

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

Regular Meeting

**Tuesday, April 24, 2007
7:00 p.m.**

ALAN D. FIERS, Chairman X

KEVIN BANKS, Vice Chairman

SCOTT McCRANELS X

CAROL HURST X

JACK McDEVITT X

ROBY DeREUIL, Alternate member X

RICHARD LAABS, Alternate member X

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1. **ROLL CALL, PLEDGE OF ALLEGIANCE**
 2. **APPROVAL OF MINUTES**
Regular meeting of March 27, 2007
 3. **AGENDA APPROVAL:**
Additions, substitutions, deletions
 4. **MISCELLANEOUS BUSINESS:**
 - a. **SPR07-12 & A/AR07-12 Ernest & Barbara Hanna, 200 Inlet Way, Lot 582**
(PUBLIC HEARING)
Propose to construct 2 enclosed courtyards at the front of an existing multi-family building.
 - b. **Consideration: request by Tony Gigliotti, 245 Claremont Lane, Lot 142**
Approval of location for a permanent stand-by generator.
 - c. **Consideration: request by Hugh Joyce, 200 Tacoma Lane, Lot 163**
Six month extension on approved site plan SPR06-9.
 - d. **Discussion:**
“Maintenance and appearance standards on property abutting Rights of Way and other Town owned property”
 - e. **Discussion:**
Requirement for Planning and Zoning Board review of all new fences, hedges and walls in all zoning districts.
 5. **BOARD COMMENTS:**
 6. **PUBLIC COMMENTS:**
 7. **ADJOURNMENT**

MINUTES

The meeting was called to order at 7:00 p.m. by Alan Fiers. Roll call revealed that all members were present except Kevin Banks, so Chairman Fiers chose Richard Laabs to

replace him on the dais. Also present were Town Attorney Keith Davis, Zoning Official Manual Palacios and Town Clerk Carolyn Gangwer, and Alternate Roby DeReuil in the audience. Chairman Alan Fiers presided through the pledge of allegiance, then Carole Hurst **moved to approve the March minutes** and after a second by Jack McDevitt, the motion carried unanimously.

Mr. Fiers then **requested the addition of a staff update and an update from the Attorney to item 4 tonight, and as a regular item on the agenda.** With Carole Hurst making the motion and Richard Laabs seconding, it passed unanimously.

Mr. McDevitt asked Attorney Davis to once again address the Sunshine statute, and requested it be added as a part of Item 4. It was agreed.

Chairman Fiers asked Zoning Official Manny Palacios to walk the Board through the report (i.e. Projects Construction Tracking Sheet.) Mr. Palacios stated that the Town was awarded \$5000 in Code Enforcement fines and administrative costs from 106 Inlet Way. Town Clerk Gangwer added that the site plan approval for this property has run out, but she has been told verbally that the developer intends to reapply, but she has seen nothing yet. Mr. Palacios, continuing with the report, stated that 224 Inlet Way, the Las Brisas project, had received site plan approval and a building permit, but the time has also run out. He added that he would send a letter to inform them that they have to start over, and would include Code Enforcement issues regarding the state of the lot. Mr. Palacios also added that he had already sent a Notice of Violation regarding the number of signs on the property, and indicating they may have to come to the May 15th Code hearing. Mr. Fiers asked if the reapplication fee was 50% when a project lapses, and Town Clerk Gangwer stated this would be determined in the future, with input from the Building Official.

Mr. Palacios stated that he had sent the necessary notices for existing real estate signs, and will be posting violations soon. The deadline for compliance is June 24th. When Mr. McDevitt asked him if this also applies to news racks, Mr. Palacios responded yes.

Chairman Fiers related that his builder stated Palm Beach Shores is by far the best town to work with.

Attorney Davis reported that the town has been advised by the bank holding the mortgage that 106 Inlet Way was going through a foreclosure. He also stated that Steve Fuller from the Sailfish had submitted a letter dated April 18th asking to delay submitting a site plan until the June Planning & Zoning Board meeting. Mr. Davis anticipates they will ask for an extension, since their approval expires in August and they wish to re-evaluate and study the market. Chairman Fiers asked if they would have to start over if they re-work their site plan, and Attorney Davis responded that they would have to start over, but their special exception would expire.

Attorney Davis proceeded to explain the Sunshine Law, which requires that all meetings and gatherings including more than one person must be held in the sunshine. This means it must be open to the public, minutes must be taken, and there must be reasonable notice

to the public that the meeting will take place. Clerk Gangwer added that the Town publishes meeting notices 72 hours in advance, and also posts them on the website. Attorney Davis continued to explain that members are not permitted to discuss with other members or alternates something that will come before them in the near future. The members can chat about non-Planning & Zoning Board events or previous Planning & Zoning Board issues. This doesn't prevent a Planning & Zoning Board member from discussing something with a Commission member because it's one on one. A Planning & Zoning Board member could discuss any issues with other groups (e.g. the Property Owner's Association) as long as no one in the group is on the Planning & Zoning Board. A Planning & Zoning Board member can communicate his/her opinion with other members (e.g. letter or email.) It only becomes a violation if the other member responds to that communication before the following meeting. The member cannot ask other members' opinions because they cannot legally respond. Once they interact, it's a violation. Phone conversation is never appropriate. If there is a violation, any action taken on that matter could be challenged and voided from its inception. Penalties to individuals could be removal from office and/or hundreds of dollars. Mr. McDevitt asked if he should avoid speaking with other members without a witness or group of witnesses, and Mr. Davis opined that there will always be a suspicious perception no matter what they're talking about. When Mr. McDevitt asked if he could speak to the town planner, Mr. Davis responded yes, the law doesn't apply to staff or hired consultants or himself, as long as it's one on one. Mr. Laabs asked what to do if an applicant wanted to meet with him, and Attorney Davis answered that it's fine to meet with an applicant but to be careful of statutes regarding gifts (e.g. dinner or drinks.) It's inappropriate to accept gifts in a situation where your decision can make a difference.

a. SPR07-12 & A/AR07-12 Ernest & Barbara Hanna, 200 Inlet Way, Lot 582

Attorney Davis swore Mr. Hanna and Roby DeReuil in. Mr. Hanna presented his project in which he proposes to build two enclosed courtyards in order to make what was previously a motel look more like its current use as a single family home. It was renovated in 2000 to become single family. Chairman Fiers asked if the plan had been adjusted after last month's meeting to be entirely within the setbacks, and no variance was needed. Attorney Davis opined that Mr. Hanna had gone above and beyond to eliminate entryways to the street, leaving only one. Ms. Hurst inquired if the inset was pervious or impervious, and Mr. Hanna responded that it would be grass as the site plan shows. Mr. McDevitt complimented him on keeping the art deco style, and Mr. Hanna responded that this was important to him and his wife. Mr. DeReuil opined that it was excellent to eliminate the driveways in front.

When Mr. Hanna asked if they could ever turn it back into a motel in the future, Chairman Fiers responded that they can revert to motel use, but they can't reverse the parking to the way it was. Attorney Davis agreed, explaining that the motel use is still within code, but the parking would have to go to Planning & Zoning Board for review and would have to follow current code. Mr. Laabs **moved to approve SPR07-12 & A/AR07-12** and Scott McCranels seconded. It passed unanimously.

Chairman Fiers commented that this is the second development on the water side of Inlet

Way, east of the parkway to be putting landscaping in the 10' strip, so he asked that the Commission deal with the sidewalk issue on this side of Inlet Way.

b. Consideration: request by Tony Gigliotti, 245 Claremont Lane, Lot 142

Mr. Gigliotti stated that the proposed generator runs on natural gas and will be located near the electric panel. Scott McCranels opined that it is a common sense location. Jack McDevitt stated that A/C units cause a noise problem in town, and thinks the neighbor to the east should be consulted. Carole Hurst stated that her neighbor put in a generator and they were notified. She has not heard it run since, and believes most neighbors are informed. Mr. McDevitt inquired how much of the generator protrudes into 7' side setback, and Mr. Gigliotti responded that it will be 6" to 12" from the building, and the generator is 2' x 4'. He added that the neighbor is an empty lot, but he could notify the owner. Mr. McDevitt reiterated that the neighbor should always be notified, then asked if the unit could be located in the rear of the property. Mr. Gigliotti responded that there is an area with A/C and pool equipment, but there is no room. The generator would have to be almost against the rear lot line, and would be too close to the rear neighbor. Also, the distance from the generator to the electric panel would then be 50' to 60' from the house, too far. When Mr. McDevitt inquired about the odor, Mr. Gigliotti responded that some notice, some don't. Richard Laabs opined he agreed that there would be too much power lost if the generator were in the rear, and added that most A/C's are louder than generators, which also don't run as often. When Carole Hurst inquired about decibels, Mr. Gigliotti responded 74.5. When Ms. Hurst stated it would be 3' into the setback, Mr. Gigliotti responded that he would install sound-preventing styrofoam. Chairman Fiers asked about a landscape buffer, to which Mr. Gigliotti responded there is already a thick 6' hedge along the property line.

STATEMENTS FROM THE PUBLIC:

Jim Vizzi commented that when he did an addition, the pool equipment and A/C had to be in the rear, yet his neighbor put A/C on the side. Chairman Fiers responded that A/C may be allowed on the side with Planning & Zoning Board approval, but pool equipment must be in the rear.

STATEMENTS FROM THE BOARD:

Richard Laabs **moved to approve Mr. Gigliotti's request** to locate the generator on the east side of his home, and Scott McCranels seconded. Mr. McDevitt asked to add the requirement that the neighbor be informed, and Carole Hurst agreed. Clerk Gangwer inquired if staff needed to do this, and Chairman Fiers indicated that Mr. Gigliotti should do it. If not, staff would notify neighbors. Mr. Laabs **added the condition that Mr. Gigliotti inform the neighbor**, and the motion passed unanimously.

c. Consideration: request by Hugh Joyce, 200 Tacoma Lane, Lot 163

Chairman Fiers recused himself because Mr. Joyce is his nephew. Mr. Joyce is

requesting a 6 month extension of his site approval for adding a master bedroom with second floor loggia to his existing home. Mr. McDevitt inquired if the Commission should make the final decision on this issue, since they declared a moratorium. Attorney Davis responded that the Planning & Zoning Board could grant it, if the plan remained the same. The extension applies to what's been approved. With any modifications, it would be put on hold. Dr. McCranels asked to clarify – if someone gets a 6 month extension, and it expires again, they are under the new guidelines when they re-apply. Attorney Davis stated this was correct, if there are modifications to an extension they are reviewed under new code. Carol Hurst **moved to approve Mr. Joyce's extension request**, and seconded by Dr. McCranels, the motion passed unanimously.

d. Discussion: “Maintenance and appearance standards on property abutting Rights of Way and other Town owned property”

Attorney Davis stated that Commissioner Tropepe had requested that he place this item on the agenda. His understanding is that she wants to codify that the property owner is responsible for maintaining the appearance of the 10 foot strip, even though it's town owned property. He added that Inlet Park is probably the driving motivation moreso than the 10 foot strip. Dr. McCranels stated this affects 3 main areas, the parkway, the inlet, and the 10 foot strip. Mr. McDevitt opined that Ms. Tropepe probably wants to get something on the books before a situation arises, adding that Town Code could include something that governs what properties can do to have a more appealing look. Mr. Laabs stated that he's heard people complain of concrete debris, some looks bad and some is hazardous. Ms. Hurst declared herself in agreement with these comments and feels that this is a good start. She opined that we can't control uniformity of fences, for example. Chairman Fiers stated that it's difficult to dictate or require standardizations, but a landscaping buffer could be required, as well as maintenance along the strips. He added that on Inlet Park, especially toward the west, there are areas that the Commission needs to clarify what is intended for public use, since the owners shouldn't have to keep up that which is designated for public use.

Mr. Palacios inquired if they should look into the color of a house seeking site plan approval. Mr. Fiers suggested that this be part of the discussion at the upcoming workshop, along with fences and landscaping, including a minimum standard of maintenance for the town easements, i.e. the parkway (north & south), the 10 foot strips, and a separate standard of maintenance for the inlet park east of the parkway and west of the parkway. Mr. Laabs inquired if Board members should take pictures of certain areas so they know what they're addressing, and Mr. Fiers responded they should walk it (individually) so they can talk about it. Dr. McCranels opined that the Environmental Committee could address the few problem properties along the parkway, and only the inlet area could be addressed by the Planning & Zoning Board. Mr. Fiers suggested that Attorney Davis make a draft, and then Commissioner Tropepe could clarify if this is what she wanted.

e. Discussion: Requirement for Planning and Zoning Board review of all new fences, hedges and walls in all zoning districts.

Chairman Fiers stated that he would like Attorney Davis to draft something that makes fences, hedges, and walls come before the Planning & Zoning Board, as they used to. Carol Hurst **moved to make any new fence, hedge, wall, in any district, come before the Planning & Zoning Board.** When Mr. Palacios asked to include gates, Ms. Hurst **modified the motion to include gates.** Dr. McCranels inquired if existing structures would be grandfathered in, and Ms. Hurst stated this was correct. Dr. McCranels seconded the motion and it passed unanimously.

STATEMENTS FROM THE PUBLIC

Eugene Humes stated there are fences that are not to code now, and if anything happens to them (i.e. hurricanes, etc.), they should have to come into compliance with new code. Chairman Fiers agreed. He added that this concludes regular business, and asked for comments from the board.

STATEMENTS FROM THE BOARD

Dr. McCranels stated that he appreciates being a member of the Planning & Zoning Board, and hopes to see a good turnout at the May 5th workshop. He added that the LPA brought some good things to light and he hopes for a good healthy debate at the workshop.

The meeting was adjourned at 8:30 p.m.

Sue Franklin, Clerk/Receptionist

Alan D. Fiers, Chairman