

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

Agenda Item:

PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 19-0079 (VAR), AN APPLICATION BY GREG MAFFET, AND VARIANCE ORDER VC-19-14, THE APPLICANT IS REQUESTING A VARIANCE FROM SECTION 26-79 (4) (D); TO ALLOW FOR A REDUCED REAR YARD SETBACK OF 11.6 FEET FOR AN EXISTING PERGOLA IN LIEU OF THE REQUIRED 20-FOOT REAR SETBACK AS REQUIRED BY CODE, AND A VARIANCE FROM RESOLUTION 95-39 ALLOWING FOR AN 8.6-FOOT ENCROACHMENT INTO A 20-FOOT LAKE MAINTENANCE EASEMENT WHERE THE RESOLUTION ALLOWS A 7-FOOT ENCROACHMENT, FOR A PROPERTY LOCATED AT 101 ROYAL COURT.

Issue:

The Applicant, Greg Maffet, is requesting a variance from Section 26-79 (4) (D) Setbacks for an existing pergola to allow for an 11.6-foot rear yard setback where Village Code requires a 20-foot rear yard setback, for a variance of 8.4-feet. In addition, the Applicant is seeking a variance from Resolution 95-39 to allow for an 8.6-foot encroachment into a 20-foot lake maintenance easement where the Resolution only allows a 7-foot encroachment, for a 1.6-foot variance. Please refer to **Attachment A** for an illustration of the location of the pergola.

The Applicant asserts that the reduced setback is necessary because of the layout of all of the existing structures on the property. In particular, the Applicant states that the pergola was constructed at the end of the existing pool. The Applicant contends that the pergola is a support structure for host plants for butterflies. The plants and vines provide a source of food and nectar for native pollinator insects which improves the environment. The Applicant further asserts that this is the minimum variance that will allow for reasonable use of the property and prevent Village Code from denying the Applicant an amenity commonly enjoyed by other property owners.

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 peculiar to the land, structure or building involved, and which are not applicable to other lands, structures or buildings subject to similar requirements;

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- The special conditions and circumstances do not result from the actions of the applicant;
- Granting the variance request will not confer on the applicant any special privileges that are denied by this Code to other lands, buildings or structures similarly situated;
- A literal interpretation of the provisions in this Code would deprive the applicant of rights commonly enjoyed by other properties similarly situated under the terms of this Code and would work unnecessary and undue hardship on the applicant;
- The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure;
- The grant of the variance will be in harmony with the general intent and purpose of this division;
- Such variance will not be injurious to the area involved or otherwise be detrimental to the public welfare.

Village Staff is not in support of the variance request because Staff believes that no special conditions or circumstances exist which are not applicable to other lands; the condition is the result from actions of the applicant; granting of the variance will confer on the applicant special privileges that are denied to other lands; the literal interpretation of the Code does not deprive the applicant the rights enjoyed by other lands in the same zoning district; and that it is not the minimum variance necessary to allow reasonable use of the property.

The Planning and Zoning Commission considered the application on November 26, 2019 and recommended Approval by a vote of 5-0.

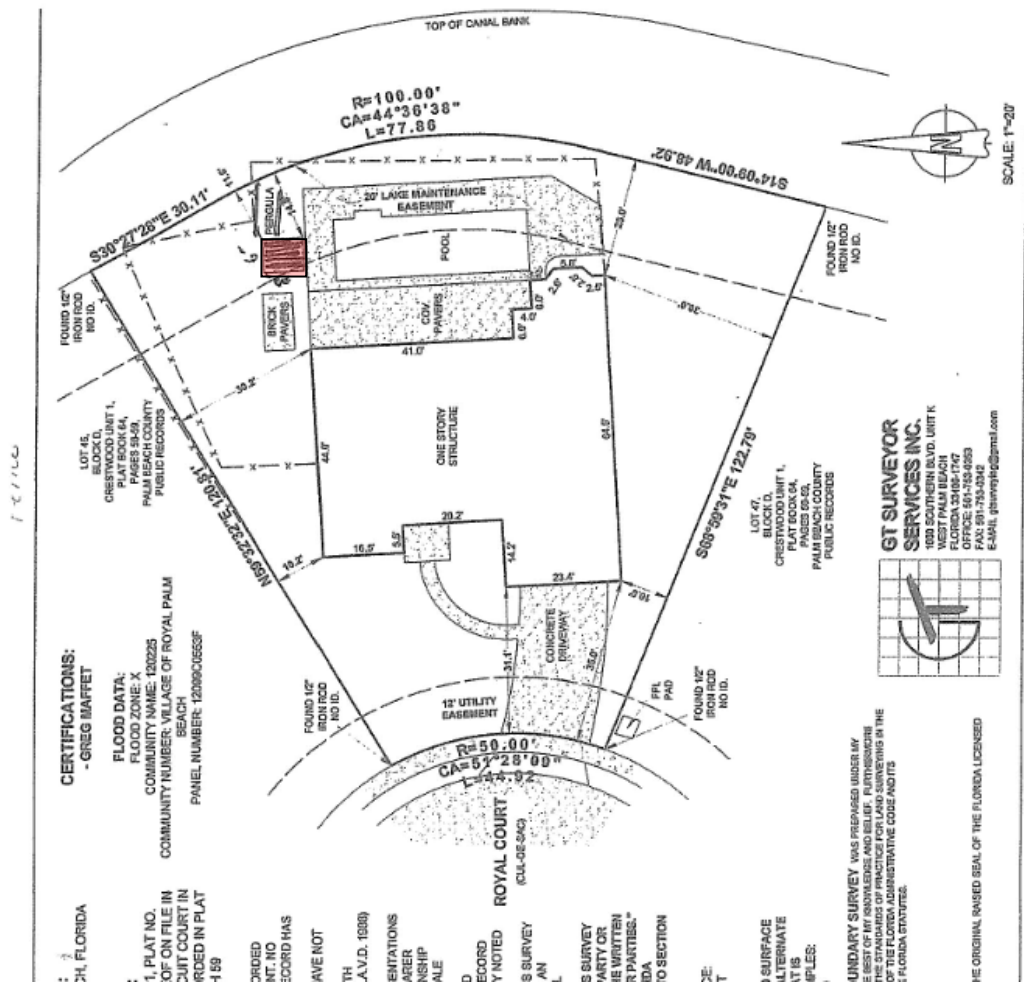
Recommended Action:

Staff recommending Denial of Application 19-0079 (VAR) and Variance Order VC-19-14.

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Attachment A Location of the Pergola Application 19-0079 (VAR)

Survey showing the location of the pergola in red.



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

CASE NO. VC-19-14
IN RE: Application No. 19-0079 (VAR)
101 Royal Court

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 RS-2 Single-Family Residential 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 26-57 (4) (D) in order to allow for an 11.6-foot rear yard setback where Village Code requires a 20-foot rear yard setback for an existing pergola. In addition, the Applicant is seeking a variance to Resolution 95-39 to allow for an 8.6-foot encroachment into a 20-foot lake maintenance easement where the Resolution only allows a 7-foot encroachment.
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-19-14**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Section 26-57 (4) (D) in order to allow for an 11.6-foot rear yard setback where Village Code requires a 20-foot rear yard setback for an existing pergola and a variance to Resolution 95-39 to allow for an 8.6-foot encroachment into a 20-foot lake maintenance easement where the Resolution only allows a 7-foot encroachment 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 19th day of December, 2019.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 19-0079 (VAR)
101 Royal Court

DESCRIPTION:

Lot 46, Block D, CRESTWOOD UNIT 1, Plat No. Four, According to the Plat Thereof on File in the office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book 64, Pages 58 through 59