CITY OF ST. AUGUSTINE

Planning and Zoning Board Regular Meeting
June 4, 2019

The Planning and Zoning Board met in formal session Tuesday, June 4, 2019, at 2:00 p.m. in the Alcazar Room at City Hall. The meeting was called to order by Grant Misterly, Chairperson and the following were present:

1. Roll Call:

Grant Misterly, Chairperson
Karen Zander, Vice Chairperson
Sarah Ryan
Carl Blow
Jon DePreter (Arrived 2:09p.m.)
Christina Opsahl
Maurice Morrisette

City Staff:

David Birchim, Director, Planning & Building Department
Amy Skinner, Deputy Director, Planning & Building Department
Jenny Wolfe, Historic Preservation Officer
John Cary, Assistant City Attorney
Candice Seymour, Recording Secretary

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2. General Public Comments for Items Not on the Agenda

The Board heard comments from the following member of the public:

- B.J. Kalaidi

3. Approval of Minutes

MOTION

Ms. Ryan MOVED to APPROVE the April 2, 2019 minutes as presented. The motion was SECONDED by Mr. Blow and APPROVED BY UNANIMOUS VOICE VOTE.

MOTION

Mr. Blow MOVED to APPROVE the April 25, 2019 minutes as presented. The motion was SECONDED by Ms. Ryan and APPROVED BY UNANIMOUS VOICE VOTE.

MOTION

Ms. Ryan MOVED to APPROVE the May 7, 2019 minutes as presented. The motion was SECONDED by Mr. Blow and APPROVED BY UNANIMOUS VOICE VOTE.

MOTION

Ms. Ryan MOVED to APPROVE the May 21, 2019 minutes as presented. The motion was SECONDED by Mr. Blow and APPROVED BY UNANIMOUS VOICE VOTE.

4. Use by Exception

**4. (a) 2019-0060 – Ark Youth Ministries – Applicant and Owner
307 Anastasia Boulevard**

To approve a use by exception to allow for a private school.

Mr. Birchim read the staff report and said based on a review of Section 28-29 and without the support of evidence to the contrary, staff finds that the Board can **APPROVE** an Exception to allow for a private school within the Commercial Low 2 (CL-2) zoning category located at **307 Anastasia Boulevard.**

Terry King reviewed the application.

The Board provided their ex parte communications.

13 certified notices were sent, 1 was returned in favor, 2 returned opposed and 3 had comments.

Public hearing was opened.

Luther Stewart owner of neighboring Stewarts Market, stated that the applicant did not want beer and wine sales next to his property but that alcohol sales had been ongoing at his business which had a current license to sell beer and wine recently approved by the City and State.

Luther Stewart Sr. confirmed that there had been alcohol sales on the Stewarts Market property in the past and there was a current license. He noted that the subject school had been operational for some time. He felt that the applicant just wanted to keep future lessors of the Stewart's building from having alcohol sales.

Alan Pitickney, owner of the neighboring retail business, stated that the school had been operating for many years and the ages were gradeschool through college-age. He said that the students would sometimes come visit his business and the school was quiet.

Philip Smith, lessor of the Stewart's building said he had legally obtained a beer and wine license. He said that Mr. King had not been licensed to run the school which had been operational since 2007 and there had never been an issue with alcohol sales before.

Andrew Broskie, an employee of Ark, said he was at the City review of Mr. Smith's beer and wine license where he was told that there was no guarantee that it would be allowed. He stated that the plans for the Ark building back in 2007 were for it to open as a school.

B.J. Kalaidi spoke regarding the internet café and spoke in favor of the application for the school as a better choice for the neighborhood.

Elizabeth Hernandez, attorney for Philip Smith, stated that Mr. Smith had gone through the legal process to open up a bar and the applicant had filed the Use by Exception application to keep Mr. Smith from opening the business. She stated that approving the application could cause Mr. Smith undue hardship.

Mr. Stewart Sr. clarified that he owned the parking lots to the rear of the Stewart's building and Mr. Stewart owned the building separately.

Public hearing was closed.

At the request of the Board, Mr. Birchim explained that there was a licensed internet café at 311 Anastasia Boulevard in the Stewart's Market building which had since been closed by the Police Department. He continued that prior to the application for a Use-by-Exception being heard, the business owner at 311 Anastasia Boulevard applied for and received a state license for the sale of beer and wine.

Mr. Cary stated that approval of the school use would not invalidate the existing beer and wine license, but would prevent a future tenant from applying for and receiving a license to sell alcohol.

The Board discussed:

- Lack of a definition for school within the code
- Use by exception criteria

- No code enforcement case which triggered the application
- Applicant had originally applied for a social services center
- No shared parking between Stewarts and the applicant
- Concern with taking away the neighbor's right to have a beer and wine license

Mr. King fielded questions from the Board stating that a diploma received by his school was recognized by the State and the school was accredited through a national organization. He felt that the classification as a social services center was a clerical error and the school had been operating for ten years. He noted that hours of operation were 8:30a.m. to 6:00p.m. with college hours from 6:00p.m to 10:00p.m.

There was further discussion regarding classroom sizes and parking requirements which could be reviewed administratively.

MOTION

Mr. Misterly MOVED to APPROVE Use by Exception application 2019-0060 based on the fact that the business qualifies as a school and based on the business operating for the past ten years as such with public testimony that they were a good neighbor. The motion was SECONDED by Mr. Blow.

Mr. Blow requested that the definition of a school within the code be clarified.

VOTE ON MOTION:
AYES: Misterly, Blow, Morrisette, Opsahl, DePreter, Zander
NAYES: Ryan
MOTION CARRIED 6/1

5. Other Business

5. (a) Consideration and recommendation to amend Section 28-29 zoning exceptions, variances and appeals to include a requirement for separate applications for time period waivers; providing for a fee for a waiver application

Mr. Birchim reviewed the item which was in response to a Board request to review the process for time waiver applications.

The Board discussed:

- Applications for waiver could be heard on the same agenda as the variance or exception application, but would be a separate item
- Reasons for reviewing the process including to allow for better public noticing and that the public would be able to speak during a hearing for the waiver as well as the subsequent application of the waiver were approved
- Board still had the ability to continue the item if they felt that public noticing was not adequate
- Concern that applicants would take advantage of the ability to apply for a waiver
- Waiver process has been in place since the adoption of the Zoning Code
- Waiver process may undermine Board decisions
- Planning and Zoning Board was charged with vetting cases for the City Commission, and the appeal process should be considered a last resort
- Waiver process may have been included to allow for new applicants to apply for a variance or exception on a property that may have previously been denied
- Additional application fees and 30 day appeal deadline would be inhibitors to utilizing the waiver process
- Striking the criteria to facilitate proper development of the city and

better defining the criteria for injustice
- Possibility of using criteria similar to the Commission's criteria for appeals
- Concern for setting a precedent and maintaining consistency among hearings

Public comment was opened.

Charles Pappis felt that the waiver and subsequent application should be heard at two separate meetings.

Public comment was closed.

There was consensus to reconsider the language to strengthen the process.

5. (b) Discussion regarding tree mitigation fund administration and fees

Mr. Birchim introduced the subject regarding the tree mitigation fund process and how to determine donation amounts.

The Board discussed:

- How to determine retail costs of trees
- Simplification of the ordinance to charge per caliper inch
- Information provided to property owners so that trees are replanted with proper spacing from structures and other trees
- Recommendation to use Jacksonville's cost calculations
- Tree Master Plan
- Possibility of creating a program where owners could elect to have tree fund trees planted on their property

5. (c) Discussion and public comment related to the draft Historic Preservation Element Goals, Objectives and Policies for the Comprehensive Plan

Ms. Skinner gave a brief overview of the subject.

The Board discussed:

- Specific design criteria for neighborhoods outside of the historic preservation districts was not included
- Specifics regarding economic hardship were part of the land development code
- Goal 6, policy 6.1.1
- Policy 9.1.5 Continued support for 4 staff positions may be too detailed
- Tying the element to the Historic Preservation Master Plan
- Community tools were a positive addition
- Including sea level rise and hazard mitigation under key issues and assumption
- Redundancies in the document
- Incentivizing restoration but not micro-managing construction in neighborhoods
- Affordable housing within the City
- Policy of review for demolition of structure fifty years of age or older

Ms. Skinner gave an overview of the next steps in the process which were to review other elements of the Comprehensive Plan and the Board would not review the Historic Preservation element again until the completed draft was brought before the Board for review.

Board Member Comments

Ms. Ryan was impressed with new information provided to planning and zoning applicants.

Mr. Morrisette stated that in the case heard today, as well as others, it would have been helpful to inform the Board of any issues outside of the required application.

Mr. Birchim noted that the information was not included because it was likely not relevant to the specific criteria for application review, but that he would look into the possibility of including some of that background information in the future.

6. Adjournment

Having no further business, Mr. Misterly adjourned the meeting at 4:23 P.M.[1]

for Grant Misterly, Chairperson

[1] Transcribed by Candice Seymour