

Meeting Date: February 24, 2015

Agenda Item 4

REQUESTED COMMISSION ACTION:

<input checked="" type="checkbox"/> Consent	<input type="checkbox"/> Ordinance	<input type="checkbox"/> Resolution	<input type="checkbox"/> Consideration/ Discussion	<input type="checkbox"/> Presentation
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SHORT TITLE APPOINTMENT TO THE ZONING BOARD OF APPEALS

Summary of Purpose and Why:

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPOINTING **M. ROSS SHULMISTER** TO THE ZONING BOARD OF APPEALS OF THE CITY OF POMPANO BEACH, AS APPOINTEE OF VICE MAYOR CHARLOTTE BURRIE, WHICH TERM SHALL RUN CONCURRENTLY WITH THE TERM OF THE MEMBER OF THE CITY COMMISSION; PROVIDING AN EFFECTIVE DATE.



Accomplishing this item supports achieving *Initiative 5.2.1*. "Ensure boards/committees are at 90% capacity with qualified members", as identified in the Strategic Plan.

This is a Commission's appointment.

The Zoning Board of Appeals consists of the following members: Daniel Yaffe (District 1) appointed by Comr. Dockswell; Paul S. Webb (District 1) appointed by Comr. Hardin; George J. Cuolahan (District 5) appointed by former Vice Mayor Brummer; Robert J. Kitchen, Jr. (District 4) and Robert Holmes (Alternate #1/District 4) appointed by former Comr. Poitier; M. Ross Schulmister (District 1) appointed by Comr. Burrie; Ray Lubomski (Alternate #2/District 3) and James R. Bunn (Alternate #3/District 3) appointed by Mayor Fisher.

- (1) Origin of request for this action: City Clerk's Office
- (2) Primary staff contact: Asceleta Hammond Ext. 4611
- (3) Expiration of contract, if applicable: _____
- (4) Fiscal impact and source of funding: _____

DEPARTMENTAL COORDINATION	DATE	DEPARTMENTAL RECOMMENDATION	DEPARTMENTAL HEAD SIGNATURE
City Clerk's Office	<u>2/10/15</u>	<u>Approve</u>	
<u>X</u> City Manager	_____	_____	

ACTION TAKEN BY COMMISSION:

<u>Ordinance</u>	<u>Resolution</u>	<u>Consideration</u>	<u>Workshop</u>
1 st Reading _____	1 st Reading _____	Results: _____	Results: _____
2 nd Reading _____	_____	_____	_____
_____	_____	_____	_____

RESOLUTION NO. 2015-_____

CITY OF POMPANO BEACH
Broward County, Florida

A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA, APPOINTING M. ROSS SHULMISTER TO THE ZONING BOARD OF APPEALS OF THE CITY OF POMPANO BEACH, AS APPOINTEE OF VICE MAYOR CHARLOTTE BURRIE, WHICH TERM SHALL RUN CONCURRENTLY WITH THE TERM OF THE MEMBER OF THE CITY COMMISSION; PROVIDING AN EFFECTIVE DATE.

WHEREAS, M. Ross Shulmister is well qualified to serve as a member of the Zoning Board of Appeals of the City of Pompano Beach and the City Commission desires to appoint a member thereto; now, therefore,

BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1: That M. Ross Shulmister is hereby appointed to the Pompano Beach Zoning Board of Appeals of the City of Pompano Beach as appointee of Vice Mayor Charlotte Burrie, which term shall run concurrently with the term of the member of the City Commission.

SECTION 2: This Resolution shall become effective upon passage.

PASSED AND ADOPTED this _____ day of _____, 2015.

LAMAR FISHER, MAYOR

ATTEST:

ASCELETA HAMMOND, CITY CLERK



**CITY OF POMPANO BEACH, FLORIDA
ADVISORY BOARD/COMMITTEE APPLICATION**

**City Clerk's Office
Post Office Drawer 1300
Pompano Beach, Florida 33061**

**www.mypompanobeach.org
Phone No. (954) 786-4611
Facsimile No. (954) 786-4095**

IN ORDER TO ASSIST THE CITY COMMISSION IN MAKING MUNICIPAL BOARD AND COMMITTEE APPOINTMENTS, THE FOLLOWING INFORMATION IS REQUESTED:

NAME OF BOARD/COMMITTEE: **Zoning Board of Appeals**

NAME OF APPLICANT: **M. Ross Shulmister**

RESIDENCY ADDRESS: **560 SE 12 Street**

ZIP CODE: **33060** HOME PHONE NO.: **(954) 785-9600**

MAILING ADDRESS: **- same -**

CITY/STATE/ZIP CODE: **Pompano Beach, FL 33060-9409**

ARE YOU A CITY RESIDENT? YES: NO:

IF YES, PLEASE INDICATE DISTRICT YOU RESIDE IN : 1 2 3 4 5 *OR 12*

DO YOU OWN REAL PROPERTY IN POMPANO BEACH? YES: NO:

ARE YOU A REGISTERED VOTER? YES: NO:

HAVE YOU BEEN CONVICTED OF A FELONY IN FLORIDA, OR ANY OTHER STATE, WITHOUT YOUR CIVIL RIGHTS HAVING BEEN RESTORED? YES: NO:

BUSINESS OR OCCUPATION: **Attorney, Licensed Real Estate Agent**

BUSINESS ADDRESS: **560 SE 12 Street**

CITY/STATE: **Pompano Beach, FL**

ZIP CODE: **33060** BUSINESS PHONE NO.: **(954) 785-9600**

ARE YOU PRESENTLY SERVING ON ANY OTHER CITY BOARD OR COMMITTEE? **No**

IF YES, PLEASE LIST NAME: _____

WOULD YOU CONSIDER SERVING ON ANY OTHER CITY BOARD OR COMMITTEE? _____

IF YES, PLEASE LIST NAME(S): _____

HAVE YOU EVER SERVED ON A CITY OF POMPANO BEACH BOARD/COMMITTEE? **Yes**
Charter Amendment

IF YES, PLEASE STATE NAME OF BOARD OR COMMITTEE: **Advisory Board (chair)**

PLEASE LIST THE FOLLOWING BACKGROUND INFORMATION, WHICH WOULD QUALIFY YOU TO SERVE ON THIS BOARD OR COMMITTEE: _____

Licensed attorney, real estate agent

EDUCATION: **Post graduate and seminar courses in real estate, construction, zoning, and related matters**

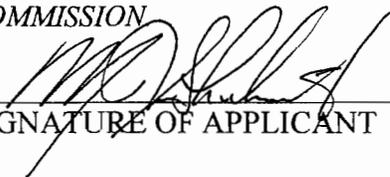
EXPERIENCE: **Litigated numerous cases involving real estate, zoning and related matters, including cases involving Pompano Beach. Have been through variance process. Served as Pompano's first special master for code enforcement. Arbitrator for 17th Circuit and AAA.**

CURRENT POSITION: **Attorney, Arbitrator**

PAST POSITIONS: **Electrical Engineer, Military Combat Pilot**

HOBBIES: _____

MAKING ANY FALSE STATEMENTS HEREIN MAY BE CAUSE FOR REMOVAL BY THE CITY COMMISSION



SIGNATURE OF APPLICANT

July 1, 2008

DATE OF APPLICATION

INITIALS OF CLERK OR DEPUTY

DATE RECEIVED OR CONFIRMED

NOTE: IF YOU DO NOT WISH TO SERVE ON THIS BOARD OR COMMITTEE, PLEASE EITHER CHECK HERE _____ AND RETURN TO CITY CLERK, OR NOTIFY THE CITY CLERK'S OFFICE IN WRITING OF YOUR DESIRE NOT TO SERVE.

THIS SECTION MUST BE COMPLETED BY THE ADVISORY BOARD SECRETARY ONLY

NUMBER OF MEETINGS HELD: _____ NUMBER OF MEETINGS ATTENDED: _____

D. OTHER ACTIONS

To take any other action not assigned or delegated to the Zoning Board of Appeals, Planning and Zoning Board, Architectural and Appearance Committee, Historic Preservation Committee, Development Review Committee, Development Services Director, or other advisory or decision-making authority as the City Commission may deem desirable and necessary to implement the provisions of this Code.

155.2203. ZONING BOARD OF APPEALS (ZBA)

A. ESTABLISHMENT

The Zoning Board of Appeals (ZBA) is hereby established in accordance with state law.

B. POWERS AND DUTIES

The ZBA shall have the following powers and duties under this Code:

1. Decide Applications for Development Permit

To review and decide the following applications for a development permit:

- a. Special Exception (Sec. 155.2406);
- b. Major Temporary Use Permit (Sec. 155.2412.C);
- c. Interim Use Permit (Sec. 155.2415);
- d. Variance (Sec. 155.2420); and
- e. Appeal of a decision of the Development Services Director on an application for an Interpretation (Sec. 155.2424).

2. Other Powers and Duties

- a. To review and decide appeals of relating to regulations in Section 100.40 (Movable Fixtures in the Public Right-of-Way) of the Code of Ordinances, in accordance with procedures and standards in that section;
- b. To review and decide requests for variances relating to regulations in Chapter 151 (Beaches and Waterways) of the Code of Ordinances, in accordance with procedures and standards in that chapter;
- c. To review and decide requests for variances and appeals relating to floodplain management regulations in, and actions authorized by, Chapter 152 (Buildings) of the Code of Ordinances, in accordance with procedures and standards in that chapter; and
- d. To carry out any other powers and duties delegated to it by the City Commission, consistent with state law.

C. MEMBERSHIP, APPOINTMENT, AND TERMS OF OFFICE

1. Membership and Appointment

- a. The ZBA shall consist of five regular voting members and three alternate members, appointed by resolution of the City Commission as a whole.
- b. Appointed regular voting members shall include one person nominated by each City Commissioner from among residents of the City Commissioner's district—provided, however, that a Commissioner may nominate a person who does not reside in the City Commissioner's district on determining such person would better serve the public interest.
- c. Alternate members shall be appointed by the City Commission as a whole.
- d. Each regular voting member and alternate member shall be a resident of the city.
- e. Regular voting members and alternate members shall serve without compensation.

2. Terms

- a. Regular voting members of the ZBA shall be appointed for a term which shall run concurrently with the term of the member of the City Commission who appointed them.
- b. Alternate members shall be appointed for three-year, concurrent terms.
- ✓ c. Regular voting members and alternate members shall continue to serve until their successors are appointed.

3. Alternate Members

The Chair of the ZBA shall be authorized to assign one of the three alternate members to serve as a substitute for a regular voting member who is temporarily absent or disqualified, in accordance with the following:

- a. The Chair shall rotate assignments among the alternate members unless the unavailability of alternate members makes such rotation impossible.
- b. No alternate member may serve as a substitute member for a period of more than three months.
- c. No more than two alternate members may serve as substitute members at any one time.
- d. No alternate member may take action as a substitute member unless the Chair first announces assignment of that role and the assignment is recorded in the official minutes of the meeting.
- e. When substituting for regular voting members, alternate members shall have the same powers and duties as the regular voting member they replace.

4. Removal and Replacement; Attendance

a. Removal for Good Cause

The City Commission may, by majority vote of a quorum present, remove and replace any member of the ZBA at any time for good cause, including, but not limited to, poor attendance (See subsection b below.), lack of participation, unfitness, malfeasance, and conflict of interest (See Section 155.2203.H.). Any allegation of cause for removal shall be in writing, and the City Commission shall hold a public hearing on such an allegation before taking action to remove a board member.

b. Removal for Poor Attendance

Any member of the ZBA who is absent from three consecutive regularly scheduled board meetings or more than 50 percent of regularly scheduled board meetings held within a calendar year shall be removed from the board by the City Commission in accordance with subsection a above. The Chair of the ZBA shall notify the Mayor and City Commission if a member qualifies for removal under this subsection.

5. Vacancies

Vacancies occurring for reasons other than expiration of terms shall be filled for the period of the unexpired term only, in accordance with the following:

- a. A vacancy in the term of a regular voting member shall be filled by the City Commissioner in whose district the appointment originated.
- b. A vacancy in the term of an alternate member shall be filled by the City Commission as a whole.

D. CHAIR AND VICE-CHAIR

1. The ZBA shall elect a Chair and a Vice-Chair from among its members, each to serve a one-year term. The Chair and Vice-Chair may be elected to successive terms without limitation.
2. The Chair shall preside over all board meetings. The Vice-Chair shall preside over board meetings in the absence of the Chair. If both the Chair and Vice-Chair are absent, the ZBA shall vote to determine who shall serve as acting Chair for the meeting.

E. STAFF

The Development Services Director shall serve as the professional staff liaison to the ZBA, provide it with administrative support, and serve as its Secretary, notifying board members of all meetings and keeping the minutes of the meetings.

F. MEETINGS

1. Schedule

The ZBA shall adopt a schedule establishing the date, time, and location of regular meetings. The Chair may adjourn a regular meeting on determining that there are no agenda items for consideration, and may call special meetings.

2. Official Record

The ZBA shall keep a written record of its recommendations, transactions, findings, and determinations. Such record shall include minutes of meetings in accordance with state law¹ and shall be a public record and filed with the Development Services Director.

3. Notice of Meetings

- a. The Development Services Director shall provide notice of ZBA meetings to each board member at least 48 hours before the meeting.
- b. Notice of all ZBA meetings and public hearings shall be provided in accordance with state law and the public hearing requirements in Section 155.2305.C, Public Hearing Notice, as appropriate.

4. Open Meetings

All meetings of the ZBA shall be open to the public.

5. Procedure

In conducting its meetings, the ZBA shall follow rules of procedure adopted in accordance with Section 155.2203.I, Rules of Procedure.

G. QUORUM AND NECESSARY VOTE

1. Quorum

Four members of the ZBA shall constitute a quorum. No official business of the board shall be conducted without a quorum present.

2. Voting

The concurring vote of four members of the ZBA shall be necessary to approve a Special Exception, Major Temporary Use Permit, or Interim Use Permit, grant any Variance, or approve any appeal reversing or modifying a decision. An affirmative vote of the majority of board members present and constituting a quorum shall be required for all other decisions.

H. DISQUALIFICATION FROM PARTICIPATION AND VOTING BASED ON CONFLICT OF INTEREST

1. A member of the ZBA shall not participate in the review of, or vote on, an application for a development permit if the action proposed by the application creates a conflict of interest—that is, if the action proposed by the application would inure to the special private gain or loss of the member, any principal or corporation (or a parent organization or subsidiary of such corporation) that employs or otherwise retains the services of the member, or a close relative (e.g., parent, sibling, spouse, or parent- or sibling-in-law) or business associate of the member.

¹ Sec. 286.011, Fla. Stat.

2. If an objection is raised to a board member's participation in a matter based on a conflict of interest (as defined in subsection 1 above), and that member does not recuse himself or herself, the remaining members of the board present shall, by majority vote of a quorum present, determine whether the member is or is not disqualified from participating in and voting on the matter.
3. If a board member is disqualified on a regular and continuing basis due to a conflict of interest (as defined in subsection 1 above), the Chair of the board may request, in writing, that the member resign. If the member does not resign in response to such a request, the Chair shall report the conflict of interest to the Mayor and City Commission, who may consider whether to remove and replace the member in accordance with Section 155.2203.C.4, Removal and Replacement; Attendance.

I. RULES OF PROCEDURE

The ZBA shall adopt rules of procedure governing its procedures and operations. Copies shall be made available for public inspection in the Development Services Department.

155.2204. PLANNING AND ZONING BOARD (P&Z)

A. ESTABLISHMENT

The Planning and Zoning Board (P&Z) is hereby established in accordance with state law.

B. POWERS AND DUTIES

The P&Z shall have the following powers and duties under this Code:

1. Decide Applications for Development Permit

To review and decide the following applications for a development permit:

- a. Major Site Plan (Sec. 155.2407); and
- b. Major Administrative Adjustment (Sec. 155.2421).

2. Make Recommendations on Applications for Development Permit

To review and make a recommendation on the following applications for a development permit:

- a. Text Amendment (Sec. 155.2402);
- b. General Map Amendment (Rezoning) (Sec. 155.2403);
- c. Site-Specific Map Amendment (Rezoning) (Sec. 155.2404);
- d. Planned Development (Sec. 155.2405);
- e. Plat (Sec. 155.2410);
- f. Interim Use Permit (Sec. 155.2415);
- g. Development Agreement (Sec. 155.2427);
- h. Takings or Vested Right Determination (Sec. 155.2429) [placeholder]; and
- i. Right-of-Way of Easement Vacation or Abandonment (Sec. 155.2431).

3. Other Powers and Duties

- a. To act as the city's local planning agency and assume general responsibility for conduct of the city's comprehensive planning program;
- b. To work in conjunction with the Development Services Director and other city staff to prepare the city's comprehensive plan and plan amendments, and to make final recommendations to the City Commission regarding the adoption or amendment of the plan;
- c. To monitor and oversee the effectiveness and status of the comprehensive plan, make recommendations to the City Commission regarding necessary changes to the plan, work with the Development Services Director and other city staff to prepare periodic evaluation and appraisal reports assessing the city's progress in implementing its comprehensive plan in

CITY OF POMPANO BEACH
Broward-County, Florida

AN ORDINANCE AMENDING CHAPTER 155 OF THE POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 155.022, "ZONING BOARD OF APPEALS", SUBSECTION (B), RELATING TO THE METHOD OF APPOINTMENT; PROVIDING FOR SEVERABILITY; PROVIDING AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City, notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore,

BE IT ENACTED BY THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1: That Section 155.022, "Zoning Board of Appeals", is hereby amended to read as follows:

Section 155.022 ZONING BOARD OF APPEALS.

...

(B) There is hereby established a Zoning Board of Appeals which shall consist of five (5) members appointed by resolution of the City Commission. Each Commissioner shall nominate for appointment one (1) member who shall be a resident in the district of the nominating Commissioner, however, a Commissioner may nominate for appointment a member who does not reside in the nominating Commissioner's district if the Commissioner determines such person would better serve the interests of the public. Alternate members shall be city residents and shall be appointed by the City Commission. Any subsequent vacancy or a vacancy due to an unexpired term shall be filled by the

Commissioner in whose district the appointment originated save for the appointments of alternate members who shall continue to be appointed by the City Commission. Members shall serve for a term of three (3) years from the date of appointment. The Board, from its membership shall select a Chairman and Vice-Chairman. A Secretary shall be provided to the Board, such individual to be designed by the City Manager, each member of the Board shall serve without compensation. The Director of Planning and Growth Management or his duly authorized representative shall meet with the Zoning Board of Zoning Appeals in an advisory capacity but shall not have any vote. The members of the Board shall be subject to removal for cause by the City Commission after a hearing before the City Commission.

SECTION 2: If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3: This Ordinance shall become effective upon passage.

PASSED FIRST READING this 30th day of May, 1995.

PASSED SECOND READING this 6th day of June, 1995.


EMMA LOU OLSON, MAYOR

ATTEST:


MARY L. CHAMBERS, CITY CLERK

abate violation, to prevent the occupancy of the buildings, structure, or land or to prevent any illegal act, conduct, business, or use in or about the premises. Whenever a violation of this chapter occurs, or is alleged to have occurred, any person may file a written complaint. The complaint, stating fully the causes and basis therefor, shall be filed with the Zoning Director.

(B) When as a condition of the issuance of a Certificate of Occupancy by the Building Department or as a condition of final inspection by the Engineering Department, the Zoning Department is required to perform a site inspection, the following inspection fees shall apply, which fees shall be in addition to any and all fees as required pursuant to Chapter 152:

(1) If a Zoning Inspector upon the first inspection finds the work conforms to or complies with the provisions of this chapter or conforms to or complies with the approved plans on file with the city, there shall be no inspection fee.

(2) If a Zoning Inspector upon the first inspection finds the work does not conform to or comply with the provisions of this chapter or does not conform to or comply with the approved plans on file with the city, the Code Inspector shall notify the owner or contractor indicating the corrections required.

(3) When the corrections have been made, the Zoning Inspector shall re-inspect the site.

(4) A certificate of occupancy shall not be issued by the Building Department nor any final inspection be performed by the Engineering Department if any reinspection fees required by this section remain unpaid. ('58 Code, § 50.001) (Ord. 664, passed - - ; Am. Ord. 75-15, passed 12-30-74; Am. Ord. 82-1, passed 10-20-81; Am. Ord. 95-61, passed 5-9-95; Am. Ord. 2000-16, passed 10-26-99; Am. Ord. 2007-50, passed 4-24-07)

§ 155.022 ZONING BOARD OF APPEALS.

(A) As used in this chapter, Board means the Zoning Board of Appeals as established herein. ('58 Code, § 50.270)

(B) There is hereby established a Zoning Board of Appeals which shall consist of five members appointed by

resolution of the City Commission. Each Commissioner shall nominate for appointment one member who shall be a resident in the district of the nominating Commissioner; however, a Commissioner may nominate for appointment a member who does not reside in the nominating Commissioner's district if the Commissioner determines such person would better serve the interests of the public. Alternate members shall be city residents and shall be appointed by the City Commission. Any subsequent vacancy or a vacancy due to an unexpired term shall be filled by the Commissioner in whose district the appointment originated save for the appointments of alternate members who shall continue to be appointed by the City Commission. Members shall serve for a term of three years from date of appointment. The Board, from its membership, shall elect a Chairman and Vice-Chairman. A Secretary shall be provided to the Board, such individual to be designated by the City Manager. Each member of the Board shall serve without compensation. The Director of Planning and Growth Management or his duly authorized representative shall meet with the Board of Appeals in an advisory capacity but shall not have any vote. The members of the Board shall be subject to removal for cause by the City Commission after a hearing before the City Commission.

('58 Code, § 50.271) (Ord. 75-15, passed 12-30-74; Am. Ord. 82-1, passed 10-20-81; Am. Ord. 83-68, passed 9-6-83; Am. Ord. 95-44, passed 3-14-95; Am. Ord. 95-68, passed 6-6-95)

(C) No member of the Board shall draw any compensation for his services. ('58 Code, § 50.274)

(D) Meetings of the Board shall be held at the call of the Chairman and at other times as the Board may determine. All meetings of the Board shall be open to the public, and the Board shall keep minutes of its proceedings showing the vote of each member on each question submitted to it, or, if a member is absent or fails to vote, the fact shall appear in its minutes. Copies of its minutes shall be immediately filed with the City Clerk and shall become a public record. ('58 Code, § 50.275)

(E) The purpose of the Board is to hear and determine appeals from refusal of building permits and to permit special exceptions or variances from the terms of this chapter in harmony with its general purpose and intent, and in accordance with the principles, conditions, and procedures specified in this section and §§ 155.023 through 155.025. ('58 Code, § 50.2751)

(F) The Board shall have the following powers.

(1) Hear and decide appeals where it is alleged there in error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance.

(2) Hear and decide special exceptions to the terms of any zoning ordinance upon which the Board is required to pass.

(3) Authorize on appeal in specific cases any variance from the terms of any zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship.

(4) Grant temporary permits for nonconforming use of buildings or lands in the city; however, the temporary permits shall expire up to one year, after their issuance.

(5) Hear and decide requests and/or motions for rehearings in accordance with the procedures set forth in the Code of Ordinances addressing the Zoning Board of Appeals.

(6) Hear and decide any variance request made for relief from the provisions of § 151.03, in accordance with the principles, conditions and procedures specified in this chapter. Prior to its review of any such variance request, the Board shall first be provided the recommendations of the Marine Advisory Board on the specific request.

('58 Code, § 50.276) (Ord. 666, passed - - ; Am. Ord. 66-A, passed - - ; Am. Ord. 93-32, passed 3-16-93; Am. Ord. 97-42, passed 3-11-97; Am. Ord. 98-10, passed 11-25-97; Am. Ord. 2005-79, passed 9-27-05)

Cross-reference:

Zoning Board of Appeals, see Charter sections 221 through 227

Board to act as board of adjustment for airport zoning, see § 150.11

Authority to grant floodplain variances, see § 152.25

§ 155.023 VARIANCES.

(A) In exercising the powers and duties prescribed by § 155.022, the Zoning Board of Appeals shall not grant a variance unless and until the following has been demonstrated.

(1) Special and peculiar conditions and circumstances affect the land, building, or structure concerning which variance is sought, which conditions and

circumstances do not apply generally to neighboring lands, buildings, and structures in the same district.

(2) The existing conditions and circumstances are not the result of the actions of the applicant or his agents.

(3) The existing conditions and circumstances are such that strict application of the provisions of the ordinance would deprive the applicant of reasonable use of the land, building, or structure, equivalent to the use made in neighboring lands, buildings, or structures in the same district and permitted by the terms of this provision, however, no nonconforming use of neighboring lands, buildings, or structures, legal or illegal, in the same district and no permitted use of lands, buildings, or structures in adjacent areas shall be considered grounds for issuance of a variance permitting similar uses.

(4) The Board shall find that the granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance, and that the variance proposed to be granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.

(B) The Board shall not be empowered or authorized to issue variances or exceptions to permit a use in a district in which the use is prohibited by this chapter unless the variance falls under the conditions set out by subsection (A) above.

(C) The Board shall not be empowered or authorized to grant a variance which has the effect of providing relief from a code requirement under which a property owner or his agent has been cited for a zoning violation unless and until one of the following events has occurred:

(1) The Code Enforcement Officer has determined that the violation no longer exists or recurs;

(2) The property owner or his agent has appeared before the Special Master for Code Enforcement, who shall determine whether or not a violation has occurred and issue the appropriate order.

(D) It is hereby declared that any person, which term shall include, but is not limited to, an individual, firm, association, joint venture, partnership, estate, trust, business trust, syndicate, corporation, business or other similar entities, that do not meet or adhere to any and all restrictions or conditions imposed by the Zoning Board of Appeals and any of its orders shall be deemed in violation of the provisions of this chapter.

Sec. 191. METHOD OF MAKING SPECIAL ASSESSMENTS.

Editor's note: See editor's note following section 184.

Sec. 192. ASSESSMENT ROLL AND NOTICE.

Editor's note: See editor's note following section 184.

Sec. 193. ASSESSMENTS AGAINST UNITED STATES OR POLITICAL SUBDIVISIONS.

Editor's note: See editor's note following section 184.

Sec. 194. HEARING; CONFIRMATION OF ASSESSMENT LIST.

Editor's note: See editor's note following section 184.

Sec. 195. SETTING ASIDE SPECIAL ASSESSMENTS.

Editor's note: See editor's note following section 184.

Sec. 196. SUITS, ACTIONS, WRITS, OR SPECIAL PROCEEDINGS.

Editor's note: See editor's note following Section 184.

Sec. 197. METHOD OF COLLECTION.

Editor's note: See editor's note following section 184.

Sec. 198. LIEN DOCKET.

Editor's note: See editor's note following section 184.

Sec. 199. SPECIAL ASSESSMENT REVOLVING FUND.

Editor's note: See editor's note following section 184.

Sec. 200. ASSIGNMENT OF ASSESSMENT LIENS.

Editor's note: See editor's note following section 184.

Sec. 201. FORECLOSURE BY CITY.

Editor's note: See editor's note following section 184.

Sec. 202. FORECLOSURE WHEN LIENS ASSIGNED.

Editor's note: See editor's note following section 184.

ARTICLE XXI: (RESERVED)

Secs. 203 through 213.

Editor's note: Charter Amendment No. 1, approved by the electorate on

March 10, 1981, repealed Article XXI, previously contained herein, which dealt with the Planning Board.

ARTICLE XXII: (RESERVED)

Secs. 214. through 220.

Editor's note: Charter Amendment No. 1, approved by the electorate on March 10, 1981, repealed Article XXII, previously contained herein, which dealt with the Zoning Board. Pursuant to the Municipal Home Rule Powers Act, the substantive provisions of Sections 218 - 220 have been transferred to §§100.45, 100.46, 155.026, and 155.027.

ARTICLE XXIII: ZONING BOARD OF APPEALS

Sec. 221. ESTABLISHMENT AND MEMBERSHIP.

There is hereby created and established a Zoning Board of Appeals which shall consist of five (5) members, each of whom shall be a resident of the City of Pompano Beach, appointed by resolution of the City Commission, and each member shall be appointed for a term of three (3) years and removable for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any member whose term becomes vacant. Said Board, from its membership, shall elect a Chairman and Vice-Chairman, and each member of said Board shall serve without compensation. The Zoning Administrator shall meet with said Board in an advisory capacity but shall have no vote. The purpose of the Board is to hear and determine appeals from refusal of building permits and to permit special exceptions and/or variances from the terms of the zoning ordinances in harmony with its general purpose and intent, and in accordance with the principles, conditions and procedures specified in the ordinances. (Ref. of 3-9-76; Ref. of 3-11-80; Amend. No. 8)

Sec. 222. SUBSTITUTE MEMBERS.

The City Commission shall by resolution appoint three (3) alternate members of the Zoning Board of Appeals, to be designated as Alternate 1, Alternate 2, and Alternate 3. Each alternate member shall be appointed for a term of three (3) years, said terms to run concurrently, and shall be subject to removal for cause by the City Commission on written charges and after public hearing. Vacancies shall be filled for the unexpired term of any alternate member whose term becomes vacant. In case of temporary absence or disqualification of any member of the Zoning Board of Appeals; the Chairman of the Board shall have the right and authority to designate one of such

alternate members to serve as a substitute on the Zoning Board of Appeals during the continuance of such absence or disqualification. The Chairman shall rotate such assignments among the three (3) alternate members, unless unavailability of an alternate or alternates makes such rotation impossible. No substitute shall serve in such capacity for a longer period than three (3) months, nor shall more than two (2) substitutes serve on the Board of Appeals at any time. In cases where substitutes are designated to serve for such limited periods, such facts shall be recorded in the official minutes of the Zoning Board of Appeals before such substitute shall act in any matter presented to the Board and, while serving, substitutes shall have the same powers as regular members. (Ref. of 3-9-76)

Sec. 223. RULES, REGULATIONS AND PROCEDURE.

The City Commission may by ordinance fix and determine procedure for the Zoning Board of Appeals and such Board shall adopt reasonable rules and regulations consistent with the provisions of such ordinance for the presentation of matters before such Board, for notifying interested parties, for charging and collecting an application fee, for conducting and holding hearings, and for calling in advisors or assistants from time to time. The city shall furnish to the Board stenographers, typists and clerical help and pay miscellaneous expenses from time to time. No member of the Board shall draw any compensation for his services. All meetings of the Board shall be open to the public, and the Board shall keep minutes of its proceedings showing the vote of each member upon each question submitted to it, or, if a member is absent or fails to vote, such fact shall appear upon its minutes. Copies of its minutes shall be immediately filed with the Clerk and the city and shall become a public record.

Sec. 224. ADMINISTRATION FUND.

Editor's note: This section was repealed in March, 1981.

Sec. 225. POWERS.

The Zoning Board of Appeals shall have the following powers:

(1) To hear and decide appeals where it is alleged there is error in any order, requirement, decision, or determination made by an administrative official in the enforcement of any zoning ordinance;

(2) To hear and decide special exceptions to the terms of any zoning ordinance upon which such Board is

required to pass under such zoning ordinance;

(3) To authorize upon appeal in specific cases such variance from the terms of any zoning ordinance as will not be contrary to the public interest, where, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance will result in unnecessary hardship, and so justice done.

In exercising the above powers and duties, the Board shall not grant a variance unless and until:

(1) It shall be demonstrated that special and peculiar conditions and circumstances affect the land, building or structure concerning which variance is sought, which conditions and circumstances do not apply generally to neighboring lands, buildings and structures in the same district.

(2) It shall be demonstrated that the existing conditions and circumstances are not the result of the actions of the applicant or his agents.

(3) It shall be demonstrated that the existing conditions and circumstances are such that strict application of the provisions of the ordinance would deprive the applicant of reasonable use of said land, building or structure, equivalent to the use made in neighboring lands, buildings or structures in the same district and permitted by the terms of this provision provided, however, that no nonconforming use of neighboring lands, buildings or structures, legal or illegal, in the same district and not permitted use of lands, buildings or structures in adjacent areas shall be considered grounds for issuance of a variance permitting similar uses.

(4) The Zoning Board of Appeals shall find that the granting of the variance will be in harmony with the general purpose and intent of the zoning ordinance, and that the variance proposed to be granted is the minimum variance that will make possible the reasonable use of the land, building or structure. The Zoning Board of appeals shall not be empowered or authorized to issue variances or exceptions to permit a use in a district in which such use is prohibited by the zoning ordinance unless such variance falls under the preceding conditions.

Sec. 226. DECISION OF BOARD.

In exercising the foregoing powers mentioned herein, such Board may reverse or affirm, wholly or partly, or may modify the order, requirement, decision or determination appealed from, or may make such order, requirement, decision or determination as ought to be made, and to that end, shall have all the powers of the officer from whom the appeal is

taken. Each decision of the Board shall set out with sufficient clarity and succinctness the exact and particular decision made by such Board, and all such decisions shall be on an appropriate form. One copy of the decision shall be kept by the Board of Appeals, one copy shall be forwarded to the City Clerk and shall become a public record, and at least one copy shall be forwarded to the applicant. The concurring vote of four (4) members of the Board shall be necessary to reverse any order, requirement, decision or determination of any such administrative officer, or decide in favor of the applicant on any matter upon which it is required to pass under any zoning ordinance, or to effect any variance in such zoning ordinance.

Sec. 226.1. REVERSAL OR MODIFICATION BY CITY COMMISSION.

All final decisions of the Zoning Board of Appeals granting appeals, special exceptions and/or variances, may be appealed to the City Commission which shall be empowered to affirm, reverse or modify such decision under the same criteria the Board is required by law to follow. Such appeal may be instituted by a City Commissioner, the City Manager or any individual entitled to notice of the original proceeding before the Zoning Board of Appeals. Procedures for the filing of decisions of the Board and taking appeals therefrom shall be established by ordinance. (Sp. Acts, Ch. 69-1511, § 2) (Amendment adopted by electorate 3-13-90)

Editor's note: Ch. 69-1511, § 2, ratified Feb. 18, 1969, amended Ch. 57-1754 by adding thereto section 226.1.

Sec. 227. APPEAL TO COURT.

Any person or persons, jointly or severally, aggrieved by any decision of the Zoning Board of Appeals, may petition the circuit court for issuance of a writ of certiorari, appealing such decision, in whole or in part, and specifying the grounds for the appeal in the manner and within the time provided by the Florida Appellate Rules. (Ref. of 3-8-77)

ARTICLE XIX: FRANCHISE
AND PUBLIC UTILITIES

Sec. 228. GRANTING OF FRANCHISES.

The City Commission may by ordinance grant franchises of all kinds, to any individual, firm or corporation for the use of city streets, water and waterways, public beaches, and recreational facilities, lands and ways, but no such franchise shall be granted for more than 30 years, nor shall it be exclusive. Such franchise may be renewed for additional periods at the expiration date provided the same procedure is followed as is required for new franchises. No such franchise or renewal shall be assigned

except by consent and approval of the City Commission. (Ref. of 3-9-76)

Sec. 229. FRANCHISE NOTICE AND PUBLIC HEARING.

Before any such franchise is granted there shall be a public hearing after notice has been published once in a newspaper of general circulation in the City of Pompano Beach, Florida not less than five (5) days prior to the date of the hearing. (Ref. of 3-9-76)

Sec. 230. FRANCHISE, GENERAL PROVISIONS.

Nothing contained in this Charter shall in any way limit the City Commission in the exercise of any of its lawful powers with respect to public utilities, or to prohibit the City Commission from imposing in any such grant restrictions and provisions as it may deem to be in the public interest, provided they are not inconsistent with the provisions of this Charter or of the Constitution of the State of Florida. (Ref. of 3-9-76)

Sec. 231. PURCHASING OF PUBLIC UTILITIES.

Whenever the City Commission shall determine, and in accordance with the franchise terms, the city may purchase the properties of a privately owned public utility and may include in such purchase properties located outside as well as within the city.

The city may also condemn any public utility properties pursuant to the general condemnation provisions of this Charter. (Ref. of 3-9-76)

Sec. 232. FINANCIAL PROVISIONS.

The city may finance the acquisition of privately owned utility properties, the purchase of land, and the cost of all construction and property installation for utility purposes by borrowing, in accordance with the provisions of Article XIX of this Charter. Appropriate provisions shall be made however, for the amortization and retirement of all bonds within a maximum period of forty (40) years. Such amortization and retirement may be effected through the use of depreciation funds or other financial resources provided through the earnings of the utility. (Special Acts, Ch. 61-2711, § 8; Ref. of 3-9-76)

Sec. 233. ESTABLISHMENT OF MUNICIPALLY OWNED AND OPERATED UTILITIES.

The city shall have power to own and operate any public utility, to construct and install all facilities that are reasonably needed, and to lease or purchase any existing utility properties used and useful in public service. The city may also furnish service in adjacent and nearby communities which may be conveniently and economically served by the municipally owned and operated utility, subject to agreements with such communities, and subject to provisions of state law. The

CITY OF POMPANO BEACH
Broward County, Florida

AN ORDINANCE AMENDING CHAPTER 155 OF THE POMPANO BEACH CODE OF ORDINANCES BY AMENDING SECTION 155.022, "ZONING BOARD OF APPEALS", SUBSECTION (B), RELATING TO THE METHOD OF APPOINTMENT AND REMOVAL OF BOARD MEMBERS; PROVIDING FOR SEVERABILITY; PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to law, ten (10) days' notice has been given by publication in a paper of general circulation in the City notifying the public of this proposed Ordinance and of a public hearing in the City Commission Chambers of the City of Pompano Beach, Florida; and

WHEREAS, a public hearing before the City Commission was held pursuant to the published notice described above, at which hearing the parties in interest and all other citizens so desiring had an opportunity to be and were, in fact, heard; now, therefore

BE IT ENACTED BY THE CITY COMMISSION OF THE CITY OF POMPANO BEACH, FLORIDA:

SECTION 1. That Section 155.022, "Zoning Board of Appeals", is hereby amended to read as follows:

Section 155.022 ZONING BOARD OF APPEALS.

. . .

(B) There is hereby established a Zoning Board of Appeals which shall consist of five (5) members appointed by resolution of the City Commission/. Each Commissioner shall nominate for appointment one (1) member who shall be a resident in the district of the nominating Commissioner. Alternate members shall be City residents and shall be appointed by the City Commission. Any subsequent vacancy or a vacancy due to an unexpired term shall be filled by the Commissioner in whose district the appointment originated save for the appointments of alternate members who shall continue to be appointed by the City Commission. ~~W/~~ Members shall serve for a term of three (3) years from the date of appointment. The Board, from its membership shall select a Chairman and Vice-Chairman. A Secretary shall be provided to the Board, such individual to be designated by the City Manager, each member of the Board shall serve without compensation. The Director of Planning and Growth Management or his duly authorized representative shall meet with the Board of Zoning Appeals in an advisory capacity but shall not have any vote. The members of the Board ~~may be removed by the City Commission on written charges after public hearing before the City Commission.~~ shall be subject to removal for cause by the City Commission after a hearing before the City Commission.

...

SECTION 2. If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision or application, and to this end the provisions of this Ordinance are declared to be severable.

SECTION 3. This Ordinance shall become effective upon passage.

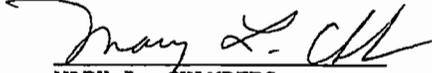
PASSED FIRST READING this 7th day of March, 1995.

PASSED SECOND READING this 14th day of March, 1995.



E. PAT LARKINS, MAYOR

ATTEST:



MARY L. CHAMBERS
CITY CLERK

PDE/jrm
1/24/95
Ord D-61 95-070

Name	Address	District	Phone	Appointed	Expires	Res. No.
VACANCY Comr. Dockswell's Appointee		1	783-2300	4/23/2013	11/11/2014	2013-198 Daniel Yaffe
VACANCY Vice Mayor Burrie's Appointee		2	954-942-9759	10/8/2013	11/12/2014	2014-01 Paul S. Webb
VACANCY Comr. Hardin's Appointee		3	954-977-3040	7/26/2011	11/11/2014	2011-290 George J. Gudahan
VACANCY Comr. Phillips' Appointee		4	954-785-4543	10/8/2013	11/12/2014	2014-02 Robert J. Kintchen, Jr.
VACANCY Comr. Moss' Appointee		1	954-785-9600	7/26/2011	11/11/2014	2011-288 M. Rose Schulmister
(1) Robert Holmes City Commission At Large	1577 NW 7th Avenue (33060) rholmes1577@att.net	4	954-943-7485	7/26/2011	11/11/2014	2011-299
(2) Ray Lubomski City Commission At Large	830 S.E. 6th Ave., (33060) rlubomski@aol.com	3	954-786-9660 h 954-871-9835 c	4/23/2013	4/4/2016	2013-216
(3) James R. Bunn City Commission At Large	360 S.E. 15th Avenue (33060) bunnsfl@bellsouth.net	3	954-781-1746 (O) 954-296-7266	2/25/2014	2/22/2017	2014-154
Matthew DeSantis	Recording Secretary		954-786-4652			

Meets: Third Thursday of each month @ 6:00pm in the City Commission Chambers
Elections: Annually in January

May serve on other boards also.