ORDINANCE NO. 04 - 2018

AN ORDINANCE OF THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA AMENDING THE FOLLOWING PROVISIONS OF APPENDIX A-ZONING CODE, ARTICLE I. GENERAL PROVISIONS AS FOLLOWS: AMENDING SECTION 1. DEFINITIONS AND RULES OF CONTRUCTION TO PROVIDE THAT THE BUILDING OFFICIAL RATHER THAN THE BUILDING COMMISSIONER SHALL DETERMINE GRADE ISSUES AND TO PROVIDE NEW DEFINITIONS OF "BASE BUILDING LINE" AND "PLANNING AND ZONING ADMINISTRATOR"; BY AMENDING SECTION 3. AUTHORITY. TO PROVIDE THAT THE PLANNING AND ZONING ADMINISTRATOR WILL PERFORM THE FUNCTIONS AND DUTIES FORMERLY PERFORMED BY THE BUILDING AND ZONING COMMISSIONER AND BY MODIFYING THE RESPONSIBILITIES OF THE BUILDING AND ZONING COMMITTEE; BY AMENDING SECTION 4. VARIANCES; APPLICATION PROCEDURE; NOTICE OF HEARING, SUBSECTIONS (C) AND (E), SECTION 10. RESTRICTIONS UPON LANDS, BUILDINGS AND STRUCTURES, SECTION 12. CONDITIONAL USES, SECTION 13. BUILDING HEIGHT REGULATIONS, SECTION 17 GENERAL PROVISIONS AND EXCEPTIONS AND SECTION 21. ADMINISTRATION TO FURTHER DEFINE FUNCTIONS AND DUTIES OF THE PLANNING AND ZONING ADMINISTRATOR; PROVIDING AUTHORITY TO CODIFY; PROVIDING A CONFLICTS CLAUSE, A SEVERABILITY CLAUSE AND AN EFFECTIVE DATE; AND FOR OTHER PURPOSES.

NOW, THEREFORE, BE IT ORDAINED BY THE TOWN COMMISSION OF THE TOWN OF JUPITER INLET COLONY, FLORIDA THAT:

SECTION 1. Appendix A-Zoning, Article I. General Provisions, Section 1. Definitions and Rules of Construction. is hereby amended as follows:

Grade. The finished surface of the ground (soil) based on NGVD datums of a lot. The grade will be approved by the building ~~commissioner~~ official on the basis of conformity with original plat topography, neighboring properties, and as required by state or federal laws.

Grade, finish. The average level of finished surface of the ground (soil) adjacent to the exterior walls of the structure based on NGVD datums. The finish grade height shall be approved by the building ~~commissioner~~ official on the basis of conformity with neighboring properties and as required by state or federal laws.

Base Building Line. A line horizontally offset from and running parallel to the centerline of a street from which property development regulations, including landscaping, parking and setbacks are measured as set forth in this Code.

Planning and Zoning Administrator. The Town employee or consultant designated by the Town Commission as the individual charged with the responsibility of the administration and enforcement of the Zoning Code.

SECTION 2. Appendix A-Zoning, Article I. General Provisions, Section 3. Authority. is hereby amended to read as follows:

Section 3. Authority.

(A) The ~~building~~ planning and zoning ~~commissioner~~ administrator shall be charged with the administration and enforcement of the provisions of this zoning code as agent of and acting under the direction of the Town Ceommission ~~of Jupiter Inlet Colony~~.

(B) The Town Commission ~~building and zoning commissioner official~~ shall appoint building and zoning committee members ~~who shall be approved by the Jupiter Inlet Colony Commission before becoming official members~~. Such committee shall consist of no less than ~~two (2)~~ three (3) and no more than seven (7) members.~~,other than the building and zoning commissioner, who shall act as chairman of the committee.~~ The members of the committee will act in an advisory capacity to review plans for conformity to the requirements of all applicable codes and zoning ordinances of the Town. The committee shall select a chairperson to preside at its meetings. The responsibilities of the committee shall be to ~~also~~ 1) assist the planning and zoning administrator in the interpretion of zoning code regulations, 2) consider, review and recommend potential zoning code amendments, 3) review plans for new construction; exterior renovations, additions and remodels; and significant renovations deemed necessary by the planning and zoning administrator and 4) provide recommendations for action on variance applications, as required by the ~~building~~ planning and zoning ~~commissioner~~ administrator.

(C) The ~~building~~ planning and zoning ~~commissioner~~ administrator ~~and no less than two (2) members of the building and zoning committee~~ shall review building plans that have an-impact on zoning issues such as setbacks, building height or elevation, sight-lines, grade or lot coverage. No building permit shall be issued until the ~~building~~ planning and zoning ~~commissioner~~ administrator has approved ~~all~~ plans submitted for compliance with the zoning code. Applications for building-permits for work that have no effect or impact on zoning issues such as-setbacks, building height or elevation, building mass, sight lines, grade or lot-coverage need only be reviewed by the ~~Town Administrator and~~ Building Official ~~and no opinion for the issuance of a permit shall be required by the building and zoning committee.~~ The signature of the ~~building~~ planning and zoning ~~commissioner~~ administrator on the application for permit shall be authorization for issuance of the permit by the Building Official, provided that if the applicant fails to obtain a building permit within six (6) months of approval by the ~~building~~ planning and zoning ~~commissioner~~ administrator then said approval shall be void and the application process must be recommenced.

(D) The ~~building~~ planning and zoning ~~commissioner~~ administrator ~~shall~~ may upon awareness of evidence of a zoning code violation during construction issue a Stop-work Order to suspend any building permit temporarily until the reason for suspension has been eliminated or corrected or until an appeal is reviewed by the ~~Jupiter Inlet Colony~~ Town Commission.

(E) Any decision of the ~~building~~ planning and zoning ~~commissioner,~~ administrator may be appealed, as of right, to the ~~Jupiter Inlet Colony~~ Town Commission unless a variance is involved. In which case, the applicable procedure for requesting a variance is to be followed.

(F) The Town C~~c~~ommission shall serve as the appellate board of the municipality~~,~~:

(1) To hear and decide appeals where it is alleged there is an error in any order, requirement, decision or determination made by an administrative official in the enforcement of this chapter [Appendix A, Zoning Code].

(2) To authorize upon application in specific cases a variance from the terms of this chapter [Appendix A Zoning Code] as will not be contrary to the public interest, where owing to special conditions, a literal enforcement of the provisions of this chapter [Appendix A Zoning Code] will result in unnecessary hardship. However, the Town C~~c~~ommission shall not be empowered or authorized to grant a variance to permit a use in a zone or district in which use is not permitted by this chapter [Appendix A, Zoning Code].

(3) In exercising the above mentioned powers, the Town C~~c~~ommission may, in conformity with the provisions of this article [Appendix A, Zoning Code], reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination as ought to be made, and to that end shall have all the powers of the officer from whom the appeal is taken. The concurring vote of three (3) C~~c~~ommissioners shall be necessary to reverse any order, requirement, decision or determination of any such administrative official, or to decide in favor of the applicant on any variance under this chapter [Appendix A, Zoning Code].

(G) The town clerk shall provide notice by regular mail to owners of property directly abutting a property for which a building or development permit application has been filed and zoning review is required by the building and zoning committee. ~~a hearing has been scheduled for consideration or review by the building and zoning committee.~~ Said notice shall be mailed to abutting owner(s) as shown on the records of the Property Appraiser of Palm Beach County, Florida no less than five (5) days prior to the meeting of the building and zoning committee. The failure of the town clerk to provide the notice as specified herein or the failure of an abutting owner(s) to receive such notice shall in no way invalidate or otherwise affect any action either taken or the

issuance of any building permit(s).~~ not taken by the building and zoning committee.~~

SECTION 3. Appendix A-Zoning, Article I. General Provisions, Section 4. Variances; Application; Procedure; Notice of Hearing (C) and (E) are hereby amended to read as follows:

(A and B) Unchanged.

(C) Upon acceptance of a completed application, the town clerk shall inform the building ~~and zoning commissioner~~ official. The building ~~and zoning commissioner~~ official, or his/her designated representative, shall examine the application for completeness and may make suggestions to the applicant, if necessary, to present additional factual and evidentiary material to support the application.

(D) Unchanged.

(E) Prior to the public hearing before the T~~t~~own C~~c~~ommission, the application for variance shall be reviewed by the building and zoning committee. The applicant shall be notified in writing at least five (5) days prior to the meeting of the building and zoning committee and shall be entitled to attend and comment before the committee. In reviewing the application, the building and zoning committee shall consider the criteria set forth in section 5, and upon the conclusion of its meeting, shall transmit its recommendations to the T~~t~~own C~~c~~ommission (with or without conditions); such recommendations shall be advisory and shall become part of the hearing file and record and be open for public inspection.

(F) Unchanged.

SECTION 4. Appendix A-Zoning, Article I. General Provisions, Section 10. Restrictions Upon Lands, Building, and Structures (A) and (B) are hereby amended to read as follows:

Section 10. Restrictions Upon Lands, Building, and Structures.

(A) *Use*. No building, fence, grading, wall, walk, pier, dock, sea wall or other structure, shall be commenced, erected, maintained, moved, altered or added to until the plans and specifications showing the nature of such structure or work to be done, and the grading plan of the ~~plat~~ lot to be built upon ~~shall~~ have been submitted to the ~~Jupiter Inlet Colony~~ Town Clerk, and approved by the building ~~and zoning commissioner~~ official, or his/her designee, and a permit issued. No land, building structure or premises shall be designed or intended to be used for

any purpose or in any manner other than as permitted by this Code or amendments thereto.

(B) *Height.* No building or structure shall be erected nor shall any existing building or structure be moved, reconstructed or structurally altered to exceed the height limit established by this Code or amendments thereto. Functional chimneys, faux chimneys, non-habitable cupolas, and flag poles may be erected above the height limits, herein established with the approval of the building ~~and zoning commissioner~~ official. However, the heights of these structures or appurtenances thereto shall not exceed the height limitations prescribed by the Civil Aeronautics Agency with the flight approach pattern of airports and shall not exceed the height of allowed functional chimney for the respective structure as prescribed by the Florida Building Code.

(C through L) Unchanged.

SECTION 5. Appendix A-Zoning, Article I. General Provisions, Section 12. Conditional Uses is hereby amended to read as follows:

Section 12. Conditional Uses.

(A) When, after review of an application and hearing thereon, the ~~building~~ planning and zoning ~~commissioner~~ administrator finds as a fact that the proposed use is consistent with the general zoning plan and with the public interest, the following uses may be permitted after approval of the T~~t~~own C~~c~~ommission:

SECTION 6. Appendix A-Zoning, Article I. General Provisions, Section 13. Building Height Regulations is hereby amended to read as follows:

Section 13. Building Height Regulations.

No building or structure shall exceed twenty-five (25) feet in height at the highest point of the roof measured from the average finish grade as approved by the building ~~and zoning commissioner~~ official.

SECTION 7. Appendix A-Zoning, Article I. General Provisions and Exceptions, Section 17 is hereby amended to read as follows:

(A through D) Unchanged.

(E) Removal of Sand, Rock, Etc. The removal, alteration or addition of sand, rock, marl, or other earthy matters, may be permitted provided the applications for such operations have been reviewed and approved by the ~~building~~ planning and zoning ~~commissioner~~ administrator.

(F through J) Unchanged.

SECTION 8. Appendix A-Zoning, Article I. General Provisions, Section 21. Administration is hereby amended to read as follows:

Section 21. Administration.

The Town Commissioners shall be charged with the administration and enforcement of the provisions of this Zoning Code. The planning ~~building~~ and zoning commissioner administrator, appointed by the T~~t~~own C~~c~~ommissione~~rs~~, shall be the administrative official, as agent of and acting under the direction of said ~~board~~ C~~c~~ommission.

SECTION 9. Specific authority is hereby granted to codify and incorporate this ordinance into the existing Code of Ordinances of the Town of Jupiter Inlet Colony.

SECTION 10. That all ordinances or parts or ordinances, in conflict herewith, be and the same are hereby repealed to the extent of such conflict.

SECTION 11. If any clause, section or other part of this Ordinance shall be held by any court of competent jurisdiction to be unconstitutional or invalid, such unconstitutional or invalid part shall be considered as eliminated and in no way affecting the validity of the other provisions of this Ordinance.

SECTION 12. This Ordinance shall become effective upon its passage and adoption.

FIRST READING this 6th day of March, 2018.

SECOND READING and FINAL PASSAGE this 20th day of March, 2018.

TOWN OF JUPITER INLET COLONY, FLORIDA

_____
MAYOR DANIEL J. COMERFORD, III

_____
VICE-MAYOR MILTON J. BLOCK

_____
COMMISSIONER JEROME A. LEGERTON

_____
COMMISSIONER SAEED A. KHAN

_____
COMMISSIONER RICHARD D. BUSTO

ATTEST:

_____
TOWN CLERK JUDE M. GOUDREAU