



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

Tuesday, September 18th, 2012 at 6:30 p.m.

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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- present

Also in attendance:

Jeanie Bridges, Building Clerk
Maria C. Camara, Village Clerk
Eve Boutsis, Village Attorney
Alex David, Bell David Planners

3. APPROVAL OF PAINT PERMITS:

- a. Rich Building- 12085 west Dixie Hwy. Motion by D. Tannehill seconded by E. Hornbuckle .
Approved 5-0

4. BUILDING PERMITS:

- a. Gasc-750 NE 120th St.- impact door. Motion by D. Tannehill seconded A. Olis. Approved 5-0
b. Skelton-(walk-in)-1003 NE 118th St - new door. Motion by A. Olis seconded by C. Bickel. Approved 5-0
c. Nevel- (walk-in)-643 NE 114th St - impact windows. Motion by A. Olis seconded by D. Tannehill. Approved 5-0

5. Old Business:

- a. Sfez-11816 NE 6th Ave.- new home construction. Permit request pulled by homeowner.
Will present at the October 1st P & Z meeting

6. New Business:

a. Ordinance 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 DAY CARE/SCHOOL USE IN THE "A" ZONING DISTRICT ON PROPERTIES WITH PUBLIC FACILITY FLUM DESIGNATION; AND TO ALLOW 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 and provided the background. An application was received by the Village from co-applicants, Sandi Busta and the Church of the Resurrection, to operate a pre-school in the vacant buildings on the Church property. This requires an amendment to the Village's Land Development Code as it relates to permitted uses.

The applicants had two choices to proceed with their request, to either a) submit proof that the Church had been permitted in the past by the Village to use the buildings for educational purpose, and that such use had not been discontinued for a period of six (6) months or more; or b) to submit a text amendment to our Code. Due to the inability for either the Church or the Village to provide any documents to prove the past use or any record of permitting, the applicants opted to proceed with the text amendment.

Attorney Boutsis explained that in the absence of having a provision in our code to process such applications, including an impact fee schedule, Attorney Boutsis proceeded with drafting the ordinance for consideration by the Board. After the Board's review, they are to provide a recommendation to the Village Commission. This is just the first step in the process. If approved, the next step would be to create a development agreement between the applicant and the Village where further specific requirements can be set by the Village. Attorney Boutsis also explained that if the Village recognizes the proposed use, the use must comply with the criteria found at 33-151, of the Miami Dade County Code. Under the Florida Constitution, Miami Dade County is provided Home Rule Authority, and as such, has developed minimum criteria relating to review of a day care or private school application for unincorporated and incorporated Miami Dade County.

The Chair opened the meeting for public comment:

Gary Kuhl: Confirms that comp plan provides for both a private school and public school. Confirms that someone could challenge our decision to say no and demand that we allow a school. If we allow, it needs to be clear if it is a nursery, day care, or up to age 10. Fear that if we allow for this, Mater can come back and take over and they do what they want and we have no control. What is the harm to keeping it as just a nursery school.

Mike Kopsik: Drop "school" from the wording of the ordinance and keep it just to a "day care". Traffic is a concern. Has a traffic study been done?

Tracy Truppmann: Our reserves are incredibly low. Attorney costs must be considered. It is not clear whether it is for a day care or for a school. What is the financial impact to the

Village. How many Village residents will be served? Asks who directed the attorney to draft the ordinance? Which commissioner is sponsoring this?

Judith Gersten: Longtime resident. Has many concerns. Most unusual for a board to review an ordinance. Board is usually restricted to reviewing applications and variances. Questions the authority of the Board. Commission is sole entity to vote on an ordinance. Cannot believe that the attorney was tasked to do this. Applicant should pay all attorney fees. Questions the number of children that was submitted in the application. Attorney is running the meeting, not the Board.

Dick Rogers: Confused as to who is the applicant. Wants to verify if they will need to pull a business license. Confirms that they cannot exceed the number of students based on square footage.

J J Gallo: Are we defining how much is being used for the school and how much for the Church. Are both uses being intertwined? Are all properties of the Village under the Village's millage rate. Can we limit the grades for the school.

Chuck Ross: Need to restrict as much as possible, to a day care only. In regards to cost, we don't have impact fees because we don't have businesses. Suggests we create a fee schedule and it can be part of the development agreement.

Chester Morris: Has been a member of the community for over 43 years and remembers that the Church only had a Sunday school. Concerned with cost, need for police, and liability to the Village. We are the deep pockets an attorney would go after if something were to happen. Concerned with 120 children and the ratio of cars would create a lot of cars. Would be disastrous in the morning. Concerned with traffic and cost. We cannot afford. Reserves are down quite a bit. We will definitely have increased costs.

Fred Jonas: Village is caught in a reverse catch 22. We were told to add some room for a school in our comp plan which the attorney explained was required by the state. Schools are important. People move to a neighborhood because of schools and some move to a place because there are no schools. Wrong for another city or for an entrepreneur to tell us we need a school. Resents this from the state and from the applicant. There are already a number of schools in the area. We do not have the characteristics of a neighborhood to have a school. Resents having the applicant use our attorney for this. The applicant should reimburse use for the attorney costs.

Barbara Kuhl: Assumed we would be given a scope of the day care and was surprised that the applicant's attorney only provided a personal testimonial. Did not hear much about the school itself. Once there, what would stop them from adding on to the Church. Once it starts, we are in a less advantageous position. In regards to the traffic study, we would have to show something to refute it. This will affect everybody. All we are being told is that it is in our comp plan and we have to follow it. Need to know facts about tax issues. Right now the information is insufficient.

Serge Gasc: Own children are too old for day care. School could be good. Traffic to the community is frightening. What happens if the Board says no. Perhaps we can delay. Afraid about the space size and number of students. Can we slow down the process. What are consequences.

Tracy Truppmann: Limited number of people attending tonight for such an important issue. Probably because most did not realize what was happening tonight. This process is not normal to the Village. Would have more people here against it if they knew. Father Cutie had previously stated it was never used for a school. We are considering a school and we are not even sure what the grade levels are. This impacts children all around us. Highly

inappropriate that this small group would make this decision. It looks to me that we are representing the applicant and not the Village.

Pam Stewart: Can it be written in the next phase of the process that residents of Biscayne Park get a special rate.

Mike Kopsik: Need to follow the money trail and the cost to the Village. Village is strapped. We don't have businesses. On the cost of the attorney, the applicant's attorney should have drafted the ordinance. All future applications should be done that way. Need to think of the money and we should be selfish.

Dr. Jeanne Bergeron: A school in the community would be lovely. On my block there are four empty houses. If we had a school it would attract people and those empty homes could be filled and they would be paying taxes to the Village. Will Biscayne Park residents get preference. A community school would be a benefit to our community.

Barbara Kuhl: One of the residents that moved out of the block mentioned before moved out because of the possibility of a charter school moving in so close. When someone looks to move in, they assess the neighborhood and they may not want to move in next to a school.

Mike Kopsik: As the applicant to change from a profit to a not for profit corporation. Even if they agree to a 20 year lease, teachers come and go.

Tracy Truppman: This is an open ended meeting. Not enough information right now to make a decision. Get a business plan and more details before making a decision.

The Chair closed public comment.

Member Bickel asks the attorney to state the question before the Board.

Attorney Boutsis: Whether or not to make a recommendation to allow the conditional use of either a day care or school within sub-district A, consistent with the comp plan.

Member Bickel calls for the question.

Member Tannehill states the three recommendations that the board can make: 1) To recommend as stated; 2) To recommend with a modification to the language; or 3) to not recommend.

Final comments from each board member:

Mario Rumiano: Little frustrated by being put in a position and cornering ourselves. We are faced with a choice that might not really be a choice. We are entrusted by our neighbors to uphold our code and remain as a residential neighborhood. I cannot move forward with this.

Doug Tannehill: We have been put in a box, but need to take this opportunity and define narrow terms for the school. It is our Village and we want to keep it that way. Leaning towards saying yes and to modify language to only have a day care and restrict them to only use a portion of the building. It would make it difficult to change over time. We will have a tenant that will hopefully be there for a long time and keep the quaintness of the Village. Couple of the issues are the financial plan, lease agreement and impact fees that this is costing us. All questions that the Commission needs to ask and address. We can define this thing so that it will still protect the quaintness of the park by restricting the use to a very narrow scope and with that move forward with it. Think about potential consequences that if we don't recommend with a modification. We run the risk of a charter school or blowing this into something else without or involvement and without our input. By moving forward and

with careful consideration for the Village, we eliminate that chance of someone coming back to the Church with a charter school proposal and we can't do anything about it. A known evil is better than an unknown evil. This is the first step, then it goes to commission, and then comes back to us for the development agreement.

Elizabeth Hornbuckle: Agrees with Mario that we are put in a tough position. My son goes to a school in Ft. Lauderdale as we were looking for something different. Great concern with traffic. No matter what you put there it will impact me on 117th street with cars racing down 6th and 10th. It will impact our police force. Would like more information. No matter what we put and restrict, it will still have an impact.

Carl Bickel: While I respect the entrepreneurship, you have told us your intentions are to grow this to a full blown elementary school. I don't want that. I would vote no on this question.

Andrew Olis: As a realtor, yes you want to see a school. But deep inside, I don't see this as a good fit. See issues with traffic, drop off and a lot of the things that Elizabeth touched on are also of concern. I feel her concern and the resident's concerns of opening up a Pandora's box. By opening this up, we have valid reasons to deny. I just don't see it as a good fit for that building. In this day and age everyone has their own car. It is not like it was in the fifties when they walked to school. Now nobody walks. Every single parent will drive to school. A lot of traffic.

Gage Hartung: It is a shame because it is a space that the Church wants to use. A small day care would be a nice fit for that building. But have some concerns as everyone else does. The size scope, how it is run, where you enter. If we limit it to where we are in control of what goes there, is where I would be more acceptable to it. With a 20 year lease we know what they are about. There is an opportunity to go forward and to control it. Who knows what's next if we deny it. Church wants to put someone in that building and make some revenue.

Discussion continued for the possibility of delaying the discussion to the next meeting of P&Z to get more information. The Chair then asked for a motion.

Carl Bickel makes a motion to deny. It is seconded by Andrew Olis.

By a show of hands:

All in favor: Bickel, Olis and Hornbuckle.

All opposed: Hartung and Tannehill

Motion carries: 3/2

7. Minutes approved from the September 4th meeting- motion by E. Hornbuckle seconded by D. Tannehill approved 5-0

Adjournment: Motion to adjourn by Carl Bickel seconded by Andrew Olis

Meeting was adjourned at 9:10pm.

Minutes approved by:  on this 1 day of OCTOBER, 2012.