

APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
BOARD OF ADJUSTMENT MINUTES
Jarvis Hall
Wednesday, May 4, 2016 at 6:00 P.M.

CALL TO ORDER

Development Services Director Linda Connors called the Board of Adjustment (BOA) meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at 6:00PM.

PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

ROLL CALL

Members present were John Lanata, Sandra Booth, Carmen Miller, Helene Wetherington and John Graziano. The absent member was 1st Alternate Paul LaCoursiere. Also present were Assistant Town Attorney Kathryn Mehaffey, Development Services Director Linda Connors, Building Official Jack Morrell and Planning Technician Juliana Cardona. Senior Office Specialist Jhanelle Campbell was present to record the minutes of the meeting.

Development Services Director Linda Connors said that prior to the approval of minutes, some housekeeping items needed to be accomplished. Without objection, the next item would be the swearing in of board members who have not done so. Two members (Sandra Booth and Helene Wetherington) were called upon to stand and take their oath. The next order of business conducted by Ms. Connors was the Election of the Chair and Vice Chair.

The floor was opened for nominations for Chair. Ms. Wetherington nominated Sandra Booth for Chair. There were no other nominations (nominations closed). Helene Wetherington made a motion to elect Ms. Wetherington as chair. The motion was seconded by John Graziano. The motion carried 5-0.

Chair Sandra Booth presided over the meeting.

The floor was opened for nominations for Vice Chair. Ms. Wetherington nominated John Graziano for Vice Chair. There were no other nominations (nominations closed). Helene Wetherington made a motion to elect Mr. Graziano as chair. The motion was seconded by John Lanata. The motion carried 5-0.

Without objection, the agenda went back to its original order.

APPROVAL OF MINUTES

A) Previous BOA Meeting Minutes – January 6, 2016

Carmen Miller made a motion to approve the minutes of January 6, 2016 as written. The motion was seconded by John Lanata. The motion carried 5-0.

OPEN PUBLIC COMMENTS

The Chair called for any comments not relative to the two cases listed on the agenda. As no one from the public wished to speak, the Chair closed this open public comments section. The Chair turned the meeting back to Ms. Connors.

Ms. Connors gave a PowerPoint presentation regarding the roles and responsibilities of the Board of Adjustment. She introduced the staff members who were in attendance. She explained Administrative Review and Interpretation, Variance or Administrative Adjustment, and establishing a Variance Request. She spoke about what was in the Code. She explained that if they do not have a complete application to review, there will not be a BOA meeting. She told them that the meeting agenda will be on the website the Friday evening before the scheduled meeting. She spoke about the recent Ethics Training. She reminded that everything said at the meeting is open and should be clearly stated. The Board Members should speak into the microphone so that the public hears everything that is said. She told the Board Members to call Juliana Cardona or herself with any questions and concerns. The Chair called Case # 2016-L2AA-01 under New Business. The oath was administered by Ms. Connors to all persons who intended to testify for either one or both of the cases listed under New Business.

NEW BUSINESS

- A) **Case Number 2016-L2AA-01:** Gantt Builders/Archdiocese of Miami (applicant) – Administrative Adjustment Request to allow a north side setback of 19 feet 7.92 inches where 20 feet is required for the property located at 2001 South Ocean Boulevard (RM-16 Broward County Zoning District)

Planning Technician Juliana Cardona gave a PowerPoint presentation. She explained that this case is for an Administrative Adjustment Application for this property which was annexed into Lauderdale-By-The-Sea in 2001. It is still governed by the requirements of the Broward County Zoning Code. She explained why the applicant was asking for the Administrative Adjustment for the 4.08" north side setback. She said that the conditions were met for the criteria for approval. She said that Staff was recommending approval of this request which would go in front of the Town Commission on May 24, 2016 for the final decision. Ms. Cardona said that the applicant and the Town's Building Official Jack Morrell were present for any questions. Chair Booth asked if the public wished to speak. As no one came forward, she closed the public comment section for this case.

John Graziano made a motion to accept Staff's recommendation of approval (Case Number 2016-L2AA-01). The motion to approve was seconded by Helene Worthington. The motion to approve carried 5-0.

- B) **Case Number 2016-V-01:** Benjamin Bachar (applicant)/Variance Request Application to allow a variance from Section 39-275-General Provisions and Section 39-286(1)(a)-Street Side Yards, of Broward County Zoning Regulations to permit a street side pool setback of 7 feet 1.08 inches to the water's edge where 18 feet is required and a street side setback of 3 feet 9.6 inches to the deck where 15 feet is required, for the property located at 1856 West Terra Mar Drive (RS-4 Broward County Zoning District).

Planning Technician Juliana Cardona gave a PowerPoint presentation. She explained that this is a variance application requesting relief from the requirements of two Sections of the Broward County Zoning Code – Sec. 39-275-General Provisions and Sec. 39-286(1)(a)-Street Side Yards. She explained that this property was annexed into Lauderdale-By-The-Sea in 2001 and, therefore, governed by the requirements of the Broward County Zoning Code. She spoke about

the neighboring property owners who contacted the Town about this variance. She said that the property is a single-family residence. Ms. Cardona gave the history for this property's pool permit starting in October 15, 2015. She explained that the permit inspection failed due to the pool encroachment into the street-side yard. They realized that the pool permit was issued incorrectly. On March 31, 2016, the applicant submitted an updated survey and application. A variance application was required to finalize this permit. The error was unfortunate but the Town is prohibited from finalizing a permit with incorrect setbacks. She explained to the Board Members the components of the applicant's variance request. She said that Staff reviewed this variance request based on the criteria for review and the conditions have been met. Staff recommends approval of this variance request which would go in front of the Town Commission on May 24, 2016 for final decision. Ms. Cardona said that the applicant and the Town's Building Official Jack Morrell were present for any questions.

The applicant, Benjamin Bachar, explained that the house was purchased in 2011. He described what happened since the construction of the pool. A neighbor, Mr. Lowe, spoke next. He said he lives right next door to the pool. From a PowerPoint slide, Development Services Director Connors showed the setback line. She answered that the error was due to CAP Government and the Town. She explained that variances are site specific and do not set precedents. Ms. Mehaffey said the error was an unfortunate event. She explained that the Board of Adjustment was making a recommendation tonight to the Town Commission who will make the final decision. The Board was evaluating this based on lot specific information and whether or not the lack of the variance leaves the property in an untenable situation or a hardship situation. Adriane Lowe, next door neighbor, voiced her concern for the location of the pool. Ms. Connors explained the two-step variance process starting tonight. 1) The Board of Adjustment reviews the application and makes a recommendation to the Town Commission. 2) The Town Commission reviews the application and the Board of Adjustment's recommendation. The Town Commission then makes the final decision which will be on May 24, 2016.

Ms. Albacrack, a neighbor from across the street, asked about the placement of the pool. She knows that there was another spot on the property for the pool. She said that Mr. Bachar has a huge property and can put the pool elsewhere. She feels it is a safety concern for swimmers in that pool location because a driver could hit someone by accident. She said it is a beautiful community because residents have to live by the rules. The Board had questions. The neighbor answered that Mr. Bachar's house is a rental property. She said that Mr. Bachar may be there now but there is a *For Rent* sign in front of the house. Ms. Mehaffey reminded everyone that they must speak clearly into a microphone and identify themselves so that the minutes that go to the Town Commission have an accurate reflection of what is being communicated.

Board Member John Graziano said that he lives in the neighborhood that is being discussed. He said Mr. Bachar testified that he loves living there. Mr. Graziano said that the pool location is not consistent with the neighborhood. Benjamin Bachar, the applicant, spoke about another neighbor's pool. He answered that he has rented in the past but lives in the home now. Mr. Lowe spoke again. He said that the house next door to him is always going to be a rental. He feels that his neighbor has to follow the rules whether the Town made a mistake or not. The location of that pool in the front is problematic. Mr. Lowe felt that the pool's construction should have been stopped as soon as the mistake was identified. He wants that pool on the other side of the red line which is shown on the PowerPoint slide. He wants the rules followed. Ms. Albacrack, the neighbor from across the street, said that she was going to say what Mr. Lowe said. There are rules that have to be followed by everyone in the neighborhood. She said that Mr. Bachar is able to have a pool but he placed it in the wrong spot. Twenty days after the pool

was started, a red tag was issued but construction on the pool continued. This does not mean that he should be issued a variance. She stated again that the pool is in the wrong spot.

The property owner spoke again before it went back to the Board. Mr. Bachar said that he did move the pool once at a cost of \$3,500. That was the red tag that the neighbor was talking about. He testified that he was not aware of being out of compliance. He wanted to clarify that the house was not a short-term rental or a vacation property. The house was never listed on any website for short-term or vacation rental. It was always rented to good tenants. He said that both of his tenants have bought homes on Terra Mar. He has been living there seven months now and in 2013, he lived there a year.

The Chair asked for Board comments or discussion. Mr. Graziano wanted to know what Staff's recommendation was based on. He wanted to know, for the record, if it was based on the fact that the Town made mistakes and we have to accommodate. Chair Sandra Booth said that it states that Staff made the recommendation because all the criteria have been met.

Ms. Connors said that the history reflects that Mr. Bachar applied for a pool permit which was approved by CAP Government. When the pool was inspected, they realized it did not meet the setback requirements. Then Mr. Bachar was required to relocate the pool to meet that eight foot setback requirement. It did not quite meet that 8 foot requirement. The Code is complicated and Ms. Connors explained what happened. She wants it to be clearly stated, for the record, that it was not Mr. Bachar's intention to move forward and see if he could get away with the pool. A pool is allowed in that area and Staff believes that the hardship criteria have been met. Variances are always granted on a site specific basis and case-by-case scenario based on all the criteria and issues. Variances are not precedent setting. Mr. Graziano said he was glad this explanation was on the record.

John Lanata made a motion to accept Staff's recommendation of approval (Case Number 2016-V-01). The motion to approve was seconded by Helene Worthington. The motion to approve carried 4-1 (Mr. Graziano opposed).

Development Services Director Linda Connors reiterated that the Board of Adjustment's recommendations will be submitted to the Town Commission for their review and final determination on May 24, 2016.

OLD BUSINESS

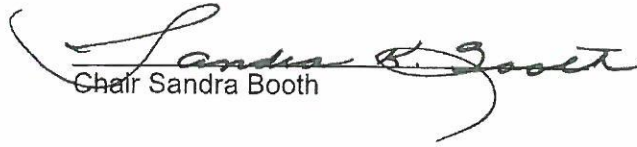
There was no old business to discuss.

UPDATES/BOARD MEMBER COMMENTS

There were no updates or comments to discuss.

ADJOURNMENT

John Graziano made a motion to adjourn at 7:06PM. The motion to adjourn was seconded by John Lanata. The motion to adjourn carried 5-0.


Chair Sandra Booth

ATTEST:

Date Accepted: 10/13/2016


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