

July 14, 2022

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER

Naples, Florida

July 14, 2022

LET IT BE REMEMBERED, that the Collier County Hearing Examiner, in and for the County of Collier, having conducted business herein, met on this date at 9:00 a.m., in REGULAR SESSION at 2800 North Horseshoe Drive, Room 609/610, Naples, Florida, with the following people present:

HEARING EXAMINER ANDREW DICKMAN

ALSO PRESENT:

Michael Bosi, Planning and Zoning Director

Raymond V. Bellows, Zoning Manager

John Kelly, Senior Planner

Eric Ortman, Principal Planner

Andrew Youngblood, Operations Analyst

Elizabeth Perdichizzi, staff

PROCEEDINGS

MR. YOUNGBLOOD: You have a live mic.

HEARING EXAMINER DICKMAN: Good morning, everyone. Good morning. This is the July 14th, 2022, Hearing Examiner meeting.

Why don't we get started with the Pledge of Allegiance, please.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: All right. Thank you very much.

I'm going to go through a few preliminaries, and then we'll get started. We have two items on the agenda to handle.

My name is Andrew Dickman. I am the Hearing Examiner retained by the Board of County Commissioners. I am a contract employee of the county. I am not an employee of the county. I'm a Florida Bar attorney; been licensed in Florida for over 20 years in good standing. My area of practice has been exclusively in local government, land-use zoning, things that would give me relevant information to the codes and ordinances that have to be used within this particular hearing and with these particular petitions.

What we are going to conduct today is a quasi-judicial hearing. What that means is that my job as the Hearing Examiner is to collect as much competent substantial evidence here today in the hearing from experts, whoever wants to speak, or laypersons, and then close the meeting, and after the meeting I have 30 days to render a decision on the two petitions that are before me.

The way that we -- I like to conduct these hearings in order for me to get that information is for the county to start things off with just introducing the petition and their recommendations, their analysis, and any comments they may have. They're going to also explain to me on the record how the meetings -- how this meeting was advertised so I'm assured that due process was followed, and then I'm going to have the applicant or the applicant's representative come up to the brown podium and put on their case in chief. We'll then open it up for public comment.

And this is an in-person meeting and a hybrid -- well, it's basically a hybrid meeting. So we have folks here in person, and the county has made accommodations for individuals who want to attend virtually. That's why the screen's here.

So we'll take public comment, if there is any, then I'll close it down. I'll give both parties, the applicant and the county, a last opportunity if there's anything else to be said. I may ask some questions.

And then once I close the hearing for that particular item, it's done. I can't collect any more information. I can't talk to anybody else about this. This is -- this is a truly transparent process. That's why it's being done here publicly at a noticed hearing.

I personally have not had any -- for disclosure's sake on both items, I have not had any conversations with the applicant, with the county. I've read all the materials that are available to me, that are available to the public on both items. So I have no ex parte contacts that I need to disclose at this time.

You will be -- anybody who is going to speak here today will be testifying under oath, and in a minute I'm going to ask our court reporter to administer that oath. If you're going to speak, you need to -- if you're here, you need to fill out a speaker card and hand it in to -- Andrew, if you'd raise your hand over there. He's over there. I like to make him exercise once in a while. He keeps me busier than I keep him busy.

And then just take your time. This is an informal proceeding. I like to make sure that when I close down the meeting that I've asked every question that I want to ask, that folks have said what they've had to say. There's no reason to be nervous or worried about anything here. This is not a court of law. It's really an opportunity for your Hearing Examiner to get as much testimony and exhibits and information and questions answered in order for me to render the decision that I have to render.

If anybody has phones on right now or beepers, whatever they have, just please silenced them. If you're going to have a conversation, just step outside in the hallway. Believe it or not, the acoustics in this room are so good that, you know, if I hear someone talking over in the back row over there, I can actually hear that. And, you know, maybe that will end in a couple years, who knows, but -- my hearing will go. But it still is a distraction, and I don't want to distract anybody that's trying to speak at the podium.

The record is really essential to this. That's why we have someone taking a verbatim transcript of this. So it's really important that the record is clear because, you know, a year from -- I've done this before. I've researched transcripts from past hearings just so I can get some context of things. So it's really important that you express yourself verbally and not head shakes and head nods. We won't talk over each other. She's going to be able to stop the meeting at any time and tell people to stop, I can't hear you, I don't understand what you're saying. You know, I don't know how to write down hand gesturings and things of that nature. I want to make sure the record is absolutely clear for posterity and for whatever use we need of it in the future.

With that said, I don't think I have anything else to cover, so why don't we -- anybody who's going to speak here today to me, if you could stand and raise your right hand, and the court reporter, if you don't mind administering the oath.

(The speakers were duly sworn and indicated in the affirmative.)

HEARING EXAMINER DICKMAN: All right. I appreciate that, everybody.

Is there anything else I need to cover, guys?

(No response.)

HEARING EXAMINER DICKMAN: All right.

Just so everyone knows, this is the dream team, county team over here on my right, and they will be using the middle podium as well as the public will, and then the large brown podium will be reserved for the applicant and for -- or the applicant's representative.

\*\*\*So why don't we get started with the first item. I think we have -- this is 3A. I think this is a comparable-use determination. Who do we have today?

MR. ORTMAN: Good morning. For the record, Eric Ortman, principal planner, Zoning. I'm standing in for Gabriella Castro who has moved to Orlando.

This is Petition No. CUD PL20220003185, a request for comparable-use determination that a tobacco and vape retail store is comparable, compatible, and consistent with the list of permitted uses in Section 4.4 of the Artesa Pointe Planned Unit Development, Ordinance 03-46, as amended.

The subject property is located at 6654 Collier Boulevard on the road's east side approximately 1,500 feet south of the intersection with Tamiami Trail, and it is in Section 3, Township 51 South, Range 26 East, Collier County, Florida, and the parcel is plus or minus 1.73 acres.

The proposed store will not have a smoking lounge and many, if not all, of their products are currently being sold by other businesses in the Artesa Pointe PUD. Other permitted non-regional retail uses in the PUD include apparel, garden supply, food, general merchandise, furniture, and miscellaneous stores.

The applicant has completed -- complied with all the hearing notices by our Operations staff. The advertising and mailers were sent out on June 24th and, per Chapter 3L of the Administrative Code, no signs were required to be placed at the property. The project complies with the Growth Management Plan and the Collier County Land Development Code, therefore staff recommends approval of this petition.

HEARING EXAMINER DICKMAN: All right. Thank you for that presentation. I appreciate it.

Do we have the applicant here or the applicant's representative, please?

Good morning, sir.

MR. MITCHELL: Good morning. For the record, Chris Mitchell.

Good morning. Thank you for the opportunity to present our comparable-use determination application. We submitted this application for tobacco and retail sales use within the Artesa Pointe PUD.

Next, please.

For the record, I am Chris Mitchell. I'm a licensed professional engineer, and I'm with J.R. Evans Engineering. I've been practicing in this area since 1997. I represent the applicant, Rook of Naples 1, LLC.

Next, please.

This determination -- and let me back up. Eric did a great job, so you're going to hear a lot of similar information, so...

HEARING EXAMINER DICKMAN: That's okay. Go ahead and make your record.

MR. MITCHELL: This determination pertains to a single 1.73-acre parcel. It's at the southeast corner of Pasedo Drive and Collier Boulevard. Its current use is a retail strip center with seven units. It's known as Commons on Collier, and it's within the Artesa Pointe PUD, and its zoning is PUD commercial.

Next slide, please.

The highlighted area illustrates the location of the Commons on Collier strip center. As you see, it's south of Tamiami Trail, U.S. 41, it's east of Collier Boulevard, and it's adjacent to the Walmart Supercenter and the Murphy Oil gas station.

Next slide.

This request is to determine that the tobacco and vape retail sales use is comparable and compatible with the regional noncommercial uses in the Artesa Pointe PUD. This use aligns with permitted uses including discount superstores, food stores with accessory gas pumps and car washes, drug stores and proprietary stores and liquor stores, which all have the ability to sell tobacco.

This use really wasn't prevalent when the PUD was written, and the SIC code is specifically not included.

Next slide, please.

This slide illustrates the exact unit that the proposed use will occupy. It's on the north end of Commons on Collier. North is page up, and west is page left.

And this is immediately adjacent to the Walmart Supercenter and the Murphy Oil gas.

Next slide, please.

This request is consistent with the standards found in Collier County Land Development Code Section 10.02.06.K. The use possesses similar characteristics as other permitted uses including the grocery and food store with accessory gas pumps, the drugstore and proprietary store, and the liquor stores, and it has similar operating hours, traffic generated, the types of vehicles, the number of parking spots, and the business practices as the other commercial uses within Commons on Collier and within the PUD.

Next slide.

Specifically, the operating hours are proposed to be 9:00 a.m. to 10:00 p.m. They fall within the operating hours of the Walmart, which is 6:00 to 11:00, and the gas station, which is 5:30 to 10:30.

Of note, the tobacco and vape retail sales is a very low-intensity traffic generator, generating 13 net new trips. Compared to the discount store and the gas, it's quite a bit less.

Next slide, please.

The proposed use will attract and utilize vehicles similar in nature to the vehicles servicing and using the supercenter, the gas store, and the other retail establishments within Commons on

Collier, and it's only required to provide seven spaces, all of which are provided on site within Commons on Collier.

Next slide, please.

The proposed tobacco and vape retail sales use is a significantly less intense use than the existing Walmart Supercenters and is comparable to the retail establishments within Commons on Collier. The use compliments the existing and surrounding service and retail uses, and it serves the need of the surrounding population.

Next slide.

Considering the permitted uses within the PUD, the proposed use is similar in nature to many of the other permitted non-regional commercial uses in the Artesa PUD, and there will be no additional impact to the noise, glare, or odor on the neighboring properties and uses. It's very similar to the existing retail facilities within Commons on Collier.

Next slide, please.

I believe I forgot to mention earlier, but this PUD is located within the Henderson Creek mixed-use subdistrict on the Future Land Use Map, and as such, that designation was created based on the most intense use of C-4. C-4 includes the tobacco sales, which is SI [sic] code 5993, so it is a use that's already allowed within the subdistrict.

Next slide, please.

The proposed tobacco and vape retail sales use is compatible and consistent with the other permitted non-regional commercial uses within the PUD, and it's going to be approximately 900 feet from the internal residential uses within the PUD, just like the other retail establishments that are at Commons on Collier.

Next slide, please.

Our professional opinion is that the use is consistent with the Growth Management Plan and the Collier County Land Development Code. We concur with the staff report, the analysis, and the recommendation of approval for the -- to the Hearing Examiner.

With that, I'll entertain any questions.

HEARING EXAMINER DICKMAN: Yeah. Thank you very much. Yeah, I reckon -- well, let me ask the county a question, or maybe you can answer it. When did tobacco and vape retail store become an SIC code? Does anybody know? I mean, it's a fairly new use, type of use.

MR. BOSI: Mike Bosi, Planning and Zoning director.

I don't believe it's a new -- a tobacco store is not a new use. That's been around for a long time. They have just included the vaping and vape products within that category, within the umbrella of a tobacco store.

HEARING EXAMINER DICKMAN: So they just renamed it to that?

MR. BOSI: Yes.

HEARING EXAMINER DICKMAN: Okay, great.

And so the other question really has to do more with the business practices. So when your client leases or is already leasing this space, you noted that there's no smoking. There's no smoking lounge. Does the lease or the landlord or the common areas -- I'm not sure what the -- if this is a lease or an ownership situation. Is this going to control any outdoor smoking or congregating outside of the space?

MR. MITCHELL: No, I don't know the specifics of the lease.

HEARING EXAMINER DICKMAN: Yeah.

MR. MITCHELL: The lease, to my knowledge, has not been executed because there's no use allowed.

HEARING EXAMINER DICKMAN: Sure.

MR. MITCHELL: The discussion I've had is that there's no smoking lounge. If it needs

to be a restrictive -- it is a lease. The applicant owns. They lease all the retail spaces. There's really no space outside --

HEARING EXAMINER DICKMAN: Okay.

MR. MITCHELL: -- for outdoor. And I would imagine -- I'm going through this with a couple restaurants --

HEARING EXAMINER DICKMAN: Yeah.

MR. MITCHELL: -- that that outside use would require an SDPI in order to have that use. So if they were to put tables outside, that would be required. So if it's not allowed as part of the conditional-use determination, then it would be tied to that parcel.

HEARING EXAMINER DICKMAN: I guess it was more of an informal use that I was referring to.

MR. MITCHELL: Oh.

HEARING EXAMINER DICKMAN: And I get it. Like, there might be a convenience store there or other store that sells tobacco, and someone can go outside and smoke a cigarette, for example, and there may be an ashtray there. I don't know. So I don't want to treat it differently. But my concern would only be that while you may not have an indoor smoking lounge, you know, folks may want to buy and then congregate outside this store and utilize the products. And I'm just curious if that has been addressed in your business model or business operations.

MR. MITCHELL: I haven't had that specific discussion with the client, but there's no intention of having on premise, inside.

HEARING EXAMINER DICKMAN: Okay.

MR. MITCHELL: I would assume that that falls to outside as well.

HEARING EXAMINER DICKMAN: Okay. I understand.

MR. MITCHELL: They're really in the sale, not the consumption.

HEARING EXAMINER DICKMAN: No. I 100 percent get that. I'm just talking about human nature.

MR. MITCHELL: Sure.

HEARING EXAMINER DICKMAN: You know, people like to, you know, smoke where they smoke. You know, wherever the smoking -- designating smoking areas are, I'm not sure on that property. But I'll let that be more of a private -- I'm sure the other tenants wouldn't want all of a sudden, you know, a vaping and --

MR. MITCHELL: Sure.

HEARING EXAMINER DICKMAN: -- smoke -- you know, tobacco smoking group outside of, you know, next door, and I wouldn't. But we'll let that be. I was just curious if you had talked about that.

Yeah, it seems like the traffic is de minimus, and it's all on site. The parking's all on site.

MR. MITCHELL: Correct.

HEARING EXAMINER DICKMAN: There's plenty of space on site.

MR. MITCHELL: Correct. Okay. Let's see. Do we have anybody here signed up to speak on this matter at all?

MR. YOUNGBLOOD: I don't have any registered speakers for this item.

HEARING EXAMINER DICKMAN: Okay. Anything else from the county?

MR. BOSI: Nothing more from the county's perspective.

HEARING EXAMINER DICKMAN: Okay, great. Thanks.

I've heard enough. I think I have plenty of information to make a decision on this. So unless you have something else you want to tell me, I appreciate your presentation, very thorough. And I appreciate you being here, and I'll get a decision out as soon as possible.

MR. MITCHELL: Thank you very much. That's it. I don't have anything. Thank you.

HEARING EXAMINER DICKMAN: All right.

Well, I'm going to close that item down, and we'll move to the next item. Thank you very much.

Do you need a pair of sunglasses over there?

MR. KELLY: Good morning.

HEARING EXAMINER DICKMAN: Just kidding. He's making fun of me, so I'm making fun of him.

MR. KELLY: Always a pleasure.

HEARING EXAMINER DICKMAN: Always a pleasure.

MR. KELLY: \*\*\*Before you is Item 3B. It's Variance Petition PL20220001712. For the record, John Kelly, senior planner.

The requested action is that the Hearing Examiner, you, Mr. Dickman, approve an after-the-fact variance from Section 4.02.01.A, Table 2.1 of the Collier County Land Development Code to reduce the minimum side-yard setback from 30 feet to 12.3 feet and to 11.3 feet to allow for a 1-foot roof overhang on the east side for an existing single-family dwelling and to approve a variance to allow for an addition to the existing dwelling to reduce the minimum side-yard setback from 30 feet to 17.1 feet and to 16.1 feet to allow for the overhang of the roof on the east side for the benefit of the subject property which is located at 5740 Dogwood Way, further described as east 75 feet of Tract 93 and the west 75 feet of Tract 102, Golden Gate Estates, Unit No. 33, in Section 17, Township 49 South, Range 26 East, Collier County, Florida. This location is within the Estates zoning restrict.

There is an addition and correction to the staff report. On Page 8 of 8, the attachments, Attachment B was misidentified, and it should refer to a site plan Sheet A0.2. The correct attachment was provided. It was just misidentified.

HEARING EXAMINER DICKMAN: Okay. So we're 8 of 9?

MR. KELLY: Eight of 8.

HEARING EXAMINER DICKMAN: Eight of 8, sorry. My staff report says 8 of 9. Are we talking about the same one?

MR. BOSI: We're talking about the attachments.

HEARING EXAMINER DICKMAN: Oh, the attachment. Okay. Attachment what?

MR. KELLY: Did you have a question? I'm sorry.

HEARING EXAMINER DICKMAN: No. I just want to make sure -- I just want to make sure. You said there was a scrivener's error or something like that. I want to mark it down on mine.

MR. KELLY: Yes. Okay. And then also I received a late letter of no objection from the owner of 5730 Dogwood Way, which, in turn, I created Attachment D, which I distributed this morning. You should have found it in front of you upon your arrival.

HEARING EXAMINER DICKMAN: Got it.

MR. KELLY: I've also supplied a copy to the court reporter and provided a map to show that that is the adjoining property owner.

HEARING EXAMINER DICKMAN: Did the other property owner supply a no objection?

MR. KELLY: Negative, but they're not the one on the side with this seven-and-a-half foot setback.

HEARING EXAMINER DICKMAN: I understand. I get it. Going back a minute, because I think you said you needed to make a correct to the staff report. I wanted to make sure I caught that.

MR. KELLY: I did. It was the Attachment B was misidentified.

HEARING EXAMINER DICKMAN: What's it supposed to be?

MR. KELLY: It should refer to Site Plan Sheet A0.2.

HEARING EXAMINER DICKMAN: A0.2, thank you.

MR. KELLY: Public notice requirements were as per LDC Section 10.03.06.F.2. The agent letter was sent by the applicant on or about June 9, 2022, per their notarized affidavit, and public hearing sign was posted to the front of the residence on or about June 27, 2022, per their notarized affidavit.

The property owner notification letter and newspaper ad for this hearing were run by the county on June 3rd, 2022.

This petition was reviewed by staff based upon the review criteria contained with LDC Section 9.04.03.H.

In short, the applicant, they originally purchased a single lot with a residence on the lot. That lot was 75 feet wide. It was legal nonconforming. They added an additional lot that was 70 feet wide and also nonconforming. By combining the lots, they created a legally conforming lot within the Estates district. That took away the relaxed allowance for 10 percent of the lot width as the side yard. It increased it to 30 feet.

You've heard cases similar to this in the past, but that is what transpired. They had two legally nonconforming lots, and combined it became a legally conforming lot.

HEARING EXAMINER DICKMAN: So the nonconformity has now expired, correct?

MR. KELLY: They cannot -- they can no longer split the lots.

HEARING EXAMINER DICKMAN: Right. So the lots are joined.

MR. KELLY: The lots are joined. So any nonconformity was lost when they combined the lots for development.

HEARING EXAMINER DICKMAN: Okay.

MR. BOSI: Mike Bosi, Zoning director.

And just further clarification, it was a legally nonconforming lot. They enjoyed a reduced setback. When they combined the lots together and now it's a legally conforming lot, then that reduced setback was lost, therefore, the structure then becomes an encroachment with -- into the side yard variance; therefore, they're seeking a variance because of that fact.

HEARING EXAMINER DICKMAN: Right. So the good news is that a legal nonconformity has now expired, which is the policy of most local governments is to try to get rid of your nonconformities, but in so doing -- no good deed, it goes unpunished -- you have to now comply with the new requirements thus they're here. I get it 100 percent. That's what I was trying to get at.

MR. KELLY: It came as an unintended consequence for combining the lots.

HEARING EXAMINER DICKMAN: Well, the good news is the house seems to be built on the right lot, right, this time?

MR. KELLY: This time.

HEARING EXAMINER DICKMAN: So we have had a few of these in the past, so it's not uncommon from time to time to have these after-the-facts. So I appreciate it.

What else do you want to tell me, John?

MR. KELLY: Okay. So with that, staff recommends that you approve this petition as described within Attachments A and B of the staff report.

HEARING EXAMINER DICKMAN: Okay. Thank you for that. Very thorough presentation.

MR. KELLY: And the Bares are here to speak on it.

HEARING EXAMINER DICKMAN: All right. Come on up, Mr. and Mrs. Bare, I presume. Welcome. Good morning.

MR. BARE: Good morning.

MS. BARE: Good morning.

MR. BARE: For the record, I'm Joe Bare. This is my wife, Bria. We are the owners of



the property/residence here. Myself since 2007. Bria's a long-time Naples resident, and she has really done the legwork on all of this, so I'm going to let her make the presentation. But we're just hoping for a favorable decision as quick as possible so we can move forward. We've been on hold with this project for a little while now and just looking forward to moving on.

HEARING EXAMINER DICKMAN: I understand. Thank you. How are you this morning?

MS. BARE: Good morning. I'm Bria Bare, for the record.

So, yes, I've been fielding through all of this, and so hopefully I do a decent job at this, so I'll be quick.

So we are here for the variance request, and he gave you all the information on the lot, so I'll just move forward to the next slide of my PowerPoint.

So we are requesting -- actually, hold on one second. I'll just read it from here. So everything he had said before, Mr. Kelly -- and thank you, Mr. Kelly, so much for your assistance in this.

We're seeking an after-the-fact variance requested for Section 4.02.01.A, Table 2.1 -- I'm sure you guys get much better at that, saying all of that every day -- of the Collier County Land Development Code requesting the reduced minimum side-yard setback from 30 feet to 12.3 feet and to 11.3 feet for a 1-foot roof overhang on the east side of the existing single-family home dwelling.

If you could have the next slide.

We are requesting this. As I said, again, that the existing -- if you want to move to the next slide, it will show you the picture as we're speaking on it. Where the red arrows are specifying, the east sidewall showing 17.1, there is a bay window above that at 12.3. That still did set within the 7.5 original nonconforming setback requirements but, alas, when we did our good deed of combining them, it then made the whole house fall within the variance, the setback.

So we are requesting for the variance to be approved so that we may build on the 17.1 east side of the home extending the back wall. It will remain within that 17.1 of the existing house.

HEARING EXAMINER DICKMAN: Okay.

MS. BARE: The next slide.

So as Mr. Kelly said, it was built in 1995 on a 75-foot nonconforming lot. We combined them in 2018 to a 150. The original setback was approximately 20 percent, which would be 10 percent on either side, 7.5 and 7.5, equaling 15 percent -- 15 feet. With the combining of the adjacent lots, the setback [sic] increased our setback to 40 percent of our property with a 30-foot and a 30-foot, equaling 60 feet of our property. I just wanted to put that in there.

Applicant -- we are requesting to allow for the utilization on the back of the house from that site plan. It shows a back slab that was already built, the original building. It's preexisting. And that is actually where the addition would be sitting. So there's no --

Next slide.

There would be a minimal to no additional impact resulting from the approval. It's already been impacted by the existing slab.

The requested setback is less than the original 7.5 nonconforming setback. The area of the impact will not affect any surrounding properties. As you have in your record, Mr. Roper, our neighbor of over 10 years, said, sure, no problem, so -- to sum it up.

The area of the impact is not visible from the street. It is only visible from a small unused portion of the property. The adjacent properties have voiced no objection as well, Mr. and Mrs. Castillo. The area of request is not in any area of impact -- on the next slide -- for any natural preserves, lakes, golf courses, or any wetlands.

The impact is minimal to none -- minimal to none and will not affect the Growth Management Plan.

I hope I did that well.

HEARING EXAMINER DICKMAN: You did actually much better than a lot of attorneys that I know, so nicely done.

MS. BARE: Well, I want my kitchen, so -- just for the record.

HEARING EXAMINER DICKMAN: I don't blame you. And I think your husband should take you out for a nice dinner, too, after all that work, so...

I do appreciate you getting the letter of no objection from the affected neighbor to your -- I guess to your north, it looks like, at 530, so that's good.

We do get this from time to time. I can see there are a number of lots out there that are also nonconforming in this particular area. You know, I look at each case as I get them. There is no precedence set here. You know, I have to look at the criteria as well as, you know, the equity in terms of what burden would it put on you if the variance would not be granted, in other words. So, you know, these are types of things where I'm sure the county appreciates everyone that lives here and is improving their home, their properties, things of that nature.

You know, I'm sure it came as a big surprise to you when you realized that the new setbacks were -- great, we've got this new, larger lot to mow and our animals can run around on, but now John Kelly is going to be much more strict on us now for enjoying that.

But the setbacks are for a reason, and they're calculated for a reason, they're in place for a reason, and that's why this forum -- this meeting was set up in order to handle this.

So I hope you were able to navigate through county channels fairly easily without having to retain too many costs or things of that nature. I know it is expensive, but I think you've done a fantastic job without having any formal legal training or having to hire a lawyer or an engineer or anything like that. So I commend you on coming forward here and doing that.

John, you look so much like you want to say something.

MR. KELLY: I just wanted to set one portion of their presentation up, to correct it. The original setback for the property was 10 percent of the lot width or 7.5 feet.

HEARING EXAMINER DICKMAN: Okay, 7.5 feet.

Either way, you do need a variance for now for what you want to do. I have all the information. I've seen at least 10 of these so far since I've been here. It happens from time to time.

We were joking earlier. I know one person surveyed the wrong lot and put their house on the wrong lot, and there's all kinds of things that happen out there.

Some, anyway, we work through them. We try to solve the problems, try to work it out. And let's open it up for public comment if there is any, Andrew.

MR. YOUNGBLOOD: I don't have any registered speakers for this item.

HEARING EXAMINER DICKMAN: Okay. So these were all -- this was noticed, and your neighbors all -- this was a radius notice. Everyone was aware of it if they wanted to protest it or be -- was this a radius notice or just a sign notice?

MR. KELLY: There was mailed notice.

HEARING EXAMINER DICKMAN: Mailed notices?

MR. KELLY: Yes.

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: And just to let you know, I did receive five or six phone calls on this.

HEARING EXAMINER DICKMAN: Okay.

MR. KELLY: Once I explained what had transpired that -- a lot of the people in the area have seven-and-a-half -- 75-foot-wide lots and could relate to what transpired.

HEARING EXAMINER DICKMAN: Probably trying to figure out what they're up against later on, too. How big is the sign that you put out there on the property, John?

MR. KELLY: I believe 32 -- a sheet of plywood, 32 feet.

HEARING EXAMINER DICKMAN: That's pretty visible. So I would call, too, if I saw that in my neighborhood.

MS. BARE: We have a lot of slowing traffic.

HEARING EXAMINER DICKMAN: So you'll be happy to get that sign out of your yard.

MS. BARE: Yes, very much.

HEARING EXAMINER DICKMAN: Okay, great.

Thanks for that, John; I appreciate it. And as usual, you always field the phone calls very nicely.

I don't have any additional questions. If you have something last you want to say; otherwise, I think you covered everything. I'm very aware of what you're seeking to do, and under the code I have 30 days to render -- go through the criteria, apply it, render a decision.

I do recognize we have got competent evidence from staff here. That gives me enough information. You're a layperson, although you have information and facts related to the specific issue, so I can take that into consideration.

So I don't have anything else to ask you so I'm good with this application, and I'll get a decision out. I can't render a decision today, unfortunately. What I do is do that in writing, so I issue those within 30 days. I hope somebody explained that to you.

MS. BARE: Yes, they did.

HEARING EXAMINER DICKMAN: Okay.

MS. BARE: I'll be waiting.

HEARING EXAMINER DICKMAN: You'll be waiting.

MS. BARE: Patiently.

HEARING EXAMINER DICKMAN: Right. Well, I got a little chill on my back on that one. Patiently waiting. I know what that means. All right.

MS. BARE: Thank you so much.

HEARING EXAMINER DICKMAN: You all did a great job. Thanks for being here today, and thanks for going through the process. A lot of people just don't do that, and we appreciate that.

Anything else? Do we have anything else on the agenda?

(No response.)

HEARING EXAMINER DICKMAN: Nothing? Anything else to talk about before we adjourn?

MR. BOSI: Nothing from staff's perspective.

HEARING EXAMINER DICKMAN: Nothing?

MR. BOSI: No.

HEARING EXAMINER DICKMAN: Ray, you've been so silent.

MR. BELLOWS: Yeah. I just had to say, I did send out a new look-ahead for the upcoming HEX meeting, so you should have the list of -- and also included a list of NIMs that are being held so you can see if you want to attend any of those.

HEARING EXAMINER DICKMAN: If I want to go to some of those NIMs?

MR. BELLOWS: Yeah.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. BELLOWS: They're getting exciting lately.

HEARING EXAMINER DICKMAN: I have heard that. I've heard they've become quite the attraction. Thank you for that. I appreciate it.

So if we have no other business, I'm going to adjourn the meeting. It's -- what is it? -- it looks like 9:42.

Thank you, everyone, for all your hard work.

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There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:42 a.m.

COLLIER COUNTY HEARING EXAMINER



ANDREW DICKMAN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on 7/29/22, as presented  or as corrected

TRANSCRIPT PREPARED ON BEHALF OF FORT MYERS COURT REPORTING,  
BY TERRI L. LEWIS, REGISTERED PROFESSIONAL REPORTER, FPR-C, AND NOTARY PUBLIC.