



TOWN OF PALM BEACH

Minutes of the Development Review Town Council Meeting Held on September 9, 2020

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

The Development Review Town Council Meeting was called to order September 9, 2020 at 9:30 a.m. digitally 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**

Mayor Coniglio welcomed the new Town Clerk, Queenester Nieves to the Town. She thanked Pat Gayle-Gordon for stepping into the role of Acting Town Clerk for the past several months.

IV. **COMMENTS OF TOWN COUNCIL MEMBERS**

Council President Zeidman thanked Pat Gayle-Gordon and announced that she would hold further comments until the next day.

Council Member Araskog also thanked Pat Gayle-Gordon, and announced she would also hold her comments until the next day.

Council Member Crampton echoed Council Member Araskog's comments.

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

There were no requests to speak at this time.

VI. **APPROVAL OF AGENDA**

The following modifications were made to the agenda:

Withdrawal of Item VII.A.1

Deferral of Item VII.B.1 (a) to the October 14, 2020 meeting.

Deferral of Item VII.B.1 (c) to the November 13, 2020 meeting.

Deferral of Item VII.B.1 (d) to the October 14, 2020 meeting.

Deferral of Item VII.B.2 (a) to the October 14, 2020 meeting.

Deferral of Item VII.B.2 (f) to the October 14, 2020 meeting.

Deferral of Item VII.B.2 (g) to the October 14, 2020 meeting.

Deferral of Item VII.B.2 (k) to the October 14, 2020 meeting.

Motion was made by Council Member Moore, and seconded by Council Member Araskog, to approve the agenda as amended, with the direction that 143 Reef Road must go back to ARCOM if the garage design was changed. Motion carried unanimously.

VII. DEVELOPMENT REVIEW

A. Time Extensions and Waivers

1. Time Extension of Construction for 225 Worth Avenue
This project was withdrawn at approval of the agenda.
2. Time Extension of Construction for 247 Worth Avenue
3. Time Extension of Construction for 243B Worth Avenue
4. Time Extension of Construction for 313 and 313.5 Worth Avenue

Director of Planning Zoning and Building Wayne Bergman provided a presentation for all three time extension requests related to COVID-19 restrictions: 247 Worth Avenue, 243B Worth Avenue, and 313 and 313.5 Worth Avenue.

Attorney Maura Ziska provided a presentation for all three requests.

Greg Batten, Batten Construction, offered to answer any questions.

Council Member Moore confirmed with Mr. Batten he could complete the projects within the requested times.

Council Member Araskog expressed her concerns regarding the effects on all the store owners in Via Bice. She preferred to have the pavers installed so the restaurant could open, and wait until next April for the other work.

Mayor Coniglio questioned Mr. Batten about the delivery of materials. He responded often materials came through the back of the building. He was working with the Apollo lot and would comply with the Town's request to not work for a week during both Thanksgiving and Christmas.

Council President Pro Tem Lindsay agreed with the holiday timing and requested adjacent tenants the ability to speak to the Director if there were any concerns.

Council Member Crampton expressed confidence in granting Director Bergman authority to deal with situations if they arose.

Council President Zeidman asked for confirmation of the holiday dates.

Mayor Coniglio confirmed the restriction was the Saturday prior to the holiday to the Sunday following the holiday.

Discussion ensued regarding the items that would be completed in via Bice.

Motion was made by Council Member Moore and seconded by Council Member Crampton to approve the three extensions.

Council Member Araskog requested three separate motions. Council Member Moore withdrew her motion and asked Council Member Araskog to make the motion.

Motion was made by Council Member Araskog and seconded by Council Member Crampton to approve the extended hours of construction for 313 and 313.5 Worth Avenue, to incorporate all comments made, that Mr. Bergman and Mr. Batten would work together to make it happen, and if any issues arose, Mr. Bergman had the authority to stop work if he needed to for the rest of the stores, and lastly, if there was an issue with the Apollo lot or the valet that Zoning Manager Paul Castro also had the authority to stop work until Town Council could hear it or hold a special meeting. Motion carried unanimously.

Motion was made by Council Member Crampton, and seconded by Council President Pro Tem Lindsay to approve the requested time extension of construction for 247 Worth Avenue and to provide Mr. Bergman authority to resolve any issues, and no truck deliveries and/or parking on Worth Avenue. Motion carried by unanimously.

Motion was made by Council Member Crampton, and seconded by Council Member Moore to approve the requested time extension of construction for 243B Worth Avenue, with the understanding the work would take place during required work hours and that Mr. Bergman shall work with Mr. Batten on any issues that affect the general public, and interior work can be done on Saturdays. Motion carried by unanimously.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. **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] Request for Deferral to the October 14, 2020 Meeting per Email Dated September 1, 2020 from Jennifer Naegele.

This item was deferred to the October 14, 2020 meeting at approval of the agenda.

- b. **Z-20-00260 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND 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.]

Administrative Specialist Churney swore in those intending to speak on this item.

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

Attorney Maura Ziska presented an overview of the project and zoning requests.

Keith Williams made a landscape presentation on behalf of the applicant.

Anne Iorio, owner, provided background information on attempts to work with Mr. Greenwald.

Zoning Manager Paul Castro offered staff comments.

Council Member Araskog commented she did not see evidence of conversations between Ms. Iorio and Mr. Greenwald, and wanted to be sure iguanas could not get from the hedge to the tree.

Council President Pro Tem Lindsay clarified with Mr. Williams the proposed trees would be maintained at 16' and complimented him on a great job of addressing this issue.

Council Member Crampton asked to hear from Mr. and Mrs. Greenwald.

Mayor Coniglio asked if a restriction on hedge height could be a condition of approval. Zoning Manager Castro recommended a restrictive covenant that would run with the land. Town attorney Randolph advised a recorded declaration of use agreement would be much easier to enforce.

Discussion ensued regarding location and height of the hedge.

Ms. Iorio expressed concern that Mr. Greenwald as an attorney could bring legal action against her at no cost but it would be

costly to her for defense.

Ms. Ziska expressed preference for a condition of approval that could be enforced by Code Enforcement. Town Attorney Randolph advised a recorded deed restriction would be overkill for a two and one-half foot section of a hedge.

Public Comment

Martha Greenwald, 128 Seaspray Avenue, commented they had heard nothing from Ms. Iorio and wanted to come to a friendly agreement, but felt the restrictive covenant might be a good idea.

Stephen Greenwald, 128 Sea Spray Avenue, commented they had attempted to communicate many times with no response, and they did not want a future of only being able to communicate through the Town. He stressed the seriousness of the problem of iguana feces on their roof and the issue of unknown disease in this feces mixed with rainwater, washing onto the ground.

Council Member Crampton felt a condition of approval might be the way to resolve this.

Council Member Araskog suggested one more deferral so that Director Bergman could meet with the two parties involved to find something that works and the revised plan could be considered.

Motion made by Council Member Araskog and seconded by Council Member Crampton to defer #Z-20-00260 Special Exception with Site Plan Review and Variance(s) to the October 14, 2020 meeting with Director Bergman to mediate an agreement regarding height and width of plant material between the two homeowners. Motion carried 4-1, with Council Member Moore opposed.

Clerk's note: A short break was taken at 11:09 a.m. The meeting reconvened at 11:15 a.m.

- c. **Z-20-00262 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] [Architectural Review Commission deferred this project to the October 28, 2020 meeting at the request of the attorney. Carried 7-0.] Request for Deferral to the November 13, 2020 Meeting per Letter Dated August 31, 2020 from Maura Ziska.

This item was deferred to the November 13, 2020 meeting at approval of the agenda.

- d. **Z-20-00265 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**
 Zoning District: R-B Low Density Residential The application of Carlos Musso, Sr., Applicant, relative to property located at **110 SEAGATE RD**, legal description on file, is described below. Special Exception with Site Plan Review to allow the construction of a 4,201 square foot two-story new residence on non-conforming portions of platted lots with a depth of 96.12 feet in lieu of the 100 foot minimum depth required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed special exception and site plan review will not cause negative architectural impact to the subject property. Motion carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

This item was deferred to the October 14, 2020 meeting at approval of the agenda.

e. **Z-20-00268 SPECIAL EXCEPTION WITH SITE PLAN REVIEW**

Zoning District: R-B Low Density Residential The application of The Society of the Four Arts, Inc. (c/o Dr. Philip B. Rylands, President and CEO), Owner, relative to property located at **100, 101, 102 and 103 FOUR ARTS PLAZA, 240 COCOANUT ROW, AND 434 SEASPRAY AVE**, legal description on file, is described below. Section 134-890(9) - The Society of the Four Arts (Applicant) requests a modification to the existing nonprofit cultural center Special Exception (legally described in Exhibit A-1), to allow the addition of a 0.56-acre property (legally described in Exhibit A-2) located at 434 Seaspray Avenue (“Site”), into Applicant's campus. The Site is developed with a single family house and accessory structures. The Applicant proposes to relocate its President/CEO's living quarters from the third floor of the John E. Rovensky Building (“Building”) to the Site. The intent is to renovate and reconfigure the vacated 2,105 square foot (sq. ft.) living quarters to create a meeting room, archive space and storage spaces, in accordance with the Proposed Floor Plan (“Plan”). Consideration of Proposed Amendment to the Declaration of Use Agreement for the Society of the Four Arts. [Applicant's Representative: Harvey E Oyer III Esq]

Administrative Specialist Churney swore in Harvey E. Oyer III Esq.

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

Harvey Oyer explained the proposed declaration of use agreement would only allow the Sea Spray property to be used solely for single family residential purposes by the CEO and his wife.

Zoning Manager Castro provided staff comments.

Council Member Araskog expressed concern unifying a nonprofit with a residential home.

Town Attorney Randolph spoke to the residential single family housing use.

Council Member Araskog read a portion of a newspaper article regarding the plans for the residence.

Council President Pro Tem Lindsay asked Mr. Castro to clarify in the declaration of use that the CEO could only host two charitable events per year. Mr. Castro commented capacity would be looked at when a

charitable event permit was obtained. Council President Pro Tem Lindsay asked to tighten the declaration of use agreement to make sure it was not assumed any terms would apply from the original declaration of use, and to make it friendly to the neighborhood.

Council Member Crampton asked to be reminded of the rules for town sponsored events, which Mr. Castro clarified.

Council Member Moore expressed concern that the Four Arts could purchase other homes in the neighborhood, thereby encroaching an institution into a residential neighborhood. She was not in favor of the unity of title.

Council Member Crampton indicated he was in favor of approving this based on the declaration of use and any additional tightening to guard against the issue of encroachment. He noted \$9 million would be coming off the tax rolls if the property became part of a nonprofit.

Zoning Manager Castro clarified the focus of today's decision, which was tightening the declaration of use agreement to allow two charitable events per calendar year, specifying the number of participants, and the hours of the events.

Mayor Coniglio expressed concern whether these events would take place simultaneously to another event at the Four Arts campus, and whether there would be valet parking. She cautioned against moving too quickly because this would mean a reduction in tax revenue.

Council Member Araskog commented on the newspaper article, stated she did not believe unity of titles should be done between nonprofits and houses in residential areas. She believed this would set a bad precedent and asked the Council to think about unintended consequences.

Council President Pro Tem Lindsay expressed her opinion that because this would come off the tax rolls, the declaration of use should not be allowed.

There were no public comments at this time.

Harvey Oyer spoke on behalf of the applicant.

Council President Zeidman noted unity of title always inured to

the person asking for the unity and not the Town. She added that the Council did not make decisions with the objective to be helpful financially to the resident making the request. She also pointed out the remarks in the newspaper article should not be relied upon. The Council must only look at the record before them now and Mr. Oyer's assurances of what Four Arts would do. She did agree with Council President Pro Tem Lindsay to make the declaration of use more restrictive.

Council Member Moore stated her issues with the unity of title and added that she could not support the request because the footprint went further into the residential neighborhood.

Mr. Oyer responded the applicant had not asked for a unity of title and would be happy not to unify title. Zoning Manager Castro responded.

Council Member Araskog also indicated she was not for unity of title. Mr. Castro advised that without a unity of title the house could be leased or rented to the CEO and if the house was used for any other purpose than a single family home it would be a Code Enforcement violation.

Discussion ensued.

Mr. Oyer clarified they were not seeking unity of title but were seeking the special exception. Town Attorney Randolph asked Mr. Oyer how they could have a special exception with site plan review for a property that was not part of their campus, and confirmed if there was no unity of title the property would become part of the nonprofit and would not be a part of the Town's tax roll. Discussion continued regarding the tax. Mr. Oyer proposed a payment in lieu of taxes where Four Arts would pay the Town an agreed upon amount of the full millage so that the Town and taxpayers were whole and also other taxing authorities.

Motion made by Council Member Araskog and seconded by Council Member Moore to deny Special Exception Z-20-00268 for the reason that granting the special exception will adversely affect the public interest and that the specific requirements of Section 134-299 have not been met, which are the use permitted of design located and propose to be operated so that the public health, safety, welfare and morals will be protected; the use will not cause substantial injury to the value of other property in the neighborhood where it has to be located; the use will be compatible with adjoining

development in the intended purpose of the district in which it has to be located; the use will not result in substantial economic noise, glare, odor impacts on joining properties and properties generally in the district. Motion carried 3-2, with Council Member Crampton and Council President Zeidman opposed.

Second motion made by Council Member Araskog and seconded by Council Member Moore to deny the Site Plan Review Z-20-00268 for the reason that granting the site plan review will adversely affect the public interest and that the specific requirements of Section 134-329 have not been met. Motion carried 3-2, with Council Member Crampton and Council President Zeidman opposed.

2. New Business

- a. **Z-20-00269 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of John Criddle and Franny Frisbie, Applicant, relative to property located at **143 REEF RD**, legal description on file, is described below. The applicant is proposing to construct a new 597 square foot one story garage to the west of the existing residence. The following variances are being requested: 1. Section 134-893(7): The applicant is requesting a variance for a west side yard setback of 5 feet in lieu of the 12.5 foot minimum required for a one story building. 2. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 105 degrees in lieu of the 100 degrees maximum allowed. [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. Motion carried 4-3.][The Architectural Review Commission approved the project as presented. Carried 4-3.]

This item was deferred to the October 14, 2020 meeting at approval of the agenda.

- b. **Z-20-00270 VARIANCE (S)** Zoning District: R-B Low Density Residential The application of Steve Johnson, Applicant, relative to property located at **1284 N LAKE WAY**, legal description on file, is described below. Section 134-843(7): The applicant is proposing a 60 square foot staircase addition to the north side of the house that will have an 11.5 foot north side yard setback in lieu of the 15 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variance 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.]

Ex-parte communication was disclosed by Council Members Araskog, Council President Zeidman, and Mayor Coniglio.

Maura Ziska provided the presentation of the project and zoning request.

Zoning Manager Castro provided staff comments.

Council Member Araskog questioned the hardship, to which Ms. Ziska responded.

There were no public comments.

Motion made by Council Member Crampton and seconded by Council Member Moore, that Variance Z-20-00270 shall be granted and find in support thereof that all 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.

- c. **Z-20-00271 VARIANCE(S)** Zoning District: C-TS Town Serving Commercial The application of Bradley Park Owner, LLC, (Applicant), relative to property located at **280 SUNSET AVE**, legal description on file, is described below. Pursuant to Section 134-1113(7)(b), the applicant is requesting a variance to allow a rear setback of 2 inches in lieu of the 1 foot 5 inch existing and 10 foot minimum required setback to affix a generator exhaust pipe to the south facade of the existing non-conforming hotel structure. The applicant is also requesting a rear setback of 0 inches in lieu of the 1 foot 5 inch existing and 10 foot minimum required setback to accommodate an elevated kitchen hood that is affixed to the south facade of the existing hotel structure. The kitchen hood encroaches 2 inches into the alley to the south of the hotel structure, and an encroachment easement has been obtained from the adjacent property owner for the purpose of utilizing the alley for mechanical equipment. [Applicant's Representative: James M. Crowley Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variance 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.]

Administrative Specialist Churney swore in those intending to speak on this matter.

Mayor Coniglio declared recusal since she was the property owner, and

left the meeting.

No ex-parte communications were disclosed.

Jamie Crowley presented an overview of the project and explained the requested variances.

Keith Spina provided an architectural presentation on behalf of the applicant.

Zoning Manager Castro provided staff comments.

Mr. Crowley verified for Council Member Moore that the easements had been signed.

Council Member Araskog pointed out two areas that needed to be painted, to which Mr. Spina agreed.

There were no other comments.

Motion made by Council Member Moore and seconded by Council Member Araskog, that Variance Z-20-00271 shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met, conditioned upon the filing of the easement agreement, and to paint the two areas the same as the rest of the building. Motion carried unanimously.

- d. **Z-20-00272 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Mr. and Mrs. Mark Sanderson, Applicant, relative to property located at **2315 IBIS ISLE RD**, legal description on file, is described below. The applicant is proposing to construct a new 6,898 square foot two-story home. The following variances are being requested: 1. Section 134-893(5): The applicant is requesting a variance for a front yard setback of 3.5 feet in lieu of 30 feet minimum required for a two-story residence. 2. Section 134-893(6): The applicant is requesting a variance for an angle of vision of 154 degrees in lieu of the 100 degrees maximum allowed for a two-story residence.[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. Motion carried 6-1.] [The Architectural Review Commission approved the project with a few architectural features returning to the September 23, 2020 meeting. Carried 7-0.]

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

Administrative Specialist Churney swore in Stephen Roy.

Attorney Maura Ziska explained the variance requests.

Stephen Roy provided an architectural presentation of the project.

Zoning Manager Castro provided staff comments.

Council Member Moore expressed concern this could set a precedent.

Council Member Crampton asked about details worked out with staff. Mr. Castro advised none of the entry could be within the right of way, however, the driveway and sidewalks in the parking area would be permitted.

Mr. Castro verified for President Pro Tem Lindsay that no structure would be within the right of way.

Mayor Coniglio asked if the Town would ever need that right of way easement. Mr. Castro verified an agreement would be required with Public Works as part of the permitting process.

Council Member Araskog asked about the hardship, to which Ms. Ziska explained ran with the lay of the land. She asked staff about extra parking being granted on Town property, which was explained as guest parking.

Council President Pro Tem Lindsay commented on the many improvements to Town rights of way which were done with permission.

There was no public comment.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay, that Variance Z-20-00272 shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met. Motion carried unanimously.

Town Attorney Randolph clarified that a motion and a second did not preclude discussion. In fact, under Robert's Rules of Order you usually could not have discussion until you had a motion on the floor.

Clerk's Note: A lunch break was taken at 1:03 p.m. The meeting resumed at 1:41 p.m.

e. **Z-20-00274 VARIANCE(S)** Zoning District: R-A Estate Residential

The application of Laetitia M. Perais-Han and Ben Han, Applicants, relative to property located at 61 MIDDLE RD, legal description on file, is described below. The applicant is proposing a new 317 square foot pool pavilion to the rear of the property, a 198 square foot awning and an 86 square foot porch addition to the rear of the landmarked residence. The following variances are being requested: 1) a north side yard setback of 8.4 feet in lieu of the 15 foot minimum required; 2) a rear yard setback of 12 feet in lieu of the 15 foot minimum required; 3) a lot coverage of 26% in lieu of the 25% maximum allowed; 4) a landscaped open space of 45% in lieu of the 50% minimum required. [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission Recommendation: Implementation of the proposed variance 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.]

Administrative Specialist Churney swore in Jaime Torres Cruz, Architect for the project.

There was no ex-parte communication to disclose.

Ms. Ziska provided an overview of the project and explained the variance requests.

Mr. Torres Cruz presented the architectural plans for the project.

Zoning Manager Castro provided staff comments.

Council Member Crampton asked if there were any communication from neighbors. Mr. Castro indicated there had been none. Mr. Torres Cruz commented his client had communicated with the neighbors and they had no objections.

Council Member Araskog asked about the original beach house, and asked if more green space could be added.

Mayor Coniglio confirmed with Mr. Torres Cruz the structure would not be visible from the street.

There was no public comment.

Motion made by Council Member Moore and seconded by Council President Pro Tem Lindsay, that Variance Z-20-00274 shall be granted and find in support thereof that all 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.

- f. **Z-20-00275 VARIANCE (S)** Zoning District: R-A Estate Residential The application of 171 Via Bellaria LLC (Dan Swanson, Manager), relative to property located at **171 VIA BELLARIA**, legal description on file, is described below. Section 134-843 (7): The Applicant is proposing a new 9,416 square foot two story residence on Via Bellaria that would have a building height plane setback of 37 feet in lieu of the required minimum setback ranging from 51.2 to 69.5 feet. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the September 23, 2020 meeting. Carried 6-1.] Request for Deferral to the October 14, 2020 Meeting per Letter Dated August 31, 2020 from Maura Ziska.

This item was deferred to the October 14, 2020 meeting at approval of the agenda.

- g. **Z-20-00276 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-A Estate Residential The application of 1742, LLC (Anthony Lomangio, Manager), Applicant, relative to property located at **1742 S OCEAN BLVD**, legal description on file, is described below. Section 134-843(a) and (b) Special Exception with Site Plan Review to allow the construction of a new 9,604 square foot, two-story residence on an unplatted non-conforming lot that has an area of 19,918 square feet in lieu of the 20,000 square feet minimum and a depth of 97.52 in lieu of the 150 foot minimum depth required in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq][The Architectural Review Commission deferred the project to the September 23, 2020 meeting. Carried 7-0.] Request for Deferral to the October 14, 2020 Meeting per Letter Dated August 31, 2020 from Maura Ziska.

This item was deferred to the October 14, 2020 meeting at approval of the agenda.

- h. **Z-20-00277 SITE PLAN REVIEW WITH VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of Robert and Barbara Satterfield, Applicants, relative to property located at **200 EVERGLADE AVE SUITE: A-2**, legal description on file, is described below. Site Plan Review and variance request to add a third story addition by enclosing a balcony on the south side on a non-conforming three-story multi-family building. The variances being requested are to enclose the balcony are as follows: 1. Section 134-948(8)c: A third story addition where only two stories maximum is allowed. 2. Section 134-948(8)c: A building height of 26.5 feet in lieu

of the 23.5 foot maximum allowed. [Applicant's Representative: David E. Klein Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject property. Motion carried 7-0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

Ex-parte communication was disclosed by Council Members Araskog.

Administrative Specialist Churney swore in David Klein.

Attorney Klein provided a presentation of the zoning requests.

Zoning Manager Castro provided staff comments.

Council Member Araskog questioned the hardship, and confirmed with Mr. Klein it would not be visible from the street. Mr. Klein responded.

There was no public comment.

Motion was made by Council Member Moore, and seconded by Council President Pro Tem Lindsay, that Site Plan Z-20-00277 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 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.

Second motion made by Council President Pro Tem Lindsay and seconded by Council Member Moore, that Variance Z-20-00277 shall be granted and find in support thereof that all 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.

- i. **Z-20-00278 VARIANCE (S)** Zoning District: R-B Low Density Residential The application of 346 Seaspray Avenue Trust dated May

9, 2020 (Guy Rabideau, Trustee), Applicant, relative to property located at **346 SEASPRAY AVE**, legal description on file, is described below. Applicant is proposing a 161 square foot addition to the existing loggia (which will be enclosed into a/c space); an 877 square foot two story addition to the northeast side of the property for a new garage and an upper level studio; and a 443 square foot pool loggia addition to the east side of the property. The following variances are being requested: Section 134-893(11): to allow a lot coverage of 30.3% in lieu of the 26.1% existing and the 30 percent maximum allowed in the R-B Zoning District. Section 134-893(13): to allow a cubic content ratio ("CCR") of 4.23 in lieu of the 3.57 existing CCR and the 4.11 CCR maximum allowed. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variances, including the flood plain variance, will not cause negative architectural impact to the subject property. Motion carried 7-0.][The Architectural Review Commission approved the project as presented. Carried 7-0.]

There was no ex-parte communication to disclose.

Administrative Specialist Churney swore in Raphael Portuondo.

Maura Ziska introduced the project and presented the variance requests. She also explained this was a historic house that was not landmarked, and they would be able to take advantage of the new ordinance regarding historic designation districts.

Mr. Portuondo provided an architectural presentation of the proposed project.

Zoning Manager Castro provided staff comments.

Council Member Araskog asked for an explanation of the hardship calculations. Mr. Castro responded.

Council President Pro Tem Lindsay inquired about the reason they may need a floodplain variance. Mr. Castro responded.

There was no public comment.

Motion made by Council Member Araskog and seconded by Council Member Crampton, that Variance Z-20-00278 shall be granted and find in support thereof that all 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.

- j. **Z-20-00279 SITE PLAN REVIEW** Zoning District: R-D(2) High Density Residential The application of The Cove Condominium Association, Inc., Applicant, relative to property located at **2784 S OCEAN BLVD**, legal description on file, is described below. The applicant is requesting site plan approval to install a 250 kW generator that will be located within an existing building. The proposed exhaust and towers are located on the front of the building (east elevation). Site plan review is required pursuant to 134-1729(2) (c) because the generator's output exceeds 100kW. [Applicant's Representative: James M. Crowley Esq] [The Architectural Review Commission approved the minor project as presented. Carried 7-0]

There was no ex-parte communication to disclose.

Administrative Specialist Churney swore in Jamie Crowley and Dustin Mizell.

Attorney Crowley introduced the project and presented the zoning request.

Council Member Araskog asked if they would be replacing the same generators. Zoning Manager Castro explained it was a larger generator in a bigger room that must be retrofitted. He added that ARCOM had approved the project. Council Member Araskog asked if any neighbors would be affected.

Dustin Mizell explained the location would be almost in the center of the property.

There were no public comments.

Motion was made by Council Member Crampton, and seconded by Council Member Moore, that Site Plan Z-20-00279 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. The motion carried unanimously.

- k. **Z-20-00281 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-D(2) High Density Residential and R-C Medium Density Residential The application of CH HOTEL, LLC (Andrew and Sarah Wetenhall and Family), relative to property located at **135 HAMMON AVE, 152 HAMMON AVE, AND 155 HAMMON**

AVE, legal description on file, is described below. Request for a modification to the previously approved Special Exception for the Colony hotel use to allow the relocation of the previously held events on the west side of the ballroom building to the new east garden. The use of the garden area east of the ballroom building shall be primarily used as a pre-function space such as wedding ceremonies and cocktail receptions -all to be used in conjunction with the ballroom building that was approved by the Town Council In 1986. The Colony Hotel is requesting the following terms to be approved: 1) All pre-function events or ceremonies in the garden will be concluded by 10:00 p.m. 2) There shall be only background music allowed or live music of no more four instruments. 3) There shall be no DJ music 4) Microphone use shall be allowed for officiant for wedding services or an individual making remarks. 5) The hotel will agree to install a custom designed in-ground sound system to abate noise. 6) The hotel will install a mutually agreeable privacy/landscape buffer along the eastern property line. [Applicant's Representative: Maura Ziska Esq]

This item was deferred to the October 14, 2020 meeting at approval of the agenda.

Clerk's Note: At this time the Agenda was re-ordered to hear the remaining items in the following order: Any Other Matters IX(C), IX (A), IX(B), VIII(A)(1).

VIII. ORDINANCES

A. Second Reading

1. **ORDINANCE 12-2020** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending Chapter 54, Historical Preservation, Town Code Of Ordinances, Article III, Certificate Of Appropriateness, Division 1, Generally, Section 54-71, Required, Subsection (f), Removing The Value Threshold For Minor Projects; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Town Attorney Randolph read Ordinance 12-2020 on second reading by title only.

Motion made by Council Member Crampton and seconded by Council Member Moore, to approve Ordinance 12-2020 on second reading by title only. Motion carried unanimously.

IX. ANY OTHER MATTERS

- A. Request to Suspend Annual Town-Serving Submittal Required for a Limited Number of Businesses and Clubs in the Town

Zoning Manager Castro presented the request from businesses for a one-year reprieve to provide this documentation due to COVID-19 and associated hardships. Staff supported this request.

Council Member Araskog favored granting the request.

Council President Pro Tem Lindsay expressed her opinion the request should be granted but revisited in six months.

Council reviewed the list of businesses. Council President Zeidman urged supporting these businesses.

Mayor Coniglio commented another issue with providing the documentation was it was costly for the business. She felt some could be removed from the list.

Council President Zeidman commented all were in agreement to suspend for a year, but perhaps this should be looked into more deeply.

Zoning Manager Castro advised Council had looked into this in the past and it was determined if somebody wanted to eliminate the condition they had to file an application and give notice to neighbors.

Mayor Coniglio suggested either a rolling suspension or a five-year suspension as opposed to one. She also thought there should be an opportunity for Council to determine if an applicant needed to come to the Town Council or be removed and placed in a group that the Council would discuss as a group.

Council Member Crampton suggested the Business Administration Committee look at the issue.

Public Comment

Reginald Stambaugh was sworn in by Administrative Specialist Churney.

Attorney Stambaugh, representing property owners at 185 Woodbridge Road, who were beneficiaries of the declaration of use agreements for Mar-a-Lago. He indicated there was a security issue lifting a restriction on a club creating an attraction that would be contrary to the peace and privacy that a resident on Woodbridge Road would have a right to expect. He commented Mar-a-Lago would be a beacon of national attraction and lifting the restriction without considering the impact on the privacy of the neighbors was not a good decision.

Council Member Araskog commented two clubs on the list, Everglades and Mar-a-Lago, should not be included in any reprieve because they were not open to the public. She asked Mr. Stambaugh to assure his client she could come before the Council.

Mayor Coniglio discussed lowering the fee for the businesses, or to review in six months.

Council President Pro Tem Lindsay agreed with keeping clubs in a separate group. She also agreed to waive fees for other businesses for the next year.

Council Member Moore felt this matter should go to the Business Committee.

Motion made by Council Member Araskog and seconded by Mr. Crampton, to waive the requirement for one year for all public businesses, with the exception of Mar-a-Lago and the Everglades Club. Motion carried unanimously.

B. Discussion of the Planning & Zoning Commission's request to review zoning regulations for commercial and retail businesses

Zoning Manager Castro stated the Planning and Zoning Commission was directly requesting to be allowed to join staff in looking at changing permitted uses for commercial zoning districts, in order to become more competitive and fill vacant retail spaces.

Council President Pro Tem Lindsay asked about the area to be covered.

Director Bergman commented on vacant areas on Worth Avenue.

Council Member Araskog cautioned on removing retail from Worth Avenue. She also recommended community involvement.

Mayor Coniglio felt the scope should be narrowed for discussion purposes.

Council Member Crampton thought it was a good idea to get the community involved, but to start with Planning and Zoning members, Director Bergman, and Mr. Castro to narrow the focus, and see what developed. He added it could possibly involve a Business Administration Committee meeting.

Council Member Moore expressed concern whether the Planning and Zoning Commission had enough expertise on this subject or would a consultant be needed. She noted this would have to be done during season for community involvement.

Council President Zeidman favored hiring a consultant to begin with Worth Avenue, and having resident participation.

Council Member Araskog suggested that Mr. Castro and Director Bergman come back next month with a report on all the spaces that were empty, to narrow the focus. She felt an expert would be needed and that conversations should take place when residents were in town.

Council Member Crampton felt Planning and Zoning members did have the expertise to work on this issue with staff as a beginning to lay out the process, then in season to have an overall dialogue.

Mayor Coniglio agreed with Council Member Crampton the logical starting point was Planning and Zoning working with Town staff to develop ideas to be presented to Town Council.

Discussion ensued whether to limit the area to be considered or see what

Planning and Zoning came up with.

Public Comment

Martin Klein, Chairman of Planning and Zoning, commented the Commission was just asking for the ability to have the conversation and report back to the Council.

Council President Zeidman summarized this would be sent to Planning and Zoning as they had requested, to begin review of commercial use regulations with Director Bergman and Mr. Castro to narrow down what they thought should be done and bring it back to Council. The resident participation would come after that.

C. Conflicts of Interest for ARCOM and LPC Commissioners and ARCOM Vacancy

Town Attorney Randolph explained the current situation with Richard Sammons, who had five conflicts of interest. The Town Council had two issues before them (1) to leave the ordinance the way it was or make changes, and (2) dealing with Mr. Sammons being automatically removed from ARCOM. Town Attorney Randolph confirmed these were all valid conflicts of interest.

Council Member Moore expressed concern about moving forward with only one architect on ARCOM, and with losing such a respected architect as Mr. Sammons. She favored leaving the requirement in the ordinance at five conflicts. Also, she was in favor of immediately appointing an architect so that the ARCOM process could move forward, then follow normal procedure to advertise for a replacement.

Director Bergman advised the appointment of a new architect would take 45 to 60 days.

Council Member Araskog agreed with appointing an architect for the interim period while following the process to find a replacement. She agreed with leaving the ordinance at five conflicts of interest but suggested a different number if presenting the projects.

Council Member Crampton agreed with Council Member Moore to keep five conflicts and proceed with appointing an interim architect to keep the process moving.

Council President Pro Tem Lindsay agreed with five conflicts and appointing an interim architect, Jeff Smith, but cautioned to keep an open mind depending on what was decided next month regarding the makeup of ARCOM.

Council President Zeidman commented she was fine with keeping five conflicts.

Mayor Coniglio agreed with five conflicts.

Motion made by Council Member Crampton and seconded by Council Member

Araskog to advertise for an open ARCOM Architect position and to appoint Jeffrey Smith as interim architect until position is filled. Motion carried unanimously.

X. ADJOURNMENT

The meeting was adjourned at 3:51 p.m. without the benefit of a motion or a vote.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Administrative Specialist