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**BOARD OF ADJUSTMENT  
AGENDA  
WEDNESDAY, JULY 31, 2019 6:30 P.M.**

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**PLEDGE TO PLAG**

**ROLL CALL**

1. Approval of Minutes of the February 27, 2018 meeting.

**PUBLIC COMMENTS - At this time any person will be allowed to speak on any matter that pertains to City business for a length of time not to exceed four minutes per person.**

**PUBLIC HEARINGS**

2. **Case# CD19-16V “Variance requesting a parcel to be considered a lot”**

A public hearing to consider an application by Stevenville, LLC, requesting a variance from section 24-245(53) of the land development code to allow for a parcel with no frontage on a street and with a private access easement to be considered a lot in the R-1 zoning district, generally located at the rear of the lot located at 1383 NE 34th Court.

**OTHER BUSINESS / NEXT MEETING**

3. Next Meeting – TBD

**ADJOURN**

This meeting facility is wheelchair accessible and accessible parking spaces are available. Requests for accommodations or interpretive services must be made 48 hours prior to the meeting. Please contact the City Clerk’s Office by telephone: 954.630.4300, or via Fax: 954.630.4302 for information or assistance.

If a person decides to appeal any decision made by the Board of Adjustment with respect to any matter considered at this meeting, the person will need a record of the proceedings, and that, for such purpose, the person may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

I, the undersigned authority, certify the above Notice of Meeting of the Board of Adjustment is a true copy of the Notice posted on the outdoor bulletin board at the main entrance of City Hall, a place convenient and readily accessible to the general public at all times.

Posted: July 24, 2019

By: Peter Schwarz



City Hall Commission Chambers  
3650 NE 12 Avenue  
Oakland Park, Florida 33334

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**DRAFT MINUTES  
BOARD OF ADJUSTMENT MEETING  
FEBRUARY 27, 2018 6:30 PM**

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The Board of Adjustment of the City of Oakland Park, Florida was called to order at 6:30 p.m.

**ROLL CALL**

**Present:**

Linda Martin, Chair  
Layne Dallett Walls, Vice Chair  
Robert Darren Blaney Board Member  
Troy Stumbo, Board Member  
James Weaver, Board Member

**Absent:**

Loren Walkington, Alternate Board  
Member

**Also Present:**

Stephen Scott, Assistant Director, Planning &  
Zoning, and Building  
Rick Buckeye, Senior Planner  
Gil Chaidez, Associate Planner  
Brian J. Sherman, Board Attorney  
Heidi Siegel, Keith & Schnars, Staff  
Consultant  
Shari Wallen, City Attorney  
Laura Adams, Recording Secretary

**1. APPROVAL OF MINUTES FROM THE MEETING OF TUESDAY, June 27, 2017**

Member Stumbo moved to approve the minutes. Vice Chair Walls seconded the motion, which prevailed by the following vote:

**Yes:** Member Weaver, Member Stumbo, Member Blandy, Vice Chair Walls, Chair Martin

**PUBLIC COMMENTS**

None

**2. Case# CD17-13Z/U/CU “Orla, Inc./Alberto Micha Buzali requests variances waiving the minimum required front setback along Federal Highway, waiving the minimum required setback abutting private property and to exceed the maximum service area permitted for an outdoor dining area.”**

Stephen Scott, Assistant Director, Engineering and Community Development - Planning, Zoning & Building, introduced Heidi Siegel from Keith and Schnars. She has served as planner on this project and will do the City's presentation.

The application, Orla, Inc./Alberto Micha Buzali, is requesting three variances from sections §24-50(J)(2)(a), §24-50(J)(2)(e), and §24-50(F)(c) of the City's Land Development Code for a new restaurant/bar at 3339 N. Federal Highway. At deliberation, the board requested three individual motions, one for each variance.

The project is in the Federal Highway Mixed Use Business and Entertainment Overlay District. The first variance is for a front setback encroachment; the Code requires 50 feet. Applicant proposes to have a 10-foot front setback. The second variance is waiving the minimum required 20-foot side setback. Code details this as the side property abutting private property. On the north side, the applicant is seeking a variance to allow a 7.62-foot setback. The third variance is to exceed the maximum permitted outdoor service area of 25% relative to the total service area. The applicant is proposing an outdoor seating area of 38% relative to the total service area. Linda Nunn then reviewed the seven criteria that the board must look at when considering variances.

The use is allowed in the underlying zoning district as well as the Overlay District. The responsibility of the applicant is to argue and justify the need for the variances. The applicant stated that the hardship for the front setback derives from the size and shape of the property and that the increased setbacks would take away from the ability to develop on the property. The same argument is used for the north property line and side property line, stating the property is constrained and the 20-foot setback would take away their ability to develop the property. The applicant states that the outdoor covered dining area is not fully open air; it is completely under a roof and is part of the architectural design that goes with the restaurant brand. Staff finds that the hardship is unique to this lot, it is not self-created, and the applicant has addressed the criteria for the variance. Staff also reminded the Board that the City Commission will have the final jurisdiction over this request. Staff recommends the applicant address the Board and consider all the criteria for deliberations.

The applicant is represented by Linda Nunn on behalf of Orla, Inc. and Bahama Breeze. Also present is Alberto Micha Buzali, Darden Management, and Chris Fortmueller, from Bahama Breeze corporate offices.

(Ms. Nunn, left the microphone to speak about the renderings she had brought. She was asked to come back to the podium and speak into the microphone.) Linda Nunn explained how the site was laid out showing the location of the dumpster, the rear parking, the delivery truck area, and the handicap parking. She took a copy of the required setbacks and placed them over a copy of

the engineering plan to show how much of the site becomes unbuildable. On a site of this size, 47% of the site is lost to setbacks. They lose the dumpster, the rear and handicap parking stalls. The property itself is just under an acre. Had the site not been in an overlay district, the underlying B-1 zoning district would permit the proposed 10-foot front and 5-foot side setbacks. If it were in the Downtown Mixed-Use Development Overlay, the commercial overlay would have required 12 feet at the front and 10 feet on the sides. The setbacks from the Overlay District make it a hardship to try and get the project to fit, and Bahama Breeze wants to be here.

Member Weaver asked where everyone is going to park. Ms. Nunn explained that they have an offsite parking agreement for the separate parcel to the west and directly behind the site. With this back lot, they more than meet the Code. Staff noted that the Code does allow for the offsite parking within this district. Ms. Nunn explained that the lot must be leased with an agreement. Staff explained that the Code specifies what must be in the agreement and the City Attorney will be reviewing. Ms. Nunn then stated that Bahama Breeze wants to make sure that there is enough parking, so there is a second offsite parking agreement with a church on 20<sup>th</sup> Street for the employees to park there at night when the church is not open. That was not required by the City, but Bahama Breeze wanted to make sure they had to ensure enough parking for the staff and patrons.

Chair Martin voiced a concern about the traffic on Federal Highway in front the site location. Mr. Fortmueller stated that they have stacking that they have built into the drive isle, to the south of the building, so that there is room for the cars to pull in and stack. That's why the drop-off area is to the west of the building verses right up front. Chair Martin explained that she is also worried about sitting at the front of the building and a car runs up the sidewalk if it's only a few feet. Stephen Scott noted the underlying B-1 zoning district would have allowed a 10-foot setback anyway. When the Federal Highway Overlay District was created, it was contemplating something else when it required a 50-foot setback. What the City is trying to do now is encourage more activity closer to the street. The City sees this as a positive.

Public Hearing – The public hearing was held as advertised.  
Open to anyone who wishes to speak in opposition of the request?

None

Anyone who wishes to speak in favor of the request?

None

Public Hearing closed.

Opened for Board discussion - A question was asked as to what the original reason was to have such a large setback. It was explained that when the Federal Highway Overlay District was

created, the idea was to create an entertainment district which included mixed uses. One of the things that it wanted to encourage was some type of residential development along the corridor. Some of these setbacks make a little bit more sense when you are looking at a large residential – 10 story residential tower. One wouldn't want it over the street. Previously, design guidelines were different than they are today and trends in the community were different. The City was trying to provide bonus incentives for green development along the residential corridor which never really took. The Planning and Zoning Division are reevaluating these requirements. There are residential projects that are proposed near this location. Ms. Siegel added that 2006 was when this section of the Code was written. At the time, every city was looking to provide incentive for development. The City also did not want the 'canyon affect,' the idea of tall condos on both sides of the corridor. When there are 50-foot setbacks in a district that encourages vertical height, this will most likely discourage the canyon affect. It was a very different type of code when written than what we think of from a development standpoint now. This application is more consistent with current development standards. The Code is written to try to work for everything, but sometimes it doesn't.

Safety issues were again discussed as to access to the outdoor patio. It was noted that there is no wall around it, but the patio is enclosed with steel railings. It has controlled access and must be entered and exit through the restaurant. When you try to walk out of it directly to the parking lot, an alarm goes off.

Board Discussion closed.

Chair Martin asked for a motion on Variance #1, §24-50(J)(2)(a), waiving the minimum required front setback of 50-feet along Federal Highway.

Stephen Scott asked the City Attorney if the applicant had adequately stated the bases for the variances that they are seeking, or do they need to articulate that to the board?

City Attorney stated that they have addressed it. Whether they have adequately articulated it is up to board's discretion. She suggested that each motion specifically reference whether they find that there was or was not any hardship.

Vice Chair Walls moved to recommend to the City Commission Variance #1 be approved, based on the fact that they have met the criteria set forward in the examples are listed in the Agenda Item #2 memo. The seven points were addressed, and the criteria was met.

Member Weaver seconded the motion, which prevailed by the following vote:

**Yes:** Member Weaver, Member Stumbo, Member Blaney, Vice Chair Walls, Chair Martin.

Chair Martin asked, regarding the second variance, for a motion on Variance #2, §24-50(J)(2)(e), waiving the minimum required 20-foot setback abutting private property, which is the north property line.

Member Stumbo moved to recommend a motion for approval. Vice Chair Walls seconded the motion as they have met the criteria set forth, which prevailed by the following vote:

**Yes:** Member Weaver, Member Stumbo, Member Blaney, Vice Chair Walls, Chair Martin.

Chair Martin, regarding the last one, asked for a motion regarding Variance #3, §24-50(F)(c), to exceed the maximum service area of 25% of the total service area permitted for an outdoor dining area.

Member Stumbo moved to approve based upon the criteria have been met. Member Blaney seconded the motion, which prevailed by the following vote:

**Yes:** Member Weaver, Member Stumbo, Member Blaney, Vice Chair Walls, Chair Martin.

**OTHER BUSINESS**

None

**ADJOURN**

Chair Martin asked for a motion to adjourn. Vice Chair Walls so moved. The meeting adjourned at 7:05 p.m.

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Laura Adams, Board Secretary

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Linda Martin, Board Chair

**CITY OF OAKLAND PARK, FLORIDA**  
**BOARD OF ADJUSTMENT AGENDA ITEM REPORT**

**AGENDA ITEM NO. # 3**  
MEETING DATE: JULY 31, 2019

**PREPARED BY:** PETER SCHWARZ, AICP  
ASSISTANT DIRECTOR,  
ENGINEERING & COMMUNITY  
DEVELOPMENT

ENGINEERING & COMMUNITY  
DEVELOPMENT DIRECTOR:

JENNIFER  
FRASTAI

**SUBJECT:** A public hearing before the Oakland Park Board of Adjustment to consider an application by Stevenville, LLC, requesting a variance from section 24-245(53) of the land development code to allow for a parcel with no frontage on a street and with a private access easement to be considered a lot in the R-1 zoning district, generally located at the rear of the lot located at 1383 NE 34th Court.  
**Case #CD19-16V “Variance requesting a parcel to be considered a lot”**

**1. BACKGROUND/HISTORY**

**Issue Statement:** An application by Stevenville, LLC, seeking a variance to develop a land locked parcel not fronting a street located at the rear of the lot located at 1383 NE 34th Court. Section 24-245(53) of the Land Development Code defines a lot as a parcel of land fronting on a street; therefore, a variance would be required to develop this individual parcel.

**Recommended Action:** The Board of Adjustment consider the request for a variance for the property and make a recommendation to the City Commission.

**Site Description:** The property is a 0.2-acre vacant parcel located in the middle of its city block and positioned immediately to the north of the lot located at 1383 NE 34 Court. The subject property does not front on any street and therefore does not meet the Land Development Code’s definition of a lot. The applicant owns the lot directly to the south, located at 1383 NE 34 Court, which has street frontage. A Private Access and Utility Easement providing for perpetual access to the subject property from NE 34 Court has been recorded.

- Current Zoning: R-1, Single-Family Residential District.
- Surrounding Property Zoning:
  - R-2, Two-Family Residential District, to the north, south, and west.
  - R-1, Single-Family Residential District, to the east.
- Adjacent surrounding uses: Single-family and two-family dwellings.

**2. CURRENT ACTIVITY**

The applicant requests a variance from Section 24-245(53) for the property to be regarded as a lot, and thus be able to be used as a building site. The property in question does not have frontage on a street. It meets the minimum land area requirements for a single-family home, however, because it is land locked, it does not meet the definition of a lot and is therefore not buildable on its own.

**Variance Standard:**

According to Section 24-232(C), a variance can only be approved if the applicant demonstrates a hardship pursuant to the below criteria. The applicant states that this condition creates a hardship, as more fully paraphrased below in the applicant's responses to the criteria for granting a variance.

According to Section 24-232 (C) a variance can only be approved "after the applicant has demonstrated justification for the granting of a variance in conformance with the following criteria:"

- (1) That special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of said land, structure or building.**

*The subject property is essentially landlocked as it is surrounded on all sides by other residential properties with no street, which prevents it from being defined as a "lot" under the City's Code. It is of comparable size to the surrounding properties, all of which have homes situated upon them. To alleviate this concern, the Applicant, upon the advice of a former City Employee prepared and recorded a Private Access and Utility Easement ("the Easement") providing for permanent access to the nearest street.*

- (2) That the circumstances which cause the hardship are peculiar to the property, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the district.**

*A review of the Aerial Map of the surrounding area does not reveal any other vacant lots of comparable size which are completely surrounded by other residential properties with no street frontage. This landlocked condition is unique and granting such an exception would not be grounds for any other property owners in the district to request and be granted similar relief.*

- (3) That the literal interpretation of the provisions of this chapter would deprive the applicant of a substantial property right that is enjoyed by other property owners in the district. (It is of no importance whatever that the denial of the variance might deny to the property owner some opportunity to use the property in a more profitable way, or to sell it at a greater profit than is possible under the terms of this chapter).**

*The literal interpretation of Section 24-245 (53) would prevent the Property from being considered a "lot" upon which the owner could build a residence. Essentially, by not classifying the property as a lot, the property would be relegated to remaining permanently vacant unless the City changed its Code (there is no other reasonable zoning classification for the Property and no other use to which it could be put).*

- (4) That the hardship is not self-created or the result of mere disregard for, or ignorance of, the provisions of this chapter.**

*The hardship is not self-created and is not a result of a disregard or ignorance of the provisions of Section 24-245 of the Code. In fact, the filing of a Unity of Title and the recording of the Easement providing access to the nearest street were done after extensive*

*consultation and multiple meetings with a former employee the City of Oakland Park along with a real estate consultant and a licensed surveyor, engineer, and land planner who all believed that the recording of the Easement, would provide the necessary street frontage to meet the City's definition of a lot.*

- (5) That the variance is the minimum variance that will make possible the reasonable use of the property, and that the variance will be in harmony with the general purposes and intent of this chapter and will not be injurious to the neighborhood, or otherwise detrimental to the public welfare.**

*The Property is surrounded by residential lots with homes situated upon them- which would be the only reasonable use for the Property. The variance being requested is minimal and reasonable change that will benefit the surrounding neighborhood. Were this variance not to be granted, the Property would have to remain vacant in perpetuity and would be detrimental to the welfare of the surrounding community.*

- (6) That granting the variance requested will not be detrimental to adjacent property or adversely affect the public welfare. No nonconforming use of neighboring lands, structures or buildings in the same district, and no permitted use of land, structures or buildings in other districts shall be grounds for the issuance of a variance.**

*The requested variance would put the use of the Property in line with the surrounding properties and would not adversely affect the public welfare.*

- (7) Under no circumstances shall the board of adjustment recommend a variance to permit use not generally permitted in the district involved, or any use expressly or by implication prohibited by the terms of this chapter in said district.**

*If the requested is approved, the applicant proposes a residential dwelling which is a permitted use within the R-1 zoning district.*

**Applicable Codes:**

**§24-245. – General Definitions.**

(11) Building site: A lot or lots (or portion) used for a structure, the total area of which is identified with the building or structure for compliance with this chapter.

(53) Lot: A parcel of land fronting on a street and including the word "plot" which is or may be occupied by a building and its accessory buildings, including the open spaces required under this chapter, and which parcel of land is a matter of record in Broward County.

**Findings:**

- The applicant responded to the criteria for a variance in Section 24-232(C) (stated above).
- The lot has 8,748 square feet, therefore it meets the minimum size requirement of its zone.
- Each side of the lot exceeds 60 feet, therefore it meets the minimum dimensional requirement of its

zone.

- Should the variance be recommended for approved by the Board of Adjustment, the item will be scheduled to be heard by the City Commission at a future date for final approval.

**3. ATTACHMENTS:**

Application Materials  
Recorded Private Access and Utility Easement  
Applicant's Statement Regarding Variance Criteria  
Aerial Map  
Zoning Map

**4. RECOMMENDATION:**

The Board of Adjustment consider the request for a variance for the property and make a recommendation to the City Commission.