

PLANNING & ZONING COMMISSION MEETING MINUTES
FEBRUARY 22, 2022

Meeting Minutes of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, February 22, 2022, in the Town Hall Meeting Chambers.

CALL TO ORDER

The meeting was called to order at 8:00 a.m. by Chair Marsh.

ROLL CALL

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

Chair Mark Marsh	Present
Vice Chair Ric Carey	Present
Member Neil Hennigan	Present
Member David Hutchins	Present
Member Penny Kosinski	Present
Alternate Member Brit Flanagan	Present
Alternate Member Roger Brinner	Present

Staff Present: Town Attorney Goddeau, Town Manager Stevens, Zoning Official Palacios, Building Official Guy, Tara Bamber serving as Representative for the Town Engineer, and Town Clerk Armstrong.

PLEDGE OF ALLEGIANCE

Chair Marsh led the Pledge of Allegiance.

PUBLIC COMMENT

Chair Marsh called for public comment, and there was none.

APPROVAL OF MINUTES

1. Approval of Minutes of the January 24, 2022 Meeting Minutes

Vice Chair Carey moved to approve the minutes of January 24, 2022 as submitted; seconded by Member Hennigan. Motion Carried 5-0.

DISCUSSION / ACTION ITEMS

2. Quasi-Judicial Hearing: 113 Island Drive South Landscape Plan

Chair Marsh explained that this is a quasi-judicial hearing, and asked if any of the board members had any ex-parte communications with the applicant, owner or builder. All Planning & Zoning Commissioners informed that they had none. Those that wished to give testimony for 113 Island Drive South were sworn in by Town Clerk Armstrong.

Town Clerk Armstrong introduced the item by summarizing the discussion regarding the Quasi-Judicial Hearing for 113 Island Drive South that was held on January 24, 2022. She introduced Zoning Official, Manuel Palacios, to all the board members. Town Clerk Armstrong commented that Tara Bamber, who reviewed the application, noted that there were a few trees on the southwest corner of the property that would need to be moved out of the drainage system.

Regina Subko, representative for the applicant, introduced herself and apologized that the Landscape Architect could not be present.

Member Hennigan moved to defer the application due to the absence of the Landscape Architect. Motion failed due to lack of a second.

Member Hennigan stated that the application should be deferred if the Landscape Architect is not present to provide details and answer questions, as was requested at the last meeting. Ms. Subko, the Contractor, commented that the process is important and that is why she was sent to serve as the representative. Member Hutchins stated that the application should be considered since it is before them. Chair Marsh stated that it is up to the board to decide whether they would like to allow the representative to present the project or defer it, but that the project could be reviewed and discussed before any determination is made on whether to defer or not.

Member Kosinski asked Ms. Subko for the reason why the Landscape Architect could not be present, to which Ms. Subko responded that the Landscape Architect is sick.

Chair Marsh suggested that the application be reviewed for completeness to see if there are any concerns.

Zoning Official Palacios noted that the proposed landscape plan meets the minimum landscape requirements in the current zoning code. He provided the board with his calculations as provided in the package.

Alternate Member Flanagan stated that removing the trees in the drainage system on the southwest side would go against the board's recommendation on landscaping. The rendering was shown that showed the trees in the drainage system.

Member Hennigan stated that he wanted to discuss why the previous foliage was not considered. Ms. Subko was unable to answer and commented that there was a town permit to allow them to clear the lot of all the trees. Member Hennigan understood and stated that the Landscape Architect could've considered keeping the existing trees and using them as a part of the landscape plan.

Member Hennigan asked town staff if the trees removed were considered damaged, to which Zoning Official Palacios commented that he is unaware of any documents showing any of the trees as damaged for that property. Member Hennigan stated that the old landscaping was not damaged because it was sold. He showed pictures of the old trees.

Member Hutchins asked if the code requires people to keep their existing trees for a new home. Chair Marsh stated that there is usually no requirement to keep them. Member Hennigan stated that it is not about requirements, but that they should aim to try to keep them. Member Hutchins stated that it would've been nice, but they should not be penalized for removing the trees. Chair Marsh asked for Town Attorney Goddeau to advise. Town Attorney Goddeau deferred to the Town Manager because there is nothing in the statute that would require an applicant to keep existing trees. She further noted that there are exemptions in the statute that allow for tree removal without the need for a town permit. Town Clerk Armstrong noted that there is no requirement to keep existing trees, but the town promotes it by offering permit fee reductions to the applicants that choose to keep trees. Chair Marsh stated that there is little legislation to protect existing trees.

Town Manager Stevens concurred and stated that staff is working to strengthen the landscaping code.

Member Kosinski asked why the application for the demolition was approved if there is not an issued building permit according to code. Town Clerk Armstrong stated that the code requires that the applicant either have an approved building permit or adhere to all the regulations for a clear lot. If the applicant certifies that they will adhere to the requirements within Town Code for an empty lot, then the town does have to approve their demolition application.

Chair Marsh stated that the board is tasked with ensuring goals are being met and that the board can strongly suggest that existing trees are kept. Member Hennigan concurred and added that he would like to see more mitigation of existing trees. Chair Marsh stated that landscape architects should have that philosophy and the board can notify the landscape architect of their standard. Zoning Official Palacios reminded the board that setbacks also prevent the applicant from putting items in certain locations, therefore, requiring them to move landscaping to different locations when the lot is reconfigured. Chair Marsh concurred and noted that trees can be added in the setback.

Chair Marsh stated that it will be hard for the 48” triple palm cluster to survive. Member Hennigan concurred.

Alternate Member Brinner asked for clarification on the location of the trees in the drainage infrastructure. Chair Marsh noted that the trees in the drainage infrastructure are on the southwestern facade. Alternate Member Brinner asked if the trees could drape over the neighbors’ hedge, and Chair Marsh stated that it is a common occurrence.

Member Hennigan stated that if the 48” triple palm cluster must be removed, then a shade tree be put in its place by moving the septic tank or changing the type of septic tank. The Town Clerk noted that the Health Department has a setback requirement from the drain field. Member Hennigan noted that there is enough space by moving the septic tank or changing the type of tank.

Chair Marsh stated that the palms in the drainage infrastructure will have to be moved. He also suggested that Travelers palm be added to break up the verticality of the home. Ms. Subko stated that the suggestion can be taken.

Member Hennigan asked Ms. Subko if she would be willing to soften the wall. Chair Marsh stated that the architecture was already approved. Town Attorney Goddeau stated that the design was already approved, and all the board was missing to approve was the landscape. She stated that the board could always ask, but they would not be able to enforce at this stage. Chair Marsh stated that he is willing to suggest.

The board discussed the rendering and the type of landscaping on the plans. Chair Marsh went over the suggestions, such as adding a shade tree if the palm cluster is removed and to add traveler’s palms to the southwest building façade.

Member Hennigan moved to defer the application. Motion failed due to lack of a second.

Member Hutchins disagreed with deferring the project. He stated that the project should be voted on since it has been deferred already. Chair Marsh stated that he was against approving the design because the application was incomplete and did not show the full picture. He suggested that the board approve with conditions and for staff to implement.

Town Attorney Goddeau stated that the board can be specific in its request and provide it to staff so that they can accurately review the application. Member Kosinski stated that the items mentioned are not just requests but requirements. Town Attorney Goddeau stated that the landscape meets code so they would lack the authority to request additional landscape to be added. Member Kosinski asked if the board has the authority to ask for more landscape as a part of the approval. Town Attorney Goddeau stated that the board cannot require additional trees if the current trees requirement meet code, but the board can recommend. Chair Marsh stated that all requests have been agreed to by the applicant's representative, to which Ms. Subko confirmed that she will adhere to the requests.

Member Hennigan asked about the status of the gumbo limbo in the right-of-way, and Ms. Subko stated that it would remain since it is in the right-of-way. The board discussed the landscape rendering, and the gumbo limbo tree in the right-of-way. Member Hennigan asked if the trees in the right-of-way are the town's responsibility. Town Manager Stevens stated that it is in the town right-of-way, but it may have to be altered as a part of the building scope requirement. The board wanted the existing trees in the right of way to be preserved in the event that drainage improvements are needed in the right of way.

Building Official Guy discussed the trees that the town intended to protect and discussed the swale requirements. Chair Marsh stated that the gumbo limbo can be relocated onto the property if it needs to be removed from the right-of-way for drainage improvements.

Member Hutchins and Member Hennigan summarized the conditions, and the applicant's representative agreed to all.

Chair Marsh moved to approve the Landscape Plan of the Development Plan Review Application for 113 Island Drive South with the condition that the 4 Montgomery Palms adjacent to the southwest be moved out of the drainage area and closer to the primary structure; Add 6-8 Traveler's Palms to the Southwest building façade; If the existing 48" Triple Royal Palm Cluster has to be removed, then a mature shade tree that meets the minimum code requirement has to be used in its place; If the Gumbo Limbo has to be removed for drainage purposes, then it needs to be relocated within the property; seconded by Member Kosinski. Motion carried 5-0.

3. Proposed Flat Roof Ordinance

Town Attorney Goddeau introduced the proposed ordinance and went over the areas that need further discussion.

Member Hennigan stated that the board should only focus on Residential Single Family (RSF) or Residential Single Estates (RSE) because Residential Multi Families (RMM) and Residential High

Density (RHM) would need additional review and discussions. **There was consensus to only focus on flat roofs for RSF and RSE zoned districts at this time.**

Town Clerk Armstrong noted that many residents in the RMM district may choose to build single family homes. Member Hennigan stated that they would then follow the code section regarding RSF.

Town Attorney Goddeau showed the discrepancies that she encountered while updating the town's code.

Alternate Member Brinner asked if solar panels would require screening. Town Attorney Goddeau stated that solar panels are discussed later in the ordinance.

Chair Marsh asked if there will be regulations on manufactured homes. Member Hutchins asked if we had any throughout the town. Building Official Guy stated that there are currently no manufactured homes throughout the town, but he does not have the means to stop them from being implemented under the Florida Building Code. He discussed the permitting process for a manufactured home, and noted that no inspections are required for the interior of the manufactured home.

Alternate Member Flanagan asked if the town has the ability to limit antennas even though they are allowed under the FCC. Town Attorney Goddeau stated that they cannot be banned in the town, but that the town can have additional requirements like screening.

Alternate Member Brinner recalled that one of his family members was required to screen their solar panels in Gulfstream. Chair March concurred.

Alternate Member Flanagan stated that her association recently changed their by-laws to only allow solar panels on one side of the home so it would be away from view. She asked the board if they would like to entertain the idea of where they want the solar panels to be placed. Chair Marsh concurred that the board can add additional requirements.

Vice Chair Carey noted the inconsistency on the parapet height in the proposed ordinance. Chair Marsh concurred and said that the parapet height should be 32" across the board. Vice Chair Carey stated that a pitched roof should not need a parapet. Chair Marsh concurred that parapets should only be used only on flat roof homes. **There was consensus to remove the parapet requirement or ability from pitched roofs.**

Member Hennigan asked for the difference between the elevator bulkhead and housing, and if either are required. Chair Marsh stated that residential elevators do not need an overbite and they can accommodate with the additional space from the tie beam to the roof.

Rene Alonso, Alonso and Associates, asked for the intent of requiring a 32" parapet for flat roofs. Chair Marsh clarified that it was up to 32" and that they can have a lesser height parapet. Mr. Alonso thanked the board for the clarification. Mr. Alonso discussed his issue that he would like to do a flat roof, but the ordinance is taking too long and the house is almost built. He asked for

the board's blessing to apply for a variance. Member Kosinski asked if the proposed flat roof meets all the current requirements in the proposed ordinance, to which Mr. Alonso stated that it does. Chair Marsh stated that he understands the issue, and staff will be present to notify the Board of Adjustment member of the proposed flat roof ordinance.

Town Attorney Goddeau asked for input on Sec. 67-37 for the housing and elevator bulkhead. Chair Marsh stated that it could be removed to discourage additional vertical projection. Member Hennigan asked that Town Planner O’Gorman be made aware of the elevator bulkhead discussion.

The board deliberated whether they would like to review the ordinance one more time before it goes to the Town Commission, and there was consensus to review the final draft before it goes to the Town Commission.

Building Official Guy asked the board if they would like to define a flat roof. Chair Marsh stated that the definition of the flat roof will be based on the Florida Building Code. Vice Chair Carey asked if they would like to add that definition. Building Official Guy noted that there is a slight pitch in the flat roof for safety and the code should define that. Chair Marsh dissented and stated that the definition should fall back on the Florida’s Building Code definition.

There was consensus to have Town Attorney Goddeau update the ordinance with the suggestions discussed.

4. Administrative Variance

Town Clerk Armstrong introduced the item by noting that the current ordinance allows a person to apply for an administrative variance to encroach on any setback regardless of where the existing encroachment is. She noted that Commissioner Wiescholek at the previous Town Commission meeting discussed that the administrative variance process should only allow an applicant to construct on the existing encroachment.

Member Kosinski agreed that any proposed addition should only be added to the same setback as the existing encroachment. **There was consensus to change the ordinance to only allow the administrative variance for proposed additions to be on the same yard as the existing encroachment. There was also consensus to update the picture with the code and to clear up some of the language in regards to the calculations.**

Vice Chair Carey asked for the intent of the ordinance, and Town Manager Stevens stated that it is to give a simpler process for smaller additions.

Town Attorney Goddeau asked the board if they would like to reduce the calculation requirement to only be for the encroachment setback side, not the setback area for all sides. Zoning Official Palacios asked for clarification, and Town Attorney Goddeau further clarified. Zoning Palacios explained how he calculates and stated that he does not see a reason to change it.

Vice Chair Carey stated that he wants to eliminate any potential impacts to neighbors as a result of the administrative variance process. Town Manager Stevens notified the board that there is still a notification requirement.

Zoning Official Palacios stated that in most cases people do want to apply to add to the existing encroachment.

Member Kosinski stated that maybe the calculation should be changed to only one side. Member Hennigan stated that if the calculation is changed to only the setback of one side, then the allowable square footage will be too low to build an actual addition. Building Official Guy stated that the calculation should not be changed because any proposed addition will be small since they would not be allowed to encroach into any other setback than where the existing encroachment is.

Member Kosinski asked whether the calculation should be changed to only one side and lower the calculation amount. Vice Chair Carey was in favor of limiting it to one side. Member Hennigan described the issue that smaller lots will face if the calculation is limited to one side. Member Hutchins stated that the item was brought up because it will be impacting people of the south end of town.

Chair Marsh called for public comment.

Martin Wiescholek, Town Commissioner, stated that the only issue he was having is with allowing an addition to go into another setback than the existing encroachment. He is against lowering the calculation to only one size because the number will be so low that people won't be able to build an addition. He stated that the ordinance gives the administrative staff the ability to move the application to the board if there are any questions or concerns.

Zoning Official Palacios stated that the minimum use is monitored as well. Town Attorney Goddeau stated that she would make the changes to the ordinance as directed.

COMMISSIONER COMMENTS

Vice Chair Carey stated that the Landscape code needs to be revised and strengthened. Town Manager Stevens notified that the Landscape code is already being reviewed by staff and changes will be forthcoming that would strengthen the code.

Member Hutchins stated that many contractors or companies throughout Town are not taking responsibility for damaging Town and residents' property. He showed pictures of damaged lawns and broken sidewalks. He asked Town Manager Stevens for advice on this matter. Town Manager Stevens stated that there is now a dedicated Code Enforcement Officer assigned and that residents should call when they see an issue occurring so the Officer can respond while it is occurring, or contact staff if the resident has proof of who did the damage. If the company is caught in the act or there is proof that they have done it, then there will be the ability to penalize them.

Chair Marsh asked Building Official Guy about the substantial improvement calculation. Building Official Guy stated that it is calculated at 50% of the improvement value (structure only) and not the land value. Town Manager Stevens commented that it is very important that residents take responsibility for obtaining the proper permits for substantial improvements and gave the example that if there are five houses on a street and four have been re-built or substantially improved and brought up to code, and the one house left on the street did interior improvements without the proper permits and avoided bringing the property up to code with the proper elevations, then the Town will not be able to raise that road because it will adversely impact the property that did not come into compliance due to lower elevations. This could have

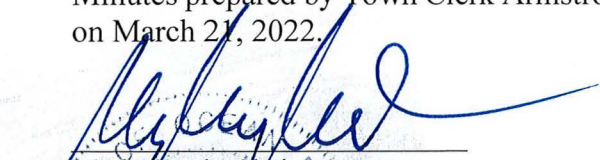
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an adverse impact on the rest of the neighborhood for a long period of time as sea levels continue to rise and we continually see nuisance flooding in the roadways.

ADJOURNMENT


Meeting adjourned at 9:57 a.m.

Minutes prepared by Town Clerk Armstrong, and adopted by the Planning & Zoning Commission on March 21, 2022.



Mark Marsh, Chair

Attest:



Karla Armstrong, Town Clerk

