



**CITY OF COCOA BEACH, FLORIDA  
BOARD OF ADJUSTMENT AGENDA**

**DATE: January 18, 2012  
LOCATION: CITY COMMISSION ROOM**

**TIME: 6:30 P.M.  
2 SOUTH ORLANDO AVENUE  
COCOA BEACH, FLORIDA 32931-2722**

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**WELCOME!** We're very glad you've joined us for tonight's Board of Adjustment Meeting. Meeting agenda packets may be accessed on the city's website ([www.cityofcocoa-beach.com](http://www.cityofcocoa-beach.com)).

The public will have an opportunity to speak after presentations to the Board by the Petitioner/Applicant and City Staff. The public may be allowed to speak at other times, at the discretion of the Chairperson. When recognized, please state your name and address and speak directly into the microphone. Please address all comments and questions to the Chairperson.

All meetings are video and audio broadcasted live locally on Bright House Networks Channel 199.

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**Regular Members:** Eric Herrburger/Chair, Don Haynes/Vice Chair, Paul Jutras, Barry Plans, James Wamsley

**Alternate Members:** Richard Rist, Jr. (Alternate #1), James Orgento (Alternate #2)

**City Attorney:** Fowler, O'Quinn, Feeney & Sneed, P.A.

**Purpose:** The Board of Adjustment renders written decisions regarding: a) zoning variance, b) zoning special exceptions, and c) interpretations of the City of Cocoa Beach Land Development Code.

**Other:** Copies of the staff report are available to the public for inspection approximately one week prior to the hearing. Interested parties and citizens may review the case file at the Building Department, City Hall, 2 South Orlando Avenue, during normal business hours. Please call 868-3217 for more information.

**A. CALL TO ORDER AND ROLL CALL**

1. Roll Call
2. Approval of Minutes – October 19, 2011
3. Swear In of Witnesses
4. Disclosure of Conflict
5. Review and Approval of 2011 Year End Report
6. Election of Officers – Election of Chair and Vice-Chair for the 2012 Calendar Year
5. Public Comment

**B. OLD BUSINESS**

**C. NEW BUSINESS**

1. **Special Exception** Special exception request for property located within a CN Neighborhood Commercial zoning district  
**Case** 12-3001129-01  
**Owner/Agent** Manuel Amaral, Owner/Carswell Construction, Agent  
**Project/Location** Dunkin Donuts/5810 North Atlantic Avenue  
**Staff Representative** Dan Connor, AICP, City Planner  
**Summary** Special exception to City of Cocoa Beach Land Development Code Section 3-10E(9) to allow accessory outdoor seating in conjunction with a restaurant use.

[Staff Memo - 5810 North Atlantic Ave \(Dunkin Donuts\)](#)

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For Meeting of January 18, 2012**

2. **Variance** Variance request for property located within a RS-1 Single-Family Residential zoning district  
**Case** 12-2001216-01  
**Owner/Agent** Brian Smith, Owner/Charles Boyd Construction, Agent  
**Project/Location** Smith Residence/1073 South Atlantic Avenue  
**Staff Representative** Dan Connor, AICP, City Planner  
**Summary** Variance to City of Cocoa Beach Land Development Code Table 4.01A "Minimum Yard Requirements", Section 4-64 "Building Line, Oceanfront Property", and Section 4-65 "Permitted Uses of Land Between the Building Restriction Line and Seawall Line" to allow construction of a second story and cantilevered balcony/deck as an expansion and/or addition to an existing lawful nonconforming single-family residential structure, located approximately twelve (12) feet east of the oceanfront building restriction line (BRL) and rear oceanfront setback/yard line.

[Staff Memo - 1073 S. Atlantic Ave](#)

3. **Special Exception** Special exception request for property located within a CG General Commercial zoning district  
**Case** 12-3001018-01  
**Owner/Agent** CBBK Trust and Harvey Realty Corp., Owners/Creech Engineering, Agent  
**Project/Location** Cocoa Beach RaceTrac/3801 and 3811 North Atlantic Avenue  
**Staff Representative** Dan Connor, AICP, City Planner  
**Summary** Special exception to City of Cocoa Beach Land Development Code Section 3-11E(2) to allow a filling (service) station without major vehicle repairs and situated beyond 1,500 feet of any other existing filling stations, and accessory to a permitted retail convenience store use.

[Staff Memo - 3801 and 3811 N. Atlantic Ave \(RaceTrac\)](#)  
[Comments as of 01-12-12](#)

**D. STAFF REPORTS**

**E. MEMBER REPORTS**

**F. ADJOURNMENT** **Next Meeting – February 15, 2012**

**NOTICE OF RIGHT OF APPEAL OF BOARD OF ADJUSTMENT DECISIONS**

*In accordance with the City of Cocoa Beach Land Development Code Chapter V, Article VIII, any person aggrieved may appeal a decision of the Board of Adjustment in Circuit Court of Brevard County. An appeal must be filed within 30 days after the filing of such decision with the City Clerk, but not thereafter. Provisions for review of Board of Adjustment decisions must be in a manner provided by the laws of the State of Florida.*

*"Person aggrieved" shall be in accordance with the City of Cocoa Beach Land Development Code.*

*Any person desiring to appeal any decision made by the Board of Adjustment, with respect to any matter considered at such meeting or hearing, will need a record of the proceedings, and for such purposes, must insure that a verbatim record and transcript of the proceeding is made in a form acceptable for official court proceedings, which record includes the testimony and evidence upon which the appeal is to be based. It shall be the responsibility of the person desiring to appeal any decision to prepare a verbatim record and transcript at his/her own expense, as the City does not provide one.*

**ATTN: PERSONS WITH DISABILITIES.** In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations to participate in this proceeding shall, at least forty-eight (48) hours prior to the meeting, contact the Office of the City Clerk at (321) 868-3286; Florida Relay Service (800) 955-8771 (TDD); or (800) 955-8779 (Voice).