

Town of Melbourne Beach

PUBLIC NOTICE

MINUTES

PLANNING & ZONING BOARD MEETING TUESDAY AUGUST 6, 2019 @ 7:00pm COMMUNITY CENTER – 509 OCEAN AVENUE

Board Members:

Chairman David Campbell

Member Kurt Belsten

Member April Evans

Member Douglas Hilmes

Member Daniel Gonzalez

Alternate Member Libby Brown-Brock

Alternate Member/School Board Representative Christian Lindbaek

Staff Members:

Interim Town Manager Elizabeth Mascaro

Town Clerk Nancy Wilson

Town Attorney Clifford Repperger

Town Planner Corey O’Gorman

I. CALL TO ORDER

II. ROLL CALL

III. APPROVAL OF MINUTES

July 2, 2019 Planning and Zoning Board minutes

Member Belsten made a motion to approve the minutes from the July 2, 2019 meeting; Member Evans seconded. Motion carried 5-0.

IV. PUBLIC HEARINGS

A. Lot Coverage Ordinance 2019-04

Town Attorney Repperger read the ordinance by title:

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN OF MELBOURNE BEACH REGARDING LOT COVERAGE REQUIREMENTS; AMENDING SECTION 1A-3 BY CREATING THE DEFINITION OF PERVIOUS AREA AND AMENDING THE DEFINITION OF IMPERVIOUS SURFACE; AMENDING SECTION 7A-30 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 1-RS, 2-RS AND 3-RS ZONING DISTRICTS; AMENDING SECTION 7A-31 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 1-RS ZONING DISTRICT; AMENDING SECTION 7A-32 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 2-RS ZONING DISTRICT; AMENDING SECTION 7A-33 TO ADD A MINIMUM PERVIOUS AREA PERCENTAGE FOR THE 3-RS ZONING DISTRICT; PROVIDING A SEVERABILITY/INTERPRETATION CLAUSE; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

Chairman Campbell said the only thing that the Board had not seen was the addition made to the impervious definition and inclusion of the pervious definition.

Member Belsten read the addition to the impervious definition: "...including area covered by all primary and accessory structures with non-porous foundations and swimming pools." He asked if that could be interpreted as somebody putting in an accessory structure with a porous foundation and then it's good to go? His suggestion was to delete the strikethrough area in the following fragment: "including area covered by all primary and accessory structures ~~with non-porous foundations~~ and swimming pools." He added that the new pervious definition refers back to impervious and agreed with Chairman Campbell that the impervious surface definition should include swimming pools. Town Attorney Repperger said his problem with removing "with non-porous foundation" is that the Commissions' directive was to exempt sheds from the coverage requirement. Because it was flipped from

coverage to pervious area, they may not care if sheds are included in the pervious area for purposes of calculating that area; he'll discuss this with the Commission at their next meeting. Member Gonzalez suggested adding the following underlined words: ...including area covered by all primary and accessory structures "(excluding utility sheds)" Their consensus on wording was:... "including area covered by all primary and accessory structures (excluding utility sheds) and swimming pools."

Member Evans made a motion to approve draft Ordinance 2019-04 as amended; Member Belsten seconded. Motion carried 5-0.

B. Residential Lighting Ordinance 2019-05

Town Attorney Repperger read the ordinance by title:

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA RELATING TO RESIDENTIAL LIGHTING; CREATING SECTION 7A-71, ARTICLE IV OF CHAPTER 7A OF APPENDIX "A" OF THE TOWN OF MELBOURNE BEACH LAND DEVELOPMENT CODE; PROVIDING FOR SEVERABILITY/INTERPRETATION; PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES; PROVIDING AN EFFECTIVE DATE AND PROVIDING AN ADOPTION SCHEDULE.

Chairman Campbell asked the Town Attorney for some background information on the ordinance. Town Attorney Repperger responded that the Town Commission wants to address situations where neighboring property owners are being affected by lighting that spills over onto their property. The goal is to stop lighting from emanating beyond property boundaries. The Town Attorney added that there isn't a specific measurable requirement but rather, he used a "reasonableness" standard. Member Hilmes asked if the Code Enforcement Officer would be able to enforce this to which the Town Attorney said it will give the Officer an avenue to address the problem. If this section of the code is being enforced, the light will be something that is very objectionable. Member Belsten said this could open up a can of worms. Member Evans commented that it would be very hard to enforce and that the Town has had problems in the past with vague ordinances. Town Attorney Repperger responded that he doesn't think a reasonable standard would be hard to enforce. The Board members asked what lights would be considered objectionable. The Town Manager responded that the matter under discussion is blatant use of lights to harass a neighbor. Member Belsten said it would be easier to take a light reading at the property line and that he would prefer something unambiguous. Member Evans asked how many complaints the Town has received then asked if a change is being made for one dispute. Chairman Campbell added that Denver has a 70 page light ordinance and he thinks the Town's proposed ordinance is superior. Town Attorney Repperger added that they don't want to get into requiring lighting plan reviews but the Code Enforcement Officer needs a tool she can use to enforce lighting abuses. Chairman Campbell concluded the conversation by saying that specific

measures would be hard because there would be too many specifications; the draft lighting ordinance under discussion is superior to others he has seen.

Member Evans made a motion to approve Ordinance 2019-05; Member Gonzalez seconded. Motion carried 4-1 with Member Belsten casting the dissenting vote.

V. NEW BUSINESS

A. Site Plan Review for 225 4th Avenue

Chairman Campbell commented that the plan meets lot coverage, footprint and setback requirements and questioned a height issue. All requirements were met.

Member Belsten made a motion to approve the site plan for 225 4th Avenue; Member Gonzalez seconded. Motion carried 5-0.

B. Site Plan Review for 509 3rd Avenue

Member Evans pointed out that the site plan doesn't include a survey with a raised seal.

Member Gonzalez made a motion to approve the site plan for 509 3rd Avenue subject to submittal of a survey with a raised seal; Member Belsten seconded. Motion carried 5-0.

VI. OLD BUSINESS

VII. PUBLIC COMMENT

VIII. REPORTS: TOWN MANAGER AND TOWN ATTORNEY

IX. ITEMS TO BE ADDED TO THE AGENDA FOR FUTURE MEETINGS

X. ADJOURNMENT

Meeting adjourned at 7:37 p.m.

Member Hilmes made a motion to adjourn; Member Evans seconded. Motion carried 5-0.

ATTEST:


David Campbell, Chairman


Nancy Wilson, Town Clerk