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Board of Adjustment

**City of Pembroke Pines
Pembroke Pines, FL**

March 7, 2019

The regular meeting of the BOARD OF ADJUSTMENT was called to order by Chairman Ryan on Thursday, March 7, 2019 at 6:40 P.M., in the City Commission Chambers, City Center, 601 City Center Way, Pembroke Pines, Florida, 33025.

PRESENT: Chairman Ryan, Vice Chairman Rodriguez-Soto, Member Hendry, Alternate Member Siddiqui

ABSENT: Members Goggin and Rauf, Alternate Member Almeria

ALSO PRESENT: Assistant City Attorney Ian Singer, Dean Piper, and Board Secretary Katherine Borgstrom

Board Secretary called roll and declared a quorum present.

APPROVAL OF THE MINUTES:

A motion by Member Hendry, seconded by Alternate Member Siddiqui, to approve the minutes of the December 6, 2018 meeting as corrected passed unanimously.

LEGAL INSTRUCTION:

Assistant City Attorney Ian Singer explained the hearing process to the audience and applicants. The hearing is quasi-judicial and all testimony taken is under oath. The Board has the right to ask witnesses questions that the Board deems relevant to the application. At the conclusion of the hearing, the Board will consider testimony and evidence and enter an order. Three votes are needed to approve a variance. The decisions are appealable to the City Commission of Pembroke Pines only.

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[Secretary's Note: Interested parties were sworn under oath to give testimony in the relevant causes by the Assistant City Attorney.]

NEW BUSINESS:

VARIANCES:

VARIANCE FILE NUMBERS: ZV(R) 2019 01-03

PETITIONER:

Naseer Ahmad

ADDRESS:

SUBJECT PROPERTY:

11803 NW 13 Street
Pembroke Pines, FL 33026

LEGAL DESCRIPTION:

Portion of Tract "A" of the PEMBROKE LAKES SEC EIGHT PLAT according to the Plat thereof as recorded in Plat Book 108, Page 47B, of the Public Record of Broward County, Florida; AKA: Unit 11803 CLUSTER 10 PIERPOINTE III.

VARIANCES REQUESTED:

Petitioner is requesting variances to allow:

ZV(R) 2019-01) a zero (0') foot side yard setback instead of the required three (3') foot side yard setback for a deck;

ZV(R) 2019- 02) a twenty-eight (28') foot wide dock instead of the required twenty (20') foot maximum wide dock;

ZV(R) 2019-03) a zero (0') foot side yard setback instead of the required three (3') foot side yard setback for a dock.

REFERENCES:

ZV(R) 2019-01) Pierpointe Planned Unit Development (PUD) Guidelines

ZV(R) 2019- 02 & 03) § 155.053 DOCKS AND WHARVES

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(B) Docks. Docks, as defined herein, may be permitted in any residential district on any waterway as an accessory use to a residential occupancy. The following standards shall apply to docks:

(3) No boat landing, dock, pier, or mooring pile shall be more than 20 feet in width, running parallel to the shore line, and in no case shall the total area of the dock exceed 300 square feet, nor shall the dock be at an elevation higher than 6.0 NGVD.

(6) No boat landing, dock, pier, or mooring pile shall be constructed so as to encroach upon the projected side yard setback line.

Mr. Naseer Ahmad, petitioner, spoke to the request. Petitioner admitted that after HOA approved his plans to build a 38' dock/deck at the rear of his property into the lake, that he was excited and began the work without City or South Florida Drainage District permits. He claimed he did not know he had to obtain the permits. He has built the dock/deck but was sighted by Code and told he had to have the permits. He went first to the SFDD and they told him to take 10 feet off one side and take up 120' to 150' of tile from the yard along the dock/deck, replacing it with grass and they would give permits for dock/deck. Chairman Ryan asked Dean Piper if he (Chairman) had a conflict of interest as he serves on the SFDD board. Mr. Piper replied that Chairman did not due to the fact that the permits from SFWD are handled by staff and do not go before the SFDD board for approval.

Petitioner offered to remove another 8' on the west side of the dock/deck, which would make ZV(R) 2019-02 and ZV(R) 2019-03 no longer necessary and he would withdraw those variances, so no action would be needed on those two variance requests.

Members of the Board who spoke to the request were Chairman Ryan, Vice Chairman Rodriguez-Soto, Member Hendry, and Alternate Member Siddiqui. Board and petitioner discussed the size of his property, that the work of the dock/deck and that the

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placing of travertine tiles over the entire lawn of his property has already been completed, drainage of water on the lawn area and approval of HOA.

Variance ZV(R) 2019-01 was addressed, with Petitioner stating that the property next to that side of his property (east) is the community pool and patio area. He has put the tiles approximately two inches to the property line. Petitioner stated there has been no drainage problems between his property and the community property. Petitioner stated that there is a gutter system all around the home, so only the water coming off the back roof actually goes into the back yard.

No one from the public came forward to speak to the variance request. Petitioner did provide letter from neighbor to the west of his home, stating he had no problem with Petitioner installing the large size dock/deck, even if it went into the setback.

On a motion by Vice Chairman Rodriguez-Soto, seconded by Alternate Member Siddiqui, to approve ZV(R) 2019-01, to allow a zero (0') foot side yard setback instead of the required three (3') foot side yard setback for a deck under Sec. 32.034 (2) (C), the following vote was recorded:

AYE – Chairman Ryan, Vice Chairman Rodriguez-Soto, Alternate Member
Siddiqui

NAY – Member Hendry

Motion passed

VARIANCE FILE NUMBER: ZV(R) 2019-04

PETITIONER:
Walter & Gintze Lutz

ADDRESS:
SUBJECT PROPERTY:

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8860 NW 8 Street
Pembroke Pines, FL 33024

LEGAL DESCRIPTION:

Lot 1, Block 2, of the WESTVIEW SEC 1 PART 1 PLAT according to the Plat thereof as recorded in Plat Book 94, Page 50B, of the Public Record of Broward County, Florida.

VARIANCE REQUESTED:

Petitioner is requesting a variance to allow a walkway / slab within the required street side yard setback.

REFERENCE:

§ 155.049 ACCESSORY USES AND STRUCTURES; SPECIAL PROVISIONS FOR CERTAIN SCREENED ENCLOSURES WITH COVERED ROOFS.

(A) In residential districts, all accessory buildings and uses shall not be located in any required yard other than a rear yard, except that fallout shelters conforming to recommended standards of the U.S. Office of Civil Defense and Mobilization may be located in required front and street side yards if they conform to § 155.047(K).

Attorney Jerry Gross spoke on behalf of the Mr. Lutz who is disabled and wheelchair bound. Petitioner is not present. In renovating the home to accommodate the wheelchair, they have put in wider doors at the master bedroom exit of the home, to allow him to exit from the bedroom in case of emergency. The walkway will be pavers and will come up to the level of the home. They have permits for all the work, but the walkway will go into the setback, so the variance is needed. Mr. Gross stated the roof area is not being changed.

Board member who spoke to the request was Chairman Ryan. The other board members stated they saw no problem with the request being granted.

Dean Piper clarified that this is just a walk way out of the side door on the side of the house, so he can connect to the front of the house.

Chairman Ryan asked if the petitioner would be willing to remove the sidewalk at the time the house is sold or no he longer resides and Mr. Gross stated he knew the

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petitioner would not have a problem with that and would bring it back into compliance. Dean Piper clarified that there will be a door there, and it is permitted, so a stoop will need to be left if the sidewalk is removed to remain in compliance with the building code.

No one from the public came forward to address the request.

A motion by Alternate Member Siddiqui, seconded by Member Hendry, to approve ZV(R) 2019-04, to allow a walkway / slab within the required street side yard setback, subject to the condition that the variance will not run with the land and the property shall revert to its original condition upon the change of ownership of the property or the property is no longer occupied by Walter and Gintze Lutz, under Sec. 32.034 (2) (C), passed unanimously.

VARIANCE FILE NUMBER: ZV(R) 2019 05

PETITIONER:
Manuel Esteve

ADDRESS:
SUBJECT PROPERTY:
16353 SW 6 Street
Pembroke Pines, FL 33027

LEGAL DESCRIPTION:
Lot 4, Block 4, of the HEFLTER HOMES AT PEMBROKE SHORES PLAT, according to the Plat thereof as recorded in Plat Book 159, Page 9B, of the Public Record of Broward County, Florida.

VARIANCE REQUESTED:
Petitioner is requesting a variance to allow a 38% total front lot coverage instead of the required 35% total front lot coverage for a driveway and walkway.

REFERENCE:
§ 52.26 DRIVEWAYS ACROSS SWALE AREAS
(H) No driveway may:
(1) Exceed a 35% of the total front lot coverage in a single family residential home; or

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Manuel Esteve, Petitioner, spoke to the request which is to allow 38% lot coverage for driveway and walk. He submitted photos that he attested he took on Monday, February 25. He also submitted the HOA approval letter to the board. He installed the pavers in February himself. He had tried with two contractors, but did not want to put the driveway the way they suggested, so he removed old ones and put in new pavers. The 3% over the code is a result of the petitioner removing a planter that was against the home and putting pavers in place of the planter, which he stated always made the wall moist and dirty.

Dean Piper stated that the petitioner will still have to get a city permit.

Chairman Ryan asked the petitioner if he was willing to remove the pavers along the home and put the planter back it but petitioner stated he preferred to put the request to a vote. It was mentioned that before he did the work, the coverage was under the permitted 35%. Petitioner also stated he will put plants all around the walkway as he is trying to improve the view of the house.

Board members who spoke to the request were Chairman Ryan and Alternate Member Siddiqui.

Petitioner was asked if the pavers have caused any drainage problem with neighbors or in his own yard and petitioner responded that there has been no drainage issue.

No one from the public came forward to speak to the variance request.

On a motion by Alternate Member Siddiqui, seconded by Member Hendry, to approve ZV(R) 2019-05, to allow a 38% total front lot coverage instead of the required

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35% total front lot coverage for a driveway and walkway under Sec. 32.034 (2) (C), the following vote was recorded:

AYE – Vice Chairman Rodriguez-Soto, Member Hendry, Alternate
Member Siddiqui

NAY – Chairman Ryan

Motion passed

VARIANCE FILE NUMBERS: ZV(R) 2019 06 - 07

PETITIONER:
Alfredo Angulo

ADDRESS:
SUBJECT PROPERTY:
6409 SW 7 Street
Pembroke Pines, FL 33023

LEGAL DESCRIPTION:
Lot 24, Block 33, of the BOULEVARD HEIGHTS SEC TEN PLAT, according to the Plat thereof as recorded in Plat Book 51, Page 15B, of the Public Record of Broward County, Florida.

VARIANCES REQUESTED:
Petitioner is requesting variances to allow:
ZV(R) 2019-06) a 3 foot side yard setback instead of the required 5 foot side yard setback for a driveway;
ZV(R) 2019-07) a zero foot side yard setback instead of the required 7 1/2 feet side yard setback for a covered walkway / slab.

REFERENCES:
§ 52.26 DRIVEWAYS ACROSS SWALE AREAS
(G) Every driveway must include a minimum five foot setback from side property line(s), except zero-lot properties, where a zero foot setback shall be permitted on the zero lot line side with a five foot setback, or maintenance easement, required on the non-zero lot side(s).
§ 155.106 ONE-FAMILY DWELLING (R-1A THROUGH R-1C) DISTRICTS
(E) Yards. (2) Side yards. (a) Residential uses. Every plot used for a one-family dwelling shall have a side yard on each side, each of which shall be at least ten feet wide in an R-1A and at least 7½ feet wide in R-1B or R-1C District. However, where an existing plot is 60 feet or less in width, each side yard shall be at least five feet in width.

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Existing improved lots that are 60 feet or less in width that have side yards that are 7½ feet wide shall remain 7½ feet wide.

Frank Anzalone, attorney for Petitioner Alfredo Angulo, who was also at the podium, spoke for the petitioner. Attorney stated petitioner wants to amend the zero lot line to one foot side yard setback for ZV (R) 2019-07, so it will read a one side yard setback, Petitioner stated he agrees with the one foot setback. Mr. Anzalone stated there are handicapped family members who need a wider driveway in order to exit vehicles and that the entry to the house is on the side. Petitioner is asking to put a covered walkway, with a poured slab. Petitioner stated there has been a slab in place for 28 years, before he moved into the home. The drive way was asphalt, which was detreating and petitioner replaced with concrete, making it wider by two feet to enable safer exit from vehicles. Petitioner acknowledged the work was done without permits. The canopy was put in 10 years ago, it extended the sidewalk for entry for the family members who are disabled as the canopy protects them from the rain as they enter the home. Petitioner presented photos which he attested to that he took ten days ago.

Chairman Ryan asked if the petitioner would agree to remove the canopy when house is sold and petitioner stated he would agree with that condition to the variance. The attorney believes that the one foot would not interfere with drainage for the home owner and the neighbor.

No other board members had questions for the petitioner.

Member of the Public, Marie Iajardo, who is the next door neighbor spoke against the request. She stated that the petitioner has installed several items on his property without permits, claiming he is a City employee. Assistant City Attorney Singer informed

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the board that the petitioner is an employee of Davie. Ms. Iajardo stated that she is a law-abiding citizen and believes petitioner should have to follow the law also. She stated petitioner poured the slab, with it reaching to the fence and then stated to her he did not need permits because he works for the city and petitioner did not ask her before the work was done if she had a problem with the work. Ms. Iajardo made many statements about the petitioner's family member's health situation and other work that she claims has been done without permits.

Assistant City Attorney Singer cautioned the board to remember that the other claims that Ms. Iajardo has made do not affect the variance, whether or not other things done or not done to code does not affect this variance.

Chairman Ryan advised Ms. Iajardo to report any code violations she believes exist to the Code Enforcement Department and Code Officer will determine if the work meets code.

On a motion by Alternate Member Siddiqui, seconded by Vice Chairman Rodriguez-Soto, to approve ZV(R) 2019-06, to allow a 3 foot side yard setback instead of the required 5 foot side yard setback for a driveway under Sec. 32.034 (2) (C), the following vote was recorded:

AYE – Vice Chairman Rodriguez-Soto, Member Hendry, Alternate Member Siddiqui

NAY – Chairman Ryan

Motion passed

On a motion by Alternate Member Siddiqui, seconded by Vice Chairman Rodriguez-Soto, to approve ZV(R) 2019-05, to allow a one foot side yard setback

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instead of the required 7 1/2 feet side yard setback for a covered walkway / slab under Sec. 32.034 (2) (C), the following vote was recorded:

AYE – Alternate Member Siddiqui

NAY – Chairman Ryan, Vice Chairman Rodriguez-Soto, Member Hendry

Motion failed

EXCUSED ABSENCES:

A motion by Member Hendry, seconded by Vice Chairman Rodriguez-Soto, to excuse the absences of Members Goggin and Rauf, Alternate Member Almeria for March 5, 2019, passed unanimously.

ANNUAL REPORT TO THE CITY COMMISSION:

Chairman Ryan requested the board members to be considering items to be included in the Annual Report and to have ready for the April 4, 2019 meeting to discuss and/or add to the report.

ADJOURNMENT:

Chairman adjourned the meeting at 8:41 PM.

Respectfully submitted:

CITY OF PEMBROKE PINES
BOARD OF ADJUSTMENT

Katherine Borgstrom
Board Secretary

Adjourned: 8:41 P.M.

Approved: