

# TOWN OF MALABAR – PLANNING & ZONING ADVISORY BOARD

## MAY 14, 2008 MEETING MINUTES

This meeting of the Malabar Planning and Zoning was held at Town Hall at 2725 Malabar Road.

### A. CALL TO ORDER, PRAYER AND PLEDGE

Meeting called to order at 7:30 pm. Prayer and Pledge led by V-Chair Patrick Reilly

### B. ROLL CALL

#### ROLL CALL:

Bob Wilbur, Chair

Patrick Reilly, V-Chair

Richard Cameron

Don Krieger

Bud Ryan

Cindy Zindel, Alt. #1 – non-voting

Michele Kelly, Secretary

Denine Scabro, Secretary in Training

Roger Cloutier, Building Official

### C. ADDITIONS/DELETIONS/CHANGES - None

### D. CONSENT AGENDA

#### 1. Approval of Minutes

**Regular Planning and Zoning Meeting – April 23, 2008**

**Exhibit: Agenda Report No. 1**

**Recommendation: Motion to approve**

**Motion:** Krieger / Ryan to recommend P&Z approve minutes

**Vote:** All Ayes

Krieger on Old Business Serene Harbor: “The trees in the middle of the dirt are currently being protected by the dirt.” He does not recall this and wants it struck from the minutes. Cloutier clarifies this had been said and that the burms are protecting the trees. Zindel, Cameron, and Wilbur agreed.

Zindel noted that she had been a voting member during that meeting, the minutes show her as non-voting. Board wants the minutes to reflect that Zindel was voting in place of Bud Ryan. Zindel also noted that it also shows her as Alt #3, the Board discussed the number for the alternate(s) number and agreed Cindy should be changed to Alternate #1.

### E. PUBLIC HEARING: -- None

### F. ACTION:

#### 2. Recommendation to Council – Quasi-Judicial Procedures

**Exhibit: Agenda Report No. 2**

**Recommendation: Motion to recommend approval**

**Motion:** Wilbur / Krieger

Members were asking why this Procedure was being brought to P&Z. The Mayor was asked to clarify.

Tom Eschenberg, 2835 Beran Ln; discussed the purpose of this procedure. Due to the re-hearing of the BOA case regarding Rebel Ln Road Variance, it is believed that general standards need to be followed by all boards. It was written up by the Town Attorney and sent to each of the boards.

As to section II #1: "Florida law does not require that witnesses be sworn in at a quasi-judicial hearing." Krieger stated that P&Z is strictly an advisory board and he does not remember having to swear in individuals. Reilly provided an example when it could have been utilized and when attorneys should be in attendance.

In section II, #5a, Krieger agrees that a set time limit should be standardized with the option to extend depending on the situation. Wilbur stated the limit is commonly 3 minutes but an extension could be given depending on the case. Ryan noted that it is needed to know what the criteria for a quasi-judicial hearing and that it is not always known when an issue will crossover to P&Z.

Section II, #5b concerning representatives of a list of groups; other groups should be listed such as private club, churches, or stake holders, per Krieger as a feedback comment. Krieger believes that P&Z should be doing the minimum under Florida law possible and let the Council be Quasi-Judicial.

Discussion ensued about Quasi-Judicial hearings, description, purpose, goals, etc. It was agreed that if a Quasi-Judicial hearing is coming in-front of P&Z then the board will get a recommendation from Council and during such a hearing an attorney should be present but if an attorney is not present then the case should be tabled and Council should be referred to for advise.

Recommendations to Council:

- Item II, 5a: A time limit of three minutes, which can be extended depending on the case.
- Item II, 1: Have Council inform P&Z if witnesses need to be sworn in.
- Have an attorney present at time of Quasi-Judicial hearing.

**Vote:** All Ayes

**G. DISCUSSION ITEMS – General Items -- None**

**H. OLD BUSINESS/NEW BUSINESS:**

**3. Malabar Vernacular**

**Exhibit: Agenda Report No. 3**

**Recommendation: Discussion and Direction**

Tabled for future discussion

**4. Access Road Across From Foundation Park Blvd**

**Exhibit: Agenda Report No. 4**

**Recommendation: Discussion and Direction**

Maps reviewed and discussion about the location and wetlands in area. Reilly asked if any property owner has responded to the letter that was sent out. Reilly would like P&Z to request St. John's River Water Management District (SJRWMD), or Department of Environmental Protection (DEP), to go to site and stake out the wetlands.

Further action request:

- Ask Staff to explore any cost to have SJRWMD, or DEP, to identify any wetlands.
- Ask Council to pursue SJRWMD to identify any wetlands and ask SJRWMD to offer suggestions/guidance on creating a road to utilize the light currently at location. (Asking SJRWMD to direct Town of Malabar in how to achieve the goal and utilize the land as it is zoned with the minimal impact to the wetlands.)

Other old business:

Oakmont Preserve

Ryan asked the difference between the fences heights for Oakmont and the house on Eva. Explanation was that Oakmont is a subdivision and when the fence was built, there was no code specifying regulations.

Serene Harbor

The burm at new construction is higher than the 'fence wall' and appears to go all the way down the wall. Cameron stated that it is in the hands of the Building Department. Krieger disagrees; he believes it is so out of height with the other buildings in the area. Krieger states that he may begin asking for topographic plans showing heights of structures. Cloutier discussed that some requirements are regulated by other State offices. Cameron assists in clarification requirements.

#### I. ADJOURN:

**Motion:** Ryan / Krieger to adjourn at 8:30pm

**Vote:** All Ayes

Michele Kelly

Michele Kelly, Secretary

Bob Wilbur

Bob Wilbur, Chairman

June 11, 2008

Date Approved