



**MINUTES  
CITY OF LAKE WORTH BEACH  
HISTORIC RESOURCES PRESERVATION BOARD REGULAR MEETING  
CITY HALL COMMISSION CHAMBER  
WEDNESDAY, JUNE 09, 2021 -- 6:01 PM**

**ROLL CALL and RECORDING OF ABSENCES:** Present were-William Feldkamp, Chairman; Bernard Guthrie, Vice-Chair; Geoff Harris; Judith Fox; Stephen Pickett, Robert D' Arinzo (virtual). Also present were – Abraham Fogel, Preservation Planner; Jordan Hodges, Senior Preservation Coordinator; Erin Sita, Asst. Director for Community Sustainability; Susan Garrett, Board Attorney; Sherie Coale, Board Secretary.

**PLEDGE OF ALLEGIANCE**

**ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA:** None

**APPROVAL OF MINUTES:** None

**CASES**

**SWEARING IN OF STAFF AND APPLICANTS** Board Secretary administered oath to those wishing to give testimony.

**PROOF OF PUBLICATION – Provided in the meeting packet.**

- 1) HRPB 21-01500005 - 301 8th Ave N

**WITHDRAWALS / POSTPONEMENTS:** None

**CONSENT:** None

**PUBLIC HEARINGS:**

**BOARD DISCLOSURE:** No disclosures

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

**A. HRPB Project Number 21-00100156:** Consideration of a Certificate of Appropriateness (COA) for garage door installation for the property located at **501 South Palmway**; PCN #38-43-44-27-01-003-0100. The subject property is a contributing resource to the South Palm Park Local Historic District and is located within the Single-Family Residential (SF-R) zoning district.

**Staff:** J. Hodges provides case findings and analysis and reviews the Conditions of Approval. Concerns were the overhead garage doors would give the appearance of an enclosed garage.

**Applicant:** Ian Harrison – Plans on Installing of a swimming pool in the back and thought it would be an additional layer of security. Agrees the color of the door should be complementary to or the same as the house.

**Board:** Board members, familiar with the area who drive by frequently, often think it should be a garage, believes it is a worthwhile improvement. Questions about the size of the openings? Applicant- they are custom, but manageable.

**Motion.** B. Guthrie moves to approve HRPB 21-00100156 with staff recommended Conditions of Approval based upon competent substantial evidence in the staff report and pursuant to the City of Lake Worth Beach Land Development Regulations (LDR's) and Historic Preservation requirements; G. Harris 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**B. HRPB Project Number 21-00100157:** Consideration of a Certificate of Appropriateness (COA) for the installation of a new circular asphalt driveway off of South Lakeside Drive for the property located at **726 South Palmway**; PCN #38-43-44-27-01-014-0020. The subject property is a non-contributing resource within the South Palm Park Local Historic District and is located in the Single-Family Residential (SF-R) zoning district.

**Staff:** A. Fogel presents case findings and analysis. The property originally had a circular drive, the new proposal would have a tighter radius. The Design Guidelines do not support a circular drive as the driveway should be located to the side of the house unless leading directly to a garage or carport. The proposed location gives undue prominence to the automobile.

**Applicant:** Not present nor online.

**Board:** Board members agree with staff regarding adhering to the landscape guidelines. Questions about why is there so much parking? There is a concrete drive coming in from Palmway, one vehicle in the garage and one in the driveway (although tandem) as well as one from the Lakeside Drive. Staff states one of the applicant's is elderly and has difficulty maneuvering on the site. The reason the project is before the Board is the lack of desire to provide landscape screening. As the parcel is extremely xeriscaped, Board members are in agreement with the landscape screening requirement. Staff proposes drought tolerant screening. General concurrence that anything is better than what currently exists; the circle drive appears to already be in use. Favorable points are the proposal is reversible in the future and not on the front façade. Other Board members have issues with potential visibility difficulties caused by a tighter radius; and there is too much paving, essentially the entire back apron. Is there an alternate paving material besides asphalt? Although it is the back yard for the applicant, it is the front for many homes on Lakeside Drive and the asphalt does nothing to enhance the neighborhood. Discussion about providing a parallel parking space.

**Motion:** G. Harris moves to continue HRPB 21-00100157 to July 14, 2021; S. Pickett 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**C. HRPB Project Number 21-01500005:** A request for a variance to allow a 6-foot high fence in the required setback for the property located at **301 8th Avenue North**; PCN #38-43-44-21-15-224-0090. The subject property is located within the Single-Family Residential (SF-R) zoning district and the Northeast Lucerne Local Historic District.

**Staff:** J. Hodges presents case findings and analysis. The permit submittals date to January 2019 with subsequent failings, and revisions to permits. February 2019 the Development Review Official made a determination the lot had dual frontage (corner lot). This would allow for

a four foot (4) fence to be installed on the property line without the required 30" setback as is permitted for front yards. One year later, January 2020 a permit revision was submitted by the applicant and approved for a six (6) fence with 30" setback for a landscape screen. The options available were to install to a max height of four (4) feet on the property line (without landscape) or six (6) foot with 30 inch setback and landscape screening. After several permit revision applications, staff met with the Applicant on site on January 5, 2021, staff approved a fence revision on January 6. On April 26, 2021 the Building inspector issued a courtesy notice of violation for the installation of a six (6) foot fence without screening and the required setback. Despite the amount of time spent by various staff members, the applicant elected to install a six (6) foot high fence without meeting setback requirements as required by the City Land Development Regulations. Mentions a corner lot located at 501 S. Palmway that has a similarly situated six (6) foot fence with landscape screening. None of the variance criteria are met. The proposal is not consistent with LDR Section 23.4-4 (d) (1) (D).

**Applicant:** Frank & Giovanna Pascarella -requested staff to visit the site as they believe the home is unique. The backyard is insufficient in size. The side facing the alley is the only place to gather. Originally had no idea the four (4) four- foot fence (that was installed) would be insufficient for privacy. Claims a staff visit was denied, staff 'flat out refused'. Staff did explain things they would be facing in a manner that was easy to understand. It is a solid house situated on the lot facing North receiving minimal sun exposure. A fence was permitted and approved except for 29 feet. They wanted to keep the six (6) foot fence portion aligned with the four (4) foot fence Trees have been planted in the front and applicant will not encroach upon them by placing a landscape barrier to have a six (6) foot fence. States this corner lot is not at all like the corner lot cited in the staff report. There is only eight (8) feet of frontage and a backyard with only 6.5 feet. Claims that staff presented a fable and that hours were spent with emails and that could have been resolved with a visit. Would never violate an ordinance or code, states they are cognizant of code as they are retired civil employees from Coral Gables. That city incidentally is used as a model for their codes, attended meetings where police would be posted if the meeting became contentious. People would pass by stating they couldn't understand why the fence would go from 6 feet to 4 feet. Would not be here today had staff come out to see the on-site conditions. Victims don't give up but tell the same story over and over until someone hears them. Has spent many manhours contacting City Manager, Building Division, the Mayor and the Building Official and has 70 pages of emails. Everyone in the entire planet deserves a place to sit without people staring at you. Take away 2.5 feet for the setback and that leaves 5.5 feet of green right on top of the trees which need space. A. Fogel did visit the site in January and he may have been directed to not speak, that the permit would be closed out.

**Board:** Questions arose as to why wasn't the variance initially applied for (in 2018) when told the six (6) foot fence would not be allowed without setback or variance and they were advised by multiple times by staff.

**Response:** That is a baldface lie.

**Board:** Board member believes, as there may be some special circumstances, why in 2018 when the advised by City Attorney, did the applicant not apply?.

**Response:** That is not the truth, that is not what happened. The 1<sup>st</sup> time she heard about a variance was when she spoke to Staff. Applicant claims to have been told the cost would be \$500 and \$1500.00 to appear before the Board. For her family that's a King's ransom.

**Staff:** E. Sita explained the exact fee was unknown to her (first week in the city) advised the applicant she would research the fee and get back to her if she wanted, to which the applicant

responded 'absolutely not'. Applicant wanted information on fee immediately. In staff's experience (other municipalities) suggested a higher amount. The fee is \$350.00 plus advertising ranging from \$90 for the Herald to \$350 by the Post. Miscommunication was not the intent.

**Applicant response:** Was told it was non-refundable and would lose even if variance was applied for because the code is the code. Were frightened about losing the money. After receiving the courtesy code violation notice from the Building Division, they wrote to the Building Official who informed them a variance was possible or some other option.

**Board:** Was the fence installed prior receiving the violation or applying for a variance? Why was the house purchased if architecturally it was not good, and lack of privacy was an issue?

**Applicant:** States they were desperate. The real estate agent doesn't go through code and advise that changes may be difficult to facilitate once it is purchased.

**Break - 7:13 PM -7:18 PM**

**Public Comment:** Board Secretary read 2 comments into the record that were received.

**Board:** It seems everything that could go wrong has gone wrong however it was purchased and by applicant's own admission there are things that are wrong. When the house was purchased the applicant was aware of how much space was in the yard. Coming back later and going against process, proceeding without the permit and/or variance, staff is not denying privacy, as a fence can be placed with setbacks and screening. Actions not appropriate. The feeling being conveyed is "I'm going to do what I want and ask for forgiveness later". Board queries why could a four (4) foot fence with landscaping would not provide privacy? Options- move the fence back. Applicants made the purchase knowing what they were getting into. Board concurs the applicants chose to put the fence where they wanted, plead ignorance to the rules and process and then asked for forgiveness. Had more forethought to what the ramifications might be they may not be in this situation. No sympathy is extended as the variance could have been applied for prior to the placement of the fence. Would the four (4) foot fence meet code? Yes, put a hedge behind it for privacy and a variance would not be needed. In most municipalities and Palm Beach County, variances require a very high standard be met, this situation is not worthy of a variance. Board members mention understanding the constraints and but agree with staff. Some Board members came into the meeting feeling sympathetic but after tonight have a different idea. This may not have come to the Board had there been some concessions. The time spent calling the City Manager, City Attorney, Building Official and then installing it anyway is arrogant and very disrespectful. There are some valid points but the manner in which it occurred, makes it difficult to be sympathetic. This has been going on since 2018. One year ago, applicants were advised to apply for a variance which just now occurred but after the fence was installed. The applicant did what they pleased and now asks for permission. Board is in support of the professional staff and their knowledge, rules are written and they can be adjusted and massaged but is no longer in favor of approval. The situation cannot meet the criteria, it is not an atypical design worthy of meeting Criteria #1. The criteria for the granting of a Variance entails high standards to be met. The house now has a code violation and as such cannot be sold with a violation.

Board requests advice from the Board Attorney as to whether they should state their findings or adopt the findings by staff? Board Attorney advises to adopt staff findings, and modify or state own response to each criteria.

**Motion:** B. Guthrie moves to deny HRPB 21-01500005 because the applicant has not established by competent substantial evidence that the application is compliant with the City of

Lake Worth Beach Land Development Regulations and do not meet the four variance criteria LDR Section 23.2-26(b) under analysis by staff. Board agrees that staff analysis of those four (4) criteria were substantiated; R. D'Arinzo 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**D. HRPB Project Number 21-00100118:** Consideration of a Certificate of Appropriateness (COA) for partial window replacement for the property located at **1420 South Palmway**; PCN #38-43-44-27-01-077-0040. The subject property is a non-contributing resource to the South Palm Park Local Historic District and is located within the Single-Family Residential (SF-R) zoning district.

**Staff:**J. Hodges presents case findings and analysis. The proposal is for the front façade of the non-contributing structure. Built in reverse, flipped from the drawings. Condition of approval. #5 allows for either option A or B.

**Applicant:** Joseph Patton – The façade will appear the same due to being behind the mahogany tree and other landscaping. The eight (8) foot ceilings create a darker interior. These 2 windows are the only ones denied, a door with light was approved. Powerpoint depicts same windows on other homes, recently approved by the Board. Does not want the muntins due to further reduction of light. His proposed windows are not tinted.

**Board:** Will these windows match the rest of the new windows in the house?

**Response:** Yes. They are impact. They have been purchased due to backlog. Applicant knew there could be no tint, opening size wouldn't change and saw other similar window configurations in the neighborhood, took a chance and found out that was not so. Has not installed them.

**Public Comment:** None.

**Board:** As a non-contributing property and the same as other windows inclined to approve. No colonials to original; sliders and horizontal rollers were becoming fashionable when this home was constructed in the late 70's. Matching the other windows makes sense. Scratch Condition #4. G. Harris asks if the drawings are accurate, prefers the equally sized windows.

**Motion:** G. Harris moves to approve HRPB 21-00100118 with staff recommended conditions striking Condition #3 and Condition #5, modifying Condition #4 to read "clear glass only". based upon competent substantial evidence in the staff report pursuant to the City of Lake Worth Beach Land Development Regulations and Historic Regulations. B. Guthrie 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**E. Resolution 31-2021:** An amendment to page 198 of the City's Historic Preservation Design Guidelines to allow Low-E coatings with a minimum visible light transmittance (VLT) of 60% for glazing in the historic districts.

Staff gives a brief synopsis of the previous adoptions and amendments. The Historic Preservation Design Guidelines were adopted with the directive from Board that clear glass (historically accurate) is the most compatible type of glass and that window tintings, mirrored finishes or low-E are not historically accurate. The Board motioned for a moratorium in August 2020 due to many variations in appearance between manufacturers for the same material "Clear low-E". In September 2020 the moratorium was lifted with the result being to allow a 70% Visual Light Transmittance (VLT) factor measured from the Center of Glazing (COG). On May 4, 2021 staff was directed by the City Commission to amend the Historic Guidelines limiting the VLT to 70 % minimum. Members of the public had expressed concern that products widely and readily available on the market do not meet the required minimum. Suggestion was made to lower the

VLT to 60%. The City Attorney provided procedural guidance to adopt the 70 % VLT standard, as an amendment to the Historic Preservation Guidelines would be required if the VLT was to be changed to 60%. Pursuant to the City's participation in the Certified Local Government program (CLG) a 30 day notice of intent to amend by the City Commission was provided to the Florida Dept. of State. The response received from the Florida Dept of State Certified Local Government Coordinator, Mariah Justice, indicated the proposed amendment lowering the VLT to less than 70% is not in agreement with Secretary of Interior Standards for Rehabilitation and Guidelines on Sustainability for rehabilitating Historic Buildings. The amendment is not recommended.

**Public Comment: None**

Board: What are the implications/consequence of going against the State recommendation? There were none. There are other ways to address efficiency especially in the South Florida heat. Look to the past to go forward i.e windows and doors with large overhang eaves and porches; covered outdoor living spaces; roof venting with attic vents; cross ventilation, ceiling fans, cool flooring materials such as terrazzo or wood; raised foundations; placing of heat producing systems outside main living spaces in non-a/c spaces.

If the City goes against the State recommendations are there funds/grants at risk? we going to lose money? If the Certified Local Government status were lost, the base flood elevation variance opportunities would be lost, with serious consequences to homes in the City especially within Historic Districts. The City could lose grant opportunities. Suggestion that the Board should adopt a stop-gap feature in the instance the City Commission decides to lower the VLT and at some point in the future, any properties taking advantage of the lowered requirement, could be required to go back to the higher percentage VLT. It would not be a change to the structure in perpetuity, no precedence would be set. The item will most likely be approved by City Commission regardless of the recommendation by this Board. Staff checked the Delray Beach requirements which are at 80% VLT; West Palm Beach requires clear on street facing facades; side and interior elevations allow low-E but not tints. The State understood how the Board arrived at the 70% VLT as they review our minutes and have an understanding of the deliberations by the Board and finds it important that the Board sticks to its own guidelines. A quick calculation of a typical house, taking into account the percentage of glazing versus the total surface area, the windows are a remarkably small part of the structure or total envelope. Other energy reduction efforts could be directed to install additional insulation, plant trees, provide shades or curtains for example. Some Board members are tired of getting "beat up" by neighbors over tinted windows. They are claiming to seek energy efficiency through dark tint windows when in fact it can be achieved with low-E. It is the will of the public that is bending on everyone's ear. Part of the complaint is that to get to the 70% it is a special order and the cost incentive is there for the lower VLT. Considering the population of the City, there seems to be a minority of residents who are requesting the lower VLT. Clear is clear for over a year. Does the Secretary of Interior address glazing? **Response:** No but briefs outline how to tackle certain issues. The Board will recommend denial based on principal or approval with conditions. The result will lie with the City. Board members agree that the meeting should be attended by all to voice opinion regarding the resolution.

**Motion:** G, Harris moves to recommend denial of Resolution 31-2021 to the City Commission; J. Fox 2<sup>nd</sup>.

Questions whether the motion should include the reasoning behind the recommendation.

**Revised motion:** As it is not recommended by the Florida Department of State or Design Guidelines to use glass with a VLT lower than 70%, it is moved to recommend denial to the City Commission of Resolution 31-2021, the amending of page 198 of the City's Historic Preservation Design Guidelines to allow low-E coatings with a minimum visible light transmittance of 60% for glazing in the Historic Districts. J. Fox 2<sup>nd</sup>.

**Vote: Ayes all, unanimous.**

**PLANNING ISSUES:** None

**PUBLIC COMMENTS:** (3 minute limit) None

**DEPARTMENT REPORTS:** E. Sita advises Board of two Ordinances that will be coming forward for Board recommendation. One related to the Flood Plain Management and one for Appeals. Typically appeals move forward directly to the Circuit Court rather than through the City Commission. Flood plain management will be adopting the Ordinance to maintain the City insurance rating despite not having any mobile home parks in the City Flood Plain.

**BOARD MEMBER COMMENTS:**

When is the Birthday Cake Castle returning to Board? The application has been withdrawn. The City should send a cease and desist order which will bolster/support any future actions that may be required by the City. Especially if the Board supports the Cease & Desist Order. They continue to have loud and late parties.

**ADJOURNMENT:** 9:08 PM