

MIAMI BEACH

PLANNING DEPARTMENT

BOARD OF ADJUSTMENT STAFF REPORT

FROM: Thomas R. Mooney, AICP
Planning Director

DATE: July 08, 2016 Meeting

RE: File No. ZBA0516-0011
409-411 15th Street – Restaurant/ Commercial Building

The applicant, Texas Taco Factory Express, Inc., is requesting a variance to reduce the minimum required number of seats for a restaurant serving beer and wine for consumption on the premises.

STAFF RECOMMENDATION:

Approval of the variance with conditions.

LEGAL DESCRIPTION:

Lot 1, Block 58 of "Pine Ridge Subdivision", According to the Plat Thereof, as recorded in Plat Book 6 at Page 34 of the Public Records of Miami-Dade County, Florida.

SITE DATA:

Zoning -	CD-2
Future Zoning-	CD-2
Lot Size -	8,100 SF
FAR	
Existing-	~7,371 SF
Proposed-	same
Existing Use-	Restaurant
Proposed Use-	Same

EXISTING STRUCTURE:

Year Constructed:	1948
Architect:	A.H. Mathes
Vacant Lot:	No
Demolition:	None

THE PROJECT:

The applicant has submitted documents and plans entitled "409 - 411 15th Street, Miami Beach" as prepared by Beilinson Gomez Architects, signed and sealed May 24, 2016.

The applicant is requesting a variance to reduce the minimum required number of seats for a restaurant to sell beer and wine for consumption on the premises.

The applicant is requesting the following variance:

1. A variance to reduce by twelve (12) seats the minimum required thirty (30) seats for a restaurant selling beer and wine in order to operate an eighteen (18) seat restaurant serving beer and wine for consumption on the premises.
 - Variance requested from:

Sec. 142-1302. Permitted main and accessory uses.

Vendors shall be permitted to sell alcoholic beverages within the zoning districts listed in section 142-1301 if such district permits as a permitted main use or accessory use one of the following: Restaurant, bar, alcoholic beverage establishment, outdoor cafe, private club, or golf clubhouse pursuant to the following standards:

(1) Permitted main uses.

a. Restaurants, alcoholic beverage establishments, and private clubs shall be permitted to sell alcoholic beverages for consumption on the premises based upon the following; when beer and wine are served a minimum of 30 seats shall be provided;

The Code requires a minimum of thirty (30) seats on private property in order to sell beer and wine for consumption on the premises. The applicant is proposing eighteen (18) seats on the interior space and additional future seating on the sidewalk. However, the seating for the sidewalk café does not count toward the minimum required number of seats to sell alcoholic beverages. As shown on the plans submitted, the available seating area for the restaurant does not appear to accommodate the required 30 seats. The space contains two (2) bathrooms, service counter, kitchen, trash room and seating area. Egress and accessible clearances are also required for the safety of the customers. The applicant, as a small business operator, seeks to operate successfully and remain competitive with other nearby restaurants that offer alcoholic beverages with meals. The space has an area of approximately 1,192 s.f.

Staff would note that the Board granted a similar variance on February 5, 2016 under BOA File number 3797 for the adjacent restaurant space located eastward of the subject application. Staff finds that the existing space constraints create practical difficulties for the applicant that result in the request for this variance. Based on the space limitation and the fact that this variance has been commonly granted to several restaurants within commercial districts, no negative impact is anticipated. In summary, staff recommends approval of the applicant's request.

PRACTICAL DIFFICULTY AND HARDSHIP CRITERIA

The applicant has submitted plans and documents with the application that satisfy Article 1, Section 2 of the Related Special Acts, allowing the granting of a variance if the Board of Adjustment finds that practical difficulties exist with respect to implementing the proposed project at the subject property.

The applicant has submitted plans and documents with the application that also indicate the following, as they relate to the requirements of Section 118-353(d), Miami Beach City Code:

That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district;

That the special conditions and circumstances do not result from the action of the applicant;

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;

That 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 and would work unnecessary and undue hardship on the applicant;

That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;

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; and

That the granting of this request is consistent with the comprehensive plan and does not reduce the levels of service as set forth in the plan.

COMPLIANCE WITH ZONING CODE:

The application, as submitted, appears to be consistent with the applicable requirements of the City Code, with the exception of the variance(s) requests herein. This shall not be considered final zoning review or approval. These and all zoning matters shall require final review and verification by the Zoning Administrator prior to the issuance of a Building Permit.

STAFF ANALYSIS:

The site is located in the CD-2 commercial district at the corner of Washington Avenue and 15th Street. The existing "Contributing" structure, constructed in 1948, is a commercial building with five (5) restaurants. The applicant has operated its "Taco Rico" franchise restaurant at 1608 Alton Road for many years and is relocating to the space previously occupied by a "Subway" restaurant. The previous restaurant (Subway) was licensed with 13 seats, as noted in the copy of the business license provided in the submitted documents. As a small business operator, the applicant is seeking to sell beer and wine with meals in order to operate a competitive business in the area, surrounded by several restaurants. At least 30 seats are required for a restaurant to sell beer and wine. The existing space appears to accommodate a maximum of 18 seats indoors which triggers the request for a variance. The business hours of operation are Sunday through Thursday from 10:30 am to 10:00 pm and Fridays thru Saturday from 10:30 am to 11:00 pm. The restaurant will be serving Mexican food.

Because this type of variance has been granted to other establishments in the commercial district along Washington Avenue, staff believes that, with proper operating conditions

imposed by the Board, the reduction of the minimum required number of seats should be acceptable without causing negative impacts to the surrounding neighborhood.

RECOMMENDATION:

In view of the foregoing analysis, staff recommends **approval** of the variance(s) as requested, subject to the conditions enumerated in the attached Draft Order which address the inconsistencies with the aforementioned Practical Difficulty and Hardship criteria, as applicable.

TRM:MAB:IV

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