



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, April 27, 2021

9:00 AM

City Hall

1. Call To Order

The meeting convened at 9:02 a.m.

2. Pledge of Allegiance (Vice Chair Pfeifer)

Commissioner Pfeifer led the Pledge of Allegiance.

3. Roll Call

Present: 5 - Vice Chair Roger Grogman, Commissioner Eric Pfeifer, Commissioner Matthew Kirchner, Commissioner Ty Symroski, and Commissioner Laura DeBruce

Absent: 2 - Commissioner Karen Storjohann, and Commissioner Paul Nichols

a. Motion to excuse absent member(s): Commissioner Nichols

Commissioner Pfeifer moved, seconded by Commissioner Kirchner to excuse absent members Commissioner Nichols and Commissioner Storjohann. The motion carried.

Excused: 2 - Commissioner Storjohann, and Commissioner Nichols

4. Public Comments on Items Not Appearing on the Agenda

There were no public comments from the audience.

5. Consent Agenda

a. Adoption of the April 13, 2021 Minutes

Commissioner DeBruce spoke to amending the minutes as follows:

- Page 3, Paragraph 5, Line 4, delete "and requesting Council increase the 60,000 square foot limit", replace with "requesting Council to direct the Commission to consider the merits of the conditions of Section 126-102 without regard to the 60,000 square foot cap which would modify the criteria used to evaluate an application".
- Page 4, Paragraph 2, Line 4, following "coming to the island" add "and occupying more than 2,000 square feet per facility."

Attorney Agnew spoke to the process either being a motion to approve as amended

or to continue the approval of the minutes to the next meeting.

Commissioner DeBruce moved, seconded by Commissioner Pfeifer to approve the April 13, 2021 minutes as amended above. The motion carried

Excused: 2 - Commissioner Storjohann, and Commissioner Nichols

6. 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 Bluvas. **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	Ex-parte	No Conflict
- Vice Chair Pfeifer	Site Visit	No Ex-Parte	Conflict
- Commissioner DeBruce	Site Visit	Ex-parte	No Conflict
- Commissioner Kirchner	Site Visit	No Ex-parte	No Conflict
- Commissioner Symroski	Site Visit	No Ex-parte	No Conflict

By motion and second Commissioners Paul Nichols and Karen Storjohann were excused from the meeting.

Vice Chair Pfeifer stated his conflict was due to his office representing the applicant in the purchase of the property at 1266 Isabel.

Commissioner Symroski stated his communications were by phone regarding a letter submitted by the neighborhood Homeowners Association to Chair Grogman which Commissioner Symroski had not seen.

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

Chair Grogman stated his ex-parte communications were in the form of a letter delivered by Marty Harritty on behalf of the Homeowners Association.

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

- Keith Williams, City of Sanibel, Community Services Director
- Craig Chandler, City of Sanibel, Acting Planning Supervisor
- Ron DeCorte, DeCorte Four Custom Home Builders, Applicant on behalf of property owner, Kristin Bluvas

Craig Chandler, Acting Planning Supervisor, gave a brief background of the proposed development application noting the application was previously heard at the February 23, 2021 meeting and failed to pass a majority vote. The applicant was subsequently granted a request for continuation to a date uncertain to address comments provided by Planning Commission for reconsideration.

The applicant proposes development of a principal structure that will penetrate the plane established by a primary and secondary angle-of-light to the front and rear. The revised building elevation plans provide that a maximum of 18 horizontal feet of the building frontage will project above the primary angle-of-light (28 percent), decreasing as the gabled end tapers to a point.

The points of conflict with the primary and secondary angle-of-light on the rear side of the proposed residence remain at two gabled ends, albeit significantly reduced in volume when compared with the previously rejected elevation plans. Approximately 24 horizontal feet (out of 64 total feet) projects above the primary angle-of-light, a reduction of 24 percent from the prior design; and approximately 6 horizontal feet project above the secondary of light, a reduction of 33 percent.

Mr. Chandler stated that the attachments to the staff report were: A) Application for variance and narrative response to the seven variance standards; B) Site Plan; C) Building Elevation Plans; D) Vegetation/Landscape Plan; E) Boundary Survey; F) Information demonstrating compliance with LDC Section 86-43; G) Staff Report Dated February 23, 2021; and H) Sanibel Harbours HOA Letters to Mayor Smith et. al dated March 31, 2021.

Staff finds the site plan dated April 8, 2021 demonstrates compliance with front, side and rear yard setbacks, developed area and coverage standards. The proposed residence complies with the maximum height limit of 35 feet measured from pre-development grade as well as the angle-of-light plane on the east and west sides of the property. Additionally, Public Works staff has determined that on-site retention for the purpose of stormwater management will not be required as Sanibel Harbours provides subdivision drainage.

Following the February 23, 2021 meeting City Council and Chair Grogman received a letter dated March 31, 2021 from Sanibel Harbour HOA President Marty Harritty expressing HOA support of the original proposal, which was denied approval and

their continued support of the revised proposal under consideration at this hearing.

Planning Staff concludes that Application 21-12538V complies with all seven variance standards. If the Planning Commission finds that the proposed plans are in conformance with all applicable Sanibel Code requirements for variance, staff recommends approval subject to the 11 conditions included in the staff report.

Discussion ensued regarding why properties on the other side of Isabelle Drive were subject to shorter setback requirements which was due to not being on the bay side. Further discussions ensued regarding the letter received from the HOA expressing support of the variance, testimony of staff, and analysis supporting the variance. Commissioner Symroski spoke to the application not meeting the seven variance standards and noted he could not vote to approve the request.

Discussion ensued regarding the need for leniency without going too far while still keeping in line with the established ordinances. Commissioner Pfeifer reiterated that he would not be voting but spoke to the hardship of the lot being the difficulty of selling the property. He further spoke to the process of variance hearings, as well as for the angle-of-light variance only being for the street side of the property.

Attorney Agnew provided to Commission members, and read into record, an email submitted by Commissioner Nichols who was unable to attend the meeting and by motion and second was excused.

Chair Grogman spoke to the circumstances and the current proposal being the items considered at the hearing and to focus on the current application to determine if the seven standards are met while deciding.

Ron DeCorte, on behalf of property owner Kristin Bluvas, spoke to losing 30 feet of the setback and use of the property, as well as square-footage to the home to reduce the variance request. Mr. DeCorte provided 3D drawings of the angle of light projection which was entered into record. Mr. Chandler stated for the record that staff had not previously seen the 3D drawings provided by Mr. DeCorte.

There were no public comments from the audience.

Commissioner DeBruce spoke to looking at the current state of the island and noted the difficulty of selling the property demonstrates a hardship. Further, receiving input from the neighborhood in support of the application supported standard number 6.

Mr. Chandler spoke to staff not recognizing the inability to sell a property as a hardship in the variance process, financial hardship is not the recognized definition of hardship for the variance standards. Support from the neighborhood is not a

prerequisite nor is it a standard, public comment is accepted but not used by staff to make recommendations to the Commission. Staff did recognize the hardship caused by the increased setback due to the bay beach zone as well as the hardship of designing a home sized to conform with the neighborhood with the lot restrictions.

Commission inquired why the inability to sell would not be considered a hardship. Mr. Chandler spoke to his professional opinion and that standard staff procedures were not to consider financial reasons to be a hardship.

Mr. DeCorte stated the applicant accepts all 11 conditions listed in the supplemental staff report.

Discussion ensued regarding if fertilizers or pesticides were used. Dana Dettmar, Natural Resources Department was sworn in and spoke to pesticide use on properties and that the City of Sanibel was not able to be more restrictive than state or federal guidelines.

Commissioner Kirchner moved, seconded by Commissioner DeBruce to approve Applications 21-12538V and 21-12550DP, with the 11 conditions listed in the supplemental 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 3-1 with Commissioner Pfeifer abstaining and Commissioners Nichols and Storjohann excused.

Opposed: 1 - Commissioner Symroski

Excused: 2 - Commissioner Storjohann, and Commissioner Nichols

Abstain: 1 - Commissioner Pfeifer

Discussion ensued regarding the rear setback being 50 feet due to the bay beach zone and that protecting the bay beach zone from shading of the structure was preferred over the front angle-of-light intrusion.

7. Report from Director of Community Services

- a.** Monthly Planning Branch Reports
 - i. Development Permit Activity Report - March 2021
 - ii. Code Enforcement Activity Report - March 2021
- b.** Upcoming meeting dates:
 - i. Planning Commission - Tuesday, May 11, 2021

Director Williams spoke to tentative dates for subcommittee meetings being September 14, 2021 for the Below Market Rate Housing Review Subcommittee (BMRH) and October 12, 2021 for the Capital Improvements Review Subcommittee (CIP). Staff is still working on Permitting Process Review Subcommittee (PPR) and

Land Development Code Review Subcommittee dates.

Discussion ensued regarding our permitting software being customized for the City, the service provider preparing for an update. Further discussion ensued regarding the amount of time for the approval and executed resolution. Commissioner Kirchner out of town for next meeting.

- ii. Report to City Council - Tuesday, May 4, 2021 - Commissioner DeBruce

8. Report from Commission Members

Commissioner Symroski spoke to traveling in July and that he would not be available for his scheduled report to City Council. City Clerk Kelly advised that Commissioner Storjohann would be the representative for July 20, 2021.

9. Report from Commission Chair

Chair Grogman thanked the Commission for their input and for a productive meeting.

10. Public Comment

Mitch Copperman thanked the Commission for their professionalism and the education they provide.

11. Adjournment

Commissioner Symroski moved, seconded by Commissioner DeBruce to adjourn the meeting. The motion carried.

Excused: 2 - Commissioner Storjohann, and Commissioner Nichols

There being no further business the meeting adjourned at 10:13 a.m.