



**MINUTES
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD MEETING
CITY HALL COMMISSION CHAMBER
WEDNESDAY, FEBRUARY 07, 2024 -- 6:00 PM**

ROLL CALL and RECORDING OF ABSENCES: Present were: Juan Contin, Chair; Dan Walesky, Vice-Chair; Mark Humm; Zade Shamsi-Basha; Dave Mathews; Henry Pawski; Evelin Urcuyo. Also present were: Scott Rodriguez, Asst. Director for Planning & Preservation; Anne Greening, Senior Preservation Planner; Glenn Torcivia, City Attorney; Sherie Coale, Board Secretary.

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA

APPROVAL OF MINUTES: Board unanimously approves the January meeting minutes as presented.

CASES:

SWEARING IN OF STAFF AND APPLICANTS – Board Secretary administers oath to those wishing to give testimony.

PROOF OF PUBLICATION Provided in the meeting packet.

- 1) 128 South F Street
702 South Dixie Hwy

WITHDRAWALS / POSTPONEMENTS None

PUBLIC HEARINGS:

BOARD DISCLOSURE Dave Mathews discloses that he has utilized the professional services of Mr. Wes Blackman for projects but has not had any conversations with him regarding this project.

UNFINISHED BUSINESS: None

NEW BUSINESS:

- A. PZB Project Number 24-12400001:** An Appeal of the Development Review Official's Decision regarding the expansion of outdoor storage areas at 128 South F Street, pursuant to but not limited to Sections 23.2-8, 23.4-19, and 23.1-8 of the Land Development Regulations. The subject site is zoned Artisanal Industrial (AI) and has a future land use designation of Transit Oriented Development (TOD).

Staff: S. Rodriguez outlines the procedural guidelines for Appeals. City Attorney re-iterates it is based on the record below, as it is an appeal.

Staff: A brief history of the property site plan approval in 2004 and activity since 2007. A variance was also granted related to the stone cutting and finishing at the location as well as a site plan for construction of the industrial building which was subsequently constructed in 2006. Business licenses have been maintained since that time. The 2004 approved site plan shows the area of outdoor storage (material lay-down) to be +/- 384 square feet with parking spaces and dumpster location.

Staff further explains that the AI zoning district does not allow for expanded or additional outdoor storage areas. The existing Material Lay-Down area is a non-conforming use. Only in the IPOC zoning district are new storage areas allowed and then only as an accessory use. A new storage area could be accommodated within a building, otherwise remain only where approved.

Wes Blackman of CWB Associates – representing the landowner and business. States there was never a request in the application for expansion of outdoor storage area. It has existed since the business commenced. The site shows the adaptive re-use of a residential structure for the office with ten (10) parking spaces on the property and three (3) on F Street. The parking requirement for the AI zoning district today is for 5 spaces. They've never asserted that they are expanding, portends that staff is putting words in their mouth. No physical changes to the site are planned. Mr. Blackman reads sections of the Code regarding the appeals process and Code sections related to outdoor storage; states the site is overparked. According to definitions, materials and vehicles are equivalent to each other and questions if the marble slabs are worse than the vehicles. The staff report indicates the expansion began between 2012 and 2014. A fence was installed and pergola constructed without benefit of permit. Both were removed in response to a Code compliance citation. It was protecting marble from weather conditions. Appellant would like to enter photos of other artisanal properties doing same.

City attorney objects as it is immaterial to the purpose of this appeal. What other businesses and properties are doing is irrelevant to this appeal.

Board: D. Mathews asks if outdoor storage was allowed prior to being zoned Artisanal Industrial. **Staff response:** The site plan approval occurred in 2004 at which time the zoning was low to heavy industrial. In 2013 the area was re-zoned to AI; the dedicated outdoor storage area is shown on the site plan.

Board: What triggered this action? **Response:** Code Compliance violations.

City Attorney clarifies that at some point in the past the expansion began; The thought seems that as the owner has gotten away with the expansion, they should be allowed to continue and use as much as they want despite the approved 2004 site plan limiting the outdoor storage to +/- 384 square feet.

Architect of record: Curt Stetson- 330 S Lakeside Drive- States they exemplify the intent of this mixed-use neighborhood by re-using the residential structure. The undefined site area on the plans and adjacent to the outdoor storage should be included and considered as part of the material lay-down area.

Board: Board member disagrees that the material storage and vehicle parking is equivalent. Parking is parking and storage is storage. Could the applicant apply for the L-shaped area for storage as it is encroaching into the parking spaces? **Staff:** Storage would need to be enclosed.

Staff states the applicant should/could have applied for a minor site plan amendment but that didn't happen but rather continual expansion.

Board: Z. Shamsi-Basha gives no weight to the aerals but rather to the approved site plan. The code change did not put them out of compliance, their expansion did and failure to apply for a site plan modification.

Dave Patrona-Owner of Business: Spoke with staff about how to resolve the issue of outdoor storage. He was advised his verbal proposals were rejected and did not meet code; as staff did not tell owner what was would be approved, he did not submit or propose any changes to the site plan.

Staff: The idea was for Mr. Patrona to submit a conceptual plan, that did not occur.

Board: Would the owner be willing to work with staff to come up with a resolution?

Owner: He has addressed the code violations by removing the shelter and painting over rust on the building. Questions why he would waste his time and money with another proposal and risk being rejected or having to compromise. He doesn't have room for another building; would the Board be willing to give a variance?

Board: The owner would need to follow the process as the Board does not have the ability to just grant a variance.

City Attorney – Both Board and City are extending an “olive branch” and the owner is not accepting the gesture.

Board: D. Walesky still does not see a response to the original letter regarding the conformity or non-conformity of use. Inquires as to whether or not the site would have been non-conforming during the previous code. As the City is bringing an enforcement action against the appellant, should the City not provide that information?

Z. Shamsi-Basha – The appellant would be responsible to lay out their case showing what they could have done in 2009. The City should not be required or in a position to provide the evidence to the appellant to show otherwise. This is an appeal of the DRO decision letter, this is not the Special Magistrate hearing.

Several Board members are not familiar with the term material lay-down area.

Owner: Mr. Patrona would like to submit a conceptual according to what is occurring in the neighborhood. He is not willing to spend money on Architectural drawings.

Board: The quickest resolution would be for the Board to deny the appeal and for the appellant to submit a drawing to staff. Would a building or structure be required? **Staff response:** A building with walls and roof.

Owner - Nick Patrona- If there's no resolution, people may lose jobs and homes. Questions where future storage could be on the site.

Public Comment: Erin Allen – 208 S Lakeside Drive as Chairperson of Business Advisory Board on behalf of the Board – It seems he has been caught in an unintentional undertow. This is an opportunity for the City to be business friendly, has had to pay for Mr. Blackman to represent them as it couldn't be resolved at staff level.

Board: There are several avenues to resolve the issues; going outside of Code is not going to work in favor of the appellant.

Motion: Z. Shami-Basha moves to deny PZB 24-12400001; H. Pawski 2nd.

Vote: 4/3 to deny the appeal; M. Humm; D.Walesky; D. Mathews dissenting. Motion carries.

Direction to contact staff to resolve.

B. PZB Project Number 23-01400013: A major site plan and sustainable bonus incentive program request to construct an office building at 702 South Dixie Highway. The sustainable bonus incentive program request is for an additional story (3 stories total). The subject site is zoned Mixed Use - Dixie Highway (MU-DH) and has a future land use designation of Mixed Use – East (MU-E).

Staff: S. Rodriguez presents case findings and site plan analysis. The proposal, as reviewed against Land Development Regulations (LDR's), Strategic and Comprehensive Plan, Major Thoroughfare Design Guidelines, is recommended for approval. Staff is hoping for a modification to the Site plan to run concurrent with the permitting process as opposed to an amendment which is a different process. The Conditions include a lowering of impermeable percentages to 65%. Rather than developing as a true mixed-use project, the applicant has chosen to pay the in lieu of fee to the City.

Architect for the applicant: Ariana

Board member believes the property owner should have chosen to open the office in an existing building rather than building a new structure.

Board: Chair states it is out of the scope of the Board to dictate where people should buy property. Sometimes new development spur re-development of the area.

Staff: As with the sister board HRPB, conceptual review can occur, not within the quasi-judicial process.

Board: It becomes more workload for Staff and Board for items that may never come to fruition. A Board member does not see it as a positive for the City to allow this construction as there is already a Checkers, Walgreens, and gas station. A question arises about cameras being required. Staff mentions that is for residential.

Motion: D. Mathews moves to approve PZB 23-01400013 with staff recommended Conditions of Approval based on competent substantial evidence in the staff report and in testimony provided at the hearing; M. Humm 2nd.

Vote: 5/1 in favor; E. Urcuyo dissenting. Motion carries.

PLANNING ISSUES: There will be the continuance of Sunset Drive in addition to two other projects.

PUBLIC COMMENTS (3 minute limit) None

DEPARTMENT REPORTS: Anne Greening introduces herself and that she will assist on occasion until the Senior Planner position is filled. Glenn Torcivia states he is pitch-hitting for Elizabeth Lenihan.

BOARD MEMBER COMMENTS: None

ADJOURNMENT: 7:25 PM