



## Staff Report

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**File #:** LN-157

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Zoning Board of Appeals  
Meeting Date: July 15, 2021

### **VARIANCE- BASHAR LLC**

<b>Request:</b>	Variance
<b>P&amp;Z#</b>	21-11000011
<b>Owner:</b>	Bashar LLC
<b>Project Location:</b>	1741 N Dixie Highway
<b>Folio Number:</b>	484226061770
<b>Land Use Designation:</b>	C- Commercial
<b>Zoning District:</b>	B-3 (General Business)
<b>Agent:</b>	Thomas Johnston, Esq.
<b>Project Planner:</b>	Jae Eun Kim

### **Summary:**

Applicant Landowner is requesting a VARIANCE in order to operate a gasoline filling station at 1741 N Dixie Highway. Applicant Landowner is requesting Variances from the following provision:

1. Section §155.4219 (I) (3) (a) of the Pompano Beach Zoning Code, in order to allow an operation of the gasoline filling station on a corner lot with approximate 15,900 sq. ft. lot areas with 110 ft. frontage along Dixie Highway and 150 ft. frontage along NE 17 Court, rather than 30,000 sq. ft. lot areas and 200 ft frontage on each street side required by code.
2. Section §155.4219 (I) (3) (b) of the Pompano Beach Zoning Code, in order to allow the gasoline filling station to have access, along Dixie Highway, at least 70 feet from an intersecting street rights-of-way, rather than provide an access point located 100 feet from the intersection required by code.

The property is located on the southwest corner of NE 17<sup>th</sup> Court and North Dixie Highway.

### **ZONING REGULATIONS**

#### **155.4219. I. Gasoline Filling Station**

##### **1. Districts Where Permitted**

RS-1	RS-2	RS-3	RS-4	RS-L	RD-1	RM-7	RM-12	RM-20	RM-30	RM-45	MH-12	B-1	B-2	B-3	B-4
													P	P	P

M-1	CR	I-1	I-IX	OIP	M-2	TO	PR	CF	PU	T	BP	RPUD	PCD	PD-TO	LAC	PD-1
		P	P	P									P			P

## 2. Definition

A gasoline filling station consists of buildings and premises where gasoline and similar fuels for automotive use are supplied and dispensed at retail (or in connection with a private operation where the general public is excluded from use of facilities). This use may also involve the sale of oils and greases, batteries, tires, automobile accessories, drinks, packaged foods, tobacco, and similar convenience goods for filling station customers, as accessory and incidental to principal operation.

## 3. Standards

A gasoline filling station use shall comply with the following standards:

a. If the gasoline filling station is located on a corner lot, the lot shall have an area of at least 30,000 square feet and a frontage of at least 200 feet on each street side. In all other cases, the lot shall have an area of at least 15,000 square feet and a lot width of at least 150 feet.

b. The gasoline filling station shall have no more than two vehicular access points. Access points shall be located at least 100 feet from any intersecting street rights-of-way and at least 15 feet from any other lot line, and shall be no more than 40 feet wide.

c. The gasoline filling station shall be designed to ensure safe and adequate vehicle stacking, circulation, and turning movements.

d. Gasoline pump canopies shall comply with the applicable standards in § [155.4303.E](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568) [https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl\\_zone/0-0-0-45568](https://codelibrary.amlegal.com/codes/pompanobeach/latest/pompanofl_zone/0-0-0-45568).3.

e. A lot containing a gasoline filling station shall be located at least 750 feet from a lot containing another gasoline filling station.

f. A clearly identified pedestrian route, distinguished by varied paving treatments, shall be provided between the fueling pumps and the primary pedestrian entrance(s) to the building(s).

## PROPERTY INFORMATION

1. The property has 9 open building permits:

- BP: 90-1036 Alt Canopy Face
- BP: 90-1677 Electric Sign
- BP: 91-627 Canopy Sign
- BP: 91-628 Canopy Sign
- BP: 92-3580 Alarm Permit

- BP: 05-2406 Adding Environmental Systems
  - BP: 14-846 Repairing Tank
  - BP: 20-8252 Face Change
  - BP: 20-8255 Wall Sign
2. There are no open code compliance cases associated with the subject property.
3. Property History:
- The property was annexed into the City of Pompano Beach in 1979, by Ordinance 80-38. Based on building permits from 1983, the property was developed prior to annexation, and the Applicant's narrative confirms that operation commenced under Broward County's regulations.
  - City records documenting previous businesses began in 1993, for "Zevs Service Station," a filling station and convenience store.
  - There has been continuous use of the property as a convenience store and gasoline filling station until 2014.
  - The City received a letter from the business, dated April 3, 2015, that gas sales discontinued in November 2013. The convenience store continues to maintain an active business tax receipt for the retail sales.
  - There have been no applications to redevelop the site, but recently a permit was submitted to replace the fuel dispenser (BP: 21-251). The permit could not be approved due to the fact that a gasoline fueling station use discontinued & the lot does not comply with the minimum dimensional standards.
4. Relevant Codes:
- In 2012, the City's Code of Ordinances were significantly re-written and adopted by the City Commission. In Ordinance 2012-64 standards were adopted specific to gasoline filling stations related to minimum lot sizes and width.
5. The applicant is requesting Variance approval to allow the gasoline station to resume operations.

## **LAND USE PATTERNS**

### **Subject property (Zoning / Existing Use):**

- B-3 (General Business) / Commercial Use (Convenience Store)

### **Surrounding Properties (Zoning District / Existing Use):**

- North: B-3 / Place of Worship (New Jerusalem Church Assemblies of God)
- South: B-3 / Restaurant (Lou's Giant Subs)
- East: T / Dixie Highway, Railroad, NE 5 Avenue & Sand & Spurs Park (at the Pompano Beach Airpark)
- West: RD-1 / Duplexes

**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 Variance review standards, staff recommends the Board include the following conditions as a part of the Order:

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