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***Town of Micanopy***

***Planning & Historic Preservation Board***

***Regularly Scheduled Meeting***

***Tuesday • November 19, 2019 – 7:00 pm***

1. Call to Order: 7:03 p.m.

2. Invocation & Pledge of Allegiance to Flag:

3. Roll Call:

Board Members

Ann Baird, Vice Chair -- Present

Tom Brady -- Absent with notice

H. Grace Fuller -- Present

David Massey -- Present

Fro Warren, Chair -- Present

Scott Walker, Town Attorney -- Present

Patty Polk, Deputy Town Clerk -- Present

4. Agenda Approval:

***Motion made and seconded (Baird/Massey) to approve the agenda as submitted;***

***Above motion and second (Baird/Massey) amended to approve the agenda as amended tabling 9. Town Entrance Triangle and 9. Airbnb/Short Term Rentals; passed 4-0***

5. Approval of Previous Meeting Minutes: October 22, 2019 – Regular Called Meeting Minutes

***Motion made and seconded (Baird/Fuller) to approve the October 22, 2019 regularly called meeting minutes as submitted; passed 4-0***

6. Citizen’s Forum: None

7. Public Hearings:

* Action: Certificate of Appropriateness – Decorative Fence

Parcel: 16759-000-000

Location: 103 NE Cholokka Blvd, Micanopy, FL 32667

Owner: Robert C Lockward – Lost Ark Antiques, Inc.

Quasi-Judicial Hearing:

1. The Board shall determine whether it has jurisdiction over the matter. *Yes*
2. Members of the Board shall, if necessary, state whether they have a conflict of interest or must otherwise disqualify themselves from hearing the case. *None*
3. Members of the Board shall disclose and place on the record any ex parte contacts relating to the matter before the Board. *None*

Attorney Parker swore in Robert Lockward.

1. Introduction of the petition by the Town. Chair Warren read the application as presented.
2. Presentation of the Applicant’s case. Robert Lockward presented his desire to put up a decorative wooden fence that will match the adjoining property’s fence.
3. Presentation of Affected party’s case. None
4. Presentation of Staff’s case. None
5. Rebuttal by Applicant. None
6. Rebuttal by Staff. *None*
7. Rebuttal Affected Parties. *None*
8. Public Input. *None*
9. Deliberation and Vote of Board.

H. Grace Fuller questioned Mr. Lockward if he will continue to own and operate the business. Mr. Lockward and his family will continue with the business as they have for the past 30 years.

***Motion made and seconded (Fuller/Baird) to approve the Certificate of Appropriateness (CA) for a decorative wooden fence on parcel 16759-000-000, 103 NE Cholokka Blvd, per the application with a return of up to 10’; passed 4-0***

1. Preparation of Final Order. Town staff and P&HPB Chair signatures.
2. Approval of Final Order. Signed document sent to applicant.

8. New Business:

* Dustin Burch – Land Development Code Violation. Dog pen built on property line, 202 NE Tahota Ave, parcel #

16648-001-000 – Discussion

Attorney Parker gave some background on this topic. The Burchs’ are here tonight with Attorney Stephanie Marchman to discuss the existing dog pen on their property in violation of the Code, which is on the agenda tonight for discussion only. Stephanie Marchman, Attorney with the Law firm Gray/Robinson, for Dustin Burch and Brandy Haney introduced herself and discussed the dog pen on the above mentioned property. She appreciates the Board listening to comments about this matter. At this point, it is our understanding that either a member of your Board, or the entire Board, were concerned about a dog pen on the property. As a result of that concern, the Burchs’ received a notice of violation of the Land Development Code (LDC). At this point, the Burchs’ haven’t filed for a variance, gone to the Code Enforcement Board, or moved the dog pen. They would like to address the Board’s concerns and discuss their position with the hope that the Town will withdraw the Notice of Violation.

Attorney Marchman handed out the received violation with definitions on the back to the Board Members. Essentially, the notice states that there is a violation for the property at 202 NE 8th Avenue; that violation being that the dog pen meets the definition of a *structure*. A *structure* is defined in the Town’s *LDC* *Article 1.05.02 Definitions* as *‘Anything constructed or erected with a fixed location on the ground or attached to something having a fixed location on the ground except for patios, ground level parking and loading facilities, fences and individual play houses, animal, or birdhouses.’* It expressly excludes animal houses within the definition. *LDC Article 2.02.04(E)* states that ‘A*ll principal and accessory structures shall be located and constructed in accordance with the following requirements: side setback 15’ for C-2 zoning.’* It is the Burchs’ position that the dog pen is an animal house which is expressly exempted from the definition of a *structure*. Since the dog pen is not defined as a *structure*, it is allowed within the setbacks. Attorney Marchman understands that when talking to Attorney Parker there was some concern about the permanent nature of this dog pen: the fact that it was on a concrete slab and that it wasn’t an animal house. Attorney Parker directed her to look at the definition of buildings within the Code. The definition of a *building* in *Article 1.05.02* includes *animal kennels* but excludes *animal houses*; the Code does not include definitions for ‘animal house’, ‘kennels’, or ‘shelter’. To find those definitions, we look at the dictionary, A Planners Dictionary, and Black’s Law Dictionary. She discussed the definition of a *‘house’* which is simply a home, dwelling, or residence; which is what we would understand a house to be. A dog pen is a house in which the dogs live. Ms. Marchman handed out some definitions from the Planners Dictionary with definitions for ‘*animal boarding place* – *see also kennel’*; defined as ‘*boarding for profit’*. *‘Animal shelter’* is any premises designated by the county for the purpose of impounding and caring for cats and dogs found running at large or otherwise subject to impoundment in accordance with the provision of this law. *‘Kennel’* talks about boarding animals as a business.

Essentially, for review, you have Code language that says you cannot have a structure in the setbacks but the Code exempts animal houses and it’s argued that the dog pen is an animal house. Your Code does not include a definition for ‘*animal house’.* If we look at a dictionary, Planners Dictionary, or use common understood terminology of what a *house* is vs. a *kennel*/vs. a *shelter*; at this point there is no violation or need for a variance. David Massey asked about using the definition of *kennel* from the Planners Dictionary and Ms. Marchman pointed out that the Town’s Code does not have any definitions for *kennel*. H. Grace Fuller questioned which definition of *kennel* would the Code use, and Ms. Marchman pointed out that this dog pen is for private use. Attorney Marchman produced a picture showing the dog pen and the nearest house across the road. If the dog pen needed to be moved, it would have to be located in the middle of the yard in view of everyone and the house across the street. In speaking to the neighbor, the neighbor wanted the dog pen left where it is to avoid a full view of the pen; which is the reason for the dog pen placement in consideration of the neighbor’s view. Chair Warren summarized that the Board’s concern is that development of the neighboring property would have the dog pen directly on the side property line. Ms. Marchman understands the concern of the Board and the nature of the structure; the point is that the Code is what the Code is; and this is not a violation of the Code. Ms. Marchman summarized that the Burchs’ hope is that they don’t have to spend any more time or resources on this, have the violation removed, and move forward.

Chair Warren called for any discussion from the Board? Fuller questioned if there is a fence around the dog pen and there is not; the whole property is fenced in. Fuller questioned Accessory Structure setbacks; but Chair Warren answered that the Accessory Structure Code being discussed in previous meetings has not been enacted. The dog pen will be *grandfathered in* if the Code is changed in the future. Asking for clarification, Massey spoke to Ms. Marchman stating that “we don’t define *kennel*, we specifically define *structure*, and we exclude *animal houses*.” Attorney Parker answered that we do not define *animal kennel* or *animal house*; in the definition of *building,* we include animal kennel as a structure, but we do exclude *animal houses*. If we had definitions for *kennel* and *animal houses,* there would not be a question here. The ambiguity is how to classify the dog pen? This Board can determine if this dog pen is either a *structure* or an *animal house;* you have the discretion because there is no definition.

Public input: None.

Fuller questioned if the Code would currently allow a dog pen to be placed in the front yard? Attorney Parker answered that it is dependent on the Board’s interpretation of the Code as it is currently written. Chair Warren questioned what the next step is? Attorney Parker stated that you can ask for a variance or you can ask the Code Enforcement Officer to withdraw the Code violation.

***Motion made and seconded (Massey/Fuller) to direct the Code Enforcement Officer to vacate the Code violation on the property at 202 NE Tahota Ave (8th Ave) parcel 16759-000-000; passed 4-0***

* Cemetery Lots – Deputy Town Clerk Polk presented. The president of the Micanopy Historic Cemetery Association (MHCA) explained at the recent Town Commission meeting, that the cemetery, which is owned by the Micanopy Historic Cemetery Association, is close to capacity, and she asked the Commission to think about what they would like to do in the future. The Town owns three parcels adjacent to the cemetery which may be considered for cemetery plots. Claudia Larsen, Cemetery Association President will be presenting more information to the Town Commission on December 10, 2019.
* Bicentennial Celebration 2021- Chair Warren discussed possible celebration ideas.

Ideas were discussed and Chair Warren recommends thinking about additional ideas and bringing them to our next meeting.

9. Old Business:

* Town Entrance Triangle on NW Seminary Ave and CR234 – Tabled until next meeting.
* Accessory Building & Recommendations – Chair Warren started from page 1 for the discussion which went on at length, with Chair Warren keeping record of the proposed changes. We will discuss this again at our next meeting.
* Airbnb/Short-Term Rentals – Tabled until next meeting.

10. Board Member Comments:

* H. Grace Fuller – A downtown shop (at NE Seminary Avenue and NE Cholokka Blvd) owned by Martin Emmerson, has veneer peeling off of the two front doors.
* Chair Warren stated that it was a great meeting, thank you all, and I think we accomplished a lot.

11. Adjournment: 8:58 pm

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MINUTES APPROVED:

As submitted\_\_\_\_As amended\_\_\_\_ at Planning & Historic Preservation Board Meeting\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

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JP Warren, Chair Patty S Polk, Recorder