



Legislation Text

File #: LN-72, Version: 1

Zoning Board of Appeals
Meeting Date: January 21, 2021

SPECIAL EXCEPTION - MEGAN ARPIN

Request: Special Exception (Community Residences)
P&Z# 20-17000014
Owner: Megan Arpin
Project Location: 242 SW 9th Street
Folio Number: 4942 02 13 0720
Land Use Designation: L-Low 1-5 DU/AC
Zoning District: RS-2
Agent: Megan Arpin
Project Planner: Scott Reale

Summary:

The Applicant Landowner is requesting SPECIAL EXCEPTION approval as required by Section 155.4202(H) [Family Community Residence Standards] of the City's Code of Ordinances in order to utilize the subject property (Zoning District: RS-2) for a family community residence located less than 220 linear feet from an existing family community residence rather than at least 660 linear feet as required by code.

I. ZONING REGULATIONS

155.4202. RESIDENTIAL: HOUSEHOLD LIVING USES

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H. Family Community Residence

1. Districts Where Permitted

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
P	P	P	P	P	P	P	P	P	P	P		P	P	P	

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
						P						P	P	P	P	P

2. Definition

A family community residence is a community residence that provides a relatively permanent living arrangement for people with disabilities where, in practice and under its rules, charter, or other governing document, does not limit how long a resident may live there. The intent is for residents to live in a family community residence on a long-term basis, typically a year or longer. Oxford House is an example of a family community residence.

3. Standards

a. Except as required by Chapter 419 state law, a family community residence shall be allowed as of right in the designated zoning districts, when:

i. It is at least 660 linear feet from the closest existing community residence housing four or more individuals or recovery community as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence or recovery community, and

ii. The operator or applicant is licensed or certified by the State of Florida to operate the proposed community residence, has certification from an appropriate national accrediting agency, or has been recognized or sanctioned by Congress to operate the proposed community residence such as an Oxford House.

b. A family community residence that does not comply with both standards a. and b. may be allowed only by special exception in accord with the applicable standards in Section 155.2406 of this Code.

4. Reasonable Accommodation Required for More than Ten Occupants

To establish a family community residence for more than ten occupants, the applicant shall submit a request for reasonable accommodation in accord with the procedures and applicable standards in Section 155.2432 of this Code except as required by state law.

5. License Certification, or Recertification Denied or Suspended

A family community residence that has been denied a license the State of Florida requires or certification offered by the State of Florida, had its license or certification suspended, or be denied recertification is not allowed in the City of Pompano Beach and must cease operations and vacate the premises within 60 days of the date on which its license or certification was denied or suspended or recertification denied.

II. PROPERTY INFORMATION / FINDINGS OF FACT

1. The subject property has an active Business Tax Receipt for a single-family residential rental (License #21-00103411)
2. There are three open code compliance cases associated with the subject property:
 - Case # 20110064: Community Residence or Recovery Community operating without license or certification.
 - Case # 20100069: Work without permit (installed door)
 - Case # 20100122: Suspected halfway house; obtain BTR for rental of this property.
3. Ordinance No. 2018-60, adopted 6/12/2018, codified Pompano Beach land use regulations to give prospective operators of community residences for people with disabilities and recovery communities clarity and certainty on where such uses may locate as of right and via a special exception.
4. On Friday 1/8/2021, the applicant submitted documentation to Development Services that

indicates 954 Recovery has obtained temporary approval as a FARR Certified Recovery Residence through 3/18/2021.

5. Pompano Beach requires that applicants of such facilities must also obtain Special Exception approval when they are located within 660 linear feet from an existing community residence housing four or more individuals or recovery community as measured from the nearest property line of the proposed community residence to the nearest property line of the closest existing community residence or recovery community. Staff has determined there is a 220 ft linear distance (the way the crow flies) between an approved facility - which is located at 221 SW 8th Court - and this facility. However, the actual walking distance (using existing public right-of-way) is just over 1,000 feet, as verified by a document from Accurate Land Surveyors.
6. *Pompano Beach, Florida: Principles to Guide Zoning for Community Residences for People with Disabilities* by Daniel Lauber, AICP, June 2018, is included in the backup and available at www.pompanobeachfl.gov/grouphomes <<http://www.pompanobeachfl.gov/grouphomes>>.
 - The report states that, "When community residences are allowed as a permitted use, it is most reasonable to imposing a spacing distance between community residences that keeps them about a block apart in terms of actual walking distance, generally about 660 feet." (660 feet is the length of the typical American urban block.)
 - It goes on to state that, "Proposals to locate another community residence so close to an existing one warrant the case-by-case consideration. If the operator of a proposed community residence wishes to locate it within the spacing distance, then the heightened scrutiny of a special use permit is warranted."
 - "Generally speaking, the existing social structure of a neighborhood can accommodate no more than one or two community residences on a single block face."
 - "This research strongly suggests that there is a legitimate government interest to assure that community residences do not cluster."
 - "[Although] two community residences separated by at least several other houses on a block produce no negative impacts, there is very credible concern that community residences located more closely together on the same block - or more than two on a block - can generate adverse impacts..."
 - "Interaction with neighbors without severe disabilities is an essential component to community residences and one of the reasons planners and the courts long ago recognized the need for them to be located in residential neighborhoods. Their neighbors serve as role models which helps foster the normalization and community integration at the core of community residences."
 - "As the courts have consistently concluded, community residences foster the same family values that even the most restrictive residential zoning districts promote. Family community residences comply with the purpose statements for each of Pompano Beach zoning district that allows residential uses."
7. The definition of a *Family Community Residence* states, "The intent is for residents to live in a family community residence on a long-term basis, typically a year or longer." Conversely, a *Transitional Community Residence* community residence is "a community residence that provides a temporary living arrangement for four to ten unrelated people with disabilities with a limit on length of tenancy less than a year that is measured in weeks or months as determined either in practice or by the rules, charter, or other governing document of the community residence. A community residence for people engaged in detoxification is an example of a very short-term transitional community residence." Again, the applicant is seeking a Special Exception for a *Family Community Residence* so the expectation and requirement involves long term tenancy of its residents.
8. Lyons Park is almost entirely zoned Single-Family Residence 2 (RS-2), which, according to the Zoning Code is a district established and intended to accommodate primarily single-family dwellings including family community residences at moderate densities on lots greater than

7,000 square feet in area. The district also accommodates accessory dwelling units and transitional community residences as well as limited nonresidential uses usually found in urban single-family neighborhoods (e.g., parks, places of worship, golf courses), generally as Special Exceptions. Cypress Elementary School is located in the northwest section of the neighborhood.

III. LAND USE PATTERNS

- A. Subject Property (Zoning District / Existing Use):
 - a) RS-2 (Single-Family Residence 2)/ single-family residence
- A. Surrounding Properties (Zoning District / Existing Use):
 - a) North: RS-2 (Single-Family Residence 2)/ single-family residence
 - b) South: RS-2 (Single-Family Residence 2)/ single-family residence
 - c) East: RS-2 (Single-Family Residence 2)/ single-family residence
 - d) West: RS-2 (Single-Family Residence 2)/ single-family residence

IV. SPECIAL EXCEPTION REVIEW STANDARDS FOR COMMUNITY RESIDENCES

A Special Exception for a community residence (family or transitional) shall be approved by simple majority vote of the Board members present, only on a finding that there is competent substantial evidence in the record that the Special Exception meets the following applicable standards:

- 1. When the proposed community residence arrangement is required to obtain a special exception because it would be located within 660 linear feet of an existing community residence or recovery community:
 - a. The applicant demonstrates that the proposed community residence will not interfere with the normalization and community integration of the residents of any existing community residence or recovery community and that the presence of other community residences or recovery communities will not interfere with the normalization and community integration of the residents of the proposed community residence, and
 - b. The applicant demonstrates that the proposed community residence in combination with any existing community residences and/or recovery communities will not alter the residential character of the surrounding neighborhood by creating an institutional atmosphere or by creating or intensifying an institutional atmosphere or de facto social service district by concentrating or clustering community residences and/or recovery communities on a block face or in a neighborhood.

Staff Conditions:

Should the Board determine that the applicant has provided competent substantial evidence sufficient to satisfy the Special Exception review standards for a Community Residence, Staff requests the Board include the following conditions as a part of the Order:

1. Obtain all necessary governmental permits and approvals, including an approved Community Residence Certificate.
2. Maintain FARR certification.
3. Changes or alterations to the composition of the resident population and/or lease agreements for a term of less than one year would require a new Special Exception approval.
4. Approval is strictly limited to a "Family Community Residence" and changes to the operation of a "Transitional Community Residence" would require a Special Exception approval.
5. Substantial conformance to all applicable zoning code standards.