

AGENDA
ZONING BOARD OF ADJUSTMENT
REGULAR MEETING
4:00 p.m., Wednesday, June 6, 2012
City Council Chambers, 2nd Floor of City Hall
823 Rosenberg, Galveston, Texas

A. Attendance

B. Conflict of Interest

C. Minutes: May 9, 2012

D. Old Business and associated Public Hearing:

12Z-15 (5715 Stewart Avenue) Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family One (1F-1) zoning district. Property is legally described as Lot 4, Shore View Section 2, in the City and County of Galveston, Texas.

Applicant: Compass Pointe Homes c/o Mike Hughes

Property Owner: Rudy Flores

E. New Business and associated Public Hearing:

12Z-18 (5815, 5827 and 5907 Broadway) Request for variances from the Galveston Zoning Standards Section 29-99(d)(1)(d) regarding curb cut widths in a Commercial, Broadway Overlay Zone, Zone 4 (C-BOZ-4) zoning district. Property is legally described as M Menard Survey, Tract 17 0.465 acres, Tract 18 0.274 acres and part of Lot 7 and ½ of adjacent road (7-2), Trimble and Lindsey, Section 1, in the City and County of Galveston, Texas.

Applicant: Global New Millennium Partners, LTD, % Shoukat Dhanani, % Ismail Urfi

Property Owner: Lisa Sunseri

12Z-20 (2300-2302 Seawall Boulevard) Request for a variance from the Galveston Zoning Standards Section 29-82 (d)(1) regarding signage display of intermittent lights and Section 29-82 (d)(4) regarding distance from an intersection within a Retail, Seawall Development Zone, Zone 2, Height and Density Development Zone, Zone 5 (R-SDZ-2-HDDZ-5) zoning district. Property is legally described as Lots 8 thru 14, Southeast Block 92 & East Part of Northeast Block 117 & Part of Adjacent Avenue Q (3008-2), Galveston Outlots, in the City and County of Galveston, Texas.

Applicant and Property Owner: Gopal Govind Enterprises, Inc. c/o Maunak Desai

F. Adjournment

Athena Petty, Planning Staff Assistant
Date Prepared: May 29, 2012

IN ACCORDANCE WITH THE PROVISIONS OF THE AMERICANS WITH DISABILITIES ACT (ADA), PERSONS IN NEED OF A SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING SHALL, WITHIN THREE (3) DAYS PRIOR TO ANY PROCEEDING, CONTACT THE CITY SECRETARY'S OFFICE, SUITE 201, 823 ROSENBERG, GALVESTON, TEXAS 77550 (409 797-3510).

MEMBERS OF CITY COUNCIL MAY BE ATTENDING AND PARTICIPATING IN THIS MEETING.

MEMORANDUM

TO: Carolyn Sunseri, Chairperson and Zoning Board of Adjustment Members

FROM: Janice Norman, Planner I / Zoning Administrator
Department of Planning and Community Development

DATE: May 30, 2012

RE: **12Z-15 (5715 Stewart Avenue)** Request for a variance from the Galveston Zoning Standards Section 29-65 regarding setback requirements in a One Family One (1F-1) zoning district. Property is legally described as Lot 4, Shore View Section 2, in the City and County of Galveston, Texas.
Applicant: Compass Pointe Homes c/o Mike Hughes
Property Owner: Rudy Flores

The Zoning Board of Adjustment, at their regular meeting of May 9, 2012 voted to continue the above referenced request until the June 6, 2012 regular meeting in order for the applicant to be present.

This was the first continuance of this case and there are no costs associated with the continuance.

xc: Wendy O'Donohoe, Director
Department of Planning and Community Development

12Z-18 (5815, 5827 and 5907 Broadway) Request for variances from the Galveston Zoning Standards Section 29-99(d)(1)(d) regarding curb cut widths in a Commercial, Broadway Overlay Zone, Zone 4 (C-BOZ-4) zoning district. Property is legally described as M Menard Survey, Tract 17 0.465 acres, Tract 18 0.274 acres and part of Lot 7 and ½ of adjacent road (7-2), Trimble and Lindsey, Section 1, in the City and County of Galveston, Texas.

Applicant: Global New Millennium Partners, LTD, % Shoukat Dhanani, % Ismail Urfi

Property Owner: Lisa Sunseri

Existing Zoning and Land Use:

Zoning	Commercial, Broadway Overlay Zone, Zone 4 (C-BOZ-4)
Land Use	Vacant Mortuary

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	Light Industrial, Gateway Development Zone, Zone 1 (LI-GDZ-1)	One Family-One (1F-1) <i>and</i> Commercial, Gateway Development Zone, Zone 1, Height and Density Development Zone, Zone 1 (C-GDZ-HDDZ-1)	Commercial, Broadway Overlay Zone, Zone 4 (C-BOZ-4)	Commercial, Gateway Development Zone, Zone 1, Height and Density Development Zone, Zone 1 (C-GDZ-1-HDDZ-1)
Land Use	Post Office	Residential and Wrecking/Salvage yard	Church	Wrecking/ Salvage Yard

Property Owner Notification as of June 6, 2012:

Sent	Returned	In Favor	Opposed	No Comment
20				

Advertisement Date:

May 24, 2012

City Department Notifications:

Airport:	No Objection
Building Department:	No Objection
Fire Chief:	Pending
Fire Marshal:	No Objection
Police Department:	Pending
Public Works Department:	Pending

Private Utility Notifications:

A T & T:	Pending
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CenterPoint Energy:	Pending
Comcast:	No Objection
Time Warner Communication:	Pending

ANALYSIS

The applicant is requesting variances in order to construct two (2) two-way curb cuts exceeding the twenty-five foot (25') maximum allowed width. The driveways are proposed to be forty (40) feet wide for the western ingress/egress point and 41'-9" for the eastern ingress/egress point. Though both driveways are proposed to be two-way, they are different in design with the eastern driveway having a curb insert between two (2) fifteen foot (15') driveways. Please reference Attachment C for the locations and dimensions of the proposed curb cuts. The applicant is requesting variances from the following sections of the Galveston Zoning Standards.

Ingress/Egress Variance:

Per Section 29-99 (d)(1)(d)(a)(a) of the Galveston Zoning Standards, the following is required for properties located within the Broadway Overlay Zone:

d. Vehicular and Pedestrian Ingress and Egress

a. The city-wide standards for vehicular and pedestrian ingress and egress shall be applied, in order to provide for the efficient and safe movement of traffic and people, with the following conditions:

(a) The maximum width of two-way curb cuts for property not zoned "Light Industrial" within the Broadway Overlay Zone area shall be 25-feet. The maximum width of a one-way curb cut for property not zoned "Light Industrial" within the Broadway Overlay Zone area shall be 15-feet. A minimum of 20-feet between any curb cut is required for property not zoned "Light Industrial" located within the Broadway Overlay Zone.

Any property not zoned "Light Industrial," within the Broadway Overlay Zone area, shall have a maximum two-way curb cut of 25-feet in width, a one-way curb cut of 15-feet in width with a minimum of 20-feet between any curb cuts.

Applicant's Justification for the Variance:

"Large trucks are involved for food/fuel delivery for the proposed fuel/restaurant facility so the wider driveway at the stop light at the western driveway is necessary. TxDOT required the "porkchop" divider at the eastern driveway which demands more width than the 25' standard."

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.

3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or
 - c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
 - ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
 - b. Public infrastructure or services; and
 - c. Public health, safety, morals and general welfare of the community.
4. The degree of variance allowed from these Land Development Regulations is the least that is necessary to grant relief from the identified unnecessary hardship.
5. The variance shall not be used to circumvent other procedures and standards of these Land Development Regulations that could be used for the same or comparable effect (e.g., if alternative development patterns, alternative development standards, or other flexible measures in these regulations are available that would avoid or mitigate hardship without using a variance, then they must be used).
6. By granting the variance, the spirit of these Land Development Regulations is observed and substantial justice is done.

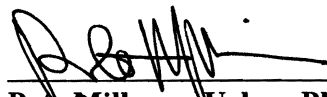
APPEAL FROM DECISION OF BOARD

In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

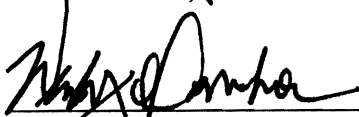
ATTACHMENTS

- "A" – Zoning Map
- "B" – Aerial Map
- "C" – Site Plan

Respectfully Submitted,



Pete Milburn, Urban Planner II



Wendy O'Donohoe, Director

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5-31-12

Date

5/31/12

Date

12Z-20 (2300-2302 Seawall Boulevard) Request for a variance from the Galveston Zoning Standards Section 29-82 (d)(1) regarding signage display of intermittent lights and Section 29-82 (d)(4) regarding distance from an intersection within a Retail, Seawall Development Zone, Zone 2, Height and Density Development Zone, Zone 5 (R-SDZ-2-HDDZ-5) zoning district. Property is legally described as Lots 8 thru 14, Southeast Block 92 & East Part of Northeast Block 117 & Part of Adjacent Avenue Q (3008-2), Galveston Outlots, in the City and County of Galveston, Texas.

Applicant and Property Owner: Gopal Govind Enterprises, Inc. c/o Mavnak Desai

Existing Zoning and Land Use:

Zoning	Retail, Seawall Development Zone, Zone 2, Height and Density Development Zone, Zone 5 (R-SDZ-2-HDDZ-5)
Land Use	Commercial - Hotel

Surrounding Zoning and Land Use:

	North	South	East	West
Zoning	Retail, Height and Density Development Zone, Zone 5 (R-HDDZ-5)	Resort, Seawall Development Zone, Zone 2	Retail, Seawall Development Zone, Zone 2, Height and Density Development Zone, Zone 5 (R-SDZ-2-HDDZ-5)	Retail, Seawall Development Zone, Zone 2, Height and Density Development Zone, Zone 5 (R-SDZ-2-HDDZ-5)
Land Use	Commercial	Gulf of Mexico	Commercial	Commercial

Property Owner Notification as of June 6, 2012:

Sent	Returned	In Favor	In Opposition	No Comment
21				

Advertisement Date: May 25, 2012

City Department Notifications:

Airport: Pending
 Building Department: Pending
 Fire Chief: Pending
 Fire Marshal: Pending
 Police Department: Pending
 Public Works Department: Pending

Private Utility Notifications:

A T & T: Pending
 Center Point Energy: Pending
 Comcast: Pending
 Texas Gas Service: Pending

ANALYSIS

The applicant is requesting variances from Section 29-82: Sign Regulations, in order to install one (1) detached sign with intermittent light display. The Galveston Zoning Standards allows signage that displays intermittent lights only within areas specified in Section 29-82(d)(1). The subject site is within the appropriate permitting areas with regards to the street corridors of Seawall Boulevard and 61st Street as stated in Section 29-82 (d)(1) below.

Section 29-82 (d), (1): SIGN REGULATIONS

(d) Sign Devices Prohibited

- (1) *Except as specifically listed in this section (1), it shall be unlawful for any person to erect, operate, or otherwise use any sign which is of a rotating nature or displays intermittent lights, or similar [to] emergency vehicles.*

Subject to State and Federal laws, signs of a rotating nature or displaying intermittent lights are permitted in the following areas:

- (a) Seawall Boulevard from 6th Street to 89th Street;*
- (b) 61st Street from Heards Lane to Seawall Boulevard;*
- (c) North and south sides of Harborside Drive from Interstate 45 to 14th Street; and,*
- (d) On Broadway Boulevard from the southern base of I-45 Causeway to west of 53rd Street.*

However, the signs are proposed to be located within 1000-feet of the street intersection and within 100-feet of the right-of-way. Section 29-82 (d) (4) states it is unlawful for any person to erect, operate, or otherwise use any sign displaying intermittent lights within 1,000 feet of any street intersection, or within 100-feet of any street right-of-way. Section 29-82(d)(4) states the following:

Section 29-82 (d), (4): SIGN REGULATIONS

(d) Sign Devices Prohibited

- (4) It shall be unlawful for any person to erect, operate, or otherwise use any sign displaying intermittent lights within 1,000 feet of any street intersection, or within 100-feet of any street right-of-way. This prohibition shall not apply if the State of Texas grants a variance for the erection, operation, or other use of a sign displaying intermittent lights within 1,000 feet of any street intersection, or within 100-feet of any street right-of-way.*

Therefore the applicant is requesting the following variances:

Variances requested:

Sign 1: Distance from intersection from 1,000 feet to 140 feet.
Distance from street right-of-way from 100 feet to 4 feet, 4 inches (4'-4").

Applicant's Justification for the Variance:

"Existing sign structure from 1983. Replacing changeable copy message center with electronic changeable copy message center of same size."

CONDITIONS FOR A VARIANCE

The Board of Adjustment may grant a variance under this Section only if the variance is not prohibited by Section 14.401.C. in Article 14, Administrative Bodies, and if the Board makes a determination in writing that all of the following are demonstrated:

1. The request for the variance is rooted in special conditions of the applicant's property that do not generally exist on other properties in the same zoning district.
2. Due to said special conditions, the literal enforcement of the strict terms of these Land Development Regulations would impose an unnecessary hardship on the applicant.
3. The variance is not contrary to the public interest, in that:
 - i. It does not allow applicants to impair the application of these regulations for:
 - a. Self-imposed hardships;
 - b. Hardships based solely on financial considerations, convenience or inconvenience; or

- c. Conditions that are alleged to be "special," but that are actually common to many properties within the same zoning district.
- ii. The variance will not have a detrimental impact upon:
 - a. The current or future use of adjacent properties for purposes for which they are zoned;
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APPEAL FROM DECISION OF BOARD

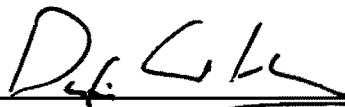
In accordance with Section 29-112, any person aggrieved by any decision of the Board, or any officer, department or other Board of the City, may appeal the decision or action of the Board by filing a petition for the same in a court of competent jurisdiction, setting forth that such decision is illegal in whole or in part, and specifying the grounds for the alleged illegality. Such petition shall be filed with the Court within ten (10) days from the day the Board renders its decision, and not thereafter. The time period set forth herein shall be deemed jurisdictional.

NOTE: Illumination of the sign must conform to Section 29-106(c) of the Galveston Zoning Standards regarding the Regulation of Outdoor Lighting. Should the proposed sign not comply with Section 29-106(c), a separate variance request will be required.

ATTACHMENTS

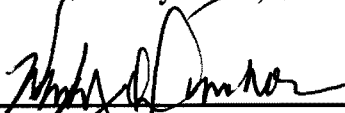
- "A" – Zoning Map
- "B" – Aerial Map
- "C" – Sign Design
- "D" – Site Plan

Respectfully Submitted,



Dustin Henry AICP, Urban Planner II/Planning GIS Analyst

2012/05/29
Date



Wendy O'Donohoe, Director

5/25/12
Date