CITY OF COCOA
BOARD OF ADJUSTMENT
MEETING MINUTES
May 17, 2023

A Regular meeting of the Board of Adjustment of the City of Cocoa was held on Wednesday, May 17, 2023 in the Council Chambers at 65 Stone Street, Cocoa, as publicly noticed.

I. OPENING MATTERS:

Vice Chairperson Shaia called the meeting to order at 6:00 P.M. The Board Secretary called the roll.

ROLL CALL:

Nancy Elliott	Chairperson
Pam Shaia	Vice Chairperson
Kaitlyn Aliano	Board Member
Bruce Gilmore	Board Member
Robert Dyar	Board Member
Dan Quattrocchi	Board Member
Patricia Weeks	Board Member

MEMBERS PRESENT:

Pam Shaia	Vice Chairperson
Kaitlyn Aliano	Board Member
Bruce Gilmore	Board Member
Robert Dyar	Board Member
Dan Quattrocchi	Board Member
Patricia Weeks	Board Member

MEMBERS ABSENT:

Nancy Elliott	Chairperson

OTHERS PRESENT:

Luci Ribeiro	Planner
Rip Dyal	Board Liaison
Kristin Eick	Assistant City Attorney
Monica Arsenault	Recording Secretary

II. APPROVAL OF AGENDA & MINUTES:

* **Motion by Board member Dyar; Seconded by Board member Weeks, to approve the May 17, 2023 agenda as written.**

Vote on the motion carried unanimously (6-0).

AYES: Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

* **Motion by Board member Weeks; Seconded by Board member Dyar, to approve the April 19, 2023 minutes as written.**

Vote on the motion carried unanimously (6-0).

AYES: Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

III. OLD BUSINESS:

None.

IV. NEW BUSINESS:

A. PZ-23-07000001 – Waiver (122 Rosa L. Jones Dr.)

Ms. Ribeiro shared a presentation[1] and explained that the applicant is requesting a waiver from Appendix A, Zoning, Article XIII, Section 4(B) of the City of Cocoa Code to allow two points of access onto the abutting street, Rosa L Jones Dr., from a lot that is sixty (60) feet wide, reducing the required width of sixty-five (65) feet for two points of access.

The subject property is located on the North side of Rosa L Jones Dr. and has a one (1) story single-family dwelling unit in a 0.15-acre lot. The Future Land Use (FLU) designation is Low-Density Residential (LDR), and the property is zoned RU-2-10 Low-Density Single-family and Multiple-family. The applicant is seeking a waiver to allow two points of access onto the abutting street Rosa L Jones to reduce congestion and on-street parking.

Ms. Ribeiro provided a location map, a zoning map and a Future Land Use map.

She reviewed the consistency with the City Code as follows:

- The property has a width of sixty (60) feet, which is slightly less than the required sixty-five (65) feet. In addition, the proposed driveway is not within two (2) feet of the property line, as required per City code.
- The applicant submitted this application after the fact, and the City's Engineer addressed any concerns with the impervious area for the site.
- The Waiver request will decrease congestion on public streets by not using the street for parking.
- The second driveway will provide on-site parking and causes no adverse impact on the residential district.

[1] 05/17/2023 BOA Presentation

Additionally, Staff recommends APPROVAL of the requested Waiver from the City of Cocoa Code, Appendix A Zoning, Article XIII, Section 4, (B), access control regulations with the following condition(s):

1. The Waiver shall not be effective until the applicant has secured all the permits and approvals necessary for any development related to the Waiver. Such permits shall be obtained within twelve (12) months of the Board's approval.

2. Any other conditions deemed necessary by the Board of Adjustment.

Mitch Goldman, the attorney representing the applicant, Robert Boyd, offered to answer any questions the Board may have.

Board member Gilmore asked for further clarification regarding the ingress and egress. In response, Mr. Boyd explained what he was trying to do and pointed out that currently his neighbors are having to park in the grass in their front yards and he did not want to do that so he added pavers up to the road beyond the sidewalk. This is more aesthetically pleasing and it also gives more space for cars to park on the side of the road rather than in the road.

* **Motion by Board member Weeks; seconded by Board member Quattrocchi to recommend approval of the requested Waiver from the City of Cocoa Code, Appendix A Zoning, Article XIII, Section 4, (B), access control regulations to include the conditions recommended by staff.**

Vote on the motion carried unanimously (6-0).

AYES: Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

B. <u>PZ-23-00000004 – Special Exception (502 Brevard Ave.)</u>

Ms. Ribeiro explained that the applicant is seeking a Special Exception approval to expand the outdoor seating area of an existing bar and lounge located at the southeast corner of Brevard Avenue and Church Street (Exhibit A).

A previous Special Exception was granted to The George and Dragon British Pub by the Board of Adjustment at the September 9, 2019, Board of Adjustment meeting. The approval granted business operations and an outdoor area adjacent to the southwest side of the building with thirty-six (36) seats and seven (7) parking stalls, one of which being an ADA stall.

She shared a location map, zoning map and Future Land Use map of the property. Additionally, she reviewed the previously approved site plan and explained the consistency with the City Code as follows:

- The proposed bar/lounge use is commercial and compatible with other uses in the vicinity and along Brevard Avenue. To address public concerns regarding outdoor entertainment and the noise impact on adjacent land use, staff recommends that the

applicant utilize sound-dampening material as part of the stage assembly to assuage sound levels. Staff also suggests that the applicant adheres to the City's noise ordinance.

- The previously approved Site Plan provided thirty-six (36) outdoor seats within five hundred and eighty-eight (588) square feet of space, partially covered by an awning, surrounded by planters, and with gate access. The proposed site layout increases the outdoor area by approximately 1,500 square feet, accommodating fifty-four (54) additional seats (ninety total) and a stage for live music performances.

Ms. Ribeiro stated that Staff recommends approval of the Special Exception in accordance with Appendix A, Zoning, Article XI, Section 13(C)(6) of the City of Cocoa Code to allow expansion of an existing bar use in the CBD-CVO zoning district and the Cocoa Village Subdistrict of the Cocoa Waterfront Overlay District Section 22(F) subject to the following conditions:

1. The special exception shall not be effective until the applicant has secured all the permits, Business Tax License, and Site Plan approvals required by the City Code or any permits required by regional, state, and federal agencies which are necessary for any development related to the Special Exception. Such permits shall be obtained within six (6) months of the Board's approval unless the Board grants the applicant additional time to obtain such permits based on reasonable delays and requirements caused by various permit procedures which may impact the six (6) months' time period.

2. If the use is extended, enlarged, or expanded, an additional special exception approval shall be required. The outdoor seats authorized by this approval are counted as ninety (90) in total. The location and number of seats allowed may be altered or reduced pending the life safety requirements as part of the site plan review.

3. Consistent with Appendix A, Article XIII, Section 1, and Applicant shall be required to submit a Site Plan and demonstrate conformance with all appropriate and necessary codes.

4. Owners/operators must ensure the business operation and patron conduct complies with the noise ordinance(s) and regulations of the City, and as amended. Excessive noise ordinance or other ordinance violations may result in the repeal of this special exception. The applicant shall utilize sound-dampening material for the side walls of the stage assembly to reduce sound levels.

5. The storage of the tour bus will not be permitted on-site or within the public right-of-way.

6. The accessory structures will be required to meet the setbacks and will be reviewed as part of the site plan review.

7. Any other conditions deemed necessary by the Board of Adjustment.

David Lemon, 502 Brevard Ave., the applicant, noted that they have already installed the noise dampening equipment and have already received less complaints from the community. They already have a permit to readjust the stage as well and are going

through the process. They are working very hard to address all of the issues that have arisen. Any bands that do not follow the noise restrictions have been let go and are no longer allowed to play at the business. They have decibel meters on site as well to make sure the noise is being controlled. Additionally, their bus will no longer be parked on-site.

Board member Dyar added that as an individual who frequents the business, not knowing or ever meeting the owners, can say that it is true that they are taking appropriate measures to make sure the noise is appropriate for not only surrounding homes and businesses, but also for audience members as he has had a guitar player approach him personally to ask if the noise levels were okay.

Vice Chairperson Shaia asked the applicant if he is aware of any open code liens against the property. In response, Mr. Lemon shared that he is aware that there may be some, however he is currently working with an attorney who is handling those issues at this time.

Vice Chairperson Shaia opened the hearing to the public. There being no questions or comments, the public portion of the hearing was closed.

* **Motion by Board member Weeks; seconded by Board member Dyar to recommend approval of the requested Waiver from the City of Cocoa Code, Appendix A Zoning, Article XIII, Section 4, (B), access control regulations to include the conditions recommended by staff.**

Vote on the motion carried unanimously (6-0).

AYES: Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

V. OTHER BUSINESS:

None.

VI. NEXT MEETING DATE:

It was established that the next meeting would be on Wednesday, July 19, 2023.

VII. ADJOURNMENT:

* **Motion by Board member Weeks; seconded by Board member Quattrocchi to adjourn the Regular meeting of May 17, 2023.**

Vote on the motion carried unanimously (6-0).

AYES: Shaia, Aliano, Gilmore, Dyar, Quattrocchi, Weeks

There being no further business the meeting adjourned at 6:29 P.M.

Approved on this 20 day of SEPT, 2023.

FOR → Pam Shaia, Vice Chairperson

for Monica Arsenault, Board Secretary