

Regular Workshop – November 13, 2013
Agenda Item 11

Agenda Item: Discussion Regarding Options for Zoning Board of Adjustment (ZBA) Membership and Obtaining a Quorum for Meetings

Presenter: Interim Planning, Zoning & Building Director

Summary: Due to the seasonal residency of most ZBA members, it is often impossible to raise a quorum to hear Zoning Variance requests. There are also currently two (2) vacant seats on the ZBA and only one (1) application for a seat has been received in the last year, despite recruitment efforts. During May 2013, two applications for Variance requests were received by the Planning, Zoning and Building Department. However, a quorum could not be reached until October 2013, and it was a minimum quorum requiring all members to vote in the affirmative to approve a request. By that time, one of the applicants had chosen to withdraw their application. The other applicant chose to wait for a majority quorum to avoid the necessity to receive affirmative votes from all members present. Due to the ongoing difficulties in reaching a quorum, Staff was directed to investigate options to avoid delays to applicants. Staff researched other jurisdictions to determine methods by which counties and municipalities in the region handle Zoning Variance requests.

Staff will present options for the Town Commission to consider related to the Zoning Board of Adjustment.

Attachments: 10-15-13 Memo, Interim PZB Director to Manager; PowerPoint Presentation.

Recommended Action: Pending discussion, provide direction to Manager.

M E M O R A N D U M

DATE: October 15, 2013

TO: David Bullock, Town Manager

FROM: Alaina Ray, AICP, Interim Director
Planning, Zoning and Building Department

SUBJECT: Zoning Board of Adjustment Discussion item

Background and Analysis

Section 158.026 of the Town of Longboat Key Zoning Code establishes a Zoning Board of Adjustment (ZBA). The Zoning Code specifies that ZBA consist of seven (7) members who are residents and registered voters of the Town of Longboat Key and are appointed by the Town Commission. The ZBA is charged with hearing cases for the following:

1. Appeal of decision made by administrative official relating to the Zoning Code;
2. Applications for Special Exception for Home Occupations and windwalls.; Note: Section 158.028 (A) incorrectly states "windfalls" – this scrivener error will be corrected during future Code revisions;
3. Waivers from Daylight Plane regulations; and
4. Variances from certain specific provisions within the Zoning Code.

While the duties and powers are established by the Town's Zoning Code, Art. II, Section 20 of the Town's Charter states: (a) "At a minimum, the permanent boards of the town shall be the Planning and Zoning Board, the Zoning Board of Adjustment and the Code Enforcement Board, the duties and responsibilities of which shall be established by ordinance." A legal determination may be necessary to ascertain whether this clause requires ZBA members who are not appointed to any other board.

Due to the seasonal residency of most ZBA members, it is often impossible to raise a quorum to hear Zoning Variance requests. There are also currently two (2) vacant seats on the ZBA and only one (1) application for a seat has been received for approximately one (1) year, despite recruitment efforts. During May 2013, two applications for Variance requests were received by the Planning, Zoning and Building Department. However, a quorum could not be reached until October and it was a minimum quorum requiring all members to vote in affirmative to approve a request. By that time, one of the applicants had chosen to withdraw their application. The other applicant chose to wait for a majority quorum to avoid the necessity to receive affirmative votes from all members present.

The Zoning Code does not establish specific dates when the ZBA must meet; however, meeting dates have typically been on the second Thursday of each month. Section 158.026(D) states: "The board of adjustment shall meet at the call of the chairman, at

the written request of three or more regular members, or within 30 days after receipt of a matter to be acted upon by the board.” This clause provides flexibility concerning meeting dates, but this flexibility has been insufficient to address the inability to reach a quorum. Additionally, the Zoning Code does not address a remedy in the event a quorum cannot be reached within the stated 30-day period.

Due to the ongoing difficulties in reaching a quorum, Staff was directed to investigate options to avoid delays to applicants. Staff researched other jurisdictions to determine methods by which counties and municipalities in the region handle Zoning Variance requests. Staff polled 22 jurisdictions; of these, nine (9) maintain separate ZBA entities and 12 relegate those duties to another board. The Planning and Zoning Board/Local Planning Agency handles ZBA duties in 11 of the polled jurisdictions, while one (1) assigns those duties to the City Commission. The following table indicates the jurisdictions polled and the body that handles ZBA duties.

COUNTY	Separate Zoning Board
CHARLOTTE	NO: Planning and Zoning Board
DESOTO	NO: Planning Commission/Board of Adjustment
HARDEE	NO: Planning & Zoning Board
LEE	NO: Hearing Examiner
MANATEE	NO: Planning Commission
SARASOTA	YES: Board of Zoning Appeals
MUNICIPALITY	
Punta Gorda	YES: Board of Zoning Appeals
Arcadia	YES: Board of Adjustments
Wauchula	NO: Planning and Zoning Board
Bonita Springs	NO: Local Planning Agency
Cape Coral	NO: Planning and Zoning Commission
Fort Myers	YES: Board of Adjustments
Fort Myers Beach	NO: Local Planning Agency
Sanibel	YES: Board of Adjustment and Appeals/Special Master
Anna Maria	NO: City Commission
Bradenton	NO: Planning Commission
Bradenton Beach	YES: Board of Adjustment/Special Master
Holmes Beach	YES: Board of Adjustment
Palmetto	NO: Planning and Zoning Board
North Port	YES: Zoning Board of Appeals
Sarasota	YES: Board of Adjustment
Venice	NO: Planning Commission

Proposed Options

In order to address the ongoing difficulty with establishing a quorum, Staff provides the following options for consideration:

1. **Reduce the number of required ZBA members to five (5) and appoint additional alternates.** Staff is of the opinion that this will likely not rectify the situation, since the ZBA has only has five (5) seated members and has been unable to obtain a quorum. The lack of interest from the public to serve on this board would likely continue to be an issue in appointing alternates, as well.
2. **Assign the duties of the ZBA to the Town Commission.** The Town Commission holds regular meeting, typically two per month, which would provide timely attention to applicant requests.
3. **Assign the duties of the ZBA to the Planning and Zoning Board.** The Planning and Zoning Board is well versed in the Zoning Code, holds regular meetings, and could easily absorb the few requests per year presented to the Town.

Staff is of the opinion that Options 2 or 3 would be most likely to alleviate delay of requests reaching public hearing.

TOWN OF LONGBOAT KEY



Zoning Board of Adjustment Options

**Town Commission Workshop
November 13, 2013**

TOWN OF LONGBOAT KEY



ZBA DUTIES

- Appeal of decision made by administrative official relating to the Zoning Code;
- Applications for Special Exception for Home Occupations and windwalls.
- Waivers from Daylight Plane regulations; and
- Variances from certain specific provisions within the Zoning Code.



ZBA Quorum

- ZBA consists of seven (7) seats.
- Due to the seasonal residency of most ZBA members, it is often impossible to raise a quorum to hear Zoning Variance requests.
- Currently two (2) vacant seats on the ZBA and only one (1) application for a seat has been received for approximately one (1) year, despite recruitment efforts.



Application Delay

- During May 2013, two (2) applications for Variance requests were received by the Planning, Zoning and Building Department.
- A quorum could not be reached until October and it was a minimum quorum requiring all members to vote in affirmative to approve a request.
- One (1) of the applicants withdrew their application.
- The other applicant chose to wait for a majority quorum to avoid the necessity to receive affirmative votes from all members present.



Other Jurisdictions

- Staff researched other jurisdictions to determine methods by which counties and municipalities in the region handle Zoning Variance requests. Staff polled 22 jurisdictions:
 - Nine (9) maintain separate ZBA entities.
 - 12 relegate the ZBA duties to another board.

TOWN OF LONGBOAT KEY



Other Jurisdictions

- Of the polled jurisdictions that regulate the ZBA duties to another board:
 - 11 assign those duties to the Planning and Zoning Board/Local Planning Agency.
 - One (1) assigns those duties to the City Commission.

TOWN OF LONGBOAT KEY



Proposed Options

- Reduce the number of required ZBA members to five (5) and appoint additional alternates.
- Assign the duties of the ZBA to the Town Commission.
- Assign the duties of the ZBA to the Planning and Zoning Board.

TOWN OF LONGBOAT KEY



**Questions
and
Discussion?**



End of Agenda Item