

LOCAL PLANNING AGENCY (PLANNING AND ZONING BOARD) MINUTES

The Brevard County Local Planning Agency (Planning & Zoning Board) met in regular session on Monday, July 22, 2019, at 3:00 p.m., in the Commission Room, Building C, Brevard County Government Center, 2725 Judge Fran Jamieson Way, Viera, Florida.

Motion by Ron McLellan, seconded by Peter Filiberto, to elect Bruce Moia as Chair Pro Tem. The vote was unanimous.

The meeting was called to order by the Chair Pro Tem, Bruce Moia, at 3:00 p.m.

Board members present were: Bruce Moia; Ron Bartcher; Brian Hodgers; Ben Glover; Ron McLellan; Peter Filiberto; and Dane Theodore.

Staff members present were: Rebecca Ragain, Assistant Director, Planning and Development; Jad Brewer, Assistant County Attorney; George Ritchie, Planner III; and Jennifer Jones, Special Projects Coordinator II.

Bruce Moia called for nominations for a regular Chair.

Ron Bartcher and Ron McLellan expressed concern over nominating a chair and vice chair without a full board.

Motion by Ron McLellan, seconded by Peter Filiberto, to postpone nominations until the August 5, 2019, Planning and Zoning meeting. The vote passed unanimously.

Code Revision to Provide for Five Year Duration of Temporary Use Agreements

Rebecca Ragain explained the revision is to change the time limit for Temporary Use Agreements from 1 year to five years for the purpose of allowing County projects to finish without staff coming to the board once a year for an extension if the project lasts longer than one year.

Bruce Moia stated the Building Construction Advisory Committee heard the item and approved it as written.

Motion by Peter Filiberto, seconded by Ron McLellan, to approve the code revision to provide for a five-year duration of Temporary Use Agreements.

Code Revision to Allow Shipping Containers as Residential Storage Sheds

Rebecca Ragain explained the background of the request, which were Code Enforcement complaints, and the Board of County Commissioners voted to halt Code Enforcement actions until an ordinance can be adopted. The conditions recommended by staff include that the storage sheds be one single-unit container per lot, but the BCAC (Building Construction Advisory Committee) added to that condition that the storage sheds be permitted on lots less than one acre in size. She further listed the conditions that the cargo unit would not be allowed to be used for anything other than storage, and exterior labels would not be permitted. She stated one of the original conditions was that the containers be limited to a maximum of 320 square feet, but the BCAC recommended removal of that condition; there is currently a condition in the code that states the maximum square footage for sheds are either 50% of the principal structure, or 600 square feet, whichever is greater; the BCAC added the condition of no stacking of the containers; the Board of County Commissioners did not include a condition for stacking, but did include a condition of fencing, screening, or landscaping.

Bruce Moia stated the BCAC (Building Construction Advisory Committee) thought the containers are similar to sheds, so they should look more like sheds.

Peter Filiberto asked if the requirement is one acre for a 40-foot container. Ms. Ragain replied that under the BCAC conditions, someone could have a container on less than one acre. Mr. Filiberto asked if a 20-foot container could be placed on a half-acre. Ms. Ragain replied yes.

Dane Theodore asked why the BCAC removed the requirement for the containers to be shielded from view by fencing, screening, or landscaping.

Mr. Moia stated the BCAC felt that if someone is using a shipping container as a storage unit, it's no different than a shed, so why have that condition on one and not the other, especially on larger lots. Mr. Theodore noted that sheds are a little more attractive than shipping containers.

Ron Bartcher stated he shares the same concern as Mr. Theodore and noted that some of the containers are bright colors. He suggested a condition that the containers be aesthetically consistent with the residential area.

Mr. Moia asked staff if there is a height limit on the containers. Ms. Ragain replied it is 35 feet, the same as a principal structure. Mr. Moia said someone could build a 35-foot shed and paint it red, but there is a condition that the containers cannot be stacked.

Mr. Theodore asked about the acreage requirement and stated he doesn't have a problem with containers on agricultural property. Mr. Moia pointed out that the whole issue began on property that was zoned agricultural. Mr. Theodore stated it seems the County Commission is in favor of the shipping containers, but he is having a difficult time with allowing them on residential properties of one acre or less because it seems intrusive. He said his recommendation is that there at least be a landscape buffer from the neighbors. Mr. Moia asked if Mr. Theodore's recommendation is that the containers not be allowed on lots less than one acre. Mr. Theodore stated he does not have a problem if a lot is one to five acres.

Brian Hodgers asked what the requirement of a building permit entails since the containers are placed on lots and not built. Ms. Ragain replied they will be required to be anchored, and the Building Department will look at the materials. She noted that pre-manufactured sheds also need a building permit for anchoring and setbacks. Mr. Hodgers asked if the Building Department has the right to deny the permit. Ms. Ragain replied yes, if the requirements are not met. She further explained if there was a screening or aesthetic requirement, the zoning division will review those permits. Mr. Hodgers asked if that process is detailed in the ordinance, because his understanding is if someone has one acre or less you can put one container that could be a monstrosity that shouldn't be allowed. He asked if zoning can deny something like that. Ms. Ragain stated zoning looks at every permit and compares it to the zoning code to make sure it meets the zoning requirements. Typically, there are not aesthetic requirements, and similar to houses, zoning cannot review those kinds of things; zoning reviews size and placement.

Peter Filiberto suggested that if a lot is under one acre, the container should be 20 feet instead of 40 feet.

Bruce Moia asked staff if the board can recommend limiting the size. Ms. Ragain replied yes. Mr. Moia asked if the widths and depths are standard, or if they vary. Ms. Ragain stated they vary, but

typically they are 8 feet in width and depth, and the lengths vary from 16 feet to 40 feet. Mr. Moia stated it might be better to limit the size by square-foot instead of dimension. He said if a shed can be 600 square feet or 50% the living area of a house, so as long as you had more than a 1,200 square-foot house you could have a pretty big shed, which would be bigger than one of these containers. He asked if there is a limit as to how many accessory structures can be on a lot. Mr. Ritchie replied one accessory structure is allowed for the first 7,500 square feet of lot space, and one for each 12,000 feet thereafter, which would allow up to four buildings on a lot.

Mr. Bartcher screening could be something the board could use as opposed to requiring them to be painted a nice color. Mr. Theodore stated if they want a screening requirement, it has to be in the ordinance; otherwise, it's not going to happen. Ms. Ragain stated that's correct; if it's not in the code, it would not be required as part of the permit review.

Motion by Peter Filiberto to approve the ordinance, limiting the shipping containers to 20 feet if the applicant is under a single acre, and also making them aesthetically compliant to the surrounding area.

Mr. Moia suggested they be compliant only to the principal structure. Mr. Bartcher asked if that is something staff can enforce. Ms. Ragain replied it would be subjective.

Dane Theodore seconded for discussion.

Mr. Bartcher asked if the board could stipulate a landscape buffer, or vegetative buffer. He said he likes the idea of having a vegetative buffer because it would look better and fit in with the neighborhood, and something that over time would eventually hide them.

Ben Glover asked how the board feels about not allowing the containers on less than one acre. Mr. Filiberto stated that's why he suggested the 20-foot rule, because a 20-foot container is not as intrusive as a 40-foot container.

Mr. Glover stated he agrees with that, but if someone wants a shed, they should build a shed. He said these are commercial tools being placed on residential property for neighbors to see, and he doesn't agree with allowing them on lots under an acre.

Bruce Moia called for a vote on the motion as stated, and it failed unanimously.

Motion by Dane Theodore, seconded by Ben Glover, to approve the ordinance with the following conditions: a.) the use of only one single-unit shipping container per residential lots of less than one acre; b.) building permits are required; c.) no other use is allowed within the container other than storage; d.) no exterior labels or wording on the container; e.) no stacking of shipping containers; f.) a shipping container approved under this section will not be deemed a temporary use allowed under Section 62-2117.5; g.) shipping containers shall be located behind the principal structure and shielded from view by fencing, screening, or landscaping, on lots less than five acres; h.) shipping containers shall not be allowed on lots less than one acre. The motion passed 6:1, with Bruce Moia voting nay.

Barbara J. and Joseph J. Tulske, Jr.

An amendment to an existing BDP (Binding Development Plan), in a BU-2 (Retail, Warehousing, and Wholesale Commercial) zoning classification. The property is 1.55 acres, located on the southeast

corner of Tangerine Avenue and North Tropical Trail. (140 North Tropical Trail, Merritt Island)
(18PZ00159) (District 2)

Motion by Ron McLellan, seconded by Ben Glover, to table the request to the August 5, 2019, Planning and Zoning Board meeting, as the applicants failed to appear. The motion passed unanimously.

Adjournment:

Upon consensus of the board, the meeting adjourned at 4:34 p.m.