



City of Sanibel

800 Dunlop Road
Sanibel, FL 33957

Meeting Minutes - Final Planning Commission

*The times are estimated, but public hearings will not commence prior to
the time stated*

Tuesday, February 23, 2021

9:00 AM

City Hall

1. Call To Order

The meeting convened at 9 a.m.

2. Pledge of Allegiance

Commissioner Pfeifer led the Pledge of Allegiance.

3. Roll Call

Present: 7 - Vice Chair Roger Grogman, Commissioner Eric Pfeifer, Commissioner Matthew Kirchner, Commissioner Karen Storjohann, Commissioner Paul Nichols, Commissioner Ty Symroski, and Commissioner Laura DeBruce

a. Motion to excuse absent member(s):

All Commission members were in attendance.

4. Public Comments on Items Not Appearing on the Agenda

There were no public comments from the audience.

5. City Council Liaison Report

Vice Mayor Smith stated she would be bringing the request to direct Planning Commission to review and update the Code sections relating to formula retail to the March 2, 2021 City Council meeting. She also spoke to the election being next week on March 2nd and efforts made by Staff and Council regarding the pandemic.

6. Consent Agenda

a. Approval of the February 9, 2021 Minutes (Information to come)

At staff request the minutes of the February 9, 2021 meeting were continued to the March 9, 2021 meeting.

7. 9:05 - Public Hearings:

a. Consideration of an application filed pursuant to Land Development Code Section 82-138, Application and hearing, for a Variance to Land Development Code Chapter 126, Article VII,

Division 10 - G Altered Land Zone, Section 126-454(b), to allow for a new single-family residential structure to penetrate the primary angle-of-light, as measured 20 feet above the predevelopment grade of the parcel at a 45 degree angle from all applicable setback lines; and Consideration of a request for Development Permit, filed pursuant to Land Development Code Section 82-421, Application, to implement the proposed variance and construct a new single-family residence and swimming pool at 1226 Isabel Drive - tax parcel No. 18-46-23-T3-00300.0280. The applications are submitted by Ron DeCorte, DeCorte Four Custom Home Builders, on behalf of the property owner, Kristin Bluvás. **Application Nos. 21-12538V & 21-12550DP**

Director Williams read into record the description of Applications 21-12538V and 21-12550DP.

The Commissioners were polled for site visits, ex-parte communications, and conflict:

- Chair Grogman	Site Visit	No Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	Ex-Parte	Conflict
- Commissioner DeBruce	Site Visit	Ex-parte	No Conflict
- Commissioner Kirchner	Site Visit	No Ex-parte	No Conflict
- Commissioner Nichols	Site Visit	No Ex-parte	No Conflict
- Commissioner Storjohann	Site Visit	No Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

Vice Chair Pfeifer stated his conflict was due to his office representing the applicant in the purchase of the property at 1266 Isabel. He stated his ex-parte communications were with the applicant prior to making an offer on the property and the need to request a variance.

Commissioner DeBruce stated her communications were with neighbor Erica Steiner who is in favor of the application.

Scotty Lynn Kelly, City Clerk, swore in the following:

- Craig Chandler, City of Sanibel, Acting Planning Supervisor
- Leigh Gevelinger, Landscape Designer
- Sven Gustafson, Applicant and Property Owner

Planner Craig Chandler entered the Staff Report and attachments as City Exhibit C-1. Attachments include: A) Application for Variance and Narrative Response to Seven Standards for Variance; B) Site Plan; C) Building Elevation and Floor Plans; D) Vegetation/Landscape Plan; E) Boundary Survey; and F) Information Demonstrating Compliance with LDC Section 86-43.

Mr. Chandler gave a brief report stating that consultation began in August of 2020 with a proposed principal structure footprint of 2,246 square feet and a 462 square foot swimming pool. The proposed footprint of the pool encroached within the B-Bay Beach Zone by 17.3 feet. Staff did not find the proposed site plan would

comply with the seven variance standards and would be directly in conflict with the Sanibel Plan and other areas of the Land Development Code. The applicant was informed that staff would not support a variance request in the B-Bay Beach Zone and advised the applicant to reduce the number and scope of variance to the minimum necessary request. In November, a revised site plan was provided with a proposed principal structure footprint of 1,969 square feet and 582 square foot pool. The revisions effectively eliminated encroachment of the B-Bay Beach Zone however staff determined that multiple variances would be necessary to approve the site plan due to encroachment of the front setback and associated noncompliance to applicable angle-of-light limitations.

In January 2021 staff informed the applicant that a variance to front yard setback requirements would not be supported by staff as several inconsistencies were identified relative to variance standards. Staff indicated preliminary support for a variance to applicable angle-of-light limitations, pending staff review of additional revisions to the site plan. The applicant provided a new site plan which demonstrated a reduction in necessary variance applications from two to one.

Staff found the parcel is subject to two 50-foot setbacks, additional setback of the structure to achieve compliance with angle of light limitations presents a significant challenge due to the limited depth of the subject parcel, special conditions of the subject property are not self-imposed, the applicant successfully reduced the number of requested variances from two to one, the proposed single-family residence is consistent in scale with an average-sized residence in the Sanibel Harbours established neighborhood, the requested variance is considered minimum necessary to mitigate the hardship demonstrated, and the residence will otherwise comply with the maximum height limit as well as the angle of light plane on the east and west sides of the property. Staff does not anticipate any adverse impacts to neighboring properties as a result of the proposed development. Public Works staff has determined that on-site retention for the purpose of stormwater management is not required.

At time of this report only one public inquiry was received with general questions about the nature of the variance request.

If the Planning Commission finds that the proposed plans are in conformance with all applicable Sanibel Code requirements for a variance, then staff recommends that approval be subject to the 11 conditions included in the staff report.

Discussion ensued regarding if the seawall was evaluated during site visits. Staff noted that a seawall at this location would not be a permitted use. Further discussion ensued if other homes on the street had approved variances for angle of light, to which Staff noted there were variances for pools in the bay beach zone. Commission also inquired if the home was the wrong size for the lot. Staff stated the current proposed

living area was 2,904 square feet, 1,937 square foot footprint, and 312 square foot pool which does not include the deck measurements, information which was included in attachment B of the staff report.

Additional discussion ensued regarding the size of the home relating to the subject lot, as well as to the other properties and structures in the established neighborhood. Mr. Chandler spoke to the evaluation being in comparison to the entire neighborhood and that Staff found consistency. Staff requested the applicant reduce the number and scale of variances and finds support of the hardship for both variances. Further discussion ensued if the walls had to be break-a-way for flood proofing, which they do; that the lower level could not be livable; landscaping in the bay beach zone required to be native, including sod; staff had not prepared a floor area comparison to other homes in the neighborhood; and other homes in the neighborhood having approved variances for angle-of-light.

Commission inquired as to the third set of plans being a larger living area without increasing the size of the footprint of the home. Concerns were expressed as to not having an architect available to answer questions.

Clerk Kelly swore in the following:

- Keith Williams, City of Sanibel, Director of Community Services

Director Williams spoke to being no requirement for an outside architect to review long form applications. He further spoke to the home being the minimum necessary request and Mr. Chandler spoke to this application being specific to the angle of light request.

Clerk Kelly swore in the following:

- Ron DeCorte, DeCorte Four Custom Home Builders, Applicant on behalf of homeowner Kristin Bluvus

Mr. DeCorte spoke to the efforts made to reduce the size of the variance, moved the second floor to the center of the footprint making the front and back tall in the center to reduce the amount of variance for the angle of light. The landscape plan was created to help downplay the size of the house.

Discussion ensued regarding only asking for front yard setback, architect stated on the plans 30 foot not 20-25-foot encroachment, main floor ceiling height is 9 foot with second floor ceiling height of 8.5-9 foot, and architect is not in attendance for the meeting. Mr. Chandler spoke to the applicant following the code when preparing the first proposal, staff did not find consistency with the variance standards, not a code issue. Additional discussion regarding a way to redesign the home to make it fit better, other plans were considered, home designed by a registered architect, and if

there were possibility of building into the left side set back which is where the pool deck and spa are located. Mr. DeCorte noted the deck and spa were located in the only space available that did not require an additional setback variance.

Attorney Agnew spoke to the Commission considering a variance individually and to the extent of the seven variance standards, if it is a no vote each Commissioner should explain to which standard and why it was not met. Further discussion ensued regarding moving the pool or deck and that relocation would cause additional variance.

Clerk Kelly swore in the following for public comment:

- Erica Steiner - 1232 Isabel Drive - neighbor to the vacant lot and in support of the application. Mr. Steiner was the citizen that called in with public comment before the hearing and thanked staff for their insight. Ms. Steiner is grateful for the property to finally be developed and feels the proposed home would be consistent with the neighborhood.
- Claudia Burns - Sanibel resident - spoke to buying more land to have a larger home. Mr. Chandler stated there is not vacant lot next to the subject lot.
- Sven Gustafson - property owner - the home did not grow during the planning process; the footprint was moved around on the property to reduce the variances to what was the final submission.

Discussion ensued regarding previous Commission discussions relating to angle of light and flood zone height restrictions, whether an undue hardship exists for the subject property, understand the lengths taken by the applicant to be compliant, considering other options to move the home back at least 5 feet, redesigning the deck on a triangle to help reduce the angle of light variance.

Discussion ensued regarding looking directly at the 7 standards noting #6 and #7 usually being the hardest to determine compliance, the provided designs were developed to eliminate any encroachment on the sides of the home reducing it to one variance at the front of the home, Commission does not see undue hardship as this lot is bigger than others in the neighborhood, understand that the applicant has taken all measures to meet the standards but do not see 7 has been met.

Commission asked the applicant if there was an option for redesign, Mr. DeCorte stated the applicants would like to continue with the variance as requested and stated the pool is on the bay side of the house and moving the deck and spa back would encroach on the bay beach zone setback. Director Williams spoke to the bay beach zone being protected and staff requested the front angle of light variance as opposed to going into a protected zone. Mr. Chandler spoke to a document included in attachment A of the staff report which denoted the sizes of the homes on the street

and that the proposed home averages in with the other homes as listed.

Clerk Kelly swore in the following:

- Lindsay Meisner-Jensen - 1210 Bay Drive - stated her property was not designated on the property list and that her home is 1441 square feet

Further discussion ensued regarding the lot sizes to which Staff inquired if developed combined lots made the comparison equal. Leigh Gevelinger spoke to 1298 Isabel Drive being built on a combined lot and that it would not be comparable. Mr. DeCorte also noted that 1298 Isabel has a variance for the pool and deck. Commission discussed how long the property had been listed and is it a hardship to the seller of the property which Mr. DeCorte stated there have been other offers for the property which were withdrawn after consideration of the variance process to develop the bay beach zone property. Commissioner Pfeifer stated the current owner purchased in 2008, the property has been on and off market since 2010. Commission inquired if the neighborhood predated City incorporation which Staff stated was correct.

Mr. DeCorte stated the applicant agrees to all the conditions in the staff report.

Commissioner Storjohann moved, seconded by Commissioner Nichols to approve Applications 21-12538V and 21-12550DP, with the 11 conditions listed in the staff report, to direct staff to prepare a Resolution in conformance with this motion, to close the public hearing in this matter, and to authorize the Chair to execute the resolution without bringing it back for further consideration. The motion failed with a vote of 3-3 and Commissioner Pfeifer abstaining.

Opposed: 3 - Vice Chair Grogman, Commissioner Kirchner, and Commissioner Symroski

Abstain: 1 - Commissioner Pfeifer

Commissioner Grogman voted no citing failure to meet standard 7. Commissioner Symroski voted no citing failure to meet all 7 standards. Commissioner Kirchner voted not citing failure to meet angle of light.

Discussion ensued regarding the failed motion and the application was not approved. The resolution would be brought back with the denial. As the motion did not carry, the hearing has not been closed and Attorney Agnew stated there should be another motion to close the hearing. Commission inquired what could be done to help bring the proposal to an approvable status. Mr. DeCorte spoke to not being able to redesign the home but the possibility of redesigning the roof line to address angle of light.

Commissioner Kirchner moved, seconded by Commissioner Storjohann to request an indefinite continuation. The motion carried 6-0 with Commissioner Pfeifer abstaining.

Abstain: 1 - Commissioner Pfeifer

b. Consideration of an application filed to amend a Certificate of Appropriateness, previously approved

by Planning Commission Resolution 20-01, filed pursuant to Land Development Code Section 98-91, Certificate of appropriateness, and Section 98-92, Activities requiring certificate of appropriateness, to allow for the replacement of exterior siding at a historic chapel located at Sanibel Community Church, 1740 Periwinkle Way - tax parcel No. 25-46-22-T2-00006.0010. The application is submitted by Kirchner Contracting, Inc., on behalf of property owners, Sanibel Community Church, Inc. **Application Nos. 19-11711DP**

Director Williams read into record the description of an amendment to Application 19-11711CA.

The Commissioners were polled for site visits, ex-parte communications, and conflict:

- Chair Grogman	Site Visit	No Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	No Ex-parte	No Conflict
- Commissioner DeBruce	Site Visit	No Ex-parte	No Conflict
- Commissioner Kirchner			Conflict
- Commissioner Nichols	Site Visit	No Ex-parte	No Conflict
- Commissioner Storjohann	Site Visit	No Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

Commissioner Kirchner read into record his statement of conflict noting it was due to being the contractor and applicant for the project.

Scotty Lynn Kelly, City Clerk, swore in the following:

- Matt Kirchner, Contractor and Applicant
- Keith Williams, City of Sanibel, Community Services Department Director
- Craig Chandler, City of Sanibel, Planner

Planner Craig Chandler entered the supplemental Staff Report and attachments as City Exhibit C-2. Attachments include: A) Permit Application; B) Pre-construction image of Historic Chapel; C) Photographs of Existing Site Conditions; D) Historic Preservation Committee Resolution 19-03 and Planning Commission Resolution 20-01; E) Staff Historic Preservation Profile of Sanibel Community Church; and F) Historic Preservation LDC Standards, Sanibel Code Chapter 98.

Mr. Chandler gave a brief report stating that on September 5, 2019 the Historic Preservation Committee recommended by resolution approval of a Certificate of Appropriateness to allow for elevating the Sanibel Community Church's historic chapel building, including modifying and removing non-historic components and modifying and adding new access ways to the historic chapel. On, January 4, 2020, Planning Commission passed a resolution formally authorizing those improvements. The replacement of siding was not included in the original proposal for Certificate of Appropriateness and is the request being heard today.

The applicant is seeking authorization to replace siding, specifically, to complete

installation of cypress 8-inch lap siding and actual cedar shake shingles to replace (and match) existing creosote 8-inch lap siding and faux shake shingles, respectively. The brown color selected by the applicant was done to restore its historic nickname, "The Little Brown Church".

No public comments had been received at the time the staff report was submitted.

Mr. Chandler noted there were ten conditions included in the staff report.

Commission inquired what was approved in the original permit and why siding was not included. Mr. Chandler stated there was minor siding included but the scope of work that had begun exceeded the approval.

There were no public comments from the audience.

Mr. Kirchner spoke to there being three types of siding on the building and having found the original siding behind a layer of drywall and siding and that after conferring with the Historical Society, they too felt it was the original siding. He further spoke to knowing there was siding included in the original request and did not realize the installation was not included and the permit would need to be revised.

Commission inquired if the trim would be white, to which Mr. Kirchner stated the doors and pillars would be. Additional discussion ensued regarding if the design above the doors would be replaced which may be done at a later date. Mr. Kirchner spoke to the intention to replace the roof in the next few years and the possibility of replacing the design above the doors at that time.

There were no public comments from the audience.

Mr. Kirchner stated the applicant was in agreement with the 10 conditions listed in the staff report.

Commissioner Pfeifer moved, seconded by Commissioner Storjohann to approve amended Application 19-11711CA, with the 10 conditions listed in the staff report, to direct staff to prepare a Resolution in conformance with this motion, to close the public hearing in this matter, and to authorize the Chair to execute the resolution without bringing it back for further consideration. The motion carried 6-0 with Commissioner Kirchner abstaining.

Abstain: 1 - Commissioner Kirchner

8. Report from Director of Community Services

- a.** Upcoming meeting dates:
 - i. Planning Commission - Tuesday, March 9, 2021
 - ii. Land Development Code Review Subcommittee - Tuesday, March 9, 2021

iii. Report to City Council - Tuesday, March 2, 2021 - Commissioner Pfeifer

Director Williams stated the next Planning Commission and Land Development Code Review Subcommittee meetings were scheduled for March 9, 2021.

Discussion ensued regarding the Subcommittee meeting being scheduled to discuss formula retail and content neutral sign regulations and that the seawall discussion would be at a future meeting. Commission inquired as to the process of a topic for review going to Council. Director Williams stated that the topic came up in the Land Development Code Review Subcommittee, Vice Mayor Smith as Liaison would bring up the topic at Council for direction and authorization for the subcommittee to review the topic and noted that staff is already working on the materials. Further discussion ensued regarding providing the materials from the previous meeting pertaining to content neutral signs to the new Commissioners.

9. Report from Commission Members

There were no reports from Commission Members.

10. Report from Commission Chair

Chair Grogman spoke to the importance of the Commission members understanding the Land Development Code when applying it to the items that come up for consideration.

11. Public Comment

There were no public comments from the audience.

12. Adjournment

There being no further business the meeting adjourned at 11:22 a.m.