



TO: Craig Olmstead, Chairman, and
Members of the Board of Zoning Adjustment

DATE: November 7, 2023

FROM: Andy Bauer, AICP
Zoning Administrator

VIA: Lee Jones, Director of
Planning & Community Development

SUBJECT: ZA23-000056 Peleschak Paid Parking Lot (19826 West 36th Avenue) –Variance to Required Buffer

SUMMARY: The applicant seeks a variance to the required landscape buffer regulations of Article 12-3 of the Zoning Ordinance in order to reduce the buffer on a portion of the west side of the property.



SURROUNDING CONTEXT: The property is zoned BA-Arterial Business. An off-site private parking lot is currently under construction. The surrounding zoning and existing uses are as follows:

- North –Arterial Business (BA) / City of Gulf Shores Public Works Department, commercial and warehouse uses within Northshore Commercial Park

- South – Residential/High-Density Multiple-family District (R-4) and PUD Overlay (Lake PUD) / vacant wooded land
- East – Residential/Medium Density (R-1-4) / single family detached house
- West –Residential/ High-density Multifamily District (R-4) and Arterial Business (BA) / a single family home with a home occupation (Gulf Shores Beauty and Barber Shop) and the Hangout Warehouse

FUTURE LAND USE PLAN

This area of the City has been transforming from low-density residential uses to semi-industrial warehouse uses and contractor offices over the last 20 years. This transition is reflected on the City’s Future Land Use Map. The Future Land Use Designation of the area from HWY 59 to just west of Northshore Street is “Commercial/Mixed Use.” Commercial/Mixed Use is a broad category of uses that typically includes beach tourism, community and neighborhood retail, office, restaurant, hospitality, accommodations, and light manufacturing businesses.

BACKGROUND:

Public Notification - The City posted the property and mailed notices of the variance application to the property owners within 750ft of the site. Staff has spoken with the property owners on the east and west sides of the property. Both property owners expressed opposition to the variance request.

Conditional Use Permit Approval – The property is zoned BA-Arterial Business, and an off-site parking lot use is only allowed as a Conditional Use. On June 13, 2022, the City Council approved a Conditional Use Permit (CUP) for a 51-space private parking lot at 19826 W. 36th Avenue. According to the applicant, David Peleschak, the reason for the parking lot is to park overflow vehicles from condominiums, special events, such as the Shrimp Festival and Hangout Music Festival, and the Gulf Shores International Airport.

APPLICANT REQUEST:

Single family residential zoning (R-1-4) and a single family home abut the proposed parking lot to the east. R-3 Residential/Limited-Density Multiple-family District zoning containing a single family residential use abuts the proposed parking lot along a portion of the west property line. In accordance with Table 12-3, *Minimum Buffer Requirements By Use*, of the Zoning Ordinance, a Class “B” Buffer is required along the east and west property lines to buffer the adjacent single family detached homes from the proposed parking lot. A Class “B” Buffer requires a minimum width of 15 feet, has a minimum 6ft tall privacy fence, and shrubs and trees are required on the exterior of the fence. The Landscape Plan approved by City Council with the CUP application complied with the Class “B” Buffer regulations of the Zoning Ordinance.

The applicant seeks a variance to eliminate the required 15-foot-wide Class “B” Buffer along 190ft of the west property line. This is the area that abuts the R-4 Zoning District and an existing single family house use. The applicant wishes to keep an existing fence located along the west property line.

VARIANCE REQUIREMENTS: It is incumbent upon the applicant to demonstrate that a combination of the Zoning Regulations and uncommon physical conditions inherent in the property, prevent making reasonable use of the land as permitted by the Zoning Ordinance. A variance is a deviation from the literal provisions of the Zoning Ordinance which is granted by the Board of Zoning Adjustment when strict conformity to the Zoning Ordinance would cause an unnecessary hardship owing to circumstances unique to the property on which the variance is granted. In order to authorize any variance from the terms of the Zoning Ordinance, the Board of Zoning Adjustment must and shall find **all** of the following conditions exist/apply. Staff findings are provided following each requirement.

- A. That the granting of the variance will not be contrary to the public interest.**
- B. That the literal enforcement of the Ordinance will result in unnecessary hardship by reason of exceptional narrowness, shallowness, shape, topography or other extraordinary or exceptional physical situation or physical condition unique to the specific piece of property in question; unnecessary hardship shall mean physical hardship relating to the property itself as distinguished from a hardship relating to convenience, financial considerations or caprice, and the hardship must not result from the applicant or property owner's own actions.**
- C. That granting the variance requested will not confer on the applicant any special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district.**
- D. That the literal interpretation of the provisions of this Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this Ordinance.**
- E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.**
- F. That granting the variance shall not permit a use in a zoning district which prohibits that use.**
- G. That the granting of the variance will be in harmony with the general intent and purpose of this Ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.**

ANALYSIS: The variance request does not meet the provisions required in order for the BZA to authorize the request. Staff finds that most of the required conditions do not apply to this particular property or application, and those findings are as follows.

- The Site Plan approved by City Council on June 13th of last year provided a Class "B" Buffer adjacent to the residential uses to the east and west of the site, so it is possible to provide the buffer required by the Zoning Ordinance.

- There are no extraordinary or exceptional physical conditions that are unique to this specific piece of property that would result in an unnecessary hardship if the Class “B” Buffer were required.
- The literal enforcement of the Class “B” Buffer does not prevent or restrict the use of the property as a private parking lot as it was initially approved.
- Staff believes that the granting of the requested variance would confer on the applicant a special privilege that is denied by this Ordinance to other lands, buildings, or structures in the same zoning district.

RECOMMENDATION: Staff recommends the Board deny the variance.