

TOWN OF LAUDERDALE-BY-THE SEA
BOARD OF ADJUSTMENT MINUTES

Jarvis Hall

Wednesday, May 7, 2014 at 6:30 P.M.

CALL TO ORDER

Town Planner Linda Connors called the Board of Adjustment (BOA) meeting for the Town of Lauderdale-By-The-Sea to order at 6:00 PM. Members present were Charles Baclet, Sandra Booth, Carmen Miller, Helene Wetherington, and Carolyn Zaumeyer. Alternate Verenice Rapaport arrived approximately 7:00PM. Also present was Assistant Town Attorney Kathryn Mehaffey and Deputy Clerk Tedra Smith who was present to record the minutes of the meeting.

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

Town Planner Connors said that prior to the approval of minutes, some housekeeping items needed to be accomplished. Without objection, the agenda's order was changed to allow for the swearing in of some members enabling them to vote. Two members (Caroline Zaumeyer and Helene Wetherington) were called upon to stand and take their oath. The next order of business conducted by Ms. Connors would be the Election of the Chair and Vice Chair.

Nominations for Chair were open. Ms. Booth made a motion to nominate Helene Wetherington as Chair. There were no other nominations (nominations closed). All in favor of Helene Wetherington as Chair carried by voice vote 5-0.

Nominations for Vice Chair were open. Ms. Wetherington made a motion to nominate Sandra Booth as Vice Chair. There were no other nominations (nominations closed). All in favor of Sandra Booth as Vice Chair carried 5-0.

Without objection, the agenda went back to its original order.

APPROVAL OF MINUTES – Previous BOA Meeting Minutes dated December 5, 2013

Helene Wetherington made a motion to approve the minutes of December 5, 2013 as presented. The motion was seconded by Carmen Miller. The motion carried 5-0.

PUBLIC COMMENTS

No one spoke.

TOWN PLANNER REPORT

No report given.

NEW BUSINESS

i Swearing of Members

Previously handled.

ii Election of Chair and Vice Chair

Previously handled.

iii Training of Members

Town Planner Linda Connors said that there were also some members of the Planning and Zoning Board in the audience who were here for the training. She introduced Assistant Town Attorney Kathryn Mehaffey who would do the training. Ms. Mehaffey explained the information which was provided in the Board packets. She gave a thorough PowerPoint presentation regarding the Sunshine Law. This State Law regulates how public decisions were made at a decision making level at a public meeting. She explained when a "shaded meeting" was allowed. Meetings, unless an exception, must be "in the sunshine". Public perception was almost as important as the actuality. She explained to the Board Members that they could have personal conversations and relationships but they must be careful not to discuss what comes in front of the Board as board business. She discussed violations. There were no Board or Public questions on the Sunshine Law.

She then transitioned into her PowerPoint presentation on Chapter 119 – Public Records Law. Ms. Mehaffey explained that it was not the location (e.g., Town computer or personal cell phone) but rather the contents of the record that makes it public. She explained how the agenda each Board Member received was just a copy of the original agenda that was kept by the Town Clerk as a public record. If a Board Member had a conversation/communication with a member of the public on an application before the Board, it would become a public record. It could be an e-mail, text message or any other form of communication. She informed the board that they should not delete public records but organize them in one area. All public records have a statutory limitation and do not have to be saved indefinitely. Even an anonymous letter that dealt with Town business was a public record. Examples of an exception would be notes that were made at a meeting to aid a Board member's memory or when a Board Member jots down questions. These could be thrown away after the meeting because they would be recorded in the minutes. She spoke about who could disclose public information, penalties involved, and consequences for violations. There were no Board or Public questions on Public Records.

Ms. Mehaffey transitioned into her PowerPoint presentation on Voting/Conflict of Interest. She explained when a Board Member could not participate in a discussion and vote on an agenda item. Ms. Mehaffey informed the Board Members that as soon as they get their packet and they think they have a conflict, to call or e-mail her. A form would have to be filled out at the meeting (Form 8B) and given to the Town Clerk. She explained nepotism, gift restrictions, and solicitation of gifts. She spoke about penalties for violating the Code of Ethics. There were no Board or Public questions on Ethics.

The next part of the training dealt with Land Use and Zoning and Quasi-Judicial Decisions. She spoke about a Legislative Hearing (more for the Planning and Zoning Board). She said that the Board of Adjustment would have a quasi-judicial application at tonight's meeting. Each party (the Town and the Applicant) has the right to call and examine witnesses. They were allowed to rebut evidence as it was presented. She discussed ex-parte communication which is anything

outside the public hearing that is one-sided (only one party is part of this). This communication must be disclosed prior to or at the meeting and becomes part of the public record. Conversation with staff about an application is not ex-parte communication. If a Board Member makes a site visit, it must be disclosed. Ms. Mehaffey answered a question that the site visit could be disclosed either prior to the meeting or at the meeting. She discussed what constitutes Hearsay Evidence and Substantial Competent Evidence. There were no Board or Public questions regarding Land Use and Zoning and Quasi-Judicial Decisions. She turned the meeting over to Town Planner Linda Connors.

iv Variance Request Application #2014-V-01 4324 N. Ocean Drive

Town Planner Linda Connors explained that the applicant, Freddy Vivas, was resubmitting a variance request application asking for relief from the requirements of Section 30-242 (b) to encroach into the side and rear setback at 4324 N Ocean Drive. The applicant submitted the same variance last year which was approved by the Board of Adjustment and the Town Commission. However, the conditions of that approval required the variance to be exercised within 90 days. Circumstances did not permit compliance within 90 days and the approval expired. She said that the applicant was here tonight. Ms. Connors explained that they were adding some architectural features (Mid-Century Modern architectural style) to the building. Height was being added to the building and the Code states that if you are more than 22', you have to adjust your setbacks 1' for every 2' higher you go. They were not changing the building footprint but because of the added height, the setback requirement increased. Since they were making extensive changes, their external staircase would need to come up to 2010 Florida Building Code. Ms. Connors read into the record from the Staff Report the seven criteria that a variance application shall be evaluated by and the Town's analysis of such. Ms. Connors stated that if the Board recommended approval of the variance request, it should be with staff's three conditions which she read into the record. The applicant, Mr. Vivas, did not have anything to add to the Town's presentation. Ms. Connors answered that currently the hotel had six units which would be reduced to five when combining two units into one. Sandra Booth said that she walked the property and it is a great location. She thought Mid-Century Modern would be a great addition. She would be happy to support the variance with staff's conditions. Ms. Mehaffey inquired about ex-parte communications. As this was a public hearing, public comments were requested. There were no public comments and the public hearing was closed.

Sandra Booth made a motion to approve the variance request application #2014-V-01 with staff's conditions. The motion was seconded by Charles Baclet. There were no public comments to the motion. The motion carried in a roll call vote 5-0.

Ms. Mehaffey answered a Board question that it was not necessary to attend the Commission meeting as a Board Member. The actions of the Board were communicated through the minutes. A Board Member was welcomed to attend a Commission meeting as an individual but not as a Board Member.

OLD BUSINESS

Ms. Connors said that the Planning and Zoning Board changed the time of their meeting from 6:30PM to 6:00PM. She asked this Board if they were interested in a meeting time change (not day change). Discussion ensued and they decided to keep the meeting at 6:30PM. Ms. Connors introduced the Board Members to Verence Rapaport (Alternate Member).

Ms. Connors explained that the packet was online because it helps defer the applicant's costs and helps the Town be green without all that printing. She reminded the Board Members that she was always available to them and reiterated her phone number and e-mail address. She answered that at the meeting, she should know if they were meeting the next month. She announced that there would not be a June meeting. She explained that this Board did not meet very frequently and she would try to send out an e-mail in advance to announce when a meeting was going to take place.

UPDATES/BOARD MEMBER COMMENTS

There were no updates or comments.

ADJOURNMENT

Helene Wetherington made a motion to adjourn at 7:41 PM. The motion was seconded by Carmen Miller. The motion carried 5-0.



Chairperson Helene Wetherington

ATTEST:

Date Accepted: 4/15/15



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