

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD
REGULAR MEETING
JUNE 26, 2006
7:00 P.M.**

CALL TO ORDER (7:00 p.m.)

PLEDGE TO THE FLAG

ROLL CALL: Margaret Jenkins, Chair Fran Barford, Vice-Chair Doug Copeland, Sandra Mattick, Randall Stover, Jim Conoly

Absent with excuse: Frank Pytel

Also present: Larry Albert (resident and property owner), Facilitator Tony Arrant [7:20 pm], Mayor SueLynn, Building Official Kevin Donohue, Building Department Administrative Assistant Diane Sacca

Press: Sun, Islander

1. Review Minutes from April 24, 2006 Meeting

MOTION: Margaret Jenkins moved to approve the April 24th, 2006 Planning & Zoning Board Regular Meeting Minutes, seconded by Sandra Mattick.

Vote: All Ayes. Motion carried.

2. Discussion: Applicant: Larry Albert

Rear Setbacks on Through Lots in Residential Zones

Chair Fran Barford noted that the issue before the Planning & Zoning (P&Z) Board at this evening's meeting related to through-lot setbacks, and that Mr. Larry Albert had presented a request to the Commission at their meeting on May 25th, 2006 to adopt an amendment to change Sections 114-222 and 114-242 of the City of Anna Maria Code of Ordinances to allow through lots to have a rear setback of 10 ft., thus enabling installation of swimming pools behind homes on these lots. The P&Z Chair indicated that the Commission had denied Mr. Albert's request, but, in the same motion, (which passed by a vote of three to two), they directed this request to the P&Z Board for consideration and discussion. She confirmed that P&Z Board members present had received copies of the minutes of the May 25th City of Anna Maria Regular Commission Meeting and therefore now possessed sufficient history and background to consider and discuss Mr. Albert's request. Larry Albert clarified that it was Chair Quam's opinion that he should apply for a variance. Chair Barford said she would check on the vote, but acknowledged that the issue was now before the P&Z Board at the direction of the City Commission. [Note: Mr. Albert made his presentation at the May 25th meeting during Public Comment, with reference to a letter he had written to the City on the subject, dated May 8th, 2006, and the Commission reached their decision for P&Z review by consensus.]

Larry Albert of 711 Gladiolus began this evening's presentation by noting that in January 2004, the Commission had changed Ordinance No. 03-610 to disallow swimming pools in the setback. Previously, pools had been allowed in setbacks, as long as they were no

higher than 12” above the ground. He indicated that he understood the rationale for making that change, however, he now demonstrated for the Board, using on a diagram of his lot as a visual aid, that he did not have the usual 10 ft. rear setback, because his lot bordered an alleyway. Larry Albert noted that he could park a boat there, or erect a fence, but he could not have a swimming pool. He said that the Ordinance change in 2004 had been unfair to the thirty or so property owners who own through lots in the City of Anna Maria.

Chair Fran Barford, in response to a question from Randall Stover as to whether the Board was being asked to consider granting an exception, or changing the Ordinance, said that she would check on the vote the Commission made when they heard this issue at their last meeting. She said, however, that her understanding from Commissioner Quam had been that the question just asked by Mr. Stover was precisely the determination the Board was being asked to make.

Randall Stover asked if all thirty-two properties likewise affected would be allowed to have the same opportunity to place a pool. Chair Fran Barford responded that this could depend on the outcome of the Board’s discussion in each case, noting however, that the Board was considering Mr. Albert’s case in particular at this evening’s meeting. She asked Building Official Kevin Donohue and Mayor SueLynn what, in the opinion of City staff, would be the ‘cleanest’ way to resolve the issue. The Building Official noted that the specific request was for the Commission to adopt changes to language in the Ordinance, and that this was the question for which the Commission now required the P&Z Board’s recommendation. He said, in response to Chair Barford’s question, that he could not offer an opinion regarding planning or zoning, noting however, that the City retained a consultant that was qualified to do this.

Randall Stover said he felt that the Board needed clarification as to whether or not this case was an exception or would consist of a universal decision.

Margaret Jenkins said she felt that Mr. Albert could be granted a variance, instead of needing the City to change the Ordinance.

Jim Conoly pointed out that an individual approach to the problem brought forward by Mr. Albert could possibly yield thirty-two variance request applications, thus causing undue burden to the City and citizens alike. He suggested the answer could be to recommend an amendment for swimming pools only. Larry Albert observed that in Holmes Beach, structures could come within 18” of the rear property line, while in Bradenton Beach and in unincorporated Manatee County the limit is currently five feet.

Sandra Mattick asked if the pools needed to be fenced in or caged, noting that this could have an affect on the visual aspect for neighbors. She asked what the purpose the City required 20 ft. setback from a road served. Building Official Kevin Donohue said he did not know the rationale behind that requirement in the Code, and confirmed that pools currently needed to be within the setbacks.

Vice-Chair Doug Copeland said that he did not have objection to allowing pools up to a 10 ft. setback, but stated that he would not support pool cages in such an area. He agreed with Mr. Conoly's opinion that if the Board did find that the 2004 Ordinance had been unfair to over thirty property owners, then the correct thing to do, to avoid the necessity of hearing possibly dozens of individual variance requests, would be to amend the Ordinance. Mr. Copeland pointed out that the variance application procedure would be inappropriate for the same reason, since it would be impossible for Mr. Albert to satisfy the criteria related to hardship and uniqueness.

Margaret Jenkins said that she believed a 4 ft. fence around the pool would still be within the law.

Randall Stover how many feet there were to the center of the road behind Mr. Albert's house. Larry Albert said there were 16 ft. between his property line and the edge of the pavement.

Chair Fran Barford again asked if it would be better to grant a variance, or to ask the Commission for a change in the Ordinance. Building Official Kevin Donohue noted that the request was to have the Ordinance changed, however, if this was denied, Larry Albert would still have the opportunity to apply for a variance.

Vice-Chair Doug Copeland reiterated that since there were more than thirty possible property owners that could be affected, he believed the best way would be to change the Ordinance. Both he and Mayor SueLynn noted that of the eight variance criteria, uniqueness of the Applicant's situation was a weighty one.

Vice-Chair Doug Copeland asked for consensus as to whether the Board felt the Ordinance needed to be changed. Randall Stover stated his objection was that it would be easy to argue that a 10 ft. setback could be asked for on both the front and back of thirty-two properties, and therefore such an amendment could also be seen as discrimination against the rest of the homeowners in the City. Randall Stover said he believed that an exception should be granted to Mr. Albert in this case, and confirmed to Chair Fran Barford that he felt the variance process was appropriate for this purpose.

MOTION: Jim Conoly moved to approve Larry Albert's request and recommend that the Commission instruct the City Planner and the City Attorney to draft an amendment to the Ordinance to allow for a 10 ft. rear setback on through lots for un-caged swimming pools. The motion was seconded by Margaret Jenkins.

Vote: All Ayes. Motion carried.

Public Comment

Tom Turner, of North Shore Drive, stated that he did not recall who was responsible for changing the Ordinance in 2004, and that he believed this issue should go back before the Planning & Zoning Board to consider voiding that change, instead of the Board making a recommendation to the Commission to consult the City Planner and the City Attorney.

Vice-Chair Doug Copeland re-stated that he would not support an amendment if this would allow caged pools. There was consensus for this position.

PRESS COMMENT

None offered.

ADJOURNMENT

Chair Fran Barford closed the meeting at 7:30 p.m.