



# TOWN OF PALM BEACH

## Minutes of the Development Review

### Town Council Meeting

Held on July 15, 2020

#### **I. CALL TO ORDER AND ROLL CALL**

The Development Review Town Council Meeting was called to order July 15, 2020 at 9:30 a.m. virtually via Zoom Webinar. 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 Zeidman led the Pledge of Allegiance.

#### **III. COMMENTS OF MAYOR GAIL L. CONIGLIO**

The Mayor had questions and concerns related to the tax abatement approval for 130 Barton Avenue, noting the extensive ongoing work that has been occurring.

Town Attorney Randolph advised the Mayor to allow staff to investigate this outside of the meeting.

#### **IV. COMMENTS OF TOWN COUNCIL MEMBERS**

Council Member Araskog stated she was thankful for the generosity of the community. She implored people to give, as many people were relying on food banks in this time.

There were no other comments heard from the Town Council Members.

#### **V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE**

Council Member Araskog expressed concern that Mr. Silvin might be providing a Chairman's report, which had not indicated on the agenda. Town Attorney Randolph advised Mr. Silvin was allowed to speak as a citizen.

Rene Silvin, 44 Australian Avenue, expressed appreciation for the COVID report. He was thankful that the Town Council allowed the virtual meetings and thought they were successful. He also spoke about the Landmarks Preservation Commissioners' discussions at the beginning of each meeting to increase efficiency. He reported they were working to provide full transparency, including the listing of staff approvals at the end of the meeting.

## **VI. APPROVAL OF AGENDA**

### **The following modifications were made to the agenda:**

Deferral of Item VII.A.1 (a) to the November 20, 2020 meeting.

Deferral of Item VII.A.1 (b) to the August 12, 2020 meeting.

Deferral of Item VII.B.2 (f) to the August 12, 2020 meeting.

**Motion was made by Council Member Moore, and seconded by Council Member Crampton, to approve the agenda as amended. Motion carried unanimously, 5-0.**

## **VII. DEVELOPMENT REVIEW**

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

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

- a. **Z-19-00232 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-WA Worth Avenue The application of 125 Worth Partners, LLC, Applicant, relative to property located at **125 WORTH AVE**, legal description on file, is described below. The applicant requests Site Plan Review modification approval for revitalization, renovation and expansion of the 45 year-old nonconforming commercial building located at 125 Worth Avenue in the C-WA zoning district. The building will be completely renovated architecturally using design themes found in the Worth Avenue Design Guidelines. In addition, a two story addition is being proposed on the east end of the property. To make this project financially feasible, the owners are requesting to demolish and rebuild the existing fourth story and expand its footprint to add four residential units. In addition to the Site Plan Review proposed modifications, the applicant is requesting the following Special Exceptions and Variances required to complete the project: 1. Per Section 134-1163(8)b., a special exception for a two-story and fourth story addition. The existing building is four stories but it is being expanded. 2. Per Section 134-2182(b), a special exception for on-site shared parking, subject to a professional shared parking analysis. 3. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the height from 53' in lieu of the 49'2" existing and the 25' maximum allowed by code. 4. Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the overall building height to 63'4" in lieu of the 53'8" existing and the 35' maximum allowed by current code. 5. Per Section 134-419, variance to allow an expansion of an existing nonconforming building by increasing the existing air conditioned floor area of the fourth story to 13,212.9 square feet from 3,448.75 square feet existing. An open fourth story trellis of 5,433 square feet is also proposed in this application and included in the calculation of lot coverage, below. There is an existing exterior fourth floor covered area of approximately 3,290 Square feet in addition to the existing air conditioned floor area on the fourth story of the building. 6. Per Section 134-1163(5), variance to allow a minimum front yard setback of 1'1" for

portions of the building in lieu of the 5' existing and the 5' minimum required on the private property. The sidewalk is required to be a minimum of 10' wide and this proposal is a minimum of 8'2" in the area where the sidewalk is only 1'1" wide on private property. 7. Per Section 134-1163(9)b., variance for lot coverage of 71% on the first floor in lieu of the 57% existing and the 35% maximum allowable. 8. Per Section 134-1163(9)b., variance for lot coverage of 71% on the second floor in lieu of the 57% existing and the 35% maximum allowed for second story. 9. Per Section 134-1163(9)b., variance for lot coverage of 54% on the fourth floor in lieu of the 20% existing and the 35% maximum allowable by code. 10. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the existing building length at the east end of the building from 201'8" to 246' in lieu of the 150' permitted as of right in the C-WA zoning district. [Applicant's Representative: James M. Crowley Esq] Request for Deferral to August 12, 2020 Meeting per Email Dated July 1, 2020 from James M. Crowley.

***This project was deferred to the November 20, 2020 meeting at approval of the agenda.***

- b. **Z-19-00236 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Jennifer J. Naegele, Applicant, relative to property located at **70 MIDDLE RD**, legal description on file, is described below. The applicant is undertaking a renovation of a 3 story landmarked residence located in the R-B Zoning District. The renovation includes a 91 square foot laundry room addition to the northwest corner of the house; a 191 square foot covered terrace addition on the north side of the house; and a 60 KW generator proposed in the street side yard along Via Marina. The following variances are being requested: 1) Sec. 134-1729: a variance to allow a 60 KW generator to be placed in the street side yard along Via Marina with a setback of 8.5 feet in lieu of the 25 foot minimum required. 2) Sec. 134-893(11): a variance for lot coverage for the laundry room addition of 34.47% in lieu of the 33.07% existing and the 30% maximum allowed. 3) Sec. 134-893(13): a variance for a cubic content ratio ("CCR") for the laundry room and covered terrace of 8.85 in lieu of the 8.32 existing and the 3.95 maximum allowed. 4) Sec. 134-893(7): a variance for a north side yard setback of 7.6 feet in lieu of the 12.5 feet minimum required for the laundry room addition. 5) Sec. 134- 893(7): a variance to convert the existing flat roof to a covered balcony with railing that will have a north side yard setback of 7.6 feet in lieu of the 15 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Foundation Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0. The Landmarks Preservation Commission approved the project as presented with the condition that the homeowner voluntarily grants the utility easement. Carried 7-0]

*This project was deferred to the August 12, 2020 meeting at approval of the agenda.*

- c. **Z-20-00247 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-WA Worth Avenue The application of Le Bilboquet (Philippe Delgrange, Principal), Applicant, relative to property located at **247 WORTH AVE SUITE: A**, legal description on file, is described below. 1) Sec. 134-1159 (a) (6), Sec. 134-329 and Sec. 134-229: A request to modify the previously approved Special Exception with Site Plan Review to add 51 additional seats to the previously approved 109 seat, 3,590 square foot restaurant ("Le Bilboquet") on both the 1st and 2nd floor in the rear of the via located at 247 Worth Avenue (160 total proposed seats). In addition, to add 594.5 square feet on the back of the building to house a cooler/storage area and elevator and two retractable awnings totaling 512 square feet over the via. There are also two existing permanent awnings that will be replaced with three awnings of the same approximate size. There is also an existing awning on Worth Avenue that will be replaced with an awning of the same approximate size. There will be new mechanical equipment located on the roof that will be screened. Additionally, the restaurant plans to have background music in the via. 2) Sec. 134- 1159 (a) (6), Sec. 134-2176 and Sec. 134-2001: A request for Special Exception with Site Plan Review modification to allow 58 seats to be outside in the via in lieu of the 48 seats previously approved. 3) Sec. 134-1161 (a): A variance to have 58 outdoor seats over the inside capacity. The Code does not allow outdoor seating above the indoor capacity of the tenant space. 4) Sec. 134-1163 (7): A variance request to have a rear yard setback of 5.5 feet for the elevator and 2.5 feet for the cooler/storage building in lieu of the 10 foot minimum required in the CWA Zoning District. 5) Sec. 134-1163(9): A variance request to allow a lot coverage for the elevator, cooler/storage building and retractable awnings of 84.6% in lieu of the 72.4% existing and the 35 % maximum allowed in the C-WA Zoning District for a two story building. 6) Sec. 134-1163(11): A request for a landscaped open space to be 3.5 % in lieu of the 4% existing and the 25 % minimum required in the C-WA Zoning District for a two story building. 7) Sec. 134-2175, Sec. 134-329 and Sec. 134-229: A request for a variance to provide zero (0) on-site parking spaces in lieu of the required 24 parking spaces that would be required under the principle of equivalency for the additional 51 seats being requested and the new elevator and 494 square foot cooler/storage building that is being added. A variance was previously approved to eliminate the requirement of 29 parking spaces. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved the project with a condition relating to architecture. Carried 6-1.]

At this time, Administrative Specialist Churney swore in Paul Castro, Wayne Bergman, Maura Ziska, Nelo Freijomel, Keith Spina and Jane Holzer.

Ex-parte communication was disclosed by Council Members Araskog, Crampton, Moore, Council President Pro Tem Lindsay, Council President Zeidman and Mayor Coniglio.

Maura Ziska, Attorney for the applicant, presented the application.

Zoning Manager Castro provided staff comments.

Council Member Araskog inquired about the nano door and asked Mr. Castro to explain his concerns. Mr. Castro responded. Council Member Araskog asked if the nano door needed to be reviewed by ARCOM. Ms. Ziska and Nelo Freijomel, Spina O'Rourke, explained the nano doors and stated that they were approved by ARCOM. Council Member Araskog inquired if the proposed dumpster was appropriate for the size of the restaurant. Mr. Castro responded. Mr. Freijomel explained the public works equipment in the rear of the property.

Mayor Coniglio expressed concern for the impact of 24 additional seats on Worth Avenue and the neighborhood, and the increase and intensity of use on the rear of the project. She was also concerned with the lack of hardship, and confirmed with Town Attorney Randolph that economics was not an acceptable hardship.

Council Member Crampton inquired whether ARCOM had addressed the substantial issues raised as a result of the staff approvals from the previous director. Mr. Castro responded.

Council President Pro Tem Lindsay inquired about the parking variance and whether the letter sent to the Town addressed the concerns of staff. Mr. Castro responded a special exception would be needed as well as a lease or document showing the 24 parking spaces were available to the applicant.

Acting Director of Planning, Zoning and Building Wayne Bergman indicated he would be comfortable with a lease.

Jane Holzer commented no one else had ever been required to show a lease.

Council President Zeidman inquired about the notice that the neighbors had received. Ms. Ziska and Mr. Castro responded. Council President Zeidman asked about the Development Review Committee comments and whether the committee had reviewed the new plans. Mr. Castro

responded.

Council Member Araskog inquired as to who would pay the valet, the cross access agreement for the grease traps and trash receptacles and the outdoor elevator. Mr. Castro responded. She inquired about the fire suppression system. Fire Marshal Martin DeLoach responded.

Council Member Crampton liked the project but thought the project had two weaknesses, which were the parking spaces in the Apollo parking lot and that he believed the project needed further review by staff. Ms. Ziska weighed in on Council Member Crampton's concerns.

Jane Holzer, applicant, discussed the availability of the parking lot.

Council President Pro Tem Lindsay liked the project and stated she was not against the increase of the seating request. She expressed concern for access to remove the trash and clean the grease trap. Mr. Castro stated that staff's request would be a cross access agreement as well as a lease for the 24 parking spaces.

Mayor Coniglio inquired about the hardship. Ms. Ziska responded.

Council President Zeidman expressed her opinion was there were two things needed to move forward; a lease agreement for the parking spaces and the cross access agreement.

Council Member Araskog believed that the nano doors needed to go back to ARCOM. She also questioned the hardship provided by the applicant. She had a problem with the addition of seats to obtain a liquor license. She stated that she could not support the project.

Mayor Coniglio did not believe there was a hardship. She expressed concern about the nano doors and thought ARCOM should see them again. She had concerns about the liquor license, the grease trap, deliveries for the building, and the parking spaces.

Council Member Moore expressed concern for the increase in seating and stated she would struggle to approve this project.

Ms. Ziska stated that the coolers were needed with the approval and they would provide a cross access agreement for the cleaning of the grease trap. She added that she would remove the request for the additional seats.

Council President Pro Tem Lindsay thought with the removal of the additional seats, most of the issues had been removed.

Mayor Coniglio was uncomfortable because of the change in location for the coolers and the elevator.

Council President Zeidman felt the removal of the elevator request would indicate they were planning to come back and Council would have to deal with this again.

Council Member Araskog thought the approval should be the original seats as well as removal of the elevator.

Council President Pro Tem Lindsay felt this should be moved forward.

Discussion ensued regarding what should be included in the motion.

There were no public comments.

**Motion by Council Member Araskog and seconded by Council Member Moore that Special Exception Z-20-00247 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, 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, and subject to the conditions that have been agreed upon including seating limited to 109 seats (up to 58 seats outdoors), an elevator, new cooler, and a cross access agreement is obtained for deliveries, garbage and grease removal. Motion carried unanimously, 5-0.**

**Motion was made by Council Member Araskog and seconded by Council Member Moore that Site Plan Z-20-00247 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. Motion carried unanimously, 5-0.**

**Motion was made by Council Member Moore and seconded by Council Member Araskog that Variance Z-20-00-247 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, however there is a condition that the requested variance for parking is not approved; 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. Motion carried unanimously, 5-0.**

*Clerk's Note: A short break was taken at 11:47 a.m. The meeting resumed at 11:55 a.m.*

## 2. New Business

- a. **Z-20-00257 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of ILLKM PB LLC (Jeffrey Weiner, Member), Applicant, relative to property located at **655 ISLAND DR**, legal description on file, is described below. A request to allow the demolition of the existing wooden marginal dock and replacement with a new marginal dock and construct a new boat lift and Jet ski lift which will require the following variances: 1) The new boat which will be 21.83 feet west of the U.S. Pier head line in lieu of the 6 foot maximum allowed. 2) The new Jet Ski lift which will be 17.83 feet west of the U.S. Pier head line in lieu of the 6 foot maximum allowed. [Applicant's Representative: Maura Ziska Esq]

At this time, Administrative Specialist Churney swore in Keith Williams.

Ex-parte communication was disclosed by Council Members Araskog, Crampton, Moore, Council President Pro Tem Lindsay and Council President Zeidman.

Maura Ziska, Attorney for the applicant, explained the variance requests and presented the project.

Zoning Manager Castro provided staff comments.

Council Araskog inquired about the reason the yard was being extended. Ms. Ziska responded.

Keith Williams, Nievera Williams Design, further explained the landscape plan.

Mayor Coniglio asked Mr. Castro for clarification on the design of the dock. Mr. Castro responded. The Mayor had no problems with this application.

Council Member Crampton confirmed with Ms. Ziska this was on the west side of the island.

Council President Pro Tem Lindsay stated she had no problems with this application.

Council Member Moore stated she had no problems with this application.

There were no comments from the public.

**Motion made by Council Member Moore and seconded by Council Member Araskog that Variance Z-20-00-257 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. Motion**



carried unanimously, 5-0.

- b. **Z-20-00258 VARIANCE(S)** Zoning District: R-A Estate Residential  
The application of Maura Ziska, Trustee of the 1047 South Ocean Boulevard Trust, Applicant, relative to property located at **1047 S OCEAN BLVD**, legal description on file, is described below. Section 134-843(11): Applicant Is proposing to remove two (2) existing cantilevered balconies on the back of the residence totaling 102 square feet and replacing them with one (1) larger cantilevered 404 square foot balcony that connects to an existing second story roof deck which will require a variance for lot coverage of 43.92% in lieu of the 41.69% existing and the 25% maximum allowed In the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

At this time, Administrative Specialist Churney swore in Peter Papadopoulos.

Ex-parte disclosure was made by Council Members Araskog, Crampton, Moore, Council President Pro Tem Lindsay and Council President Zeidman.

Maura Ziska, Attorney for the applicant, explained the variance requests.

Peter Papadopoulos, Smith and Moore Architects, presented the architectural plans for the project.

Zoning Manager Castro provided staff comments in support of the project.

All of the council members were in support of the project.

President Zeidman called for public comments. Mr. Falco confirmed there were no public comments.

**Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variances Z-20-00-258 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 ensures a recorded easement will be granted if necessary to underground**

**utilities in the area. Motion carried unanimously, 5-0.**

- c. **Z-20-00259 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Julia Koch, Applicant, relative to property located at **150 S OCEAN BLVD**, legal description on file, is described below. Section 134-993(13): The owner is proposing a renovation that will increase the ceiling height in a 2nd story bedroom comprising of 1,010 square feet by approximately 1.3 feet. This will require a variance to be requested to increase the cubic content ratio to 4.70 in lieu of the 4.68 existing CCR and the 3.68 maximum allowed. [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

At this time, Administrative Specialist Churney swore in Tom Kirchhoff.

Ex-parte disclosure was made by Council Members Araskog, Crampton, Moore, Council President Pro Tem Lindsay and Council President Zeidman.

Maura Ziska, Attorney for the applicant, explained the variance requests.

Tom Kirchhoff, Kirchhoff & Associates Architects, presented the architectural plans for the project.

Zoning Manager Castro provided staff comments, expressing support.

Council Member Araskog inquired about the existing and proposed heights. Mr. Kirchhoff responded.

President Zeidman called for public comments. Mr. Falco confirmed there were no public comments.

**Motion made by Council Member Moore and seconded by Council President Pro Tem Lindsay that Variances Z-20-00-259 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 ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried unanimously, 5-0.**

- d. **Z-20-00260 SPECIAL EXCEPTION WITH SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Matthew and Anne Iorio, Applicant, relative to property located at **131 SEAVIEW AVE**, legal description on file, is described below. Section 134-8939(c): Special Exception with Site Plan Review to allow the renovation of an existing two story residence and swimming pool by demolishing more than 50% cubic footage on portions of platted lots with a depth of 97.12 feet in lieu of the 100 foot minimum required in the R-B Zoning District and an area of 9,712 in lieu of the 10,000 square foot minimum required in the R-B Zoning District. The request is to demolish a 1 story/237 square foot exercise room in the rear of the house; a 1 story/720 square foot Florida room in the rear of the house; and add a 386 square foot two story family room (first floor) and bedroom (second floor); and a 292 square foot loggia. The following variances are being requested: 1) Section 134-893(b)(5): a front yard setback of 24.9 feet in lieu of the 30 foot minimum setback required; 2) Section 134-893(b)(7): a west side yard setback of 4.9 feet in lieu of the 4.9 feet existing and the 15 foot minimum setback required; 3) Section 134-893(b)(11): a lot coverage of 31.3% in lieu of the 30% maximum allowed; 4) Section 134-893(b)(13): a cubic content ratio of 6.90 in lieu of the 6.99 existing and the 4.03 maximum allowed; 5) Section 134-893(b)(12): a landscape open space of 33% in lieu of the 45% minimum required; 6) Section 134-1757: an east side yard setback for the swimming pool of 6 feet in lieu of the 10 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Carried 7-0.] [The Architectural Review Commission approved the project with a condition relating to landscape. Carried 7-0.]

Ex-parte disclosure was made by Council Members Araskog, Crampton, Moore and Council President Pro Tem Lindsay.

Maura Ziska, Attorney for the applicant, explained the zoning requests.

Tom Kirchhoff, Kirchhoff & Associates Architects, presented the architectural plans for the project.

Keith Williams, Nievera Williams Design, presented the landscape and hardscape plans for the project.

Zoning Manager Castro provided staff comments.

Council Member Araskog inquired what Mr. Williams could plant that would address the neighbor's concerns. Mr. Williams responded. Ms. Ziska stated that a caveat could be added to the approval that the hedge would be maintained at a certain height. Council Member Araskog thanked the applicant for adding green space.

Council President Zeidman called for public comments.

Steven Greenwald, 128 Seaspray Avenue, expressed concern for the proposed landscape that bordered his property.

Martha Greenwald, 128 Seaspray Avenue, expressed concern for the proposed landscape that bordered her property.

Anne Iorio, owner of the property, explained that she did not have any control of the previous owner's landscape, but she was a responsible owner and would be maintaining her landscaping.

Council Member Crampton suggested that the neighbors work out an agreement for the landscape between them. He was in favor of the project and thought it should move forward.

President Pro Tem Lindsay agreed with Council Member Crampton.

Council Member Araskog proposed to approve everything with the exception of the area of landscape that was in question.

**Motion made by Council Member Araskog and seconded by Council Member Crampton that Special Exception Z-20-00260 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 exception of the plantings on the north side, which the professionals will meet to find a mutually acceptable plant solution; 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. Motion carried unanimously, 5-0.**

**Motion was made by Council Member Araskog, and seconded by Council President Pro Tem Lindsay that Site Plan Z-20-00260 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, and with the condition they come return to the Town Council with a mutually acceptable plant solution for the north side plantings. On roll call, the motion carried unanimously, 5-0.**

**Motion made by Council Member Araskog moved and Council President Pro Tem Lindsay seconded, that Variance Z-20-00-260 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. Motion carried unanimously 5-0.**

**Motions amended by Council Member Araskog and seconded by Council President Pro Tem Lindsay that the motions for the Variance, Special Exception and Site Plan for Z-20-00-260 shall be amended and deferred to August 12, 2020 for the north side plantings. Motion carried unanimously, 5-0.**

*Clerk's Note: A short break was taken at 1:22 pm. The meeting reconvened at 1:36 p.m.*

- e. **Z-20-00261 VARIANCE(S)** Zoning District: R-A Estate Residential  
The application of Ann DesRuisseaux, Applicant, relative to property located at **800 S COUNTY RD**, legal description on file, is described below. The applicant is undertaking a renovation of a 2 story landmarked residence with accessory buildings and a boat house all located in the R-A Zoning District. The renovation includes raising the finished floor elevations of all of the structures to 9.0 feet NAVD. The renovation also includes a 10,590 square foot 2-story addition to the main residence; a 796 square foot addition to the boat house located at the NW corner of the property; demolition of the tennis pavilion by more than 50% of the cubic footage on the east side of the property and 200 square foot addition to the tennis pavilion; relocation of an existing 225 square foot cabana to be attached to the main residence; relocation of the 145 square foot 2-story generator building. The following variances are being requested: 1) 134-843(8): a north side yard setback of 5 feet for the boat house addition in lieu of the 30 foot minimum required; 2) 134-843(8): a north side yard setback ranging from 1.1 feet to 5.5 feet in lieu of the 30 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; 3) 134-843(8): a rear yard setback of 0 feet in lieu of the 15 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; 4) 134-843(8): a rear yard setback ranging from 0 feet to 13.4 feet in lieu of the 15 foot minimum required for the existing main house when raising the finished floor thus increasing the height in the setback; 5) 134-843(9): a rear yard setback of 12.58 feet in lieu of the 15 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; 6) 134-843(8): a north side yard setback of 14.5 feet for the 2-story generator building in lieu of the 30 foot minimum required; 7) 134-843(8): a south side yard setback ranging from 9 feet to 15.5 feet in lieu of the 30 foot minimum required for the new cabana and main house addition; 8) 134-843(10): a height in the main residence and addition to main house of 26.5 in lieu of the 25 foot maximum allowed; 9) 134-843(5): a front yard setback ranging from 6.3 feet to 22.83 in lieu of the 35 foot minimum required for the tennis pavilion; 10) 134-843(5): a front yard setback of 6.3 feet in lieu of the 35 foot minimum required for the existing tennis pavilion when raising the finished floor thus increasing the height in the setback; 11) 134-843(12): a landscaped open space of 43.24% in lieu of the 71.56% existing and the 50% minimum required; 12) 134-843(6): an angle of vision and building height plane for tennis pavilion to be 144

degrees in lieu of the 120 degrees maximum allowed; and 13) 134-843(7): a building height plane setback of 6.3 feet in lieu of the 20.2 foot minimum required; and 14) 134-1759(c): a variance to not have a 10 foot high fence around the perimeter of the tennis court. [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 7- 0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

At this time, Administrative Specialist Churney swore in Rafael Portuondo, Che Wei Kuo and Ann DesRuisseaux.

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

Maura Ziska, Attorney for the applicant, explained the variance requests.

Rafael Portuondo, Portuondo Perotti Architects, presented the architectural plans for the project.

Ann DesRuisseaux, owner, also provided comments related to the architecture and zoning requests.

Zoning Manager Castro provided staff comments.

All of the council members were in support of the project.

President Pro Tem Lindsay inquired about the landmark status of the tennis pavilion. Ms. Ziska responded.

Council Member Araskog asked for clarification on some of the requests. Mr. Castro responded. Council Member Araskog expressed concern for the reduction of green space and asked if any changes could be made to increase the green space.

President Zeidman called for public comments. Bradley Falco confirmed there were no public comments.

**Motion made by Council Member Crampton and seconded by Council Member Moore that Variances Z-20-00-21 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 ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried unanimously, 5-0.**

- e. **Z-20-000262 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-D(2) High Density Residential The application of The Ambassador Hotel Cooperative Apartments Corp., A Florida Corporation (Richard Schlesinger, President), Applicant, relative to property located at **2730 S OCEAN BLVD**, legal description on file, is described below. The following zoning relief is being requested: 1. Section 134-1055 (16.): Special Exception approval to modify the existing condo-hotel use in the R-D (2) Zoning District. 2. Section 134- 327: Site plan approval for the modifications to the existing condo-hotel site as identified above. 3. Section 134-1064: Special exception approval for the new balconies on the third, fourth and fifth floors. 4. Section 134-1060 (6)(f): Variance request for the proposed redevelopment to include the addition of balconies on the south side of the building that will encroach into the south side yard setback by a 30 inches thus a variance request for a setback of 27.5 feet in lieu of the 30 foot minimum required. 5. Section 134-2172: Variance to allow the proposed off-street, valet-operated parking, to be tandem and stacked in lieu of the code required off-street parking standards related to size of spaces and access. The code requires parking spaces to be designed so that a vehicle can be removed without the necessity to move another vehicle. The proposed parking is modifying and adding parking areas designed with stacked (tandem) and lift parking. 6. Section 134-1064: Variance to allow the lot coverage to be 44.9% in lieu of the 23.7% existing and the 22% maximum allowed in the R-D (2) Zoning District for 5 story buildings (the building is 7 stories with a lower level floor area). 7. Section 134-1060(6): Variance to allow a north side yard setback of 15 feet in lieu of the 30 foot minimum required for the under dune garage. 8. Section 134-1064(b)(3): Variance to allow a height of 68.96 feet in lieu of the 62.5 maximum allowed for the Penthouse additions (7th floor). [Applicant's Representative: Maura Ziska Esq] Request for Deferral to August 12, 2020 Meeting per Email Dated June 19, 2020 from Maura Ziska.

*This project was deferred to the August 12, 2020 meeting at approval of the agenda.*

- f. **Z-20-00263 SPECIAL EXCEPTION** Zoning District: C-TS Town-Serving Commercial The application of The Breakers Palm Beach, Inc., Applicant, relative to property located at **229 ROYAL POINCIANA WAY**, legal description on file, is described below. Pursuant to Section 134-2373(13) of the Town Code, the applicant is requesting special exception approval to allow an internally illuminated, backlit business identification sign for Henry's Palm Beach, which is located at Via Flagler (221 Royal Poinciana Way is the overall project address) on the front of the restaurant facing Royal Poinciana Way (229 Royal Poinciana Way) in the C-TS zoning district. The illuminated sign was approved by ARCOM on January 29, 2020 in connection with

ARCOM's review of application number A-31-2019, which is the master signage program for Via Flagler. Other than the special exception for an illuminated sign, no other special exceptions or variances are requested or required. [Applicant's Representative: James M. Crowley Esq]

At this time, Administrative Specialist Churney swore in James M. Crowley.

Ex-parte communication was disclosed by Council Members Araskog, Moore, Council President Pro Tem Lindsay and Council President Zeidman.

Jamie Crowley, Attorney for the applicant, explained the special exception request.

Zoning Manager Castro provided staff comments.

Council Member Araskog clarified how the signage was electrified.

President Zeidman called for public comments. Mr. Falco confirmed there were no public comments.

**Motion made by Council Member Araskog and seconded by Council Member Crampton that Special Exception Z-20-00263 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, 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. Motion carried unanimously, 5-0.**

## II. ORDINANCES

### A. First Reading

1. ORDINANCE 02-2020 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 18, Buildings And Building Regulations, Town Code Of Ordinances, By Adding Article VI, Historic Conservation Districts; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Town Attorney Randolph read Ordinance 02-2020 on first reading by title only.

**Motion was made by Council Member Araskog, and seconded by Council Member Moore, to approve Ordinance 02-2020 on first reading. Motion carried unanimously, 5-0.**



2. ORDINANCE 03-2020 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 50, Floods, Town Code Of Ordinances, By Amending Article III, Definitions, Division 2, Definitions, Section 50-137.5, Definitions; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Town Attorney Randolph read Ordinance 03-2020 on first reading by title only.

**Motion was made by Council Member Araskog, and seconded by Council Member Moore, to approve Ordinance 03-2020 on first reading. Motion carried unanimously, 5-0.**

Council President Zeidman asked if there were any public comments for Ordinance 02-2020 or Ordinance 03-2020. There were no public comments.

### III. ANY OTHER MATTERS

- A. Discussion on Prohibited Vegetation

Acting Director Bergman advised that Mr. Greenwald's letter had brought up the problem of vegetation planted up against neighboring buildings, and suggested there should be some minimum separation distance between the buildings on the neighboring properties and the plant material.

**Consensus of Council was to send this to ORS.**

- B. Minutes from the June 10, 2020 Meeting (carried from July 14, 2020 meeting)

Council Member Araskog requested changes to the summarized minutes of the June 10, 2020 meeting minutes, specifically to add items she had discussed in the beginning of the meeting.

Council President Zeidman suggested adding an addendum, a transcript of Council Member Araskog's comments. Council Member Araskog thought the minutes should be amended.

**Consensus of Council was to bring the minutes back to the August 11, 2020 meeting.**

### IV. ADJOURNMENT

The Town Council Development Review meeting was adjourned at 2:44 p.m. without the benefit of a motion and roll call.

APPROVED:

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

ATTEST:

\_\_\_\_\_  
Kelly Churney, Administrative Specialist