only a couple of feet off. Board Member Tom DiFransico stated that this goes back to the question if it is necessary for CRS as it does not look like it is. Building Official Roussin stated that it is not necessary at this time as the official LDR's have not been adopted yet. Building Official Roussin explained that once the Comp Plan comes back and is adopted, the LDR changes will be sent back to the State to be reviewed and if approved they will be sent back for adoption. Building Official Gerard Roussin stated that the time frame for the Comp Plan has taken longer than anticipated with no prediction on an exact date. City Administrator Dave Turner stated that if it would be 5 years ahead of time, it would be advantageous to build to the new heights and to the new 2-foot free board, and it would cost the homeowner less in flood insurance and it would go to the rating for the city. Board Member DiFransico stated that he agrees with City Administrator Turner but that the Board could not mandate the owner. City Administrator Turner agreed but restated that it would be advantageous for the homeowner. Mr. Thomas Carden stated that he is willing to do it and he can make it work. Building Official Roussin stated that for any new homes that are being built right now, the owners have to sign paperwork that explain that new flood maps, as well as possible new LDR's are coming out, and that owners are aware of it and it should not catch anyone by surprise. Board Member DiFransico asked Building Official Gerard Roussin how the new proposed height requirements concur with the houses in the neighboring area. Building Official Roussin stated that there have been four or five new houses on 14th Street that had been granted a variance of 34 feet, and that the average eye should not notice a difference between a 36'6" and a 34' feet house. Building Official Roussin stated that in his opinion it should not stand out.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. The Board had no

additional questions for the Building Official nor the applicant on the height variance request.

Height Variance Request - Post Hearing Questions: *Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.*

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

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

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

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?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Roll call vote: YES.

b) Setback Variance Request

Chair Joey Raspe read the setback variance request for 200 15th Circle.

Building Official Gerard Roussin explained that the owner is requesting a setback variance of 8'6" where the current standard for the city is 25' from the mean high-water line. The Building Official further explained that rear setbacks have been an issue, and that there have been variance approvals and disapprovals with rear yard setback issues. Building Official Roussin further explained that the property looking at the lot from 15th Circle is between 100 and 110 feet deep and the right side of the property is probably around 75 to 85 feet deep. Building Official Roussin stated that the setback issue can be either addressed with a variance or with a request of leaving the setback. Building Official Roussin further stated that the Building Department does not have an issue with granting a rear yard setback and that this would fall to the Planning and Zoning Commission for a decision.

Mr. Thomas Carden stated that his property is a unique lot, and explained, that by looking at the adjacent house and its design, that if he would build his house in the same design he still would be behind that house. Mr. Thomas Carden further explained that usually setbacks are for line-of-sight to have houses uniform and even with the encroachment he still would be behind 210 15th Circle. Chair Joey Raspe stated that he had not that particular drawing which Mr. Carden provided to the Board. Mr. Carden continued to explain to the Board the particulars of the drawing. Board Member Tom DiFransico asked Mr. Carden on when he purchased the lot which Mr. Carden stated was about a year ago. Chair Joey Raspe asked Mr. Carden if the setback of the house he is living in now is measured to the other side of 14th Street or if it is measured to the canal. Mr. Carden replied that it is measured to the mean waterline of the canal. Mr. Carden further stated that he dredged the canal and made sure that he maintained 25 feet. Chair Joey Raspe stated that it looks like the canal comes closer to Mr. Carden's house which Mr. Carden confirmed. Mr. Carden continued explaining that his lot is an angle, L-shaped lot and a lot bigger lot. Board Member DiFransico asked Building Official Roussin what the purpose is of the 25-foot setback. Building

Official Roussin explained that one of the main reasons for the setback is an area for a pool, an enclosure, or something similar, and also is part of the stormwater area to not run into the canal. Board Member Tom DiFransico further asked if there are other requirements for a pool and runoffs which Building Official Roussin confirmed. Chair Joey Raspe stated that it is important to remember that this property not always had canal bottom which Mr. Carden replied that the canal always had water but was not maintained. Mr. Carden continued to show the Board the original plat. Board Member DiFransico asked Mr. Carden if he had tried to rotate the house to maintain the setback. Mr. Carden stated that it is almost impossible to fit a house on this property with the setback requirements and that he does not want a house that is only 18 feet deep. Mr. Carden continued by saying that he does not believe that there is any house in Key Colony Beach that is only 18 feet deep. Chair Joey Raspe stated that at its shallowest point Mr. Carden should have 25 feet of house, which Mr. Carden stated that there are still overhangs, stairs, and balconies to consider, unless he makes it look like a box which would not match the community. Mr. Carden further stated that it would be really hard to make a deep house, unless he got rid of the front and back porch, but than it would look like a box, which he stated would bring a lot of complaints because it would not look like it belongs in Key Colony. Board Member DiFransico asked Mr. Carden if the depth looking from 15th Circle is 95 feet. Mr. Carden replied that his understanding of the city's ordinance is, that it measures the high waterline, so it does not matter how deep the lot is and that his mean high-water line is 75 feet. The Board did not have any additional questions for Mr. Carden and neither did the Building Official.

Chair Joey Raspe continued the hearing by reading the applicants questions and responses. Chair Joey Raspe stated in response to the question on unnecessary hardship, that ordinances are written to be strictly adhered to and that it does not create a hardship to follow an ordinance and to what it says. Chair Joey Raspe stated that everyone is supposed to do what the ordinance says. Chair Joe Raspe asked Mr. Thomas Carden why he feels that it creates a hardship to follow the rules of the city. Mr. Thomas Carden replied that he has the smallest lot in the zoning district and that the 25-foot setback was created because everyone had bigger lots on 14th Street and 15th Circle and that he himself has one of the smallest lots which creates a hardship for him. Board Member Tom DiFransico commented that this hardship was not self-created, and that Mr. Carden knew about the property line as well as the waterline when he purchased the property. Mr. Carden replied that the canal was not dredged and that he did not know exactly where the dredging would lead. The Board commented that Mr. Carden was one of the proponents for the dredging which Mr. Carden confirmed and further stated he paid for it as well. Mr. Carden further commented that the principle of setbacks is line-of-sight and that his house does not go back any further back than any other houses on that street. Mr. Carden continued explaining the layout of his house in comparison to neighboring houses. Board Member Mike Yunker asked Mr. Carden if the submitted print had his current house on its which Mr. Carden confirmed. Chair Joey Raspe stated that one of his issues is the safety issue of being closer to the canal and he would rather see the house sitting closer to the street. Mr. Carden replied if that is what the Board wants, he could do it, but he believes it looks stupid and that people would not like it. Chair Joey Raspe stated that he lives on 12th Street and that he had to adjust the size of his house due to the lot size and that he never thought about asking for a variance request. Mr. Carden stated that he wants to be a good steward to the Community and wants his house to look like it belongs. Mr. Carden further stated that there are other houses that look terrible and are an embarrassment to Key Colony and he does not want that, but he probably will if he does not get his variance. Mr. Carden said that 14th Street and 15th Circle are beautiful streets and that the Board wants to make sure that the houses all look the same. The Board had no further comments or questions on the hardship question.

Chair Joey Raspe continued reading the applicants questions and answers. Chair Joey Raspe asked if there were any additional questions for the Building Official or Mr. Carden. Board Member Mike Yunker asked Building Official Roussin if the square footage of the lot makes it a reasonable size to build a home that would fit into the perimeters of the setbacks. Building Official Gerard Roussin stated that on any lot within the city a house can be built within the perimeters and believes that the minimum square footage for the area is either 1,200 or 1,300

square feet. Building Official Roussin further stated that a house could be built within the perimeters, but it probably would not be the house someone would want to build. Building Official Roussin stated that the question is a double-edged sword question since a house can be built within the perimeters, but it probably would not look like it belongs.

The Board had no other discussions or questions on the variance request.

Setback Variance Request - Post Hearing Questions: Chairperson Joey Raspe read the Post Hearing Questions to the Planning & Zoning Board.

1. Has the applicant shown good and sufficient cause to grant the variance?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

2. Will denial of the variance result in unnecessary hardship to the applicant?

Roll call: Mike Yunker – yes, Tom DiFransico – no, Joey Raspe – no. Roll call vote: 1 – YES. 2 – NO.

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

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

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?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – No. Roll call vote: 2 – YES. 1 – NO.

5. Granting this variance would not confer any special privileges in terms of established development in the immediate neighborhood?

Roll call: Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – no. Roll call vote: 2 – YES. 1 – NO.

d. Planning & Zoning Board Recommendation:

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to approve the granting of the requested height variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – yes, Tom DiFransico – yes, Joey Raspe – yes. Unanimous approval. The Height Variance Request was granted.

MOTION: Motion made by Tom DiFransico, seconded by Joey Raspe, to disapprove the granting of the requested setback variance for 200 15th Circle.

ON THE MOTION: Roll Call vote. Mike Yunker – no, Tom DiFransico – yes, Joey Raspe – yes. 1 – NO, 2 – YES. The Setback Variance Request was denied.

8. Ordinance 2022-473: AN ORDINANCE OF CITY OF KEY COLONY BEACH, FLORIDA, AMENDING CHAPTER 6, ARTICLE II (“DANGEROUS STRUCTURES”) OF THE CODE OF ORDINANCES OF THE CITY OF KEY COLONY BEACH BY AMENDING SECTION 6-97, WHICH SHALL PROVIDE FOR A CERTIFICATION AND RECERTIFICATION PROCESS FOR EXISTING AND FUTURE MULTISTORY STRUCTURES

Chair Joey Raspe read Ordinance No. 2022-473.

Building Official Gerard Roussin explained the ordinance and its correlation to the Surfside collapse in Miami. Building

Official Roussin further stated that what the City is looking for is a shorting of time for inspections on waterfront properties, commercial properties, R3, RH, and the type of designations that do not apply to single family or duplex homes. Building Official Roussin further stated that this ordinance only applies to 2-stories and above, multi family, resort/hotel, commercials, or condos. Building Official Roussin further stated that they are looking for a every 10-year inspection for buildings that are over 17 years old and would like to have a recertification every 10 years. Building Official Roussin continued by saying that current recertifications are every 40 years. Building Official Roussin further stated that a 40-year recertification on a building is pretty much a lifespan of a building and that they are trying to avoid this issue. Building Official Roussin explained that a private engineer will do electrical and structural inspections with certain time frames of having issues addressed including permits, engineering drawings on how repairs are being made. Building Official Roussin further said that this is a safe ordinance and well deserved after seeing what happened. Chair Joey Raspe asked Building Official Roussin if the Building Department provides the engineer or if it is an independent person. Building Official Roussin clarified that it is an independent company that Building hires and that the report gets reviewed by the Building Department. Board Member DiFransico asked if the engineer has to be approved the by Building Department which Building Official Roussin explained does not but has to be a state certified engineer. Board Member DiFransico asked for clarification for the wording in the proposed ordinance regarding the certification requirements on page 32. Building Official Roussin stated that the Building Department knows most local engineers and that this would pertain to out-of-town engineers as the Building Department would need to see their certification. Board Member DiFransico stated that he has several comments on the drafting of the ordinance. Board Member DiFransico stated that the qualification requirements on page 32, and middle of 33, state different requirements and that he is questioning the different requirements. Building Official Roussin stated that a qualified building inspector is not a structural engineer, and the structural engineer is a better degree than what they hold. Board Member DiFransico and Building Official Roussin continued to talk about the different qualifications for engineers. Board Member DiFransico suggested that the ordinance be redrafted regarding the qualifications to make it clearer to understand. Board Member DiFransico further commented on the timing of 90 days for the inspection and report to the city, following 60 days to complete repairs. Board Member DiFransico stated that the time frames do not seem right to him and further said that some repair work might take longer then 60 days. Board Member DiFransico asked the Building Official to adjust the timing which Building Official Roussin stated can be accomplished either with a longer time frame or verbiage of that a permit has been applied for. Board Member DiFransico clarified that he would leave the exact verbiage to Building Official Roussin. Chair Joey Raspe asked the Building Official if he would be comfortable with giving extensions which Building Official Roussin confirmed. Building Official Roussin further explained that it is understood what the work situation in the Keys looks like with getting things done in a timely manner and that there is not a huge workforce to draw from. Board Member DiFransico further asked Building Official Roussin to define what a multi-story building looks like and suggested to define the meaning in the ordinance. Board Member DiFransico further asked for a definition of a threshold building on page 34. Building Official Roussin explained that a threshold is a any type of visum construction, and that as part of the new Florida Building Code a Threshold Inspector is needed for new buildings. Board Member DiFransico suggested to Building Official Roussin to define the meaning of a threshold building which Building Official Roussin agreed to. City Attorney Ryan Benninger asked if it is the Boards recommendation to add a definitions section, which Board Member DiFransico stated would be his personal recommendation or have it somewhere else referred to for explanation. Board Member Mike Yunker asked if the purpose of the ordinance is to bring any required structure up to current electrical code or if this is to address any safety issues in the electric. Building Official Roussin stated that it is safety only and no one can be forced to upgrade to current code. Board Member Mike Yunker further asked for clarification on verbiage on page 32 and asked for clarifications on the definitions of minor structures on page 33 and the occupant load of 10 or less. Building Official Roussin explained that the 10-load occupancy refers to multi-family units and is a different standard than low-load occupancy. Board Member Mike Yunker asked how qualifications on multi-units were calculated which Building Official was not certain on but would follow up on. Board Member Mike Yunker further asked on the definition on how square footage applies for minor buildings, which Building Official Roussin was not sure on, but stated will be made part of their definitions section that will be added to the ordinance after being researched. Board Member Yunker asked Building Official Roussin on why the proposed ordinance applies to condos but not to single family residences. Building Official Roussin explained that he does not know the answer to that question, especially knowing that many single-family residences have major spalling, but believes that the property owners rights might be different for single-family residences compared to multi-family residences with condo associations. Chair Joey Raspe stated that this might be comparable to being a third party being responsible as opposed to being the actual homeowner. Building Official Roussin stated that he does not believe that there will be any problems in the city as most buildings do their repairs and normal

maintenance when it is supposed to be done. Building Official Roussin stated that the proposed ordinance will give the city a little bit more teeth when asking for inspection to be done in a timely manner and a good step forward in the safety process. Upon discussion with City Attorney Ryan Benninger the Board agreed upon the ordinance to be redrafted and presented back to the Planning and Zoning Board at next month's meeting.

9. There was no other business.

10. The meeting adjourned at 10:26 a.m.

Respectfully

Silvia Gransee

City Clerk

ADOPTED: May 18th, 2022

Silvia Gransee

City Clerk