



TOWN OF PALM BEACH

Office of The Town Clerk

MINUTES OF THE REGULAR TOWN COUNCIL MEETING HELD ON WEDNESDAY, SEPTEMBER 14, 2011

I. CALL TO ORDER AND ROLL CALL

The Regular Town Council meeting was called to order on Wednesday, September 14, 2011 at 9:30 a.m. in the Town Council Chambers. On roll call, all of the elected officials were found to be present.

II. INVOCATION AND PLEDGE OF ALLEGIANCE

Town Clerk Owens gave the invocation. Council President Rosow led the Pledge of Allegiance.

III. COMMENTS OF MAYOR GAIL L. CONIGLIO

Mayor Coniglio commented that she attended the Palm Beach County Commission Budget Hearing last night. She indicated that she and Pat Cooper, of the Palm Beach Civic Association, spoke for tax relief in the millage rate. She stated that Bobbie Horwich, of the Town's County Budget Task Force and who attended the meeting with her, has worked diligently with the Commissioners and provided invaluable support for the Town.

Council President Rosow noted that the current County millage rate is 4.75 and is going up to 4.79, which is a .04 increase in taxes. It is a \$7.9 million cut from the budget, which will come from road projects and County reserves according to County Administrator Bob Weisman. He stated that seventy residents spoke out at the first two public hearings and urged the Commissioners not to cut any programs, but the various coalitions who spoke advocated a reduction in expenses. Mr. Weisman said these are one-time cuts and they will be back with the same kind of budget problems next year. Council President Rosow commented that four years ago the Town's budget was approximately \$66 - \$68 million, and that it is now \$58 million.

Mayor Coniglio announced that she will need to leave the meeting around 10:30 a.m., in order to meet with the Florida Department of Environmental Protection (FDEP), regarding the Town's concerns relative to funding for Reach 7 and the Clarke Avenue Beach calculations and associated restroom issues.

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

2
3 **V. COMMUNICATIONS FROM CITIZENS – 3 MINUTE LIMIT PLEASE** - None

4
5 **VI. APPROVAL OF AGENDA**

6
7 The following changes were made to the Agenda:

8
9 **DEFERRED:** Item VII.C.2.m., Variance #23-2011, was deferred to the October 12,
10 2011 Town Council meeting.

11
12 **Motion was made by Council President Pro Tem Wildrick and seconded by Council**
13 **Member Kleid to approve the Agenda, as amended. On roll call, the motion carried**
14 **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 – None

23
24 C. Variances, Special Exceptions, and Site Plan Reviews

25
26 1. Old Business

27
28 a. VARIANCE #18-2011 The application of Edmiston & Company;
29 relative to property commonly known as **333 Peruvian Avenue**;
30 described as Lots 41 through 45, inclusive, Block 11, Revised Map
31 of Royal Park Addition to Palm Beach, according to the map
32 thereof as recorded in Plat Book 4, Page 1 of the Public Records of
33 Palm Beach County, Florida; located in the C-TS Zoning District.
34 The applicant requests a variance to permit the operation of a yacht
35 charter and sales office containing approximately 1,237 sq. ft. on
36 the first floor which does not meet the requirements to allow an
37 office use on the first floor in this situation. The proposed use does
38 not meet the special exception uses requirement in Section 134-
39 1109(18) that there are at least 50% existing office uses on all
40 floors in the building or the requirement that there be more than
41 50% existing office uses on the first floor within 300 feet of the
42 proposed use within the same zoning district. [Attorney: M.
43 Timothy Hanlon] *Deferred from the August 10, 2011, Town*
44 *Council Meeting.*

1 The following ex-parte communications were declared: Council Members Pucillo, Kleid,
2 and Diamond, Council President Pro Tem Wildrick and Town Council President Rosow
3 spoke with Attorney Hanlon, who advocated the position of his client.
4

5 Attorney Hanlon, on behalf of Edmiston & Company, provided an overview of the
6 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 Member Kleid**
11 **that Variance #18-2011 be granted and find, in support thereof, that all of the criteria**
12 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been**
13 **met, subject to the condition that the display in the window be made to resemble a retail**
14 **shop. This variance is being approved for this tenant only. On roll call, the motion carried**
15 **unanimously.**
16

17 **Staff was directed to bring before the Planning & Zoning Commission the possibility of**
18 **including yacht brokerages as a retail use, as opposed to an office use, and to have them**
19 **make a recommendation to Council.**
20

21 2. New Business
22

- 23 a. SITE PLAN REVIEW #10-2011 WITH VARIANCES The
24 application of Joan & Eugene Kalkin; relative to property
25 commonly known as **170 North Ocean Blvd., PH-701**; described
26 as Condominium Parcel No. 701 and Covered Parking Unit 1,
27 OCEAN TOWERS NORTH, a Condominium, according to the
28 Declaration as recorded in Official Records Book 3208, Page 1913
29 of the Public Records of Palm Beach County, Florida; located in
30 the R-C Zoning District. The applicant requests a site plan
31 modification with variances to allow one (1) retractable awning
32 totaling 214.2 square feet over the terrace on the seventh floor of a
33 seven story condominium building. Variances are requested to
34 allow the awning at a height of 60.4 feet in lieu of the 23 ½
35 maximum height allowed in the R-C Zoning District; to allow at an
36 overall height of 62.9 feet in lieu of the 31 ½ maximum height
37 allowed; to allow on the existing seventh floor penthouse of a
38 seven story building in lieu of the two story building maximum
39 allowed; and to allow with a street yard setback of 114.8 feet in
40 lieu of the 126.7 feet minimum required for multi-family use.
41 [Attorney: Maura A. Ziska] [ARCOM Recommendation:
42 Implementation of the proposed variances will not cause negative
43 architectural impacts to the subject property. Carried 7-0.]
44

1 The following ex-parte communications were declared: Council Members Pucillo,
2 Diamond, and Kleid, Council President Pro Tem Wildrick, and Council President Rosow
3 spoke with Attorney Ziska, who advocated the position of her client.
4

5 Attorney Ziska, on behalf of Joan and Eugene Kalkin, provided an overview of the
6 applicant's request.
7

8 *Clerk's Note: Council President Pro Tem Wildrick temporarily left the meeting at approximately*
9 *10:03 a.m.*
10

11 Zoning Administrator Castro provided staff's comments.
12

13 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
14 **that Site Plan Review #10-2011 be approved based upon the finding that the approval of**
15 **the site plan will not adversely affect the public interest and that the Council certifies that**
16 **the specific zoning requirements governing the individual use have been met and that**
17 **satisfactory provision and arrangement has been made concerning Section 134-329, items 1**
18 **through 11, that the variances related to Site Plan Review #10-2011 be granted and find, in**
19 **support thereof, that all of the criteria applicable to this application as set forth in Section**
20 **134-201(a), items 1 through 7 have been met. On roll call, the motion carried 4-0, with**
21 **Council President Pro Tem Wildrick absent.**
22

- 23 b. SITE PLAN REVIEW #11-2011 WITH VARIANCES The
24 application of Sandra E. Garfunkel as Trustee of the Sandra E.
25 Garfunkel Trust u/a/d 5/10/2010; relative to property commonly
26 known as **170 North Ocean Blvd., PH 705**; described as: Unit
27 705 and Covered Parking Unit 6, of OCEAN TOWERS NORTH, a
28 condominium according to the Declaration as recorded in Official
29 Records Book 3208, Page 1913 of the Public Records of Palm
30 Beach County, Florida together with an undivided interest in the
31 common elements thereof; located in the R-C Zoning District. The
32 applicant requests a site plan modification with variances to allow
33 one (1) retractable awning totaling 214.2 square feet over the
34 terrace on the seventh floor of a seven story condominium
35 building. Variances are requested to allow the awning at a height
36 of 60.4 feet in lieu of the 23 ½ maximum height allowed in the
37 R-C Zoning District; to allow at a overall height of 62.9 feet in lieu
38 of the 31 ½ maximum height allowed; to allow on the existing
39 seventh floor penthouse of a seven story building in lieu of the two
40 story building maximum allowed; and to allow with a side yard
41 setback of 89.7 feet in lieu of the 126.7 feet minimum required for
42 multi-family use. [Attorney: Maura A. Ziska] [ARCOM
43 Recommendation: Implementation of the proposed variances will
44 not cause negative architectural impacts to the subject property.

Carried 7-0.]

The following ex-parte communications were declared: Council Members Pucillo, Diamond, and Kleid, and Council President Rosow spoke with Attorney Ziska, who advocated the position of her client. Council President Pro Tem Wildrick was absent but had disclosed earlier in the meeting that he spoke with Attorney Ziska, who advocated the position of her client.

Attorney Ziska, on behalf of Sandra E. Garfunkel, provided an overview of the applicant's request.

Zoning Administrator Castro provided staff's comments.

Motion was made by Council Member Diamond and seconded by Council Member Kleid that Site Plan Review #11-2011 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11, that the variances related to Site Plan Review #11-2011 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 4-0, with Council President Pro Tem Wildrick absent.

- c. SITE PLAN REVIEW #12-2011 The application of Susan Mercurio; relative to property commonly known as **168 Seaspray Avenue**; described 471 and 473 of POINCIANA PARK SECOND ADDITION, according to the Plat thereof as 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 Site Plan Review to allow the construction of a 2,816 square foot two-story single family residence on a non-conforming platted lot which is 50 feet in width in lieu of the 100 foot minimum required and 6,125 square feet in area in lieu of the 10,000 square foot minimum required in the R-B Zoning District. [Attorney: Maura A. Ziska]

The following ex-parte communications were declared: Council Members Pucillo, Diamond, and Kleid, and Council President Rosow spoke with Attorney Ziska, who advocated the position of her client. Council President Pro Tem Wildrick was absent but had disclosed earlier in the meeting that he spoke with Attorney Ziska, who advocated the position of her client.

Attorney Ziska, on behalf of Susan Mercurio, provided an overview of the applicant's request.

Zoning Administrator Castro provided staff's comments.

Motion was made by Council Member Diamond and seconded by Council Member Kleid that Site Plan Review #12-2011 be approved based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11. On roll call, the motion carried 4-0, with Council President Pro Tem Wildrick absent.

- d. SPECIAL EXCEPTION #23-2011 The application of 313 Worth Ave LLC (Pier Mario Del Rosso, Manager; relative to properties commonly known as **313 ½ Worth Avenue, 405 Hibiscus Avenue, and 311 Peruvian Avenue**; described as lengthy legal descriptions on file; located in the C-TS Zoning District. The applicant requests special exceptions by new owner to continue to operate a 4800 square foot restaurant at 313 ½ Worth Avenue which contains in excess of 2,000 square feet of GLA which is the same operation as the previous owner; to allow off-site supplemental parking spaces at 405 Hibiscus Avenue and 311 Peruvian Avenue as was previously approved for the previous restaurant owner; and to allow 46 outdoor dining seats of which 20 seats exceed the maximum capacity as allowed by a previous variance granted to the restaurant in Via Bice. [Attorney: Joel P. Koeppel] *This item was deferred to the October 11, 2011 Town Council meeting*

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

Attorney Koeppel, on behalf of 313 Worth Ave LLC, provided an overview of the applicant's request.

Zoning Administrator Castro provided staff's comments.

Motion was made by Council Member Diamond and seconded by Council Member Pucillo that Special Exception #23-2011 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, subject to the condition that they execute a Declaration of Use Agreement which will cap the number of outside seating and provide a remedy for violations thereof. On roll call, the motion carried 4-0, with Council President Pro Tem Wildrick absent.

- e. SPECIAL EXCEPTION #24-2011 WITH VARIANCES The

1 application of Charles S. Duncker relative to property commonly
2 known as **120 Reef Rd.**; described as Lots 5, 5A and 35, North
3 Shore Addition to Palm Beach, according to the map or plat
4 thereof as recorded in Plat Book 20, Page 62, Public Records of
5 Palm Beach County, Florida; located in the R-B Zoning District.
6 The applicant requests a special exception to construct a 200
7 square foot beach cabana on property across the street from the
8 main residence, which is in the R-B Zoning District. A variance is
9 requested to construct a beach cabana with a 3.59 foot west side
10 yard setback in lieu of the 10 foot minimum setback required.
11 Request a variance to also have a setback from the bulkhead line of
12 101.5 feet in lieu of the 118.5 foot minimum required for a house
13 being built east of the Coastal Construction Control Line at this
14 location. [Attorney: Maura A. Ziska]

15
16 The following ex-parte communications were declared: Council Members Pucillo,
17 Diamond, and Kleid, and Council President Rosow spoke with Attorney Ziska, who
18 advocated the position of her client. Council President Pro Tem Wildrick was absent but
19 had disclosed earlier in the meeting that he spoke with Attorney Ziska, who advocated
20 the position of her client. Mayor Coniglio spoke with the Architect, Patrick Segraves.

21
22 Attorney Ziska, on behalf of Melinda and Steve Duncker, provided an overview of the
23 applicant's request.

24
25 Architect Segraves presented the architectural plans of the project.

26
27 Zoning Administrator Castro provided staff's comments.

28
29 Carol Hack, 111 Reef Road, spoke in opposition to the project and suggested placing the
30 cabana on the south end of the lot.

31
32 Bill Atterbury, representing Jeane von Oppenheim, who owns the house to the south on
33 Dolphin Road, commented that his client had no objection to the cabana variance;
34 however, she objected to the variance for the house setback.

35
36 *Clerk's Note: Council President Pro Tem Wildrick returned to the meeting at 10:37 a.m.*
37

38 **Motion was made by Council Member Diamond and seconded by Council President Pro**
39 **Tem Wildrick that Special Exception #24-2011 shall be granted based upon the finding that**
40 **such grant will not adversely affect the public interest and that the applicable criteria set**
41 **forth in Section 134-229 of the Town Code have been met, subject to the condition that the**
42 **cabana be placed five feet to the south of the proposed location, that the variances related**
43 **to Special Exception #24-2011 be granted and find, in support thereof, that all of the**
44 **criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7**

1 have been met, with the cabana variance being subject to the condition that the cabana be
2 placed five feet to the south of the proposed location. On roll call, the motion carried
3 unanimously.
4

5 Staff was directed to bring before the Planning & Zoning Commission consideration of the
6 averaging of setbacks, and to have them make a recommendation to Council.
7

8 *Clerk's Note: Mayor Coniglio left the meeting at 10:53 a.m.*
9

- 10 f. SPECIAL EXCEPTION #25-2011 The application of Johnny
11 Meier, President, FEDCO, Inc.; relative to property commonly
12 known as **2875 So. Ocean Blvd.**; described as lengthy legal
13 description on file; located in the C-TS Zoning District. The
14 applicant requests a special exception approval pursuant to
15 Condition #2 in the original approval in 1980 to construct the
16 existing building in the subject property (Special Exception #25-
17 1980). The condition requires any retail applicant to contain Town
18 Council approval for any use other than office and professional
19 services. This request is to allow Fedco to operate a retail
20 pharmacy in suite 103 of the first floor of the subject property
21 containing 1,879 square feet. Site Plan Review approval is
22 requested to convert approximately 1,879 sq. ft. of existing
23 rentable floor area in suite 103 of the first floor to allow Fedco to
24 operate a retail pharmacy. [Representative: Johnny Meier]
25

26 The following ex-parte communications were declared: Council Member Diamond spoke
27 with Johnny Meier and the other representatives. The Town Council received an e-mail
28 from the Citizens' Association of Palm Beach.
29

30 Architect David Miller presented the plans for the project.
31

32 Mike Patel (ph), 255 Sunrise Avenue, provided an overview of the applicant's request.
33

34 Zoning Administrator Castro provided staff's comments.
35

36 Laurel Baker, Chamber of Commerce, spoke in support of the project and commented
37 that there was a survey that indicated that a pharmacy would be welcomed in the south
38 end of the Town.
39

40 Mary Clennan, 2840 S. Ocean Boulevard, spoke in opposition to the project.
41

42 Bruce Heyman, representing the Citizens' Association of Palm Beach, spoke in favor of
43 the project.
44

1 Motion was made by Council Member Diamond and seconded by Council Member Kleid
2 that Special Exception #25-2011 shall be conditionally granted based upon the finding that
3 such grant will not adversely affect the public interest and that the applicable criteria set
4 forth in Section 134-229 of the Town Code have been met, subject to approval and
5 execution of a Declaration of Use Agreement delineating the types of products that can be
6 sold. The Declaration of Use Agreement is to come back before the Council before final
7 approval of this special exception is made. On roll call, the motion carried unanimously.
8

- 9 g. SPECIAL EXCEPTION #26-2011 The application of Pucci &
10 Catana relative to property commonly known as **21 Via Mizner**;
11 described as Unit C-111S, Via Mizner South Declaration, ORB
12 7069, P203; located in the C-WA Zoning District. The applicant
13 requests a special exception to permit the operation of a luxury pet
14 boutique for the sale of goods related to pets in a 411 square foot
15 square store at 21 Via Mizner. The special exception is required
16 for a use which is not specifically enumerated in the code but
17 having the traffic, patronage and intensity of use characteristics
18 similar to other permitted uses in the C-WA zoning district.
19 [Attorney: M. Timothy Hanlon]
20

21 The following ex-parte communications were declared: Council Members Diamond and
22 Kleid, and Council President Pro Tem Wildrick spoke with Attorney Hanlon, who
23 advocated the position of his client.
24

25 Attorney Hanlon, on behalf of Pucci & Catana, provided an overview of the applicant's
26 request.
27

28 Zoning Administrator Castro provided staff's comments.
29

30 Motion was made by Council Member Diamond and seconded by Council Member Kleid
31 that Special Exception #26-2011 shall be granted based upon the finding that such grant
32 will not adversely affect the public interest and that the applicable criteria set forth in
33 Section 134-229 of the Town Code have been met. On roll call, the motion carried
34 unanimously.
35

- 36 h. REVISED SPECIAL EXCEPTION #27-2011 WITH SITE PLAN
37 REVIEW AND VARIANCE The application of The Society of
38 the Four Arts, Inc., relative to property commonly known as **1, 2,**
39 **3, and 4 Four Arts Plaza and 240 Cocoanut Row**; described as
40 lengthy legal description on file; located in the R-B Zoning
41 District. The applicant requests a special exception with site plan
42 review for non-profit cultural use (Section 134-329, Section 134-
43 980 (8) and Section 134-229). The applicant request is that the
44 Town Council grant a modification to the existing special

exception by allowing the applicant to construct a 1,208 square foot addition to the existing patio in the landscape island. As part of the proposed project, the existing crosswalks in the driveway connecting the parking lot to the existing patio and the existing patio to the buildings are being modified to allow for handicap access and safer pedestrian movement from the parking lot to the buildings. These modifications to the crosswalks have already been administratively approved by Town staff as part of the proposed project; a variance is requested for the west side of Four Arts Plaza to allow the patio addition with an overall landscaped open space of 36.75% in lieu of the 37.69% existing and the 55% minimum required for a lot in the R-B zoning district over 60,000 total square feet. The subject property is 116,543.86 square feet. A variance is also requested to allow the changes to the east side of Four Arts Plaza modifying the parking lot, south driveway and patio on the north side of the Dixon Education Building (old public school building) which would decrease the landscape open space from 45.55% minimum required to 43.94%. [Attorney: Harvey E. Oyer III] [Landmarks Commission Recommendation: Implementation of the proposed variances will not cause negative architectural impacts to the subject landmark property. Carried 7-0.]

No ex-parte communication was declared.

Town Clerk Owens administered the oath to those who had not already been sworn in and would be providing testimony.

Attorney Oyer, on behalf of the Society of the Four Arts, provided an overview of the applicant's request.

Zoning Administrator Castro provided staff's comments.

Motion was made by Council Member Diamond and seconded by Council Member Kleid that Revised Special Exception #27-2011 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, that the site plan review related to Revised Special Exception #27-2011 shall be granted based upon the finding that the approval of the site plan will not adversely affect the public interest and that the Council certifies that the specific zoning requirements governing the individual use have been met and that satisfactory provision and arrangement has been made concerning Section 134-329, items 1 through 11, that the variances related to Revised Special Exception #27-2011 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

1 carried unanimously.

- 2
- 3 i. MODIFIED VARIANCE #19-2011 The application of Oleander
- 4 Development, LLC, Alexander Hufty Griswold (Managing
- 5 Partner); relative to property commonly known as **231-233**
- 6 **Oleander Avenue**; described as DAISY E ERBS ADD LTS 16 &
- 7 17; located in the R-C Zoning District. The applicant requests a
- 8 variance to construct an entry hall and balcony within the existing
- 9 footprint of the building. The current front yard setback is 15.2
- 10 feet; a variance is requested to build the new entry hall and balcony
- 11 at a 15.2 foot front yard setback in lieu of the 25 foot minimum
- 12 required. [Representative: Alex Hufty Griswold] *Deferred from*
- 13 *the August 10, 2011, Town Council Meeting.*
- 14

15 The following ex-parte communications were declared: Council Member Diamond spoke

16 with the applicant, Alex Hufty Griswold, who advocated his position.

17

18 Trey Sned, on behalf of Oleander Development, LLC, provided an overview of the

19 applicant's request.

20

21 Zoning Administrator Castro provided staff's comments.

22

23 **Motion was made by Council Member Diamond and seconded by Council Member Pucillo**

24 **that Modified Variance #19-2011 be granted and find, in support thereof, that all of the**

25 **criteria applicable to this application as set forth in Section 134-201(a), items 1 through 7**

26 **have been met. On roll call, the motion carried unanimously.**

27

- 28 j. MODIFIED VARIANCE #20-2011 The application of Oleander
- 29 Development, LLC, Alexander Hufty Griswold (Managing
- 30 Partner); relative to property commonly known as **237-239**
- 31 **Oleander Avenue**; described as DAISY E ERBS ADD LTS 14 &
- 32 15; located in the R-C Zoning District. The applicant requests a
- 33 variance to construct an entry hall and balcony within the existing
- 34 footprint of the building. The current front yard setback is 15.2
- 35 feet; a variance is requested to build the new entry hall and balcony
- 36 at a 15.2 foot front yard setback in lieu of the 25 foot minimum
- 37 required. [Representative: Alex Hufty Griswold] *Deferred from*
- 38 *the August 10, 2011, Town Council Meeting.*
- 39

40 The following ex-parte communications were declared: Council Member Diamond spoke

41 with the applicant.

42

43 Trey Sned, on behalf of Oleander Development, LLC, provided an overview of the

44 applicant's request.

1 Zoning Administrator Castro provided staff's comments.
2

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

- 8 k. VARIANCE #21-2011 The application of Robert Holuba relative
9 to property commonly known as **1500 Lake Court**; described Lot
10 B, LAKE FRONT ADDITION TO BOCA RATONE
11 COMPANY'S INLET SUBDIVISION, according to the map or
12 plat thereof as recorded in Plat Book 18, Page 5, of the Public
13 Records of Palm Beach County, Florida; located in the R-B Zoning
14 District. The applicant requests a variance to allow the addition of
15 a "T" shaped dock with an outside length of 34 feet with two wood
16 mooring pile clusters that will be 62 feet from the bulkhead in lieu
17 of the 6 foot maximum allowed and the installation of two inside
18 boat lifts associated with an existing 6 foot marginal dock.
19 [Attorney: Gregory S. Kino]
20

21 The following ex-parte communications were declared: Council Member Diamond
22 spoke with Attorney Kino, who advocated the position of his client.
23

24 Attorney Kino, on behalf of Robert Holuba, provided an overview of the applicant's
25 request.
26

27 Town Clerk Owens administered the oath to those who had not already been sworn in
28 and would be providing testimony.
29

30 Robert Holuba, 1500 Lake Court, provided additional testimony regarding his request.
31

32 Zoning Administrator Castro provided staff's comments.
33

34 **Motion was made by Council Member Diamond and seconded by Council Member Pucillo**
35 **to defer Variance #21-2011 to the October 12, 2011 Town Council meeting. On roll call,**
36 **the motion carried unanimously.**
37

- 38 1. VARIANCE #22-2011 The application of 1111 Partners LLC
39 (Rick and Marie Wackenhut); relative to property commonly
40 known as **930 South Ocean Blvd.**; described as lengthy legal
41 description on file.; located in the R-A Zoning District. The
42 applicant requests variances to raise the floor and ceiling of the
43 existing pool cabana and replace the flat roof with a pitched roof
44 which will expand the height and overall height in the existing

1 non-conforming side setback of 2.9 feet in lieu of the 15 foot
2 minimum required and for the same modifications to the existing
3 pool cabana with a rear setback of six (6) inches in lieu of the 15
4 foot minimum required. [Attorney: Maura A. Ziska] [Landmarks
5 Commission Recommendation: Implementation of the proposed
6 variances will not cause negative architectural impacts to the
7 subject landmark property. Carried 7-0.]
8

9 The following ex-parte communications were declared: Council Members Pucillo, Kleid,
10 and Diamond, Council President Pro Tem Wildrick, and Council President Rosow spoke
11 with Attorney Ziska, who advocated the position of her client.
12

13 Attorney Ziska, on behalf of Mr. and Mrs. Wackenhut, provided an overview of the
14 applicant's request.
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 #22-2011 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 unanimously.**
22

23 m. VARIANCE #23-2011 The application of Stephen & Anne Marie
24 Haymes; relative to property commonly known as **146 Seminole**
25 **Avenue**; described as The West 40 feet of Lot 9, all of Lot 10, and
26 the East 10 feet of Lot 3, OCEAN PARK H.W. ROBBINS
27 ADDITION TO PALM BEACH, according to the plat thereof,
28 recorded in Plat Book 6, Page 78, of the Public Records of Palm
29 Beach County, Florida; located in the R-B Zoning District. The
30 applicant requests a variance to construct a second story addition
31 that would enclose a 169 square foot balcony and would result in a
32 cubic content ratio of 4.32 in lieu of the 4.3 existing and the 3.98
33 maximum allowed in the R-B Zoning District. [Attorney: Maura
34 A. Ziska] *Request for Deferral to the October 12, 2011, Town*
35 *Council Meeting Per Letter Dated August 24, 2011, from Maura*
36 *A. Ziska (Special Circumstances). - This item was deferred to the*
37 *October 12, 2011 Town Council meeting*
38

39 n. VARIANCE #24-2011 The application of Earle Mack; relative to
40 property commonly known as **1950 South Ocean Blvd.**; described
41 as Lot 107, PALM BEACH ESTATES, a subdivision in the Town
42 of Palm Beach, Florida, according to the plat thereof on file in the
43 Office of the Clerk of the Circuit Court in and for Palm Beach
44 County, Florida as recorded in Plat Book 8, Page 3.; located in the

1 R-AA Zoning District. The applicant requests a variance to
2 replace a three story guest house, which is non-conforming, with a
3 two story guest house with an 11.4 foot side yard setback in lieu of
4 the 30 foot minimum required in the R-AA Zoning District. The
5 proposed guest house is 1,140 square feet.
6 [Attorney: Maura A. Ziska]
7

8 The following ex-parte communications were declared: Council Members Pucillo, Kleid,
9 and Diamond, Council President Pro Tem Wildrick, and Council President Rosow spoke
10 with Attorney Ziska, who advocated the position of her client.
11

12 Attorney Ziska, on behalf of Earl Mack, provided an overview of the applicant's request.
13

14 Zoning Administrator Castro provided staff's comments.
15

16 **Motion was made by Council Member Diamond and seconded by Council Member Kleid**
17 **that Variance #24-2011 be granted and find, in support thereof, that all of the criteria**
18 **applicable to this application as set forth in Section 134-201(a), items 1 through 7 have been**
19 **met. On roll call, the motion carried unanimously.**
20

21 3. Other
22

- 23 a. Regulating the Renovation or Replacement of Nonconforming
24 Accessory Structures.
25 [John Page, Director of Planning, Zoning, and Building]
26

27 Director of Planning, Zoning, and Building Page provided the background for minor
28 variances regarding nonconforming accessory structures.
29

30 Zoning Administrator Castro stated that staff was concerned that if staff exclusively ruled
31 on these matters, and there were any negative affects to the neighbors, that the neighbors
32 would have no further remedy with the Town Council.
33

34 **The consensus of the Town Council was to leave the policy the same.**
35

36 **VIII. ANY OTHER MATTERS - None**
37
38
39
40
41
42
43
44

1 **IX. ADJOURNMENT**

2
3 There being no further business, the September 14, 2011, Town Council meeting was
4 adjourned at 12:17 p.m.
5

6
7 APPROVED:

8
9
10 
11 _____
12 David A. Rosow
13 Town Council President
14

15 ATTEST:

16
17
18 
19 _____
20 Susan A. Owens, MMC
21 Town Clerk

