



TOWN OF PALM BEACH

Minutes of the Town Council Meeting Held on January 9, 2019

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order Wednesday, January 9, 2019 at 9:34 a.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Clerk Churney gave the invocation.

Council President Moore let the Pledge of Allegiance.

Planning, Zoning & Building Director Martin thanked Bill Bucklew for his excellent service and support, and presented him with his 10-year anniversary gift.

III. COMMENTS OF MAYOR GAIL L. CONIGLIO - The Mayor thanked Bill Bucklew for his dedicated service and welcomed Wayne Bergman as the new Planning, Zoning & Building Assistant Director.

IV. COMMENTS OF TOWN COUNCIL MEMBERS AND DIRECTOR OF PLANNING, ZONING AND BUILDING

Council President Moore spoke about her concerns with commission members leaving prior to the conclusion of meetings. She also addressed her concerns with an increase construction time extension requests.

Director Martin and Building Official Bucklew offered some possible reasons such as hurricanes and /or Presidential visits. Director Martin will look into any other possible reasons that may exist.

Council Member Araskog thanked Bill Bucklew for his service and welcomed Assistant Director Bergman. She also supported Council President Moore's comments with regard to commission members.

Council Member Lindsay supported Council President Moore's comments with regard to commission members.

V. COMMUNICATIONS FROM CITIZENS

Attorney Stambaugh, representing the DeMoss family of 185 Woodbridge Road, requested that item Z-18-00146 Special Exception With Site Plan Review be removed from agenda and explained the reasons.

Attorney Oyer gave reasons why he would like to proceed with the agenda item.

Jim Engel, 176 Kings Road, spoke in support of the special exception.

Deputy Clerk Churney swore all those in who would be providing testimony.

VI. APPROVAL OF AGENDA

The following changes were made to the agenda:

DEFERRALS: The following items were deferred to the February 13, 2019 Town Council meeting.

Item VII.B.1.c., Z-18-00138 Special Exception with Site Plan Review

Item VII.B.2.d., Z-18-00160 Variances

Item VII.B.2.f., Z-18-00161 Site Plan Review

The following item was deferred to the March 19, 2019 Town Council meeting.

Item VII.B.1.b., Z-18-00134 Special Exception with Site Plan Review and Variances

Motion was made by President Pro Tem Zeidman, and seconded by Council Member Crampton, to approve the agenda as amended above. On roll call, the motion carried unanimously.

VII. DEVELOPMENT REVIEWS

A. Time Extensions and Waivers

1. Extension of Time Schedule for Completion of Construction per Town Code
Chapter 18, Section 18-237
608 Island Drive

Bruce Malasky, President of Malasky Homes, provided details of the request.

Motion was made by Council Member Araskog, and seconded by President Pro Tem Zeidman, to approve Extension of Time Schedule for Completion of Construction per Town Code Chapter 18, Section 18-237 to February 13, 2019. On roll call, the motion carried unanimously.

2. Construction Hours Request: Acqua Café, 2875 South Ocean Boulevard
Director Martin provided details of the project.
Applicant, Evans Howell, provided further details.

Motion was made by Council Member Crampton, and seconded by Council Member Araskog, to approve construction hours request. On roll call, the motion carried unanimously.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

a. Z-18-00108 SPECIAL EXCEPTION WITH VARIANCE(S) Zoning District: C-TS Town Serving Commercial The application of Palm Beach Hotel Condominium Association, Inc., Applicant, relative to property located at 235 SUNRISE AVE SUITE: CM 23, legal description on file, is described below. A request for a variance and a special exception to expand a non-conforming use ("hotel") to incorporate a 3,200 square foot space on the ground floor to be used as a gym, which is an accessory use to the condominium hotel. [Applicant's Representative: Maura Ziska Esq] If approved, consideration of proposed Declaration of Use Agreement.

Jeff Collins, Fire Protection Engineer provided details of the project.

Fire Marshal DeLoach reported on his findings.

Discussion took place on progress of work and notification to residents

Motion was made by Council Member Crampton to not permit the opening of the gymnasium until the Fire Marshal has declared that this is a safe building. Without a second, the motion was not considered.

Motion was made by President Pro Tem Zeidman, and seconded by Council Member Crampton, that item Z-18-00108 Special Exception with Variances be deferred to the April 10, 2019 Town Council meeting for verification of fire door safety compliance and notification to residents. On roll call, the motion carried unanimously.

b. Z-18-00134 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) Zoning District: R-A Estate Residential The application of Charles Holzer, Applicant, relative to property located at 977 S OCEAN BLVD, legal description on file, is described below. 1) Special Exception with Site Plan Review to allow the construction of a 9,685 square foot two-story, single family residence on a non-conforming lot that is 77 feet in depth in lieu of the 150 foot minimum required in the R-A Zoning District and 13,662 square feet in area in lieu of the 20,000 square foot minimum area required in the R-A Zoning District. 2) A request for a variance to allow the proposed swimming pool to have a 5 foot rear yard setback in lieu of the 10 foot minimum required and a 30 foot front yard setback in lieu of the 35 foot minimum required in the R-A Zoning District. 3) A request for a variance to allow a building height plane setback to be 35 feet in lieu of the 50 foot minimum setback required. [Applicant's Representative: Maura Ziska] [The Architectural Review Commission deferred this project to the December 14, 2018 meeting at the request of the attorney. Carried 7-0.] Request for Deferral to the March 13, 2019 Town Council Meeting per Letter Dated December 20, 2018 from Maura Ziska

Item was deferred to the March 19, 2019 Town Council meeting.

c. Z-18-00138 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R-B Low Density Residential The application of Palm Beach Day Academy, Inc., Applicant, relative to property located at 241 SEAVIEW AVE SUITE: SITE, legal

description on file, is described below. 1. Request for Special Exception with Site Plan Review approval to create 30 paved parking spaces on the west lawn to be used by Palm Beach Day Academy faculty, families and guests to the school. 2. Request to modify the existing Declaration of Use Agreement (a copy of the Agreement is on file at the Town of Palm Beach Building Department). [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review and variance will not cause negative architectural impact to the subject landmark property. Carried 4-1. The Landmarks Preservation Commission deferred the project to the January 16, 2018 meeting at the request of staff. Carried 7-0.]

Item was deferred to the February 13, 2019 Town Council meeting.

d. Z-18-00146 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: R-A Estate Residential The application of Harvey E. Oyer, III, Esq. on behalf of Mar-a-Lago Club, Inc., Applicant, relative to property located at 1100 S OCEAN BLVD, legal description on file, is described below. 1. The Applicant seeks approval of a Special Exception with Site Plan Review to add an accessory dock to the property in the approximate location of the prior historic dock. The dock is to be located at the northwest corner of the site and projects 40 feet from the existing seawall into the Lake Worth Lagoon. [Applicant's Representative: Harvey E Oyer III Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed special exception with site plan review will not cause negative architectural impact to the subject landmark property. Carried 7-0.]

Ex-parte communications were declared by Council Members Araskog, Crampton and Lindsay, Mayor Coniglio and President Pro Tem Zeidman.

Attorney Oyer provided details of the project.

Zoning Administrator Castro provided Staff comments.

Discussion took place on restriction of hours, dock usage, noise from jets skis and other vessels, location of channel, and what items shall be included in the Declaration of Use Agreement.

Attorney Stambaugh expressed his objections to the dock on behalf of the neighboring DeMoss family.

Environmental consultant Nero, provided environmental concerns relative to depth of water and presence of seagrass. He offered his comments on a Consent of Use document for a public channel.

Discussion took place on the Consent of Use.

Nader Kazeminy, 760 Island Drive, spoke in opposition of the project. He thanked the council for their careful consideration of the project.

Elizabeth Moss spoke about security concerns.

Motion was made by Council Member Crampton, that Special Exception Z-18-00146 shall be granted, based upon the finding that such grant will not adversely affect the public interest and that the applicable criteria set forth in Section 134-229 of the Town Code have been met with the condition to amend the Declaration of Use Agreement to include: reasonable hours of operations, no jet skis, no live-aboards, no generators, and indemnification of the client for any drilling. Without a second, the motion was not considered.

Motion was made by Council Member Crampton, and seconded by Council Member Araskog, that Special Exception Z-18-00146 shall be deferred in order to work with the neighbors and staff on a proposed Declaration of Use Agreement to include: dock use for members and owners only, restriction expansion, prohibition of jet skis, restriction of hours of operation, no overnight live-aboards, dock hours limited to club hours, no generators or source of noise, location of channel required, notice to property owners, indemnification for drilling, address security concerns and lighting. On roll call, the motion carried unanimously.

Town Council Recessed at 11:30 a.m. and reconvened at 11:43 a.m.

e. Z-18-00149 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: C-TS Town-Serving Commercial The application of Carriage House and JHD Associates, LLC, Applicant, relative to property located at 264 S COUNTY RD SUITE: BLDG 1, legal description on file, is described below. A request for a special exception with site plan review approval to allow a private club "Carriage House" to operate at 264 and 270 South County Road in the C-TS Zoning District. The Club will have a membership cap of 248 members based on the principal of equivalency for parking requirements. Lunch seating will be limited to 67 seats, which is the same number of seats 264 Grill restaurant had when owned by Peter Pullitzer in the 1970s. The Club is proposing the following hours of operation: Sunday through Wednesday 11:00 a.m. to 12:00 midnight; Thursday through Saturday 11:00 a.m. to 2:00 a.m. A request for a special exception to provide 68 night-time (after 6pm) supplemental off-site shared parking spaces at 230/240 Royal Palm Way to be used by employees and/or the valet operation for the Carriage House. Z-18-00149 SPECIAL EXCEPTION WITH SITE PLAN REVIEW Zoning District: C-TS Town-Serving Commercial The application of Carriage House and JHD Associates, LLC, Applicant, relative to property located at 264 S COUNTY RD SUITE: BLDG 1, legal description on file, is described below. [Applicant's Representative: Maura Ziska Esq]

TIME CERTAIN 1:30 P.M.

Deputy Clerk Churney swore in all those who would be providing testimony.

Ex-parte communications were declared by Council Members Lindsay, Crampton and Araskog, and President Pro Tem Zeidman.

All council members received letters and E-mails associated with this project that were included in their backup.

Attorney Ziska summarized the changes that were made, and addressed the Council's list of concerns provided from the December Town Council meeting.

Traffic Engineer Kerr, addressed traffic impact analysis, the valet and parking circulation plan, and the Town's peer review findings.

Sound Engineer, Cuschieri, provided information on noise levels.

Attorney Ziska reviewed Special Exception criteria.

Director Martin reported on meetings held since the last Town Council meeting with all parties.

Engineer Mirson, provided information on traffic analysis review.

Attorney Eubanks representing John and Pamela Schafer, Katherine Bryan, Bradley and Katherine Geist, expressed oppositions to the application.

Town Council recessed at 2:46 p.m. and reconvened at 2:49 p.m.

Glenn Zeitz, 142 Seabreeze Avenue, expressed his objections to the proposed project.

Tim Gannon, 1300 North Ocean Boulevard and Landmarks Preservation Commission member, spoke as a restaurateur and his experience, and offered his support for a private club.

Shaun MacKenzie, Mackenzie Engineering & Planning, Inc., spoke about parking and traffic concerns on behalf of residents Shipley, Ernst, Schafer and Pressly.

Zach Shipley, 228 Seaspray Avenue, expressed his objections to the proposed project.

Grier Pressly, 242 Seaspray Avenue, expressed his objections to the proposed project.

Maisie Grace, 247 Seaspray Avenue, expressed her objections to the proposed project.

Dale Pincourt, 1270 N Lake Way, expressed her objections to the proposed project.

Robert Forbes, 171 Clarke Avenue, expressed his concerns for the proposed project.

Anthony Myura, 169 Seaview Avenue, expressed his objections to the proposed project.

Gigi Tylander, 225 S. County Road, expressed her objections to the proposed project.

Alexander Griswold, 249 Monterey Road, offered his support for the project.

Ann Jackson, 135 Seaview Avenue, expressed her objections to the proposed project.

Terri Ruttle, 310 Seabreeze Avenue, expressed her concerns for the proposed project.

Eric Leiner, 159 Seaspray Avenue, expressed his objections to the proposed project.

Michael Formica, 218 Phipps Plaza, offered his support for the project.

Luis Musa, behalf of Lauri Welteroth, 256 S. Ocean Blvd., expressed the family's opposition to the proposed project.

Janet Levy, 500 S. Ocean Blvd, expressed her objections to the proposed project.

Mike Hertzberg, 129 Seaspray Avenue, expressed his concerns for the proposed project.

Steven Greenwald, 128 Seaspray Avenue, expressed his objections to the proposed project.

Attorney Ziska provided rebuttal comments.

Discussion took place on evening maximum capacity, number of employees, parking concerns, permit parking, golf cart use, Declaration of Use, intensification of use, special events and deferral.

Motion made by Council Member Araskog, and seconded by Council Member Crampton to defer Z-18-00149 Special Exception with Site Plan Review to the February 13, 2019 Town Council meeting in order to work with the neighbors and staff and come back to Town Council with Declaration of Use Agreement which will include all related concerns. On roll call, the motion carried unanimously.

2. New Business

a. Z-18-00155 VARIANCE(S) Zoning District: C-OPI Office, Professional and Institutional
The application of Primary Properties, Inc., Applicant, relative to property located at 231 ROYAL PALM WAY SUITE: BLDG 1, legal description on file, is described below. 134-172; 134-201; 134-2437: Request for a variance to allow a business identification sign described as "The Suites at 231" on a building that does not have any ground floor

tenants. Presently, the Code does not allow for business identification signs on buildings that do not have ground floor tenants. [Applicant's Representative: Tim Hanlon Esq]

No ex-parte communications were declared.

Deputy Clerk Churney swore in all those who would be providing testimony.

Attorney Atterbury, provided details of the request.

Zoning Administrator Castro provided Staff comments.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, that Variance No. Z-18-00155 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 and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town, that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. On roll call, the motion carried unanimously.

b. Z-18-00156 VARIANCE(S) Zoning District: R-A Estate Residential The application of Chuck and Amanda Schumacher, Applicant, relative to property located at 874 S COUNTY RD, legal description on file, is described below. The Applicant is proposing to install a 60 KW generator to the west of their residence and within a street side yard ("Vita Serena") that will require the following variances: 1. A variance to place the generator in the street side yard setback along Vita Serena with a setback of 8.75 feet in lieu of the 35 foot minimum required. 2. A variance to allow the proposed generator to result in a landscaped open space of 44.9% in lieu of the 45.3% existing and the 50% minimum required in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. The Architectural Review Commission approved the project as presented. 7-0.]

Ex-parte communications were declared by Council Member Araskog.

Attorney Ziska provided details of the project.

Zoning Administrator Castro provided Staff comments.

Motion was made by Council Member Araskog, and seconded by Council President Moore, that Variance No. Z-18-00156 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 and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town, that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. On roll call, the motion carried unanimously.

c. Z-18-00157 VARIANCE(S) Zoning District: R-B Low Density Residential The application of Michael F. Neidorff, Applicant, relative to property located at 302 VIA LINDA, legal description on file, is described below. The Applicant is requesting the following variances to raise the height of the ceiling and parapet in 2 areas of the one story residence: 1) Request to raise the parapet by 2 feet and the ceiling by 2.34 feet at the

garage to accommodate a car lift so that three cars can be parked in the existing two-car garage. The garage has an existing non-conforming side yard setback of 5 feet in lieu of 12.5 feet required. The variance is to raise the height in the existing setback. 2) Request to raise the parapet over the main house to be 5.33 feet in lieu of the 4 feet existing and the 3 foot maximum allowed in the R-B Zoning District for a parapet roof height. 3) Request to allow the landscape open space to decrease from the previously permitted 39.9% to 35.7% in lieu of the 45% minimum landscaped open space required. The existing landscape open space is 32.5%. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. The Architectural Review Commission approved the project as presented with a condition relating to the architecture. 7-0.]

Ex-parte communications were declared by Council Member Araskog.

Attorney Ziska provided details of the project.

Director Martin provided Staff comments.

Motion was made by President Pro Tem Zeidman, and seconded by Council Member Lindsay, that Variance No. Z-18-00157 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 and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the Town, that ensures a recorded easement will be granted, if necessary, to underground utilities in the area. On roll call, the motion carried unanimously.

d. Z-18-00158 VARIANCE(S) Zoning District: R-B Low Density Residential The application of Palm Beach Dunbar, LLC, a New York limited liability company (John Randolph, Manager), Applicant, relative to property located at 171 DUNBAR RD, legal description on file, is described below. The Applicant is requesting a variance to add a 388 square foot addition for an additional garage bay to have a two-car garage in lieu of the one-car garage existing. This will result in an angle of vision of 123 degrees in lieu of the 114 degrees existing and 108 degrees maximum allowed in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project for one month to the January 23, 2019 meeting. Carried 4-3.] Request for Deferral to the February 13, 2019 Town Council Meeting per Letter Dated December 17, 2018 from Maura Ziska.

Item was deferred to the February 13, 2019 Town Council meeting.

e. Z-18-00160 VARIANCE(S) Zoning District: R-C Medium Density Residential The application of Bryan and Christina Cressey, Applicant, relative to property located at 2315 S OCEAN BLVD, legal description on file, is described below. A variance request to allow the placement of a 60KW generator located within the street side yard setback along Old South Ocean Boulevard with a setback of 7.4 feet in lieu of the 25 foot minimum required in the R-C Zoning District. [Applicant's Representative: Maura Ziska Esq]

Ex-parte communications were declared by Council Member Araskog.

Attorney Ziska provided details of the project.

Director Martin provided Staff comments.

Motion was made by President Pro Tem Zeidman, and seconded by Council Member Araskog, that Variance No. Z-18-00160 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. On roll call, the motion carried unanimously.

f. Z-18-00161 SITE PLAN REVIEW Zoning District: R-A Estate Residential The application of 1404NORTHLAKE LLC (Maura Ziska, Manager), Applicant, relative to property located at 1404 N LAKE WAY, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a 9,263 square foot two-story, single family residence on a non-conforming lot that is 110 feet in width in lieu of the 125 foot minimum required and 19,563 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project for one month to the January 23, 2019 meeting. Carried 7-0.] Request for Deferral to the February 13, 2019 Town Council Meeting per Letter Dated December 17, 2018 from Maura Ziska.

Item was deferred to the February 13, 2019 Town Council meeting.

3. Other

a. ARCOM/LPC Combination Project Discussion

Director Martin recommended that the current Architectural Commission/Landmarks Preservation Commissions combination project criteria be amended.

A short discussion ensued.

Rene Silvin, Vice Chairman of Landmarks Preservation Commission, expressed his support of this idea.

There was a consensus among the Town Council to approve the request for a six month trial period.

VIII. ANY OTHER MATTERS - None

IX. ADJOURNMENT

There being no further business, the Development Review Town Council meeting of January 9, 2019, was adjourned at 4:42 p.m.

APPROVED:

Danielle H. Moore, Town Council President

ATTEST:

Kathleen Ruderman, Deputy Town Clerk