

**July 11, 2017 Board of Adjustment
Staff Recommendation**

PETITIONER: Shalom Einhorn, for Sobekids, Inc., DBA Mario The Baker

LOCATION: 1490 N State Road 7

ZONING: TOC-C Corridor District

INTRODUCTION

The subject property of this variance request is a recently subdivided and remodeled freestanding retail building located within Trizek Village Plaza. The subject property is located at the southeast corner for State Road 7 and NW 15th Street. This building was previously occupied by Hollywood Video, but the building was sold in 2013, and the new owner subdivided the building. Mario the Baker occupies the southernmost tenant space of this building. The applicant submitted a Local Business Tax Receipt application and an alcohol application. Economic Development staff processed the alcohol application and found that Mario the Baker is 810 feet from Hebrew Academy, a private elementary and middle school located at 1500 N State Road 7.

HEARING NO.: BA-15-2017

SECTION OF CODE: Section 3.22(VIII)(A)

Code provides that no beer and wine license approval for consumption on premises shall be issued where the place of business designated in the application therefore is within one thousand (1,000) feet of a public or private elementary, middle, or high school. Petitioner is requesting permission to operate a restaurant with a 2-COP alcohol license that is located less than 1,000 feet from an existing private elementary and middle school.

The intent of the code provision that the applicant is seeking relief from is to offer certain protections and safeguards to sensitive uses within the community. Those protections also include due processes and appeals in order to provide the City an opportunity to give each application individual attention. The Board of Adjustment is the appropriate body to hear such appeals. In this case, the applicant's business is located in front of a "U-shaped" commercial shopping center that has been home to other businesses with alcohol licenses. Most of these businesses did not have a conflict with Section 3.22(VIII) due to their respective locations within the shopping center and the measuring methodology provided in Section 3.22 (IX), with one exception. A variance was previously granted to a restaurant in this shopping center. On October 4, 2007, the Board of Adjustment granted Variance BA-17-2007 to El Zocalo Restaurant, Inc., located at 1436 N State Road 7, with the stipulation that the restaurant could not sell alcohol before 4:00PM.

Staff finds that due to the historical presence of alcohol allocations within this shopping center, the granting of this variance will not create a nuisance within the City, and would otherwise create a hardship for the applicant if this request was denied. **Staff recommends approval of this variance request, subject to the condition that alcohol sales are restricted such that no alcohol can be sold prior to 4PM during school days at Hebrew Academy.**

RECOMMENDATION: APPROVE

APPROVE WITH
CONDITIONS

DENY



Senior Planner

7-3-17

Date