THE CITY OF NEW SMYRNA BEACH - PLANNING DEPARTMENT

V-11-24: 1104 CANAL STREET, FOR SIX VARIANCE REQUESTS TO ALLOW REDUCED BUILDING SETBACKS AND BUFFER REQUIREMENTS FOR A NEW COMMERCIAL BUILDING

August 5, 2024

Background:

A. Applicant: David Pace, 259 Minorca Beach Way, New Smyrna Beach, FL 32169

B. Property Owner: West Canal Street LLC, 259 Minorca Beach Way, Apt 701, New Smyrna Beach, FL 32169

C. Request: Variances from Land Development Regulations Section 504.04 to allow a new commercial building on a vacant lot. See **Exhibit C** for clarification. The variances include:
1. Variance along Ingham Road for the building corner (218 square feet) to be within 5.2' of the property line in lieu of the required 20.0' setback, a variance of 14.8',
2. Variance along Ingham Road Landscape Buffer of 2.5' from the property line in lieu of the required 7.0' buffer width, a variance of 4.5',
3. Variance along Ingham Road Landscape Buffer of 2.8' from the property line in lieu of the required 7.0' buffer width, a variance of 4.8',
4. Variance along the Canal Street frontage for parking lot curb to be 4.0' from the north property line in lieu of the required 7.0' buffer width, a variance of 3.0',
5. Variance on the west side of the parking lot to allow the parking lot curb to be 2.5' from the north property line in lieu of the required 7.0' buffer width, a variance of 4.5', and
6. Variance along the south side of the parking area to allow the parking lot curb to be 17.1' from the property line in lieu of the required 25.0' landscape buffer, a variance of 7.9'.

D. Site Information:

The subject property is located on the south side of Canal Street, on the west side of Ingham Road. The property contains 0.64 acres, and is in the B-3 Highway Service Business District

E. Tax I.D. Number: 7419-10-00-0010

Exhibits used in this report:

Exhibit A: Location Map

Exhibit B: Aerial Map

Exhibit C: Depiction of variance requests

Exhibit D: Site Plan

Exhibit E: Survey

Findings:

A. The parcel is located on the south side of Canal Street, across from Bay Street. On the east side of Bay Street is a single-family residence, to the west is a body shop and wrecker service. West of the parcel is the Sunrise Motel, which is in unincorporated Volusia County. To the east of Ingham Road is a vacant parcel. On the east side of Ingham Road is a mobile home community, also in unincorporated Volusia County, which extends south to SR 44.

B. To the north, the parcel has 197.5’ of frontage on Canal Street and the southern property line is 58.0, a difference of 139.5'. The eastern property, along Ingham Road, is 259.82’ long, and the western property line is 186.0’ long’, a difference of 73.82’. The parcel consists of three platted lots, of which the northern portions of each lot have been incorporated into the Canal Street right-of-way.

C. The subject parcel is in the B-3 Highway Service Business District. The building setbacks are 40’ from Canal Street (north), and 20’ from Ingham Road (east). The

setbacks for the other two property lines are 10', thus due to the constraints of the lot and the 40' setback on Canal Street, 13 of the 20 parking spaces are along this frontage, and the remaining seven are off Ingham Road.

D. The square footage of the proposed building is 5,305 square feet. Given the tapered shape of the parcel, the applicant has not been able to design a commercially viable project that meets the setbacks, thus the various variance requests. The variance requests consist of reductions in the buffer size along Canal Street and Ingham Road, and into the south buffer area. There is a request to allow the building to encroach 14.8' into the 20.0' Ingham Road setback, but only a total of 218 square feet.

E. Given the nature of the variance requests, staff addresses the setback/reduced buffer variance requests collectively in the responses to the variance criteria. The LDR requires variance requests to meet all of the following criteria. The applicant's responses are *italicized,* Staff's responses are in **bold,** following each criterion.

a. Special circumstances exist which are peculiar to the subject property owner's land, structure, or building, and do not generally apply to the neighboring lands, structures, or buildings in the same district or vicinity.

The parcel size is .57 acres. The dimension of the front of the property is 198' along Canal Street while the dimension of the property at the rear is 58'. The property fronts on two roads, Canal Street and Ingham Road. The required building setbacks on each road is 40' for Canal and 20' for Ingham. Typical side setbacks for this zoning district that are not adjacent to a road are 10'. The shape of the lot is triangular which makes the position of a 4 unit building difficult without encroachments into building setbacks and landscape buffers as shown.

Staff concurs that the parcel dimensions and setback requirements do make the subject parcel difficult to develop with a commercially viable project without encroaching into the setbacks and reducing the setbacks in a few places. Regarding the variance requests that reduce the width of the buffers, staff suggests exceeding the minimum requirements for shrubs and trees as a compromise-currently trees must be at least 2.5" in diameter and 9.0', and shrubs are required to be at least 2.0' tall. Staff

recommends that trees be at least 4.0" in diameter, and shrubs be at least 30" in height when planted, allowing the intended buffering to mature quicker. Staff finds this criterion has been met, with the recommended increase in buffer planting size.

b. Strict application of the provisions of the Land Development Regulations would deprive the subject property owner of reasonable rights commonly applicable to other properties in the same district *or* may preclude a benefit to the community in general.

As shown on the enclosed concept site plan the position of a 5,650 SF building requires an encroachment to the building setback on Ingham Road. Also, encroachments to a small portion of the landscape buffer on Ingham and Canal are also required to fit this building and parking. There are also minor encroachments to the landscape buffers on the south and west to accommodate required parking.

If the parcel did not get as narrow as it did to the south, the development of this parcel would not be as difficult as it has proven to be for the applicant. As noted above, the landscape buffers are impacted, as variances are requested to reduce the size of several landscape buffer areas. In addition, while the building does encroach into the setback 14.8', bringing the building 5.2' from the property line, the encroachment is only 218 square feet, not a whole side of a building, but a corner of it.

Staff recommends requiring larger, more mature plantings to be planted to compensate for the reduced width as a condition of approval. Staff agrees this criterion has been met, provided larger vegetation is planted in the buffer areas.

c. The special circumstances and conditions that exist do not result from the direct or indirect actions of the present property owner(s) or past property owner(s). This criterion shall not be satisfied if the present or past property owner(s) created, to any degree, the hardship that is the subject of the variance request.

These requests are not due to the actions of the property owners. This lot shape is based on the alignment of the State and City Right of Ways adjacent to the property.

The parcel has been reduced in size because the DOT has taken some of the parcel for right-of-way, reducing the northern portion of the parcel in size, the area that is more

developable. This criterion has been met.

d. That granting of the variance(s) will not cause substantial detriment to the public welfare or impair the purposes and intent of the Land Development Regulations.

This request for a variance is specific to this parcel due to its irregular shape that would otherwise permit a building of this size shape and parking.

The reduced setbacks and buffer requirements are not going to affect any existing neighbors, as the adjacent properties are either currently vacant or have a line of trees along the western property line, adding an additional level of buffering for variance numbers 5 and 6. This criterion has been met.

e. That granting of the variance will not constitute a grant of special privilege that is denied by the Land Development Regulations to other lands, structures or buildings in the same district.

This request for a variance is specific to this parcel due to its irregular shape that would otherwise permit a building of this size, shape and parking.

Given the irregular shape of the lot and the two front yard setbacks, staff recognizes the difficulty of developing the parcel. In fact, it has been vacant for over 25 years.

Recommendation: Staff recommends the Planning and Zoning Board **approve** the six requested variances, with the condition that new trees be at least 12' tall, and shrubs 30" tall.

Requests:
1. Variance along Ingham Road for the building corner (218 square feet) to be within 5.2’ of the property line in lieu of the required 20.0’ setback, a variance of 14.8’,
2. Variance along Ingham Road Landscape Buffer of 2.5’ from the property line in lieu of

the required 7.0’ buffer width, a variance of 4.5’,
3. Variance along Ingham Road Landscape Buffer of 2.8’ from the property line in lieu of the required 7.0’ buffer width, a variance of 4.8’,
4. Variance along the Canal Street frontage for parking lot curb to be 4.0’ from the north property line in lieu of the required 7.0’ buffer width, a variance of 3.0’,
5. Variance on the west side of the parking lot to allow the parking lot curb to be 2.5’ from the north property line in lieu of the required 7.0’ buffer width, a variance of 4.5’, and
6. Variance along the south side of the parking area to allow the parking lot curb to be 17.1’ from the property line in lieu of the required 25.0’ landscape buffer, a variance of 7.9’.

Fiscal Analysis:
N/A

Strategic Plan Item:
No

Staff Report Created By: Jake Baker - Senior Planner

Attachments:

Exhibit A Location Map.pdf
Exhibit B Aerial Map.pdf
Exhibit C Depiction of Variance Requests.pdf
Exhibit D Site Plan and Landscape Plan.pdf
Exhibit E Survey.pdf