

May 10, 2018 HEX Meeting

TRANSCRIPT OF THE MEETING OF THE  
COLLIER COUNTY HEARING EXAMINER  
Naples, Florida  
May 10, 2018

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 MARK STRAIN

ALSO PRESENT: Raymond V. Bellows, Zoning Manager  
James Sabo, Principal Planner  
Scott Stone, Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, May 10th meeting of the Collier County Hearing Examiner's Office.

If everybody will please rise for Pledge of Allegiance.

(The Pledge of Allegiance was recited in unison.)

HEARING EXAMINER STRAIN: Thank you.

Some housekeeping matters: Speakers will be limited to five minutes unless otherwise waived, decisions are final unless appealed to the Board of County Commissioners, and a decision will be rendered within 30 days.

\*\*\*Review of the agenda: We have two items up today. We'll move right into those. The first one is 3A. It's an advertised public hearing for Petition No. BDE-PL20170003705, the Kendra Gerber boat dock extension on Vinland Way.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

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

HEARING EXAMINER STRAIN: Disclosures on my part: I didn't have a meeting on this one. I know, Jeff, we talked about another one, but not this one.

MR. ROGERS: Right.

HEARING EXAMINER STRAIN: So I don't have any disclosures other than reading the staff report and checking against the existing approvals that have already been provided in that area. I have no questions with the application; it's pretty straightforward.

It's redundant enough that you're keeping it almost a template, so I don't have any issues with it, the questions I have.

Is there a staff report?

MR. SABO: There is, Mr. Hearing Examiner, Mr. Strain, pardon me.

Based on the findings in the staff report, the Zoning Division recommends the Hearing Examiner approves BDE-PL2017...3705 at Vinland Way.

HEARING EXAMINER STRAIN: I notice there's no recommendations.

And, Jeff, just for the record, you're here representing the owner. Just, could you make an announcement on the record.

MR. ROGERS: Correct. I'm here -- Jeff Rogers with Turrell, Hall & Associates here representing the applicant, Mark and Sandra Gerber Williams. Happy to answer any questions if anyone has any.

HEARING EXAMINER STRAIN: Well, you just gave me a question. You said "Mark and Sandra Gerber." The name on the request -- petition in at least the agenda is Kendra Gerber.

MR. ROGERS: Kendra, excuse me. That's right.

HEARING EXAMINER STRAIN: Okay. So that's Kendra.

MR. ROGERS: I misspoke.

HEARING EXAMINER STRAIN: No problem. I just wanted to make sure I got it right.

Okay. Is there any members of the public here that would like to comment on this item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing.

And, Jeff, I'll probably have a decision in far less than 30 days.

MR. ROGERS: Thank you, Mark.

HEARING EXAMINER STRAIN: Thank you.

\*\*\*That takes us to Petition 3B. It's Petition No. VA-PL20170003867, Steven and Amanda Boge requesting a variance from the Land Development Code for a house in the Estates.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter.

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

HEARING EXAMINER STRAIN: Disclosures on my part: Staff -- I did not meet with staff. I

talked to the County Attorney's Office about some questions I had this morning. I'll repeat them here; and I received one letter of objection from a resident on the street to the north down a ways from this location.

So with that, is there -- there's no members of the public here. Could you introduce yourself as --

MR. BOGE: Yes. I'm Steve Boge, the property owner.

HEARING EXAMINER STRAIN: Okay. Other than the property owner, there's no members of the public here. I have read everything, so I don't need you to present. You probably are not prepared to do that anyway. All I will do is I have some questions more of staff than you.

MR. BOGE: Okay.

HEARING EXAMINER STRAIN: So at this point I'll just turn to staff for a staff report, and then I'll ask staff questions. At the end, if I hear anything that is going to change anything that you've had, I'll ask you to comment on that.

James?

MR. SABO: Mr. Strain, the Zoning Division recommends the Hearing Examiner approve Petition Variance PL2017...3867, petition for Sable Ridge Lane. I'll answer any questions.

HEARING EXAMINER STRAIN: And I did notice in the staff report we talked about the overhang. The overhang is eight feet, and it seems to be, by the survey, eight feet all the way around the inner core of the principal structure. On the survey it didn't show what the dimension was from the outside of the eight feet on each side, so the overall dimension I looked -- I think I estimated it to be about 52 feet or 56 feet, something like that.

I was trying to understand the sizing and the dimension in relationship to the allowance of a 3-foot roof overhang. Your position seems to have indicated you're not accepting any of their overhang as an intrusion into the setback, not even the 3-foot that would have been allowed; is that right?

MR. SABO: That's correct. That's my position.

HEARING EXAMINER STRAIN: Okay. And, Ray, I know James just started with the county recently, but historically have we not allowed a portion of an overhang to be into the setback so --

MR. BELLOWS: Yeah. For the record, Ray Bellows.

The code does allow for 3-foot overhangs into the required yard, but I think for the purpose of measuring the variance, we just took it from what the required setback would be.

HEARING EXAMINER STRAIN: Okay. I just wanted to understand it as a precedent. So we really didn't set a precedent in declaring that the 3-foot couldn't be excepted out, and he'd have a 3-foot less request for the variance. It's just a conservative way of approaching it?

MR. BELLOWS: Correct.

HEARING EXAMINER STRAIN: And also, James, the setback on this particular lot, it's a 5-acre lot. It's got two fronts which are 75 feet, and then the other two are sides, which I believe are 30 feet. In this particular case, the house was built utilizing that ability.

The applicant could, and could have, built a house anywhere along the north/south leg of that property as long as they maintained 30 feet side yard setback to the west side of the lot all the way up and down; is that correct?

MR. SABO: That's my understanding, correct.

HEARING EXAMINER STRAIN: Okay. So what happens is when we split the lot, the new lot becomes a corner lot, and that lot still benefits from the same setbacks that this existing property is benefiting from. So no one's gaining any setback changes on the existing property that they don't already have on the -- on the new property that they don't already have on the existing property; is that correct?

MR. SABO: Correct.

HEARING EXAMINER STRAIN: Okay. And this is merely a correction to allow that setback that exists today to be retained because of a lot split where the lot no longer becomes a corner lot. It becomes a regular interior lot. Is that -- your nods don't work.

MR. SABO: That's correct.

HEARING EXAMINER STRAIN: Okay. And all this is going to lead up to the letter of objection I

want to explain when I get to that point.

And, Mr. Boge, do you have any objection if this variance is being limited to the current structure that is the object of this case, which is -- I think it's your -- I don't know if it's a barn or garage?

MR. BOGE: Yes. It's the detached garage, yeah.

HEARING EXAMINER STRAIN: Because what this would mean -- you've got to get closer. You can use this mike up here.

MR. BOGE: Yep.

HEARING EXAMINER STRAIN: Okay. Could you repeat that then.

MR. BOGE: Yes. I mean, I don't have any reason to think so, no. And it is a detached garage, yeah.

HEARING EXAMINER STRAIN: Any additional structures you put on that site have to meet that full setback, 75 feet --

MR. BOGE: Right.

HEARING EXAMINER STRAIN: -- because you're no longer a corner lot.

MR. BOGE: Right.

HEARING EXAMINER STRAIN: When I get to -- the letter that I received was from a resident on Sandalwood Lane two or three lots down from yours.

MR. BOGE: Okay.

HEARING EXAMINER STRAIN: One of the comments that was made is that this would not be conducive to change the setbacks on an existing single property lot based on long existing structures with surrounding properties in Golden Gate Estates Unit 35. I did check, and there's been actually seven variances in that unit, six of them involved setbacks either from side yards, front yards, or rear yards. In fact, one of the rear yards was a reduction from 75 feet to 25 feet.

So from that perspective, there is a -- there have been, apparently, reasons for variances needed throughout the properties in that area, and those -- six of them seem to contradict some of the comments I see in the letter of objection, so I just wanted to make that as --

Ray, I don't see any reason why this one is any different from the rest. I took a look at -- I pulled up all the resolutions on the rest. They all were in similar situations.

MR. BELLOWS: That was my opinion as well.

HEARING EXAMINER STRAIN: Including that, I don't have anything else, Mr. Boge. Do you have anything you want to add to the record?

MR. BOGE: No.

HEARING EXAMINER STRAIN: Okay. Then there are no other members of the public here. Staff completed a report, so this case is closed, and you will be receiving a decision probably far less than 30 days.

MR. BOGE: Okay.

HEARING EXAMINER STRAIN: Thank you.

MR. BOGE: Thank you very much.

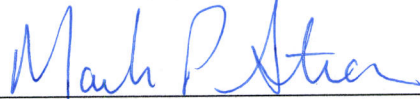
HEARING EXAMINER STRAIN: Everybody, that's all I have. There's no other business. There's no public here for comments. This meeting's adjourned.

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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 9:10 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST  
DWIGHT E. BROCK, CLERK

These minutes approved by the Hearing Examiner on 5-25-18, as presented ✓  
or as corrected \_\_\_\_\_.

TRANSCRIPT PREPARED ON BEHALF OF  
U.S. LEGAL SUPPORT, INC.,  
BY TERRI LEWIS, COURT REPORTER AND NOTARY PUBLIC.