**Town of Melbourne Beach**

**PUBLIC NOTICE**

**MINUTES**

**PLANNING & ZONING BOARD MEETING**

**TUESDAY December 3, 2019 @ 7:00pm**

**COMMUNITY CENTER – 509 OCEAN AVENUE**

**Board Members:**

Chair 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:**

Town Manager Elizabeth Mascaro

Town Clerk Nancy Wilson

Town Attorney Clifford Repperger

Town Planner Corey O’Gorman

1. **CALL TO ORDER**

Chairman Campbell called the meeting to order at 7:00 p.m.

1. **ROLL CALL**

Town Clerk Wilson led roll call:

Present: Staff Present:

Chairman Campbell Town Manager Mascaro

Member Belsten Town Attorney Repperger

Member Gonzalez Town Clerk Wilson

Town Planner O’Gorman

Absent: Town Engineer Glaubitz

Member Evans

Member Hilmes

**III. APPROVAL OF MINUTES**

No minutes to approve

**V. NEW BUSINESS**

1. Site Plan Review for 314 Avenue B

This project plan is for an addition to single family dwelling involving demolition of a portion of the non-conforming primary structure; the addition will be constructed in the same area and will be conforming. Lot area, lot coverage, maximum height and setback requirements have been met.

**Member Belsten made a motion to approve the site plan for 314 Avenue B and send to Commission with the recommendation to approve; Member Gonzalez seconded. Motion carried 3-0.**

1. Site Plan Review for 416 Poinsettia

This project plan is for an accessory structure to the primary structure. Lot area, lot coverage, maximum height and setback requirements have been met.

**Member Gonzalez made a motion to approve the site plan for 416 Poinsettia; Member Belsten seconded. Motion carried 3-0.**

1. Site Plan Review for 509 Third Avenue

This project plan is for a new single family dwelling on a vacant lot. Lot area, lot coverage, maximum height and setback requirements have been met. The Chairman said the drainage plan is good the landscaping plan looks nice.

**Member Belsten made a motion to approve the site plan for 509 Third Avenue and send to Commission with the recommendation to approve; Member Gonzalez seconded. Motion carried 3-0.**

1. Consideration of parking plan for the Exxon station

Chairman Campbell said the parking plan proposed by the Exxon station is in the Town’s right-of-way and agreed with Town Planner O’Gorman that the Planning & Zoning Board doesn’t need to review it. The decision is the Town Commission’s to make since they will be making an agreement with the owner. He added that the only thing that concerns him is ingress and egress but that’s something that the Police Department would weigh in on. Town Manger Mascaro said the Police Department has reviewed the proposed parking area and ingress/egress and they don’t have an issue with it. She added that the Commission wanted the Board members to review the plan and provide any feedback to them.

*Jim Simmons*

*409 Avenue B*

Mayor Simmons said the Commission wanted to make sure that there was nothing they were missing. He added that there are other properties that don’t meet the minimum number of spaces and they were concerned that they would be setting a bad precedent by allowing use of the right-of-way. Chairman Campbell said the additional parking place doesn’t cause him any concern. Member Gonzalez asked about the field of vision to which the Town Manager responded that a couple palm trees will be removed so there aren’t any visual obstacles.

*Thijs Stelling- owner of Exxon station*

*904 Oak (business), 610 Mango (residence)*

Mr. Stelling said he’s asking to use the area for temporary parking during busy times of the day; it wouldn’t be used for daily or long term parking. They want to clean up the area and maintain it because it’s currently an eyesore. Their parking lot is very busy at times and lawn trailers, bigger trucks, etc., can’t get in the parking lot.

Member Gonzalez asked about permeability and it was clarified that permeable gravel would be used in the parking area. Chairman Campbell said the area could always be cleaned up without putting in a parking place since that seems to be the only sticking point. Member Belsten said as long as others don’t request use of our right-of-way to meet minimum parking space requirements and they maintain the area, he doesn’t have a problem with it. Town Manager Mascaro said if Exxon is granted use of our right-of-way and we want to disallow use in the future, we can do that.

**Member Gonzalez made a motion to send the right-of-way parking request back to the Commission saying they don’t have concerns with the request; Member Belsten seconded. Motion carried 3-0.**

**IV. PUBLIC HEARINGS**

*Continued from November 13, 2019 meeting:*

Ordinance 2019-06 amending and restating various provisions of the Land Development Code

Town Attorney read the ordinance by title:

AN ORDINANCE OF THE TOWN OF MELBOURNE

BEACH, BREVARD COUNTY, FLORIDA, AMENDING

VARIOUS PROVISIONS OF APPENDIX “A” OF THE

CODE OF MELBOURNE BEACH, THE LAND

DEVELOPMENT CODE; AMENDING SECTION 3A-80 (b),

AMENDING THE MINIMUM LEVEL OF SERVICE

STANDARD FOR STORMWATER RETENTION;

CREATING SECTION 3A-80 (d), WAIVING APPLICABLE

EXEMPTION FROM DRAINAGE CONCURRENCY FOR

SINGLE FAMILY RESIDENTIAL LOTS WHERE

MODIFICATIONS OR RENOVATIONS EXCEEDING A

FIFTY PERCENT APPRAISED VALUE THRESHOLD ARE

MADE TO EXISTING RESIDENTIAL STRUCTURES;

AMENDING SECTION 4A-238 (1), REMOVING

REGULATIONS PERMITTING MINOR NONSTRUCTURAL

FILL IN COASTAL HIGH HAZARD AREAS; AMENDING

SECTION 7A-50 (e), PROHIBITING

MARL AS A PERMITTED SURFACE FOR PARKING

AREAS AND DRIVEWAYS; AMENDING SECTION 7A-51,

PROVIDING FOR CIVIL ENGINEERING REVIEW OF

SITE PLANS, ADDING STORMWATER RETENTION AND

DRAINAGE FROM PROPERTY TO SITE PLAN REVIEW,

AMENDING SITE PLAN REQUIREMENTS TO INCLUDE

ALL EXISTING TREES, OUTBUILDINGS, AND

ACCESSORY STRUCTURES, REQUIRING

PROFESSIONALLY PREPARED DRAINAGE PLANS, AND

PROVIDING FOR CIVIL ENGINEER CONSIDERATION

OF SUBSTANTIAL DEVIATIONS; AMENDING SECTION

7A-51.1, PROVIDING FOR CIVIL ENGINEERING

REVIEW OF SITE PLANS, ADDING STORMWATER

RETENTION TO SITE PLAN REVIEW, AMENDING SITE

PLAN REQUIREMENTS TO INCLUDE MAJOR

FEATURES AND FENCES, INCLUDING ALL EXISTING

OUTBUILDINGS, ACCESSORY STRUCTURES, AND

TREES, REQUIRING PROFESSIONALLY PREPARED

DRAINAGE PLANS, AND PROVIDING FOR

CONSIDERATION OF SUBSTANTIAL DEVIATIONS;

AMENDING SECTION 7A-87, AMENDING USES UNDER

SPECIAL EXCEPTION PROVISIONS; PROVIDING FOR

SEVERABILITY AND INTERPRETATION; PROVIDING

FOR THE REPEAL OF INCONSISTENT RESOLUTIONS

AND ORDINANCES; PROVIDING FOR TRANSITION;

PROVIDING FOR ENFORCEMENT; PROVIDING FOR

INCLUSION IN THE CODE; PROVIDING FOR AN EFFECTIVE

DATE; AND PROVIDING AN ADOPTION SCHEDULE.

At the November 12th meeting, the Planning Board asked for input from our Town Planner and Town Engineer to answer questions they had about changes made to the Land Development Code. Chairman Campbell thanked the Planner and Engineer for reports they submitted since the last meeting. One concern was if the ordinance is consistent with the Comprehensive Plan; it is. The Chairman asked if all drainage consultants are civil engineers? Town Engineer Glaubitz responded that all drainage consultants should be civil engineers with training and all civil engineers are drainage experts with some being better than others. Chairman Campbell was also concerned that as a homeowner, he couldn’t hire his own engineer. Mr. Glaubitz responded that the homeowner can hire his own engineer but once the plans are handed over to the Town, the Town’s engineer will review the plans for compliance. It will cost the homeowner an additional $175/hour for that review which is over and above the current costs for plans review.

*Jim Simmons*

*409 Avenue B*

Mr. Simmons said that what the Commission envisioned was doing a check and balance of submitted plans with our own engineer. The reason is to make sure that water is being retained on the property as specified in our Code since stormwater drains can’t handle the additional water during heavy rainfall. Another concern is that the river is getting higher and water is going to start running toward the streets and there are also new restrictions about what can go in the river.

The Town Engineer was asked to address how to permeate water into the aquafer for replenishment instead of having it go to the river and without affecting people who have been here for a long time. The goal isn’t to tell a homeowner how to solve the problem; the Town will just tell a homeowner that a certain amount has to be kept on property - 30% of the property has to be 100% permeable which is easy to meet. The proposed changes, which were discussed for over a year, were made to protect current homeowners from being impacted by new development. There is more that needs addressing but this is a start and the Commission/Board can always make tweaks to the LDC at a later date.

Chairman Campbell said items (c) and (d) on page 4 of the ordinance are in conflict. The Town Attorney explained that the exemption for *single family residential lots within a subdivision which was platted prior to January 1, 1990 are exempt from this requirement* will remain in place. Item (d) removes the exemption if there’s a renovation or a modification to an existing structure on any residential lot of greater than the 50% threshold. So, if a house burns down and the lot is sold to a new owner, that new owner would need to comply with the new requirements even if the house was built prior to 1990; thus, the exemption would be lost. Chairman Campbell doesn’t understand why the exemption would remain in the Code in conjunction with the proposed verbiage. The Town Attorney said he doesn’t know why the exemption verbiage remains but said he’d be hesitant to remove the exemption (Item (d)) because what you don’t want to do is to force the new requirements onto existing properties.

Member Belsten asked what it would cost the homeowner of 509 Third to comply under the new rules (the site plan for 509 Third was approved at this meeting). Town Engineer Glaubitz said he’d have to install a swale or have some other plan to hold the first 8 inches of runoff on his property before discharging onto the street which could be achieved for under $2,000. The swale would need to be approximately 50’ long, 12’ wide and 2’ deep. The retention area could be located anywhere, including the front yard, on the property; it is a volume calculation. Chairman Campbell was concerned that this would allow a swale to run along the sidewalk; Mr. Glaubitz said that 2 feet of grass is required before the retention slope could begin and the review process would ensure that happens. In response to a question posed by Member Gonzalez, Mr. Glaubitz said that the retention areas do not have to be contiguous.

*Jim Simmons*

*409 Avenue B*

Mr. Simmons said that in an area in the South Beaches, some retention areas are located under decks. The new requirement is that the retention area must be somewhere where percolation is unimpeded. We aren’t going to tell people how to solve the problem, they will find what solution(s) work best for them.

The Chairman’s main concern is about the absolute 8” of runoff that must remain on the property. To meet the requirement, some solutions could result in ugly looking properties in order to conform in addition to being an added expense to the homeowner. Mr. Simmons’ responded that most people won’t want an ugly solution; the intent is to have percolation. He said that 8” won’t put an undue burden on people; it’s not a lot to require on barrier island properties. Mr. Glaubitz added that if a landscape design professional hits hardpan, he’s going to want to do soil borings. Most hardpan is only 1 or 2 inches deep but it can be removed or mixed in.

Member Belsten asked about those who have marl driveways. Mr. Simmons answered that no removal is required as long as more than 50% remains intact. Additionally, the Town doesn’t require driveways so that can help with percolation.

Member Gonzalez asked, if a homeowner comes up with a plan, how will the Town Engineer review it without knowing how the water will percolate? Mr. Glaubitz answered that applications are reviewed based on the plan that was submitted which will show elevations, design drawings and the path of stormwater runoff. The building inspector will determine compliance and the required as-built has to be certified- what was built must match the plan that was approved.

Chairman Campbell said that on page 9, section 10, and on page 16, section 6, the word “that” should be included in the sentence*: A professionally prepared drainage plan drawn to scale showing flow paths and retention areas and certifying that retention requirements are met.* He then questioned what “major” features means on page 15, section 5. *All proposed structures,* ***major*** *features and fences including all existing outbuildings, accessory structures and trees* ….. Mr. Simmons answered that, in this case, “major” features refers to swimming pools. Town Attorney Repperger said that language already exists in the Code under site plan requirements. He also said that upon making the recommendation that the standard should be changed in 3A-80(b): *Stormwater management facilities shall meet the adopted minimum level of service standard of retention of the first* ~~½ inch of runoff from a 25 year, 24 hour storm event~~ *8 inches of runoff from a 10-year/24 hour storm event* it has been suggested that everything after the semicolon be removed: *that the additional runoff generated by this storm event in excess of the predeveloped runoff is retained on site and that the discharge rate shall not exceed the pre-developed rate with the overflow treated prior to disposal into the*

*drainage system.* The Board members agreed with removing that text.

Member Belsten asked about the change on page 17, section 7. Mr. Simmons responded that it was an editorial rewrite to make the information easier to understand; the area was split into sections.

**Member Gonzalez made a motion to accept the proposed ordinance, 2019-06, subject to changes discussed and agreed to; Member Belsten seconded. Motion carried 3-0.**

**VII. PUBLIC COMMENT**

No comments

**VIII. REPORTS: TOWN MANAGER AND TOWN ATTORNEY –**

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

**X. ADJOURNMENT**

Meeting adjourned 7:51p.m.

**Member Gonzalez made a motion to adjourn; Member Belsten seconded. Motion carried 3-0.**

ATTEST:

**\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**  \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

David Campbell, Chairman Nancy Wilson, Town Clerk