



# TOWN OF PALM BEACH

## Minutes of the Development Review

### Town Council Meeting

Held on April 14, 2021

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order March 14, 2021 at 9:30 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.

Council President Zeidman provided a few procedural announcements.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

The Mayor stated she had no comments at this time.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

Council President Zeidman explained item number 9 and why the explanation was written on the agenda.

Council President Zeidman discussed the Town Council Committees and the plan for moving forward.

Council Member Crampton thanked the board management and members of 3360 S. Ocean Blvd. for allowing beach access for the refurbishment of the sand.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

There were no comments heard at this time.

## VI. APPROVAL OF THE AGENDA

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

Deferral of Item VIII. A. 1 to the May 12, 2021 meeting.

Deferral of Item VIII. B. 1 (b) to the May 12, 2021 meeting.

Withdrawal of Item VIII. B. 1 (c) from the agenda.

Deferral of Item VIII. B. 1 (d) to the May 12, 2021 meeting.

Deferral of Item VIII. B. 1 (g) to the May 12, 2021 meeting.

Deferral of Item VIII. B. 2 (b) to the May 12, 2021 meeting.

Deferral of Item VIII. B. 2 (f) to the May 12, 2021 meeting.

Deferral of Item VIII. B. 2 (i) to the May 12, 2021 meeting.

Deferral of Item X. A. to the May 12, 2021 meeting.

**Motion made by Council Member Cooney and seconded by Council Member Crampton to approve the agenda as amended. Motion carried unanimously.**

Administrative Specialist Churney swore in all those intending to provide testimony during the meeting.

## VII. RESOLUTIONS

- A. **RESOLUTION NO 034-2021** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 127 Kings Road Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.
- B. **RESOLUTION NO 035-2021** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 137 Kings Road Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Director Wayne Bergman explained Resolution No. 034-2021 and Resolution No. 035-2021 were for two properties at 127 and 137 Kings Road, for which the Landmarks Preservation Commission had held designation hearings, and the owners had not been present. The owners

were concerned about this designation not being made at an in-person meeting and without them present. Mr. Bergman proposed delaying Town Council action until the owners could be present.

Council Member Cooney suggested a letter from the property owners might be needed for a deferral.

Eric Stonestrom, 137 Kings Road, discussed his reasons for requesting a deferral to the November 2021 Town Council meeting.

Town Attorney Randolph inquired if Mr. Stonestrom would waive the requirements for time constraints due to his request for an extension.

Angie McNamara, 127 Kings Road, discussed her reasons for requesting a deferral to the November 2021 Town Council meeting.

Town Attorney Randolph suggested that the item be sent back to the Landmarks Preservation Commission so they had a chance to weigh in on the designation with the Commission.

Council Member Crampton thought that Town Attorney Randolph's suggestion was a good one. He thought the process should begin anew.

Council President Pro Tem Lindsay agreed with Council Member Crampton. She apologized to the homeowners for the lack of communication from the Town. She thought the homeowners should be able to move through the landmarks process as all other homeowners.

Mayor Moore agreed with sending the items back to the Landmarks Preservation Commission.

Council Member Araskog requested staff look at the notification to make sure the direction was to make contact by email.

Richard Rene Silvin, Chairman of the Landmarks Commission, welcomed the owners to appear in front of the Commission to present their case for the designation hearing

**Motion was made by Council Member Crampton, seconded by Council President Pro Tem Lindsay, to send the two properties, 127 Kings Road and 137 Kings Road, back to Landmarks to start the process of landmarking again, with the property owners waiving constraints to have it be heard within a certain time period. Motion carried by unanimous vote.**

- C. **RESOLUTION NO 040-2021** A Resolution Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Ratifying And Confirming The Determination Of The Landmarks Preservation Commission That The Property Known As 223 Colonial Lane Meets The Criteria Set Forth In Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach; And Designating Said Property As A Town Of Palm Beach Landmark Pursuant To Ordinance No. 2-84, Also Known As Chapter 54, Article IV Of The Code Of Ordinances Of The Town Of Palm Beach.

Janet Murphy, Murphy Stillings, presented the criteria relevant to landmark the home at 223 Colonial Lane. She stated the property met criteria 1 and 3.

**Motion was made by Council Member Crampton, seconded by Council**

**Member Cooney, to accept the report as presented. Motion passed by unanimous vote.**

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

Council Member Araskog thanked the owners for preserving the history of Palm Beach.

Town Attorney Randolph read Resolution No. 040-2021 by title only.

**Motion was made by Council Member Cooney, seconded by Council Member Crampton, to approve Resolution No. 040-2021 on the basis that criteria 1 and 3 had been met. Motion passed by unanimous vote.**

## VIII. DEVELOPMENT REVIEWS

### **A. Appeals**

#### **1. ARCOM Appeals of B-063-2020 160 Royal Palm Way**

Requested Deferral to the May 12, 2021 Meeting per Email from Donald Lunny and John Eubanks.

*This item was deferred to May 12, 2021 at approval of the agenda.*

#### **2. ARCOM APPEAL OF A-010-2021 1055 N Ocean Blvd**

Presenters Martin Klein, David Klein, William Rickman, and Pat Seagraves introduced themselves. All stated they had been sworn in. Town Attorney Randolph stated no additional facts would be heard today.

Ex parte communications were disclosed by Council Members Crampton, Cooney, Araskog, President Pro Tem Lindsay, President Zeidman and Mayor Moore.

Town Attorney Randolph provided direction to Town Council as to what they could consider during this hearing.

Council Member Araskog questioned whether it should be determined if the access was a public beach access prior to hearing the appeal. Town Attorney Randolph stated that he felt the appeal was right to move forward. Council Member Araskog inquired if Council Member Cooney should be participating in the discussion since he participated at the ARCOM discussion. Town Attorney Randolph stated in abundance of caution, Council Member Cooney should recuse himself.

Martin Klein, 1060 N. Ocean Blvd., stated the arguments for his appeal.

David Klein, Attorney representing owners west of Ocean Blvd. and the private ocean way, provided rebuttal to Mr. Martin Klein's arguments.

Town Attorney Randolph asked Mr. David Klein to comment on Mr. Martin Klein's allegation that Mr. Rickman was not the correct owner to apply for ARCOM application. Mr. David Klein responded.

William Rickman, 1055 N. Ocean Blvd., spoke about the agreement between the 15 homeowners to the west of his property.

Mr. Martin Klein stated that he tried to speak to the neighbors but to no avail. He also felt the application had been made by an entity that did not exist.

Town Attorney Randolph stated that both parties spoke about issues that were not relevant to the appeal. He discussed the items that the Council should consider and read aloud the relevant portion of the code.

Mayor Moore inquired if it should be a concern that the applicant that applied for the project was not a legitimate LLC. Zoning Manager Castro stated he did not believe that was an issue. Town Attorney Randolph confirmed it was his understanding this was new information and therefore not relevant today.

Council Member Araskog expressed concern that one of the members would not summarize the letter at ARCOM for two of the voting members. Council Member Araskog inquired about Mr. Martin Klein's concern relating to the water vista and the gate. Martin Klein responded.

Council President Pro Tem Lindsay stated she struggled in sending this back to ARCOM.

Council President Zeidman asked if the ARCOM notice gave the option to appear or to send in a letter. Zoning Manager Castro did not know. Discussion ensued. Council President Zeidman read from the ARCOM transcript regarding the request made to summarize Martin Klein's letter, and gave her position they did have a summary and focused on the gates. Council President Zeidman believed that ARCOM did review the gates, while putting aside all irrelevant issues.

Council Member Araskog did not believe that Michael Small summarized all of the points in Martin Klein's email to the Commission. Council Member Araskog questioned whether due process was afforded to Mr. Klein, and felt it should go back to ARCOM. She also added that she did not believe the vista was discussed. She felt that Mr. Klein had a right to appear in front of ARCOM to argue the ARCOM Ordinance.

Council President Zeidman pointed out the pages in the backup that discussed what ARCOM actually considered related to the gate.

Mayor Moore stated that she struggled with the fact that the letter was provided to the members but two of them did not read the letter. She thought the same outcome would occur if remanded back to the Commission. Mayor Moore felt like the correct processes were followed.

Paul Castro spoke about the vista and how it was addressed in the Code. Council Member Araskog objected that new evidence was being given. Zoning Manager Castro retracted his statement.

**Motion was made by Council Member Araskog to remand Appeal A-**

**010-2021, 1055 N Ocean Blvd, back to ARCOM to give Mr. Martin Klein his due process rights and also to say to ARCOM Commissioners they are charged with reading the competent substantial evidence, and whatever competent substantial evidence comes before them that has to do with the ARCOM ordinance is critical that they read it, if it isn't put in a timely manner, otherwise competent substantial is not evidence, is not looked at, which they are charged to do. Motion failed for lack of a second.**

Council President Zeidman commented Council Member Araskog was referring to due process, and she agreed, but seven members of the ARCOM Commission had been involved in discussion applying the ARCOM ordinance to the review of the gate. Council President Zeidman talked about ARCOM's discussion of the ARCOM Ordinance relating to the gate, in which all ARCOM members participated. Council Member Araskog felt there were two points in Mr. Klein's letter, which were not discussed or summarized for the Commissioners and who stated they did not read his letter. Council President Zeidman read from the ARCOM transcript of the discussion of the gate. Council Member Araskog felt the issue of the gate height, in particular, should be remanded back to ARCOM.

**Motion was made by Council Member Crampton, seconded by Council President Pro Tem Lindsay, to deny the appeal of A-010-2021, 1055 N Ocean Blvd., based on his opinion that ARCOM acted appropriately based on the evidence presented, and the review process set forth in the ordinance. Motion passed by 3-1 vote with Council Member Araskog opposed and Council Member Cooney recused.**

*Please note: A short break was taken at 11:20 a.m. The meeting resumed at 11:34 a.m.*

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

### **1. Old Business**

- a. **Z-21-00337 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of TOWN OF PALM BEACH (Kirk Blouin, Town Manager), applicant, relative to property located at **320 S LAKE DR**, legal description on file, is described below. The Town of Palm Beach is requesting a special exception with site plan review to modify Lake Drive Park with hardscape/landscape improvements. The improvements include equipment landscape screening; new pervious pathways along the perimeter and middle sections of the park; reconfiguring the trash compactor area to facilitate access for servicing; reconfiguration of road access to parking lots to allow for gates and S Lake Drive cross walks; addition of pole mounted cameras and parking lot resurfacing. Also included in the proposed changes is the replacement and addition of benches; parking lot landscape screening; new landscaping beds in various locations; new bike racks, dog water fountains; and a relocated flag pole. Site vistas that exist in the park will be maintained. [Applicant's Representative: Paul Brazil, Director of Public Works] [The Landmarks Preservation Commission acknowledged the special exception and site plan

review required. Carried 7-0.]

**TIME CERTAIN: 10:00 AM**

Paul Brazil, Director of Public Works, stated a Certificate of Appropriateness had been granted and they were seeking an approval of a special exception with site plan review, and asked for a decision on scope today.

Administrative Specialist Churney swore in Keith Williams and Jay Boodheshwar.

Keith Williams, Nievera Williams, presented the landscape and hardscape changes proposed for the park.

Jay Boodheshwar, Deputy Town Manager, thanked Keith Williams for his generous time and donation to the Town.

Ex parte communications were disclosed by Council Members Crampton, Cooney, Araskog, President Pro Tem Lindsay, President Zeidman and Mayor Moore.

Mr. Brazil stated that staff was recommending the majority of the design proposed from Mr. Williams. He recommended considering the possibility of using a standard paver as opposed to a permeable paver for cost savings reasons. He explained the difference was below the pavers.

Council President Pro Tem Lindsay stated that from the surface, both pavers looked the same.

Council Member Crampton inquired if it was sensible to install pavers in the parking lot. Director Brazil stated he did not believe it make sense and thought that asphalt was a better solution, and provided his reasons.

Council Member Cooney inquired whether the arborist was concerned about the pavers with the major trees. Director Brazil responded the arborist supported standard pavers.

Council Member Araskog inquired about the maintenance cost for asphalt, permeable pavers and standard pavers for the parking lot. Director Brazil did not recommend decorative pavers for the parking lot. Council Member Araskog inquired if he felt the same about the walkways. Director Brazil responded affirmatively.

Council President Pro Tem Lindsay inquired about the gravel versus the mulch around the tree. Director Brazil stated that Mr. Williams supported the gravel. Council President Pro Tem Lindsay stated she would support the gravel choice.

Council President Zeidman inquired about the makeup of asphalt. Mr. Brazil responded.

Mr. Brazil discussed the costs for the pavers while retaining the asphalt in the parking lots.

Council President Pro Tem Lindsay discussed the importance of the gates and thought it would be important for the Town Council to review the gate prior to purchasing the item. Director Brazil indicated the gate would be reviewed and presented before purchase.

Council Member Crampton recalled the initial budget and where it was at this point. Director Brazil commented grant money was now in the Marina budget, which was now over funded.

Council Member Araskog did not feel there was extra money. She felt that the asphalt would be the better choice due to budgetary reasons. However, she still had a hard time with some of the budget numbers since the Town had many upcoming expenses and not all Town residents used the marina.

Council Member Cooney inquired about the water view screenings for the electrical boxes. Mr. Brazil responded and explained the modifications.

Council President Pro Tem Lindsay thought the park should be iconic, commensurate with the world-class marina that was being built. She stated this park was the most used park in the Town.

Mayor Moore agreed that the asphalt and the standard pavers were the reasonable choices.

Council President Zeidman thought that all members agreed with asphalt in the driveways, standard pavers for the walkways and gravel around the tree.

- a.1 Budget Amendment for Costs Associated with Staffing for the Town Marina and Improvements to Lake Drive Park

**ORDINANCE NO. 11-2021** An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Providing For An Amendment To The Town's Budgets Adopted For The Fiscal Year Commencing October 1, 2020, And Providing An Effective Date.

Jane Le Clainche, Director of Finance, discussed the proposed ordinance included in the backup. She reviewed the budget for the park. She thought that a portion of the shortage should come from the marina fund reserve. She proposed the balance should come from the general contingency fund.

Council Member Araskog inquired if Scott Snyder could provide a fundraising update. Mr. Boodheshwar provided an update to the Council. Council Member Araskog expressed concerns for using money from the general contingency fund.

Mayor Moore commented there was some flexibility in the general



contingency fund.

Council Member Crampton inquired about the rationale in taking some of the money from the general contingency fund. Director Le Clainche responded the park was a town asset and would be accounted for separately. Council Member Crampton inquired about the type of bonds that the Town had for the project. Director Le Clainche responded they were revenue bonds.

Council Member Araskog was concerned about the effect a catastrophic event could cause to the budget.

Kirk Blouin, Town Manager, stated that it was important to outline where the money was coming from to provide transparency for the Town.

Director Le Clainche stated she would be returning next month with all of the totals for the contingency funds.

Council President Zeidman called for public comment.

John David Corey, 426 Australian Avenue and speaking for Friends of Lake Drive Park, thanked Keith Williams for his generous donation. He supported the asphalt choice and the standard pavers. He recommended using a native pine needle around the tree, rather than the gravel. He thought the gates should be reviewed by Landmarks Preservation Commission.

Gordon McCoun, on behalf of the Royal Parks Homeowners Association, thanked the Town for using pavers for the pathways. He advocated for the use of pavers in the driveways.

Director Brazil spoke about the management of the garbage functions and showed the Town Council the proposed location of the proposed garbage compactor.

Council Member Cooney inquired about the screening for the garbage compactor. Messrs. Williams and Brazil responded.

Council Member Crampton cautioned to consider noise when making the schedule for emptying the garage compactor. Mr. Brazil responded and discussed the schedule.

Zoning Manager Castro inquired about the operation schedule for the compactor. Director Brazil responded.

Council President Pro Tem Lindsay inquired about the cover for the compactor. Mr. Brazil responded. Council President Pro Tem Lindsay inquired if the smell would improve. Director. Brazil responded the new compactor would be odorless.

Council Member Araskog inquired if the arborist had concerns about the gravel on the roots around the tree. Mr. Brazil responded.

**Motion was made by Council Member Crampton, and seconded by Council President Pro Tem Lindsay, that Site Plan Z-21-00337 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 that Special Exception Z-21-00337 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 by unanimous vote.**

Town Attorney Randolph read Ordinance 11-2021 on first reading by title only.

**Motion was made by Council Member Crampton, seconded by Council President Pro Tem Lindsay to approve Ordinance 11-2021 on first reading. Motion carried by unanimous vote.**

*Please note: A lunch break was taken at 12:56 p.m. The meeting reconvened at 2:03 p.m.*

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

an existing nonconforming building by increasing the overall building height to 63'4" in lieu of the 53'8" existing and the 35' maximum allowed by current code. 5. Per Section 134-419, variance to allow an expansion of an existing nonconforming building by increasing the existing air-conditioned floor area of the fourth story to 13,212.9 square feet from 3,448.75 square feet existing. An open fourth story trellis of 5,433 square feet is also proposed in this application and included in the calculation of lot coverage, below. There is an existing exterior fourth floor covered area of approximately 3,290 Square feet in addition to the existing air-conditioned floor area on the fourth story of the building. 6. Per Section 134-1163(5), variance to allow a minimum front yard setback of 1'1" for portions of the building in lieu of the 5' existing and the 5' minimum required on the private property. The sidewalk is required to be a minimum of 10' wide and this proposal is a minimum of 8'2" in the area where the sidewalk is only 1'1" wide on private property. 7. Per Section 134-1163(9)b., variance for lot coverage of 71% on the first floor in lieu of the 57% existing and the 35% maximum allowable. 8. Per Section 134-1163(9)b., variance for lot coverage of 71% on the second floor in lieu of the 57% existing and the 35% maximum allowed for second story. 9. Per Section 134-1163(9)b., variance for lot coverage of 54% on the fourth floor in lieu of the 20% existing and the 35% maximum allowable by code. 10. Per Section 134-419, a variance to allow an expansion of an existing nonconforming building by increasing the existing building length at the east end of the building from 201'8" to 246' in lieu of the 150' permitted as of right in the C-WA zoning district. [Applicant's Representative: James M. Crowley Esq] [The Architectural Review Commission deferred this project to their February 24, 2021 Meeting. Carried 6-1.] Request For Deferral to the May 12, 2021 Meeting Per Letter from James M. Crowley.

**This item was deferred to the May 12, 2021 meeting during the approval of the agenda, Item VI.**

- c. **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 variances will not cause architectural impact to the subject property. Carried 4-3.] [The Architectural Review Commission approved the project as presented. Carried 7-0.] Request for Withdrawal Per Email Dated April 5, 2021 from Maura Ziska

**This item was withdrawn from the agenda during the approval of the agenda, Item VI.**

- d. **Z-20-00299 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R A Estate Residential The application of 1015 SOUTH OCEAN LLC (MAURA ZISKA, MANAGER), applicant, relative to property located at **1015 S OCEAN BLVD**, legal description on file, is described below. 1) Section 134 840: Special Exception with Site Plan Review to allow the construction of an 11,031 square foot two story residence on a non-conforming lot that is 97.97 feet in depth in lieu of the 150 foot minimum required In the R A Zoning District. 2) Section 134 843(a)(5): A request for a variance to allow a front setback of 16 feet 7.5 inches 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 a rear setback of 2 feet 7 inches in lieu of the 15 foot minimum required in the R A Zoning District. 4) Section 134 843(a) (6)b: A request for a variance to allow an Angle of Vision of 133.74 degrees in lieu of the 120 degrees maximum allowed in the R A Zoning District. 5) Section 134 843(a)(7): A request for a variance to have a building height plane setback ranging as close to the front property line as 16.8 feet (one story element) to 29.25 feet (two story element) in lieu of the minimum 35 foot (one story element) to 47.6 foot (two-story element) minimum required by Code in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the April 28, 2021 meeting. Carried 7-0.]

**This item was deferred to the May 12, 2021 meeting during the approval of the agenda, Item VI.**

- e. **Z-20-00311 SPECIAL EXCEPTION WITH VARIANCE(S)** Zoning District: C-TS Town Serving Commercial The application of Bricktop's Palm Beach, applicant, relative to property located at **375 S COUNTY RD**, legal description on file, is described below. Section 134 1109 (14): Modification to previously approved Special Exception with Site Plan Review is being requested for Bricktop's restaurant to add 40 outdoor seats for lunch and dinner in the north courtyard adjacent to the existing restaurant. The additional seating will increase the seating from 150 indoor and patio seats to 190 seats. The current approval allows 52 seats of the 150 seats to be outside on the south patio. Section 134 2176: a variance is being requested to provide zero (0) on site parking spaces in lieu of the 13 parking spaces that are required for the additional 40 outdoor seats. [Applicant's Representative: Maura Ziska Esq]

Maura Ziska, attorney for the applicant, stated she did not oppose a one-month deferral due to the outdoor seating currently allowed due to COVID.

**Motion made by Council Member Araskog and seconded by**

**Council Member Cooney to defer Z-20-00311 Special Exception with Variances, for one month, to the May 12, 2021 Development Review meeting. Motion carried by unanimous vote.**

- f. **Z-20-00313 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of MATTHEW AND ALEXANDRA MURPHY, applicant, relative to property located at **113 ATLANTIC AVE**, legal description on file, is described below. Section 134.893(b) (13): Request for a variance to allow the construction of a 210 square foot awning on the east side of the existing residence and a 644 square foot awning on the west side of the existing residence which will result in a cubic content ratio of 4.499 cubic feet in lieu of 3.998 existing and the 4.148 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. Carried 4-3.] [The Architectural Review Commission approved the project as presented. Carried 5-2.]

Administrative Specialist Churney swore in Jeff Brasseur, and Peter Papadopoulos.

Ex parte communications was declared by Council Members Araskog and Cooney.

Maura Ziska, Attorney for the owner, explained the variances requested for the project.

Jeff Brasseur, Brasseur & Drobot Architects, presented the architectural plans for the proposed project.

Director Bergman provided staff comments.

Council Member Crampton inquired why the vote was so close at the ARCOM meeting. Mr. Brasseur responded some did not like the look of awnings.

Council Member Araskog stated she did not see the hardship for the variance. Ms. Ziska discussed the reason that the owner was requesting the awnings.

Mayor Moore commented increasing CCR was an issue but this was de minimis.

**Motion made by Council Member Cooney, and seconded by Council Member Crampton, that Variance Z-20-00313 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 4-1, with Council Member Araskog opposed.**

- g. **Z-20-00318 REPLAT** Zoning District: R-AA Large Estate Residential The application of BLOSSOM WAY HOLDINGS LLC (GERALD A. BEESON, MANAGER), applicant, relative to property located at **1265 S OCEAN BLVD**, legal description on file, is described below. An application to replat lots 1 through 6 and lot 10 of the Blossom Estate Subdivision, 60 Blossom Way, and 1290 S Ocean Blvd into 2 (two) buildable lots. The proposed replat will abandon in total the Blossom Way right-of-way; abandon the current beach access and dedicate a new 8-ft wide beach access along the north side of the proposed replat; terminate the Limited Access Easement along the east side of S Ocean Blvd which provides access to all of the Blossom Estate platted properties via Blossom Way; and incorporate 60 Blossom Way and 1290 S Ocean Blvd properties into the new Lots 1 and 2 of Blossom Estate subdivision. [Applicant's Representative: Maura Ziska Esq]

**This item was deferred to the May 12, 2021 meeting during the approval of the agenda, Item VI.**

- h. **Z-21-00327 VARIANCE(S)** Zoning District: R C Medium Density Residential The application of JUSTIN B. BESI KOF, Applicant, relative to property located at **218 EVERGLADE AVE**, legal description on file, is described below. Section 134 948(1) & (2): A request for a variance to construct a new 3,700 square foot, two story residence on a lot with a width of 50 feet in lieu of the 75 foot minimum required and a lot area of 5,902 sq. ft. in lieu of the 10,000 sq. ft. minimum required in the R C Zoning District. Section 134 948(6): Request for a variance to have an 8 foot east side yard setback in lieu of the 10 foot minimum required in the R-C Zoning District. Section 134 1757: Request for a variance to construct a swimming pool (11' by 27') along the south of the property that would have a 7.5 foot rear yard setback in lieu of the 10 foot minimum setback required. Section 134 948(9): Request for a variance for lot coverage to be 34.92% in lieu of the 30% maximum allowed in the R-C Zoning District. [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 with conditions relating to the architecture. Carried 5-2.]

Ex parte communications disclosed by Council Members Araskog and Cooney.

Administrative Specialist Churney swore in Daniel Clavijo.

Maura Ziska, Attorney for the owner, explained the variances requested for the project.

Daniel Clavijo, SKA Architect + Planner, presented the architectural plans for the proposed project.

Director Bergman stated staff had no objection to the application.

Council Member Cooney inquired what was driving the lot coverage for the home. Mr. Clavijo responded.

Council Member Crampton expressed a concern for homes that were covering the majority of the lot.

Council Member Araskog inquired about the hardship for the variances. Ms. Ziska responded.

Council President Pro Tem Lindsay thought the home would be a big improvement. She believed there was a hardship for the variance.

Ms. Van Onna provided staff comments regarding a vicinity map to provide more context.

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

**Motion made by Council Member Crampton, and seconded by Council Member Araskog, that Variance Z-21-00327 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 5-0, by unanimous vote.**

## 2. New Business

- a. **Z-21-00328 VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of MELINDA BASS, applicant, relative to property located at **332 BRAZILIAN AVE**, legal description on file, is described below. 134-1669 and 134-1729. Applicant requests a variance to permit installation of a 60 kw generator with a height of 8.0' in lieu of 7' maximum permitted, as surrounded by a wall on three sides with a height that is 8' above the neighboring property owner's grade on the west side yard in lieu of 7' maximum permitted and 7.5' above the

neighboring property owner's grade in the rear yard (south) in lieu of 7' maximum permitted. [Applicant's Representative: Tim Hanlon Esq]

Administrative Specialist Churney swore in Timothy Hanlon.

There were no ex parte communications to declare by any of the Council Members.

M. Timothy Hanlon, Attorney for the owner, explained the variances requested for the project and provided an overview of the project.

Director Bergman stated staff had no objection to the application.

Council Member Araskog inquired about the height of the generator in relation to the neighboring property. Director Bergman responded.

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

**Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance Z-21-00328 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 5-0, by unanimous vote.**

- b. **Z-21-00329 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-A Estate Residential The application of 910 S OCEAN LLC (Tom Campbell), applicant, relative to property located at **910 S OCEAN BLVD**, legal description on file, is described below. 1. Section 134 843(b): Modification to a previously approved request for Site Plan approval to permit construction of a new 17,527 square foot, two story residence on a platted lot with a depth of 128.42 in lieu of the 150 foot minimum required In the R· A Zoning District. The proposed changes to the main house parcel are as follows: the addition of a cooling tower at southwest corner of the property; revision of the driveway and entries to reduce from three curb cuts to two curb cuts; elimination of the swimming pool on the east side of the house; addition of decorative balustrades at the roof level; revisions to floor plans and south façade due to plan changes; elimination of balcony on the west façade; minor adjustment to stonework and window/door configurations; and revision to metal railing design of balconies. Also proposed modifications to the



basement enlarging the square footage by 994 square feet to house mechanical equipment. 2. Section 134 2: a variance to allow a point of measurement of 21.5 NAVD in lieu of the 18.34 NAVD maximum allowed for the building height plane calculation for the balustrade detail. 3. Section 134-1610(4) and 134-843(11): a variance to allow lot coverage to be 28.5% in lieu of the 25% maximum allowed when counting the basement walls that extend outside of the main building walls. 4. Section 134-790: Modification to a previously approved request for a special exception to permit construction of a new 500 square foot beach cabana east of South Ocean Boulevard. Modifications include new fenestration, columns, basement and raising finished floor elevation by 2 feet and to lower the site wall to meet the ocean vista requirement. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to their April 28, 2021 meeting. Carried 6-1.]

**This item was deferred to the May 12, 2021 meeting during the approval of the agenda, Item VI.**

- c. **Z-21-00330 VARIANCE(S)** Zoning District: R-A Estate Residential & B-A Beach Area The application of EMIL & YVONNE SOLIMINE, applicants, relative to property located at **830 S OCEAN BLVD**, legal description on file, is described below. Section 134 843 (11): a variance request to allow the construction of a 1,780 square foot two story infill addition for a first floor living room area and two second floor bedrooms that will result in a lot coverage of 30.9 % in lieu of the 27.65% existing and the 25% 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. Carried 7- 0.] [The Architectural Review Commission approved the project as presented. Carried 7-0.]

Ex parte communications disclosed by Council Member Araskog.

Administrative Specialist Churney swore in Jaime Torres-Cruz.

Maura Ziska, Attorney for the owner, explained the variances requested for the project.

Jaime Torres-Cruz, Fairfax and Sammons, presented the architectural plans for the proposed project.

Director Bergman stated staff had no objection to the application.

Council Member Crampton thought the infill addition was fine and appropriate.

Council Member Araskog inquired if there was an area where they

could reduce the lot coverage. Mr. Torres-Cruz responded.

Council Member Araskog asked about the hardship. Ms. Ziska responded.

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

**Motion made by Council Member Crampton and seconded by Council Member Cooney that Variance Z-21-00330 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 4-1, with Council Member Araskog opposed.**

- d. **Z-21-00331 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of JOAN GULLANS & GARRETT PLUCK, applicants, relative to property located at **167 SEAVIEW AVE**, legal description on file, is described below. The applicant is proposing to construct a 316 square foot two story addition to the rear of the residence for an elevator/mudroom addition that will require the following variances: 1. Section 134 893(7): a west side yard setback of 9.8 In lieu of the 15 foot minimum required In the R B Zoning District. 2. Section 134 893(13): a cubic content ratio ("CCR") of 5.05 in lieu of the 4.72 existing CCR and the 4.24 maximum CCR allowed in the R B Zoning District. [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. Carried 7-0.]

Ex parte communications disclosed by Council Member Araskog.

Administrative Specialist Churney swore in Chuck Willette and Kelsey Brennan.

Maura Ziska, Attorney for the owner, explained the variances requested for the project.

Chuck Willette, Brooks & Falotico & Associates, presented the architectural plans for the proposed project.

Council Member Crampton inquired about how the home fit

within the neighborhood. Mr. Willette responded.

Director Bergman stated staff had no objection to the application.

Mayor Moore thought that the Town Council may see more of these requests to help aging homeowners who want to stay in their home.

Council Member Araskog noted this was not just an elevator, they also were adding a mud room.

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

Council Member Araskog inquired about the hardship for the variance. Ms. Ziska responded.

**Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Variance Z-21-00331 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 4-1, with Council Member Araskog opposed.**

- e. **Z-21-00332 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of ULLA LLC (Steve Johnson), applicant, relative to property located at **1284 N LAKE WAY**, legal description on file, is described below. The applicant is requesting approval to construct a one story 324 square foot pool cabana that will require the following variances Section 134 843(7): a 9.75 south side yard setback in lieu of the 12.5 foot minimum required; and Section 134 1700: the 12 inch roof overhang on the west side of the proposed pool cabana to be allowed to extend into the 25 foot setback from the Lake Trail where only structures less than 4 feet in height are allowed in that setback. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

Administrative Specialist Churney swore in Michael Perry.

Ex parte communications disclosed by Council Members

Crampton, Cooney, Council President Pro Tem Lindsay, Council President Zeidman, Mayor Moore, and Council Member Araskog were all none. Upon clarification from Town Attorney Randolph, all previous disclosures today should be corrected to state each person had read the backup including letters and all letters received individually.

Maura Ziska, Attorney for the owner, explained the variances requested for the project. She presented the architectural plans for the proposed project.

Michael Perry, MP Design and Architecture, discussed the variance required for an overhaul of the cabana on the northwest corner.

Mayor Moore inquired about the site plan. Ms. Ziska showed the site plan and stated that the irregular shape was part of the hardship.

Council Member Araskog inquired regarding the variance for the overhang and asked if there were other examples on the street of similar overhangs. Mr. Perry responded there was another overhang, for which no variance had been required.

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

**Motion made by Council Member Cooney and seconded by Council President Pro Tem Lindsay, that Variance Z-21-00332 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 carried 4-1, with Council Member Araskog opposed.**

- f. **Z-21-00333 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of 04TST101NIGHTINGALE LLC, applicant, relative to property located at **101 NIGHTINGALE TRL**, legal description on file, is described below. Section 134 893(13): The applicant is proposing to construct a 70 square foot one story bathroom addition and two Dutch gables that will be added to the courtyard elevations of the pool cabana and kitchen which will increase the cubic content ratio ("CCR") to 5.24 In lieu of the 5.01 existing CCR and the 3.9 maximum CCR allowed in the R B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to their April 28, 2021 meeting. Carried 7-0.]

**This item was deferred to the May 12, 2021 meeting during the approval of the agenda, Item VI.**

- g. **Z-21-00334 SPECIAL EXCEPTION WITH VARIANCE(S)**  
Zoning District: C-TS Town Serving Commercial The application of FLAGLER HOLDINGS NORTH CAROLINA INC (Alex Gilmurray, its Vice President, Treasurer and Assistant Secretary), applicant, relative to property located at **223 ROYAL POINCIANA WAY**, legal description on file, is described below. Pursuant to Section 134 1111(b) of the Town Code, the applicant is requesting special exception approval to allow 8 extra outdoor patron seats at Main Street by The Breakers, a merchant retail operation located at 223 Royal Poinciana Way, in connection with a take-out food business. The applicant is also requesting a variance because the total gross leasable area of the retail space is 2,776 square feet, which exceeds the 2,000 square foot maximum square footage allowed for a "takeout food business inside tenant space" to request extra outdoor patron seating pursuant to Section 134 1111(b)(1). [Applicant's Representative: James Crowley, Esq]

Administrative Specialist Churney swore in Jamie Crowley.

Ex parte communications were disclosed by Council Members Crampton, Cooney, Araskog, President Pro Tem Lindsay, President Zeidman and Mayor Moore.

Jamie Crowley, Attorney for the owner, explained the zoning items requested for the project and added the reason for the request.

Director Bergman stated staff had no objection to the application.

Council Member Cooney wondered if the item should be handled after the outdoor seating issue was worked out; however, he believed Attorney Crowley made a compelling argument and thought the request was small.

Council President Pro Tem Lindsay agreed with Council Member Cooney.

Council Member Crampton asked where the seats were. Mr. Crowley explained the seats requested were the current Covid seats.

Council Member Araskog inquired the width of the sidewalk with some of the tables. Mr. Crowley responded. Council Member Araskog questioned staff about hardship of the request relative to the retail space. Mr. Bergman responded it was Mr. Castro's interpretation of the code. Council Member Araskog asked the

attorney about the hardship. Mr. Crowley responded the code did not contemplate this hybrid take-out with adjoining retail. Council Member Araskog thought that a design review board should be reviewing the tables and chairs. Council Member Araskog inquired about the ADA requirements. Mr. Bergman responded that the request was compliant with the Code.

Council President Zeidman gave her opinion this was different than Bricktop's, it did not require parking, it was a technicality in the code with both take-out and retail, and there was an arcade and a sidewalk. She visited and saw there was plenty of room from a common-sense point of view and they would have to comply with the instituted rules.

Council Member Araskog asked Council Member Cooney if he was comfortable with ARCOM Chair review; however, Town Attorney Randolph explained that was not an option. Mr. Crowley explained the type of food available for take-out.

Council President Zeidman called for public comments.

Susan Gary, resident, supported the request and added that the main sidewalk was outside of the building.

**Motion made by Council Member Cooney, and seconded by Council Member Araskog, that Variance Z-21-00334 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, and that staff shall approve the four tables and accompanying chairs. Motion carried by unanimous vote.**

**Motion made by Council Member Cooney, and seconded by Council Member Araskog that Special Exception Z-21-00334 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 5-0, by unanimous vote.**

- h. **Z-21-00335 VARIANCE(S)** Zoning District: R-A Estate Residential The application of 1047 SOUTH OCEAN BLVD TRUST (Maura Ziska, Trustee), applicant, relative to property located at **1047 S OCEAN BLVD**, legal description on file, is described below. 1. Section 134 843(8): request a variance to add a 157 square foot second story addition on the north side of the house that will have a 5.25 foot side yard setback In lieu of the 15 foot minimum required. 2. Section 134 843(8): request a variance to add a 343 square foot second story addition on the south side of the house that will have a 6.41 foot side yard setback in lieu of

the 15 foot minimum required. 3. Section 134 843(8): request a variance to demolish and rebuild existing staircase on the south side of the residence and maintain the 2.55 foot south side yard setback in lieu of the 15 foot minimum required. 4. Section 134 843(11): request a variance to demolish and rebuild existing staircase on the south side of the residence that will increase the lot coverage by 109 square feet to 44.78% in lieu of the 43.9% existing and the 25% maximum allowed. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impact to the subject property. Carried 7-0.] [The Landmarks Preservation Commission approved the project as presented. Carried 7-0.]

Ex parte communications were disclosed by Council Members Crampton, Cooney, Araskog, President Pro Tem Lindsay, President Zeidman and Mayor Moore.

Maura Ziska, Attorney for the owner, explained the variances requested for the project.

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

Ms. Van Onna provided staff comments that the additions were sensitive to the landmark property.

Council Member Crampton thought the additions were consistent with the architecture in the area.

Council Member Cooney thanked the owners for preserving the home.

Council Member Araskog expressed concern about the 6.41 foot setback requested. Ms. Ziska stated the setback was an existing condition. Council Member Araskog inquired about the setback for the stairs, and that the stairs seemed bigger. Mr. Papadopoulos responded the stairs were the same size but re-oriented. Council Member Araskog inquired about the streetscape. Mr. Papadopoulos responded no lot coverage was being added.

Mayor Moore thought the massing seemed appropriate.

Council Member Lindsay inquired about the added height on the south side of the home. Mr. Papadopoulos stated that the addition was 6 inches lower than the main portion of the home and provided further clarification.

Council Member Araskog requested to see the one-story home to

the south and the landscape that would screen the home.

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

**Motion made by Council Member Cooney, and seconded by Council Member Crampton, that Variance Z-21-00335 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 4-1, with Council Member Araskog opposed.**

- i. **Z-21-00336 MODIFIED SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: C-TS Town Serving Commercial The application of CARRIAGE HOUSE PROPERTIES PARTNERS LLC, A DELAWARE LIMITED LIABILITY COMPANY, applicant, relative to property located at **264 S COUNTY RD & 270 S COUNTY RD**, legal description on file, is described below. Section 134 1109: A request for a special exception with site plan review modification approval to modify a previously approved Club's 264 South County Road property as follows: At 264 South County Road: Modify quantity and size of rooftop mechanical equipment; Modify height of mechanical equipment screen wall; Modify Landscape and Hardscape Design including Landscape Open Space. At 270 South County Road: Modify quantity and size of rooftop mechanical equipment; New mechanical equipment screen wall; Modify Landscape and Hardscape Design including Landscape Open Space; Modify to Front Door & Overhang Design; Modify Door/Window Operation on East Elevation for Emergency Egress; New Concealed Emergency Egress Gate On East Elevation; New Decorative Shutters on South Elevation; Modify quantity and location of windows on northwest corner of second floor. The following Variances are being requested: At 264 South County Road: 1) Section 134-1607(1): to allow (4) pieces of HVAC equipment at 51 inches in height in lieu of the 48" maximum allowed; 2) Section 134-1607(1): to allow the scrubber at 40 inches in height in lieu of the 36" maximum allowed. At 270 South County Road: Section 134- 1607(1): to allow (5) pieces of HVAC equipment at 57 inches in height in lieu of the 48" maximum allowed. 3. Section 134-1113(6): To allow a parapet wall on the south side of the second story to screen proposed new mechanical equipment with a side yard setback of 2.11 feet in lieu of the 11 foot minimum required. [Applicant's Representative: Maura Ziska Esq] [The Landmarks Preservation Commission approved some of the architectural items but deferred the remainder of the project to their April 21, 2021 meeting. Carried 7-0.]



**This item was deferred to the May 12, 2021 meeting during the approval of the agenda, Item VI.**

*Please note: A short break was taken at 4:02 p.m. The meeting resumed at 4:14 p.m.*

**C. Time Extensions and Waivers**

**1. Time Extension for Construction Hours at 1960 S. Ocean Blvd.**

Director Bergman introduced the time extension request.

Martin Klein, attorney for the owners, stated that the owners would be happy to work on the allowable Saturday hours. He also stated the one adjacent neighbor was supportive of the request.

Council Member Araskog inquired about the distance between the construction and the neighbor's home. Mr. Klein responded. Council Member Araskog requested a condition that if any issues arose, Director Bergman could handle complaints. Council Member Araskog also requested that the holiday work hours would be followed. Mr. Klein stated that the requests were acceptable.

**Motion was made by Council Member Crampton, and seconded by Council Member Araskog, to approve the time request for construction hours at 1960 South Ocean Boulevard with the following conditions: (1) The applicant shall return to Council in October 2021 (2) No extra Saturday hours outside the hours allowable (3) Adhere to the Town's traditional Holiday Schedule (4) Planning, Zoning & Building Director Wayne Bergman shall have authority to handle complaints and shut down the work if necessary. Motion carried 5-0, by unanimous vote.**

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

**IX. Discussion of the current codes regarding the automatic removal of architects on both the ARCOM and Landmarks Commissions due to the architects reaching the maximum number of conflicts of interest (five), per calendar year; and possible solutions, including Consideration of Draft Ordinances:**

Council President Zeidman asked Director Bergman to identify the problem. Director Bergman responded both the Landmarks and ARCOM codes required two architects to be on their boards. Also, if any member had five conflicts of interest in a calendar year, the code required them to be automatically removed. So far this year, with only three meetings so far, there were 11 conflicts between the two boards.

**1. Proposed Amendment to the Town Code to Exempt ARCOM Member Architects from Conflict of Interest Regulations**

**ORDINANCE 09-2021** An Ordinance Of The Town Council Of The Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 18, Buildings and Building Regulations, Article III, Architectural Review, Division 1, Generally Section 18-170; Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

2. Proposed Amendment to the Town Code to Exempt Landmarks Preservation Commission Member Architects from Conflict of Interest Regulations

**ORDINANCE 10-2021** An Ordinance Of The Town Council Of The Town of Palm Beach, Palm Beach County, Florida, Amending Chapter 54, Historical Preservation, Article II, Landmarks Preservation Commission, Section 54- 38(b); Providing For Severability; Providing For The Repeal Of Ordinances In Conflict; Providing For Codification; And Providing An Effective Date.

Director Bergman introduced this item and discussed the issues with the architects and their conflict of interests.

Council President Zeidman commented Mr. Kirchoff had just joined the ARCOM board and he had three conflicts. Jeff Smith had three as well. ARCOM was scheduled to meet again in 1-1/2 weeks. Richard Sammons had to step off ARCOM because he had five conflicts. All were highly regarded architects. Council President Zeidman stated this was a real problem which must be addressed, because two architects could soon be lost.

Town Attorney Randolph advised solutions that had been considered were to raise the number of conflicts allowed, or to consider the law and various ethics commission opinions. He described the difference between regular and prohibitive conflicts of interest. He advised Council their decision was either to change the number of conflicts, or eliminate it as it related to architects and master gardeners required to be on the boards. He stated that the number of conflicts had been raised from 3 to 5, specifically for architects. He commented the ordinance was not necessarily here for adoption today, but was to provoke discussion.

Council President Zeidman commented two of Jeff Smith's conflicts were about gates, and she had asked Town Attorney Randolph if he had to take conflicts for something so de minimis. Attorney Randolph responded Mr. Smith did not have a prohibitive conflict, but a standard conflict which could inure to the benefit of a person he was representing.

Council Member Araskog expressed concern about leaving the number of conflict of interests open ended. She recommended increasing the number of conflicts allowed or having the architects request a forgiveness from the Town Council if they have the maximum number of conflicts. She felt consideration should be made on a case-by-case basis.

Town Attorney Randolph explained why there was a limit on the number of conflicts.

Council President Pro Tem Lindsay asked for more explanation between the conflict of interest and a prohibitive conflict of interest. Town Attorney Randolph responded. Council President Pro Tem Lindsay asked Attorney Randolph's position on limiting the number of conflicts. Attorney Randolph did not have an opinion on the number of conflicts, however stated he could not remember any other architect that exceeded the allowable number.

Council Member Cooney pointed out a few reasons he believed that the conflicts of interest were increasing. He believed that the architects that served on the Commissions, did so at times to their own expense. Council Member Cooney was hesitant to leave the conflicts open ended but pointed out that this was a real issue.

Attorney Randolph noted Council Member Cooney had come up with a point not considered before, that too many projects were before ARCOM, making their meetings too lengthy and creating conflicts; and the solution would be to go back to having staff approve minor projects and ARCOM approving major projects.

Council Member Araskog stated that the Ethics Commission weighed in on prohibitive conflicts for architects and landscape architects, which did allow them to present to the Commissions. She thought that minor projects were important and should remain on the ARCOM agenda and consent agenda; she wondered if these should be removed from the conflicts. She felt time should be taken to work on this problem.

Town Attorney Randolph advised the provision in the code could be temporarily waived while Council was giving consideration to this matter.

Council Member Crampton recommended assigning the issue to a Council committee for study. He expressed his favor for temporarily waiving the number of conflicts.

Council Member Lindsay suggested having an allowable number for conflicts for major projects and a higher number for minor projects. Council Member Lindsay suggested that Council Member Cooney discuss the issue with staff to assist in a solution for this issue.

Discussion ensued on this topic.

Council President Zeidman stated it was suggested that the issue be sent to one of the committees for study as well as asking Council Member Cooney to assist staff in coming up with a solution. She inquired if the Council had any interest in pursuing either of these options.

Town Attorney Randolph suggested allowing staff to return to the Council with modified language to the Code.

Mayor Moore suggested to suspend the number of conflicts immediately while a solution is crafted. She requested allowing Attorney Randolph and staff to work on this issue.

Council Member Araskog suggested the solution could include the possibility of not counting minor projects, a limit of 5 conflicts for major projects, and the opportunity to come to Council if the professional was close to meeting the conflict limits. Town Attorney Randolph noted he and staff had heard that direction.

**Motion was made by Council Member Araskog, and seconded by Council Member Cooney, to suspend within the ARCOM ordinance the immediate removal of any ARCOM member for five conflicts of interest, specifically architects and landscape architects and/or master gardeners, as Council and staff continued working to find a solution. Motion carried 5-0, by unanimous vote.**

#### X. ANY OTHER MATTERS

##### a. Application Process Changes

Wayne Bergman discussed the high level of construction activity in the Town. He discussed the importance of having the correct processes and staff to handle the increased activity. He also commented on the importance of providing great customer service and the previous changes to help position the department in achieving this goal.

James Murphy, Assistant Director of Planning, Zoning and Building, presented the current development review process for applications, pointed out many inefficiencies, and presented the proposed process improvement changes for the development review applications.

Council Member Crampton thought Assistant Director Murphy's suggestions were logical and would improve the process. Council Member Crampton inquired if there would be a way to lessen the additional time needed for the review in the new process. Assistant Director Murphy responded. Council Member Crampton inquired about the process to implement the changes. Assistant Director Murphy spoke about hiring employees and how the new software would work. Council Member Crampton thought this process would work but would need resources of software, people, and time to implement the changes. Council Member Crampton commented this would need the complete support of Town leaders.

Kirk Blouin, Town Manager, stated that the leadership in the department was crucial and he believed the correct leadership was in place. He thought the current leadership had the vision to implement the changes. Mr. Blouin stated he was in full support to implement the changes.

Council President Pro Tem Lindsay inquired about the timing to make the changes. Assistant Director Murphy responded implementation was envisioned for 2022, but might be able to begin sooner. Council Member Lindsay was supportive of the proposed development order. Assistant Director Murphy discussed the importance of having development orders. Council President Pro Tem Lindsay inquired about the public notice requirement and the posting of

the notice in Town Hall. Assistant Director Murphy described the notice requirements and his vision of the newly proposed process. Council President Pro Tem Lindsay inquired how the system had worked in Miami Beach. Assistant Director Murphy reported it had been very rare for a project to fail and have to go back to start, and felt deferrals here would be reduced by one-third..

Mayor Moore inquired if the proposed changes would bring the Town into best practices. Assistant Director Murphy confirmed it would. The Mayor thought the changes proposed were exceptional. Mayor Moore inquired about the drawbacks with the plans. Assistant Director Murphy felt the major negative would be changing habits.

Council Member Araskog thought the policy changes were excellent and thought the changes in the long run would be beneficial.

Council Member Cooney thought the proposed changes had so much common sense and clarity. Council Member Cooney inquired if some of the changes should be removed from the Code and changed into a departmental policy. Assistant Director Murphy commented the new changes would require applicants to submit applications that were more complete.

Mayor Moore was in favor of staff writing the notice to provide more clarity to the residents.

Council President Zeidman thought there was a big implementation process to undergo. She wondered how the staff would relay all of the changes to the professional community. Director Bergman responded they had held two very well-attended workshops, and found that to be the best format to get information out to the proper people. He commented staff had a lot of work to do before getting to the point of dispersing information. Director Bergman suggested providing an implementation calendar as a next step. Council President Zeidman thought that the structure provided to all parties involved would be very beneficial.

Maura Ziska, Attorney, was in favor of streamlining the process.

Council Member Araskog inquired if there were any changes that could be made immediately to help staff with the work load. Director Bergman recommended keeping the process as is for now and they could come back to Council if needed.

Town Attorney Randolph thought one of the most important elements of this process would be the development order. He wondered if the development orders could begin immediately. Mr. Bergman stated that staff could begin the development orders.

b. Discussion on Non-Conforming Lot Change

**This item was deferred during Item VI., approval of the agenda.**

XI. ADJOURNMENT

The meeting was adjourned at 6:21 p.m. without the benefit of a motion.

APPROVED:

---

Margaret Zeidman, Town Council President

ATTEST:

---

Kelly Churney, Administrative Specialist