

**TOWN OF JUPITER
PLANNING AND ZONING COMMISSION
FINAL MINUTES
SEPTEMBER 10, 2024 7:00 P.M.**

CALL TO ORDER:

Chair Kevin Kirn called the meeting to order at 7:00 p.m.

ATTENDANCE:

Chair Kevin Kirn; Vice Chair Richard Dunning; Comm. Beth Kelso; Comm. Karen Vinson; Comm. Dan Guisinger; and Comm. Cynthia Blum 2nd Alternate (voting member); John Sickler, Director of Planning & Zoning; Garret Watson, Principal Planner; Peter Meyer, Senior Planner; Thomas Baird, Esq., Town Attorney; and Michael Schneider, Secretary.

MINUTES:

The minutes from the August 13, 2024 meeting will be considered at the next regular meeting.

SWEARING IN:

Secretary Michael Schneider conducted the swearing-in of witnesses for all quasi-judicial items on the agenda.

CITIZEN COMMENTS: None

REGULAR AGENDA:

A. OLD BUSINESS: None.

B. NEW BUSINESS:

1. **708 Weldwood Road** – Variance request to Section 27-1326(b)(2) to increase the side yard fence height from six feet to six feet and eight inches, on a 0.22± acre property, located at 708 Weldwood Road.
(PZ 24-6106)
(Acting as the Zoning Board of Adjustments)

Disclosures: Comm. Vinson disclosed that she went to the site, spoke to the homeowner, and spoke with staff. Vice Chair Dunning disclosed that he drove by the site and spoke to staff. Comm. Kelso disclosed that she walked the site and spoke to staff. Comms. Guisinger and Blum both disclosed they had driven by the site.

Applicant presentation: Jim Frogner, Zoning Consultant conducted a PowerPoint presentation clarifying their request for the Variance. Brent Schreurs, the homeowner, continued and concluded the presentation.

Staff presentation: Principal Planner, Garret Watson, reviewed the staff report.

Commissioners asked questions of the Applicant and Staff:

Comm. Blum expressed that she struggled with how so many things don't meet the criteria laid out by staff and she doesn't understand how the contractor didn't

mention getting a permit for the changes they made. Mr. Schreurs replied that there was no conversation of an amended permit or resubmitting. Comm. Blum asked if this was a professional fence installer and Mr. Frogner stated that the contractor was from a licensed fence company. Mr. Frogner mentioned the staff report noted bringing in fill but that Mr. Schreurs did not raise the grade but rather that he leveled a slight berm 3' from the sidewalk. Mr. Frogner stated that was the reason for installing the block so he could make a putting green that matched the level of the existing yard and pool.

Comm. Kelso asked why the section of open fence on the west side of the driveway was in a provided photo but now it is missing. Mr. Frogner stated that removing this panel was a decision by the Town Engineer as Mr. Schreurs didn't have a 45-degree visibility angle. Comm. Kelso asked why the fence wasn't planned to be flush with the gate or to move the gate further out. Mr. Schreurs replied that the five feet represents the limited access and landscape easement and that, per Town requirements, the gate is not allowed but the fence can be on the easement. Comm. Kelso asked if anything triggered in the applicants mind when the fence permit showed the fence at grade and the contractor said that an additional structure must be put in that wasn't on the original permit. Mr. Schreurs responded by saying he was told that the fence wouldn't be inspected so he built it the way it stands today and never thought he would need another permit. Comm. Kelso asked staff how finials and lanterns are accounted for in the 6' fence height limit. Mr. Watson replied that the height is based on the main panel and decorative features can extend beyond the limit. Comm. Kelso asked if she could add a 5' finial on top of the fence. Mr. Sickler clarified that staff applies some level of reasonableness to decorative features to ensure that the intent of the code is being met and that the predominant height is maintained at the maximum. Comm. Kelso asked staff why they allowed the fence to come out all the way to the sidewalk and into the easement rather than having more green space between the fence and sidewalk. Mr. Sickler noted that the language in the easement was not that restrictive and while the title of the easement implies landscaping, there is no prohibition of structures within the easement and so staff felt they didn't have the authority. Mr. Schreurs clarified that the reason the fence was brought out was because in his original meeting with Roger Held, Roger stated he could bring the fence out 5'. Comm. Kelso then asked if there would be any repercussions for the contractor as he got the permit and suggested the footer that wasn't on the survey. Town Attorney Baird interjected that the question wasn't for this commission's consideration and that the commission's responsibility is to consider the zoning criteria for the variance, and to make a determination on whether or not the criteria have been met.

Comm. Dunning then asked if any comments have been made by neighbors. Mr. Frogner responded saying the neighbors across the street to the east and the next-door neighbor to the north both submitted letter supporting the variance request. Comm. Dunning asked staff if they have copies of the aforementioned documents. Mr. Watson said the letters were noted in the justification statement but weren't in the packet given to the commissioners. Comm. Dunning asked if the letters were in support of the variance and Mr. Watson said that he didn't recall. Vice Chair Dunning mentioned that he hasn't seen a case with this many criteria not being met and that he supports staff on this matter, and he takes exception to the characterization in the applicant's presentation that staff did not

handle this in the same manner as other hearings. Vice Chair Dunning continued that he wishes something could be done, but if he were to approve this variance against staff recommendation, it would be setting a precedent and that he is not in favor considering the evidence presented.

Comm. Guisinger stated the permit showed the fence post being buried 3' in the ground with concrete. He asked if that occurred and if the fence was built sitting on top of the block or if the post was buried down in it. Mr. Schreurs noted that the fence post was in the ground through the concrete block and that every post has rebar and concrete and there was concrete poured into the cinder block. Comm. Guisinger then asked if it was correct that the applicant stated that he didn't realize he would need a permit to "put the block in and deviate from the permit." Mr. Schreurs replied that that was correct.

Comm. Vinson asked whether the homeowner or the fence company pulled the permit. Mr. Schreurs said that he did. Comm. Vinson asked why the fence company didn't do it as normally the company will pull its own permit. Mr. Schreurs stated that Roger Held told him an owner/builder permit would be "quick." Comm. Vinson asked staff if the language on the permit stated that the fence has to follow the contour of the property or if there were to be gaps at the bottom, and also if there were any exceptions in the rules about that in the permitting process. Mr. Watson replied that there weren't specific regulations. He continued that there were examples in the back of the applicant's justification statement about grades and how that's a situation where staff would apply reasonableness to it when the grade is not being artificially raised, but clarified that this case differs from that scenario. Comm. Vinson asked if that was because it was artificially raised and Mr. Watson replied "yes". Comm. Vinson asked if this situation has been going on for two years or only a couple months. Mr. Watson stated that the issue was noticed within two or three weeks of the construction of the fence and that staff has been trying to work with the homeowner. Comm. Vinson asked if there were any other code violations with the fence aside from the height. Mr. Watson stated that there was no formal violation and that staff was handling the situation through the permitting process, which is why the Town engineer reopened the permit when it was discovered there were improvements that required permits that were not part of the permit set and a revision was found to be the most reasonable path to bringing the property up to code. Comm. Vinson asked if there is any exception to the rule related to difference in the elevation. Mr. Sickler answered that no, there is not an exception.

Chair Kirn referred to an architectural drawing on Page 6 showing a footer detail and he asked if that was included as part of the original permit, because it clearly shows the maximum height. Mr. Watson responded that the architectural drawing was not part of the original permit. Mr. Frogner confirmed that the architectural drawing was done after the fact, because the Town said there was block foundation under the fence and they spoke with their architect who said that the block is not structural foundation. Mr. Frogner stated that he went to Doug Koennicke, the Town Engineer, and Doug told him "You don't need that." He continued saying the document was kicked out, but he did submit it.

Public Comment: None

Deliberation by Commission:

Comm. Vinson stated that she is conflicted.

Comm. Guisinger stated he can't move past the fact that all seven provisions have not been satisfied and that he's inclined to deny the request for the variance.

Comm. Dunning stated that with six of the seven criteria not being met, he doesn't want to set a precedent that would not be in line with previous decisions.

Comm. Kelso stated that she would be for approving the permit, because it is a unique property located between the high school and aquatic center and receives a heavy flow of traffic several different times per day. She concluded by stating she is in favor of approving it with additional landscaping per staff's recommendation in the staff report.

Comm. Blum stated that the gap beneath the fence can be taken care of in several different ways.

Chair Kirn stated that the commission is required to vote based on the objective criteria and he wouldn't be able to support approval if 6 of the 7 criteria are not met.

Motion: Vice Chair Dunning moved to recommend denial of the variance request, seconded by Comm. Guisinger. Motion failed with a 3-3 vote. Comms. Kelso, Vinson and Blum dissented.

Discussion: Town Attorney Baird reminded the commission to make clear the basis of the motion on all proposed motions. He explained that the board of adjustments responsibility is to look at the facts, consider the presentations by the two parties, and to decide based on whether or not the criteria have been met.

Motion: Comm. Kelso moved to recommend approval of the variance request with a height of 6'8" from grade, based on the unique situation of being located between the pool and high school that causes abnormal residential traffic, seconded by Comm. Blum. Motion failed with a 3-3 vote. Comms. Kirn, Dunning, and Guisinger dissented.

The Town Attorney announced the variance hearing is not being continued and would need to be re-noticed.

2. **Inlet Village Market** – Small-scale planned unit development (SSPUD) and site plan application to construct a 3,433 square foot two-story building with retail and accessory residential, on a 0.15± acre property, located at 1025 Love Street. (PZ 22-5252 and 5253)

Town Council consideration: October 15, 2024

Disclosures: Comm. Blum and Comm. Guisinger disclosed that they drove around the property. Comm. Kelso disclosed that she walked the site, spoke with Peter Meyer, and spoke to the neighbor to the south of the property. Vice Chair Dunning and Comm. Vinson disclosed that they spoke with staff and drove by the property.

Applicant presentation: Zach Ciciera, Land Planner with Cotleur & Hearing, presented to the commission. Rick Gonzales, Project Architect; Donaldson Hearing, Landscape Architect with Cotleur & Hearing; and Jim Burg, Property Owner, were also in attendance.

Staff presentation: Senior Planner, Peter Meyer, reviewed the staff report.

Commissioners asked questions of the Applicant and Staff:

Comm. Blum asked how much space is between the principal building and the building directly behind it. Mr. Ciciera said 40-50 feet. Comm. Blum then asked if there was any way to add ADA spaces to the Town parking lot. Mr. Hearing responded that there are existing ADA spaces, and that there would be opportunity for drop-offs in the front of the building before parking in the lot. Comm. Blum asked if the applicant had spoken to the neighbors. Mr. Hearing replied that they haven't had any direction discussion, but that signs have been posted for weeks and they haven't received any calls.

Comm. Kelso asked if the second floor of the building will be utilized by the owner, a seasonal renter, or will it be an Airbnb. Mr. Hearing responded that the units will be accessory residential with no intention of having a seasonal rental or Airbnb. Comm. Kelso then asked if the second-floor French doors were operational and if the tenants could go outside. Mr. Hearing replied that the doors open to the balcony to provide outdoor space. Comm. Kelso asked to clarify that the nine CRA parking spaces will not be specifically labeled and will simply be mixed within the general lot. Comm. Kelso continued that she agrees with all conditions, but wanted to make the following changes: Condition 4A should allow for building placement to move westward as minimally as possible; Condition 4D she would like to see pea gravel as per the original design; and that Condition 7, regarding the hours of operation, should be deleted entirely. Comm. Kelso continued saying she was concerned with noise and asked if there was any way to keep the noise down. Mr. Gonzales replied that the building is a masonry vernacular building with block construction, insulation, and hurricane proof insulated windows and that the garbage is in an enclosed air-conditioned space underneath the stairs. Comm. Kelso concluded by stating she doesn't want any light going past the property line into neighboring bedroom windows.

Vice Chair Dunning asked if there were any conditions laid out by staff that the applicant would not be able to meet. Mr. Hearing replied that they were comfortable with the conditions as written.

Chair Kirn asked if there were any existing operating hour restrictions at

Square Grouper or Beacon. Mr. Hearing responded that there weren't any. Chair Kirn then asked how the Town manages the potential for the business to grow into something larger than initially proposed. Mr. Meyer replied that they're proposing a retail business, which could include a bakery, coffee shop, and doughnut shop, and that there is a higher traffic generation for a coffee shop than a restaurant. Mr. Sickler concluded that the applicant is bound pursuant to Condition 1D and, if they want to change the use, they would have to file an application to amend the use. Chair Kirn then asked how the CRA thinks about temporary, five-year parking licenses versus a perpetual easement. Mr. Meyer replied that the common practice of the CRA is to have five-year increments.

Comm. Guisinger asked to clarify that there are two parking spaces on the south side of the building. Mr. Hearing said that was correct. Comm. Guisinger asked what would prevent visitors of the accessory residential on second floor from parking in spots reserved for patrons of the commercial space on first floor. Mr. Hearing responded that they don't anticipate that happening, but if the issue arises, they have alternative parking that could be provided at the Grouper or at another location. Comm. Guisinger then asked to clarify that parking for residents is on the south side of the building while the entrance to the residential unit is on the north side of the building. Mr. Hearing said that was correct. Comm. Guisinger continued asking that residents would be able to transverse through the porched area in front of patrons back and forth. Mr. Hearing responded that was correct. Comm. Guisinger then concluded by asking if the applicant concurred with all conditions. Mr. Hearing responded that they were in agreement with the conditions.

Comm. Vinson asked if the applicant would be seeking a contract to increase the number of parking spots based on outdoor seating. Mr. Hearing replied that that was correct. Comm. Vinson then stated that the handicapped parking spot not being on site was an issue for her and then asked how the residential parking would be separated from parking for patrons. Mr. Hearing stated that there will be a sign posted that clearly marks the residential parking spots. Comm. Vinson then asked how many units would be in the residence. Mr. Hearing clarified that there would be one unit. Comm. Vinson asked if there was any future plan to make it two units. Mr. Hearing replied that no, they cannot do that. Comm. Vinson then asked about future plans for angled parking in an alley. Mr. Hearing responded that it would be parallel parking and that they've provided room to accommodate it in the future. Comm. Vinson asked if the Town had anything to add to the parking. Mr. Sickler replied that they were initially proposing two units and to park tandem, but this was found not to be acceptable. He noted they could request an amendment in the future, if parking is added.

Chair Kirn then asked if the Town had any concerns if the commission eliminated the hours of operation restrictions. Mr. Sickler responded that would not recommend eliminating it, as its predicated on the availability of parking in the CRA parking lot.

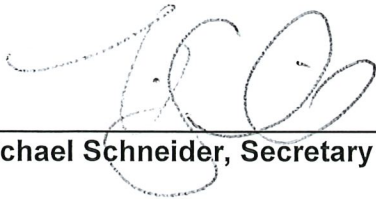
Motion: Comm. Vinson motioned to recommend approval of the application contingent upon meeting all staff conditions of approval, with amendments to condition 4D to replace crushed shell with pea gravel and to amend condition 4A to shift the building footprint a maximum of 3 feet to the west, seconded by Comm. Dunning. The motion passed unanimously with a vote of 6-0.

STAFF UPDATE: None.

ADJOURN:

Chair Kirn adjourned meeting at 8:41 p.m.


Kevin Kirn, Chair


Michael Schneider, Secretary