

MINUTES OF SPECIAL TOWN COUNCIL MEETING HELD ON JANUARY 24, 1994

5:01PM

I. CALL TO ORDER AND ROLL CALL: The Special Town Council meeting was called to order by President Pro Tem Wiener at 5:01 PM on January 24, 1994 in the Town Hall Council Chambers. On roll call, the following elected officials were found to be in attendance: Mayor Ilyinsky, President Pro Tem Wiener, Councilwomen Douthit, Smith and Royal. Absent was President Weinberg. Also attending were: Town Manager Doney, Town Attorney Randolph, Town Clerk Peters, Mr. Jakubiak, Mr. Elwell, Mr. Moore, Mr. Zimmerman, Mr. Frank and William Brisson of Adley, Brisson and Engman, the Town's zoning consultants.

II. INVOCATION AND PLEDGE OF ALLEGIANCE: Invocation was given by Mrs. Peters. Pledge of Allegiance was led by Mayor Ilyinsky.

III. APPROVAL OF AGENDA: Motion was made by Mrs. Douthit, seconded by Mrs. Smith to approve the agenda. Motion carried unanimously on roll call.

IV. PROOF OF PUBLICATION: Mrs. Peters and Mr. Moore confirmed the advertisement had been published and proof of publication will be filed with the record.

V. FIRST READING OF ZONING ORDINANCE NO. 1-94. Mr. Randolph read Ordinance 1-94 by title:

AN ORDINANCE OF THE TOWN OF PALM BEACH, PALM BEACH COUNTY, FLORIDA, AMENDING ORDINANCE NO. 2-74, AS AMENDED, THE OFFICIAL ZONING ORDINANCE OF THE TOWN OF PALM BEACH; PROVIDING AMENDMENTS TO ARTICLE 2, SECTION 2.10 ENTITLED "DEFINITIONS", BY REVISING DEFINITION (11) "BUILDING HEIGHT OF"; TO PROVIDE AMENDMENTS TO ARTICLE 4 ENTITLED "DISTRICT REGULATIONS"; BY AMENDING SECTION 4.10 SCHEDULE A, "SCHEDULE OF LOT, YARD AND BULK REGULATIONS", BY INCREASING ALLOWABLE LOT COVERAGE FOR ONE STORY STRUCTURES IN THE R-B DISTRICT; BY INCREASING ALLOWABLE BUILDING HEIGHT IN THE R-AA DISTRICT; BY ADDING A NEW PROVISION ALLOWING SPLIT LEVEL SINGLE FAMILY AND TWO FAMILY STRUCTURES IN ALL RESIDENTIAL DISTRICTS; TO PROVIDE AMENDMENTS TO SECTION 4.10, SCHEDULE B, "SCHEDULE OF USE REGULATIONS", BY EXTENDING THE EXPIRATION DATE OF SPECIAL EXCEPTION USES L(1) AND L(2) RELATING TO SECOND AND THIRD FLOOR DWELLINGS IN THE C-WA DISTRICT; BY AMENDING PROVISION ALLOWING CHARITABLE EVENTS AS ACCESSORY USES IN ALL RESIDENTIAL DISTRICTS; TO PROVIDED AMENDMENTS TO ARTICLE 5 ENTITLED, "SUPPLEMENTARY LOT REGULATIONS", BY AMENDING SECTION 5.18, "LOT, GRADE TOPOGRAPHY AND DRAINAGE" BY REWRITING SECTION FOR CLARITY PURPOSES AND ESTABLISHING A MAXIMUM HEIGHT FOR FIRST FLOOR ELEVATION ABOVE STREET; BY AMENDING SECTION 5.50, "ACCESSORY BUILDINGS AND/OR STRUCTURES", PROVIDING THAT NONCONFORMING ACCESSORY STRUCTURES CAN BE RETAINED IN THE EVENT THE PRINCIPAL STRUCTURE IS DEMOLISHED OR SUBDIVIDED FROM THE ACCESSORY STRUCTURE; BY AMENDING SECTION 5.51, "MINIMUM YARD, LOT AND BULK REGULATIONS", RELATING TO ACCESSORY BUILDINGS BY ELIMINATING REFERENCE TO ATTACHED AND UNATTACHED ACCESSORY BUILDINGS AND TO ALLOW KITCHEN FACILITIES IN ACCESSORY BUILDINGS AS A SPECIAL EXCEPTION; TO PROVIDE AMENDMENTS TO ARTICLE 6 ENTITLED, "SUPPLEMENTARY USE REGULATIONS", BY AMENDING SECTION 6.21(C)(4) "OFF-STREET PARKING" BY AMENDING PARKING REQUIREMENTS FOR MEDICAL AND DENTAL OFFICES AND FURTHER AMENDED TO INCLUDE A NEW PARKING REQUIREMENT FOR NONPROFIT CULTURAL CENTERS; BY AMENDING SECTION 6.21 (F), "UTILIZATION OF YARDS" TO ALLOW PARKING FOR SINGLE FAMILY, TWO FAMILY AND TOWNHOUSE STRUCTURES IN ANY SETBACK OR YARD AREA; BY AMENDING SECTION 6.64, "PARKING IN RESIDENTIAL AREAS", BY INCREASING PARKING PERMIT FEE; TO PROVIDE AMENDMENTS TO ARTICLE 9 ENTITLED "ADMINISTRATION AND ENFORCEMENT"; BY AMENDING SECTION 9.40, "FILING FEES", BY INCREASING PUD, SPECIAL EXCEPTION, VARIANCE AND SITE PLAN REVIEW APPLICATION FILING FEES; BY AMENDING SECTION 9.60, "SITE PLAN REVIEW" BY ADDING PROVISION REQUIRING APPLICANT TO PAY COST OF EXTRAORDINARY TECHNICAL EXPERTISE; TO PROVIDE AMENDMENTS TO ARTICLE 10 ENTITLED "APPEALS AND VARIANCES", BY AMENDING SECTION 10.40, SPECIAL EXCEPTIONS AND VARIANCES BY ADDING PROVISION REQUIRING APPLICANT TO PAY COST OF EXTRAORDINARY TECHNICAL EXPERTISE; PROVIDING FOR SEVERABILITY; PROVIDING A PENALTY FOR A VIOLATION HEREOF; REPEALING ALL ORDINANCES OR PARTS OF ORDINANCES IN CONFLICT HERewith; PROVIDING FOR CODIFICATION; PROVIDING AN EFFECTIVE DATE.

Mrs. Wiener called for comments and Mayor Ilyinsky asked if the cost of extraordinary technical expertise would be determined by the Building Department to which Mr. Moore responded affirmatively, indicating they would look at each application and if there was an extraordinary amount of time that would be expended on a particular application, such as traffic studies, environmental studies, legal expenses of the Town attorney's time or an outside legal opinion, all of those costs would be over the norm and if an applicant felt this was not fair, they would have the right to appeal that to the Council.

Mrs. Douthit asked if they could go through the items in the ordinance individually? Mrs. Wiener suggested they go through the items which the Mayor and members of the Council or public wish to discuss.

Mrs. Smith asked how much time would be involved for an average variance or special exception application? Mr. Moore responded it would probably be approximately five hours. Mrs. Smith asked if the applicants on the larger applications knew what was required, such as Preservation Plan, Engineering Plan, Utility Plans, Basements, Surveys, etc. Mr. Moore responded oft times they have meetings with the applicant and if a traffic study is required, they are advised if it hasn't been

provided. Mrs. Smith asked if that information was not in writing for those who make applications to which Mr. Moore responded affirmatively.

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Mrs. Smith didn't understand why then would they have to be informed as the applicant should be aware, and there should be a specific time frame for them to submit the information. Mr. Moore advised certain costs are covered by the initial fee and it is only when they have to go to outside expertise to have a particular plan evaluated or they have to use an inordinate amount of time of the Town Attorney, does the extraordinary expense kick in, for such things like a Mar-a-Lago application or Colony Hotel.

Mr. Moore then read Section 1 in the Ordinance which amends Section 2.10, Definitions" definition 11 on "BUILDING HEIGHT OF" as printed in the ordinance. Motion was made by Mrs. Smith, seconded by Mrs. Royal to approve Section One. On roll call, the motion carried unanimously.

Mr. Moore read Section 2, of Article 4 titled "District Regulations" to amend Section 4.10, A, "Schedule of Lot, Yard and Regulations", Items 1, 2 and 3. Mrs. Wiener called for public comment and there was none. Motion was made by Mrs. Douthit to approve Section 2. A. Paragraphs 1, 2, and 3. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Moore read Section 2, of Article 4, Section 4.10, to amend B, Schedule of Use Regulations, Paragraphs 1, 2, 3. Mrs. Royal asked if there was a writer writing a book in his home would that be covered by this section as it refers to the conduct of business. Mrs. Wiener responded they all know people have offices in their home to handle their paper work and there is nothing wrong with that but the point is there cannot be a business run from the home with traffic and other things going on. Mrs. Wiener called for public comment and there was none. On motion of Mrs. Smith, seconded by Mrs. Douthit, Paragraphs 1, 2, and 3 of Section 2.B. amending Section 4.10 was approved. On roll call, the motion carried unanimously.

Mr. Moore read Section 2.B, Paragraphs 4 and 5 amending Section 4.10 as shown on pages 2 and 3 of Ordinance 1-94. Mrs. Wiener called for comments and there were none. Motion was made by Mrs. Douthit to approve Paragraphs 4 and 5 of Section 2 (b) as shown on pages 2 and 3 of Ordinance 1-94. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Moore read Section 3, of Article 5 of Ord. No. 1-94, Paragraph A, which amended Section 5.18, "Lot Grade Topography and Drainage". Mrs. Wiener called for comments and there were none. Motion was made by Mrs. Smith, seconded by Mrs. Douthit to approve Paragraph A of Section 3 as read by Mr. Moore. On roll call, the motion carried unanimously.

Mr. Moore read Section 3 B amending Section 5.50 (a) Accessory Buildings and/or Structures as written in Ord. 1-94. On motion of Mrs. Royal, seconded by Mrs. Smith, Paragraph A was approved. On roll call, the motion carried unanimously.

Mr. Moore noted Paragraph C found on Page 4 through top of Page 8 of the Ord. 1-94 eliminates the ten foot issue regarding the separation between Accessory Structures and the Principal structures and adds a section which requires that a Special Exception be granted for a second kitchen which was (5) on Page 6 of the Ordinance, which he read in full. Mrs. Wiener called for Council comments and public comments and there were none. On motion of Mrs. Royal and seconded by Mrs. Douthit Paragraph C, (a) (b) (1) through (9) were approved, on page 4 through top of page 8 were approved. On roll call, the motion carried unanimously.

Mr. Moore read Section 4, which amended Article 6, specifically 6.21 (c)(4) which would allow one parking space per two hundred fifty square feet of gross leasable area. Mrs. Douthit thought the figure should be changed to one parking space for each two hundred feet and requested if it couldn't be done today, it should be an item that the Zoning Commission studies for next year.

Mr. Moore read the amendment to eliminate the wording in 6.21 (C) (4) (c): "One medical or dental office equals at least 1,250 square feet of floor area minimum per doctor or dentist."

Mr. Moore read the amendment for Section 6.21(c)(4) Item 7 (paragraph c on page 8), the Schedule of Off Street Parking Requirements to allow one parking space per five hundred square feet for Libraries, Museums and Nonprofit Cultural Centers. Mrs. Douthit asked how he arrived at the 500 square feet to which Mr. Moore responded they currently have the requirement for 500 square feet for libraries and museums and this adds to that list the Nonprofit Cultural Centers.

Mr. Moore read (d) which amends Section 6.21 (f), "Utilization of Yards" recalling there was quite a bit of discussion on this item and he read some clarifying language:

"The foregoing requirement for garage or screened parking applies only to new construction, redevelopment, or major remodeling involving more than 50% of the existing cubic content of the structure."

Mrs. Smith moved that Section 6.21 (f) amendment be approved with the clarification as read by Mr. Moore. Seconded by Mrs. Douthit.

Mrs. Royal asked if this language should be a part in all of the sections with regards to new construction? Mr. Moore responded this has produced some confusion in the past, but this clarifies that it would not be retroactive unless there was reconstruction, new construction or major remodeling involving more than 50% of the existing cubic content of the structure.

Mrs. Wiener called for public comment and there was none.

On roll call, the motion carried unanimously.

Mr. Moore read (e) found on page 8 which increases parking fees from \$10 to \$20, amending Section 6.64 (6). Mrs. Smith recalled this was Chief Terlizzese's recommendation that the parking fees be made consistent.

Motion was made by Mrs. Smith, seconded by Mrs. Royal to approve paragraphs (a) (b) (c) and (e) found on Page 8 amending Article 6, which is Section 4 of Ord. 1-94. On roll call, the motion carried unanimously.

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Mr. Moore pointed out Section 5 amends the Filing Fees in Section 9.40 for PUD, Special Exception, Variance requests, site plan review, etc. On motion of Mrs. Douthit, seconded by Mrs. Smith, the filing fees listed on pages 9 and 10, Section 5 of Ordinance 1-94 were approved. On roll call, the motion carried unanimously.

Mr. Moore read Section 5, Paragraph B found on page 10 of Ordinance No. 1-94. Motion made by Mrs. Douthit, seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mr. Moore read Section 6, Article 10.40 Special Exceptions and Variances on page 11 of Ordinance No. 1-94. Mrs. Douthit moved Section 6 be approved. Seconded by Mrs. Smith. On roll call, the motion carried unanimously.

Mrs. Smith moved that Ordinance No. 1-94 be adopted on first reading. Seconded by Mrs. Douthit. On roll call, the motion carried unanimously.

Any Other
Matters

VI. ANY OTHER MATTERS:

A. Mr. Moore reminded the Mayor and Town Council there will be a meeting held at 5:01 PM on February 7, 1994 for the second reading of Ordinance No. 1-94.

B. Mrs. Wiener thanked Mr. Beal and Mr. Wood of the Zoning Commission for their hard work.

C. Mrs. Royal noted the meeting of the School Board to hear the subject of phasing out the Middle School in Palm Beach will be on Feb. 14, 1994 and she will not be able to attend. She advised if someone wants to be heard at that meeting, they may call up by Feb. 1st, and will be put on a list and be heard in an orderly fashion, and she urged someone to go and show support. Mrs. Smith suggested perhaps the Mayor would like to attend. Mrs. Wiener noted they all have the information and if anyone wishes to speak, they make the phone call and attend the meeting.

D. Mr. Doney informed the Mayor and Town Council at 7 PM this evening, there will be a public information session at St. Edward's Parish Hall regarding the re-accreditation of the Police Department.

Adjournment

VII. ADJOURNMENT. There being no further business, the meeting was adjourned at 5:50 PM.

Grace T. Peters
Town Clerk