

BOARD OF ZONING APPEALS



STAFF REPORT DEPARTMENT OF GROWTH MANAGEMENT

MEETING DATE:	December 5, 2023
PROJECT:	2 Marianna Way – Variance Request
PROJECT MANAGER:	Jordan Holloway, Senior Planner

APPLICATION REQUEST: The Applicant, Houssam Aboukhater, on behalf of Herkus, LLC, is requesting a variance for the following application (Attachment 1):

ZONE-11-23-018643 - The Applicant is requesting a variance from Unified Development Ordinance (UDO) Section 5.13.3.D to allow a 7 square foot directional sign.

The property is identified by tax map number R610 039 000 0497 0000 and is located at 2 Marianna Way in the Neighborhood General – HD Zoning District. The BZA hearing was advertised in The Island Packet on November 19, 2023 (Attachment 2), the property was posted, and adjacent property owners were notified via certified mail.

INTRODUCTION: The subject development (Palmetto Square, formally known as Old Village Square) is a mixed-use development consisting of five buildings on a single lot, approved in 2004. Palmetto Square consists of 16 residential units and 11 commercial units within the five buildings (Attachment 3).

BACKGROUND: Palmetto Square was approved in 2004 before the UDO and before the establishment of the Historic District. The parcel was previously zoned Village Commercial and was regulated by the Town's Zoning Ordinance. Section 5.13.3.D of the UDO allows directional signage to be a maximum of 1.5 square feet. The Applicant is requesting a larger directional sign to be located internal to the development to assist with vehicle and pedestrian circulation within the site.

BOARD OF ZONING APPEALS ACTIONS: As granted by the powers and duties set forth in Section 2.2.6.D.2 of the UDO, the Board of Zoning Appeals has the authority to take the following actions with respect to this application:

1. Approve the application as submitted by the Applicant;
2. Approve the application with conditions; or
3. Deny the application as submitted by the Applicant.

REVIEW CRITERIA & ANALYSIS: In assessing an application for a Variance, the Board of Zoning Appeals is required to consider the criteria set forth in Section

3.7.3 of the UDO. The seven criteria are provided below followed by a Staff Finding for each criterion.

As expressed in Section 3.7.3.B.1., a variance may be granted as applicable, and the application must comply with the following:

Unnecessary Hardship. A Variance from a dimensional or design standard may be granted by the Board of Zoning Appeals in an individual case of unnecessary hardship upon a finding that all the following standards are met:

1. Section 3.7.3.B.1.a. There are extraordinary and exceptional conditions pertaining to the particular piece of property;

Finding. Palmetto Square was approved in 2004, prior to the UDO and prior to the establishment of the Historic District. The development would not be able to exist in its current form with the current UDO requirements, which allow only one principal structure and one accessory structure per lot.

2. Section 3.7.3.B.1.b These conditions do not generally apply to other property in the vicinity, particularly those in the same zoning district;

Finding. The conditions at Palmetto Square do not generally apply to other property in the vicinity or zoning district because Palmetto Square was approved in 2004, and recently finished construction on their final building. All other development within the zoning district would need to comply with the current UDO.

3. Section 3.7.3.B.1.c Because of these conditions, the application of the Ordinance to the particular piece of property would effectively prohibit or unreasonably restrict the utilization of the property in a manner consistent with others in the zoning district;

Finding. The existing conditions on this lot are unique for the zoning district as well as the general neighborhood. The development was approved in 2004 before the creation of the UDO and Historic District. Because of this, the current UDO and Historic District sign standards unreasonably restrict the development's ability to have effective directional signage.

4. Section 3.7.3.B.1.d The need for the Variance is not the result of the Applicant's own actions;

Finding. The need for the variance is not the result of the Applicant's own actions, as the UDO and Historic District were created after the development plan's approval in 2004.

5. Section 3.7.3.B.1.e The authorization of a Variance does not substantially conflict with the Comprehensive Plan and the purposes of this Ordinance;

Finding. The approval of the requested variance would not substantially conflict with the Comprehensive plan or the purposes of the ordinance.

6. Section 3.7.3.B.1.f The authorization of a Variance will not result in a substantial detriment to adjacent property or the public good, and the character of the District will not be harmed by the granting of the Variance;

Finding. The approval of the requested variance would not result in substantial detriment to adjacent property owners or the public good. The Applicant would install the directional signage internal to the development and adhere to all design standards in the current UDO and site feature permit process.

7. Section 3.7.3.B.1.g The reason for the Variance is more than simply for convenience or to allow the property to be utilized more profitably.

Finding. The reason for the variance is to provide adequate directional signage for patrons and the general public in the Palmetto Square development. The signage will help identify residential buildings and commercial buildings throughout the development.

CONCLUSION: Applying the seven variance criteria, the Board of Zoning Appeals must determine if the literal interpretation and enforcement of the UDO and provisions of the Ordinance would result in unnecessary hardship to the property owner(s). Findings of fact and using the criteria will be required.

ATTACHMENTS:

1. Application, Narrative, and Proposed Site Plan
2. Public Advertisement
3. Site Plan