



Agenda
Regular Meeting
City of Lake Worth Beach
Planning & Zoning Board
City Hall Commission Room
7 North Dixie Hwy; Lake Worth Beach, FL

WEDNESDAY, AUGUST 07, 2019 6:02 PM

1. Roll Call and Recording of Absences:

Present were: Greg Rice, Chairman; Anthony Marotta, Vice-Chair; Mark Humm, Daniel Tanner, Michael Glazer, Brock Grill, Laura Starr. Also present were: Alexis Rosenberg, Neighborhood Planner; Andrew Meyer, Senior Community Planner; Kevin Fischer Planning & Preservation Manager; M. Stivers, Deputy Director of Community Sustainability; Pamala Ryan, Board Attorney; Sherie Coale, Board Secretary.

2. Pledge of Allegiance

Board Secretary administered the oath of office to the new Planning & Zoning Board member, Laura Starr.

3. Additions/Deletions/Reordering and Approval of the Agenda:

M. Glazer moved to re-order the agenda moving item # PZB 19-00500004 to be heard first. A. Marotta 2nd.
Ayes all, unanimous

4. Approval of Minutes:

A. Meeting Minutes

Minutes for the July 2019 Regular Meeting held the 3rd Wednesday in July will be presented at the next meeting.

5. Cases:

A. Swearing in of Staff and Applicants: Board Secretary administered oath to those wishing to give testimony.

B. Proof of Publication: Included in meeting packet

C. Withdrawals/Postponements: None

D. Consent: None

E. Public Hearings:

1. Board Disclosure: none

F. Cases-New Business:

1. PZB 19-00000004: Request for approval of a mural currently located at 527 North Dixie Highway.

Staff: A. Meyer- presents both mural cases. Reviews history of previous mural approval at the location and that these were the two (2) previously mentioned unpermitted murals.

Applicant: Lianne Lehrman of West Palm Beach. Her muralist is not present. States she was wrong in thinking it was ok to do the murals without a permit.

Chairman asks whether she understands the process. Applicant now understands the murals would have to be painted over, if not approved. She did not mean to be disrespectful and would not have done it. Still, it is in good taste, debris will be gone and landscaping will be done. G. Rice sees it everyday and finds the mural to be on par with other murals in the area. We would all be pretending to be Picasso if it was done in the proper sequence.

Staff: The code, as it pertains to murals, is currently fairly light, soon to be more detailed. Any murals not fronting the corridor will not need to go to Board.

Board: B. Grill appreciates the sincerity of the applicant and the genuineness of the muralist. A. Marotta-Inquires about a mechanism for a penalty for after-the-fact approval.

Public Comment- Joseph Torres 502 N H St. It is tasteful but the back (alley) area should be considered because other people will look at the mural. States there is a lack of code enforcement in the area, constant issues with some properties. Calls out all these businesses. Parking is an issue. Art deco is okay but not a parking lot for drug dealing. Vegetation should be trimmed down.

Applicant: States this is her landlords business. Trying to beautify the building that she has leased and has cameras which have assisted law enforcement efforts.

Motion: D. Tanner moves to approve 19-00000005 (mural on the west façade of 523 North Dixie Hwy) with staff recommended conditions; M. Humm 2nd.

Vote: Ayes all, unanimous.

Motion: D. Tanner moves to approve PZB 19-00000004 (mural on the south façade of 527 N Dixie Hwy) with staff recommended conditions; M. Humm 2nd

Vote: Ayes all, unanimous.

2. PZB 19-00000005: Request for approval of a mural currently located at 523 North Dixie Highway- see above.
3. PZB 19-00500003: Consideration of a Conditional Use Permit for a "bar with live entertainment" at 527 North Dixie Highway

Staff: A. Rosenberg- Presents case findings and analysis. The proposal is for live music, should the applicant want to erect a stage in the future, a minor modification to the site plan would be required and would not come before the Board. The courtyard area of 523 N Dixie would be the location. Reviews the allowed decibel levels according to specific time frames. The building to the south would be a buffer for the noise.

Applicant: Expresses the intent of being in compliance with all regulations.

Board: G. Rice has experience with CWS and previous tenants. Asks for an explanation of where the measurements are taken, most police or code officers do not have the experience or time to measure.

Staff: Measurements are taken at the property line. Police do have readers. K. Fischer- reads into the record Code regulations for noise violations not requiring use of testing equipment Chapter 15-24.9 subsection 3, taking into account the time of day and the day of the week. Defined as a noise 'plainly audible to any law enforcement officer generated by a complaint at the site plainly audible to any person with normal hearing facilities at a distance of 150 feet from the real property line. Unreasonably loud or jarring'.

Board: L. Starr- what type of music? Is there a food license, are there food trucks? Applicant responds: rock and roll, country, reggae; no food perhaps catered. She doesn't want to be shut down. Already has a liquor license. Applicant states it is strictly alcohol, intends to bring in food, have it catered or teaming with a particular restaurant. Will have menus, catering for charity events. G. Rice suggests facing stage toward the east, applicant has already evaluated where to position for the least intrusive noise. Has considered installing high landscaping. She took ownership 10 months ago. Chairman reminds all that it has been some time since the last bar was open. L. Starr asks about the capacity/occupancy? 83 inside. Where will they park? Discussion of where there will be parking. **Staff:** If there isn't any expansion to the building, per code, the parking is not required to be expanded. Applicant suggests taking an Uber, there is street parking. Val Cortez, business partner, suggests 1/2 price drinks if taking an Uber.

Public Comment: Alan Falk 507 North Dixie- There is a residence above the retail. Has a question about the occupancy. Insufficient parking. Supposes that the neighborhood businesses will provide parking. A bar is one thing but a business (live entertainment) that purposefully draws people is not right. Joseph Torres 512 North H Street-There are empty parking spaces available across from the premises. Happy the bar is opening. There should be some type of security. Disagrees with Sunday nights until midnight because everyone has to go to work on Monday, enjoys diversity but should not have to live it 24/7, unfair to him as a resident. Did not move there to be part of a club scene especially after-the-fact. Alan Jerrins lives across the street (no address given) Has seen the bars come and go. Wants to support but what reassurances can be given? Wall across the way reverberates the noise. Has concerns for family and children. Operated sound at CWS and understands, was hoping the music would be inside.

Board: G. Rice hopes applicant will learn as a corporate citizen, turn the music down or play inside at certain reasonable times. If it is managed correctly, some of the issues brought up would resolve themselves. A. Marotta - With regard to the level of review, questions why a restaurant with a bar would receive a lesser review as opposed to this bar with live music bar. Staff states because it is live entertainment, the nature of business. A special event permit would be required for a restaurant with bar wishing to have live entertainment. A special event permit can be issued up to twelve (12) times per year. Parking ratios are based on type of occupation. Hours of operation clarification. B. Grill asks if applicant is a first time business owner. Applicant responds it is the first bar she has owned. Not trying to slip anything by just trying to do it legally. Chairman- A condition of approval could be added to turn down the volume on Sunday night. **Motion:** B. Grill moves to approve PZB 19-00500003 with staff recommended conditions with an added condition of approval being that live music hours end at 10 pm on Sunday. M. Humm 2nd. A. Marotta suggests amending the motion to include the addition of a hedge to lessen sound movement offsite. B. Grill would like the motion first then amend. Board attorney advises to vote on amendment first then the motion. **Motion:** A. Marotta moves to add an additional condition of approval to install a landscape buffer to minimize sound moving offsite. B. Grill 2nd. **Vote:** Amendment to main motion-Ayes all, unanimous.

Vote: Main motion- Ayes all, unanimous.

Following item heard first.

4. PZB 19-00500004: Consideration of a Conditional Use Permit for a "fabrication services excluding retail display and sales" at 1812 Aragon Avenue

Staff: A. Rosenberg presents the case findings and analysis. Fabrication of marble, granite and quartz. Applicant has been at this location since approximately 2017. The need for a business license, this type of use at this location and based upon the size, has prompted this Conditional use. Warehouse distribution and light industrial uses are in the immediate area. Office, storage, production and cutting area within the bays, there are some parking spaces and outdoor storage. Outdoor storage is allowed but must be screened. The applicant is aware of this condition and has already purchased the screening. The surrounding uses are warehouse distribution and light manufacturing. Surrounding zoning is industrial and the future land use is industrial.

Applicant: Jason Bono- representative for Kadassa Inc..

Board: G. Rice asked if this was/is a paperwork case for the City.

Staff confirms there are code violations including outdoor storage and the lack of a business license.

M. Glaser asks about the gate and the screening.

Applicant: Mr. Bono states the screening should arrive shortly, it has been ordered, the gates are closed during normal business hours, only open for deliveries.

Board: D. Tanner- Questions why it requires Board approval, staff confirms it is medium intensity size and currently requires Conditional Use review.

Staff: A. Rosenberg reviews the conditions. K. Fischer states once the LDR revisions are approved by City Commission, this case would not require Board review, until that time the process stands.

Board: B. Grill to the applicant: how many employees currently work there? – 7; and what is the approximate revenue? - 2.5 million. B. Grill wants clarification as to how the business has been operating without licensure or approvals, this is not a small operation.

Staff: The business did apply and was told it would require a Conditional Use approval. The business owner never applied for or submitted the required paperwork.

Applicant: Mr. Bono states they were previously operating on Barnett and did not think the move would necessitate a change in Business License. The person handling the issue at the time was confused.

Board: B. Grill asks if the City was helpful? Will penalties be levied? Mr. Bono was not there at the time, city staff has been very helpful and he was not confused about process. Karen Stokes stopped by regarding the fence, outdoor storage and license violation on June 5. It is currently scheduled for August 29, 2019 magistrate.

B. Grill is concerned about a major violation that may just go away with no penalty.

Staff: Deputy Director of Community Sustainability mentions the City wants to keep the business here, the preference is to bring them into compliance before the levying of fines at the magistrate level. It is already a code case, if everything is closed out and resolved no fines will be levied, on the contrary, if it is not closed and complied, fines will accrue until resolved. D. Tanner- questions why the license has to transfer if he has one at another location. M. Stivers clarifies that a new location requires a new license. L. Starr asks Mr. Bono in what capacity he is acting? Response he was contracted to resolve this, Office Managerial support, expediting and drafting.

Motion: A. Marotta moves to approve PZB 19-00500004.

Board Attorney suggests the narrowing of the time frame for the code enforcement to 60 days to comply. Mr. Bono states in order to obtain the business license by complying this case, the only remaining items are fence straps and this Conditional Use approval.

Public Comment: Daniel Hyatt 1099 Lands End Rd Manalapan-owns properties to the south and west of the subject property. States he is heavily impacted. Describes his issues-#1 built a large building with no parking; #2-parking across the street, illegally, #3-lack of a license for 2 years. Vet clinic, PGT and Davis window contractors, desirable, high-end, light industrial tenants. He has owned his properties for 20+ years. Subcontractors are cutting

in the open with dust depositing on other properties. The screening fence won't dissipate the dust. Applicant has no business in a Light Industrial zoning district. There is an illegal, oversized dumpster in landscape berm. A real granite firm has wet saws inside. Does not understand what staff was looking at, this is a *wild cat* operation.

M. Glaser asks about noise-Mr. Hyatt states only when the saw is running. States there are unsupervised subcontractors All the slurry is running out in the road.

Fred Schmidt-4 Indigo Terrace (business partner to Mr. Daniel Hyatt and commercial broker)-sensitive to tenant mix, parking is always an issue. Discusses the parking ratios, doesn't like to be under parked on his properties. Opposes the project.

Joseph Torres 512 North H Street-They knew they had to get a license. He had a business. Should be fined for 2 years.

Board Attorney: Within City Code the Planning & Zoning Board has the power to review, conduct quasi-judicial hearings and approve, deny for a specific reason or postpone for more information.

Applicant: Mr. Bono disputes allegations- all cutting is done within the building, none in the parking lot, some dry cutouts are done inside, wet saws are used and mops to contain the slurry dust. Impossible to contain all dust. Hoping to have air curtains for the bay doors. Not operating willy-nilly or wild-cat. The business opposite to this property re-located to Riviera Beach, they did not go out of business as Mr. Hyatt mentioned. The location is ideal and would like to stay.

Board: Chairman asks for clarification on parking regulations. K. Fischer states for industrial and manufacturing 1 space per 1000 square feet of floor space or 1 space per employee, whichever is greater. A change of use only or occupancy is exempt from coming into compliance with parking. A cross-access parking agreement would be a possible avenue to provide additional parking.

Mr. Bono states they have nine (9) parking spaces, and will ensure no one is parked in the opposite lot. There are other persons, besides his employees, parking at that location. A. Marotta asks about the outdoor cutting vs. indoor cutting. K. Fischer states that conditions could be added such as add air curtains or if outdoor cutting occurs that could be a violation handled by code enforcement. G. Rice compares body shop requirements to this type of fabrication for granite, inquires if the Health Dept. has been contacted. A. Marotta asks what ability the Board has to impose punishment. Board Attorney advises that is within the scope of Code Compliance, not this Board. The Board can deny the application. Advises Board members the proper way would have been to review PRIOR to relocation from previous location. It could still go to the magistrate. A. Marotta clarifies that it would not have even come to the Board had the LDR's passed. M. Glaser asks for definition of slurry. Mr. Bono- it is sawdust with water. They collect the silt which is why there is the roll-off dumpster. The lot is pressure cleaned monthly and interior every 3-4 days. G. Rice asks if the dumpster is outside the fence and thinks it should be within the confines of the property. Mr. Bono states it sits on a parking spot. That was removed from the complaint by Karen Stokes, Code Enforcement Officer. L. Starr sees 7 parking spots not 9. Questions how long Mr. Bono has worked at this location (June 1 approx.). Fences should be set back 10 to 20 feet. L. Starr asks if there were complaints generated by neighbors prior to this meeting? Is there a retail component, i.e. do or do not customers meet there.? Response: they occasionally come to the office to select the marble. D. Tanner wants to know how they got power without a license. Staff stated they were probably already there at the time the 'no license no lights' came into being in (2017). B. Grill asks who made the additions to the building? Mr. Bono states a previous tenant/owner. (Keller). M. Glaser asks for floor plan (which was part of the meeting packet). B. Grill- the applicant came into an existing building, did not add the existing addition; it came with a building permit that chewed up needed parking. However, doesn't think the *wild cat* name is unfair because they don't have a license. The city should fully vet the addition to the building. Staff confirms the previous tenants had business licenses and applied for the expansion. K. Fischer states going forward staff reports will include sections for prior permits, uses, and approvals to be taken under consideration. Mr. Bono- not using the space in that addition. L. Starr asks

if the doors are open during fabrication and the dumpster is always there, should it be screened? Mr. Bono - it is not feasible to air condition the building as the doors are open and the dumpster is only gone when being replaced. Chairman states Board can choose to postpone. Board Attorney believes the Board may need more information in order to render a decision. A. Marotta removes his initial motion from the floor.

Motion: B. Grill moves to postpone PZB 19-00500004 to the September 2019 Planning & Zoning meeting; M. Glaser 2nd.

Vote: Ayes all, unanimous.

G. Cases-Unfinished Business:

6. Public Comments (3 minute limit):

7. Departmental Reports:

K. Fischer- Tomorrow evening City Commission will hear the appeal for Dollar General. G. Rice asks about the procedure.

Board attorney clarifies that Dollar General is an appeal, the recycling project before Board was for a recommendation to City Commission. Only existing evidence will be considered and nothing new. A determination as to whether the decision of Board should be reversed or upheld will be made. The only questions allowed will be pertaining to evidence at hand, no new evidence can be considered. Board members may speak on their own behalf but not the Board. A. Marotta agrees it is not proper to put out the credentials if you do not officially represent the Board. Board Attorney agrees. It can be looked at either way: as being transparent or that the opinion carries additional weight.

8. Board Member Comments:

Chairman asks if artificial turf is allowed in City code? Staff states it is not a living ground cover. Other municipalities allow artificial turf. Dustin Zacks is commended for his service to the City on the Board for many years.

9. Adjournment: 8:22 PM



Board Secretary