

TOWN OF LONGBOAT KEY
PLANNING AND ZONING BOARD
MINUTES OF REGULAR MEETING

OCTOBER 16, 2012

The regular meeting of the Planning and Zoning Board was called to order at 9:00 AM.

Members Present: Chair BJ Webb, Vice Chair Allen Hixon, Secretary John Wild, Members Andrew Aitken, Jack Daly, Laurin Goldner, Leonard Garner, Walter Hackett, George Symanski

Also Present: David Persson, Town Attorney; Robin Meyer, Planning, Zoning & Building Director; Ric Hartman, Planner; Steve Schield, Planner; Donna Chipman, Office Manager

ELECTION OF OFFICERS

Chair Webb discussed that the board did a lot of important work and it was critical at all times that on items that were not policy matters that they disagree in a respectful manner. She did not believe it was in the board's best interest that they have a continued divisive issue between two very qualified vice chair candidates. It was clear from the last meeting the vote would be split and she would ask the two candidates to step down so the entire body could nominate a member that the entire board agreed on.

Mr. Hackett asked if the board was in order to nominate another person when during the last meeting there were two nominations that had accepted and were on the floor at the time the nominations were closed. Chair Webb responded that she had discussed the issue with David Persson, Town Attorney, and it was appropriate to reopen the nominations and allow others to be nominated.

Vice-Chair

CHAIR WEBB MOVED TO NOMINATE JACK DALY AS VICE-CHAIR. MR. WILD SECONDED THE MOTION.

Chair Webb asked Kelly Fernandez, Assistant Town Attorney, if a simple majority vote was sufficient. Mr. Hackett commented that during the last meeting there were two nominations and it was declared that a full board would take that vote at this meeting. Attorney Fernandez explained that it was her understanding from Attorney Persson that nominations could be reopened. She reviewed *Roberts Rules of Order* and a majority vote would be needed to reopen the nominations.

CHAIR WEBB MOVED TO REOPEN THE NOMINATIONS. MR. WILD SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, NO; WEBB, AYE; WILD, AYE.

CHAIR WEBB MOVED TO NOMINATE JACK DALY AS VICE-CHAIR. MR. WILD SECONDED THE MOTION.

Mr. Aitken questioned since the nominations were reopened whether Mr. Wild and Mr. Hixon would need to be re-nominated. Chair Webb responded they were nominated previously and the nominations were continued to this meeting.

THE FOLLOWING VOTE WAS TAKEN AT THIS TIME:

AITKEN:	WILD	DALY:	DALY
GARNER:	HIXON	GOLDNER:	DALY
HACKETT:	HIXON	HIXON:	HIXON
SYMANSKI:	HIXON	WEBB:	DALY
WILD:	DALY		

Mr. Hixon suggested the vote for Jack Daly as Vice Chair be by acclamation.

AGENDA ITEM #1
ORDINANCE 2012-25, AMENDMENTS TO CHAPTER 158
REGARDING BUILDING HEIGHTS

Pursuant to published notice, the public hearing was opened.

Ric Hartman, Planner, reviewed the staff report and a PowerPoint presentation noting:

- The height issue was raised during adoption of Ordinance 2012-06 amending the Comprehensive Plan, and one of the things it did was it reiterated language about certain exceptions to the building height in Policy 1.1.10 of the Future Land Use Element
- Section 158.145 was where the Zoning Code established maximum building heights for the zoning districts, and what was being proposed in this ordinance was a footnote denoting certain exceptions granted in Section 158.153
- Another item recommended by the P&Z Board to the Town Commission was that waterfront restaurants be allowed an additional five feet in height through the site plan approval process; it was added in the Comprehensive Plan, but not within the land development regulations
- Staff was trying to show what the maximum heights were for all zoning districts
- Concerning bell towers, spires, or house of worship structures that were attached or unattached, the Board had voted to recommend that the maximum height be

ten feet above maximum height of the zoning district, unless additional height was granted through the site plan approval process

Discussion ensued on the following:

- Whether existing churches that might exceed the height would be grandfathered with staff noting they have site plan approval so they would not be non-conforming, because the height would have been approved
- Whether a footnote was as good as an ordinance provision; Attorney Fernandez explained they were considered part of the code and had the same impact
- Concern whether the height would be “buried” in the site plan application or approval and if the Board could include the language ‘*additional height was specifically granted*’ on the plan; staff noted it would not be, because the applicant would have to justify the additional height being requested
- There was no criteria mentioned as to the intent of input, or decision making, for the application of the exceptions to the existing requirements; the way it was written would require “exceptions to the exception;” staff noted this process was different than the site plan approval process because the extra ten feet was a matter of right
- Whether the same philosophy would be applied for waterfront restaurants with staff noting it was the Board’s decision at the time of review
- Concerning the issue of no criteria, staff explained the additional five feet did not have any criteria, and there was no criteria to make findings as to why they should be granted
- That during the previous meeting, the Board recommendation was to cap the height for existing churches and their appurtenances at ten feet above their building height
- Why the request could not be pursued as a variance; staff noted a variance would be outside the scope of the review of the site plan and would be heard before the Zoning Board of Adjustment

There was discussion concerning FEMA rules and whether it changed where the freeboard was located, and whether there was the possibility of it being different from one end of the island to the other. Mr. Hartman explained that it varied around the island and on the gulf-side it was mandated by the Florida Department of Environmental Protection (FDEP). The churches were basically measured from finished grade, because they were not considered residential structures so they were typically flood proofed, similar to commercial buildings. Mr. Wild asked if on the north end of the island it could not exceed 35 feet for residential. Mr. Hartman replied it was 30 feet measured from the freeboard. Mr. Wild asked if the Longboat Island Chapel spire was grandfathered. Mr. Hartman commented the height was approved through the site plan process and, at that time, there were exceptions, so it was not grandfathered because it went through the proper process. It was asked if a storm removed the spire would the chapel have the right to rebuild. Mr. Hartman responded yes, because it would have been through involuntary destruction.

Mr. Wild asked if the cross that was denied during the site plan process for Christ Church could be reapplied for under this ordinance. Mr. Hartman noted the maximum building height for the church was at 40 feet, so the cross would be at 50 feet.

Mr. Wild suggested the additional height be set at 15 feet.

Mr. Hackett referred to the first provision (Section 158.153), next to the last sentence, and suggested inclusion of the language, "by more than 10 feet of the **zoning** district," in order to provide clarification. Mr. Symanski asked if that would require a language change in other sections or would it mean something different. Mr. Hartman replied no.

Mr. Symanski believed a variance option would be inappropriate, because they would have to prove unreasonable use of the property. He asked if the ordinance was adopted could the Christ Church request additional height for a cross. Mr. Hartman explained that if the ordinance was adopted as written, then they would only need to apply for a building permit. Mr. Symanski asked what would they need to do if the 15 feet was adopted. Mr. Hartman responded they would need to come back and request a site plan amendment approval. Mr. Symanski asked if there was no discretion in the site plan review to determine if a request from a waterfront restaurant was detrimental to the neighborhood. Mr. Hartman commented the way it was written with 'may be granted,' it was not a right; it would be part of the site plan review process under Section 158.097. Mr. Hixon commented the issue of the cross was never discussed by the Board during Christ Church's site plan review. Mr. Wild believed the cross issue was a decision of the previous director. Mr. Hixon commented that he would like to see a cross on the church. Mr. Wild reiterated that he would like the ordinance to be amended to state 15 feet versus 10 feet.

No one else wished to be heard, and the hearing was closed.

MR. WILD MOVED TO RECOMMEND APPROVAL OF ORDINANCE 2012-25 WITH THE AMENDMENT THAT THE ADDITIONAL HEIGHT BE REVISED FROM 10 FEET TO 15 FEET. MR. GARNER SECONDED THE MOTION.

MR. SYMANSKI MOVED TO AMEND THE MOTION TO LIMIT THE ADDITIONAL HEIGHT TO TEN FEET. MR. HIXON SECONDED THE MOTION.

Mr. Hixon commented that a cross was a proportionate symbol and not misconfigured if it was not a certain height. Mr. Hartman commented there were two separate issues for the ten foot rule. There was the ten foot rule for elevator shafts, parapet walls, etc., and there was a ten foot rule for house of worship – appurtenant structures. Chair Webb asked Mr. Wild to clarify whether he only wished the 15 feet to apply to house of worship-appurtenant structures or include elevator shafts, parapet walls, etc. Mr. Wild noted he was suggesting 15 feet for both.

Mr. Garner pointed out the modification from 10 feet to 15 feet did not grant a right, but an opportunity. The Board was not “giving it away,” because the applicant would have to justify the additional height. Mr. Hartman noted it was a right, because it was not part of the site plan approval process. They would have to go through the site plan review process if they wish to exceed the additional height of 15 feet. Discussion ensued on the additional height and what it would allow, and the proportion and scale.

Mr. Wild withdrew his amendment. Mr. Garner withdrew his second.

Mr. Symanski withdrew his amendment to Mr. Wild’s motion. Mr. Hixon withdrew his second.

MR. WILD MOVED TO RECOMMEND APPROVAL OF 2012-25 SUBJECT TO THE AMENDMENT THAT THE WORD ‘ZONING’ BE INCLUDED BEFORE ‘DISTRICT’ IN SECTION 158.153. MR. GARNER SECONDED THE MOTION. MOTION CARRIED ON ROLL CALL VOTE: AITKEN, AYE; DALY, AYE; GARNER, AYE; GOLDNER, AYE; HACKETT, AYE; HIXON, AYE; SYMANSKI, AYE; WEBB, AYE; WILD, AYE.

AGENDA ITEM #2
CONSENT AGENDA

MR. HIXON MOVED APPROVAL OF THE MINUTES OF THE SEPTEMBER 18, 2012, MEETING AND SETTING THE FUTURE MEETING DATE FOR NOVEMBER 20, 2012. MR. GARNER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

Mr. Aitken questioned the status of the telecommunication policy discussion that was held at the October 15, 2012, Town Commission workshop.

Robin Meyer, Planning, Zoning & Building Director, explained the purpose of the meeting was to get direction from the Town Commission as to how they wish staff to move forward with the issue of cell towers. After a lengthy discussion they directed staff to conduct more research as questions were raised regarding the actual studies that were done and what was mandated by the federal code. He noted there was also testimony that 4G antennas cover twice the distance than current antennas, so staff was asked to investigate that issue. They were also asked to review the zoning classifications for siting. He mentioned there was discussion of dropping ‘towers’ from the Comprehensive Plan but it created the issue to limit towers to 30 feet, which prohibition was not allowed under the federal and state regulations. There was consensus from the Board that the Town should move forward on this issue.

Mr. Daly discussed that at the last meeting the Board had reviewed a proposed hedge height ordinance and referred it back to staff for further work with the intent of bringing it back to the Board. Mr. Meyer explained that the direction of the Town Attorney was when an ordinance was recommended for denial by the Board, it did not come back to the Board and was moved forward with that recommendation to the Town Commission.

He commented there was a formal vote to deny the ordinance versus the Board requesting additional information.

Mr. Hixon discussed hedges and asked if in this instance, if every other plant was removed and relocated ten feet to the south, it would now be a row of trees on the property line and a row of trees in the middle of the side yard. Steve Schield, Planner, responded that he would have to carefully review; there would be Podocarpus on the line, and he had not deemed it as a tree, but it was a shrub. In this case it was a shrub used as a hedge. Mr. Hixon believed he was stating it was the space relationship between plant edges, and if there was open space, it was not a hedge, but if it was continuous touching vegetation, then it would tend to be defined as a hedge. Mr. Schield commented it could also be species.

Mr. Aitken questioned the status of the Longboat Island Chapel application for a cell tower and asked if the applicant was aware of what was needed in order the deem the application complete. Mr. Meyer replied yes.

George Spoll, Fairway Bay, informed the Board that Tom Aposporous, president of the Longboat Key/Lido Key/St. Armand's Key Chamber of Commerce was resigning as president. He commented that part of Mr. Aposporous' frustration was with the telecommunication issue and the lack of support from the community for the cell tower. He noted that Mr. Aposporous would be running for commissioner on Anna Maria, but would continue to work with the Revitalization Task Force on Longboat Key.

ADJOURNMENT

The meeting was adjourned at 10:12 am.

Laurin Goldner, Secretary
Planning and Zoning Board