

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER

Naples, Florida
January 10, 2019

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
Tim Finn, Principal Planner
Scott Stone, Assistant County Attorney

PROCEEDINGS

HEARING EXAMINER STRAIN: Good morning, everyone. Welcome to the Thursday, January 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: Some housekeeping 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.

The review of the agenda: We have three advertised public hearings. We'll move right into the very first one.

***It's Item 3A, Petition No. VA-PL20180002427. It's the Garth and Kaaren Linton request for variance on a side yard setback in Golden Gate 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: Okay. Thank you.

Disclosures on my part: I've read the staff report. I haven't really had any conversations with anybody other than that.

So with that, we'll move right into the presentation by the applicant. Is the applicant here? If you don't mind coming up and identifying yourself for the record.

MS. SMALLWOOD: Hi. Good morning.

HEARING EXAMINER STRAIN: Good morning. Can you tell us your name.

MS. SMALLWOOD: Yeah. Heather Smallwood.

HEARING EXAMINER STRAIN: Oh, okay. Ms. Smallwood, I noticed that the -- there's a certificate of occupancy already on this particular parcel.

MS. SMALLWOOD: Yes.

HEARING EXAMINER STRAIN: And you had tried to get a lot-line adjustment with the property next door?

MS. SMALLWOOD: Yes.

HEARING EXAMINER STRAIN: And it seems like it went -- and that's a solution that is often used.

MS. SMALLWOOD: Yeah.

HEARING EXAMINER STRAIN: And it's usually a really successful one. I think yours is the rare case in which it wasn't.

MS. SMALLWOOD: Correct.

HEARING EXAMINER STRAIN: It seems you went through a lot of paperwork. You actually got your CO, and afterwards it was discovered there was a problem with the title on the property next door. Is that fairly accurate?

MS. SMALLWOOD: Correct.

HEARING EXAMINER STRAIN: Okay. I would assume, then, since you had an agreement at one point with the property owner next door, the property owner didn't have any objections to your setback variance.

MS. SMALLWOOD: Correct. And he's here today.

HEARING EXAMINER STRAIN: I didn't see anything in the record for any objectors, and that's why I was just checking to make sure.

Staff is recommending approval. And I have no other -- no other questions except just

to -- I'll verify with staff on any objections they may have had, or if they've not had them; as long as they've not had any, then that should wrap it up today. It's rather simple at this point.

So I don't need any further testimony from you unless you have something else you want to add for the record.

MS. SMALLWOOD: That sounds perfect.

HEARING EXAMINER STRAIN: Okay. Thank you very much. I appreciate your attendance.

UNIDENTIFIED SPEAKER: Thank you.

HEARING EXAMINER STRAIN: John, is this your case?

MR. KELLY: Correct. John Kelly, senior planner.

I've had no contact from anyone pertaining to this issue.

HEARING EXAMINER STRAIN: Okay. And I have not received any oppositions or comments in opposition to it.

So with that, we'll close the public hearing.

Are there any members of the public here that would like to speak on this? Yes, sir. Come on up. If you'd identify yourself for the record, we'd be glad to hear from you. So many people stood the first time, I thought all the members of the public had addressed us.

MR. CHRISTNER: I'm Dan Christner. I own the property next door.

HEARING EXAMINER STRAIN: Okay.

MR. CHRISTNER: We had tried to do a variance. We had a problem with our lienholder against our property and some other issues, and that's why it ended up failing at the last minute. Sorry.

We have no objection to this. In fact, I'd hate to see the house ruined to have it cut away three feet off the garage and stuff. It's not objectionable to us. Theirs is a large lot, ours is 105, and then next to me is a 75. So they actually balance very well against each other. It doesn't look like it's intruding on our property or anything else, and we would really love to see the problem go away for the owners.

HEARING EXAMINER STRAIN: Well, thank you for your testimony, and I appreciate your efforts to try to make the lot-line adjustment work. That's a solution the county has offered from time to time.

MR. CHRISTNER: Right.

HEARING EXAMINER STRAIN: It's handy because it saves a lot of paperwork, and that was -- unfortunately, it didn't work out in this case, but at least you tried. So thank you very much.

Anybody else in the public have any comments on this item?

(No response.)

CHAIRMAN STRAIN: Okay. With that, we'll close the public hearing. A decision will be rendered within 30 days, most likely within a week or 10 days based on the workload we have. So thank you very much for your attendance today, and we'll move on to the next case.

***The next item up is Petition 3B. It's a boat dock extension. It's BDE-20170002736 for Lloyd Kent, and it's at Little Hickory Shores.

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: Thank you.

Is the applicant representative here? Do you mind coming to the podium and identify yourself for the record.

MR. NELSON: Hello. My name is Bill Nelson, and I work with Greg Orick Marine Construction, and I'm representing the owner as an agent in this matter.

HEARING EXAMINER STRAIN: And I'm not going to ask you if you have any relation to Ben Nelson at this point. I think I've done that two or three times in the past.

I did have just a question, and then I'll probably have to ask staff to verify it as well. The aerial that shows on this particular site has some vegetation waterward of the property line, and it seems to be in the position where it's going to interfere with one of the boats or the ramp that is proposed. Is that ramp already in?

MR. NELSON: Yeah. The ramp and most of the dock structure are existing. We're basically rebuilding what's there with some minor modifications and extending it a little bit.

HEARING EXAMINER STRAIN: The aerial's real overgrown. It's hard to see on the aerial that the ramp is in. I kind of surmised that when I read the report. But if you move this dock over further to the northeast, you're going to end up pushing into that mangrove fringe if it isn't -- is it mangroves; do you know?

MR. NELSON: Yeah. There is some old mangroves. They're very high and they overhang past, but no mangroves will be impacted.

HEARING EXAMINER STRAIN: Okay. So you're willing to accept the stipulation that you will not be impacting any mangroves with the -- with this dock extension?

MR. NELSON: Yes.

HEARING EXAMINER STRAIN: Okay. That's the only other question I had, and I'll ask staff to clarify anything further on that. So do you have anything you want to add to the record?

MR. NELSON: No.

HEARING EXAMINER STRAIN: Okay. I don't have any other questions, and that will take care of my only question for today. Thank you.

MR. NELSON: All right. Thank you.

HEARING EXAMINER STRAIN: And, Ray, I guess you're filling in for Gilbert today, right?

MR. BELLOWS: Correct.

HEARING EXAMINER STRAIN: And I didn't come across this aerial until this morning when I was checking on the Appraiser's site; otherwise, I would have given you a heads-up. That particular lot does have some vegetation on that. It now has been -- appeared to be mangrove. We'll have a stipulation that no mangroves will be impacted by this boat dock extension. Does staff have any issues with that?

MR. BELLOWS: No. And I have Craig Brown here if you have additional questions, but that seems logical to me. If they're overgrowing and they're not going to be impacting, that's a good stipulation.

HEARING EXAMINER STRAIN: I would agree.

And, Craig, could I ask you one question on the record?

MR. BROWN: Sure.

HEARING EXAMINER STRAIN: Can you identify yourself for the record.

MR. BROWN: Craig Brown with the Environmental Review.

HEARING EXAMINER STRAIN: Thank you.

If the mangroves were to be trimmed or anything like that, is that a matter that's permitted through Collier County, or is that a State permit?

MR. BROWN: That would require a permit from the State.

HEARING EXAMINER STRAIN: That's what I thought. Thank you very much, and I appreciate it, Craig.

MR. BROWN: All right.

HEARING EXAMINER STRAIN: I don't have anything else.

Ray, do you have anything else you want to add?

MR. BELLOWS: Just that it meets five of the five primary criteria and five of the six, and we're recommending approval.

HEARING EXAMINER STRAIN: Okay. Thank you.

Are there any members of the public here to talk on this issue?

(No response.)

CHAIRMAN STRAIN: Hearing none, we'll close the public hearing on that matter, and a decision will be rendered within 30 days, most likely within a week to 10 days if the workload stays the same. Thank you very much for your time today.

***Item 3C is Petition No. PDI-PL20180003383. It's Pulte Homes, LLC, for a change to one lot in the Buckley MPUD.

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: Okay. And as with the others, I have no disclosures on this other than reading of the staff report.

Alexis, good to see you again.

MS. CRESPO: Good morning.

HEARING EXAMINER STRAIN: I read your report. I don't really have any questions; just to verify. I notice on the master plan you have actually a mirror image of the north to the south in regards to your lots, but the lot layout on the south didn't need the reduced setback because it wasn't a setback from the property line. It was a setback from Airport Road that's causing you the trouble. And I just checked it to make sure there wasn't any of the lots that would have this impact. It doesn't appear there are any. So you only need to really clean up this one lot issue; is that a fair statement?

MS. CRESPO: Yes, that's correct.

HEARING EXAMINER STRAIN: Okay. The way it's written it does -- with the footnote, it does strictly address that one particular lot. And I noticed also the berm and wall that you have in won't be affected by this change. In fact, that's a good-looking berm. I drive by it every day. So they've done a nice job up there.

I don't have any other questions. Do you have anything you want to add to the record?

MS. CRESPO: I would just like to put on the record that we greatly appreciate staff processing this very quickly for us and appreciate your efforts on that.

HEARING EXAMINER STRAIN: Thank you.

MS. CRESPO: Thank you.

HEARING EXAMINER STRAIN: Staff did a good job on all these applications. I have very little input to work with them and to have to go back with them on. Everything cleaned up real nice, and thank you for those comments.

Tim, do you have any staff report?

MR. FINN: Yeah. For the record, I'm Tim Finn, principal planner.

The project is compliant with the GMP and the rezoning criteria within the LDC; therefore, staff recommends approval.

HEARING EXAMINER STRAIN: Can't get any easier than that, Tim. Thank you. I don't have any other questions.

Are there any members of the public here who wish to comment on this item?

(No response.)

HEARING EXAMINER STRAIN: Hearing none, we'll close the public hearing, and this matter will be -- a decision will be issued within 30 days, most likely seven to 10 days.

And with that, we're coming to the end of our meeting. There is no other business.

Are there any public comments?


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(No response.)

HEARING EXAMINER STRAIN: Hearing none, 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 9:11 a.m.

COLLIER COUNTY HEARING EXAMINER



MARK STRAIN, HEARING EXAMINER

ATTEST
CRYSTAL K. KINZEL, CLERK

These minutes approved by the Hearing Examiner on 1-28-19, as presented ✓
or as corrected _____.

TRANSCRIPT PREPARED ON BEHALF OF
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