



Legislation Text

File #: LN-513, Version: 1

Zoning Board of Appeals
Meeting Date: September 21, 2023

VARIANCE - Kaja Properties Inc.

Request: Variance
P&Z# 23-11000018
Owner: Kaja Properties Inc.
Project Location: 3685 N Federal Highway
Folio Number: 484318010100
Land Use Designation: C- Commercial
Zoning District: General Business (B-3)
Agent: Paola West
Project Planner: Scott Reale

Summary:

Applicant Landowner is requesting a Variance from Section 155.4303(I)(3)(a) [Drive-Through Service], of the City of Pompano Beach Zoning Code, in order to allow a drive-through service facility associated with a car wash to be located approximately 50 feet from a residential zoning district, rather than located at least 100 feet from a residential zoning district, as required by code.

The property is located on the west side of N Federal Highway between Sample Road and NE 39th Street. The parcel is considered a “through-lot” with NE 18th Terrace abutting the west lot line.

ZONING REGULATIONS

155.4303. STANDARDS FOR SPECIFIC ACCESSORY USES AND STRUCTURES

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I. Drive-Through Service

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
													A	A	A

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

2. Definition

Drive-through service is the provision of products or services to customers who remain in their vehicles, whether through a window or door in a building, a machine in a building or detached structure (e.g., ATM), or via a mechanical device (e.g., a pneumatic tube system). In addition to the pick-up window or door, drive-through service facilities also may include remote menu boards and ordering stations. Use types that commonly have drive-through service include banks or financial institutions, restaurants, specialty eating or drinking establishments, and drug stores or pharmacies.

3. Standards

A use with drive-through service shall comply with the following standards:

- a. The drive-through service facilities shall be located at least 100 feet from any residential zoning district.
- b. The drive-through service facilities shall be designed in accordance with Section 155.5101.G.8, Vehicle Stacking Space.
- c. The drive-through service facilities shall be designed to avoid obstructions to pedestrian movement along sidewalks, through public use areas, or between parking spaces and building entrances.

PROPERTY INFORMATION AND STAFF ANALYSIS

1. The property was developed in the 1970s and has had a variety of uses. There are currently two buildings on the site, one of which has a Business Tax Receipt for a restaurant. The property was annexed into Pompano Beach on 9/14/2004 via Resolution 2004-323. The most recently approved plan was a Retroactive Landscape Plan approved in 2006 via PZ #06-06000010.
2. The applicant is proposing to demolish the existing buildings and redevelop the site with a drive-thru car wash facility containing a 4,902 sq ft enclosed building area, 11 vacuum stations, and associated parking and landscaping. Car washes require Special Exception approval in the B-3 zoning district. A Pre-Application Meeting - PZ #23-12000036 - was held on 8/8/2023 to discuss the conceptual site plan for the car wash. The Zoning reviewer noted that while drive-through service is an allowable accessory use in the B-3 zoning district, such facilities shall be located at least 100 feet from any residential zoning district. The conceptual site plan provided shows the drive-through entrance and stacking located very close to the west property line; NE 18th Terrace has a 50 ft width which separates the subject property from a residential zoning district to the west. Unless modifications are made, the development, as proposed, would require both Special Exception approval and a Variance from the 100 ft minimum separation from the adjacent residential zoning district. The applicant has concurrently filed a Special Exception application - PZ #23-17000007 - for the associated Special Exception.
3. It should be noted that the affected residentially-zoned property does not actually contain any dwelling units and is, in fact, a social club. Technically no dwelling units are located within 100 feet of the drive through facility; however, the code speaks to residential zoning districts and not whether there are any dwelling units on the residentially zoned property. Additionally, the site will be accessed along existing curb cuts on Federal Highway, and the gate shown along NE 18th Terrace is intended to be used for emergency/fire access only.
4. While the City's adopted Transformation Plan for Federal Highway discourages the proliferation of new auto-oriented uses, the site is ripe for redevelopment. Additionally, the property immediately to the south is a Wawa convenience store and gas station; the property to the north is a tire and auto repair business; and the property north of that was recently approved by the ZBA for automobile parts sales with installation for wrapping vehicles with vinyl in an enclosed facility. Thus, it does not seem out of character for an automotive related use to operate at this site.
5. In addition to addressing the eight Variance Exception review standards, the applicant has submitted a feasibility "needs assessment" analysis report. Moreover, the applicant conducted a voluntary outreach "Neighborhood Meeting" on 8/21/2023 via Zoom (notices were sent to landowners of property within 500 ft of the subject property). Although there were only two attendees from the public, the notes from that meeting are also included in the applicant's backup.
6. If the Variance and Special Exception are approved, the property will require Site Plan and Building Design review.

LAND USE PATTERNS

Subject property (Zoning District | Existing Use):

- B-3 | restaurant (Michael’s Café II)

Surrounding Properties (Zoning District | Existing Use):

- North: B-3 | tire and auto repair
- South: B-3 | convenience store and gas station (Wawa)
- West: RM-12 | nonprofit/exempt (Pompano Beach Power Squardon)
- East: B-2A (Lighthouse Point) | multi-tenant shopping center

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 conditions as a part of the Order:

1. Obtain a Special Exception for the car wash use.
2. Obtain all necessary governmental permits and approvals, including Site Plan, Building Design, and Zoning Use Certificate and Business Tax Receipt for the use.
3. Close out all open building permits.
4. Substantial compliance with the conceptual site plan submitted with this application.
5. No operation associated with the use shall occur in a manner that impedes the normal free flow of vehicular or pedestrian traffic on adjacent rights-of-way, i.e. N Federal Highway and NE 18th Terrace.