



TOWN OF DAVIE
PLANNING & ZONING DIVISION

PLANNING AND ZONING BOARD MEETING MINUTES
March 11, 2020

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1. ROLL CALL

The meeting was called to order at 6:30 p.m. Board members present were Chair Donna Evans, Vice Chair Tom Jacob, Lisa Alvarez, Michael Crowley and David Oakes. Also present were Planning & Zoning Manager David Quigley, Deputy Planning & Zoning Manager David Abramson, Board Attorney Allan Weinthal, and Lorraine Robinson, Board Secretary.

Chair Evans welcomed Mr. Crowley to the board.

2. APPROVAL OF MINUTES

2.1 February 12, 2020 Meeting Minutes

Motion made by Mr. Crowley, seconded by Mr. Oakes, to approve the February 12, 2020 meeting minutes. In a voice vote, the motion passed 5-0.

3. PUBLIC HEARING

Quasi-Judicial

**3.1 Variance (V19-138) Munnilal
4321 Southwest 67th Terrace**

Ms. Rashbir Munnilal appeared on behalf of the Applicant and agreed to waive quasi-judicial proceeding.

Mr. Abramson provided a brief staff report. The variance being requested would allow construction of a pool and deck 6'-2" from the rear property line and 14'-8" from the side (north) property line. Town code normally requires a minimum yard requirement of 30'-0" and 15'-0", respectively. The property fronts both Southwest 67th Terrace and Southwest 68th Avenue and code requires a minimum front yard of 30'-0" from both rights-of-way. The special circumstance is that the residential lots along the western boundary of the established Del Mar Plat were subject to more restrictive requires due to the placement of the right-of-way on Southwest 67th Avenue.

Vice Chair Jacob asked what the regulations were prior. Mr. Abramson stated that current Town Code requires a rear setback, with a pool or patio the allowance is to go half the distance no less than 10 feet, in this case the rear setback is 25-foot setback, they could go 12.5 feet. He added that because the rear property is adjacent to Southwest 68th Avenue, it now requires a full street setback of 30 feet.

Ms. Munnilal said this was a recently built home and was asking for a variance because without would result in a smaller pool and for safety reasons didn't want it too close to the house for their children. Ms. Alvarez asked if there was a fence. Ms. Munnilal said that there wasn't one currently but would be adding a fence when the pool was built.

Motion made by Mr. Oakes, seconded by Vice Chair Jacob, to approve V19-138.
In a roll call vote, the motion passed 5-0.

**3.2 Variance (V19-180) Discount Tire
Variance (V19-182) Discount Tire
5800 South University Drive**

Mr. Weinthal advised the board that both items could be heard at the same time but would vote separately for each item.

Mr. Francis Dayoa appeared on behalf of the Applicant and agreed to waive quasi-judicial proceeding. Also representing were Tony Kirchner, Assistant Vice President Florida, Discount Tire and Jason Hart, Wellington Manager, Discount Tire.

Mr. Marlon Holness, Steak 'n Shake, was in attendance and wanted more information on this application. He agreed to waive quasi-judicial proceeding.

Mr. Abramson provided a brief staff report. The variance (V19-180) being requested would allow the creation of a lot that is approximately 1.04 acres. The property is zoned Urban Commercial (UC). Code normally requires properties zoned UC to have a minimum 10 acres. Variance (V19-182) is a request to reduce the required off-street parking requirements as follows:

- o From 1,162 spaces to 1,052 spaces for the Lakeside Town Shops (Town code normally requires 1,157 parking spaces).
- o From 41 spaces to 31 spaces for proposed Discount Tire property (Town code normally requires 41 parking spaces).

The applicant requested the variance for Lakeside Town Shops because they are proposing to remove an existing parking lot with 110 parking spaces to develop the Discount Tire store.

Chair Evans stated her understanding was the entire parcel would be 1.04 acres and asked why the Town requires 10 acres. Mr. Abramson confirmed the size of the outparcel was correct and stated that at the time of development the entire shopping center came in at 10 acres.

Mr. Oakes asked how many parking spaces. Mr. Dayoa stated there would be 110. Mr. Oakes asked if there had been a parking study to determine the impact of this facility on the entire shopping center. Mr. Abramson responded that generally when an application is submitted, a parking study would be required. He added that there is a site plan application running concurrently and if Engineering feels a study is warranted that request would be made.

Mr. Dayoa said this location would be strictly retail without hazardous waste. He added that 31 spaces would be enough. Mr. Kirchner said that their locations in Wellington (21 spaces) and Greenacres (24 spaces) were found to be plenty of parking for their business.

Mr. Oakes asked for the turnaround time for each vehicle. Mr. Kirchner said the average bay time is 21 minutes for all 4 tires. Mr. Oakes asked what stacking they used. Mr. Kirchner responded that they had 6 bays; 4 would be used for tires and 1 service bay as they offer free safety inspections and air checks. He added that 80% of their customers waited on site due to their quick turnaround time. Mr. Hart said that the store offers a comfortable waiting area and the average wait time is 28 minutes with or without an appointment.

Mr. Oakes what happens with the old tire. Mr. Hart said that tires are never stacked in the parking lot as they use a bay and are picked up weekly by their recycling company. He said they don't offer any auto service.

Mr. Oakes asked if this was a national chain. Mr. Kirchner said they were the largest independent retailer in the world, family owned and not franchised.

Mr. Oakes asked if there was a market study on the number of vehicles. Mr. Kirchner said the average would be 32,000 per year for tires, approximately 70 vehicles per day.

Mr. Crowley said from his personal observation there is plenty of parking in this shopping center and he had no problem with the request as the parking appears to be sufficient for the use proposed.

Mr. Hollness asked for clarification on where in the shopping center the outparcel was being built. Mr. Dayoa said it would be between the Wells Fargo Bank and gas station. Mr. Hollness asked if this would impede traffic coming into the plaza. Mr. Hart said his Wellington store enjoyed eating at the Steak 'n Shake on their breaks. Mr. Kirschner couldn't foresee anything that could create traffic problems.

Chair Evans open and closed the public hearing as there was no one wishing to speak.

Vice Chair Jacob thought it was a good use for the property.

Motion made by Mr. Crowley, seconded by Mr. Oakes, to approve V19-180.
In a roll call vote, the motion passed 5-0.

Motion made by Vice Chair Jacob, seconded by Ms. Alvarez, to approve V19-183.
In a roll call vote, the motion passed 5-0.

4. PUBLIC HEARING

4.1 Land Development Code Amendment (ZB-TXT20-030 Medical Marijuana)

Mr. Weinthal provided an overview of the memorandum prepared by Planning & Zoning and highlighted the changes to the Code. On Exhibit A, page 1, under (B) Commercial, Office and Business Districts; there were some formatting issues with using MS Word. WT & B-2 have new asterisks in both facility and pharmacy; under CC – the asterisk is crossed out for pharmacy.

Mr. Weinthal discussed SEC. 12-436.4 Permitted Uses – Regional Activity Center on page 2 of Exhibit A, Mixed Use and University both have “conditional use” asterisks added.

Mr. Weinthal had the board turn to page 7- Item (4) Nonconformities.

Despite any provision to the contrary in Article III, Division 5, the requirements of paragraph (3), above, are not intended to apply to any Pharmacy which was lawfully established at a particular location prior to January 1, 2020 unless such Pharmacy use is discontinued for one (1) year or more.

He stated this provision would not affect any existing pharmacies and that medical marijuana facilities should be treated the same as standard pharmacies. Vice Chair Jacob asked other than grandfathered in, the pharmacy would have to be a separate building. Mr. Weinthal confirmed and that there would be a 1000-foot distance from K-12 schools and free-standing building for both dispensaries and pharmacies. Chair Evans said that on one of the pages it states 500 feet separation. Mr. Weinthal said that was the state statute and the Town made it tighter.

Mr. Oakes asked if a medical marijuana facility could take over an existing pharmacy. Mr. Weinthal confirmed. Mr. Oakes asked if it could be potentially closer than 1000-feet from a school because it would be grandfathered in. Mr. Weinthal said that could potentially happen. Mr. Quigley said they would have to meet the minimum 1000-foot separation requirement.

DRAFT

Mr. Oakes asked if facilities could grow marijuana. Mr. Weinthal said that cultivation is a different use and licensing; he added this is dispensing only.

Mr. Crowley asked what the separation requirement was for liquor stores near schools. Chair Evans said it was 1200 feet. Mr. Crowley said he'd like to make a recommendation to change to 1200 feet separation. Mr. Weinthal said as an advisory board they could make recommendations to Council. Chair Evans had no objection.

Mr. Crowley referred to page 1 of 7; *The town administrator or his or her designee shall have the discretion to permit uses which are not specifically listed but which are similar in nature to those expressly permitted.* He asked how much discretion they can have.

Mr. Weinthal referred to state statute on page 11- Item 2(c) : *A medical marijuana treatment center dispensing facility may not be located within 500 feet of the real property that comprises a public or private elementary school, middle school, or secondary school unless the county or municipality approves the location through a formal proceeding open to the public at which the county or municipality determines that the location promotes the public health, safety and general welfare of the community.*

Mr. Weinthal said this provision would have to be made through a hearing before Council. Mr. Quigley said this provision wouldn't be used often and the business would have to meet all the other criteria.

Chair Evans asked if limiting by distance would be a better idea than by 'free standing building' to avoid a cluster of shops near each other and was unclear as to what the benefit would be. Mr. Weinthal said that having it in a 'free standing building' limits where in the town it could be located due to less structures in the RAC and B-2 zoning districts. He said that dispensaries are highly regulated by the state with a limited number of licenses issued. Chair Evans asked if restricting it to 'free standing building' would it restrict the number of possible dispensaries because of the structure requirement and therefore limiting the revenue generated. Mr. Weinthal responded that as an advisory board you can recommend eliminating that requirement.

Mr. Oakes asked if there has been interest in opening dispensaries. Mr. Quigley said there had been a lot of inquiries if it was allowed but stopped once the ban was put in place.

Mr. Oakes said he liked the 1200-foot separation and that it is a very expensive business to get into so there aren't a lot of players. He added this is a benefit for those with cancer and that this should be expanded beyond the free-standing building limitation.

Mr. Crowley asked if the Pine Island Ridge Plaza was included in this district as there were a lot of elders that would benefit from the services. Mr. Quigley stated that it is B-3 zoning.

Motion made by Mr. Oakes, seconded by Mr. Crowley, to approve ZBT-TXT20-030 subject to the following board recommendations:

1. *To include B-3/UC Zoning Districts;*
2. *1200 ft. separation from schools*

In a roll call vote, the motion passed 5-0.

5. OLD BUSINESS – none

6. NEW BUSINESS – none

Planning and Zoning Board

February 12, 2020

DRAFT

7. COMMENTS AND/OR SUGGESTIONS – none

8. ADJOURNMENT

Hearing no further business, the meeting was adjourned at 7:30 p.m.

Date Approved: _____

Chair/Board Member