PETITION OF APPEAL FROM DECISION OF
MIAMI-DADE COUNTY COMMUNITY ZONING APPEALS BOARD
TO THE BOARD OF COUNTY COMMISSIONERS

CHECKED BY LG AMOUNT OF FEE $1,188.88

RECEIPT # Assesment # 35745

DATE HEARD: 3/1/16

BY CZAB # 15-121
CZAB12716

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Z15-121
MAR 16 2016
MIAMI-DADE COUNTY
DEPARTMENT OF REGULATORY AND ECONOMIC
RESOURCES DEVELOPMENT SERVICES
DATE RECEIVED STAMP

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This Appeal Form must be completed in accordance with the "Instruction for Filing an Appeal" and in accordance with Chapter 33 of the Code of Miami-Dade County, Florida, and return must be made to the Department on or before the Deadline Date prescribed for the Appeal.

RE: Hearing No. 15-121

Filed in the name of (Applicant) Melissa Wolin, Trustee of Ponce de Leon Trust

Name of Appellant, if other than applicant _____

Address/Location of APPELLANT'S property:

Application, or part of Application being Appealed (Explanation): See Attached Exhibit "A"

Appellant (name): Melissa Wolin, Trustee of Ponce de Leon Trust
hereby appeals the decision of the Miami-Dade County Community Zoning Appeals Board with reference to the above subject matter, and in accordance with the provisions contained in Chapter 33 of the Code of Miami-Dade County, Florida, hereby makes application to the Board of County Commissioners for review of said decision. The grounds and reasons supporting the reversal of the ruling of the Community Zoning Appeals Board are as follows:
(State in brief and concise language)

APPELLANT MUST SIGN THIS PAGE

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Date: 13 day of MARCH, year: 2016

Signed _____

MELISSA WOLFE

Print Name

7677 PONCE DE LEON RD.

Mailing Address

MIAMI, FL 33143

305-667-7788

Phone Fax

REPRESENTATIVE'S AFFIDAVIT

If you are filing as representative of an association or other entity, so indicate:

Representing

Signature

Print Name

Address

City State Zip

Telephone Number

Subscribed and Sworn to before me on the 13 day of March, year 2016

Notary Public

(stamp/seal)

JOSE R. BOSCHETTI
Notary Public - State of Florida
My Comm. Expires Jun 7, 2016
Commission # EE 205785
Bonded Through National Notary Assn.

Commission expires:

APPELLANT'S AFFIDAVIT OF STANDING
(must be signed by each Appellant)

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STATE OF Florida

COUNTY OF Miami-Dade

Before me the undersigned authority, personally appeared Melissa Wolin (Appellant) who was sworn and says that the Appellant has standing to file the attached appeal of a Community Zoning Appeals Board decision.

The Appellant further states that they have standing by virtue of being of record in Community Zoning Appeals Board matter because of the following:

(Check all that apply)

X 1. Participation at the hearing
X 2. Original Applicant
____3. Written objection, waiver or consent

Appellant further states they understand the meaning of an oath and the penalties for perjury, and that under penalties of perjury, Affiant declares that the facts stated herein are true.

Further Appellant says not.

Witnesses:

Signature

Jose Boschetti, Jr.
Print Name

Signature

Silvia Boschetti
Print Name

Appellant's signature

Melissa Wolin
Print Name

Sworn to and subscribed before me on the 13th day of March, year 2016.

Appellant is personally know to me or has produced _____ as identification.

Notary
(Stamp/Seal)

JOSE R. BOSCHETTI
Notary Public - State of Florida
My Comm. Expires Jun 7, 2016
Commission # EE 205785
Bonded Through National Notary Assn.

Commission Expires:

[b:forms/affidapl.sam(9/08)]

Exhibit "A"

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Statement of Appeal

Melissa Wolin, Trustee of Ponce de Leon trust (the "Applicant")

Application No. Z15-121 ("the Application")

On March 1, 2016 the Applicant presented the above referenced Application before the Community Council 12. Community Council 12 fundamentally erred in denying the Applicant with prejudice on a 4-2 vote. The Applicant requested the following:

1. DISTRICT BOUNDARY CHANGE from EU-1 to EU-S.
2. NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (125' minimum required).

   OR IN THE ALTERNATIVE TO REQUESTS #1 AND #2, THE FOLLOWING:

3. NON-USE VARIANCE to permit two lots with an area of 0.61± gross acre required).
4. NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (125' minimum required).

Lack of Substantial Competent Evidence.

The Applicant presented their case at the hearing and as part of the hearing, the Miami-Dade County Department of Regulatory and Economic Development staff report was introduced on the record (the "Staff Report"). The Staff Report is part of the hearing kit packages which the board members receive prior to the hearing. The Staff Report supported the Applicant's requests #3 and #4. The Staff Report supported both non-use variances for lot size and lot width. Staff's Report is substantial competent evidence that the variances should have been granted and the lot split allowed. It is well founded under Florida law that zoning decisions must be based on substantial competent evidence, and a staff report is substantial competent evidence.

The Staff Report noted that other smaller lots surrounded this parcel and that this lot split would be compatible to the surrounding area and consistent with the Comprehensive Plan. No other professional testimony was put on the record to contradict the Staff Report. Therefore, Community Council 12 erred in denying the application.

Administrative Res Judicata.

Two Community Council Board members opined that as "practicing attorneys" they believed that this case should not come forward because of the Doctrine of Administrative Res Judicata.

Exhibit "A"

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This is based on the fact that in 2008 this Applicant submitted a "similar" application for a lot split. The board erred in finding that this Application is barred by the Doctrine of Res Judicata. The Staff Report, which was reviewed by the County Attorney's office states, that an "essential change" occurred in the "immediate vicinity". Indeed the lot immediately North of the Applicant's property was sub-divided. Furthermore, the Applicant's parcel size is greater in this Application by virtue of the fact that they acquired additional vacated Right-Of-Way. The Applicant's lot is now 2,500 square feet larger than the Application heard in 2008. Again, Community Council 12 made another fundamental error in applying the Doctrine of Res Judicata to this Application and denying with prejudice.

Conclusion.

We respectfully request that the Miami-Dade County Board of County Commissioner reverse the decision of Community Council 12 and approve the Application.

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RESOLUTION NO. CZAB12-7-16

WHEREAS, **MELISSA WOLIN, TRUSTEE OF PONCE DE LEON TRUST** applied for the following:

(1) DISTRICT BOUNDARY CHANGE from EU-1 to EU-S.

(2) NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (125' minimum required).

OR IN THE ALTERNATIVE TO REQUESTS #1 AND #2, THE FOLLOWING:

(3) NON-USE VARIANCE to permit two lots with an area of 0.61 +/- gross acre each (1 gross acre required).

(4) NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (125' minimum required).

A plan is on file and may examined in the Department of Regulatory and Economic Resources entitled "Map of Boundary Survey/Site Plan" as prepared by Hadonne, dated stamped received 11/16/15 and consisting of 1 sheet. Plan may be modified at public hearing.

SUBJECT PROPERTY: Lot 3, Block 3, GRANADA PARK AMENDED, PB 40-21.

LOCATION: 7677 PONCE DE LEON ROAD, MIAMI-DADE COUNTY, FLORIDA, and

WHEREAS, a public hearing of the Miami-Dade County Community Zoning Appeals Board 12 was advertised and held, as required by law, and all interested parties concerned in the matter were given an opportunity to be heard, and

WHEREAS, upon due and proper consideration having been given to the matter, it is the opinion of this Board that the requested DISTRICT BOUNDARY CHANGE to EU-S (Item #1) would not be compatible with the neighborhood and area concerned and would be in conflict with the principle and intent of the plan for the development of Miami-Dade County, Florida, and should be denied, and that the requested NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (Item #2) would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, or that in the alternative to Items #1 and #2, the requested NON-USE VARIANCE to permit two lots with an area of 0.61 +/- gross acre

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each (Item #3), and the NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (Item #4) would not be in harmony with the general purpose and intent of the regulations and would not conform with the requirements and intent of the Zoning Procedure Ordinance, and

WHEREAS, a motion to deny with prejudice the application (Items #1 and #2, or in the alternative Items #3 and #4) was offered by Jose I. Valdes, seconded by Elliot N. Zack, and upon a poll of the members present, the vote was as follows:

Peggy Brodeur	aye	Jose I. Valdes	aye
Javier Gonzalez-Abreu	nay	Elliot N. Zack	aye
Anthony F. Pestico	nay		

Angela Vazquez aye

NOW THEREFORE BE IT RESOLVED by the Miami-Dade County Community Zoning Appeals Board 12 that the requested DISTRICT BOUNDARY CHANGE to EU-S (Item #1), and the requested NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (Item #2) be and the same are hereby denied with prejudice.

BE IT FURTHER RESOLVED, that in the alternative to Items #1 and #2, the requested NON-USE VARIANCE to permit two lots with an area of 0.61 +/- gross acre each (Item #3), and the NON-USE VARIANCE to permit two lots with a lot frontage of 100' each (Item #4) be and the same are hereby denied with prejudice.

The Director is hereby authorized to make the necessary notations upon the records of the Miami-Dade County Department of Regulatory and Economic Resources in accordance with the terms and conditions of this resolution.

PASSED AND ADOPTED this 1st day of March, 2016.

Hearing No. 16-3-CZ12-2
rd

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STATE OF FLORIDA

COUNTY OF MIAMI-DADE

I, Rosa Davis, as Deputy Clerk for the Miami-Dade County Department of Regulatory and Economic Resources as designated by the Director of the Miami-Dade County Department of Department of Regulatory and Economic Resources and Ex-Officio Secretary of the Miami-Dade County Community Zoning Appeals Board 12, DO HEREBY CERTIFY that the above and foregoing is a true and correct copy of Resolution No. CZAB12-7-16 adopted by said Community Zoning Appeals Board at its meeting held on the 1st day of March, 2016.

IN WITNESS WHEREOF, I have hereunto set my hand on this the 16th day of March 2016.

Rosa Davis, Deputy Clerk (218345)
Miami-Dade Department of Department of Regulatory and Economic Resources

SEAL

ZONING APPEALS BOARD
DADE COUNTY FLORIDA

Department of Regulatory and Economic Resources
Development Services Divisior
111 NW 1st Street • Suite 111C
Miami, Florida 33128-1902
T 305-375-264C
www.miamidade.gov/economy

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March 16, 2016

MELISSA WOLIN, TRUSTEE
OF PONCE DE LEON TRUST
c/o Felix Lasarte
3250 NE 1 Ave, Suite 334
Miami, FL 33137

Re: Hearing No. 16-3-CZ12-2 (15-121)
Location: 7677 PONCE DE LEON ROAD, MIAMI-DADE COUNTY, FLORIDA.

Dear Applicant:

Enclosed herewith is Resolution No. CZAB12-7-16, adopted by the Miami-Dade County Community Zoning Appeals Board 12, which denied your application (Items #1 and #2, or in the alternative Item #3 and #4) with prejudice.

Please note that any aggrieved party may appeal the Board's decision to the Board of County Commissioners, within 14 days from the date of posting on the 11th floor of the Stephen P. Clark Building, 111 N.W. 1st Street, Miami, FL 33128. The date of posting is **March 7, 2016**.

Sincerely,

Rosa Davis
Deputy Clerk

Enclosure