



***MINUTES FROM THE SOUTHWEST COASTAL DESIGN REVIEW / CITIZEN ADVISORY
COMMITTEE MEETING HELD MARCH 18, 2009 AT 6 p.m.***

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Chairman George Cerelli called the meeting to order at 6:00 p.m.

Members present: George Cerelli, Debra Birkby, John Mersereau, Stephen Malkowski, Tim Crawford,
Linda Murray Staff Present: Mike Weston.

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Business From The Public: Helen Paulus raised concerns about the accessory structure / guesthouse that was constructed on Maxwell Lane, by Bob Cerelli for Reynolds / Madison remodel.

Mike Weston (MW): The owners proposed to remodel a garage, accessory structure. The application was originally a major but was changed to a minor design review. Prior to approval Teri Allen had provided the information to the committee as a minor remodel.

Helen Paulus (HP): Felt she needed to raise concerns about the matter to the County and felt the matter needed to be reviewed for conformance with the ordinance. She felt the structure was over the 18' height limit and created a visual impact upon her parcel, which has now devalued her property.

The original notice she received described a minor remodel not an entirely new structure. In addition the contractor Bob Cerelli told her that this would not impact her property. However after construction the eastern wall of the Guest House now obstructs her entire western/ocean view.

“Why did it have to be a second dwelling? Why did it have to be so high?” Ms. Paulus wishes this would have been more transparent, and should have been processed as a major design review.

MW: Explained why the accessory structure was processed as a minor review. Offered to draw up a policy to ensure minor reviews go before the design review board before the Director approves them.

HP: Why did Brisbee and Wheeler come before the design review board but this 2 story accessory structure did not come before the board.

MW: Explained the difference between minor and major design review as depicted in section 4.104 §'s 1 & 2. “31873 Maxwell Lane”

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Merrell Variance Request: Applicant's are requesting a 10-foot variance to the 20-foot street side setback.

Linda Murray (LM): Requested information regarding the 25-foot easement that was self imposed.

Debra Birkby (DB): Explained the difference between the 5-foot side setback and the 20-foot street side setback.

LM: Why does this need to be a variance?

MW Explained the requirements of the ordinance and described why the variance is necessary.

Tom Merrell discussed the situation, and why they were requesting a variance explaining the slope of the lot, drainage issues and the negative slope into the accessory structure. He explained that this would create engineering problems with the foundations. He also explained that because of the self imposed easement to the west their buildable space was reduced and the area they could have put the garage to avoid the

drainage was now dedicated as a right of way. In its current proposed location the drainage from East Ocean would head straight for the Accessory Structure.

Tim Crawford (TC): Motioned for Approval

LM: Seconded the Motion

DISCUSSION

DB: Raised concerns that there was no apparent hardship.

TC: Explained the elevation difference on the lot and related how the objective was to build the structure at or near the same elevation of the street.

Tom Merrell: explained the drainage in more detail, and the land lock issue

DB: Explained that she doesn't see it as a hardship and because of the possibility of future development in this area it doesn't make sense to grant a variance to the street setback on one of the first homes that go up in that area. The granting of the variance will set a unfavorable precedent for future growth in the area, which will lead to other owners requesting similar variances and soon you have a situation where garbage trucks and fire trucks and other traffic being jammed up like some of the other areas in the community.

John Mersereau and Others: Discuss the letter from Mike Brand the actual degree of the hardship, access to the site, slopes, drainage, and the self imposed easement because of the missing street "Skyline," which doesn't seem to be present at this time.

John Wickman (Surveyor): Provided testimony regarding platted street easements in the area explaining that E. Ocean was the only one currently recorded.

Stephen Malkowski: discussed the variance criteria that states the Variance cannot be self imposed and how the applicants easement is a self imposed easement, discussion among committee members led to the group deciding the it was better to provide the easement now than have it imposed at a later date.

LM: Called for the question

Motion Passed 4 in favor and 1 opposed.

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BRISBEE RESIDENTIAL EXPANSION: Mike Weston explained the application and material submitted to the committee and discussed the average grade calculations, flood hazard concerns and overall proposal.

TC: Whole backyard is covered with decking and the plot plan does not include the accessory structure behind the house. It is impossible to determine if the proposal meets the 40% clause unless the applicants provide a proper site plan in order to determine total square footage. In particular there is a utility room on the back of the house, a deck, and an accessory structure. Furthermore the plot plan doesn't show the dimensions of the accessory structures on the site.

LM: Discussed the letter from neighbors.

Debra Birkby: Motioned, to conditionally approve the application. Applicant needs to provide the committee/staff with a suitable plot plan and calculations including the accessory structures that are not identified with the plot plan provided. If everything is under the 40% then approve.

Tim Crawford: Seconded the Motion

DISCUSSION:

LM: How is the motion going to read?

DB: "Motion to approve with the condition that the application satisfies section 3.068 § 1(D)."

Motion Passed Unanimous.

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WHEELER EXPANSION OF A NON-CONFORMING USE: Mike Weston explained the application and material submitted to the committee and discussed the criteria for the non-conforming expansion and alterations.

John Mersereau (JM): Raised concerns about the language concerning the non-conforming use vs. a non-conforming structure. In the past there was some concern over whether an expansion to a non-conforming structure was permissible. The language identifies that the expansion a non-conforming structure has to be in conformance with the ordinance or they need a variance. In this case they are expanding the portion of the structure that is above 18' so do we consider that as an alteration or an expansion. Why is it not coming into conformance with the height?

MW: Explained the Non-conforming use section 5.610 together with the section 5.608 discussing alterations and expansions.

LM: Discussed the difference between **structure** and **use** and that the language lends one to believe that the two are different. Basically the ordinance would lend you to think that any expansion to a non-conforming structure has to be in conformance with the 18' height limit.

JM: Agree that all new alterations should have to conform to the 18 foot

MW: Described allowable alterations, expansion, defined in section. And explained that an expansion of the footprint would probably require a variance and if the structure is on the ocean front visual impacts would prevent the expansion of the footprint to any height greater than 18'.

Multiple Commission Member discuss the interpretation of the language, felt that any expansion to the foot print should be required to be under 18'. The committee is concerned that similar situations might arise that would conflict with the 18' height limit, especially when your expanding an ocean front home that is at a height of 26'.

Committee and Staff agreed that an expansion of a non-conforming structure along the ocean front having a height over 18' should not be allowed to expand the footprint beyond what is already existing, if such an expansion were requested the expansion would have to satisfy the 18' height regulation, because an expansion of an ocean front structure that was greater than 18' height regulation would have substantial impacts upon view sheds and therefore would be prohibited in accordance with Section 5.610 § (C) 1(d).

Linda Murray: Moves to approve the application as presented.

Tim Crawford: Seconds the motion

Motion Passed 5-0-1 with one abstention.



OTHER DISCUSSION: Members from the committee discussed the non-conforming structure and other language throughout the ordinance that the committee would like to discuss with Staff and the Committee. Committee would like to schedule a meeting with staff to discuss possible alterations to the Ordinance for the future of the Arch Cape Community.

The Committee and Staff discussed future design review procedures including height requirements and proof of height through survey requirements. In particular Babener's residential expansions and others in the region that are very close to the height restrictions.

Community members brought up the Butori Road Design & Clear Cutting. {DB} discussed the issue and why it was requested to be on the agenda for the meeting. {DB} thought it was important that the committee revisit the approval and forestry permit. Questioned about the renewal of the '08 permit for clear cutting. Timber from cutting was to be placed on the lots that they were adjacent to.

MW explained that in discussions with Ashley Lertora with the Forestry Department the “clear cutting” that was described in the permit was to remain within the defined right of way and only for the purpose of constructing the road.

Citizens want to see something in writing that the neighbors have given their permission for him to take the logs. In addition the proposed design was for a 40’ easement and utilities were supposed to be laid within the 40’. Neighbors claim that the clear cut is much larger than 40’. Concerns regarding the cuts in the slopes along with where Tom is pushing the dirt that he cuts out of the slope. In particular an entire corner has been filled and now there is a huge soil deposit at the end of Walsh and the trees were cut at the corner of 4th. The road does not slope toward the drainage and now access to particular parcels is extremely difficult.

Staff volunteered to check with the county engineer to ensure the applicant is conforming to the plan approved by the Design Review Committee.

The Meeting was adjourned at 8:45 p.m.