PLANNING AND ZONING COMMISSION
MEETING MINUTES
TUESDAY, APRIL 20, 2021 9:30 A.M.

Please be advised that in keeping with a recent directive from the Town Council, the minutes of all Town Boards and Commissions will be "abbreviated" in style. Persons interested in listening to the meeting, after the fact, may access the audio of that item via the Town's website at www.townofpalmbeach.com or may obtain an audio recording of the meeting by contacting Kelly Churney, Secretary to the Planning & Zoning Commission at (561) 227-6408.

I. CALL TO ORDER AND ROLL CALL

Chair Ainslie called the meeting to order at 9:30 a.m. All members participated via Zoom Webinar due to the COVID-19 Situation.

Michael Ainslie, Chair	PRESENT
Richard Kleid, Vice Chair	PRESENT
Rick Pollock, Member	PRESENT
Michael Spaziani, Member	PRESENT
Eric Christu, Member	PRESENT
Marilyn Beuttenmuller, Member	PRESENT
Jorge Sanchez, Member	PRESENT
William Gilbane, Alternate Member	PRESENT
Nicki McDonald, Alternate Member	PRESENT
John Tatooles, Alternate Member	PRESENT

Staff Members present were:
Wayne Bergman, Director of Planning, Zoning and Building
James Murphy, Assistant Director of Planning, Zoning and Building
Paul Castro, Zoning Manager
Brad Falco, Planner 1
Kelly Churney, Secretary to the Planning and Zoning Commission

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Ms. Churney led the Commission with the Invocation and the Pledge of Allegiance.

III. APPROVAL OF THE AGENDA

Motion made by Mr. Kleid and seconded by Mr. Pollock to approve the agenda as presented. Motion carried unanimously.

IV. APPROVAL OF MARCH 16, 2021 PLANNING AND ZONING COMMISSION MINUTES

Motion made by Mr. Kleid and seconded by Mr. Pollock to approve the minutes of the March 16, 2021 Planning & Zoning Commission meeting as amended. Motion carried unanimously.

V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE

There were no comments heard at this time.

VI. UPDATE ON POSSIBLE CODE CHANGES TO THE REGULATIONS RELATED TO OUTDOOR SEATING FOR FOOD AND DRINK SERVICE

Mr. Bergman provided an update regarding the direction on outdoor seating from the Town Council. He also provided a summary of his understanding from the Planning and Zoning Commission's recommendations. The Town Council was not in favor of making outdoor seating a permanent use, but wanted any expansion of outdoor seating based on the number of indoor seats to be a special exception use. They did not like the concept of a percentage of a restaurant's indoor seating to be used for outdoor seating. They did not want to expand outdoor seating outside the restaurant boundaries. They wanted ARCOM and Landmarks to approve outdoor furniture but felt staff could possibly develop a pattern book for restaurants to follow. They did not want the furniture to be left outside at night. They wanted the Planning and Zoning Commission to proceed slowly and recognize there would not be a cookie cutter solution since every restaurant was different, and to be careful with retractable awnings. Council believed outdoor seating was an intensification of use, and asked that Planning and Zoning follow the comprehensive plan when reviewing regulations. The cautioned that they did not want the Town to be similar to Delray Beach. They liked the idea of sidewalk café rules, and wanted outdoor seating to be peaceful and serene.

Mr. Spaziani discussed an issue with Testa's and expressed concern for using spot zoning for restaurants.

Rick Pollock asked for clarification for the reason that the Town Council did not want to increase the number of seats. He thought that growth needed to be controlled and guidelines be established for applicants to follow. Mr. Pollock also thought the basics should be discussed first before getting in to any other details.

Chair Ainslie thought the process was proceeding as it should, and it would come down to drafting language, the attorneys making sure the comprehensive plan was respected and that the Planning and Zoning Commission was not doing anything that was inappropriate.

Motion made by Mr. Kleid and seconded by Mr. Spaziani to allow outdoor seating, with no increase in the number of seats, limited to the perimeter line of the restaurant and all other details to be worked out at a later date.

Mr. Sanchez questioned the motion and the property lines.

Ms. McDonald did not think one solution was appropriate for all restaurants and wondered if public and private should be separated.

Mr. Tatooles thought a public street versus a courtyard of a shopping center should be outlined differently.

Mr. Gilbane suggested Director Bergman provide the particular language used by the Town for perimeter boundaries. Director Bergman responded with both indoor and outdoor seating could not exceed the amount approved for inside. He reviewed the requirements to obtain more seats.

Mr. Sanchez was in favor of outdoor seating but questioned if the seats would increase or reduce pre-COVID seating. Mr. Spaziani thought it was Code Enforcement's job to assure allowable seating would not increase.

Mr. Christu thought the Town Council's decision to have each application be a special exception would provide sufficient oversight, and felt it should be turned over to staff to provide language.

Ms. McDonald suggested recommending the sidewalk café style program, adding a one-year review period for the outdoor seating.

Chair Ainslie commented about the concern of becoming a dining destination. He reported use of tennis and golf facilities by town residents had increased significantly during the past year, and residents were eating out more and utilizing the outdoor seating.

Motion amended by Mr. Kleid and seconded by Mr. Spaziani to add a one-year review period for outdoor seating.

Chair Ainslie called for public comment.

Julie Araskog, 1490 Via Manana, wondered if there were ADA requirements for sidewalk seating. Mr. Bergman responded and discussed the importance of the ADA review of each application.

Motion carried 6-1, with Mr. Sanchez opposed.

Mr. Castro stated that staff would draft language that would modify the Code and would return to the Commission with these revisions for their review.

VII. PROPOSED CODE MODIFICATIONS FOR DOCKS AND PIERS

Mr. Castro introduced an issue where homeowners were further developing their rear yards out over the water, more than just a dock. He believed the conservation district regulations should be tightened. He pointed out language in the code where residents were taking advantage and where changes could be made.

Mr. Spaziani inquired whether the owner was required to obtain a permit from DEP and/or the Army Corp of Engineers. Mr. Castro responded they were. Mr. Spaziani inquired if a provision was included about the material to be used. He suggested limiting the material to ones used for docks. Mr. Castro pointed out a concern of chemicals in fertilizer leaching into the water.

Mr. Sanchez spoke about the benefits of green docks, which had been initiated by his firm. He explained they were created as a biologically perfect system so there was no leaching into the water, and there had never been any negative comments. He felt this would deny property owners of their rights and inquired who initiated the item. Mr. Castro stated he had introduced the item to the Town Council, who also wanted to study the item. Mr. Sanchez did not see why the whole town should be subjected to this scrutiny. He questioned why residents should be denied their rights when he had never heard anything negative, except from Mr. Castro. Chair Ainslie commented he felt the worst instance was where the pool deck had been covered with grass and extended out over the water. Mr. Sanchez responded if the Town had given a special exception for that dock, then the Town was at fault, and he felt a green dock was much more attractive and better for the environment than a plastic or wood dock. He commented if one house had done it incorrectly, that house should be blamed, not the entire community. He explained a green dock had grass but all of the runoff went back onto the lot and not into the water. To his knowledge, they had never received a permit for a green dock that extended out farther than eight feet, and the permit was granted by the Corp of Engineers.

Mr. Pollock thought that Paul's concern was in the increase in size and width to their dock. He agreed there were eco-friendly coverings. Mr. Castro showed examples of increased size of the rear yard.

Mr. Ainslie suggested that Jorge Sanchez recuse himself as he had an economic impact regarding the issue. Mr. Ainslie also felt this item should be deferred for further study.

Ms. McDonald questioned whether the owner paid taxes on the larger property. She also questioned if the Town should provide a permit prior to a DEP permit as DEP did not look at the Town's concerns and was more concerned with the habitat and water quality. Mr. Castro stated that State law precluded the Town from stopping or slowing a project to get DEP approval first or vice versa. DEP was concerned with habitat and navigation, while the Town was concerned with zoning and development.

Ms. Beuttenmuller inquired about the dock width that extended further out. Mr. Castro explained the width regulations.

Mr. Gilbane suggested outlining the issues and then assigning each governmental body that had jurisdiction on the issue. Mr. Castro indicated he would cover those issues at the next meeting.

Motion made by Mr. Kleid and seconded by Mr. Spaziani to defer the discussion item to the May 21, 2021 meeting.

Mr. Ainslie stated the Commission was in favor of closing the loophole but requested further study as to what was allowed, environmentally sensitive treatment, and minimizing adverse impact on Lake Worth.

Motion carried unanimously.

VIII. PROPOSED INCENTIVES FOR LANDMARK BUILDINGS AND STRUCTURES

Laura Groves van Onna, Historical Preservation Planner, discussed the potential incentives for landmark buildings and structures. She summarized the memo that was sent to the Commission members, reviewed the revisions to the Code that were proposed, and requested input from the Commission.

Mr. Ainslie restated the two suggestions made by staff, which included the abutting property owners' ability to weigh in but not halt a project and that this process could become an administrative process. Ms. Van Onna responded those were two of the initial thoughts in order to simplify the process.

Mr. Kleid asked if the intention for dimensional waivers was to incentivize people to landmark their homes or to help rehabilitate landmark properties. Ms. Van Onna felt those went hand in hand. She also explained the role of the property owner when landmarking a property.

Mr. Spaziani agreed with Chair Ainslie's comments and asked Ms. Van Onna to respond to the lack of neighbor approval and the issue of going to Town Council for these modifications. She responded the intent was to simplify the process and allow time for back and forth between the property owner and neighbors. The process was not intended to cut out perspective from abutting property owners, and added they could always appeal the Landmark Preservation Commission's approval.

Ms. Beuttenmuller asked for clarification of the wording "at minimum" in code 134-235(c).

Ms. McDonald felt notification by certified mail only was unfair. Ms. Van Onna explained the comments on the sections of the Code from Ms. Beuttenmuller and Ms. McDonald were applicable to non-landmarked properties.

Zoning Manager Castro explained this waiver process had become more cumbersome than the variance process, and the intent was to simplify.

Mr. Spaziani asked if Ms. Van Onna had received emails from Carol LeCates, as Ms. LeCates did not see the need to make changes to the dimensional waivers. Ms. Van Onna felt something must be done in order to utilize this portion of the Code.

Zoning Manager Castro stated this portion of the code had only been used twice in 12 years.

Mr. Ainslie asked if the Preservation Foundation was in favor of these changes. Ms. Van Onna responded they were in favor of revising this portion of the code, and staff was happy to continue to work on this with the support of the Preservation Foundation and Town Council, and bring back further changes at a later date.

Chair Ainslie requested to also bring back examples of historic properties as to how these modifications would affect their restoration.

Mr. Sanchez thanked the Town for looking into this matter to provide an incentives for property owners to landmark their homes. Chair Ainslie echoed that opinion, stating he felt this was a very good direction, and asked for further study and examples.

IX COMMENTS FROM PLANNING AND ZONING COMMISSIONERS AND THE PLANNING, ZONING AND BUILDING DIRECTOR

Mr. Sanchez had a question about the Code change that stated the pool equipment could not be further than 25 feet from the pool or fountain it served. Mr. Castro stated the change came out of the Planning and Zoning Commission discussion.

X. ADJOURNMENT

Meeting adjourned at 11:06 a.m. without the benefit of a motion.

Respectfully Submitted,

Michael Ainslie, Chair
Town of Palm Beach
Planning & Zoning Commission