

January 11, 2024

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
January 11, 2024

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, Planner III
Sean Sammon, Planner III
Ailyn Padron, Management Analyst I

PROCEEDINGS

HEARING EXAMINER DICKMAN: All right. Good morning, everybody. Good morning.

Today is January 11, 2024. This is the Collier County Hearing Examiner meeting.

Let's all rise for the Pledge of Allegiance, please.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER DICKMAN: Okay. Let's start off real quickly with any changes to the agenda, please.

MR. BOSI: Good morning, Mr. Hearing Examiner. It's Mike Bosi, zoning director.

We do have one change. Agenda Item 3B, which is the Watermark Condominium boat dock extension, it's BDE-20230007149, that has been continued to the February 8th, 2024, HEX meeting.

HEARING EXAMINER DICKMAN: 2/8, okay.

MR. BOSI: 2/8.

HEARING EXAMINER DICKMAN: All right. So we're going to continue that to a date certain of 2/8, February 8th.

Okay. Without anything else, let me just do a real quick introduction. My name is Andrew Dickman. I am a Florida Bar licensed attorney. I've been in good standing with the Florida Bar for over 20 years practicing in the area of land use, zoning, environmental law, local government.

I am not a county employee. The folks over here to my right are county employees; I am not. They don't work for me. I work -- I'm on contract by the Board of County Commissioners to hear -- be here and to hold this quasi-judicial hearing for the various petitions that fall under the jurisdiction of the Hearing Examiner per the code.

Each petition -- type of petition has different types of criteria, and my job is to hold these hearings in a fair and equitable manner and hear all the evidence, take the evidence here, and apply it to the criteria, and then within 30 days render a written decision. I do not make decisions here today. So the decisions will come out within 30 days.

These are fairly informal hearings, but they do have to follow certain procedures in order to comply with the rules of quasi-judicial procedure: Fundamental fairness, the rules of evidence, so forth and so on.

This is a -- this is a hybrid-type meeting. So Collier County has been good enough to set up a virtual link so that some people can participate if they need to through Zoom. And we will -- you know, we've been pretty good about handling that, so I think that's been a nice practice that the county has allowed people to be able to participate via someplace else.

The way that we handle these things is the first person that comes up will be the county planner who's handling the particular petition will come to this middle podium and explain the petition, go through their staff analysis, give an overview of any conditions or recommendations that they have, and then we'll have the applicant or the applicant's representative at the podium over here, and then we'll open it up for public comment.

If there's anyone here who wants to make public comment, please fill out a speaker's card -- sorry -- a speaker's card. I think they're over there -- and you can hand them to this young lady over here, and she will gladly take it, and you can come up and speak.

As you can see, we have a court reporter here. All the meetings are taken -- are taken down verbatim. So they're not just minutes; they're verbatim. So it's important that you speak clearly and we don't speak over each other, and if there's any -- if there's ever a situation where she needs to stop the meeting because she didn't understand something or someone said something too softly -- so be sure to speak into the microphone. I'm guilty of that frequently, and I get stopped. So don't feel bad if you get stopped, because I get stopped all the time. But it's more important to have the verbatim record for posterity in case anyone wants to see -- read it. I frequently go back and read it.

I want you to know that I'm here as an impartial decision maker. I have not met with applicants. I have not met with the public. I have not met with staff on any particular item. I have reviewed all of the materials that are available that have been published. That's my job, to come here and be prepared.

But, in essence, this is where the record will end, at this hearing. So after this hearing ends for each petition, the record stops, and then I go and do my evaluation and render my decision. I hope that's clear.

And I hope everyone who comes up and speaks will just relax. Don't be nervous. This is a very informal situation. And just -- it's more important that I get the information that you're trying to convey to me than it is for you to feel like you have to put on a performance or be worried about that.

So maybe I'm just talking to myself because I usually have -- I'm nervous speaking in public so -- everybody else is probably really good at it. Anyway.

With that, please turn off your phones. If you're going to speak to your neighbor, talk to somebody, just step outside and have that conversation. The acoustics in here are really good, and it can be disruptive.

So I think we've covered everything except for if you're going to speak today, you need to do so under oath and, with that, I'm going to ask, for all items, everyone stand up, whoever's going to speak, raise your right hand. The court reporter will swear you in.

THE COURT REPORTER: Do you swear or affirm the testimony you will give will be the truth, the whole truth, and nothing but the truth?

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

HEARING EXAMINER DICKMAN: All right. Thanks, everybody.

By the way, Happy New Year, everybody. First meeting of the year, right?

MR. BOSI: Yep.

HEARING EXAMINER DICKMAN: Okay. 2024.

***Okay. We're going to go to 3A. Are we ready to go on that one, John?

MR. KELLY: Good morning, Mr. Dickman. Happy New Year.

HEARING EXAMINER DICKMAN: Likewise.

MR. KELLY: And for the record, John Kelly, Planner III with the county.

This is Agenda Item 3A. It's VA-PL20180003496. It's a request to have the Hearing Examiner consider an after-the-fact variance from Land Development Code Section 4.02.01.A, Table 2.1, to reduce the required waterfront rear yard setback from 20 feet to 12.9 feet for the principal structure and to 11.9 feet for a 1-foot roof overhang on the north side to allow for the continued existence of a single-family dwelling.

The subject property comprises 0.1 acres located at 659 Palm Avenue in Goodland, also known as Lot 3, Block C, Goodland Isles first addition in Section 18, Township 52 South, Range 27 East Collier County, Florida.

It's located within a Village Residential Zoning District in the Goodland Zoning Overlay.

Public notice requirements were as per LDC Section 10.03.06.F.2. The required agent letter was sent by the applicant on or about November 9, 2023, as per a notarized affidavit.

The property owner notification letter and newspaper ad were satisfied by the county on December 26th, 2023, and a public hearing sign was posted by me on December 21, 2023, to the front of the property.

The petition was reviewed by staff based on the review criteria contained within LDC Section 9.04.03 and is consistent with the GMP and the LDC.

Staff notes that this variance is necessary to satisfy permitting requirements for the existing single-family residence which is the subject of Code Enforcement Case CESD20170011238 for which the Code Enforcement Board has imposed a daily fine.

The property owner has been engaged in the process of remedying the situation since 2018; however, was unable to move forward until issues with a drainage easement were satisfied.

The property owner subsequently retained professional assistance, and Easement-use Agreement No. PL20220005415 was approved by the Board of County Commissioners on December 12th, 2023.

No phone calls or correspondence has been received in response to advertising for this meeting. And staff is constrained from recommending approval of the subject variance, as the offending residence -- as it was constructed without the benefit of a building permit; however, staff has no specific objections to reducing the required rear yard to 12.9 feet and allowing a further 1-foot reduction to 11.9 feet for the roof overhang on the north side as depicted within Attachments A and B.

That concludes staff's report.

And I believe Mr. Chris Scott is here for the applicant.

HEARING EXAMINER DICKMAN: Okay, John. Thank you. This is quite a complicated little piece of property. Thank you.

How are you, sir?

MR. SCOTT: I'm good. Good morning.

HEARING EXAMINER DICKMAN: Good morning. Good morning.

MR. SCOTT: Does this move?

HEARING EXAMINER DICKMAN: Take your time.

MR. SCOTT: It's not very conducive for opening a folder.

HEARING EXAMINER DICKMAN: If you want to move that, it's actually -- you can move it, I think, or throw it down or whatever you want to do with it.

MR. SCOTT: Good morning. For the record, Chris Scott with Peninsula Engineer- -- I'm a planning manager, certified planner with Peninsula Engineering.

I was brought -- this case -- this project has a long history. I came on board maybe six months ago. But I will walk you through some of the history and where we are.

If you want to go to the next slide.

The property's located at 659 East Palm Avenue. The property owner is Double M Investments. This is Goodland outside of -- southern part of the county.

The white box there on the left kind of highlights where this zoomed in is and shows the specific property. These are all around 45-foot-wide lots residential area with canals.

Next slide.

So this specific application is a request, as John referenced in his staff presentation, for an after-the-fact variance to reduce the 20-foot rear yard water body setback to 12.9 feet with an additional 1 foot for the roof overhang.

To the right you'll see the existing survey of the property as well as an aerial showing the structure.

So a little bit about the background. And, again, this has been going on for quite a while. The property's zoned Village Residential. It's also within the Goodland Zoning Overlay. It was purchased by the client, I believe, in 2016/2017. Right after that you had Hurricane Irma. There may have been a structure on there that was damaged and removed.

In 2018, the property owner applied for a permit for what was considered a tiny house. It's a 288-square-foot shed that was converted into a living space. When -- as part of the building permit process, once the structure's complete and the -- you have your first inspection, you're required to turn in a spot survey so that planning staff can verify setbacks. That survey showed that the structure was located and encroaching into a drainage easement along the eastern property boundary as well as into the rear yard setback.

This -- I want to point out the permitting was all done as a permit by owner who has very limited experience dealing with land-use issues and permitting issues.

So the owner initially filed for administrative variance in 2018. Staff came back and said, well, that does not work. An administrative variance, which is a minor after-the-fact variance, would only apply for minor encroachments. The encroachment into the water body setback

exceeded those thresholds, and then the encroachment into a drainage easement could not be addressed through an after-the-fact administrative variance.

So the owner then filed this variance petition in 2018. They also applied for an application to vacate the drainage easement in 2018, which was one of the recommended courses of action from county staff. That application sat for -- was reviewed, and eventually staff came back and told the applicant there was a policy shift internally at the county where they were not vacating drainage easements and, instead, requesting people to go through an easement-use agreement.

So the applicant then filed the easement-use agreement for the encroachment into the drainage easement. That finally was approved last month on December the 12th, and then this application for the variance -- so the easement-use agreement addressed the encroachment into the DE on the side yard. This variance application is still required to address the encroachment into the rear yard setback, water body setback.

The request does comply, in my professional opinion, with the criteria to approve a variance established in Land Development Code Section 9.04.03. I'm going to kind of go through these two at a time and quickly, and feel free to stop me if you'd like.

There are some special conditions and circumstances that are unique to the property and that don't, in my opinion, result from the action of the applicant.

If you'll click the button.

This is a slightly nonconforming lot. It does not -- although it is platted at 45-foot, the actual width of the lot surveyed measured is less. So it doesn't quite meet the minimum lot width. There is an existing -- if you'll hit it one more time -- drainage easement on the eastern side, which is a little larger than the required setbacks.

And then these properties in Goodland don't have sewer service -- one more time -- so there is a large septic drainfield within the front of the property. Those kind of limit where a structure could be placed.

I would also note that this tiny house is similar in size to an accessory structure. It appears similar to a utility building, and I'll note setbacks for a utility building would only be 10-foot to the rear yard.

Next slide.

Literal interpretation would cause some hardship, and that this is the minimum variance necessary to allow reasonable use. If the variance is denied, the structure and those site improvements would need to be removed and the structure -- or the structure would need to be relocated, which would be a significant expense on the applicant. So this is the minimum necessary to allow it to remain as-is where it has been since 2018.

Granting the variance will allow this structure to match -- if you'll hit it one more time. The structure, where it is currently located, is similarly placed as other structures in the area. Although there is a 20-foot required rear yard setback within the VR, Goodland Zoning Overlay, this house does line up with all the other structures.

If you'll go to the next slide, there's an aerial. This was done just with the GIS and existing appraiser data. This is not survey accurate. But the red is a 20-foot rear yard setback that extends along the canals there in this section of Goodland.

All those that are highlighted in yellow have structures that appear to encroach within that rear yard setback. And if you even look at -- I believe in John -- in Mr. Kelly's staff report, Page 4, there is a closeup of the property that you can really see how this structure has about the same depth as other adjacent dwellings.

The final two evaluation criteria, there are some natural conditions that ameliorate the goals and objectives. This property does back up to a canal. The purpose of a rear yard setback is to create spatial distance from abutting properties. The canal does help provide that. Again, being in alignment with the other buildings, there's also not an issue where it's blocking views from adjacent structures, because all of the structures there in Goodland are pretty much lined up along

that rear lot line.

And then the variance is consistent with the GMP, which does not go into setback issues.

Next slide. Next slide.

So with that, I'm here to answer any questions you would have. I humbly request that the Hearing Examiner find the application meets the standards of the LDC and that you would approve this variance.

HEARING EXAMINER DICKMAN: Wow. What a story. So this building, the structure, the tiny home, was it built on site, or was it manufactured off site and brought in?

MR. SCOTT: It's a prefab structure that's elevated.

HEARING EXAMINER DICKMAN: Okay.

MR. SCOTT: So it was made off site, brought in, and then renovated to include bathroom and those types of things.

HEARING EXAMINER DICKMAN: Okay. I mean, the survey and everything shows that there's, I mean, lots of room in the front yard. I just -- I guess, what, they just made a mistake and went too far back -- or, I mean, what was the story there?

MR. SCOTT: I don't have the full story.

HEARING EXAMINER DICKMAN: I know you weren't involved.

MR. SCOTT: I know they had -- at one point there was an RV parked there, so I think they pushed it back so that people that are using the property could park an RV in the front.

HEARING EXAMINER DICKMAN: Got it. That's what I thought. Something -- it looked like a big parking space.

All right. Okay. And then as far as, like, the code -- maybe this is a question for county. Code enforcement -- so this will -- if this were to be approved by me, would it resolve a code enforcement problem?

MR. KELLY: For the record, John Kelly. The only thing prohibiting -- to my knowledge, prohibiting the building permit from being approved and closed out by means of final inspections is the spot survey.

HEARING EXAMINER DICKMAN: Okay. So they got through the -- I see that they've got the easement issue worked out, so that problem was unraveled.

Okay. I mean, this happens from time to time. We see this every couple of agendas where there's somebody that built somebody too far into a setback, and we have to deal with it and look at the criteria on a case-by-case basis and evaluate it.

I recognize you as an expert. You're an engineer, correct?

MR. SCOTT: AICP certified planner.

HEARING EXAMINER DICKMAN: AICP certified planner, sorry. Let me get that right. With Peninsula Engineering, AICP. Okay. And you went through the criteria and you gave me your professional opinion that it meets the criteria.

Let's go ahead and open it up for public comment, and then I'll give you a little time afterwards if there's any need for rebuttal. Anybody sign up to speak for this item?

MS. PADRON: Good morning. We have no registered speakers for this petition.

HEARING EXAMINER DICKMAN: No registered speakers. Okay. All right.

Any final words? Maybe sometimes less is better or...

MR. SCOTT: I will just note that the structure has been on site since 2018, and there hasn't been any recent objections from neighbors.

And to your question to Mr. Kelly regarding the building permit, getting the variance approved is the biggest hurdle into getting that permit finalized and the code enforcement case resolved. The applicant does have a couple minor things to do permit-wise once this is done, but those can't take place until a variance is approved.

HEARING EXAMINER DICKMAN: I understand. Okay. Well, we'll see what we could do with this. I'll get a decision out as quickly as possible.

Nice job. Nice to see.

MR. SCOTT: Thank you.

HEARING EXAMINER DICKMAN: All right. We're -- Item B has been continued to February 8th, so we're going to Item 3C. 3C.

Hi, John.

MR. KELLY: ***Good morning. Once again, John Kelly, Planner III, for the record. This is Agenda Item 3C. It's a boatlift canopy deviation, PL20230011315.

The petitioner requests the Hearing Examiner consider a boatlift canopy deviation from Land Development Code Section 5.03.06.G, as in George, .2, to allow a second boatlift canopy measuring 13 feet by 12.4 feet for a lot width frontage on a canal pursuant to LDC Section 5.03.06.G.3.

The subject homesteaded property comprises 0.24 acres located at 403 Capri Boulevard, and it's also known as Lot 594, Isles of Capri No. 3 in Section 32, Township 51 South, Range 26 East, Collier County, Florida.

The subject property is located within a Residential Single-Family 4 zoning district, RSF-4.

The applicant desires to construct a second boatlift canopy upon a dock that was constructed under Building Permit PRBD20160725966, for which a certificate of completion was issued on March 6th, 2020.

The first boatlift canopy was reviewed administratively by Petition No. PL20210001179 which authorized the permitting of a 13-foot by 33-foot canopy.

The survey that was provided for this review of the project revealed an encroachment issue with the first canopy, and the applicant has agreed to bring it into compliance at such time as the second canopy can be constructed.

Public notice requirements were as per LDC Section 10.03.06.H.

The property owner notification letter and newspaper ad were satisfied by the county on December 26th, 2023, and the required public hearing sign was posted by me to the front of the property on December 21, 2023.

This boatlift canopy deviation was reviewed by staff based on the review criteria contained within LDC Section 5.03.06.G, Nos. 1 and 2, and found that it complies with all but the number of canopies allowed by right.

No public comment has been received in response to advertising for this project.

And staff recommends the Hearing Examiner approve this petition as described in accordance with the canopy and site plan provided within Attachments A and B, subject to the following conditions:

One, the boatlift canopy is to be removed upon the issuance of a hurricane warning affecting the general vicinity of the referenced location; and two, a building permit shall be obtained for the placement of the subject boatlift canopy and if required by the building department for revisions to the first canopy to reduce its overall length.

One minor correction, Attachment B has too many pages to it. It was meant only to contain Page 16, which -- if I can have it put on the monitor -- it's only the site plan that should be attached to the decision.

HEARING EXAMINER DICKMAN: Gotcha.

MR. KELLY: And that concludes staff's report on this.

The applicant is present.

HEARING EXAMINER DICKMAN: All right. Thank you, John.

Who do we have here? Good morning.

MS. HOLT: Good morning. I'm short, sorry. Good morning. Francine Holt with Waterway Boatlift Covers.

So as Mr. Kelly was explaining, Mr. Sheehan and Ms. Kelsey are actually wanting to get a second cover for their smaller boat. They used to have two jet skis. So now they want to cover their smaller boat as they did with their bigger boat.

HEARING EXAMINER DICKMAN: Okay.

MS. HOLT: And as John said, too, that we were in an encroachment issue, so we actually agreed to go ahead and pull that one forward. We minimized the size of the second lift cover that they wanted so that way we stay within setbacks as well.

HEARING EXAMINER DICKMAN: Okay.

MS. HOLT: So if you go ahead to the next slide.

So, again, we actually install boatlift cover systems over the existing boatlifts. Every style is to that boatlift itself. We have two styles, which is our Radius Verandah Beam that everybody calls an eyebrow, and we also have the radius beam, which is actually on your screen now in the pictures aside.

They are built with a marina-grade aluminum, vinyl is the top part, and then the bungees actually hold it to the aluminum structure. And they are, obviously, built to withstand the Florida harsh elements.

The owner is requesting that we get a second boatlift canopy installed for them for his second lift and -- there it goes. And, then, obviously, per the Collier County code, current canopy needs to slide forward due to being in the setback. This will keep the current system in compliance with Collier County. Owner would like to cover his small boatlift on a second lift. Due to the LDC Code 503.06.G.3, a deviation is necessary.

Canopy will not cause any navigational issues. Neither canopy will be over 12 feet high, and Collier County reviewers have no obligations [sic] to see this request.

Next slide.

As per our narrative statement, Donald Sheehan and Anne Kelsey at 403 Capri Boulevard -- excuse me -- are requesting the installation of the second boatlift cover system for their second lift, and the request does require an approved deviation per Naples [sic] ordinance Section 5.03.06.G.2. Lots with frontage on bays shall be permitted a maximum of two boat lift canopy systems per the site.

And just to kind of skip around a little bit, the second canopy system will cover a smaller boat which handles a smarter watercraft and will protect it from the harsh Florida elements. All permits applying to the existing dock and boatlift and pilings and the first canopy system have both been approved by all agencies, meaning Florida Department of Environmental Protection, Army Corps of Engineers, and Collier County.

So to comply with zoning issues found with the existing canopy system previously permitted, Waterway will need to move the existing canopy system forward two feet to put the canopy into compliance with zoning. We will also be making the new canopy smaller than originally planned to make sure that it complies with zoning rules and setbacks.

Both boatlift cover systems are located directly behind Mr. Sheehan and Ms. Kelsey's home off Tarpon Bay, and we will not be obstructing any navigation in or out of the canal. The lift sits parallel with the seawall.

Next slide.

And this is actually the current picture of how everything looks as of right now. And I don't know if you can tell, but the back of the canopy is obviously just past the pilings, which is going into the setbacks, so we're going to move that forward.

Next slide.

This is our site plan to come into compliance with zoning. It actually shows we are going to keep the one canopy at the 33 feet, and then we're also sliding it forward, and then we also made the other cover shorter to be able to stay within the setbacks as well.

Next slide.

So in conclusion, Waterway and Mr. Sheehan and Ms. Kelsey are requesting that the deviation be approved so that the canopy system can cover and protect their smaller boat and be in compliance with all agencies and all regulations that state, federal, and local authorities require.

And that's all I have.

HEARING EXAMINER DICKMAN: Lovely sunset picture.

MS. HOLT: Thank you. It's nice to go under a canopy and see the sunset.

HEARING EXAMINER DICKMAN: Yeah, exactly. Quick question for you.

MS. HOLT: Yes, sir.

HEARING EXAMINER DICKMAN: I mean, so one of the conditions has to do with removing the canopy during hurricane warning, when a hurricane warning is in effect. How difficult is that to remove?

MS. HOLT: It's not.

HEARING EXAMINER DICKMAN: It's not?

MS. HOLT: No, sir. Because with the vinyl being held on by bungees, you can actually take that off with, like, even your pool skimmer pole. They just pop right off.

HEARING EXAMINER DICKMAN: It's just harder to put back on.

MS. HOLT: Yes. Nine times out of 10, the customer calls us to come back out and put it up there, because our guys are like monkeys.

HEARING EXAMINER DICKMAN: I saw that picture. That doesn't look like fun work.

Let's -- do we have any public speakers for this item?

MS. HOLT: We do not have any registered speakers.

HEARING EXAMINER DICKMAN: We do not, okay. This is a question perhaps better answered by staff. I'm looking at this condition. It says, the boat -- for the hurricane. The boatlift canopy is to be removed upon issuance of a hurricane warning affecting the general vicinity of the referenced location. I mean, do you want to be more specific where it says "hurricane warning."

MR. KELLY: I believe if you were to ask the applicant, that it may even be a manufacturer's requirement that that be done. I don't know how else to really word that.

HEARING EXAMINER DICKMAN: I just don't know if the general vicinity -- like, it's like you're either in a hurricane warning area or not. I mean, I don't know.

MS. HOLT: Mr. Dickman, if I may.

HEARING EXAMINER DICKMAN: Yeah, go ahead, please.

MS. HOLT: So basically in our engineering it actually states that if the winds are going to be excessive, over 70 miles per hour, they are to take that canopy off, which is just the vinyl.

HEARING EXAMINER DICKMAN: Okay.

MS. HOLT: Now then, our frames actually can withstand up to 150-mile-an-hour winds.

HEARING EXAMINER DICKMAN: Okay.

MS. HOLT: So as long as that vinyl's off, it's not going to go up like a balloon and take the whole structure.

HEARING EXAMINER DICKMAN: No, I understand that. I'm thinking in terms of code enforcement.

MS. HOLT: Yes.

HEARING EXAMINER DICKMAN: You know, I don't want anyone to get in a situation where, like, oh, you didn't take it down, and we start arguing about what the general vicinity is, you know.

MS. HOLT: Gotcha.

HEARING EXAMINER DICKMAN: You know, I think it should be if it's in a -- if the subject property's affected by a hurricane and it's something to that effect.

MS. HOLT: We also do have people, in effect, too, with their sales rep, that is if the customer calls their sales rep, they actually have people come and take that vinyl down for them.

HEARING EXAMINER DICKMAN: Okay. That's great.

MR. KELLY: We would defer to whatever --

HEARING EXAMINER DICKMAN: Okay. So do you mind if I sharpen that up a little bit?

MR. KELLY: No, and you can even, if you want, say Naples rather than general vicinity.

HEARING EXAMINER DICKMAN: Yeah, yeah. I'll figure out a way to do that so that it's more precise and that -- I just -- you know, I just think down the road, and, you know, you never think about these things right now like it's going to be a big deal, and then, you know, someday somebody complains that, you know, the tarp is on their boat and damaged the neighbor's boat because they didn't take it down in time, and then you start arguing about what the general vicinity is, and then it comes back to this meeting, and we should have talked about that. So I'll fix that a little bit more. Okay.

MR. KELLY: I appreciate that, and we'll use that, whatever you come up with, as a model going forward.

HEARING EXAMINER DICKMAN: Yeah. And then we're going to use, as far as, like, the attachment just that one -- that one attachment that you showed us.

MR. KELLY: It was Attachment A as well as the single-page site plan. It was Page 16 of what was compiled there.

HEARING EXAMINER DICKMAN: I dog-eared it. Okay. So, okay.

Any last words or not?

MS. HOLT: The only thing I have is basically if there's a named storm, customers call, and we do tell them to take down the cover.

HEARING EXAMINER DICKMAN: You do?

MS. HOLT: So we do hopefully expect them to do their job.

HEARING EXAMINER DICKMAN: I know you'll remind them of that.

MS. HOLT: Yes, sir.

HEARING EXAMINER DICKMAN: Okay. Yeah, pretty straightforward. I understand what you're asking for. There are no objections here. No public speakers here.

John, you did a really nice job presenting that. Thank you very much.

I'll get a decision out as quickly as I can.

MS. HOLT: Great.

HEARING EXAMINER DICKMAN: Okay. Have a great day.

MS. HOLT: You as well. Thank you, sir.

HEARING EXAMINER DICKMAN: All right. Take care.

Where you going, John?

MR. KELLY: You're up to D.

HEARING EXAMINER DICKMAN: You going to get me my umbrella?

MR. KELLY: Certainly.

HEARING EXAMINER DICKMAN: Thank you. Have a nice day.

All right. We're moving on now to 3D. And John's younger brother's here.

MR. SAMMON: Thank you, sir. Okay. Good morning, Mr. Dickman.

HEARING EXAMINER DICKMAN: Good morning.

MR. SAMMON: ***For the record, Sean Sammon, Planner III in the zoning division.

Before you is Agenda Item 3D. It's for a variance, Project No. PL20230014103. This is a request for you to approve a variance from Land Development Code Section 4.02.01.A, Table 2.1, to reduce the required front setback from 25 feet to 23.33 feet on the south property line for the proposed single-family residence and accessory pool to be located at Lot 23, Block 46, Unit No. 6, Naples Park, also known as 9100 Vanderbilt Drive, Naples, Florida, 34108, in Section 33, Township 48 South, Range 25 East, Collier County, Florida.

The petition was reviewed by staff based upon review criteria contained within the LDC Section 9.04.03, A through H, and staff believes this petition is consistent with the review criteria in the LDC as well as with the GMP.

With respect to the public notice requirements, they were complied with as per LDC Section 10.03.06.F. The agent letter was distributed by the owner on Wednesday, November 8th, 2023.

The property owner notification letter and newspaper ad were taken care of by the county on Tuesday, December 26th, 2023, and the public hearing signs were placed by county staff on Tuesday, December 26th, 2023.

I received three public comments for opposition pertaining to this petition. Two of the comments were sent to me via email on Tuesday, January 2nd, subsequent to the staff report review, and the emails were printed and are being presented as new material for the record. I've also received letters of support that were given to the court reporter by the owner, and I've also provided you those letters.

In summary, for the letters of opposition, they are opposed to the possibility of the additional building structure decreasing ground absorption which may add to flooding issues. I've also received two other phone calls for information, one of which was a resident in Regatta at Vanderbilt Beach who supports the improvement of the subject property.

Therefore, because staff believes the petition is consistent with the LDC and GMP, staff recommends that you approve this petition as described in accordance with the attachments to the staff report, specifically Attachment B, site plan and detail for proposed variance.

That concludes staff's summary.

HEARING EXAMINER DICKMAN: Okay. Thanks very much.

Who is representing the applicant here today?

Good morning, sir.

MR. NORTON: Good morning. How are you?

HEARING EXAMINER DICKMAN: Fine, thank you.

MR. NORTON: I should have brought notes. My slides are not pretty.

HEARING EXAMINER DICKMAN: Don't worry about it.

MR. NORTON: I do not have a picture of a sunset.

HEARING EXAMINER DICKMAN: Well, sometimes sunsets or, you know, portraits of yourself, or -- you know, we always like some unique pictures.

MR. NORTON: Got it. Can you blow that up?

THE COURT REPORTER: Can you state your name.

MR. NORTON: Oh, I'm sorry. Michael Norton. I am the owner. My wife is not here with me because this has been a very difficult process. And based on what I tell you what happened on Friday, she's kind of done with this, so I'll share that with you in a little bit.

HEARING EXAMINER DICKMAN: Okay.

MR. NORTON: But we're asking for a very small variance into the setback of 1.67 feet.

So a little history, a little background. We signed a contract a little more than a year ago based on a survey that was provided, which I can show you in a second. Our lot dimensions are 64 by 157, and I highlighted the 64 because it's a narrow dimension, and it's onerous.

Based on the survey that we were provided when we purchased the lot, it basically had setbacks totaling 15 feet, which means we had a narrow buildable dimension of 49 feet. As you can see, the yellow envelope in the original survey shows what the building envelope is. And if you look at the setbacks at the top -- if you can read. It's hard to read -- but it's basically showing that on the 91st Street -- or 91st Avenue side, that there's a seven-and-a-half-foot setback. And after meeting with the county, we were told that that was incorrect, that the actual setback is -- on the 91st Street [sic] side is 25 feet. As all of you know, any street-facing side, I guess has a 25-foot setback.

So we have a 64-foot narrow buildable dimension, and then you subtract the 32-and-a-half feet of setbacks, we're down to a narrow buildable dimension of 31-and-a-half feet.

When we first showed the original survey to our architect, he said we're fine. We need a minimum of 34. It would be better if we had a buildable narrow dimension of 35 based on the house that we wanted to build. Even though we need an additional two-and-a-half feet, we're asking for 1.67 feet into the setback. And the current structure is 1.92 feet that exists today -- is 1.92 feet into the setback.

So before finalizing the purchase, I went to the county and said, here's the situation we're in. And I just -- we needed to feel confident that we would get a variance based on this situation, so I've had multiple -- I had multiple conversations with the county.

And so, basically, the individual -- and I still remember the meeting. He went into the back room, came back out, and said -- kind of smiled and he said, I can't guarantee you that you're going to get the variance approved, but feel very confident. And the reasons were that we're asking for a very small encroachment of only 1.67 feet. The existing structure is 1.92 feet into it. There is a pool that's more than 12 feet into the setback. The pool will be removed, and no home directly across the street, right. So you would be concerned if we were encroaching on someone potentially across the street, which we are not.

The proposed wall front on 91st Street [sic] is more than 43 feet from the road, and 91st Avenue is platted for a 60-foot right-of-way, 20-foot travel lanes, and has a -- we have a 20-foot-wide swale on the side of the road.

And one of the points that the county made after the fact was that most lots on our block have a minimum narrow buildable dimension of 35 feet, and we're at 31-and-a-half.

This is not to scale, but I was just trying to -- trying to kind of give you probably -- there's probably a bug in my --

MS. PADRON: It's not working?

MR. NORTON: That's good. That's it. Thank you.

So you can see Vanderbilt Drive and 91st Street, and there's a 20-foot right-of-way, and then there's the 25-foot setback. And current -- the current pool, as I mentioned, is 12 -- more than 12-and-a-half feet into the setback, and then the current structure is 1.92 feet into the setback. And so we were simply asking to go 1.67 feet, which is further from the road than the existing structure.

So as I've said, you know, you have a 64-foot narrow dimension, less the setbacks, we're at 31.5 feet to build. Our property is almost 75 percent larger than the interior lots on our block, and those lots all have a narrow buildable dimension of 34 to 35 feet.

So if I can show you -- sorry. I should have marked these, but --

HEARING EXAMINER DICKMAN: I know where this is.

MR. NORTON: This is our property. So you can see, other than the double lots for the duplexes, I mean, it's the largest lot.

But I kind of want to -- I want to focus on this lot. There's an individual that used to work for the county, and he said if you could just find some other examples of properties nearby you -- and that one happens to be for sale. And I went in to take a look at it, and I noticed how close it is to the road.

So I just did a quick comparison. So it's a corner lot one block from us, just like us. And if you look at our dimension, we're 64 by 157, and that lot is 55 by 127. So nine -- the narrow dimension is nine feet smaller and 30 feet shorter. So our square footage is over 10,000 square feet, and that's at 7,000.

And so if you look at the setbacks for our property, it's 32 feet, and then you look at the narrow dimension setback for this other, which is -- you know, nine -- what's it, nine feet smaller, the setbacks are 20. And it's -- it's a nonconforming lot, which is the reason for this. But if you look at our buildable dimension, we're at 31-and-a-half, and that one's at 35, and that's one block from us.

I mean, is that valid, or does that impact anything?

HEARING EXAMINER DICKMAN: I mean, I have to -- I have to -- for variances, I have to evaluate them all on a case-by-case basis.

MR. NORTON: Okay.

HEARING EXAMINER DICKMAN: I don't -- you know, people frequently want to make arguments, well, if you grant this, it's going to create a precedent. That's not how the case law reads. It's on a case-by-case basis.

But the analysis that you're showing me is well taken. I understand it. I understand what

you're saying.

MR. NORTON: Okay.

HEARING EXAMINER DICKMAN: You know, corner lots are always tricky. I mean, they're always -- that's just the nature of corner lots. I mean --

MR. NORTON: Right. Gotcha. Thank you.

So -- and the other is that that property where it's close to -- it's like 13 feet from the setback. It does have homes across the street; we do not. And it was built in 2021, so less than three years ago, so it's recent.

So the current structure took on five feet of water from the hurricane. It was four-and-a-half feet below the base flood elevation. It doesn't, obviously, meet code, and properties like this drive insurance rates higher.

HEARING EXAMINER DICKMAN: So you're going to build a whole brand-new -- you're going to level this --

MR. NORTON: Correct.

HEARING EXAMINER DICKMAN: -- and raze it and all new construction?

MR. NORTON: Exactly. It would be above the base flood elevation. Someone in the county said, you'll positively impact insurance for everyone. And that was their quote, not mine.

So just to give you an idea of how we got here. We planned construction in October. After the settlement, I came -- rushed down to the county to apply for a variance. And everybody at the county's been amazing.

HEARING EXAMINER DICKMAN: What settlement?

MR. NORTON: After I settled on the property.

HEARING EXAMINER DICKMAN: Oh, okay.

MR. NORTON: I signed a contract and then met with everyone, and then before -- before settling, actually, on this sale --

HEARING EXAMINER DICKMAN: Okay.

MR. NORTON: -- right, or the purchase, basically, you know, after speaking with the county, then we settled on the property.

HEARING EXAMINER DICKMAN: Okay.

MR. NORTON: And so when I came into the county -- and I mean it sincerely, the county's been amazing. I mean, it's -- you walk in the door, and it's kind of like, what can we do to help you, which is unusual from other areas where I'm from in the Northeast.

But when I walked in, the individual said -- and I explained the situation, what I was trying to do, and they said, apply for an administrative variance. And they were looking out for me. They basically said it's cheaper and it's faster.

So I basically applied for an administrative variance based on that. The variance is approved in April. Again, we're trying to start construction in October. And in August, the engineer said, you have the wrong variance. I was kind of like -- so I'm thinking, what the heck? So we started this process. So to give you an idea, I'm fighting for less than two feet, and it's really important.

But the story gets a little crazier. I don't have a contract with a builder because we're probably not going to build if we don't get the variance. And so I'm getting bids from builders. One builder, I said, how quickly can we start?

And he said quickly. He said, I'll even pull a demolition/demo permit.

I'm like, great, whatever, but knowing -- he knew, don't do anything until we go through the variance.

On Friday of last week, I get a text saying, are you demoing your house on your own?

And I said no. So I rushed to our house.

Go ahead. You can flip.

And that was taking place without our approval. We didn't sign. I mean, you don't have to sign anything to get a demo permit.

And that's where we are now. And that was -- after the flooding, the owners did an amazing job of preserving the property so that it could be refurbished, and if we could not build because of the variance, then we would have refurbished it and used it as an Airbnb. And that's where we are.

Next slide.

And this is -- I guess that's my pretty sunset picture.

HEARING EXAMINER DICKMAN: Very nice, yeah. Very nice.

MR. NORTON: That's a 30-foot canary palm --

HEARING EXAMINER DICKMAN: That's beautiful.

MR. NORTON: -- that was taken out. The lot was filled with trees, and our builder knew the plan was to preserve as much of the trees or as many of the trees as we could, and they're gone.

So, I mean, unfortunately -- I mean, I'm not a litigious person. Never sued anyone. But if we don't get the variance, I mean, I don't really have an option now, right? I mean, that's a path that I'll have to go against the individual that demoed.

And I spoke to him. He was very -- great guy. Don't want to hurt him from a business perspective. Very well thought of, and he said he screwed up, so -- but, you know, he tore down a home.

HEARING EXAMINER DICKMAN: I can see why your wife's frustrated.

MR. NORTON: She's done.

So in summary, it's a small encroachment into the setback. New home is further from the road than the existing structure. We'll meet codes. Positive impact on insurance. No homes across the street.

Again, we're 1.6 -- we're proposing 1.67 into the setback; existing structure is 1.92; pool's more than 12-and-a-half feet into the setback. That will be removed -- and a 20-foot-wide swale. We're actually more than 43 feet from the road. And I can explain the others to -- just to leave it at that, and then I'll just go.

That's all I have for now. I just hope all these people are not here to speak against me. I was hoping people would funnel out.

HEARING EXAMINER DICKMAN: Well, we'll find out. This is -- this is -- everybody's left their firearms outside, so don't worry. It's required.

Why don't we take a break, and then we'll go to public comment, and then I'll let you have some time to come back up, but I want to hear from the public. I totally understand what you're requesting.

MR. NORTON: Thank you.

HEARING EXAMINER DICKMAN: Just, you know, corner lots are corner lots.

I do have a question for the county. Tell me again how you determine which is the front yard versus side yards, because I know on corner lots like -- are they two front yards or two --

MR. SAMMON: Sean Sammons, for the record.

Two front yards. Front yard is adjacent to the adjacent roadway, and the side yards are the remaining yard. So there's no rear yard.

HEARING EXAMINER DICKMAN: No rear yard.

MR. SAMMON: Yep.

HEARING EXAMINER DICKMAN: That's what you're missing.

Yep. Okay. So do we have public speakers signed up?

MS. PADRON: We do. We have a total of five in-person speakers.

HEARING EXAMINER DICKMAN: All right. Let's go ahead and get started. We'll go ahead and call them one by one. And if you-all -- you want to just take a seat, and we'll let the public speak.

MR. NORTON: Oh, sure.

HEARING EXAMINER DICKMAN: And if you want to take notes, I'll take notes on

comments that are made, and we'll try to address those.

So first up?

MS. PADRON: Our first speaker is Jeannine Bennett.

HEARING EXAMINER DICKMAN: Ma'am, if you could use this one right here, please, I'd appreciate it. Thank you.

MS. BENNETT: Oh, sorry.

HEARING EXAMINER DICKMAN: No problem. No problem.

MS. BENNETT: Hello.

HEARING EXAMINER DICKMAN: Hello. Good morning.

MS. BENNETT: Good morning.

HEARING EXAMINER DICKMAN: Yeah, somebody punch that button. There you go. Just take your time.

MS. BENNETT: This is new construction, and I believe that new construction affords the county the best opportunity to enforce the laws.

HEARING EXAMINER DICKMAN: Can you give me your name and address?

MS. BENNETT: I'm sorry. Jeannine Bennett.

HEARING EXAMINER DICKMAN: Okay. And address.

MS. BENNETT: 691 104th Avenue North, Naples Park.

HEARING EXAMINER DICKMAN: Okay. So a couple roads down.

MS. BENNETT: We own a condo on Beachwalk Circle.

HEARING EXAMINER DICKMAN: Oh, okay.

MS. BENNETT: Excepting the case of hardship, allowing one property owner an exception to the rules violates the entire code. And I hear you say case-by-case basis, but rather than allow new construction to match existing properties which may or may not be in compliance with the current code, I believe the county is obligated to enforce the laws as they stand. So thank you.

HEARING EXAMINER DICKMAN: Okay. Thank you very much.

Who's next?

MS. PADRON: Our next speaker is Peter Oster.

MR. OSTER: Hi. I'm Peter Oster. I'm the one at 601 91st Avenue North.

And I love Naples Park. Naples Park is in a big transition right now, as everyone knows, at the county.

HEARING EXAMINER DICKMAN: So you're the house that --

MR. OSTER: I'm the house --

HEARING EXAMINER DICKMAN: -- he was pointing out.

MR. OSTER: I'm the house on the corner.

HEARING EXAMINER DICKMAN: Okay.

MR. OSTER: I built that house personally. I'm trying to sell it. I just finished another house that I'm moving -- I moved to.

I'm all about maximizing -- you know, especially when you pay million dollars for a lot, maximizing the county setbacks, and I pretty much did that. I didn't completely take the rear yard setback. So that is a conforming lot on the corner.

And I just built a very similar house on 95th that I moved into. And what I have loved -- I put -- the pool's in the front of the house. I would have loved to have 10 more feet that, really, you can't even see from the road, to have my pool.

So one of the questions I have is, do we get to know what he's trying to -- what the owner's trying to do here? I mean, is it the whole house, the structure? Is it the pool? Is it a handicapped ramp? Is it a set of steps to get to the front door? Those are reasonable things, the pool -- but, you know, to get a foot and a half more to build a three-story house, which is what has to be built down on that flood area. I mean, that's -- once again, I think it's a -- when you purchase an existing property that has to be demoed -- and, sir, I don't want to --

HEARING EXAMINER DICKMAN: Just address me.

MR. OSTER: I'm happy for what you're doing, but I think when you purchase a property like that, you have to look at the setbacks. That's your responsibility. Hire an architect, an engineer, and look at the setbacks. Do a study.

I do have a question -- because I watched the demo take place -- how do you -- how does someone just start coming and demoing a project without you knowing about it? I mean, someone -- someone pulled the plug. Maybe it was a miscommunication.

The other thing you have to look at -- I'm very sad about those trees being taken down. I understand that. Where I come from, you know, you would have to get all kinds of permission. I'm happy that Florida hasn't gotten there yet because if he needs to take them down, he needs to take them down.

But if you look at the setback and the house he's probably trying to propose, those trees would have to come down anyway.

The other thing I want to bring up, he was talking about leaving that existing house. Well, if you looked at the 50 percent rule that FEMA has in place with the county, there's no way. It's way below flood. The house has been gutted. There's no way you could bring that up to code for 50 percent of the approved value. That's just a fact. I mean -- so that's something to consider, too. That house couldn't be restored unless it was done illegally, which a lot of houses were done.

HEARING EXAMINER DICKMAN: I understand that.

So on -- in your property at 61 91st, did you have to get any variances for that?

MR. OSTER: Absolutely not.

HEARING EXAMINER DICKMAN: You didn't?

MR. OSTER: I would like to have but, no, I complied with the setbacks, everything. In fact, I didn't use the rear yard setback, which is considered a side-yard setback, to the extent that I could have. I held back about, I think, five to seven feet, but everywhere else it's right there.

HEARING EXAMINER DICKMAN: Gotcha.

MR. OSTER: One thing it would be nice to understand, is he -- is he asking for the whole house, the whole structure, or is it just a pool? Which shouldn't you guys understand that or be able to understand that or see that or know that?

Naples Park, there's so much new construction, there's so much demo. You guys talk about not setting a precedence here, but people are going to come down here if you allow this. And, once again, I'm not necessarily saying I'm against this if it's just a pool or a porch or section of a house. But if it's an 80-foot structure -- Vanderbilt Drive has longer parcels.

HEARING EXAMINER DICKMAN: So the request, just so you know, is for the south property line. That's what it says here.

MR. OSTER: Correct. But what? The whole south property line, I'm assuming.

HEARING EXAMINER DICKMAN: That's what --

MR. OSTER: And so Naples -- so Vanderbilt Drive properties in Naples Park are a lot deeper than any other properties in Naples Park. So he can make a much deeper house, plus he's on the corner, so he doesn't really have -- his rear yard's a side yard. So instead of having 25-foot -- or 20-foot rear yard, he has a 7-and-a-half-foot rear yard.

Those are important things to consider. So he really has more space than most people in Naples Park. It is strange that that lot is narrower.

And I feel the pain. I understand all that. But we have to -- as a property owner in Naples Park, and -- you know, we have to comply when we build to the county setbacks. And I think it's only fair that since it's new construction, that we stay within the codes --

HEARING EXAMINER DICKMAN: Okay.

MR. OSTER: -- and the ordinances.

HEARING EXAMINER DICKMAN: All right.

MR. OSTER: All right. Thank you.

HEARING EXAMINER DICKMAN: Thank you. Thank you very much for being here.

MR. OSTER: Is there any way we can find out in more detail what -- how much of the house he's --

HEARING EXAMINER DICKMAN: I believe it's in the -- they're asking for a variance on the --

MR. NORTON: I'll explain it.

MR. OSTER: Is it the pool or --

HEARING EXAMINER DICKMAN: We'll get that addressed. We'll get that addressed.

MR. OSTER: Okay. I mean, shouldn't that be public information or --

MR. BELLOWS: It's in the file.

MR. OSTER: Since he's asking for --

HEARING EXAMINER DICKMAN: It's in the packet. Yeah, it's online. It's in the packet.

MR. OSTER: Okay. Okay. Okay.

HEARING EXAMINER DICKMAN: But we'll talk about it after we get done.

MR. OSTER: Okay. Thank you.

HEARING EXAMINER DICKMAN: Who's next?

MS. PADRON: Our following speaker is Miguel Lopez.

MR. LOPEZ: Hello there.

HEARING EXAMINER DICKMAN: Hi, Mr. Lopez.

MR. LOPEZ: Miguel Lopez. I own the house in also the first block there, 567 91st Avenue. And my sister owns the house in 547 91st Avenue. And we're both against the --

HEARING EXAMINER DICKMAN: You're 569?

MR. LOPEZ: 567, and my sister's 547. She's not here, but I'm kind of representing her as well.

So, again, there's plenty of space in that lot to build a house. We don't need to go any wider. There's a, you know, request for 1.67. What if I request three feet? What if the next guy requests four? How far do you go?

I mean, as far as I'm concerned, there's plenty of space, new construction. Build it to what you bought, okay?

That's all I have to say. Thank you.

HEARING EXAMINER DICKMAN: Thank you.

Who's next?

MS. PADRON: Joseph Raffa.

MR. RAFFA: I'll pass.

HEARING EXAMINER DICKMAN: You're passing, okay. Thank you.

Next?

MS. PADRON: Our last speaker is Curtis Garrett.

HEARING EXAMINER DICKMAN: Good morning, Mr. Garrett.

MR. GARRETT: Good morning, everybody. How's everybody doing?

HEARING EXAMINER DICKMAN: All right.

MR. GARRETT: I'm not here to oppose this, necessarily. I just wish we had more idea of what he has planned.

HEARING EXAMINER DICKMAN: Give me your address, please.

MR. GARRETT: My address is 6523 Thomas Jefferson Court, and that's in Naples.

HEARING EXAMINER DICKMAN: 523 Jefferson --

MR. GARRETT: 6523 Thomas Jefferson Court.

HEARING EXAMINER DICKMAN: Okay. So you're not in this neighborhood?

MR. GARRETT: I'm not. Just a friend of an owner, I guess.

Just concerning, as they built up of the surrounding properties, how is the drainage going to be addressed? Will that be all part of a code situation or --

HEARING EXAMINER DICKMAN: That will all be handled during permitting and site

plan.

MR. GARRETT: Yeah. So -- okay. There won't be any effect as far as surrounding properties as far as additional runoff?

HEARING EXAMINER DICKMAN: The county -- the county requires stormwater runoff review. They'll take care of all that, yeah.

MR. GARRETT: So that will be handled. Okay. Very good. I just had more questions than anything else.

And just the orientation of the home, is the -- you know, is the door going to still be on -- is it going to be on Vanderbilt Drive? Is it going to be on 91st? What's the orientation?

HEARING EXAMINER DICKMAN: We'll find out.

MR. GARRETT: Yeah, okay. So we don't know that either.

Is the pool going to be in the back? On the side?

HEARING EXAMINER DICKMAN: It's all in the record. I mean, we'll have the applicant come back up and describe what he's --

MR. GARRETT: Yeah. Okay. Very good. That will be helpful.

HEARING EXAMINER DICKMAN: This is really -- for everyone, this is really just for your opportunity to give me public comment, not to question me or cross-examine me, please.

MR. GARRETT: No, none of that. Just -- these are just general questions to, you know, what's going to -- what's going to happen on the lot.

HEARING EXAMINER DICKMAN: Okay.

MR. GARRETT: Yeah. Not -- no, don't get me wrong. I'm not being -- I'm not trying to be aggressive with you at all.

HEARING EXAMINER DICKMAN: Okay. Yeah. And who are you representing?

MR. GARRETT: A neighbor.

HEARING EXAMINER DICKMAN: Which neighbor? I mean, you're here. You say you're representing a neighbor, so I'm trying to identify, like, whether you're affected -- your neighbor's affected, your friend's affected.

MR. GARRETT: The neighbor.

HEARING EXAMINER DICKMAN: The neighbor?

MR. GARRETT: The neighbor.

HEARING EXAMINER DICKMAN: Like abutting neighbor?

MR. GARRETT: Yes.

HEARING EXAMINER DICKMAN: So this abutting neighbor doesn't want to reveal themselves?

MR. GARRETT: Correct.

HEARING EXAMINER DICKMAN: Okay. Then it doesn't help me much.

MR. GARRETT: Okay. So if they're going to be -- so is it relevant? I mean --

HEARING EXAMINER DICKMAN: Yeah, go ahead, but it helps me to know -- I mean, this -- like I said, this is a friendly environment. I'm just trying to understand. I notice you said that you're here representing "the neighbor," but there's more than one "the neighbor." So to the north? To the, you know, east?

MR. GARRETT: North neighbor.

HEARING EXAMINER DICKMAN: North neighbor. Okay. Thanks. Thanks.

MR. GARRETT: I'm not trying to be evasive.

HEARING EXAMINER DICKMAN: I'm not either. I'm just trying to -- I'm trying to understand --

MR. GARRETT: Why I'm here.

HEARING EXAMINER DICKMAN: Yeah.

MR. GARRETT: Okay. Very good. So if they're going to have a variance to the road, what's going to happen with the back or the side variance? I think it's set at five feet now. Is that going to change at all for, like, noise abatement? I just don't know how this is going to be

oriented. Is the backyard going to be actually in the backyard or on the north side? So --

HEARING EXAMINER DICKMAN: I'll tell you what. I'm going to have -- you can just ask all these questions. Then I'm going to have the applicant come back up --

MR. GARRETT: Yeah.

HEARING EXAMINER DICKMAN: -- because it's the applicant's --

MR. GARRETT: Perfect.

HEARING EXAMINER DICKMAN: -- petition, and he's going to have to -- I'm going to make sure that he addresses all these.

MR. GARRETT: Perfect. Just where the outdoor space would be and if the door's going to be the Drive or 91st. Just -- it's orientation.

HEARING EXAMINER DICKMAN: Totally understand. I mean, if I'm the north neighbor, I'd worry about that, too, so.

MR. GARRETT: I guess that's it. Just those type of simple questions.

HEARING EXAMINER DICKMAN: Okay.

MR. GARRETT: Okay. Thanks a lot. Thanks for your time.

HEARING EXAMINER DICKMAN: Thanks for being here. Take care.

Any other speakers?

MS. PADRON: We have no additional speakers.

HEARING EXAMINER DICKMAN: Okay. Can the property owner/applicant -- Mr. Norton?

MR. NORTON: Yes, thank you.

HEARING EXAMINER DICKMAN: All right. So folks want to know if you -- what you intend to build there.

MR. NORTON: Gotcha.

HEARING EXAMINER DICKMAN: So your variance request is for the south side.

MR. NORTON: Correct.

HEARING EXAMINER DICKMAN: How much of that is -- I mean, what's the footprint? Can you describe that a little bit for them?

MR. NORTON: I'm sorry for not having a representation of it. If I had known that that would have been helpful, I certainly would have done it.

The house will -- the front of the house will face 91st, the front door. There is a driveway -- just like it is right now, the driveway on Vanderbilt Drive will remain. There will be garages on the Vanderbilt Drive side.

As it relates to the property to the north of us, the current house is, I believe, seven-and-a-half feet from the setback. The future house, or what we would build, would also be seven-and-a-half feet from that setback.

The home, as someone asked about, yes, it will be long. It will be the front of the home. The pool will be to the west side where all of the trees were and kind of taken out. The trees would have surrounded the pool that are gone. We would have relocated the canary palm.

I just want to make sure I hit all -- oh. So in terms of absorption, which someone mentioned, the -- we are less than 40 percent impervious, which I'd love to know what yours is out of curiosity. But most homes are not less than 40 percent.

Really strong chance -- I mean, I'd say 90 percent if we don't get the variance, we will not build, but if we decided, okay, we're going to build, we could add another five feet to the length. Be back further, but five feet longer. It would be less impervious if we did that because we would be covering more square footage. You'd be looking at something that looks like a long car wash almost, which we're trying to avoid doing. We've had people say to us, do something great. Do something beautiful. It's kind of a showcase lot for us, and that's what we're trying to do.

I'm not looking for a special exception. I looked at other properties, and I looked at what they had. I'm not asking to be special or unique. It's what we need to do to build a beautiful house. I can't justify -- I know your house is on the market. I know the price that your house is

on the market for, and I know you built that home yourself. I know your agent as well.

And the cost that this house is going -- what the ultimate cost of this house will be to build, and if I can't get that 1.67 feet, rooms are going to be smaller. My architect said, highly advise against you building this house or building a house. Based on the amount of money that it's going to cost, you'll never get your money out. Bedrooms are going to be much smaller. And I wish I had provided the architect's letter to me.

So we won't build that -- what you see, that destruction you see is going to stay for a while while we go through litigation.

Oh, someone asked how this person did it. Getting multiple bids from multiple builders, not signing a contract because I don't have a variance because there's -- we won't build if we don't have a variance.

The builder asked me -- I said, how quickly can we do this?

I'm so far behind schedule.

And can you start quickly?

And he said, I will pull a permit to demo, and then we'll do it as soon as you say go. I know it will be after the variance meeting, what have you.

And I said, great.

I called my architect and I said how -- and he said -- he said, we pulled the permit.

And I said, how can you pull a -- how could he pull a permit without a signature from me? I mean, he could pull a demo permit without a signature.

The demolition guy -- and I don't want to say his name, because I don't want to do anything damaging to him, but the demolition person was doing work on Connors, and they basically told him he could put his bulldozer there on the side -- this builder may not get the deal and knows it. And --

HEARING EXAMINER DICKMAN: One second, one second. What are we looking at here?

MR. NORTON: Via miscommunicat- -- oh, yeah. There you go. That's a -- I'll let -- I mean, it's kind of hard to read. I didn't include this because this is difficult to see, but it was something that my architect did and included.

But anyway, he went ahead and did it. He basically said he felt like he was doing the builder a favor. And what's really ironic to me is that same demo guy got a request to demo from two different builders, so he knew that the builder that called him did not have my contract, didn't have a contract. He was not given -- didn't have a contract, was not given a deposit and went ahead, whatever. He's wrong. And he admitted he made a mistake, but I'm the one who's suffering from it.

HEARING EXAMINER DICKMAN: So, Mr. Norton, I mean, if you could just -- you could just stay there. I mean, so this yellow area is --

MR. SAMMON: Mr. Dickman, Sean Sammon, for the record.

The -- our analyst, reorienting the picture, the yellow highlight is supposed to show where the encroachment is.

HEARING EXAMINER DICKMAN: Yes.

MR. SAMMON: So when the picture is rotated, the yellow highlight's not attached to it. So the yellow highlight is just showing the area of --

HEARING EXAMINER DICKMAN: Along 91st?

MR. SAMMON: Yeah, where the variance request is going.

HEARING EXAMINER DICKMAN: Along 91st?

MR. SAMMON: Along 91st. So where the current existing structure is encroaching compared to where the proposed house is going to be encroaching, so that entire yellow strip is where the variance request is for.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. OSTER: Excuse me, sir. Can I say something?

HEARING EXAMINER DICKMAN: No. The public comment's closed. Thank you very much. I appreciate it. Your comments were well taken. Thank you. Very well done.

You know, whatever happened with your demolition permit, I mean, that's not what I'm here to --

MR. NORTON: I understand that.

HEARING EXAMINER DICKMAN: I mean, I understand that. It sounds like a problem. These corner lots are tricky. They're difficult. There are other lots similar to this on Vanderbilt Drive as you go down, you know, between Vanderbilt Beach Boulevard all the way down to 111th.

MR. NORTON: Correct.

HEARING EXAMINER DICKMAN: So I'm going to have to give some thought to this. I think that one of the things that you're saying is that it's really just a financial cost-benefit situation that -- maybe the cost of the land and how much you need to build is what makes sense here.

MR. NORTON: Correct.

HEARING EXAMINER DICKMAN: Oh, and the other question I was going to ask is, like, what is BFE here? What are we talking about? And do we go over BFE or what's --

MR. NORTON: I'm over. I'll be over with the new.

HEARING EXAMINER DICKMAN: So there's freeboard above base flood elevation or --

MR. NORTON: So I guess the base flood elevation is five for where we are, and our first floor will be six to six-and-a-half feet above base flood.

HEARING EXAMINER DICKMAN: And it's a two-story? It's going to be two stories?

MR. NORTON: Two stories.

HEARING EXAMINER DICKMAN: Okay. So the total height will be --

MR. NORTON: Below the limit, which is like 35 feet.

HEARING EXAMINER DICKMAN: Okay. All right.

MR. NORTON: Everything else --

HEARING EXAMINER DICKMAN: I know this area got really flooded badly.

MR. NORTON: Correct.

HEARING EXAMINER DICKMAN: I mean, this is one of the areas that didn't look good after Ian, for sure.

MR. NORTON: It's -- you don't realize it, but as you go down Vanderbilt Drive, I mean, it's all downhill even though it doesn't appear.

HEARING EXAMINER DICKMAN: Florida hills.

MR. NORTON: And this lot is right at -- you know, this lot is right at the very corner where I think it probably was hit the hardest.

HEARING EXAMINER DICKMAN: Okay. All right. I've got a lot to think about on this one. You know, I understand where you're at on it.

MR. NORTON: Any questions that you feel like that you have that are a concern regarding it that I could answer?

HEARING EXAMINER DICKMAN: No. I mean -- honestly, like, this is a straight -- straight-up variance request, you know, for new construction. That's what this is. So I have to look at the criteria. Look at the -- you know, the evidence that was presented from the county, from you. I can consider some of the public testimony if I feel like it's adequate layperson testimony. It just depends. But I think I have enough information to evaluate this carefully. So I'll do the best I can. I definitely will get a decision out within 30 days.

MR. NORTON: Thank you.

HEARING EXAMINER DICKMAN: You'll be hearing from me.

MR. NORTON: I did provide eight people -- or eight lots that are close by that are all in favor.

HEARING EXAMINER DICKMAN: Yes. Just so everyone knows, for the record, I have -- the county passed out some information from folks that sent in emails of support, and then there's also a couple of emails here of objection, and I have those in the file, so...

MR. NORTON: Thank you. Appreciate your time.

HEARING EXAMINER DICKMAN: I appreciate you being here.

***Okay. We're moving on to 3E, No. 3E.

Welcome back.

MR. SAMMON: Good morning, Mr. Dickman. I also forgot to mention Happy New Year to you.

HEARING EXAMINER DICKMAN: Happy New Year.

MR. SAMMON: And, for the record, Sean Sammon, Planner III, in the zoning division.

Before you is Agenda Item 3E. This is a request for an insubstantial change to Ordinance No. 19-11, as amended, the Baumgarten Mixed-Use Planned Unit Development, Exhibit B, Section 1, mixed-use development standards by reducing the minimum floor area for principal structures from 1,000 square feet to 700 square feet.

The subject PUD is located southeast of the intersection of Immokalee Road and Collier Boulevard in Section 26, Township 48 South, Range 26 East, Collier County, Florida.

The petition was reviewed by staff based upon review criteria contained within LDC Section 10.02.13.E.1, A through K, and 10.02.13.E.2.A, and staff believes this petition is consistent with the review criteria in the LDC as well as with the GMP.

The applicant conducted one neighborhood information meeting on Tuesday, November 7th, 2023. Zero members of the public attended, and details from this meeting are included in the backup package Attachment A to the staff report.

With respect to the public notice requirements, they were complied with as per LDC Section 10.03.06.H. The property owner notification letter and newspaper ad were taken care of by the county on Tuesday, December 26th, 2023, and the public hearing signs were placed by the applicant on Thursday, December 14th, 2023.

I've received no calls from the public, and there has been no public opposition pertaining to this petition. Staff recommends that you approve this petition subject to including Attachment B, PUD language changes, in the HEX decision.

That concludes staff's summary.

HEARING EXAMINER DICKMAN: Thank you.

Welcome back, Chris. I'm glad you got to stick around.

MR. SCOTT: I decided to bookend your public hearings. For the record, Chris Scott.

HEARING EXAMINER DICKMAN: You'd think that they would have helped you out and put the agenda items together.

MR. SCOTT: Planning manager with Peninsula Engineering.

I have a presentation. I'm going to zip through it. This one's pretty straightforward. Not as complex as my earlier one.

This is a PDI or an insubstantial change to the Baumgarten MPUD.

If you want to go to the next.

This is the location. It's also known as Founder's Square. That's the common name, so I'm going to call it Founder's Square from here on.

This change to the development standards for the minimum floor area within the mixed-use designation would only apply to commercial properties. Those are highlighted in yellow. That's the Master Concept Plan on the right-hand side.

This is the specific changes to the text. You can see the 1,000 is crossed out, 700 added.

Next slide.

This is consistent -- the 700-square-foot minimum floor area is consistent with other commercial districts within --

HEARING EXAMINER DICKMAN: So what would that be -- what would be a

700-square-foot, like, some kind of small commercial space?

MR. SCOTT: Small -- I have a slide. It could be anything within a shopping center, an individual unit within a shopping center, or it could be a stand-alone --

HEARING EXAMINER DICKMAN: Okay.

MR. SCOTT: -- building. But the 700-foot is consistent with what's allowed in C-3, C-4, and C-5 zoning.

HEARING EXAMINER DICKMAN: It's twice as big as your tiny home.

MR. SCOTT: Yeah, that's right. More than twice.

The request is consistent with the criteria for an insubstantial change to the PUD. And I -- any questions you have...

I will note, the applicant is Roady's. If you go to the next slide, this just -- you had asked. There's been changes to quick-service restaurants lately, especially post COVID. More and more people --

HEARING EXAMINER DICKMAN: Post COVID.

MR. SCOTT: -- are doing takeout and drive-thru than eating in. It's especially popular with coffee shops, I believe. Probably 85 percent of new Starbucks that are coming online aren't your traditional in-the-town Starbucks. They're drive-thru-only facilities.

These Roady's coffee shops are similar. Small building, no public space inside. It's just employees making coffee, drinks. Cars coming through, they get their coffee, and they go on.

So this specific use did get approved at over 1,000 square feet. The owner is -- has a different design concept to minimize that building a little bit. So this PDI would allow for that.

So if you have questions, I'm happy to answer any of those. It's pretty straightforward. And I know it's been a lengthy agenda for a Hearing Examiner meeting. And --

HEARING EXAMINER DICKMAN: Oh, yes. We like to be here and chat.

Those are always fascinating. I've seen a couple of those. I always think it would be fun if those were tollbooths, and then you can put them in the roadway and then buy coffee at the same time, you know, just a thought.

Anyway. Any public comments for this item?

MS. PADRON: We have no registered speakers.

HEARING EXAMINER DICKMAN: Surprise, surprise.

Okay. I understand this one.

MR. SCOTT: Thank you.

HEARING EXAMINER DICKMAN: I will get a decision out as quickly as possible.

Thank you very much for being here. Just playing cleanup.

All right. Guys -- ladies and gentleman, sorry. Anything else? Anybody want to -- any predictions on the Dolphins chances of going to the Super Bowl or the Bears maybe?

MR. BOSI: The Bears' chance is zero, and Mike Bosi. I would say --

MR. SAMMON: Don't fall asleep on the Browns.

MR. BOSI: -- the Dolphins chances are probably going to be somewhere near the weather temperature of the kickoff, unfortunately.

MR. BELLOWS: Zero.

MR. SAMMON: We're hoping to host our first home playoff game in 30 years.

HEARING EXAMINER DICKMAN: Yes, yes. My Dolphins have crumbled again at the end of the season.

MR. BELLOWS: We won't talk about my Jets either.

HEARING EXAMINER DICKMAN: All right. Okay.

Well, thank you, everyone. It's nice to be back in 2024. We're off to a running start. That's it, I guess.

With nothing else, we'll adjourn the meeting. Thank you very much. Appreciate it.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 10:29 a.m.

COLLIER COUNTY HEARING EXAMINER

ANDREW DICKMAN, HEARING EXAMINER

These minutes approved by the Hearing Examiner on _____, 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.