



TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, OCTOBER 12, 2011

1 **I. CALL TO ORDER AND ROLL CALL**

2
3 The Regular Town Council meeting was called to order on Wednesday, October 12, 2011
4 at 9:30 a.m. in the Town Council Chambers. On roll call, all of the elected officials were
5 found to be present.
6

7 **II. INVOCATION AND PLEDGE OF ALLEGIANCE**

8
9 Town Clerk Owens gave the invocation. Council President Rosow led the Pledge of
10 Allegiance.
11

12 **III. COMMENTS OF MAYOR GAIL L. CONIGLIO** - None

13
14 **IV. COMMENTS OF TOWN COUNCIL MEMBERS AND TOWN MANAGER** - None

15
16 **V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE**

17
18 Tom Parker, 215 Jamaica Lane, spoke regarding a memo that he submitted to the Town
19 Council regarding a particular generator, and generators in general. He indicated that the
20 generator at 216 Tradewind Drive was not in compliance with the noise ordinance, and
21 requested that the Council look into the issue.
22

23 Council President Rosow advised Mr. Parker that when the generator comes on, he
24 should call the Police Department and have them check the decibel level for possible
25 violations of the noise ordinance.
26

27 **VI. APPROVAL OF AGENDA**

28
29 The following changes were made to the Agenda:

30
31 **DEFERRED:** Item VII.C.1.a., Special Exception #25-2011, was deferred to the
32 November 9, 2011 Town Council meeting.

1 Council Member Kleid stated that he would like to make a motion to reconsider Special
2 Exception #25-2011, for the sole purpose of incorporating provisions for hours of
3 operation, delivery schedules, and types of deliveries into the associated Declaration of
4 Use Agreement.
5

6 **Motion was made by Council Member Kleid and seconded by Council Member Diamond**
7 **to reconsider Special Exception #25-2011 for the sole purpose of incorporating provisions**
8 **for hours of operation, delivery schedules, and types of deliveries into the associated**
9 **Declaration of Use Agreement. On roll call, the motion carried unanimously.**
10

11 *Clerk's Note: Further discussion on the above item was had under Item #VII.C.1.a.*
12

13 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
14 **to approve the Agenda, as amended. On roll call, the motion carried unanimously.**
15

16 **VII. DEVELOPMENT REVIEWS**
17

18 Town Clerk Owens administered the oath to all those who would be providing testimony.
19

20 A. Appeals – None
21

22 B. Time Extensions & Waivers
23

- 24 1. Request for Waiver of Section 42-199, Hours of Construction Work, at
25 150 Worth Avenue, Units 115A and 115B (The Esplanade) (Per Letter
26 Dated September 21, 2011, from Bob Waskiewicz).
27

28 Keith Spina, of Glidden, Spina & Partners Architecture, Inc., provided an overview of the
29 applicant's request.
30

31 Director of Planning, Zoning, and Building Page provided staff's comments.
32

33 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
34 **to approve the Request for Waiver of Section 42-199, Hours of Construction Work, at 150**
35 **Worth Avenue, Units 115A and 115B (The Esplanade), subject to the conditions within the**
36 **staff report. On roll call, the motion carried unanimously.**
37

- 38 2. Request for Waiver of Section 42-199, Hours of Construction Work, at
39 235-C Worth Avenue (Per Letter Dated September 29, 2011, from Jason
40 Ball).
41

42 Keith May, of Tom Rectenwald Construction, Inc., indicated that the project address is
43 225-C Worth Avenue, rather than 235-C Worth Avenue. He then provided an overview

1 of the applicant's request.

2
3 Director of Planning, Zoning, and Building Page provided staff's comments.

4
5 **Motion was made by Council Member Diamond and seconded by Council Member Pucillo**
6 **to approve the Request for Waiver of Section 42-199, Hours of Construction Work, at 225-**
7 **C Worth Avenue, subject to the conditions within the staff report. On roll call, the motion**
8 **carried unanimously.**

- 9
10 3. Request for Waiver of Section 42-199, Hours of Construction Work, at
11 351/347 Worth Avenue (Everglades Club) (Per Letter Dated September 9,
12 2011, from Maura A. Ziska).
13 Variances, Special Exceptions, and Site Plan Reviews

14
15 Attorney Ziska, on behalf of the Everglades Club, provided an overview of the
16 applicant's request.

17
18 Director of Planning, Zoning, and Building Page provided staff's comments.

19
20 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
21 **to approve the Request for Waiver of Section 42-199, Hours of Construction Work, at**
22 **351/347 Worth Avenue (Everglades Club), subject to the conditions within the staff report.**
23 **On roll call, the motion carried unanimously.**

- 24
25 C. Variances, Special Exceptions, and Site Plan Reviews

- 26
27 1. Old Business

- 28
29 a. SPECIAL EXCEPTION #25-2011 The application of Johnny
30 Meier, President, FEDCO, Inc.; relative to property commonly
31 known as **2875 So. Ocean Blvd.**; described as lengthy legal
32 description on file; located in the C-TS Zoning District. The
33 applicant requests a special exception approval pursuant to
34 Condition #2 in the original approval in 1980 to construct the
35 existing building in the subject property (Special Exception #25-
36 1980). The condition requires any retail applicant to contain Town
37 Council approval for any use other than office and professional
38 services. This request is to allow Fedco to operate a retail
39 pharmacy in suite 103 of the first floor of the subject property
40 containing 1,879 square feet. Site Plan Review approval is
41 requested to convert approximately 1,879 sq. ft. of existing
42 rentable floor area in suite 103 of the first floor to allow Fedco to
43 operate a retail pharmacy. [Representative: Johnny Meier]

- (1) Declaration of Use Agreement
Request for Deferral to the November 9, 2011, Town Council Meeting Per Memorandum Dated September 30, 2011, from John S. Page, Director, Planning, Zoning, and Building Department. – This item was deferred to the November 9, 2011 Town Council meeting.

Clerk's Note: This item was deferred earlier in the meeting, and then brought back up for reconsideration for the sole purpose of discussing the Declaration of Use Agreement.

Council Member Kleid stated that he wanted to include hours of operation and delivery conditions in the associated Declaration of Use Agreement.

Motion was made by Council Member Kleid and seconded by Council Member Diamond that the associated Declaration of Use Agreement incorporate the following provisions regarding hours of operation and deliveries:

Hours of Operation: Monday-Friday, 9:00 a.m.-6:00 p.m.; Saturday, 9:00 a.m.-5:00 p.m.; and closed on Sundays.

Deliveries: Medical deliveries are to be made in an unmarked van; retail deliveries will be made via Fed-Ex or other small delivery vehicle.

On roll call, the motion carried unanimously.

- b. VARIANCE #21-2011 The application of Robert Holuba relative to property commonly known as **1500 Lake Court**; described Lot B, LAKE FRONT ADDITION TO BOCA RATON COMPANY'S INLET SUBDIVISION, according to the map or plat thereof as recorded in Plat Book 18, Page 5, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests a variance to allow the addition of a "T" shaped dock with an outside length of 34 feet with two wood mooring pile clusters that will be 62 feet from the bulkhead in lieu of the 6 foot maximum allowed and the installation of two inside boat lifts associated with an existing 6 foot marginal dock.
[Attorney: Gregory S. Kino]
Deferred from the September 14, 2011, Town Council Meeting.

The following ex-parte communications were declared: Council Member Diamond and Mayor Coniglio spoke with Attorney Kino, who advocated the position of his client.

Attorney Kino, of Casey, Ciklin, Lubitz, Martens, & O'Connell Law Firm, on behalf of Robert Holuba, provided an overview of the applicant's request.

1 Zoning Administrator Castro provided staff's comments. He requested that reflectors and
2 solar lighting be added as conditions of approval.

3
4 **Motion was made by Council Member Diamond and seconded by Council President Pro**
5 **Tem Wildrick that Variance #21-2011 be granted and find, in support thereof, that all of**
6 **the criteria applicable to this application as set forth in Section 134-201(a), items 1 through**
7 **7 have been met, subject to the conditions that reflectors be installed on the piles, and solar**
8 **lighting be installed on the dock. On roll call, the motion carried unanimously.**
9

- 10 c. VARIANCE #23-2011 The application of Stephen & Anne Marie
11 Haymes; relative to property commonly known as **146 Seminole Avenue**;
12 described as The West 40 feet of Lot 9, all of Lot 10, and the East 10 feet
13 of Lot 3, OCEAN PARK H.W. ROBBINS ADDITION TO PALM
14 BEACH, according to the plat thereof, recorded in Plat Book 6, Page 78,
15 of the Public Records of Palm Beach County, Florida; located in the R-B
16 Zoning District. The applicant requests a variance to construct a second
17 story addition that would enclose a 169 square foot balcony and would
18 result in a cubic content ratio of 4.32 in lieu of the 4.3 existing and the
19 3.98 maximum allowed in the R-B Zoning District. [Attorney: Maura A.
20 Ziska]
21 [ARCOM Recommendation: Implementation of the proposed variance
22 will not cause negative architectural impacts to the subject property.
23 Carried 7-0.]

24 ***Deferred from the September 14, 2011, Town Council Meeting.***
25

26 The following ex-parte communications were declared: Council Members Pucillo,
27 Diamond, and Kleid, Council President Pro Tem Wildrick, and Council President Rosow
28 spoke with Attorney Ziska, who advocated the position of her client.
29

30 Attorney Ziska, on behalf of Stephen and Anne Marie Haymes, provided an overview of
31 the applicant's request.
32

33 Architect Pat Segraves, of SKA Architect & Planner, presented the architectural plans for
34 the project.
35

36 Zoning Administrator Castro provided staff's comments.
37

38 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
39 **that Variance #23-2011 be granted and find, in support thereof, that all of the criteria**
40 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been**
41 **met. On roll call, the motion carried unanimously.**
42
43

2. New Business

- a. VARIANCE #25-2011 The application of 11 Vita Serena LLC (Jeffrey and Marsha Perelman); relative to property commonly known as **181 Clarendon Avenue**; described as Lot 11, VITA SERENA according to the plat thereof, recorded in Plat Book 9, Page 59, of the Public Records of Palm Beach County, Florida; located in the R-A Zoning District. The applicant requests a variance to construct a 357.75 square foot loggia addition to the rear of their house. The variances requested for the loggia addition are as follows: rear yard setback of 12.5 feet in lieu of the 15 foot minimum required in the R-A Zoning District; lot coverage of 29.47 % in lieu of the 27.55 % existing and the 25 % maximum allowed in the R-A Zoning District. [Attorney: Maura A. Ziska]
[Landmark Preservation Commission Recommendation: Implementation of the proposed variance will not cause negative architectural impacts to the subject landmark property. Carried 7-0.]

The following ex-parte communications were declared: Council Members Pucillo, Diamond, and Kleid, Council President Pro Tem Wildrick, and Council President Rosow spoke with Attorney Ziska, who advocated the position of her client.

Attorney Ziska, on behalf of Mr. and Mrs. Perelman, provided an overview of the applicant's request.

Architect Gene Pandula presented the architectural plans for the project.

Zoning Administrator Castro provided staff's comments.

Motion was made by Council Member Diamond and seconded by Council President Pro Tem Wildrick that Variance #25-2011 be granted and find, in support thereof, that all of the criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been met. On roll call, the motion carried unanimously.

- b. VARIANCE #26-2011 The application of Grier and Kristy Pressly; relative to property commonly known as **242 Seaspray Avenue**; described as Lots 421 and 423, POINCIANA PARK 2nd Addition, according to the plat thereof, recorded in Plat Book 6, Page 86, of the Public Records of Palm Beach County, Florida; located in the R-B Zoning District. The applicant requests a variance to construct a 161 square foot addition to add a front

1 porch onto their house. The variances being requested for the
2 addition are as follows: cubic content ratio of 4.62 in lieu of the
3 4.39 existing and maximum allowed in the R-B Zoning District;
4 front yard setback of 22.3 feet in lieu of the 25 foot minimum
5 allowed in the R-B Zoning District; lot coverage of 38.2 % in lieu
6 of the 36 % existing and the 30 % maximum allowed in the R-B
7 Zoning District; East side yard setback of 4.2 feet in lieu of the
8 12.5 foot minimum required in the R-B Zoning District.

9 [Attorney: Maura A. Ziska]

10 [ARCOM Recommendation: Implementation of the proposed
11 variance will not cause negative architectural impacts to the
12 subject property. Carried 7-0.]

13
14 The following ex-parte communications were declared: Council Members Pucillo,
15 Diamond, and Kleid, Council President Pro Tem Wildrick, and Council President Rosow
16 spoke with Attorney Ziska, who advocated the position of her client. Mayor Coniglio
17 spoke with the property owners, who advocated their position.

18
19 Attorney Ziska, on behalf of Grier and Kristy Pressly, provided an overview of the
20 applicant's request.

21
22 Architect Jason Drobot, of Brasseur & Drobot Architects, presented the architectural
23 plans for the project.

24
25 Zoning Administrator Castro provided staff's comments.

26
27 **Motion was made by Council Member Diamond and seconded by Council Member Pucillo**
28 **that Variance #26-2011 be granted and find, in support thereof, that all of the criteria**
29 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been**
30 **met. On roll call, the motion carried unanimously.**

- 31
32 c. VARIANCE #27-2011 The application Lee Kellogg Sadrian and
33 Cynthia Kellogg; relative to property commonly known as **17**
34 **Middle Road**; described as Lots 33 and 34, SINGER ADDITION
35 to the Town of Palm Beach, according to the plat thereof, recorded
36 in Plat Book 8, Page 81, of the Public Records of Palm Beach
37 County, Florida.; located in the R-A Zoning District. The
38 applicant requests a variance to construct a 687 square foot two
39 story garage to replace an existing garage which is proposed to be
40 converted into living space on the property. In order to construct
41 the proposed addition, a variance is requested to have a side yard
42 setback of 5.2 feet in lieu of the 15 foot minimum required in the
43 R-A Zoning District.

1 [Attorney: Maura A. Ziska]

2 [ARCOM Recommendation: Implementation of the proposed
3 variance will not cause negative architectural impacts to the
4 subject property. Carried 6-1.]

5
6 The following ex-parte communications were declared: Council Members Pucillo,
7 Diamond, and Kleid, Council President Pro Tem Wildrick, and Council President Rosow
8 spoke with Attorney Ziska, who advocated the position of her client.

9
10 Attorney Ziska, on behalf of Sadrian Lee and Cynthia Kellogg, provided an overview of
11 the applicant's request.

12
13 Architect Caroline Forrest, of M. Perry Design, Inc., presented the architectural plans for
14 the project.

15
16 Zoning Administrator Castro provided staff's comments.

17
18 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
19 **that Variance #27-2011 be granted and find, in support thereof, that all of the criteria**
20 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been**
21 **met. On roll call, the motion carried 4-1, with Council Member Pucillo dissenting.**

- 22
23 d. SPECIAL EXCEPTION #29-2011 WITH VARIANCE The
24 application of Thomas Moloney and Jan S. Moloney; relative to
25 property commonly known as **1170 North Ocean Blvd.**; described
26 as Lots 6 and 7, and the North 15 feet of Lots 9 and 10, Replat of
27 part of EL ENCANTO, according to the plat thereof as recorded in
28 Plat Book 18, Page 95, Public Records of Palm Beach County,
29 Florida; located in the R-A Zoning District. The applicant requests
30 a variance to construct a 440 square foot beach cabana on property
31 across the street from the main residence, which is in the R-B
32 Zoning District. Variances are requested to construct a beach
33 cabana with a dimension of 24 feet by 20 feet in lieu of the 10 feet
34 by 20 feet maximum allowed and with an area of 440 square feet
35 in lieu of the 200 square foot maximum allowed in the Beach Area
36 District. [Attorney: Maura A. Ziska]

37
38 The following ex-parte communications were declared: Council Member Diamond,
39 Council President Pro Tem Wildrick, and Council President Rosow spoke with Attorney
40 Ziska, who advocated the position of her client. Mayor Coniglio, and Council Members
41 Pucillo and Kleid spoke with the property owner and Attorney Ziska, who advocated
42 their positions.

1 Attorney Ziska, on behalf of Mr. and Mrs. Moloney, provided an overview of the
2 applicant's request.

3
4 Architect Pat Segraves, of SKA Architects, presented the architectural plans for the
5 project.

6 Zoning Administrator Castro provided staff's comments.
7

8 **Motion was made by Council Member Diamond and seconded by Council President Pro**
9 **Tem Wildrick that Special Exception #29-2011 shall be granted based upon the finding that**
10 **such grant will not adversely affect the public interest and that the applicable criteria set**
11 **forth in Section 134-229 of the Town Code have been met, that the variances related to**
12 **Special Exception #29-2011 be granted and find, in support thereof, that all of the criteria**
13 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been**
14 **met, subject to the demolition of the existing cabana. On roll call, the motion carried 4-1,**
15 **with Council Member Kleid dissenting.**
16

17 **Staff was further directed to inform the Architectural Commission of the Council's intent**
18 **that the interior space of the proposed cabana not exceed 320 square feet.**
19

- 20 e. SPECIAL EXCEPTION #30-2011 The application of New
21 Bradley House, LTD and Paramount Church, Inc.; relative to
22 property commonly known as **290 Sunset Avenue and 139 No.**
23 **County Road**; described as The East 10 feet of Lot 30 and all of
24 Lots 31-37 inclusive, FLORAL PARK, a subdivision in the Town
25 of Palm Beach, Florida, according to the Plat thereof on file in the
26 office of the Clerk of the Circuit Court in and for Palm Beach,
27 Florida, in Plat Book 2, Page 6 AND Lots 164 through 172 less the
28 West 15 feet of Lots 166 through 172, inclusive, FLORAL PARK,
29 a subdivision in the Town of Palm Beach, Florida, according to the
30 Plat thereof on file in the office of the Clerk of the Circuit Court in
31 and for Palm Beach, Florida, in Plat Book 2 Page 6.; located in the
32 C-TS Zoning District. The applicant requests a special exception
33 use to allow the operation of a 3,500 square foot gross leasable
34 area restaurant "Trevini Ristorante" with 106 seats (28 of those
35 outdoors) in the Bradley House hotel building and courtyard area.
36 Since the proposed restaurant is in excess of 3,000 square feet, a
37 finding of town serving is required. The applicant is proposing to
38 abide by all conditions of approval of the previous restaurant.
39 Special exceptions are requested to allow 28 of the indoor seats to
40 be outside in the courtyard and to locate 30 off-site shared
41 supplemental parking spaces at the Paramount Church parking lot
42 located at 139 North County Road. [Attorney: Maura A. Ziska]
43

1 The following ex-parte communications were declared: Council Members Pucillo,
2 Diamond, and Kleid, Council President Pro Tem Wildrick, Council President Rosow, and
3 Mayor Coniglio spoke with Attorney Ziska, who advocated the position of her client.

4
5 Attorney Ziska, on behalf of New Bradley House, LTD and Paramount Church, Inc.,
6 provided an overview of the applicant's request.

7
8 Zoning Administrator Castro provided staff's comments.

9
10 **Motion was made by Council Member Diamond and seconded by Council President Pro**
11 **Tem Wildrick that that Special Exception #30-2011 shall be granted based upon the finding**
12 **that such grant will not adversely affect the public interest and that the applicable criteria**
13 **set forth in Section 134-229 of the Town Code have been met. On roll call, the motion**
14 **carried unanimously.**

15
16 D. Other

- 17
18 1. Request to Study a Proposal Which Would Allow Property Owners to
19 Split Joined Condominiums into the Original Number of Units.

20
21 Zoning Administrator Castro provided an overview of the request that he received from
22 Attorney Erin Deady, of Lewis, Longman, & Walker, to study the issue of splitting joined
23 condominiums into the original number of units. He stated that staff was concerned
24 about parking and increasing density.

25
26 Attorney Peter Broberg, on behalf of Owen and Marjorie Larkin, expressed concern
27 regarding potential inconsistencies in the Comprehensive Plan.

28
29 Attorney Deady requested direction from the Council as to what areas of concern they
30 would like her to address in her proposal.

31
32 Owen Larkin, 315 S. Lake Drive, spoke in support of the proposal.

33
34 **The consensus of the Town Council was that Attorney Deady could present, at the**
35 **November 9, 2011 Town Council meeting, her proposal regarding Comprehensive Plan**
36 **changes relative to allowing property owners to split joined condominiums into the original**
37 **number of units. The Council directed her to address the following concerns: control**
38 **numbers, full kitchens, tax impacts, the number of units the proposed change would effect,**
39 **approval by the condominium associations, density, the expense of amending the**
40 **Comprehensive Plan, and parking.**

41
42 **VIII. ANY OTHER MATTERS - None**
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1 **IX. ADJOURNMENT**

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3 There being no further business, the October 12, 2011, Town Council meeting was
4 adjourned at 11:53 a.m.
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15 APPROVED:

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David A. Rosow
Town Council President

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15 ATTEST:

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Susan A. Owens, MMC
Town Clerk