

MINUTES REPORT
BOCA GRANDE HISTORIC PRESERVATION BOARD
AUDITORIUM, BOCA GRANDE COMMUNITY CENTER
131 FIRST STREET WEST, BOCA GRANDE, FL 33921
AUGUST 11, 2021
10:00 A.M.

MEMBERS PRESENT:

Bill Caldwell III
Paul Eddy

Jerry Edgerton (Chair)
Rebecca Paterson

MEMBERS ABSENT:

Dennis Maloomian (Vice Chair)
Dana Robinette

Guerrino Savio

STAFF PRESENT:

Peter Blackwell, Planner, Zoning
Earl Hahn, Principal Planner, Zoning
Janet Miller, Recording Clerk

Anthony Rodriguez, Zoning Manager
Amanda Swindle, Assistant County Attorney

Agenda Item 1 - Call to Order – 10:00 a.m./Review of Affidavit of Publication

Mr. Edgerton, Chair, called the meeting to order.

A roll call was taken. Rebecca Paterson, Bill Caldwell, Jerry Edgerton, and Paul Eddy were present.

Ms. Swindle stated the Lee County Attorney's office reviewed the ad and Affidavit of Publication for today's meeting and determined it was legally sufficient.

NOTE: For the audio recordings for this meeting, go to:
<http://www.leegov.com/dcd/committees/committeesearch>. Once the page pulls up, click on the blue hyperlink that says "Boca Grande Historic Preservation Board (BGHPB)." There will be an audio recording for each item to help keep the recordings from being too large for the public to open. Contact Janet Miller at 239-533-8583 or jmiller@leegov.com if you need assistance.

Agenda Item 2 – Approval of Minutes – May 12, 2021

Mr. Caldwell made a motion to approve the May 12, 2021 meeting minutes, seconded by Ms. Paterson. The motion was called and passed 4-0.

Agenda Item 3 – Special Certificate of Appropriateness (SCA) Cases

- A. SCA2021-00015, Johnson Residence, 341 Lee Avenue, Boca Grande, FL 33921**
Demolition of existing garage, addition of new garage with second floor office space, and renovation of rear wing.

Mr. Hahn reviewed the staff report and recommendations.

Mr. Edgerton opened this item to the applicant or their representative.

Mr. Tim Krebs, architect and representative for the applicant, stated he and his client had worked a long time with staff on this proposal. With today's proposal they were finally able to come up with a plan that made everyone comfortable, including the owner. He gave an overview of the project.

Mr. Edgerton asked if the neighbors had been notified relative to the setbacks. Mr. Krebs stated the neighbors had been notified, which is a requirement of the zoning relief process.

Ms. Paterson referred to the new, small gate next to the garage and asked if it went all the way through to the back. Mr. Krebs stated that was correct.

The Board had no further questions or comments, so Mr. Edgerton opened this item for public comment. No members of the public wished to comment, so the public portion segment was closed.

Mr. Caldwell made a motion to enter the Staff Report and all other competent substantial evidence presented at the hearing into the record; find and conclude that the proposed demolition, addition and alterations are in compliance with the Secretary of the Interior's Standards for Rehabilitation and Lee County Land Development Code (LDC) Chapter 22; and approve the Special Certificate of Appropriateness for the Johnson property at 341 Lee Avenue, Boca Grande, Florida pursuant to LDC Chapter 22 to allow the proposed demolition, addition and alterations as provided in the proposed site plan a stamped "RECEIVED" Jun 03, 2021 and proposed exterior elevations stamped "RECEIVED" Jun 10, 2021, seconded by Ms. Paterson. The motion was called and passed 4-0.

B. SCA2021-00016, Wood Demolition, 921 9th Street West, Boca Grande, FL 33921

Demolition and reconstruction of portions of the main residence and revisions to previous approvals on the property.

Mr. Blackwell reviewed the staff report and recommendations and he read comments into the record by two board members who were unable to attend (attached).

Mr. Eddy asked if the owners intended to maintain their contributing status for their home. Mr. Blackwell stated they did intend to maintain their contributing status.

Mr. Eddy stated he had an issue with that because there is not much of the historic home left. As noted in Mr. Savio's letter, they have undergone three separate alterations. Mr. Eddy also stated that he was very familiar with this property and it had been a funky, wonderful Boca Grande home that was very typical of the genre in the neighborhood. He felt this might be a contentious issue for others in the community to where there might be a movement at some point in the future to remove this property from the "contributing" list. Mr. Blackwell stated that if the Board decides at a future date that this property no longer belongs on the "contributing" property list, they can direct staff to start the process to reclassify it as "non-contributing."

Ms. Paterson asked for clarification on how many times proposals for this property came before the Board. Mr. Blackwell stated a proposal for this property initially came before this Board on October 14, 2020 (SCA2020-00026). That case encompassed the main changes, which the Board approved. On March 10, 2021, another proposal for this property was brought before the Board (SCA2021-00005) with some revisions to those changes, which were also approved.

Mr. Edgerton clarified for the record that this project was not denied three times as indicated in one of the letters that was read into the record.

Ms. Paterson asked if there was a fireplace on the other side of the new chimney. Mr. Blackwell stated that was correct. Ms. Paterson asked if it would be a new fireplace. Mr. Blackwell stated it would be a new fireplace from the ground up.

Ms. Paterson asked if its location would be on the east elevation where no one will see it because it is away from the street. Mr. Blackwell stated the house faces on the west.

Ms. Paterson stated she was surprised that the owners would expend this amount of funds to gain eight extra inches in height in the home. It would mean rebuilding the entire roof. Mr. Blackwell stated the owners plan on replacing the roof anyway with better and more substantial roof trusses.

Mr. Eddy asked what kind of storm protection is on the current windows. Mr. Blackwell stated the owners do not currently have impact windows, which is one of the reasons for this request.

Mr. Eddy asked if they had storm shutters. Mr. Blackwell stated he did not know.

Mr. Caldwell stated that at one point the Water Board wanted to have hurricane impact windows for their building. The first thing the Building Department asked was whether the walls were certified to be strong enough to protect the windows. If the owner for this project tries to get impact windows without having better walls, the Building Department is going to want to know if the walls are strong enough for the new impact windows.

Mr. Eddy asked if any analysis had been done to strengthen the existing walls as opposed to completely removing them and rebuilding new walls. Mr. Blackwell stated he did not believe so.

Mr. Caldwell stated that as a licensed general contractor he would be against doing that. He was in favor of rebuilding the walls correctly. He also stated that the owner would be unable to obtain permits to merely strengthen the walls and it would not pass inspection. He also stated that no structural engineer would sign off on it.

Mr. Blackwell stated that in general things built from known tested parts fair better with insurance companies than if something is fixed with parts that are non-standard.

Ms. Paterson stated she did not have an issue with this proposal. She was still curious why they are adding a fireplace as it does not add anything to the historic feature of the house. She did not know whether a new feature should be added to the exterior that was not there before.

Mr. Blackwell stated the Board can approve some items and not others.

Mr. Edgerton opened this item to the applicant or their representative.

Mr. Mark Wood, Owner and Ron Jezerinack from Structural Engineering (Engineer of Record) presented the item. Mr. Wood stated he did not intend to come back before the Board and ask to rebuild the wings of the house. They started by working with an architect on a design that they wanted from an aesthetic perspective and from the State's perspective. When Mr. Jezerinack became involved, he did some investigative work in terms of the wall thickness, the assembly, and the footers.

Through that process, Mr. Jezerinack recommended against this type of investment with a structure that does not support anywhere close to what is needed to be code compliant today. Mr. Wood noted that he was making this type of investment for his family. It is intended to be multi-generational. He stated his family loves Boca Grande and have been excited to do this development. He noted they were not trying to build a two-story home. They love the character of the one-story home. They are also not raising the house as they like the idea of the home being at ground level. From a scale perspective, Mr. Wood felt they were maintaining a lot of the character of what has been in place and that his changes are enhancements to what has been in place.

Mr. Jezerinack stated that the original iteration was to leave everything as is and bring everything up to code. However, he did not feel this would be a successful endeavor in light of what is currently in place. They cannot do anything with the windows because of the wall thickness. They cannot do anything with the roof because the studs are turned the wrong way. It was not built to withstand hurricanes and things are only getting worse, which is why they came up with a second iteration. He gave an overview of the project and remedies.

Ms. Paterson asked what the structure was for the main part of the house and if the walls are going the correct way. Mr. Jezerinack stated they were siding with a layer of wafer board and then a 1 x 3 stud that is in the same direction as the wafer board. There is another wafer board on the outside of that, so total wall thickness is about 2 $\frac{3}{4}$ inches thick. The guesthouse is the same kind of construction. The walls are very thin.

Ms. Paterson asked how the current windows work with the thin walls. Mr. Wood stated they currently have vinyl windows, not hurricane impact windows.

Ms. Paterson asked what they would do once they decide to replace the vinyl windows. Mr. Wood stated that for the historic room they would strengthen the walls enough to get more thickness, but this would not be a good solution for the entire house because there are many things that need to be fixed, such as the footers, walls, and roof.

Mr. Jezerinack noted there were not many windows on the interior of the house. Most of the windows are on the two wings. Replacing the two wings will strengthen the whole building itself. There is currently nothing that meets code.

Mr. Wood stated that if he only makes enhancements, the structure will never be built the way it should be and the way the code requires today.

Ms. Paterson asked why they were proposing a fireplace. Mr. Wood stated he and his wife always had a fondness for fireplaces. They like the coziness of the winter.

Ms. Paterson felt this was a significant change, although perhaps not to the point that she would vote in opposition.

Mr. Wood stated the front door would be on the south end of the house so the fireplace is tucked into the property quite a distance. There will be a little portion of a chimney expression that people would see at the top. This means that from outside the property, people will only see a portion of the chimney.

The Board had no further questions, so Mr. Edgerton opened this item for public comment.

Ms. Susan Sligar, local designer, stated she had reviewed the plans extensively. For her, it is not a matter of the aesthetics of the building because that has already been approved. She felt the owners had gone to great lengths to hire a renowned architect to try to fit into the community. She felt they were very conscious of Boca Grande and what this town is about. If it is only about construction, why not let them build it the way they should so it can last another 100 years. She noted that often newcomers who purchase homes spend so much money on the property and attempt to get as much square footage as possible and go up another level. She felt this owner's proposal was tasteful and respectful of the community.

Mr. Caldwell felt it made complete sense to rebuild the wings especially since Boca Grande has 160 mile per hour criteria for hurricane protection. He also stated that he did not have a problem with the chimney. Overall, he liked the project.

Ms. Paterson felt it was absolutely critical to have all this work completed except for the chimney.

Mr. Eddy stated he was concerned with the amount of changes that have been proposed for this property to where he perceived the status of the building should be changed going forward. The engineer made a statement that the first iteration was to keep everything as is and do what was necessary to bring it up to code. He felt more effort should take place to accomplish the first iteration in lieu of this new proposal. He was also concerned with adding the fireplace. He was not in favor of arbitrarily adding things simply because someone likes it. To him, this was against the principle of this Board. The fireplace would not be considered a historic feature. The purpose of this Board is to retain historic integrity. As a consequence, he would be voting against this proposal.

Ms. Paterson stated that even though she was not completely comfortable with the fireplace, she did not feel it would do anything to diminish the integrity of the house.

Mr. Caldwell did not have an issue with today's proposal because all the major changes were already approved. Therefore, he felt the changes being proposed today were minimal. He acknowledged that these changes overall are a big change from the original home, but again, those changes were already approved. He was not concerned with the minor tweaks proposed today.

Mr. Caldwell made a motion to approve the Special Certificate of Appropriateness to permit the demolition and reconstruction of the north and south wings of the main residence, including changing from face-studded walls to standard stud-walls, using stud walls 8-inches higher than the existing walls, a more robust roof structure, and the installation of new foundations, as well as constructing and new chimney on the east façade and revising the approved vestibules, as depicted on the site plan and elevations stamped "received" June 16, 2021; and make a finding that the request is consistent with the Secretary of Interior's Standards for Rehabilitation and Chapter 22 of the Lee County Land Development Code, seconded by Ms. Paterson. The motion was called and passed 3-1. Mr. Eddy was opposed.

Agenda Item 4 – Item by Staff

A. Draft Boca Grande Sidewalk Ordinance

Mr. Edgerton gave a recap of this item stating that it was a result of a member of the public taking action a couple of years ago by lodging a complaint about the clutter on the sidewalks and people sitting in areas where it should not be allowed. This Board asked the Parking Panel to look into the matter in an effort to obtain appropriate approval to allow the general public to sit outside at these

various business in the downtown Boca Grande area. He stated that the COVID crisis solved the problem temporarily, but Deb Martin from the Parking Panel was in attendance today and would provide the Board with an update.

Ms. Deb Martin from the Parking Panel stated that her group had been working with County staff. Although there will still be space requirements and right-of-way requirements, her understanding is that outside seating will be a permitted use. A proposed ordinance was included in the Board's packet for today's meeting.

Ms. Swindle, Assistant County Attorney, stated the proposed ordinance was the collaborative effort of DCD staff, the Panel Board, and the County Attorney's office. At first, there was going to be a yearly permitted use situation, but now it will be an approved commercial use to have items such as tables, chairs, heaters, signs, and outdoor displays on sidewalks that are adjacent to an approved commercial use. There is a requirement that items are to be removed when the business is closed. There is also a requirement that appropriate pedestrian travel is maintained and that the use of parking spaces and bike racks, etc. are not blocked. There is also a provision that in the case of emergencies, such as hurricanes or some other kind of safety situation, that the County has the right to ask that items be removed and put inside for safety reasons. There is also a clause giving the County Manager the ability to make a determination, most likely pursuant to a state of local emergency, that the use would discontinue temporarily during that emergency. She stated that this draft ordinance must go through two other advisory committees as well as the Board of County Commissioners.

Mr. Edgerton asked what the timing would be for this proposed ordinance. Mr. Rodriguez stated that this proposed ordinance, along with any comments from the Boca Grande Historic Preservation Board, would be brought before the two review committees most likely in September. This would mean that it will go before the Board of County Commissioners in either October or November depending on the Board's agenda.

Mr. Edgerton opened this item for public comment.

Mr. Hank Yeiser, local resident, asked if there would be more opportunity for public input. Ms. Swindle stated the public would be given more opportunity to provide public input if they attend the meetings being held in downtown Fort Myers. They will be noticed meetings open to the public and the ordinance will be attached to the agenda item. In addition, the public is welcome to make comments today as well.

Mr. Yeiser asked how residents of Boca Grande will know how to find the online agenda. Ms. Swindle stated the notices are run in the News-Press. The Board of County Commissioners meet twice a month on Tuesdays and the agenda and back-up are on the website.

Ms. Paterson stated that if the public accesses the leegov.com website, they will be able to keep on top of it.

Mr. Edgerton noted that there was also a representative present at today's meeting from the Boca Beacon so they might be able to keep residents updated.

Mr. Eddy stated that supporters and detractors may also e-mail comments in. They can use the internet to their advantage.

Mr. Yeiser stated he was concerned with the unintended consequences. The proposed ordinance mentions \$250 per day fines or up to 60 days in jail for someone who is merely doing something that has been done for decades. It seemed extreme to him. Ms. Swindle stated that although the penalties seem extreme, they are standard fees that the Florida Statutes provide for code violations. If anyone checks the County's ordinances and the Land Development Code, they all have these exact same penalties listed. However, she was not aware of anyone who was actually charged that amount. It normally ends up being only \$25 per day.

Mr. Yeiser expressed concern with some items such as the ice machine outside Hudson's, which is 36 inches from the edge of the sidewalk. However, this ordinance states it must be 42 inches from the sidewalk. This leaves the owner of Hudson's viable for jail if they do not remove their ice machine. Ms. Swindle stated that in instances where something has existed long enough, they may qualify for some sort of non-conforming use. The intent of this ordinance is to be permissive not restrictive. As it stands now, none of this activity is permitted. This ordinance is broadening the scope of what is allowed, not restricting it.

Mr. Yeiser noted there are instances where furniture is too heavy to be moved inside, such as the benches outside of Fugate's, which are large, heavy concrete and wood benches. They are part of the charm and character of the community. Ms. Swindle stated she could not comment on certain issues, but again, none of this is allowed currently so this ordinance is broadening the scope of what is allowed.

Mr. Yeiser was in favor of broadening it further because some of this furniture is part of the charm of the area and this ordinance says that people can go to jail if they do not remove it.

Ms. Paterson asked if there was a way to designate some preexisting things like the ice machine and concrete benches that are preexisting.

Ms. Swindle stated that her understanding from today's meeting is that the Board might want to have some sort of mechanism in place so someone could request a waiver or a deviation from portions of this ordinance. If this is the case, Ms. Swindle stated she was willing to discuss this with the advisory committees as it goes through the process.

Mr. Yeiser suggested some language that says "*There is a special designation for furniture that is under existing cover.*" He felt this would cover most of the issues since almost all of the stores have existing canopies that are over the sidewalks, which is different than most places in Lee County. This would be a way for the community to have what they want while maintaining the laws that exist for Lee County.

Ms. Paterson stated that one reason to bring in tables and chairs every night is due to vandalism and theft. It seems reasonable to bring them in at night when the business is not open. There should be a way to get exemptions when it is something that has more of a permanent nature.

Mr. Yeiser was in favor of shop owners being allowed to pull their tables and chairs in at night if they choose too, but he did not agree with it being a law.

Ms. Paterson stated there was no point in having an ordinance if people can just leave everything out if they want to.

Mr. Caldwell stated there is also representatives from the Chamber of Commerce in attendance today. He asked if they could get some input from the businesses since many of them are members of the Chamber of Commerce. They could also get input from residents. He felt Mr. Yeiser brought up some valid issues. Once the data is collected, it could be brought back before the Boca Grande Historic Preservation Board so that they could make a recommendation to DCD staff.

Ms. Paterson agreed that this ordinance should address everything and that we want to make sure there are provisions in here in instances where someone cannot comply.

Mr. Caldwell stated that if we do not take care of this, there will be nothing preventing another complainant from coming forward again for issues such as the ice machine because it is only 36 inches from the sidewalk instead of 42 inches. He was completely in favor of this ordinance, but felt it needed some further clarification.

Mr. Edgerton asked if the Chamber of Commerce would take on that responsibility. Their representatives indicated that they would.

Mr. Eddy stated that if the Chamber of Commerce receives any communications from the general public, it might be helpful if it is forwarded to this Board.

Ms. Swindle stated it would be included as back-up for the advisory committees when it is presented to them.

Ms. Sue Sligar stated that, in her instance, she would be unable to bring her tables and chairs in each night because there is no room for them inside her building. She also referred to the local bakery and stated that their staff was not going to want to drag in the tables and chairs every night because they are heavy. It is also a convenience for the public because often times they sit out there before the bakery opens.

Ms. Paterson stated the bakery would need to get tables, chairs, and umbrellas that were lighter for their staff to pull in each night because, otherwise, if you let everyone leave all their items outside each night then you must also let everyone leave their temporary rack of clothes out each night. It causes other issues.

A vote from the Board was not required.

Agenda Item 5 – Items by the Public; Board Members

Public – None

Committee Members - None

Agenda Item 6 – Adjournment – Next Meeting Date

The next Boca Grande Historic Preservation Board meeting is scheduled for Wednesday, September 8, 2021, at 10:00 a.m. The meeting adjourned at 11:10 a.m.

Miller, Janet

From: Dana Robinette <danarobinette@hotmail.com>
Sent: Tuesday, August 10, 2021 1:24 PM
To: Miller, Janet
Subject: [EXTERNAL] 9th Street

Understand there is a request by the Woods to make an alteration which been denied 3 times. I cannot be there, but would vote against it. Please let the board know. Thank you. Dana

Sent from my iPhone

COMMENTS ON SCA2021-00016, 921 9TH STREET WEST.

This is the third time that this contributing property is in front of our Board, in not even a year. Substantial changes were previously requested and approved with the result of altering the appearance of the four facades of the residence (different siding, relocation and new size of windows and doors, addition of new structures and gables, alteration of the roof line).

Today the Board is asked to approve the demolition of the north and south wings. Considering that the central part of the residence is mostly occupied by the courtyard as the eastern side of the central part is a screened porch the construction of which was proposed and approved last October while the western side of the central part will be substantially changed following the demolition of the existing "Florida room" which will be replaced by a screened porch as proposed and approved last October, **nothing much is left of the original, historical residence.**

I don't know if the alteration/renovation project would have been approved by the Board if it was presented in its entirety last October: certainly, by selectively presenting, in three different occasions, the three different components of the project, the applicant may have softened the perceived impact of all proposed alterations.

Should the Board approve the kind of changes like the ones proposed for 921 9th Street West, a house built in 1925 and a contributing property, how would the Board in the future be able to deny approval to any other request of alteration/renovation of contributing properties in the Boca Grande Historic District ?

As I already said back in October the proposed Wood residence would be a beautiful house but the Board's duty is to protect historic resources not to approve beautiful houses.

Respectfully submitted

Guerrino Savio

August 11, 2021