

MINUTES

KEY COLONY BEACH CITY COMMISSION PUBLIC HEARING

Thursday, September 21, 2023 – 9:30 a.m.

Key Colony Inn Banquet Room, 700 W. Ocean Drive, Key Colony Beach
& via Zoom

- 1. Call to Order, Pledge of Allegiance, Prayer, Roll Call:** The Key Colony Beach City Commission Public Hearing was called to order by Mayor Patricia Trefry at 9:30 am followed by the Pledge of Allegiance, Prayer, and Rollcall. **Present:** Vice-Mayor Beth Ramsay-Vickrey, Commissioner Tom Harding, Commissioner Raspe, Mayor Patricia Trefry. **Absent:** Commissioner Freddie Foster. **Also present:** City Administrator Dave Turner, Marathon Assistant Fire Marshal Mike Card, Chief Kris DiGiovanni, City Attorney Dirk Smits, Code Enforcement Officer Barry Goldman, Building Official Lenny Leggett, Public Works Department Head Mike Guarino, Administrative Assistant Tammie Anderson, City Clerk Silvia Gransee.

Public Attendance: 24

- 2. Agenda Additions, Changes & Deletions:** None.
- 3. Approval of Minutes:** None.
- 4. Administration of Oath to Witnesses:** City Clerk Gransee administered the Oath of Witness to all planning to testify.
- 5. Citizen Comments and Correspondence:**

City Clerk Gransee informed on the following correspondence received for the City Commission regarding this morning's public hearing:

July 9th, 2023, Steve Wenger, 100 13th Street, wrote to the City Commission opposing the issuance of a building permit.

July 18th, 2023, Sandra Humphrey, 230 14th Street, wrote to the City Commission stating her objections to the issuance of a building permit.

July 18th, 2023, Pam Nada-Caley, wrote in opposition to the issuance of a building permit.

August 11th, 2023, Sandra Humphrey, 230 14th Street, stated objections to the issuance of a building permit for the property located at 1295 Coury Drive.

August 21st, 2023, Steve Wenger, 100 13th Street, wrote in opposition to the issuance of a building permit.

September 18th, 2023, Steve Wenger stated his opposition to the issuance of a building permit to Mr. Bauer.

September 18th, 2023, Sandra Humphrey, 230 14th Street, stated objections to the issuance of a building permit for the property located at 1295 Coury Drive.

Mayor Trefry asked for citizen comments from the audience. There was none.

6. Disclosure of Ex-Parte Communications: None.

7. Appeal of Building Permit Denial Permit Application #B23-000027 1295 Coury Drive: Applicant appeals the decision of the Key Colony Beach's Building Official pursuant to Sec. 2-2, Sec. 6-14, and Sec. 101-170, for the denial of a building permit for the property located at 1295 Coury Drive, Key Colony Beach, Florida 33051.

a. Proof of Legal Publications: Included in the agenda packet.

b. Presentation of Building Permit Denial: City Attorney Smits deferred to the agenda packet, page 18, for the basis of the permit denial. City Attorney Smits summarized that a sufficient cloud of title is pending against residents with interest in the property and legal's recommendation is to follow the statement as noted on page 18, as well as the recommendation by the Planning & Zoning Board.

c. Statement by Applicant/Representative: Kenneth Bohannon, Esq., introduced himself as the representative for Nickolaus Bauer, and proceeded to hand out documents for review to the City Commission and staff.

Mr. Bohannon began his oral presentation by asking Building Official Leggett questions on the Building Departments application process, Florida Statutes, and origin of correspondence. Building Official Leggett confirmed that the correspondence in question was prepared by the legal department and confirmed Attorney Bohannon's questions to be correct.

Attorney Bohannon continued questioning Building Official Leggett on responsible parties for building permits and on contents of documents submitted with the building permit. Building Official Leggett stated his understanding of receiving a permit for review and stated observing no deficiencies with the application to his knowledge. Building Official Leggett informed of not having done a complete review for having being advised of legal discrepancies surrounding the property.

Attorney Bohannon continued questioning Building Official Leggett on his Building Official reviews being in line with Florida Statutes which Building Official Leggett confirmed and stated no known discrepancies.

Mayor Trefry clarified the position on where the appeal is standing. City Attorney Smits explained for Attorney Bohannon to continue his questioning, however, to not repeat prior testimony. Attorney Bohannon gave his legal opinion on the denial of the application and the scope of a normal review.

Attorney Bohannon asked for the submitted documents to be made part of the record for purposes of appeal.

Attorney Bohannon reiterated his support for the allowance of the issuance of the permit and gave arguments in support of. Attorney Bohannon stated the City's Code in support of his argument and explained the rights of the developer and the owners of the property. Attorney Bohannon explained statutes of limitations and the City's ability to issue a building permit.

Attorney Smits questioned Building Official Leggett on property ownership and the process of finding deficiencies in the course of a permit application. Building Official Leggett stated that at the time of the application a clarification of the restrictions on the deed was asked for and further reviews would have followed.

City Attorney Smits adopted the agenda packet materials in case of appeal. There were no objections

d. Planning & Zoning Board Recommendation

- i. **Review of Meeting Minutes:** Included in the agenda packet.
- ii. **Letter of Recommendation:** Planning and Zoning Chair George Lancaster had no additional comments.

e. City Commission Discussion/Questions: Mayor Trefry asked for Commissioner comments.

Commissioner Raspe asked Attorney Bohannon on the intentions of building a house with residents having access to the water. Attorney Bohannon gave his review of the plat restriction and legal opinion of the applicant's rights. Attorney Bohannon further explained the cloud on title and unknown interests that are planned on being resolved through quit-claim-deeds and litigation.

There were no additional comments from the Commission.

f. Motion to approve, deny, or approve with conditions:

Mayor Trefry entertained a motion to approve, deny, or approve with conditions, the appeal of the building permit denial for 1295 Coury Drive.

MOTION: Motion made by Vice-Mayor Ramsay-Vickrey to deny the building permit. Mayor Trefry asked for a second. Commissioner Raspe seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

Mayor Trefry confirmed to Attorney Bohannon that the appeal was denied.

8. Variance Request(s):

A. 521 9th Street – Owners: Jane & Jim Walther: Applicant requests a variance to the City of Key Colony Beach Code of Ordinances Chapter 101, Section 26 (11), to allow the installation of a pool within the 10' setback to 5' on one side of the lot. Current setback requirements are 10' feet.

a. Proof of Legal Publications & Affidavits of Mailing/Posting: Included in the agenda packet.

b. Presentation of Variance Request: Mayor Trefry introduced the agenda item and asked Building Official Leggett to continue the presentation. Building Official Leggett stated for similar requests to have been approved in the past and recommended the approval of the variance.

c. Statement by Applicant/Representative: The applicant Jane Walther gave her name for the record and stated her husband's health and a recommendation for pool exercises as the foundation of the initiation of a pool and the consequent pool variance.

d. Planning & Zoning Board Recommendation

- i. **Letter of Recommendation:** Included in the agenda packet.
- ii. **Review of Meeting Minutes:** Included in the agenda packet.

d. City Commission Discussion/Questions: Commissioner Raspe stated understanding for the blanket approvals for side setback requirements for the R2B zone but stated that all other cases should be handled individually.

e. Motion to approve, deny, or approve with conditions: Mayor Trefry asked for a motion to approve, deny, or approve with conditions the variance request for 521 9th Street.

MOTION: Motion made by Commissioner Raspe to approve the variance request. Mayor Trefry asked for a second. Vice-Mayor Ramsay-Vickrey seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

B. 160 13th Street – Owner: Jennifer Goldstein: Applicant requests a variance to the City of Key Colony Beach Land Development Regulations Article IV. Sec. 101-26 (2), to allow the installation of a tiki hut with a maximum floor area of 192 square feet. Current maxim floor area: 80 square feet with maximum roof overhang of 18 inches.

Mayor Trefry introduced the Variance request.

a. Proof of Legal Publications & Affidavits of Mailing/Posting: Included in the agenda packet.

b. Presentation of Variance Request: Building Official Leggett deferred to Building Assistant Bursa for the presentation of the request.

Building Assistant Bursa gave a review of the requested variance and informed that approval for the requested variance was recommended by the Building Department but denied by the Planning and Zoning Board. Building Assistant Bursa explained that the recommendation for denial by the Planning and Zoning Board was based on not having fulfilled the requirements of hardship and deferred to the Board's recommendation.

c. Statement by Applicant/Representative: The applicant was not present.

d. Planning & Zoning Board Recommendation

i. Letter of Recommendation: Included in the agenda packet.

ii. Review of Meeting Minutes: Included in the agenda packet.

e. City Commission Discussion/Questions: Mayor Trefry asked for Commissioner discussion or questions. There were none.

f. Motion to approve, deny, or approve with conditions: Mayor Trefry asked for a motion to approve, deny, or approve with conditions, the variance request for 160 13th Street.

MOTION: Motion made by Vice-Mayor Ramsay-Vickrey to deny the variance request. Mayor Trefry asked for a second. Mayor Trefry seconded the motion after handing the gavel to the Vice-Mayor Ramsay-Vickrey.

DISCUSSION: Mayor Trefry stated to follow the Planning & Zoning Boards recommendation.

ON THE MOTION: Rollcall vote. Unanimous approval.

C. Sunset Park Tiki Hut – Owner: City of Key Colony Beach: Applicant requests a review and confirmation of no variance requirements to the City of Key Colony Beach Land Development Regulations Article III, Section 101-19, for the replacement of the current Tiki Hut with dimensions of 9' x 9', to a Tiki Hut with the dimensions of 15' x 20' at Sunset Park, Key Colony Beach, Florida 33051.

Mayor Trefry introduced the variance request for Sunset Park.

- a. Proof of Legal Publications & Affidavits of Mailing/Posting:** Included in the agenda packet.
- b. Presentation of Variance Request:** City Clerk Gransee swore in City Administrator Turner prior to testifying.

City Administrator Turner addressed the Commission and explained that the replacement of the tiki hut technically does not require a variance but the item was presented to the Planning and Zoning Board and Commission for transparency. City Administrator Turner stated for the approval to benefit all residents, and for rules and regulations to be discussed during the regular meeting. City Administrator recommended approval of the variance and explained for the original tiki to be moved and that no taxpayer monies will be used.

c. Statement by Applicant/Representative: See under b.

d. Planning & Zoning Board Recommendation

- i. Letter of Recommendation:** Included in the agenda packet.
- ii. Review of Meeting Minutes:** Included in the agenda packet.

e. City Commission Discussion/Questions: City Administrator Turner explained for Sunset Park to be on the endangered species list but for the endangered tree snail and tree cactus not being affected by the tiki.

Vice-Mayor Ramsay-Vickrey clarified to the public that the item is for public review only and no variance is required per recommendation by the Planning & Zoning Board.

f. Motion to approve, deny, or approve with conditions: Mayor Trefry asked for a motion to approve, deny, or approve with conditions the variance request for Sunset Park.

MOTION: Motion made by Commissioner Raspe to approve the request. Mayor Trefry asked for a second. Vice-Mayor Ramsay-Vickrey seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

9. Other Business: None.

10. Adjournment: The meeting adjourned at 10:04 am.

Respectfully submitted,

Silvia Gransee

City Clerk

ADOPTED: October 19, 2023

Silvia Gransee

City Clerk