

**FINAL**

**PLANNING AND ZONING BOARD (PZB) PUBLIC MEETING SUMMARY**  
**WEDNESDAY, JUNE 26, 2019**  
**CITY HALL, COMMISSION CHAMBERS**

**Board Member Present:** Charles Wu, Chair; Howard Garson, Vice Chair; Danny Kattan, Rick Levinson and Diane Lyon Wead

**Alternate Present:** Bruce McNamara and Faith Fehr

**Board Member Absent:**

**Board Secretary:** Cindy Bardales-Villanueva

**City Attorney's Representative:** Carrie Sarver, Assistant City Attorney

**Staff Present:** Vanessa Lerov, Christy Dominguez and Cindy Bardales-Villanueva

**2018 PZB ATTENDANCE**

**ATTENDANCE ROLL CALL:**

BOARD MEMBERS	1/24	2/28	3/28	4/25	5/23	6/27	7/25	8/22	9/26	10/24	11/26	12/26
Charles Wu- <i>Chair</i>	A	CANCELLED	P	P	P	CANCELLED	P	P	P	P	P	CANCELLED
Howard Garson - <i>Vice Chair</i>	P		P	P	P		P	P	P	P	P	
Rick Levinson			P	P	P		P	P	P	P	P	
Danny Kattan							P	A	P	P	P	
Sheryl Natelson	A											
Terri Dillard	P											
Alexander Lewy	P		P	P	P							
<b>Total Members Present</b>	3		4	4	4		4	3	4	4	4	
<b>Total Members Absent</b>	2		0	0	0		0	1	0	0	0	

**2019 PZB ATTENDANCE**

BOARD MEMBERS	1/30	2/27	3/27	4/24	5/29	6/26	7/24	8/28	9/25	10/23	11/26	12/26
Charles Wu- <i>Chair</i>	P	CANCELLED	CANCELLED	P	CANCELLED	P						
Howard Garson - <i>Vice Chair</i>	P			P		P						
Rick Levinson	P			P		E						
Danny Kattan	E			P		P						
Diane Lyon Wead				P		P						
Faith Fehr- <i>Alternate</i>				PA		S						
Bruce McNamara- <i>Alternate</i>				PA		PA						
<b>Total Members Present</b>	3			7		6						
<b>Total Members Absent</b>	1			0		1						

**ATTENDANCE ROLL CALL:**

Present **(P)** Present Alternate Member **(PA)**

Absent: **(A)**

Alternate Member Substituting during a Full-Time Members Absence **(S)**

Excused Absence **(E)**

Tardy: **(T)**

 Un-appointed

1 **1. CALL TO ORDER**

2  
3 Mr. Wu called the meeting to order at 6:36 P.M.

4 **2. ROLL CALL**

5 Mr. Levinson - *excused absence*

6 **3. PLEDGE OF ALLEGIANCE**

7  
8 **4. APPROVAL OF MINUTES**

9 Mr. Wu: commended the Board Secretary on the April 24, 2019 meeting minute.

10 **Line 42:** Mr. Wu: typo on "he" and need read "she" also on "his and need to read "her".

11 **Line 59:** typo on "Mr." and need to read "Ms."

12 **Line 80:** typo on "Mr." and need to read "Ms."

13 **Line: 84:** should read: Mr. Wu: commended

14 **MR. GARSON MOVED TO APPROVE THE MINUTES OF THE APRIL 24, 2019 PLANNING**  
15 **AND ZONING BOARD MEETING TO INCLUDE AMENDMENTS.**

16 **MR. KATTAN SECONDED THE MOTION.**

17 **MOTION PASSED BY A ROLL CALL VOTE (5-0).**

18 **5. NEW BUSINESS**

19  
20 Application# V-19-00042 by Yamilka Cordovi, requesting a variance from Section 32-  
21 142(d)(4) of the Zoning and Land Development Code, relative to the minimum rear yard  
22 setback required for properties zoned RS-6, Residential Single-Family, District in order to  
23 legalize a canopy structure and patio constructed without a building permit at the house  
24 located at 413 SW 2 Street.

25  
26 **Polling of Ex Parte Communications (Board Secretary)**

27  
28 *Mr. Wu advised that he had no Ex-Parte Communications regarding this matter. He advised he*  
29 *would base his decision solely on the testimony being presented.*

30  
31 *Mr. Garson advised that he had no Ex-Parte Communications regarding this matter. He advised he*  
32 *would base his decision solely on the testimony being presented.*

33  
34 *Mr. Kattan advised that he had no Ex-Parte Communications regarding this matter. He advised he*  
35 *would base his decision solely on the testimony being presented.*

36  
37 *Ms. Wead advised that she had no Ex-Parte Communications regarding this matter. She advised*  
38 *she would base his decision solely on the testimony being presented.*

39  
40 *Ms. Fehr advised that she had no Ex-Parte Communications regarding this matter. She advised*  
41 *she would base his decision solely on the testimony being presented.*

42  
43  
44 **Swearing in of Witnesses (Assistant City Attorney)**

45  
46 Ms. Dominguez provided a Power Point presentation and gave a summary of the item.

47  
48 Mr. Wu: opened the floor for discussion from the Board to staff.  
49

50 Mr. Garson: stated the he had concerns of how the Board's action set a precedent on the  
51 neighboring properties also be seeking a variance.  
52

53 Mr. Garson: stated that since the neighboring property was also cited and was looking to also  
54 request a variance if it best to table the item and bring both items to the Board at the same time  
55 since the items were similar?  
56

57 Ms. Dominguez: clarified that both cases were different and conditions were not exactly the same.  
58

59 Ms. Dominguez: explained and did a quick review of the neighbor's structure and it encroaches  
60 further than the applicant. She added the applicant was issued a notice by the Code Compliance  
61 Division in July 2018.  
62

63 Ms. Dominguez: further stated that the Code Compliance Division has given the applicant time to  
64 file with the Planning and Zoning Division. They are currently waiting on results from the Planning  
65 and Zoning Board to allow the applicant to move forward to the Magistrate proceedings.  
66

67 Mr. Wu: asked if applicant was being fined?  
68

69 Ms. Dominguez: stated No.  
70

71 Mr. Kattan: stated that his concerns were not setting a precedent, since there is most likely  
72 precedence set from all the variances granted by the City. He questioned whether the structure was  
73 built on purpose or not.  
74

75 Ms. Wead: asked who filed a complaint and how did it get to this point?  
76

77 Ms. Dominguez: stated that the complaint was received from an anonymous source regarding the  
78 property located at 409. The Code Compliance Inspector visited the site at that time and saw she  
79 realized the applicant's property also had a porch and cited both properties simultaneously.  
80

81 Ms. Fehr: asked if staff knew of other property owners that bought a property with violations and  
82 had to deal with these types of situations? She further asked what happened in those cases.  
83

84 Ms. Dominguez: further clarified that all applications including variance applications are considered  
85 on a case-by-case basis.  
86

87 Mr. Wu: interjected and clarified that whenever an individual purchases a property, they inherit all  
88 the problems that come with the property whether is legal or not. Therefore, if someone buys a  
89 property that has any illegal conversion, the new owner will be responsible for rectifying the illegal  
90 conversion.  
91

92 Mr. Wu: cautioned the Board with the topic of precedence and explained that whenever the Board  
93 approves a variance application it should be based only on competence of the case being  
94 presented.  
95

96 Mr. Wu: added that the Board needs to focus on the application at hand, factors at hand, dimensions  
97 at hand, hardship at hand, etc. He advised that there is enough information to make a decision on  
98 the application before the Board but will support to defer the meeting if there is a majority vote.

Ms. Yamilka Cordovi, Applicant (413 SW 2nd Street): introduced herself and explained that she resides at the subject property since it was built in 2007.

Ms. Cordovi: explained that the patio porch was built by her ex-husband and she had no idea of the required procedure. She stated the issue was brought to light when the neighbor decided to build a similar porch which resulted in a citation.

Ms. Cordovi: further explained that the reason they extended the patio porch was because they were getting a lot of heat inside the house and in the backyard, extending the patio porch helps keep the house cooler and her children were finally able to play outside without being directly on the sun.

Ms. Cordovi: clarified when she received the notice she immediately went into action to try to resolve the issue. She was grateful to Mr. Luis Fontanills, Planning and Zoning Technician that help guide her through the whole process.

Ms. Cordovi: stated that she is taking full responsibility of the problem and would do whatever is necessary to follow city regulations.

Mr. Wu: pointed out that the applicant had provided engineering site plans that showed that the majority of the conditions were being met for the prevailing regulations of a patio.

Mr. Wu: recommended staff looking into changing the setback for patios. He stated that a 30 foot setback in the rear is too extensive. He stated that setback requirements need to be more lenient as long as they do not enclose the patio.

Ms. Fehr: asked the applicant what was the cost for the comprehensive engineering report provided as backup to her application?

Ms. Cordovi: stated \$3,000.

Mr. Wu: clarified that the report would eventually need to provide as engineering plans for review; However, this case would be analyzed after the fact during the permit review.

Mr. Wu: explained that should the Board approve the application, the applicant would then be able to apply for a building permit, which require providing an engineering report to show the structure meets the building code requirements.

Mr. Wu: opened the public hearing.

Mr. Wu: closed the public hearing

Mr. Wu: asked if staff had received any calls or complaints regarding the item?

Ms. Dominguez: stated no.

Ms. Sarver: reiterated on the precedence topic being questioned by the Board. She agreed with Mr. Wu's previous comments in regards precedence and whether variance approval where approved previously, denied in the past, or whether it happened next door. All cases are different and should be reviewed independently.

151  
152 Ms. Sarver: further added that the Board duty is to take the facts and the circumstances of every  
153 individual case and base solely on the substantial evidence and the testimony presented.  
154

155 Ms. Sarver: stated that if anyone in the Board felt that for whatever reason should be approved or  
156 denied they should vote within those two navigational beacons and based their decision based  
157 upon all of those reasons and what is being discussed on the subject property.  
158

159 Mr. Wu: asked the applicant if she would like a vote from the Board today?  
160

161 Ms. Cordovi: stated yes.  
162

163 Mr. Wu: agreed and stated that the Board is required to follow certain standard and cautioned  
164 everyone to vote based only on those standards and staff evaluation of those standards, which  
165 were detailed on the staff report.  
166

167 Mr. Wu: further stated that there were seven review standards but staff has clarify that there is one  
168 standard that met one out of the seven. He asked the Board if anyone had any questions or  
169 concerns regarding the standards.  
170

171 No response.  
172

173 Mr. Garson: stated that he understood from a legal standpoint but shared his view, as far as  
174 fairness. He stated that if the Board allows one resident a variance and if the Board is faced with a  
175 similar case the Board should follow the previous situation.  
176

177 Mr. Garson: further stated that it had been clarified that both applications are totally different  
178 circumstances; however, his concern was that the Board had no idea of the circumstances on the  
179 neighboring property and perhaps were actually exactly the same.  
180

181 Mr. Garson: reiterated that both the applicant and neighbor can have major differences and the  
182 Board does not have any knowledge and that is why he has concerns with approving the application.  
183

184 Mr. Garson: pointed out that if and when the next door neighbor comes before the Board, the  
185 application being presented should not be a factor in any other decision coming before the Board.  
186

187 Ms. Dominguez: stated and clarified into the record that that the neighboring property is not similar  
188 and encroachment goes much further than what is being presented in this application.  
189

190 Mr. Garson: stated that his concern was that he was being put in a position of deciding based on  
191 the City's recommendation of 30 feet and the Board now needs to sit and decide whether it should  
192 be 30 feet or 20 feet.  
193

194 Mr. Garson: asked if the shed is coming down no matter what the Board decides?  
195

196 Ms. Dominguez: stated that is a condition of approval and applicant has agreed to remove it.  
197

198 Ms. Dominguez: followed by stating that the shed was not relevant to what is being presented. She  
199 further explained that the least restrictive setback that is allowed for single family home is 20 feet  
200 that is the very minimum for the RS-7 zoning.  
201

202 Mr. Wu: asked what is the zoning now of the property?

Ms. Dominguez: stated RS-6 which requires a 30 foot rear setback.

Ms. Wead: stated that it would be useful just to run through the seven required standards.

Ms. Wu: read from page 3 of the staff report standard requirements into the record that authorizes any variances to the terms of Chapter 32-965.

Mr. Wu: asked staff if the applicant needed to meet all or just a majority of the criteria?

Ms. Dominguez: stated in accordance to city code, the applicant is required to meet all criteria.

Mr. Wu: stated that it should be noted on the record that the applicant met all seven criteria pursuant to Section 32-965.

**MR. KATTAN MOVED THAT BASED ON THE COMPETENT AND SUBSTANTIAL EVIDENCE PRESENTED TODAY, I MOVE THAT THE PLANNING AND ZONING BOARD APPROVE APPLICATION # V-19-00042 TO GRANT A VARIANCE FROM SECTION 32-142(d)(4)(b), WHICH REQUIRES A MINIMUM OF A 30 FOOT REAR YARD SETBACK FOR BUILDINGS IN THE RS-6 DISTRICT, SUBJECT TO APPLICANT MEETING ALL CRITERIA PURSUANT TO SECTION 32-965 AND TO THE CONDITIONS RECOMMENDED BY THE CITY ADMINISTRATION.**

**MS. WEAD SECONDED THE MOTION.**

**MOTION PASSED BY ROLL CALL VOTE (3-2). (Mr. Wu & Mr. Garson-No)**

## **6. REMARKS BY THE CHAIR**

Mr. Garson would like to put on the record that whoever made the decision on how the Board's Alternative Board Members interacts be reconsider. He stated that alternate members should be allowed to sit on the dais and be allowed to ask questions to staff and applicant.

Mr. Wu: agree with Mr. Garson and suggested speaking to the elected officials.

Mr. Garson: further asked if the decision was made by the City Commission? If not, who made the decision as to how the alternate board members interact?

Ms. Dominguez: clarified that staff met with the City Clerk and City Attorney Office and during their discussion, the City Clerk explained that the current process on how Boards with alternate members are supposed to function.

Ms. Dominguez: stated that an alternate board member would only get to participate on the dais during the absences of a permanent board member. Staff would advise the alternate member when they are needed for coverage and will be allowed to be part of dais. Otherwise, they can choose to attend and participate as part of the public.

Ms. Sarver: agreed and added that the City Clerk's recommendations is ultimately be a better policy than what is being suggested. This would avoid any property owner coming before the Board and additional alternate members asking questions and giving recommendations.

Ms. Sarver: explained if an application was not granted and they request an appeal it would be this point where it can be argued against the City and petitioners to go ahead and use as an opportunity

to sue the City, which would be a viable one since you have additional people seating on the dais and which appears as they are additional board members.

Ms. Sarver: further explained that they would be allowed to asking questions to the members of the public and the applicant which remotely impact and affect the Applicant's development rights.

Mr. Garson: acknowledged and based on the Assistant Attorney's explanation agreed to keep the current process as it stands.

Mr. Wu: asked to put on the record that the city consider different setbacks for patios in residential zoning districts, to avoid receiving another after-the-fact situation.

## **7. NEXT SCHEDULED MEETING**

### **MEETING ADJOURNED AT 7:45 P.M.**

Recording of this meeting can be made available to any member of the public upon request. Requests to hear a taping of the Planning and Zoning Board meeting, summarized above, should be submitted to the Planning & Zoning Division at or can be mailed to 400 South Federal Highway, Hallandale Beach, Florida 33009