

MEMORANDUM

DATE: March 14, 2013

TO: Zoning Board of Adjustment (ZBA)
FROM: Steve Schield, AICP, ASLA, Planner
THROUGH: Robin Meyer, AICP, Planning, Zoning and Building Director
SUBJECT: PETITION 1-13 DAYLIGHT PLANE WAIVER
5809 GULF OF MEXICO DRIVE

APPLICANT: Neal & Karen Neilinger
AGENT: Jenny Provost, K2 Design Group, Inc.
LOCATION: 5809 Gulf of Mexico Drive
Longboat Key, Florida
ZONING DISTRICT: R-3MX (Low-Medium Density Mixed Residential District)
REQUEST: The applicant is requesting a waiver from the Daylight Plane regulations in accordance with Section 158.153 (C) of the Town Zoning Code to increase the required 50-degree Daylight Plane Angle to 56-degrees on the north and south sides of the parcel.

STAFF BACKGROUND AND SUMMARY

The subject property is located at 5809 Gulf of Mexico Drive (see attached location map). The site is a vacant lot that has not been previously built on. It is the intention of the owner to build a three story (two living floors over one level of parking) new home. The second and third stories of the home will be recessed three and one half feet from the property line for a total of 16 feet (12.5 feet required). This would extend the third floor approximately three feet into the required 50-degree Daylight Plane Angle. The lot area of the subject site is approximately 18,898 sq. ft. according to the survey provided by the applicant. The proposed home is approximately 5,500 sq. ft.

Background and Assessment

In 1997, the Town Commission adopted Ordinance 97-09, Light and Air, referred to as the Daylight Plane Ordinance, with the intent of preserving and protecting the existing developed properties in accordance with the Town's Comprehensive Plan, through the regulation of residential buildings as to scale, bulk, and relationship of the adjacent environment, to achieve enhancement of residential buildings within the community. Pursuant to the Daylight Plane Ordinance, it is in the public interest to maintain an appropriate balance within the scale of buildings to preserve and protect the public health, safety, light, air, access, privacy, and sufficient exterior exposure to promote the general welfare of the community.

It should be noted that Section 158.153 (D) (6) *Height Regulations*, states that the Daylight Plane requirements shall not apply to new single-family homes located within a Planned Unit Development (PUD), however, the requirements "shall apply to all remodeling, additions, renovations and alterations of the single-family home, as well as to construction after voluntary demolition of all or part of the original single family structure."

STAFF ASSESSMENT

Staff reviewed the Petition for a Daylight Plane Waiver for the increase of the maximum allowed 50-degree Daylight Plane angle to 56 degrees on both the north and south sides of the parcel (see East Elevation 1). The following is an assessment of the waiver petition.

Development Standards

The plans provided with the application indicate that the proposed new residence complies with the remaining applicable development standards for the Town of Longboat Key. Staff's review found the following:

1. The front lot width measures approximately 100 feet. The applicant's parcel area is approximately 18,898 sq. ft.
2. The subject property's proposed new structure would be approximately 67 feet from the Gulf of Mexico Drive right of way on the east side of the parcel.
3. The subject property's proposed structure will be 12-feet, 6-inches from the property lines on the north and south sides of the parcel.
4. Upon completion of construction, the lot coverage and the non-open space will be in compliance with the maximum percentages allowed by code, which are 30 and 50 percent, respectively.
5. The architectural renderings measure daylight plane from the side lot line boundaries, projecting up toward the center of the lot, from the base flood elevation, as defined in the Zoning Code.

6. According to the agent, the proposed home is approximately 5,500 sq. ft. Without the approval of the waiver, the site plan and attached drawings indicate that the proposed third floor could not be built in the proposed location in compliance with the maximum allowable 50-degree daylight plane angle. The reason given by the agent for the waiver is that it will not impact the adjacent properties because of the unique design of the subdivision with wide access drives on both sides of the lot. This would prevent structures from being built adjacent to the property line.

Impacts on Adjacent Properties

The closest structure to the north of the lot is a hotel structure located approximately 250 feet from the property line. The applicant's proposed residence is a three-story structure along this property line. A 60 foot driveway access for the gulf front home located at 5811 Gulf of Mexico Drive is located immediately adjacent to the lot.

The closest structure to the south side of the lot is a condominium carport located approximately 45 feet from the property. A 40 foot driveway access for the gulf front home located at 5801 Gulf of Mexico Drive is located immediately adjacent to the lot.

The applicant is proposing a waiver of six degrees. The largest degree waiver granted in the past five years was 11 degrees on an 80-foot wide lot that was 9,939 square feet. The proposed waiver would reduce the setback of the third floor of the proposed house by three feet on both the left and right sides of the property line.

Daylight Plane Criteria (Section 158.026)

As per Town Code Section 158.026(F)(3), In determining whether to grant a waiver, the zoning board of adjustment shall review the waiver application including both site and schematic design drawings and shall consider: (a) impacts to view of neighbors and neighborhood; (b) uniqueness of the configuration of the lot upon which the structure is proposed; and (c) special circumstances or conditions affecting the property, such that the strict application of the daylight plane requirements would inordinately burden the property owner and would deprive the property owner of a reasonable design for the building as it relates to its environs. If the zoning board of adjustment determines that a waiver is appropriate it may increase the angle for the daylight plane, with or without conditions. To facilitate the Board's review and consideration of the subject waiver petition, staff has provided an assessment of each of the three criteria.

RECOMMENDED FINDINGS OF FACT

1. Impacts to view of neighbors and neighborhood: The proposed structure is two stories and 30 feet above the required flood elevation building height and it will

not exceed the maximum height. The proposed waiver does not appear to adversely impact the view or the light and air space for the residence to the north of the applicant's property (5801 Gulf of Mexico Drive) in its current location on the parcel.

2. The proposed waiver does not appear to adversely impact the view or the light and air space for the residence to the south of the applicant's property (5811 Gulf of Mexico Drive) in its current location on the parcel.
3. Uniqueness of the configuration of the lot upon which the structure is proposed: There are unique characteristics to the subject lot. It is a rectangular-shaped lot that is located between two wide (40 feet and 60 feet) access drives that provide access to two gulf front residences that are not located adjacent to the side property lines of the applicant's lot. The applicant is proposing a three story residence (two living levels over one level of parking) on the lot. The design and placement of the proposed residence appears to be consistent with the remaining town zoning regulations.
4. Special circumstances or conditions affecting the property, such that the strict application of the daylight plane requirements would inordinately burden the property owner and would deprive the property owner of a reasonable design for the building as it relates to its environs: The subject property is vacant. The desire to propose a larger third story does not override the purpose of the Daylight Plane Ordinance. The applicant does propose to increase the setback for the second story of the house by an additional three and half feet, which would not be required by the daylight plane requirements. This would make the second and third floor setback consistent at 16 feet.

STAFF RECOMMENDATION

Based on the above assessment of the waiver petition and applicable criteria, staff finds that there is not sufficient evidence to determine whether the proposed structure is or is not contrary to the intent of the Daylight Plane Ordinance. Therefore, staff cannot recommend approval of Daylight Plane Waiver Petition 1-13.

ATTACHMENTS

Attached, please find a copy of the waiver petition and supporting documentation upon which the staff assessment has been based. If you should have any questions, or desire any additional information, please do not hesitate to contact the Planning, Zoning and Building Department.

xc: Jenny Provost, AIA, Agent for the Property Owner
David Persson, Town Attorney
Robin Meyer, AICP, Planning, Zoning and Building Director