



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on October 14, 2020

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order October 14, 2020 at 9:41 a.m. 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

None

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council Member Crampton reminded staff that the previous day Council had received assurance they would be provided with the unresolved issues regarding South Lake Drive marina park, and he would like an update on what would come before Council in the future.

Council President Zeidman commented regarding 800 South County Road that she had been on the prevailing side of the motion, and therefore would open the item and revisit the vote, for the following reasons: Council had been unaware and unprepared for discussion; no one who testified was sworn in; Counsel for Ms. DesRuisseaux was called to produce evidence in a late fashion. She stated this was basically an issue of notice, and in her opinion notice is the responsibility of the person receiving the notice. She pointed out that staff gave proper notice, and all procedures were followed by staff and professionals for the Town. There had been two actions in yesterday's motion (1) Whether two parties could come together and come up with a compromise, and (2) If they could not compromise, Town Council would revisit the entire situation, which was over reach. Council President Zeidman stated this was not the issue of Town

Council, as Maura Ziska believed. She requested to revisit the motion to keep the compromise but stand that notice was given and move on.

Town Attorney Randolph advised this should be a motion for reconsideration, which required no discussion.

Council President Zeidman passed the gavel to Council President Pro Tem Lindsay.

Motion made by Council President Zeidman and seconded by Council Member Moore for reconsideration of the decision made the previous day on 800 South County Road. Motion carried 3-2, with Council Member Araskog and Council Member Crampton opposed.

Town Attorney Randolph advised to give notice to the other side. Council Member Araskog had an issue with Mr. Oyer not present for the discussion.

Discussion ensued on whether other parties would be available for discussion. Council President Zeidman announced this would be placed under Any Other Matters.

Council Member Moore thanked Council President Zeidman for opening the item.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

None

VI. APPROVAL OF AGENDA

Director of Planning, Zoning and Building Bergman read the following modifications requested:

Deferral of Item VII.A.1 (b) to the November 13, 2020 meeting.

Deferral of Item VII.A.1 (e) to the November 13, 2020 meeting.

Deferral of Item VII.A.2 (a) to the November 13, 2020 meeting.

Withdrawal of Item VII.A.2 (b)

Deferral of Item VII.A.2 (g) to the November 13, 2020 meeting.

Withdrawal of Item VII.A.2 (h)

Deferral of Item VII.A.2 (i) to the November 13, 2020 meeting.

Town Attorney Randolph questioned the deferral for 70 Middle Road.

Mayor Coniglio requested the town code on deferrals.

Paul Castro read code into the record relating to deferral requests.

Council President Pro Tem Lindsay inquired how many deferrals had been received. There was discussion on the number of deferral requests that were received by Town.

Council Member Moore tried to clarify the number of deferrals.

Attorney Randolph stated that some of the requirements had been waived due to

the pandemic.

Council Member Araskog inquired the number of the deferrals and whether the 6-month deferral limit could be extended due to COVID.

Attorney Randolph stated if the application was being heard today, he would recommend denying the request and re-noticing the project. For today, he recommended the one-month extension.

Motion made by Council Member Araskog and seconded by Council Member Moore to approve the agenda as amended, with a one month deferral given to project Z-19-00236, 70 Middle Road. Motion carried unanimously.

VII. DEVELOPMENT REVIEWS

A. Appeal

1. Appeal of ARCOM Decision Regarding 110 Seagate Road

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

Specialist Churney swore in all parties intending to speak on this item.

Town Attorney Randolph advised Council would review the record to see if there were any errors by ARCOM on this appeal. He outlined the procedure on the hearing of the appeal.

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

Tim Hanlon, attorney stated he represented Jeff and Katy Dew Amling, owners of 161 Seagate Road, and Joanne Paladino, owner of 148 Seagate Road. Attorney Maura Ziska stated she represented Claire and Carlos Musso, owners of the property approved by ARCOM. Attorney Randolph stated Michael Small could speak on behalf of ARCOM.

Mr. Hanlon made a presentation on behalf of his clients, Jeff and Katy Amling, who felt the value of their home would be affected if the ARCOM requirements were not satisfied. His clients were appealing the ARCOM approval of the home proposed for 110 Seagate Road, approved at the August 26, 2020 ARCOM meeting. There was no evidence that items 1,3,4,6, and 8 of 18-205a were satisfied, and the ARCOM Commission did not consider any of the criteria in its approval, but appeared to have relied on a great landscape plan and some nice architectural details. His clients wanted this application sent back to ARCOM to make the home fit better in the neighborhood. He focused on the failure to comply with items 4, 6 and 8, and showed surrounding homes. He spoke about neighbor objections. Attorney Hanlon stressed it was important that Architect Roger Janssen had acknowledged the proposed home was an anomaly in its dissimilarity and mentioned other homes that were somewhat similar, but those were outside the 200-foot zone to be considered by ARCOM. Attorney Hanlon argued the home was excessively dissimilar, that ARCOM Commissioners had failed to apply the criteria, and requested denial or to send

the application back to ARCOM.

Attorney Maura Ziska represented Claire Musso, who wanted the ARCOM decision to stand. She reported ARCOM received letters prior to final decision, and the architect had discussed harmony in the neighborhood. There was plenty of discussion and neighbors' comments were taken into account. The application was approved unanimously. She requested the appeal be denied.

Mr. Hanlon stated he listened to the meeting several times, and reported harmony and how the home met the criteria were never discussed. He discussed several comments made by the Commissioners.

Town Council Deliberation

Council Member Crampton asked about ARCOM's vote. Attorney Hanlon responded it had been unanimous, but Mr. Smith did not get to express his objections, and Commissioners did not consider criteria. Council Member Crampton asked about the home at 145 Seagate Road, which was not included in the slide show, which was even more dissimilar and thought it opened the avenue for other dissimilar homes.

Council Member Moore commented ARCOM looked at this for a couple of months, and the final vote was unanimous. She was unsure whether it was a good decision to overturn the vote.

Council Member Araskog inquired about the home mentioned by Mr. Crampton, and addressed Mr. Hanlon's argument of competent substantial evidence. She felt this should go back to ARCOM.

Council President Pro Tem Lindsay discussed how the criteria were not met and supported going back to ARCOM to address 4, 6 and 8.

Council President Zeidman agreed with Council President Pro Tem Lindsay.

Council Member Araskog commented the house Mr. Crampton mentioned was not within 200 feet

Motion made by Council President Pro Tem Lindsay and seconded by Council President Zeidman to grant the appeal and send the project back to ARCOM for consideration of criteria 4, 6 and 8 in Section 18-205, and consider the matters mentioned by Council President Pro Tem Lindsay. Motion carried 3-2, with Council Members Moore and Crampton opposed.

Please note: A short break was taken at 10:55 a.m. The meeting resumed at 11:00 a.m.

B. Time Extensions and Waivers

2. Time Extension of Construction for 210 Worth Avenue

Planning, Zoning and Building Director Bergman presented the proposed time extension for construction at 210 Worth Avenue.

Mayor Coniglio asked about the timeline for materials delivery for these projects on Worth Avenue. She wanted to avoid deliveries being made all day.

Council Member Araskog requested loud radios or music not be allowed, only quiet interior work. Douglas Gregory Batten responded to Council Member Araskog's question what was next door, and where parking would be located.

Council Member Araskog confirmed with Mr. Batten that he would be able to handle all of the extension work.

Motion made by Council Member Crampton and seconded by Council Member Moore to approve the time extension for 210 Worth Avenue as requested. Motion carried unanimously.

3. Time Extension of Construction for 259 Worth Avenue

Planning, Zoning and Building Director Bergman presented the proposed time extension for construction work at 259 Worth Avenue.

Maura Ziska submitted the construction schedule and stated the belief was that they could meet the schedule. She stated parking and deliveries would be in the Apollo lot.

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

Andreas Rodriguez, Construction Manager, spoke about the project and schedule.

Mayor Coniglio inquired whether the deliveries would be made in a timely manner from an area that would not impact Worth Avenue. Mr. Rodriguez responded. The Mayor inquired about a specific delivery and asked for December 1 completion.

Council Member Araskog expressed concern if issues arose with neighboring stores whether Mr. Bergman would handle them, wanted no music inside, and inquired about windows, to which Mr. Rodriguez responded.

Motion made by Council Member Crampton and seconded by Council Member Moore to approve the time extension for 259 Worth Avenue as requested. Motion carried unanimously.

C. Variances, Special Exceptions, and Site Plan Reviews

1. **Old Business**

- a. **Z-18-00134 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-A Estate Residential The application of Charles "Rusty" Holzer, Applicant, relative to property located at **977 S OCEAN BLVD**, legal description on file, is described below. 1) Section 134-840 and 134-893(c): Special Exception with Site Plan Review to allow the construction of a 6,546 square foot two story residence on a non-conforming lot that is 76.5 feet in depth in lieu of the 150 foot minimum required in the R-A Zoning district and 12,813 feet in area in lieu of the 20,000 square foot minimum area required in the R-A Zoning district. 2) Section 134-843(a)(5): A request for a

variance to allow the proposed residence to have a front setback of 21.2 feet in lieu of the 35 foot minimum required in the R-A Zoning District. 3) Section 134-843(a)(9): A request for a variance to allow the proposed residence to have a rear setback of 10 feet in lieu of the 15 feet minimum required in the R-A Zoning District. In addition, to allow the balconies to extend 3 feet from the building in lieu of the 2 feet maximum allowed. 4) Section 134- 1757: A request for a variance to allow the proposed residence to have a swimming pool rear setback of 5.3 feet in lieu of the 10- foot minimum required in the R-A Zoning District. 5) Section 134-843(a)(11): A request for a variance to allow the proposed residence to have a Lot Coverage of 33.32% in lieu of the 25% percent maximum allowed in the R-A Zoning District. 6) Section 134-843(a)(6)b: A request for a variance to allow the proposed residence to have an Angle of Vision of 136 degrees in lieu of the 116 degrees maximum allowed in the R-A Zoning District. 7) Section 134-843(a)(7): A request for a variance to allow the proposed residence to have a Building Height Plane setback range of 21.2' to 29.9' in lieu of the range of 35' to 42' 11 1/4" minimum required in the R-A Zoning District for this proposed house. [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. Carried 7-0.] [The Architectural Review Commission approved this project as presented. Carried 7-0]

Ex parte communication declared by Council Member Araskog.

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

Maura Ziska, Attorney for the applicant, presented an overview of the project and discussed the zoning requests.

Raphael Saladrigas presented the architectural plans for the proposed residence.

Zoning Manager Castro provided staff comments.

Council President Zeidman called for public comment. There were no comments heard.

Motion made by Council Member Moore and seconded by Council Member Araskog that Special Exception Z-18-00134 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.

Motion made by County Member Moore and seconded by Council Member Araskog that Variance Z-18-00134 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.

Motion was made by Council Member Moore and seconded by Council President Pro Tem Lindsay that Site Plan Z-18-00134 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. On roll call, the motion carried unanimously.

- 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] Email Dated October 6, 2020 from Jennifer Naegele Requesting Deferral to the May 2021 Meeting.

Deferred to November 13, 2020 Town Council meeting

- c. **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.]

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

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

Planning, Zoning and Building Director Berman provided background on the project.

Maura Ziska, attorney on behalf of Matt and Anne Iorio, presented the overview of the project and discussed the particulars regarding the hedge.

Council Member Crampton inquired if the owners would be willing to a compromise of 5 feet rather than 4 feet. Ms. Ziska responded. Council Member Crampton thought a balance would be 5 feet.

Council Member Araskog inquired of Director Bergman if he felt 5 feet would be a good compromise. Mr. Bergman responded. Council Member Araskog stated she agreed with Council Member Crampton.

Mayor Coniglio asked Director Bergman if the properties were conforming. Zoning Manager Castro responded and explained the zoning requests that had been granted. Mayor Coniglio expressed concern this could set a precedent.

Council President Pro Tem Lindsay commented this was the first time Council had tried to legislate properties. She was comfortable allowing the requested 4 feet with the ability to change it.

Council Member Crampton asked if there were a 5-ft separation how high the hedge would be, to which the answer was 11 feet. He stated he would not vote against 4 feet.

Council Member Moore agreed with Council President Pro Tem Lindsay on 4 feet with the ability to change it.

Council Member Araskog commented this would not set precedent, and was fine with whatever was decided with the ability to change it.

Council President Zeidman called for public comment.

Martha Greenwald, 128 Seaspray Avenue, expressed her dissatisfaction with the proposed changes, and requested Town Council not to allow the owners at 131 Seaspray Avenue to plant tall trees next to their structure.

Administrative Specialist Churney swore in Anne Iorio. Anne Iorio, 131 Seaspray Avenue, asked Council to approve the proposed request.

Steven Greenwald, 128 Seaspray Avenue, expressed his dissatisfaction with the proposed project.

Attorney Ziska stated 4 feet would be sufficient. However, a condition of approval would be acceptable that allowed code enforcement.

Council Member Araskog inquired if a 4 feet limitation would limit the height of the trees. Attorney Ziska responded.

Keith Williams, Nievera Williams Design, the hedge was proposed to be 4 feet below the eaves of the Greenwald's residence.

Mayor Coniglio inquired if the owners could return to the Town Council in the future if the condition changed, such as if the Greenwalds' home was sold.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Crampton the approval of Z-20-00260 Special Exception With Site Plan Review With Variance(s) with the caveat to restrict hedge height under the current lowest line to 4 feet and 4 feet below the roof, with the condition that should the house at 128 Seaspray which is currently for sale be demolished in the future and/or when the lines are placed underground the condition for 131 Seaspray is eliminated; if verifiable issues arise, separation distance must go from 4 feet to 5 feet below the roof of 128 Seaspray Avenue; in the event hedge is not maintained, it would be a Code Enforcement issue. Motion carried by unanimous vote.

- 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.]

Motion made by Council Member Crampton and seconded by Council Member Moore to defer the project to the November 13, 2020 meeting. Motion carried unanimously.

- e. **Z-20-00269 VARIANCES** 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.] Request for Deferral to the November 13, 2020 Meeting per Letter Dated October 7, 2020 from Maura Ziska.

Deferred to November 13, 2020 Town Council meeting

- 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] [Architectural Review Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 6-1.] [The Architectural Review Commission approved the project as presented. Carried 5-2.]

Ex parte communication declared by Council Member Araskog.

Maura Ziska, attorney for the applicant, presented an overview of the project and introduced the variance request for the project.

Zoning Manager Castro provided staff comments.

Ms. Ziska responded and advocated for the requested variance.

Council Member Araskog inquired how many feet the home would be set back. Ms. Ziska responded. Council Member Araskog inquired regarding the hardship. Ms. Ziska responded.

Council President Zeidman called for public comment. There were no comments heard at this time.

Motion made by Council Member Crampton and seconded by Council Member Moore that Variance Z-20-00275 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.

Please note: A lunch break was taken at 12:31 p.m. The meeting resumed at 1:04 p.m.

- 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 approved the project as presented. Carried 7-0.]

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

The Town Council Members stated they had no ex parte communications to declare.

Maura Ziska, attorney on behalf of the owner, presented an overview of the project and explained the zoning requests.

Zoning Manager Castro provided staff comments.

Council President Zeidman called for public comment. There were no comments heard at this time.

Motion made by Council Member Araskog and seconded by Council Member Crampton, that Site Plan Z-20-00276 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. On roll call, the motion carried unanimously.

Motion made by Council Member Araskog and seconded by Council Member Crampton that Special Exception Z-20-00276 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. Motion carried unanimously.

- h. **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]

Ex parte declarations: Council Members Moore, Crampton, Araskog, President Zeidman, President Pro Tem Lindsay and Mayor Coniglio.

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

Maura Ziska, attorney on behalf of the owner, presented an overview of the project and explained the zoning requests. She read two letters into the record, one from John Cahill in support of the application and the other from Randy Lynch, also in support.

Sarah Wetenhall, owner, provided a review of her request and addressed the complaints from the neighbors.

Zoning Manager Castro provided staff comments.

Council Member Crampton inquired how to memorialize the modifications. Zoning Manager Castro explained it could be done with a Declaration of Use and described the process. He asked the owner if she would object to a declaration of use. Ms. Wetenhall stated she would not object. Council Member Crampton expressed his support.

Council President Pro Tem Lindsay thanked the owner for her presentation, and commented she was happy with ongoing renovations. She thanked the owners for reaching out to the neighbors, and expressed her support.

Council Member Araskog commented she was thankful for The Colony. She asked that the applicants come back after a time period and after several events to determine if there were any issues.

Council President Zeidman commended the applicant for a good presentation and their concern shown for neighbors. She felt the garden was an improvement, and inquired the reason the garden would be needed until 10 p.m. Ms. Wetenhall responded that should be the latest any event would run. Council President Zeidman inquired about the proposed barrier between The Colony

and the neighbors. Ms. Wetenhall responded.

Zoning Manager Castro asked if there was any limitation on the number of events or people in that area.

Council President Zeidman called for public comment.

Administrative Specialist Churney swore in Mark Davis, 141 Gulfstream Rd., objected to the proposed request and reviewed his concerns.

Administrative Specialist Churney swore in Dr. Alissa Dweck, 129 Hammond Avenue, Unit 1, who spoke in favor of the proposed project but requested the events end by 8:00 p.m., with no amplified noise, expressed concern about security, and was in favor of revisiting the application in 6 months.

Administrative Specialist Churney swore in Rene Silvin, 422 Australian Ave., stated that the Wetenhalls had offered to landmark the property and embraced the tasteful renovations.

Mayor Coniglio inquired if the music would include vocalists. Ms. Wetenhall responded. She inquired about the doors being widened. Mr. Castro responded. The Mayor wanted to make sure ambient noise stayed in the ballroom. Mayor Coniglio inquired how many people could be hosted in the garden. Ms. Wetenhall responded 150-175 seated guests at a wedding, and addressed security.

Council Member Crampton inquired about the downward facing speakers and the test performed. Ms. Wetenhall responded with the test results. Council Member Crampton asked if the owners would concede to 9 p.m. for events in a Declaration of Use. Ms. Wetenhall responded. Council Member Crampton asked if coming back in 6 months was acceptable; Ms. Wetenhall agreed.

Council Member Araskog inquired about the barrier between properties. Ms. Wetenhall responded. Council Member Araskog asked about setbacks between properties, and suggested limitations for guests and hours. Zoning Manager Castro spoke about noise issues in other areas.

Council President Pro Tem Lindsay clarified there would be a 6-foot fence then a 12-foot hedge between properties. She liked the suggestion of live music ending early at 9 pm., and was in favor of the applicant coming back in 6 months.

Mark Davis, 141 Gulfstream Rd., expressed further concerns.

Council President Zeidman inquired about how to mitigate sound coming from the doors that opened onto the garden. Mr. Castro responded.

Peter Papadopoulos, Smith and Moore Architects, described the doors that were replaced and the windows that were added. Ms. Wetenhall indicated guests could exit the ballroom via the south door and go around to the garden.

Council President Zeidman favored 9 p.m. closing.

Council Member Crampton inquired about the dimensions of the space, which was not large. He confirmed there would be hotel security during events.

Council President Pro Tem Lindsay wanted the doors closed to keep sound inside.

Discussion ensued regarding details.

Motion made by Council Member Crampton and seconded by Council Member Moore that Site Plan Z-20-00281 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. Mayor Coniglio listed the conditions that the applicant would comply with during the next month and which would be included in the Declaration of Use to be brought before Town Council next month, as follows: Maximum 175 people inside, live music (less than 5 instruments; no percussion and no vocalist) ends at 9 p.m., background music only from 9 p.m. to 10 p.m., microphone use only by officiant of a service, doors to ballroom must be closed after use, applicant to appear before Town Council in 6 months; Council Member Crampton incorporated the listed conditions into his motion, Council Member Moore seconded. Motion carried unanimously.

Motion made by Council Member Crampton and seconded by Council Member Moore that Special Exception Z-20-00281 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. Motion carried unanimously.

2. New Business

- a. **Z-20-00282 VARIANCE(S)** Zoning District R-B Low Density Residential The application of Mr. and Mrs. Terwilliger, Applicants, relative to property located at **202 PLANTATION RD**, legal description on file, is described below. The applicant is proposing to renovate the two-story single family residence by constructing a 425 square foot master bedroom addition and replacement of a 183 square foot open air trellis with a 183 square foot covered porch. The following variances are being requested: 1. Section 134-893(6): an angle of vision of 114 degrees in lieu of 108 degrees existing and 108 degrees maximum allowed. 2. Section 134-893(13): a cubic content ratio of 3.99 in lieu of 3.83 existing and 3.94 maximum allowed. [Applicant's Representative: Maura Ziska Esq] Request for Deferral to the November 13, 2020 Meeting per Letter Dated September 29, 2020 from Maura Ziska.

Deferred to November 13, 2020 Town Council meeting

- b. **Z-20-00283 VARIANCE(S)** Zoning District R-B Low Density Residential The application of Road PB LLC (Robert Caulfield, Sole Proprietor), Applicant, relative to property located at **117 EL MIRASOL**, legal description on file, is described below. Section 134-2: A variance request to allow construction of a new 8,707 square foot two story residence with a point of measurement (for cubic content ratio, building height, and building overall height) of 13.5 feet North American Vertical Datum ("NAVD") in lieu of the 11.79 foot NAVD point of measurement required by the Town Code. [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. Carried 7-0.] [The Architectural Review Commission approved the project as presented with one item to return to the October 28, 2020 meeting. Carried 7-0.]

No ex parte was declared.

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

Maura Ziska, attorney on behalf of the owner, presented an overview of the project and explained the zoning requests.

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

Zoning Manager Castro provided staff comments. Discussion ensued between Mr. Papadopoulos and Mr. Castro regarding the

grade of the property. Mr. Papadopoulos stated the drawings had been corrected. Mr. Castro explained the intent of the code, and commented the lower grade could be dealt with by engineering and fill.

Council Member Araskog asked about the amount of fill that would need to be brought in for this property. Mr. Castro stated none. Council Member Araskog inquired about the height of the property. Mr. Papadopoulos responded. Council Member Araskog inquired about the hardship. Ms. Ziska responded.

Council President Zeidman called for public comment. There were no comments heard at this time.

Motion made by Council Member Crampton and seconded by Council President Zeidman that Variance Z-20-00283 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-20-00284 VARIANCE(S)** Zoning District R- B Low Density Residential The application of James T. Bowler, Jr., Applicant, relative to property located at **243 and 251 KENLYN RD**, legal description on file, is described below. Sec. 134-893(b)(1)(b) - A variance to allow a side set back of 15.2 ft. on the East side and 10 ft. on the West side in lieu of the 26 ft. minimum required for lots in excess of 169 ft. in width in the R-B District. [Applicant's Representative: Peter S. Broberg Esq]

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

There was no ex parte communications declared at this time.

Peter Broberg, attorney for the owner, presented the zoning request.

Zoning Manager Castro provided staff comments.

Council President Zeidman called for public comment. There were no comments heard at this time.

Council Member Araskog inquired if the properties could be split after a unity of title. Mr. Castro explained the process. Council Member Araskog inquired about the reason for the unity of title.

Mr. Broberg responded the owners wanted homestead protection on both properties.

Motion made by Council President Pro Tem Lindsay and seconded by Council Member Moore that Variance Z-20-00284 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 with the condition that a kitchen agreement is required. Motion carried unanimously.

- d. **Z-20-00285 VARIANCE(S)** Zoning District C-TS Town-Serving Commercial The application of Nest Seekers (Eddie Shapiro, CEO), Applicant, relative to property located at **326 S COUNTY RD**, legal description on file, is described below. Section 134-1107(2): Request for a variance to allow a 1173 square foot real estate office (Nest Seekers) at 326 South County Road (previously Rapunzel's clothing store) which is on the first floor of the building where office use is only allowed on the second floor in the C-TS Zoning District. [Applicant's Representative: Maura Ziska Esq]

This item was withdrawn.

- e. **Z-20-00286 SPECIAL EXCEPTION** Zoning District: R-AA Large Estate Residential The application of Stephen A. Wynn, Applicant, relative to property located at **1960 S OCEAN BLVD**, legal description on file, is described below. Section 134- 1759(d): The applicant is proposing to construct a new Padel ball court on the northwest corner of the property which would require Special Exception with Site Plan Review approval since the proposal includes a 13.16 foot tall glass and net combination wall surrounding the court which is considered a rebound wall. [Applicant's Representative: Maura Ziska Esq]

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

There were no ex parte communications declared at this time.

Maura Ziska, attorney for the owner, presented an overview of the project and explained the zoning request.

Mayor Coniglio inquired about the height of the walls. Ms. Ziska responded.

Ron Rickert, Intelae, explained the height of the walls and the reason it came to Town Council.

Zoning Manager Castro provided staff comments. Mr. Rickert advised that the hedge had been brought up to 13 feet.

Mayor Coniglio inquired about the number of variances for this property. Mr. Castro responded there were many, which kept coming. Mayor Coniglio expressed her opinion it would be better if everything was presented at one time. The Mayor inquired if the court would be lighted. Ms. Ziska responded.

Council Member Moore agreed with the Mayor.

Council Member Araskog inquired about the mesh had ever been allowed. Mr. Castro responded. Council Member Araskog questioned if the glass could be used a rebound wall. Ms. Ziska stated that the Padel court walls were used.

Council President Zeidman called for public comment. There were no comments heard at this time.

Motion made by Council Member Moore and seconded by Council President Zeidman that Special Exception Z-20-00286 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 the new landscaping will meet the code requirement. Motion carried unanimously.

- f. **Z-20-00287 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Slope Trail Development LLC (Lee Fensterstock, Manager), Applicant, relative to property located at **755 N LAKE WAY**, legal description on file, is described below. The Applicant is proposing to demolish more than 50% of the cubic footage of an existing 4,200 square foot, one story residence and raise the finished floor elevation and rebuild to meet the new FEMA requirement of 7 feet NAVD. The current residence has non-conforming setbacks and demolishing more than 50% cubic

footage by replacing the roof requires the following variances to be requested: 1) Section 134-893(9): a rear yard setback of 7.33 feet in lieu of the 10 foot minimum required; 2) Section 134-893(5): a front yard setback of 24.5 in lieu of the 25 foot minimum required; 3) Section 134-893(7): a north side yard setback of 5 feet in lieu of the 15 foot minimum required; 4) Section 134-893(5): a street side yard setback of 24.83 feet in lieu of the 25 foot minimum required. [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. Carried 7-0.] [The Architectural Review Commission approved the project as presented with conditions. Carried 7-0.]

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

There was no ex parte communications declared at this time.

Maura Ziska, attorney for the owner, presented an overview of the project and explained the zoning request.

Pat Segraves, SKA Architect + Planner, presented the architectural plans for the project, raising the house to meet FEMA requirements.

Zoning Manager Castro provided staff comments.

Council President Zeidman called for public comment. There were no comments heard at this time.

Motion made by Council Member Crampton and seconded by Council Member Araskog that Variance Z-20-00287 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.

Please note: A break was taken at 3:22 p.m. The meeting resumed at 3:33 p.m.

- g. **Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-B Commercial The application of LR Palm House LLC (Ian Livingstone, Executive Chairman), Applicant, relative to property located at **160 ROYAL PALM WAY**, legal description on file, is described below. Section 134-1304 (5): Request to modify Site

Plan Review # 1-2016 with Special Exception to change the approved use from condo-hotel to hotel; modify the previously approved site plan; and amend the conditions of approval in the Declaration of Use Agreement, as identified in the proposed Third Amendment to the Declaration of Use which is Exhibit "F") of this application. The proposed site modifications being requested as follows: Section 134-1304(5): The existing Palm House hotel is located at 160 Royal Palm Way, Palm Beach, Florida. It is currently vacant and construction is partially completed. The structure is three stories with a partially enclosed basement containing parking and back-of-house functions. The hotel is 84,495 gross square feet in total. There is an East and West guest wing, and these wings are connected by a central core containing the Main Entrance and other partially completed public functions. A separate conference and events "Function Room" and partial pool deck was also constructed at the south east portion of the property. Section 134-227. 326 & 329 1729(2)(c): (Site Plan Review) The new owner/applicant is proposing new work for the hotel which includes the following site plan modifications: 1) Completion and conversion of guest rooms for a total of 79 keys. Two new presidential suites will be constructed within the building core, each with private outdoor balconies. 2) Completion of the lower level for back-of-house, administrative and housekeeping functions for the hotel. The interior modifications for the lower level includes renovation of partially completed areas including kitchen, food storage, housekeeping, staff areas and hotel administrative offices. The owner is requesting an additional 148 SF to provide a new service stair form the lower level to support the Pool Area. Additional areas for renovation include spaces for MEP Infrastructure such as electrical, hot water, and elevator systems. The proposed modifications remove all Hotel Guest program areas from the lower level. The lower level renovation includes restoration of parking area for 60 parking spaces including three accessible parking spaces. Two parking spaces which includes on Van Accessible parking space is located behind the existing function room. All parking will be Valet only per the Declaration of Use Amendment Three. Total on-site parking provided is 62 spaces. 3) A new pool deck will be constructed adjacent to the existing Function Room, with various amenities that include chaise lounges and outdoor seating, shade umbrellas, toilets, a towel/concierge stand, open-air bar with enclosed pantry behind, water features, lush native plantings, and Event Lawn to be used as a pre-function space, or for small wedding and/or overflow sun bathing; 4) The first level lobby and public spaces will be completed to include fine dining and lobby bar, with 88 indoor seats as well as 36 outdoor seating facing the new pool deck. The second floor dining that was previously approved has been eliminated to make room for the reconfigured hotel suites which include the new presidential suites; 5) The

Function Room construction will be completed and the seating plan in the Function Room is being revised to add 50 more seats for a total of 200 seats (the total overall number of seats throughout the hotel that was previously approved is being reduced from 336 to 324); 6) A small 556 square foot banquet prep kitchen is proposed to be constructed adjacent to and on the east side of the existing Function Room. 7) Replace a 250 RW generator in the basement with the same size that exists today. - Other exterior Improvements will include new third floor railings, re- painting, new exterior floor finishes, trellises and a covered walkway leading to the existing Function Room. Fenestration requiring replacement will be replaced with similar windows and doors. Addition of a small 61 square foot pool service building; enclosing the 679 square foot function room pre-function space on the west side of the Function Room; addition of 588 square foot restroom for Function Room, addition of 556 square foot prep kitchen for Function Room and addition of 148 square foot stairwell to access Function Room prep kitchen. The following is a list of the proposed special exceptions and variances being requested for the hotel project: 1) Section 134-226 & 229: A special exception request to modify the approved special exception by converting from a condominium hotel to hotel use and make the site modifications and change to the conditions of approval as identified in this application. 2) Section 134-1305: A special exception request to allow 36 seats for outdoor dining on the first floor on the north side of the pool deck; and 3) Section 134-1308(9): A variance for lot coverage to be 63.8% in lieu of the 62.8% existing and the 50% maximum allowed in the C-B Zoning District; 4) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel above the second floor where only a two story building is allowed in the C-B Zoning District; 5) Section 134-1308(8): A variance for the addition of railings and solid wall on the east facade of the hotel with a height of 31.83 feet in lieu of the 25 foot maximum allowed; 6) Section 134-1669: A variance for the height of the wall enclosing the dumpster located at the southeast corner of the property to be 13.25 feet tall in lieu of the 7 foot maximum height allowed from the neighbor's grade; 7) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with a height of 33.58 feet in lieu of the 25 foot maximum allowed in the C-B Zoning District; 8) Section 134-1308(8): A variance for the two story open air addition on the south side of the hotel for a hotel suite balcony on the second floor and covered dining on the first floor with an overall height of 42 feet in lieu of the 35 foot maximum allowed in the C-B Zoning District; 9) Section 134-1669: A variance for the height of the wall along the rear property line to be 8.5 feet in lieu of the 7 foot maximum allowed from the neighbor's grade; 10) Section 134-

1669: A variance for the height of the wall enclosing the existing chiller at the south west corner of the property to be 12 feet tall in lieu of the 7 foot maximum allowed from the neighbor's grade; 11) Section 134-1308(7): A variance for a rear yard setback for the chiller to be 2.25 feet in lieu of the 10 foot minimum required in the C-B Zoning District; 12) Section 134- 1308(6): A variance for a west side yard setback for the chiller to be 5.8 feet in lieu of the 10 foot minimum required in the C-B Zoning District. [Applicant's Representative: Maura Ziska Esq] Request for Deferral to the November 13, 2020 Meeting per Letter Dated September 29, 2020 from Maura Ziska.

Deferred to November 13, 2020 Town Council meeting

- h. **Z-20-00290 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 requesting a modification to the previously approved variances regarding the boathouse and instead of raising it in the same footprint and construct an addition, the applicant is requesting to demolish the boat house and rebuild it in the same footprint with the proposed 796 square foot addition at elevation 9 NAVD. The following variances are being requested: 1) 134-843(8): a north side yard setback of 5 feet for the newly constructed boat house with 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 new boat house when demolishing the rebuilding in the same footprint with a finished floor elevation at 9 NAVD 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 newly constructed boat house when raising the finished floor elevation to 9 NAVD thus increasing the height in the setback; 4) 134-843(9): a rear yard setback of 12.58 feet in lieu of the 15 foot minimum required for the newly constructed boat house when raising the finished floor elevation to 9 NAVD thus increasing the height in the setback. [Applicant's Representative: Maura Ziska Esq] Request for Withdrawal per Letter Dated September 14, 2020 from Maura Ziska.

This item was withdrawn.

- i. **Z-20-00291 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of Hi Mount LLC (Amy Zabetakis, Manager), relative to property located at **756 HI-MOUNT RD**, legal description on file, is described below. The applicant is proposing a new 8,327 square foot, two story residence on the subject property that will require the following variances: 1)

Section 134-895(1): A chimney with a height of 13.56 feet in lieu of the 8.8 foot maximum allowed; 2) Section 134-8893(11): A lot coverage of 33% in lieu of the 30% maximum allowed for a two story residence in the R-B Zoning District; 3) Section 134-1: The proposed sub-basement is under the confines of the building above it and also below the lowest grade of the public street (Hi Mount Road) in front of the lot, however, it is not completely underground. A variance is being requested to allow a proposed sub-basement where a portion is not completely underground as there is a substantial change of grade from Hi Mount Road to Lake Trail. 4) Section 134-1670(c): A height of the retaining wall along the north property line to be 11.03 at its maximum height in lieu of the 7 foot maximum allowed. 5) Section 134-1670(c): A retaining wall at the northwest corner of the house, in the side yard within 10 feet of the property line that is at 14 feet in height in lieu of the 10 foot maximum from adjacent grade. [Applicant's Representative: Maura Ziska Esq] Request for Deferral to the November 13, 2020 Meeting per Letter Dated September 29, 2020 from Maura Ziska.

Deferred to November 13, 2020 Town Council meeting

VIII. ORDINANCES

A. First Reading

1. **ORDINANCE 11-2020** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Of Palm Beach's Comprehensive Plan By Amending The Infrastructure Element, As Well As The 10-Year Water Supply Facility Work Plan; Providing For Incorporation Of Recitals; Providing For Severability; Providing For Repeal Of Ordinances In Conflict Hereof; Providing For Codification; Providing An Effective Date.

Attorney Randolph stated that the LPA recommended approving Ordinance 11-2020. Attorney Randolph read Ordinance 11-2020 into the record on first reading by title only.

Motion made by Council Member Crampton and seconded by Council Member Moore to approve Ordinance 11-2020 on first reading by title only. Motion carried unanimously.

IX. ANY OTHER MATTERS

- A. Planning and Zoning Commission Record and Report: Proposed Modifications and Changes to Chapter 134 Zoning, Regarding Lot Fill, Mechanical Equipment and Off-Site Supplemental Parking.

Zoning Manager Castro introduced the item regarding lot fill.

Robert Collins, Calvin Giordano & Associates, addressed the issues regarding fill on residential lots and the impact to the neighborhood and

relationship to the street. He discussed the options presented to the Planning and Zoning Commission as well as showed examples of different methods to handle the reduced amounts of fill. He showed the Commission two different ways to calculate the maximum allowable fill.

Sarah Sinatra, Calvin Giordano & Associates, discussed the waiver process for fill requirements which would require Town Council approval. She commented on the potential to reduce amounts of fill by terracing.

Mr. Castro explained that changes would need to be made to the current code to allow terracing and other options. Code changes would provide for availability to do these things without penalizing the property owner or the architect. He asked for direction from Town Council.

Council Member Crampton inquired how this would work when presenting it to the Commissions. Mr. Castro responded criteria would be worked out by staff ahead of the variance presentations. He described the difference between the two approaches. Staff preferred choice B.

Council President Pro Tem Lindsay suggested a special workshop to promote understanding.

Mayor Coniglio wanted the policy to be simple and consistent, and include the waiver option, and suggested including the architects and construction professionals in discussions.

Council Member Araskog preferred choice B. She asked if landscape requirements would be changed. Mr. Castro responded that was not yet known. He answered her question regarding water retention and fill, and agreed stairs could be problematic.

Consensus of Council was that staff was heading in the right direction.

Council President Zeidman called for public comment.

Jorge Sanchez, 239 Southland Road and President of SMI Landscaping, thought this solution added to the patchwork done on the code and thought the architects should design the home to compliment the land. He thought the issue warranted a lot of study.

Amanda Skier, Preservation Foundation of Palm Beach, spoke about the issue and thought it was important for the Town character. She was in favor of the workshop idea. She added that the Preservation Foundation would support the item in wherever they could.

Mr. Castro introduced the item regarding mechanical equipment.

Sections of the code regarding equipment were re-written for simplification and recommended by the Planning and Zoning Commission. He explained how this would affect other code provisions.

Council Member Araskog confirmed with Mr. Castro this would not be retroactive, and asked about screening. Mr. Castro responded.

Council Member Crampton thought the code was improved and much easier to navigate. Zoning Manager Castro explained the options if a neighbor tore down the wall screening pool equipment. Council Member Crampton favored the option where if your neighbor tore down his wall and caused a situation, you would have to replace the wall.

Mayor Coniglio agreed with Council Member Crampton with the wall. She wanted to confirm that cumulatively, the collective amount of equipment would meet the decibel level requirement.

Council Member Moore asked if the location of pool equipment was grandfathered, Zoning Manager Castro indicated it was, and that also applied to A/C.

Mr. Castro discussed the issue of generators.

Council Member Araskog thought a size limitation should be placed on generators for certain sized lots.

Council Member Crampton inquired about the 60 kW requirement. Mr. Castro responded.

Consensus of Council was for staff to proceed with drafting an ordinance on mechanical equipment changes.

Mr. Castro discussed the issue of shared parking. He reported the Planning and Zoning Commission favored allowing off-site supplemental parking only within underground parking structures, limited to 33% of the inventory of each specific parking lot and sunset in 3 years unless Council decided to change or extend it

Council Member Araskog expressed concern for Royal Palm Way and thought the discussion should take place when more residents were in Town and should include a sunset clause.

Council Member Crampton thought the Town had a parking management problem and was in favor of allowing parties to come up with a partnership on their own, and bring the agreement to the Town. He was also in favor of a sunset clause.

Council President Pro Tem Lindsay favored proceeding, but cautioned to think about lots near the marina.

Mayor Coniglio asked whether the town got involved in these agreements. Mr. Castro responded.

Discussion ensued.

Council Member Moore inquired if this had been tried on a lot on Peruvian Avenue.

Council President Zeidman stated that the parking committee needed to

be updated as they would be working on this issue.

Council President Pro Tem Lindsay would like to use 440 and 450 Royal Palm Way as the test case for the marina.

Jay Boodheshwar, Deputy Town Manager, provided the reason as to why the issue was being brought forward to the council.

Council Member Araskog cautioned to be careful about allowing parking close to residents at night.

Council Member Moore commented to be careful with effects on residents but if someone bought a house next to a parking lot they should expect it to be used.

Please note: A short break was taken on 5:20 p.m. The meeting resumed at 5:49 p.m.

B. Possible Additional Landmark Incentives

Laura Groves van Onna, Historic Preservation Planner, presented potential Landmark incentives and exemptions for Landmarks properties.

Attorney Randolph discussed alternative development standards which would relieve someone from having to have to file for a variance.

Council Member Crampton commented he would fully support the request.

Council Member Araskog inquired if Town Council would want ORS to review the items. There was not a consensus to send to ORS. Council Member Araskog believed further study was important to avoid unintended consequences.

Mayor Coniglio asked Attorney Randolph if the incentives outlined would create a legal hardship as long as notice was provided. Attorney Randolph explained how the incentives could be expanded by staff.

Consensus was staff should work on this and bring it back to the Town Council.

Public Comments

Amanda Skier, Preservation Foundation of Palm Beach, thanked Wayne Bergman and Laura Groves van Onna for working with them on this issue.

Aimee Sunny, Preservation Foundation of Palm Beach, thanked the Town Council for deferring the demolition item and added she believed the landmark incentives would save time and money for homeowners.

C. ARCOM's Request to Consider Demolitions

This item was taken prior to Item, Landmark Incentives

Michael Small, Chairman of ARCOM, presented a request to the Town Council to consider amending the ordinance regarding demolition. Mr. Small requested that any worthy structure in the view of ARCOM be deferred for 60 days to allow Landmarks to review the property prior to demolition.

Planning, Zoning and Building Director Bergman reviewed the standards currently available to ARCOM. He agreed with Mr. Small's suggestion to send the property to Landmarks for review. He suggested once the historic site surveys were submitted to the Town, for any home that was 50 years or older, if application for demolition was submitted, it would be sent to Landmarks automatically. Additional criteria for demolition could be added.

Attorney Randolph stated that this item had been presented three times and reviewed the decisions of previous councils.

Council President Zeidman expressed concern whether the Town had firm legal ground to give ARCOM the decision to postpone the demolition. Attorney Randolph responded and stated it would be unfair to home owners relying on information that property was not landmarked. If the home was historically significant and the home was designated as historic and the ordinance was written as such, it could go to LPC. Council President Zeidman inquired about a legal issue if a person had trouble selling their historically significant home. Attorney Randolph responded it could have a negative impact and could lead to a problem for the Town.

Mayor Coniglio expressed concern that historic site surveys had been around since 1979 but that did not make a property landmarked. The new tools for historically significant buildings were there to help buildings older than 50 years old and needed to be raised to FEMA standards. She did not think ARCOM and LPC should mix.

Council President Pro Tem Lindsay discussed tools for HSB and properties over 50 years old, and stated she was not comfortable granting this.

Council Member Araskog commented historic site surveys could be used to place more homes under consideration. She was in agreement but thought there was another way to proceed.

Council Member Moore discussed budgetary concerns that restricted landmarks. She thought Council would be opening a can of worms with unintended consequences.

Mayor Coniglio suggested doubling the budget and extending the time for a year.

Council Member Araskog responded and suggested placing all homes under consideration in one year.

In response to Mayor Coniglio, Attorney Randolph commented if landmarked or under consideration by ARCOM they could not be demolished.

Council President Zeidman proposed not to let ARCOM decide on demolitions for the reasons stated, and to discuss next month what Council could do for Landmarks, such as possibly give more money.

Public Comment

Amanda Skier, Preservation Foundation of Palm Beach, commented this was an important issue and requested Council hold off on making any decisions and study the item further. Council President clarified this would be discussed at next month's meeting.

Rene Silvin, 422 Australian Avenue, strongly agreed with Amanda Skier and thought this was an important issue. He thought it was a good idea if the consultants had more money.

Aimee Sunny, Preservation Foundation of Palm Beach, agreed with Amanda Skier and thought the issue deserved further study.

Council Member Araskog suggested deferring the issue for restudy.

Motion made by Council Member Araskog to defer the item until the historic site surveys were received in December. Motion failed for lack of a second.

Motion made by Council President Zeidman and seconded by Council Member Moore to deny ARCOM's request to consider demolitions for reasons already stated. Motion failed 2-3 with Council Member Araskog, Council Member Crampton, and Council President Pro Tem Lindsay opposed.

Motion made by Council Member Araskog and seconded by Council Member Crampton to defer the entire conversation until the December 9, 2020 meeting. Motion carried 3-2 with Council Member Moore and Council Member Zeidman opposed.

- D. Waiver of Fees for Special Exception Zoning Applications to Eliminate the Annual Town-Serving Requirement that were Previous Special Exception Conditions of Approval for Thirteen Businesses in the Town

Mayor Coniglio asked if clubs were included; the answer was no.

Motion made by Council Member Crampton and seconded by Council Member Araskog to approve waiver of fees for Special Exception Zoning Applications to eliminate the Annual Town-Serving Requirement that were Previous Special Exception Conditions of Approval for Thirteen Businesses in the Town. Motion carried unanimously.

- E. 800 S County Road

Council President Zeidman stated this item was for reconsideration of the motion.

Attorney Randolph explained Harvey Oyer had communicated with additional evidence, which should be considered and any evidence from Attorney Ziska should also be considered. He advised the item could proceed.

Council President Zeidman discussed the reason she opened the item again, as to whether notice was given and her opinion was it was incumbent upon the recipient to get the notice. The Town gave notice, and a certified mail receipt was signed, which was all the Town could know; the other issue was additional evidence had been received today.

Attorney Randolph discussed the notice issue. He read from the Town code the verbiage for notice to be published in a newspaper which had not published the correct information. He stated Town Council should make a decision whether they want to change their vote or ratify their vote from yesterday.

Council President Zeidman thought the mailed notice was more important than the notice in the paper.

Council Member Araskog confirmed with Attorney Randolph the town had received a proof from the newspaper but did not correct it.

Maura Ziska, attorney for the owners at 800 S. County Road, asked why the property owner was being punished when they had met their obligation for notice, and were not receiving their due process. She felt reversing an approval from July would cost millions of dollars, and she felt this should be taken to court, not to the Town.

Ann DesRuisseaux, owner 800 S. County Road, described her historic property and recounted what had happened at yesterday's meeting. She described the process she followed to apply for a variance to raise the house which was sitting in water. She objected to the stop work order and showed pictures of the house now unprotected from the weather, which could mean the indoor historical features could deteriorate and be lost. She described her conversations with Mr. Rappaport and his actions with her neighbors. She spoke about the notices that had been sent out, and her conversation with Mr. Rappaport's mother.

Council Member Araskog inquired about a photo of the boat house. Ms. DesRuisseaux responded.

Jeff Rapaport, 790 S County Rd., strongly objected to discussion due to not having representation and argued that the Town was responsible for the notice, and asked that the approvals be invalidated.

Council Member Crampton asked Town Attorney Randolph about the appeal period of 30 days. Town Attorney Randolph responded and discussed options available to the Council.

Council President Pro Tem Lindsay asked Town Attorney Randolph about deferring to when both parties could be present with Counsel. She felt it should be deferred to the next day.

Mr. Castro read from the code regarding remedy by circuit court within 30 days.

Council Member Araskog requested to have Harvey Oyer present for the discussion. She recommended delaying the discussion to a date when all of the parties could be present. She suggested the possibility of just reconsidering the boathouse.

Ms. DesRuisseaux provided rebuttal that she disagreed with Mr. Rappaport's characterization that she had done things she had not.

Mayor Coniglio asked if the decision from yesterday be set aside as a deferral. Attorney Randolph responded that decision would stand until another decision was made. She did not think the Council was capable of making this decision.

Council President Zeidman felt there was an overreach by the Town Council yesterday and did not feel they were the correct body to be making that decision.

Town Attorney Randolph advised this was an attempt to address the complaint by Mr. Rappaport and his attorney.

Council Member Moore was okay deferring to Friday, but not continuing it

further.

Discussion ensued.

Motion was made by Council President Pro Tem Lindsay, seconded by Council Member Crampton, to defer 800 South County Road discussion to 9:00 a.m. on Friday, October 16, 2020 to continue discussion. Motion carried 4-1 with Council Member Moore opposed.

X. ADJOURNMENT

The meeting was adjourned at 8:15 p.m. without benefit of motion or roll call.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Administrative Specialist