

**City of West Palm Beach • Zoning Board of Appeals
May 7, 2020 Meeting Minutes**

Due to the COVID-19 virus, and pursuant to Florida’s Executive Order 20-69, and City of West Palm Beach’s Executive Orders 2020-05 and 2020-09, the May 7, 2020, 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):

- James Carman, Chairperson
- Christopher Heggen, Vice-Chairperson
- Malaika Barlow, Member
- Christopher Kammerer, Member
- Michael Hyman, Member
- Michael Wood, 1st Alternate
- Alfred Fields, 2nd Alternate

MEMBERS ABSENT:

- None

STAFF PRESENT (via video conference):

- Angella Vann, AICP, Planning & Zoning Administrator
- John Roach, AICP, Principal Planner
- Raymond Caranci, AICP, Landscape Planner
- Alana Wooten, AICP, 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 James Carman called the regular meeting of the Zoning Board of Appeals

(ZBA) to order at 1:32 p.m. Ms. Hope White, Board Secretary, called the roll and it was determined that a quorum was present.

II. APPROVAL OF THE MINUTES

Vice-Chairperson Christopher Heggen made a motion to APPROVE the minutes from April 2, 2020.

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

III. REPORT FROM PLANNING AND ZONING STAFF

Mr. John Roach, Principal Planner, indicated there was nothing to report, and expressed appreciation of the Board for their time and patience during the challenges of COVID-19.

IV. REMARKS BY THE CHAIRPERSON

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

Pursuant to Executive Order No. 20-69, issued by the Office of Governor Ron DeSantis on March 20, 2020, and 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

Vice-Chairperson Christopher Heggen disclosed that on Tuesday, May 5, 2020, he had a telephone conversation with the applicant's representative regarding Zoning Board of Appeals Case No. 3383, to discuss the background of the case. He stated his ability to render a decision would not be affected and would be based solely on the competent substantial evidence presented in the Board packet and testimony provided at the meeting.

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

1. Zoning Board of Appeals Case No. 3380

Ms. White, Board Secretary, swore in the Applicants and Staff for the case.

Ms. White, Board Secretary, read into the record the case description for Zoning Board of Appeals Case No. 3380: A request by Mark Elawadi and Ylva Bergehed for variances from the front and side yard setback requirements of Section 94-72(a)(2)(a) and (d) of the City's Zoning and Land Development Regulations (ZLDRs), for front and side yard setbacks for a residential lot.

The applicants, Mr. Mark Elawadi and Ms. Ylva Bergehed, made presentations.

Chairperson Carman lost connectivity to the meeting at approximately 1:50 p.m. Vice-Chairperson Heggen presided over the meeting.

Vice-Chairperson Heggen asked if there were any questions for applicant; there were none.

Ms. Alana Wooten, Planner, gave a presentation on behalf of the City's Planning Division.

Staff recommended APPROVAL based on the finding 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).

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

The members of the Board discussed the following with City Staff:

- Setback of the existing carport; and
- Justification of hardship.

Vice-Chairperson Heggen inquired if there was any public comment, of which there was none.

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

- Notification to neighbors - confirming whether neighbors were in support or in opposition of project;
- Previous erroneous information not constituting a hardship;
- Detrimental reliance - reliance on representation where applicant believed the prior extension made was in compliance, and aligning other side of house with same setbacks previously approved would be permissible; and
- Existing carport, although not an enclosed structure, gives impression of a building on the front property line and the proposed addition moved further back rectifies the condition which currently exists.

Chairperson Carman returned to the meeting at approximately 2:09 p.m. It was decided that Vice-Chairperson would continue presiding over this item as Chairperson Carman missed most of the presentations and discussion.

Mr. Christopher Kammerer made a motion to APPROVE Zoning Board of Appeals Case No. 3380, a request by Mark Elawadi and Ylva Bergehed for variances from the front and side setback requirements of Section 94- 72(a)(2)(a) and (d) of the City's Zoning and Land Development Regulations in a residential lot to allow an addition to be built with an 18.08 foot front setback where 25 feet is required and a total of 11.53 feet side setback, where a total of 15 feet is required by Code for a residential lot. 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.

Mr. Michael Wood seconded the motion; the motion PASSED, 5-0. *Mr. Wood, as 1st Alternate, was a voting member for this case as Chairperson Carman missed most of the presentations and discussion due to technical difficulties and had requested that Vice-Chairperson Heggen preside over the case.*

C. **ZONING BOARD OF APPEALS CASES**

1. **Zoning Board of Appeals Case No. 3383**

Ms. White, Board Secretary, swore in the Applicants for the case.

Ms. White, Board Secretary, read into the record the case description for Zoning Board of Appeals Case No. 3383: A request by Harvey E. Oyer, III, of Shutts & Bowen LLP, on behalf of 1225 Palm Beach Lakes Land Trust/Arsali LLC Trust, for a variance from the requirements of Sec. 94-443 of the City's Zoning and Land Development Regulations, specifically regarding the landscape buffer planting requirements along the eastern property line.

The applicant's representative, Mr. Harvey Oyer, of Shutts & Bowen, made a presentation.

Ms. White, Board Secretary, swore in Ms. Rafaela Thermidor, Associate Planner, for the case.

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

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

1. Provide a letter of support from the adjacent property owner demonstrating support for a continued shared access and parking agreement.
2. Relocation of the eight (8) shade trees and hedges that are required in the east buffer.
3. Replace and maintain the palm trees located along Palm Beach Lakes Boulevard, adjacent to their property.

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

Chairperson Carman inquired with Staff regarding the palm trees along Palm Beach Lakes Boulevard.

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

There was additional discussion between the Board, the Applicant, and Staff regarding:

- Logic to allowing the existing shared parking/access drive to remain.
- Maintenance of the landscaping along Palm Beach Lakes Boulevard.

Ms. White, Board Secretary, sworn in Angella Jones-Vann, Planning & Zoning Administrator, and Ray Caranci, Landscape Planner, and discussion continued regarding landscape maintenance.

Vice-Chairperson Heggen made a motion to APPROVE Zoning Board of Appeals Case No. 3383, a request by Harvey E. Oyer, III, of Shutts & Bowen LLP, on behalf of 1225 Palm Beach Lakes Land Trust/Arsali LLC Trust, for a variance from Section 94-443(b)(1) of the City’s Zoning and Land Development Regulations to allow the relocation of landscape throughout the site, where a 5-foot wide landscape buffer 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 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:

1. Provide a letter of support from the adjacent property owner demonstrating support for a continued shared access and parking agreement.
2. Relocation of the eight (8) shade trees and hedges that are required in the east buffer.
3. Replace and maintain the palm trees located along Palm Beach Lakes Boulevard adjacent to their property.

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 Carman adjourned the meeting at 2:50 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 **May 7, 2020** meeting of the **Zoning Board of Appeals**, dated this 13 day of NOVEMBER, 2020.



Chairperson (or designee)

