



BOARD OF ZONING ADJUSTMENT

MINUTES



FEBRUARY 24, 2015

MEETING INFORMATION

Location

City Council Chambers

2nd Floor, City Hall

One City Commons

400 South Orange Avenue

Time

2:00 p.m.

Members Present

Avery Donaudy, Chairperson
[4/4]

Griff Ariko, Vice Chairperson
[3/4]

Asima Azam [4/4]

Robert High [3/4]

Laura Hodges [3/4]

Byron Lastrapes [4/4]

Elena Pathak [3/4]

Members Absent

Desiree Sanchez [2/4]

Billy Wilson [2/4]

OPENING SESSION

- Determination of a quorum.
- Avery Donaudy, Chairperson, called the meeting to order at 2:01 p.m.
- Pledge of Allegiance.
- The Board ACCEPTED the Minutes of the January 27, 2015 BZA Meeting as presented.

PUBLIC COMMENT

Chairperson Donaudy pointed out that any member of the public could be heard on any matter before the board; if an item was listed on the consent agenda, any member of the public could ask that the item be pulled and placed on the regular agenda.

AGENDA REVIEW

Executive Secretary Cechman reviewed the items on the consent agenda.

CONSENT AGENDA

1. This item was moved to Regular Agenda.

2. VAR2015-00001 742 EDGEWATER DR.

Applicant/Owner:	Jamal Lutfi, 742 Edgewater Dr., Orlando, FL 32804
Location:	742 Edgewater Dr. (±0.21 acres)
District:	3
Project Planner:	TeNeika Neasman (407.246.4257 – teneika.neasman@cityoforlando.net)

Requested variance:

- Variance to allow a ±6 ft. high fence and ±8 ft. high pillars in the front and street side setback, where 4 ft. is required.

Recommended action: Deferral of the case, by request of the applicant.

3. VAR2014-00122 PHANTOM LOUNGE

Applicant: Fady Nessim, 1021 E. Colonial Dr., Orlando, FL 32803
Owner: Asian/Florida Investment Co. Inc., 816 N. Mills Ave., Orlando, FL 32803
Location: 1021 E. Colonial Dr. (±0.09 acres)
District: 3
Project Planner: TeNeika Neasman (407.246.4257 – teneika.neasman@cityoforlando.net)
Requested variance:

- Variance to allow on-site consumption of alcohol within 1,000 ft. of a school or church for the renovation and change of use to a hookah lounge.

Recommended action: Deferral of the case, by request of the applicant.

5. VAR2015-00009 NORTHBORO BUILDERS

Applicant: Larry Jarnes, 126 S. Lucerne Cir. E., Orlando, FL 32801
Owner: LJ Real Estate Holdings LLC, 126 S. Lucerne Cir. E., Orlando, FL 32801
Location: 126 S. Lucerne Cir. E. (±0.33 acres)
District: 4
Project Planner: Michaëlle Petion (407.246.3837 – michaëlle.petion@cityoforlando.net)
Requested variance:

- Variance of 8 parking spaces to allow 11 spaces where 19 is the minimum required.
- Variance of 5.5 ft. to allow 2 ft. of perimeter parking lot landscaping where 7.5 ft. is the minimum required.

Recommended action: Withdrawal of the case, by request of the applicant.

Recording Secretary Petersen confirmed that because there were no items to actually vote on, no motion or vote was needed and the Board should move on to the Regular Agenda.

REGULAR AGENDA**1. VAR2015-00006 727 RUGBY ST.**

Applicant/Owner: Ashley & William Barnett, 727 Rugby St., Orlando, FL 32804
Location: 727 Rugby St. (±0.14 acres)
District: 3
Project Planner: Michaëlle Petion (407.246.3837 – michaëlle.petion@cityoforlando.net)

Requested variances:

- A. Variance of 1.2 ft. to allow an inline addition to be 4.8 ft. from the east side property line where 6 ft. is the minimum required.
- B. Variance of 1 ft. to allow an inline addition to be 5 ft. from the west side property line where 6 ft. is the minimum required.

Recommended action: Approval of the requested variances, subject to the conditions in the staff report.

Michaëlle Petion, Planner II, City Planning Division, gave an overview of the case using the overhead projector. She noted the variances were for an inline addition and that the neighbors on both sides of the subject property had provided letters supporting the project.

Steve Emerson, 808 Bryn Mawr St., Orlando, FL 32804, spoke in opposition to the request. He insisted that variances should be granted in “exceptional circumstances” only, and not just because the property owner wanted one. He stated the setbacks had a good reason to be there and variances should not be sought post- or during construction. Using the overhead projector, he showed some photographs of what he claimed was the subject property; they had already started construction on the addition before the variance had been granted, and that sent the wrong message.

Ashley Barnett, 727 Rugby St., Orlando, FL 32804, spoke as the applicant in support of the request. She stated simply that the photos shown were of her neighbor’s property to the east (at 721 Rugby St.), not hers. Mrs. Petion confirmed that, at the time of her recent site visit, no construction had begun. Hearing this evidence, Mr. Emerson realized his mistake.

Board member Pathak moved APPROVAL of the VARIANCES, subject to the following conditions:

1. Development shall be in strict conformance with all conditions and the survey and site plans found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All other applicable state or federal permits must be obtained before commencing development.

Board member Lastrapes SECONDED the motion, which was VOTED upon and PASSED by unanimous voice vote.

4. VAR2015-00007 1904 DEVELOPMENT

Applicant: Craig Kosuta, Kosuta & Associates, Inc., 861 W. Morse Blvd., Ste. 150, Winter Park, FL 32789

Owner: Tuan-Chau Colonial LLC, 468 W. Hwy. 436, Altamonte Springs, FL 32714

Location: 1840 & 1904 E. Colonial Dr. (±1.84 acres)

District: 4

Project Planner: Jim Burnett (407.246.3609 – james.burnett@cityoforlando.net)

Requested variances (*as amended by the applicant immediately prior to the BZA meeting*):

- A. Variance of 32.25 ft. to allow the existing west side setback of 57.25 ft., where the maximum setback is 25 ft. (existing Dollar Tree);
- B. Variance of 7.9 ft. to allow an existing front setback of 22.9 ft., where the maximum setback is 15 ft. (existing Dollar Tree);
- C. Variance of 5 ft. to allow a new restaurant 20 ft. from the front lot line, where a maximum 15 ft. setback is allowed (new Popeye’s);
- D. Variance of 25 ft. (east) to allow a new restaurant 50 ft. from the east side lot line (*D1, withdrawn based on Alternate Site Plan B*), and (*D2*) 47 ft. (west) to allow said new restaurant 72 ft. from the west side lot line, where a maximum 25 ft. side setback is allowed (new Popeye’s);

- E. Variance of 5 ft. to allow Dollar Tree dumpster corral & parking spaces (both sites) 2.5 ft. from the side and rear lot lines, where a minimum 7.5 ft. buffer width is required;
- F. Variance to allow landscape islands to be less than minimum 10 ft. wide (Popeye's);
- G. Design variance to allow reduced transparency on the south building elevation of the new Popeye's; and
- H. Design variance to allow parking on the sides of the existing and proposed buildings (both sites).

Recommended action:

- A. *Dollar Tree – Approval of variances A, B & E, based on the finding that these variances meet the six (6) standards for approval of a variance; and approval of design variance H, based on the finding that said variance meets at least 51% of the design variance criteria; subject to the conditions below; and*
- B. *Popeye's – Approval of variances C, D2, E & F, based on the finding that these variances meet the six (6) standards for approval of a variance; and approval of design variances G & H, based on the finding that said variances meet at least 51% of the design variance criteria; subject to the conditions in the staff report.*

Jim Burnett, Planner III, City Planning Division, gave an overview of the case with a PowerPoint presentation. He acknowledged the complex nature of having multiple variances, and proceeded to describe the location and reason for each one. The applicants had been working with staff throughout the process and had decided to go with the Plan B layout, which met more of staff's conditions and meant there wasn't as much to discuss in front of the Board. Executive Secretary Cechman thanked staff for working diligently with the applicants to come up with a solution amenable to all.

Board discussion ensued, primarily about which conditions had been slightly modified and how to construct the motion of approval. Mr. Burnett noted that one of his slides had the exact verbiage to assist the Board in making a motion. Board member Pathak asked why Urban Design preferred for the building to be parallel with and closer to East Colonial Drive. Holly Stenger, City Planning Division, responded that Traditional City design standards dictated it to be that way, and that staff wanted consistency in the "urban edge" along Colonial Drive.

Board member Pathak moved APPROVAL of the VARIANCES, as modified by staff, subject to the following conditions:

1. Development shall be in strict conformance with all conditions and the survey and site plans found in this report, subject to any modification by the Board of Zoning Adjustment (BZA) and/or City Council. Minor modifications to the approved variance may be approved by the Zoning Official. Major modifications, as determined by the Zoning Official, shall require additional review by the BZA.
2. All other applicable state or federal permits must be obtained before commencing development.

Urban Design

3. All ramping up to the building or stairs/railings shall not encroach into the City R-O-W (dedicated as such on the plat recorded in 2006) or interrupt the pedestrian sidewalk (per Lauren Torres, City Transportation Engineering). Railings on the ramp and stair shall be decorative and compatible with the building.
4. 70% of the front building wall shall meet the maximum front setback, which shall be taken from the front property/R-O-W line. Site plan may be adjusted in order to allow for the ramp and outdoor seating area, but front setback shall not exceed 15 ft.
5. The street wall at the front property line may be solid masonry up to a maximum of 3 ft. tall from the street side grade elevation (per LDC Section 62.611). Open picket decorative railings may be permitted on top of the wall, if required by the grade change.
6. The building shall be oriented east-west, with the principal façade facing north toward E. Colonial, as provided on Sheet A.103 and AS.101. The Drive-through side shall be the south façade facing the rear parking lot. A building entrance oriented toward E. Colonial Dr. is required (to meet LDC Section 62.609).
7. The ground floor building wall facing E. Colonial shall contain a minimum of 15% transparent materials located between 3 and 7 ft. measured from ground level. Thus, ± 44 sq. ft. of transparency area is required $[(4' \times 72') \times .15 = 43.2 \text{ sq. ft.}]$ The proposed north elevation (facing E. Colonial Dr.) is meeting this requirement with two (2) - 5'x 6' windows and glazing in the entrance doors. The windows shall be clear glass or Low-E glazing with a minimum 60 % transmittance.
8. The north building façade shall incorporate architectural treatments, including architectural materials that express the base, middle, and top, as well as shutters and false window treatments as proposed.
9. All roof-top mechanical equipment shall be completely screened on all sides (per LDC Section 58.982).
10. A direct pedestrian path (sidewalk & crosswalk) shall be provided to the principal building from both E. Colonial Dr. and Hillcrest St. Pedestrian crosswalks at the driveway curb cuts and crosswalks shall be constructed with pavers and/or textured/colored concrete (or similar) to clearly identify the pedestrian path through the property.
11. All parking spaces shall be located behind the principal façade of each building along E. Colonial Dr., and shall be screened with a streetwall and landscaping (this will result in the loss of two (2) parking spaces that are located in front of the Dollar Tree front façade). Parking spaces adjacent to Hillcrest shall be screened with streetwall and landscaping per LDC requirements.

12. Any substantial changes (as determined by Urban Design staff or the Zoning Official) to the elevations of the building shall require an Appearance Review through a determination prior to building permits being issued.

13. Cross-access to parking lots to the east and west shall be provided and shown on the site plans for each/total site.

Board member Hodges SECONDED the motion, which was VOTED upon and PASSED by unanimous voice vote.

OTHER BUSINESS

- No items.

ADJOURNMENT

Chairperson Donaudy adjourned the meeting at 2:37 p.m.

STAFF PRESENT

Mark Cechman, City Planning
Karl Wielecki, City Planning
Michaëlle Petion, City Planning
Jim Burnett, City Planning
TeNeika Neasman, City Planning
Holly Stenger, City Planning



Mark Cechman, AICP, Executive Secretary

Paul Lewis, City Planning
Doug Metzger, City Planning
Richard Forbes, City Planning
Ken Pelham, City Planning
Keith Grayson, Permitting Services
David Bass, City Attorney's Office



Ed Petersen, BZA Recording Secretary