

# MINUTES

## PLANNING & ZONING BOARD

### REGULAR MEETING AND VARIANCE HEARING

Wednesday, July 18, 2018, 9:30 a.m.

Marble Hall

**Call to Order:** The meeting was called to order at 9:30 am by Chairperson Troiano.

**Roll Call:** *Present:* Trudy Troiano, Joey Raspe, Gary Furtak. *Excused:* Steve Decrow, George Lancaster, Gail Cortelyou, and Ron Anderson. Also present: City Administrator Chris Moonis, City Attorney Tom Wright, Building Official Ed Borysiewicz and City Clerk Kathryn McCullough. Public – 7

**Approval of Minutes:** The Planning & Zoning Board minutes of the March 21, 2018 and May 16, 2018 were approved as written.

**Recommend P&Z 1<sup>st</sup> Alternate and 2<sup>nd</sup> Alternate to the City Commission** - Trudy Troiano explained the alternate members of the Board have not been designated. This is necessary for voting purposes. Ms. Troiano asked that the City Commission be requested to designate the 1<sup>st</sup> and 2<sup>nd</sup> alternates for P&Z.

**Consideration and Recommendation to City Commission of Land Development Revision to Article VIII Flood Plain Management to Adopt a New Article VIII Flood Plain; to Adopt Flood Plain Hazard Maps, to Designate a Flood Plain Administrator, to Adopt Procedures and Criteria for Development in Flood Hazard Areas and Other Purposes** - Building Official Borysiewicz reported the last time the flood plain chapter was updated was in 2011. He explained since then building codes, design criteria and flood elevations have changed. The Florida Building Code has also changed. The State of Florida designated an individual to help the City re-write the entire chapter to meet all the codes and requirements. Wind speeds have increased and the Florida Building Code also required base flood elevation plus 1 foot as of January 1, 2018 for new construction. The State of Florida requires these changes to the Land Development Regulations (LDR) to stay in compliance with the State. This will help the City with grants, reimbursements and the flood insurance discount. Trudy Troiano expressed concern that the amendment is not written in the same language and the numbering is not in the same sequence of the City's current code. She recommended applying the same code numbers as the current code with sub-sections added as necessary. City Attorney Wright explained the requirements to change the LDR is different than other code changes. First the change is presented to the P&Z Board for recommendation to the City Commission. The City Commission is then required to hold two (2) public hearings. Attorney Wright said Ms. Troiano's concerns

could be included in the motion. Attorney Wright also asked about Section 101-94, Protection of Endangered Species. There is a line, apparently highlighted, that is illegible. Building Official Borysiewicz said it should read 'in accordance with the LDR's of the City'. Ms. Troiano said there is also a section numbered as 101-(16), but should be 101-(15).

Chairperson Troiano asked if anyone wanted to speak on this change to the LDR's. There was no one who wanted to speak.

**MOTION:** Motion made by Joey Raspe, seconded by Trudy Troiano, to recommend the changes to the LDR regulations to the City Commission contingent that changes are numbered consistent with the current LDR's and change the number to 101-15 that reads as 101-16 in the changes.

**ON THE MOTION:** Roll call vote. Unanimous approval.

### **VARIANCE REQUESTS:**

#### **Swear in Witness to Testify**

Attorney Wright asked all persons giving testimony in the variance requests to stand and raise their right hand. He asked all to swear the testimony they will give is the truth, the whole truth and nothing but the truth. All replied yes.

#### **Notice of Ex-Parte Communication**

##### **Variance Request**

Chairperson Troiano said the first variance request has been submitted by the City of Key Colony Beach for a variance to LDR Chapter 101 (19) for a side setback of 20'0" from the southern property line to accommodate a proposed bathroom.

Building Official Borysiewicz reported the City Commission approved a bathroom at Sunset Park few months ago. He also reported City Administrator Moonis spoke to the most affected neighbors at Key Colony Pointe Condominium and agreed on a location behind the condo office and propane gas tank that is 5' from the property line. The side setback for any structure in the public recreational district is 25'.

Chairperson Troiano asked if anyone present wanted to speak to this request. There was no response. Ms. Troiano explained, both the City Commission and the P&Z Board, have received numerous emails, telephone calls and personal contact in opposition to the bathrooms. She also explained the responsibility of the P&Z Board is to address the request for a side setback variance. Board member Joey Raspe asked the City Attorney, if the variance is approved today, will the City Commission be able to change the location of the bathroom at their public hearing. Attorney Wright answered yes.

Question 1. Has the applicant shown good and sufficient cause to grant the variance? Joey Raspe, yes; Gary Furtak, yes; Trudy Troiano, yes.

Question 2. Will denial of the variance result in unnecessary hardship to the applicant? Joey Raspe, yes; Gary Furtak, yes; Trudy Troiano, yes.

Question 3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public. Joey Raspe, yes; Gary Furtak, no; Trudy Troiano, yes;

Question 4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district. Joey Raspe, yes; Gary Furtak, yes; Trudy Troiano, yes.

Question 5. Granting this variance would NOT confer any special privileges in terms of established development in the immediate neighborhood. Joey Raspe, yes; Gary Furtak, yes, Trudy Troiano, yes.

**MOTION:** Motion made by Gary Furtak, seconded by Joey Raspe, to recommend denial of the variance request.

**ON THE MOTION:** Joey Raspe stated he misunderstood the motion. He withdrew his second.

**MOTION:** Motion made by Joey Raspe, seconded by Trudy Troiano, to recommend approval of the variance to the City Commission.

**ON THE MOTION:** Joey Raspe, yes; Gary Furtak, no; Trudy Troiano, yes. Motion carried.

Trudy Troiano requested, based on numerous comments from residents, consideration from the City to more closely monitor the activities in the park. People have been observed climbing the trees, knocking the coconuts off, pitching tents, and kayaks and floats in the water. And, if the restroom is built, consideration be given to at least daily maintenance. City Administrator Moonis acknowledged with Ms. Troiano's statements and agreed to better monitoring of the park, and maintenance of the restroom if built.

### **Variance Request**

Chairperson Troiano reported the next variance request is from Havana Jacks for a rear setback variance of 98' and a side setback variance of 15' to permit removable bamboo roof structures to within 2' of the ocean and to the side property line.

Jennifer Stallings, Havana Jacks Resort Manager, explained the request is for removable bamboo roof structures to provide shade. Ms. Troiano asked Ms. Stallings to define removable. Ms. Stallings replied it will be constructed in panels that will be installed adjacent to the existing tiki thatched roof. Ms. Troiano asked if they would be removed on a daily basis or just when the roofs have to be removed. Ms. Stallings replied just when it has to be removed. Ms. Troiano stated 'so semi-permanent'. Ms. Stallings said there are dining tables in the area where the bamboo roof is being constructed. Diners are complaining about the heat. Ms. Troiano stated the application refers to other buildings along the oceanfront with similar structures. She asked Ms. Stallings to identify the other buildings. Ms. Stallings answered she did not know, the application was put together by the owners and given to her to present. Ms. Troiano noted the application is not complete as there was no answer given to question 5.

April Tracy, 425 East Ocean Drive. Ms. Tracy represents the Cabana Club, the adjoining property owner to Havana Jacks. She stated, the tiki hut, constructed before Hurricane Irma, was supposed to be same height as the canopy cover it was replacing. The constructed height of that tiki hut was 18', which is about 8' to 10' higher than the canopy it replaced. The new tiki hut, after Hurricane Irma, is twice the size of the original. Havana Jacks also constructed a concrete fence around the property. The consequences to the Cabana Club is reduced wind flow. If additional roofing is installed it will further impede wind flow, and reduce the view even more. Joey Raspe asked if the tiki hut was a permanent structure and if it was within the 100' setback from the ocean. Ms. Tracy replied the tiki hut is a permanent structure and it is not within the 100' setback from the ocean.

Anthony Peters, 370 East Ocean Drive, directly across the street from the Glunz properties. Mr. Peters reported he was at the first hearing when a variance to the ocean setback was approved. He said since Hurricane Irma the tiki hut is twice the size. This happened with no City meeting, there just isn't the view anymore. The original bar tiki was at least 10' lower than the current structure. Mr. Peters said non-permanent structures are not allowed in Key Colony Beach. Mr. Peters asked where the temporary roof structures would be stored.

Trudy Troiano reported there is no other structure in Key Colony Beach that has the amount of outside coverage as is being requested by Havana Jacks. Shade issues are generally resolved with umbrellas.

Question 1. Has the applicant shown good and sufficient cause to grant the variance? Joey Raspe, no; Gary Furtak, no; Trudy Troiano, no.

Question 2. Will denial of the variance result in unnecessary hardship to the applicant? Joey Raspe, no; Gary Furtak, no; Trudy Troiano, no.

Question 3. Granting this variance will not result in public expense, a threat to public health & safety and it will not create a threat to or nuisance, or cause fraud or victimization of the public? Joey Raspe, no; Gary Furtak, no; Trudy Troiano, no.

Question 4. The property has unique or peculiar conditions or circumstances to this property that do not apply to other properties in the same zoning district. Joey Raspe, no; Gary Furtak, no; Trudy Troiano, no.

Question 5. Granting this variance would NOT confer any special privileges in terms of established development in the immediate neighborhood. Joey Raspe, no; Gary Furtak, no; Trudy Troiano, no.

**MOTION:** Motion made by Trudy Troiano, seconded by Gary Furtak to deny the variance request.

**ON THE MOTION:** Roll call vote. Unanimous approval.

### **ANY OTHER BUSINESS**

Building Official Borysiewicz said the owner of 48 Sadowski Causeway wants to reconstruct his dock which was destroyed by the Hurricane Irma. He wants to build it 2' higher than the neighboring dock and he wants to build outside of the property line, toward the water. City code

requires a dock be built to the same elevation as the neighboring dock and that it must be built on the property line. Mr. Borysiewicz asked if a variance is required to issue a permit for this dock.

Attorney Wright said this request would need to go before P&Z for a variance.

Building Official Borysiewicz said the property at 205 15<sup>th</sup> Circle was originally within the 50' setback. However, now due to erosion along Vaca Cut the structure is 40' from the setback. The owner wants to construct a small air conditioned structure, attached to the current structure. Will a variance be required because the erosion has changed the setback? Attorney Wright said this request would also need to go before P&Z for a variance.

The meeting adjourned at 10:12 a.m.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read "Kathryn McCullough".

Kathryn McCullough  
City Clerk

There may be attendance and participation of city commission members at this meeting.

If a person decides to appeal any decision made with respect to any matter considered at any meeting, that person will need a record of the proceedings and for such purpose may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.