

**January 3, 2017 Board of Adjustment
Staff Recommendations**

PETITIONER: Cumberland Farms, Inc.

LOCATION: 5485 West Atlantic Blvd

ZONING: TOC-C Corridor District

INTRODUCTION

The subject property of the following four variance requests is a vacant outparcel of Lakewood Shopping Mall, located at 5485 West Atlantic Boulevard. This building was last used by a Walgreens Pharmacy for general retail pharmacy sales, and features drive-through facilities. The subject property is located on the north side of Atlantic Boulevard, approximately nine-hundred (900) feet east of State Road 7. The applicant has proposed to demolish the former Walgreens and build a new Cumberland Farms gasoline filling station with a four-thousand nine-hundred sixty square foot convenience store, and six gasoline dispensing pumps. The Margate Development Review Committee reviewed applications for site plan approval four times, on the following dates: June 9, 2015, April 26, 2016, August 23, 2016, and November 22, 2016. The applicant submitted several concepts and evolutions of this project to the DRC. At the most recent meeting in November, the DRC gave the application a favorable review, and recommended approval, indicating that while the design did not comply with all provisions of the TOC-C zoning district, Staff recognized that 100% compliance is virtually impossible for a gas station and reiterated that the applicant had received as much into compliance as reasonably possible.

HEARING NO.: BA-03-2017

SECTION OF CODE: Section 3.18(A)

Code requires a minimum 1,000 foot separation between gasoline filling stations. Petitioner is requesting permission to build a new gasoline filling station that is 985 feet from an existing gasoline filling station.

The code provision that the applicant is seeking relief from was written at a time when there was an abundance of gasoline filling stations within Margate. There were stations at every major intersection of State Road 7, and some in between. The intent of the regulation was to disperse the use more evenly throughout the City, rather than allowing clusters of gasoline filling stations to dominate major roadway intersections. Since the adoption of this regulation, several gasoline filling stations within Margate have closed, most as a result from recent state legislation that required double lined underground fuel storage tanks. These closures have started to increase demand for additional gasoline filling stations on major arterial roadways.

Furthermore, the distance between the property lines of both the proposed Cumberland Farms and the existing Orion gas stations is 985 feet; however, the distance between the buildings is approximately 1,100 feet. Staff finds that rather than instructing the applicant to apply for a subdivision resurvey application to relocate the property line to comply with the 1000 foot distance threshold, it would be more advantageous for the applicant to apply for a distance variance.

As such, staff concurs with the findings presented in the justification statement provide by the applicant and finds that a practical hardship exists. Staff finds that a 985 foot separation satisfies the intent of the regulation. Staff finds that the granting of this variance will not create a nuisance to the City, and would otherwise result in a hardship for the applicant if this request was denied. **Staff recommends approval of this variance.**

RECOMMENDATION: APPROVE

APPROVE WITH
CONDITIONS

DENY



Director of Economic Development.

28 DEC 16

Date

HEARING NO.: BA-04-2017
SECTION OF CODE: 9.7(H)

Code requires a minimum frontage build-out of seventy (70%) percent in the TOC-C Corridor district. Petitioner is requesting permission to build a new gasoline filling station that occupies thirty-two (32%) percent of its primary frontage.

The operational characteristics of gasoline filling stations present a practical difficulty in satisfying minimum frontage build-out requirements. The primary use of the property consists of refueling vehicles, and therefore takes place outside of an enclosed structure. Outside areas also need to be large enough for fueling trucks to maneuver on the property, and refill underground storage tanks without disrupting service to the gasoline filling stations' customers.

The applicant has made several attempts to enhance the street frontage and pedestrian amenities of the site. The applicant is providing amenities required by Code, such as a twelve (12) foot wide paved multimodal path with landscape buffer to replace the existing five foot wide public sidewalk located directly adjacent to the travel lanes of Atlantic Boulevard, and a pedestrian zone consisting of a four (4) foot wide foundation planting area and an eight (8) foot wide sidewalk surrounding the building and highlighting the customer entrance. In addition to the code required amenities described above, the applicant has changed the orientation of the entire gasoline filling station, provided an outdoor seating area, and added a faux second story to the convenience store.

Staff finds a practical hardship exists due to the operation characteristics of the proposed use. Staff finds that the granting of this variance will not create a nuisance to the City, and would otherwise result in a hardship for the applicant if this request was denied. **Staff recommends approval of this variance.**

RECOMMENDATION: APPROVE

APPROVE WITH
CONDITIONS

DENY



Director of Economic Development.

28 DEC 16
Date

HEARING NO.: BA-05-2017
SECTION OF CODE: 23-6(B)(2)

Code requires an eight (8) foot wide landscape buffer between the public sidewalk and travel lanes of the adjacent roadway, with category one (1) shade trees planted every thirty (30) feet along the buffer. Petitioner is requesting permission to build a gasoline filling station that provides an appropriate number of required trees in the landscape buffer, but spaces the trees up to seventy (70) feet apart.

The intent behind the regulation that the applicant is seeking relief from is to enhance pedestrians' feeling of safety by providing physical barriers between sidewalks and adjacent travel lanes of roadways, to increase pedestrian comfort by shading public walkways, and to enhance the appearance and aesthetics of the public streetscape with tree-lined streets. The applicant has submitted an architecturally enhanced gasoline filling station, and is desirous of displaying its form and various features. Staff can appreciate the importance of providing adequate visibility to the building, for both directing customers to the property and providing an interesting streetscape. However, staff also realizes the important contribution of patterned landscaping in this critical location.

Staff finds a practical hardship exists due to the limited size of the principal structure. Staff finds that the granting of this variance will not create a nuisance to the City, and would otherwise result in a hardship for the applicant if this request was denied. **Staff recommends approval of this variance, subject to the condition of the applicant providing an architecturally pleasing arbor structure over the multi-modal path.**

RECOMMENDATION: APPROVE

APPROVE WITH
CONDITIONS

DENY



Director of Economic Development.

28 Dec 16
Date

HEARING NO.: BA-06-2017
SECTION OF CODE: 33.2(B)(2)

Code requires the installation of wheelstops when parking spaces abut any sidewalk graded at the same elevation. Petitioner is requesting permission to build a gasoline filling station that provides bollards in lieu of the required wheelstops in the parking spaces that abut the pedestrian zone sidewalk and entrance to the convenience store.


The intent of this code provision is to provide a physical barrier to vehicle conflicts when parking. Staff is in support of the requested variance, and in fact, Ordinance 1500.619 was recently adopted on May 4, 2016 to expand the use of bollards in parking areas.

Staff finds that bollards offer comparable protection from vehicular encroachment, and perhaps additional safety in the event of an over speed or otherwise out of control vehicle. Staff also finds that bollards provide for a safer pedestrian environment by eliminating a potential tripping hazard. Staff finds that the granting of this variance will not create a nuisance to the City, and would otherwise result in a hardship for the applicant if this request was denied. **Staff recommends approval of this variance.**

RECOMMENDATION: APPROVE

APPROVE WITH
CONDITIONS

DENY



Director of Economic Development.

28 DEC 16
Date