

September 27, 2018 HEX Meeting

TRANSCRIPT OF THE MEETING OF THE
COLLIER COUNTY HEARING EXAMINER
Naples, Florida
September 27, 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 27th 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 announcements. The 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.

And with that we have three adver -- or two advertised public hearings. The first one is 3(A). It's Petition No. VA-PL-20180001625, The Ohana Group, LLC, for a variance located on Curtis Avenue.

All those wishing to testify on behalf of this item please rise and be sworn in by the court reporter.
(The speakers were duly sworn and indicated in the affirmative.)

HEARING EXAMINER STRAIN: I had a -- for my disclosures, I have had several conversations with the applicant, and as well as with staff. And that's the extent of it. Also read all of the documents, both historical and those in the staff's packet. So with that we'll go right into the case.

And is there any member of the public here who is not associated with this project or the applicant that wants to discuss this?

Okay. With that, who is the representative of the applicant?

Would you mind coming up and identifying yourself for the record?

MR. FREDERICKSON: Good morning. My name is Luke Frederickson. I'm an officer for The Ohana Group.

HEARING EXAMINER STRAIN: Okay. And if you -- I have read everything in the packet, but, because there is a member of the public here, he may not have seen the material or been that familiar.

Could you give a brief picture of what the project is about and what you are trying to do?

MR. FREDERICKSON: Basically it's a five-home development on Curtis Street in which one of the current lots, 2140, which abuts Curtis Street and the access road, we're asking to decrease the setback on our property from 25 feet, I believe it was --

HEARING EXAMINER STRAIN: You are considered a double frontage lot because you are on a corner street?

MR. FREDERICKSON: Yes.

HEARING EXAMINER STRAIN: And that's the purpose for having the 25 on both -- two sides. Normally it would be much less. I don't even remember what the number was offhand.

And you are asking to go down to seven and a half with an overhang?

MR. FREDERICKSON: Yes, sir.

HEARING EXAMINER STRAIN: And the overhang is typical.

One question I had, and the research -- and I think I had mentioned it to you a while back, is to verify there are no utilities, either private or county, in that right-away, alongside the right-of-way. A lot of locations in the county, the ten foot alongside the right-of-ways are for PUEs, private utility easements.

MR. FREDERICKSON: That's correct.

HEARING EXAMINER STRAIN: Have you done a search with your -- through your surveyor to see if there are any easements there?

MR. FREDERICKSON: Yes. We had Bruns & Bruns Surveying research that, and there is no easement.

HEARING EXAMINER STRAIN: I didn't see any on your survey. Just wanted to verify that for

the record. I'll ask staff to verify that they had checked it as well.

Other than that, I don't have any questions. Everything is pretty straightforward at this point. We'll have to see what we have as a result of public input, and then, after any member of the public speaks, you have a right for rebuttal.

MR. FREDERICKSON: Okay.

HEARING EXAMINER STRAIN: With that, I have no other questions.

MR. FREDERICKSON: Okay.

HEARING EXAMINER STRAIN: Thank you.

MR. FREDERICKSON: Thank you.

HEARING EXAMINER STRAIN: Anyone from the public wish to speak on this matter?

Sir, if you want to come up and identify yourself for the record?

I thought you were going to walk out the door just then. It wasn't that hard of a question.

MR. GRANEY: My name is Michael Graney. I'm a resident of 1365 Marlin Drive. I also own the property at 2296 Curtis, which is right down the road from the property that is being considered for this, this adjustment to setback.

Fully understanding that, you know, with the building and development of new homes there is going to be interest in making some adjustments to this. I also own a corner lot, so I understand the double setback need, or the requirement by the city.

I'm here to say that I'm not opposed, necessarily, to a variance being done, but I am concerned about the distance that it's coming out. I think going from 25 to 7 and a half could be excessive. I think that the builders, when they bought that lot, developed those lots, understood what they had to work with and could do a better job of developing within it.

HEARING EXAMINER STRAIN: One item that I did notice, this is an unrecorded plat. The lot had a subdivision line on it that was much narrower than the lot being put there today, in the past, and I'll probably ask the applicant if they have done any research on the width of that lot or the timing of that. Since it was an unrecorded plat, there is not a lot of documentation available to be found. That may have some bearing on how this was intended to be when it was first laid out, but I have not found a record on it, so -- just to give you some background. And you may -- having a lot there in another location down the road, you may have more knowledge of the unrecorded plat than we have.

MR. GRANEY: I do not. So I just wanted to come and address and let my concerns be known. Thank you.

HEARING EXAMINER STRAIN: Thank you, sir.

I'll ask staff to do a staff report.

MR. KELLY: John Kelly, Senior Planner with the Zoning Division.

What's your question, sir?

HEARING EXAMINER STRAIN: I have two, John. The idea of this public utilities, have you found any indication there was one -- the applicant has not. I just wanted to make sure staff had as well.

MR. KELLY: No. And just, as you stated, I ran into difficulty, finding out that this an unrecorded subdivision, basically, with no real information.

HEARING EXAMINER STRAIN: Yeah. If this corner lot situation didn't apply, the setback would have been, do you agree, seven and a half?

MR. KELLY: Yes.

HEARING EXAMINER STRAIN: Okay. I don't recall what you have -- a corner lot application came into play. Do you?

MR. KELLY: No.

HEARING EXAMINER STRAIN: Okay. I don't have any other questions of staff, and staff's position was a recommendation for approval, with no stipulations that I can find. Is that correct?

MR. KELLY: Correct.

HEARING EXAMINER STRAIN: Okay. If you want to come back up, Luke, and if you have anything you want to respond to, you are more than welcome to, otherwise I don't have any other questions at this point. I understand the gentleman's concerns. I'm --

MR. FREDERICKSON: I think your question was, was this a condition we were aware of during the development of the proj -- or the site development of the project, and it is not something we developed. This is a very unique property with unique circumstances, unplatted, and things. So we were, you know, at the purchase of the property -- and we have had many conversations with staff over the years on this project -- we weren't aware that that was considered a corner lot. Being that the access easement is on our property, we've decided to pave it because we're improving the neighborhood, but we were not aware we were going to be considered a corner lot due to a private access easement. So when that came to our attention is when we started this variance process. So we did not knowingly purchase the property, knowing we were considered a corner lot.

And there is a -- there is a large easement from the road to our actual property line, so we won't be seven and a half feet off the street, we'll be seven and a half feet off of our property line, which, if I recall, is about 25 feet.

HEARING EXAMINER STRAIN: I was just going to look at that. It's 22 or 25 feet. I had caught that when I reviewed this. You are quite a bit of distance --

MR. FREDERICKSON: Overall we're going to be 25 feet, roughly.

HEARING EXAMINER STRAIN: And the only way that would change, most likely, is if they four-laned Curtis Street, and I doubt if Curtis Street could ever rise to the level of needing four lanes, unless there was an intercoastal or something connecting to it.

MR. FREDERICKSON: Correct.

HEARING EXAMINER STRAIN: So from that perspective I understand your setback being significantly greater because of the unused right-of-way --

MR. FREDERICKSON: Correct.

HEARING EXAMINER STRAIN: -- in that location.

I don't have any other questions, so thank you.

MR. FREDERICKSON: I hope I answered your question there.

HEARING EXAMINER STRAIN: Is there anybody else here that would like to testify on behalf of this matter?

If not, we'll close the public hearing on this, and within 30 days a decision will be rendered. Most likely probably within seven to ten days, based on the workload I have right now.

So thank you all for attending, and I appreciate your comments this morning.

The next item is the second item on the agenda. It's 3(B), Petition No. VA-PL-20180002054, the William D. Toler Resident Trust for a facility at Lely Barefoot Beach, or a home at Lely Barefoot Beach.

All those wishing to testify on behalf of this item, please rise and be sworn in by the court reporter. ((The speakers were duly sworn and indicated in the affirmative.))

HEARING EXAMINER STRAIN: Disclosures on my part. Yesterday I met with the applicants' representatives to understand some of the details of the architectural plans that were submitted. I also met with staff, went over some issues with -- I know it was Ray Bellows who I discussed issues with.

And with that, Alexis, if you don't mind coming up and identifying yourself for the record as representative of the applicant.

MS. CRESPO: Good morning. Alexis Crespo with Waldrop Engineering, representing the applicant.

HEARING EXAMINER STRAIN: Any members of the public here to address this item?

Okay. Alexis, I did read everything on this, so I'm familiar with the documentation you supplied.

Based on yesterday's discussion, I understand now the enclosure of the rooftop area that's -- that's in

question is also a remodeling of it, expanding it a bit, but all within the confines of the original structure. So you are not going any further into the setbacks with what you are adding to the rooftop area, if I'm not mistaken.

MS. CRESPO: That's correct.

HEARING EXAMINER STRAIN: Okay. The height, or the zoning height of this particular location, because it's in a PUD, is based on the PUD language, which is four habitable floors, with the option of a ground floor for FEMA-regulated issues.

And your structure is going to be 37 -- about 37 point -- 37 feet, 8 inches high, if I'm not mistaken?

MS. CRESPO: Correct.

HEARING EXAMINER STRAIN: And the only other thing -- I need to make sure I had gotten everything yesterday -- you have a letter of, let's say no objection from the architectural review board for that particular neighborhood, too, as well; is that correct?

MS. CRESPO: Yes.

HEARING EXAMINER STRAIN: Okay. I don't have anything else, Alexis. I appreciate your time. Thank you.

Anybody else here have anything they would like to say on this matter?

Okay. I'll turn to staff for a report.

MR. KELLY: John Kelly, Senior Planner for the Zoning Division.

Our division is recommending approval.

HEARING EXAMINER STRAIN: And that is, the height would have required a 18.8 feet variance, and you are recommending the approval for down to 15 feet, which currently exists today?

MR. KELLY: Correct.

HEARING EXAMINER STRAIN: Okay. I don't have any other questions, and nobody from the public here to address this matter, so we'll close the clearing on that.

And that takes us to the last item on the agenda.

Are there any public comments?

Hearing none, this meeting is 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 9:14 a.m.

COLLIER COUNTY HEARING EXAMINER

MARK STRAIN, Hearing Examiner

ATTEST
CRYSTAL K. KINZEL, CLERK

These minutes approved by the Hearing Examiner on 10/12/18 as presented or as corrected .

TRANSCRIPT PREPARED ON BEHALF OF
U.S. LEGAL SUPPORT, INC.
BY ELIZABETH M. BROOKS COURT REPORTER AND NOTARY PUBLIC.