

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

JANUARY 23, 2020

The regular meeting of the Planning and Zoning Board was called to order at 9:15 AM by Chair BJ Bishop.

Members Present: Chair BJ Bishop; Vice Chair David Green; Secretary Ken Marsh, members Penny Gold, David Lapovsky, Debra Williams, Phill Younger

Also Present: Maggie Mooney, Town Attorney; Allen Parsons, Planning, Zoning & Building Director; Maika Arnold, Senior Town Planner; Tate Taylor, Planner; Donna Chipman, Senior Office Manager

AGENDA ITEM 1

PUBLIC TO BE HEARD

Opportunity for Public to Address Planning and Zoning Board

No one wished to address the board.

AGENDA ITEM 2

APPROVAL OF MINUTES

MS. GOLD MOVED APPROVAL OF THE MINUTES OF THE DECEMBER 17, 2019 REGULAR MEETING. MR. YOUNGER SECONDED THE MOTION. MOTION CARRIED UNANIMOUSLY.

AGENDA ITEM 3

CONSENT AGENDA

Chair Bishop discussed the March meeting date informing the board that on their normal meeting date, March 17th, the Chambers were not available due to the election. She also noted that she must vacate her seat on the date of the election, and there will be a statutory meeting of the Town Commission on March 23rd. At that meeting, the Town Commission will be deciding appointments and reappointments for the various boards and committees. She would like to suggest the P&Z Board reschedule their meeting sometime between March 24-31, 2020.

Mr. Younger suggested the meeting be rescheduled to March 10th. Maggie Mooney, Town Attorney, noted that if the board wished, they could schedule their meeting prior to March 17th. Allen Parsons, Planning, Zoning & Building Director, noted it was staff's preference to push things back, because when the meetings are scheduled close

together, it creates a challenge for staff. He pointed out staff was reviewing two private sector applications for the March meeting. Mr. Younger asked what was being considered for the March agenda. Mr. Parsons noted in addition to continuing discussion on some of the items at this meeting, there was a privately requested Zoning Text amendment. Mr. Younger commented if something is still on the agenda, and we have a new board member, they will not have the experience and history of the subject. Chair Bishop agreed with Mr. Younger, and mentioned if all continuation items were internal, she would be happy to meet on March 10th. Mr. Lapovsky noted he will be out of town on March 10th, but will be available on March 24th. He would prefer to have it later.

MR. LAPOVSKY MOVED TO RESCHEDULE THE MARCH MEETING TO MARCH 24, 2020. MS. WILLIAMS SECONDED THE MOTION.

Mr. Green suggested it might be considerate to schedule the meeting so Chair Bishop could be included.

MR. YOUNGER MOVED TO TABLE DISCUSSION OF RESCHEDULING THE MARCH MEETING TO THE FEBRUARY 19, 2020 MEETING. MS. GOLD SECONDED THE MOTION. MOTION PASSED UNANIMOUSLY.

AGENDA ITEM 4

There were no public hearings.

WORKSHOP DISCUSSION ITEMS

AGENDA ITEM 5

SINGLE FAMILY STRUCTURE HEIGHT, INCLUDING DAYLIGHT PLANE REQUIREMENTS

Allen Parsons, Planning, Zoning and Building Director provided an overview of the item as follows:

- Discussion was continued from the December 2019 meeting
- Reviewed initial direction to staff from the Board, including enhanced privacy standards; criteria to address scale and massing of homes; options to modify existing Daylight Plane requirements; and, use of an 'Overlay' zoning district
- Reviewed compatibility of elevated structures versus single-story structures in neighborhoods

Discussion ensued between the Board, Town Attorney, and staff on the following issues:

- the amount of landscaping for some properties versus others for mitigation of impact
- the impact of Daylight Plane and that the width of the property should not be considered in the determinations
- belief the Board, from a policy standpoint, want to encourage the transition to elevating due to safety concerns

- believe the Board could make a difference and improve the quality of neighborhoods as they move into new housing; can improve the quality of what is being built without infringing on Bert Harris protections
- Federal Emergency Management Agency (FEMA) regulations and requirements for elevating, along with the Town's requirement for an additional foot for freeboard
- Staff does not measure from grade, but from the FEMA flood elevation; Town measures height of structures from the Design Flood Elevation (DFE) to the roof peak
- Elevating structures assists with lowering insurance premiums
- Since residents are required to build up to a certain level for FEMA, and couple that with setback limits imposed by the Town for properties, is there even a need for Daylight Plane requirements
- Daylight Plane was a fairly common tool to address development conditions where you have a very large structure on a small lot, and they build close as possible and impact on daylight
- the inclusion of the Daylight Plane was ahead of its time and was to prevent a canyon effect in neighborhoods; it provided some air between adjacent properties
- The requirements and implications of the Bert Harris Act; and the need to re-evaluate whether or not there are potential for Bert Harris claims
- The most recent Bert Harris legislation that is moving through the legislature states if have one favorable ruling in a Bert Harris claim, to the extent there are similar situated properties who may also have a potential claim, municipalities would not only pay out the one favorable claim, but also will have to pay out to other similar properties

Enhanced Privacy Standards:

Mr. Parsons discussed enhanced privacy standards noting staff had included types of things that could be requirements or guidelines. He provided an example explaining when someone submits a building permit that included constructing a second floor that was higher than a certain height, that they be required to address certain types of criteria, such as identifying on adjacent parcels where there might be privacy sensitive areas and what they were proposing to mitigate it. He pointed out another requirement might be the floor plan has considerations of window placement to ensure they do not have a direct view into a side yard or backyard area. Mr. Younger asked if staff was suggesting that if someone builds their house first, then the person adjacent does not have the right to install a window somewhere, because the first owner already placed a window in that area. He believed that was unfair. Chair Bishop commented it also puts the Board in a position of designing people's homes, and she did not think they want to be in that situation. Ms. Williams agreed and believed the only thing that could be considered would be landscaping. Mr. Lapovsky agreed and was unsure why the Board was addressing privacy. Ms. Gold mentioned some of the suggestions for window replacement were not architecturally attractive and if the idea is to keep the island attractive, this would be a disadvantage. The Town could require more mature landscaping be installed.

Criteria to Address Scale and Massing:

Mr. Parsons discussed 'Enhanced Scale/Massing Standards/Guidelines' noting two proposals:

1. **Potential Single-Story Massing Element** - Require the design of a home to incorporate a single-story massing element on the front facade. This may be achieved by using porches, entries, garages or single-story living areas seen from the street; and
2. **Potential Varied Articulation Element** - Require the massing to be further varied by articulation of elements such as porches, chimneys, dormers, trellis, etc. Changing materials on these elements could provide further emphasis and add desirable variety. Entries and porches could be encouraged to be the primary element of each home on the street facade; they should be clearly identifiable and articulated

Chair Bishop commented if someone built their home first, then the home next door would have to build their home in order to conform. Mr. Younger asked if there was any interest from the Board to move forward with this issue. **There was consensus to not move forward.**

Mr. Parsons discussed the 'Enhanced Privacy/Scale/Massing' process, which would be applicable to new, or substantially reconstructed, homes greater than one-story or with a first floor to ceiling height greater than 15 feet (above minimum habitable elevation). He also discussed two options for Daylight Plane, which included: changing the point at which to begin the angled measurement from minimum habitable floor; or beginning the measuring point at grade.

Discussion ensued between the Board and staff on:

- Eliminating the Daylight Plane
- The impact to the allowable total square footage on a smaller lot; staff noted there are many variables, and it depended on how high they had to measure for FEMA; will impact buildable area on larger lots where the angle is not quite as impactful on smaller lots
- The idea of requiring, or creating, some guidelines related to buffering between residential properties
- Having an applicant address the use of more mature landscaping, or buffer type, as part of their submission to address mitigating the impact to their neighbors
- That if you buffer too much it would reduce the Daylight Plane; however, if there were proper setbacks then include the Daylight Plane
- Concerning height, there is a cap and requirement to meet FEMA requirements
- People should be allowed to build within the envelope in which they are allowed to build and should not be further restricted

Attorney Mooney discussed moving the measurement scale to grade and whether it would impact the ability of the owner, particularly in a single-family district, to construct a single-family residence on their property; whether it would adversely impact their ability to build for the use intended in the zoning district. Mr. Younger commented the impact

takes place with the angle that is set and suggested they should have a uniform 75 degrees, which would allow flexibility and maintain some Daylight Plane, but it would also allow people to build better within the envelope.

Mr. Green asked if the result of the application of the Daylight Plane revision would prohibit someone from building in compliance with FEMA requirements could the Town create a variance type scenario; if they set a standard, and the owner could not build, was there a way to provide relief. Attorney Mooney responded that option currently existed with the Zoning Board of Adjustment (ZBA); however, the legal standard for granting a variance was if it was a hardship not of their own making. She noted that variance requests were considered quasi-judicial before the ZBA and included certified notice to adjacent neighbors and advertisements in the newspaper.

Further discussion took place between the Board and staff on:

- If the Board were to adopt a standard that approached a 'redline', then that plan would be rejected, because it would not comply
- Staff's comments noting there were a lot of variables; if the Daylight Plane was more restrictive, there is a potential that future homes could be impacted – not sure if to such an extent they could not construct a single-family home
- What if the measurement was from grade versus habitable floor – staff noted it would not be such that it would adversely affect someone from constructing a single-family home, but it might have impact on the upper portion of a two-story structure and would impact the square footage
- The impacts from considering Mr. Younger's suggestion to eliminate Daylight Plane; staff noted someone could fill up the volume of space within the setback up to the maximum height allowed

The Board recessed from 10:36 am to 10:51 am.

Staff continued with their PowerPoint presentation reviewing an illustration showing a 75-degree angle, and the angle on a smaller lot (60-foot-wide) which was required to have a 62-degree angle. Mr. Parsons mentioned they could have an encroachment of eaves and dormers into the angle. He discussed there were a variety of elevation differences pointing out as you have differentiation between grade elevation and FEMA elevation it can be more impactful. He believed the intent was recognizing that narrower lots would be more impacted by an angle, and if changed to a 75-degree angle from grade, in many cases it may not change too much, but may reduce the impact of the Daylight Plane requirements. Mr. Younger withdrew his suggestion to eliminate Daylight Plane. He recommended modification to the Daylight Plane angle to adopt a 75-degree angle at grade level. Chair Bishop agreed.

Ms. Williams questioned if this would impact those that have previously received Daylight Plane variance approvals. Attorney Mooney explained those properties would be grandfathered so their existing structures are compliant. She noted those who have currently submitted new applications would be reviewed under the existing Daylight Plane regulations. She commented that until such time a new standard is adopted, the existing standard will be applicable.

There was consensus to recommend a 75-degree Daylight Plane angle measured at grade.

The Board further discussed:

- Encouraging staff to continue to work on buffering requirements between residential properties and be identified as part of the building permit process
- Forwarding the Board's thoughts to the Town Commission for them to determine if they wish to proceed with buffering discussion
- Staff bringing back the discussion in a draft ordinance for review
- Suggestion to provide an informal memorandum to the Town Commission to request their direction on this item
- The Attorney's comments related to state legislation that would impact some of the board's discussion (Bert Harris Act), along with monitoring the bill and if it gains traction, providing the information to the Town Commission (the current Board direction, even if the bill passed, would not affect the Town)
- Existing language in the Town Code related to buffering for multi-family next to single-family noting it could be modified for single-family next to single-family
- Consensus to not move forward with creating an 'overlay district'
- Staff compiling a report on recommendations to be discussed in workshop setting with the Town Commission
- Chair Bishop and Vice Chair Green's attendance at the February 18, 2020 Town Commission Regular Workshop to address the Town Commission on behalf of the Board on this subject

AGENDA ITEM 6 RESTAURANT PARKING REQUIREMENTS

Chair Bishop noted the materials for this item were provided at the last meeting. Mr. Lapovsky questioned the use of a ratio of 10,000 square feet with 150 seats for comparison, and whether it was a typical ratio of 'front of the house' to 'back of the house'. Maika Arnold, Senior Planner, explained she had used the most recent Mar Vista site plan for an example as they were required to provide parking based on square footage, because they utilized the Commercial Revitalization Waiver. They provided calculations of the occupancy areas on their plans, and when she did the calculation she arrived at the 60:40 ratio; however, staff could review other restaurants.

Mr. Younger discussed the issue of parking spaces being required and then restricted by valet parking. He voiced concern that when parking spaces are required to meet a standard for approval, those spaces meant they are for public parking spaces and not private spaces; when converting public spaces to valet spaces meant they were being converted to private spaces, and there was nothing in the code that specifies these spaces could not be valet. Attorney Mooney questioned if Mr. Younger was suggesting the spaces be provided for public use, or for use by patrons of the facility. Mr. Younger responded for patrons of that establishment.

The Board discussed with staff the following issues:

- How the City of Sarasota addressed compliance with their regulations and what would be the effect to restaurants on Longboat Key
- Whether grandfathering would be a factor – could staff conduct an analysis on the impact to existing restaurants if requirements were changed
- The Commercial Revitalization ordinance
- The City of Sarasota required one space per every 150 feet
- Using Whitney’s Restaurant as an example, they were required 12 spaces under the existing code, and if using the 60:40 ratio in the proposed revision, they would be required to provide 34 spaces
- Whether pending restaurants would be grandfathered, or subject to the new regulations, if adopted; Attorney Mooney noted it would be dependent upon their application submittal date and date the ordinance will be adopted
- Possible modification to allow restaurants to have off-site parking that might not be adjacent to their site
- Hotels that do not have adequate parking for staff utilizing public beach accesses for staff parking; if a restaurant was built within close proximity to a public park, is the Town comfortable with that park becoming restaurant parking
- Suggestion to reduce the requirement to one space per three seats versus four seats
- If the Town enacted more stringent parking, and an establishment wished to build, but could not meet the parking requirements, would they be allowed to apply for a variance; Attorney Mooney responded no as it was not within the ZBA jurisdiction
- Suggestion that the Board might wish to recommend:
 - 1) providing the Town Commission, a comparison of the various codes to show Longboat Key was on the extreme low side of parking for restaurants; and,
 - 2) whether some incremental adjustment in required spaces was justified

Mr. Green suggested adopting the same standard as the City of Venice in establishing the number of spaces, which was one space for every three seats. Ms. Gold agreed.

Discussion ensued on:

- a suggestion to remove the 600-foot requirement for staff parking in order to provide restaurants the ability to negotiate with other land owners to use their facilities
- suggestion to mandate that the required parking spaces had to be non-valet, and if they want to have valet, they could but the spaces would not count toward the minimum
- making it clear the spaces had to be for patrons and not staff spaces
- if the spaces could be split so most spaces were designated for patrons versus spaces for staff
- if there is no parking available at a restaurant a patron will not visit the establishment, and whether adopting a more restrictive regulation would impact a restaurant and cause its failure

- whether the board would be in favor of adding 'patron parking' to the language as opposed to 'parking,' which leaves the establishment the ability to restrict to valet only
- suggestion to leave the decision to the establishment

Ms. Williams commented if the Board was considering a lower number, she would suggest considering the one space per every 150 square feet than the one space per every three seats.

Concerning Mr. Green's suggestion for one space per every three seats, there was a general consensus (4-3) to not move forward with the suggestion.

Concerning Ms. Williams suggestion for one space per every 150 square feet, there was a general consensus (5-2) to incorporate her suggestion in the ordinance.

Ms. Arnold commented staff would bring back the item in a draft ordinance for the February meeting.

AGENDA ITEM 7 SWIMMING POOL DEVELOPMENT STANDARD PROVISIONS

Tate Taylor, Planning, Zoning & Building Director, provided an overview as follows:

- staff received ongoing feedback from the public that the swimming pool code provisions can be difficult to understand
- the board, at their September 17, 2019 meeting, recommended staff redraft (versus editing) the standards
- the board supported a simplified table and recommended staff further simplify to replace the current code language describing the requirements for swimming pools
- reviewed the standards table and noted since December meeting, staff have condensed the table as directed by the board

Following discussion, there was consensus to bring back the standards in ordinance form at the next meeting.

NEW BUSINESS

There was no New Business.

STAFF UPDATE

Mr. Green discussed his and Ms. Gold's attendance at the Town's Citizens Academy, and the informative session provided by the Planning, Zoning & Building Department.

ADJOURNMENT

The meeting was adjourned at 12:19 pm.

Ken Marsh, Secretary
Planning and Zoning Board