

MINUTES
PLANNING & ZONING BOARD
REGULAR MEETING & PUBLIC HEARING

Wednesday, March 20th, 2024 - 9:30 a.m.

Marble Hall, 600 W. Ocean Drive, Key Colony Beach, Florida 33051 & via Zoom Conferencing

- 1. Call to Order, Pledge of Allegiance & Rollcall:** The Key Colony Beach Planning & Zoning Hearing was called to order by Chair George Lancaster followed by the Pledge of Allegiance and Rollcall. **Present:** George Lancaster, Doug Colonell, Bob Glassman, Vice-Chair Lin Walsh. **Also present:** Mayor-City Administrator Joey Raspe, Building Official Ed Borysiewicz, City Attorney Dirk Smits, Administrative Assistant Tammie Anderson, City Clerk Silvia Gransee.
- 2. Agenda Additions, Deletions, or Changes:** City Clerk Gransee informed on the following agenda changes:
 - Under Item 7b: Neighbor Approval for 37 Sadowski Causeway
 - New Item 10: Discussion/Approval for the business of a Mobile Food Trailer at the ‘Mobil’ Gas Station at ~~43400~~ 13155 Overseas Highway, to allow Empanada Nation to sell Empanadas and Cuban Coffee.
 - a. Presentation by the Building Department
 - b. Statement by the Applicant
 - c. Planning & Zoning Board Discussion
 - d. Motion to approve, deny, or approve with conditions
 - ~~New Item 11: Discussion/Approval of a recommendation for appointment of Kirk Boggs to the Planning & Zoning Board.~~ ****Under legal review for residency requirements****
 - Scrivener’s correction under Item 7: Pages 4-5 and Item 8 Pgs. 6-58
- 3. Citizen Comments & Correspondence:** None.
- 4. Approval of Minutes:**
 - a. Planning & Zoning Board Meeting Minutes February 21, 2024: Chair Lancaster asked for any changes or Corrections to the minutes. There were none. Chair Lancaster accepted the minutes as written.
- 5. Administration of Oath of Witnesses:** City Clerk Gransee administered the Oath of Witness to all testifying.
- 6. Disclosure of Ex-Parte Communication:** None.
- 7. Discussion/Approval to install a 20,000 lb. cradle-style boatlift at the property located at 37 Sadowski Causeway**
 - a. **Presentation by the Building Department:** Building Official Borysiewicz presented the matter to the Board and recommended approval. Building Official Borysiewicz confirmed no objections from the neighbor and stated for this approval to be similar to other approvals on Sadowski Causeway.
 - b. **Statement by Applicant:** None.
 - c. **Planning & Zoning Board Discussion:** Bob Glassman asked if the prior boat lift was destroyed during Hurricane Irma. Building Official Borysiewicz had no knowledge but gave confirmation for the lift to be within the prescribed code requirements.

- d. Motion to approve, deny, or approve with conditions:** Chair Lancaster asked for a motion to approve or deny.

Motion: Motion made by Lin Walsh to approve. Chair Lancaster asked for a second. Doug Colonell seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

City Clerk Gransee informed for the recommendation to be presented to the City Commission on April 18th.

8. Discussion/Approval to install a 16,000 lb. cradle-style boatlift at the property located at 948 West Ocean Drive

- a. Presentation by the Building Department:** Chair Lancaster presented the matter to the Board and asked Building Official Borysiewicz to elaborate. Building Official Borysiewicz informed on City Code requirements in addition to needed recommendation for approval from the Planning & Zoning Board and City Commission. Building Official Borysiewicz explained for the proposed cradle lift being unique due to its involvement with riparian rights. Building Official Borysiewicz informed on having knowledge of the property and dockage area since the 1990's and was able to find old documents regarding riparian rights. Building Official Borysiewicz informed off an old survey found in the archives and explained areas depicted in the survey. Building Official Borysiewicz explained the locations of the riparian lines according to the survey and the proposed location for the boat lift. Building Official Borysiewicz further informed off an additional newer survey submitted showing different riparian lines with large discrepancies between the two surveys. Building Official Borysiewicz talked on issues with previous owners and builders where determinations were made that only an about 18 foot boat with a 6 foot beam could be accommodated. Building Official Borysiewicz explained that this explains the Building Departments recommendation that the cradle lift will not fit without going over the riparian lines.

City Attorney Smits informed for the testimony and evidence submitted in the agenda packet are admitted into the record for evidence.

- b. Statement by Applicant:** Attorney Matthew Hutchinson introduced himself to the Board on behalf of the applicant, Frank Tricarico. Matthew Hutchinson presented evidence to the Board in support of his testimony. Mr. Hutchinson talked about common law and prior case law on riparian lines as well as ownership and riparian rights. Matthew Hutchinson explained the differences in both surveys and stated for newer survey to be the more accurate one. Mr. Hutchinson gave further details on dimensions of the lines and informed on easements and equitable distribution of the channel. Matthew Hutchinson informed for the cradle lift to fall within the riparian lines according to the newer survey. Matthew Hutchinson explained locations depicted in submitted pictures to show sufficient space. Mr. Hutchinson gave further opinion on submitted evidence and understanding of riparian law. Mr. Hutchinson talked on case law and submitted evidence and asked for approval of the lift.

- c. Planning & Zoning Board Discussion:** Chair Lancaster asked for clarification on the statement that the easement granted for the house includes a lift and not just dockage. Matthew Hutchinson confirmed and explained easements that were given to the property in question. Matthew Hutchinson explained the granting of riparian rights per Florida Law and stated for the right to include dockage and by extension a lift. Mr. Hutchinson gave further argument in support of an approval for the boat lift.

Chair Lancaster asked Building Official Borysiewicz for his opinion if a boat lift is not included in the easement. Building Official Borysiewicz informed for the property at 948 W. Ocean Drive being a dry lot and for the easements and riparian lines having been drawn up 30 years ago. Building Official Borysiewicz informed for the new survey taking rights from other property owners and for the applicants boat being large and not be able to fit in the measurements of the older survey. Building Official Borysiewicz stated understanding with the purpose of riparian lines but for the easements having been agreed upon a long time ago and do not represent an automatic approval of a boat lift.

City Clerk Gransee confirmed no additional correspondence.

Bob Glassman asked for clarification of boats in the submitted pictures.

City Attorney Smits introduced Attorney Patrick Stevens to the Board.

Patrick Stevens, representative of the property owner to the immediate West of the property in question, introduced himself to the Board and spoke on the matter. Mr. Stevens spoke on knowledge of riparian rights at time of property purchases and explained that the applicant has no riparian rights through his easement. Patrick Stevens stated for the applicant to have an easement which gives the right to boat dockage, using the property to walk through, and the use of electricity. Mr. Patrick Stevens gave further testimony on the rights under an easement and asked for the Board to follow historical and staff reports.

Mr. Matthew Hutchinson rebutted Mr. Patrick Stevens testimony and gave his opinion that riparian rights are part of the easement.

Chair Lancaster recognized Trent Meier, Engineer for the applicant.

City Clerk Gransee administered the Oath of Witness to the witness.

Trent Meier informed on the permitting process and proprietary review by the State of Florida and for the easements and riparian lines having been reviewed and approved by the State of Florida.

City Attorney Smits advised Chair Lancaster for the Boards decision to be based upon all testimony, including staff, submitted evidence, and for the Board to be the factfinder and determiner of law.

City Attorney Smits asked for confirmation that all parties submitted their evidence.

Matthew Hutchinson asked for his evidence to be submitted.

Lin Walsh asked on the Building Official's Borysiewicz opinion on the testimony.

Building Official Borysiewicz stated that the Board has to take all evidence into account and make a recommendation.

Discussion followed on the possibility of a boat on a neighboring property impacting the proposed boat lift. Mr. Patrick Stevens submitted a picture of a boat on the neighboring property into evidence.

Lin Walsh asked on the verbiage in the easements and asked for clarification on the term 'dock'.

City Attorney Smits explained for that verbiage being part of the argument.

Further discussion followed on other possible locations for the boat. Matthew Hutchinson explained ownership of neighboring properties. The Board continued to examine the submitted picture.

Chair Lancaster asked for a motion for a recommendation to the City Commission to either approve or disapprove.

Building Official Borysiewicz stated to stand by the staff report but for the Board to have the final determination.

The Board did further examination of the provided evidence.

Matthew Hutchinson gave further argument in support of the boat lift.

Lin Walsh clarified the argument being for the boat in the water or on a boat lift.

Building Official Borysiewicz gave his opinion that at 37.5 foot vessel does not fit within the riparian lines in the newer survey.

Chair Lancaster stated for the Board having to decide which survey to recommend to the Commission to look at. Mr. Matthew Hutchinson informed of the matter being an ongoing dispute and former Code Officer Goldman having been involved.

Matthew Hutchinson submitted additional evidence. There were no objections.

Building Official Borysiewicz gave his opinion on boat dimensions and for the boat not being able to leave without crossing the riparian lines.

Mr. Patrick Stevens rebutted the submitted evidence.

Chair Lancaster recognized Trent Meier.

Engineer Trent Meier testified that there are no rules against navigating over riparian lines. Trent Meier explained the purpose of the riparian lines to not allow to built an obstruction or block someone's riparian line.

- d. Motion to approve, deny, or approve with conditions:** Chair Lancaster asked for a motion.

MOTION: Motion made by Bob Glassman to disapprove. Chair Lancaster asked for a second. Doug Colonell seconded the motion.

DISCUSSION: Chair Lancaster restated the motion. City Attorney Smits clarified the motion of agreement to disagree.

ON THE MOTION: Rollcall vote. Unanimous approval.

City Clerk Gransee confirmed the recommendation for disapproval to be heard at the next City Commission meeting April 18th.

9. Discussion/Approval of a request for an architecture review for the property located at 1000 W. Ocean Drive, Key Colony Beach, Florida.

a. Presentation by the Building Department: Building Official Borysiewicz spoke on the history of the property and existing ground floor duplex facing 10th Street. Building Official Borysiewicz explained for the prior 2-story portion having been substantially damaged and consequently demolished. Building Official Borysiewicz explained the owner of the vacant duplex to desire to rebuilt a structure. Building Official Borysiewicz gave further details on the proposed structure and for the opinion of staff to need a review of harmonious in nature and architectural review. Building Official Borysiewicz stated for both owners being in attendance and the purpose for the hearing is to discuss architectural compliance and harmonious neighborhood compliance.

b. Statement by Applicant: Jack Bridges, representative of the applicant, asked the Board to table the discussion for the time being, for additional plans are being submitted to City staff to provide more options.

c. Planning & Zoning Board Discussion: Attorney Jack Bridges informed to be standing in for Attorney Theron Simmons and was notable to give details on the matter.

- d. Motion to approve, deny, or approve with conditions:** Chair Lancaster asked for a motion to table the matter.

MOTION: Motion made by Lin Walsh to table the matter. Chair Lancaster asked for a second. Bob Glassman seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

10. Discussion/Approval for the business of a Mobile Food Trailer at the 'Mobil' Gas Station at ~~13100~~ 13155 Overseas Highway, to allow Empanada Nation to sell Empanadas and Cuban Coffee.

a. Presentation by the Building Department: Building Official Borysiewicz introduced the matter to the Board and explained the location not being in a permitted or prohibited use area and asking for a review from the Board.

b. Statement by the Applicant: None.

c. Planning & Zoning Board Discussion: The Board discussed the possibility of a one-time approval and location of the business. Building Official Borysiewicz recalled a prior approval for a food truck after Hurricane Irma and for it having been a temporary permission. City Attorney Smits confirmed the ability to put a stipulation of time on the approval.

- d. Motion to approve, deny, or approve with conditions:** Chair Lancaster asked for a motion.

MOTION: Motion made by Lin Walsh to recommend to the City Commission to consider approval for 6 month. Chair Lancaster asked for a second. Doug Colonell seconded the motion.

DISCUSSION: None.

ON THE MOTION: Rollcall vote. Unanimous approval.

10. Other Business

11. Adjourn: The meeting adjourned at 10:40 am.

Respectfully submitted,

Silvia Gransee

City Clerk

ADOPTED: April 17, 2024

Silvia Gransee

City Clerk