

# HPC

## Monroe County Historic Preservation Commission

### MINUTES

Tuesday January 11<sup>th</sup>, 2022



### 2:00 PM Regular Meeting:

#### **Call to Order.**

Brian Shea called the meeting to order.

#### **Roll Call.**

Present and answering to roll call were Chair Commissioner Brian Shea, Commissioner Barbara Bauman, Commissioner Bert Bender, and Commissioner Alice Allen.

Absent: Commissioner Kate Deloach.

#### Staff present:

Peter Morris, Assistant County Attorney

Devin Tolpin, Principal Planner

Diane Silvia, Preservationist

Bert Bender motioned to allow Alice Allen vote remotely based on medical necessity. Barbara Bauman seconded the motion. The motion carried unanimously.

#### **Adoption of the Minutes from the meeting on December 6<sup>th</sup>, 2021.**

Bert Bender motioned to approve the minutes from the December 6<sup>th</sup>, 2021, meeting. Barbara Bauman seconded the motion. The motion carried unanimously.

#### **Changes to the Agenda.**

There were no changes to the agenda.

#### **Applications for Special Certificate of Appropriateness**

**1. LOWE STREET, LLC (FILE #2021-219) IS SEEKING APPROVAL TO DEMOLISH A STRUCTURE WITHIN THE TAVERNIER HISTORIC DISTRICT, HAVING PARCEL IDENTIFICATION NUMBER 00506410-000000 AND DESCRIBED AS PART OF LOT 48, TAVERNIER COVE, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 1, AT PAGE 103, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA. (Continued from the December 6, 2021, meeting).**

#### **Staff presentation and recommendation**

Diane Silvia read the staff report noting the applicable standards and guidelines.

#### **Applicant presentation of additional material**

Nicholas Mulick, Attorney for the owner, presented a statement from David Smith, Building

Contractor, that said the structure "... cannot be repaired and must be demolished." Mr. Mulick also provided additional photographs showing the condition of the structure. He feels the structure is unsalvageable. He took the photos through the open windows. The Building Official is requiring a Special Certificate of Appropriateness as a condition for the issuance of a demolition permit.

### **Public testimony**

There was no public testimony.

### **Staff response**

Devin Tolpin, Principal Planner, said the zoning district the shed is located in, Suburban Commercial, does not allow an accessory structure without a principal structure. It appears to have always been a shed or utility building. At this time, she is unable to locate the principal structure it is associated with.

Peter Morris, Assistant County Attorney, said the shed looks incredibly unsafe. The additional materials Mr. Mulick provided are part of the record. This structure is the subject of an unsafe order.

### **Board discussion**

Bert Bender said a report was supposed to have been prepared by an Engineer or Architect and it is not. The report was prepared by a contractor and is not sufficient. It is not what I was expecting to see. Is staff saying that because there is no principal structure, we do not need a report.

Devin Tolpin said that was not the intention of her comment. She was just providing supplemental information.

Mr. Bender said he would like to see a proper report before commenting on it.

Alice Allen said the shed was part of the Cliff Carpenter property the house now owned by Mary Kenner. When the property was purchased, it was complete with the three little lots at the highway and the bigger lot at the rear that contained the shed. In the fifties these zoning laws were not there. Her memories of this property go back to at least 1948. It was in good condition and Cliff used it. He was a charter fisherman and had a lot of materials. The property was sold and divided so the house was on a separate property as it is now. It is not nonconforming. That is a lack of history in our record books.

Ms. Tolpin said the way our code now reads is an accessory structure must be on the same property as the principal structure. If an accessory structure is separated when a property is divided it is supposed to be demolished. Yes, the shed was permitted but it does not comply with the current code.

Mr. Morris shared a copy of the unsafe document from the Building Official that gave the only remedy to this code case is demolition. This is the only prescribed remedy available. He just wants to make sure everyone is up to speed on this.

Mr. Bender asked does the code require us to approve demolition without a report?

Mr. Morris said the unsafe section in Chapter 6 does allow for abatement by repair, rehabilitation, or demolition. The problem is that the possibility of repair is now gone because the Building Official's declaration only prescribes demolition. This probably reflects the Building Official's view that a prompt abatement is better than a lengthy abatement due to the unsafe condition of the structure.

Brian Shea said that code requires us to be notified of that determination.

Ms. Tolpin said Section 135-8 of the Land Development Code describes that requirement.

Mr. Shea said then is it correct that Section 135-6d would no longer apply.

Ms. Tolpin said that is correct.

Mr. Morris said yes with respect to LDC's. For better or for worse, we now have the one remedy that the Building Official has prescribed.

Mr. Mulick said the issue of whether or not this is a nonconforming structure relates to future use. The owner has no interest in reconstructing anything on that property. The property will remain vacant. If someone purchased the property, they would have to do what they need to do to develop it. He said for the record there was no intention to ignore the Commission's request for a report. They tried to get an engineer or architect to complete a report, but could not before the meeting date, so they had the contractor assess it to show good faith. He has never seen a structure go into that level of disrepair. There is nothing that can be salvaged.

Mr. Bender asked Diane Silvia if a case like comes up again do they just advise us or do we take action.

Ms. Silvia said we would take action. She asked Peter for the date of the Building Official's declaration.

Mr. Morris said December 18<sup>th</sup>, 2019.

Mr. Bender said if this was from 2019 why is that coming to us now.

Mr. Morris said he does not believe it was included in the application. They only received it a few days ago.

Mr. Shea asked staff to check for any other unsafe structures cases in the historic district and that repair or rehabilitation be added as possible remedies, not strictly demolition.

Ms. Tolpin said she will reach out to the Building Department.

## **Motion**

Brian Shea motioned that in this instance only, due to the unsafe condition of the structure, with no other remedies available, approval of the demolition. Barbara Bauman seconded the motion. A roll call vote was held. Brian Shea and Barbara Bauman voted in favor of the motion. Bert Bender and Alice Allen voted against the motion. Therefore, the motion failed.

Bert Bender said if we defer this to when an odd number of Commissioners are present, they might get an approval. He does not know whether he would change his mind but believes we are entitled to a report by an engineer or architect with a site plan and verbiage as to the condition of the structure before we allow it to be demolished.

Mr. Mulick said practically speaking there is nothing more compelling than looking at the photos. According to the law, this should never have had to come before the HPC if the Building Official mandated this.

Mr. Bender said this has been going on two years, so it is not unreasonable to take a month to obtain a report.

Mr. Mulick said it will be costly to get a report and repairs would be more dangerous than demolition.

Mr. Shea asked if Mr. Mulick would like to defer this until the next meeting.

Mr. Mulick said he feels it is unfair to require a report and spend money for what we already know. Legally, we are under no obligation to submit such a document. We are under a governmental order.

Bert Bender motioned to defer this to the next meeting to give them time to submit a report by an architect or engineer that the public will be able to review and inspect. Alice Allen and Barbara Bauman seconded the motion. A roll call vote was held. All voted in favor of the motion.

**2. LLORENTE 233 HOLDINGS LLC (FILE #2021-234) IS SEEKING APPROVAL TO INSTALL FENCING AND A GATE AT 91461 OVERSEAS HIGHWAY, WITHIN THE TAVERNIER HISTORIC DISTRICT, HAVING PARCEL IDENTIFICATION NUMBER 00477170-000000 AND DESCRIBED AS LOTS 4, 5, 6, AND THE NORTHEASTERLY 7.5 FEET OF LOT 7, BLOCK 2 OF LARGO BEACH, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, AT PAGE(S) 108, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.**

### **Staff presentation and recommendation**

Diane Silvia read the staff report noting the applicable standards and guidelines.

### **Applicant presentation**

There was no one present to represent the project.

### **Public testimony**

There was no public testimony.

**Staff response**

Devin Tolpin said that in Land Development Code, Section 114-13 does not allow fences to exceed three feet high within the clear sight triangle. In case of approval, she recommended they use up to the requested height in a motion. Up to 4' and up to 6' in the approval to comply with the Code.

**Board discussion**

There was no board discussion.

**Motion**

Bert Bender motioned to approve the project with the condition that the proposed fence heights are up to 4' and up to 6' according to the Code. Brian Shea seconded the motion. A roll call vote was held. All voted in favor of the motion. The motion carried unanimously.

**3. MARK WARREN AND SHARON WARREN (FILE #2021-246) ARE SEEKING APPROVAL FOR DOCK REPAIRS AND TO INSTALL TWO BOAT CRADLE LIFTS AT 180 SUNRISE DRIVE. WITHIN THE TAVERNIER HISTORIC DISTRICT, HAVING PARCEL IDENTIFICATION NUMBER 00506150-000000 AND DESCRIBED AS LOTS 27, 28, 29, 30, 31, AND ADJACENT BAY BOTTOM AND PROMENADE LYING EASTERLY OF LOTS 27, 28, AND THE RESERVED PARCEL BETWEEN LOTS 29, 30, AND TARPON STREET AND DRIVEWAY SOUTH OF SUNRISE DRIVE OF TAVERNIER COVE NUMBER 1, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 1, PAGE(S) 103, OF THE PUBLIC RECORDS OF MONROE COUNTY, FLORIDA.**

**Staff presentation and recommendation**

Diane Silvia read the staff report noting the applicable standards and guidelines.

**Applicant presentation**

Eric Parker, agent for the owners, was there to represent the project for dock repairs and boat lifts.

**Public testimony**

There was no public testimony.

**Staff response**

There was no staff response.

**Board discussion**

There was no board discussion.

**Motion**

Bert Bender motioned to approve the project as planned. Barbara Bauman seconded the motion. A roll call vote was held. All voted in favor of the motion. The motion carried unanimously.

**Other Business:**

As there was no other business, the meeting was adjourned.