

**FORT MYERS BEACH  
TOWN COUNCIL MEETING  
OCTOBER 15, 2001  
LAND USE HEARING  
Town Hall - Council Chambers  
2523 Estero Boulevard  
FORT MYERS BEACH, FLORIDA**

**I. CALL TO ORDER**

The Land Use Hearing of October 15, 2001 was opened by Mayor Daniel Hughes on Monday, October 15, 2001, at 9:00 a.m..

**Council members present at the meeting:** Mayor Daniel Hughes, Vice Mayor Ray Murphy, Howard Rynearson - Council, Garr Reynolds - Council, Terry Cain – Councilwoman

**Excused absence from meeting:** None

**Staff present at meeting:** Town Manager Marsha Segal-George, Deputy Town Manager John Gucciardo, Damon Grant, Dick Roosa (Town Attorney), and Dan Folke

**II. PLEDGE OF ALLEGIANCE**

All assembled and recited the Pledge of Allegiance.

**III. PUBLIC COMMENT ON AGENDA ITEMS**

None.

**IV. PUBLIC HEARING: David Schilling in ref. To Lindberg Variance. Case number VAR2001-00023. The subject property is located at 441 Harbor Ct.. Variances in TFC-2 ( Residential Two-Family Conservation district) to allow the following for proposed additions to an existing single-family residence:**

- 1.) **from 7.5 foot minimum side yard setback to allow a 4 foot 6 inch north side yard setback and a 4 foot 10 inch south side yard setback, per Land Development Code (LDC) Section 34-695;**
- 2.) **from 40% maximum lot coverage to allow 55% lot coverage, per Land Development Code (LDC) Section 34-695; and**
- 3.) **from 25 foot minimum street setback to allow a 6.5 foot street setback, per Land Development Code (LDC) Sections 34-695 and 34-2192(a).\\**

Mayor Hughes asked if any members of Council have had any ex parte communications? It was indicated that no Council members have had any ex parte communications.

David Schilling of 2995 McGregor, Ft. Myers, Florida came forward. He is the Architect representing the owner of the property involved, who is Allen Lindberg. Mr. Lindberg hired him to design an addition to his home. His goal was to first create a larger living room space and then create a master bedroom suite. FEMA rules dictated that the living room addition could fall within the 50% limit rule. The master bedroom suite would need to be done as an independent addition. This would have to be raised above base flood elevation. In order to make the spaces function properly it would be necessary to get variances on the side yard setbacks. The intent is to stay within the plane of the existing walls on the sides. They will not extend any closer to the property line than the existing building already does. The third phase of the project was to try and enclose the carport to create a secure garage for his vehicle. Part of this project would be to create a new front entrance. He indicated that since the Planning Board has rejected this and the staff report has rejected this his client has accepted this, and will not pursue this part of the project.

Mayor Hughes clarified that he has come forward to withdraw the request for the variation C - The minimum street setback? David Schilling checked with his client and he indicated that this is correct.

Kirk Crane, Planner with the County's Development Services Division, came forward and indicated that his address is P.O. Box 398, Ft. Myers, Florida. He explained that the staff report is a three part variance request and the third part was just withdrawn. It is an existing 5,000 square foot lot with a single family residence already constructed on it. The first request is to extend the side yard setback. It will be a two phase addition. The first phase involves the removal of the aluminum shed and the construction of the master bedroom, which will be at flood elevation. The second phase would be an addition on to the existing living room at the rear of the residence. He has requested side yard setback reductions on both north and south sides. They will be consistent with the existing building walls.

The second part of the request is for an increase in the maximum lot coverage to exceed the 40% all the way up to 55%. These are small lots and many of other lots in the neighborhood already exceed the 40% maximum lot coverage. It would not be uncharacteristic of the neighborhood to exceed this and they feel that the 55% is reasonable and allows him use of the property.

The two variance requests remaining do meet the criteria for approval of a variance. They will allow a reasonable use of the property, consistent with the neighborhood. They will recommend approval of variance request A & B as listed with three conditions.

Mayor Hughes complimented the applicant and staff for an excellent summary and report on this matter. It is very clear.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilman Howard Rynearson to approve this request and withdrawing the third request with the incorporation of the staff recommended conditions. **Motion passes unanimously.**

**Discussion:** Councilman Reynolds is pleased that he withdrew his request to go closer to the street.

Mayor Hughes agrees and by granting this the side yard nor the setbacks are not being extended. In his opinion, it will be an improvement to their home and the neighborhood.

**V. PUBLIC HEARING: Flowers Addition. Case number VAR2001-00037. The subject properties are located at 217 & 219 Delmar Ave. Variances in RM-2 (Multiple -Family Residential District) to allow the following for a proposed addition to an existing duplex residence:**

- a) **from 6 foot minimum side yard setback to allow a zero foot south side yard setback and a 5.94 foot north side yard setback, per Land Development Code (LDC) Section 34-715; and**
- b) **From 20 foot minimum rear yard setback to allow an 18.41 foot rear yard (west) setback, per Land Development Code (LDC) Section 34-715.**

Mayor Hughes asked the Council members for ex parte communications? None were heard.

Andrew Flowers came forward and expressed that the property on Del Mar is a duplex. They are looking to add a second story onto it. It currently has a second story bedroom, but he would like to fill out the rest of the building with a completed second story. He is not asking to go out any further than the existing structure. On one side of the property the existing structure is about 2 inches off from the setback, and in the rear it is 1 ½ feet. He just wants to add a second story to the property going straight up from the existing building.

Kirk Crane came forward and presented the staff report. This is a two part request. It is a 60x80 foot wide lot zoned RM-2 in the mixed residential with platted overlay future land use designation. The lot contains an existing duplex. The second story contains one room. He would like to fill in the remainder of the area. It is his understanding that the request was modified from a zero foot south side setback to a 5.84 south side setback, and a 5.94 foot north side yard setback at the zoning board hearing.

On the south side of the building there is a screened patio area that comes all the way to the south property line, and in one case is about 2 inches over the property line. He originally considered putting a deck onto the second floor above this screened patio area. This will not add units, but will provide more space in both of the units. No increase in density exists. During conversations with Mr. Flowers and the zoning board it was determined that the deck was not necessary, and he did not want to come all the way out to the south property line. He realized that this would not be in the best interest to bring it all the way to the property line. Mr. Flowers indicated that he would be willing to go with a 5.84 south side yard setback, which is the existing distance from the property line to the major portion of the building wall less the screen enclosure. He will be going straight up from the existing building walls.

Staff feels that this request is appropriate. There are a number of other properties in the area, which are already two-story buildings. Many are on pilings and this will not be out of character. It was noted in the staff report that the screened patio has gone two inches over the property due to settling. There is a 5 foot area, which is between Mr. Flowers property and the adjoining property to the south, and is not owned by either person. Mr. Flowers is in the process of working with his neighbor to the south to acquire this property or to split with the adjoining property owner. Staff feels that this meets the criteria for approval of a variance, and they will recommend approval of both variances subject to five conditions.

Councilwoman Cain asked if the second floor will go above the garage like structure? Kirk replied that this is part of the duplex. It would go above this.

Councilwoman Cain clarified that nothing is going over the screened room area? This will remain the same? Kirk replied that there will be some deck area going over it.

Andrew Flowers explained that the screened in area will have a deck that follows the building line which comes down. He referred to an attachment and pointed out a picture to Councilwoman Cain for clarification. The screen room will be decked with a partial wood deck and a metal roof will finish it out. The use will remain the same.

Mayor Hughes asked Mr. Flowers to confirm that he is modifying his request from a zero foot south side yard to 5.84 as stated by Mr. Crane? Andrew Flowers indicated that this is correct.

Mayor Hughes indicated that there is nothing in the record itself that shows any modification of the application and he felt this needed to be on record.

Councilman Reynolds expressed that in the northeast corner of the property it shows a good front of the building. This building will have a second story built on it. Has it been investigated that this property will support such an additional structure? He is concerned about extra support? Kirk replied that there is no indication it will not support the additional structure. If it will not they will have to make it meet building code requirements.

**MOTION:** Made by Vice Mayor Ray Murphy and seconded by Councilwoman Terry Cain to approve resolution 01-34, which incorporates the staff recommendations and conditions, and also the findings and conclusions of the Local Planning Agency. Striking the word “not” in paragraph A at the bottom of the first page, Striking the word “not” in paragraph C on the top of page 2 and striking the word “disapproved” in the therefore paragraph at the bottom of the page. **Motion passes unanimously.**

**Discussion:** Councilman Reynolds brought to the attention of Council that it was stated in the LPA minutes Mr. Flowers had withdrawn his request of the zero setback. He wanted this noted for the record in addition to what was said today.

**VI. PUBLIC COMMENT**  
None.

**Mayor Hughes** - Advised the Council that he and Dan will go before the Board of County Commissioners tomorrow to ask for the approval of the aquisition. Councilwoman Terry Cain and Pam Houck will also attend.

**Councilman Reynolds** - Pointed out that a neighbor began to see preparations for building a home. This is when it was brought to their attention. He is glad that moves are being made to try and bring this into the Town as a green space.

**VII. ADJOURNMENT**

The meeting was adjourned at 9:40 a.m.

**If a person decides to appeal a decision made by the Council in any matter considered at this meeting/hearing, such people may need to ensure that verbatim record of the proceeding is made, to include the testimony and evidence upon which any such appeal is to be based.**

Respectfully Submitted,

Shannon Miller  
Transcribing Secretary