

APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD
MEETING MINUTES
Jarvis Hall - 4505 Ocean Drive
Wednesday, May 2, 2018

1. CALL TO ORDER

Chair Lanata called the meeting to order at 6:03P.M. Members present were John Lanata, Cari McCormack, William Ferrante, Helene Wetherington, Jeffrey White, 1st Alternate Alan Bluestein and 2nd Alternate Bernard Petreccia. There were no absent members. Also present were Assistant Town Attorney Kathy Mehaffey, Development Services Director Linda Connors, and Clerk Jhanelle Campbell.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

3. APPROVAL OF MINUTES

a. Previous Meeting Minutes – April 18, 2018

Ms. McCormack made a motion to approve the minutes of April 18, 2018 as presented. The motion was seconded by Ms. Wetherington. The motion carried 5-0.

4. PUBLIC COMMENTS

The Chair called for public comments but no one came forward at this time. He closed public comments and turned the meeting over to Assistant Town Attorney Kathy Mehaffey to continue with the training process.

Ms. Mehaffey explained that they would go over the two types of decisions, legislative or quasi-judicial, made by the Board. They are based on materials being reviewed and have different standards and procedures in the global process. A legislative decision is a decision for setting policy (e.g., adopting or amending the comprehensive plan, small-scale land use map amendment, adopting or amending parts of the code, etc.). With a legislative decision, we still have to provide notice, have a public meeting/hearing, and present evidence. This Board would then make a recommendation to the Town Commission which makes the final decision. The Town Commission's decision is made upon a fairly debatable standard (a reasonable basis to support the decision).

This changes a little for a quasi-judicial decision (based on Section of Code 30-140). Specific procedures are written stating how a hearing is run, who speaks when, etc. It is an application of general policy to a specific situation which is called site specific (e.g., re-zonings, site plans, conditional uses, variances, administrative adjustments, etc.). In other words, we are taking our global policies and applying it to that site. In a quasi-judicial situation, we still have to provide notice, we have to provide a hearing before a neutral decision maker (impartial judges), and present evidence. Ms. Connors explained that before an application is presented, a board member cannot know how they are going to vote. The board member (neutral party), must listen to both sides openly and then make a decision based on the testimony and information/evidence presented.

Ms. Mehaffey said that all decisions must be made in the sunshine (at the hearing/meeting) and ex-parte communications must be disclosed. If a board member has a discussion about a project outside of the hearing with someone else (whether it is with the applicant or even a neighbor) and a discussion could also be by e-mail, messages received, etc., the board member is asked to let Development Services Director Linda Connors, Jhanelle Campbell and/or Susan Levin know, so they can let the applicant know. Then everyone would be aware of everything that a decision was based upon. She answered Mr. Bluestein that if there is verbal communication, to send a note to the Development Services Director or to a Planner or at the meeting state who you spoke to and the subject matter which would be stated for the record. The Sunshine Law requires that this information is divulged. She then explained that after the Planning and Zoning Meeting, it is up to the Town Commission to make a final decision. If there is an appeal, Ms. Mehaffey explained that the courts would look to see if the applicant was awarded due process, whether they were treated fairly, if the essential requirements of the law have been observed and that the decision was based on competent substantial evidence. Competent substantial evidence is evidence that a reasonable mind would accept as adequate to support the conclusion and she gave some examples (e.g., Town records, expert testimony, staff reports, etc.). Mr. White asked if there is a sample comment that a board member can tell someone. Ms. Mehaffey said that it is easier not to engage in these types of conversations but it is up to the board member. Ms. Wetherington wanted to know if once a decision is made, can a board member speak about it at that time. Ms. Mehaffey explained what could be done but reminded that once a decision is made, on rare occasions it could come back in front of the board. Ms. Mehaffey reiterated that if a board member is ever in doubt, to call her, Linda Connors or a planner.

Ms. Connors introduced Jeffrey White and Helene Wetherington who were not in attendance at the last meeting. Since all seven (five regular members and two alternates) were in attendance, they each introduced themselves and gave a brief personal and professional bio. Ms. Connors then continued with training. This time the subject was plats which are largely for undeveloped land or land that needs to be sub-divided. Through her PowerPoint presentation, she explained that this gives us the process to divide a large tract of land into smaller lots so that they could be sold off. The plats for Lauderdale-By-The-Sea (LBTS) are from the 1940s and 1950s. Plats in our Town are not amended very often because we are built out and there is no reason to change the use of the plats that we have. However, anyone who has to divide five or more acres is required to file a plat. Our plat process starts with the Town but ends with Broward County. You can plat for less than five acres, but people are not required to do so. Most of the property in LBTS is sub-divided, however, Palm Club is a development that is just over five acres and is not platted. She showed the Bell Air Plat, which is very basic, on a slide and explained what was contained in it. Plats can be changed in order to sub-divide, to change descriptions or uses or to vacate a road or easement. She explained where the plat process is found in the Code. Plats come in front of the Planning and Zoning Board and then the Town Commission. If approved, then it goes through the Broward County process. One of the County requirements is that the County would want a Letter Of No Objection from the Town.

Ms. Wetherington asked Ms. Connors what the need was for Broward County approval. She answered that Broward County is set up so that the County is in charge of all the plats in the county. Mr. Ferrante told the other members that he went through a plat approval in the 1990's and it took over a year. Ms. Connors said that she was told by the consultant that it would probably take eight or nine months to do an amendment to the plat to get the utility easement gone. This discussion is a very nice segway into our application tonight. Ms. Mehaffey reminded not just platting has to be consistent with the County but also all of our planning has to

be consistent with the County's plans. The County just did an overhaul of their Comprehensive Plan and we will be looking at our Comprehensive Plan in the future to update it and also to make sure that it is consistent with the County. Our Comprehensive Plan and Land and Development Regulations have to be consistent with the County's Plan. Ms. Connors was asked for a good definition of vacating an easement by Mr. White and she said that the following agenda item's presentation would answer that question for him.

5. NEW BUSINESS

- a 2018-VAC-01: Vacation of a portion of the Utility Easement for Silver Shores Plat located at 236 and 238 Shore Court. (Linda Connors, Development Services Director).

Ms. Connors directed the Board's attention to the copy of the Silver Shore's Plat. She said that the building was built right over the utility easement. In order to make sure they had clear title on that and to clear up any future issues they may have, the developer has applied for a request to vacate that utility easement on the Silver Shore's Plat. She said that to vacate the utility easement means to release it. She explained that they will apply to the County and then re-draw the Plat to show no utility easement area. The County will review it. It goes to the County Commission to consider it and they would be looking at what the Town's recommendation is. Then they will make a determination as to whether or not it is appropriate. The application would require letters of no objection. If there are utilities in the utility easement, the utilities would be opposed to this application. The Town would have to consider that in the review of the application. Ms. Connors said that there are no utilities and they have received letters from TECO, City of Fort Lauderdale and FP&L. LBTS has no objections to the vacation. We have reviewed the requirements from Chapter 17 of the Code regarding Plats. We have provided Notice and are recommending that the Board recommends a vacation of that portion of the utility easement for Silver Shores Plat (236 and 238 Shore Court). As there were no board questions, Chair Lanata opened up for public comments but there were none. He closed the public comments portion.

William Ferrante made a motion to approve (2018-VAC-01). The motion was seconded by Ms. McCormack.

For Discussion:

Mr. Petreccia said that we are vacating the easement but power and cable are still there. The feed for the power for the properties up north comes from the south. They provided it underground from the last street which is Garden. The utilities are still feeding through the right-of-way. He wanted to know legally what happens if there is a break in the telephone, power, or whatever is under the building that was built on top of the easement. Ms. Mehaffey said that based on the releases that they have from the utilities, they have not placed services in that specific area. They are underground but she reiterated that their releases indicate they are not in that particular area. Also, the map shows that there are no utilities underground in the highlighted area. Mr. Petreccia would like to see where they put the utilities and know how it gets from the south to the north to feed the other streets. Ms. Mehaffey did not know where the new replacement utilities are located but their releases indicate that they are not located in that specific area. Mr. White said that they would not release this if there was no access to PECO or FP&L. Mr. Petreccia said that it is obvious from the pole on Hibiscus that everything is underground and comes up on the north side of Shore Court. Ms. Connors clarified that all they are asking for is about the easement on the sketch in between a portion of Lot 7 Block 5 and a portion of Lot 1 Block 5. The letters from TECO, City of Fort Lauderdale,

and FP&L all do not use that portion of the easement. Mr. Petreccia said that his questions were answered and also that if they put the building up, someone must have given them permission to do so. Ms. Connors would think that it would be much easier for the person moving forward if there was no utility easement under their unit. Ms. Connors answered Mr. White that this is a condo. As there were no other board questions/comments, a vote was called. The motion carried 5-0.

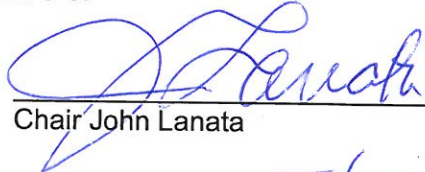
6. OLD BUSINESS

7. UPDATES/BOARD MEMBER COMMENTS

Ms. Connors announced that there would be a Planning and Zoning meeting on May 16, 2018. Then the next meeting after that would be for the Board of Adjustment which would include an election of board officers. There would also be training regarding variances and the responsibilities of the Board.

8. ADJOURNMENT

Ms. McCormack made a motion to adjourn at 6:47PM. The motion was seconded by Ms. Wetherington. The motion carried 5-0.


Chair John Lanata

ATTEST:

Date Accepted: 5/16/18

Development Services Director Linda Connors