



# BOARD OF ZONING ADJUSTMENT

MINUTES – NOVEMBER 22, 2016

## MEETING INFORMATION

### LOCATION

**City Council Chambers**  
2<sup>nd</sup> Floor, City Hall  
One City Commons  
400 South Orange Avenue

### TIME

2:00 p.m.

### MEMBERS PRESENT

William Wilson, Chairperson  
[2/0]

Elena Pathak,  
Vice Chairperson [2/0]

Chris Carmody [2/0]

Avery Donaudy [2/0]

Roberta Fennessy [2/0]

Thomas Jensen [2/0]

Byron Lastrapes [2/1]

Guy Sanchez [2/0]

### MEMBERS ABSENT

Robert High [1/1]

## OPENING SESSION

- Determination of a quorum.
- William Wilson, Chairperson, called the meeting to order at 2:00 p.m.
- Pledge of Allegiance.
- Board member Lastrapes moved APPROVAL of the October 2016 minutes. Board member Sanchez SECONDED the MOTION, which was VOTED upon and PASSED by unanimous voice vote (7-0).

## PUBLIC COMMENT

Chairperson Wilson 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. VAR2016-00126

### 950 TERRACE BLVD.

Applicant:

Jeff Mottram, JSM Construction  
Consultants, 241 Rippling Ln., Winter Park,  
FL 32789

Owner:

Harry Luff, 950 Terrace Blvd., Orlando, FL  
32803

Location: 950 Terrace Blvd. (±0.94 acres)

District: 3

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

Requested variance:

- Variance of 3.4 ft. to allow an existing boathouse to be 4.1 ft. from the north interior lot line of the southern lot, where a minimum side setback of 7.5 ft. is required.

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

1. Development must 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. As provided by subsection 166.033(5), Florida Statutes, issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. In accordance with subsection 166.033(5), Florida Statutes, it is hereby made a condition of this permit that all other applicable state or federal permits be obtained before commencement of the development.
3. In order to provide a Code-required 2-ft. wide buffer strip between the driveway and the north side lot line, a portion of the existing concrete driveway within the north side yard may need to be removed.
4. Tree encroachment and/or removal permits are required prior to the encroachment or removal of any trees on both of the parcels prior to and following approval of the lot split (LDC2016-00412).
5. Should the existing dock and/or boathouse be removed, the new structure(s) must meet code relative to size and setbacks. Also, if the existing house is demolished, then all accessory structures, including the dock and boathouse, must also be removed.
6. With approval of the variance, any dock or boathouse on the lot to the north (Lot 10) cannot be closer than 10.9 ft. from the south lot line of said lot (said lot being separated via LDC2016-00412).
7. To protect the water quality of Lake Highland, at such time as Lot 10 is developed, a pollution control swale shall be constructed upland of and within 10 ft. of the seawall on Lot 10. The swale must be at least 8-inches deep and 6 ft. in width, and have side slopes not exceeding 20% gradient. The swale must be planted with plant species native to Central Florida wetlands or wetland transitional zones. The swale may be varied in depth and width within the root zones of existing non-invasive trees to be preserved, in order to avoid damage to said trees.

**2. VAR2016-00128****SMILING BISON FENCE**

Applicant: Ron Thomas, The Smiling Bison Restaurant, 745 Bennett Rd., Orlando, FL 32803

Owner: Bilbao Investment Group Inc., 6745 Gadwall Ln., Orlando, FL 32810

Location: 745 Bennett Rd. (±0.37 acres)

District: 3

Project Planner: Jacques Coulon (407.246.3427 – jacques.coulon@cityoforlando.net)

Requested variance:

- Variance of 2.6 ft. to permit a fence in the front yard to be 8.6 ft. in height where 6 ft. is the maximum permitted height.

Recommended action: *Denial of the request and approval of a lesser variance of 2 ft., subject to the conditions in the staff report.*

1. Development shall be in strict conformance with all conditions 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 applicable City, county, state or federal permits must be obtained before commencing development.
3. Remove the top fence slat and any portion of the pillar protruding above the remaining slats to create a top of staggered height.
4. Complete landscaping within the planter so that there are no bare surfaces. Plant material may include the existing palms as well as new palms and understory trees, and ground cover plants and dwarf shrubs that will be at least 18" higher than the front wall of the planter, but not exceed more than 4 ft. in height above the sidewalk.
5. Provide drip irrigation to all plants within the planter.
6. The planter must be dressed with minimum 2 in. cover of organic mulch.
7. All landscaping must comply with Chapter 60, Part 2, of City Code.
8. No additional slats may be added to the fence which would reduce transparency across the fence. Only additional framing/support as deemed needed for structural integrity through the permitting process may be added.
9. The fence must be treated/stained to better match the existing wood and also to protect the fence from water intrusion which could cause warping.
10. Only one ground sign is permitted, no additional signage may be placed on the fence unless the existing pole sign is removed.
11. A permit shall be required for any outdoor amplified devices and all such devices and practices must meet all section of Chapter 42 of Orlando City Code.
12. Expiration of the Zoning Variance. A building permit for the work requiring the zoning variance must be received within one year of the zoning variance approval. If said building permit(s) are not received within a year the zoning variance is no longer valid and a new variance must be applied for. If the building permit for the work requiring the zoning variance expires before a certificate of occupancy or certificate of completion is issued for the work requiring the zoning variance, then the zoning variance is no longer valid and a new zoning variance must be applied for.
13. As provided by subsection 166.033(5), Florida Statutes, issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law. In accordance with subsection 166.033(5), Florida Statutes, it is hereby made a condition of this permit that all other applicable state or federal permits be obtained before commencement of the development.

### **3. VAR2016-00130                      IRON COW PARKING**

- This item has been moved to the Regular Agenda.

**4. VAR2016-00124****605 W. YALE ST.**

Applicant/Owner: Matthew Calabrese, 605 W. Yale St., Orlando, FL 32804

Location: 605 W. Yale St. (±0.14 acres)

District: 3

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

Requested variances:

- A. Variance of 2 ft. to allow 0 ft. of landscaping adjacent to a driveway and the property line, where 2 ft. is the minimum required; and
- B. Variance of 5.5 ft. to allow a front setback of ±19.5 ft., where 25 ft. is the minimum required.

Recommended action: *Deferral of the Variances to December 2016, by request of the applicant.*

**Board member Sanchez moved APPROVAL of the CONSENT AGENDA. Board member Lastrapes SECONDED the MOTION, which was VOTED upon and PASSED by unanimous voice vote (7-0).**

*NOTE: Board member Carmody arrived at the meeting at 2:08 p.m.*

## REGULAR AGENDA

**3. VAR2016-00130****IRON COW PARKING**

Applicant: Matthew Harris, Iron Cow, 2438 E. Robinson St., Orlando, FL 32803

Owner: Alexander John Harris, 4048 Barnsley Dr., Orlando, FL 32812

Location: 2438 E. Robinson St. (±0.32 acres)

District: 1

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

Requested variance:

- Variance of 14 parking spaces to allow 13 spaces, where 27 is the minimum required.

Recommended action: *Denial of the request and approval of a lesser variance of 7 parking spaces, subject to the conditions in the staff report.*

Michaëlle Petion, Planner III, City Planning Division, presented the requested variance using PowerPoint. She provided history of the site and space, and listed Eating & Drinking as the proposed use. She then detailed the conditions of approval of the lesser variance. Noting that the Main Street designation was still new to the Milk District, she pointed out that a great deal of research was being done in the area to assist with the existing parking

issue. The nearby Festival Park was controlled by the City's Families, Parks, & Recreation Division. Other ideas for parking alternatives had been explored, such as a "road diet" along Robinson Street. Finally, she noted that she received a call and several e-mails in opposition to the request.

Matt Harris, 804 S. Bumby Ave., Orlando, FL 32803 spoke as the applicant in support of the request. He noted his confusion with the City's processes and stated he had applied for both a Variance and a Zoning Official Determination, hoping to resolve the issues. Currently, he was leasing parking spaces from his neighbors. He insisted that he was an entrepreneur who intended to improve the area. FDOT traffic studies were still in progress, and the recent Main Street designation was a mixed blessing. He then explained the other uses occupying the building. Executive Secretary Cechman clarified the variance request and the City's method of calculating the required number of parking spaces.

Susan Buttery, 809 S. Bumby Ave., Orlando, FL 32803 spoke in support of the request. She owned some other small businesses in Orlando and sat on the board of the new Main Street District. She pointed out the insufficient parking throughout the area and questioned how the previous business, a dog salon, had ever opened with these present problems. Mr. Cechman noted that the Milk District had a large number of non-conformities, but Ms. Buttery expressed frustration with the lack of progress on parking issues. She stated the onus of finding sufficient parking should be on the property owners and developers, not the individual tenants themselves.

Board discussion ensued. Topics included the terms of the off-site parking lease agreement; the potential future uses of adjacent businesses; other examples of parking issues in the area; the rise of Uber and other ride-sharing systems; the possibility of Lymmo service being expanded to the Milk District; and the many problems with other current businesses.

**Vice Chairperson Pathak moved DENIAL of the request and APPROVAL of a LESSER VARIANCE of 7 parking spaces, subject to the following conditions:**

1. Development must 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. The applicant will need to obtain a parking agreement for the remaining 7 spaces. This agreement shall be with a site that has parking demands that peak at different times of the day and/or for non-required parking spaces. The spaces must be within the pedestrian shed per LDC sec 61.302. If an approved agreement expires the applicant must secure another agreement subject to review by the Planning Division.

**Board member Carmody SECONDED the MOTION, which was VOTED upon and PASSED by unanimous voice vote (8-0).**

## OTHER BUSINESS

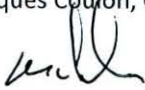
- Recording Secretary Ed Petersen reminded the Board that the December 2016 BZA hearing will be held on the third Tuesday of the month (Dec. 20) instead of the fourth Tuesday. As this is the same day as the Municipal Planning Board which takes place in the morning, the BZA hearing may be moved into a different conference room down the hall, depending on how long the MPB hearing lasts.
- Mr. Petersen also noted that Planning staff on the 6<sup>th</sup> floor would be undergoing a move in early December to accommodate renovations on that floor.

## ADJOURNMENT

Chairperson Wilson adjourned the meeting at 2:58 p.m.

## STAFF PRESENT

Mark Cechman, City Planning  
Karl Wielecki, City Planning  
Michaëlle Petion, City Planning  
Jim Burnett, City Planning  
TeNeika Neasman, City Planning  
Jacques Coulon, City Planning



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Mark Cechman, AICP, Executive Secretary

Katy Magruder, City Planning  
Ken Pelham, City Planning  
John Groenendaal, Permitting Services  
Stephanie Herdocia, City Clerk's Office  
Alison Brackins, City Attorney's Office



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Ed Petersen, BZA Recording Secretary