

**City of Wildwood
Planning and Zoning Board/Special Magistrate
August 9, 2011**

The meeting of the Planning and Zoning Board/Special Magistrate for the City of Wildwood convened on Tuesday, August 9, 2011 in the Commission Chamber of City Hall, 100 North Main Street, Wildwood, FL.

City Representatives Present: Special Magistrate Archie O. Lowry, Jr.; City Attorney, Jerri Blair; Melanie Peavy, Development Services Director; and Paul Ketz, Senior Development Specialist.

The hearing was called to order at 3:00 p.m. by Special Magistrate Archie O. Lowry.

Minutes were approved and signed from the July 5, 2011 Planning & Zoning Board Meeting and the July 5, 2011 Planning & Zoning Board as Local Planning Agency Meeting.

Melanie Peavy was sworn in at this time.

New Business:

Sign Variance, V 1107-01 Wildwood Antique Mall LLC, Parcel G06=063

Melanie Peavy: Read the first part of the staff report into the record and presented the case before the Planning and Zoning Board. Mr. Pesco is seeking a larger size sign than the maximum 75 sq. ft. allowed under the Design District Standards.

Special Magistrate: Asked Ms. Peavy when the Design District standards went into effect and how public input was considered in their passage.

Melanie Peavy: The Design Standards have been in effect since 2007, which were widely advertised and public meetings held to obtain public input and comment at that time. Further, during the past year and most recently at a public workshop in May 2011, the City solicited input from the public on the revised and now adopted Land Development Regulations, including an update to the Design Standards. As a result of that input and a study of surrounding jurisdictions, the maximum square footage for signage was increased from 50 sq. ft. to 75 sq. ft. per location in the downtown design district. Additionally, a provision was added for the permitting of temporary signage for new businesses.

Ms. Peavy read the balance of the staff report into the record at this time, stating that staff recommends denial of the request because the property does not meet any of the requirements that warrant a variance.

Ms. Peavy indicated that four surrounding property owners and two businesses within the shopping center responded positively to the approval of the variance.

Special Magistrate: How many letters were sent? And the approvals were simply checked with no substantiation?

Melanie Peavy: Forty-five (45) letters were sent, and yes, the letters were checked without comments or support for their reason for approval.

Ms. Peavy advised Mr. Lowry that there is an amortization schedule for existing signs that they may remain as is until 2017.

Mr. Lowry confirmed with Ms. Peavy that notice was sent to the local newspaper and property owners in a timely fashion.

Manny Pesco, owner of Wildwood Antique Mall LLC, was sworn in at this time to address his petition.

Special Magistrate: What is your relationship to the Wildwood Shopping Center?

Manny Pesco: Wildwood Antique Mall LLC is a tenant of the shopping center.

The Special Magistrate asked Mr. Pesco to state his case at this time. Mr. Pesco cited page 1-1 of the Design District Standards (paragraph two of section [B], Non-Residential Design District Areas), stating that this statement directly contradicts the effort to make the shopping center a pedestrian/bicycle designated area, when truly the shopping center is a vehicle-centric locale.

Mr. Pesco makes the argument that the Wildwood Antique Mall is an economically-vibrant business that is contributing to the tax base of the City of Wildwood. He goes further to argue that the building requires a proportionate sign that matches the integrity of the structure itself. The business frontage where the sign would sit is nearly 4,000 sq. ft.; to put up a 75 sq. ft. sign diminishes the business. A temporary 125 sq. ft. sign is currently in place, and customers often do not see it. Mr. Pesco is asking to be allowed at least 135 sq. ft. of sign space. Although 135 sq. ft. is smaller than the previous Bealls Outlet sign and proportionately less than what Babcock currently has, he feels it would provide better visibility for his business.

Special Magistrate: What is basis for your argument for approval?

Manny Pesco: Base approval on what will fit into the space and be aesthetically pleasing.

Special Magistrate: So, if I understand you correctly, anyone with a larger building over 75 linear feet of frontage should be allowed to have more than 75 sq. ft. of signage?

Manny Pesco: If a larger sign is necessary to make that business fruitful, yes.

Special Magistrate: How long has your business been in operation at that location?

Manny Pesco: Since February 19 of this year (2011).

Special Magistrate: Anything else?

Manny Pesco: May I approach?

Special Magistrate: Yes.

Mr. Pesco handed Mr. Lowry an advertisement. Mr. Lowry asked that the booklet be entered into evidence. It is an August 2011 edition of The Peddler with a two-page spread (18-19) of the Wildwood Antique Mall.

Mr. Pesco attempted to further support his case by stating that there was a lack of a commercial designer or other similarly qualified individual who was part of the process to craft the City's guidelines such that those guidelines would represent and support small businesses. Each building has to be taken on its own merits; you cannot fit round pegs into square holes.

Special Magistrate: Any other comments?

Manny Pesco: No, sir. That is about it.

Special Magistrate: Is there anyone else to speak on this matter?

Jerri Blair: Yes, sir. Jerri Blair, City Attorney, representing the City of Wildwood. I'm very sympathetic to Mr. Pesco's situation; however, when he started business at his location, the rules were more restrictive (50 sq. ft. maximum) than the 75 sq. ft. being allowed today. These standards were put into place by the City Commission; changing the size of a sign, in the manner being suggested by Mr. Pesco, does not meet the legal standard for a variance. I would ask that the Special Magistrate deny the variance.

Mr. Pesco may address the Commission to convince them that the Ordinance / Land Development Regulations should be changed; however, the regulations today do not support Mr. Pesco's request.

Manny Pesco: Made closing comments relating to his application at this time reaffirming that his request for 135 sq. ft. would be sufficient for his business.

Special Magistrate: Asked for comment from the public at this time; seeing no one, Mr. Lowry addressed the issues in the case.

We are dealing with the LDRs and criteria for the purposes of a variance. All of the issues raised by Mr. Pesco are economic, customer-focused, and are legitimate arguments because we need business in the City of Wildwood. However, they do not address the requirements of a variance whatsoever. Sub-section 3.12(A) states in part:

To warrant a variance, the specific property or building must exhibit one or more of the special features identified below which are not generally characteristic of properties or structures in the zoning district:

- (1) Substantial and exceptional narrowness, shallowness, geometry or small size of the property or buildings on said parcel of property inhibits the property from meeting the specifications set forth in this Code.
- (2) Substantial and exceptional topographical conditions.

- (3) Other substantial, extraordinary or exceptional situations(s) or condition(s) which are not generally prevalent in the zoning district as deemed appropriate by the Planning and Zoning Board.

Mr. Lowry went on to state that his position is not to hold a statute or ordinance as unlawful, nor does he have the authority to do so. Nor can he decide that the people of the City of Wildwood will rise up and ask that this ordinance be changed. If they do, it will be addressed with the staff and City officials at that time. Mr. Lowry simply goes by the regulation as it is written. This regulation is not unlike those in other cities; in fact, it is very, very similar – almost identical – to variance requirements in other jurisdictions.

"Based on the testimony and information provided today, and subsections 3.12(A)(1), 3.12(A)(2), and 3.12(A)(3) of the LDRs which address the criteria for the approval of a variance which have not been established in this case, **There is no basis for the approval of a variance whatsoever.**"

Ms. Blair was excused from the meeting at this time by Mr. Lowry at 3:28 pm.

Special Exception, SE 1101-01 Stewood LLC, Parcel D29=092

Melanie Peavy: Read the staff report into the record and presented the case before the Planning and Zoning Board.

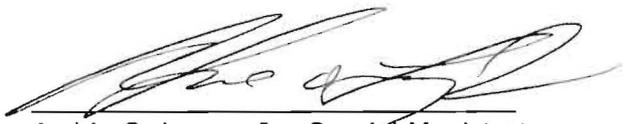
There was discussion between Mr. Lowry and Ms. Peavy at this time clarifying whether this property had come before the Planning and Zoning Board previously, which it had for a comprehensive plan future land use designation change from Industrial to Commercial.

Special Magistrate: Asked for comment from the public at this time; seeing no one, Mr. Lowry approved the special exception at this time. "Based on the church being a permitted use in the commercial zoning, and the testimony and information received, **I recommend approval.**"

With no further business to discuss, the Planning and Zoning Board/Special Magistrate meeting for the City of Wildwood was adjourned at 3:34 p.m.

Date

10/4/11


Archie O. Lowry, Jr., Special Magistrate
City of Wildwood, Florida