AGENDA
TOWN OF JUNO BEACH, FLORIDA
ZONING BOARD OF ADJUSTMENT AND APPEALS

October 26, 2016
5:30 pm
Council Chambers
340 Ocean Drive

NOTICE: If any person decides to appeal any decision of the Town Council at this meeting, he will need a record of the proceedings and for that purpose, he may need to ensure that a verbatim record of the proceedings is made, such record includes the testimony and evidence upon which the appeal is to be based. The Town does not prepare or provide such record. ***Persons with disabilities requiring accommodations in order to participate in the meeting should contact Vanessa Mutchnik, Town Clerk, at least 48 hours in advance to request such accommodations.***

HOW CITIZENS MAY BE HEARD: Citizens may appear before the Council to be heard on any subject related to Town government. Persons wishing to address the Council on a specific item (except for Public Hearings) must sign a speaker's card (located in the back of the Chambers) and turn the card in to the Town Clerk prior to the beginning of the item they wish to speak on. People are also given the opportunity to address the Council on topics other than agenda items under Public Comments. All speakers will be allotted 2 minutes and the Town Clerk will identify when the time limit has been reached.

~ CALL TO ORDER
~ PLEDGE OF ALLEGIANCE TO THE FLAG
~ ADDITIONS, DELETIONS, SUBSTITUTIONS TO THE AGENDA

1. **VARIANCE REQUEST BY WEXFORD COURT HOMEOWNER'S ASSOCIATION (220 CELESTIAL WAY)**
(Director of Planning and Zoning Cruz)

A. Disclosure of Ex Parte Communications
B. Swearing in of Witnesses
C. Staff Presentation
D. Applicant Presentation
E. Public Hearing
F. Council Deliberation/Decision

Staff Recommendation: *Consider a motion to recommend that the Board of Adjustments deny the requested variance from Section 34-905(1) of the Town's Code of Ordinances to exceed the maximum height of 48" allowed for walls or fences.*

3. **ADJOURNMENT**

OCTOBER 26, 2016	TOWN COUNCIL MEETING	5:30 PM
OCTOBER 28, 2016	OKTOBERFEST – TOWN CENTER	5:30 PM
NOVEMBER 7, 2016	PLANNING AND ZONING BOARD MEETING	5:30 PM
For information on events, meetings and agendas, please call 626-1122		

Memorandum

From the Town of Juno Beach Planning & Zoning Department

To: Board of Adjustment and Appeals; Joseph F. Lo Bello, Town Manager
From: Ruben Cruz, Director of Planning & Zoning
Date: October 18, 2016
Subject: Variance Request (Wexford Court)

Background

The subject property is known as Wexford Court and it is located at 220 Celestial Way. Wexford Court is comprised of 7 townhouse units and a pool area within the Residential Multiple Family – Medium Density (RM-1) zoning district, and is surrounded by the RM-1 district to the East; a Planned Unit Development (PUD) RM-1 to the South (Cote de la Mer); Pelican Lake to the West; and the Beachbound Historic Preservation District (HIST-B) to the North.

The applicant seeks a variance from Section 34-905(1) of the Town Code of Ordinances to allow the construction of an automatic vehicular gate at the height of 72" (6'-0" ft.); the construction of a manual pedestrian gate at the height of 68" (5'-8" ft.) and the installation of two (2) columns with ornamental features at the height of 85" (7'-1" ft.). The Code restricts the maximum height of front yards walls and fences to 4 ft. (48").

At the September 26, 2016, Planning and Zoning Board meeting, the Board heard the agenda item and the motion to recommend approval to the Town Council failed with a 2-3 vote after much discussion (please see attached minutes).

Discussion

The Town Code of Ordinances permits the installation of gates in front yards with a maximum height of 4 ft. In the variance application, the applicant provided three reasons for the request: (1) Life Safety- an increase in vehicular and foot traffic into the community; (2) Trespassing; and (3) Property Damage- incurred damage to retaining walls, building walls, garage doors, common driveway and their fixtures.

The subject property's Site Plan was approved in November 1980 as a 7 unit townhouse project. At that time, the proposed Site Plan did not include any means to control unwanted vehicular/pedestrian traffic. The properties to the North and South both have gates that were approved through different means. The gate and wall located at the entrance to Cote de la Mer was approved by the Town Council in 1981 as part of the Planned Unit Development process, and the entry gate located at Beachbound was approved in 2001 through the building permit review process.

The Town Code definition of a *variance* is a relaxation of the terms of the [code] where such variance will not be contrary to the public interest and where, owning to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of said ordinance would result in unnecessary and undue hardship on the land. To that end, the Board of Adjustment may grant a variance only if it determines that each of the following criteria are met:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;

(2) The special conditions or circumstances do not result from the actions of the applicant;

(3) A granting of the variance requested will not confer upon the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district;

(4) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter and would work unnecessary and undue hardship on the applicant; and

(5) A prior application for the granting of the variance had not been submitted within the preceding 12 months.

A variance is authorized only for height, area, and size of a structure or the size of yards, parking requirements and other area requirements and open spaces. Establishment or expansion of a use or density otherwise prohibited or not permitted shall not be allowed by variance.

In this case, there are no special conditions and circumstances particular to the Wexford Court property that are not applicable to other properties within the same zoning district and enforcement of the height limit would not deprive the applicant of rights commonly enjoyed by other properties or work an unnecessary hardship.

<u>If the Board of Adjustment grants the variance, however, staff recommends the imposition of the following conditions:</u>

1. *At time of Building Permit submittal and prior to the issuance of a building permit, the applicant shall provide an agreement executed by the applicant and existing easement holders (i.e. 230 Celestial Way) allocating the maintenance responsibility for the proposed entry gates;*
2. *At time of Building Permit submittal, applicant shall provide a survey/site plan that indicates the proposed location of the gates;*
3. *Proposed entry gates shall be in accordance with Palm Beach County Fire Rescue Standards to allow ingress/egress of the subject property; and*
4. *If the proposed construction does not commence within 6 months of the date the variance is granted, the variance shall become null and void.*

<u>Staff Recommendation</u>

Staff recommends that the Board of Adjustments deny the requested variance from Section 34-905(1) of the Town's Code of Ordinances to exceed the maximum height of 48" allowed for walls or fences.

MINUTES
TOWN OF JUNO BEACH

PLANNING AND ZONING BOARD MEETING

September 26, 2016
Council Chambers
340 Ocean Drive

PRESENT: MICHAEL STERN, CHAIR
DON FELICELLA, VICE CHAIR
BOB HAMILTON, BOARDMEMBER
JACK KNEUER, BOARDMEMBER
PAUL SHEA, BOARDMEMBER
GORDON SNAVELY, ALTERNATE BOARDMEMBER (Via Phone)

ALSO PRESENT: RUBEN CRUZ, DIRECTOR OF PLANNING & ZONING
LEONARD RUBIN, TOWN ATTORNEY
CAITLIN COPELAND, ADMINISTRATIVE SECRETARY

ABSENT:

Chair Michael Stern call the Planning and Zoning Board Meeting to order at 5:30 pm.

Audience: 11

~ CALL TO ORDER
~ PLEDGE OF ALLEGIANCE TO THE FLAG
~ ADDITIONS, DELETIONS, SUBSTIUTIONS TO THE AGENDA - *none*

1. PUBLIC COMMENTS

Public Comments opened at 5:31pm.

Public Comments closed at 5:31pm.

2. MINUTES / MOTION

MOTION: *Shea/Kneuer made a motion to approve the August 15, 2016 minutes.*

ACTION: *The motion passed unanimously.*

3. VARIANCE REQUEST BY WEXFORD COURT HOMEOWNER'S ASSOCIATION (220 CELESTIAL WAY)

Town Attorney Rubin advised that Boardmember Hamilton would not be participating in this item due to a voting conflict.

A. Disclosure of Ex Parte Communications- ***None***

B. Swearing in of Witnesses

Town Attorney Rubin swore in all parties wishing to give testimony.

C. Staff Presentation

Director of Planning and Zoning Cruz explained the application *(see attached)* and asked if the Boardmembers had any questions.

Boardmember Kneuer asked how the gates are measured because he believed gates in surrounding communities were the same height as the proposed gates.

Director of Planning and Zoning Cruz stated that the other gates were approved through the site plan approval process or the building permit process. He stated that Alicante was approved through the site plan approval process and Beachbound was approved through the building permit process. He stated that staff's interpretation of the Code is that the gate must be 4 feet in height but can slope up 1 additional foot as an ornamental feature. He stated that the applicant's plans did not meet Code and the building permit was denied.

Chair Stern stated they could resubmit the permit to come close to 5 feet.

Director of Planning and Zoning Cruz stated that that was correct. He stated that staff would have approved the permit if the applicant started at 4 feet going up toward 5 feet.

Vice Chair Felicella asked if there were any gates that had been granted a variance.

Director of Planning and Zoning Cruz stated no, but the Board of Adjustment did approve two variances for wall heights for properties adjacent to dune walkovers.

Boardmember Shea stated the Code allows walls on U.S. Highway One to be up to 6 feet in height.

Director of Planning and Zoning Cruz stated that another option for the applicant would be to propose a Zoning Code Text Amendment.

Vice Chair Felicella asked Mr. Cruz if the permit was denied for all three aspects of the request.

Director of Planning and Zoning Cruz responded in the affirmative.

D. Applicant Presentation

Jim Bickel, Wexford Homeowner's Association, 220 Celestial Way, stated that the reason for the variance request is safety. He stated that they are not sure if certain people live there or not and have had ongoing issues with trespassing. He stated that the community just wants a gate that matches the other communities and asked the Board if they had any questions.

Vice Chair Felicella asked Mr. Bickel how a 5 foot gate provides more protection than a 6 foot gate.

Mr. Bickel stated that they have additional backup for the Board *(see attached).*

Donna Hamilton, 220 Celestial Way #6, stated that the information that they provided was submitted with the original application. She stated that the issue was one of safety. Over the past 3 years, she has seen a larger volume of people coming into the area who do not live in the neighborhood. She stated that there was one incident where a couple came up to her and stated that they used to live there and asked if they could see the interior of the house. She also wanted to emphasize that this is not a fence, it is a gate and that she hopes the Board recommends approval of the application.

Boardmember Kneuer asked Mr. Bickel why the gate needs to be 6 feet.

Mr. Bickel stated that size is more intimidating and is in scale.

Boardmember Shea stated that he recommends that the Town change the Code.

Boardmember Kneuer stated that he sees nothing wrong with 6 feet.

Vice Chair Felicella stated that he is opposed and asked Mr. Bickel why they do not elect for a text change.

Mr. Bickel stated that he could not answer that.

Vice Chair Felicella asked Mr. Cruz who he met with at the time the application was submitted.

Director of Planning and Zoning Cruz stated that he met with Mr. Hamilton and Mr. Gibson.

Chair Stern stated that no one has advanced any data or evidence that shows how an additional foot would change anything. He recommended the applicant to follow Mr. Cruz's suggestion.

E. Public Hearing

Public Hearing opened at 5:59pm.

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Public Hearing closed at 5:59pm.

F. Planning and Zoning Board Recommendation

MOTION: *Kneuer/Snavely made a motion to recommend that the Board of Adjustment and Appeals approve the requested variance from Section 34-901(1) of the Town's Code of Ordinances to allow the installation of entry gates for the subdivision exceeding the maximum height of 48".*

ACTION: *The motion failed 2-3, with Chair Stern, Vice Chair Felicella and Boardmember Shea opposed.*

MOTION: *Shea/Kneuer made a motion to recommend that the Town Council to look into amending the Code to allow up to 6 foot gates for beachfront property.*

ACTION: *The motion passed 5-0.*

4. **CONTINUATION OF PUBLIC HEARING: ORDINANCE NO. 688**

Town Attorney Rubin explained Ordinance No. 688 and its revisions referencing storm panels.

Vice Chair Felicella stated that subsection (2) panels to be in place for 7 months out of the year. He asked if it was more feasible to only allow them if there is a hurricane or tropical storm warning. He also stated that storm panels that cover a window or door that are not visible should be permitted.

Town Attorney Rubin asked if Mr. Felicella meant permitted during hurricane season.

Vice Chair Felicella stated that they should be allowed all the times as long as they are not visible. He proposed the following additional language as subsection (3): "Storm panels that cover windows and doors of unoccupied structures that are not visible from a street, alley, traveled road or adjacent property are permitted."

MOTION: *Felicella/Kneuer made a motion to include a new subsection (3), stating that storm panels that cover a window or door of an unoccupied structure that are not visible are permitted.*

ACTION: *The motion passed 4-1, with Boardmember Shea opposed.*

MOTION: *Felicella/Hamilton made a motion to recommend Town Council consider approval of Ordinance 688, as revised.*

ACTION: *The motion passed 5-0.*

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5. FLORIDA RECREATION DEVELOPMENT ASSISTANCE PROGRAM GRANT (FRDAP)

Director of Planning and Zoning Cruz stated that this item was required by the Grant Application to be brought before the Planning and Zoning Board for a recommendation at a public meeting *(see attached)*.

MOTION: *Stern/Hamilton made a motion to recommend supporting the Town Council's decision to move forward with the application process for the Florida Recreation Development Assistant Program Grant.*

ACTION: *The motion passed 5-0.*

6. COMMENTS FROM STAFF

Director of Planning and Zoning Cruz stated that the allotted time for people to speak is about 2 to 2.5 minutes. He asked Mr. Stern how much time they should give people who wished to speak.

Chair Stern stated that he thought they had initially adopted 3 minutes.

Town Attorney Rubin stated that they should establish the time limit by motion.

Director of Planning and Zoning Cruz stated there are some concerns where people wish to give their time to speak to someone else.

Chair Stern stated that the board will address that issue as well.

MOTION: *Shea/Kneuer made a motion to allow public comments of only 3 minutes maximum per person.*

ACTION: *The motion passed 5-0.*

MOTION: *Felicella/Shea made a motion to deny yielding time.*

ACTION: *The motion passed 5-0.*

7. COMMENTS FROM THE BOARD

Boardmember Shea stated that he requested a summary of the Old Town Hall Site Survey, revised from the original date of September 6th.

Chair Stern stated that he thinks there were about 150 responses.

Boardmember Shea stated that there were 220 responses and that 98.7 percent of the responses favored a park or leaving the property vacant.

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Chair Stern stated that it is clear that the residents do not wish for the parcel to be sold.

MOTION: *Shea/Kneuer made a motion based on the survey, to change the response date from January 6th to November 6th.*

Vice Chair Felicella stated that he does not recommend changing the date as it has been changed once already.

Boardmembers Shea and Kneuer withdrew the motion.

8. **ADJOURNMENT -** 6:35pm

Chair Michael Stern adjourned the meeting at 6:35pm.

Chair Michael Stern

Caitlin Copeland, Administrative Secretary

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