



1302 NE 4TH STREET

APPLICATION FOR SPECIAL EXCEPTION
COMMUNITY RESIDENCE

City of Pompano Beach Board of Adjustment

Rehearing: May 16, 2024

First Hearing: January 18, 2023

Jeffrey Lynne, Esq.

Beighley, Myrick, Udell, Lynne + Zeichman, P.A.

Relative Locations of Proposed Community Residence and Existing One

Write a description for your map.




Community Residences

- ▶ Duplex (3 bedroom/2 bedroom)
- ▶ Three (3) people currently residing per unit.
- ▶ Three (3) people per unit allowed by code as of right.
- ▶ Provide a housing for 6 residents (3 bedrooms) and 4 residents (2 bedrooms)
- ▶ Two residents per bedroom is “Best Practice” per SAMHSA and ASAM, and now State of Florida.
- ▶ No parties. No loud music. No drugs or alcohol.
- ▶ Personal relationship with their Higher Power/God.
- ▶ Not in treatment. In long term recovery



Certified by the Florida Association of Recovery Residences (FARR)

- **HB 1065 (2024) – signed May 13, 2024 - incorporated FARR standards into state law as “best practices.”**
 - **Four (4) levels of support (I – IV)**
 - **FARR Level II – resident chosen and managed by a third party approved by FARR.**
 - **Level II residents are in long-term sobriety and choose to live together rather than finding a non-sober roommate who does not share same values.**
- 




Pompano Beach Zoning Code Section 155.2404.E

- **If only three (3) residents per dwelling unit, no further approvals required.**
- **Allows up to ten (10) residents per home if:**
 - **Proof of FARR certification**
 - **Appropriate “type” of residence (long term v. short term stay)**
 - **Spacing Requirement 660 Feet**



Pompano Beach Zoning Code Section 155.2404.E

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Pompano Beach Zoning Code Section 155.2404.E

- **If 660' spacing itself cannot be met, the application is still to be evaluated according to the unique Special Exception Use criteria created.**
- **This is not a subjective determination.**
- **Err on the side of approving the home.**



Special Exception Use Hearing January 18, 2024 (Meeting Minutes)

- **ZBA misunderstood/did not apply the legal standards correctly.**
 - **Applied the 660' spacing requirement as a “hard and fast” rule without exception.**
 - **Did not apply standards.**
 - **Doing so violated the Fair Housing Act and the Americans with Disabilities Act.**
- 



Special Exception Use Hearing January 18, 2024 (Meeting Recording)

- ▶ “It’s [without exception] too close to another family community residence. What if someone decides to trespass across other property?” [Did not want a “sober home” near a high school.]
- ▶ “A line has to be drawn somewhere for the separation between these types of facilities and the line was drawn and [there is] no reason why we should infringe upon that line.”
- ▶ “It took a long time to come up with that 660 feet distance separation requirement, and to cut that short would be moving backwards.”



City Expert Witness Updated Guidance

- GIS radius map only used for “initial determination.” Only “first level review”
- “When considering a special exception to the permitted use spacing distance, the ‘as the crow flies’ radius is no longer a factor.” (Lauber Memo 2/19/24, pg. 2)
- Second level review – more precise and to be actually measured along the ground distance pedestrian right of way.

STEP 1 - INITIAL CITY GIS ANALYSIS



Step 2 - Analysis to Confirm





Daniel Lauber - City Expert Report

May 16, 2024

- ▶ **“Given the written evidence the applicant has submitted, my own review of the relationship of the two sites at issue, and the city’s recent staff report, I can only conclude that this proposal meets the standards to grant this Special Exception set forth in Section 155.2406 of Pompano Beach’s Zoning Code.”**

Daniel Lauber - City Expert Report


May 16, 2024

- **“I should also note that city staff members independently measured the actual distance between the two sites via the public pedestrian right-of-way, and found that the actual on-the-ground distance is greater than the 660-foot spacing required to be a permitted use. As my February 19 memo explains, this more precise on-the-ground measurement leads to the conclusion that the two sites are sufficiently far apart to comply with the aims of the city’s zoning provisions.”**



Pompano Beach Zoning Code Section 155.2404.E

- **FARR Certification**
- **Family Community Residence**
- **Spacing Requirement = > 660'
Feet**
- **Approval is required under the
FHA and ADA.**



Pompano Beach Zoning Code Section 155.2404.E

- If home still cannot meet criteria, the home must still be evaluated for approval pursuant to the federal Fair Housing Act and the Americans with Disabilities Act.
- **This property meets all criteria.**

Second Level Analysis to Confirm





Special Exception Standards for Approval (when home located within 660' of another home)

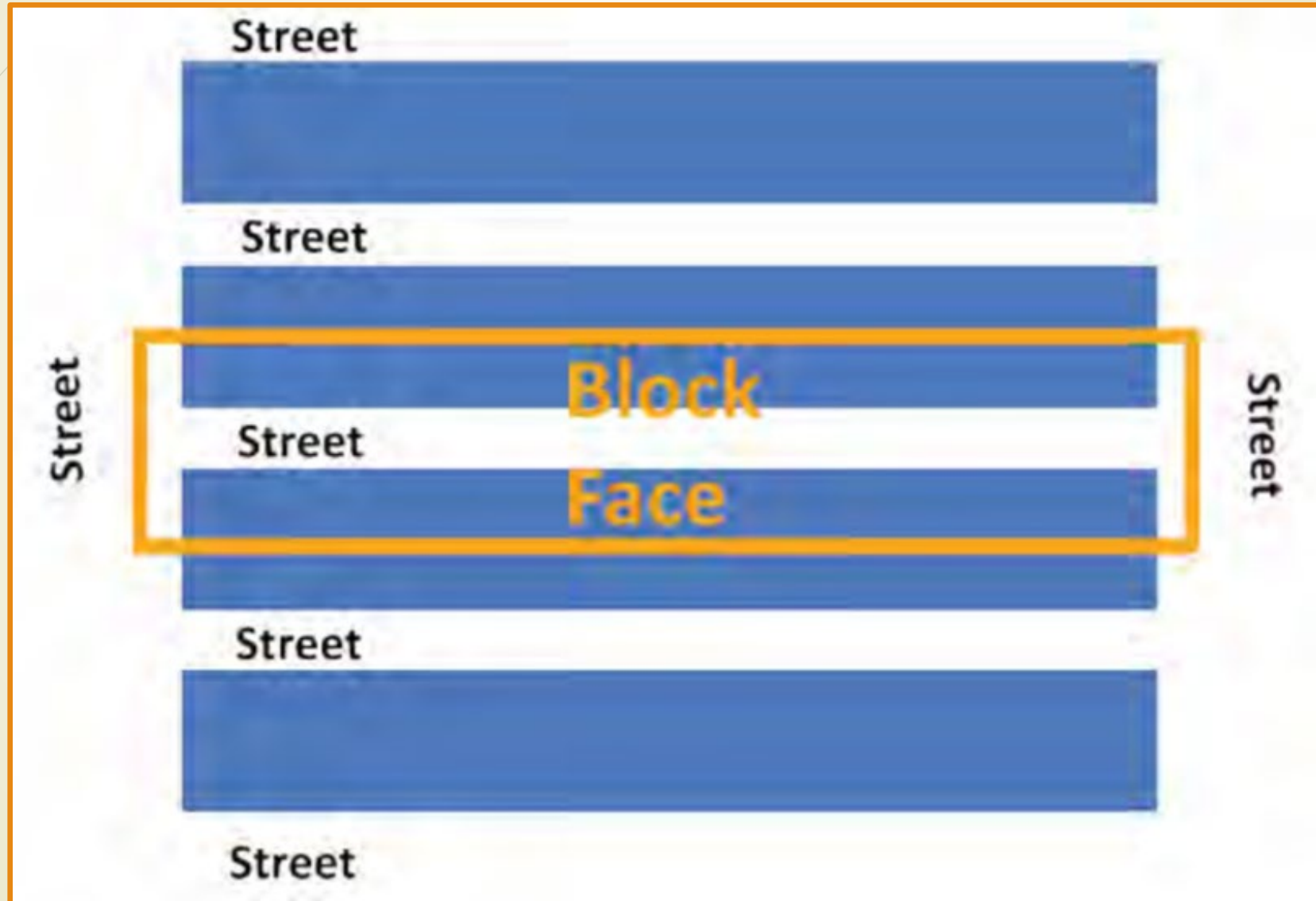
- ▶ A. “Normalization and Community Integration”
- ▶ B. “Clustering”

GOAL: TO HAVE THE DISBALED LIVE NEXT TO AND NEAR PEOPLE WITHOUT DISABIILTIES BY PREVENTING A CLUSTER OF NEW HOMES FOR THE DISABLED FROM FORMING.

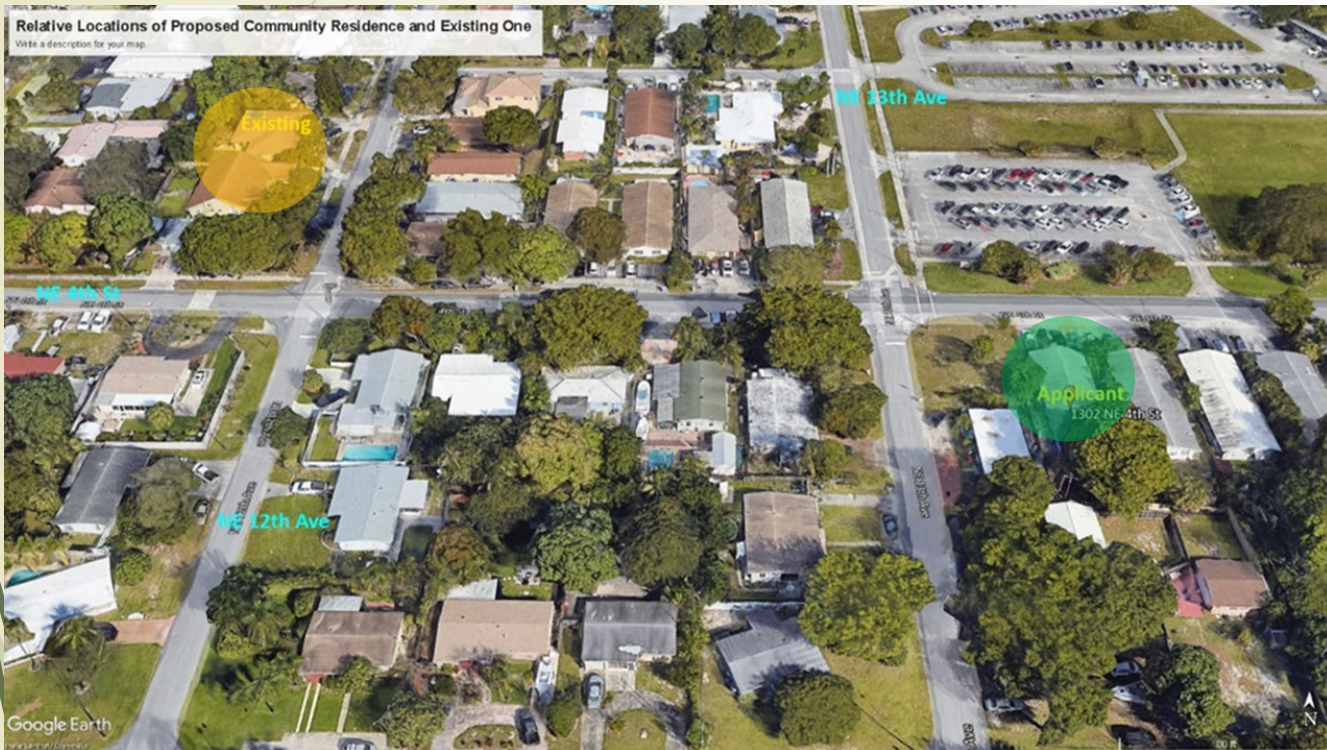
Case-by-case factual analysis; not a hard-and-fast inflexible rule.
(Lauber)

If there is no clustering, then the “Normalization and Community Integration” prong is met.

“The existing social structure of a neighborhood can accommodate one or two community residences on a single block face.” (Lauber, pg. 17)



Normalization and Community Integration



- ▶ Not on the same block face.
- ▶ Separated by multiple blocks and and over nine (9) other lots.
- ▶ Greater than 660'.
- ▶ According to Lauber, the proposed residence will NOT impact the normalization or community integration of either the proposed residence or the existing residence.
- ▶ This does NOT create or add to an existing cluster of such homes.



Pompano Beach Zoning Code Section 155.2404.E

- FARR Certification
- Family Community Residence
- Spacing Requirement = > 660' Feet
- **AND Meets Special Exception Use standards**
- **Approval is required under the FHA and ADA.**



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