

**VILLAGE OF NORTH PALM BEACH
ZONING BOARD OF ADJUSTMENT & APPEALS
REGULAR MEETING MINUTES
TUESDAY, JANUARY 30, 2018**

Present: Stephen Harber, Chairman
Ted Bukowski, Vice Chairman
Louis Daniello, Member
Lane Henderson, Member
Curt Sanchez, 1st Alternate (arrived at 6:03 PM)
Richard DiDonna, 2nd Alternate

Denise Malone, MPA, AICP, Community Development Director
Erin Sita, Village Planner
Len Rubin, Village Attorney
Brian Shutt, Attorney for the Board

Not Present: Dianne Reeves, Member

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CALL TO ORDER

The meeting was called to order at 6:08 P.M.

ROLL CALL

All members of the Zoning Board of Adjustment & Appeals were present except Mrs. Reeves. Mr. Sanchez will be voting.

APPROVAL OF MINUTES

The Minutes of the October 23, 2017 meeting were approved as written.

The Village Attorney, Len Rubin, swore in all persons testifying and present at the meeting.

The Legal Notice was published in accordance with the Village Code requirements.

PETITION NO. 2017-2103

An application submitted by New Country Motor Cars of Palm Beach, LLC, property owner, requesting a variance from Section 6-115 of the Village Code of Ordinances (requirements for permitted permanent accessory signs), which limits the principal building to 1 wall sign. The applicant is seeking a variance from this provision to allow for the replacement of the existing wall logo signage on the architectural tower in the center of the building front Alternate A1A.

Mrs. Sita presented the Staff Report and recommendations. She explained that the sign has been existing since 2008 and is being brought before the Zoning Board to correct the oversight of the previous action. Staff is recommending approval of the proposed variance request based on the analysis and finding the application is consistent with the six (6) variance criteria. The current

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sign code regulations does not address and thereby does not allow for signage typically associated with large single tenant properties and that the existing signage has not been detrimental to the area or public welfare. Further, the proposed variance would allow for the existing wall logo signage in the same location. The applicant has also argued that the unique location of the property may diminish visibility of the business without the existing signage. The signage will be going before the Planning Commission at their next meeting.

Mr. Gary Brandenburg, Esq., was present to represent the project.

There were no letters submitted to the Board.

There were no proponents or objectors to the project.

Motion: Mr. Daniello moved to approve the variance as recommended by Staff. Mr. Bukowski seconded the motion, which passed unanimously 5 - 0.

APPEAL NO. 2017-2098

An application submitted by Awad Khalifa and Mahasen Nasr appealing the Community Development Department's determination that a breezeway connecting a guest area to the primary residential structure for a proposed single-family residence must be enclosed because the guest area is not a permitted accessory structure.

For the record, Village Attorney Len Rubin briefed the Zoning Board members that the following two items are appeals and are different from the Variance requests the Board is accustomed to hearing, in that they will be tasked with determining whether staff's interpretation of the Zoning Ordinances are correct, or the appellant's contrary interpretation is correct.

Mrs. Sita presented staff's determination. The applicant is appealing staff's decision to require the breezeway be enclosed and fully attached to the main residential area. The connection between the home and the guest area was not sufficient to integrate the guest area with the primary residential single-family structure, as the breezeway has a drive aisle to the motor court through it. The connection between the buildings was not deemed sufficient to attach the two areas.

Guest quarters that are attached with an enclosed breezeway to the main living quarters such that they are made part of the primary residential structure are permitted. An enclosed breezeway allows for a sheltered, continuous connection. The connection is not required to have air-conditioning or heating.

An open breezeway with continuous roof and foundation connecting a guest area to a primary residential structure is not considered part of a single-family residence, but rather a detached accessory structure. Detached guest quarters are not a permitted type of detached accessory structure in the R-1 Zoning District. The only detached structures permitted in the R-1 District are a detached single-story garage and an open air pavilion.

Allowing detached guest quarters is a policy decision that should be addressed through the formal code amendment process and voted on by Village Council in a public hearing.

Staff is recommending that the Board of Adjustment deny the subject appeal allowing for open

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air breezeway with a driveway as it would constitute a change in policy direction over what is currently permitted by the Village's Code of Ordinances.

Mr. Benjamin Schreier, Architect, represented the appellant/project. Mr. Schreier presented his interpretation of the code and feels his design represents an attached structure. He suggested adding a sliding, slatted panel that can be opened and closed as a compromise to the enclosure requirement.

There were no letters submitted to the Board.

There were no proponents or objectors to the project.

Motion: Mr. Bukowski moved to uphold the interpretation as determined by Staff and deny the appeal. Mr. Sanchez seconded the motion, which passed 3 – 2 with Ms. Henderson and Mr. Haber voting nay.

APPEAL NO. 2018-0080

An application submitted by Steven M. and Anna K. Esrick appealing the building Official's revocation of a building permit issued for the reconstruction of an existing dock and the installation of a boat lift based on the Community Development Department's determination that the proposed dock violates Ordinance No. 32-99, regulating the location and construction of docks within the Harbour Isles Planned Unit Development.

Mr. Rubin briefed the Board Members of the essential element of the Appeal that they would be deciding, which is whether the Community Development Department's determination that the proposed dock violates Ordinance No. 32-99, regulating the location and construction of docks within the Harbour Isles Planned Unit Development. He stated that as a matter of law, you cannot rely on a permit that is issued in error, therefore the Board's deliberation should focus on whether the permit complies with Ordinance No. 32-99, as Staff has determined.

Mrs. Sita presented the Staff Report and recommendations. She reiterated the information provided in the Staff Report, outlining the permit history, beginning with Permit #2016-1033 issued on 7/18/2016 to "Reconstruct dock and install a boat lift," through the revocation of the Building Permit on December 5, 2018. She further explained that Exhibit E in Ordinance 32-99 (provided in the meeting packet) depicts the permissible mooring areas as well as the area for the location of structures including mooring pilings. It specifically depicts the Esrick dock (lot 69) as approximately 70 linear feet, which would include any mooring pilings. Exhibit E is a scaled drawing/plan; therefore, the length of the dock can be determined by measuring it without it being expressly noted on the plan. The subject site's dock extends 30 ft. beyond the permitted mooring area in Exhibit E. Additionally, the mooring pilings extend an additional 28ft to the south of the 100 ft. total dock. The combined mooring pilings and 30 ft. dock addition exceed the mooring and structure area footprint depicted in Exhibit E by 58 feet. Absent any indication in the Ordinance that a dock in excess of 70 ft. would be permitted in this particular location, Staff relied on the scaled mooring area depicted in Exhibit E to Ordinance 32-99. Docks within Harbour Isles must also be set back at least 10 ft. from the side property line extended. Due to the configuration of this particular lot, the side setback requirement is inapplicable to the southern terminus of the dock. Any other configuration based on an extension of the side property line is essentially arbitrary.

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Mr. Alan Ciklin, Esq., was present to represent the appellants. He presented the Esrick's interpretation of events and arguments in favor of granting the appeal. He stated that the Esrick's did not wish to take on the amending of the PUD for Harbour Isles as there are a lot of docks within the development that are out of compliance, and the problem is with the Ordinance, not the PUD, so the Village should fix the issue.

Mr. Steven Esrick, Appellant, 756 Harbour Isles Court, spoke on his own behalf.

Chairman Haber opened the floor for comments from the public.

Josh Murray, 1037 Country Club Dr., spoke against the appeal.

Charles "Tripp" Bristow, 1101 Country Club Dr., spoke against the appeal.

Luke Dempsey, 937 Lighthouse Dr., posed questions that legal counsel stated were not germane to the Zoning Board of Adjustment or to the current appeal.

Charles Gurstel (sp?), 108 Lakeshore Dr., spoke against the appeal.

A letter written at Mr. Esrick's request by Mr. Charles Isiminger, Isiminger & Stubbs Engineering, Inc., providing his interpretation of subsection 6.13.4.a of the Declaration of the Homeowners' Association of Harbour Isles, Inc., was submitted into evidence.

Motion: Mr. Daniello moved to uphold the appeal. Mr. Harber, passed the gavel to the Vice Chairman. Mr. Harber seconded the motion. The Motion failed 4 – 1 with Mr. Haber voting yes.

ADJOURNMENT

With there being no further business to come before the Board, the meeting adjourned at 8:42 P.M.

Minutes Typed by Jane Lerner
