

PLANNING AND ZONING BOARD
TOWN OF PALM BEACH SHORES
247 EDWARDS LANE

Regular Meeting
7:00 p.m.

Tuesday, October 23, 2007

ALAN D. FIERS, Chairman X

KEVIN BANKS, Vice Chairman X

SCOTT McCRANELS X

CAROL HURST X

JACK McDEVITT X

ROBY DeREUIL, Alternate member _

RICHARD LAABS, Alternate member X

1. **ROLL CALL**
2. **APPROVAL OF MINUTES:**
Regular meeting and LPA hearing of September 25, 2007 and special meeting of September 5, 2007.
3. **AGENDA APPROVAL:**
Additions, substitutions, deletions
4. **STAFF REPORTS:**
5. **MISCELLANEOUS BUSINESS:**
 - a. **SPM 07-15 & A/AR 07-15 Hugh Joyce, 200 Tacoma Lane, Lot 163 (PUBLIC HEARING.)**
Applicant proposes to modify approved SPR 06-9 in order to construct first and second floor additions to an existing single family residence.
 - b. **SPR 07-16 & A/AR 07-16 224 Inlet Way LLC, 224 Inlet Way, Lot 578. (PUBLIC HEARING)**
Applicant proposes to construct an entirely new three story multi-family building.
 - c. **D 07-18 David Burris, 64 Lake Drive, Lot 260. (PUBLIC HEARING)**
Applicant proposes to replace existing boat lift and to add 10 pilings.
 - d. **Consideration: revision of landscape plan for 314 Inlet Way.**
 - e. **Discussion: sign code.**
 - f. **Choose date for special LPA hearing.**
6. **BOARD COMMENTS:**
7. **PUBLIC COMMENTS:**
8. **ADJOURNMENT**

MINUTES

The meeting was called to order by Chairman Fiers at 7 p.m.

Roll call revealed that alternate Roby DeReuil was absent. All other members were present including alternate Richard Laabs, along with Town Attorney Keith Davis,

Zoning Official Manuel Palacios, Town Clerk Carolyn Gangwer, and Clerk/Receptionist Sue Franklin.

The meeting attendees stood for the pledge of allegiance to the flag.

2. APPROVAL OF MINUTES:

The minutes were unanimously approved as written for the Regular Planning and Zoning Board and LPA meetings of September 25, 2007 and the Special Planning and Zoning Board meeting of September 5, 2007.

3. AGENDA APPROVAL:

The agenda was approved unanimously.

4. STAFF REPORTS:

Zoning Official Manuel Palacios reported that he and a few others had just done a walk-through at the Community Center and there are a few items needing attention, but the building should be finished in three to four weeks.

Mr. Palacios spoke with the foreman at 101 Cascade Lane and the foreman stated the project was ahead of schedule. Roof trusses have been installed.

Mr. Palacios had spoken about 155 Ocean Avenue with the Fire Marshall, who stated that any fire issues had been resolved. Mr. Palacios opined that things are moving along well and the project is a gem for our Town.

Construction at 212 Blossom Lane is moving slowly and there has been no activity for a while. Mr. Palacios sent a friendly notice to have them remove the dumpster, and he opined that the property owner does not have a handle on his contractor. Although there seems to be some progress on the interior, the site is just above being considered a derelict site. When asked by Chairman Fiers, Attorney Davis stated that the Town has no recourse since the Town Code at the time of permitting did not require a construction schedule. Mr. Palacios then stated that through Code Enforcement issues, the owner could be compelled to put pressure on the contractor.

The empty lot at 106 Inlet Way is meeting Town standards. Attorney Davis stated that the owner is in litigation for foreclosure, and Mr. Fiers opined that the Town should stay on top of the situation. He added that the Inlet Park area behind the property is getting ratty, and Clerk Gangwer responded that she would inform the Public Works Department.

Mr. Palacios has reminded the owner at 200 Inlet Way that there was landscaping on the approved plan, and the owner responded that he is waiting for decorative glass windows.

Chairman Fiers stated that his home at 236 Inlet Way is nearing completion and the

construction should finish this week. Carol Hurst opined “Wow”. Mr. Palacios continued his report with 304 Claremont Lane, which is having landscaping work done and will be finished soon.

The roof at 306 Linda Lane should be finished within the next couple of days, and windows will be installed. Everything is on schedule.

Mr. Palacios had spoken with Steve Voit, the owner of 126 Blossom Lane, who explained he was behind schedule because of some problems with drawings. This has been corrected and he’s moving along nicely. The roof has been installed.

Chairman Fiers asked if 224 Inlet Way was in the same situation as 106 Inlet Way, and Vice Chairman Banks asked if the project would be going forward. Mr. Fiers responded that it certainly wouldn’t go forward until the applicant sells some units. Attorney Davis stated that two variance requests (height and grade) had been withdrawn by formal letter, and just the first-floor balconies had been approved by the Commission. Town Clerk Gangwer added that Mr. Norton should be on the Development Review Committee agenda for November with the revised roof plan, and should come before the Planning and Zoning Board in November. As long as some units are sold, things are looking up.

Mr. Fiers stated that based on the minutes of the third site plan modification, it is clear that the Cannonsport is not complying. At that time, the applicant clearly stated there were only two reasons for the modifications: to correct the encroachment into the front easement, and to correct some grade elevations relative to the croquet court. The applicant’s attorney stated that everything else would remain the same as approved in the second site plan modification which was done in June of that year. Those plans clearly show a 6’ privacy fence running the length of the east/west property lines on both north and south, and a 2’ fence along the front with a 1’ picket feature. Finally, it was made very clear to the applicant that complying with the vegetation requirements would be a condition of approval, and both the Planning and Zoning Board and the Commission would have to review and approve the landscaping. Based on that, the Mayor wrote a letter to Mr. Hoak, the project manager, with copies to the Senior Vice President of Government Affairs at Nationwide and the President of Nationwide Realty to make it clear that compliance is expected. Mr. Fiers then gave a copy of the Mayor’s letter to the Board members, stating that no response has yet been received.

Carol Hurst asked if Cannonsport would be adding gates between the two columns at each driveway, since there was a question at the time of approval regarding stacking on Lake Drive. Mr. Fiers responded that the applicant had agreed to move them back to leave room for at least one car. Mr. Palacios added that he had spoken with John Millhouse, who stated that there would be no gates in the front, it will be free-flowing, but there will be gates toward the rear of the property at Buildings 1 and 3.

Mr. Palacios stated that he had spoken with the Fire Marshall regarding moving the office from the trailer to Building 1, and moving the lien office from a trailer to Building 3. The Fire Marshall agreed that Cannonsport had met the proper criteria to do this, and the

removal of the trailers would clear a fire lane. The Building Official also has no problem with the move. Mr. Fiers opined that the Town could be flexible on this issue.

Town Clerk Gangwer stated that she was running an ad the following day, requesting architectural and engineering consulting services, so there should be some candidates to choose from at the November Planning and Zoning Board meeting.

Mr. Fiers mentioned having a Special LPA meeting before the next regular meeting in order to hear the package of ordinances and give them to the Commission for the second reading.

Vice Chairman Banks asked for copies of the most recent District A ordinances, and it was thought that there were copies on the dais for each member. Anyone who does not have them should contact the Town Hall.

Mr. Fiers stated that he had been advised by staff that items 5 a. and 5 b. should be postponed until the next Planning and Zoning Board meeting, November 27th. Attorney Davis explained that by leaving them on tonight's agenda and voting to postpone, additional legal advertising is not required. **Vice Chairman Banks moved to postpone items 5 a. and b. until November, Carol Hurst seconded, and it passed unanimously.**

5. MISCELLANEOUS BUSINESS:

- c. D 07-18 David Burris, 64 Lake Drive, Lot 260. (PUBLIC HEARING)**
Applicant proposes to replace existing boat lift and to add 10 pilings.

Attorney Davis placed all under oath and established that there were no ex parte discussions.

David Burrus presented his project, handing out a color photo and partial survey as exhibits one and two. He is applying for a modification of the pilings for the boat lift, and is making no changes to the existing dock. He showed five existing pilings on the survey. These pilings are not connected to the dock. The existing boat lift is shown on the south side, and the proposed boat lift is depicted on the north side. The purpose of the modification is primarily for safety, since at times the current roars through that area. Some boats that are docked there have crashed into the dock, and the applicant is trying to give them something extra to tie onto. The width of the pilings will not exceed the existing width, and the pilings are well within the property lines. Mr. Burrus explained that he had tried to notify the adjoining neighbors, and he has received consent from Mrs. Barry to the south. However, it has been very difficult to contact the proper people from the Sailfish Marina. Attorney Davis accepted as exhibit three a letter on Marine Construction letterhead regarding the neighbor to the south, and as exhibit four a letter (dated October 23rd signed by Stephen M. Fuller) from the Sailfish Marina which had been received at the Town Hall in the afternoon. The latter was opposed to the modification, because the Sailfish feels there would not be sufficient separation between their dock and that of Mr. Burrus, and they believe the setback should be 25 feet. The

letter was accompanied by a copy of Florida Administrative Code Section 18-21 in which the 25' setback is mentioned. Mr. Burrus suggested that there was not enough separation because the Sailfish dock is 6' from the property line and therefore in violation.

Rick Schirm, Vice President of Marine Construction and Mr. Burrus' contractor, explained that the applicant was awaiting an exemption and/or permit from the DEP for the dock. Mr. Burrus continued, requesting that the Planning and Zoning Board approve the building permit application conditioned upon receiving the exemption/permit from the DEP.

Chairman Fiers stated that he had a discussion with Attorney Davis earlier in the day about a fax from the DEP which spells out the criteria to qualify for the exemption and/or permit. Mr. Fiers read the four criteria 1) must be used for recreational and non-commercial activities. Mr. Burrus stated this was correct. 2) it shall be constructed and held in place by pilings including floating docks so as not to involve filling or dredging other than necessary to install the pilings. Mr. Schirm stated this was correct. 3) it shall not substantially impede the flow of water or create a navigational hazard. Correct. 4) it shall be the sole dock constructed pursuant to this exception as measured along the shoreline for a minimum distance of 65'. Mr. Fiers stated that as he understands it, this means only one exception is allowed every 65'. Mr. Schirm attempted to explain how the applicant met the criteria. Mr. Fiers then stated that he had been advised by counsel not to try to interpret the DEP criteria, and Attorney Davis added that this board can approve the application pending the DEP exemption/permit.

A discussion ensued in which it was stressed that the proposed boat lift was needed because of the strong currents in that area, and it was also made clear that none of the proposed changes were outside of the existing structures. Scott McCranels moved to approve, but for lack of a second, the motion died. **Vice Chairman Banks moved to delay approval until the Planning and Zoning Board receives a copy of the DEP application and exemption and/or permit. Carol Hurst seconded the motion and with Chairman Fiers and Dr. McCranels dissenting, it passed three to two.**

d. Consideration: revision of landscape plan for 314 Inlet Way.

Attorney Davis placed all parties under oath.

Joel Magee, owner of unit 203, presented the revisions. He explained that the unit owners all agreed to the removal of six trees on the south side of the building because these trees block the view of the inlet. This still leaves the applicants with thirteen trees on the property, along with six new trees recently planted by the Town to the south of their property. Mr. Magee opined that this still leaves the property with probably three times as many trees than any other property on Inlet Way, adding that the original idea was to hide the building, but it is a beautiful project and people actually admire it. Dr. McCranels disagreed on principle and feared it would set a precedent. Jack McDevitt

inquired if Mr. Magee was a resident of the building, and he responded yes. Mr. Magee added that the unit owners on the first and second floors especially wanted the trees removed, and the third floor owners who are not as affected are also in agreement with the request to remove the trees. Mr. McDevitt and Carol Hurst both opined that the building was attractive. Vice Chairman Banks asked if Mr. Magee had a copy of a letter or minutes showing that all unit owners agreed, and Mr. Magee said he could provide something. Mr. Banks added that he thinks the applicant is setting a good precedent by following the proper procedures to revise the landscape plan. Chairman Fiers agreed and added that he is the only Board member who lives on Inlet Way and he is completely sympathetic to the idea of removing some of the trees, since he himself revised the landscape plan for his home when the Town planted trees along the inlet. He opined that the request is reasonable, the architecture of the building is attractive, the view is invaluable, and the Board should approve this. When Mr. McDevitt asked what would be done with the trees, Mr. Magee responded that several would be planted at Anne Slocum's new home on Linda Lane and the others would be somewhere in Palm Beach Shores. Carol Hurst asked if the trees were all coconuts, and Mr. Magee answered yes. Attorney Davis opined that the Planning and Zoning Board should have received a site plan modification application along with something which shows that all unit owners agree with the application.

COMMENTS FROM THE PUBLIC:

Richard Laabs opined that he agreed with the applicant.

Jack McDevitt moved to approve the site plan modification at 314 Inlet Way subject to receipt of the application and documentation of condo board support. Vice Chairman Banks seconded the motion and it passed unanimously.

e. Discussion: sign code.

Chairman Fiers explained the need for this discussion. In their last discussion, it was determined that the code had been modified to determine the difference between a permanent business sign (which requires a building permit) and a temporary real estate or rental sign. The code is not overly strict but fairly clear. Now the Board needs to decide if the code should be further modified or if it should be left as is.

COMMENTS FROM THE BOARD

Vice Chairman Banks stated that he thought they had agreed to something similar to what is in the proposed code.

Jack McDevitt stated that he had seen some for rent or for sale signs in red and white, the type one might buy in a hardware store, and asked if this was allowed under current code. Mr. Fiers responded no, and this should be referred to Code Enforcement. Attorney Davis explained that the code describes what is prohibited (billboards, flashing electrical signs, any off-premises signs, any signs that overhang a street or a walk or project from a

building, canopy or awning signs, signs on the roof or painted on the wall, swinging signs larger than 18” by 24”, any sign larger than 18” by 18” with its message directed toward the Lake Worth Inlet or the ocean.) A permit is required, with the exception of temporary signs, which the code defines.

Mr. Fiers agreed with Kevin Banks that if a sign is permanent it should be permitted. He explained that some signs in town had been cited because they looked temporary and the owners claimed the signs were permanent. Therefore it should be considered that if a permit can be found, the sign will be considered permanent. If not, the owner must either get a permit or comply with the code for temporary signs.

Carol Hurst asked how long a temporary sign can stay, and what to do about non-compliant signs. Mr. Fiers responded that ‘for sale by owner’ signs would have to comply but the town could show some flexibility in order to allow the owner some time to procure the proper sign. He added that possibly the town could have contact information available or eventually could have signs available.

Jack McDevitt asked about ‘open house’ signs. Under current code, a sign is allowed as long as the owner or agent is on the premises. If the owner is around all year, is the sign allowed all year? Maybe the code should be changed. As for colors, he would like to consider setting colors for permanent signs.

Scott McCranels had no comment.

COMMENTS FROM THE PUBLIC

Al Black stated that he’s had a red and white sign on his property for thirty years, and it matches his building. He asked if he now had to get a permit with the Town and comply with the new code. Chairman Fiers responded that he does need to get a permit and he explained that the property is in the commercial district and therefore not affected by recent changes in the code. Attorney Davis again read the applicable codes for permanent signs, which have been on the books since 1977. Mr. Fiers added that yard-arm signs are considered temporary, and signs with two poles are considered permanent.

Chuck Platner opined that the new realtor signs make a huge difference and the look of the Town with the new signs is great. Carol Hurst added that with the new construction of condos and the improvements of the 100 block, signage will improve.

Attorney Davis had a final question regarding ordinances. He had an unapproved ordinance clarifying that permanent signs are not considered with temporary signs. After some discussion, it was decided not to pursue this at this time.

f. Choose date for special LPA hearing.

Town Clerk Gangwer explained that the Town has to run a ten-day advertisement, so the meeting can’t be until the first week of November. Wednesday November 14th was best

for Attorney Davis's schedule, so it was decided that **the LPA hearing will be Wednesday, November 14th at 7 p.m.**

COMMENTS FROM THE BOARD

Vice Chairman Banks asked if Code could be modified to require the permit or exemption from the DEP before the site plan review of a dock., and Attorney Davis stated he could do that. Chairman Fiers agreed with this, comparing it to getting an engineer's view on drainage.

Carol Hurst asked Manny Palacios if the properties in the 100 block were complying with Code. Mr. Palacios responded that 106 Blossom Lane had no recent complaints so they seem to be policing themselves and doing a good job of monitoring their people since the renovations.

Jack McDevitt asked where a sign could be placed on a new construction site, and Mr. Palacios responded that it cannot be in the ten foot strip.

COMMENTS FROM THE PUBLIC

Barb Platner stated there are many times when she cannot hear what's going on, and asked the members to speak into their microphones. It was suggested that more people would attend the meeting if it wasn't so difficult to hear what's going on.

Jim Vizzi stated that the Board needed to be reminded to speak into their mikes. Mr. Fiers agreed, adding that the Board should get "collar" mikes that turn with the person.

The meeting was adjourned at 8:50 p.m.

Sue Franklin, Clerk/Receptionist

Alan D. Fiers, Chairman