



# City of Marco Island Florida

51 Bald Eagle Drive  
Marco Island, Florida  
cityofmarcoisland.com

## Meeting Minutes - Final

### Planning Board

*Chair: Ron Goldstein*  
*Vice-Chair: Claire Babrowski*

*Board Members: Jason Bailey, Michael Finkle, Ed Issler,  
Joseph Rola, David Vergo*  
*Staff Liaison: Daniel Smith, Mary Holden and Jason Smalley*  
*Planning Board Attorney: Paul Gougelman*

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Friday, June 7, 2019

9:00 AM

Community Room

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#### (1) CALL TO ORDER

Chair Goldstein called the meeting to order at 9:00 A.M.

#### (2) ROLL CALL

**Present** 6 - Board Member Issler, Vice-Chair Babrowski, Board Member Rola, Board Member Finkle, Board Member Bailey, and Chair Goldstein  
**Absent** 1 - Board Member Vergo

#### (3) PLEDGE OF ALLEGIANCE - Led by Chair Goldstein

*Chair Goldstein asked for a moment of silence in remembrance of twelve (12) lives lost in a fatal mass shooting in the Municipal Building in Virginia Beach on May 31, 2019.*

#### (4) ADDENDA TO THE AGENDA

*Board Member Issler suggested removing Item 10 (New Business) before Item 9 (Old Business) and the Board Members concurred.*

**MOTION by Board Member Issler, seconded by Board Member Rola, to approve the Agenda as amended. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 6 - Board Member Issler, Vice-Chair Babrowski, Board Member Rola, Board Member Finkle, Board Member Bailey and Chair Goldstein

**Not Present:** 1 - Board Member Vergo

*(IT IS NOTED FOR THE RECORD, THE ITEMS ON THE AGENDA APPEAR IN NUMERICAL ORDER IN THE MINUTES.)*

#### (5) BOARD ABSENCES

*All Board Members who were present indicated that they would be present for the next Planning Board Meeting on July 5, 2019 with the exception of Board Member Finkle and Chair Goldstein.*

**(6) APPROVAL OF MINUTES**

[ID 19-347](#) May 3, 2019 Planning Board Meeting Minutes

**MOTION by Board Member Issler, seconded by Board Member Finkle, to approve the May 3, 2019 Planning Board Meeting Minutes. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 6 - Board Member Issler, Vice-Chair Babrowski, Board Member Rola, Board Member Finkle, Board Member Bailey and Chair Goldstein

**Not Present:** 1 - Board Member Vergo

**(7) STAFF COMMUNICATIONS - None**

**(8) COMMUNITY FORUM/PUBLIC COMMENT - None**

**(9) OLD BUSINESS**

[ID 19-338](#) ORDINANCE - Continued from 5/3/19 - Section 30-1012 of the Land Development Code - Supplemental District Regulations - Solid Waste Disposal - Requiring Dumpster Enclosures.

*(Editorial History: Staff-initiated change, allowing collection for establishments generating less than two (2) cubic yards of solid waste per week; requiring maintenance and screening of enclosures and receptacles. This amendment was driven from citizen input and discussions at Planning Board and City Council regarding the requirement of dumpster enclosures at existing and new buildings, not generating the trash volume for a typical dumpster enclosure. Some businesses would like to use hand roll out receptacles for trash and recycling with individual curb side service. Staff has made the recommended changes to the drafted Ordinance per the Planning Board discussion at the May 3, 2019 Planning Board meeting.)*

*Senior Planner Mary Holden presented the revised Ordinance and answered the Board Member's questions and concerns.*

*Public Comment:*

*Mr. Marv Needles, 1230 Butterfly Court, expressed his concerns with some of the language in the clean copy version.*

**MOTION by Board Member Issler, seconded by Board Member Bailey, to recommend approval to City Council, an Ordinance - Section 30-1012 of the Land Development Code - Supplemental District Regulations - Solid Waste Disposal - Requiring Dumpster Enclosures, making a finding it is consistent with the Comprehensive Plan. MOTION CARRIED BY THE FOLLOWING VOTE:**

**Yes:** 6 - Board Member Issler, Vice-Chair Babrowski, Board Member Rola, Board Member Finkle, Board Member Bailey and Chair Goldstein

**Not Present:** 1 - Board Member Vergo

**(10) NEW BUSINESS**

[ID 19-336](#) RESOLUTION - A Variance Petition request (VP-19-000921) requesting an appeal of administrative policy disallowing new seawall cut-ins without a nautical garage condition use for the property located at 672 Crescent Street, Marco Island, FL 34145

*(Editorial History: The owners are requesting a variance to construct a 27-foot by 12-foot seawall cut in (measuring to the back of the proposed seawalls) without a nautical garage. They are citing the lot configuration as their primary justification for the request. The applicant's application, written request for the variance, support information and plans are attached to the Staff report. As was stated in staff's analysis, this application was brought about due to a permit being issued in error. The permit was soon revoked once it came to the City's attention. Staff reminds the Planning Board that any action they take must be based on the above standards and cite them as findings for approval or denial.*

*(1) That there are special conditions and circumstances existing which are peculiar to the location, size and characteristics of the land, structure, or building involved;*

*(2) That there are there special conditions and circumstances which do not result from the action of the applicant such as pre-existing conditions relative to the property which is the subject of the variance request;*

*(3) That a literal interpretation of the provisions of this zoning code work unnecessary and undue hardship on the applicant or create practical difficulties on the applicant;*

*(4) That the variance, if granted, be the minimum variance that will make possible the reasonable use of the land, building or structure and which promote standards of health, safety or welfare;*

*(5) That granting the variance requested will not confer on the petitioner any special privilege that is denied by this LDC to other lands, buildings, or structures in the same zoning district;*

*(6) That granting the variance be in harmony with the intent and purpose of this zoning code, and not be injurious to the neighborhood, or otherwise detrimental to the public welfare;*

*(7) That there are natural conditions or physically induced conditions that ameliorate the goals and objectives of the regulation such as natural preserves, lakes, golf course, or similar circumstances.)*

*Planning Board Attorney Paul Gougelman swore in all witnesses and the Board Members provided their ex-parte communications.*

*Senior Planner Mary Holden read into the record a summary of the variance request and then presented the project and answered the Board Member's questions and concerns.*

*Mr. Zach Lombardo with Woodward, Pires and Lombardo Law Offices, representing the applicant, gave a presentation and answered the Board Member's questions and concerns.*

*Planning Board Attorney Paul Gougelman clarified the standards for review where there seems to be some disagreement between staff and the applicant. He quoted the code which states "before any variance shall be recommended for approval to City Council, the Planning Board shall consider and be guided by the following standards in making a determination." He noted there are eight (8) standards which means you can not pick and choose which standards to look at; but to look at all eight (8) standards. He spoke about unnecessary and undue hardship and applied Florida case law. He suggested the Planning Board take the evidence that has been submitted and look at the practical difficulty standard.*

*Mr. Duane Thomas, 296 Rockhill Court, owner of Duane Thomas Marine Construction spoke on behalf of the applicant and answered the Board Member's questions and concerns.*

*Mr. Roy Lansdown, 1108 North Collier Boulevard, owner of Panorama Homes spoke on behalf of the applicant and answered the Board Member's questions and concerns.*

*Public Comment:*

*Those speaking against:*

*Mr. Robert Cunningham, 682 Crescent*

*Mr. Hakan, Leblebicioglu, 692 Thrush Court*

*Ms. Lisa Leblebicioglu, 692 Thrush Court*

*Mr. John Moore, 679 Thrush Court*

**MOTION by Board Member Issler, seconded by Vice-Chair Babrowski, to recommend approval to City Council, A Variance Petition request (VP-19-000921) requesting an appeal of administrative policy disallowing new seawall cut-ins without a nautical garage condition use for the property located at 672 Crescent Street, Marco Island, Florida, 34145, which meets the requirements for a variance as stated in the Land Development Code. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Board Member Issler, Vice-Chair Babrowski and Board Member Bailey

**No:** 3 - Board Member Rola, Board Member Finkle and Chair Goldstein

**Not Present:** 1 - Board Member Vergo

**MOTION by Board Member Bailey, seconded by Board Member Issler, to recommend approval to City Council, A Variance Petition request (VP-19-000921) requesting an appeal of administrative policy disallowing new seawall cut-ins without a nautical garage condition use for the property located at 672 Crescent Street, Marco Island, Florida, 34145, which meets the requirements in the Land Development Code, amended to reduce the size of the seawall cut in to eight (8) feet by twenty (20) feet.**

**NO VOTE TAKEN ON THIS MOTION**

**MOTION by Board Member Bailey, seconded by Board Member Issler, to recommend approval to City Council, A Variance Petition request (VP-19-000921) requesting an appeal of administrative policy disallowing new seawall cut-ins without a nautical garage condition use for the property located at 672 Crescent Street, Marco Island, Florida, 34145, which meets the requirements in the Land Development Code, amended to reduce the size of the seawall cut in to ten (10) feet by twenty (20) feet. MOTION FAILED BY THE FOLLOWING VOTE:**

**Yes:** 3 - Board Member Issler, Vice-Chair Babrowski and Board Member Bailey

**No:** 3 - Board Member Rola, Board Member Finkle and Chair Goldstein

**Not Present:** 1 - Board Member Vergo

*Following the two (2) failed motions, the Planning Board decided to refer this matter to the City Council for their consideration.*

## **(11) BOARD COMMUNICATIONS**

*Board Member Rola asked for clarification regarding what board communications entail and Planning Board Attorney Paul Gougelman responded.*

**(12) ADJOURN**

*There being no further business, the meeting adjourned at 11:14 A.M.*

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*Ronald Goldstein, Planning Board Chair*

PREPARED BY:

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*Lisa Smith, Recording Specialist*