



# TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on October 11, 2023

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order on October 11, 2023, at 9:32 a.m. On roll call, all elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Acting Town Clerk Churney gave the invocation. Council President Zeidman led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore had no comments.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Pro Tem Lindsay had no comments.

**Council Member Crampton made a motion for a reconsideration of Lawrence A. Moens' permit extension for 2320 Old South Ocean Blvd.**

***Clerk's note: Council Member Cooney declared a conflict of interest and left the room.***

**Council President Pro Tem Lindsay seconded the motion. The motion was carried unanimously, 4-0.**

Maura Ziska, Attorney for Lawrence A. Moens, asked the Town Council to consider a new vote to allow the work to continue for 32 weeks. She briefly touched on the remaining work to be completed and stated that there were no objections from the adjacent association members.

Council Member Araskog asked why the permit extension was needed, to which Mr. Moens

responded that he was waiting for supplies to arrive. He discussed the preservation efforts being made on the property.

Council Member Crampton spoke in support of the permit extension request.

**A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve a 32-week building permit extension for 2320 Old South Ocean Blvd., with the condition that no work will occur during the holiday hours, as per the Town Code. The motion was carried unanimously, 4-0.**

Council Member Araskog commended police officer Kendall Reyes on her receipt of the Carnegie Medal because of her efforts to save a community member.

Council Member Cooney had no comments.

Council President Zeidman had no comments.

V. COMMUNICATIONS FROM CITIZENS – 3-MINUTE LIMIT, PLEASE

No one indicated a desire to speak.

VI. APPROVAL OF AGENDA

Wayne Bergman, Director of Planning, Zoning and Building, added the following agenda item:

B. Time Extensions and Waivers

7. Waiver of Town Code Section 42-199, For Extended Working Hours at 150 Worth Avenue – Compass Real Estate Office.

**A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the agenda as amended. The motion was carried unanimously, 5-0.**

VII. CONSENT AGENDA

- A. **ZON-23-087 625 CREST ZON-23-059 (ARC-23-063) 1265 N LAKE WAY (COMBO) – SITE PLAN REVIEW** The applicant, 1265 N Lake Way LLC (Maura Ziska, Manager), has filed an application requesting Town Council Site Plan Review for development of single-family dwelling on a lot deficient in lot width in the R-B zoning district. The Architectural Commission shall perform design review of the application.
- B. **ZON-23-074 755 N COUNTY RD - BEACH CLUB - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Beach Club, Inc. (Robert Morris, General Manager), has filed an application requesting Town Council review and approval for a Special Exception w/ Site Plan Review for alterations and additions to an existing special exception use (Club) in the R-B Zoning District, in order to install a secondary means of beach access to match the existing beach access ramp along the bulkhead to the east of the property.
- C. **ZON-23-090 235 SUNRISE AVE - VARIANCES** The applicant, Palm Beach Hotel Condominium Association, Inc. (Anthony Sawaya, Board President), has filed an application requesting Town Council review and approval for variances to permit two (2) emergency fire escape stairs to encroach into the required north rear yard setback.

- D. **ZON-23-093 (ARC-23-122) 241 JUNGLE RD (COMBO) - VARIANCE** The applicant, 241 Jungle Rd Trust, has filed an application requesting Town Council review and approval for a Variance to exceed the maximum screening wall height for a generator in order to screen the equipment. The Architectural Commission shall perform design review of the application.
- E. **ZON-23-096 446 N LAKE WAY - VARIANCE** The applicant, Robert Johnson, has filed an application requesting Town Council review and approval for a Variance to exceed by 10' the maximum dock landing width of 10' in order to install a 20' wide landing dock.
- F. **ZON-23-099 230 WORTH AVE - SPECIAL EXCEPTION** The applicant, Palm V Associates, has filed an application requesting Town Council review and approval for a Special Exception for a permitted use (retail) over 4,000 SF of leasable area in the C-WA zoning district.

Council Member Araskog pulled consent agenda items D and E from the consent agenda.  
Council Member Cooney pulled consent agenda item B from the consent agenda.

**A motion was made by Council Member Cooney and was seconded by Council President Pro Tem Lindsay to approve the consent agenda items A, C, and F and that the projects contained within the consent agenda meet the requirements of Chapter 134, specifically sections 134-326 – 134-330 for Site Review, Section 134-229 for Special Exceptions, and section 134-201 for Variances. The motion was carried unanimously, 5-0.**

#### **VIII. REGULAR BUSINESS**

##### **A. Items Pulled from the Consent Agenda**

**ZON-23-074 755 N COUNTY RD - BEACH CLUB - SPECIAL EXCEPTION WITH SITE PLAN REVIEW** The applicant, Beach Club, Inc. (Robert Morris, General Manager), has filed an application requesting Town Council review and approval for a Special Exception w/ Site Plan Review for alterations and additions to an existing special exception use (Club) in the R-B Zoning District, in order to install a secondary means of beach access to match the existing beach access ramp along the bulkhead to the east of the property.

No one declared ex-parte communications.

Council Member Cooney inquired about the additional stairway at the Beach Club.

Maura Ziska, attorney for the applicant, stated the applicant wanted a second means of egress to the beach.

**A motion was made by Council Member Cooney and was seconded by Council President Pro Tem Lindsay to approve Special Exception with Site Plan ZON-23-074, as said applications meet the criteria set forth in Sections 134-229 and 134-329, respectively, of the Town Code, and finding that approval of the site plan will not adversely affect the public interest and that all zoning requirements governing this use have been met and satisfactory provision and arrangements have been made concerning items 1-11 of Section 134-329. The motion was**

carried unanimously, 5-0.

**ZON-23-093 (ARC-23-122) 241 JUNGLE RD (COMBO) - VARIANCE** The applicant, 241 Jungle Rd Trust, has filed an application requesting Town Council review and approval for a Variance to exceed the maximum screening wall height for a generator in order to screen the equipment. The Architectural Commission shall perform a design review of the application.

No one declared ex-parte communications.

Council Member Araskog asked to see photos of the generator, the wall, and the gate.

Daniel Kahan, Smith & Moore Architects, presented photographs of the enclosure. He stated it was originally intended as a parking area for staff and guests. The current owners would like a generator. The plan was to use the existing enclosure to screen the generator. Mr. Kahan said once the generator was placed inside the enclosure, the walls required to screen it on all sides were higher than what was allowable by approximately 4 inches. The Architectural Review Commission (ARCOM) was supportive of the position of the generator, and they made one request from a design standpoint. The slatted gate was much larger, but it would be reduced in width.

Council Member Araskog asked if this condition was occurring more frequently. Mr. Bergman confirmed this and stated it was due to FEMA requiring mechanical equipment to be elevated at the base flood position. He added that the staff was working to resolve the issue at the staff level. Council Member Araskog requested the wall be kept as low as possible.

**A motion was made by Council Member Cooney and seconded by Council Member Araskog that Variance ZON-23-093 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. The motion was carried unanimously, 5-0.**

**ZON-23-096 446 N LAKE WAY - VARIANCE** The applicant, Robert Johnson, has filed an application requesting Town Council review and approval for a Variance to exceed by 10' the maximum dock landing width of 10' in order to install a 20' wide landing dock.

Council President Zeidman declared ex parte communications.

Maura Ziska, attorney for the applicant, addressed some confusion about this project. There was a dock that previously existed and had been removed. A new dock had begun construction approximately 52 feet south of the previous dock. The project is about 78 feet from the north property line and over 50 feet from the south property line, where only 25 feet was required. She said the dock met the code requirements, and the variance request was to accommodate a landing dock for items such as chairs and paddleboards.

Mr. Bergman stated this variance was typical and something the Town Council authorized staff to resolve in the zoning code.

Council Member Araskog asked about the width of the addition to the dock, and Ms. Ziska said it was approximately 25 feet.

Council President Pro Tem Lindsay said platform docks were the way of the future.

There was a discussion among the Town Council about making amendments to the code relative to the requirement for a variance for the construction of dock structures.

Council President Zeidman said a notice was sent to the neighbors because it was a variance. She said consideration must be given to the fact that if a variance were not required, then neighbors would not know when a new structure was being constructed.

James Murphy, Assistant Director of Planning, Zoning and Building, stated he and Director Bergman had been discussing the variances for boat docks. He said the ordinance had a positive intent, which was not to allow people to expand their rear yards; however, there were unintended consequences. When the code is reviewed, the root of the Town Council's concerns would be audited, and better language would be drafted so that these types of structures would still have to be approved by the Town Council. Further, traditional L-formation docks would not be subject to meeting the requirements for a hardship variance.

**A motion was made by Council Member Cooney and was seconded by Council Member Crampton that Variance ZON-23-096 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7, have been met. The motion was carried unanimously, 5-0.**

## **IX. DISCUSSION ITEMS**

### **A. Update on the Comprehensive Plan Evaluation and Appraisal Review (EAR) & Zoning Code Review**

Director Bergman provided the update. He stated the town was on a timeline mandated by the State, and the updates must be completed in December and January. He provided a draft copy of the Comprehensive Plan for their review.

Director Bergman provided an update on the Zoning Code Review and the items Sean Suder had worked on during the last several months.

Council Member Araskog asked why the Council had not been receiving regular updates on Code Review. Council President Zeidman responded that several Planning and Zoning Commission meetings had been canceled due to the delay in the Code Review. However, she requested the Town Council be allowed to see the draft changes.

Director Bergman responded that staff would simultaneously send any changes to the Town Council and the Planning and Zoning Commission. He added that staff would review the work prior to pushing it out to the public.

Council Member Crampton asked if the Code Review would be reviewed in pieces or all at once, to which Director Bergman replied that it would be in multiple pieces.

Council Member Araskog stated that she believed it had been decided that the Town Council would be part of the process as it progressed.

Council Member Crampton agreed that the Town Council should be involved in the early stages of the review.

Council Member Araskog wanted to see the direction of review piece by piece since money was being spent.

Council President Zeidman stated that the Town Council would begin the review in November.

## X. RESOLUTIONS

- A. Resolution authorizing an ad valorem tax abatement for the property at 215 Seaspray Avenue, which has met the criteria outlined in Chapter 54, Article V.

**RESOLUTION NO. 126-2023** A Resolution of The Town Council of The Town Of Palm Beach, Palm Beach County, Florida, Authorizing Ad Valorem Tax Exemptions For The Property Hereinafter Described And Stating That The Subject Property Meets The Criteria Set Forth In Chapter 54, Article V Of The Code Of Ordinances Of The Town Of Palm Beach, Relating To Landmarks Preservation And Titled "Tax Exemptions."

Emily Stillings, with MurphyStillings, presented the resolution for a historic tax abatement at 215 Seaspray Avenue. She said the owner applied for the town tax abatement program to rehabilitate the residence, which included renovations and a rear addition. The improvements have been completed according to the Landmarks Preservation Commission's (LPC) approvals and the Secretary of the Interior Standards for Rehabilitation. Upon approval by the Town Council, the resolution would be forwarded to the county and the property appraiser's office.

Ms. O'Conner, Attorney, read Resolution No. 126-2023 by title only.

**A motion was made by Council Member Crampton and was seconded by Council President Pro Tem Lindsay to approve Resolution No. 126-2023.**

Council Member Cooney thanked the property owner for their investment. He said when property owners request this abatement program, they subject themselves to a higher standard of review.

**The motion was carried unanimously, 5-0.**

*At this time, Director Wayne Bergman continued with his updates.*

Mr. Bergman provided some statistical information from the Planning Zoning and Building Department. He stated that the staff was working on updates to the design matrix to clearly define the different steps of responsibility as to which body would review projects and which projects would require formal approval from the

commissions.

Council Member Araskog stated that the Town Council was supposed to receive a further breakdown of the R-B Zoning District. She asked for that information to be provided again. Mr. Bergman said he thought Mr. Suder's draft study would include that information.

Council President Pro Tem Lindsay asked if it would be difficult for the information to be broken down by districts to help the Town Council understand the volume of permits issued in specific areas. Mr. Bergman said that data could not be provided with the current software, but staff could dissect the data by category of permits being issued. Mr. Bergman said in the future, the software would be GIS-based, and the requested information per district would be available.

## **XI. DEVELOPMENT REVIEWS**

### **A. Variances, Special Exceptions, and Site Plan Reviews**

#### **1. Old Business**

- a. **ZON-23-049 (ARC-23-057) 2 S COUNTY RD (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, The Breakers Palm Beach, Inc. (Alex Gilmurray), has filed an application requesting Town Council review and approval for Special Exception with Site Plan Review for modifications to the tennis center at the Breakers hotel including replacement of and addition of courts, shade structures, walkway and stretching area, and (2) variances to (1) provide court fencing that is deficient in height and (2) to provide tennis court lighting that exceeds maximum heights allowed. The Architectural Commission shall perform design review of the application.

Ex-parte communications were disclosed by Council President Zeidman, Mayor Moore, Council Members Araskog and Cooney.

Jamie Crowley, attorney for the applicant, presented the plans and explained the request for special exception with site plan review and variances. He said a resolution was adopted, modifying the PUD to allow this request to move forward through the process.

James Murphy, Assistant Director of Planning, Zoning and Building, stated Mr. Crowley outlined the process, which was a unique situation. This request had to go through the Planning and Zoning Commission first because of the specificity of the PUD language. He stated that the Architectural Review Commission (ARCOM) had vetted the application.

Council Member Araskog recollected a discussion about the Breakers looking similar to a sports complex, as well as a conversation about the shade structures not being done in Palm Beach.

Mr. Crowley said those topics were discussed with ARCOM, and specifically, the architects suggested that the shade structures be changed from blue to white. In addition, landscaping had been supplemented on the east side of the tennis courts. Through landscaping, the shade structures would be less noticeable. Mr. Crowley said an updated landscaping plan had been presented to ARCOM, and they were pleased with the proposal.

Council Member Araskog asked if the hedges could be higher to camouflage the shade structures. Mr. Crowley noted the proposed hedge will grow and mature.

Paul Leone, CEO of the Breakers, clarified that the awnings are difficult to see when passing by on the road. He said adding landscaping would be easy. He explained the layers of landscaping that were proposed.

Mayor Moore stated that she had not been able to see the structures from the driveway. She commended Mr. Leone and Mr. Crowley on a well-done job while remaining mindful of the community. She acknowledged that she believed she was one of the nearest affected neighbors.

Mr. Crowley clarified how much and what kind of landscaping would be used.

Council President Pro Tem Lindsay commended the work on the project and the selection of native plants. She asked what the height would be for the installed Clusia. Mr. Crowley thought it was 6 feet but stated he would verify. She thought they had done a good job on the design. She encouraged them to install an 8-foot-tall Clusia hedge.

Council Member Crampton asked for assurance that if the shade structures were visible from the road, changes to the landscaping would be made to hide them. The applicant assured the Town Council that they would ensure the landscaping worked as intended.

Several Council Members agreed that the hedge should be raised to eight feet.

Council Member Cooney acknowledged the applicant's efforts to protect residents from skin cancer. Mr. Leone stated that the tennis courts were used mainly by residents rather than guests at the hotel, and he believed that this would be good for the community. Council Member Cooney suggested a condition of approval that the landscape buffer be maintained in perpetuity. He also pointed out that the structures were shorter than the recommended height from the US Tennis Association in an effort to be contextual with the fabric of the town.

Council President Zeidman agreed and commended the applicant.

Council Member Araskog asked about the height of the lights compared to the landscaping; she asked that they be turned away from the street. Mr. Crowley responded. Council Member Araskog felt that the lighting looked too commercial for the Town.

Council President Zeidman called for public comment, and no one indicated a desire to speak.

**A motion was made by Council Member Cooney and was seconded by Council Member Crampton that Variance ZON-23-049 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 123-102 (A), items 1 through 7, have been met. The motion was carried, 4-1, with Council Member Araskog dissenting.**



A motion was made by Council Member Cooney and was seconded by Council Member Crampton that Special Exception and Site Plan ZON-23-049 be approved as said applications meet the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code, and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of Section 134-329 and with the condition that an eight-foot landscape buffer be maintained in perpetuity. The motion was carried, 4-1, with Council Member Araskog dissenting.

- b. **ZON-22-021 (ARC-22-022) 160 SEAVIEW AVE (COMBO) – VARIANCES** The applicant, Coral Beach Corporation (Angela Feldman, President) and Seaview Holdings, Inc. (David Feldman, Director), has filed an application requesting Town Council review for variances to exceed the point of measurement elevation higher than allowed to be measured from and to reduce the required street side yard setback for a new guest house on combined parcels at 160 and 170 Seaview Avenue. ARCOM will perform design review of the application.

*Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.*

- c. **ZON-23-002 (ARC-22-241) 624 ISLAND DR (COMBO) - VARIANCES** The applicant, Holly Ann Bartlett, as Trustee of the 1220 South Ocean Boulevard Trust dated May 23, 2013, has filed an application requesting Town Council review and approval Variances (1) to exceed the maximum amount of lot coverage, (2) to exceed the maximum amount of Cubic Content Ratio (CCR), (3) to exceed the maximum allowable building height, and (4) to exceed the maximum allowable overall building height, in the R-B zoning district in conjunction with the enclosure of an existing open-air courtyard of a two-story residence with a new clerestory. The Architectural Commission will perform design review of the application.

*Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.*

- d. **ZON-23-054 (ARC-23-064) 1473 N OCEAN BLVD (COMBO) – VARIANCES** The applicants, William C. Powers & Marianne Elaine Elmasri, have filed an application requesting Town Council review and approval for (2) variances from (1-2) north and south side setback requirements. The Architectural Commission shall perform design review of the application.

*Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.*

- e. **ZON-23-068 (ARC-23-090) 206 CARIBBEAN RD (COMBO) - SITE PLAN REVIEW** The applicant, Walter Wick, has filed an application requesting Town Council review and approval for Site Plan Review to allow development of a new single-family residence on a platted nonconforming parcel deficient in lot width and lot area required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.  
*Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.*
- f. **ZON-23-070 (ARC-23-092) 217 BAHAMA LN (COMBO) - SITE PLAN REVIEW** The applicant, James and Sarah McCann, have filed an application requesting Town Council review and approval for Site Plan Review for the construction of new two-story single-family residence on a non-conforming platted lot which is 90 feet in depth in lieu of the 100-foot minimum depth required in the R-B Zoning District. The Architectural Commission shall perform the design review component of the application.  
*Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.*
- g. **ZON-23-086 (ARC-23-088) 292 ORANGE GROVE RD (COMBO) – VARIANCE** The applicants, Stephen and Kerri Meyers, have filed an application requesting Town Council review and approval for (1) variance to exceed the maximum Cubic Content Ratio (CCR) for the construction of a new two-story single-family residence. The Architectural Commission shall perform the design review component of the application.  
*Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.*
- h. **ZON-23-077 (ARC-23-108) 162 E INLET DR (COMBO) - VARIANCE** The applicants, David and Jill Shulman, have filed an application requesting Town Council review and approval for a variance to (1) exceed the maximum allowable Cubic Content Ratio (CCR) for the construction of enclosed additions and a rear awning to the single-family residence. The Architectural Commission shall perform the design review component of the application.  
*Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.*
- i. **ZON-23-084 (ARC-23-109) 600 TARPON WAY (COMBO) - SPECIAL EXCEPTION AND VARIANCES** The applicants, Frank and Annie Falk, have filed an application requesting Town Council review and approval for 7 variances, including (1-2) for building height plane reductions, (3-6) to locate mechanical equipment within the front yard, (7) to exceed maximum site wall height within the front yard, and a Special Exception for reduced

vehicular gate setbacks on a dead-end street, for the construction of a new two-story single-family residence over 10,000 SF and sitewide landscape and hardscape improvements. The Architectural Commission shall perform the design review component of the application.

***Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.***

*Clerk's note: A short break was taken at 11:10 a.m. The meeting was reconvened at 11:20 a.m.*

## **2. New Business**

- a. **ZON-23-072 (ARC-23-094) 247-251 WORTH AVE (COMBO) - SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCES** The applicant, Holbrook Real Estate LLC, has filed an application requesting Town Council review and approval for three (3) Special Exception requests, (1) for permitted use (retail) over 4,000 SF of leasable area in the C-WA zoning district, (2) for a second floor in the C-WA zoning district, and (3) for a third story as a Special Allowance in accordance with the Worth Avenue Design Guidelines. Additionally, the applicant is requesting Site Plan Review for a building with additions greater than 2,000 SF. The applicant is also requesting six (6) Variance requests, (1) to exceed the maximum lot coverage of 69% in lieu of the 35% maximum allowed for the second floor using the Worth Avenue Design Guidelines for a 2nd story addition, (2) to not provide the required 27 parking spaces for new commercial and residential additions, (3) to not provide the required 25% landscape open space to have 5% open space for a three-story building, (4) to not provide the required on-site loading space, (5) to allow residential uses above the second floor mercantile/office space, and (6) to exceed the maximum floor area of 15,000 SF to allow a structure with +/- 18,250 SF, in conjunction with a new two-story addition to an existing one-story commercial building on a site with two existing one and two-story buildings. The Architectural Commission will perform design review of the application.

Ex parte communications were disclosed by Council President Zeidman, Council President Pro Tem Lindsay, Mayor Moore, and Council Members Araskog, Cooney, and Crampton.

Maura Ziska, attorney for the applicant, spoke on behalf of Jane Holzer. She presented a brief history of the property and the reason for the request. She stated that Ms. Holzer was responding to requests by retail tenants. Concerning the third-floor residential area, Ms. Holzer wanted to have a modest third-floor residential area for herself and her family.

Roger Janssen, Dailey Janssen Architects, presented the plan. He stated the need for variance components arose from the existing footprint and density on the lot, and every effort has been made to minimize the request as much as possible. He also shared some equipment conditions that would be enhanced and cleaned up as part of the process.

Jane Holzer, 980 S Ocean Blvd., commented on the project. She said each of her tenants had asked for more space.

Director Bergman provided staff comments.

Mr. Murphy had the opportunity to work with Ms. Holzer's team for several months. He explained the project and outlined his communications with the applicant. He noted that Joe Corradino was present to answer any traffic questions. Mr. Murphy provided a history of the project and noted the key distinction between this project and 125 Worth Avenue. He thought the application sufficiently met the initial requirements to be reviewed by ARCOM.

Council President Zeidman noted that commercial projects were being reviewed by the Town Council prior to the Commission's review to weigh in on the variances and special exceptions. She asked Messrs. Murphy and Bergman for assistance defining what the Town Council needed to accomplish before the request went to ARCOM. Mr. Murphy responded that the biggest question for the Town Council to deliberate on was their vision for Worth Avenue. He elaborated on the items the Town Council should consider with the request.

Council Member Crampton questioned how the design fit within the Worth Avenue Guidelines, whether this would qualify as an intensification of use, and how parking would be addressed.

Mses. Ziska and Holzer responded that this business would have priority for its employees in the parking lot.

Council Member Crampton stated that he felt comfortable moving the project forward.

Council President Zeidman questioned whether this project fit within the Worth Avenue Guidelines and whether the second floor would be allowed for commercial use or should be residential. She thought the Town Council should focus on the third floor.

The Town Council discussed the third floor. Council Member Araskog questioned whether a special allowance should be granted due to the language of the code. She said variances for a special allowance cannot be granted. She suggested the attorneys do an in-depth review of the Code. Council President Zeidman stated that the Worth Avenue Guidelines were guidelines.

Mr. Janssen noted when he met with Mr. Murphy, there were criteria under the same section for approval of special allowances.

Mr. Murphy discussed the reason that the third story required a variance. He discussed the applicant's options, by right, in which they had to expand their second floor. He cited other examples along Worth Avenue.

Following a lengthy discussion, the Town Council decided to defer the project to allow more time for an in-depth legal review.

Mayor Moore pointed out that there was an existing condition, like the applicant's request, on the west end of Worth Avenue.

Ms. Ziska added there were other mixed-use precedents set on Worth Avenue.

Director Bergman requested revised plans since the applicant withdrew variance six. He requested the revised plan show the vertical accessibility to the second and third floors. He also added that the staff would revise the memo based on changes.

Council President Zeidman called for public comment.

James Green, on behalf of the abutting property owner to the west, stated that Tim Hanlon wrote a letter to the Town Council. He asked if the project would be going to ARCOM. Council President Zeidman said it would return to the Town Council.

Anne Pepper, 333 Seaspray Ave, believed this application would intensify the use of the building.

Jane Holzer discussed existing examples of commercial second floors. She asked that the Town Council consider the future of Worth Avenue. Council Member Araskog responded that the proposed project was different from other uses on Worth Avenue.

**A motion was made by Council Member Araskog and was seconded by Council Member Crampton to defer project ZON-23-072 to the November 15, 2023, Town Council Meeting to allow additional clarification from staff and the Town Attorney. The motion was carried unanimously, 5-0.**

b. **ZON-23-088 (ARC-23-120) 1600 S OCEAN BLVD (COMBO) -SITE PLAN REVIEW AND VARIANCES**

The applicant, PB Pavilion Trust (Michael Vineberg, Robert G. Simses and Peter Flanagan, Trustees), has filed an application requesting Town Council review and approval for site plan review for an addition to house a generator over 150kW, and (3) variances for (1) additional parapet height in the required north side yard setback and (2 – 3) to reduce the required north and south side yard setback in order to construct one-story additions to a previously approved two-story residence. The Architectural Commission shall perform design review of the application.

***Please note: This item was deferred to the November 15, 2023, meeting at the Approval of the Agenda, Item V.***

c. **ZON-23-091 (ARC-23-117) 341 PERUVIAN AVE (COMBO) - VARIANCES**

The applicant, Villa Giardino Land Trust (Jeff and Elizabeth Louis), has filed an application requesting Town Council review and approval for (2) variances, (1) for front setback relief for the construction of a new fabric tent and package receptacle, and (1) for the construction of a new

masonry site wall on the west property line that exceeds permitted wall height for the screening of a new generator and air conditioning equipment. The Architectural Commission shall perform design review of the application.

Ex-parte communications were disclosed by Council Member Cooney and Mayor Moore.

Jaime Torres-Cruz, Fairfax and Sammons Architects, presented the plan.

Mr. Bergman provided staff comments.

Mayor Moore felt that the plan was charming. She asked if the gate would be eliminated. Mr. Torres said no, but the gate would be refurbished.

Council Member Cooney agreed that this plan was very charming and hoped the property owner would consider landmarking the home. Council Member Araskog agreed.

**A motion was made by Council Member Cooney and was seconded by Council Member Araskog that Variance ZON-23-091 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. The motion was carried unanimously, 5-0.**

- d. **ZON-23-094 (ARC-23-121) 428 SEABREEZE AVE. (COMBO) – SPECIAL EXCEPTION WITH SITE PLAN REVIEW & VARIANCES** The applicants, Dr. Chauncey Crandall and Deborah Crandall, have filed an application requesting Town Council review and approval for a Special Exception and Site Plan Review for the construction of a new two-story single-family residence on an R-B zoned lot deficient in area and width requirements, and (2) variances; (1) to reduce the east side yard setback for the construction of exterior stairs and a chimney, and (1) to not provide garage parking. The Architectural Commission will perform the design review component of the application.

Ex-parte communications were disclosed by Council Members Araskog and Cooney.

David Klein, attorney for the applicant, provided an overview of the project.

Pat Segraves, SKA Architect + Planner, presented the architectural plans for the proposed project and stated the home would be rebuilt to look the same as the existing home.

Council Member Cooney spoke in support of the project. He had no issue with granting the requested variance.

Council President Zeidman called for public comment, and no one

indicated a desire to speak.

**A motion was made by Council Member Cooney and was seconded by Council Member Crampton that Variance ZON-23-094 shall be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7 have been met. The motion was carried unanimously, 5-0.**

**A motion was made by Council Member Cooney and was seconded by Council Member Araskog that Special Exception and Site Plan Review ZON-23-094 be approved, as said applications meet the criteria set forth in sections 134-229 and 134-329, respectively, of the Town Code and finding that approval of the Site Plan will not adversely affect the public interest, that all zoning requirements governing the use have been met and that satisfactory provision and arrangement has been made concerning items (1) through (11) of section 134-329. The motion was carried unanimously, 5-0.**

*Clerk's note: The meeting was recessed for lunch at approximately 1:12 p.m. The meeting was reconvened at 2:00 p.m.*

- e. **ZON-23-098 (ARC-23-130) 380 S COUNTY RD (COMBO) - VARIANCE** The applicant, 380 South County, LLC (Philip Norcross, Manager), has filed an application requesting Town Council review and approval for a Variance to provide vehicle queuing space deficient in depth between the driveway gate and edge of roadway (Peruvian Ave) in order to install two vehicular access gates (one swing, one rolling) at the curb cut entrances along Peruvian Ave and South County Road. The Architectural Commission shall perform design review of the application.

Ex-parte communications were disclosed by Mayor Moore.

Maura Ziska, attorney for the applicant, stated the gate request is due to trespassing and vandalism. Further, she explained the variance request for the gate along Peruvian Avenue.

Jason Drobot, Brasseur & Drobot, presented the architectural plans for the proposed project.

Mr. Bergman provided staff comments.

Mayor Moore asked if they would only use the north gate. Mr. Drobot replied in the affirmative and added this would control the entry and exit points. Mayor Moore was concerned about cars queuing along County Road to enter the parking lot.

Council Member Araskog indicated that the specific area on County Road was well-traversed. She was not supportive of gates in that area. She did not feel this was in keeping with the harmony of the neighborhood. She was opposed to the request.

Council Member Cooney asked how the call box would work for staff entering the parking lot. He asked what the hardship was for the Peruvian gate. Ms. Ziska said if the 18 feet had to be met, handicapped spaces would have to be removed.

Council Member Crampton thought there would be a backup problem

caused by vehicles waiting to get through the gate.

Council President Pro Tem Lindsay thought it may be more prudent to have a surveillance system.

**A motion was made by Council Member Araskog and was seconded by Council Member Crampton that Variance ZON-23-098 be denied for the reason that the application does not meet the criteria applicable to this application as set forth in Section 134-201 (A), items 1 through 7. The motion was carried 4-1, with Council President Zeidman dissenting.**

## **B. Time Extensions and Waivers**

1. Waiver of Town Code Section 18-237, For Building Permit Extension for 86 Middle Rd.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Jeff Wilde, Wildes Builders, said that owner changes resulted in new materials needing to be ordered, which supply-chain issues had delayed.

**A motion was made by Council Member Araskog and was seconded by Council Member Crampton to approve the request, with the condition that any restrictions in the hours listed in the Code are followed and that if there are any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town Council. The motion was carried unanimously, 5-0.**

Council President Pro Tem Lindsay asked if some of the permit owners would be charged for extensions. She said there had been pushback about the volume of permit extensions being granted. Mr. Bergman affirmed that the staff was working on it.

2. Waiver of Town Code Section 18-237, For Building Permit Extension for 250 Queens Lane

Wayne Bergman, Director of Planning, Zoning, and Building Department, described the building permit extension request.

James Conti, Blueline Construction Group, requested a three-month extension to complete the hardscape. He stated there was nothing left to do on the inside. The project has been stopped for several weeks.

Council Member Araskog asked about the hardship for the request and wondered if the delay was due to a client-driven change. Mr. Conti confirmed the changes were client-requested.

Council President Zeidman called for public comment, and no one indicated a desire to speak.

**A motion was made by Council Member Cooney and was seconded by Council Member Pro Tem Lindsay to approve the request, with the condition that any restrictions in the hours listed in the Code are followed and that if there are any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town**



**Council. The motion was carried unanimously, 5-0.**

3. Waiver of Town Code Section 18-237, For Building Permit Extension for 1742 S Ocean Blvd.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Bob Simmons, owner and builder of the property, requested a five-month extension.

Council Member Araskog asked about the request for five months. Mr. Simmons said the request was due to delays; however, he was incentivized to close the project as soon as possible.

**A motion was made by Council Member Cooney and was seconded by Council Member Pro Tem Lindsay to approve the request, with the condition that any restrictions in the hours listed in the Code are followed and that if there are any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town Council. The motion was carried unanimously, 5-0.**

4. Waiver of Town Code Section 42-199, For Extended Working Hours at 150 Worth Avenue - Esplanade Building

Wayne Bergman, Director of Planning, Zoning and Building Department, described the request for extended working hours.

Yvonne Jones, Property Manager with O'Connor Property Management, requested this extension due to weather conditions. She discussed waterproofing issues stemming from the roof of the Esplanade Building. Due to recent rainfall, the coating placed over the Saks store bubbled from the heat. That work must be done in the evening, and while attempting to do it during the past couple of weeks, the workers had been unsuccessful due to rain.

**A motion was made by Council Member Cooney and was seconded by Council Member Pro Tem Lindsay to approve the request, with the condition that any restrictions in the hours listed in the Code are followed and that if there are any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town Council. The motion was carried unanimously, 5-0.**

5. Waiver of Town Code Section 42-199, For Building Permit Extension for 150 Worth Ave., Suite 107, Caroline Herrera Retail Store

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Carlos Cano, Project Manager with SAJO, stated the request was until November 30, 2023. He said some design changes had to be addressed, which had resulted in the delay.

**A motion was made by Council Member Cooney and was seconded by Council Member Crampton to approve the request, with the condition that**

**any restrictions in the hours listed in the Code are followed and that if there are any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town Council. The motion was carried unanimously, 5-0.**

6. Waiver of Town Code Section 18-237, For Building Permit Extension at 800 S County Rd.

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Ann Desruisseaux, 800 S County Road, stated that when she began the project, she was unaware of the timeline or the challenges she would encounter. She thought great progress was being made.

**A motion was made by Council Member Cooney and was seconded by Council Member Crampton to approve the request, with the condition that any restrictions in the hours listed in the Code are followed and that if there are any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town Council. The motion was carried unanimously, 5-0.**

7. Extended Working Hours at 150 Worth Avenue - Compass Real-Estate Office (addition)

Wayne Bergman, Director of the Planning, Zoning and Building Department, described the building permit extension request.

Yvonne Jones, Property Manager with O'Connor Property Management, stated that build-out work was ongoing for Compass Real Estate. The office will open in a space formerly occupied by a restaurant, and additional time was needed to complete the project.

Council Member Araskog asked if the adjacent tenants were okay with the request. Ms. Jones said, fortunately, the second-floor tenants were primarily office, not retail.

**A motion was by Council Member Cooney and was seconded by Council Member Crampton to approve the request, with the condition that any restrictions in the hours listed in the Code are followed and that if there are any verifiable complaints, the Director of Planning, Zoning, and Building could resolve the issue or take the matter to Town Council. The motion was carried unanimously, 5-0.**

## **XII. ORDINANCES**

### **A. First Reading**

1. Ordinance to amend Chapter 18, Buildings and Building Regulations, to provide neighbor notice to permit time extension requests and provide for one-month administrative extensions when appropriate.

**ORDINANCE NO. 017-2023:** An Ordinance of The Town Council of The Town of Palm Beach, Palm Beach County, Florida, Amending the

Town Code of Ordinances at Chapter 18, Buildings and Building Regulations, Specifically at Article IV, Florida Building Code, Section 18-232, Definitions, Section 18-235, Building Division, and Section 18-237, Agreed Maximum Time Schedule for Completion of Major Construction; Providing for Severability; Providing for the Repeal of Ordinances in Conflict; Providing for Codification; and Providing an Effective Date.

Director Bergman stated there was currently a \$500 fee for a permit extension request. He discussed the concept of the permit fee and wondered if an additional permit fee should be required to extend the permit to finish the unfinished value of construction work. While he did not believe this was a penalty, he did feel it would incentivize the permit holders to finish their projects within the timeframe of the issued permit. He asked the Town Council to consider adding a permit extension permit fee, with a multiplier to be determined. He explained his experience with a similar policy.

Council President Zeidman asked for additional clarification. Mr. Bergman said throughout a project, the value of the project changes over time. He said Town fees are based on the value of the project. The proposed concept would be for that permit fee to be commensurate with the actual building value and length of time taken to finish the project.

Council President Pro Tem Lindsay mentioned there were times when issues, such as weather events, caused delays to a project. These types of situations should be taken into consideration.

There was additional discussion regarding this opportunity to charge additional fees to permit holders. There was a consensus from the Town Council for directing Mr. Bergman and the staff to draft a policy for consideration.

Council President Zeidman called for public comment.

Leigh Dunston, 282 Monterey Road, supported the ordinance as presented. He believed in incentivizing people to finish their projects as quickly as possible.

The Town Attorney and the staff will review the draft to make improvements based on the discussion and opinions of the Town Council.

**A motion was made by Council Member Araskog and was seconded by Council Member Cooney to defer Ordinance No. 017-2023 to the November 15, 2023, Town Council Meeting. The motion was carried unanimously, 5-0.**

### **XIII. ANY OTHER MATTERS**

**XIV. ADJOURNMENT**

**A Motion was made by Council Member Araskog and was seconded by Council Member Crampton to adjourn the meeting at 2:28 p.m. The motion was carried unanimously, 5-0.**

APPROVED:

\_\_\_\_\_  
Margaret A. Zeidman, Town Council President

ATTEST:

\_\_\_\_\_  
Kelly Churney, Acting Town Clerk

Date: \_\_\_\_\_