

**City of West Palm Beach • Zoning Board of Appeals
March 4, 2021 Meeting Minutes**

Due to the COVID-19 virus, and pursuant to the City of West Palm Beach's Executive Orders 2020-05 and 2020-09, the March 4, 2021, Zoning Board of Appeals meeting was held virtually with Board members, staff, and applicants participating via Zoom video conferencing.

The Public Hearing was streamed live and available for viewing in the City Commission Chambers located at City Center - 401 Clematis Street, and the ability to make public comment was available in the adjacent Flagler Gallery.

Access to the meeting was also available remotely through Zoom, as well as the City's other usual media channels. Those participating remotely and wishing to make public comment were able to do so through voicemail, email, online form submittal, or directly through Zoom.

MEMBERS PRESENT (via video conference):

- Christopher Heggen, Chairperson
- Christopher Kammerer, Vice-Chairperson
- Malaika Barlow, Member
- Michael Hyman, Member
- Alfred Fields, 1st Alternate
- Jonathan Burgess, 2nd Alternate

MEMBERS ABSENT:

- Michael Wood, Member

STAFF PRESENT (via video conference):

- Richard Green, AICP, Development Services Director
- Angella Jones-Vann, AICP, Planning and Zoning Administrator
- John Roach, AICP, Principal Planner
- Rafaela Thermidor, Associate Planner
- Hope White, Board Secretary

BOARD ATTORNEY (via video conference):

- Samuel Thomas, Senior Assistant City Attorney

I. CALL TO ORDER/ROLL CALL/PLEDGE OF ALLEGIANCE

Chairperson Christopher Heggen called the regular meeting of the Zoning Board of Appeals (ZBA) to order at 1:30 p.m. Ms. Hope White, Board Secretary, called the roll and it was determined that a quorum was present.

Board members recited the Pledge of Allegiance.

II. APPROVAL OF THE MINUTES

Ms. Malaika Barlow made a motion to APPROVE the minutes from December 3, 2020.

Mr. Michael Hyman seconded the motion; the motion PASSED, 5-0.

Due to the absence of Mr. Michael Wood, Mr. Alfred Fields became a voting member for the duration of the meeting.

III. REPORT FROM PLANNING AND ZONING STAFF

Mr. John Roach, Principal Planner, indicated that the first application on the agenda was inadvertently advertised originally as a variance and not a Class B Special Use Permit, but that the applicant's request required a waiver, in accordance with Section 94-304 of the City Code. He stated the applicant's request of constructing a pool within the front setback remained unchanged. Mr. Roach stated the packet contained the correct application for this case.

Mr. Roach congratulated both Mr. Christopher Heggen and Mr. Christopher Kammerer of their reappointment by the Mayor to the Zoning Board of Appeals (ZBA) for an additional 3-year term (expiring in 2024).

Mr. Roach welcomed and introduced Mr. Jonathan Burgess to the ZBA, who is the 2nd Alternate.

IV. REMARKS BY THE CHAIRPERSON

Chairperson Heggen read into the record the Script for the Virtual Public Meeting (*this is an excerpt from the Script*):

Pursuant to Mayor Keith A. James' Executive Order No. 2020-05 issued on April 2nd, 2020, the City of West Palm Beach's Boards and Committees are conducting meetings through media technology and have released the requirements to have a quorum of its members physically present at City Hall. He stated that on April 14th, 2020, Mayor Keith A. James issued Executive Order No. 2020-09, which specifically provides the rules of procedure for conducting City Meetings, including requirements for quasi-judicial hearings.

After the applicant presents their case, Staff will provide a presentation and then the public will have an opportunity to speak or have their comments read into the record from previously received correspondence; the Board will then go into Executive Session. Prior to rendering a decision, the Board will confirm no additional public comments have been received by Staff.

V. EX-PARTE COMMUNICATION

None.

VI. PUBLIC HEARING

A. SWEARING IN OF THE SPEAKERS

With the video conferencing procedures in place, Ms. White, Board Secretary, swore in the applicants, Staff, and members of the public who wished to speak prior to the start of each case.

B. CONTINUED CASES

None.

C. ZONING BOARD OF APPEALS CASES

1. Zoning Board of Appeals Case No. 3388

Ms. White, Board Secretary, swore in the following for the case:

- Mr. Larry B. Rowe, Applicant;
- Mr. Richard Greene, Director of Development Services;
- Ms. Angella Jones-Vann, Planning and Zoning Administrator;
- Mr. John Roach, Principal Planner; and
- Ms. Rafaela Thermidor, Associate Planner.

Ms. White, Board Secretary, read into the record the case description for Zoning Board of Appeals Case No. 3388: A request by L.B. Rowe, Inc, on behalf of Jason Batallan, for a Class B Special Use Permit to obtain a waiver from the requirements of Sec. 94-304.e.2 of the City's Zoning and Land Development Regulations for the installation of a swimming pool within the required front setback.

Mr. Burgess disclosed that he had a conflict on Zoning Board of Appeals Case No. 3388, being that his landscape architecture firm provides services to the applicant and would need to recuse himself the case. [*Form 8B: Memorandum of Voting Conflict for County, Municipal, and Other Local Public Officers, is attached*]

The applicant, Larry Rowe, gave a presentation.

Mr. Hyman asked the applicant about the pool equipment, of which the applicant provided clarification.

Ms. Rafaela Thermidor, Associate Planner, gave a presentation on behalf of the City's Planning Division.

Staff recommended APPROVAL with conditions based on the findings that the petition meets all the required standards found in Sections 94-36.e.3. through 5., Section 94-273.a.2. and Section 94-304.d.2. of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs). The recommendation was made subject to the following condition(s):

1. The existing landscape hedges along the east and south sides of the pool shall remain, screening the pool area from public view. In the event that the landscape screening is removed, another form of screening is to be provided, subject to Staff approval.

See the Staff Report for Staff's detailed history, background and analysis information pertaining to this case.

Chairperson Heggen opened the floor to public comment. No members of the public came forward for public comments.

Vice-Chairperson Kammerer requested and received clarification on the procedural aspects of the waiver and special use permit.

Mr. Alfred Fields made a motion to APPROVE the waiver for Zoning Board of Appeals Case No. 3388, as listed in the Staff report dated March 4, 2021. The motion is based upon a determination that the testimony presented at this hearing along with the application submitted, constitute a preponderance of competent, substantial evidence. The Board hereby makes findings of fact that the waiver requested satisfies all of the criteria of the City of West Palm Beach Zoning and Land Development Regulations, Article II, Section 94-36 and Article IX, Section 94-273.a.2.

Vice-Chairperson Christopher Kammerer seconded the motion; the motion PASSED, 5-0.

Mr. Alfred Fields made another motion to APPROVE Zoning Board of Appeals Case No. 3388, a request by L.B. Rowe, Inc, on behalf of Jason Batallan, for a Class B Special Use Permit to construct an accessory swimming pool within the required front yard setback of the property located at 4105 South Flagler Drive. The motion is based upon the testimony presented along with the application submitted and Staff report, which constitute competent, substantial evidence. The Board hereby makes findings of fact that each of the criteria in Section 94-36.e.3. through 5., Section 94-273.a.2., and Section 94-304.d.2. have been met. In addition, the granting of the Class B Special Use is made conditional upon the restrictions, stipulations and/or safeguards listed in the Staff report, dated March 4, 2021, which I move are necessary to insure compliance with the

purpose and intent of the Zoning and Land Development Regulations and consistent with the Comprehensive Plan of the City of West Palm Beach. The condition includes the following:

1. The existing landscape hedges along the east and south sides of the pool shall remain, screening the pool area from public view. In the event that the landscape screening is removed, another form of screening is to be provided, subject to Staff approval.

Vice-Chairperson Christopher Kammerer seconded the motion; the motion PASSED, 5-0.

2. Zoning Board of Appeals Case No. 3389

Ms. White, Board Secretary, swore in the following for the case:

- Ms. Darcy Caravallo, Applicant;
- Mr. Richard Greene, Director of Development Services;
- Ms. Angella Jones-Vann, Planning and Zoning Administrator;
- Mr. John Roach, Principal Planner; and
- Ms. Rafaela Thermidor, Associate Planner.

Ms. White, Board Secretary, read into the record the case description for Zoning Board of Appeals Case No. 3386: A request by Darcy Caravallo, on behalf of Patricia Donnelley & Douglas Stockham, for a variance from the requirements of Section 94-305.b.4. of the City's Zoning and Land Development Regulations to increase the setback encroachment permitted for mechanical equipment in order to install a generator within the required front setback.

The applicant, Darcy Caravallo, gave a presentation.

Mr. Burgess provided comments regarding the existing landscaping and it was acknowledged that the proposed generator would not negatively impact it.

Ms. Thermidor gave a presentation on behalf of the City's Planning Division.

Staff recommended APPROVAL with conditions based on the findings that the petition meets all of the required Variance Standards found in Section 94-38.d.6. of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs). The recommendation was made subject to the following condition(s):

1. The existing landscape hedges along the east and south sides of the pool shall remain, screening the pool area from public view. In the

event that the landscape screening is removed, another form of screening is to be provided, subject to Staff approval.

See the Staff Report for Staff's detailed history, background and analysis information pertaining to this case.

Chairperson Heggen opened the floor to public comment. No members of the public came forward for public comments.

Vice-Chairperson Christopher Kammerer made a motion to APPROVE Zoning Board of Appeals Case No. 3389, a request by Darcy Caravallo, on behalf of Patricia Donnelley & Douglas Stockham, for a variance from the requirements of Section 94-305.b.4. of the City's Zoning and Land Development Regulations (ZLDRs) to increase the setback encroachment permitted for mechanical equipment to allow a five (5) foot generator setback where twenty-one (21) feet is required.

The motion is based upon the testimony presented along with the application submitted and Staff report, which constitute competent, substantial evidence. The Board hereby makes findings of fact that each of the criteria in Article II Section 94-38.d.6. of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs) have been met. In addition, the granting of the variance is made conditional upon the restrictions, stipulations and/or safeguards that I move are necessary to insure compliance with the purpose and intent of the Zoning and Land Development Regulations (ZLDRs) and consistent with the Comprehensive Plan of the City of West Palm Beach. The condition includes the following:

1. The existing concrete privacy wall and landscaping shall remain such that the generator is screened from public view, and the external impact remains minimal. In the event that the wall is removed, the generator is to be relocated to conform to the City's ZLDRs, or an equivalent form of screening is to be provided, subject to Staff approval.

Ms. Malaika Barlow seconded the motion; the motion PASSED, 5-0.

D. ADMINISTRATIVE APPEALS

None.

VII. UNFINISHED BUSINESS

None.

VIII. NEW BUSINESS

None.

IX. OTHER BUSINESS

None.

X. ADJOURNMENT

Chairperson Heggen adjourned the meeting at 2:08 P.M.

Please be advised the minutes are not verbatim. A recording of the meeting may be requested through the City of West Palm Beach City Clerk's office at 822-1210. There is a fee.

* * * * *

This signature is to attest that the undersigned is the Chairperson, or designee, of the **Zoning Board of Appeals** and that the information provided herein is the true and correct Minutes for the **March 4, 2021** meeting of the **Zoning Board of Appeals**, dated this 1 day of April, 2021.



Chairperson (or designee)

APPOINTED OFFICERS (continued)

- A copy of the form must be provided immediately to the other members of the agency.
- The form must be read publicly at the next meeting after the form is filed.

IF YOU MAKE NO ATTEMPT TO INFLUENCE THE DECISION EXCEPT BY DISCUSSION AT THE MEETING:

- You must disclose orally the nature of your conflict in the measure before participating.
- You must complete the form and file it within 15 days after the vote occurs with the person responsible for recording the minutes of the meeting, who must incorporate the form in the minutes. A copy of the form must be provided immediately to the other members of the agency, and the form must be read publicly at the next meeting after the form is filed.

DISCLOSURE OF LOCAL OFFICER'S INTEREST

I, JONATHAN BURGESS, hereby disclose that on MARCH 04, 20 21 :

(a) A measure came or will come before my agency which (check one or more)


- inured to my special private gain or loss;
- inured to the special gain or loss of my business associate, L.B. ROWE INC. ;
- inured to the special gain or loss of my relative, _____ ;
- inured to the special gain or loss of _____, by whom I am retained; or
- inured to the special gain or loss of _____, which is the parent subsidiary, or sibling organization or subsidiary of a principal which has retained me.

(b) The measure before my agency and the nature of my conflicting interest in the measure is as follows:

MY LANDSCAPE ARCHITECTURE COMPANY, PARADELO BURGESS DESIGN STUDIO LLC, DOES PERFORM REGULAR BUSINESS WITH THE APPLICANT L.B. ROWE, UNRELATED TO THE APPLICATION BEFORE THE BOARD (ZBA CASE 3388) OR THE SUBJECT PROPERTY.

If disclosure of specific information would violate confidentiality or privilege pursuant to law or rules governing attorneys, a public officer, who is also an attorney, may comply with the disclosure requirements of this section by disclosing the nature of the interest in such a way as to provide the public with notice of the conflict.

FEBRUARY 26, 2021
Date Filed


Signature

NOTICE: UNDER PROVISIONS OF FLORIDA STATUTES §112.317, A FAILURE TO MAKE ANY REQUIRED DISCLOSURE CONSTITUTES GROUNDS FOR AND MAY BE PUNISHED BY ONE OR MORE OF THE FOLLOWING: IMPEACHMENT, REMOVAL OR SUSPENSION FROM OFFICE OR EMPLOYMENT, DEMOTION, REDUCTION IN SALARY, REPRIMAND, OR A CIVIL PENALTY NOT TO EXCEED \$10,000.