



**MINUTES  
CITY OF LAKE WORTH BEACH  
PLANNING & ZONING BOARD MEETING  
CITY HALL COMMISSION CHAMBER  
WEDNESDAY, JUNE 05, 2024 -- 6:07PM**

**ROLL CALL and RECORDING OF ABSENCES:** Present were: Juan Contin, Chair; Mark Humm; Zade Shamsi-Basha; Dave Mathews; Evelyn Urcuyo. Absent: Daniel Walesky; Hank Pawski. Also present: Karina Campos, Community Planner; Scott Rodriguez, Asst. Director for Planning & Preservation; Elizabeth Lenihan, Board Attorney; Sherie Coale, Board Secretary.

**PLEDGE OF ALLEGIANCE**

**ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA** None

**APPROVAL OF MINUTES:**

- A. May 1, 2024 Regular Meeting Minutes

Motion to accept the minutes as presented; Ayes all, unanimous

**CASES:**

**SWEARING IN OF STAFF AND APPLICANTS** Board Secretary administered oath to those wishing to give testimony.

**PROOF OF PUBLICATION** Provided in the meeting packet.

- 1) a. 24-01500003 - 531 North C Street
- b. 24-00500005 - 818 North Dixie Hwy
- c. 24-00500006 - 1928 Lake Worth Rd

**WITHDRAWALS / POSTPONEMENTS** None

**CONSENT** None

**PUBLIC HEARINGS:**

**BOARD DISCLOSURE** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

- A. **PZB Project Number 24-01500003:** Consideration of two variances to allow an 8-foot-tall fence and to allow a fence without the required side setback and landscape screen at 531 North C Street. The subject site is zoned Single Family Residential (SFR) and has a future land use designation of Single Family Residential (SFR).

**Staff:** K. Campos presents case findings and analysis. In 1990 a permit was issued for an eight (8) foot fence on the eastside inside the hedges. Another permit was issued in January 2023 for repair and

replace; a third permit for replacing the fence in Dec 2023 disapproved due to location. A 40-foot section of the fence along 6<sup>th</sup> Ave North was replaced without permit. The fencing as installed does not meet the code with respect to fence height, setback and landscape screening requirements.

A review of the four variance criteria indicates the application does not meet the criteria and should not be approved.

1. Special circumstances peculiar to the land and do not apply to nearby properties: Applicant contends the 6-foot height as per the LDR's is insufficient to maintain their privacy. the required setback would require the removal of the trees; **Response:** Staff horticulturalist indicates the fence could be placed behind the trees. Homes on corner lots are common throughout the City and the 6-foot height requirement along the side property line adjacent to roadways is a requirement for all homes including corner lots.
2. Strict application would deprive the applicant of any reasonable use of the land – the property has accommodated a single-family use for over 77 years. The application of the code to the fence would not deprive the owner of any reasonable use of the land.
3. Is the request the minimum required variance which makes possible reasonable use of the land – a variance is not required for reasonable use of the land. A six-foot fence with setback and screening per the LDR's provide sufficient privacy and security.
4. Will the variance be unduly injurious to the community and neighboring properties and in accordance with the spirit and purpose of the chapter? – The variance would have a negative visual impact on the surrounding properties and neighborhood; is contrary to the regulations as the LDR's were adopted through Ordinance. The regulations were intended to provide a visual and physical buffer between tall fencing and the sidewalk.

**Applicant/Property Owner** - Sharon Thompson- States the fence, as installed prior to her ownership, was at eight (8) feet. The replaced eight-foot gate was permitted. A tree fell on the fence and she had no time to apply for a permit before replacing the 40 foot section with an eight foot fence that matches the balance of the existing.

**Board:** Board member asks for clarification on the request. **Response:** The fence is on the property line and not setback with screening; the fence is eight- (8) feet in height. The 8-foot fence was permitted in the alley. **Board** asks if it is a partial replacement? **Response:** Code states a repair as being less than a 16-foot section. Anything over that requires a permit. The total linear footage replaced was forty (40) feet. **Board:** Would hurricane damage or car penetration require a permit? **Response:** Yes, if over 16 linear feet. **Board:** The fence could be lowered/cut to six-foot or moved back. **Board:** A previous case was Conditioned to cut the fence to height as per the LDR's. Consistent decisions in applying the Code is important. **Board:** Staff should provide a real analysis/report telling the real issue. If staff is saying "apply for a variance". The issue is not "what are the standards for a variance". Believes the variance rules should work and not have to respond to each other individually.

**Staff:** Staff works with applicants to remedy the code issues and offers solutions however if no resolution can be arrived at, the applicant has the option to apply for a variance.

**Board attorney:** Each of the criteria should be addressed as to how a decision will be reached whether in favor of granting the variance or against. There is no grandfathering in Code, this is how a City brings properties into compliance over time as Code changes also occur. If you need a permit and don't comply with Code, an applicant won't receive a permit. The applicant will end up in Code Compliance and here at Board. Staff analyses the site as it stands, the request and current Code.

Board member would like to have a printed copy of the applicant's justification at the Board meeting. Other Board members would like it to be provided in the presentation.

**Motion:** M. Humm moves to disapprove **PZB 24-01500003**, to be consistent with previous decisions. Motion fails for lack of a second.

**Motion:** Z. Shamsi-Basha moves to approve **PZB 24-01500003** as the request meets the variance criteria for the following reasons:

1. Applicants statement of issue. 2. Photos submitted within online packet and 3. Testimony of staff, applicant and Board; E. Urcuyo 2<sup>nd</sup>.

**Vote:** 4/1 in favor; M. Humm dissenting.

**Board Attorney:** Advised the Chair cannot make the motion without passing the gavel, however Chair can second the motion.

**B. PZB Project Number 24-00500006:** A conditional use permit request for a ±3,700 square-foot medical office located at 1928 Lake Worth Road. The subject property is zoned Mixed Use- West (MU-W) and has a Transit Oriented Development (TOD) future land use designation.

**Staff:** S. Rodriguez presents case findings and analysis.

**Applicant:** Not present.

**Board:** Inquires as to why the Conditions of Approval include items pertaining to the property owner and why other businesses cannot receive their license.

**Board Attorney:** Commercial properties with multiple tenants require the entire property to be in compliance with code. Any violations must be brought into compliance before the individual business owner can be issued a business license.

**Board:** Has the case been resolved? **Response:** That information is with the Code Compliance Division.

**Motion:** E. Urcuyo moves to approve **PZB 24-01500006** with staff recommended Conditions of Approval based upon the competent and substantial evidence provided in the staff report and in the testimony at public hearing D. Mathews 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**C. PZB Project Number 24-00500005:** A conditional use permit request for a ±850 square foot medical office located at 818 North Dixie Highway. The subject property is zoned Mixed Use – Dixie Highway (MU-Dixie) and has a Mixed Use-East (MU-E) future land use designation.

**Staff:** S. Rodriguez presents case findings and analysis.

**Applicant:** Does not have a presentation, questions or additional information.

**Motion:** D. Mathews moves to approve **PZB 24-00500005** with staff recommended Conditions of Approval based upon the competent and substantial evidence provided in the staff report and testimony at the public hearing; J. Contin 2<sup>nd</sup>.

**Vote:** Ayes all, unanimous.

**D. Ordinance 2024-08:** Consideration of an ordinance amending Chapter 23 “Land Development Regulations,” Article 4 “Development Standards,” Section 23.4-10 – Off-Street Parking

**Board Attorney Elizabeth Lenihan reads Ordinance 2024-08 Title.**

**Staff:** S. Rodriguez states the change eliminates the inclusion of the fee in the Land Development Regulations. The fee will now become integrated into the annual City Fee Schedule. This allows for ease of changes going forward.

**Motion:** Z. Shami-Basha moves to recommend adoption of the proposed LDR Text Amendment (Ordinance 2024-08) to the City Commission; M. Humm 2<sup>nd</sup>

**Vote:** Ayes all, unanimous.

**PLANNING ISSUES:** S. Rodriguez – The July 3 meeting will be re-scheduled to the 3<sup>rd</sup> Wednesday July 17, 2024 due to the holiday.

Queried the Board as to what and how they would like to see data.

**Board:** Suggestions include an on-screen presentation; provision of the applicant's justification to fully understand the request; defining what a hardship means; lastly consistent application of code to the facts.

**Board Attorney:** Variances are difficult for a reason and require a high standard of proof.

**Staff:** The applicant is provided with solutions to the issue. Staff works with the applicant to resolve the issue at hand and does not start the conversation with the variance as being a solution. It is an option/solution of last resort.

**PUBLIC COMMENTS** (3 minute limit) None

**DEPARTMENT REPORTS:** None

**BOARD MEMBER COMMENTS:** None

**ADJOURNMENT:** 6:56 PM