



City of Hallandale Beach Planning and Zoning Board Agenda Cover Memo

Applicant:	Yana Gandelman	Meeting Date:	August 28, 2019	
Project Name:	Best Organic Pharmacy	Property Address:	409 W Hallandale Beach Blvd, Suite 417	
Application #s:	#V-19-02369	Application Type:	Variance	
Planning District:	Southwest	Quasi-Judicial: (Enter X in box)	YES X	NO
Parcel Size:	1.10 acre	Public Hearing: (Enter X in box)	YES X	NO
Existing Zoning:	B-G (Business General) District and Redevelopment Overlay (RDO) District			
Existing Use:	Commercial – Two story building with retail space on the first floor			
Proposed Use:	Commercial – Pharmacy on first floor in Suite 417			
Comprehensive Plan Future Land Use Designation:	Commercial - General			
Surrounding Zoning:		Surrounding Land Use:		
North: B-G (Business General District), Redevelopment Overlay South: ED (Educational Facility District) East: B-G (Business General District), Redevelopment Overlay West: B-G (Business General District), Redevelopment Overlay		North: Vacant Lot South: Educational (School) East: Residential (Residential, Single-family) West: Commercial (Pharmacy)		
Staff Recommendation:		Strategic Plan Priority Area:		
<input type="checkbox"/> Approve <input type="checkbox"/> Approve with Conditions <input checked="" type="checkbox"/> Deny		<input checked="" type="checkbox"/> Safety <input type="checkbox"/> Quality <input type="checkbox"/> Vibrant Appeal		
Sponsor Name:	Vanessa J. Leroy, Director, Development Services	Prepared By:	Luis Fontanills, R.A., Zoning Technician	

STAFF SUMMARY:

The Applicant, Yana Gandelman, is requesting a variance from Section 32-778(c) of the Zoning and Land Development Code relative to the minimum distance requirement of 1,000 feet from one pharmacy to another legally established pharmacy. The proposed new pharmacy, Best Organic Pharmacy, will be 50 feet from the existing Walgreens located at 509 W Hallandale Beach Boulevard, and 365 feet from the existing Medica Pharmacy & Compounding located at 645 W Hallandale Beach Boulevard, Suite #107.

REQUEST:

Background:

The Applicant, Yana Gandelman wishes to open a new pharmacy named Best Organic Pharmacy at 409 W Hallandale Beach Boulevard, Suite 417. Presently, she operates from the subject property as a merchant of convenience items/no pharmacy. She wishes to expand the business to include dispensing of prescription / controlled substances. However, this request triggers the minimum distance code requirement of 1,000 feet between legally established pharmacies, for which this variance is requested.

Why Action Is Necessary:

Section 2-231(f)(3) and Section 32-965(a) of the City's Code of Ordinances requires consideration and recommendation by the Planning and Zoning Board prior to the City Commission approval on variance applications.

Development Details:

The applicant's plans depict the following:

1. A 47,751 square feet (1.10 acre) parcel bounded by W. Hallandale Beach Boulevard, SW 4th Avenue, SW 5th Avenue and SW 1st Street.
2. The existing CBS commercial building has multiple tenants and is two stories in height.
3. The principal existing asphalt off-street parking abuts the building on the north with multiple access from the 3 bounding roads, and a secondary asphalt off-street parking is at the south with access from SW 1st Street.
4. The proposed new pharmacy is 1,058 square feet in floor area centrally located on the first floor with other commercial tenants to the east and west.
5. The proposed new pharmacy will be 50 feet from the existing Walgreens located at 509 W Hallandale Beach Boulevard, and 365 feet from the existing Medica Pharmacy located at 645 W. Hallandale Beach Boulevard, Suite #107.

Applicable Codes and Ordinances

1. The adoption of Ordinance 2018-024 on September 17, 2018 established distance separation requirements between pain management clinics, medical marijuana treatment center dispensing facilities, and pharmacies per Section 32-778.

2. Section 32-778(c) requires that any property used for a pharmacy shall not be located within 1,000 feet of another legally established pharmacy.

The proposed pharmacy does not satisfy the required minimum distance from the 2 existing pharmacies, Walgreens and Medica Pharmacy. The existing Walgreens is 50 feet from the subject property and the existing Medica Pharmacy is 365 feet from the subject property. Per Sec. 32-778(d) the 1,000-foot distance requirement is measured by following a straight line from the nearest portion of the property boundary line of the existing use (see attached 1,000 feet radial map by Prisma Land Surveyors, LLC).

3. The existing pharmacies, Walgreens and Medica Pharmacy, are 210 feet away from each other, however the two pharmacies predate the distance separation requirement of Section 32-778, thus considered nonconforming. Per Section 32-778(f) any pharmacy authorized prior to September 17, 2018 may continue as a legally nonconforming use if not in conformance with the required minimum pharmacy distance. The existing Walgreens and Medica Pharmacy fall within this criteria.

Variance Criteria

In reviewing applications for variances, the following standards are required to be adhered to in making any decisions or recommendations:

To authorize any variances to the terms of Chapter 32-965, it must be found that:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, structures or buildings in the same zoning district.

Noncompliance. The proposed use as a pharmacy, related to the minimum distance required between other legally established pharmacies, does not conform to the Code. The conditions are not peculiar to the land, structure or building involved, and which are generally applicable to other lands, structures or buildings in the same zoning district.

- (2) The special conditions and circumstances do not result from the actions of the applicant.

Noncompliance. The special conditions and circumstances on the property do result from the actions of the applicant. Additionally, the proposed use, of a pharmacy by the applicant, does not comply with the minimum distance required from other legally established pharmacies. Therefore a variance is necessary to allow the proposed use.

- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district.

Noncompliance. Granting the applicant's variance request would confer special privilege to the property that would be denied to other similar properties in the same zoning district. All new pharmacy uses within allowed zoning districts are required to be compliant with the minimum distance requirements specified by Code.

- (4) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by the properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardships on the applicant.

Noncompliance. Literal interpretation of the Code would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district. All properties in the B-G District are required to be compliant with Code requirements specified by the applicable district and by the associated approved use. All new pharmacies proposed after the adoption of Ordinance 2018-024 are subject to the distance requirements of the Code.

- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Noncompliance. The requested variance is not the minimum variance that would make possible the reasonable use of the land. The request for the variance is due to the applicant's desire to have a pharmacy use; the property could continue to be used reasonably for other uses as permitted by Code.

- (6) The grant of the variance will be in harmony with the general intent and purpose of this chapter.

Noncompliance. The general intent of B-G (Business General) zoning is to provide for general retailing and a variety of special business uses and to encourage the provision of a wide range of goods and services in areas consistent with the city's comprehensive land use plan. Granting the proposed variance will be in harmony with the general intent and purpose of the zoning district as to the use; however it will not conform to the minimum distance separation for legally established pharmacies.

- (7) Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Noncompliance. The proposed variance may not be injurious to the area involved or otherwise detrimental to the public welfare. However, minimum distance requirements are established by the City which has determined that a 1,000 foot minimum interbusiness distance separation requirement is reasonable for medical marijuana establishments, pharmacies, and pain management clinics, and is in the best interest of public health, safety, and welfare.

STAFF RECOMMENDATIONS:

The intent of the City's distance requirement is to prevent the concentration of businesses which provide the on-site dispensing of controlled substances in order to ensure compatibility with surrounding businesses and community, as well as to promote and advance the public health, safety and welfare.

In staff's opinion, the request does not meet the criteria for granting variance, therefore, staff does not recommend the Planning and Zoning Board recommend approval to the City Commission of

the requested variance from the minimum distance requirement of 1,000 feet from one pharmacy to another legally established pharmacy.

ATTACHMENT(S):

- Exhibit 1 – Location Map
- Exhibit 2 – Aerial Map
- Exhibit 3 – 1000 Feet Radial Map
- Exhibit 4 – Applicant's Letters and Backup
- Exhibit 5 – Site Plans

Concurred with:


Christy Dominguez
Principal Planner