



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on November 13, 2019

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order November 13, 2019 at 9:33 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

Administrative Specialist Churney gave the invocation. Council President Moore led the Pledge of Allegiance.

III. PRESENTATIONS

A. Presentation on Approach, Scope and Schedule for Code Reform Project

Planning, Zoning & Building Director Josh Martin presented the approach, scope and schedule for the proposed Code Reform. Mr. Martin reviewed the proposed project schedule. He felt historic Palm Beach should be legalized. He stated this proposal had never been done in the United States. Mr. Martin reviewed the proposal which included education, research, and transparency for the residents with proposed symposiums, feedback sessions, documentation, and use of a world class think tank familiar with international best practices.

Lynn Richards, Executive Director of the Congress for New Urbanism, introduced herself and spoke about her ideas for Palm Beach Code Reform.

Planning, Zoning & Building Director Martin recommended taking the proposal to the Planning and Zoning Commission and getting feedback. He was also working on the budget to be sure the current budget could sustain this project without asking for additional funds, and would bring this information back in December.

Mayor Coniglio commented on the importance of responsive listening to the community. She recommended giving Mr. Martin a yellow light for this project to allow everyone to move forward.

Council Member Araskog indicated she would like to see the plan move to the Planning and Zoning Commission first and then come back to the Town Council for a vote. She asked Mr. Martin to bring the cost forward at the next month's meeting. She was happy to hear that Code Reform would preserve the Town.

Council Member Lindsay expressed support for the project going to the Planning and Zoning Commission, and thought the Town needed Code Reform. She liked everyone going through education together and making a decision together, and was 100% in support of Mr. Martin's efforts.

Council Member President Pro Tem Zeidman was ready to move forward, learning about the possibilities. She commented Mr. Martin was very knowledgeable about the Town and understood the concerns of residents. She looked forward to Code Reform.

Council Member Crampton was in total support of this effort. He appreciated the view that process was as important as the product. He felt this was a very important process that was needed to guarantee our future and to be in control of change.

Council President Moore expressed respect for the Code but it was written 40 years ago. She stated a new code was needed, and she fully supported this effort.

Council Member Araskog asked Town Attorney Randolph about moving forward with Code Reform. Town Attorney Randolph responded it was fine to move forward and Bert Harris would be addressed down the road. Council Member Araskog felt process was so important and appreciated taking this to the advisory board.

Mallory Baches, Congress for New Urbanism, stated she was looking forward to working with the Town in the historic symposium and appreciated the thoughtfulness of the Council in moving forward.

Mr. Martin announced the launching of a project website, *preservepalmbeach.com* in coordination with Code Reform.

Council President Moore stated Director Martin had a consensus of the Council to move forward.

Public Comment:

Andrew Roddy, 223 S. County Road, thanked Mr. Martin and looked forward to being part of the Code Reform process. He loved the vias on the west end of Worth Avenue, but advocated for separation between buildings. He wanted to preserve the character of the buildings but be able to maintain them.

Simon Taylor, 234 Oleander Avenue, expressed his objections to the proposal.

Anita Seltzer, 44 Cocoanut Row, expressed her concerns with the proposal.

Rob Frisbie echoed gratitude for staff in their effort to preserve the Town. He thought Palm Beach should lead by example.

Anne Pepper, 333 Seaspray Avenue, believed Code Reform was necessary.

Amanda Skier, Preservation Foundation of Palm Beach, reported she enjoyed working with Mr. Martin and felt there was so much opportunity for education.

Jaime Torres, Fairfax and Sammons Architects, stated he does not reside here but had been working in the Town for over 20 years. He could see that the fabric of the Town was being undermined by current projects.

Alex Hufty Griswold, 274 Orange Grove Road, commented Planning and Zoning had streamlined the process. He spoke about his history with the Town, and about his challenges with the Code.

Gordon McCoun, 434 Chilean Avenue, thought Code Enforcement should be involved with the process. He was in favor of Code Reform.

Bill Metzger, 277 Esplanade Way, reported he had recorded an original presentation by Mr. Martin to the Planning and Zoning Commission regarding Code Reform process and improvement. He stated he would record the Historic District at the Flagler and LPC Symposium as well as the feedback session, and hopefully more in the future, and he had the ability to go live with recordings. He presented an audio request which would allow him to go live.

Town Manager Blouin asked the Town Council if they would be okay with recording meetings.

Council Member Araskog inquired who would be taped. Mr. Martin explained all of the symposium public sessions would be recorded.

Town Manager Blouin described some of the other events that would be taped, which included the Town Council Meetings.

Council President Pro Tem Zeidman thanked Mr. Metzger for his efforts. She would be in favor of taping the meetings unless there were any legal issues. She felt it would be good for residents.

Council Member Lindsay indicated she was in favor of this, which was good for transparency, and as technology improved, it was important to change. This would be very low cost, and would make the records more accessible.

Mayor Coniglio thought it was great idea. She commented they were behind the times and asked what the cost would be. Mr. Metzger stated there would be no cost.

Council Member Araskog agreed with transparency, and commented minutes did not often capture statements, and it would be easier to watch the meeting. She felt this was a great idea, and thanked Mr. Metzger for offering the service at no cost.

Council Member Crampton commented this was a good thing for transparency and efficiency.

Council President Moore thanked Mr. Metzger for his offer. Town Manager Blouin indicated staff would look at all the issues and would report back to the Council. Council President Moore asked to please bring it back so they could have another discussion.

Mr. Metzger commented a public meeting was open for recording, but to broadcast live on the internet was somewhat different. He was aware of issues. He would still like to record the symposium, but did not have to stream it, and it would be available for streaming if there were no issues.

Council President Moore thanked Mr. Metzger for all his work and stated this would be left up to staff.

Please note: A short break was taken at 11:07 a.m. The meeting resumed at 11:17 a.m.

IV. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio had no comments.

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

There were no comments heard at this time.

VI. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Mary Webster, 145 Peruvian Avenue, expressed her concerns for the future of the lot behind Neiman Marcus. She asked the Town Council to carefully consider whether to allow the new owners to place the lot for sale.

Leslie Shaw, 318 Seaspray Avenue, requested that someone present a counterpoint in the Symposium. Mr. Martin stated that was in the works.

Simon Taylor, 234 Oleander Avenue, expressed concern about CNU and stated his objections to the Code Reform.

Bill Metzger, 277 Esplanade Way, expressed concern for the chicane on 218 Debra Lane. He asked that the Town encourage the new owners to relocate the equipment on their property rather than in the road.

VII. APPROVAL OF AGENDA

The following modifications were made to the agenda:

Withdrawal of Item VIII.C.1 (b) from the agenda.

Deferral of Item VIII.C.2 (a) to the January 15, 2020 meeting.

Motion was made by Council Member Araskog, and seconded by Council Member Crampton, to approve the agenda as amended. On roll call, the motion carried unanimously.

VIII. DEVELOPMENT REVIEWS

A. Appeals

1. Appeal of September 14, 2019 ARCOM Staff Approval for Tow Aways Signs

Council Member Lindsay expressed a conflict of interest and left the room.

Ms. Churney administered the oath at this time and throughout the meeting as necessary.

Ex-parte communication was requested. Each member of the Council stated none.

Attorney Randolph passed out an overview and timeline of all of the events taken place to date. He recommended a deferral of the appeal and explained the reasons.

Amanda Quirke Hand, attorney representing 100 Emerald Beach Way, concurred with Town Attorney Randolph. She asked that the Town Council order the parties to mediate this issue.

M. Timothy Hanlon, attorney representing 1236 S. Ocean Blvd., objected to Town Attorney Randolph's recommendation and explained his reasoning.

Town Attorney Randolph noted that this must be concluded within 45 days so if Attorney Hand did not agree to a deferral the Town Council must go forward today.

Council Member Araskog agreed with Town Attorney Randolph. She felt that the Town Council should rely on the court's decision on a path to move forward. She stated she would rather get the court's ruling first before moving forward with mediation.

Town Attorney Randolph stated options for moving forward, and his belief that it would be prejudicial to the Town to discuss matters today that were before the court.

Council President Pro Tem Zeidman stated she would listen to the advice from Town Attorney Randolph.

Council President Moore agreed with Town Attorney Randolph.

Council Member Crampton agreed with Town Attorney Randolph.

Attorney Hanlon stated it would not be prejudicial if only the new issues were heard, Town Attorney Randolph agreed.

Motion was made by Council Member Araskog, and seconded by Council President Moore, to defer the appeal of the September 14, 2019 ARCOM Staff Approval for Tow Away Signs to a meeting 31 days after the Court had ruled on the writ. On roll call, the motion carried 4-0, with Council Member Lindsay recused.

B. Time Extensions and Waivers

1. Time Extension Request, 247 Worth Avenue, Le Bilboquet Restaurant

Planning Zoning & Building Assistant Director Wayne Bergman presented the time extension request for 247 Worth Avenue, Le Bilboquet Restaurant, to work through the entire restricted winter season; however, nothing would be visible or accessible from Worth Avenue and all parking and deliveries would take place from the Apollo parking lot.

Maura Ziska, Attorney, explained all of the work would stop over the holidays, and the request was for regular hours 9 a.m. to 5 p.m., with no weekends.

No ex parte was declared by the Council.

Council Member Araskog questioned if Club Collette would be affected. Attorney Ziska stated it would not be affected. Council Member Araskog requested no work during Passover and Thursday through Sunday during Easter, and if there were complaints that this could come back.

Council Member Lindsay questioned if this would affect any parking.

Jane Holzer, 147 Dunbar Rd., stated she did not believe there would be a parking problem.

Mayor Coniglio indicated she thought this was a good request, and added there were no letters of objection.

Motion was made by Council Member Crampton, and seconded by Council President Moore, to approve the waiver for time extension request for 247 Worth Avenue, Le Bilboquet Restaurant, with any complaints to come back before the Town Council. On roll call, the motion carried unanimously 5-0.

C. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **Z-19-00211 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C-PC Planned Center The application of 305 Concepts Palm Beach, LLC d/b/a Coyo Taco, Applicant, relative to property located at **340 ROYAL POINCIANA WAY SUITE: M337**, legal description on file, is described below.

On March 15, 2017, the Town Council approved Special Exception #5-2017, which authorized Coyo Taco to operate a restaurant containing more than 3000 S.F. in the C-PC zoning district at Suites #337A and M 333 of the Royal Poinciana Plaza. The approval was conditioned upon execution of a Declaration of Use Agreement, which did not permit Coyo Taco to have a disc jockey. This application seeks to amend the existing Declaration of Use Agreement to allow the restaurant to have a DJ on Tuesday, Friday and Saturday nights, in addition to special events. The hours requested for the DJ are 8:00pm to 12:00pm on Tuesday nights and 8:00pm to 1:00am on Friday and Saturday nights and for special events. The DJ will be confined to the interior of Coyo Taco. No physical changes to the previous approval are requested. The Declaration of Use Agreement also required Coyo Taco to return to the Town Council to demonstrate compliance with the Town Serving requirement. Coyo Taco has collected data confirming that the Town Serving requirement is met. This information will be

presented to the Town Council during the public hearing on this application.

Ex-parte communication was declared by Council Member Araskog and Council Member Lindsay. No other ex-parte communication was disclosed.

Jamie Crowley, attorney for the applicant, explained the request and the testing that had been completed for noise, which showed no problems with noise levels when the music was loudest.

Council Member Crampton expressed his concerns and the reasons he could not support the request, that the establishment had had problems with underage drinking and people around the establishment had reported problems with noise. Also, he did not agree with changing the declaration of use so quickly after additions had been made.

Council Member Araskog expressed her concerns, and stated she would rather have it begin one night a week and then return for additional nights if there were no complaints.

Attorney Crowley explained the situation regarding the underage drinking had been addressed by now having a third party professional identification company who checks all identification. He discussed the request. Council President Pro Tem Zeidman inquired about the noise testing methods. Mr. Crowley discussed the testing.

Council Member Araskog inquired if the noise was tested near the door that would be opened and closed. Mr. Crowley responded it was tested from the south where the towers would be impacted.

Council Member Lindsay clarified with Mr. Crowley which doors would be opened and the room that would hold the music. He stated nothing could be heard in the parking lot.

Zoning Manager Paul Castro stated that there had been no reported noise complaints from Code Enforcement going back to May and he understood the request was deferred to see if there were any complaints.

Council President Pro Tem Zeidman questioned if the DJ would be at the special events. Council Member Lindsay inquired how many special events with a DJ had occurred this year. Mr. Crowley stated that they had not had any with a DJ and offered to withdraw that from his request until a later date. He clarified they had support of the management.

Council Member Araskog supported trying one night, Friday or Saturday, and to come back in 3 months to see how it was working, and if complaints to come back sooner. She expressed concern with the decibel reading in the courtyard due to other eating establishments. Council Member Crampton asked when the restaurant opened. Mr. Crowley responded it had been operating about two years. He asked about the professional ID reader, which Mr. Crowley explained they scanned IDs and determined if they were real. Mr. Crowley explained how they had tested the noise.

Public Comment

Simon Taylor, 234 Oleander Avenue, expressed concern about resident safety with the proposed application and asked the Council to reject the application.

Anne Pepper, 333 Seaspray Avenue, expressed concern about the proposed application.

Council President Pro Tem Zeidman commented she understood the concerns of the residents.

Council Member Araskog stated she had changed her mind and wasn't prepared to allow a DJ, but might agree to one night.

Council Member Lindsay felt they could be given a trial of one night a week to give the applicant a chance to show whether this would work.

Discussion ensued.

Motion was made by Council Member Araskog, and seconded by Council President Pro Tem Zeidman, that Special Exception Z-19-00211 with Site Plan Review 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, until a time certain of April 15, 2020 when this shall be revisited, for one consistent night each week of the applicant's choice either Friday or Saturday, hours 8 p.m. to 12:00 midnight, and no DJ's for special events; and if there were complaints earlier than April 15, 2020 even if the noise decibel appeared correct, to return to Town Council. Zoning Manager Castro clarified no changes would be made to any agreement until after April 15, 2020. On roll call, the motion carried 3-2 with Council Member Crampton and Council President Moore opposed.

b. Z-19-00213 VARIANCE(S)

This item was withdrawn under Approval of the Agenda, Item V.

2. New Business

a. Z-18-00134 SPECIAL EXCEPTION WITH SITE PLAN

REVIEW AND VARIANCE(S)

This item was deferred under Approval of the Agenda, Item V.

b. **Z-19-00224 SITE PLAN REVIEW AND VARIANCE(S)**

Zoning District: R-B Low Density Residential. The application of Andrew and Milla Russo, Applicant, relative to property located at **218 Debra Lane** legal description on file, is described below. 1. Section 134-893(b)(2) - A request for Site Plan Review to build a 3,539 square foot, 2 story home, hardscape and swimming pool on an existing 10,393 square foot platted lot with a depth of 90' in lieu of 100' minimum required. The following variances are being requested for the proposed swimming pool. a. Section 134-1757 - Request for a front yard setback of twenty feet, four inches (20.33') in lieu of the twenty- five foot (25.0') minimum front yard setback required by code. b. Section 134-1757 - Request to allow the proposed swimming pool in a required street side yard with a continuous hedge of three feet (3.0') in height in lieu of six feet (6.0') minimum required. [Architectural Review Commission Recommendation: Implementation of the proposed site plan review and variances will not cause negative architectural impact to the subject property. Carried 5-2.] [The Architectural Review Commission approved the project as presented. Carried 4-3]

Ex-parte Communication was disclosed by Council Member Araskog and Council Member Lindsay. No other ex parte communication was disclosed.

Frank Lynch, attorney on behalf of the owners at 218 Debra Lane, explained the zoning requests.

Paul Castro provided staff comments.

Public Comments

Molly Noonan, 1469 North Lake Way, expressed concern for the proposed home, which was much larger than her home and the effect it would have in blocking light to her home.

Council Member Araskog inquired if there was a way to change the house so that the variance request for the pool would not be needed. Mr. Lynch responded. Discussion ensued. Mr. Castro provided further staff comments regarding the swimming pool.

Council President Pro Tem Zeidman commented the applicant was trying to make this come into as much compliance as they could for other people in the neighborhood. Mr. Martin spoke

about the issues with the lot.
Discussion ensued.

Attorney Lynch offered to remove the variance related to the pool, which made the hedge the only variance request.

Council Member Lindsay thought the issue of raising the lot should be one of the first items to be addressed in code reform. Mayor Coniglio asked if the applicant was willing to have a transformer on the corner to eliminate the chicane. Attorney Lynch responded they would make every effort to work with the Town and hoped the easement could be diminished but would need to consult others.

Discussion ensued regarding moving the chicane to their property.

Attorney Lynch indicated he could voluntarily agree to working with the Town to shrink the size of the easement and accept the chicane onto the applicant's property as a condition of the variance. Council Member Araskog asked if they should still volunteer an easement. Town Attorney Randolph responded they were volunteering the transformer easement as a condition of the variance.

Motion was made by Council Member Lindsay, and seconded by Council President Pro Tem Zeidman, that Variance Z-19-00224 shall be granted and find in support thereof that all 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 insures a recorded easement will be granted if necessary to underground utilities in the area. On roll call, the motion carried 4-1, with Council Member Araskog opposed.

Motion was made by Council Member Lindsay, and seconded by Council President Pro Tem Zeidman, that Site Plan Z-19-00224 be approved based upon the finding that the approval of the Site Plan will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been met concerning Section 134-329 items 1 through 11 have been met. On roll call, the motion carried unanimously, 5-0.

Please note: A short break was taken at 1:20 p.m. The meeting resumed at 1:22 p.m.

Mayor Coniglio asked Josh Martin to put the FEMA issues first in the Code Reform.

- c. **Z-19-00225 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-WA Worth Ave The application of FRO II WORTH OWNER LLC (Andrew Osborne), Applicant, relative to property located at **259 WORTH AVE**, legal description on file, is described below. Pursuant to Sections 134-1162 and 134-1165 the applicant is requesting Special Exception with Site Plan Review in order to construct a third story as a special allowance based on the Worth Avenue Design Guidelines. This project qualifies for the special allowances as set forth In Exhibit D(Copy on file in the PZ&B Department). The proposed third story consists of a roof top deck with an enclosed 2,390 square feet of living space which includes a 720 square foot pergola. The following variance is being requested: Section 134-1165 - proposed maximum story coverage of 33% for the enclosed living area on the third floor roof deck in lieu of the 25% maximum allowed for a third story using the Worth Avenue Design Guidelines. [Architectural Review Commission Recommendation: The project meets the Worth Avenue Design Guidelines as presented. Carried 5-2.] [The Architectural Review Commission approved the project as presented. Carried 6-1]

Ex-parte was declared by Council Member Araskog, Council Member Crampton, Council President Moore, Council Member Pro Tem Zeidman and Council Member Lindsay.

Maura Ziska, attorney for the owner of the Tiffany building, explained the zoning requests, and commented the new owners wanted to turn the second and third floors into a single family residence. She added that the second floor did not require a variance, and the third floor did not require a variance if the Worth Avenue Design Guidelines for a special allowance were met.

Keith Spina, GliddenSpina, presented the architectural plans for the proposed two-story residence. He placed alternate renderings on the overhead projector. Changes had been made to meet ARCOM requests.

Zoning Manager Castro provided staff comments, stating staff believed the applicant qualified to ask for special allowances, but it was up to ARCOM and the Town Council to approve a project for a third story if they met the special criteria to allow for the third story. Staff thought this was a quality project and that the applicant had the ability to request from Town Council the special allowance, but it was the Council's

decision whether or not they met that and if they should be granted the variance.

Council Member Lindsay asked whether the architects tried to stay within the 25% with the structure of the third story, which Mr. Spina indicated they had. Discussion ensued about the third floor coverage.

Council Member Lindsay thought it was a good adaptation and an elegant solution, and expressed favor for the project.

Council Member Araskog inquired about quasi-judicial procedure.

Council Member Crampton was in favor of the project.

Mayor Coniglio commented she would have liked to have seen Worth Avenue Guidelines, and would like to see the third floor within the guidelines of the code.

Council President Moore asked to see the north elevation of the building from the adjacent parking lot. Mr. Spina reviewed the layout of the rooftop.

Council Member Araskog expressed concern that Town Council had not seen the Worth Avenue Design Guidelines. She asked Mr. Spina questions pertaining to the guidelines. Mr. Spina indicated they had reached out to Town staff for help with meeting the guidelines. Zoning Manager Castro explained they sat down with the architect and went through the intent of the guidelines. Council Member Araskog expressed concern for buildings getting higher and the character of the street would be lost. She was also concerned about 35%.

Council President Pro Tem Zeidman asked Mr. Spina if he considered using more of the coquina stone. He explained how they arrived at the decision to use the small amount of coquina stone. Council President Pro Tem Zeidman saw this residence as a good turning point for Worth Avenue.

Public Comments

Carol LeCates, 212 Seabreeze Avenue, expressed concern regarding whether the project was eligible for the special allowance under the Worth Avenue Guidelines.

Anne Pepper, 333 Seaspray Avenue, thought it was important to stick to the Worth Avenue Guidelines.

Council Member Lindsay thought our Code was counting some items that were not counted in other municipalities, and felt this was a nice solution.

Council Member Araskog did not believe the changes were eligible to be approved in the Worth Avenue Guidelines. She stated she could not vote for this. She believed the item should be deferred.

Council Member Zeidman recommended removing the terraces.

Mr. Martin made some recommendations for the project.

Maura Ziska stated that a deferral would not work for her client.

Town Attorney Randolph stated that he had reviewed the documents and believed that there was enough language in the guidelines to support Zoning Manager Castro's recommendation.

Council Member Crampton stated support for the project. He felt it appropriate to proceed with caution but the architect was not pushing the envelope. He believed this was a positive improvement.

Mayor Coniglio provided her comments, stated she was in favor of the project, and would like to see other mixed use buildings on Worth Avenue.

Mr. Castro stated that the guidelines were handed to the ARCOM members when they made their decision.

Council Member Lindsay stated that she had talked to staff and they were confident the guidelines had been met.

Council Member Araskog noted ARCOM had asked that this come back on certain issues.

Motion was made by Council Member Crampton, and seconded by Council President Pro Tem Zeidman, that Site Plan Z-19-00225 be approved based upon the finding that the approval of the Site Plan will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been met concerning Section 134-329 items 1 through 11 have been met pending a decision on pergola and pool made by ARCOM. On roll call, the motion carried 4-1, with Council Member Araskog opposed.

Motion was made by Council Member Crampton, and seconded by Council Member Lindsay, that Variance Z-19-00225 shall be deferred to a time certain of December 11, 2019. On roll call, the motion carried unanimously, 5-0.

Motion was made by Council Member Crampton, and seconded by Council President Pro Tem Zeidman, that Special Exception Z-19-00225 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. On roll call, the motion carried 4-1, with Council Member Araskog opposed.

- d. **Z-19-00226 SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of Karen Lehrman Pravias, Applicant, relative to property located at **225 EVERGLADE AVESUITE: 1**, legal description on file, is described below. The applicant is requesting Site Plan Review pursuant to Section 134-942 to propose the removal of an existing 120 square foot awning and to replace it with a 192 square foot awning along the south side of the condominium unit, which will require the following variances: 1. Section 134-948 (5) - front yard setback of 17.33 feet in lieu of the 25 foot minimum required for multifamily use in the R-C Zoning District. 2. Section 134-948 (6) -West side yard setback of 14.84 feet in lieu of the 20-foot minimum setback required for multifamily use in the R-C Zoning District. 3. Section 134-948 (9) -Lot coverage of 41.34% in lieu of the 41.17% existing and the 30% maximum allowed for multifamily use in the R-C Zoning District.

No ex parte was declared.

Maura Ziska, attorney for the owner of the building, explained the zoning requests.

Paul Castro provided staff comments.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Lindsay, that Variance Z-19-00226 shall be granted and find in support thereof that all 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 insures a recorded easement will be granted if necessary to underground utilities in the area. On roll call, the motion carried unanimously, 5-0.

Motion was made by Council President Pro Tem Zeidman, and seconded by Council Member Araskog, that Site Plan Z-19-00226 be approved based upon the finding that the approval of the Site Plan will not adversely affect the public interest; that the Council certifies that the

specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been met concerning Section 134-329 items 1 through 11 have been met. On roll call, the motion carried unanimously 5-0.

- e. **Z-19-00227 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Brett and Meaghan Barakett, Applicant, relative to property located at **130 BARTON AVE**, legal description on file, is described below. The Applicant is proposing to construct a two story, 1,597 square foot addition (not including mechanical basement) and a 1,715 square foot basement. The addition is to be the same height and overall height of existing home, but the addition requires the following variance requests: 1. a height of 24.4 feet in lieu of 22 feet maximum permitted (Section 134-893(10)); 2. An overall height of 29.2 feet in lieu of 25 feet maximum for a flat roof residence (Section 134-893(10); and 3. A rear building height plane height of 24.4 feet in lieu of 22 foot maximum (Section 134-893(8). [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Landmarks Preservation Commission approved the project with conditions relating to the architecture. Carried 7-0]

No ex-parte was disclosed.

M. Timothy Hanlon, attorney for the owner of the building, explained the zoning requests.

Paul Castro provided staff comments.

Motion was made by Council Member Lindsay, and seconded by Council Member Araskog, that Variance Z-19-00227 shall be granted and find in support thereof that all 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 insures a recorded easement will be granted if necessary to underground utilities in the area, and added there were three variances. On roll call, the motion carried unanimously, 5-0.

IX. ANY OTHER MATTERS

- A. **Discussion to Consider Section 66-236 to Require Town Approval of Removing Landscape Buffers**

Planning Zoning & Building Assistant Director Wayne Bergman presented the item to see if the Town Council members would like this item to be taken to ORS.

Mayor Coniglio stated she was in favor of looking at this item.

Council Member Araskog agreed with Mayor Coniglio. She reported she had discussed this with Mr. Bergman.

Council Member Lindsay stated she was comfortable sending it to ORS, but not to make this a big process.

Council President Moore raised concern but was fine with sending it to ORS.

Mr. Martin discussed the situation that occurred, which prompted this discussion.

Council Member Araskog asked that a requirement to keep a hedge for a certain length of time be considered.

B. Discussion of Previous Vote and Reconsideration of Request from O’Conner Property Management on Behalf of Wilson 151 Worth, LLC, to Release the 1998 Use Agreement Requirements for 152 Peruvian Avenue

Town Attorney Randolph stated that Harvey Oyer sent a letter objecting to this item and requested it be a part of the record. Attorney Randolph read the letter into the record.

Motion was made by Council Member Araskog, and seconded by Council President Moore, to reconsider last month’s vote regarding 152 Peruvian Avenue and the declaration of use agreement.

Peter Bergner, O’Conner Capital Partners, stated he was present to see who they needed to speak to adjacent to the property. Mr. Martin stated this needed to go through proper channels.

On roll call, the motion carried unanimously, 5-0.

Mr. Martin stated he would work with the neighbors to facilitate a negotiation.

Mr. Castro recalled what he remembered from the original approval.

Motion was made by Council Member Araskog, and seconded by Council Member Lindsay, to rescind the previous vote on the action taken on 152 Peruvian Avenue. On roll call, the motion carried unanimously 5-0.

X. ADJOURNMENT

There being no further business, the Development Review Town Council meeting of

November 13, 2019 was adjourned at 3:15 p.m. without the benefit of a roll call.

APPROVED:

_____ **Danielle H. Moore, Town Council President**

ATTEST:

_____ **Kelly Churney, Administrative Specialist**