

**City of West Palm Beach • Zoning Board of Appeals
July 1, 2021 Meeting Minutes
Commission Chambers**

MEMBERS PRESENT:

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

MEMBERS ABSENT:

- Christopher Heggen, Chairperson

Important: Due to the absence of Chairperson Christopher Heggen, Mr. Alfred Fields was voting member for the duration of the meeting

STAFF PRESENT:

- Rick Greene, AICP, Development Services Director
- Angella Jones-Vann, AICP, Planning and Zoning Administrator
- Alana Wooten, Planner
- Hope White, Board Secretary

BOARD ATTORNEY

- Samuel Thomas, Senior Assistant City Attorney

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

Vice-Chairperson Christopher Kammerer 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

Mr. Michael Wood made a motion to APPROVE the minutes from June 3, 2021.

Mr. Alfred Fields seconded the motion; the motion PASSED, 5-0.

III. REPORT FROM PLANNING AND ZONING STAFF

Ms. Angella Jones-Vann, Planning and Zoning Administrator, stated she was standing in for Mr. John Roach. She indicated there was no report to be given at this time.

IV. REMARKS BY THE CHAIRPERSON

Vice-Chairperson Kammerer stated that the matters before the public are quasi-judicial in nature. Anyone wishing to speak, including members of the public who wished to offer public comment, would need to be sworn in. The applicant(s) would then make a presentation and answer questions from the Board, followed by Staff presentations. Members of the public would then be given the opportunity to provide comment, with each person receiving up to three (3) minutes. City Staff will also insert any public comment received in advance of the meeting (emails, voicemails, etc.) into the record. The applicant(s) would have time for a rebuttal at the discretion of the Chairperson. The floor would then be closed and the Board would go into Executive Session for discussion, a motion and decision. The Vice-Chairperson reminded everyone that four (4) votes were required for approval.

Vice-Chairperson Kammerer reminded everyone that the Mask Ordinance was still in effect for conducting public meetings.

V. EX-PARTE COMMUNICATION

- Mr. Alfred Fields: None.
- Mr. Michael Wood: None.
- Ms. Malaika Barlow: None.
- Mr. Michael Hyman: None.
- Mr. Jonathan Burgess: None.
- Vice-Chairperson Christopher Kammerer: None.

VI. PUBLIC HEARING

A. SWEARING IN OF THE SPEAKERS

Ms. White, Board Secretary, swore in everyone who wished to speak on the cases on the agenda.

B. CONTINUED CASES

None.

C. ZONING BOARD OF APPEALS CASES

1. Zoning Board of Appeals Case No. 3392

Ms. White, Board Secretary, read into the record the case description for Zoning Board of Appeals Case No. 3392:

A request by James Paine Jr., of Law Office of James C. Paine Jr., on behalf of Shannon and Rylynn Howell, for a variance from the front setback requirements of Sec. 94-72(2)(a) of the City's Zoning and Land Development Regulations (ZLDRs) on a residential lot to allow the construction of an attached two-car garage with an 18-foot front setback where 25 feet is required.

The applicant, Mr. James Paine Jr., gave a presentation on behalf of Shannon and Rylynn Howell.

Ms. Jones-Vann gave a presentation on behalf of the City's Planning Division.

Staff recommended APPROVAL based on the findings that the petition meets all ten (10) Variance Standards found in Sec. 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 proposed future driveway shall comply with the 75% landscape requirement for the front yard area.

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

Vice-Chairperson Kammerer opened the floor to public comment. There were no members of the public offering public comments.

Mr. Michael Wood made the following motion to APPROVE Zoning Board of Appeals Case No. 3392:

I move the Zoning Board of Appeals grant Application No. 3392, a request by James Paine Jr., of Law Office of James C. Paine Jr., on behalf of Shannon and Rylynn Howell, for a variance from the front setback requirements of Sec. 94-72(2)(a) of the City's Zoning and Land Development Regulations (ZLDRs) on a residential lot to allow the construction of an attached two-car garage with an 18-foot front setback where 25 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 have been met. In addition, the granting of the variance is made conditional upon the following restrictions, stipulations and/or safeguards that I move are necessary to ensure 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. This recommendation is made subject to the following condition(s):

1. *The proposed future driveway shall comply with the 75% landscape requirement for the front yard area.*

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

2. Zoning Board of Appeals Case No. 3391

Ms. White, Board Secretary, read into the record the case description for Zoning Board of Appeals Case No. 3391:

A request by Guy Bartels, of Yellowfin Builders, on behalf of Kevin and Jennifer Johnson, for a variance from Sec. 94-302(b)(2) of the City's Zoning and Land Development Regulations (ZLDRs) to permit a seven (7) foot high wall, with a fence on top, within the front setback where a maximum six (6) foot high wall is permitted in a Single-Family Low Density (SF7) Residential zoning district.

The applicant, Mr. Guy Bartels, gave a presentation on behalf of Kevin and Jennifer Johnson. He indicated the wall was four (4) feet high instead of seven (7) feet.

The members of the Board discussed the following with the applicant:

- Whether the applicant was seeking forgiveness and not permission to install the fence. The applicant indicated the Building Department required the fence to be installed;
- The applicant being amenable to changing the variance request of the fence height from eight (8) feet to seven (7) feet;
- An on-the-spot change to the variance request should not be allowed due to Board members having to inspect the evidence presented at the meeting; and
- FEMA requirements for elevating residential properties.

There was additional discussion between the Board, the applicant and Staff.

Ms. Jones-Vann gave a presentation on behalf of the City's Planning Division.

Staff recommended APPROVAL based on the findings that the petition meets all ten (10) Variance Standards found in Sec. 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 fence shall always be a picket fence.
2. The wall shall always remain in its current location with landscaping in front.

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

Vice-Chairperson Kammerer opened the floor to public comment. There were no members of the public offering public comments.

Mr. Michael Hyman made the following motion to APPROVE Zoning Board of Appeals Case No. 3391:

I move the Zoning Board of Appeals grant Application No. 3391, a request by Guy Bartels, of Yellowfin Builders, on behalf of Kevin and Jennifer Johnson, for a variance from Sec. 94-302(b)(2) of the City’s Zoning and Land Development Regulations (ZLDRs) to permit a seven (7) foot high wall, with a fence on top, within the front setback where a maximum six (6) foot high wall is permitted. 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 have been met. In addition, the granting of the variance is made conditional upon the following restrictions, stipulations and/or safeguards that I move are necessary to ensure 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 conditions include the following:

1. *The fence shall always be a picket fence.*
2. *The wall shall always remain in its current location with landscaping in front.*

Mr. Michael Wood seconded the motion. The motion PASSED, 5-0.

3. Zoning Board of Appeals Case No. 3390

Ms. White, Board Secretary, read into the record the case description for Zoning Board of Appeals Case No. 3390:

A request by Ryan Abrams, Esquire, on behalf of New Hampshire Holdings, LLC, for a Class B Special Use Permit to allow for a Group Home Type III in the Broadway Mixed Use District (BMUD) – Building Type I zoning district.

The applicant, Mr. Jeffrey Lynne, gave a presentation on behalf of New Hampshire Holdings, LLC. Ms. Cathy Claud gave a presentation in conjunction with Jeffrey Lynne. Mr. James Green also gave a presentation on behalf of the applicant.

The members of the Board discussed the following with the applicant and Staff:

- Extension of 2700 existing building Group Home with the Unity of Title;
- Inquiry whether extension/Unity of Title would become a part of the old Historic neighborhood as a single site;
- Subject property being used for residential purposes and detox services to continue;
- Inquiry of the classifications the subject property already holds which allows its current use (detoxification services and residential treatment services);
- Inquiry of the agencies/Boards which approve Detox centers and their licensing requirements; and
- Inquiry whether businesses were required to obtain other licensing through the City.

Mr. Samuel Thomas, Board Attorney, indicated that the City of West Palm Beach had made the determination that in order to be in compliance with the Fair Housing Act and the Americans with Disabilities Act (ADA), the City would treat for applications of this type in the Broadway Mixed-Use District (BMUD), as an application for a Class III use facility. In order for this to be accomplished, it requires a Class B Special Use Permit.

Ms. Alana Wooten 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) and (4), Section 94-273(a)(2), and Section 94-273(d)(28) of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs). The recommendation was made subject to the following condition(s):

1. Prior to the issuance of any building permit and/or the issuance of any Business Tax Receipt for the use of the 2708 Broadway Avenue as a Group Home Type III facility, a Unity of Title shall be recorded

in the Public Records of Palm Beach County, unifying the property with 2700 Broadway Avenue. Application for a Unity of Title shall be made through the City's Engineering Services Department.

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

Vice-Chairperson Kammerer inquired of Staff if the City had received any comments from members of the public or neighborhood regarding the application. Ms. Wooten stated that she had received one (1) telephone call regarding the details of the application.

There was additional discussion between the Board, Staff and the applicant regarding historic design elements, and the condition proposed by Staff.

Vice-Chairperson Kammerer opened the floor to public comment. While there was no comment from those attending the meeting, Ms. White read a voicemail message into the record that was received for public comment.

Mr. Alfred Fields made the following motion to APPROVE Zoning Board of Appeals Case No. 3390:

I move the Zoning Board of Appeals grant Application No. 3390, a request by Ryan Abrams, Esquire, on behalf of New Hampshire Holdings, LLC, for a Class B Special Use Permit to allow for a Group Home Type III in the Broadway Mixed Use District (BMUD) – Building Type I zoning district. 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) and (4), and also the standards in Section 94-273(d)(28) and Section 94-273(a)(2) of the City of West Palm Beach Zoning and Land Development Regulations (ZLDRs), have been met. In addition, the granting of the Class B Special Use Permit is made conditional upon the restrictions, stipulations and/or safeguards listed in the Staff report, dated July 1, 2021, which I move are necessary to ensure 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 conditions include the following:

- 1. Prior to the issuance of any building permit and/or the issuance of any Business Tax Receipt for the use of 2708 Broadway Avenue as a Group Home Type III facility, a Unity of Title shall be recorded in the Public Records of Palm Beach County, unifying the property with 2700 Broadway Avenue. Application for a Unity of Title shall be made through the City's Engineering Services Department.*

Mr. Michael Wood seconded the motion. The motion PASSED, 5-0.

D. ADMINISTRATIVE APPEALS

None.

VII. UNFINISHED BUSINESS

None.

VIII. NEW BUSINESS

None.

IX. OTHER BUSINESS

Mr. Hyman inquired if there were any cases on the upcoming agenda. Ms. Jones-Vann stated that Staff would email the Board members if there were any.

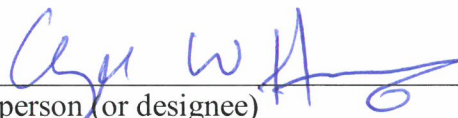
X. ADJOURNMENT

Vice-Chairperson Kammerer adjourned the meeting at 3:39 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 **July 1, 2021** meeting of the **Zoning Board of Appeals**, dated this 7 day of OCTOBER, 2021.



Chairperson (or designee)