

TOWN OF LONGBOAT KEY  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF OCTOBER 15, 2015 MEETING

The meeting of the Zoning Board of Adjustment was called to order by Chair Gaelle Barthold at 9:30 a.m. on Thursday, October 15, 2015.

Members Present: Chair Gaelle Barthold, Vice Chair Larry Linhart; Secretary Charles Fuller; Members Ann Roth, Jean White

Also Present: Kelly Fernandez, Assistant Town Attorney; Alaina Ray, Planning, Zoning & Building Director; Steve Schield, Planner; Maika Arnold, Planner; Donna Chipman, Office Manager

Public To Be Heard. No one wished to address the board.

Approval of Minutes

**Ms. White made a MOTION TO APPROVE THE MINUTES OF THE SEPTEMBER 17, 2015, ZONING BOARD OF ADJUSTMENT MEETING AS WRITTEN; seconded by Ms. Roth and approved by a unanimous vote.**

Agenda Item 1. The public hearing was opened for Petition 4-15 by 800 Broadway LLC, owners of The Shore Restaurant, requesting a Variance from Section 158.155(A)(4)(b) of the Town of Longboat Key Code of Ordinances to allow a dock to extend an additional 142.6 feet further than the 50 foot allowance by Code, for a total extension of 192.6 feet from the Mean High Water Line, for property located at 800 Broadway Street.

Ms. Chipman swore all those testifying at this hearing. Proof of Advertising in the *Sarasota Herald-Tribune*, the Town Attorney's Opinion and the Staff Report are part of the applicant's file. Bud Goldsby, agent representing the applicant, presented the Return Receipts to the Board.

Kelly Fernandez, Assistant Town Attorney, asked if any members had any Ex Parte communications or conflicts of interest. No Ex Parte communications or conflicts of interest were noted.

Maika Arnold, Planner, reviewed the staff report noting:

- Request is to construct a dock 192.6 feet from the Mean High Water Line (MHWL) for a variance of 142.6 feet.
- Current dock extends 150.6 feet from the MHWL
- The water depths around the dock range from 6-9 feet; deep water is 155 feet from existing dock
- The smaller dock will be removed
- Reviewed PowerPoint photos showing existing conditions
- The proposed extension of new dock will be 153 feet from Mar Vista dock

- The water depth around the proposed dock was approximately 10 feet and ranged from 6-9 feet from inner edge of mooring area, depending on tides, and the water that was surrounding the outer edge of the mooring area ranged from 8-11 feet so it provided better navigation for larger boats coming in and out of the proposed dock

Chair Barthold asked how the proposed dock compared with the existing dock; what was the length of the walkway from land to edge of dock compared to what is there now. Ms. Arnold responded the proposed dock will be 10 feet further from land than the existing dock. Ms. Ray referred to page 4 of 6 of the survey; the existing dock terminates at a point that was a 10 foot difference from the proposed dock. Chair Barthold asked if the extreme distance (40 feet) comes at the far end of the proposed new dock. Ms. Ray replied correct, that is where the 40 feet came into play. Mr. Fuller asked if all the existing docks were being removed. Ms. Ray replied they would be removing the planking and replacing with new dock; the southernmost dock will be completely removed and not reconstructed. Mr. Linhart asked the reason for extending out the 10 feet rather than rebuilding in its current location. Ms. Ray explained where the outline of the grass beds is located there was about 20 feet between the end of the grass beds and the dock; when boats pull in the motors could disrupt the grass beds.

Chair Barthold asked if docking would be available on the landside of the dock. Ms. Ray noted there would be no motorized docking allowed on the landside. Chair Barthold asked if the grass beds would grow further out. Ms. Ray noted that it would depend on the depths, and as long as they were not disturbed they should grow out. Ms. Ray noted that by allowing finger docks, it would allow someone to pull straight in and out versus maneuvering around slips. Discussion continued on the sea grass beds and whether they would grow further out.

Mr. Linhart noted the application was taking the walkway (where it attached to the land) and moving it out approximately 10 feet. He asked if staff would support a proposal where they rebuilt to the same length, but supported the variance, because of the finger docks. Ms. Ray believed staff would likely have supported it, but it was difficult to answer without seeing any proposal or the actual configuration. Mr. Linhart noted one of the conditions they have to find is whether they were granting the minimum variance. Ms. Ray reiterated it was difficult to know without seeing the configuration whether it would pull all the finger docks away from the sea grasses. Mr. Linhart referred to the point that was the maximum distance, and asked if that was now 40 feet beyond the existing dock. Ms. Ray replied correct. She commented that it was in order to provide the adequate depth for boats that have a deeper berth.

The following discussion ensued on the last dock that was the furthest point:

- The location of the sea grass beds
- Impact to the grasses if they moved the dock or reduced the extension
- If the applicant had taken the last one or two berths and angled to follow the turn of the land, whether the variance would not need to be as much

- Concerns with larger vessels turning in to an angled dock and the impact with the tides
- That the cantilevered section of the restaurant would be removed and the building was required to be brought back to the MHWL

Ms. Arnold reviewed the Findings of Fact and the suggested conditions.

Peter Dailey, agent representing the applicant, commented the dock was important as it provided boating access to the new restaurant and possibly relieve the traffic impacts on Broadway Street.

Bud Goldsby, agent representing the applicant, discussed the project noting it would improve marine and upland habitat; reviewed the drawing showing the proposed docks and noted what would be removed; that approximately 1,300 square feet of existing docking would be removed; recommended minimum height is five feet above the MHWL; and, docking would be elevated to allow the sun to reach the sea grass beds and allow further development.

Mr. Linhart questioned how many vessels were currently allowed to dock. Mr. Goldsby replied 14-18 vessels can currently dock at the existing dock. The proposed dock has identified slips for 16 vessels. Mr. Linhart voiced concern with how far it projected out. Mr. Goldsby explained they had a number of different proposals and schematics, and this was the simplest, and in speaking with Town staff this was what was agreed upon.

Chair Barthold noted one of the proposed conditions related to railings and asked if they would be required for the walkway coming off the main dock, and not the structure parallel to the land. Mr. Goldsby replied that was correct. Chair Barthold asked if they would prohibit all vessels on the landside. Ms. Ray pointed out that on the northernmost portion of the dock is where non-motorized boats would be allowed. Chair Barthold commented that if the Board were to approve, the condition needs to be revised to specify the railings would be installed on the walkway (lower interior part of dock), and then, in addition, signage would need to be installed on the interior part of the top part of dock prohibiting any motorized vessels in that area. She asked the applicant if that would be acceptable. Mr. Goldsby replied they would accept revisions.

Ms. White questioned how many customers come to the restaurant by boat. Mr. Goldsby responded those that visit by boat were seldom by themselves, and he believed there were 4-6 people per vessel. He noted that in comparison to the numbers of restaurant patrons that visit by vessel versus automobile, it was much larger on a vessel. He believed allowing the dock would decrease traffic on Broadway Street.

Mr. Fuller would like to see railings on both sides – landside. Ms. Ray noted that would prohibit people on kayaks or non-motorized vessels from being able to get out onto the dock. She commented the condition could be modified so it was apparent that it was on both sides of the access walkway and north (the land-side) of the southern portion. Mr. Linhart asked if the dock was going to be five feet above the waterline, how a kayaker would be able to get out of their kayak. Mr. Goldsby responded it would be two feet

above the existing dock, and they could install ladders to provide assistance. Chair Barthold asked if staff would please rewrite the condition to address that if the board took that into consideration. Discussion ensued on signage and that there would be signage addressing Manatee protection, and motorized vehicle access restrictions. Mr. Dailey commented the purpose was not only for visual access on approaching the restaurant, but also for a water taxi that was being proposed from Sarasota.

Mark Zintel, Cedar Street, commented there had been no discussion on the impacts to the residents of the Village, and noted that it was a waterfront community that they use frequently. There has been comparison to the Mar Vista dock, and that the new restaurant should be allowed to have a new dock; they need to understand that the Mar Vista dock was totally different with berths on the side. He noted that a number of sailboats have dropped anchors off the Village, and it was his fear, as a kayaker, there was only so much room in the channel to get over to Jewfish Key. He commented that to extend the dock into the channel, and providing for boats to come to the restaurant, it could create a safety hazard for people in small boats, kayaks, etc. He voiced concern with the new configuration and the amount of square footage into the channel. He asked if the Board was going to approve the request, then he would request that the Town address the amount of boats anchored in the channel, as some were living aboard the vessels. Chair Barthold questioned what he would like to see. Mr. Zintel responded he was concerned with the extension of the dock, and he did not wish to see any further encroachment into the basin.

Ms. Ray commented it was suggested that The Shore dock could be similar to the Mar Vista dock; however, she explained that the Mar Vista dock was constructed in the exact same footprint as their grandfathered dock, which was terrible for the grass beds. She reviewed the location of the basin and the channel. Ms. Roth questioned if there were any other configuration that would resolve Mr. Zintel's concerns. Ms. Ray commented that based on their environmental assessment, the proposed location was the best configuration. Concerning navigation, she pointed out it was a wide area and recognized there were moored boats, but believed the boats may moor further away if there was additional boat traffic.

Discussion continued on protection of the seagrasses; addressing any safety concerns; the impact of the new pilings on the current flow and erosion in the area; replacement of the pilings; elevating the dock structure and placing the new structure in an area that would have very low impact (the only impact would be removal of the southern dock, which was not being replaced).

Ed Zunz, Lands End Drive, was sworn. He commented concerning the railings and asked if once someone walked out onto the main dock, where the railing ends, would it be acceptable to place a gate to keep older people and children from venturing out onto the dock portion without railings. He also discussed the kayakers commenting if they could pull into the landside of the docks and go underneath the main entrance, they would not be getting involved with the boats on the other side who were backing in and out of the dock.

No one else wished to be heard, and the hearing was closed.

The Board recessed from 10:56 AM – 11:01 AM.

Chair Barthold referred to the recommendations from staff within the recommended Findings of Fact and Conditions 1-4. She commented that pursuant to earlier discussions, staff has proposed the following:

Condition 1 (railings) be replaced with:

*“The applicant shall install railings on the following portions of the docks: 1) both sides of the land access walkway; 2) the landward side of the southern dock extension; and, 3) the landward side of the northern dock extension to 20 feet of the north terminus.”*

Chair Barthold also noted that Mr. Zunz had suggested installing a gate before the 20 foot space where there was no rail, which could be discussed by the board. It was also suggested that a Condition 5 be added to state: “the applicant shall install signage on the access walkway and on the landward sides of the dock to prohibit docking of motorized vehicles on the landward side of the dock.”

Chair Barthold asked if it was the expectation of the applicant they would allow non-motorized vehicles to dock on the landward side of just the northern portion of the walkway or the southern portion also. Mr. Goldsby explained if it was allowed on the southern side, because of the configuration of the Mar Vista dock, it would be an issue. He would like to keep the kayakers away from the Mar Vista dock. Chair Barthold suggested the condition state: *“the applicant shall install signage on the access walkway and on the landward side of the dock to prevent any docking on the landward side of the southern extension and allow only non-motorized docking on the landward side of the northern extension.”*

Mr. Linhart questioned the legal rights of the applicant if the variance were denied. He asked whether the applicant could totally rebuild the structure in its existing location without coming to the ZBA. Mr. Schield responded the applicant could repair and maintain the existing structure; however, they could not totally remove and rebuild in a different configuration without a variance.

Mr. Linhart asked the applicant to address the issue of boater safety and issues discussed by local residents; is there a way to design a structure that would minimize or remove the concern. Mr. Dailey responded there was sufficient room for people to boat in the area and to get to the main channel. The new docks would be higher, and if the kayakers want to go near the shore, they could go underneath the docks and not into the bay. Mr. Fuller referred to the testimony there were illegally moored boats in the area and believed the problem might be compounded by those boats. Ms. Ray noted the boats were not illegally moored, but moored legally under the Florida water laws. Attorney Fernandez explained it was state water and once they were out a certain distance, they can moor a boat wherever they wished.

Mr. Fuller made a MOTION TO GRANT PETITION 4-15 AS OUTLINED BY STAFF AND SUBJECT TO THE ADDITIONAL CONDITIONS; seconded by Ms. White.

Chair Barthold offered a friendly amendment to include the Findings of Fact. Mr. Fuller and Ms. White accepted.

**Mr. Fuller made a MOTION TO GRANT PETITION 4-15 AS OUTLINED BY STAFF SUBJECT TO CONDITIONS 1-4 IN THE STAFF REPORT, WITH THE REVISION TO CONDITION 1; SUBJECT TO ADDITIONAL CONDITION 5; AND SUBJECT TO THE FINDINGS OF FACT IN THE STAFF REPORT; seconded by Ms. White and approved by a roll call vote:**

<b>BARTHOLD:</b>	<b>AYE</b>	<b>FULLER:</b>	<b>AYE</b>
<b>LINHART:</b>	<b>NO</b>	<b>ROTH:</b>	<b>AYE</b>
<b>WHITE:</b>	<b>AYE</b>		

New Business. No new business was noted.

Setting Future Meeting Date. The next meeting was tentatively scheduled for November 19, 2015.

Chair Barthold discussed changing the meeting date in November. She commented that recently the meetings were changed from the second Thursday of the month to the third Thursday of the month, and since she plans ahead, she has planned trips that would conflict with the 2016 schedule. She requested that if there was a situation where staff would need to determine whether there was a quorum, that staff polls the board prior to a hearing, or when the applicant was required to send their notifications, so the meeting might be rescheduled.

There were no petitions scheduled for the December 17, 2015, meeting.

Adjournment.

The meeting was adjourned at 11:15 am.

Respectfully submitted,

---

Charles Fuller, Secretary  
Zoning Board of Adjustment