

Board of Zoning Appeals
Minutes
December 2, 2014

I. Call to order

Chairman Karig called the regular meeting of the Board of Zoning Appeals to order on December 2, 2014 at 5:30p.m. in the City Hall Conference Room, 1207 Palm Boulevard. Other members present were Pete Doherty, Carolyn Holscher, Jay Leigh and Glenn Thornburg; also Secretary Douglas Kerr was present.

II. Approval of minutes

The next item on the agenda was the review of the minutes of the September 2, 2014 meeting. Ms. Holscher made a motion to approve the minutes. Mr. Leigh seconded the motion and the vote was unanimous to approve the minutes.

III. Special Exceptions

Mr. Karig explained that the Board acted as a quasi-judicial body and all comments made were treated in the same manner as court testimony; therefore, any person who would like to speak to the Board should be sworn in. He then swore in all members of the audience that would be speaking.

7 Conch Court

Mr. Kerr explained that the applicant was requesting a special exception to allow the establishment of a photography business in her home. He explained that there would be office work only at the house and no one would come to the house in connection with the business.

The applicant, Ms. Jessica Smith, addressed the Board and explained that the home belonged to her parents and she would only be receiving mail and doing office work from the home.

Mr. Leigh made a motion to approve the request and Ms. Holscher seconded the motion. The vote was unanimous in favor of the motion.

#27- 32nd Avenue

Mr. Kerr explained that the applicant was requesting a special exception to allow the establishment of a marketing business in his home. He explained that there would be office work only at the house and no one would come to the house in connection with the business.

The applicant, Mr. David Elam, addressed the Board and explained that he operated an internet based business that linked service providers, like maids and window washers, to prospective clients. He stated that the business was similar to angleslist.com.

Mr. Thornburg asked if there was ever a need to interview a service provider or client. Mr. Elam answered no. Mr. Lee asked what the name of the service would be. Mr. Elam answered that the business name was Megacllick LLC and the website was hire.contractors.com.

Ms. Holscher made a motion to approve the request and Mr. Doherty seconded the motion. The vote was unanimous in favor of the motion.

IV. Variance

1 Sandshell Court

Mr. Kerr explained that the applicant is requesting a variance to allow the construction of a new front deck eight feet into the front yard setback. He stated that the required setback for the deck is 25 feet and the new deck is proposed to be setback 17 feet. The existing house is legal nonconforming and has an existing encroachment into the setback that is located 15 feet from the front property line.

Mr. Kerr explained that the application states that the property is extraordinary and exceptional because the existing house is nonconforming and that the owner will suffer an unnecessary hardship if the setback is adhered to because without the deck, grilled food must be transported through the living room from the rear deck. The application stated that the subject property is unique because it is one of only six corner lots in the Beachside subdivision and the fact that the Beachside Homeowners Association has approved the request shows that the authorization of the variance will not be of substantial detriment to adjacent property.

Mr. Kerr reviewed the criteria which must all exist in order for the Board to grant a variance, which are:

- (1) There are extraordinary and exceptional conditions pertaining to the particular piece of property;
- (2) Such conditions do not generally apply to other property in the vicinity;
- (3) Because with these conditions, the application of the ordinance or resolution of the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property;
- (4) The authorization of a variance will not be of substantial detriment to an adjacent property or to the public good, and the character of the district will not be harmed by the granting of the variance.

The applicant, Mr. John Bauer, addressed the Board and explained that he was the owner's brother and he wanted to pass around pictures of decks in the Beachside subdivision. He

explained that many of the houses have decks adjacent to the kitchen to allow direct access to a deck with a grill.

He explained that the Beachside subdivision was planned residential development that has its own bylaws and covenants and this deck has been authorized by the Beachside association.

He explained that the proposed deck will not protrude any closer to the road than the existing house and he distributed a site plan showing the proposed deck.

Ms. Holscher asked if Beachside had a home owners association. Mr. Bauer answered yes, as well as a Board of Directors, which have all authorized the proposed deck.

Mr. Karig stated that he could see how the request met three of the four criteria, but he could not see how the request met the criteria which states that the application of the ordinance effectively prohibits or unreasonably restricts the utilization of the property.

Mr. Thornburg stated that it appeared that a deck could still be built that would accommodate a grill, but it would be small. Mr. Bauer stated that something small could probably be constructed, but he did not see why such a request, that is in line with the other decks built in the community and authorized by the community could not be authorized. He stated that it was his belief that the property should be a planned development district and not in the SR2 zoning district as it is a private community.

Mr. Bauer added that as part of the Beachside process, the neighbors are notified of improvements and in this case there were no objections from the neighboring owners.

Mr. Leigh asked if the deck could be constructed to be cantilevered over the driveway to go more in front of the house. Mr. Bauer answered yes, that it probably could, but it would not look good.

Ms. Holscher explained that the Board was not trying to be punitive, but they were obligated to administer the law as it has been approved by City Council. Mr. Bauer stated that he did not see the purpose of having a Board if they cannot occasionally grant exceptions to the rules.

Mr. Leigh made a motion to deny the request based on the fact that the request did not meet criteria three in the zoning code that states that the board must find that the application of the ordinance effectively prohibits or unreasonably restricts the utilization of the property. Additionally he stated that the request does not comply with Section 5-4-37(b), which explains how nonconforming structures are to be handled.

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Mr. Thornburg seconded the motion and the vote was four in favor and one abstention, which was Mr. Doherty.

1126 Ocean Boulevard

Mr. Karig stated that the next applicant had requested a continuance to allow additional information to be gathered. The Board unanimously agreed to grant a continuance until the next meeting.

V. Miscellaneous Business

Mr. Kerr explained that the members who needed the state required three hours of continuing education would be expected to attend a training session on December 10th at 3:30 PM.

VI. Adjournment

With no other business, the meeting was adjourned at 6:30 PM.