

September 13, 2018 HEX Meeting

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
September 13, 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
John Kelly, Senior Planner
Scott Stone, Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, September 13th 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 announcements: 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 one item on today's agenda. We'll move right into that. It's Item 3A. It's Petition No. VA-PL20170001963, Segundo Benitez on 12 Henderson Drive.

All those wishing to testify on behalf of this item, please rise to be sworn in by the court reporter. If you're going to speak on this item, you'll need to be sworn in.

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

HEARING EXAMINER STRAIN: Thank you.

Disclosures on my part: I had several discussions with staff, most notably discussions centered around a lack of some documentation which is going to be hopefully cleared up with today's meeting.

And with that, I notice the gentleman in the front row did not stand up to be sworn in. Sir, are you affiliated with the applicant, or are you here just as an interested citizen?

MR. STANTON: This is Mr. Benitez.

HEARING EXAMINER STRAIN: Okay. Great. I wasn't sure who was who.

Okay. That's what I needed to know. And with that, since you're all here well aware of the situation, I don't need a formal presentation, but I do need some clarification. So if you could come up and identify yourself at the speaker, I'd appreciate it.

MR. STANTON: My name is Matt Stanton. I'm with Stanton Mobile Homes. We're the company that sold the home to Mr. Benitez.

HEARING EXAMINER STRAIN: Okay. Now, if you have -- I notice you've got some paperwork with you.

What was missing is part of the reason that you made the argument for the need for this variance. The justification was the mislocation, apparently, of the septic system or the drain field portion of the septic system in the back.

Unfortunately, when I got the packet, staff had failed to request from you something to prove that was actually misplaced, and generally that's done by a survey.

Lacking that, I was told you had some information that would help explain the situation today. So if you have that, that would be helpful, and we can walk our way through it. We have an overhead over there that I think John's there to help you with.

Thank you, John.

MR. STANTON: What I have is pictures that show the placement of the septic tank, and it's a -- I think it will show that it won't be able to be moved back any further than --

HEARING EXAMINER STRAIN: Okay.

MR. STANTON: -- where it is now.

HEARING EXAMINER STRAIN: Well, there was a picture in the packet. That's upside down, I think. There you go.

MR. STANTON: It's actually better.

HEARING EXAMINER STRAIN: Yeah. There was a picture in the packet that showed that you have pushed the mobile home as tight to the septic system as possible.

MR. STANTON: It is, yes, sir.

HEARING EXAMINER STRAIN: And I will acknowledge I saw that picture, and it's in there. I just don't know if the septic system is in the right place or not based on the permit that was issued for that septic system. That's the piece I was trying to figure out.

The fact that you've hugged everything as tight as you can certainly shows that you've gone to the greatest extent you can to meet the setback.

MR. STANTON: Yes, sir.

HEARING EXAMINER STRAIN: Another fact that your other neighbors on the other sides have setbacks less than are comparable to where you want to be is also positive evidence that you're at least in line with what the neighborhood has provided, and you're not inconsistent with the other homes in the area.

When you base this on that drain field location, you didn't provide something to show that drain field there, it raised some questions.

And I guess staff needs to jump in at this point because, Ray, as the zoning manager, if you push that septic system and drain field components back, you are at 8 feet 8 from the rear property line. Basically, there's a 4-foot, apparent, error in the location of this element. If it moves back, you'd be 4 foot 8 from the rear property line. Is the septic system and drain field acceptable in the rear property line, rear setback?

MR. BELLOWS: For the record, Ray Bellows, Zoning Manager.

I did, with John Kelly, we did look at the permit application for the drain field and talk to staff involved with that process, and it appears that the survey information that's within the packet is similar to what was submitted to the drain -- for the drain field permit.

I think the case could have been made that that could have been moved back, but I haven't received any information as to if it was supposed to be.

HEARING EXAMINER STRAIN: Okay. Let's just assume it is moved back, because that's the basis for which there's not enough room in the front of the lot when you place the mobile home on the lot. So if the septic tank and if the drain field are, in fact, off -- closer to the property line than they were on the site plan that was provided, does that become a zoning problem for your office?

MR. BELLOWS: No, it doesn't.

HEARING EXAMINER STRAIN: Okay. So the applicant wouldn't need a separate variance for the septic system and drain field?

MR. BELLOWS: Correct.

HEARING EXAMINER STRAIN: Okay. That was the key I was looking for, Ray. Thank you.

So, basically, we're down to the 21-foot request for the front setback versus the initial 25. And the evidence that's in the packet shows you actually pushed the mobile home as close as you could to the septic system.

I wanted clarification on whether or not that septic system would be a problem. The fact that it's four feet further to the property line in the back now than it probably was supposed to be, if your photographs are correct, staff has testified that's not a problem.

And with that, I notice also that the other mobile -- because it's a nonconforming mobile home district, the front yard setbacks are generally reduced for most of the nonconforming lots. You just happen to be the lucky guy to have the conforming lot.

MR. STANTON: Conforming lot.

HEARING EXAMINER STRAIN: And that changes the whole world.

Let me check and make sure I don't have any other issues. I see where the CO was issued for the septic system.

Those are the only questions I had. I think you've adequately responded to them, and I appreciate that. So thank you.

MR. STANTON: We appreciate all the help we received, too.

HEARING EXAMINER STRAIN: Well, it's just a matter of all the right documentation to get it through. And, with that, do you have anything else you want to add to the record?

MR. STANTON: Nothing I can think of. I've looked through the packet, and everything seems pretty much as we stated.

HEARING EXAMINER STRAIN: And I'll ask staff, do you have anything you want to add to the staff report? John?

MR. KELLY: John Kelly with zoning. No.

HEARING EXAMINER STRAIN: Did you do a site visit?

MR. KELLY: Yes, at the time of sign posting.

HEARING EXAMINER STRAIN: Okay. When you did the site visit, did you concur that you believe the applicant's argument that the septic system is not where it should be and, as a result, he's moved the mobile home as close as possible to it, and he needs the variance for that reason?

MR. KELLY: Yes. In fact, I took the picture that's in the staff report for that reason to evidence that, yes.

HEARING EXAMINER STRAIN: Thank you. I don't have any other questions. I think we've exhausted any questions of you.

Are there any -- anybody here that would like to speak?

(No response.)

HEARING EXAMINER STRAIN: No one in the audience.

So with that, we'll close the hearing, and a decision will be rendered within 30 days, most likely within a week.

MR. STANTON: Within a week?

HEARING EXAMINER STRAIN: Well, I have 30 days, but generally it can get done in a week if everybody's not on vacation and stuff like that.

MR. STANTON: If everybody works together.

HEARING EXAMINER STRAIN: Okay. Thank you very much.

MR. STANTON: Thank you. We appreciate all your help.

HEARING EXAMINER STRAIN: With that, there is no other business for today. There is no members of the public here for public comments. So this meeting's adjourned. Thank you.

There being no further business for the good of the County, the meeting was adjourned by order of the Hearing Examiner at 9:08 a.m.

COLLIER COUNTY HEARING EXAMINER


MARK STRAIN, HEARING EXAMINER

ATTEST

CRYSTAL K. KINZEL, CLERK

These minutes approved by the Hearing Examiner on 9-26-18, as presented ✓
or as corrected _____.

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