



**MINUTES
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD MEETING
CITY HALL COMMISSION CHAMBER
WEDNESDAY, JUNE 04, 2025 -- 6:00 PM**

ROLL CALL and RECORDING OF ABSENCES: Present were: Daniel Walesky, Vice-Chair; Mark Humm; Dave Mathews; Hank Pawski. Absent: Juan Contin. Also present were: Annie Greening, Principal Planner; Scott Rodriguez, Asst. Director for Planning & Preservation; Glen Torcivia, City Attorney (virtual); Sherie Coale, Board Secretary.

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA

APPROVAL OF MINUTES:

A. May 7, 2025 Meeting Minutes

Motion: H. Pawski moves to approve the minutes as presented; M. Humm 2nd.

Vote: Ayes all, unanimous.

CASES:

SWEARING IN OF STAFF AND APPLICANTS None

WITHDRAWALS / POSTPONEMENTS None

PUBLIC HEARINGS:

BOARD DISCLOSURE None

UNFINISHED BUSINESS: None

NEW BUSINESS:

A. Ordinance 2025-04: Consideration of an ordinance amending multiple sections of Chapter 23 "Land Development Regulations," to address several housekeeping items and minor changes for clarity, as well as amend and clarify use permit and site plan processes, clarify residential density in the AI district, specify regulations for residential development of nonconforming lots of record in Mixed Use districts, and revise the parking reductions for mixed use development and affordable housing.

Staff: A. Greening reads Ordinance Title. A. Highlights several areas such as Accessory Use Area; Site Plan Review Team; Combining of AUP and CUP regulations; codifies a Use Permit amendment process; Site Plan Reviews; Use Table corrections; Accessory Structures with special Setbacks; Fencing; Parking Reductions; Generator regulations moved to the mechanical equipment for clarity; created new definitions, revised definitions.

Board: H. Pawski had hoped for a workshop, is in need of additional time to understand impacts/ramifications. D. Walesky believes as some items are being moved from one area to another,

it would be best to fully understand what the implications are as the language is different, it is not verbatim. A question arises about the timeline for the City Commission to hear the Ordinance.

Staff: Currently timeframe would be on or about August 6, 2025. Office time is pro-offered to Board members wishing to better understand the changes. As some of the changes impact code compliance cases, those cases would need time extensions.

Board: D. Walesky thoughts and questions related to:

1. Green roofing - what is the threshold for percentage of semi- permeability or qualified sustainable feature? **Response:** It cannot be utilized 2x / choose either semi-permeable or sustainable.
2. Property lines and impermeability – would like consistency by excluding side when used for parking.
3. Sheds 121 sq ft. may not be required to have a pad. If two smaller sheds don't add up to 121 sq ft., they may be more effective.
4. When are site plans required? **Response:** Bonus units/density would be only available in CRA overlay district.
5. Accessory structure setback of 75sq ft, how does it relate to accessory dwelling units? The text only applies to a SFR district where ADU's are not allowed.
6. Site Plan submittal completeness process - questions “ or any additional information requested by DRO”. This can preclude an applicant from ever moving forward to Board review. It's too ambiguous. **Response:** It is a catch all for any particular items that not all projects need.

Motion: H. Pawski moves to table **Ordinance 2025-04** to the August 6 meeting; D. Mathews 2nd.

Vote: Ayes all, unanimous.

PLANNING ISSUES:

- A. Training about case law, required findings, and procedures for variances in Lake Worth Beach, led by City Attorney Glen Torcivia.

Variances- Are reviewed in light of the City Charter, Comprehensive Plan, LDR's and Case law.

1. Variances are only considered for height, area, size of structure, size of yards, parking requirements, open spaces and other area requirements.
2. Expansion or establishment of use or density otherwise prohibited or not permitted will not be allowed.
3. Can only be granted by the appropriate Board.
4. Power to grant any variance is limited and contingent upon documentation that all required findings are made.

The criteria (all required findings) are as follows:

- a. Special circumstances or conditions exist which are peculiar to the land or building for which the variance is sought and do not apply generally to nearby lands and buildings and not the result of an action by the applicant.
- b. The strict application of the provision of LDRs would deprive the applicant of any reasonable use of the land or building.
- c. The proposed variance is the minimum required to make reasonable use of the land or building.
- d. The granted will be in accordance with the spirit and purpose of the Chapter, not unduly injurious to the contiguous property or detrimental to the public.

A lesser variance could be granted from the amount being requested and still allow reasonable use of the land. **Legitimate** unnecessary hardships cannot be self-created. There is a difference in what is desired versus what is considered oppressive or confiscatory. A matter of expectation versus reality. A hardship cannot be one of economic disadvantage. Neighbors agreements are not a basis for granting

a variance. Failure to obtain a permit, building different from the approved plans or overbuilding of a lot are not considered hardships.

Unique circumstances make the parcel unlike others in the same zoning district, which render the parcel unusable or cannot yield a reasonable return.

These types of cases are within the realm of quasi-judicial procedures. This includes Due Process, notice of hearing and the opportunity to be heard.

What is competent substantial evidence? Evidence that has a substantial basis in fact from which the fact at issue can be reasonably inferred. Usually there are three standards: Beyond a reasonable doubt, preponderance of the evidence which is usually 51% + and competent substantial evidence. Competent Substantial Evidence is not a fairly debatable standard, it must be more substantial. More than a mere scintilla of evidence; sufficient evidence that a reasonable mind could accept to support a conclusion. Competent substantial evidence requires more examination than the arbitrary and capricious standard.

Quasi-Judicial decision making requires: following the local, enacted criteria with no option to ignore, add or detract from the criteria; not being unduly influenced by opinions and desires of interested parties; no polling of neighbors. Beware of Ex-Parte Communications- do not do site visits.

Local examples of Case law are provided. Aesthetic objections can be supported by case law with examples from Wellington and Palm Beach Shores.

Board: Question about the case law example in the Keys. The case came about through an appeal by an interested party. Question about uniqueness of the any particular property. Although zoning has changed over time, do property conditions lend themselves to variances as they are now grandfathered properties? How unique are the properties?

Response: If the person didn't create the hardship and are they being prevented from the reasonable enjoyment of their property. The Board must question if it is competent, substantial evidence.

How does previous variance approvals affect any new request? **Response:** Not a lot of weight should be given as it is a different day, time, circumstance.

PUBLIC COMMENTS (3 minute limit) None

DEPARTMENT REPORTS: No July meeting, next meeting August 6, 2025.

BOARD MEMBER COMMENTS: None

ADJOURNMENT: 7:10 pm