



TOWN OF PALM BEACH

Minutes of the Development Review

Town Council Meeting

Held on September 13, 2021

I. CALL TO ORDER AND ROLL CALL

The Development Review Town Council Meeting was called to order September 13, 2021 at 9:00 a.m. On roll call, all elected officials were found to be present with the exception of Council President Zeidman, who arrived at 12:28 p.m.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Deputy Town Clerk Churney gave the invocation. Council President Pro Tem Lindsay led the Pledge of Allegiance.

III. COMMENTS OF MAYOR DANIELLE H. MOORE

Mayor Moore stated it was a somber weekend as the United States commemorated the 20th anniversary of 9/11. She asked all to pray for those who were lost and their families.

IV. COMMENTS OF TOWN COUNCIL MEMBERS

There were no comments heard at this time.

V. COMMUNICATIONS FROM CITIZENS - 3 MINUTE LIMIT PLEASE

Mayor Moore welcomed James Gavigan, who was filling in for Town Attorney Randolph.

VI. APPROVAL OF AGENDA

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

Deferral of Item VII. A.1 to the October 13, 2021 meeting.

Deferral of Item VII. B. 1.a to the October 13, 2021 meeting

Deferral of Item VII. B. 1.b to the October 13, 2021 meeting

Deferral of Item VII. B. 1.c to the October 13, 2021 meeting

Deferral of Item VII. B.1.d to the October 13, 2021 meeting

Deferral of Item VII. B.1.e to the October 13, 2021 meeting

Deferral of Item VIII. B.1.g to the October 13, 2021 meeting

Deferral of Item VIII. B.1.h to the October 13, 2021 meeting

Deferral of Item VIII. B. 1.j to the October 13, 2021 meeting

Deferral of Item VIII. B. 2.f to the October 13, 2021 meeting

Deferral of Item VIII. B. 2.j to the December 15, 2021 meeting

There was a request to hear the following two projects after the 1 p.m. lunch break:
Z-21-00378, 800 S. County Road and Z-21-00383, 146 Seaspray Avenue.

Motion made by Council Member Araskog and seconded by Council Member Crampton to approve the agenda as amended. Motion carried 4-0, with Council President Zeidman absent.

VII. DEVELOPMENT REVIEWS

A. Appeals

1. ARCOM Appeals of B-063-2020 160 Royal Palm Way Request for Deferral to October 13, 2021 Per Email from Donald Lunny

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

B. Variances, Special Exceptions, and Site Plan Reviews

1. Old Business

- a. Z-20-00289 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S) 160 ROYAL PALMWAY Consideration of the Construction Management Agreement
Staff Recommends Deferral to the October 13, 2021 Meeting

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

- b. 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 SOCEAN 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] [Architectural Review Commission Recommendation: Implementation of the proposed variances will cause negative architectural impacts to the subject property. Carried 6-1.] [The Architectural Review Commission denied the project at the May 26, 2021 meeting. Carried 5-2.] Staff Recommends a Deferral to the October 13, 2021 Meeting

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

c. **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]

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

d. **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 the September 29, 2021 meeting. Carried 7-0.] Staff Recommends Deferral to the October 13, 2021

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

- e. **Z-21-00349 SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of STEPHEN LIVADITIS (CONTRACT PURCHASER), applicant, relative to property located at **200 BAHAMA LN**, legal description on file, is described below. Section 134-893(b): Site Plan Review to allow the construction of a 5,856 square foot two story, single family residence on a non-conforming platted lot that is 90.17 feet in depth in lieu of the 100-foot minimum required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the September 29, 2021 meeting. Carried 7-0.] Staff Recommends Deferral to the October 13, 2021 Meeting.

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

- f. **Z-21-00353 SITE PLAN REVIEW** Zoning District: R-A Estate Residential The application of TODD GLASER, applicant, relative to property located at **1080 S OCEAN BLVD**, legal description on file, is described below. Section 134-843(b): Request for Site Plan Review to allow the construction of a 9,485 square foot two story, single family residence on a non-conforming platted lot that is 17,567 square feet in area in lieu of the 20,000 square foot minimum required in the R-A Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission approved the project at their August 25, 2021 meeting. Carried 6-1.]

Deputy Town Clerk Churney administered the oath at this time and throughout the meeting as necessary.

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

Council Member Cooney declared a conflict of interest for this project and left the dais.

Maura Ziska, attorney for the owner, presented the zoning request for the project.

Chris Kidle, LaBerge & Menard, presented the architectural plans proposed for the new residence.

Zoning Manager Castro provided staff comments.

Council President Pro Tem Lindsay called for public comments. There were no comments heard at this time.

Council Member Araskog thought the house looked massive from the street. She inquired about the homes adjacent to the proposed home. Mr. Kidle discussed the adjacent homes. Mr. Kidle also stated that the new home was well under what was allowable for height.

Mayor Moore pointed out that the adjacent home was going to be demolished soon and would be a two-story home.

Council Member Crampton thought there were other larger homes in the area. He did not believe this home would overshadow any of the other homes in the area.

Motion was made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Site Plan Z-21-00353 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 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. The vote on the motion was 2-1, with Council Member Araskog opposed (and Council President Zeidman absent).

Council President Pro Tem Lindsay announced this application would be re-heard since the vote was 2-1 and three members needed to vote in the affirmative for the project to be approved. Since Council Member Cooney recused himself due to a conflict of interest, the project would be reheard once Council President Zeidman arrived.

The project was later heard at 1:32 p.m.

Council President Zeidman announced the project was being reheard due to not reaching a majority vote of 3 earlier in the day. Council Member Cooney left the room after re-stating he was recusing himself.

Maura Ziska, attorney for the owner, presented the zoning request for the project.

Chris Kidle, LaBerge & Menard, presented the architectural plans proposed for the new residence. He showed a short video, which had been presented to ARCOM.

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

Council President Zeidman asked to see the streetscape elevation. Mr. Kidle presented the streetscape.

Mayor Moore pointed out a new two-story home would be constructed adjacent to the home.

Zoning Manager Castro provided staff comments.

Council Member Araskog inquired if the neighbor's concerns had been addressed. Ms. Ziska and Mr. Kidle explained how these issues had been addressed at ARCOM. Council Member Araskog inquired if she could see the photographs of the adjacent homes, which Mr. Kidle provided.

Council Member Zeidman thought that homes on South Ocean Boulevard presented themselves differently than on the interior streets.

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

Council Member Araskog discussed her objections for the proposed home.

Council Member Crampton stated there were other large homes in the neighborhood.

Motion made by Council Member Crampton and seconded by Council President Pro Tem Lindsay that Site Plan Z-21-00353 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 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 3-1, with Council Member Araskog opposed (and Council President Zeidman absent).

Council President Zeidman stated for the record that she had not been present that morning, but was present this afternoon.

- g. **Z-21-00356 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: C-TS Town Serving Commercial The application of BUCCAN (SAM SLATTERY), relative to property located at **350 S COUNTY RD SUITE: 100**, legal description on file, is described below. Section 134-1109 and Section 134-1112: Modification to a previously approved special exception use with site plan approval for the sandwich take out counter business for Buccan Restaurant to request the following: (a) to install two (2) new awnings to match existing awnings; (b) to modify the storefront to include a new door in the existing opening; (c) to modify an interior floor plan of the sandwich shop (no seats are being proposed); (d) to modify the hours of operation to be 7:00 AM to 3:00 PM (previously approved were 11:00 AM 3:00 PM) [Applicant's Representative: Maura Ziska Esq]

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

- h. **Z-21-00359 SPECIAL EXCEPTION WITH SITE PLAN REVIEW AND VARIANCE(S)** Zoning District: R-A Estate Residential / B-A Beach Area The application of 870 S OCEAN LLC (TODD GLASER, MANAGER), Owner, relative to property located at **870 S OCEAN BLVD**, legal description on file, is described below. Section 134-840: Request for a Special Exception with Site Plan Review to allow construction of a 435 square foot beach cabana (20' x 25') with a 250 square foot pool and a new seawall in the R-A/B-A Zoning District. Section 134-1474(a): Request for a variance to construct a 435 square foot beach cabana that is on a lot with frontage of 101.53 feet in lieu of the 125 feet required for lot

width in the B A Zoning District for beach area property adjacent to R-A Zoning District. Section 134- 1701 and 62 37: Request for a variance to construct a new 100.5' seawall three feet east of the existing seawall which is east of the Town of Palm Beach bulkhead line 6'2" at the south end and 6'0" at the north end, in lieu of the seawall being placed directly on the bulkhead line. The proposed new seawall will align with the recently constructed seawall at 880 South Ocean Boulevard. [Applicant's Representative: Maura Ziska Esq] [Architectural Review Commission Recommendation: Implementation of the proposed variances will cause negative architectural impacts to the subject property. Carried 6-1.] [The Architectural Review Commission deferred this project to the September 29, 2021 meeting. Carried 7-0.] Staff Recommends Deferral to the October 13, 2021 Meeting

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

- f. **Z-21-00361 VARIANCE(S)** Zoning District: R-C Medium Density Residential The application of GARY PURUCKER (CONTRACT PURCHASER), Applicant, relative to property located at **334 CHILEAN AVE**, legal description on file, is described below. Section 134 948: A request for a variance to construct a new 5,270 square foot, two story residence, on a non-conforming lot with a lot area of 9,384 sq. ft. in lieu of the 10,000 sq. ft. minimum required 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 7-0.] [The Architectural Review Commission approved the project at their August 25, 2021 meeting. Carried 5-2.]

Ex parte communications declared by Council Members Araskog, Crampton and Mayor Moore.

Maura Ziska, attorney for the owner, presented the zoning request for the project.

Michael Perry, MP Design & Architecture, presented the architectural plans and landscaping proposed for the new residence.

Zoning Manager Castro provided staff comments.

Council Member Cooney inquired about the grade from the street and asked Mr. Perry if he could show a streetscape of the new home. Mr. Perry showed a streetscape and further explained the entrance with the

grade change.

Council Member Crampton asked Mr. Perry if he had a depiction of the house sited on the lot in comparison to the other homes in the area. Mr. Perry showed the Council the site plan diagram.

Motion made by Council Member Crampton and seconded by Council Member Araskog, that Variance Z-21-00361 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 4-0, with Council President Zeidman absent.

Council President Pro Tem Lindsay called for public comments. There were no comments heard at this time.

- g. **Z-21-00371 SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of MICHAEL S. ARLEIN, TRUSTEE OF THE 267 DUNBAR ROAD TRUST DATED 10/07/20, APPLICANT, relative to property located at **267 DUNBAR RD**, legal description on file, is described below. Site Plan Review to allow the construction of a new two story 7,552 square foot single family residence on a non-conforming platted lot which is 98.5 feet in width in lieu of the 100-foot minimum width required in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred this project to the September 29, 2021 Meeting. Carried 6-1.] Staff Recommends a Deferral to the October 13, 2021 Meeting

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

- h. **Z-21-00372 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of 301 POLMER PARK LLC (RICHARD TRUE, CONTRACT PURCHASER), APPLICANT, relative to property located at **301 POLMER PARK**, legal description on file, is described below. The subject property is 37,818 square feet in total area. The applicant is requesting a variance to split the lot into two lots. East Lot with residence 22,873 square feet in area; and West vacant lot 14,945 square feet in area. All improvements will be removed from the West lot. The following variances are being requested in order to split the property into two lots and retain the residence on the East

lot. Request for a west side yard setback of 8.25 feet (for the proposed East lot) in lieu of the 17.5 foot minimum required for a lot in the R B Zoning District that is in excess of 20,000 square feet and has a width in excess of 150 feet. A lot coverage of 29% in lieu of the 25% maximum allowed for a lot in excess of 20,000 square feet in the R-B Zoning District. [Applicant's Representative: Maura Ziska Esq]

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

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

Zoning Manager Castro provided staff comments.

Council Member Araskog asked why the pool cabana could not be removed to come into compliance. Ms. Ziska stated eliminating the pool cabana would not bring the property into compliance.

Mr. Castro stated eliminating the pool cabana would make the property more compliant.

Council Member Araskog stated she respected the wishes of the neighbors but the request was for 28.5% in lieu of 25%. Ms. Araskog asked if the second lot would be a conforming lot. Mr. Castro stated that both lots would be conforming. Council Member Araskog inquired about the hardship for the variance. Ms. Ziska responded the hardship was preserving the existing house for the owners and the neighbors.

Council Member Crampton inquired if this would create anything non-conforming. Mr. Castro stated the house would be non-conforming, and was already non-conforming. Council Member Crampton added he had toured the site, felt the existing house was worth saving and was in favor of moving forward with approval.

Council President Pro Tem Lindsay inquired if the intent was to save the original home. Ms. Ziska confirmed this statement. Ms. Lindsay stated her understanding was the neighbors preferred to keep this home because it conformed to the neighborhood design and would reduce construction. She added the house could be demolished.

Council Member Cooney commented if they demolished the house,

they would not need any relief from Council.

Richard True, owner, confirmed the house was for sale as one estate and he had agreed with the neighbors that he would market it as one piece of property until February. Their backup plan, if it did not sell by February, was to develop the lot where there is currently a large tennis court. Their other option was to demolish both houses and build two 10,000 square foot houses, for which no variances would be needed.

Mayor Moore stated initially she was a bit uncomfortable. However, now seeing the pictures and understanding the request, she believed the existing request was less damaging.

Council Member Araskog suggested a 5-year restriction not to tear the house down.

Council Member Cooney asked if a new purchaser would be bound by a restriction, and the response was they would not.

Mr. True wanted a backup plan to develop the tennis court.

Council Member Araskog suggested a condition that the house would not be demolished before February 1.

Mr. Castro did not understand placing a condition that restricted demolition since they could tear down the house by right. They were asking for relief to keep the existing house intact. If the owner requested to split the estate, it would need to proceed through the administrative process, which would take several months.

Council Member Cooney thought the issue was the level of non-conformity with which Council was comfortable.

Council President Pro Tem Lindsay stated she was comfortable with the plans as presented that included removing the office.

Council Member Cooney confirmed with Ms. Ziska that the plans, as presented, included removal of the office.

Motion made by Council Member Cooney and seconded by Council Member Crampton, that Variance Z-21-00372 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 4-0, with Council President Zeidman absent.

i. **Z-21-00378 VARIANCE(S)** Zoning District: R-A Estate

Residential The application of ANN DESRUISSEAU, APPLICANT, relative to property located at **800 S COUNTY RD**, legal description on file, is described below. The applicant is seeking to modify the previous approval (Z 20 00261) which allowed the renovation and additions to a 2-story landmarked residence with accessory buildings in the R-A Zoning District. The renovation is underway and the approval included raising the finished floor elevations of all of the structures to 9.0 feet NAVD. The applicant is requesting approval to modify the previous approval to raise the finished floor elevation of the main residence and generator building (only) another two feet to 11.0 feet NAVD. The following variances are being requested to allow the new finished floor to be elevated another two feet from the previous approval: a north side yard setback of 5 feet for the boat house addition in lieu of the 30 foot minimum required; a north side yard setback ranging from 1.1 feet to 5.5 feet in lieu of the 30 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; a rear yard setback of 0 feet in lieu of the 15 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; a rear yard setback ranging from 0 feet to 13.4 feet In lieu of the 15 foot minimum required for the existing main house when raising the finished floor thus increasing the height in the setback; a rear yard setback of 12.58 feet in lieu of the 15 foot minimum required for the existing boat house when raising the finished floor thus increasing the height in the setback; a north side yard setback of 14.5 feet for the 2 story generator building in lieu of the 30 foot minimum required; a south side yard setback ranging from 9 feet to 15.5 feet in lieu of the 30 foot minimum required for the new cabana and main house addition; a height in the main residence and addition to main house of 28.5 in lieu of the 25 foot maximum allowed; to allow the finished floor elevation to be 3.6 feet above the crown of the road in lieu of the 18 inches maximum allowed; to allow the finished floor elevation at 2.66 feet above grade in lieu of the 8 inch maximum allowed; a lot coverage of 28.46% in lieu of the 25% maximum allowed for the raised terrace; a rear yard setback of 1.75 feet in lieu of the 15 foot minimum required for the raised terrace; a south side yard setback of 4.5 feet in lieu of the 30 foot

minimum required for the raised terrace. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the subject landmarked property. Carried 4-3.] [The Landmarks Preservation Commission approved the project as presented at their August 18, 2021 meeting. Carried 4-3.]

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

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

Jason Drobot, Brasseur and Drobot Architects, presented the architectural plans proposed to raise the home to 11 feet NAVD.

Zoning Manager Castro provided staff comments, and stressed that the applicant should present a hardship for the request.

Council Member Araskog pointed out Mr. Segraves' commentary on this project, and added that he had voted in the negative because he thought raising the home would affect the integrity of the home. She also objected to the long run of the new addition and windows that would be overlooking the neighboring home. She commented on Emily Stillings opinion that the historic boathouse should be grandfathered and raised, but the new addition should not be raised. Council Member Araskog asked about the timing of the application in coordination with the Woods Hole report.

Ann DesRuisseaux, owner, spoke about the request to raise her home.

Council Member Araskog discussed her objections with Ms. DesRuisseaux, which pointedly were the raising of the new addition. Council Member Araskog added that she did not know what the Council would decide regarding the Woods Hole report. She described her legal objections. She favored raising only the original guest house.

Council Member Crampton pointed out he was in favor of being proactive when dealing with sea level rise. However, he had not seen what the proposed home would look like when raised 11 feet, how it would interact with the neighboring homes, and wondered if the building's integrity would be compromised.

Council President Zeidman reported she had asked Landmarks' Chairman, Rene Silvin, about having the guest house at 11 feet and the rest of the house at 9 feet. She stated that he believed the proposal would destroy the look of the house.

Mr. Drobot displayed a drawing of a 3-D model at 11 feet, and pointed out the original part of the home and the proposed addition.

Mayor Moore expressed concern with the raising of the guesthouse to eleven feet, which was one foot off the north property line. The applicant clarified it was five feet, not one foot. Mayor Moore still had the same concern, as well as that it did not meet code.

Council President Zeidman inquired about the possibility of raising the boathouse to 9 feet and raising the remainder of the home to 11 feet. Mr. Drobot responded the existing historical design would be completely altered, and the ceiling height at the end of the bridge would be too low.

Council President Pro Tem Lindsay discussed the Woods Hole recommendation, which recommended a certain amount of freeboard (cushion). She thought there must be a compromise between what was being suggested and something that the neighbor would accept.

Council Member Cooney noted this was a really challenging application and acknowledged the owner had taken on a difficult project. Another view of elevations with the property raised to eleven feet was shown, which included neighborhood properties. Council Member Cooney stated he was more troubled with the height of the new addition than the original house.

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

Ms. DesRuisseaux expressed appreciation for the Council having to struggle with this difficult process. She indicated she was doing this because this home was a national treasure. She discussed how this was a unique property that showed a hardship.

Harvey Oyer, attorney representing owner at 790 S. County Road., questioned whether any hardship had been met for this application. He felt there should be no expansion of the boathouse or expansion of the north property line and no generator. He discussed damage

and trespass on his client's property. He felt there was no basis to grant any of the variances.

Maura Ziska spoke to the hardship for the property.

Mr. Oyer responded the applicant did not have the right to make the boathouse/guesthouse larger or taller or to build a new generator house outside his client's window in a zoning district that required a 30-foot side setback.

Discussion ensued regarding continuing this application and considering all of the variances. Council President Zeidman and Town Attorney Gavigan clarified that a year ago, the Town Council had approved all the variances at nine feet, and today was looking at the code requirements for variances and whether it was appropriate to move it to eleven feet.

Katie Carpenter, resident of Palm Beach, thought the homeowner should be applauded for raising her home and thought the 11 feet was correct. She thought more homeowners would be coming forward with this request.

Council Member Araskog asked the architect if only the addition could be lowered or kept at nine feet. She agreed with Mr. Oyer regarding hardship criteria, since not all of the house was historic. She discussed hardship issues.

Motion made by Council Member Araskog that Variance Z-21-00378 shall be denied for the reasons that the application does not meet the criteria set forth in Section 134-201 (a), specifically criteria 2, 4, 5 and 7.

Council Member Crampton spoke about the owner's willingness to take on this incredibly costly and challenging project, and asked for the generator location to be changed. He expressed his desire to see this project go forward with all its faults and uncertainties because the end product would be good for the town, set a good example, and enhance the Palm Beach brand. He felt the hardship was that the waters were rising and this house would be lost. He thought the hardship was totally unique and different, and it was the Council's job to interpret these kinds of things. He thought the owner's initiative and example should be rewarded by allowing it to go to 11 feet, conditioned on moving the generator away from the neighboring property.

Council Member Araskog responded she would like to say there was a hardship but it had to be a minimum, and they were adding to the house. She was afraid if the project ended up in court, the Town would lose. Council Member Crampton expected this would end up in court.

Town Attorney Gavigan asked Council to focus on the criteria in their Code.

Motion failed for lack of a second.

Council President Zeidman noted the original boathouse was approved last year at nine feet and confirmed with Zoning Manager Castro that the approval from one year ago was still valid.

Council Member Araskog wanted that answered by an attorney. She discussed how making the building higher could change the way the variances affected the neighboring properties.

Zoning Manager Castro clarified the nine feet had been approved and anything over that could be denied, modified or approved with conditions. However, the nine feet had been approved and the owner could build that today. The request was asking to take the exact building that was approved at nine, to be raised to eleven, which triggered additional variances because by raising the finished floor, encroachments in the setback were created.

Town Attorney Gavigan agreed and stated Council should look at the Code related to variances, at the requested variances to raise it to eleven feet, and not variances that were previously determined.

Motion made by Council Member Crampton that Variance Z-21-00378 shall be granted and find in support thereof that all the criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area, and include relocation of the generator so that it is not in proximity to either the neighbor to the south or the neighbor to the north. Motion failed for lack of a second.

Council Member Cooney summarized his concerns, that he understood the owner's desire to only raise the home once, and the town wanted to see landmarks preserved. However, he was troubled that the request to elevate the home applied not only to the historic

structures but also having greater impacts on neighbors on both sides. Therefore, he proposed a motion to defer for one month to study ways to mitigate those impacts on the north and south sides, while still trying to achieve the applicant's desired raised height. He thought a one month restudy would be sufficient. His thoughts included a restudy of the generator location, the height of the addition to the boathouse, and the long stretch of property on the south.

Mayor Moore thought a restudy of the project would require returning the project to the Landmarks Commission and added the applicant needed a decision today.

The applicant said it was impossible to go back to Landmarks since the house would be set at its permanent level on Friday.

Council President Zeidman commented she did not like the Town Council to be put in a position of having to make a decision that could set a precedent before they were ready. However, she was ready to support Council Member Crampton's motion because she believed this home was entirely unique and not seen anywhere else in this town. She added that she was disappointed that the Town Council was not made aware, and therefore could not fully appreciate the additions at the back of the guesthouse, prior to their last approval.

Discussion ensued regarding the additions.

Council Member Cooney suggested to allow the raising of the original, historic house while restudying the additions.

Ms. DesRuisseaux stated she was not interested in building a home with two different levels.

Motion made by Council Member Cooney and seconded by Council Member Araskog, that Variance Z-21-00378 shall be granted, subject that it only applies to the areas of the original, historic home as outlined in red in the architect's architectural drawings on Sheet SP-6, and find in support thereof that all the criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met, and further remand the additions outside of the historic building to Landmarks for further study and with the condition that the generator is moved so it is not in close proximity to both the north and south neighbors.

Mayor Moore asked why a motion was being made when the applicant had stated it was not acceptable.

Mr. Bergman requested for more clarification on which portion of the home could be raised. It was decided that the home outlined in red on Sheet SP-6.

Ms. DesRuisseaux explained the hardships that had been established when she requested the elevation to nine feet, including additions. She also expressed her willingness to relocate the generator.

Council President Pro Tem Lindsay felt this was a unique property that should be saved. She commented on the Woods Hole report with their warnings. She thought that while sea level rise remains unknown, she believed that no one knows the correct height to raise the property.

Council Member Crampton expressed his opinion that while the home had been approved at nine feet, this situation was unique and different with this house being in the water. He felt eleven feet was better than nine feet. He also believed the result would be a showpiece that people in and out of town would revere for generations to come.

Council President Zeidman called for a vote on the motion.

The motion carried 3-2, with Council Member Crampton and Council President Zeidman opposed.

After the vote, Ms. Lindsay requested to change her vote.

The motion carried 2-3, with Council Member Crampton, Council President Pro Tem Lindsay and Council President Zeidman opposed.

A discussion ensued about another possible motion.

Council President Pro Tem Lindsay thought time was running out on being able to raise the home. Council Member Araskog commented only for the historic house and not the additions.

Zoning Manager Castro responded the house was the only thing that had to be raised.

Ms. Ziska responded the foundation had to be poured now for the additions at this time as well. Ms. DesRuisseaux stated the house had existing low ceilings and two different levels were not feasible.

Council President Lindsay asked for Council Member Cooney's opinion, as a long-time Chair of Landmarks, whether the motion that he made was feasible.

Council Member Cooney responded that he felt the proposal had the additions redesigned for eleven feet. He thought a restudy and/or

redesign of the additions was worth investigating, since they were some of what was impacting the neighbors, particularly with the appearance of height and mass.

Council President Pro Tem Lindsay stated she would stay with her original vote on Council Member Cooney's motion.

The vote was re-stated for the record.

Motion carried 3-2 with Mr. Crampton and Council President Zeidman opposed.

Council discussed which items could be carried forward to the next day's meeting.

2. New Business

- a. **Z-21-00380 SPECIAL EXCEPTION** Zoning District: C-TS Town Serving Commercial The application of YOSHIKO PALM BEACH LLC (ELLEN JEFFRIES, MANAGER), Applicant, relative to property located at **400 HIBISCUS AVE**, legal description on file, is described below. The applicant is requesting permission to expand the salon ("Salon Yoshiko") from 2,780 square feet to 3,423 square feet, which will require special exception approval as the resulting square footage is in excess of 3,000 square feet. Town Serving documentation is on file in the office of the Town of Palm Beach. Planning, Zoning and Building Department. [Applicant's Representative: Maura Ziska Esq]

Ex parte communications declared by Council members Araskog, Cooney, Council President Pro Tem Lindsay and Mayor Moore.

Maura Ziska, attorney for the owner, presented the history of the building and the zoning request for the project and explained the request.

Ellen Jeffries, Salon Yoshiko, discussed her operation, talked about her clients and explained how the additional space would be used.

Zoning Manager Castro provided staff comments.

Council Member Cooney inquired if staff reviewed the town-serving documentation. Mr. Castro stated staff did not review the documentation and provided further explanation.

Ms. Ziska explained how Salon Yoshiko met the town-serving requirement. Ms. Jefferies discussed how the owners had been actively involved in the community.

Council Member Araskog stated she had not seen the town serving document.

Council Member Crampton stated he had not seen the town-serving document but he believed the business would be town serving.

Council Member Araskog stated she believed a condition of approval should be placed that required the business to return to the Council in one year to prove town serving.

Ms. Ziska placed the town-serving report on the screen to show the town council members and read from the document. Mr. Castro shared the town-serving document that was submitted.

Mayor Moore agreed with Council Member Araskog and thought the town-serving requirement should be reviewed in one year.

Motion made by Council Member Araskog and seconded by Council Member Cooney, that Special Exception Z-21-00380 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 with the condition that the applicant shall return to the September 2022 Town Council meeting to demonstrate that the business is town serving. Motion carried 4-0, with Council President Zeidman absent.

- b. **Z-21-00381 SPECIAL EXCEPTION** Zoning District: C-WA Worth Avenue The application of 329 WORTH AVE LLC (Matthew Raptis and Adrienne Raptis), Applicant, relative to property located at **329 WORTH AVE**, SUITE: 5, legal description on file, is described below. Special Exception request for a change of use from a 525 square foot retail book store to a merchant retail take out cafe with a to go counter and takeout food and beverage which will be called "Via Roma Cafe." There will be no seats. The hours of operation are proposed to be 7:00 AM to 6:00 PM. [Applicant's Representative: Maura Ziska Esq]

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

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

Adrienne Raptis, owner of Raptis Rare Books, discussed her intent in opening the small café.

Kristen Kellogg, Smith Kellogg Architecture, Inc., presented the architectural plans proposed for the new café.

Ms. Raptis stated the space had been used as a take-out window in the past.

Zoning Manager Castro provided staff comments. Mr. Castro stated he did not see a town-serving document, however they did address the town-serving requirement in the application.

Council Member Crampton thought the use was appropriate. He was in favor of the request since the café was recessed, and not directly on Worth Avenue. He thought the business was convenient to the residents and would add to the ambiance.

Mayor Moore thought the applicant should return to the Town Council in one year to demonstrate town serving.

Council Member Araskog inquired if the business would have a liquor license. Ms. Raptis stated she did not believe they would request a license. Council Member Araskog agreed that the applicant should return to the Town Council in one year to demonstrate town serving.

Council President Pro Tem Lindsay thought that the applicant would not have a hard time proving that the business was town serving.

Ms. Ziska explained the process of documenting town serving customers for the owner.

Motion made by Council Member Cooney and seconded by Council Member Araskog, that Special Exception Z-21-00381 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 with the condition that the applicant shall return to the September 2022 Town Council meeting to demonstrate that the business is town serving. Motion carried 4-0, with Council President Zeidman absent.

Please note: A short break was taken at 11:00 a.m. The meeting resumed at 11:15 a.m.

- c. **Z-21-00382 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of DAVID CANEPARI AND DIANE ELLWOOD CANEPARI, Applicants, relative to property located at **260 NIGHTINGALE TRL**, legal description on file, is described below. A request for a flood plain variance on a historically significant home in order to construct a 120 square foot one-story addition with a finished floor elevation of 5.99 feet North American Vertical Datum ("NAVD") in lieu of the 7.0 foot NAVD required. This home is a Historically Significant Building. [Applicant's Representative: Maura Ziska Esq]

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

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

Nelo Freijomel, Spina O'Rourke + Partners, presented the proposed architectural plans for the existing home.

Zoning Manager Castro provided staff comments.

Council Member Cooney discussed the change in the Florida Building Code and the flood plain variances now required for this historically significant home. He expressed his support.

Council Member Araskog inquired if a hardship was needed for this variance. Ms. Ziska responded this was a different type of variance.

Council President Pro Tem Lindsay thought that this was a wonderful example of a historically significant building.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Variance Z-21-00382 shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met. Motion carried 4-0, with Council President Zeidman absent.

- d. **Z-21-00383 VARIANCE(S)** Zoning District: R-B Low Density

Residential The application of MICHAEL T FRIES & MICHELLE R MALONE, Applicants, relative to property located at **146 SEASPRAY AVE**, legal description on file, is described below. Request a variance to expand nonconforming 2-story accessory building in the rear of the property by adding a 128 square foot one story cabana/office addition that would result in a 5.6 foot rear yard setback in lieu of the 10 foot minimum required 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 4-3.] [The Architectural Review Commission approved the project as presented. Carried 4-3.]

This item was deferred to the next day, September 14, 2021, under Any Other Matters.

- e. **Z-21-00384 SPECIAL EXCEPTION** Zoning District: C-PC Planned Center The application of TOOJAY'S PALM BEACH LLC (JEFF SIROLLY, GENERAL COUNCIL), Applicant, relative to property located at **340 ROYAL POINCIANA WAY, SUITE: M335**, legal description on file, is described below. Request for a special exception approval for the relocation of TooJay's Restaurant from Suite M313 to Suite M335 of the Royal Poinciana Plaza. Suite M335 is the space formerly occupied by Coyo Taco. The proposed restaurant would occupy 3,529 square feet of gross leasable area with 90 total seats, 12 of which are proposed as outdoor cafe seating. Proposed hours of operation are 8:00 AM to 9:00 PM, seven days per week. TooJay's Palm Beach, LLC will be Town Serving as explained in the Town Serving statement on file with the Planning Zoning and Building Dept. The outdoor cafe seating standards are addressed in the Letter of Intent which is on file with the Planning Zoning and Building Dept. [Applicant's Representative: James Crowley]

Ex parte communications declared by Council Members Cooney, Crampton and Council President Pro Tem Lindsay.

Alexandra Patterson provided an overview of the request and introduced Alan Nuckles with TooJay's.

Alan Nuckles, Vice President of TooJay's, explained the history of TooJay's and talked about their flagship store.

Jamie Crowley, attorney for the owner, presented the zoning request for the project and explained the request.

Nelo Freijomel, Spina O'Rourke + Partners, stated there were no proposed changes to the exterior, with the exception of signage.

Zoning Manager Castro provided staff comments. Mr. Castro inquired if they would have a liquor license. Mr. Nuckles responded they had a beer/wine license today and would like to get one in the new space.

Council Member Araskog inquired about the proposed hours. Mr. Crowley responded 8 am to 9 pm. Council Member Araskog inquired about the additional entrance to the restaurant and whether it would be utilized. Ms. Patterson responded it would be nice to have that option.

Mayor Moore inquired about the location of the kitchen and the cashier on the plans. Ms. Patterson responded and discussed the locations.

Council President Pro Tem Lindsay thought this was a wonderful change for the restaurant.

Motion made by Council Member Crampton and seconded by Council Member Cooney, that Special Exception Z-21-00384 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.

Council Member Araskog asked for an explanation of the parking.

Mr. Crowley explained the principle of equivalency in the code for parking allowed them a total of 124 seats for the existing TooJay's, and 90 proposed. He further explained that Coyo Taco had 80, so they would like to keep the remaining seats in a pool to be used in the future for either restaurant seats or converted to theater seats if necessary.

Zoning Manager Castro indicated staff would need to review the parking and if needed, would be brought back to Council.

Motion carried 4-0, with Council President Zeidman absent.

- f. **Z-21-00385 SPECIAL EXCEPTION WITH SITE PLAN REVIEW** Zoning District: R-B Low Density Residential The application of 239 MONTEREY ROAD LLC (Louis Capano, Jr., Manager), Applicant, relative to property located at **223 MONTEREY RD**, legal description on file, is described below. The lot is non-conforming in area: 9,000 square feet in lieu of

the 10,000 square feet required in the R-B Zoning District; and in width: 90 feet in width in lieu of the 100-foot minimum required in the R-B Zoning District. Request to demolish the existing one-story residence, accessory structure, pool, driveway and miscellaneous site walls, piers and fences and construct a new 3,902 square foot single family two-story home on a non-conforming lot (overall size and width) meeting all applicable Town codes. The request includes a driveway, pool/spa, hardscape and landscape, including an emergency generator and civil storm water and grading. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to the September 29, 2021 meeting. Carried 7-0.] Staff recommends a deferral to the October 13, 2021 meeting.

This item was deferred at approval of the agenda to the October 13, 2021 meeting.

- g. **Z-21-00386 SITE PLAN REVIEW WITH VARIANCE(S)**
Zoning District: R-B Low Density Residential The application of JAMES & SARA MCCANN, Applicants, relative to property located at **217 BAHAMA LN**, legal description on file, is described below. This home has been designated as Historically Significant and will be heard before Landmarks Preservation Commission prior to being heard before Town Council. Site Plan Review is being requested to allow the renovation and one-story additions totaling 894 square feet to an existing 3,034 square foot, one story residence, this requires demolition by more than 50% cubic footage on a lot with a depth of 91 feet in lieu of the 100-foot minimum required in the R-B Zoning District. Variances being requested are to allow a west side yard setback for the garage addition to remain non-conforming with a setback of 9.83 feet in lieu of the 12.5 foot minimum required in the R-B Zoning District. To allow a flood plain variance in order to construct the a 360 square foot one story garage addition on the east side of the residence; a 200 square foot one story closet addition on the west side of the residence; and a 334 square foot loggia addition to the rear of the residence, all with a finished floor elevation of 5.82 and 6.82 feet North American Vertical Datum (“NAVD”) in lieu of the 7.0 foot NAVD required; and an angle of vision of 119 degrees in lieu of 103 degrees existing and 100 degrees maximum allowed. [Applicant's Representative: Maura Ziska Esq] [Landmarks Preservation Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impact to the historically significant building. Carried 7-0.] [The Landmarks Preservation Commission approved the project at their August 18, 2021 meeting. Carried 7-0.]

Ex parte communications declared by Council Members Araskog,

Cooney, Council President Pro Tem Lindsay and Mayor Moore.

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

Lauren Urquhart, Dailey Janssen Architects, presented the architectural modifications proposed for the existing historically significant building.

Zoning Manager Castro provided staff comments.

Mayor Moore was supportive of the project.

Council Member Araskog inquired about the hardship. Ms. Ziska responded. Council Member Araskog asked if the neighbors supported the request. Ms. Ziska stated the neighbors did support the request.

Motion made by Council Member Cooney and seconded by Council Member Crampton, that Site Plan Z-20-00386 be approved based upon the finding that the approval of the Site Plan will not adversely affect the public interest; that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement have been met concerning Section 134-329 items 1 through 11, and providing that the property owner did voluntarily commit that prior to the issuance of a building permit to either provide a recorded utility easement or an easement agreement satisfactory to the town that ensures a recorded easement will be granted if necessary to underground utilities in the area. Motion carried 4-0, with Council President Zeidman absent.

Motion made by Council Member Cooney and seconded by Council Member Araskog, that Variance Z-20-00386 shall be granted and find in support thereof that all criteria applicable to this application as set forth in Section 134.201(a) items 1 through 7 have been met. Motion carried 4-0, with Council President Zeidman absent.

- h. **Z-21-00387 SPECIAL EXCEPTION** Zoning District: C-OPI Office, Professional and Institutional The application of CYPRESS TRUST COMPANY (JOHN MARINO), Applicant, relative to property located at **251 ROYAL PALM WAY, SUITE: 500**, legal description on file, is described below. Applicant is requesting a special exception in order to add banking, which is a special exception use, to their current financial services. [Applicant's Representative: Maura Ziska Esq]

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

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

Zoning Manager Castro provided staff comments. Mr. Castro reviewed the town-serving document submitted.

John Marino, Cypress Trust Company, discussed the type of banking that would occur in the location proposed.

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

Council Member Araskog inquired whether the special exception was dependent upon also having town serving. Zoning Manager Castro responded it was not necessary in this zoning district.

Motion made by Council Member Cooney and seconded by Council Member Araskog that Special Exception Z-20-00387 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 4-0, with Council President Zeidman absent.

- i. **Z-21-00389 VARIANCE(S)** Zoning District: R-B Low Density Residential The application of JEANNE H OLOFSON REVOCABLE TRUST DATED OCTOBER 19, 1992 (JEANNE H OLOFSON, TRUSTEE), Applicant, relative to property located at **266 ORANGE GROVE RD**, legal description on file, is described below. Request to allow a 224 square foot existing garage on a one-story residence to be converted to living space by creating a guest bedroom, which would require a variance to eliminate the one car garage required on a lot that is 75 feet in width. [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 approve the project at their August 25, 2021 meeting. Carried 7-0.]

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

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

Nelo Freijomel, Spina O'Rourke + Partners, presented the architectural plans proposed for the modifications to the existing home.

Jeanne Olofson, owner, discussed the request her need to change her home for the possibility of a future caregiver.

Zoning Manager Castro provided staff comments.

Council Member Crampton stated he was not in favor of the front facing garage. He thought the home fit the needs of the homeowner and did not question her sincerity. He thought the request should proceed.

Council President Pro Tem Lindsay stated that most homes in the north end use their driveways. She agreed with Council Member Crampton and supported the request.

Council Member Araskog thought the home looked nice without the one car garage and thought in this instance, she could support the request. She questioned if the garage could be converted back in the future. Council Member Araskog inquired about the hardship. Ms. Ziska responded it was a combination of the size of the property, the size of the house, and the owner's needs.

Council Member Cooney was sympathetic to the owner's request. He thought the home fit nicely on the street.

Mayor Moore thought the Council could be helpful to this owner and support the request.

Motion made by Council Member Crampton and seconded by Council Member Cooney, that Variance Z-20-00389 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 4-0, with Council President Zeidman absent.

j. **Z-21-00390 VARIANCE(S)** Zoning District: R-B Low Density

Residential The application of DAVID LITTMAN AND CONSTANCE LITTMAN, Applicants, relative to property located at **300 N LAKE WAY**, legal description on file, is described below. A request for a variance to add 1,452 square foot, one- story addition, onto an existing one-story guest house that would result in a cubic content ratio ("CCR") of 4.72 in lieu of the 4.49 existing and the 4.5 maximum allowed in the R-B Zoning District for a lot that is 65,500 feet in area. [Applicant's Representative: Maura Ziska Esq] [The Architectural Review Commission deferred the project to their November 19, 2021 meeting. Carried 7-0.] Staff Recommends Deferral to the December 15, 2021 Meeting

This item was deferred at approval of the agenda to the December 15, 2021 meeting.

VIII. ORDINANCES

A. Second Reading

1. Proposed ordinance to modify the code related to fill limitations as well as setbacks for stairs, landings, porches and ramps.

ORDINANCE 19-2021 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Modifying The Definitions For Building, Height Of (Applicable Only In The R-B Districts), Building Height Of (Applicable To All Districts Except The R-B Districts, Building, Height Of, (Applicable To Lots Or Portions Of Lots East Of The State Of Florida Coastal Construction Control Line (CCCL), Building, Height Of, (Applicable To R-B Lots Abutting Lake Trail) To Eliminate The References To Raising The Grade Of A Property And Eliminating Redundant Language; At Article VI, District Regulations, At Sections 134-795, 134-845 And 134-895, Same-Exceptions To Yard Regulations, By Allowing First Floor Entry Ramps, Landings, Associated Steps And Ramps Within Required Setbacks In The R-AA, R-A And R-B Residential Zoning Districts; Sections 134-950, 134-1006 And 134-1062 Same-Exceptions, By Allowing First Floor Entry Ramps, Landings, Open Terraces And/Or Steps Within Required Setbacks In The R-C, R-D(1) And R-D(2) Residential Zoning Districts; Sections 134-797, 134-848, 134-898, 134-953, 134-1009 And 134-1065, Lot Grade Topography And Drainage, By Providing That The Grade Of A Property Cannot Be Raised To Meet Base Flood Elevation Requirements Except As Provided For In A New Section 134-1600 Of The Code And Elimination The Requirement That The Habitable Finished Floor Of A Building Shall Not Exceed Eight Inches Above The Permitted Grade On A Property In The R-AA, R-A, R-B, R-C, R-D(1) And R-D(2) Residential Zoning Districts; Creating Sections 134-1121, 134-1171, 134-1221, 134-1269, 134-1316 And 134-1402, Lot Grade Topography And

Grading In The C-TS, C-WA, C-OPI, C-PC, And C-B Commercial Zoning Districts And The PUD District To Provide That The Grade Of A Property In Those Districts Cannot Be Raised To Meet Base Flood Elevation Requirements Except As Provided For In A New Section 134-1600 Of The Code; Section 134-1309, Same-Exceptions, To Allow First Floor Entry Ramps, Landings And Associated Steps To Extend Into A Required Setback In The C-B Commercial District; At Article VIII, Supplementary District Regulations, Section 134-1548, Yard Regulations, To Allow First Floor Entry Ramps, Landings, Open Terraces, Porches And Associated Steps As Ordinary Projections Into A Required Yard And Cross Referencing The Specific Sections Of The Code That Apply; Creating A New Subdivision III Within Article VIII, Supplementary District Regulations, Section 134-1600, Lot Fill, Providing For A Calculation For The Maximum Amount Of Fill That Can Be Placed On A Lot; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Gavigan read Ordinance 19-2021 on second reading by title only.

Zoning Manager Castro called for public comment. There were no comments heard at this time.

Motion made by Council Member Araskog and seconded by Council Member Crampton to adopt Ordinance 19-2021 on second reading, by title only. Motion carried 4-0, with Council President Zeidman absent.

2. Proposed ordinance to modify the code related to supplemental off- site shared parking regulations.

ORDINANCE 20-2021 An Ordinance Of The Town Council Of The Town Of Palm Beach, Palm Beach County, Florida, Amending The Town Code Of Ordinances At Chapter 134, Zoning, As Follows: At Article I, In General, Section 134-2, Amending The Definition Of Supplemental Parking To Provide That Supplemental Off-Site Parking In An Underground Garage Or Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility Shall Not Be Required To Be In Addition To The Required Parking; Sunsetting The Definition On March 13, 2024, Unless Extended Or Modified By The Town Council; At Article VI, District Regulations, Sections 134-1107, 134-1157 And 134-1207, Permitted Uses, In The C-TS, C-WA And C-OPI Commercial Zoning Districts To Allow Supplemental Off-Site Shared Parking In A Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility As A Permitted Use; Cross Referencing The Requirement For Said Parking In Sections 134-2177 And 134-2182; And Providing A Sunsetting Provision For Said Parking Facilities In Those Districts On March 13, 2024, Unless Extended Or Modified By The Town Council; Section 134-2177 Location of Parking Spaces, and Section 134- 2182,

Location Of Parking Spaces, By Allowing Supplemental Off- Site Shared Parking In A Surface, Enclosed, Partially Enclosed Or Rooftop Parking Facility As A Permitted Use In The C-TS, C-WA And C-OPI Zoning Districts Provided That Said Parking Does Not Exceed 50 Percent Of The Parking Inventory Of The Parking Facility And Providing That If Said Parking Facility Abuts A Residential Use That Said Parking Shall Only Be Allowed Between The Hours Of 8:00 A.M. And 6:00 P.M.; At Section 134-2182 By Relocating The Existing Sunsetting Provision Into A New Subsection (E) And Including Surface, Enclosed, Partially Enclosed And Rooftop Off-Site Supplemental Shared Parking As Part Of The Existing Sunsetting Provision; Providing For Severability; Providing For Repeal Of Ordinances In Conflict; Providing For Codification; Providing An Effective Date.

Town Attorney Gavigan read Ordinance 20-2021 on second reading by title only.

Council Member Araskog thought this ordinance should not be passed in the summer months. She thought this was an intensification of use and the hours would be detrimental to the neighbors. She stated she did not support the request.

Council Member Crampton asked staff for clarification that this had been written specifically to avoid intensification of use.

Zoning Manager Castro responded and discussed the reasons he believed Council Member Araskog thought the request was an intensification of use. He added that the ordinance indicated that no one could use supplemental parking in order to increase seating or expand a use that would require more parking.

Council Member Crampton felt this would get cars off the street and improve the flow of traffic.

Council President Pro Tem Lindsay thought the parking problem was a management problem, not a space problem. Council President Pro Tem Lindsay felt by moving parking for employees and others off the streets, it would open that parking for residents. She was comfortable proceeding and monitoring to see how the change works.

Council President Pro Tem Lindsay called for public comment. There were no comments heard at this time.

Council Member Cooney felt there were protections written in and this could be reversed if needed.

Motion made by Council Member Crampton and seconded by Council Member Cooney to adopt Ordinance 20-2021 on second reading, by title

only. Motion carried by 3-1, with Council Member Araskog opposed (and Council President Zeidman absent)

Council President Zeidman arrived at this point in the meeting, and lunch break was taken from 12:28 p.m. to 1:30 p.m. Council then returned to Site Plan Review #Z-21-00353, 1080 South Ocean Blvd, which had been paused for re-hearing upon Council President Zeidman's return.

IX. DISCUSSION ITEMS

A. Recognition and Discussion of Increased ARCOM Workload and Applications

Council Member Araskog commented on the increase of residential new construction and residential renovations. She expressed concern that the second day of ARCOM meetings had a loss of members, and sometimes the architects were not present. She also felt discussions were not as comprehensive as on the first day. She discussed the possibility of scheduling a second day when all members could attend. The number of projects also was an indicator of the increased construction in the Town.

Council Member Crampton did not believe it was a permanent condition. He also touched on the new project management procedure and thought this new process would help control the flow of projects appearing before ARCOM. He wanted to see how the new process worked before making any further changes.

Council President Pro Tem Lindsay asked to hear from staff on whether the new process would help the process have better flow.

James Murphy, Assistant Director of Planning, Zoning and Building, discussed where staff was in the process. He stated that this process should help staff make better determinations and pass the applications forward to the development review boards to be reviewed.

Mayor Moore agreed with Council Member Crampton and Council President Pro Tem Lindsay. She believed staff needed time for the process to work. She understood Council Member Araskog's concern.

Council Member Cooney advocated to allow the process more time to work.

Council President Zeidman agreed and congratulated staff, particularly Mr. Murphy, on coming up with an organized process.

Council Member Araskog hoped the new process would lessen deferrals. She was concerned about second day meetings.

Consensus of the Town Council was to allow the new process to work.

B. Town-Serving Regulations

Council Member Araskog requested that this item be delayed to season.

Zoning Manager Castro discussed the reason it was placed on the agenda and advised it did not have to be discussed today.

Motion made by Council Member Araskog and seconded by Council President Pro Tem Lindsay, to defer the matter to the November 10, 2021 Town Council meeting. Motion carried unanimously, 5-0.

X. ANY OTHER MATTERS

Discussion took place regarding the inability of hearing #Z-21-00383 Variance request at today's meeting. Arrangements were discussed regarding timing for hearing the application for 146 Seaspray Avenue the next day. All parties indicated they would be available at 10 a.m.

XI. ADJOURNMENT

The meeting was adjourned at 4:16 p.m. without benefit of a motion.

APPROVED:

Margaret Zeidman, Town Council President

ATTEST:

Kelly Churney, Deputy Town Clerk

FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME Cooney Edward A		NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE Town Council, Town of Palm Beach	
MAILING ADDRESS 251 Royal Poinciana Way #A Palm Beach		THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF:	
CITY 09/13/2021	COUNTY	<input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY NAME OF POLITICAL SUBDIVISION: Town of Palm Beach	
DATE ON WHICH VOTE OCCURRED		MY POSITION IS: <input checked="" type="checkbox"/> ELECTIVE <input type="checkbox"/> APPOINTIVE	

WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

* * * * *

ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

PRIOR TO THE VOTE BEING TAKEN by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; and

WITHIN 15 DAYS AFTER THE VOTE OCCURS by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

* * * * *

APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, EDWARD A COONEY, hereby disclose that on SEPTEMBER 13, 20 21:

(a) A measure came or will come before my agency which (check one or more)

- ☐ inured to my special private gain or loss;
- ☒ inured to the special gain or loss of my business associate, TODD MICHAEL GLASER;
- ☐ inured to the special gain or loss of my relative, _____;
- ☐ inured to the special gain or loss of _____, by whom I am retained; or
- ☐ inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

7-21-00353 Site Plan Review
1080 S. Ocean Blvd.

The applicant is a current client of my employer, Lawrence Moens.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

09/13/2021
Date Filed

Edward A Cooney
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.