

MINUTES
PLANNING AND ZONING COMMISSION
2004-2005 ZONING HEARINGS
Thursday, December 16, 2004 at 9:30 a.m.
360 South County Road, Palm Beach
Town Council Chambers

I Call to Order and Roll Call: Chairman Richard Kleid called the meeting to order at 9:30 a.m.

PRESENT: Richard M. Kleid, Chairman
 Joanna Golino, Secretary
 Lowry M. Bell, Member
 Peter S. Broberg, Member (arrived @ 9:32 a.m.)
 Harrison M. Robertson, Member
 Nancy M. Murray, Member
 Elizabeth S. Murphy, Alternate Member
 Susan Markin, Alternate Member
 John Schuler, Alternate Member
 Robert L. Moore, Dir. of Planning, Zoning & Building (arrived at 9:57 a.m.)
 Veronica B. Close, Asst. Dir. of Planning, Zoning & Building
 Paul W. Castro, Zoning Administrator

ABSENT: Jorge A. Sanchez, Member (Unexcused)
 John C. Randolph, Town Attorney

RECORDED AND TRANSCRIBED BY: Cynthia M. Delp

II Consideration of transmittal of the Record and Report of the Town Planning and Zoning Commission to the Town Council

Mr. Kleid suggested that the commission proceed with a page by page review of the Record and Report. If any member wished to make any comments, additions or deletions to the document, he/she should state so when that page is referenced.

At Page 15, Ms. Murphy offered a correction to the Record and Report in the second to the last

paragraph, relative to possibly charging a fee to property/business owners when they have neglected landscape maintenance. She noted that she was not sure that there was such an ordinance in West Palm Beach. Ms. Murphy stated she would check on the status of this matter to see if an ordinance was ever enacted, or if some other agreement was made.

As such, the last sentence of the second to last paragraph on Page 15 of the Record and Report will read “Ms. Murphy said that such an ordinance **was discussed** in West Palm Beach.”

MOTION BY MR. BELL TO ADOPT THE RECORD AND REPORT, AS AMENDED, FOR TRANSMITTAL TO THE TOWN COUNCIL.

MOTION SECONDED BY MR. BROBERG.

MOTION CARRIED 7-0. (*Ms. Murphy voted, as Mr. Sanchez was absent.*)

III ANY OTHER ITEMS:

The Chairman, Secretary, and Mr. Castro complimented Mrs. Delp relative to the Record and Report.

Mr. Kleid stated that Mr. Broberg had sent correspondence to Mr. Moore, which was copied to Mr. Kleid and several others, relative to a suggested approach to handling special exceptions and variances. Mr. Kleid commented that Mr. Broberg had presented fresh, new ideas which were on point. He suggested that Mr. Broberg’s letter be distributed to all of the commission members with the backup information for the January 27th and January 28th hearings, at which time this subject will be discussed. Ms. Close confirmed that staff will take care of this, and she noted that staff will consider the suggestions in Mr. Broberg’s letter during their study of variances and special exceptions.

It should be noted that a gentleman in the audience asked whether Mr. Broberg’s letter was available on the web site. Ms. Close responded that staff receives many letters, and they are available for view and copy, by the public, at the Planning, Zoning & Building Department, but are not on the Town’s web site.

Mr. Robertson recognized Mr. William Guttman, Chief Executive Officer of the Palm Beach Civic Association, who was seated in the Council Chambers. He asked Mr. Guttman whether the Civic Association was also conducting a study relative to variances and special exceptions.

Mr. Guttman stated that the Civic Association has hired the law firm of Siemon & Larsen, who also act as expert land use counsel to the Town of Palm Beach, to conduct an empirical study of variance requests reviewed over the last seven years. The Town staff is conducting their own

empirical study of special exceptions granted by the Town Council over the last five years. Siemon & Larsen, having received that special exception data approximately one month ago from the Town staff, has not yet finished its analysis of special exceptions. Mr. Guttman projected that the Siemon & Larsen study should be available by the first week of February. It was noted that the Planning and Zoning Commission will be discussing the subject of variances and special exceptions, using the Town staff's study, at their hearings in late January, but before the Civic Association's study is available.

Mr. Kleid noted that it was his understanding that the Town Council will hold a workshop dedicated to the subject of variances and special exceptions in the month of March. He asked the Planning and Zoning Commission if it was still their intent to proceed with discussing this matter at the January hearings, based on the staff's study. Ms. Markin inquired as to the nature of the Civic Association study. Mr. Kleid responded that the Civic Association will be reviewing the number of variances and special exceptions, and the reasons they were requested, with an ultimate goal of offering suggestions for possible improvement.

Mr. Guttman explained that Siemon & Larsen was challenged to categorize the variances into large categories or patterns, and to evaluate whether the granted variances met established hardship criteria. They were likewise challenged to examine the variances to see if they could develop ideas which could add some degree of flexibility to the zoning code, provided they are standard-based and are true to the land use values and character of the Town. The ultimate goal of the Siemon & Larson study is to spur a community-wide discussion on the subject. Mr. Guttman noted that the Siemon & Larsen report is not studying whether or not the decision-making involved in granting or denying variances and special exceptions should be delegated to the Planning and Zoning Commission, or to some other board or commission.

Mr. Broberg commented that he will be very interested to see the Siemon & Larsen report, particularly, the hardship analysis. He ventured to guess that 99% of variances granted do not meet the legal hardship requirements, and have been granted using common sense, especially since so many properties are non-conforming with respect to the zoning code. He also remarked that the more stringent the zoning code is made, the more variances will be needed.

Mr. Guttman responded that the Siemon & Larsen report, in trying to suggest additions to provide flexibility to the zoning code, within given guidelines, will deal with 75% of the variances examined during the seven year time period. The report will suggest that standard-based criteria should be considered which would allow some degree of improvement to homes, like those in the north end, without their having to obtain one or more variances.

Ms. Murphy suggested that the Planning and Zoning Commission discussions relative to variances and special exceptions be postponed until after the Siemon & Larsen report is available.

Mr. Guttman explained that the Civic Association commenced their study with the intention that it would be used only for the private use of the Civic Association. The Town Council, upon

learning of the Civic Association's study, asked that it be made available to the Town Council for use at their workshop in March, and also asked that it be expanded to include a review of special exceptions. As such, he suggested that it may be inappropriate, according to the Town Council, for the Planning and Zoning Commission to intercept and review the Siemon & Larsen report at a meeting prior to the Town Council's March workshop to discuss the matter.

Mr. Castro stated that staff was directed by the Town Council to develop a recommendation to the Town Council relative to the ability to reduce the number of variances and special exceptions. This recommendation would only be forwarded, however, after the Planning and Zoning Commission considers the matter in January. As such, staff would recommend that the Planning and Zoning Commission review the staff's study at the January hearings, thereby giving the Town Council the opportunity, prior to their March workshop, to review the Planning and Zoning Commission's recommendations relative to that study.

Mrs. Golino thought it would be prudent to delay the Planning and Zoning Commission's review of special exceptions and variances to prevent a loss of focus on reviewing the zoning regulations for the R-B Zoning District. Mr. Kleid responded by listing various available courses of action, i.e., to proceed with the previously scheduled review of the staff's study of variances and special exceptions at the hearings in late January; or to delay discussion of variances and special exceptions to a date in February after the release of the Civic Association's study.

Mr. Bell saw no reason for delaying the discussion relative to variances and special exceptions, as the staff's study will be forwarded to the Town Council, with or without Planning and Zoning Commission review. Mrs. Murray suggested that the Planning and Zoning Commission begin review of the staff's study at the January hearings, then postpone the matter until after the Civic Association's study is available, and then form a conclusion.

Ms. Close advised the commission that the staff's report will be ready for the January hearings, and the Town Council will be expecting some sort of report from the Planning and Zoning Commission reflecting a review of the staff's study. Mr. Schuler agreed with Mrs. Murray, stating that the Planning and Zoning Commission has an obligation to review the staff's study, and make comments, allowing for an option to postpone discussions to a later date. Mr. Kleid agreed with Mrs. Murray and Mr. Schuler.

Mr. Moore stated that the Town Council has asked both the Civic Association and the Town's staff to study the subject of variances and special exceptions. Demonstrating hardship is a legal requirement for granting a variance, and this legal requirement is often not met, as stated earlier. A comprehensive review of this matter may bring about any number of changes to the present system of granting variances and special exceptions. Mr. Moore assured Mr. Guttman and the Planning and Zoning Commission that the Town Council is very interested in both the Civic Association and the staff moving forward with their respective studies, so they can review all ideas put forth. Mr. Moore also addressed Mrs. Golino's concerns by stating that the R-B studies concern re-development issues and are on a separate track from these variance studies.

which might help preserve existing structures by clarifying the process by which they might be renovated.

Mr. Guttman added that the Civic Association is very interested in the staff's upcoming seven street study, and the concept of neighborhood averaging.

Mr. Kleid announced that unless he heard any motions to the contrary, the Planning and Zoning Commission would proceed with the normal schedule for the January 27th and January 28th meetings, which includes review of the staff's study relative to variances and special exceptions. There were no motions or objections to the contrary.

IV ADJOURNMENT:

MOTION BY MR. BELL TO ADJOURN THE MEETING AT 10:08 A.M.

MOTION SECONDED BY MR. ROBERTSON.

MOTION CARRIED UNANIMOUSLY.

Respectfully submitted,

Richard Kleid, Chairman
Town of Palm Beach
Planning and Zoning Commission

Joanna Golino, Secretary
Town of Palm Beach
Planning and Zoning Commission

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