



## Town of Longboat Key Zoning Board of Adjustment

Town Hall, 501 Bay Isles Road

Longboat Key, FL 34228

[www.longboatkey.org](http://www.longboatkey.org)

Gaele Barthold, Chair; Neal Colton, Vice Chair; Ann Roth, Secretary;  
Aaron Kleiner; Kevin Magnus

### **AGENDA**

### **REGULAR MEETING – VIRTUAL MEETING/PUBLIC HEARING**

### **JULY 16, 2020 – 9:30 AM**

#### Pledge of Public Conduct

- We may disagree, but we will be respectful of one another.
- We will direct all comments to issues.
- We will avoid personal attacks.
- Audience members wishing to speak must be recognized by the Chair.
- Speaking without being recognized will be considered as “Out of Order”.

#### **Administration of Oath**

Reappointed members Neal Colton and Aaron Kleiner

#### **Call to Order**

#### **Election of Officers**

Election of Chair, Vice Chair and Secretary

#### **Public to be Heard**

1. Opportunity for Public to Address Zoning Board of Adjustment  
At each meeting the Zoning Board of Adjustment sets aside a time for the public to address issues that are not on the agenda.

#### **Approval of Minutes**

2. January 16, 2020 Regular Meeting

#### **Public Hearings**

3. Petition PV20-0001, 2162 Gulf of Mexico Drive, Longboat Key South Fire Station (QUASI-JUDICIAL)

PETITION #PV20-0001 by Town of Longboat Key, property owner, requesting a Variance from Town Code Section 158.118 of the Town of Longboat Key Code of Ordinances to construct a perimeter retaining wall and earthen side slopes with greater than a 4:1 slope on the South Fire Station site.

## Old Business

## New Business

### Setting Future Meeting Date

#### 4. August 20, 2020 Regular Meeting

## Adjournment

### To View and/or Listen to the Hearing:

Anyone wishing to listen to the hearing and meeting can do so by either: (1) live streaming the hearing through the Town's website at: <https://www.longboatkey.org/town-government/commission-meetings-live>, or (2) by accessing the hearings through Zoom at: <https://us02web.zoom.us/j/81943732128> or by dialing one of the following numbers: 1-312-626-6799, 1-253-215-8782, or 1-301-715-8592 enter the meeting ID 81943732128, and then press the # key. Please be advised that there is a 45 second delay when viewing the Zoning Board of Adjustment meeting/hearing using the Town's website option due to closed captioning.

### To Participate in the Hearing:

Anyone wishing to participate in the quasi-judicial hearing and provide evidence at the hearing must: (1) complete an online Request to Speak form prior to the hearing, (2) submit evidence you want considered at the hearing to the Town for distribution to the Zoning Board of Adjustment prior to the hearing, and (3) access the meeting using Zoom. The Request to Speak form to participate in the public hearing is available on the Town's website at [www.longboatkey.org](http://www.longboatkey.org) and must be completed **no later than 12:00 p.m. (noon) on July 15, 2020**, to be placed on a hearing participant list. The online Request to Speak form will be available from Friday, July 10, 2020, at 12:00 p.m. (noon) until 12:00 p.m. (noon) on July 15, 2020. Additionally, any information/written comments/evidence that you want included in the Agenda packet must be received by [dchipman@longboatkey.org](mailto:dchipman@longboatkey.org) **no later than 12:00 p.m. (noon) on Thursday, July 9**. Any information/written comments/evidence that you want to present as evidence at the hearing and have considered by the Zoning Board of Adjustment during the hearing must be submitted to [dchipman@longboatkey.org](mailto:dchipman@longboatkey.org) **no later than 12:00 p.m. (noon) on Thursday, July 15, 2020** to be distributed to the Zoning Board of Adjustment, the parties, and be included in the official hearing record. Access to participate in the meeting via Zoom by computer, tablet, or smartphone will be available using the following link: <https://us02web.zoom.us/j/81943732128>. Access to participate in the meeting via phone through Zoom is also available by dialing: 1-312-626-6799, 1-253-215-8782, or 1-301-715-8592, enter the meeting ID 81943732128, and then press the # key. Those whom have pre-registered to participate in the public hearing, will be subject to the Town's quasi-judicial procedures set forth in Section 33.25 of the Town Code, including but not limited to, applicable time limitations. If joining from a tablet or smartphone, you will need to download the free Zoom app from your device's app store. If joining from a computer, your computer will automatically download and install (if needed) the Zoom program. If you currently have Zoom installed on your computer, tablet, or smartphone, you may join the meeting by entering the meeting ID 81943732128.

If you have any questions regarding the virtual Zoning Board of Adjustment meeting/hearing, please contact Donna Chipman at [dchipman@longboatkey.org](mailto:dchipman@longboatkey.org) or 941-316-1966.

**Additional detailed instructions relating to viewing and participating in the Zoning Board of Adjustment's virtual meeting and hearings will be posted on the Town's website at: <https://www.longboatkey.org/town-government/boards-and-committees/zoning-board-of-adjustments-virtual-meeting-information>**

No verbatim record by a certified court reporter is made of these proceedings. Accordingly, any person who may seek to appeal any decision involving the matters noticed herein will be responsible for making a verbatim record of the testimony and evidence at these proceedings upon which any appeal is to be based (see Section 286.0105, Florida Statutes). In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing a special accommodation to participate in this proceeding should contact the Town Clerk's office at 941-316-1999 seventy-two (72) hours in advance of this proceeding. If you are hearing impaired, please call 941-316-8719.

**TOWN OF LONGBOAT KEY  
ZONING BOARD OF ADJUSTMENT  
MINUTES OF JANUARY 16, 2020 MEETING**

The meeting of the Zoning Board of Adjustment was called to order by Vice Chair Neal Colton at 9:30 a.m. on Thursday, January 16, 2020.

Members Present: Vice Chair Neal Colton, Members Aaron Kleiner, Kevin Magnus

Members Absent: Chair Gaele Barthold, Secretary Ann Roth

Also Present: Maggie Mooney, Town Attorney; Allen Parsons, Planning, Zoning & Building Director; Tate Taylor, Planner; Donna Chipman, Senior Office Manager

**Public to be Heard**

No one wished to address the board.

**Approval of Minutes**

**Mr. Kleiner made a MOTION TO APPROVE THE MINUTES OF THE OCTOBER 17, 2019, ZONING BOARD OF ADJUSTMENT MEETING; seconded by Mr. Magnus and approved by a unanimous vote.**

**Public Hearings**

The public hearing was opened for Petition #PV19-0003 by Grant's Gardens, property owner, requesting Variances from Town Code Sections 158.070(C) and 158.070(C)(b) of the Town of Longboat Key Code of Ordinances, to 1) reduce the required 25-foot rear yard setback to 10 feet; and, 2) reduce the 30-foot required side yard setback along the east property boundary to 14 feet, for property located at 524 Gulf Bay Road.

Maggie Mooney, Town Attorney, asked if any members had any Ex Parte communications or conflicts of interest. There were no Ex Parte communications or conflicts of interest noted.

Attorney Mooney commented the Zoning Board of Adjustment consisted of five members, and there were three members present for this hearing. She explained that while three members were a sufficient quorum to move forward with the hearing, under Town Code, unless the decision is unanimous, and because there were two missing members, if the decision was not unanimous, then the Board will have to continue the hearing to the February 20, 2020 meeting at 9:30 AM. This will enable the entire Board to be present, or at least provide the ability to have another member in attendance to reconsider the petition.

All those testifying at this hearing signed a '*Request to Be Heard*' form affirming their evidence or factual representation. Proof of Advertising in the *Sarasota Herald-Tribune*, the Town Attorney's Opinion and the Staff Report, including supporting documentation, are part of the applicant's file. Bernadette Fisher, representing the applicant, presented the Return Receipts to staff.

Tate Taylor, Planner, provided an overview of the petition as follows:

- Reviewed the location of the property
- Pointed out the front portion of the property was zoned C-1 Limited Commercial
- In December 2019, the Town Commission rezoned the property from C-1 Limited Commercial to C-2 General Commercial
- Reviewed photographs of the site and existing building
- Reviewed proposed site plan, which was the reason for the variance request
- The applicant would like to create a better appearance and aesthetic view of the site from the road
- The setback from Gulf Bay Road would be 28 feet in order to create and enhance landscaping along the road
- The applicant was proposing two access points along Gulf Bay Road
- The applicant wishes to create a separation between the residential property to the east and the parking area, which will be about 75 feet from the residential property
- The depth of the site was only 100 feet, and the Code requires 200 feet in depth for a commercial property (the property was platted in the 1950s)
- Reviewed the Findings of Fact

Mr. Kleiner believed the requirement was it be the least variance granted, and asked if this was the case. Mr. Taylor commented the idea behind the request was to create the buffer area; alternatively, if they placed the parking on the opposite side, it could be placed up to the property line with the residential property to the east. Mr. Kleiner questioned the enhanced landscaping and what was the assurance that the applicant would install. Mr. Taylor noted the next step in the process was to obtain a site plan and special exception approval. Those assurances could be built in as conditions. Mr. Kleiner believed this would require removal of trees and asked if it would result in an impact in the drainage. Mr. Taylor noted they have not been required to provide drainage details under this application.

Mr. Colton asked if staff have received any opposition to the application. Mr. Taylor replied no. Mr. Magnus questioned if the adjacent neighbors were notified. Mr. Taylor replied yes; notices were mailed for this application and also the previous applications heard before the Planning & Zoning Board and Town Commission.

Don Neu, NeuMorris, agent representing the owner, discussed the process they have gone through to-date for the application, and noted it was a classic case for a variance. They were proposing the minimum amount in order to reconstruct the site.

Bernadette Fisher, agent representing the applicant, reviewed the application noting:

- The project site acreage was 19,984 square feet
- The existing land use was 2,477 square feet with an office building
- The Zoning was changed recently to C-2 General Commercial with a Future Land Use of CG
- Grant's Gardens currently maintains a landscaping and lawn service operation that was established in 2014
- Site configuration is limiting the ability to improve the site specifically to the current regulations

- Request for relief is being sought in order to remain a positive economic contributor to the community
- The special circumstances was due to an exceptional lot shape
- There would be no detriment to the surrounding neighborhood
- The use is a permitted use under the zoning

Mr. Neu noted all the work done out of Grant's Gardens is limited to the islands. Mr. Colton asked if the applicant was aware of any issues raised by the adjacent property owners regarding this application. Mr. Neu noted they have not received anything, and had completed the required mailings and notice on site.

Mr. Kleiner asked if it was the Board's role to address the landscaping. Mr. Colton replied their role was limited to the variance request. Mr. Neu pointed out that subsequent to this application, they would be required to file for a site plan and special exception approval before the Planning & Zoning Board, which will be binding.

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

**It was moved by Kleiner, seconded by Magnus, to approve Petition PV19-0003 as submitted and based on the board's agreement with the Findings of Fact as recommended by staff. Motion carried on roll call vote: Colton, aye; Kleiner, aye; Magnus, aye.**

#### **Old Business**

There was no Old Business.

#### **New Business**

There was no New Business.

#### **Setting Future Meeting Date**

Allen Parsons, Planning, Zoning & Building Director, informed the board there were no petitions in process for the February meeting; therefore, the February meeting would be canceled. The next meeting will be tentatively scheduled for March 19, 2020.

#### **Adjournment**

The meeting was adjourned at 10:03 am.

Respectfully submitted,

Ann Roth, Secretary  
Zoning Board of Adjustment

## MEMORANDUM

TO: Zoning Board of Adjustment

FROM: Tate Taylor, AICP, PMP, Planner

THROUGH: Allen Parsons, AICP, Planning, Zoning and Building Director

SUBJECT: VARIANCE PETITION #20-0001

MEETING DATE: July 16, 2020

APPLICANT: Isaac Brownman, PE, Director, Public Works

LOCATION: 2162 Gulf of Mexico Drive  
Longboat Key, Florida 34228

REQUEST: Variance from Town Code Section 158.118(D) of the Town of Longboat Key Code of Ordinances, to construct a perimeter retaining wall and earthen side slopes with greater than a 4:1 slope.

### BACKGROUND AND SUMMARY

The subject property of this variance request is the South Fire Station (Station 92), located at 2162 Gulf of Mexico Drive. This Town facility was originally constructed in the mid-1980's on property that was donated to the Town by the Arvida Corporation. The station provides emergency services coverage for more than the southerly half of the Town of Longboat Key.

On March 20, 2018, the Town's electors voted to authorize the Town's borrowing of up to \$5,895,000 for the construction of a new South Fire Station (Station 92) and the renovation of the North Fire Station (Station 91). On June 5, 2017 the one-story design concept for the South Fire Station was adopted under Ordinance 2017-18. The bonding is complete and the funding is in place for both projects. At the July 1<sup>st</sup>, 2019 Town Commission meeting the design of the new South Fire Station was presented and approved.

The variance request is intended to support the increase in elevation required of the rebuilt fire station, above the FEMA flood zone requirements, on a constrained site. In order to meet the required elevation requirements the projection will require construction of retaining walls on the southerly and easterly sides of the building and adjustments to earthen slopes on the northerly side of the building that would exceed the Town's maximum slope requirement found in Chapter 158.118(D) criteria (highlighted below).

The requested variance is to construct perimeter retaining walls and earthen side slopes with greater than a 4:1 slope.

**Zoning Code requirement:**

**158.118- Lot excavation, grades and frontage.**

(D) Lot grades between any property line and a structure shall not exceed a maximum slope of one vertical unit to four horizontal units at any point along the slope. A retaining wall may only be constructed for the purpose of achieving the required one-to-four slope over a minimum distance of four feet unless the wall meets the required setback. In any event, the retaining wall cannot exceed eight feet in height.

**VARIANCE AUTHORITY PURSUANT TO SECTION 158.010**

Section 158.010(F)(3) of the Zoning Code provides for specific restrictions on variances.

*To authorize upon appeal in specific cases and where not otherwise prohibited by the terms of this chapter a variance from the terms of this chapter as will not be contrary to the public interest, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. As used in this chapter a variance can be authorized only for height, area and size of structure or size of yards and open spaces; but in no event may a variance be granted by the board of adjustment that would allow an increase in density.*

**STAFF ASSESSMENT**

Staff reviewed the application for variance from the requirements in Section 158.118(D) of the Zoning Code to construct retaining walls and earthen slope in excess of a 4:1 slope in the side yard and rear yard setbacks. The following is an assessment of the application for the proposed variance.

**Assessment of Existing Conditions**

The Applicant is seeking to construct a new fire station, which would meet FEMA and Town elevation requirements by replacing the existing obsolete fire station located at 2162 Gulf of Mexico Drive. The fire station site is unique for a number of reasons. In terms of site constraints, it is one of the only single “parcels” in the area available for a fire station. The fire station serves as one of the Town’s emergency services locations that serves more than the southerly half of the Town. In addition to the emergency role in serving the residents and visitors of the Town, the parcel’s redevelopment would be compatible with the surrounding area, as it is not surrounded by residential buildings and property, but by the open space area of the Harbourside Golf Course.

The most significant update affecting this site is the requirement of the Federal Emergency Management Act (FEMA) which requires an increase in the elevation of the new proposed fire station building. The new fire station requires a minimum Finished Flood Elevation (FFE) of 11.0. The existing Fire Station has a FFE of 9.7. It is important to note the existing elevations of the grounds at the site vary from 3+/- feet to 7+/- feet. The combined effect of redeveloped and slightly larger building and existing site



elevations, mandate the use of a retaining wall on the southerly and easterly parcel lines to achieve the building's minimum elevation required. On the project's southerly side, to maintain the needed width of an access drive aisle with a turning radius designed for the various fire apparatus vehicles (i.e. ladder trucks) for the proposed fire station, a retaining wall is needed. Given the site constraints, 4:1 slopes cannot be maintained within the zoning setback areas.

In addition, the design criteria for emergency vehicles, which will be housed at the site, limits the longitudinal slope of the driving lane. Therefore, the access drive for these vehicles to the vehicle bays of the building require a gradual slope up to the vehicle bay elevation of 11 feet. In order to facilitate this required gradual upward slope for these specialized vehicles, a retaining wall is required to transition from the slope grade at the drive aisle entrance to the required elevation of the vehicle bay area of the fire station.

### **Surrounding Conditions**

As stated above, the Fire Station site is unique to this area. It is one of the only single "parcels" in the area available for a fire station. Also, unlike most fire station locations that are immediately surrounded by other buildings and urban fabric, this location benefits from the open space of the golf course area that surrounds it. This uniqueness makes this fire station compatible with the surrounding area as it is surrounded by the open area of the Harbourside Golf Course and serves as an excellent location in which to best serve the residents and visitors of the Town. Therefore, the existing parcel is ideally located for redevelopment.

### **Prior Variance Request**

Not Applicable.

### **Compliance with the Zoning Code**

Section 158.118(D) of the Town Code provides the following:

*Lot grades between any property line and a structure shall not exceed a maximum slope of one vertical unit to four horizontal units at any point along the slope. A retaining wall may only be constructed for the purpose of achieving the required one-to-four slope over a minimum distance of four feet unless the wall meets the required setback. In any event, the retaining wall cannot exceed eight feet in height.*

This requirement in the Town regarding lot grades and grading is a requirement that assists with preserving view shed areas as well as facilitating lot drainage. The entire land area of the Town is within a flood zone of one degree or another and because of this, properties must be elevated to meet the relevant flood zone requirements. Maintaining the required 4:1 slopes facilitates the ability for property owners and visitors the ability to take in the enjoyable views and, where applicable, the splendor of the



water area of the Gulf and the Bay areas that surround the Town. The gradual slope also aids in ground percolation and runoff from precipitation. The Applicant has provided a drainage plan for the site meeting the requirements of the Town, and no view shed areas of the Gulf or Bay areas will be impacted by the proposal.

In this request, the Applicant is proposing this variance to be able to provide the retaining walls, but to locate them within the required setback areas (side yard is 30 feet minimum, rear yard is 30 feet) and exceeding the required slope. The Applicant has provided the proposed construction drawings for the fire station with cross sections demonstrating the proposed construction as compared with a 4:1 slope configuration. Section C-C of the site plan demonstrates that if a 4:1 slope was provided along the south property line, the fire lane around the building could not be accommodated on the site.

### **Variance Criteria**

As per Town Code Section 158.020, the Board may authorize a variance from the zoning code requirements if such variance is not contrary to the public interest and if compliance with Town Codes will result in an unnecessary and undue hardship. In making such a determination to grant a variance, the Board must make specific findings of fact that each of the criteria set forth below has been met. To facilitate the Board's review and consideration of the subject variance petition, staff has provided an assessment of each of the seven (7) criteria.

### **RECOMMENDED FINDINGS OF FACT**

1. **The variance is in fact a variance as set forth within this Chapter and within the jurisdiction of the Board:** Please see the Town Attorney's memo, attached, which establishes the Board's jurisdiction.
2. **Special conditions and circumstances exist which are peculiar to the land, structure, or building, and which are not applicable to other lands, structures, or buildings in the same zoning district:**

**Staff Finding:** Special conditions and circumstances do appear to exist which are peculiar to the land, structure, or building, and which are not applicable to other lands, structures, or buildings in the same zoning district. There are no other sites of sufficient size available in this area, and this site is ideally located for emergency response and service to the southerly portion of the Town.

3. **The special conditions and circumstances do not result from the actions of the applicant:**

**Staff Finding:** Special conditions and circumstances do not result from the actions of the applicant. The conditions are the result of the ability to

meet the FEMA finished floor elevation (FFE) requirements. The proposed building must be elevated. The elevation requires the use of retaining walls or slope adjustments to allow the specialized emergency vehicles access to the site. The same conditions and circumstances existed when the property was obtained in the 1980's.

4. **Granting the variance requested will not confer on the applicant a special privilege that is denied by this Chapter to other lands, buildings or structures in the same zoning district:**

**Staff Finding:** Granting the variance requested will not confer on the applicant special privilege that is denied by Town Code Section 158.020 to other lands, buildings or structures in the same zoning district. The variance would allow for the property to continue its current use as a fire station and improving a continued use of the property that will greatly improve the appearance and character of the site and the immediate area.

5. **Literal interpretation of the provisions of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Chapter and would result in unnecessary and undue hardship on the applicant:**

**Staff Finding:** Literal interpretation of the provision of this Chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of Town Code Section 158.020 and would result in unnecessary and undue hardship on the applicant.

This site and use as a fire station is atypical in that it is only one of two sites in the Town that are occupied and utilized as fire stations. As described above, the Applicant is seeking to improve the property while bringing the property into conformity with the FEMA Base Flood Elevation requirements by elevating the proposed new fire station building.

6. **The variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure:**

**Staff Finding:** The variance, if granted, would be the minimum variance that will make possible the reasonable use of the land, building or structure. The amount of retaining wall and slope have been designed to limit the height and length to the minimum required to accommodate the proposed construction.

7. **The grant of the variance will be in harmony with the general intent and purpose of this chapter, and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.**

**Staff Finding:** The granting of the variances would be in harmony with the general intent and purpose of this chapter and would not be injurious to the area involved or otherwise detrimental to the public welfare. As stated above, the variance would allow for the property to continue its current use as a fire station and improving a continued use of the property that will greatly improve the appearance and character of the site and the immediate area. The proposed redevelopment of the site will greatly benefit the public welfare, health, and safety of the Town.

## **STAFF RECOMMENDATION**

Staff is supportive of the findings associated with this site's constraint of parcel availability, and lot size, combined with flood elevation requirements of FEMA and accommodation of fire apparatus prompting the requested variance.

Approval of the variance and redevelopment of this site will bring the proposed fire station into compliance with the Federal Emergency Management Act (FEMA) which require elevation of the new proposed fire station building to a minimum Finished Flood Elevation. In addition, compliance with the design criteria for the turning radius and access slope to the vehicle bay of the building for the emergency vehicles and apparatus will be able to be accommodated with the construction of the new fire station.

The fire station will be compatible with the surrounding area as it is surrounded by the open area of the Harbourside Golf Course and serves as an excellent location in which to best serve the residents and visitors of the Town. Therefore, the existing parcel is ideally located for redevelopment.

Staff is of the opinion that the proposal has provided sufficient evidence of meeting criteria set forth in Section 158.020 to grant the variance request.

Based on the above assessment of Variance Petition 20-0001 and the variance criteria of Section 158.020(A), Staff recommends **Approval** of Variance Petition 20-0001.

## **ATTACHMENTS**

Variance petition and support documentation

Cc: Isaac Brownman, PE, Director – Public Works  
Maggie Mooney-Portale, Town Attorney  
Allen Parsons, AICP, Director – Planning, Building and Zoning Department

APPLICANT'S APPLICATION MATERIALS

AVAILABLE UPON REQUEST

IN THE PLANNING, ZONING AND BUILDING DEPARTMENT