

NON-APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
BOARD OF ADJUSTMENT MINUTES
Jarvis Hall
Wednesday, April 5, 2017 at 6:00 P.M.

CALL TO ORDER

Acting Chair John Graziano called the Board of Adjustment (BOA) meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at 6:00 PM.

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

Acting Chair John Graziano stated that the Chair has resigned and he opened the floor for nominations for Chair but that waited until after roll call.

ROLL CALL

Members present were Carmen Miller, Helene Wetherington, John Graziano and 1st Alternate Paul LaCoursiere. The absent member was John Lanata. Also present were Assistant Town Attorney Kathryn Mehaffey, Development Services Director Linda Connors and Planner Susan Leven. Planning Technician Jhanelle Campbell was present to record the minutes of the meeting.

APPOINTMENT

Acting Chair John Graziano opened the floor for nominations for Chair.

Carmen Miller made a motion to nominate John Graziano as Chair. The motion to approve the nomination was seconded by Paul LaCoursiere. As there were no other nominations, nominations were closed and a voice vote to appoint John Graziano as Chair of the Board of Adjustment passed unanimously (4-0).

Chair John Graziano opened the floor for nominations for Vice Chair.

Helene Wetherington made a motion to nominate John Lanata as Vice Chair. The motion to approve the nomination was seconded by Paul LaCoursiere. As there were no other nominations, nominations were closed and a voice vote to appoint John Lanata as Vice Chair of the Board of Adjustment passed unanimously (4-0).

APPROVAL OF MINUTES

- i. Previous BOA Meeting Minutes – January 4, 2017

Carmen Miller made a motion to approve the minutes of January 4, 2017 as written. The motion was seconded by Helene Wetherington. The motion carried unanimously (4-0).

PUBLIC COMMENTS

The Chair opened the meeting up to the public for any comments. He instructed that if a member of the public is here to speak on a specific agenda item, you may choose to wait until the public comment on that item. As no one from the public spoke now, the chair closed this public comment portion of the meeting.

NEW BUSINESS

- i. **Case Number 2017-L2AA-01:** Tricia Moyano (applicant) – Administrative Adjustment Request to replace an existing carport with a 2 car garage with a side setback of 6 feet where 7 and one-half feet is required for the side setback with a 2 foot roof overhang, 4 feet from the property line where a roof overhang may be no closer than 5 feet from the property line, in the RS-5 district (Linda Connors, Development Services Director)

Development Services Director Linda Connors distributed letters given to her by Ms. Moyano written by her neighbors on either side of her property in favor of this project. Ms. Connors explained how the property was constructed with a 6' side setback and said that the homeowner wanted to enclose the carport and create a 2-car garage. She said that Ms. Moyano is in attendance and was willing to answer any questions. Because the building is already built in the setback area, the owner would like to continue the line of the building and build a garage. Ms. Connors spoke about the provisions of the code: (1) the setback and (2) overhang provision. Ms. Connors stated that the owner is 1' into the overhang provision, as well and is asking for a small adjustment. Ms. Connors explained how she meets the criteria for an Administrative Adjustment and explained the difference between an Administrative Adjustment and a Variance.

In Staff's analysis, the Town found that the Adjustment would not increase allowable density, the applicant is not requesting an adjustment to the building height to exceed the standards of the zoning code and the structure's footprint does not encroach upon an established recorded or platted easement and/or Town's right-of-way. The request is for replacement of an existing carport with a two-car garage and consistent with subparagraphs vii and viii if required to allow a setback which matches the existing building's current side setback and will allow a modification which will not increase the footprint of the existing structure. The proposed request does not increase the footprint of the structure, and decreases the footprint from that of the existing carport slab. The Administrative Adjustment will not substantially interfere with the convenient and enjoyable use of adjacent lands and will not pose a danger to the public health or safety. The structure will be compatible with structures in the surrounding area. There are no adverse impacts resulting from the requested Administrative Adjustment and the proposed Adjustment is consistent with the Town's Comprehensive Plan. Ms. Connors explained that because all the findings meet the criteria of the code, the Staff recommends approval of the request. She asked board members to list their findings and conclusions to support the recommendation to the Town Commission.

Ms. Miller asked about the slab and Ms. Connors said the whole building was built within the setback area. It did not receive a variance when it was built. It is not unusual for older homes to have been built within the current setback area. Mr. LaCoursiere said he understood they are going to remove the slab. Ms. Connors said that they will now be less intrusive on the neighbors than what exists currently.

Chair Graziano asked the applicant if she wanted to speak. Tricia Moyano gave the reasons why she wanted to build a garage. She thanked the board members for their time. The Chair asked for any other public comments and David Wessels asked if it would be used as a garage or as regular living space. He was told that it would be used as a garage and that the footprint would actually decrease. As no one else wished to comment, the Chair closed public comments. He asked for further board discussion but there was none.

Paul LaCoursiere made a motion to make a recommendation to the Town Commission to approve the request for Administrative Adjustment and accept Staff's recommendation of approval (Case Number 2017-L2AA-01) and the findings of Staff's review and criteria analysis. The motion to recommend approval of the Administrative Adjustment to the Town Commission was seconded by Helene Wetherington. The motion to recommend approval of the Administrative Adjustment to the Town Commission carried unanimously (4-0).

- ii. **Case Number 2017-V-01:** Margaret Winiarczyk (applicant) – Request to allow a wall within 5' of the front property line in the RM-25 Zoning District. (Linda Connors, Development Services Director)

Development Services Director Linda Connors explained that this request is for a variance for a wall that extends to within five feet of the front property line. Current code requires a setback of 25'. The current use of the property is duplex. The property shares the south property line with Friedt Park. There is currently a fence that extends to the front property line separating the subject property from the park. Ms. Connors said that they are requesting the ability to replace the fence with a wall. She further stated that the fence needs to be replaced as it is old and the wall would be aesthetically pleasing. Currently, the code prohibits fences or walls to be constructed within 25' of the front property line. This property meets the criteria for an unusual special condition and circumstance that affects this land. She explained that being adjacent to Friedt Public Park makes it unusual. In all other situations, Town parks are adjacent to multi-family properties that are fenced or where parking is located in the front area. There is a hardship because Friedt Park is the only active recreation park in Town and this property is the only low density residential use adjacent to it. This is a unique situation in the Town. The property owner would like to construct a wall to identify the boundary between the park and her property to ensure park patrons do not cross into her property. The literal interpretation of the provisions of the applicable Town's regulations would result in a particular hardship upon Ms. Winiarczyk, the owner. As previously mentioned, the fact that the property is located adjacent to a public park deprives the owner from privacy. The hardship is not self-created by the property owner. The variance is the minimum variance that would allow for replacement of the existing fence and ensure some measure of privacy from the adjacent public park. It would be in harmony with the general purposes and intent of the applicable zoning regulations, and would not be injurious to the neighborhood or otherwise detrimental to the public welfare. The replacement of the fence for a wall is intended to create privacy without obstructing the visibility as well as complementing the building's architecture. The property owner would have liked the entire 25' but Staff recommended that it be reduced to 20' into the setback so that we have the ability to see people walking on the sidewalk. Staff believes 20' is the minimum variance to move forward. You can have a fence and this is not based on a financial hardship. Staff feels that the variance could be supported and allows approval of recommending that wall on the front setback of this property adjacent to Friedt Park. Ms. Connors said that the property owner is available for questions.

Mr. LaCoursiere wanted to know how this wall affects the property to the east - would it force the other owner to put a wall up? Ms. Connors answered that it would not. He also said that when he put up his fence, it had to be vented and not solid. Ms. Connors explained that particular regulation is for properties in the RS-4, RS-5 and RD-10 zoning districts but it does not apply to properties in the RM-25 zoning district. This property is in RM-25 zoning district and does not have the venting and air circulating restrictions. Offsetting the wall does apply and Ms. Connors has a copy of the code, if anyone wanted to see it. Mr. LaCoursiere said that in the back of this property is a wooden fence. Ms. Connors said they did not receive any

questions/comments from properties within three hundred feet of this property. The Chair asked the property owner to make a public statement.

Margaret Winiarczyk said that they are changing the fence because it is falling apart and decided to replace it. The fence in the back is owned by the condominium association. Her new fence will complement the house and give them more privacy. She appreciates the time the board has given to her. Ms. Wetherington wanted to know if the wall could be built without infringing on the setback requirements. Ms. Mehaffey said that the existing fence does encroach into the front yard twenty-five feet and the recommendation is for a replacement wall that would encroach twenty feet instead of twenty-five feet. The new fence will be six feet tall. The Chair asked for any other questions or comments.

Mr. David Wessels wanted to know if the existing fence is legally non-conforming now. Ms. Connors explained that they do not have an accurate record of the fence permit so she does not know if the fence existed with a permit. The current owners did not put the existing fence up. Mr. Wessels asked for a drawing or sketch of the wall that is going up. Ms. Connors explained that she does not have it now but it would be the next step. She explained that for a variance, you have to meet all the requirements of the code except what is included in the variance. What is in the variance is only to allow what is to encroach in the front setback. The only thing a variance would allow is the fence to be within twenty feet of the front setback. In Staff's opinion, all requirements are met for this variance. Mr. Wessels wanted to know if there is any other alternative other than using a wall like planting hedges or natural vegetation. Mr. Graziano said that there are hedges now and the Town maintains the park. The current fence would be cut back five feet but this does not answer the question about an alternative. Mr. Wessels suggested the Town extend their hedges. Chair Graziano read the hardships into the record. Ms. Wetherington said that the wall does not appear to be extremely visible to the public side because there is extensive vegetation. She is sympathetic to the homeowner's security. She feels the new fence would be a positive improvement. Mr. LaCoursiere said that looking at the survey there would be another fence on the other side of the property. Would that be a block wall also? Ms. Connors said that per code, they can have a wall. What they are not allowed per code is a wall in the front setback. What they requested is a variance to the south property line to encroach into the setback. The request tonight is to allow the encroachment. They are replacing the old fence with a six-foot high stucco wall. She asked the homeowner and was told that they intend to surround the whole property with a wall. They will not be able to encroach on the north side. That is the only place where the hardship exists. The homeowner reiterated that the variance is only for the one side. As no one else wished to speak or comment, the Chair asked for a motion.

Helene Wetherington made a motion for approval by the Board of Adjustment to make a recommendation to the Town Commission to approve the variance request because it meets the code requirements as stated in the Staff Report. The motion to recommend approval of the variance to the Town Commission was seconded by Carmen Miller. The motion to recommend approval carried 3-1 (Mr. LaCoursiere voted against).

OLD BUSINESS

There was no old business to discuss.

UPDATES/BOARD MEMBER COMMENTS

Carmen Miller talked about moving the meeting start time from 6:00PM to 5:00PM. She was asking again if changing the meeting time could be discussed again. Ms. Mehaffey recommended making a motion with a voice vote. Helene Wetherington was concerned about

the absent member and Ms. Connors said that he works from home. She further stated that if the time changes and it does not work out, it could always be changed again. Ms. Connors said to consider the public as well. Ms. Connors said that this board used to meet at 7:00PM and then changed to 6:30PM and then 6:00PM.

Helene Wetherington made a motion to convene the Board of Adjustment Meeting at 5:00PM. The motion was seconded by Carmen Miller. Mr. Wessels said that the board should consider if this is a convenient time for the public and/or the applicant having to be here at 5:00PM. The Chair asked if Ms. Miller would consider a 5:30PM start. The motion to change the meeting's start time to 5:00PM carried 3-1 (Chair Graziano voted against).

The Chair asked Ms. Connors to ensure the website is updated and proper notice is given about the time change. Ms. Connors said that there is an application for May which is incomplete now. So tentatively there is a BOA meeting scheduled for May 3, 2017. She further stated that Juliana Cardona left last month and Ms. Connors introduced the new employee, Sue Leven, to the board and further stated that her phone number is the same as Juliana's.

ADJOURNMENT

Paul LaCoursiere made a motion to adjourn at 6:44 PM. The motion to adjourn was seconded by Helene Wetherington. The motion to adjourn carried unanimously (4-0).

Chair John Graziano

ATTEST:

Date Accepted: _____

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