



TOWN OF PALM BEACH

TOWN CLERK'S OFFICE

MINUTES OF THE SPECIAL TOWN COUNCIL MEETING HELD ON FRIDAY, OCTOBER 16, 2020

I. CALL TO ORDER AND ROLL CALL

The Special Town Council Meeting of Friday, October 16, 2020 was called to order at 9:00 a.m. in the Town Council Chambers. On roll call, all council members were found to be present. Council Member Araskog attended via phone.

II. PLEDGE OF ALLEGIANCE

Council President Zeidman led the Pledge of Allegiance.

III. APPROVAL OF AGENDA

Motion was made by Council Member Crampton and seconded by Council Member Moore to approve the Agenda. On roll call, the Motion passed unanimously.

IV. COMMUNICATIONS FROM CITIZENS (3 MINUTE LIMIT) – None

V. Reconsideration of the Decision by the Town Council to Rescind the Previous Approval of Z-20-00261, Variance(s), for 800 S. County Rd. and Rehear the Zoning Application at the November 13, 2020 Town Council Development Review Meeting

Council President Zeidman read the item into the record and requested the Town

Attorney, John C. Randolph, to give the legal structure for the meeting and inform the council what they need to be aware of regarding the proceedings.

Attorney Randolph reported that at the Town Council Meeting on Tuesday, October 13, 2020, Jeff Rappaport spoke under Item No. VIII. COMMUNICATIONS FROM CITIZENS alleging that he and several neighbors had not received notice regarding the Variance application and hearing regarding 800 S. County Road. The matter was then placed under Item No. XII. ANY OTHER MATTERS. Attorney Maura Ziska was advised so she could appear on behalf of her client. Both parties presented their cases and after lengthy testimony, a Motion was made and passed giving the parties an opportunity to meet and resolve their differences by a certain date and if the differences were not resolved, the Variances would be rescinded, the matter re-noticed and sent back to Town Council the next month for a re-hearing. The property owner at 800 S. County Road was directed not to continue further work on the project until the matter was re-heard. On Wednesday, October 14, 2020, a Motion for re-consideration of the previous action was made and passed. This positioned the case as though no action had been taken and allowing the Town Council to consider this matter anew. The Town Council deliberated but Mr. Rappaport stated that he was prejudiced as his Attorney was not present. Therefore, with all parties in agreement, the Town Council deferred the matter to be heard today.

Attorney Randolph remarked that the Town Council had limited time to hear the matter as Mr. Crampton has a meeting to attend. He suggested that the Town Council limit the amount of time for testimony from each party. The parties requested 30 minutes each. Due to the time constraints, Council President Zeidman suggested 25 minutes for each side, which was agreed by the parties. Council President Zeidman spoke regarding the amount of documentation being provided at this late hour.

Attorney Harvey Oyer, 525 Okeechobee Boulevard, representing the Rappaport family of 790 S. County Road (the property adjacent to the subject property) gave a lengthy presentation regarding the non-receipt of the notice regarding the Variance application. He reported that the signature on the certified return receipt card was not of their client or anyone affiliated with them. He then mentioned several adjoining property owners who had not received the mailed notices and referred to several State Statutes and the Town's Code regarding due process.

Jeff Rappaport, 790 S. County Road, expressed his gratitude to the Town Council for the hearing and spoke regarding his and the adjoining neighbors due process rights.

Ms. Anne DesRuisseaux, the owner of the subject property, presented a lengthy case and pointed out several false statements that Mr. Rappaport had made and showed several photographs of the property during a flood event. She spoke at

length regarding having to hurriedly log into a Zoom meeting on Tuesday, October 13, 2020 (2 days earlier) to present her case without having the benefit of hearing any of Mr. Rappaport's testimony. She also stated that he and his Attorney convinced Town Council to reverse the earlier approval and ordered an immediate stop work order. She applauded the Council's reversal of the Order the next day (Wednesday). She presented her case that Notice was properly given to the relevant parties.

Attorney Maura Ziska, 222 Lakeview Avenue, gave an overview of the mailing process relating to the zoning application for the subject property. She explained the change in the process due to the United States Postal Service observing CDC guidelines relating to the COVID-19 pandemic. She also spoke regarding her signature on the application as the Attorney for the Applicant.

Scott Link, Counsel for Anne DesRuisseaux. spoke regarding the notices mailed.

Attorney Randolph informed the Town Council that as this was a re-hearing they could either remake a Motion or in the event there is no motion the previous action of the Town Council in regard to the granting of the Variances will stand or an alternative Motion may be considered. He charged the Council to make a decision on the facts provided. He repeated staff's position that the Town acted appropriately regarding the notice process.

Discussion ensued during which Attorney Randolph responded to Council Member's inquiries regarding legal requirements for notice, the appeal period, due process and the filing of a petition for a Writ of Cert to be heard in Court. He stated the Town's notice process met the legal requirements, and noted the newspaper ad was deficient. He also responded the 30-day appeal period related to filing a petition for Writ of Cert would be heard in Court.

Mayor Coniglio stated she had informed Mr. Rappaport, as she would any resident, he could address the Town Council regarding his concern during the Citizen Comments section of the meeting. She spoke regarding the process of sending notices to adjoining property owners of a project.

President Zeidman expressed her view that the Town gave proper notice to the neighbors.

Motion was made by Council Member Crampton and seconded by Council Member Moore to reverse the earlier decision made on Tuesday, October 13, 2020, to re-notice and re-hear the application. The Motion passed unanimously.

VI. ADJOURNMENT

There being no further business to discuss, the Special Town Council Meeting of October 16, 2020 was adjourned at 10:34 a.m. without benefit of a motion.

APPROVED:

Margaret A. Zeidman, Town Council President

ATTEST:

Queenester Nieves, CMC, Town Clerk

Date