

City of Port St. Lucie

Board of Zoning Appeals

Meeting Minutes

121 SW Port St. Lucie
Blvd.
Port St. Lucie, Florida
34984

Gregory J. Oravec, Mayor

Stephanie Morgan, Councilwoman, District I
John Carvelli, Councilman, District II
Shannon Martin, Vice Mayor, District III
Jolien Caraballo, Councilwoman, District IV

Monday, November 9, 2020

6:00 PM

Council Chambers, City Hall

1. Call to Order

A Virtual Meeting of the CITY COUNCIL OF THE CITY OF PORT ST. LUCIE serving as the BOARD OF ZONING APPEALS was called to order on November 09, 2020 at 6:00 p.m., at Port St. Lucie City Hall, Council Chambers, 121 SW Port St. Lucie Boulevard, Port St. Lucie, Florida.

2. Roll Call

Council Members

Present: Mayor Gregory J. Oravec
Vice Mayor Shannon Martin
Councilwoman Jolien Caraballo
Councilman John Carvelli (virtual)
Councilwoman Stephanie Morgan

3. Public Hearings

- 3.a** Order No. 20-11, Quasi-Judicial, Public Hearing, An Appeal to an Order of the Planning and Zoning Board Denying a Variance to Allow an Existing Self-Storage Facility to Maintain Exterior Colors that are not in the Approved Color Chart of the Citywide Design Standards Manual (P20-135)

[2020-892](#)

Mayor Oravec stated that the City Council was sitting as the Board of Zoning Appeals to hear a Quasi-Judicial Public Hearing. The City Attorney read the Quasi-Judicial Procedures into the record and explained that there was a record in place and under City Ordinance the Board had to determine whether or not the Planning & Zoning Board were correct in their decision. He stated that the City Code allowed for new testimony and documents. The City Attorney informed the Board that the language of the Ordinance needed to be cleaned up.

Mayor Oravec stated that it was customary for the appellate to lead and opened the Public Hearing. Stephen Isherwood, Apfelbaum Law, represented Triple A Storage and Austin Anderson. The City Clerk swore in Austin Anderson, witnesses and City staff. Mayor Oravec inquired if there was any ex-parte communication to disclose, to which there were none.

Attorney Isherwood stated that a letter received from the Clerk's Office invited him to submit more material/photographs and requested that the Board accept the additional photographs. He stated that Cube Smart was currently in operation and the plans that the General Contractor used were in black and white. He added that Mr. Anderson never constructed a building in the City and was unaware of the approved colors. He emphasized that the color issues were on the roll-up doors on the storage units, cornices, roof trims and gutters. He stated that the colors that were used were standard Cube Smart colors and in meetings between Cube Smart and City staff the color issues were never brought up. He mentioned that the issue was brought up at the time of Certificate of Occupancy; Mr. Anderson applied for a variance and therefore received his Certificate of Occupancy which is why it was operating. He added that most of the units had materials in them which may cause an issue if the doors had to be repainted. He informed the Board that it was a well-maintained facility and kept in line with the surrounding buildings. He requested that the Board allow them to install an opaque fence to hide the doors instead of painting them and they would remove the cornices/roof trims/gutters. Mr. Anderson stated that the fence would be very attractive and would keep in line with the well-maintained facility.

(Clerk's Note: A PowerPoint was shown at this time.) Isai Chavez, Planner I, stated that the official file was submitted to the City Clerk 5 days prior to the hearing and asked that it be entered into the record. He explained that the applicant requested a variance to maintain a positive red color on the metal roll up doors and cornices, as well as a commodore blue color on the metal roof trims and gutters of an existing self-storage facility; those colors are not approved with the Color Chart of the Citywide Design Standards. He stated that on September 1, 2020 the Planning & Zoning Board voted to deny the variance. He said that on July 16, 2020 he performed the inspection and noticed that the colors were different than those on the Site Plan which was approved by the City Council April 23, 2018. He stated that the Planning & Zoning Department conditioned the Planning & Zoning Inspection Approval

upon the submittal of a variance application, which was submitted on July 28, 2020. He showed pictures of other Cube Smart locations and explained that one design was approved prior to the Citywide Design Standards, one complied with the Design Standards, one did not comply with the Design Standards, and the other was located in St. Lucie County therefore not subject to the Design Standards. Councilman Carvelli inquired if the proper colors were noted during plan review, to which Mr. Chavez responded in the negative and added that there were no color elevations for permitting. Councilman Carvelli inquired if the Board could only uphold or deny the decision of the Planning & Zoning Board, to which the City Attorney replied that the Board needed to affirm what the Planning & Zoning Board decided or reverse it and allow the variance. Mayor Oravec stated that the Planning & Zoning Board correctly applied the law, since the approved colors did not match the colors on the building. He requested that if the Board was seeking grant relief, that they follow up with the creation of an ordinance for a Design Standard that would be applicable to properties located in the public eye, as he wanted to ensure that everyone was subjected to the same rules.

Councilwoman Caraballo stated that colors were listed on the City Council approved Site Plan and inquired if the Site Plan should have been resubmitted to the City Council with changes, to which the City Attorney responded in the affirmative. She inquired if the General Contractor was liable to inform their clients of Citywide Design Standards, to which Attorney Isherwood replied that the plans were in black & white and he assumed that it was the General Contractor's responsibility but would not argue over that fact. He stated that the appellate was not seeking to avoid the rules since he understood that the colors violated the rules but was hoping to find a solution, like the fence, which was not a liability or at a huge cost to the owner. Councilwoman Caraballo stated that the appellate received the Certificate of Occupancy based on the fact that a variance was needed and opened on their own accord, therefore she felt that having storage in the units was not a hardship. Mayor Oravec inquired if the paint color and chip numbers were listed on the plans, to which Mr. Anderson responded in the affirmative and added that four out of the six colors were on the approved list and wanted to mitigate the cost of solving the two-color issues. Mayor Oravec recommended a timeline for compliance to set the expectation. Vice Mayor Martin stated that the chip numbers for paint were listed on the Site Plan, but she would support a timeline for compliance.

Councilman Carvelli stated that he would uphold the decision of the Planning & Zoning Board. Councilwoman Morgan agreed with a longer timeline for the doors since the units had storage inside and wanted to ensure that commercial businesses had been informed of the Citywide Design Standards. Vice Mayor Martin moved to approve the decision of the Planning & Zoning Board but allow the appellate to come into compliance. Councilwoman Morgan seconded the motion. (Clerk's Note: There was a discussion on the length of a timeline.) Vice Mayor Martin amended her motion to allow for six months compliance for gutters, roof trim/cornices, and 24 months for the doors. Councilwoman Morgan seconded the amended motion. Councilwoman Caraballo and Mayor Oravec voiced that the motion should include the language "anything visible from the street." Councilwoman Morgan responded that the doors, gutters and trims were the only items visible from the street. Mr. Anderson inquired if installing a vinyl fence was acceptable, to which Mayor Oravec replied that the City Council was in deliberations and could not proceed with discussions but added that a fence would allow for a difference in the Design Standards. Vice Mayor Martin withdrew her motion, and Councilwoman Morgan withdrew her second.

Councilwoman Caraballo moved to approve the decision of the Planning & Zoning Board but allow the appellate to come into compliance within six months for all elevations visible from the street and compliance within 24 months for elevations on the remainder of the property. Vice Mayor Martin seconded the motion. The City Clerk restated the motion as follows: To approve the decision of the Planning & Zoning Board but allow the appellate to come into compliance within six months for all elevations visible from the street and compliance within 24 months for elevations on the remainder of the property. The motion passed unanimously by roll call vote.

4. Adjourn

There being no further business, the meeting adjourned at 6:48 p.m.

Karen A. Phillips, City Clerk

Shanna Donleavy, Deputy City Clerk