



BOARD OF ZONING ADJUSTMENT

MINUTES  JUNE 24, 2014

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
[7/9]

Griff Ariko, Vice Chairperson
[8/9]

Laura Hodges [8/9]

Byron Lastrapes [8/9]

Elena Pathak [8/9]

Michael Weinberg [6/9]

Billy Wilson [5/5]

Members Absent

Asima Azam [4/5]

Robert High [7/9]

OPENING SESSION

- Determination of a quorum.
- Avery Donaudy, Chairperson, called the meeting to order at 2:03 p.m.
- Pledge of Allegiance.
- The Board ACCEPTED the Minutes of the May 27, 2014 BZA Meeting as presented.

Vice Chairperson Ariko noted a conflict on the following item and turned in the necessary forms:

- Item 2 (VAR2014-00053, Bumby Pet Rescue)

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. VAR2014-00050 WAFFLE HOUSE

Applicant: Ryan Peterson, East Coast Waffles Inc., 5986 Financial Dr., Norcross, GA 30071

Owner: East Coast Waffles Inc., P.O. Box 6450, Norcross, GA 30091-6450

Location: 1815 S. Semoran Blvd. (±0.46 acres)

District: 2

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

Requested variance:

- Design variance of 46 ft. for a new Waffle House to be 61 ft. from the front lot line, where the Semoran Blvd. Special Plan requires new principal structures to be located no less than 15 ft. from the front lot line.

Recommended Action: Approval of the requested variance, subject to the conditions in the staff report:

1. Development shall be in strict conformance with all conditions and the survey and photographs 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.
3. Site shall meet all applicable landscape requirements of the S. Semoran Special Plan Overlay.

Urban Design Conditions

4. Appearance Review shall be required at time of permitting to confirm compliance with these variance conditions.
5. Delete parking space #1 and provide SP Overlay- and Code-required landscaping in that location.
6. Relocate the bicycle parking racks to the landscape area at the southwest corner of the building.
7. Create a landscape area between parking space #23 and the dumpster enclosure, and install 1 tree.

Permitting Conditions

8. See numerous unmet conditions/comments under building case # BLD2014-01574.

2. VAR2014-00053 BUMBY PET RESCUE

Applicant: Todd Cohen, Cohen Real Estate Capital, 424 E. Central Blvd., Ste. 174, Orlando, FL 32801

Owner: Bumby CREC of Orlando LLC, 424 E. Central Blvd., MB 174, Orlando, FL 32801-1923

Location: 116 & 200 N. Bumby Ave. (±0.33 acres)

District: 4

Project Planner: Michaëlle Petion (407.246.3837 – michaelle.petion@cityoforlando.net)

Requested variances:

- A. Design variance to allow parking in front of the principal façade.
- B. Variance of 25 ft. to allow a front setback of +40 ft., where 15 ft. is the maximum allowed.
- C. Variance of 2 parking spaces to allow 7 spaces, where 9 spaces is the minimum required.
- D. Variance of 2 ft. to allow a 22 ft. drive aisle, where 24 ft. is the minimum required.
- E. Variance of 3 ft. to allow 0 ft. of perimeter landscaping between the vehicular use area and the building, where 3 ft. is the minimum required.
- F. Variance of 4.5 ft. to allow 3 ft. of perimeter parking lot landscaping along the south property line, where 7.5 ft. is the minimum required.
- G. Variance of 7.5 ft. to allow 0 ft. of perimeter parking lot landscaping along the north property line, where 7.5 ft. is the minimum required.

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

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.
3. A Binding Lot Agreement shall be required due to the sharing of parking spaces between the two parcels.
4. Uses with a parking rate above the 2.5/1000 sq. ft. GFA are not permitted in conjunction with the pet care use.
5. In lieu of landscaping in the area east of the front parking spaces a 3 ft. tall knee wall shall be provided along the length of the parking stalls.
6. Planters, not to obstruct the handicap ramp or front door, shall be provided on the concrete walkway adjacent to the front parking lot as well as in the painted strip along the west property line.
7. The owner/developer shall remove and restore the southern driveway to the property.
8. Maintain the existing canopy trees within the existing mulch area.

Board member Hodges moved APPROVAL of the CONSENT AGENDA. Board member Pathak SECONDED the MOTION, which was VOTED upon and PASSED by unanimous voice vote, noting the conflict listed above.

REGULAR AGENDA

3. VAR2014-00056 3101 WALNUT ST.

Applicant/Owner: Mery Cortez, 3101 Walnut St., Orlando, FL 32806

Location: 3101 Walnut St. (±0.24 acres)

District: 4

Project Planner: TeNeika Walker (407.246.4257 – teneika.walker@cityoforlando.net)

Requested variances:

- A. Variance of 4.6 ft. to allow a side yard setback of 2.9 ft. for an existing rear cottage/recreational building, where 7.5 ft is the minimum required.
- B. Variance of 1.2 ft. to allow a rear yard setback of 3.8 ft. for said building, where 5 ft. is the minimum required.

Recommended Action: Approval of Variance A, subject to the conditions in the staff report, and denial of Variance B.

TeNeika Walker, Planner I, City Planning Division, introduced the case using PowerPoint. She included surveys of the property and photos of the building in question, and explained staff's recommendation of denial of the second variance. Executive Secretary Cechman pointed out that the case was a result of a Code Enforcement citation. Ms. Walker said that no permits were pulled for the wooden extension to the accessory structure. Board member Weinberg clarified with staff that the citation also covered general cleanup of the site. Mr. Cechman explained that this variance was for the accessory structure setbacks and not for allowing an independent dwelling unit inside the structure.

Mery Cortez, 3101 Walnut St., Orlando, FL 32806, spoke as the applicant in support of the request. She took issue with the survey dates as shown in Ms. Walker's presentation, stating that there was no previous survey available to show additional proof of when the addition to the accessory structure was built. The Cortezes bought the property in 2001, but the neighbors told them the structure in the rear had been in place since at least the early 1970s, when they used it for a playroom and an area to fix cars. She reiterated that records were inconclusive, and then noted that the realtor had included a description on their bill of sale that described "two kitchens."

Amber Kranis, 3020 Lake Arnold Pl., Orlando, FL 32806, spoke as the neighbor to the northwest. She stated that she was not in opposition to the request, but that the property owners kept on trying to construct additions, which was becoming a nuisance.

Wayne Hill, 3100 Lake Arnold Pl., Orlando, FL 32806, spoke as the neighbor to the northeast in opposition to the request. He had sent an e-mail to staff which included pictures of the structure in question, from his perspective. He stated that the accessory structure was in poor condition and the addition was infested with squirrels. Board member Hodges asked, and staff confirmed, that no permits had been pulled for the wooden addition to the accessory structure.

Chairperson Donaudy closed the public portion of the hearing. Board member Weinberg noted his support of staff's recommendations, and then asked what the Board's authority was in this case: could they take into account cost of removal and restoration? Executive Secretary Cechman stated that the code does not allow for financial consideration; construction cost was not one of the six standards for variance approval. He also explained the definition of "second dwelling unit" and what criteria City staff used to tell whether a structure contained such a setup.

Board member Weinberg moved APPROVAL of Variance A and DENIAL of Variance B, 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. Accessory structure must be returned to its originally permitted status of accessory structure, which shall not be used as an independent dwelling unit. Rear extension of the structure must be removed to the point of meeting the rear yard setback, as shown on the submitted survey (from 2002).
3. To ensure no drainage is being displaced onto the neighbor's property, gutter shall be installed on the east side of the accessory structure.

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

OTHER BUSINESS

- Recording Secretary Ed Petersen updated the Board on case VAR2014-00036 (6441 Mackenzie St. – driveway), which came before the Board on May 27, 2014. The vote was a 3-3 tie, which meant that the motion to approve the variance failed to pass. At the June 23, 2014 City Council hearing, Commissioner Tony Ortiz proposed, and the Council voted, to remand the case back to the Board of Zoning Adjustment, in the hope that a fuller board could address the issue and come to a definitive recommendation rather than a tie.

ADJOURNMENT

Chairperson Donaudy adjourned the meeting at 2:31 p.m.

STAFF PRESENT

Mark Cechman, City Planning
Karl Wielecki, City Planning
TeNeika Walker, City Planning
Jim Burnett, City Planning
Michaëlle Petion, City Planning
Ken Pelham, City Planning



Mark Cechman, AICP, Executive Secretary

Doug Metzger, City Planning
Kim King, Economic Development
Keith Grayson, Permitting Services
John Groenendaal, Permitting Services
David Bass, City Attorney's Office



Ed Petersen, BZA Recording Secretary