



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, MAY 27, 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: Darryl Bey; Charles Hayek; Jaimebeth Galinis; James Crist, Vice-Chair

Staff Present: Tanya Earley, Assistant City Attorney
Rebeca Guerra, Assistant Planning Director
Alicia Rosenthal, Executive Assistant

4. CONSIDERATION OF ABSENCES

All members were in attendance.

5. APPROVAL OF MINUTES

a. Minutes from the April 22, 2021 meeting

Motion was made by Darryl Bey, and seconded by Charles Hayek to approve the minutes from the April 22, 2021 meeting.

AYE: Charles Hayek, Jaimebeth Galinis, Darryl Bey, Vice-Chair James Crist
Passed

6. PUBLIC HEARING

a. **Variance from Minimum Side Setback - Hayek Residence - 1111 Fernandina Street**

This item was moved to 6b. Mr. Hayek recused himself.

The clerk introduced the Variance for the Hayek Residence located at 1111 Fernandina Street.

The Assistant City Attorney read the Quasi Judicial hearing procedures at the beginning of the public hearings.

Vice-Chairman Crist called the proceeding to order.

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

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

Ms. Galinis - yes
Mr. Bey - no
Mr. Hayek– recused
Vice-Chairman Crist - no

Vice-Chairman Crist 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, gave an overview of the application. In accordance with Article II of Chapter 125 of the City Code, the applicant is requesting the Board of Adjustment approve a Variance from 125-192(b)(2)b. to allow for a side setback of two (2) feet in lieu of the code-required seven (7) feet in order to install a whole-house generator. The proposed whole-house generator would sit on the northern side of the property approximately two feet from the property line. The neighbor to the north which immediately abuts the subject site has submitted a letter indicating their support for the generator's location and the necessary variance needed in order for the installation to occur in the requested area.

The applicant has indicated that the generator's placement has been dictated by the location of the existing electric panel and gas tank along the northern side of the house. Moving the generator closer to the street or in the back yard, they reason, would make electrical and other connections difficult due to the distance and size of wiring needed. Moreover, its proposed location would be obscured by a 5½-foot CBS wall and a hedge of 18-foot Areca Palms. 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

Staff recommends that the Board of Adjustment approve a Variance from Section 125-192(b)(2)b. to allow for a side setback of two (2) feet in lieu of the Code-required seven

(7) feet

Board questions for Staff: None

Applicant questions for Staff: None

Applicant presentation: Charles Hayek, owner, sworn, stated the side of the house is the only logical place to put the generator based on other code requirements. Mr. Hayek noted that his next door neighbor is the only person that would be affected by the generator and his neighbor has approved the location.

Board questions for Applicant: Vice-Chairman Crist asked if the neighbor has a generator and if the generator could be shielded.

Public comment: None

Vice-Chairman Crist, seeing no one else, closed the public hearing.

Motion was made by Darryl Bey, and seconded by Jaimebeth Galinis to approve a Variance from Section 125-192(b)(2)b. to allow for a side setback of two (2) feet in lieu of the Code-required seven (7) feet.

AYE: Jaimebeth Galinis, Darryl Bey, Vice-Chair James Crist

Other: Charles Hayek (ABSTAIN)

Passed

b. **Variance From Side Setback & Special Exception for Expansion of Nonconforming Structure - Chicas Residence - 1907 Fulton Drive**

This item was moved to 6a.

The clerk introduced the Variance and Special Exception for the Chicas Residence located at 1907 Fulton Drive.

Vice-Chairman Crist 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.

Vice-Chairman Crist called the proceeding to order.

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

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

Mr. Bey - no
Mr. Hayek– no
Ms. Galinis - no
Vice-Chairman Crist - no

Vice-Chairman Crist 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, gave an overview of the application. In accordance with Article II of Chapter 125 of the City Code, the applicants are requesting the Board of Adjustment approve a Variance from Section 125-193(b)(2)a. to allow for a seventeen (17) foot front yard setback in lieu of the code-minimum twenty-five (25) feet for the construction of an addition to the existing single-family home. Additionally, a Special Exception to allow for the expansion of a legal nonconforming structure is also being requested.

The existing home, which was originally constructed in 1952, was built with a 17-foot setback from the front property line. The City's Code, first adopted in 1981, requires a minimum 25-foot setback from the front property line. The discrepancy between both distances makes the existing single-family home a "legal nonconforming structure." Any enlargement or expansion of a legal nonconforming structure requires a Special Exception, consistent with Sections 125-72 and 125-73. The proposed addition would be located within the area currently used as a carport. The carport is aligned along the same facade as the house itself. The applicants are seeking to keep the overall facade plane uniform in order to maintain consistency with the architectural style and design of their home. Parking which would have been provided under the carport will now be made available via an extended driveway and paved area sufficient for more than two vehicles. The site plan provided for the addition meets all other applicable codes contained in Chapter 125 of City Code. If the variance and special exception are approved, the location of the addition 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 request.

Staff recommends that the Board of Adjustment approve the following: 1. A Variance from Section 125-193(b)(2)a. to allow for a seventeen (17) foot front yard setback in lieu of the code-minimum twenty-five (25) feet. 2. A Special Exception to allow for the expansion of a legal nonconforming structure, consistent with Sections 125-72 and 125-73

Board questions for Staff: None

Applicant questions for Staff: None

Applicant presentation: Elena Chicas, owner, sworn, stated she has done everything the city has asked for and she needs a bigger home for her children.

Board questions for Applicant: None

Public comment: None

Vice-Chairman Crist, seeing no one else, closed the public hearing.

Motion was made by Charles Hayek, and seconded by Darryl Bey to approve a Variance from Section 125-193(b)(2)a. to allow for a seventeen (17) foot front yard setback in lieu of the code-minimum twenty-five (25) feet.

AYE: Darryl Bey, Charles Hayek, Jaimebeth Galinis, Vice-Chair James Crist
Passed

Motion was made by Charles Hayek, and seconded by Darryl Bey to approve a Special Exception to allow for the expansion of a legal nonconforming structure, consistent with Sections 125-72 and 125-73.

AYE: Darryl Bey, Charles Hayek, Jaimebeth Galinis, Vice-Chair James Crist
Passed

c. **Variations For Fence Height & Front Yard Setback - Jacquin Residence - 1363 Bayshore Drive**

This item was postponed to the June 24, 2021 meeting.

7. **ELECTION OF CHAIR AND VICE-CHAIR**

A motion was made by Mr. Hayek to nominate Mr. Crist for Chairman. There was not a second to the motion.

Motion was made by Charles Hayek, and seconded by Jaimebeth Galinis to elect Mr. Bey as Chairman.

AYE: Jaimebeth Galinis, Darryl Bey, Charles Hayek, Vice-Chair James Crist
Passed

Motion was made by Darryl Bey, and seconded by Charles Hayek to elect Ms. Galinis as Vice-Chair.

AYE: Darryl Bey, Charles Hayek, Jaimebeth Galinis, Vice-Chair James Crist
Passed

8. **DISCUSSION / OTHER BUSINESS**

9. **COMMENTS FROM THE PUBLIC**

10. **ADJOURNMENT**

