

crsteinberg1@gmail.com

SCANNED

From: crsteinberg1@gmail.com
Sent: Wednesday, May 15, 2024 4:13 PM
To: marsenault@cocoafll.gov
Cc: 'Charles Steinberg'
Subject: RE: BOARD OF ADJUSTMENT 5/15 HRING APPLICATIONS 24-269-271 seeking a special exception, parking waiver and variance

From: crsteinberg1@gmail.com <crsteinberg1@gmail.com>
Sent: Wednesday, May 15, 2024 4:06 PM
To: meetings@cocoafll.org
Cc: 'JJ Meyer' <jjmeyerrealtor@gmail.com>; agreenwood2@cfl.rr.com
Subject: BOARD OF ADJUSTMENT 5/15 HRING APPLICATIONS 24-269-271 seeking a special exception, parking waiver and variance

TO THE BOARD OF ADJUSTMENT:

My name is Charles Steinberg and I am the owner (via 640 Brevard Avenue LLC) of three office condominium units at 640 Brevard Ave, Cocoa which borders on the subject property immediately to the south.

Please note my strong objections to the applications above referenced which are currently pending before this Board.

The basis of my objections are as follows:

B. 24-271 Application for a special exception by the owner to operate a bar w or w/o a package store.

1. To begin with, a bar and package store is incompatible with the uses of the properties immediately adjacent to, across the street and w/in the block of Brevard Ave from Maryland south to Derby Street and beyond, which includes the Church and chapel. One of the owners of 640 Brevard Ave resides in the second floor of the property, and certainly an outside bar next door would be negatively impact his quality of life. Furthermore, my tenants are both counseling services, one of which specializes in the treatment of troubled children.

The area where this building is located is predominantly professional and business offices, with some retail, anchored by the Church at the circle intersecting Derby Street and has been the quiet end of the Village. Additionally, The Alcoholics Anonymous meeting center is directly across the street from this property, and it goes w/o saying that a bar that close can't be a positive influence.

2. This property has been operated for many years as a barber shop or beauty salon, with all business and services conducted inside the building and during regular daytime business hours.
3. This applicant bought the property in 2021, with its then use being compatible to the surrounding properties in the neighborhood and permitted as a "personal service establishment" in the CBD and CVO.

4. Under the Code, the owner seeking a Special Exception has the burden of complying with each every requirement set forth in the application for same and furthermore, is a "use that would not be appropriate generally or without restriction throughout the zoning division or district but which, if controlled as to number, area, location or relation to the neighborhood WOULD PROMOTE THE PUBLIC HEALTH, SAFETY, WELFARE, MORALS, ORDER, COMFORT, CONVENIENCE, APPEARANCE, PROSPERITY OR GENERAL WELFARE (emphasis supplied). Such uses maybe permitted in such zoning districts as special exceptions."
5. I would submit that the applicant and applicant falls far short of carrying it s burden to show that the property is entitled to a special exception to be operated as an outdoor bar (see application and plan) and certainly would be a detriment to the owners and operators of the neighborhood and would not promote the "public health, safety, welfare, etc and all the matters set forth in the Code requirement for a Special Exception to be granted.

B 24-269 Waiver request to eliminate existing parking spaces

1. Applicant requests this Board eliminate the code requirement for existing parking spaces for the existing business of a barber shop so it can utilize those required parking spaces as an outdoor bar, which is a permitted use under the Code only in the event a special exception is granted based on the plan submitted by the applicant. In the event that the Board denies the application for Special Exception as requested, then I would submit this request becomes moot, as the only reason stated for it would no long exist.
2. Even if the Board grants the special exception, the property would still need to meet the minimum on site parking requirement under section 13 for the CBD and CVO. Applicant is asking this Board to not only grant it a special exception for a bar that would presumably attract a lot more cars and traffic at given times than a barber shop or beauty parlor, but eliminate any on site parking requirement and thereafter, burden the City w the parking in a lot that may not exist for long if developed.
3. Applicant's assertion that its "improvements" to the property will increase property values is unsupported, unfounded and on the contrary, I would assert it would negatively affect the values of the surrounding properties based on the increased traffic, noise, and burdening the streets w excess parking. For example, 640 Brevard has paved onsite parking that is utilized to accommodate employees and the resident, as well as guests all in assigned parking.
4. In conclusion, the only reason applicant seeks to eliminate on site parking is to utilize that space to accommodate its business which would attract more people w nowhere to park on the premises (including employees) based on a plan it developed AFTER it purchased the property in 2021 subject to the Code of the City of Cocoa. This applicant bought the property subject to the existing codes and restrictions which pertain the property, and cannot now claim a need for a waiver because it desires to use the property in a way not permitted by the City when it was purchased.

C 24-269 Variance request to reduce setback requirements

1. Applicant requests rear and side setback requirements for the purpose of building poles to accommodate its plan to operate an outdoor bar for which a special exception is required. As is the case with the waiver request, I would submit this variance request is moot if the special exception based on the outdoor plan, is denied by the Board.

2. Florida law is clear that in order for a variance to be granted, the applicant must prove an unnecessary hardship, meaning that, under the present zoning, there is a showing that no reasonable use can be made of the property. See, *Thompson v Planning Com'n of City of Jacksonville* 464 So2d 1231 (Fl 1st DCA 1985).
3. Furthermore, an applicant can't base a variance request on what is known as a self created hardship. See, *Thompson, supra*. One of the prime examples of a self created hardship is when the applicant purchases a property subject to the Code, is fully aware of its shape, size, function, but designs a plan for the property use which is not in compliance with the existing codes. The hardship arose solely from their own conduct and expectations. See, *Thompson, supra*. Applicant bought this property in 2021 where either a beauty or barber shop has been operating for many years, and for whatever reason, desires to turn it into an outside bar, which was not a permitted use when it was purchased.
4. Applicant nevertheless fails to show that it is suffering from the necessary hardship on its property that would legally justify this Board granting it a variance, which would negatively affect my and the other owners' interests in the property at 640 Brevard Ave. based on the proposed use applicant states for the special exception and parking waiver and the stated above reasons why this would incompatible to my property at 640 Brevard and the immediate neighborhood on Brevard from Maryland south to the Church on Derby.

Thank you for your kind attention and consideration.

Sincerely,

Charles R. Steinberg
Mgr. 640 Brevard Avenue LLC
321-637-1990
Csteinberg1@gmail.com