



## Staff Report

---

**File #:** LN-436

---

Zoning Board of Appeals  
Meeting Date: April 20, 2023

### **VARIANCE- W4C LLC AND NH 13 LLC**

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	23-11000008
<b>Owner:</b>	W4C LLC and NH 13 LLC
<b>Project Location:</b>	3301 N Federal Highway
<b>Folio Number:</b>	484224190010
<b>Land Use Designation:</b>	C- Commercial
<b>Zoning District:</b>	General Business (B-3)
<b>Agent:</b>	Matthew Scott
<b>Project Planner:</b>	Scott Reale

### **Summary:**

The Applicant Landowner is requesting a Variance from the following provisions:

1. Section 155.5102(C)(9) [Curbing Standards for Off-Street Parking and Loading Areas], of the Pompano Beach Zoning Code, in order to eliminate continuous curbing between parking rows at an existing shopping center parking lot rather than install continuous curbing as required by code.
2. Section 155.5301(A)(1)(a)(i) [Mechanical Equipment Screening Standards], of the Pompano Beach Zoning Code, in order to allow mechanical equipment to be located on a rooftop without being screened by a parapet wall, roof screen, or similar device of a height equal to or exceeding the height of the mechanical equipment being screened as required by code.

The subject property is located at the southwest corner of the intersection of N Federal Highway and E Sample Road, more commonly known as the Shopper's Haven commercial plaza.

### **ZONING REGULATIONS**

#### **§155.5102. OFF-STREET PARKING AND LOADING**

...

#### **C. General Standards for Off-Street Parking and Loading Areas**

...

#### **9. Curbing**

- a. Except for off-street parking areas serving single-family dwellings, or off-street parking provided within a Parking Deck or Garage, each off-street parking space shall include a continuous curb.
- b. The vehicular overhang area shall be no more than 2½ feet wide and shall not be credited toward any required sidewalk or landscape areas.
- c. In place of continuous curbs, wheel stops may be provided when required for compliance with accessibility guidelines promulgated under the Americans with Disabilities Act (ADA). When permitted, the wheel stops shall be made of concrete, wood, metal, or material of comparable durability, and shall be at least six feet long.

#### §155.5301. SCREENING

##### A. Mechanical Equipment

##### 1. Applicability

##### a. New Development Screening Standards

- i. Mechanical equipment mounted on the roof of a building shall be screened by a parapet wall, roof screen, or similar device of a height equal to or exceeding the height of the mechanical equipment being screened, unless exempted by Section 2 (155.5301.A.2. Exemptions).

#### **PROPERTY INFORMATION AND STAFF ANALYSIS**

1. The property was first developed in the 1960s, with periodic improvements and upgrades over the years. Most recently, Minor Site Plan application PZ #21-12000004 was approved on 10/19/2022 for parking and landscape modifications associated with a proposed new grocery store that will replace the former Winn Dixie anchor tenant. Building Permit #23-1509 is now in plan review for the civil site work.
2. The new and reconfigured parking areas of Shopper's Haven require compliance with today's off-street parking standards, which include continuous curbing (maximum of 5.5 inches in height) along with a vehicular overhang area of no more than 2.5 feet. Wheel stops are permitted only when required for compliance with ADA accessibility guidelines. Continuous curbing was a condition of approval in the development order of the referenced site plan. However, the applicant is now proposing relief from this code provision, citing the potential for pedestrian injuries from tripping, as well as having to remove several existing trees within terminal islands.
3. Additionally, the Zoning Code requires new rooftop mechanical equipment associated with new development to be screened by a parapet or other screening device. The building's existing parapet wall is 7.5 feet in height. While most of the new rooftop equipment is able to meet code requirements for screening, the applicant is seeking screening relief for some of the taller equipment. For example, one new HVAC system being installed would require screening at over 13 feet in height. The applicant contends rooftop screening of this height may not be able to sustain hurricane force winds. The applicant states that the rooftop equipment will not be visible from adjacent properties and rights-of-way, and has submitted a line-of-site exhibit to substantiate this claim.

**LAND USE PATTERNS**

Subject property (Zoning District | Existing Use):

- B-3 | shopping center

Surrounding Properties (Zoning District | Existing Use):

- North: B-3 | various retail/commercial uses along north side of Sample Road including Wawa and Taco Bell
- South: RM-12 and B-3 | multi-family dwellings and RaceTrac
- West: RM-12 | multi-family dwellings
- East: B-3A (Lighthouse Point) | various retail/commercial uses along east side of Federal Hwy including CVS, Wells Fargo, Valvoline Oil Change

**VARIANCE REVIEW STANDARDS**

A Variance application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

- 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.

**Staff Conditions:**

Should the Board determine that the applicant has provided competent substantial evidence to satisfy the eight Variance review standards, staff recommends the Board include the following condition as a part of the Order:

1. Obtain all necessary governmental permits and approvals, including building and zoning compliance permits.



CITY OF POMPANO BEACH  
OFFICIAL AERIAL MAP



1 in = 250 ft

3301 N Federal Hwy

PREPARED BY:  
DEPARTMENT OF  
DEVELOPMENT SERVICES