



Village of Biscayne Park

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Planning & Zoning Board

Peter "Gage" Hartung
Chair

Andrew Olis
Vice-Chair

Elizabeth Hornbuckle
Board Member

Doug Tannehill
Board Member

Carl Bickel
Board Member

Mario Rumiano
Alternate Board Member

Jeanie Bridges
Building Clerk

MINUTES

PLANNING & ZONING BOARD MEETING

Ed Burke Recreation Center

11400 NE 9th Court – Biscayne Park, FL

Monday January 7th, 2013 6:30 p.m.

1. **CALL TO ORDER:** Meeting was called to order at 6:35 p.m.

2. **ROLL CALL:** Peter Hartung-Chair-present
Andrew Olis- Vice-Chair-present
Elizabeth Hornbuckle- Board Member- present
Doug Tannehill- Board Member- present
Carl Bickel-Board Member- present
Mario Rumiano-Alternate Board Member- not present

Also in attendance, Jeanie Bridges, Building Clerk, Eve Boutsis, Village Attorney, Alex David, Bell David Planners and Maria Camara, Village Clerk

3. APPROVAL OF MINUTES:

Minutes approved from the December 17,2012 meeting. Motion by A. Olis seconded by E. Hornbuckle. Approved 5-0

4. APPROVAL OF PAINT PERMITS:

- A. Berjeron-625 NE 114TH St-motion by A.Olis seconded by D.Tannehill app 5-0
- B. Francois-11623 NE 11th PI- motion by C.Bickel seconded by D.Tannehill app 5-0
- C. Tevini-11600 NE 9th Ave-motion by D.Tannehill seconded by E.Hornbuckle app 5-0
- D. Perez- (walk-in)-11920 NE 11TH PI-motion by D.Tannehill Seconded by A.Olis app 5-0

5. BUILDING PERMITS:

- A. Sampedro-1045 NE 120TH St- impact door- motion by A.Olis seconded by C.Bickel app 5-0
- B. McNulty-720 NE 121 St-impact window- motion by A.Olis seconded by C. Bickel app 5-0
- C. Pettis-885 NE 113th St-tile /flat roof-motion by D.Tannehill seconded by A.Olis app 5-0
- D. Blanco-10910 Griffing Blvd-(walk-in)-deck- motion by D.Tannehill seconded by A.Olis app 5-0
- E. Forsythe-11328 NE 7TH Ave-tile roof-(walk-in)-motion by E.Hornbuckle seconded by D.Tannehill app 5-0

6. OLD BUSINESS:

- A. Nalepa-775 NE 113th St- Canvas Carport-motion by A.Olis seconded by D.Tannehill- app 5-0

7. NEW BUSINESS:

A. ORDINANCE NO.2012-10

AN ORDINANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FLORIDA, RELATING TO THE LAND DEVELOPMENT CODE, AMENDING CHAPTER 3, RELATING TO PERMITTED USES TO ALLOW PRE-SCHOOL USE IN THE "A" ZONING DISTRICT ON PROPERTIES WITH PUBLIC FACILITIES WITHIN THE "D" DISTRICT, EXCLUSIVE OF ANY SCHOOL USE ; PROVIDING FOR CONFLICT; PROVIDING FOR SEVERABILITY; PROVIDING FOR INCLUSION; PROVIDING FOR AN EFFECTIVE DATE.

Attorney Boutsis read the title of the ordinance.

Attorney Boutsis swore in applicants and anyone who would be speaking on the item.

Attorney Boutsis requested disclosure from each board member on any discussions on this item:

- Gage Hartung: Spoke with resident Tracy Truppman, but this discussion will not affect his vote.
- Andrew Olis: Did not speak to anyone.
- Carl Bickel: Did not speak to anyone.
- Doug Tannehill: Did not speak to anyone.
- Elizabeth Hornbuckle: Did not speak to anyone.

Ms. Hornbuckle: On the request for recusal submitted by the applicant's attorney, at the last meeting did not recognize Ms. Busta. Based on the request, can and will remain impartial.

Attorney Boutsis provided background and the Planning & Zoning Board's duty regarding this matter as detailed in the agenda memo.

Mr. David provided additional background on Comprehensive Plan that was amended several years ago to allow educational use within the Village. The request being made today is consistent with state statute. Provided explanation on the two zones in the one property folio owned by the Church.

Mr. Hartung: Did Bell David add the educational use amendment to the Comp Plan.

Mr. David: It was a directive by the Village administration at that time and as was required by state statute.

Mr. Hartung: Confirms that we are voting again on what was already voted on in September.

Attorney Boutsis: That is correct, but because of the correction to the zoning map that was originally provided, it is considered a material change that needed to be brought before you again.

Mr. Hartung: Why is public facility being added?

Attorney Boutsis: This is a clarification of the municipal buildings within the Village.

Mr. Hartung: What happens to the caretaker's home on the property?

Attorney Boutsis: It is not a part of the application. Remains the same.

Michael Compo (applicant's attorney): The church needs money. Rev. Cutie wants to work with the Village and this proposal is being presented with Ms. Sandi Busta (applicant). This is a very small proposal, a pre-school. It is a good idea because:

- Ms. Busta was the director of the Presbyterian pre-school for 19 years.
- Knows Ms. Busta personally.
- Ms. Busta built that pre-school at the Presbyterian Church and made it what it is today.
- Has a proven track record.
- Coming in to this project with her own money.
- Willing to commit to a 20 year lease.
- Church is willing to listen to the community and will work on all issues in the development agreement in order to have everyone on the same page.

What is the alternative since the church needs money. If Village says no, the alternative is a charter school. There are broad regulations on a charter school. We don't want that. We want to work with the community and provide a small pre-school. It would not be inconsistent with state law. This is the best option. Wants to stress this applicant's flexibility.

Sandi Busta (applicant):

- Ran the Miami Shores Presbyterian School for 19 years. Teacher for 10 years. Started with 75 students as a preschool, then parents begged for more and it grew there.
- Here, space won't allow it and is okay with that.
- Wants to start small at 25 kids. There are a lot of families with small kids and a definite need. Why do they have to go outside their community?
- Making a large commitment – fire alarms, room renovations, furnishings. The playground alone would be \$75,000. It will be first class. Parents deserve the best. Will easily put in \$100,000 or more. Believes in this project. Loves the space. Wants to be here.
- In regards to traffic, in the case of pre-school, not all kids show up at 8:00am. There won't be 50 cars all at one time. It will happen over the course of 7:00am to 9:30am. Same for pick-ups. It will be staggered.
- Schools in the area start at different times.
- Would start the pre-school at 9:00am.

Mr. Hartung: What is the initial number of kids to start off with?

Ms. Busta: Based on size, 100 kids are allowed using the first floor classrooms. DCF has to first come in and assess it.

Mr. Hartung: On text amendment, asking for a daycare.

Attorney Boutsis: On original version, it had "daycare/preschool". Based on recent representations, it is "daycare" and "preschool" has been stricken. Site plans and traffic studies are done during the development agreement.

Mr. Compo: There is confusion on the verbiage. Prefers to call it a preschool.

Mr. Hartung: What is your definition of preschool?

Ms. Busta: A daycare is open year round. Preschool is not, there are breaks. A daycare does not teach and we will. Infant to 5 years old. There is a great need for infant care.

Ms. Hornbuckle: Text amendment is for preschool/daycare. If we vote yes, it cannot go to a higher grade, higher than age five?

Mr. Hartung: This is a way of controlling it. Without it, legally they could come back and make us adhere to our comp plan.

Attorney Boutsis: Your actions should be consistent with your comp plan.

Mr. Tannehill: Do you have a break-even point in your business plan?

Ms. Busta: Look to get at least 50 to sustain the program.

Mr. Hartung: Have you done a survey to find if there is a need?

Ms. Busta: No, it is only based on conversation and talking to parents in the area.

Mr. Olis: Is there a first choice for Biscayne Park residents?

Ms. Busta: Yes, would absolutely do that.

Mr. Bickel: Should you establish this entity, what resources do you expect from the Village?

Ms. Busta: None.

Mr. Hartung: This is all part of the development agreement. If this goes through, there would be business taxes.

Public Comments:

Chuck Ross: How was the Comp Plan and the EAR (update of the Comp Plan) developed? There was no provision for schools. Then in 2008, we have to include schools. If not, the State would kick it back.

Attorney Boutsis: It is in the FLUE. This is what makes it go to a text amendment. FLUE (Future Land Use Element) is what you want the Village to look like in the future. Every seven years it is updated through the EAR (Evaluation and Appraisal Report). Zoning is supposed to catch up with FLUE. This is what is happening through this application.

Mr. David: The exemption granted by the school board does not apply because we did not meet the criteria. The Interlocal is coordinated with the school board. Have no recollection from the last meeting in 2008 that the intent was to broaden the scope.

Tracy Truppmann:

- Asks Ms. Busta if there are co-applicants, the Church and Gory Holdings. Ms. Busta: Yes

< Ms. Truppmann read comments from her memo included here on the following page.>

Regarding the Proposed Ordinance

1. Under the above FS 166.041 this meeting has not been properly advertised. Daily Business Review is not a newspaper of general circulation. There is case law on this point. Any action taken by the P & Z board is not legal and null and void. There has been no proper notice to the community. ~~Furthermore, I do not know if this meeting is being properly recorded.~~
2. Even if the Ordinance had been properly advertised as coming before the P & Z Board, this ordinance is vague and ambiguous and does not inform the action to be taken.
3. The ordinance is titled: "AN ORDANCE OF THE VILLAGE COMMISSION OF THE VILLAGE OF BISCAYNE PARK, FL." Where does the P & Z have the authority to pass an ordinance as the Village Commission? If the board is providing only recommendations, why is it being advertised as an ordinance? If it is a recommendation of the Planning & Zoning (P&Z) board to the commission then it should be advertised as such.
4. Is the ordinance being written to allow for it a Daycare, preschool, Voluntary Pre-K, or school? Which one of these? How many students will the change to the zoning ordinance allow? The ordinance is vague and we do not know what P&Z and/or Commission are acting on? What is the text amendment ordinance going to specifically allow in conjunction with Florida Statutes that govern the type of school/daycare and whether it is private or public.
5. Supposedly the ordinance is a text amendment ordinance by the applicant, according to Ms. Butsis. Nowhere in the title of the agenda item is the applicant named and/or referenced.
6. This process violates the intent of the Charter.

Regarding the Applicant

1. The applicant has not properly incorporated as a private school corporation as per FS Chapter 623.
2. The traffic study submitted by the applicant does not include the streets involved and is defective.
3. The application is incomplete and vague.

I believe that these points are sufficient enough to not to recommend the proposed text amendment ordinance. We have always been a 100% residential neighborhood for the past 80 years and several residents expressed in the last meeting, changing our charter and the land development code will have very serious and extensive fiscal, traffic, and ramifications that will primarily negatively impact the general welfare of the village while not serving the vast majority of our residents. Changing the zoning as written would permit multiple uses in the future that the board may not have intended but the text amendment ordinance will permit per Florida Statute.

Tracy Truppman (continued):

- Asked Ms. Busta if this program would include VPK (Voluntary Pre-Kindergarten). Ms. Busta: No.

Father Alberto Cutie: Hears that the Village of Biscayne Park is 100% residential. The Village began in 1933 and the Church was built in 1947. We have been here for 65+ years. How was the church zoned before to run a school in the fifties, sixties and seventies? Why are we not different than a home. Where do we stand?

Attorney Boutsis: Sometime in 2000, all street files for each Village property was disposed of by a former Village Clerk. There is provision in our code that if you stop using the use, you lose it after six months. This is why we are here today with this text amendment.

Fred Jonas: In regards to traffic: what is on the other side of the bridge is a misery at certain times and I look for different routes. On Griffing north and 113th Street west and 6th Avenue south, it is also thick, especially on Griffing north. You go through many light cycles. Would be unfair to say traffic pattern could handle the increase. Fr. Cutie has identified crux of this issue. Where many will say that Biscayne Park is 100% residential, we are not. We have municipal buildings and a church. The church used to have schools. Fr. Cutie said without a school, there is no church. Currently it does not serve the community. Church is having to re-invent themselves by adding a school. If we want 100% residential, we have to confront the church and challenge their interests.

Barbara Kuhl: Have read the proposal/application. It said school would provide services from 6 weeks old to fifth grade. *<Mr. Compo confirmed it is a pre-school up to 5 years old.>* The need today is for working parents. We will have to deal with traffic issues. It is a Christian based curriculum. The Charter School applicant before was not. One thing that she finds amazing that there is no one here at this meeting that wants the school. I don't see the other side of the story. Our Village will be compromised by what the State is requiring. Governors change, legislatures change. Maybe in two years it will change. If there are people that want this, where are they?

Mr. Compo: They are at home with their kids. Not easy to get a babysitter on a week day. There have been people in attendance on Saturday mornings. This is when there would be more supporters.

Tracy Truppman: The term 100% residential means there are no businesses. Big difference when adding a small business. In regards to parents, you need to look at all the schools around us. There is no business plan and you are asking to vote on something that keeps changing.

Karen Cohen: Happy when Fr. Cutie came to our Village. Church is beautiful and is looking good. However, I urge you not to approve this project:

- There is no going back if you make this change.
- Hearing we want to cooperate, but don't see the written parameters. Hearing too many numbers and it is vague.
- A lot more information is necessary before residents can go along with it.
- If there is a need for a school and we need to deal with it.
- Ms. Busta said she does not know the need and neither do we. We need to know this first.
- Do background work first before making this change.
- Traffic concerns throughout the Village and many are speeding through. This has not been addressed.

Urge to reject at this time. Have Church first work with us to see what else can be done.

Father Cutie: Church has gone to the Village and spoken with Manager, staff and commission. The Church dropped the Charter School option, yet the Charter School is still interested. If this does not go through, something else will happen like a mega-church. We love having this small church here. Have no guarantee of what it could be.

Milton Hunter:

- Involved with previous Church administration due to problems in the past and where he lives.
- Today is the first time I have heard of a limit on the number of kids.
- Has heard there is not a need, but sees more young families moving in.
- There is a fear because of what Mater Academy proposed.
- Have gotten along for 80 years without a school.
- But if it can be clearly written with requirements, it would be better.
- Currently there is conflict due to vagueness.
- Future demographics can support it.

Board Comments:

Ms. Hornbuckle: Need to make this work for the community. Feels that schools and churches add to a community. As a parent, would like to be able to walk my child to school. Does not feel we have a choice.

Mr. Tannehill: Sees there are three options: 1. Say no.; 2. Say yes with specific criteria.; 3. Just open the door. This is the first step and next is the development agreement. Put in a control and limit the age. Provide the criteria from the community. When first moved in in the eighties, mostly older citizens, but now sees younger families. Even though they are not here tonight, still see a need.

Mr. Bickel: Biggest concern is the use of Village funds to help a religious institution. Presentation today added nostalgia of Miami Shores Presbyterian School and how it grew. Concerned that at last meeting the applicant would not use second floor, but may want to in the future?

Mr. Olis: Where are the "likes"? If there is a need, someone would be here. When you want something, you work for it. But there is no one here. Some of the language sounds like it could be controlled. Would not be as big, but future would be scarier.

Mr. Hartung: Understands the church's position. Understands that through the EAR process we are bound to allow. Based on that we need to limit it and control it and nurture it. If we change to a preschool only, and then they want to add grades, they would have to come back before the board for approval. Board is providing a recommendation, not passing an ordinance. We could modify language to state preschool.

Mr. Tannehill: If it goes forward, who does the agreement?

Attorney Boutsis: Goes first to Planning & Zoning Board, then the Board gives their recommendation to the Commission for their final authorization.

Mr. Hartung: Clarifies no school facility could go on the property where the caretaker's home is located which is zone B.

Motion by Doug Tannehill to make a recommendation to approve with a caveat to change daycare/school to pre-school up to age 5. It is seconded by Andrew Olis.

All in favor: Gage Hartung, Andrew Olis, Elizabeth Hornbuckle and Doug Tannehill.
Opposed: Carl Bickel
Motion carries: 4/1

Adjournment: motion to adjourn by A. Olis seconded by C. Bickel approved 5-0
Meeting adjourned at 8:25 p.m.

Minutes approved by: A. Olis

On this 22 day of Jan, 2013.