

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
February 12, 2001  
LAND USE HEARING  
NationsBank, Council Chambers  
2523 Ester Boulevard  
FORT MYERS BEACH, FL 33931  
(941) 765-0202**

**I. CALL TO ORDER**

The regular Meeting of February 12, 2001, was opened by Mayor Daniel Hughes at 9:00 a.m..

**Council Members present at the meeting:** Terry Cain, Daniel Hughes, Ray Murphy, Garr Reynolds, Howard Rynearson

Members absent from meeting: None.

**Town Staff present at the meeting:** Town Manager Marsha Segal-George, Service Delivery Coordinator Pam Houck, Attorney Richard Roosa.

**II PLEDGE OF ALLEGIANCE**

All assembled and recited Pledge of Allegiance.

**III. PUBLIC COMMENT ON AGENDA ITEMS**

None.

**IV. PUBLIC HEARING: VAR2000-00077. Steiger & Mlinaric Variance.**

A request for a variance by Sylvia Steiger and Majan Mlinaric to reduce the minimum side yard setback of 7 feet to allow 5.3 feet for an addition to a single family residence at 2686 Estero Blvd.

Applicants are sworn in. Applicants requested said variance for the purpose of adding a room; he added that the house dated back to 1928. He advised that this extension does not go beyond the side yard more than the main part of the house.

Mayor Hughes then asked the staff to give their presentation.

Dan Faulk Planner with the Lee County Department of Community and Development is sworn in.

Mr. Faulk advised that staff has reviewed the application and request. He recommended approval with one condition that the variance is limited to the existing single family residence and the proposed addition to the north side of the residence as shown on the site plan attachment B to this report. He directed the members to look at what is being proposed on attachment B, where you will see that the addition is to the rear of the house, north side and is a rather modest addition to the home. He continued by stating that the house was built in 1928 and the property consisted of three lots which were traded in 1930, those lots have 25 feet of width, where the house sits today it is a 50 foot wide lot and the house is approximately centered in the center of this lot. The house is about a 40-foot wide house, so the existing setbacks are at 5.3 feet, which is what they are asking for the addition to the house. Subject property is consistent with the density requirement of the boulevard land use category. Staff feels that essentially the width of the lot is in exceptional condition and that the requested variance for the addition will not

place the residence any closer than where it sits today and, therefore, will not be injures to the neighborhood or otherwise detrimental to the public.

Mayor Hughes asked if there were any questions, or, if the public wished to say anything at this time.

**MOTION:** Made by Ray Murphy and seconded by Howard Rynearson approving this matter with the resolution made before us striking the word *not* in Paragraph A, striking the word *not* in paragraph C, striking the word *disapproved* in the Therefore paragraph clause.

Discussion:

Mayor Hughes stated that while he is not in favor of variances on side yards in general but added that this is a unique case in that they already have an existing home that is 5.3 ft. at its narrowest point and this is just an extension.

Mayor Hughes stated that this would incorporate the staff recommendation with the condition 2A-1 in the staff report, which is recited in the LPA recommendation and that the site plan would be attached and made part of the condition.

Motion unanimously approved.

Mayor Hughes stated to the applicants that their variance was approved. He also questioned the applicants regarding the fact that this property was is listed as their home but that they had another address in Germany. Applicants advised they live at both residences and that the children attended school here.

**V. PUBLIC HEARING: DC12000-00078. Mid Island Marina, Inc., in ref. To Publix Super Market, Inc., CPD.**

Mayor Hughes stated the applicant's request for two deviations from sign regulations, one to allow an additional sign and one to allow that that sign be off site at property located at 4791 Estero Blvd. Counsel, who has indicated she is on her way but has not yet arrived, represents applicant. I am going to ask the staff to go ahead at this point and begin presentation.

Chip Bloch with the Lee County Community Development Services Division advised that this application is an application to amend an existing commercial plan development that has been approved here within the town. The request adds two deviations from the sign regulations, which is Chapter 30 of the Land Development Code. The first one, from the limitation for one business sign to add a second sign. Right now Publix has a building mounted sign, which is 32 square feet. It is a permitted sign. The applicant desires to apply for a second sign. That sign would be a free standing or ground mounted sign and has been permitted temporarily by the city manager as presented during public hearing on this case before the town's LPA as the wood board sign at the entrance to Publix. That sign is essentially at the same location where they want to place this particular sign. It would be an illuminated sign, metal with plastic facing as proposed, with two individual panels. Each panel would have 16 square feet associated to the sign panels, one advertising Publix and one advertising the Marina or in

combination the Marina and the Restaurant. The second deviation is to allow a sign that is advertising the Marina to be able to be located off site. It is neither on the property where the Marina is located nor on property that is under control of the Marina but in realty on property controlled by Publix. The town LPA in reviewing this case and has recommended approval of this to the town council. There was a unanimous vote with Ms. Beasley absent at that time. Their recommendation was to follow the staff recommendation that had a series of four conditions as proposed, which is contained in the packet on page 2 of 4. Another condition was added that requires that all existing temporary signs including but not limited to a mailbox sign are removed prior to completion of the additional requested ground sign. The town LPA recommended approval of this request unanimously. Staff did recommend approval with the conditions outlined in the report. At this point he asked if there were any questions.

Mayor Hughes reiterated asking if there were any questions regarding this request.

Committee member asked exactly what was the freestanding sign and was is it just in the ground. Chip responded that free standing is a term used within the sign companies themselves. Sometimes they are called fee standing and sometimes they are call ground mounted. The ground mounted is placed in the ground permanently attached in compliance with the building codes for requirements for said signs. He then asked if they were going to be separate signs. Chip responded saying it was going to be a combined sign, which will be a total of 32 sq. ft. with two 16 sq. ft. panels for the advertising.

Garr Reynolds asked Chip if he was aware of a letter from a resident speaking of his concern about the earlier decision of allowing Publix to come into that area, where they may not want to live within the limited guidelines of the residence, whereas many folks do seem to appreciate the fact that they were going to get a nice grocery store. They were concerned there would be additional demands made. This residence is indicating in the letter that this was starting to happen by this request. Residents have complained already with the temporary sign. Chip at this point brought up the point that originally Publix would have been permitted to have both signs but the town made the decision to change the sign regulations. This change brought about the decision to allow a business to have one sign on the property.

Mayor Hughes opened this matter to the public and asked if there were any questions or comments.

Mr. Roosa at this point suggested a decision be made, advising it was not necessary to wait for applicant's counsel.

**MOTION:** Moved by Ray Murphy and seconded by Howard Rynearson to approve this resolution incorporating the staff recommendations and also incorporating the additional condition as imposed by the LPA, and adding additional language where it says. ...Requires that all existing temporary signs including but not limited to a mailbox sign are removed prior to completion of the additional requested sign adding ...and may under no conditions be returned. Therefore the language will read ...all existing temporary signs including but not limited to a mailbox sign are removed prior to completion of the additional requested ground sign and may not at any time be replaced.

Garr Reynolds expressed concern that the sign was going to light up the area. He does not feel people are going to be happy if this continues. He did say, however, people are happy with the Publix and its convenience.

Ray Murphy agreed with councilman Reynolds that the big bright sign might be too much. He did say that some people do have difficulty finding Publix if they don't know where it is. He did add that the Marina does need a sign to identify it as well as the restaurant (Fernando's). He continued saying that maybe there could be a way the sign was on a timer to go off at a certain time just as Eckerd does at 10:00 p.m.

Howard Rynearson agreed and added maybe that could tie with the hours of Publix' operation.

Chip brought up the fact that there are two businesses on the sign and they may have different hours of operation. Members stated both businesses are closed by 10:00 p.m. He explained that at night it has an opaque background and only the business name would show up, therefore, lessening the illumination at night. This was taken into consideration when staff made recommendation to keep illumination down as much as possible.

Terry Cain mentioned that some opaque signs have floodlights on them all along Estero Blvd., and she feels these are more offensive to the eye than just the opaque sign.

Garr Reynolds said it could be done with the wiring that there would be just have the illumination after certain hours.

Howard Rynearson stated he thought Publix was open the latest. Mayor Hughes stated he thinks the restaurant would be open the latest.

At this point Mayor Hughes announced that Beverly Grady has arrived. Mayor Hughes brought Ms. Grady up to date on this matter.

Beverly Grady stated that any sign placed would have to be in compliance with the lighting code. She heard the discussion about the illumination of the sign specifically about the possibility the brightness of the light at certain times of the night. Ms. Grady advised that there was no objection to this and inquired as to whether there is a timing mechanism that would be installed in the sign.

At this point members discussed the fact that it was not clear as to how bright the sign would be and felt there would be no need to amend the motion.

Ms. Grady advised that this sign was shown on the master concept plan.

Motion is unanimously passed.

## **VI. REVIEW OF RESOLUTION 01-03: John Richard, in ref. Rusty's.**

Mr. Roosa modified Beverly Grady's amended proposal in that he used the word developer rather than applicant, since the word developer was used throughout the document. (Paragraph 5 on page 6) Copies of the document were passed out. Mr. Roosa advised the members that Ms. Grady was aware of the change.

**MOTION:** Moved by Ray Murphy and seconded by Howard Rynearson approving the resolution as amended.

The resolution in its final form is approved by the Town Council by a 4 to 1 vote. Council member Garr Reynolds dissenting.

Garr Reynolds stated he did not like to vote on something he did not see. He continued by stating that item 3 on page 1, where it discussed concerns about reducing parking space. He asked if that presented any legal liability for the town when it is not in accordance with the land development code. He was advised it did not pose any liability.

**VII. PUBLIC COMMENT**

None.

**VIII. ADJOURNMENT**

The meeting was adjourned.

Respectfully submitted,

Eileen Scofield  
Transcribing Secretary

**NOTE:** Item Number VI was addressed prior to Item Number V.