

City of Wauchula
Planning & Zoning Board Minutes
02/15/2010

The Wauchula Planning & Zoning Board met Monday, February 15, 2010 with the following members present: Patricia Detwiler, Peter Preston, Jan Knight and Ray Graham. Also present were Attorney Jane Hancock, Community Development Director Olivia Minshew and Secretary Susie Gibbs. Janelle Knight had tendered her resignation to become effective as of April 1, 2010.

Chairman Peter Preston called the meeting to order. Knight made the motion, seconded by Detwiler to approve the minutes of the November 2009 meeting. Gibbs polled the Board. All were in favor. Motion carried.

Minshew explained that we have a Special Exception request to allow alcohol on the premises in conjunction with rentals from Israel & Tomasita Cortez for their property located at 240 Stenstrom Road. Bertha Almaguer was present as agent for the Cortez's. Minshew stated that Ms. Almaguer acts as the property manager and rents the space out for the Cortez's because they live in Texas. Minshew explained that the property is zoned as a C-2 and was originally built as a skating rink which no longer operates, so Ms. Almaguer rents the space out for wedding receptions, birthday parties, dances, etc. Some of the renters had been allowed to bring in beer and/or alcohol; which is not permitted.

After reading the police reports that were provided to the Board, Preston stated that there were many reports stating that they had been told that the event would be shut down if the noise complaints were not stopped. He asked when they were aware that alcohol was not allowed. Ms. Almaguer stated that it was in December. Minshew stated that it had been brought to her attention, by another citizen, that alcohol was being consumed there and wanted to know if they had a license for alcohol. She stated that the fact that they are renting the building is not the issue, but the consumption of alcohol on the premises. Under our code, a drinking establishment has to have a Special Exception by this Board. This is a little different from the normal Special Exception requests for a bar, etc. because there will not be drinking there every day, but keep in mind that the Board can put certain stipulations on them also. Minshew stated that she had talked with the ADT (Alcohol, Drugs and Tobacco) and explained the situation to them about drinking on the premises and the lady told her, oh no, that is not allowed. Minshew asked what needed to be done for alcohol to be allowed at the functions. She was told that a caterer could be hired, but that the caterer would have to have a license, because a state license is needed by all businesses that serve alcohol. Hancock explained that that is a state law whether the Board makes stipulations or not. When asked if she served food, Ms. Almaguer stated that she only rented out the building and any food being served was up to the renter. Minshew explained that Almaguer just rents out the building and gives them a key. Minshew asked the Board to keep in mind that even if you didn't have alcohol, the majority of the Police Department complaint reports were about noise. Preston asked Almaguer to give a summary for the Board. Almaguer stated that all events did not have alcohol, but when the event did have alcohol she always had three off-duty officers there from 9:00 p.m. to 1:00 a.m.

Preston turned the floor over to anyone in the audience who wanted to speak. Grace Emmerton, Scott Emmerton and Evelyn White, all of which live in the adjoining Downing Circle Mobile Home Subdivision, stated their complaints about the noise vibrating and rattling the windows in their homes and having the noise going on until early morning hours. Preston told Almaguer that he was confused because she had stated that she had three officers there from 9:00 p.m. to 1:00 a.m. She replied to Preston that she only hired officers when there was alcohol involved. Detwiler asked Almaguer what management was on the premises during the event and she replied that she was there from about 7:00 or 8:00 p.m. until the function was finished. Mrs. White stated that one night there were people in the orange grove mixing alcohol and orange juice and had thrown an orange that came through her window and almost hit her in the face, she has seen people dancing on Stenstrom Road and she

wondered where the security was when these situations were going on. Sammie Long, 615 Stenstrom Road, stated that she owns land to the west of the Cortez's property and across the road. She was representing herself and the Stenstrom Senior Village Association who are going to build a senior retirement village there. She stated that they have been working about three and a half years on this project and that they are in the process of closing which is set for March 31, 2010. When she had talked to the developer, Judd K. Roth, he had stated that this is the last thing they want next door because they feel that it will have a negative impact on the quality of life for the residents. She presented the Board with a letter from Mr. Roth stating his concerns. She stated that she lives at the corner of Stenstrom Road and Florida Avenue and can hear the music that far down the road, which sounds just like a boom box. She stated that she had stopped calling the Police Department because it didn't make any difference when she called and complained. She stated that she also owns more property, just north of the senior village that she plans on selling, but she would hate to think that she wouldn't be able to sell it because of the noise and alcohol. Any time you have alcohol, you have noise. She stated that she would appreciate the Board not considering this Special Exception. Graham asked the attorney about the noise ordinance stating that you are not to transmit noise past 200' from its source. He wanted to know why couldn't they stress the enforcement of this law. Attorney Hancock stated that there is a noise ordinance and that would be a question for Chief Beattie. Preston stated that he wanted to start with that very issue. It sounds to me like what I am hearing from the community and what I am seeing are 18 complaints that doesn't really have anything to do with the Planning and Zoning Board, but the Police Department. This seems like a total breakdown of the noise ordinance and that we are not getting proper enforcement. I will read a complaint report and I quote from Officer Eason on 12/13/08, "I advised management that if there were another complaint the business would be closed". Well, there are 10 more complaints of noise past that. This is not really our job to enforce the noise ordinance; however, as I recall on another case, which involved a cantina next to a packinghouse, they had 12 separate complaints. The Board was told by the police that that's not too bad, that's actually pretty good. Wal-Mart is the place where we get most of our complaints. But for a place to get 18 complaints where alcohol is not even allowed... I wonder if one of the options is to deny the request at this time until we talk to an officer to find out why they are not able to keep the noise down. Gibbs stated that a customer with a business next to this property had also said, that after one event, there were also beer bottles thrown on his property. Detwiler asked what the occupancy capacity was on that building and Almaguer stated 900. Detwiler asked Almaguer if she thinks if there were a licensed caterer there, would it change anything and make a difference with the noise that the management can't control now. Almaguer stated that she didn't know if the complaints were from when she did not have the officers there. She stated that she goes out to the dumpster and you can hear the music very little and that she has been over the renting of the building for two years, so she didn't know when the complaints were. The reply was that they had been in the last year and a half and before that. There was discussion about selling alcohol or not if they had a caterer. Hancock stated that she had a couple of questions. Talking to Almaguer, Hancock asked, apparently there was a misunderstanding about the permission to use alcohol, people have been bringing in alcohol all along, correct? Almaguer stated yes, but I did not know that it was not allowed until December. But not all of the parties had alcohol, but the majority had. Hancock asked Almaguer was she asking for the Special Exception to keep things done in the past the same, but to do it now in the right way. Almaguer replied, yes. So you are not looking for things to change but trying to maintain a status quo to maintain things the way they have always been. Right. Minshew stated that the ADT had two kinds of licenses, one for a Caterer and one for a Bottle Club. She asked if this would be a Bottle Club and the lady said no, that a Bottle Club was just that, you bring in a bottle and are sold a cup and mixer, but that would be an argument for Almaguer to take up with the State. The state's definition of a Bottle Club is pretty generic, it says, "A premise that is commercial in nature for profit or not where you don't sell the alcohol but it is consumed there". Regardless, there will always be a license involved. Graham stated that he would like to make a motion on this, but first he would like to say that he is an advocate for the people and he can understand how these people feel because of incidents that happen every night on his street. After further discussion, especially since the property adjoins a residential area and already having the number of complaints there have been, Graham made the motion, seconded by Detwiler to deny the request for a Special Exception to allow

alcohol whether licensed or not. Gibbs polled the Board. Graham, Detwiler and Preston voted yes for the denial. Knight abstained from voting. The motion carried.

Graham made a motion, seconded by Detwiler that Peter Preston be re-appointed as Chairman. Gibbs polled the Board. All were in favor. Motion carried.

Peter made the motion, seconded by Knight that Patricia Detwiler be appointed as Vice-Chairman. Gibbs polled the Board. All were in favor. Motion carried.

Minsheiw told the Board that the agenda, minutes and all requests are going to be on the laptops starting at their next meeting. She also stated that to save paper, instead of Gibbs delivering binders, all of information usually in the binders would be sent by e-mail.

Being no further business, the meeting was adjourned.

Susie Gibbs, P & Z Secretary