



**MINUTES
PLANNING DEVELOPMENT REVIEW BOARD
NOVEMBER 17, 2009 AT 6:00 P.M.
CITY HALL, 116 FIRST STREET
NEPTUNE BEACH, FLORIDA**

Pursuant to proper notice a meeting of the Planning and Development Review Board for the City of Neptune Beach was held November 17, 2009 at 6:00 p.m. in the Neptune Beach Council Chamber 116 First Street Neptune Beach, Florida.

Board members in attendance:

Kerry Chin, Chairperson
Richard Arthur, Vice Chair
Paulette Adler, Regular Member
Todd Bosco, Regular Member
Amy Cole, Regular Member
James Niss, Regular Member
Richard Keene, Alternate Member
J. B. McLeroy, Alternate Member

Staff members in attendance:

Amanda Askew, Community Development
Director
Karla Strait, CMC, Deputy City Clerk

Call to Order

Chairperson Chin called the meeting to order at 6:00 p.m.

Approval of
Minutes

Board Member Amy Cole made the following corrections to the October 20, 2009 minutes.

Page three, PDRB09-16, first paragraph; The special exception would be for outdoor dining and the removal of two parking spaces. This only applied to the Wipe Out Grill and not The Loop.

Page three second paragraph: As the new owner he would like to apply to place three tables on the walkway in front of the restaurant.

Page four PDRB09-17, same error as on page three paragraph one, in removal of two parking spaces.

Page six, Proposed Ordinance 2009-11, second paragraph last sentence should read: There have not been any police incidents.

Motion: **TO APPROVE THE OCTOBER 20, 2009 MINUTES, AS AMENDED BY THE BOARD.**

Moved by Niss, seconded by Adler.

APPROVED BY CONSENSUS

V09-13
Penman Plaza

V09-13, VARIANCE REQUEST OF PENMAN PLAZA ASSOCIATES, LTD.: The request is for the Penman Plaza Shopping Center expansion to vary Sections 27-229, Lot Coverage

Requirements, Section 27-455, Minimum Landscape Requirements, Section 27-457 Landscaping Requirements for Vehicular Use Areas, Section 27-540 Off Street Parking, and Section 27-459 Landscaping Buffer.

Timothy McClain, Representative for Penman Plaza Associates, explained incorrect information was given when the first development order was approved. Since the last development order was approved the owners have spoken with existing and prospective tenants regarding the expansion. The owners liked some aspects of other recently approved developments and wanted to ask for some minor modifications to the site plan. They felt these modifications would make the center more competitive and attractive. However, the main concern was the functionality of the center.

Lot Coverage The Board questioned the request to reverse the pervious pavement back to concrete. This was a previous compromise of the Board to offset the increase in the lot coverage.

Mr. McClain explained they would be able to place sufficient landscaping in the three foot buffer that would provide screening for the asphalt pavement. He added they were concerned that the removal of the asphalt would disrupt parking for their tenants.

The Board questioned if the proposed twenty six parking spaces were associated with parcel number one or Tire Kingdom. Mr. McClain explained Tire Kingdom was on a ground lease and was a totally separate parcel.

Mr. McClain stated they reversed the previously proposed pavers to concrete due to truck traffic. They felt pavers would not hold up to the heavy truck traffic passing through the parking spaces and pavers would be a constant maintenance problem for the center.

Signage The Board questioned the signage. Mr. McClain stated prospective tenants required a certain amount of signage before they would sign a lease for space. If the center could not meet those requirements they would not be able to lease spaces and the center would remain unoccupied.

The Board asked if the owner had considered consolidating the signage. Mr. McClain explained the sign on Penman Road displayed the Winn Dixie, Aarons Rental, and the Winn Dixie Liquor Store with two extra panels for future tenants. Community Development Director Askew explained the Code only allowed one monument sign per development which was basically one monument sign per parcel. There were currently two signs attached to the parcel that were non-conforming due to their size and height. The signs for Tire Kingdom, Sonic, and Bono's Barbecue were conforming because they were located on separate parcels.

The Board asked if the owners had any plans to bring the two existing signs into conformity. Community Development Director Askew stated in accordance with the Code all signs must be in compliance before April 5, 2014.

Landscape Requirements Community Development Director Askew stated the Council granted a variance in April to reduce the gross landscape area by 3.6% creating 16.4% in lieu of the required 20%.

Mr. McClain explained the owners were concerned about replacing the pavement with pavers. They felt pavers would create a maintenance problem due to the heavy truck traffic. The three foot buffer would make the center more functional without creating maintenance problems. Ms. Askew explained the Tire Kingdom and the Sonic had a 9' landscape buffer but from Bono's Barbeque to the What-a-Burger there was a 3' buffer zone.

Community Development Director Askew explained according to the previous Planning Board meetings the Board approved some of the variance requests but the Board did not

approve the 'one landscape island per ten parking spaces.' However, that request was approved by the Council.

The Board asked Mrs. Askew to comment on connecting the parking lot of the development with the parking lot of the Tire Kingdom. Mrs. Askew replied the City did not have a problem with the connection of the parking lots. Mr. McClain responded this would not be an issue with the Tire Kingdom.

Mr. McClain added when the current owners purchased the original shopping center, which was built in 1964, there were no trees or landscaping on the property.

Mrs. Askew asked if the developer had considered using pavers for the courtyard in lieu of concrete. Mr. McClain stated the owners felt pavers in the courtyard would create a hazard because they would not receive any sunlight and they would need to be pressure washed every week to make sure they were safe.

Chairperson Chin stated the Board had the ability to amend the request and grant it with the condition that the owners show good faith effort for a solution to have some pervious surface.

Chairperson Chin opened the public hearing.

Richard Keene, Alternate Board Member, stated page three of the regular council meeting indicated the original approval was for 80.9% in lieu of 75% for request number 1. The second request was 16.4% in lieu of 20%. They were also granted 52 parking spaces and now he is requesting 56 parking spaces. Board Member Cole agreed there were a lot of discrepancies in the numbers from the actual application and the variance requests. Mr. Keene stated if he was sitting on the Board he would be bound by the original numbers that were approved by the Council.

Mrs. Askew explained she based her staff report on the numbers from the last approved Council meeting minutes and the application.

There being no further comments from the public, the public hearing was closed.

Board
Discussion

Chairperson Chin asked the board if they would like to take on variance request number three first because the first two request were actually bringing them closer to compliance with the Code.

Board Member Bosco felt the landscape buffer should remain 6'. He thought the parking spaces and the signage should pass. He would not grant request number three. Request number 4 needed more discussion and he had no problem granting requests number one, two and five.

Mrs. Askew stated the Board would be voting on each variance request separately so the Board would have the ability to place conditions on each one.

Board Member Bosco felt each tenant should be allowed to have a sign otherwise the owner would not be able to attract tenants.

Board Member Cole felt the proposed placement of signs would become a blight because they would be too congested.

Mrs. Askew felt it would be difficult for the Board to find a hardship for any of the findings of facts to justify the requested signage because the two existing signs exceeded the size and height limit.

Richard Keene, Alternate Board Member, suggested granting the signage on the condition they remove the old one before constructing the new ones before 2014.

Mr. McClain restated the shopping center would not be able to expand without having available signage for future tenants.

FINDINGS OF FACTS

VARIANCE NO. 4 SIGNAGE

Based on recommending approval providing that the two existing non-conforming signs, one on Atlantic Boulevard and one on Penman Road are brought into conformance.

1) The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.

Written comments of the board:

Adler: None

Arthur: Designed in 1964.

Bosco: Based on PDRB Recommendation.

Chin: Existing configuration constrains viewing angles on new shops.

Cole: Due to lot frontage length and depth based on bringing existing signage conforming.

2) The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.

Written comments of the board:

Adler: None

Arthur: Due to 1964 design.

Bosco: None.

Chin: Configuration of lots constrains view of shops.

Cole: With conformity due to lot length & depth.

Niss: Can come into compliance.

3) The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

Written comments of the board:

Adler: None.

Arthur: Would not.

Bosco: None.

Chin: Would improve the view.

Cole: If Alt sign brought into conforming would match adjacent signage.

Niss: Set precedent.

4) The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

Written comments from the board:

Adler: Will come into compliance.

Arthur: Will not.

Bosco: None.

Chin: Would improve value.

Cole: Will not impact if in compliance.
Niss: None.

5) The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area of the ULDC.

Written comments from the board:

Adler: None.
Arthur: To reduce to non-conforming signs to gain one additional sign.
Bosco: None.
Chin: Changing non-conforming sign is close to conforming.
Cole: Will match adjacent.
Niss: No – adds sign.

6) The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provision from which relief is sought.

Written comments from the board:

Adler: None.
Arthur: It has not.
Bosco: None.
Chin: View of shops constrained by existing configuration.
Cole: None.
Niss: Just wants more signage.

7) Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

Written comments from the board:

Adler: None.
Arthur: It will not.
Bosco: None.
Chin: Other lots in same circumstances can request variances.
Cole: None.
Niss: None.

Moved by Arthur, seconded by Bosco.

Motion: **TO APPROVE THE FINDING OF FACTS**

APPROVED BY CONSENSUS

Moved by Chin, seconded by Niss.

Motion: **TO APPROVE NUMBER FOUR, THE ADDITIONAL MONUMENT SIGN PROVIDED THAT THE TWO EXISTING NON-CONFORMING SIGNS BE BROUGHT INTO COMPLIANCE PRIOR TO CONSTRUCTION OF THE NEW SIGN.**

Roll Call Vote:

Ayes 6 – Adler, Arthur, Bosco, Cole, Niss, Chin
Noes: 0

MOTION CARRIED.

FINDINGS OF FACTS

VARIANCE NO. 3 LANDSCAPE AREA

1) The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.

Written comments of the board:

Adler: Previously approved for 6' buffer.

Arthur: Designed and laid out in 1964.

Bosco: We voted once before and granted what we thought was fair.

Chin: Extent of current concrete established prior to new rules and ownership.

Cole: Owners action requesting change from previous agreement.

Niss: Already agreed to 6'.

2) The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.

Written comments of the board:

Adler: None.

Arthur: None.

Bosco: None.

Chin: None.

Cole: 6' will work as previously proposed.

Niss: Minor problem.

3) The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

Written comments of the board:

Adler: None.

Arthur: None.

Chin: Existing condition.

Cole: Too small of buffer.

Niss: None.

4) The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

Written comments from the board:

Adler: None.

Arthur: None.

Bosco: None.

Chin: Existing condition.

Cole: Crowding street too small landscape.

Niss: None.

5) The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area of the ULDC.

Written comments from the board:

Adler: None.

Arthur: None.

Bosco: None.

Chin: None.

Cole: Not in harmony with adjacent property.

Niss: Great reduction in buffer.

6) The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provision from which relief is sought.

Written comments from the board:

Adler: None.

Arthur: None.

Bosco: None.

Chin: Existing condition.

Cole: Owners action requesting change from previous approval.

Niss: None.

7) Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

Written comments from the board:

Adler: None.

Arthur: None.

Bosco: None.

Chin: Other lots in same circumstances can request variance.

Cole: Special privilege adjacent in conformity.

Niss: None.

Moved by Cole, seconded by Arthur.

Motion: **TO APPROVE THE FINDINGS OF FACTS**

APPROVED BY CONSENSUS

Moved by Adler, seconded by Arthur.

Motion: **TO DENY VARIANCE 09-013 VARIANCE 3 SECTION 27-457
REDUCTION OF PERIMETER LANDSCAPE AREA.**

Ms. Askew asked the Board to make the motion in a positive.

Mrs. Adler withdrew her motion to deny the variance.

Moved by Niss, seconded by Chin.

Motion: **TO APPROVE VARIANCE 09-013, NUMBER THREE, SECTION 27-457
REDUCTION OF PERIMETER LANDSCAPE AREA.**

Roll Call Vote:

Ayes: 0

Noes: 6 – Adler, Arthur, Bosco, Cole, Niss, Chin

MOTION FAILED

FINDINGS OF FACTS

VARIANCE NO. 1 LOT COVERAGE

1) The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique

to the parcel and not shared by other property owners in the same zoning district.

Written comments of the board:

Adler: None.

Arthur: Designed and built in 1964.

Bosco: Council approved 8.9 April 7, 2008.

Chin: Extent of current concrete established prior to new rules and ownership.

Cole: Existing conditions reduced from previous variance.

Niss: Moving toward 75% max.

2) The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.

Written comments of the board:

Adler: None.

Arthur: yes improving lot to form previous variance.

Bosco: None.

Chin: Optional solution to balance needs.

Cole: Same as above.

Niss: None.

3) The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

Written comments of the board:

Adler: None.

Arthur: It would not.

Bosco: None.

Chin: No effect.

Cole: Would not adversely affect adjacent.

Niss: None.

4) The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

Written comments from the board:

Adler: None.

Arthur: In will not.

Bosco: None.

Chin: Improves value and character.

Cole: Will not change existing character as it's a reduction.

Niss: No affect.

5) The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area of the ULDC.

Written comments from the board:

Adler: Improved conformity.

Arthur: It is.

Bosco: None

Chin: Closer to conformity than previous plan.

Cole: Improvement to existing condition supports growth and retail.

Niss: Minimal impact.

6) The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provision from which relief is sought.

Written comments from the board:

Adler: None.

Arthur: It has not.

Bosco: None.

Chin: Inherited current condition of property.

Cole: Existing condition.

Niss: None.

7) Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

Written comments from the board:

Adler: None.

Arthur: It would not.

Bosco: None

Chin: Other lots in same circumstances can request variance.

Cole: Existing condition.

Niss: None.

Moved by Arthur, seconded by Adler.

Motion: **TO APPROVE THE FINDINGS OF FACTS**

APPROVED BY CONSENSUS

Moved by Adler, seconded by Arthur.

Motion: **TO APPROVE VARIANCE 09-13 PENMAN PLAZA ASSOCIATES NUMBER ONE TO INCREASE THE MAXIMUM LOT COVERAGE FROM 4.6 CREATING 79.6 IN LIEU OF 75% MAXIMUM LOT COVERAGE.**

Roll Call Vote:

Ayes: 6 – Adler, Arthur, Bosco, Cole, Niss, Chin

Noes: 0

MOTION CARRIED.

FINDINGS OF FACTS

VARIANCE NO. 2 GROSS LANDSCAPE AREA

1) The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.

Written comments of the board:

Adler: None.

Arthur: Variance would improve the landscape coverage.

Bosco: Council approved 16.4 April 7, 2008.

Chin: Extent of current concert established prior to new rules and ownership.

Cole: Existing condition reduced from previous variance.

Niss: None.

2) The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.

Written comments of the board:

Adler: None.

Arthur: It does.

Bosco: None.

Chin: Optional solution to balance needs.

Cole: Reduced from previous variance.

Niss: None.

3) The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

Written comments of the board:

Adler: None.

Arthur: It would not.

Bosco: None.

Chin: No effect.

Cole: Would no impact adjacent property.

Niss: None.

4) The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

Written comments from the board:

Adler: Improved compliance.

Arthur: It will not.

Bosco: None.

Chin: Improve value and character.

Cole: Will not diminish values at proposed landscape area is an improvement.

Niss: None.

5) The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area of the ULDC.

Written comments from the board:

Adler: None.

Arthur: It is.

Bosco: None.

Chin: Closer to conforming than last plan.

Cole: Improvements proposed supports ULDC.

Niss; None.

6) The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provision from which relief is sought.

Written comments from the board:

Adler: None.

Arthur: It has not.

Bosco: None.

Chin: Inherited current condition of property.

Cole: Existing condition.

Niss: None.

7) Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

Written comments from the board:

Adler: None.

Arthur: It will not.

Bosco: None.

Chin: Other lots can request variance.

Cole: Existing condition and similar to surroundings.

Niss: None.

Moved by Arthur, seconded by Adler.

Motion: **TO APPROVE THE FINDINGS OF FACTS.**

APPROVED BY CONSENSUS

Moved by Arthur, seconded by Chin.

Motion: **TO APPROVE V09-013, ITEM NUMBER 2 SECTION 27-455, VARIANCE TO REDUCE THE GROSS LANDSCAPE AREA BY 2.7%.**

Roll Call Vote:

Ayes: 6 – Adler, Arthur, Bosco, Cole, Niss, Chin

Noes: 0

MOTION CARRIED

FINDINGS OF FACTS

VARIANCE NO. 5 PARKING SPACES

1) The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.

Written comments of the board:

Adler: None.

Arthur: Yes, designed and built in 1964.

Bosco: Council approved 52 on April 7, 2008 pervious area not effecting %.

Chin: None.

Cole: Existing condition.

Niss: Additional 16 – 40 already approved not need.

2) The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.

Written comments of the board:

Adler: None.

Arthur: It closes traffic flow.

Bosco: None.

Chin: None.

Cole: None.

Niss: Can use original parking.

3) The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

Written comments of the board:

Adler: None.
Arthur: It would not.
Bosco: None.
Chin: No effect.
Cole: Would not impact improvement over existing.
Niss: None.

4) The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

Written comments from the board:

Adler: None.
Arthur: It will not.
Bosco: None.
Chin: No effect.
Cole: Improvement to character.
Niss: None.

5) The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area of the ULDC.

Written comments from the board:

Adler: None.
Arthur: It is.
Bosco: None.
Chin: None.
Cole: None.
Niss: None

6) The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provision from which relief is sought.

Written comments from the board:

Adler: None.
Arthur: It has.
Bosco: None.
Chin: Agreed to lease with conditions opposed to city code.
Cole: None.
Niss: None.

7) Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

Written comments from the board:

Adler: None.
Arthur: It will not.
Bosco: None.
Chin: Other lots can request variance hearing.
Cole: Similar condition in same zoning district.
Niss: None.

Moved by Arthur, seconded by Bosco.

Motion: **TO APPROVE THE FINDINGS OF FACTS.**

APPROVED BY CONSENSUS

Moved by Niss, seconded by Adler.

Motion: **TO APPROVE V09-013 NUMBER 5, SECTION 27-540, AS SUBMITTED.**

Moved by Niss.

Friendly Amendment: **TO INDICATE THE MAJORITY OF THE ADDITIONAL SPACES WILL BE WITH PERVIOUS PAVERS.**

Chairperson Chin suggested asking the developer to bring a proposal to the Council.

Mrs. Askew recommended placing this as a condition.

Mr. Niss withdrew his original motion.

Moved by Niss.

Motion: **TO APPROVE VARIANCE 09-013, PENMAN PLAZA ASSOCIATES, NUMBER FIVE ITEM, INCREASE MAXIMUM NUMBER OF PARKING SPACES TO 56 WITH THE CONDITION THAT THESE PARKING SPACES BE IMPERVIOUS, BE PERVIOUS MATERIAL, BE MADE OF PERVIOUS MATERIALS.**

Chairperson Chin asked if there were any way to designate those zones.

Mrs. Askew recommended the following friendly amendment: "The new parking spaces south of the Tire Kingdom and the parking spaces that were previously shown as pervious."

Moved by Niss, seconded by Adler.

Friendly Amendment: **"THE NEW PARKING SPACES SOUTH OF THE TIRE KINGDOM AND THE PARKING SPACES THAT WERE PREVIOUSLY SHOWN AS PERVIOUS."**

Roll Call Vote:

Ayes: 4 – Adler, Bosco, Cole, Niss

Noes: 2 – Arthur, Chin

MOTION CARRIED

PDRB09-18
Penman Plaza

APPLICATION FOR PRELIMINARY DEVELOPMENT ORDER FOR PENMAN PLAZA ASSOCIATES;

Chairperson Chin stated it was always a curious thing to him to move on to the preliminary development order when some of the variances were denied.

Mrs. Askew stated she would potentially make a motion, if the Board wanted to approve the development order, subject to the site plan matching the previous variances being approved.

Mrs. Askew stated there was currently an active building permit for the project based on what was previously approved. If the development order is approved with the changes they could potentially let the current building permit expire giving them another year to apply for a new permit which could potentially delay the project for another year and six months.

Moved by Arthur.

Motion: **TO APPROVE PDRB-09-18, PENMAN PLAZA ASSOCIATES AS SUBMITTED.**

Mrs. Askew stated the motion could not be made as submitted because the variance requests were not all approved.

Mr. Arthur withdrew his motion.

Moved by Arthur, seconded by Chin.

Motion: **TO APPROVE PDRB09-18 PENMAN PLAZA ASSOCIATES AS RECOMMENDED BASED ON THE VARIANCES THAT WERE APPROVED.**

Mrs. Askew clarified the Board wanted to approve the development order contingent on the variances that were just approved.

Roll Call Vote:

Ayes: 6 – Adler, Arthur, Bosco, Cole, Niss, Chin

Noes: 0

MOTION CARRIED

Adjournment There being no further business before the Board the meeting adjourned at 8:00 p.m.

Kerry Chin, Chairperson