

## Legislation Details (With Text)

**File #:** LN-139      **Version:** 1      **Name:**

**Type:** ZBA Submission      **Status:** Passed

**File created:** 6/1/2021      **In control:** Zoning Board of Appeals

**On agenda:** 7/15/2021      **Final action:** 8/19/2021

**Title:** VARIANCE - 438-470 S CYPRESS ROAD

**Sponsors:**

**Indexes:**

**Code sections:**

**Attachments:** 1. Email\_Request to Postpone for July ZBA.pdf, 2. 01\_21-11000010\_APPL-OWNERS CERT.pdf, 3. 02\_21-11000010\_INTRO.pdf, 4. 03\_21-11000010\_LEGAL DESCRIPTION.pdf, 5. 04\_21-11000010\_SITE PLAN AND PHOTOS.pdf, 6. 06\_21-11000010\_SURVEY.pdf, 7. 07\_21-11000010\_Letter\_Review Standards.pdf, 8. 08\_21-11000010\_Aerial Map.pdf, 9. 21-11000010\_Variance\_Staff Report.pdf, 10. ZBA Public Notice 21-11000010.pdf, 11. Fire\_Appeal Variance - 21-11000010a.pdf, 12. CRA\_PZ 21-11000010-Variance.pdf, 13. Sworn Affidavit 438 S. Cypress Rd. .pdf, 14. Email\_VinnieStJohn\_CRAComments\_1.pdf, 15. Email\_VinnieStJohn\_EvidenceforHearing\_1.pdf, 16. Email\_VinnieStJohn\_EvidenceforHearing\_2.pdf, 17. Email\_VinnieStJohn\_EvidenceforHearing\_3.pdf, 18. Neslons Diner cooking oil drums and their stains.jpg, 19. Email\_VinnieStJohn\_FireComments.pdf, 20. NelsonsDinerPictures\_from\_VincentStJohn.pdf, 21. Email\_VinnieStJohn\_CRAComments\_2.pdf, 22. close up of boxed food near open dumpster.jpg, 23. garbage daily.JPG, 24. Nelsons food near dumpster.jpg, 25. Nelsons food unload outdoors.jpg, 26. roof mess.jpg, 27. Nelsons blocking alley unloading food.jpg, 28. Nelsons Diner refrigerator row on June 10th 2021.jpg, 29. Email\_VinnieStJohn\_FireComments2.pdf, 30. Nelsons truck blocking half the width of alley Jun 14 2021.JPG, 31. Email\_VinnieStJohn\_ZBA\_Members.pdf, 32. Bright light Nelsons Diner Jun 10 2021.JPG, 33. Email\_Fire Department Response 1 to VinnieStJohn.pdf, 34. Email\_Fire Department Response 2 to VinnieStJohn.pdf, 35. Email\_VinnieStJohn\_Health Dept Inspection.pdf, 36. Email\_VinnieStJohn\_roof line eyesore - Nelsons Diner.pdf, 37. Nelsons Diner ugly rooftop.jpg, 38. Sworn Affidavit\_Sandra Warren .pdf, 39. Sworn Affidavit\_VinnieStJohn.pdf, 40. Email Continuing with variance request file # LN-139.pdf, 41. Nelsons Diner dumpster enclosure June 24th 2021.JPG, 42. Variance Hearing July 15th - back to the accordion metal shutter nightmare.pdf, 43. Email\_VinnieStJohn\_07152021.pdf, 44. 07\_21-11000010\_Revised\_Review Standards.pdf, 45. Variance request file # LN-139.msg Dated 8-19-21.msg

Date	Ver.	Action By	Action	Result
8/19/2021	1	Zoning Board of Appeals	APPROVED	
7/15/2021	1	Zoning Board of Appeals	POSTPONED	
6/17/2021	1	Zoning Board of Appeals	POSTPONED	

Zoning Board Of Appeals  
Meeting Date: July 15,2021

### VARIANCE - 438-470 S CYPRESS ROAD

**Request:** Variance  
**P&Z#** 21-11000010  
**Owner:** Meyer Family Invest LTD

**Project Location:** 438-470 S Cypress Road  
**Folio Number:** 494201250010  
**Land Use Designation:** C-Commercial  
**Zoning District:** B-3 (General Business)  
**Agent:** Grant Galuppi  
**Project Planner:** Jae Eun Kim

### Summary:

Applicant Landowner is requesting a Variance in order to build a walk-in cooler structure attached to the existing commercial building. Applicant Landowner is requesting a Variance from the following provision:

1. Section §155.3304 (C) of the Pompano Beach Zoning Code, in order to allow the placement of a 104 sq.ft. walk-in cooler structure to be located 15 feet from the rear yard lot line, along the east property line, rather than provide the 30 feet rear yard setback required by code.

The property is located on the east side of S. Cypress Road between SW 4<sup>th</sup> Street and SW 6<sup>th</sup> Street.

## ZONING REGULATIONS

### **155.3304. GENERAL BUSINESS (B-3)**

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C. Intensity and Dimensional Standards <sup>1</sup>	
Lot area, minimum (sq ft)	10,000 <sup>2</sup>
Lot width, minimum (ft)	100 <sup>2</sup>
Density, maximum (du/ac)	46 <sup>2,3</sup>
Lot coverage, maximum (%)	60
Pervious area, minimum (%)	20
Height, maximum (ft)	105 <sup>4</sup>
Front yard setback, minimum	0

Street side yard setback, minimum (ft)	10 <sup>2,5</sup>
Setback from a waterway or	15
Setback from the historic district	25
minimum (ft)	
Interior side yard setback, minimum (ft)	10 <sup>2,5</sup>
Rear yard setback, minimum (ft)	30 <sup>5</sup>
Dimensional Standards for Accessory Use	See Accessory Use -Specific
	Article 4: Part 3
	<a href="https://codelibrary.amlegal.com/codebooks/pompano-beach/latest/pompano-beach-fl-2019-01-01/">https://codelibrary.amlegal.com/codebooks/pompano-beach/latest/pompano-beach-fl-2019-01-01/</a>
NOTES: [sq ft = square feet; ft = feet; du/ac = dwelling units per acre] Structures extending above a height of 50 feet shall be set back and the height of the portion of the structure exceeds 50 ft.	

## **PROPERTY INFORMATION**

The subject property has addresses ranging from 438 to 470 S Cypress Road. This Variance application is filed by the tenant located at 438 S Cypress Road.

- The property has one active building permit for the common areas.
  - BP 21-2515 ASPHALT OVERLAY
- Below is open code cases associated with the subject property.

Case Number	Type	Description
21040060	Nuisance	**OBSERVED DUMPSTER ENCLOSURE IN DISREPAIR, STAGNANT WATER**

21040058	Minimum Standards for Commercial/Industrial	1) The odd looking roundish exhaust fan. The shroud is completely in tatters, held up and / or in place by blocks of cut 2x4. It rattles so loud my neighbors and I cannot open our windows at night. I emailed and called Grant 10 times, he just ignored me. When those blocks rattle loose and then fly off the roof and hit someone, what then will you do? Bcz if its me, I'll sue the City for every dollar it has for ignoring this issue, amongst safety being one of them. As for the endless 24/7 noise from the fan, listen to the video and picture yourself in bed having to listen to it at 3AM 2) The light on the roof serves no purpose other than to disturb the owners in my building. Grant put lights all around his restaurant, NONE of them have hoods, and yet the roof light which shines in our windows, is allowed to stay on his roof. Why? 3) The garbage continues to pile and stay behind the restaurant so we have to look at it every day as it piles up. Why are we subjected to his dirty habits? As soon as code enforcement left, days later the garbage bags piled up again. I'll take pictures and videos every day if I have to. Why is he allowed to have so many structures behind his restaurant, acting as an extension of his operation? Can I pile shit outside my door when I run out of room too?
235718	Nuisance	grease trap / sewage waste running into storm drain

3. The property was developed in 1961 (PRA # 61-4032). There has been no significant redevelopment to the property since it was constructed, except the existing dumpster enclosures. The dumpster enclosures were approved and constructed in 2007 (Building Permit # 07-7446).
4. The applicant is requesting Variance approval to construct the proposed structure within the rear yard setback to address violations listed above. The property line along Cypress Road is determined to be the front lot line; therefore the rear yard setback is measured from the east lot line. The applicant has placed the refrigerators and freezers in the rear of the building for their restaurant business. The structure is proposed for storage and to accommodate needs of the restaurant. The applicant believes that the proposed structure is necessary to house the restaurant equipment and remedy nuisances for the neighboring properties.

### **LAND USE PATTERNS**

Subject property (Zoning / Existing Use):

- B-3 (General Business) / Commercial Use (Retail, Office & Restaurant)

Surrounding Properties (Zoning District / Existing Use):

- North: RM-20 / Multi-Family Residence
- South: B-3 / Office & Retail
- East: RD-1 / Single-Family Dwelling

- West: B-3 / Cypress Road, Retail & Office

### **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 all necessary governmental permits and approvals including building and zoning compliance permits.
2. The proposed structures must be structurally attached to the existing commercial building and be designed to incorporate the existing building color and pattern.
3. Approval of this application is conditioned upon substantial compliance to the plans submitted and is limited to the improvements illustrated on the plan. Any subsequent application submitted deemed a “substantial improvement” or new construction will not be part of this variance and will be reviewed

separately at the time.