



CITY OF POMPANO BEACH
FLORIDA

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ZONING BOARD OF APPEALS
City Commission Chambers

September 20, 2018
6:00 P.M.

AGENDA

A. Call to order by the Chairman of the Board, Mr. Dan Yaffe

B. **ROLL CALL:**
George Cuolahan
John J. Geer, Jr.
Robert Kintchen
Ross Shulmister
Paul Webb
Dan Yaffe

C. **APPROVAL OF THE MINUTES:**
Meeting of July 19, 2018

D. **EXPLANATION OF PREREQUISITES AND BOARD PROCEDURES**

E. **INDIVIDUALS TESTIFYING PLACED UNDER OATH**

F. **NEW BUSINESS**

G. **PUBLIC HEARING**

1. **Planning & Zoning # 18-1700006**
Rehearing Request – Special Exception–City of Pompano Beach

Consideration of a rehearing request by **City of Pompano Beach** for a Special Exception from the following one (1) provision:

1. Section 155.4208(C)(1) [Districts Where Permitted] of the City’s Code of Ordinances in order to utilize the subject property (Zoning District: RM-45) for a Fire Station.

The property in this Public Hearing is as follows:

A PORTION OF TRACT A, PALM AIRE CYPRESS COURSE ESTATES, 4TH SECTION, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 118, AT PAGE 36, PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA. COMMENCE AT THE NORTHEAST CORNER OF SAID TRACT

A; THENCE SOUTH 02 DEGREES 16'42" EAST FOR 304.44 FEET; THENCE SOUTH 04 DEGREES 33'52" WEST FOR 75.5 FEET TO THE POINT OF BEGINNING; THENCE CONTINUE SOUTH 04 DEGREES 33'52" WEST FOR 25.18 FEET; THENCE SOUTH 02 DEGREES 16'42" EAST FOR 200.00 FEET; THENCE SOUTH 43 DEGREES 18'33" WEST FOR 57.15 FEET; THENCE SOUTH 88 DEGREES 53'48" WEST FOR 25.00 FEET; THENCE NORTH 79 DEGREES 47'36" WEST FOR 61.19 FEET; THENCE SOUTH 88 DEGREES 53'48" WEST FOR 50.00 FEET; THENCE SOUTH 77 DEGREES 35'13" WEST FOR 40.79 FEET; THENCE NORTH 01 DEGREES 06'12" WEST FOR 91.00 FEET; THENCE NORTH 35 DEGREES 02'01" EAST FOR 209.25 FEET; THENCE NORTH 87 DEGREES 43'18" EAST FOR 90.00 FEET TO THE POINT OF BEGINNING.

AKA: 3601 SW 15TH ST
ZONED: RM-45 (Multiple-Family Residence)
FOLIOS: 494205060091

2. **Planning & Zoning # 18-15000011**
Major Temporary Use – OB Properties LLC

Consideration of a request by **OB Properties LLC** for a Major Temporary Use permit from the following one (1) provision:

2. Chapter 155: Article 5 [Development Standards] and Chapter 155: Article 4 [Use Standards] of the City of Pompano Beach Zoning Code in order to install above ground equipment for the purpose of remediating petroleum contamination in soil and groundwater on the subject property (Zoning District: B-3) without complying with the applicable development and use standards as required by Code.

The property in this Public Hearing is as follows:

Parcel "A", CRESTHAVEN NO. 3, according to the Plat thereof as recorded in Plat Book 37, Page 11, of the Public Records of Broward County, Florida, less the West 193.34 feet thereof and less the North 150 feet. Said tract having a frontage of 151.45 feet of Federal Highway and 150 feet on N.E. 29th Street. All less road right of way.

AKA: 2901 N Federal Hwy
ZONED: B-3 (General Business)
FOLIOS: 484224130011

3. **Planning & Zoning # 18-15000012**
Major Temporary Use–Dixie Properties & Investments LLC

Consideration of a request by **Dixie Properties & Investments LLC** for a Special Exception from the following one (1) provision:

1. Chapter 155: Article 5 [Development Standards] of the City of Pompano Beach Zoning Code in order to utilize a vacant lot for Automotive and Light Truck Rental and display without complying with the applicable development standards as required by Code.

The property in this Public Hearing is as follows:

Parcel 'A' A parcel of land lying west of the FEC Railroad right-of-way in the south one-half of the northeast one-quarter of the south-east one-quarter of Section 26, Township 48 South, Range 42 East, Broward County, Florida, being more particularly described as follows: Commence at a point on the west line of the FEC Railroad right-of-way, said point being 2050.72 feet from the south line of Section 26, as measured along the west line of the FEC Railroad right-of-way; thence north 76°02'40" west, a distance of 40.00 feet to the point of beginning; thence south 13°57'20" west, a distance of 209.19 feet; thence south 88°29'55" west, a distance of 351.64 feet; thence north 00°54'35" west, a distance of 300.00 feet; thence north 88°29'55" east; a distance of 270.68 feet; thence south 13°57'20" west, a distance of 59.19 feet; thence south 76°02'40" east; a distance of 155.00 feet to the point of beginning, less therefrom that certain right-of-way for North Dixie Highway (State Road 811) taken by order of taking recorded in OR Book 21796, page 903 of

the public records of Broward County, Florida. Parcel 'B' A portion of the south one-half of the northeast one-quarter of the southeast one-quarter of Section 26, Township 48 South, Range 42 East, Broward County, Florida, more fully described as follows: Commencing at the intersection of the south line of said Section 26, and the west right-of-way line of the FEC Railway; thence northerly along the said west right-of-way line, a distance of 1730.80 feet to the point of beginning; thence west making an angle of 74°32'35", in the southwest quadrant, a distance of 361.80 feet; thence north making an included angle of 89°24'30", a distance of 117.80 feet; thence east making an included angle of 90°35'30", a distance of 393.14 feet to a point on the west right-of-way line of the FEC Railway; thence southerly along the said west right-of-way line, a distance of 122.22 feet to the point of beginning, less the right-of-way of Old Dixie Highway

AKA: 1661 N Dixie Hwy
ZONED: B-3 (General Business)
FOLIOS: 484226000380,484226000383

4. Planning & Zoning # 18-11000013
Variance –Arsh Oil & Gas LLC

Consideration of a request by **Arsh Oil & Gas LLC** for one (1) VARIANCE from the following provisions:

1. Section 155.4219(I)(3)(e) [Gasoline Filling Station Standards], in order to allow a gasoline filling station to be located approximately 165 feet from a lot containing another gasoline filling station, rather than prohibit a gasoline filling station to be within 750 feet from a lot containing another gasoline filling station as required by code.

The property in this Public Hearing is as follows:

The East 550.00 feet of the West 190.00 feet of the North 150.00 feet, as measured along the North, South, East and West lines of the North half of the Northwest quarter, of the West half of the South 80 acres of the Northwest quarter of Section 1, Township 49 South, Range 42 East, Broward County, Florida.

AKA: 550 S Cypress Rd
ZONED: B-3 (General Business)
FOLIOS: 494201000410

5. Planning & Zoning # 18-11000019
VARIANCE –Carmen Manescu

Consideration of a request by **Carmen Manescu**, requesting a VARIANCE from the following two (2) provisions:

1. Section 155.4302(B)(2)(f) [Prohibited Location of Accessory Uses and Structures] of the City of Pompano Beach Code of Ordinances, in order to allow a swimming pool to be located a minimum of 7 feet from the street side lot line of an existing single-family lot, rather than prohibit the pool to be located in a required yard setback as per Code.
2. Section 155.4302(B)(2)(g) [Prohibited Location of Accessory Uses and Structures] of the City of Pompano Beach Code of Ordinances, in order to allow a swimming pool to be located in front of a single-family residence, rather than prohibit the pool to be located in front of the residence as required by Code.

The property in this Public Hearing is as follows:

LOT 7, LESS THE NORTH 15 FEET THEREOF, BLOCK 4 OF CONNOR ESTATES, ACCORDING TO THE PLAT THEREOF AS RECORDED IN PLAT BOOK 29, PAGE 38 OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

AKA: 1800 NE 27 Av
ZONED: RS-2 (Single-Family Residence)
FOLIOS: 484330140900

6. Planning & Zoning # 18-11000020

VARIANCE –Claude Vlandis

Consideration of a request by Claude Vlandis, requesting a VARIANCE from the following one (1) provision:

1. Section 155.4303(NN)(3)(a) [Gazebo Height and Area] of the City of Pompano Beach Code of Ordinances, in order to maintain a tiki hut at a height of 23 feet, rather than reconstruct the tiki hut with a maximum height of 15 feet as per Code.

The property in this Public Hearing is as follows:

Lot 25, Block 10 of GARDEN ISLES SECTION FIVE, according to the Plat thereof as recorded in Plat Book 51, Page 9 of the Public Records of Broward County, Florida.

AKA: 441 SE 4 St
ZONED: RS-2 (Single-Family Residence)
FOLIOS: 494201330010

H. OTHER BUSINESS

I. ADJOURNMENT

VARIANCE REVIEW STANDARDS- Section 155.2420.D

- a. There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;
- b. The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;
- c. Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;
- d. The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.
- e. The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;
- f. The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;
- g. The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and
- h. The Variance is consistent with the comprehensive plan.

SPECIAL EXCEPTION REVIEW STANDARDS – Section 155.2406.D

1. Is consistent with the comprehensive plan;
2. Complies with all applicable zoning district standards;
3. Complies with all applicable use-specific standards in Article 4: Use Standards;
4. Avoids overburdening the available capacity of existing public facilities and services, including, but not limited to, streets and other transportation facilities, schools, potable water facilities, sewage disposal, stormwater management, and police and fire protection;
5. Is appropriate for its location and is compatible with the general character of neighboring lands and the uses permitted in the zoning district(s) of neighboring lands. Evidence for this standard shall include, but not be limited to, population density, intensity, character of activity, traffic and parking conditions and the number of similar uses or special exception uses in the neighborhood;
6. Avoids significant adverse odor, noise, glare, and vibration impacts on surrounding lands regarding refuse collection, service delivery, parking and loading, signs, lighting, and other site elements;
7. Adequately screens, buffers, or otherwise minimizes adverse visual impacts on neighboring lands;
8. Avoids significant deterioration of water and air resources, scenic resources, and other natural resources;
9. Maintains safe and convenient ingress and egress and traffic flow onto and through the site by vehicles and pedestrians, and safe road conditions around the site and neighborhood;
10. Allows for the protection of property values and the ability of neighboring lands to develop uses permitted in the zoning district;
11. Fulfills a demonstrated need for the public convenience and service of the population of the neighborhood for the special exception use with consideration given to the present availability of such uses;
12. Complies with all other relevant city, state and federal laws and regulations; and
13. For purposes of determining impacts on neighboring properties and/or the neighborhood, the terms neighboring properties and neighborhood shall include the area affected by the requested special exception, which is typically an area of 500 ft to a one-half mile radius from the subject site.

TEMPORARY USE PERMIT REVIEW STANDARDS – Section 155.2412.E

1. Is on its face temporary in nature;
2. Is in harmony with the spirit and intent of this Code;
3. Is not detrimental to property or improvements in the surrounding area, or to the public health, safety, or general welfare;
4. Does not have substantial adverse effects or noise impacts on any adjoining permanent uses or nearby residential neighborhoods;
5. Is compatible with any principal uses on the site;
6. Is located on a site containing sufficient land area to allow the temporary use and associated structures, and accommodate any associated parking and traffic movement, without disturbing environmentally sensitive lands; and
7. Complies with all applicable use-specific standards in Section 155.4403.

INTERIM USE REVIEW STANDARDS – Section 155.2415.D

- a. Complies with the standards in Section 155.4403.E, Interim Commercial Use or Section 155.4403.F, Interim Industrial Use, as applicable;
- b. Is consistent with the comprehensive plan;
- c. Is consistent with any adopted Master Plan;
- d. Will not create a traffic hazard or nuisance with consideration given to, but not limited to, location of existing uses, turning movements in relation to the access to public roads and intersections or its location in relation to other buildings or proposed buildings on adjacent properties;
- e. Will not be detrimental to the use, peaceful enjoyment, economic value, or development of surrounding property or the neighborhood, with consideration given to, but not limited to, noise, vibration, fumes, odors, dust, glare, other environmental hazards, or physical activity that will be generated and is otherwise present in the area; and
- f. Will not adversely affect the health, safety, security, morals, or general welfare of the neighborhood;
- g. Will not, with consideration given to the existing development in the area and development permitted under the current zoning provisions, overburden existing public services and facilities, including police and fire protection, water, sanitary sewer, public road, storm drainage, and other public improvements, and will not create a hazard by virtue of its site and location to residents, visitors, or workers in the neighborhood;
- h. Will be in harmony with the general character of the neighborhood, with consideration given to, but not limited to, population density, intensity, character of activity, traffic and parking conditions, and the number of similar uses in the neighborhood; and
- i. Is consistent with CPTED standards for natural surveillance, natural access control, territorial reinforcement, and maintenance.
- j. Additionally, an Interim Commercial Use shall comply with the following standards:
 - i. Will benefit the neighborhood and will be open to the public;
 - ii. Is an outdoor use that would otherwise be allowed in the zoning district in which it is located as either a Permitted Use, Special Exception Use, or Accessory Use; and
 - iii. Is a community serving use.

APPEAL REVIEW STANDARDS – Section 155.2424.D

D. REVIEW STANDARDS

1. The appellate body shall review an Appeal in accordance with the standards of this Code applicable to the decision or interpretation being appealed, and shall base its decision solely on the record established below in making the decision or interpretation being appealed. The record shall consist of all documents, hearing records, and other materials related to the decision or interpretation.
2. The appellate body may modify or reverse a decision or interpretation on appeal (in whole or in part) only if it finds that there is competent substantial evidence in the record of a clear and demonstrable error in the application of the relevant standards or provisions of this Code.
3. For Sexually Oriented Businesses, the sole issue to be considered in an Appeal is whether the Development Services Director's determination was correct, pursuant to the requirements of Article 4, Section 155.4224.

*Please note per the code Section 155.2424.D(7)(a) APPEALS DECISION-MAKING BODY REVIEW AND DECISION listed below the Board will make one of the three (3) decisions listed below and it must be approved by a Super-Majority vote.

The final decision of the appellate body shall be one of the following:

- i. Affirmation of the decision or interpretation (in whole or in part);
- ii. Modification of the decision or interpretation (in whole or in part); or
- iii. Reversal of the decision or interpretation (in whole or in part).

The concurring vote of at least four members of the ZBA is required for the board to modify or reverse a decision or interpretation by the Development Services Director.