

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD
REGULAR MEETING HELD AT ANNA MARIA COMMISSION CHAMBERS
1005 GULF DRIVE – ANNA MARIA, FL
MONDAY, JULY 9, 2007
7:00 P.M.**

CALL TO ORDER

Planning and Zoning Chair Doug Copeland called the meeting to order at 7:02 p.m.

PLEDGE TO THE FLAG

ROLL CALL: Boardmembers Jim Conoly, Randall Stover, Chair Doug Copeland, Douglas Winton, Sandra Mattick, and Margaret Jenkins.

Absent w/excuse: Boardmember Frank Pytel.

Staff present: City Commission Chair John Quam, City Commissioner Dale Woodland, City Clerk Alice Baird, Building Clerk Diane Sacca, City Planner Alan Garrett, and Minutes Clerk Stacey Johnston.

Press present: Sun News and Islander.

1. Hearing for Application of Variance – 410 Pine Avenue.

Owners: Max & Susan Powers

Variance Request – Relief of 5 Feet from the Required Rear Setback of 15 Feet Required by the City of Anna Maria Code of Ordinances Section 114-282(4) to Install a Swimming Pool.

Chair Copeland asked if the Variance had been properly noticed in the newspaper.

City Planner Alan Garrett stated the Variance had been notice in the newspaper, posted and mailed.

Chair Copeland informed that the property had not been posted by the Applicant ten days prior to the Public Hearing and asked City Planner Garrett if that would be cause for postponing the Public Hearing.

City Planner Garrett researched the Code relating to this issue. During that period of time, the P&Z Board considered Agenda Item # 3 – May 7, 2007 minutes.

3. Approve Minutes of May 7, 2007.

MOTION: Motion was made by Boardmember Stover and seconded by Boardmember Winton to accept the May 7, 2007 Minutes as written.
Motion carried – All Aye.

1. -Continued-**Hearing for Application of Variance – 410 Pine Avenue.**

City Planner Garrett read the section of the City's Code relating to notice of the variance request. He explained that if ANY of the required notices were not met the hearing shall be postponed. If continued to a date and time certain only the property would be required to be posted properly and no additional notices would be required in the newspaper.

MOTION: Motion was made by Boardmember Mattick that the Hearing for Application of Variance – 410 Pine Avenue be postponed until Monday, August 6, 2007, 7:00 p.m. Boardmember Conoly seconded motion. Motion carried – All Aye.

City Planner Garrett reminded that the new hearing date will need to be posted on the property.

Max Powers, applicant, acknowledged he understood the purpose for the delay of the Public Hearing and the requirements for posting the property.

**2. Discussion for Zoning Ordinance Amendment Regarding:
Section 114-134(f) and Section 114-133(d), Alterations and Repair of
a Non-Conforming Structure.**

City Planner Garrett explained that the request had been received from a private individual and was being forwarded to the P&Z Board by the City Commission for their review.

The current definition of the Code was read and explained by Planner Garrett. He informed that the circumstance that came before the City Commission was a non-conforming use in a non-conforming structure. The applicant wished to do maintenance and alteration and repair of the structure by going from a flat roof to a hip roof or gable roof.

Planner Garrett stated as the existing code reads, any structure in the City, which has a setback that the structure does not conform to, would be a non-conforming structure. There are many structures in the City that precede the current requirements and would be non-conforming of setbacks. All of those structures, if they have a flat roof, would have to maintain a flat roof.

The City Commission felt there was validity to look at modifying the definition and remove the word "or volume of space" in the Code and change to "the total floor area". Planner Garrett informed that specific language was also utilized in other jurisdictions. Explanation followed.

Planner Garrett stated that Scott Rudacille, Attorney representing the applicant, had provided the City Commission with information that dealt more with the

general designs and emphasizing that more of a hip or gable roof were the overall best design for storm protection.

Planner Garrett informed he had cautioned the City Commission that non-conforming commercial structures could increase the size of their roof in order to move all their storages, which will free up space to increase the non-conformity of their retail areas. He did not, however, feel there would be any concern relating to the residential structures.

Boardmember Winton asked if changing the Code would allow the homeowner to lift their home and increase the height of it.

City Planner Garrett stated that the Code requires that no non-conforming structures shall be enlarged, increased, or extended to occupancy of a greater area than occupied at the effective date of the Ordinance unless the expansion is conformed. He felt the extension or expansion may be covered under Sec. 114-134(c) and that the change would not allow it. Discussion followed relating to the definition of "floor area".

Boardmember Stover said other communities had made this change with no impact to their communities and felt Anna Maria should also make the change. He also did not object to an individual increasing the height of their home.

Boardmember Mattick felt there are many non-conforming commercial structures in Anna Maria. She used her own property as an example.

City Planner Garrett explained there are several types of non-conformity – non-conforming structure, non-conforming lot, non-conformity with the parking, landscaping regulations, and non-conforming of the setbacks.

Public Comment

Charlie Ugarte, Architect, Palmetto, FL, said he formally encountered this situation in Anna Maria regarding a quad-plex.

Mr. Ugarte suggested that the definition of "area" should be defined, pointing out there are many definitions and variations of "area." He further suggested changing the ability to allow volume as a variance.

In regard to lifting the ceiling, Mr. Ugarte pointed out an individual would be restricted by the 50% FEMA requirements.

Further P&Z Board Discussion

Discussion followed by *City Planner Garrett* relating to a non-conforming structure and floor area versus a non-conforming use in a non-conforming structure being enlarged or increased. A non-conforming use limits what can be done such as only normal repairs.

Boardmember Mattick asked if an individual could have an attic or storage space. She did not feel it would take up any more room to do so.

Boardmember Stover agreed stating HVAC, storage etc. would not be an impact. He felt if a different type roof created extra space, the space being intelligently utilized would be no problem.

Boardmember Jenkins also agreed. It was her opinion that a person should have the right to use their interior for extra storage space if they so desired.

City Planner Garrett then suggested the wording “total habitual floor area.” He pointed out that “habitual” was a well defined planning definition.

Charlie Ugarte again addressed the Board. He felt the precedence was already established, using the example of the quad-plex and adding a porch addition. It was his opinion that the definition of “habitual” should be explicit and clear-cut.

City Planner Garrett explained that “habitual area” was defined as the area within a dwelling normally fit to be dwelt or lived in, including finished floors, wall, and ceiling, that is protected by the weather and of climate control. Habitual area excludes utility areas such as attics, garages, carports, and similar unfinished areas not intended for occupant habitation. Further discussion and explanation followed by Planner Garrett.

Boardmember Conoly voiced concern that if the wording of “habitual” were added to the Code, it would increase the debate on the issue.

Boardmember Stover pointed out that any storage space under a roof would not be habitual.

Chair Copeland informed that the intent of the Code is to not allow non-conforming uses to expand.

Boardmember Winton questioned if it was the intent to allow, for example, a duplex to put on a hip or gable roof that will allow for the extended use and value of the property.

Boardmember Mattick felt there should be more flexibility to make a property more livable and that it would assist in preventing a non-conforming structure from being torn down. She suggested the Code be limited to “true” residential uses.

After lengthy discussion, it was the consensus of the P&Z Board that Planner Garrett present the following to the City Commission:

- **P&Z Board feels there is merit to change the Code.**
- **The word “habitual” for non-conforming structures, governing the alterations and repair, is added.**
- **Under non-conforming uses – the extension of the use allows for it to increase uses as long as not habitual.**

4. Old/New Business.

Chair Copeland said he recently spoke to City Planner Garrett regarding LDR’s to comply with the Comprehensive Plan. A complete review of the City’s Ordinances to make them more concise, more readable, and eliminate discrepancies, etc. is also needed.

Chair Copeland suggested the P&Z Board have an extra meeting per month until the review was completed. The first meeting of each month would continue to be held for the purpose of normal P&Z items.

After discussion and pointing out the P&Z Board had previously agreed to change the meeting day from Monday to Tuesday, it was agreed that beginning in September 2007 the P&Z Board would begin meeting the 1st and 3rd Tuesday’s of each month, 7:00 p.m.

5. ADJOURNMENT

On motion made by Boardmember Conoly and seconded by Boardmember Winton, the meeting was adjourned at 8:07 p.m. Motion carried – All Aye.

The next meeting is scheduled for Monday, August 6, 2007, 7:00 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____