

B-046-2017 Modifications

Address: 1236 S. Ocean Blvd.

Applicant: John L. and Margaret B. Thornton

Professional: Dustin Mizell/Environment Design Group

Project Description: Addition of two tennis courts. One court will be a hard court and the other a grass court. The courts will be surrounded by a fence approximately 10' tall and various landscaping at or above the height of the fence. Additional landscaping will be provided to buffer courts accordingly. Separate staff parking area is also included.

A motion carried at the June 2017 meeting to approve the project as presented. This project was brought back to the January meeting for reconsideration due to a court ruling. A motion carried at the January meeting to defer the project to the March 27, 2019 meeting to allow the Town Council to make their decision on the administrative appeal.

Call for disclosure of ex parte communication: Disclosure by several members.

Mr. Randolph provided an explanation to the Commission on the court's rulings to remand the project back to them for review and asked them to make a new decision based on the criteria in the Code. Mr. Randolph answered all of the questions asked by the Commissioners.

M. Timothy Hanlon, attorneys for Mr. and Mrs. Thornton, told the Commission that the Town Council denied the three appeals submitted at their March 19, 2019 meeting by the opposing attorney. These denials were based on Mr. Castro's decisions that no special exceptions were required for the tennis court or the parking area and that no variances were required for the screening or the fencing for the tennis court. Mr. Hanlon advocated for an approval from the Commission.

Mr. Randolph clarified that the Town Council denied the appeals because they determined that the appeals were not filed in a timely fashion.

Mr. Mizell presented the architectural, landscape and hardscape plans for the proposed tennis courts.

Mr. Hanlon introduced Margaret Thornton, owner of the property, so she could speak about the reasons that she would like to have the proposed tennis courts. Ms. Thornton discussed the reasons she installed the tennis courts and provided contrary arguments to items raised by the opposing attorney.

Mr. Hanlon discussed how the proposed project met the criteria in the Code.

Ms. Grace asked about existing site and inquired which items had been built. Mr. Hanlon responded.

Mr. Hanlon resumed reviewing the project relating to the criteria in the Code.

Please note: The commission took a short break at 10:52 a.m. The meeting resumed at 11:03 a.m.

Mr. Randolph provided a further clarification regarding the court's rulings.

Mr. Small asked if the owner would dedicate and record a utility easement or enter into an agreement ensuring said easement, if necessary, to facilitate utility undergrounding in the area. Mr. Hanlon agreed to the condition.

Mr. Hanlon stated that the owner would compromise and reduce the parking spaces to eliminate the need for supplemental parking spaces if the Commission felt it was necessary.

Amanda Hand, attorney for 100 Emerald Beach Way, provided rebuttal arguments for the proposed project. Ms. Hand presented pictures of the Thornton's existing site.

The property manager of 100 Emerald Beach Way explained how he took the pictures presented by Ms. Hand. He discussed his personal observations for the property's conditions.

Ms. Hand continued with her rebuttal and continued to provide arguments on how the project did not meet the criteria in the Code. She requested that the Commission deny or defer the application to revise the plans so that they conform to the Code. She showed photos of the residence and stated her objections. She answered all of the questions asked by the Commissioners.

Mr. Vila asked if any other abutting neighbors have sent in objections letters for the proposed tennis courts. Mr. Lindgren stated that the Town had not received any other letters.

Ms. Catlin asked Ms. Hand if she would still have an objection if there were a driveway from the house to the tennis court. Ms. Hand stated she could not answer the question without looking at the plans. Ms. Catlin stated that many of Ms. Hand's objections related to Code Enforcement rather than the Architectural Commission. Ms. Catlin also stated that she objected to Ms. Hand classifying the project as a tennis compound. Ms. Catlin asked Mr. Mizell if landscape still needed to be installed after looking at the photograph shown by Ms. Hand. Mr. Mizell responded.

Mr. Ives discussed how he did not think that the proposed tennis courts were dissimilar to the surrounding properties. He also felt that many of the arguments

made against the project had nothing to do with the Architectural Commission's Ordinances.

Mr. Randolph pointed out that there was an Ordinance relating to noise under the purview of the Architectural Review Commission.

Mr. Castro spoke about the required zoning of the project and the decisions he had made regarding the project. Mr. Randolph asked Mr. Castro if the project required a variance. Mr. Castro stated that the project did not require a variance and stated the reason.

Mr. Hanlon stated he would be prepared to provide arguments in response to Ms. Hand's and the property manager's statements in the Commission was interested.

Ms. Grace inquired about Ms. Hand's comment regarding the lack of striping in the parking lot. Ms. Hand responded. Ms. Grace thought the parking was more attractive without the stripes.

Mr. Floersheimer expressed concern for the gate, as he felt it did not screen the parked vehicles. He also expressed concern for the no parking signs on the street.

Mr. Corey asked questions regarding the landscape plans, specifically the fence. Mr. Mizell responded. Mr. Corey recommended changing the chain link fence. Mr. Corey inquired about the tennis structure. Mr. Mizell discussed the tennis structure materials. Mr. Corey recommended enhancing the tennis structure and changing the chain link fence but generally was in favor of the project.

Motion made by Mr. Small and seconded by Mr. Ives to approve the project as presented having considered and determined that the project as proposed complies with the criteria in Section 18-205 (a) (b) (c) Town of Palm Beach Ordinances and subject to applicant's willingness and agreement to dedicate and record the requested utility easement. This application was approved with the condition that prior to the issuance of a building permit, the applicant shall either dedicate and record a utility easement, or enter into an agreement ensuring said easement, if necessary to facilitate utility undergrounding in the area. Motion carried 6-1, with Mr. Corey opposed.