

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

Regular Meeting

**Wednesday, August 27, 2008
7:00 p.m.**

Roby DeReuil, Chairman X

Jason Prince, member X

Carol Hurst, Vice Chairman X

Richard Laabs, alternate member X

Scott McCranels, member X

Jack McDevitt, alternate member

Rick Ziegler, member X

Keith W. Davis, Attorney X

1. **ROLL CALL**
2. **APPROVAL OF MINUTES:**
Minutes of July 22, 2008 regular meeting.
3. **AGENDA APPROVAL:**
Additions, substitutions, deletions.
4. **STAFF REPORTS:**
 - a. **Town Zoning Official/Code Enforcement Officer**
 - b. **Town Clerk – recap of August Development Review Committee meeting**
5. **MISCELLANEOUS BUSINESS:**
 - a. **SPR08-11 & A/AR08-11 Bret Worcester, 131 Tacoma Lane, Lot 175. PUBLIC HEARING**
Applicant proposes an entirely new two story single family residence.
 - b. **V08-5 Tim & Dodi Glas, 230 Edwards Lane, lot 200. PUBLIC HEARING**
Applicant seeks relief from Pf. 5.5 “Front yard” and Pf. 5.2 (d) regarding roof pitch in order to construct additions and roof alterations to their existing one story single family residence.
 - c. **Discussion: landscape requirements for privacy/buffering in Zoning Districts B and C.**
6. **BOARD COMMENTS:**
7. **PUBLIC COMMENTS:**
8. **ADJOURNMENT.**

MINUTES

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

Roll call revealed that alternate member Jack McDevitt was absent. All other members were present along with Town Attorney Keith Davis, Zoning Official Manuel Palacios, Town Clerk Carolyn Gangwer, and Assistant Clerk Sue Franklin.

The minutes were unanimously approved as written for the July 22, 2008 Planning and Zoning Board meeting.

The agenda was unanimously approved as written.

4. STAFF REPORTS:

a. Town Zoning Official/Code Enforcement Officer

Code Enforcement Officer Manuel Palacios presented a Construction Tracking Sheet and Building Permit Status Report for August 2008, and Rick Ziegler asked about the Desrochers' property at 315 Inlet Way. Town Clerk Carolyn Gangwer explained that there had been a 6 month extension granted on the site plan approval, and there could be a 6 month extension granted on the building permit, if the applicant requests it.

Vice Chairman Carol Hurst inquired about the progress at 212 Blossom Lane, and Mr. Palacios responded that the request for a Certificate of Occupancy had been delayed due to a conflict between the contractor and the homeowner over the landscaping, which has not been completely installed according to the site plan. Ms. Hurst asked if there was a construction timetable, and Mr. Palacios responded that this project was approved before the construction timetable was made a requirement. Mr. Prince added that grass is growing between the pavers, and Mr. Palacios stated that he had sent a Friendly Notice to the homeowner regarding this issue and also regarding the car with an expired tag which is parked in the driveway.

Mr. Palacios told the Planning and Zoning Board that he was to meet at the Community Center the following day with West Construction and the project architect regarding the doors. During Tropical Storm Fay there was a huge problem with flooding, with water intruding 13' into the second floor on the east side. Neither West nor the architect will accept responsibility for this final issue, which may be resolved either with caulking at the threshold or by changing the doors.

The property at 133 Linda Lane has been demolished and the empty lot is tidy.

Mr. Palacios explained that at 155 Ocean Avenue the dividers and canopy over the exterior handicapped parking space have been installed, which completes Phase I. The Certificate of Occupancy for Phase I should be issued soon.

The installation of fuel tanks at the Buccaneer Condo should be finished within a week.

The property at 340 Bamboo Road has been cited for landscaping violations. The owner has medical problems and the property is in foreclosure. Mr. Palacios had contacted the owner's brother, who was able to prepare a letter and have his sister sign it, giving permission to the Town to have the property taken care of. It was recently cleaned up and now complies with code.

There was a Code Enforcement issue regarding a pool with stagnant water at 307 Bravado Lane. Even though the owner/agent is taking care of it, Mr. Palacios stated that it will go before the Special Magistrate in order to have a ruling. This will make it easier if the problem arises in the future, since it would then be a repeat offense.

b. Town Clerk

Town Clerk Carolyn Gangwer gave a recap of the August Development Review Committee meeting. Chairman DeReuil asked if the new structure of the Committee was working well, and Ms. Gangwer responded that the input from the variety of backgrounds is good, although there have been no volunteers for the “at large” member of the community. Ms. Hurst asked to correct her comments regarding front porches. She did not say that she “loves” front porches.

Ms. Gangwer stated that \$1500 was in the 2008-2009 budget in order to have building and landscape illustrations made for the Code Books.

When Richard Laabs inquired about the status of the Cannonsport project, Attorney Davis explained that there are liability issues regarding the public access easement. Mr. Palacios stated that all other requirements for the Certificate of Occupancy have been met but to date, no units have been sold. Dr. McCranels asked if property taxes were due only following the receipt of the Certificate of Occupancy, and he was told that is correct.

5. MISCELLANEOUS BUSINESS:

a. SPR08-11 & A/AR08-11 Bret Worcester, 131 Tacoma Lane, Lot 175.

PUBLIC HEARING

Applicant proposes an entirely new two story single family residence.

All parties were sworn in, and there were no ex parte discussions.

Chairman DeReuil asked the property owner Tisha Worcester if the recent setback changes had caused them any difficulty, and Ms. Worcester responded that the moratorium and all code changes since that time have had an adverse effect on their project. Attorney Davis stated that this project complies with both the old code and the new, with an 18’ side setback.

Scott McCranels appreciated the color renderings and thanked Ms. Worcester for the complete package. He also liked the fact that there is more roof in the rear than windows, in order to respect the neighbors’ privacy, and that the bulk of the two stories is in the front.

Jason Prince opined that in spite of the large size of the house, it fits well into the neighborhood, and he also appreciated the color renderings.

Roby DeReuil clarified the height of the house, which is within code. He opined that it is a beautiful design, a nice addition to the town. He commended the designer Julie Mondell, who was present. Ms. Worcester showed renderings of the various facades. Mr. DeReuil asked about the driveway, and Ms. Worcester responded that they had changed the driveway plan in order to comply with code.

Carol Hurst opined that the 6 month process had been well worth it and the applicants

had made good use of all the suggestions. Ms. Worcester agreed, and stated that they heeded the suggestions and ended up with a much better design. Ms. Hurst added that it is now much more attractive.

Rick Ziegler opined that it is a nice project, adding that it is helpful to read the Development Review Committee recap before the project appears before the Planning and Zoning Board. He had no objections to the project.

Scott McCranels moved to approve SPR08-11 & A/AR08-11 as presented, and with a second from Carol Hurst, it passed unanimously.

b. V08-5 Tim & Dodi Glas, 230 Edwards Lane, lot 200. PUBLIC HEARING

Applicant seeks relief from Pf. 5.5 “Front yard” and Pf. 5.2 (d) regarding roof pitch in order to construct additions and roof alterations to their existing one story single family residence.

Applicants Dodi and Tim Glas were present, as well as architect and previous Planning and Zoning Board member Leslie Divoll.

Ms. Glas presented the project. She explained that the house was built in 1953 and they have lived in it for 16 years. They have made improvements to the inside and made a sunroom at the back, but they want to add a functional front porch. Their rear porch is only 6’ deep, and it gets wet when it rains. Also, being a land planner, Ms. Glas feels strongly about how the front of the house relates to the street and to the neighbors. When they measured to update their survey, they realized that their home is already a few inches into the front setback. The applicants knew they would need a variance for the depth of the porch, but as they moved forward with their project they realized they would also need a variance for roof pitch. Current code allows 8/12 and makes no provisions for appurtenances and architectural features. This project includes a cupola for a whole-house ventilation system. The pitch of the cupola and the porch roof is 9/12.

Ms. Glas continued, saying that they currently have a circular pea rock driveway that they want to eliminate. It will be replaced by a single-entrance driveway and a parking court. By doing this, they can bring landscaping into the right-of-way, screening more of the parking area from the street. This will make a friendlier street frontage offering better aesthetics with regard to the house and porch. There will also be a small addition to the back of the house, enclosing 183 square feet at the rear corner in order to build a laundry room.

Rick Ziegler opined that the Planning and Zoning Board had gone to great lengths to revise the code, so either the variances should be denied, or if they are granted, the Board should then adjust the code and make provisions for appurtenances, porches etc.

Carol Hurst concurred with Mr. Ziegler stating that she did not believe there was a hardship for the porch. Carol herself has a 6’ covered entrance, and she stated that her

cushions rarely get wet except in the case of a gale wind. Also, although she likes to sit out front, she opined that chaise lounges and large tables are too much. As far as the roof pitch is concerned, she had no problem with granting this variance. She added that the design is lovely.

Chairman DeReuil opined that it was not the intent of the Code to limit roof pitch in the case of cupolas or appurtenances. The Code will continue to evolve, and there are multiple things that have not been thought of that will come up in the future. Mr. DeReuil added that he appreciated the one-story design and has no problem granting both variances. He added that his own front porch is 7' and he has trouble getting around the furniture. After a brief discussion with Ms. Glas, it was determined that there is a room at the front of the house that would have to be eliminated in order to comply with current code, and therein lies the hardship.

Jason Prince agreed, and opined that the Planning and Zoning Board has been struggling with the code for years in order to create just such a look. He himself has the same type of 6' porch on the front of his home and he finds it very restrictive, lacking room for furniture and exposed to weather. He added that he saw no negative to bringing the porch out and would grant both variances.

Scott McCranels asked if each variance is on its own merit or does granting a variance set a precedent for future requests. Attorney Davis responded that each case is considered separately. Dr. McCranels then opined that in the past there has been much discussion about privacy in the rear and many people complained about rear balconies. Here is a case where the applicant is doing exactly what the town seemed to want, updating the house and giving it more street appeal. He added that he likes the standing seam metal roof and would grant the variances.

Chairman DeReuil inquired about the area in the center of the driveway and Ms. Glas responded that it was paved. As an aside, he mentioned that over the years he had often heard the request for a canvas cover for the car and would like the Planning and Zoning Board to discuss this in the future.

Richard Laabs opined that it is a great project and the Board should accept it.

PUBLIC COMMENTS:

Jim Vizzi suggested that if the variance is granted, it should be with the stipulation that the porch can never be closed in at a later date.

Town Clerk Gangwer stated that the office had received a phone call from neighbor Jo Dolce who heartily approves of the project. Ms. Glas added that they had spoken with several neighbors (except Mrs. Ross) and all had approved. She also stated that many other municipalities have language in their code that makes a distinction between a porch under roof and an enclosed area under roof. Mr. DeReuil suggested counting only half the area of a porch or loggia as being under roof, therefore encouraging open spaces.

Rick Ziegler suggested that the code be changed to allow a porch to encroach a specific number of feet into the setback..

Scott McCranels moved to recommend approval of both variances requested in V08-5 with the caveat that the porch cannot be closed in at a later date. The roof approval was unanimous and the front yard approval passed 3-2, with Carol Hurst and Rick Ziegler dissenting.

Attorney Davis stated that this request would appear before the Commission at their September meeting.

c. Discussion: landscape requirements for privacy/buffering in Zoning Districts B and C.

Attorney Davis explained that the Commission would like recommendations regarding certain paragraphs of Chapter 78 regarding landscaping requirements in District A. The Commission feels that many of the requirements in Ordinance O-21-07 could also be applied to Districts B and C, and would like the Planning and Zoning Board's opinion.

The following observations were made:

- Section 78-77.1 Design guidelines applies to all districts except for paragraph (d) which only applies to District A;
- Section 78-77.1(b) requiring a minimum of 3 trees in the front yard may not be appropriate for larger properties, however 77-73 applies to all districts except A and requires at least one tree for every 50 linear foot or portion thereof;
- Height requirements in 77-77.1(d) apply to District A, but would be appropriate for Districts B and C as long as the language is clear that privacy screening in the rear yard of a waterfront property is not necessary;
- Section 78-77.1(a) regarding foundation plantings already applies to all districts, and an illustration will be added in the coming year;
- In the case of a 3 story building with depressed parking, possibly a berm that reaches halfway up the first story could be required;
- Regarding Section 78-77 in Ordinance O-21-07 Plant material, the code was softened in the last sentence by using the word "recommended", but another code regarding maintenance covers this issue.

PUBLIC COMMENT:

Jim Vizzi asked why the landscape requirements had to be codified, and Attorney Davis explained that especially at the staff level, it is important to have criteria established so that staff can require the minimum standards.

Carol Hurst moved to make Ordinance O-21-07 apply to Districts B and C also, adding recommendations regarding trees every 50' and around the driveway

(depending on its design) to make it look lush, and adding that foundation plantings should be proportional with the height of the building. With Dr. McCranels seconding, the motion was approved unanimously.

6. BOARD COMMENTS:

Chairman DeReuil reminded the Board members to insert the latest ordinance.

Dr. McCranels opined that the Glas variance request is a reminder to the Board that they must keep an open mind to architectural features and not discourage them, resulting in cookie-cutter homes.

Jason Prince agreed, and thought the Glas project is a good example of progression without changing the look of the town.

Chairman DeReuil also agreed with Dr. McCranels, and wishes to put discussions on future agendas regarding 1) covered front porches, 2) allowing a canvas or awning-type cover for a car, and 3) roof pitch on cupolas, etc.

Rick Ziegler opined that the hardship was not proven for the porch variance, which is why he refused. He explained that in all fairness to future projects, since this was accepted by the Board, the code should be revisited.

Carol Hurst agreed about the roof pitch and thinks this is a beautiful design that fits well with the town. She agreed with Mr. Ziegler's refusal and asked Attorney Davis to clarify the definition of a hardship. Mr. Davis responded that the code does not define hardship and the definition is subjective depending on each Board member's judgment.

PUBLIC COMMENT:

Richard Laabs mentioned that at one time, Attorney Davis had written an opinion regarding a public walkway around the exterior of the town, particularly along the waterfront. Mr. Davis recalled that he had opined that it cannot be done. Mr. Laabs said that he has recently heard discussions about this very subject and requested a copy of the opinion in order to try to put this discussion to rest once and for all.

The meeting was adjourned at 8:55 p.m.

Sue Franklin, Assistant Clerk

Roby DeReuil, Chairman