



City of Hallandale Beach City Commission Agenda Cover Memo

Meeting Date:	Item Type:		1 st Reading	2 nd Reading
2/5/2020	<input checked="" type="checkbox"/> Resolution <input type="checkbox"/> Ordinance <input type="checkbox"/> Other	Resolution	2/5/2020	Click or tap to enter a date.
		Ordinance Reading		
		Public Hearing	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Advertising Required	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		Quasi Judicial:	<input checked="" type="checkbox"/>	<input type="checkbox"/>
Fiscal Impact (\$):	Account Balance (\$):	Funding Source:	Project Number :	
N/A	N/A	N/A	#V-19-02369 Best Organic Pharmacy	
Contract/P.O. Required	RFP/RFQ/Bid Number:	Sponsor Name:	Department:	
<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	N/A	Vanessa Leroy, Director	Development Services	
Strategic Plan Focus Areas:				
<input type="checkbox"/> Financial	<input type="checkbox"/> Organizational Capacity	<input type="checkbox"/> Infrastructure	<input checked="" type="checkbox"/> Development, Redevelopment and Economic Development	
Implementation Timeline				
Estimated Start Date: 2/5/20 Estimated End Date: 2/5/2020				

Short Title:

A RESOLUTION OF THE MAYOR AND CITY COMMISSION OF THE CITY OF HALLANDALE BEACH, FLORIDA, CONSIDERING APPLICATION #V—19-02369 FOR A VARIANCE FROM SECTION 32-778(c) FOR THE OPENING OF A NEW PHARMACY NAMED BEST ORGANIC PHARMACY AT 409 W. HALLANDALE BEACH BOULEVARD, SUITE 417, HALLANDALE BEACH; PROVIDING FOR AN EFFECTIVE DATE.

Staff Summary:

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. The property is located at 409 West Hallandale Beach Boulevard, Suite 417.

Background:

Presently, Ms. Gandelman 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.

On August 8, 2019 the Planning and Zoning Board held a public hearing on the subject application. After hearing the matter, the Board recommended denial of the application by a vote of 3 to 2. Subsequently, at the Board's meeting of October 23, 2019, the applicant's representative, Hope Calhoun, requested reconsideration/rehearing of the application which was granted by the Board and scheduled for its November meeting.

On November 26, 2019, the Planning and Zoning Board held the public hearing on the rehearing of the application. No new evidence was presented by the applicant. A motion was made to recommend approval of the application which failed by a vote of 2 to 2. Please refer to the Planning and Zoning Board Cover Memos of August 8, 2019 and October 23, 2019 (Exhibit 7) and Minutes of the meetings (Exhibit 8).

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 Concrete Block System (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. (See attached survey).

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 to the property boundary line of the proposed pharmacy location.

3. The existing pharmacies, Walgreens and Medica Pharmacy, are less than 1,000 feet 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 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 Business General (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 at a location less than the 1,000 feet required distance to a established pharmacy.; 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 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 feet 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.

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 and City Commission approval on variance applications.

Cost Benefit:

The proposed pharmacy would generate a revenue of \$1,214 the first year in license fees and thereafter, \$659 in annual renewal fees. There are no other perceived benefits for the community that would be available from approval.

Proposed Action:

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 recommends the City Commission not approve the requested variance from the minimum distance requirement of 1,000 feet from one pharmacy to another legally established pharmacy.

Attachment(S):

Exhibit 1 - Resolution
Exhibit 2 – Location Map
Exhibit 3 – Aerial Map
Exhibit 4 – 1,000 Feet Radial Map
Exhibit 5 – Applicant's Letters and Backup
Exhibit 6 – Site Plans
Exhibit 7 - Planning and Zoning Board Cover Memos dated October 23, 2019 and November 26, 2019
Exhibit 8 - Planning and Zoning Board Minutes of October 23, 2019 and November 26, 2019