

**Village of Royal Palm Beach
Village Council
Agenda Item Summary**

Agenda Item:

PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 21-91 (VAR), AN APPLICATION BY MYRIONE PIERRE-LOUIS, THE APPLICANT IS REQUESTING A VARIANCE FROM SECTION 26-79 (4) (D) TO ALLOW FOR A REDUCED REAR SETBACK OF 5.04 FEET FOR AN EXISTING GAZEBO WHERE VILLAGE CODE REQUIRES 20 FEET, A VARIANCE OF 14.96 FEET, FOR A PROPERTY LOCATED AT 211 LAS PALMAS STREET.

Issue:

The Applicant is requesting a Variance from Section 26-79 (4) (d) to allow for a reduced side setback of 5.04 feet where the Village Code requires 20 feet, a variance of 14.96 feet. The Applicant is requesting the variance to allow the placement of an existing gazebo that measures 12 feet by 12 feet. Please refer to **Attachment A** for an illustration of the positioning of the gazebo on property.

The Applicant asserts that “the gazebo is built within property line. This permanent structure has been there for years and is not a substantial detriment to neighborhood. Instead it adds value and make property more marketable.”

Village Code Sec. 26-32 (f) (6) allows the Village Council to grant variances to the code when:

- Special conditions and circumstances exist which are not applicable to other lands in the same zoning district;
- Special conditions do not result from the actions of the Applicant;
- Granting the variance will not confer on the Applicant special privileges that are denied to other lands in the same zoning district;
- The literal interpretation of the Code would deprive the Applicant the rights enjoyed by other lands in the same zoning district;
- The variance requested is the minimum variance that will make possible the reasonable use of the property;

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| Initiator: | Village Manager | Agenda Date | Council |
| Director of P & Z | Denial | 7-14-2022 | Action |

- The variance will be in harmony with the general intent and purpose of the Zoning Code; and
- Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Based on the information provided, Village Staff does not support the variance request as the granting of the variance would confer special privileges denied to other residents in similar circumstances, no special conditions and circumstances are applicable to the subject property, and the request is needed due to actions of the applicant in constructing the structure encroaching into a required setback without obtaining zoning approvals. In addition, the structure is located within an existing 20-foot drainage easement; and Village Staff does not support the location of the existing structure within the easement. Given the location of existing improvements on the property, the placement of the subject gazebo could be accommodated on the lot without the grant of the variance requested and without encroaching into the existing drainage easement.

The Planning and Zoning Commission considered the application on June 14, 2022, and recommended approval by a vote of 3-1, with Chairman David Leland dissenting.

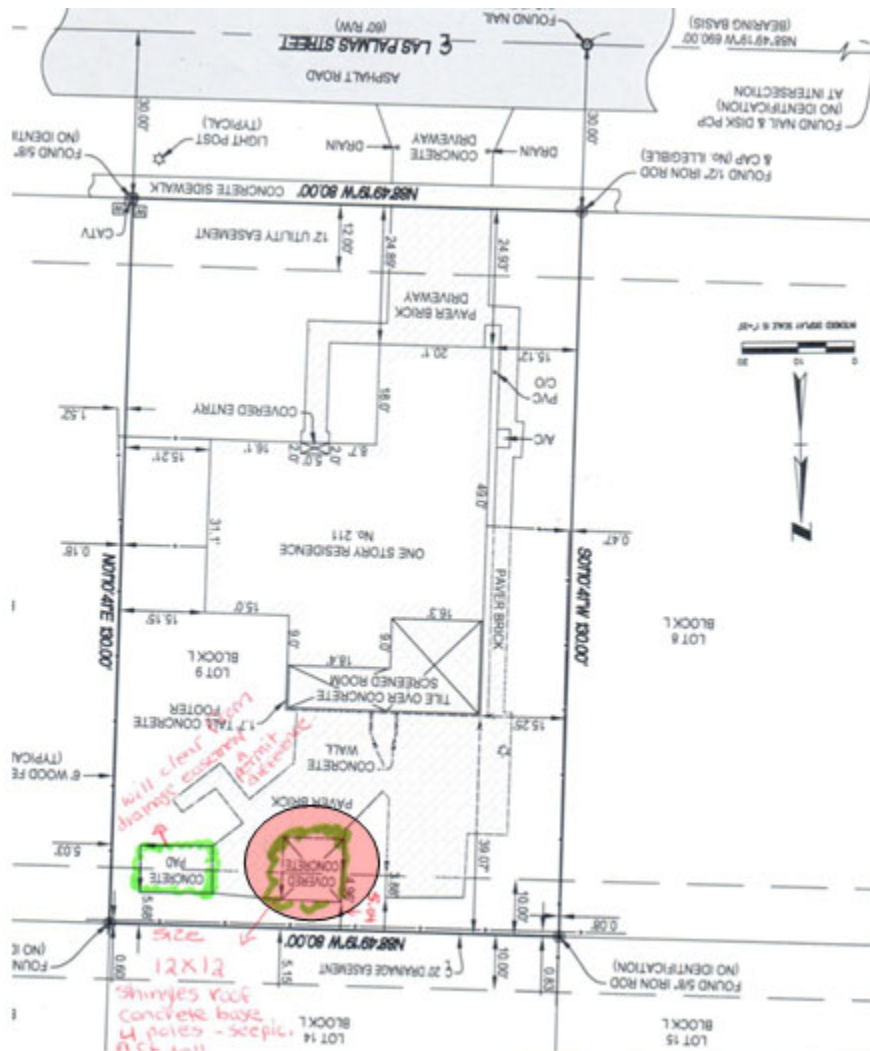
Recommended Action:

Staff recommends Denial of Application 21-91 (VAR) and Variance Order VC-22-07.

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Attachment A Gazebo Location Illustration Application No. 21-91 (VAR)

The illustration below depicts the location of the gazebo that is subject to this variance request and is highlighted in red.



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**ORDER OF THE VILLAGE COUNCIL
VILLAGE OF ROYAL PALM BEACH
Chapter 26. Zoning**

CASE NO. VC-22-07
IN RE: Application No. 21-91(VAR)
211 Las Palmas Street

Legal Description:
Attached as Exhibit "A"

ORDER APPROVING APPLICATION

This cause came to be heard upon the above application and the Royal Palm Beach Village Council having considered the evidence presented by the applicant and other interested persons at a hearing called and properly noticed, and the Royal Palm Beach Village Council being otherwise advised.

THEREUPON, the Village Council of the Village of Royal Palm Beach finds as follows:

1. The property which is the subject of said application is classified and zoned within the Single-Family Residential (RS-2) District by the Zoning Code of the Village of Royal Palm Beach and the zoning map made a part thereof by reference.
2. The applicant is seeking a **Variance** from Royal Palm Beach Code of Ordinances at the following section: Section 26-79 (4) (d) in order to allow for a reduced side setback of 5.04 feet for an existing gazebo where the Village Code requires 20 feet, a variance of 14.96 feet.
3. Under the provisions of Sec. 26-32(f)(6) of the Village Code of Ordinances, the Village Council has the right, power and authority to act upon the application herein made.
4. In the judgment of the Village Council, the public welfare will best be served by **APPROVING** the application as set forth on the application documents.
5. **IT IS THEREUPON CONSIDERED, ORDERED AND ADJUDGED** by the Royal Palm Beach Village Council as follows:

The application for **Variance, VC-22-07**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Section 26-79 (4) (d) in order to allow for a reduced side setback of 5.04 feet for an existing gazebo where the Village Code requires 20 feet, a variance of 14.96 feet, is hereby **Approved** in accordance with the Village Code of Ordinances for the following reasons:

The applicant meets the following standards set forth in Section 26-32 (f)

(6). of the Village Code of Ordinances:

1. Special conditions and circumstances exist;
2. Special circumstances are not the result of actions of the applicant;
3. No special privilege is conferred;
4. Literal interpretation would constitute an unnecessary and undue hardship;
5. This is minimum variance for reasonable use of land;
6. Is in harmony with the intent and purpose of this division; and:
7. Will not be injurious to area or detrimental to the public welfare.

Done and ordered this 14th day of July, 2022.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 21-91(VAR)
211 Las Palmas Street

Directly below is the Legal Description.

LEGAL DESCRIPTION:

Lot 9, Block "L", La Mancha, according to the map or plat thereof as recorded in Plat Book 29, Page 165, Public Records of Palm Beach County, Florida.

Parcel Identification Number: 72-41-43-14-01-012-0090