



Life's Just Better Here

FINAL
MEETING MINUTES
PLANNING AND ZONING BOARD
COMMISSION CHAMBERS

2020 WILTON DRIVE, WILTON MANORS, FLORIDA 33305
MONDAY, JANUARY 10, 2022 – 7:00 P.M.

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MEMBERS **ATTENDANCE**

Richard Safaty, Chair	P
Rudy Molinet, Vice Chair	P
Don D'Arminio	P
Jeffrey Ferraro	P
Tim Moses	P
Tim Theisen	P
Roy David Walker	A
Jeb Shafer (attending remotely)	P

Staff

Mike Cirullo, Assistant City Attorney
Roberta Moore, Community Development Services Director
Evy Kalus, City Planner
Brigitte Chiappetta, Recording Secretary, Prototype, Inc.

I. CALL TO ORDER

Vice Chair Molinet called the meeting to order at 7:00 p.m.

II. ROLL CALL

Roll was called by Ms. Chiappetta and it was noted a quorum was present.

III. PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was recited.

IV. APPROVAL OF MINUTES

a. November 15, 2021

Motion made by Board Member D'Arminio, seconded by Board Member Ferraro, to approve. In a voice vote, the **motion** passed unanimously.

V. PUBLIC COMMENTS

There were no comments from the public.

1 Community Development Services Director Roberta Moore advised that Board Member
2 Roy David Walker had shared his thoughts on the two (2) Agenda Items with her,
3 indicating that he had no issues with either of the proposed changes.
4

5 Chair Safaty noted that Vice Mayor Paul Rolli was in attendance at tonight's meeting.
6

7 **VI. PUBLIC HEARING**

8 9 **a. Proposed Amendments to Article 120 of the City's Unified Land Development** 10 **Regulations related to "Variances."**

11
12 City Planner Evy Kalus showed a PowerPoint presentation on the proposed amendments
13 to Article 120 of the Unified Land Development Regulations (ULDR). Article 120 provides
14 regulations for the processing and approval of variances for any provision of the ULDR
15 unless otherwise indicated. At present, variances may be granted by the Planning and
16 Zoning Board in the case of undue hardship caused by special circumstances related to
17 the subject property, in which strict application of regulations would deprive the Applicant
18 of reasonable use of the land or building.
19

20 Based on comparative research of nearby municipalities, Staff has determined that there
21 is a need for an administrative variance process. This would apply to certain requirements
22 of the ULDR under specific thresholds in order to expedite development review and
23 building permit issuance in the City.
24

25 An amendment to Section 120-10 creates regulations for administrative variance that may
26 be granted by Community Development Services, based upon the same variance criteria
27 used by the Planning and Zoning Board. It includes the following changes:

- 28 • Administrative variances may be granted for single-family homes, duplexes, and
29 individual town home lots based on the applicable zoning districts
- 30 • Yard setbacks: five percent (5%) deviation
- 31 • Pervious requirements: ten percent (10%) deviation
- 32 • Landscaping: ten percent (10%) threshold for deviation
- 33 • Parking requirement: ten percent (10%) threshold for deviation
- 34 • Fence and wall requirements: ten percent (10%) deviation
- 35 • Signage: ten percent (10%) increases in area and height
36

37 Section 120-10 would also include potential administrative variances for multi-family
38 commercial and industrial uses within applicable districts. These would apply to five
39 percent (5%) deviations in yard setbacks, pervious requirements, and landscape
40 requirements. Fence, wall, and hedge heights and locations must fall within ten percent
41 (10%) deviation.
42

1 Section 120-20, which includes supplemental application requirements, would ensure
2 that the application requirements in ULDR Article 65 and notice requirements in Article 70
3 would apply.

4
5 The administrative variance procedure process would use the same language as the
6 criteria used by the Planning and Zoning Board for recommendations of approval of
7 variances. This language pertains to special circumstances, conditions of the land or
8 building demonstrating undue hardship, assurance of the least variance necessary, and
9 that granting the variance will be in harmony with the general purpose and intent of the
10 chapter and will not be injurious to the neighborhood or public welfare.

11
12 The proposed language also includes an expiration date for the administrative variance,
13 which will be set for twelve (12) months after approval. The Community Development
14 Services Director will record the action in a document to be retained by the City Clerk's
15 Office and the Community Development Services Department. The language also
16 provides for an appeal within thirty (30) days of approval, and states that if the application
17 is denied, the applicant may not file a new application for the same variance or the same
18 piece of property within one (1) year. Copies of all decisions will be retained by the
19 Community Development Services Department.

20
21 Vice Chair Molinet asked if a variance request that is denied would be appealed to the
22 Planning and Zoning Board or the City Commission. Planner Kalus clarified that this
23 appeal would go to the City Commission, as stated in Article 125.

24
25 Chair Safaty requested additional information regarding the fee structure for an
26 administrative variance. Planner Kalus replied that fees have not yet been determined,
27 but estimated that they will be less than the application fees for items coming before the
28 Planning and Zoning Board. Director Moore further clarified that fee schedules are based
29 on the costs associated with applications to the City: if the amendments are approved by
30 the City Commission upon first reading, a fee schedule would be brought forward upon
31 second reading.

32
33 Chair Safaty also addressed signage, asking if applicants would be allowed to seek both
34 ten percent (10%) variances in size and in height. Planner Kalus confirmed that multiple
35 variances would be permitted for signs.

36
37 Board Member Theisen requested clarification of percentages with regard to landscaping.
38 Planner Kalus offered the example of a single-family home requiring a number of trees: a
39 variance could request a ten percent (10%) reduction in the number of trees, or the use
40 of a different tree. One (1) application would continue to be submitted for each section of
41 Code for which a variance is requested.

42
43 Board Member D'Arminio commented that five percent (5%) of a side yard setback could
44 be as small as four and one-half (4.5) inches, which would mean that a variance of as

1 little as five (5) inches would need to come before the Board. He asked why this
2 percentage was not ten percent (10%), stating that the lesser percentage seemed almost
3 immaterial. Planner Kalus replied that Staff could review this proposed threshold if that
4 was the Board's desire, noting that other municipalities that established similar thresholds
5 did so within the five (5) to ten (10) percent range.

6
7 Board Member D'Arminio also asked why the term "Unified" was omitted from references
8 to the City's Land Development Regulations throughout the document. Planner Kalus
9 confirmed that this could be amended as well.

10
11 Board Member D'Arminio continued that if an administrative variance is denied, no further
12 application would be considered for any variance for the same property within one year.
13 He asked if the Board would be able to hear a non-administrative variance request for the
14 same property. Planner Kalus clarified that this language referred to administrative
15 variances only. Board Member D'Arminio requested that the language in the amendment
16 and the Staff Report be made consistent for greater clarity.

17
18 Assistant City Attorney Mike Cirullo noted that if both the Community Development
19 Services Director and the City Commission hear an administrative variance request, they
20 would be permitted to enter into the full variance process and bring their request before
21 the Board. Director Moore agreed that the Staff Report required amendment before it is
22 brought before the City Commission to ensure that the term "administrative" is clearly
23 defined in this case. She added that Staff meets with applicants prior to the submission
24 of a variance request in order to ensure a clear understanding of the need for the variance.

25
26 Director Moore continued that whether a variance request goes through the administrative
27 or Planning and Zoning Board process, a Staff Report will still be created for that request.
28 This would show whether or not an applicant is engaging in "variance shopping," such as
29 bringing an unsuccessful administrative variance request through the regular Planning
30 and Zoning Board process.

31
32 Mr. Ferraro stated that the Community Development Services Director has the authority
33 to determine whether an application is seeking an administrative variance or a Planning
34 and Zoning Board variance. Planner Kalus confirmed that the Director would determine
35 whether the variance constitutes a major or minor request. The Director would then inform
36 the applicant of which process is appropriate for the application.

37
38 Board Member Shafer stated that he disagreed with sending an administrative variance
39 request that has been denied to the City Commission rather than to the Planning and
40 Zoning Board. He felt an application denied by Staff should go before the Board, and only
41 then, if also denied by the Board, to the Commission. He requested that this change be
42 made to the proposed amendment.

43

1 Vice Chair Molinet did not agree with this suggestion, stating that it would result in
2 additional bureaucracy. He felt contractors would be more satisfied with a lesser level of
3 bureaucracy, and that the Planning and Zoning Board should not be perceived as an
4 appeal body. Attorney Cirullo pointed out that Article 125, which establishes appeals, does
5 not create a separate appeal process for administrative variances.

6
7 Vice Chair Molinet asked if an application denied by the City Commission can be
8 appealed through the court system. Attorney Cirullo replied that while a case may be
9 reviewed in court, the parameters of review are different depending upon each
10 application. Vice Chair Molinet stated that this shows there are other options if an
11 application is denied by the City Commission.

12
13 At this time Chair Safaty opened public comment, which he closed upon receiving no
14 input.

15
16 **Motion** made by Vice Chair Molinet, seconded by Board Member Moses, to approve.

17
18 Board Member Theisen asked why other types of variance requests would not be allowed
19 under the proposed amendments, as well as why an applicant whose administrative
20 variance is denied would not be permitted to apply for a different and unrelated variance
21 on the same property.

22
23 Board Member Theisen cited the example of an applicant whose administrative variance
24 is approved, asking if that applicant could seek a non-administrative variance for another
25 issue at a later date within that year. Planner Kalus advised that this language could be
26 modified to clarify that this constraint would only apply if the administrative, or other,
27 variance has been denied.

28
29 Director Moore asked if it is the Board's desire to add language clarifying this aspect of
30 the administrative variance process. Board Member Theisen explained that he felt this
31 was a stringent restriction on a property owner's right to seek a variance, and he was
32 curious about the history of this language. Planner Kalus added that there is no language
33 in the administrative variance amendment addressing an owner's ability to bring forward
34 an unrelated variance request.

35
36 Attorney Cirullo advised that the language would permit an applicant "one (1) bite of the
37 apple" at the administrative variance process. He clarified that if an applicant wishes to
38 bring back a completely unrelated variance at a later date, they may do so, but not through
39 the administrative process.

40
41 In a roll call vote, the **motion** passed 6-1 (Board Member Shafer dissenting).

42
43 **b. Proposed Amendments to Article 85 of the City's Unified Land Development**
44 **Regulations related to "Site Plan Processing."**

1
2 Planner Kalus showed a PowerPoint presentation on the proposed Article 85
3 amendments addressing Site Plan Processing. This Article discusses procedures for Site
4 Plan review, approval, and applicability. To streamline and expedite minor types of
5 development applications, Staff has determined, based on comparative research of other
6 municipalities, that there is a need to amend the Site Plan process to allow for
7 administrative Site Plan review.

8
9 The proposed amendments include:

- 10 • Reduction of acceptance review time by Staff from eight (8) to four (4) business
11 days
- 12 • Addition to the Major Site Plan section criteria of platting and re-platting
13 applications
- 14 • Deletion of Minor Site Plan language related to the addition of awnings or canopies
15 for commercial, multi-family, and industrial uses
- 16 • Deletion of Minor Site Plan language related to the addition and/or elimination of
17 door and/or window openings for commercial, multi-family, industrial, and mixed
18 uses
- 19 • Addition of Minor Site Plan language excluding windows and/or doors as
20 determined by the Community Development Services Director in relation to
21 elevation changes
- 22 • Addition of “as determined by Community Development Services Director” under
23 Minor Site Plan language related to landscaping modifications of no more than ten
24 percent (10%)
- 25 • Replace “multi-family” with “residential” in Minor Site Plan language relating to
26 dumpsters and dumpster enclosure relocation conditions
- 27 • Create a section for administrative language for Site Plan review, including
28 awnings or canopies for commercial, industrial, or mixed-use properties for multi-
29 family development, and the addition or elimination of a door and/or window to
30 these properties
- 31 • Minor changes to elevations that were part of an approved Site Plan determined
32 by the Community Development Services Director
- 33 • Minor landscaping modifications that were part of an approved Site Plan
34 determined by the Community Development Services Director
- 35 • Increases or decreases to the square footage of a building by no more than ten
36 percent (10%) of existing square footage
- 37 • Changes to setbacks that were part of a Site Plan of no more than ten percent
38 (10%) of the approved setbacks consistent with applicable regulations
- 39 • Any development that is deemed necessary for administrative review as
40 determined by the Community Development Services Director
- 41 • Change of procedures to four (4) business days for acceptance review
- 42 • Addition of public notice requirements for administrative Site Plan review
- 43 • Language by which the Community Development Services Director will determine
44 whether the Site Plan review is major, minor, or administrative

- 1 • To ensure consistency with the ULDR, review will be limited to sixteen (16)
- 2 business days
- 3 • Language will be added stating that the Community Development Services
- 4 Director may approve, deny, or refer applications to the Planning and Zoning Board
- 5 • Language will be added relating to an appeal process for the Director’s decision
- 6 • Language will be added stating that the expiration date of a Site Plan approved by
- 7 the Planning and Zoning Board and/or the Development Review Committee will
- 8 not change based on administrative Site Plan review
- 9

10 Director Moore advised that on p.30, line 36, there had been language under Major Site
11 Plans addressing the addition of square footage or a new structure; however, there is a
12 conflict between this language and the language proposed for the administrative process.
13 Staff would like to determine if the Board would be in agreement to add the following new
14 language at the end of line 36: “Adding additional square footage or a new structure or
15 building to an existing development, except additions that qualify for administrative Site
16 Plan review under Section B.3 hereunder.”

17
18 Chair Safaty noted p.31, line 7, which refers to any change to a condition of approval
19 granted by the Planning and Zoning Board. He cited the example of an applicant
20 proposing a larger setback than required by Code, who may wish to make an adjustment
21 to the Site Plan, and asked if this could be accomplished administratively or if it must
22 come before the Board. He felt this requirement did not meet the intent of streamlining
23 the process, since Code requirements are already met. Director Moore recalled that when
24 this Article was previously brought before the City Commission, the Commission had
25 requested the addition of this language. She confirmed that such a request would have
26 to come before the Board.

27
28 Chair Safaty suggested that the Board consider recommending that the City Commission
29 reconsider this in cases where the applicant is otherwise meeting Code requirements, not
30 requesting a variance. He felt requiring an applicant to go through the full review
31 procedure in this case would defeat the purpose of streamlining the process. Board
32 Member Theisen commented that the condition of approval may have been intended to
33 mitigate some other undesirable feature of the Site Plan, in which case it should come
34 back before the Board. Chair Safaty clarified that his intent was to refer to “something
35 minor” that was previously approved, to which the applicant is proposing a minor change.

36
37 Director Moore advised that Staff can take this proposal forward to the City Commission
38 if that is the Board’s desire. She reiterated that this language was specifically included by
39 the Commission, which means it is not within her purview to make the change proposed
40 by the Board.

41
42 Vice Chair Molinet requested clarification that the condition to which an applicant wishes
43 to change would be more compliant with Code: for example, they originally requested a
44 fifty (50) foot setback, but they now wish to change the setback so it would be less than

1 this request. Board Member Theisen noted that he understood the term “condition” to be
2 something the Board has asked for, or that the applicant offered, in exchange for
3 something else.

4
5 Director Moore stated that a condition on a development order specifically identifies the
6 plans that are approved based on that order. Board Member Theisen commented that
7 this would mean the applicant is making a change from “something [the Board] asked
8 them to do” to something different without coming back to the Board to determine if they
9 find the change acceptable.

10
11 Board Member D’Arminio noted there was language missing from line 27. Director Moore
12 confirmed that the term “Development Review Committee” was missing, and would be
13 added. Attorney Cirullo advised that it should also be added to line 7 on the same page.

14
15 Attorney Cirullo continued that the Board may add the proposed change as part of their
16 motion, or they may make a recommendation to approve the proposed amendment
17 because they understand the rationale behind it. They could also make a second motion
18 asking the City Commission to review or reconsider the issues that resulted in the way
19 the two (2) sections are currently written. Board Member Theisen reiterated that the
20 Commission had asked for this language, and he was not certain of the value of asking
21 them to reconsider it.

22
23 The following language was proposed by Board Member Ferraro: “Any change to a
24 condition of approval granted by the Planning and Zoning Board, as long as the change
25 continues to be in compliance with Code.” Chair Safaty noted that if the applicant is
26 compliant with Code, the application should be able to move forward without coming back
27 before the Board for further approval.

28
29 Board Member Theisen expressed concern that the applicant should not enjoy the benefit
30 of something the Board might not have approved on their Site Plan without making some
31 kind of concession in return. Chair Safaty replied that this would be subject to
32 administrative review by the Community Development Services Director. Vice Chair
33 Molinet proposed including Board Member Ferraro’s suggested language in the minutes
34 and allowing the Commission to make a decision based on that.

35
36 At this time Chair Safaty opened public comment, which he closed upon receiving no
37 input.

38
39 **Motion** made by Board Member Ferraro, seconded by Vice Chair Molinet, to approve the
40 proposed amendments to Article 85 of the City’s Unified Land Development Regulations
41 related to Site Plans, with the following addition:

- 42 • Line 7, p.31 of 40, should read as follows: “Any change to a condition of approval
43 granted by the Planning and Zoning Board, as long as the change continues to be
44 in compliance with Code requirements...”

1
2 Chair Safaty advised that Director Moore’s proposed changes to p.30, line 36 should be
3 reflected in the **motion** as well [p.7 of these minutes, lines 15 through 17]. Board Member
4 Ferraro and Vice Chair Molinet confirmed that they accepted this addition as well.

5
6 In a roll call vote, the **motion** passed 6-1 (Board Member Shafer dissenting).

7
8 **VII. STAFF COMMENTS**

9
10 None.

11
12 **VIII. BOARD COMMENTS**

13
14 Board Member D’Arminio advised that he had not received the 2022 calendar of meeting
15 dates. Planner Kalus stated that she would re-send this document to the full Board.

16
17 **IX. ADJOURNMENT**

18
19 Upon motion duly made and seconded, the meeting was adjourned at 8:15 p.m.

20
21 **NEXT MEETING DATE: February 7, 2022**

22
23 [Minutes prepared by K. McGuire, Prototype, Inc.]

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27
28 _____
Chair

29
30 _____
Date

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