

Town of Melbourne Beach

MINUTES

PLANNING & ZONING BOARD MEETING TUESDAY AUGUST 4, 2020 @ 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 Jennifer Torres

Town Attorney Clifford Repperger

I. CALL TO ORDER

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

II. ROLL CALL

Town Clerk Torres conducted the Roll Call.

Board Members Present

Chair David Campbell
Member Kurt Belsten
Member April Evans
Member Douglas Hilmes
Member Daniel Gonzalez

Staff Members Present:

Town Manager Elizabeth Mascaro
Town Clerk Jennifer Torres
Town Attorney Clifford Repperger

III. APPROVAL OF MINUTES

July 7, 2020

Member Gonzalez pointed out a grammatical correction. Member Hilmes also added that on page 4 – he was listed as Commissioner Hilmes – and it should say Member Hilmes.

Member Belsten moved to approve the July 7, 2020 Minutes as amended; Member Evans seconded; Motion carried 5-0.

IV. PUBLIC HEARINGS

- A. Ordinance No. 2020-04 amending Section 7A-102, Appendix A, Town Code of Melbourne Beach, Florida (Land Development Code) related to Binding Development Agreements.

Town Attorney Repperger read the Ordinance:

AN ORDINANCE OF THE TOWN OF MELBOURNE BEACH, BREVARD COUNTY, FLORIDA, AMENDING THE LAND DEVELOPMENT CODE OF THE TOWN OF MELBOURNE BEACH, AMENDING SECTION 7A-102 TO AUTHORIZE THE CONSIDERATION OF CONDITIONS, LIMITATIONS, OR REQUIREMENTS IN PROPOSALS FOR ZONING CHANGES OR AMENDMENTS VOLUNTARILY PROFFERED AS PART OF A BINDING DEVELOPMENT AGREEMENT; CREATING SECTION 7A-103 AUTHORIZING THE USE OF BINDING DEVELOPMENT AGREEMENTS IN PROPOSALS FOR ZONING CHANGES OR AMENDMENTS; PROVIDING A SERVERABILITY /INTERPRETATION CLAUSE; PROVIDING FOR CODIFICATION;

PROVIDING FOR REPEAL OF CONFLICTING ORDINANCES AND RESOLUTIONS; PROVIDING FOR AN EFFECTIVE DATE; AND PROVIDING AN ADOPTION SCHEDULE.

Chairman Campbell asked what precipitated the creation of this Ordinance.

Town Attorney Repperger addressed the background:

The Mayor introduced this as a measure to have a useful tool when considering re-zonings. When the Osceola Building proposed a Binding Development Agreement (BDA), Section 7A-102 did not allow for them – so the Town could not consider the variance. Instead the case was resolved with a code change.

This Ordinance amends section 7A-102 to allow a BDA and Section 7A-103 was created to define exactly what a BDA is.

Effectively a BDA can be statutory – which totally complies with local government development acts or non-statutory – which are adopted under homeland power.

The draft provision provides that BDAs can only be used in re-zoning applications or one in conjunction with a re-zoning. The Commission wanted to make sure they can only be used in a manner that's more restrictive and they are entered into voluntarily by the applicant.

Member Belsten asked if this would get us into any trouble with spot zoning.

Town Attorney Repperger said that is why it was made voluntary and not mandated.

Town Attorney Repperger went on to further explain BDAs.

Member Evans stated that she was on the Commission when the issue of BDAs originally came up and she's in agreement with having the BDAs because they would have solved a lot of previous problems.

Member Hilmes agreed, saying it's a useful tool.

Member Hilmes moved to recommend Ordinance No. 2020-04 amending Section 7A-102, Appendix A, Town Code of Melbourne Beach, Florida related to Binding Development Agreements; Member Evans seconded; Motion carried 5-0.

V. NEW BUSINESS

A. Site Plan Review for 310 Fourth Avenue, Melbourne Beach

Member Hilmes said that while the site plan is within the guidelines of what is

allowed, his only concern is that the garage is in the very back and in item 3 – it says the pervious area is 60.09-percent but there doesn't seem to be a driveway and it seems odd to put a garage in back of a house without a driveway. He questioned the calculation on the pervious area.

Member Evans said that was her concern too.

Member Hilmes said it's a pretty narrow area on the side of the house where there is an air conditioner and to get a driveway in back would take up a lot of drainage.

Chairman Campbell said he had an issue with the square footage and asked how they came up with 3,375 because he came up with a lower number but said it's OK from a standpoint that it still fits within the guidelines.

Discussion related to the driveway and square footage ensued.

After some review, Member Hilmes said the rough ratio of pervious areas is correct if there is no driveway that runs in the back.

Public Comments

*Mark Mihlebach
310 Fourth Avenue*

As the property owner of 310 Fourth Avenue, Mr. Mihlebach explained that he planned to use to use pavers or crushed coquina as a driveway – using only pervious materials.

Member Evans asked if by using pavers, the homeowner would still be within the threshold.

Member Hilmes confirmed he will still be above the 30 -percent threshold.

Town Manager Mascaro said the Commission does not consider pavers to be pervious – unless they came up with a new product.

Chairman Campbell said that even if the pavers are not pervious, he still falls into the required threshold.

Member Hilmes said he would be comfortable if there was an addendum that stated if pavers are used to create a driveway – they must be pervious and the owner must provide water retention and a watershed pact to show that water will be retained on his property.

Member Hilmes moved to approve the Site Plan Review for 310 Fourth Avenue with the condition that if a driveway is added to the property, a

watershed (topographical map) must be produced to show water is being retained on the property; Member Belsten seconded; Motion carried 5-0.

B. Site Plan Review for 222 Surf Road, Melbourne Beach

Members Hilmes said that if he understood this correctly – they originally had a 150-square-foot shed in the plan and amended it to 120-square-foot shed.

Member Gonzalez said we limit sheds to 12x10 and so they amended it to 12x10.

Chairman Campbell said the problem is that the survey shows a 10x15 structure and if we approve it – then the building inspector may go by the previous version. He went on to say that he did not feel comfortable approving the site plan without documentation showing the site plan change.

Town Manager Mascaro said there may be an amended site plan in the office and asked if the Board would like her to go check on that.

Chairman Campbell called a recess at 7:33 p.m. to allow Town Manager Mascaro to retrieve the property's site plans.

Chairman Campbell called the meeting back to order at 7:35 p.m. and Town Manager Mascaro handed out a copy of the amended shed plan.

The Chairman noted that the amended plan wasn't a signed and sealed survey.

Town Attorney Repperger suggested approving the site plan with the condition that a signed and sealed survey is submitted to staff indicating the proper and amended size of the shed.

Member Hilmes moved to approve the Site Plan for 222 Surf Road on the condition that the shed size is reduced and a signed and sealed survey is submitted before it goes to the Commission; Member Gonzalez seconded; Motion carried 5-0.

VI. OLD BUSINESS

VII. PUBLIC COMMENT

VIII. REPORTS: TOWN MANAGER AND TOWN ATTORNEY

Town Manager Mascaro said the Planning & Zoning Board may have heard a rumor that they would be getting back the RV/Boat Ordinance for another review – however she wanted to clear that up by saying it will go back to the next Regular Town Commission meeting and then they will decide whether to send it back to Planning & Zoning or not.

No Town Attorney Report.

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

X. ADJOURNMENT

Member Hilmes moved to adjourn; Member Evans seconded; Motion passed 5-0.

Meeting adjourned at 7:45 p.m.

ATTEST:

David Campbell, Chairman

Jennifer Torres, Town Clerk