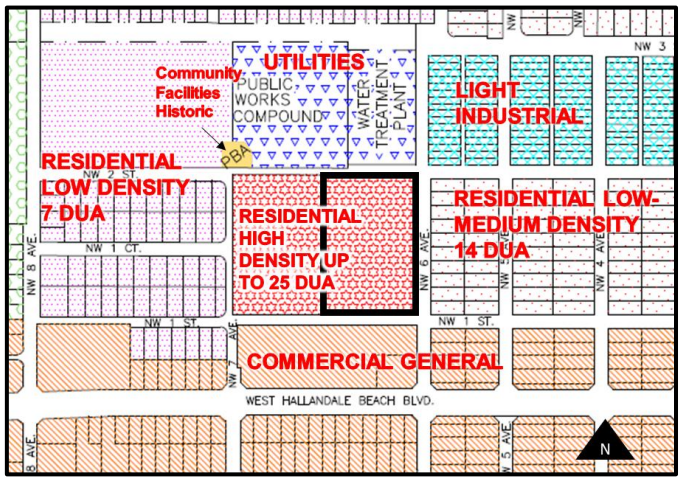
City of Hallandale Beach
Planning and Zoning Board Agenda Cover Memo

Primary Application Type:	Variance	**Hearing Date:**	September 28, 2016		
Additional Applications:	N/A	**Public Hearing:**	**YES**	**NO**	
			X		
Applicant:	Archdiocese of Miami	**Quasi-Judicial:**	**YES**	**NO**	
			X		
Project Name:	Archdiocese of Miami Fence Variance	**Workshop:**	**YES**	**NO**	
				X	
Property Address:	123 NW 6th Ave.	**Advertisement Type Required:**	**DISPLAY**	**REGULAR**	**N/A**
				X	
Application Number:	V-16-03116	**Staff Recommendation:**	**Approve**	**Approve w/Conditions**	**Reject**
					X
Applicant Request:	The applicant is requesting variance approval in accordance with Section 32-965 of the City of Hallandale Beach Code of Ordinances, to erect a 6 foot high fence in the front yard, where a maximum height of 5 feet is permitted.				

The subject application has been reviewed and processed pursuant to policies and regulations contained within: ▪ City of Hallandale Beach Comprehensive Plan ▪ City of Hallandale Beach Code of Ordinances ▪ Broward County Land Use Plan	**Strategic Plan Priority Area:** ☐ Safety ☒ Quality ☒ Vibrant Appeal

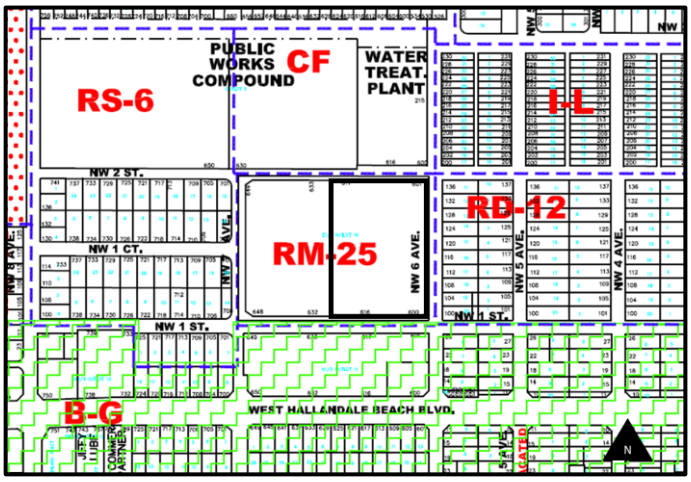
Sponsor Name:	Althea P. Jefferson, AICP, Planning and Zoning Manager	**Prepared By:**	Vanessa Leroy, Associate Planner

PARCEL/SITE DATA			
Address:	123 NW 6th Avenue		
General Location:	Northwest corner of NW 1st Street and NW 6th Avenue.		
Land Area/Size:	165,400 Square feet (3.8 acres)		
Existing Use:	House of Worship		
Proposed Use:	No change proposed		
Proposed Zoning:	No change proposed		
Future Land Use Designation:	High Density up to 25.0 DU/Acre	**Current Zoning District:**	Residential multi-family (high-density) (RM-25) district



Surrounding Future Land Use:

North: Community Facility Utilities
South: Commercial General
East: Residential Low-Medium Density
West: Residential High Density



Surrounding Zoning:

North: Community Facilities (C-F) District
South: Business General (B-G) District
East: Residential Two-Family District (RD-12) District
West: Res. Multi-Family District (RM-25) District

Short Title:

Application #V-16-03116, a variance request relative to Section 32-335(c)(1) submitted by Archdiocese of Miami for the property located at 123 NW 6th Avenue. The applicant is requesting variance approval in accordance with Section 32-965 of the City of Hallandale Beach Code of Ordinances, to erect a 6 foot high fence in the front yard, where a maximum height of 5 feet is permitted. (Quasi-Judicial Hearing)

Staff Summary:

Background

The subject property is a religious facility, owned by the Archdiocese of Miami, located within the RM-25 zoning district, and has a total site area of 3.8 acres. In April of 2015, the applicant, Archdiocese of Miami, received Code Violations for making improvements without a permit. In February, 2016, the applicant submitted a building permit application for the completed improvements, including the construction of a six (6') foot high chain-link fence along the front (NW 1st Street) and side (NW 6th Avenue) yards of the property. Pursuant to Section 32-335(c)(1), the proposed fence exceeds the maximum height of 5 feet permitted in the front yard. Consequently, the building permit plans could not be approved. The applicant is requesting a variance to allow the 6-foot high fence to remain as installed.

Notifications of the proposed variance were mailed to property owners pursuant to Section 32-966(c).

Why Action is Necessary

Pursuant to Section 2-231(f)(3) and Section 32-965(a) of the City's Code of Ordinances, the Planning and Zoning Board has the authority to approve non-administrative variances pertaining to minor developments.

Current Situation

The subject property is currently fenced along its property lines. A 6-foot high chain link fence abuts the sidewalks along NW 1st Street and NW 6th Avenue, and a chain link fence not exceeding 5 feet exists along the sidewalk at NW 2nd Street and on the interior side lot lines. A portion of the fence along NW 2nd Street is overrun by vines, creating a vegetative screen. Aerial images of the property indicate the existing fence along the front (NW 1st Street) and side (NW 6th Avenue) yards was installed between January of 2015 and January 19, 2015.

The subject property shares an entire city block with an assisted living facility to the west, which is bordered by a 5-foot chain link fence and a 2-foot landscaped buffer between the fence and the right-of-way, as required by Code.

Analysis

Pursuant to Section 32-335(c)(1), in residential districts, the maximum fence height permitted in the required rear and side yards is six and a half (6'-6") feet. In the front yard, a maximum height of four (4') feet is permitted; however, in residentially zoned properties where lot lines are

separated by a public right-of-way from commercial property, fences are restricted to a maximum of five (5') feet along the front lot line (which is the case for the subject property along NW 1st Street). Landscaping is permitted to be an additional 6-inches higher.

The applicant is proposing a 6-foot high fence along the front and side property lines of the subject property; therefore, the fence requires a variance in order to be permitted as proposed. Options for a reduced variation from City Code requirements were discussed with the applicant. However, the applicant chose to request a 6-foot high fence, which exceeds the maximum permitted fence height by 20%.

Additionally, pursuant to Section 32-335(a)(5), a two-foot (2') landscaping buffer is required between the fence and the right-of-way. However, fencing exist on the property lines; thus, not meeting the landscaping requirement of the fence regulation.

To authorize any variances to the terms of Chapter 32-965, it must be found that:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, structures or buildings in the same zoning district.
Noncompliance. No special conditions, circumstances or hardships exist which are unique to the land, structure or building involved. The subject property is a double-corner property with an existing 6-foot high fence along NW 1st Street and NW 6th Avenue and 5-foot fence on the other two sides. The applicant is permitted to have a 6-foot high fence around the property, except in the front 25-foot setback area, along NW 1st Street, where the fence height is restricted to 5 feet in height. In their response letter, the applicant indicates having experienced incidents of trespassing, disorderly behavior and theft, which threatened the safety of the children attending the school at the subject site.

(2) The special conditions and circumstances do not result from the actions of the applicant.
Noncompliance. Special conditions and circumstances do result from the actions of the applicant. A 6-foot high fence exists in the area where the fence height is restricted to 5 feet. Such fence was determined to have been installed between January 2015 and January 2016.

(3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district.
Noncompliance. Granting the applicant's variance request would confer special privilege to the property that would be denied to other properties in the same zoning district. The abutting property, an assisted living facility located at 632 NW 1st Street, which is also zoned RM-25, is currently enclosed with a 5-foot high fence with a landscape buffer lining the property lines facing the right-of ways, as required by Code. The applicant is proposing a fence height exceeding the maximum permitted with no landscaping buffers.

(4) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by the properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardships on the applicant.
Noncompliance. Literal interpretation of the Code would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. All properties in the subject zoning district within the City are required to comply with the City's development regulations, including the fence regulations. The fence at the assisted living facility abutting the subject property is an example of compliance with the fence Code regulations.

(5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
Noncompliance. The requested variance is in excess of the minimum variance that would make possible the reasonable use of the land. Staff discussed the option of reducing the height to meet Code, but the applicant chose to submit the application requesting a 6-foot high fence which is 20% more than the maximum allowed height of 5 feet within the front yard setback areas.

(6) The grant of the variance will be in harmony with the general intent and purpose of this chapter.
Noncompliance. Granting the proposed variance will not be in harmony with the intent and purpose of the Code standards.

(7) Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
Compliance. The proposed variance would not be injurious to the area involved or otherwise detrimental to the public welfare.

Staff Recommendation:

Staff's finds the applicant's request to allow a 6-foot high fence in the front yard, where a maximum fence height of 5 feet is permitted, does not meet all the criteria for variance approval provided in Chapter 32-965. Additionally, the proposed fence does not meet the landscape requirements pursuant to Section 32-335(a)(5). As such, staff recommends the Planning and Zoning Board **DENY** the requested variance.

It is noted that the applicant is merely attempting to address the safety of the registered students and the facility from more recent illegal activity in the surrounding area. As such, should the Board wish to approve the application, staff recommends approval with the following conditions:

1. Within the front yard area, the fence must be setback two (2') feet inside the property lines on the sides of the property facing a right-of-way; and,

2. The applicant must provide two (2') feet of landscaping buffer between the new fence location and the right-of-ways, with shrubs that are a minimum of 24-inches in height at time of planting, to soften the appearance and scale of the proposed fence.

Requested Action:

A member of the Planning and Zoning Board shall make a motion to:

- **APPROVE** the application for variance as proposed; or,
- **APPROVE** the application for variance **WITH CONDITION(S)**, recommended by Staff; or,
- **APPROVE** the application for variance **WITH CONDITION(S)**, as proposed by the Board; or,
- **DENY** the application for variance as proposed.

Attachment(s):

Exhibit 1 – Location Map
Exhibit 2 – Aerial Map
Exhibit 3 – Applicant's Response Letter
Exhibit 4 – Plans/Surveys