

PLANNING & ZONING MEETING MINUTES
MARCH 12, 2018

Meeting of the Planning and Zoning Commission of the Town of Ocean Ridge held on Monday, March 12, 2018 in the Town Hall Meeting Chambers.

CALL TO ORDER

The meeting was called to order at 8:30 a.m. by Chairman Gerald Goray.

ROLL CALL

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

	<u>Present:</u>	<u>Absent:</u>	<u>Tardy:</u>
Chairman Gerald Goray	x		
Member David Hutchins	x		
Member Penny Kosinski		x	
Vice Chair Mark Marsh	x		
Member Mauro Walker	x		
Alternate Member James Leming	x		
Alternate Member Kimberlee Marshall		x	

Staff Present: Town Manager Jamie Titcomb, Town Attorney Brian Shutt, Zoning Official Manny Palacios, Police Chief Hal Hutchins, and Town Clerk Tracey Stevens.

PLEDGE OF ALLEGIANCE

Chairman Goray led the Pledge of Allegiance.

APPROVAL OF THE MINUTES

1. Approval of the February 12, 2018 Minutes

Member Hutchins moved to adopt the February 12, 2018 minutes; seconded by Vice Chair Marsh. Motion carried 5-0.

Note: Agenda Item #3 was taken up prior to #2, as the applicant was running late.

PUBLIC HEARINGS

None

ORDINANCE REVIEW

None

DISCUSSION / ACTION ITEMS

2. Concept Plan Review for 27 Eleuthera Drive

The applicant, Steve Varga of Varga Homes, presented his application to the Commission and noted that he has built about five or six homes in town since 2013, and he is a town resident on Spanish River Drive. He noted that the homes he has built have sold well, and he doesn't like to go too modern with the design, he likes a more transitional look. He stated that the home he is presenting should fit well within the neighborhood, and it has a nice style to it. He stated that it also fits into the square footages and lot percentages allowed under Town Code.

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Zoning Official Manny Palacios stated that this is a new construction home at 5,756 square feet. He noted that the preliminary review of the application shows that it is within the zoning requirements of the town, and it is a clean project that will enhance the town.

Public Comment: Ric Carey, 39 Spanish River Drive, stated that he is a neighbor of Mr. Varga, and noted that he's a good friend and a good builder who builds a nice solid home, however, he would like to address the front elevation. He stated that this is the fifth home on Inlet Cay Island that Mr. Varga has built. He stated that it is normal in Ocean Ridge that we are replacing our smaller homes with new, larger homes, and it does have an impact on the character of the neighborhood. He stated that Mr. Varga is a builder that needs to make a profit, and he doesn't disagree with that, however, the homes are a production home (aka GL home) instead of a custom home. His specific comment is regarding the front elevation on page A4. He stated his complaint is about the use of relatively small windows on the front elevation, and the same size windows across the front elevation with not much imagination, and a dull design when it gets into how the windows are treated. He stated the windows are not oversized on either side of the door, and they don't have eyebrows over them, which is much more of what we see elsewhere in Ocean Ridge. He stated this is more similar to a GL home, and that is impacting the character of the neighborhood. He stated that he and his neighbors would appreciate it if the Commission could instruct the applicant to be a little more imaginative with the front elevation of the house.

Vice Chair Marsh asked about the style of the home, and Mr. Varga stated that he disagrees that it is a GL home. He stated that his house has a better look than some of the other spec homes in the town. He noted that this plan has a different look with a different floor plan, and he goes above and beyond other developers in quality and landscaping. Vice Chair Marsh stated that we are not taking away from Mr. Varga's skill level, however, he is unsure of the style of the home. He stated that spec builders are not a bad thing, but what we are trying to oversee is that we don't get into a repetitive element, as the town is unique with pride and character with many styles that make up the charm of the town. He stated he is having a problem trying to define what the style of the home is, and it looks more industrial than residential. He stated the issue is the repetitive use of the same size windows which are stacked and have balance, but they lack detail. They are just punched openings with shutters on the side, and the gables are two styles. He stated that this was not developed by an Architect. Mr. Varga noted that an Architect develops the elevations, and then he takes it from there. He noted that his father and grandfather were artists, and he puts a lot of style and extras into his plans, and it is hard to show on paper, but his homes stand out.

Vice Chair Marsh asked about the railings and shutters, and Mr. Varga confirmed that the railings are glass railings and the shutters are panel shutters. Vice Chair Marsh asked that Mr. Varga not put shutters up in the vent blocks. Mr. Varga stated that his design looks better than the super modern box styles, which people are pushing for. He noted that he's trying to keep it modern but stay away from the box style. Vice Chair Marsh stated that the package submittal is good and commended Mr. Varga on a complete submission. He

stated that there are very little trees in the landscaping, and the house would benefit from having more tree canopy to combat the scale, as the house goes to the maximum square footage. Mr. Varga noted that he does everything he can with the landscaping due to the septic in the front of the house and the town's easement. Vice Chair Marsh stated that we need to take the scale and landscaping into consideration.

Member Walker noted that the waterfront lots are going for over a million dollars, and when you add a house to that, the value goes up to \$2-3 million. In reference to page A5, on the right side elevation, the second floor has only one window and it looks plain. Mr. Varga responded that it is the bathroom, and he does not see a problem with that. Member Walker noted that the garage is also on that side, and stated that due to the FAR, garages don't seem to be large enough. Mr. Varga responded that the side entry two-car garage is oversized, and they can fit two full-sized SUV's in the garage. Member Walker stated that he wanted to make sure there is enough room because he can barely get one car into his two-car garage. Mr. Varga stated that it is 20-21' wide with 18' wide garage door.

Member Hutchins stated that architecture is not his expertise, but he thinks the house looks nice, and the presentation was good. He noted that Member Walker's comment about the tiny bathroom window aesthetically is valid. He noted that the overall design is a pleasing look, and noted that the space is maximized while staying within the FAR. Mr. Varga commented that he is staying away from the super modern box style, which does not fit well within the neighborhood.

Chairman Goray stated that it is helpful if we have floor plans in order to understand the overall layout and function of the house. He stated it might be beneficial in complimenting the concept of the town if some better definition was added to the plans. He asked the Commission if it would be appropriate to ask the applicant to go back to the Architect and review the plans to see if the design elements would enhance the overall look of the home. He stated he appreciates the work that has gone into the plans and it is a good package, but maybe we want to take it one more step which may be beneficial and a good exercise to fulfill our function as a Board without putting too much burden on the applicant. Mr. Varga stated that he already has a septic permit, etc. and redesigning the home would cause problems. Chairman Goray stated that the footprint is fine, just the envelope. Mr. Varga stated that he's ready to go with a building permit in around two weeks, and he asked about the process and if he's allowed to go forward. He stated that it was his understanding that the Concept Plan Review process was for the Board to give suggestions, not a mandate. Vice Chair Marsh stated that we are not trying to impede the process, but if Mr. Varga agrees to change some of the elements that were discussed and re-submits the plans, he can make himself available for review so that we don't need to wait an additional month for review. Mr. Varga stated he has put a substantial amount of money into this town and this would impede him. He stated he may or may not go with the suggestions from the Commission. Vice Chair Marsh stated that we are not mandating anything, but making suggestions.

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Chairman Goray stated that when going through the process of enacting this ordinance, we came up with a procedure where the applicant would make a presentation to the Board and if there were comments, we would invite the applicant to come back with some changes or refinements and the applicant would not have to come back before the whole Board, but come back before a member of the Board on an informal basis in cooperation with the Board suggestions in order not to impede the applicant.

Zoning Official Palacios asked for clarification if we are looking at a change in style of the windows, and Vice Chair Marsh stated that there were two conflicting uses of materials for the windows and railings that were clarified, but some simple detailing can be applied to this which would help to embellish a little bit. Zoning Official Palacios stated that it would not be much of a problem with the cosmetic aspect of the presentation for the front elevation as seen from street view, as he can work something out with Mr. Varga during the process, because what we are talking about is way down the line for him to make cosmetic changes, and at that point, Mr. Palacios can have Vice Chair Marsh review the plans. Chairman Goray stated that he would make himself available as well.

Town Clerk Stevens asked Attorney Shutt to please explain the nuances of that to the Commission. Attorney Shutt explained that according to the ordinance, the Commission has done its due diligence in reviewing and giving comments to the Zoning Official. The Zoning Official will review the application and take the Commission's suggestions into consideration, while make sure the application meets all of the Zoning requirements of the town, and if the applicant wants to make changes based on the suggestions, then that is up to the applicant and the Zoning Official. As far as Commission members wanting to meet to look at the plans at a later date, he cautioned them that as long as the plans meet the code, the applicant can move forward. He also cautioned the Zoning Official that if individual Commission members are meeting after the fact and offering suggestions, it is not the full Commission there making a recommendation or decision.

Attorney Shutt stated that the Zoning Official has received information from the Commission regarding the questions raised about the architectural set of plans vs. the renderings set, and Mr. Varga clarified on the record that he will be going by the renderings regarding the glass railings and shutters, and the Zoning Official understands that information.

Chairman Goray asked if we can ask the applicant to voluntarily come back with refinements and members of the Commission could review it with the Zoning Official without holding up the process. Mr. Varga asked what the legal process of the Commission is, and noted that he has taken notes on the suggestions and wants to build a nice product for the town and wants everyone to feel good about it, realizing that he cannot please all of the neighbors, but wants to know his legal rights. Chairman Goray stated it is voluntary and asked Mr. Varga if he wanted to work with the town or not, and Mr. Varga stated that changes can cause problems money-wise because energy calculations etc. can change. Vice Chair Marsh stated that this process has been a learning curve. It is an informal process with recommendations, and we are not trying to

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tell people what they have to do, we are just making suggestions. He stated that the Commission's suggestions would make a better product.

Mr. Varga asked for clarification as to whether he could submit his building permit application tomorrow if he wants to without any issues, and Vice Chair Marsh confirmed that he could. Mr. Varga stated that he appreciates the input from the Commission and he will try to incorporate the recommendations, however, he has a lot of money already sitting on the project.

Vice Chair Marsh explained that plans have been approved in the past without any building elevations, and permits were issued, and he thinks that is wrong. We are now becoming more concerned and want to do our due diligence with the permitting process. Mr. Varga stated that he respects everyone's opinion, but as long as it is his decision, he's fine with it.

Chairman Goray asked that the applicant get back to Zoning Official Palacios with some refinements.

Chairman Goray stated that this Commission has met from time to time to consider whether or not the floor area ratio should be adjusted to give some credit for garage space, so counting the full square footage of the garage against the maximum floor area ratio and from a functionality standpoint only, would it be helpful to the builder to get a little leeway on not having to apply all of the garage square footage against the maximum floor area ratio, and Mr. Varga responded that when he built a home at 33 Eleuthera Drive, it was a 10,000 square foot lot and he could only build 3,200 square feet under air including the garage, and it was harder to find a buyer because people want larger homes. Chairman Goray suggested that we may want to look into only counting 50% of the garage space in the floor area ratio, and Mr. Varga stated that it depends on lot size, but it would work better for the 10,000 square foot lots. Chairman Goray asked if there are any trends toward three-car garages, and Mr. Varga stated there is on the larger lots.

Member Walker noted that he believes the floor area ratio at 36% is wrong on the expensive waterfront lots along with all of the setbacks and it is a detriment to someone trying to buy or sell a house there.

Member Hutchins stated that it would have been helpful for him to see the other homes that Mr. Varga had already built, and asked if that would be appropriate.

Vice Chair Marsh left the meeting at 9:30 a.m.

Public Comment: Don MaGruder, 9 Ridge Blvd, stated that this format is exactly what he had envisioned when we developed the concept plan review process. He likes that the Town Clerk provided copies of the plans for the public. He mentioned that he can't tell from the plans what the drainage will look like, and Mr. Varga pointed out the drainage plan for him and showed him the trench drain, catch basins and swales. Mr. MaGruder asked if the water will be contained on the property and not running into the intercoastal,

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and Mr. Varga confirmed. Mr. Varga stated that the water percolates into an underground system. He noted that it will be similar to the system he installed at the house on Spanish River. Town Manager Titcomb noted that the code requirements for water retention will be met at the permitting process. Mr. MaGruder noted that the garage on the side is nice.

Member Hutchins asked resident Ric Carey his opinion on our concept plan review procedures, and asked if there is a benefit to this process. Mr. Carey responded that he is surprised that the Commission's ability to make changes are purely dependent on the good will of the builder, and that is disappointing. He stated he would expect the town to have more influence. He stated he would not want the town to be extreme with approving color palettes, but he thinks the town should have a say in basic elevations, etc. Chairman Goray noted that what we are going through is a work in progress. He stated that we started with no input, we are taking it step by step, and if the process can be improved upon, we will suggest changes in six months.

Mr. Varga stated that in no way was he trying to disrespect the Commission, but he was curious regarding his legal standpoint, as he needs to know where he's standing with his projects. He stated he appreciates the Commission's comments and he will look at the plans. He stated he will take all of the comments into consideration while looking at the time and money aspects. He stated he has enjoyed building here and being a resident here in Ocean Ridge. Chairman Goray stated he hopes this process has not impeded the project.

3. Develop a Process to Hold Contractors Responsible for Damages Created by them to the Public Right-of-Way and Public Infrastructure

Town Attorney Shutt advised that he tried to receive examples from other municipalities that have tried to come up with a process similar to this, and he has not been able to find anything yet. He asked if there is any further direction or examples from the Commission to narrow down this broad topic.

Town Manager Titcomb stated this was a discussion at the Town Commission level and they directed the P&Z to look at this to develop an ordinance. He stated that this has come up because the town has been left with expenses due to problems from construction, but it is difficult to assess everyone for problems that don't exist in all circumstances. We talked about a surety bond at the last meeting, but we need to keep in mind that there are different levels of permitting and a repair or small remodel is very different from a new build.

Vice Chair Marsh asked if Attorney Shutt has checked with Palm Beach and Manalapan to see if they have any ordinances regarding this matter, and Attorney Shutt responded that there are codes out there addressing things a contractor may need to have if we are doing work in the right of way, but here, we are talking about work being done on private property. He noted that if the homeowner is not utilizing the right of way we would not issue an indemnification agreement, and a lot of our problems occur if a contractor runs over a drainage line that would impact the town. Vice Chair Marsh noted that contractors utilize the right of way when accessing the property, and Attorney Shutt responded that

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they are performing the work on the property which would be a little different, but Member Marsh makes a good point. He stated that we now have a construction site management ordinance that was adopted which now requires contractors to sign a site management handbook.

Chairman Goray asked if this is a recurring problem or related to the incident on Inlet Cay, and Town Manager Titcomb responded that we have had problems recently with damage to our drainage lines, however this is not a regular occurrence, but rather more the exception than the rule.

Vice Chair Marsh stated that we don't have many curbs in town and each property has an easement to the right of way, and if someone comes in and tears up the right of way and destroys the profile of that drainage easement, that is an issue.

Member Walker stated that the problem is that it is difficult to find somewhere to park especially for lawn maintenance companies because there is not enough room on the driveway, and no one goes into the right of way because it belongs to the Town. He gave the example of Old Ocean where they very rarely go into the right of way because there is barely enough room for two cars to use the travel lanes, and homeowners put stones and things on the lawn to preclude use of the right of way. He noted that construction vehicles use the right of way on certain streets because that's all they can use due to space issues. He stated that the idea of using the right of way for anything that is required is the issue.

Chairman Goray asked if with new construction site standards will alleviate the problem going forward, and Town Manager Titcomb stated that it has had a positive impact, and it is helping us to better manage the issues. He noted that it may be a timing issue, and we can chase after the exceptions. Chairman Goray suggested that instead of adding another administrative detail, we see how our construction site management ordinance works for around six months and then we can see where we are.

Vice Chair Marsh asked Chief Hutchins if the patrol officers are looking for construction site issues, and Chief Hutchins stated that they do regularly look at construction sites and tears in the rights of way, however, things are not just happening in the right of way, and the officers do not have the expertise to know if violations are occurring on the construction site. He noted that the right of way and damages to the infrastructure on the property are the issues. Vice Chair Marsh stated that he agrees that we don't need more legislation. Chairman Goray noted that we jump quickly too often to enact legislation regarding a specific incident.

Member Hutchins asked about the rules in Palm Beach and Manalapan, and Vice Chair Marsh responded that in Palm Beach it is a greater problem, because everything you do on site affects the right of ways and adjacent properties, so there is blanket protection for neighbors and the town with a bond for restoring things. He stated that this puts more burden on the police department, and noted that although we had recent drainage issues, we aren't quite at that level yet.

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Member Hutchins stated that we can give it some time, but he's skeptical that time will change anything. Town Manager Titcomb stated that the most prevalent complaints are soft side damage to curbing and damages to lawns in the right of way, which is a different situation but more common.

Member Walker asked for clarification on public right of way as it is his understanding that the public right of way is not owned by the property owner, and Town Manager Titcomb confirmed. Attorney Shutt stated that this issue came up when we had some drainage issues in town and the town's contractor noticed we had some damage to our drainage pipes underground that exist in our easements. If we are going to have heavy trucks going over the easements on private property, that could cause an issue. He stated that although the drainage pipes may be located on private property, the town has an easement and we have a right to protect those lines. He stated that we are seeking guidance from this Commission to see if we need to protect the town's infrastructure on private property where an easement exists. Town Manager Titcomb noted that we had some crushed pipes in easement areas which is out of the public right of way, but in the utility easement.

Vice Chair Marsh stated that drainage is not just through pipes, it is through flow drainage in swales. He noted that we depend on swale flow in addition to subterranean pipes.

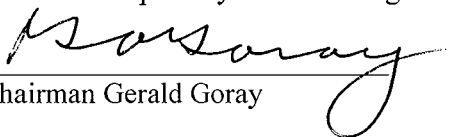
Chairman Goray stated that the new ordinance on construction site management was broad, so he suggests that we defer the action from this Commission and wait to see how those standards are maintained over the next six months, and ask that Staff report back to the Commission after the six month period.

There was consensus of the Commission to wait six months to monitor the new construction site management, and for staff to bring a report back to the Commission.

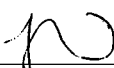
ADJOURNMENT

Member Walker moved to adjourn at 9:41 a.m.; seconded by Member Hutchins. Motion carried 4-0.

Minutes adopted by the Planning & Zoning Commission at its meeting on April 9, 2018.


Chairman Gerald Goray

Attest:


Tracey L. Stevens, CMC, Town Clerk