

BOARD OF ADJUSTMENT AGENDA

Board of Adjustment Regular Meeting - Thursday, April 22, 2021 - 2:00 p.m.
City Hall - City Commission Chambers, 100 North U.S. #1, Fort Pierce, Florida

1. **CALL TO ORDER**
2. **PLEDGE OF ALLEGIANCE**
3. **ROLL CALL**
4. **CONSIDERATION OF ABSENCES**
5. **APPROVAL OF MINUTES**
 - a. Minutes from the February 25, 2021 meeting
6. **NEW BUSINESS**
 - a. Variance to Exceed Minimum Side Setback - Parry Residence - 2203 South Indian River Drive
7. **DISCUSSION / OTHER BUSINESS**
8. **COMMENTS FROM THE PUBLIC**
9. **ADJOURNMENT**

Any person seeking to appeal any decision by the Board of Adjustment with respect to any matter considered at this meeting is advised that a record of proceedings is required in any such appeal and that such person may need to insure that a verbatim record of the proceedings is made including the testimony and evidence upon which the appeal is to be based.

Persons who require special accommodations under the Americans with Disabilities Act (ADA) should contact the Planning Department at (772) 467-3729, at least five (5) days prior to the

meeting. Persons who are hearing or speech impaired may use the Florida Relay System by dialing 711.

Planning Board of Adjustment

Meeting Date: 04/22/2021

Information

REQUESTED ACTION

Minutes from the February 25, 2021 meeting

LOCATION

N/A

RESPONSIBLE STAFF

N/A

RECOMMENDATION

N/A

Attachments

Board of Adjustment Minutes 2/25/21

Form Review

Form Started By: Alicia Rosenthal

Started On: 03/04/2021 10:47 AM

Final Approval Date: 03/04/2021

DRAFT



CITY OF FORT PIERCE
BOARD OF ADJUSTMENT

Board of Adjustment Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY BOARD OF ADJUSTMENT HELD ON THURSDAY, FEBRUARY 25, 2021, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: James Crist; Charles Hayek; Stanley Hula; Darryl Bey; William Nunn, Chair

Staff Present: Tanya Earley, Assistant City Attorney
Rebeca Guerra, Assistant Planning Director
Vennis Gilmore, Planner
Brandon Creagan, Planner
Alicia Rosenthal, Executive Assistant

4. CONSIDERATION OF ABSENCES

All Board members were in attendance.

5. APPROVAL OF MINUTES

- a. Minutes from the December 3, 2020 meeting

Motion was made by Charles Hayek, and seconded by Stanley Hula to approve the minutes from the December 3, 2020 meeting.

AYE: Darryl Bey, James Crist, Charles Hayek, Stanley Hula, Chair William Nunn
Passed

6. PUBLIC HEARINGS

a. Variance - Frontier Development Sign - 5000 Okeechobee Road

The clerk introduced the Variance for the Frontier Development located at 5000 Okeechobee Road.

Chairman Nunn asked the Assistant City Attorney, Tanya Earley, to explain the Quasi-Judicial Hearing procedures.

Before commencing this Quasi-Judicial Hearing, Tanya Earley, Assistant City Attorney, explained to the Board of Adjustment that they serve in both a legislative and quasi-judicial role. When acting as a legislative body, the Board engages in law-making activity by passing laws and establishing policies. When acting as a quasi-judicial body, the Board applies those laws and policies and is held to stricter procedural requirements. Quasi-judicial proceedings are less formal than proceedings before a circuit court but are more formal than the normal Board meeting. Quasi-judicial proceedings must follow basic standards of notice and due process; and, decisions must be made based on competent substantial evidence. Therefore, Board members have a duty to conduct the quasi-judicial proceedings more like judges than legislators. That is why the Commission has established the uniform procedures for quasi-judicial hearings that will be followed today.

Chairman Nunn called the proceeding to order.

The clerk confirmed the City complied with advertisement and notice requirements.

Chairman Nunn inquired with the Board regarding ex-parte communications and asked the Clerk to call the roll:

Mr. Hayek– no

Mr. Hula – no

Mr. Bey - no

Mr. Crist - no

Chairman Nunn - no

Chairman Nunn opened the public hearing.

The clerk was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation:

Vennis Gilmore, Planner, gave an overview of the application. The applicant is requesting approval of two variances (1) to deviate from City Code 117-6(b)(1)c. to allow for up to 100 percent of the main street wall face permitted sign area to be located on the rear wall facade and (2) to deviate from City Code 117-7(5)(a)5. to allow for up to a 588 square foot rear entrance wall sign per tenant in lieu of the Code maximum of 6 square feet in the General Commercial Zone (C-3). The applicant is requesting both variances to increase signage visibility as much as possible and to mirror the Okeechobee Road facade. The applicant believes that the main frontage facade should not consider the Okeechobee Road frontage but rather the side facing the parking lot where patrons will access the building. The Planning Department recommends approval of the requested variances to deviate from City Code 117-

6(b)(1)c. to allow for up to 100 percent of the main street wall face permitted sign area to be located on the rear wall facade and to deviate from City Code 117-7(5)(a)5. to allow for up to a 588 square foot rear entrance wall sign per tenant in lieu of the Code maximum of 6 square feet in the General Commercial Zone (C-3); based upon the justification presented by the applicant with respect to the criteria for granting a Variance specified in City Code Section 125-100.

Board questions for Staff: Mr. Nunn asked if the parking lot is being reconfigured. Mr. Crist asked if the sign on the north and south side of the building are the same size. Mr. Hayek asked if the 20% sign area is for each tenant or the entire wall. Mr. Crist asked if landscaping and irrigation will be included.

Applicant questions for Staff: None

Applicant presentation: Luis Davila, of Frontier Development, sworn, stated the rear of the building is the front of the business. Mr. Davila explained the back side of the property faces Okeechobee Road and signage is needed on Okeechobee Road for visibility. Mr. Davila stated that St. Augustine grass and irrigation has been approved on the landscape plan.

Ms. Guerra clarified the location of the building and its orientation on the site.

Board questions for Applicant: None

Public comment: None

Chairman Nunn, seeing no one else, closed the public hearing.

Motion was made by Darryl Bey, and seconded by Charles Hayek to approve the requested variances to allow for up to 100 percent of the main street wall face permitted sign area to be located on the rear wall facade and to allow for up to a 588 square foot rear entrance wall sign per tenant.

AYE: Charles Hayek, Stanley Hula, Darryl Bey, James Crist, Chair William Nunn
Passed

b. Variance - St. Peter's Lutheran Church Sign - 2900 Jenkins Road

The clerk introduced the sign Variance for St. Peter's Lutheran Church located at 2900 Jenkins Road.

Chairman Nunn called the proceeding to order.

The clerk confirmed the City complied with advertisement and notice requirements.

Chairman Nunn inquired with the Board regarding ex-parte communications and asked the Clerk to call the roll:

Mr. Crist - no
Mr. Hayek - no
Mr. Hula - no
Mr. Bey - no
Chairman Nunn - yes

Chairman Nunn opened the public hearing.

The clerk was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation:

Rebeca Guerra, Assistant Planning Director, said the applicant is requesting the Board of Adjustment approve two (2) Variances to deviate from Sections 117-7(1)b. and 117-7(3)a.3. in order to install a 36 square foot pole sign with a height of 9'2". The subject site has a lot size of 11.51 acres and has been home to St. Peter's Evangelical Lutheran Church since the year 2000. At that time, the church property had a six (6)-foot high, 36-square foot monument sign, with shrubbery encircling the foundation, along its front entry adjacent to Jenkins Road. As a result of nearby development, the church was required to remove the sign in order to allow for infrastructure improvements, including a sidewalk. The church is now seeking to install a larger and taller pole sign in the same general area as the previous monument sign. City Code Section 117-7(1)b. states that signage within the R-2 zone shall not exceed 32 square feet in size. Additionally, Section 117-7(3)a.3. restricts the maximum height of signage within the R-2 zone to six (6) feet. Staff recommends that the Board of Adjustment approve the Variance from Section 117-7(1)b. to allow for a 36 square foot ground sign in lieu of the Code maximum of 18 square feet, subject to the condition of approval that the perimeter landscaping around the entire base of the sign shall be provided in the form of drought-tolerant shrubbery a minimum of 18 inches tall at the time of planting. Staff recommends that the Board of Adjustment deny a Variance from Section 117-7(3)a.3. to allow for a 9'2" tall ground sign in lieu of the Code maximum of six (6) feet.

Ms. Guerra stated a like-for-like sign would be supported by staff as it would make the applicant whole after having to remove the previous sign and was consistent with other signs in the area for properties with similar zoning/uses. She stated that the second Variance is not as a result of a hardship, but rather, because the applicant wished to have a taller sign than was previously approved and did not want to go through the appropriate process of rezoning the property in order to obtain it. Ms. Guerra explained that if the property was rezoned to commercial, C-3, a larger sign would be allowed by right. Ms. Guerra noted that the church could have a 6-foot monument sign with the same copy area as what was being proposed in the application.

Board questions for Staff:

Mr. Bey asked who has the responsibility to make appropriate zoning changes. Ms. Guerra explained that a developer normally makes zoning changes to the property, but that in certain circumstances, a city can initiate zoning for a large area. In this case, a Comprehensive Plan amendment and a Rezoning would be required. Mr. Hayek asked the cost of a rezoning application. Mr. Brandon Creagan stated the cost would be around \$9500.00 for the Comprehensive Plan Amendment and the Rezoning the church property.

Applicant questions for Staff: None

Applicant presentation: Pastor Rice, owner, sworn, explained the church sign was torn down when the sidewalk was widened for a commercial building being built behind the church. Pastor Rice said the church is surrounded by commercial property and the church is only requesting an additional nine feet in height. Pastor Rice stated it is unfair for the church to not have a large sign like the neighboring businesses. Pastor Rice noted that it would be a different circumstance if the church was located in the middle of a residential area.

Board questions for Applicant: Mr. Bey asked Pastor Rice if he has an aversion to changing the zoning.

Public comment: None

Mr. Crist stated other properties in the area have rezoned due to changing times. Mr. Bey said rezoning should have been considered to simplify the matter. Mr. Hayek explained that approving the height of the sign would open the flood gates in the R-2 zoning and that is the whole reason for having zoning codes. Mr. Hayek pointed out that commercial zoning would make the church property more valuable.

Chairman Nunn, seeing no one else, closed the public hearing.

Motion was made by Charles Hayek, and seconded by James Crist to approve the Variance to allow for a 36- square foot ground sign with the condition that the perimeter landscaping around the entire base of the sign shall be provided in the form of drought-tolerant shrubbery a minimum of 18 inches tall at the time of planting. .

AYE: James Crist, Charles Hayek, Stanley Hula, Darryl Bey, Chair William Nunn
Passed

Motion was made by Charles Hayek, and seconded by Darryl Bey to deny the Variance to allow for a 9'2" tall ground sign

AYE: Darryl Bey, James Crist, Charles Hayek
NAY: Stanley Hula, Chair William Nunn
Passed

After the motion to deny, Ms. Earley clarified with the members of the Board, who voted in support of the motion, that they are following the recommendation of staff and are in agreement with the recommendation and the reasons set forth in the PowerPoint presentation.

Mr. Hayek stated that dropping the base to 1 foot rather than 4 feet solved the problem.

7. DISCUSSION / OTHER BUSINESS

8. COMMENTS FROM THE PUBLIC

There were no comments from the public.

9. ADJOURNMENT

Planning Board of Adjustment

Meeting Date: 04/22/2021

Information

REQUESTED ACTION

Variance to Exceed Minimum Side Setback - Parry Residence - 2203 South Indian River Drive

LOCATION

2203 South Indian River River Drive
Fort Pierce, FL 34950

Parcel ID: 2414-333-0002-000-4

RESPONSIBLE STAFF

Rebeca Guerra, AICP, LEED-AP, CPD, Assistant Planning Director

RECOMMENDATION

Approval.

Attachments

Staff Report

Aerial Map

Application & Supporting Documents

Public Notification Certification

Form Review

Form Started By: Rebeca Guerra
Final Approval Date: 04/16/2021

Started On: 04/15/2021 01:23 PM



TO: Members of the City of Fort Pierce Board of Adjustment

FROM: Rebeca Guerra, AICP, LEED-AP, CPD, Assistant Planning Director

RE: **Application for Variance**
Exceed Minimum Side Yard Setback
2203 South Indian River Drive

MEETING DATE: April 22, 2021

STAFF REPORT

Owner/Applicant: John & Susan Parry
 2203 South Indian River Drive
 Fort Pierce, FL 34950

Requested Action: Variance from Section 125-188(b)(2)b. to allow for a side setback of 8 feet in lieu of the Code-required fifteen (15) feet.

Location: 2203 South Indian River Drive

Parcel ID: 2414-333-0002-000-4

Zoning: E-1, Single Family Estate Density

Future Land Use: RL, Low Density Residential

Parcel Size: 0.5 acres/21,808 Square Feet

Proposed Side Setback: 8 feet

Surrounding Zoning:

North	East	South	West
E-1	Indian River	E-1	I-1

Staff Analysis:

In accordance with Article II of Chapter 125 of the City Code, the applicant is requesting the Board of Adjustment approve a Variance from Section 125-188(b)(2)b. to allow for a side setback of 8 feet in lieu of the Code-required fifteen (15) feet in order to install a whole-house generator.

The subject site has a lot size of 21,808 or 0.5 acres. The minimum lot size in the E-1 Zone is 1 acre, which makes this lot at least half as big as the majority of properties in the immediate area. Moreover, as this home and the lot it sits on were created in the 1920's, they are considered to be a legal nonconforming structure and a legal nonconforming lot as the construction of the home and the creation of the lot pre-date the City of Fort Pierce's Code for the E-1 Zone which was in 1981.

The proposed whole-house generator would sit on the south side of the property approximately eight feet from the property line. The neighbor to the south which immediately abuts the subject site has submitted a letter indicating his support for the generator's location and the necessary variance needed in order for the installation to occur in the requested area. A copy of this letter has been provided.

The site plan provided for the generator meets all other applicable codes contained in Chapter 125 of City Code. If the Variance is approved, the location of the whole-house generator will not appear to adversely affect traffic flow, safety and control, pedestrian safety, and convenience or visibility at any street intersections, drives, rights-of-way, curb cuts or crosswalks. The Technical Review Committee did not have any comments or objections regarding the placement of the generator.

Variance Criteria:

The following criteria are specified in City Code 125-100, which must be satisfied in order for a variance to be granted:

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
2. The special conditions and circumstances do not result from the actions of the applicant.
3. The literal interpretation of the provision of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would result in unnecessary and undue hardship on the applicant.
4. The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
5. The granting of the variance will be in harmony with the general intent and purpose of the ordinance and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

The owner's response to the above criteria is attached to the submittal pack with the application.

Property Owner Response Survey:

A total of five (5) notifications were mailed to abutting property owners. As of April 15, 2021, no letters of objection or support have been received. An update will be provided at the Board of Adjustment meeting.

Staff Recommendation:

Staff recommends that the Board of Adjustment APPROVE a Variance from Section 125-188(b)(2)b. to allow for a side setback of 8 feet in lieu of the Code-required fifteen (15) feet.



RECEIVED

FEB 18 2021

VARIANCE

CITY OF FORT PIERCE
PLANNING & ZONING

Property address or Location 2203 S. Indian River Dr Ft Pierce 34950
Parcel ID #(s) 2414-333-0002-000/4
Project description PLACEMENT OF AN EMERGENCY whole house generator.

JOHN V.L. PARRY & SUSAN M. PARRY
Property Owner(s)
2203 S. Indian River Dr.
Street Address
Ft. Pierce, FL, 34950
City
772 971-5684 + 772-974-
Phone Number
JVLPARRY@AOL.COM
Email Address

JOHN V.L. & SUSAN M. PARRY
Applicant/Representative, Title, Company
2203 S. Indian River Dr.
Street Address
Ft. Pierce, FL, 34950
City
772 971 5684 + 772 979-4008
Phone Number
JVLPARRY@AOL.COM,
Email Address

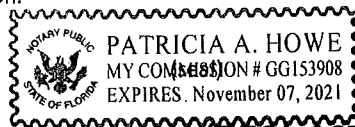
Property Owner(s) Acknowledgements: - This application will not be considered complete without the signature of all property owners of record, which shall serve as an acknowledgement of the submission of this application. The property owner's signature below shall also authorize the Applicant (if other than the property owner) and/or Representative to act in his/her behalf for the purposes of seeking approval for the application described herein.

Property Owner(s) Signature(s)

STATE OF Florida COUNTY St. Lucie

The foregoing instrument was acknowledged before me this 17 day of February 2021, by
John V.L. Parry who is personally known to me or has produced
as identification.

Signature of Notary



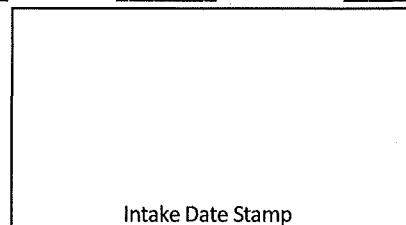
INTAKE MEETINGS ARE REQUIRED FOR ALL SUBMITTALS. CALL (772) 467-3737

TO BE COMPLETED BY STAFF

Zoning	Future Land Use	Total Acres	Historic District	Historic Designation
				Contributing Individual Non-Contributing None

Pre-Application Meeting Date _____
Intake Planner _____
Planner Assigned _____
Approved By _____ Date _____
Comments _____

Fees _____ Control # _____ B. Permit # _____



Intake Date Stamp

VARIANCE

Submit eight (8) hard copies and one (1) CD of the following for initial submittal, subsequent submittals will be required:

- Site plan, to scale, including all relevant improvements:
 - Existing & proposed structures
 - Landscaping & parking,
 - Fencing, signs, etc.
- As-built Survey
- Criteria Narrative
- Complete, notarized application

Description of request: Asking to have generator placed at the S. side of our home; adjacent to SW corner

Reason for request: Most protected place & furthest possible spot from both neighboring home

Existing Use: residence. Date Property was Purchased: 1988

Alterations made to the site since purchase: Solar system, roof, window, Dock, Electric service.

Has a request for this variance been denied in the past? Yes No

If yes, what has changed since the denial? _____

Application Outlook

Pre-Application Meeting

Wednesday Afternoons



Application Intake Meeting

Call to schedule



Technical Review Committee

3rd Thursday



Board of Adjustment

4th Thursday

Criteria:

In order to determine whether your request for Variance meets all the criteria in Section 22-108 of the City Code, please answer the following questions. Please provide answers of questions on separate pages:

1. Describe those conditions peculiar to the specific property and not applicable to other lands, structures, or buildings in the same zoning district.
2. Do special conditions or circumstances result from actions other than that of yours? Please explain
3. Identify any undue hardships or deprivation of commonly enjoyed property rights that would result in the literal interpretation of the code for the zoning district.
4. What is the minimum variance that would give the reasonable use of the land, building, or structure?
5. Explain how the variance request would not impair the intent of the zoning ordinance or be detrimental to the general public welfare:

Answers to 5 "criteria" questions

1.) Our home is among the oldest on South Indian River Drive. Our home is placed on a non-conforming lot in an E-1 zone.

Our southern next door neighbor actually resides in a house approximated 100 yards behind our house. Our neighbor's lawn is directly south of our house and requested generator location

This placement request is entirely acceptable to both our northern and southern next door neighbors

(Page 1)

2.) No, not to our knowledge.

3.) Most all homes on Indian River Dr. are on conforming lots in the E-1 zoning district.

Conforming lots are approximately 44 feet wider than our lot and do not have the same space constraints as our non-conforming lot.

Also, to the south of requested gen. placement is a near half acre yard. Because of this fact, ANY sound or exhaust impacts to the quality of life for south neighbor doesn't exist. Proposed placement not concerning to either neighbor. (see letters)

(Page 2)

This is the minimum variance

4) This request is for a location that meets all the benefits NECESSARY to reduce impacts to both neighbors, to our north and south.

Location is furthest possible from neighbor to the south and from neighbor to the north.

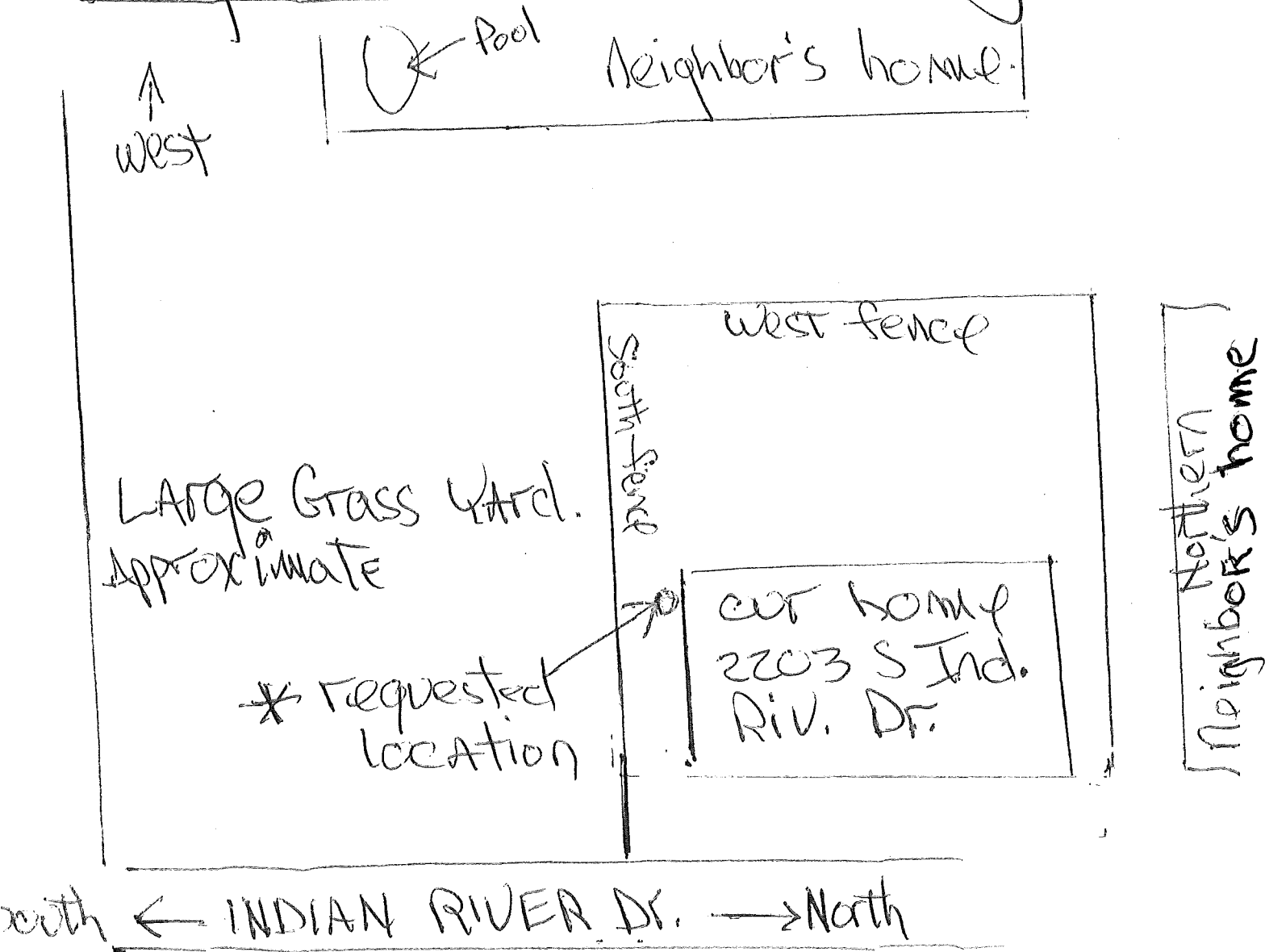
Also all considerations related to proximity to windows, flammable structures etc. are met with this placement.

8' feet from our southern property line is the only option which

(Page 3)

#4 continued

Minimizes exhaust impacts because the neighbor to our south actually resides in a home behind our home. Adjacent to our requested location, south of requested spot is a large lawn... See drawing below.



5.) The intent of this zoning ordinance is to reduce the impacts that the noise or exhaust from an emergency generator placement would make.

The general welfare, as it applies to our two next door neighbors, both to the north and south, is best served when this generator is located at this requested placement.

This requested spot is the furthest possible from both neighbor's homes.
(pages)

Regarding Application for a zoning
variance for placement of a whole-
house generator at 2203 S. INDIAN RIVER
Dr., Ft. Pierce, 34950

I am Susan and John Parry's neighbor, directly next door and to their South. The emergency whole house natural gas fired generator they wish to have installed at the southwest corner of their home would be eight feet from the property line separating our properties. This communication is intended to give my permission to the City of Ft. Pierce to issue a zoning variance to the Parrys for the purpose of placing this generator at the aforementioned location.

Thank you,

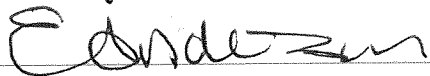



James CUNNINGHAM
2205 S. INDIAN RIVER Dr.
Fort Pierce FL 34950

We, Erin Anderson & Benjamin Black
have no issues in regards to the
placement of John Parry & Susan Parry's
new generator. We live at 2111 S. Indian
River Dr.

Should you have any concerns, please
feel free to contact us anytime.

Sincerely,

Erin Anderson (716) 640-1284


Ben Black (954) 789 6497




PUBLIC NOTIFICATION CERTIFICATION

PROJECT NAME: Parry Side Setback Variance

NOTICES PROVIDED PURSUANT TO: Section 125-37 & 125-103 of the Fort Pierce Code of Ordinances

NOTICE BY NEWSPAPER: Monday, April 5, 2021

NOTICE BY MAIL: Monday, April 2, 2021

NOTICE BY SIGNS: N/A

VERIFIED BY: Rebeca A. Guerra

TITLE: Assistant Planning Director

SIGNATURE:

DATE: 4/15/2021