

PLANNING & ZONING MEETING MINUTES  
SEPTEMBER 25, 2017

Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, September 25, 2017 in the Town Hall Meeting Chambers.

CALL TO ORDER

The meeting was called to order at 8:30 a.m. by Chairman Gerald Goray.

ROLL CALL

Town Clerk Stevens led the roll call which was answered by the following:

	<u>Present:</u>	<u>Absent:</u>	<u>Tardy:</u>
Chairman Goray	x		
Member David Hutchins		x	
Member Penny Kosinski	x		
Vice Chair Mark Marsh	x		
Member Mauro Walker		x	
Alternate Member James Leming		x	
Alternate Member Kimberlee Marshall	x		

Staff present: Town Attorney Brian Shutt and Town Clerk Tracey Stevens.

APPROVAL OF THE MINUTES

1. Approval of the August 14, 2017 Minutes

**Member Kosinski moved to adopt the August 14, 2017 minutes; seconded by Member Marsh. Motion carried 4-0.**

PUBLIC HEARINGS

None

There were several comments from various Commission members thanking the Town for the notifications and response to Hurricane Irma which was handled very well.

ORDINANCE REVIEW

2. Concept Plan Review

Town Clerk Stevens read the Concept Plan Review Ordinance by title only.

Attorney Shutt advised that the ordinance presented at the last meeting did not provide for mandatory review for single or two-family building permits, or where the threshold for improvements is 50% or greater. He stated that the ordinance presented today does have the mandatory review, however, the Commission's decision would not be binding. The Planning & Zoning (P&Z) Commission will be able to make comments and suggestions on the application, however, final determination would be made by the Zoning Official and he would still be governed by the Town Code. He stated that the mandatory review is meant to seek input from the P&Z, and even if the comments are based on criteria in the ordinance such as relationship of building to site, etc., the Zoning Official will still be making the final determination based on Town Code. The Developer and/or owner can take all of the comments and suggestions into consideration before

submitting the building permit application, but the final decision would be made by the Building and Zoning Officials and they will be bound by code.

Zoning Official Palacios stated that whatever pleases the board will be fine. He noted that if we pass the ordinance, the P&Z will be made aware of new construction as it comes in. He stated that in the past, the previous Town Clerk would be the one to challenge the gray areas in the code and make a determination.

Public comment: Ken Kaleel, 86 Island Drive South, pointed out that he was under the impression that the P&Z was going to develop a plan and method for applications to come to the P&Z on a voluntary basis. He stated it was eluded to at the meeting when Commissioner Marsh said that if there is a time when Zoning Official Palacios finds a gray area and he needs direction, if there is something that he is unsure about, or if we have developers that push the envelope, then we can direct them to P&Z to make a binding decision, which would be a small percentage of applications. He stated to do something that will be non-binding is a waste of time and money for staff and the public, and he does not know what the Commission is trying to achieve. He stated he respects all of the Commission members, but there could be a day when we won't have the same credentials of the people who currently sit on the Commission. He stated this will change the tone of the town, and he does not feel it is a good concept. He stated we should handle the issues as they are presented.

Chairman Goray asked Mr. Kaleel to describe a situation when a binding decision would be necessary, and Mr. Kaleel responded that Zoning Official Palacios pointed out earlier that there were times when the former Town Clerk gave him direction, and that should not have happened. He stated that if there is a gray area, we might have a problem with the code. He also stated that questions on the gray areas should need to come before the P&Z and they can make a decision as a group. Chairman Goray asked for clarification on whether issues would only come before the Commission if there are gray areas or if there are other circumstances when an application would come before the Commission, and Mr. Kaleel responded that in his view questions should be raised by staff members for the application to come before P&Z. He noted that if we are doing our code right, there shouldn't be an issue. He stated that people should be able to build according to our code, and if there is something that we think needs to be adjusted in our code, then do that, as opposed to having five individuals decide taste.

Member Kosinski stated that she agrees that there are things in the code that need to be fixed. She stated that even though she likes modern architecture, there are buildings now in our town that are dwarfing other buildings beside them. She asked what is the criteria that would put something in the gray area and require an application to go to P&Z, and Mr. Kaleel responded that it is difficult to determine that. He stated that if there is ambiguity in the code (example: flat roofs) and staff has a question on the gray area, that would be the criteria to send the application to P&Z to make an interpretation.

Member Marsh stated that with all due respect to the former Town Clerk who is a great person, it should not be up to staff to make a call on the gray areas in the code. It should

be the job of the Board to review and have conversations with the applicant. He stated that the P&Z decided voluntary applications was not an option, and decided they needed to either put a format together or drop it all together, and now we have a proposal to have a review process. In reference to fees, Member Marsh stated that it costs thousands of dollars to put together the working documents and plans for a building permit, and he would rather know ahead of time that there may be a problem with the design in order to save money. He stated that we need to have a process where we can catch things early before the building permit process, and give fruitful feedback to the applicant and architect. He stated that nobody is trying to dictate anything, we just need a system that gives the town some protection, and gives the residents a vetting process where the Commission can review and give input. He stated that we are not going to the level of dictating colors, styles, etc., but we are trying to make sure scale, etc. is good for the neighborhood. He stated that it is not good for the Zoning Official to look at mass and scale.

Public comment: Mr. Kaleel stated that it is unfair for the property owner not to know in advance what is unacceptable. He stated that he understands where the Commission wants to go with this, but it is unfair if you are looking at the code and do not know what you can build. He suggested that if we have a massing issue, we should address that issue in the code, because to not know in advance what would be acceptable is not fair. He stated that he cares deeply about the town and wants what is best for the town, but also wants what is best for the property owners and their rights, and implores the Commission to develop criteria to state what is acceptable within the town.

Member Marsh stated that you should always do a preliminary design before getting into the construction documents, and that is the point we are trying to encourage so that we may give feedback before an investment is made. Mr. Kaleel stated that he has a problem with this because it is based on opinions and it creates problems and expenses for the property owner, and creates ill feelings that permeate. Mr. Kaleel talked about the timeframe for the process, and asked what we will do if there is no quorum for a meeting. Chairman Goray responded that the Commission has not missed a meeting since he has known, and Member Marsh stated that the Commission is committed to meet once per month.

Mr. Kaleel commented about the Saturday work hours ordinance, noting that there has been an increase in leaf blowers in Ocean Ridge and there is no more peace. He stated he is getting tired of hearing it on Saturday starting at 8:00 a.m. He noted that we are so concerned with the concept plan review that we are not worried about peace and security within our town.

Member Marshall stated that there is a spirit in wanting to have clarity and practicality, and she agrees with Mr. Kaleel that it would be more ideal to have the issue raised so we are not creating something that we don't need to create. At the same time, she views this Board as a cause for pause. When an issue is brought to the town, the P&Z spends the time working on whether things make sense and then sends it to the Town Commission for final approval. She asked if we leave this up to an issue being raised, or do we move

forward with a movement of what it should be, and it could be either or. All of the content comes in the same spirit; everyone wants practicality, clarity and a direction that makes sense. Member Marsh stated that he is suggesting that we have a format because we don't yet, and other coastal towns do. He stated the tough part will be developing the application for the process. He reiterated that an involuntary process will not work, and that scale or mass and misuse of it is the biggest problem we have. Member Marshall explained the red rules/blue rules concept and stated that we should choose a few items that are mandated and some that are gray area that we meet and discuss.

Chairman Goray stated that we are the only coastal community that does not have Architectural Review Committee. He noted that the Concept Plan Review is the first step in a process that he thinks is necessary. He mentioned that we can make changes and amendments as we go. He agrees that we have a problem with massing, and noted that there is no way to write a massing definition into an ordinance; it has to do with scale and proportions and neighborhoods and it is a subjective thing, but also helpful to get feedback from the Board and members of the community to give some guidance in that respect. He stated that in terms of money and time, Ocean Ridge is the quickest community in the Palm Beach County area to get something from zero to a building permit. He stated that we are going in the direction of influencing our destiny over the next 10-15 years which is going to be very important to this community in its appearance, character and reputation.

Member Marsh stated we may be able to adopt some of Member Marshall's suggestions when developing the application.

Member Kosinski stated that she loves the house at the end of Hudson, but it is overpowering on that lot. She stated that if she was the neighbor next door, she would be appalled that there is no way she could landscape out due to the huge wall. She stated it does not fit there, and asked if what we are doing here is going to give us the ability to address those situations. Public comment: Mr. Kaleel said no because if the massing is permitted in our code, there is nothing to prevent it, and this is his issue. There was a discussion regarding addressing the massing issues in the code.

Chairman Goray thanked the public for commenting and stated that it is helpful for people to appear before a board and have a give and take discussion and make modifications in order to help create harmony within the community.

Town Attorney Shutt stated that the proposed ordinance provides for a mandatory review but it is clear that regardless of what the board suggests, the Zoning Official will review the application according to the code, and the developer can decide to build it according to the code. Member Kosinski noted that with this process, adjacent owners will have a right to speak out, and the board will explain the massing issue, where it may have not been understood before the Board exposed it. There was a discussion regarding mandatory review vs. involuntary review, and also binding decision by the Planning & Zoning Commission, and Chairman Goray suggested adopting the ordinance that is

currently before us, and if we see that we need more teeth in it, we can take the second step in that direction at a later time.

Chairman Goray called for public comment, and there was none.

Chairman Goray called for a vote.

Member Kosinski asked about the timeframe for people to submit the Concept Plan Review applications to come before the P&Z, and Town Attorney Shutt responded that staff will modify the land development application to include the Concept Plan Review process which will list the specific requirements, and if the applicant meets the stated deadline, the application would go to the P&Z at the next regularly scheduled monthly meeting.

**Member Marsh moved to recommend approval of the ordinance as amended, changing the term “site plan review” to “Concept and Development Plan Review”; seconded by Member Kosinski. Motion carried 4-0.**

3. Definition of Family

Town Clerk Stevens read the proposed ordinance by title only.

Town Attorney Shutt advised that we are proposing to change the definition of family by reducing it from five unrelated persons to three unrelated persons. He noted that the average family size from the last census is 2.14 persons. He stated that he was asked to look at this as it relates to transient housing in Ocean Ridge.

Chairman Goray called for public comment, and there was none.

**Member Kosinski moved to recommend approval of the Definition of Family ordinance; seconded by Member Marshall. Motion carried 4-0.**

DISCUSSION / ACTION ITEMS

4. Discussion Regarding Flat Roofs

Chairman Goray asked if we could place this item on a future agenda to discuss the definition of flat roofs and decide if we want to allow them or disallow them. Member Marsh stated he and the Town Attorney reviewed the definitions that exist, and there is no clear definition of a flat roof. He stated that flat roof is defined as having a minimum of ¼ inch per foot slope for drainage, so it boils down to whether the town wants flat roofs and in what circumstances. He noted that Manalapan just changed their ordinance to allow flat roofs, and most communities are adopting the same.

Town Attorney Shutt stated that the few ordinances he found that addressed it seemed to be backing off their current provisions, and going in the direction of allowing flat roofs or shielding them with parapet walls.

Chairman Goray stated in his opinion, we are seeing more and more flat roofs, and the difference between appearance is in massing and scale which is the issue.

Member Marsh stated that the key is to define the maximum heights of the vertical walls that encompass the parapets, as it does have a major impact on adjacent properties. He stated that he does not prefer mini-roofs hidden behind parapets. He noted that there is a contemporary modern movement now for people's desires and tastes and he does not want to penalize people for that, however, the parapet heights need to be looked at.

Member Kosinski stated she does not have an issue as long as we do something with massing to prevent something like the issue at the end of Hudson. Member Marshall stated she feels the same.

Chairman Goray stated the reason we adopted the flat roof ordinance around 15 years ago in reaction to the house on South Harbour Drive was because the landscaping was very sparse and it could have been potentially a good looking house if the landscaping was appropriate and softened the starkness of the house itself.

Member Marsh stated that we need to look at adjacent communities' ordinances and how they dictate height of the parapet and use of the flat roof regarding swimming pools, etc. He stated that once you get a habitable space on the flat roof you are dictated by certain minimum heights of barriers which goes against the intent of trying to keep the parapet roofs at a modest height.

Chairman Goray asked Town Attorney Shutt to do the research to come up with definitions regarding the parapet factor and use factor.

Town Attorney Shutt stated he will look into language to ban decks on roofs, however it may not be simple because there are a lot of things that may need to be included such as banning certain materials, stairways, etc.

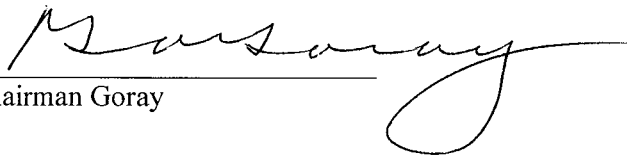
Public comment: Ken Kaleel, 86 Island Drive South, stated that this is what he was trying to explain before, that we need to do the hard work to change the code. However, the Town Attorney should not be drafting the code; that should be done by the P&Z. He stated the P&Z should be directing the Town Manager to get the information that is needed. Mr. Kaleel stated he is trying to get the Board to the point in making those decisions. He noted that it wasn't just the landscaping on the South Harbour Drive property; it was also the lack of windows. Member Marsh noted that if that project had come in front of the P&Z, we would have addressed the massing, etc.

ADJOURNMENT

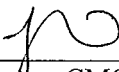
**Member Kosinski moved to adjourn at 9:41 a.m.; seconded by Member Marshall. Motion carried 4-0.**

PLANNING & ZONING COMMISSION MEETING HELD SEPTEMBER 25, 2017

Minutes adopted by the Planning & Zoning Commission at its meeting on February 12, 2018.

  
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Chairman Goray

Attest:

  
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Tracey L. Stevens, CMC, Town Clerk