

**CITY OF ANNA MARIA
PLANNING & ZONING BOARD
REGULAR MEETING AT ANNA MARIA COMMISSION CHAMBERS
10005 GULF DRIVE – ANNA MARIA, FL
TUESDAY, APRIL 7, 2009
6:30 P.M.**

CALL TO ORDER

Planning and Zoning Chair Doug Copeland called the meeting to order at 6:35 p.m.

PLEDGE TO THE FLAG

ROLL CALL: Boardmembers Margaret Jenkins, Sandra Mattick, Mike Yetter, Chair Doug Copeland, Frank Pytel, and Jim Conoly.

Absent w/excuse: Boardmember Randall Stover.

Staff present: City Clerk Alice Baird, City Planner Alan Garrett, Building Official Bob Welch, Commission Chair John Quam, and Minutes Clerk Stacey Johnston.

Press: Sun and Islander.

1. **A Variance to Section 110-96 Design Standards for Residential Docking Facilities, Subsection (3) for a walkway exceeding 10 feet in length and Subsection (4) for mooring pilings to be placed more than 20 feet from the waterway boundary for a proposed residential docking facility located at 517 Blue Heron Drive, Lot 12 Bay Harbor, Anna Maria, Florida.**

City Clerk Baird administered the oath to all persons wishing to speak.

Attorney Scott Rudacille addressed the Board on behalf of his client and applicant/property owner Jacob Martin.

Attorney Rudacille informed that the DEP has approved a 30-foot dock on the site and the City of Anna Maria has approved a 10-foot walkway with a 5-foot landing platform and boatlift. However, a 10-foot platform at that site would end up in the middle of the mangroves.

A proposal was presented by Attorney Rudacille of the least modification that would extend the dock out among the mangroves – the same as the other docks on Blue Heron.

A review of the required findings followed by Attorney Rudacille:

- 1) No variance would be granted for usage not permitted otherwise. No variance requested for density limitations. A building permit has already been granted. A second building permit would be taken out and work would begin upon approval of the variance request.
- 2) Dredged canals come around from both sides of the peninsula that meet the location causing a unique situation not created by the applicant. The Board reviewed the aerial photo and location.
Applicant Jacob Martin explained that the Site Plan had been approved by the DEP that included a Mangrove Mitigation Plan. He informed that every “X” on the Site Plan indicates a mangrove that he has to plant.
- 3) Has no effect on the cost of developing the site.

- 4) Variance would have no effect on congestion of the public streets or other hazards to the public.
- 5) The variance would not diminish property values or alter the character in the area. Every home on the peninsula has a docking facility.
- 6) The variance is not based in any way upon the presence of other nonconformities, which may exist. Though there may be some in the area, very few of docks in the area meet the 10-foot requirement.
- 7) The requested variance is the minimum modification that would allow for Mr. Martin to have viable docking facilities on the site.
- 8) Variance is consistent with the Code requirement that only one dock be permitted per lot.

In answer to *Boardmember Pytel's* question, *Mr. Martin* informed that his boat is 23-feet with 150 hp.

Attorney Rudacille conformed that all property owners within the required 350-foot radius from the property were notified by Certified Mail, Return Receipt Requested. Mr. Martin's neighbor, Mr. and Mrs. Payne, were the only ones who contacted him relating to the proposal. In response to Boardmember Pytel's concern that the sea grasses would be disturbed, Attorney Rudacille said he was not aware of any sea grasses in that area.

Attorney Rudacille explained that the other docks in the area all extend beyond the mangroves and are in excess of the 10-foot requirement. He felt there were a lot of misconceptions about the mangroves, oyster bed concerns, etc. He stated that the pilings from the dock being extended would be a lesser impact than if having to dredge in order to get to a closer area. The applicant has no intention of dredging.

Boardmember Yetter questioned the procedure for dredging in the event the property was to change ownership.

Attorney Rudacille explained that a permit would be required through the State.

Planner Garrett informed that all property notifications had been met. Only one notice was returned not deliverable. He stated that in working with the applicant, the minimum modifications had been met. Though the City's Code controls, he felt it was valuable that the applicant obtain approval from the DEP. As a result, the DEP would grant up to 29-feet in length.

Boardmember Pytel questioned if the City did or did not have jurisdiction over the waterway and asked if Planner Garrett was comfortable with granting the request. He asked how this request was different than the Fiske property. He was concerned about administering the rules for one property owner different than another.

Planner Garrett said from a Planner's perspective he did feel comfortable since it does touch the City's land. He pointed out that the City permits docks in all the

waterways and had permitted other docks on Blue Heron. A jurisdiction has governmental powers within a specific number of feet of the land area.

Building Official Welch explained that the permit would be issued for the landing of the dock in conjunction with any other State or jurisdictional permit required.

Chair Copeland officially declared the Public Comments portion of the hearing open.

Public Comments

Tom Turner, 815 N. Shore, asked if the area fell under the liparian water rights or the riparian water rights. He asked that an expert opinion be obtained.

Howard Payne, 519 Blue Heron, property owner next to the applicant, felt that Mr. Martin was extremely sympathetic to all environmental issues. Mr. Payne and his wife felt Mr. Martin was doing a very good job and was satisfied with the variance request as submitted.

Mr. Payne informed that the dock on his property extended past the allowed 10-feet. He had not noticed any sea grasses growing among the mangroves where his platform runs or none growing under their dock. Mr. Payne and his wife were in agreement with the variance request and asked that the P&Z Board support it.

City Clerk Baird swore-in *Beatrice Flanagan*.

Beatrice Flanagan, Holmes Beach, felt the Holmes Beach residents should be informed of what the variance request would do to the Bay. She voiced concern about the mangroves being cleared. She was opposed to placing a dock into the water which would shade the bottom of the Bay and prevent things from living there and was concerned that the final construction would extend nearly 45-feet once the pilings were constructed to hold the hoist.

Attorney Rudacille felt the applicants proposal was the best alternative for the site and consistent with the other properties in the area. It was noted there were no restrictions on the size of the boat.

Hearing no further public comment, Chair Copeland officially closed the Public Comments portion of the hearing.

P&Z Board Discussion

Planner Garrett answered that neither SWFWMD nor Manatee County had any jurisdiction relating to the request – only DEP.

Boardmember Pytel asked that a determination be made as to whether or not the City did in fact have jurisdiction.

Discussion followed as to whether or not the liparian water rights or the riparian water rights determination should be pursued.

ACTION: After a poll vote of 5 to 1 (Conolly opposed), it was agreed that the City Attorney would not need to be present to give a legal opinion relating to the riparian or riparian water rights determination prior to moving forward on the variance request.

Planner Garrett informed that the variance runs with the land.

MOTION: Boardmember Mattick moved and Boardmember Yetter seconded the motion that based on the information submitted and the public testimony, the Anna Maria Planning and Zoning Board recommends approval of a 14-foot variance to the 10-foot length for a residential docking facility walkway and a docking mooring exceeding 20-feet from the water way boundary for the subject parcel located at 517 Blue Heron Drive. The Planning and Zoning Board approves the following Findings related to Variances:

- 1) There are substantial practical difficulties and hardships in carrying out the strict letter of the regulation, and these difficulties and hardships are due to existing special conditions and unique circumstances which are peculiar to the specific property involved and which are not generally applicable to other properties or structures in the same district;
- 2) The condition giving rise to the requested variance is due to unique circumstances not created by the applicant or any person presently having an interest in the property;
- 3) The variance request is not based exclusively upon a desire to reduce the cost of developing the site;
- 4) Not applicable.
- 5) The proposed variance will not substantially diminish property values in, or alter the essential character of, the area surrounding the site;
- 6) The variance request is not based on the presence of nonconformities in the district or adjoining districts;
- 7) The proposed variance is the minimum modification of the regulation at issue that will afford viable relief; and
- 8) The effect of the proposed variance is in harmony with the general intent of the comprehensive plan, this chapter, and the specific intent of the subject area of the provision.

Planner Garrett informed that the DEP has a 3-yr monitoring and maintenance plan to insure the applicant follows all requirements. *Building Official Welch* confirmed that the maintenance plan would be part of the public record when applying for the dock permit.

Boardmember Conoly pointed out that several written statements were received of those objecting to the variance request.

Planner Garrett responded that all letters received are made a part of the official public record and would all be forwarded to the City Commission for their review.

ACTION: On Roll Call Vote, the motion carried on a vote of 5 to 1 with Boardmember Conoly voting No.

2. New Business – None.

3. Old Business

Planner Garrett stated that the City Commission had approved the R-1 and R-2 District merger. The Landscaping Ordinance has been continued until the City Commission's April 23, 2009 meeting. Any changes to the Ordinance made by the City Commission will be presented to the P&Z Board at their next meeting to be held on May 5, 2009.

4. Approve Minutes of P&Z Meeting held March 3, 2009.

**MOTION: Boardmember Pytel moved that the March 3, 2009 P&Z Board Meeting Minutes be approved as written. Boardmember Mattick seconded the motion.
Motion carried – All Aye.**

Adjournment.

Boardmember Conoly moved that the meeting be adjourned at 7:26 p.m. Boardmember Pytel seconded the motion.

The next meeting is scheduled for Tuesday, May 5, 2009, 6:30 p.m.

Alice Baird, CMC, City Clerk

MINUTES APPROVED: _____