

**TOWN OF JUPITER  
PLANNING AND ZONING COMMISSION MINUTES  
REGULAR MEETING  
July 12, 2022**

Chair Grooms called the meeting to order at 7:00 p.m.

**ATTENDANCE:** Chair Teri Grooms, Vice Chair MB Hague, Commissioners Frank Fore, Ashlyn Held, Kevin Kirn, Ankur Patel, and Richard Dunning (2<sup>nd</sup> Alternate); Stephanie Thoburn, Assistant Planning & Zoning Director; Garret Watson, Principal Planner; Thatcher Hart, Planner; Thomas Baird, Town Attorney; Valerie Hampe, Secretary; Josie Nicolas, Secretary.

**MINUTES:** Regular Planning and Zoning Commission meeting, May 10, 2022.

Vice Chair Hague moved to approve the minutes; seconded by Comm. Patel. The motion carried unanimously by consensus (7-0 vote).

**CITIZEN COMMENTS:** None.

**REGULAR AGENDA:**

A. **OLD BUSINESS:** None.

B. **NEW BUSINESS:**

1. **2695 Lamarville Drive** – Variance request to Section 27-1104(c)(3)(b)(2)(ii) to decrease the side corner setback from 20 feet to 17.5 feet for an emergency standby generator located on the north side of the property, located in Windsor Park. (PZ# 5187)

***(Acting as the Zoning Board of Adjustment)***

Vice Chair Hague recused herself from voting. She submitted Form 8B (attached), a Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers, and explained why she was recusing herself and left the meeting at 7:03.

Mr. Baird, the Town attorney, explained the variance procedure to the Commission. He said they must consider the evidence presented based on the variance criteria in the code and then either approve or deny the application.

Mr. Baird conducted the swearing in of the witnesses. Chair Grooms, asked the Board to disclose any ex-parte communications.

Comms. Kirn, Held, and Patel spoke to staff about the submission. Comm. Dunning and Comm. Held used Google maps to look at the property. Comm. Patel and Comm. Dunning drove to the property. Chair Grooms and Comm. Fore had nothing to disclose.

**2695 Lamarville Drive – cont'd:**

Brian Terry from Insite Studio, introduced himself to the Board representing the Hayes family at 2695 Lamarville Drive. He mentioned that the Hayes family could not be present this evening due to a family emergency. Mr. Terry gave a PowerPoint presentation to explain the variance criteria.

Mr. Terry mentioned that the neighbors to the east and south supported the variance, and the Homeowners' Association provided a conditional approval as part of a settlement agreement between the Association and the homeowner. He requested a 2.5' setback reduction from 20' to 17.5'. He stated the dimension of the generator, the installation guidelines, and noted that the propane tank is already buried underground. He noted that a utility easement exists and runs down the east side of the property and how that limits utilization of the lot.

Mr. Terry referenced letters from the neighbors and their concern and pointed out that staff's suggested location on the southwest corner in the front yard is close to one of the neighbors. He mentioned the concern of having the generator close to the pool and how it could reduce access around the pool deck.

Mr. Terry stated the two code-compliant locations suggested by staff will create concerns from the adjacent neighbors: creating friction between the neighbors and a potential safety hazard within the pool area. He mentioned that if the variance is granted, the family proposed to screen the equipment.

Thatcher Hart, Planner, stated that staff recommended denial of the variance due to the applicant not meeting five of the seven variance criteria. Mr. Hart noted the amendment to the staff report clarifying that the Homeowners' Association did not support the variance request. He said that it is understood that the settlement agreement which was provided contains two conditions for approval: (1) that they properly shade or cover the generator from public view; and (2) the owner must receive a Town of Jupiter permit for the generator.

Mr. Hart explained the reasons the applicant did not meet each of the variance criteria. Further, it was explained that the applicant is requesting the variance based the Florida Building code and the utility easement that is on the east side of the property. However, these two issues are not unique circumstances to this particular property, and other property owners in this neighborhood have to respect the same utility easement and comply with the Florida Building Code.

Mr. Hart mentioned that staff has identified two other locations where the generator can be installed without a variance. He specifically mentioned criteria four not being met since this is based on the minimum variance needed to reasonably use the land. When reviewing the application, staff considered the property to have reasonable use since a single-family home exists on the lot. Any additional uses such as a pool, patio, or generator may be added if they fit within the setbacks of the lot.

**2695 Lamarville Drive – cont'd:**

Mr. Hart said that if the Board determines that the applicant has satisfied all seven criteria, staff recommended a condition of approval that the property owner shall maintain the landscaping and fence the mechanical equipment to shield the generator from the street.

Mr. Baird explained to the Board that the Homeowners' Association settlement is not relevant to the Board's evaluation of the variance application.

Comm. Held asked if the area next to the propane tank is large enough to accommodate the generator and if it complies with safety exhaust standards. Mr. Terry stated he does not know if there are separation criteria or a requirement between the generator and the propane tank. Mr. Terry stated that he did not feel that the proposed location in the west corner of the lot was the best location given it was in the front of the property and next to a neighbor that had concerns.

Comm. Patel asked Mr. Terry if the pool came with the house or if it was built later. Mr. Terry said he didn't know. Mr. Hart stated that the house was built in 2012 and the pool was built in 2013. Comm. Patel asked when was the propane tank installed and Mr. Terry replied that it was installed in 2019 for the generator.

Comm. Patel asked if the propane tank was approved through the proper channels. Mr. Terry said he believed that was the case. Comm. Patel asked about the differences in the clearance requirements between the proposed location to the north and the proposed location next to the pool. Mr. Terry said that the wall near the pool is not wide enough to accommodate the generator in the North South Direction and the generator would need to be oriented in the East West direction to meet required setbacks from the building for exhaust purposes and to provide adequate access

Comm. Patel asked if they could get a different style generator. Mr. Terry said the generator was already purchased and is in the garage.

Comm. Patel asked if the applicant has already purchased the generator without knowing where the generator will be placed. Mr. Terry stated that they intended for the generator to be in the proposed location under the assumption it was allowed.

Comm. Fore said the area near the pool would be an adequate location and give easy access for maintenance.

Comm. Fore asked staff why no reductions were included in amending code for the front and side property lines when considering mechanical equipment. Mr. Hart stated that the intention was to incentivize property owners to place mechanical equipment in the rear and interior sides of the property to keep it hidden from public view.

Mr. Baird stated it is not the Board's responsibility to design the area for the generator, but to apply the criteria to the facts that were presented to reach a conclusion.

**2695 Lamarville Drive – cont’d:**

Comm. Patel mentioned that the generator can be changed to fit the potential location and the criteria for a variance are not being met. Comm. Dunning commented that the two other plausible locations for the generator should be considered in the absence of the variance. Comm. Fore said a variance is a last resort, and this application is not at that point.

Comm. Patel moved to deny the application, based on staff’s review of the variance criteria. Comm. Fore seconded the motion.

The motion carried by consensus (6-0 vote).

**ANNOUNCEMENT:**

Ms. Thoburn made an announcement regarding the Planning Officials Training Workshop that will be held at the Town Community Center on August 4<sup>th</sup>. She mentioned that the Town of Jupiter will pay for admission and provide lunch. She recommended that all the Planning and Zoning Commissioners attend the training since it is local.

**ADJOURN:**

Chair Grooms adjourned the meeting at 7:49 p.m.

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**Josie Nicolas, Secretary**

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**TERI GROOMS, CHAIR**

# FORM 8B MEMORANDUM OF VOTING CONFLICT FOR COUNTY, MUNICIPAL, AND OTHER LOCAL PUBLIC OFFICERS

LAST NAME—FIRST NAME—MIDDLE NAME <b>HAGUE, MB</b>	NAME OF BOARD, COUNCIL, COMMISSION, AUTHORITY, OR COMMITTEE <b>PLANNING &amp; ZONING</b>
MAILING ADDRESS <b>1353 BOURNE DR</b>	THE BOARD, COUNCIL, COMMISSION, AUTHORITY OR COMMITTEE ON WHICH I SERVE IS A UNIT OF: <input checked="" type="checkbox"/> CITY <input type="checkbox"/> COUNTY <input type="checkbox"/> OTHER LOCAL AGENCY
CITY      COUNTY <b>JUPITER,      PALM BEACH</b>	NAME OF POLITICAL SUBDIVISION: 
DATE ON WHICH VOTE OCCURRED <b>7/12/2022</b>	MY POSITION IS: <input type="checkbox"/> ELECTIVE <input checked="" type="checkbox"/> APPOINTIVE

## WHO MUST FILE FORM 8B

This form is for use by any person serving at the county, city, or other local level of government on an appointed or elected board, council, commission, authority, or committee. It applies to members of advisory and non-advisory bodies who are presented with a voting conflict of interest under Section 112.3143, Florida Statutes.

Your responsibilities under the law when faced with voting on a measure in which you have a conflict of interest will vary greatly depending on whether you hold an elective or appointive position. For this reason, please pay close attention to the instructions on this form before completing and filing the form.

## INSTRUCTIONS FOR COMPLIANCE WITH SECTION 112.3143, FLORIDA STATUTES

A person holding elective or appointive county, municipal, or other local public office **MUST ABSTAIN** from voting on a measure which would inure to his or her special private gain or loss. Each elected or appointed local officer also **MUST ABSTAIN** from knowingly voting on a measure which would inure to the special gain or loss of a principal (other than a government agency) by whom he or she is retained (including the parent, subsidiary, or sibling organization of a principal by which he or she is retained); to the special private gain or loss of a relative; or to the special private gain or loss of a business associate. Commissioners of community redevelopment agencies (CRAs) under Sec. 163.356 or 163.357, F.S., and officers of independent special tax districts elected on a one-acre, one-vote basis are not prohibited from voting in that capacity.

For purposes of this law, a "relative" includes only the officer's father, mother, son, daughter, husband, wife, brother, sister, father-in-law, mother-in-law, son-in-law, and daughter-in-law. A "business associate" means any person or entity engaged in or carrying on a business enterprise with the officer as a partner, joint venturer, coowner of property, or corporate shareholder (where the shares of the corporation are not listed on any national or regional stock exchange).

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### ELECTED OFFICERS:

In addition to abstaining from voting in the situations described above, you must disclose the conflict:

- **PRIOR TO THE VOTE BEING TAKEN** by publicly stating to the assembly the nature of your interest in the measure on which you are abstaining from voting; *and*
- **WITHIN 15 DAYS AFTER THE VOTE OCCURS** by completing and filing this form with the person responsible for recording the minutes of the meeting, who should incorporate the form in the minutes.

\* \* \* \* \*

### APPOINTED OFFICERS:

Although you must abstain from voting in the situations described above, you are not prohibited by Section 112.3143 from otherwise participating in these matters. However, you must disclose the nature of the conflict before making any attempt to influence the decision, whether orally or in writing and whether made by you or at your direction.

**IF YOU INTEND TO MAKE ANY ATTEMPT TO INFLUENCE THE DECISION PRIOR TO THE MEETING AT WHICH THE VOTE WILL BE TAKEN:**

- You must complete and file this form (before making any attempt to influence the decision) with the person responsible for recording the minutes of the meeting, who will incorporate the form in the minutes. (Continued on page 2)

**APPOINTED OFFICERS (continued)**

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

**DISCLOSURE OF LOCAL OFFICER'S INTEREST**

I, MB HAGUE, hereby disclose that on JULY 12, 20 22:

(a) A measure came or will come before my agency which (check one or more)

- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, \_\_\_\_\_;
- inured to the special gain or loss of my relative, \_\_\_\_\_;
- inured to the special gain or loss of \_\_\_\_\_, by whom I am retained; or
- inured to the special gain or loss of \_\_\_\_\_, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

The applicant requesting the variance is a resident of Windsor Park. I am the Vice President of the Windsor Park HOA & the liaison to the Architectural Control Committee. As disclosed on the documents provided to us, on behalf of our HOA, I was a party to enclosed settlement agreement reached with the applicant concerning the work done on his property without prior HOA ACC approval. I am electing to abstain from voting & from participating in discussion of the item

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

7/12/2022  
Date Filed

mbhague  
Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.