

MINUTES

KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, December 1, 2022 – 10:16 a.m.

Temporary City Hall & Virtually Via Zoom Conferencing

1. Call to Order, Pledge of Allegiance, Prayer, Roll Call: The Public Hearing of the City Commission of Key Colony Beach was called to order by Mayor Trefry at 10:16 a.m. followed by the Pledge of Allegiance, Prayer, and Roll Call.

Present: Mayor Patricia Trefry, Vice-Mayor Beth Ramsay-Vickrey, Commissioner Harding, Commissioner Freddie Foster, Commissioner Joey Raspe. **Also Present:** City Administrator Dave Turner, City Clerk Silvia Gransee, City Attorney Dirk Smits, City Attorney Janette Smith (virtual), Police Chief Kris DiGiovanni, Building Assistant Trish McLeod, Code Enforcement Officer Barry Goldman, Administrative Assistant Christine McLeod.

Public: 10 Marble Hall

2. Administration of Oath to Witnesses: City Clerk Gransee administered the Oath of Witness to all planning on testifying.

3. Citizen Comments and Correspondence: City Clerk Gransee reported that no additional citizen comments were received other than what was included in the agenda packet.

Mr. Paul Savage addressed the Commission via zoom regarding procedures on variance applications. (For a copy of the recording please contact the City Clerk at cityclerk@keycolonybeach.net.)

There were no further citizen comments.

4. Disclosure of Ex-Parte Communications: None.

5. Proof of Publications, Affidavit of Mailing/Posting Notices: Publications were accepted as legally sufficient.

6. Variance Request:

A. 68 7th Street, Owner: Chad O'Rourke

Applicant requests a Variance After-The-Fact to Land Development Regulations Chapter III, Section 101-13, Subsection (8); requesting approval for an after-the-fact variance in height, width, and depth for the construction of a Tiki Hut on top of the roof top deck.

Commissioner Raspe announced his intent to recuse himself from voting due to a conflict. A copy of Form 8B is attached to these minutes.

a. Presentation of Variance Request – Building Department: City Administrator Turner spoke on behalf of Building Official Leggett. The City Administrator gave a brief overview on the variance request. The Commission had no further questions.

b. Statement by Applicant: Chad O'Rourke, owner of 68 7th Street, addressed the Commission and gave a brief overview on the history of the house and damages that occurred due to water intrusion. Mr. O'Rourke further recalled the prior permit and issues leading up to the after-the-fact variance application.

c. Planning & Zoning Board Recommendation: Mr. Tom DiFransico, Planning & Zoning Board Member, addressed the Commission and stated the facts that were presented to the Board in the after-the-fact variance request. The Commission discussed if the issue at hand was the structure of the tiki hut on the roof or the issue of height. Mr. DiFransico explained the Planning & Zoning Boards understanding of events leading up to the after-the-fact variance request. Code Enforcement Officer Goldman stated his understanding that the height was not properly documented originally.

The Commission and Code Enforcement Officer further discussed the original application and specifications of the tiki hut and knowledge of the Building Department. Mayor Trefry clarified that the Planning & Zoning Boards vote was not for an after-the-fact variance on the question of aesthetics but on the question of height. Additional discussion ensued on the question of aesthetics and reasoning why it was not addressed by the Planning & Zoning Board. Commissioner Raspe explained past procedures on architectural review by the Planning & Zoning Board. The Commission and Mr. DiFransico further discussed what information was available from the contractor. City Clerk Gransee referred to the Planning & Zoning Board meeting minutes from November 16th for clarification on the question of height. City Attorney Smits stated rules and regulations from the Key Colony Beach Code of Ordinances on what items fall under consideration for the Planning and Zoning Board.

d. Planning & Zoning Meeting Minutes 11-16-2022: The minutes from the meeting were received by all.

e. Commissioner Comments: Commissioner Foster asked for clarification that the Commission is asked to vote on the question of height only. Upon further discussion, City Attorney Smits stated that the Commission can refer the issue back to the Planning & Zoning Board for further architectural review. Further discussion followed on the question of knowledge of the tiki hut on the roof and what original plans were submitted.

f. Motion to Approve, Deny, or Approve with Conditions: Mayor Trefry asked for a motion to approve or deny, or approve with conditions, the variance request for 68 7th Street.

MOTION: Motion made by Commissioner Foster, seconded by Commissioner Harding, to approve the requested variance as is.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Vice-Mayor Ramsay-Vickrey – no, Commissioner Harding – yes, Commissioner Foster – yes, Mayor Trefry – yes. Commissioner Raspe abstained from voting. The variance was approved by majority vote adopting the reasoning by the Planning & Zoning Board.

B. 200 15th Circle – Owner: Thomas E. Carden

Applicant requests a Variance to Land Development Regulations Chapter 101, Section 101 – 10 (8) height variance of 6’8”. Current maximum height is 30’0”.

The Applicant further requests a Variance to Land Development Regulations Chapter 101, Section 10 (5) rear setback by 8’6”. Current rear yard minimum is 25’.

A. Variance for Height: Mayor Trefry read the variance request to the Commission and explained that the question on height and setback will be addressed in two separate votes. Mayor Trefry further stated that the question on height will be addressed first.

a. Review of Meeting Minutes: The Planning & Zoning meeting minutes were received by all.

b. Presentation of Variance Request – Building Department: City Administrator stated that he is available for any questions from the Commission. City Attorney Smits recalled the history of the variance request and explained the importance of great deference to the Special Masters opinion. Commissioner Foster said that he reviewed prior documents and is up to date on all information.

c. Statement by Applicant: Mr. Carden was unable to appear at the meeting in person, or via zoom, but had submitted a statement to the Commission. The statement was received by all Commissioners. Please contact the City Clerk at cityclerk@keycolonybeach.net for a copy.

d. Planning & Zoning Board Recommendation: Mr. Tom DiFransico, Planning & Zoning Board Member, recalled the original variance request and the decision to split the variance request in two for height and setback.

g. Motion to Approve, Deny, or Approve with Conditions – Height:

Mayor Trefry asked for a motion to approve, deny, or approve with conditions, on the requested variance for height.

MOTION: Motion made by Vice-Mayor Ramsay-Vickrey, seconded by Commissioner Foster, to approve the height variance for 6’8”.

DISCUSSION: None. Mayor Trefry clarified that the agenda packet had the incorrect information on the requested height variance and that the correct height is 6’8”.

ON THE MOTION: Rollcall vote. Unanimous approval.

B. Variance for Setback: Mayor Trefry stated the next item for the Commission to consider is the question on the rear setback. City Attorney Smits emphasized the importance of great deference to the Special Masters opinion.

Mayor Trefry acknowledged that all correspondence was received by the Commission.

a. Planning & Zoning Board Recommendation: Board Member Tom DiFransico reported to the Commission, that after review of the variance request on the question on the setback, and discussion with the Building Department as well as with Mr. Carden, the Planning & Zoning Board recommended to disapprove the request.

Mayor Trefry confirmed that Mr. Carden's statement was received and reviewed by the Commission.

Mayor Trefry asked for a motion to approve, deny, or approve with conditions, the variance for the rear setback of 8'6".

MOTION: Motion made by Commissioner Harding, seconded by Vice-Mayor Ramsay-Vickrey, to deny the setback request.

DISCUSSION: Commissioner Foster asked if the setback dimensions could be changed by the Commission or if the request for 8'6" was definite. Mayor Trefry stated that the question on the setback was deferred to the Special Master and that what was ruled upon. Mayor Trefry continued saying that Mr. Carden could go before the Planning & Zoning Board again with a different setback request and start the process again. City Attorney Smits confirmed that Mr. Carden can start a new variance application. Commissioner Harding explained that for the motion at hand the Commission is following the Special Masters recommendation which Mayor Trefry confirmed. There was no further discussion.

ON THE MOTION: Rollcall vote. Unanimous approval.

7. **Adjournment:** The meeting adjourned at 10:52 a.m.

Respectfully submitted,

Silvia Gransee

City Clerk

ADOPTED: January 19, 2023

Silvia Gransee, City Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME RASPE JOSEPH ALLEN	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE KCB Commission
MAILING ADDRESS PO BOX 510526	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY COUNTY Key Colony Beach, FL Monroe	NAME OF POLITICAL SUBDIVISION:
DATE ON WHICH VOTE OCCURRED 12/1/22	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, Joseph Raspe, hereby disclose that on 12/1, 20 22:

(a) A measure came or will come before my agency which (check one or more)

- ☒ inured to my special private gain or loss;
- ☐ inured to the special gain or loss of my business associate, _____;
- ☒ inured to the special gain or loss of my relative, Karen Raspe;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

My wife is applicant's realtor, therefore financial gain.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

10/5/22
Date Filed

Joseph Raspe
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.