



CITY OF POMPANO BEACH
FLORIDA

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ZONING BOARD OF APPEALS
City Commission Chambers

July 19, 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 June 21, 2018
- D. **EXPLANATION OF PREREQUISITES AND BOARD PROCEDURES**
- E. **INDIVIDUALS TESTIFYING PLACED UNDER OATH**
- F. **NEW BUSINESS**
- G. **PUBLIC HEARING**
 - 1. **Planning & Zoning # 18-17000005**
Special Exception – 104 Associates LLC
Consideration of a request by 104 Associates LLC for a SPECIAL EXCEPTION from the following one (1) provision:

Any person who decides to appeal any decision of the ZONING BOARD OF APPEALS with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // KA //

1. Section 155.4219(D)(1) [Districts Where Permitted] of the City's Code of Ordinances in order to utilize the subject property (Zoning District: B-3) for Automotive Parts Sales with Installation.

The property in this Public Hearing is as follows:

LOT 4, BLOCK 1, OF POMPANO SHORES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 27, PAGE 47, OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

AKA: 1324 S Federal Hy
ZONED: B-3 (General Business)
FOLIOS: 494306160040

2. **Planning & Zoning # 18-17000006**
Special Exception—City of Pompano Beach

Consideration of a 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

3. **Planning & Zoning # 18-11000012**
Variance – Linda Elma

Consideration of a request by **Linda Elma** for Variances from the following seven (7) provisions:

1. Section 155.5101(G)(8)(b) [Stacking for Parking Lot Entrance Driveways] of the City of Pompano Beach Code of Ordinances, in order to allow a vehicular stacking lane distance of 14 feet, rather than 25 feet as per code.
2. Section 155.3303(C) [B-2 Intensity and Dimensional Standards, Rear Setback] of the City of Pompano Beach Code of Ordinances, in order to construct an addition with a 7.7 foot rear setback, rather than provide the required 30-foot rear setback as per code.
3. Section 155.4302(B)(2) [Prohibited Location of Accessory Uses and Structures] of the City of Pompano Beach Code of Ordinances, in order to allow a playground to be located in the required rear yard setback and landscape buffer rather than prohibiting the playground to be located in a required yard setback and landscape buffer as per code.
4. Section 155.5203(D)(4)(b) [Landscaped Islands in Parking Bays] of the City of Pompano Beach Code of Ordinances, in order to eliminate landscaping at the end of parking rows rather than provide an 8 foot wide landscaped island as per code.
5. Section 155.5203(D)(5) [Landscaping Between Vehicular Use Areas and Buildings] of the City of Pompano Beach Code of Ordinances, in order to eliminate landscaping between the vehicular use area and building rather than provide an 8 foot wide landscaped area per code.
6. Section 155.5102.I.1 [Dimensional Standards for Parking Spaces and Aisles] of the City of Pompano Beach Code of Ordinances, in order to provide a 14.5 foot drive aisle for parking spaces angled at 60 degrees rather than provide a minimum 16 foot aisle width as per code.
7. Section 155.5102.C.3.b [Backing onto Streets] of the City of Pompano Beach Code of Ordinances, in order to allow vehicles to back out onto a street rather than prohibit vehicles from backing onto streets as per Code.

The property in this Public Hearing is as follows:

THE NORTH 50 FEET OF THE SOUTH 1/5 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4 LESS THE EAST 550 FEET AND THE SOUTH 1/5 OF THE SOUTHWEST 1/4 OF THE NORTHWEST 1/4 OF THE SOUTHEAST 1/4, LESS THE NORTH 50 FEET AND LESS THE EAST 550 FEET AND LESS THE WEST 25 FEET AND LESS SOUTH 25 FEET THEREOF A/K/A LOT 465 AND 466, COLLIER CITY (AN UNRECORDED PLAT) OF THE PUBLIC RECORDS OF BROWARD COUNTY, FLORIDA.

AKA: 402 NW 27 Av
 ZONED: B-2 (Community Business)
 FOLIOS: 484233042130

4. Planning & Zoning # 18-1100013
Variance –Arsh Oil & Gas LLC

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

Any person who decides to appeal any decision of the ZONING BOARD OF APPEALS with respect to any matter considered at this meeting will need a record of the proceedings and for such purposes may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. // KA //

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 # 18-11000018

VARIANCE –Lisette Sacon

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

1. Section 155.5302(D)(5)(a) [Rear Yard Corner Triangle], of the City of Pompano Beach Code of Ordinances, in order to allow a 6 foot opaque fence located along the interior side lot lines to encroach 5 feet into the rear yard corner triangle, rather than provide a 6 foot fence that is at least 75% see-through in the rear yard corner triangle, as required by code.

The property in this Public Hearing is as follows:

Lot 7, Block 9 of Boulevard Park Isles Section 4, according to the Plat thereof, as recorded in Plat Book 53, Page 39, of the Public Records of Broward County, Florida.

AKA: 401 SW 18 Ct
ZONED: RS-2 (Single -Family Residence 2)
FOLIOS: 494211130420

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.