

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

**Agenda Item:**

**PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 19-0072 (VAR), AN APPLICATION BY DANIELLE MOORE, AND VARIANCE ORDER VC-19-13, THE APPLICANT IS REQUESTING A VARIANCE FROM SECTION 26-79 (4) (D); TO ALLOW FOR A REDUCED SIDE AND REAR SETBACK FOR AN EXISTING PERGOLA IN LIEU OF THE REQUIRED 7.5 FOOT SIDE YARD SETBACK AND 15 FOOT REAR SETBACK AS REQUIRED BY CODE, FOR A PROPERTY LOCATED AT 11614 OLEANDER DRIVE.**

**Issue:**

The Applicant, Danielle Moore, is requesting a variance from Section 26-79 (4) (D) Setbacks for an existing pergola with a 1.5-foot side yard setback and a 1-foot rear yard setback where Village Code requires a 7.5-foot side yard setback and a 15-foot rear yard setback. Please refer to **Attachment A** for an illustration of the location and **Attachment B** for the nature 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 on an existing concrete slab. The Applicant contends that the pergola is needed because there is no shade in the yard without the pergola. 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;
- The special conditions and circumstances do not result from the actions of the applicant;

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- 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 4-1.

**Recommended Action:**

Staff is recommending Denial of Application 19-0072 (VAR) and Variance Order VC-19-13.

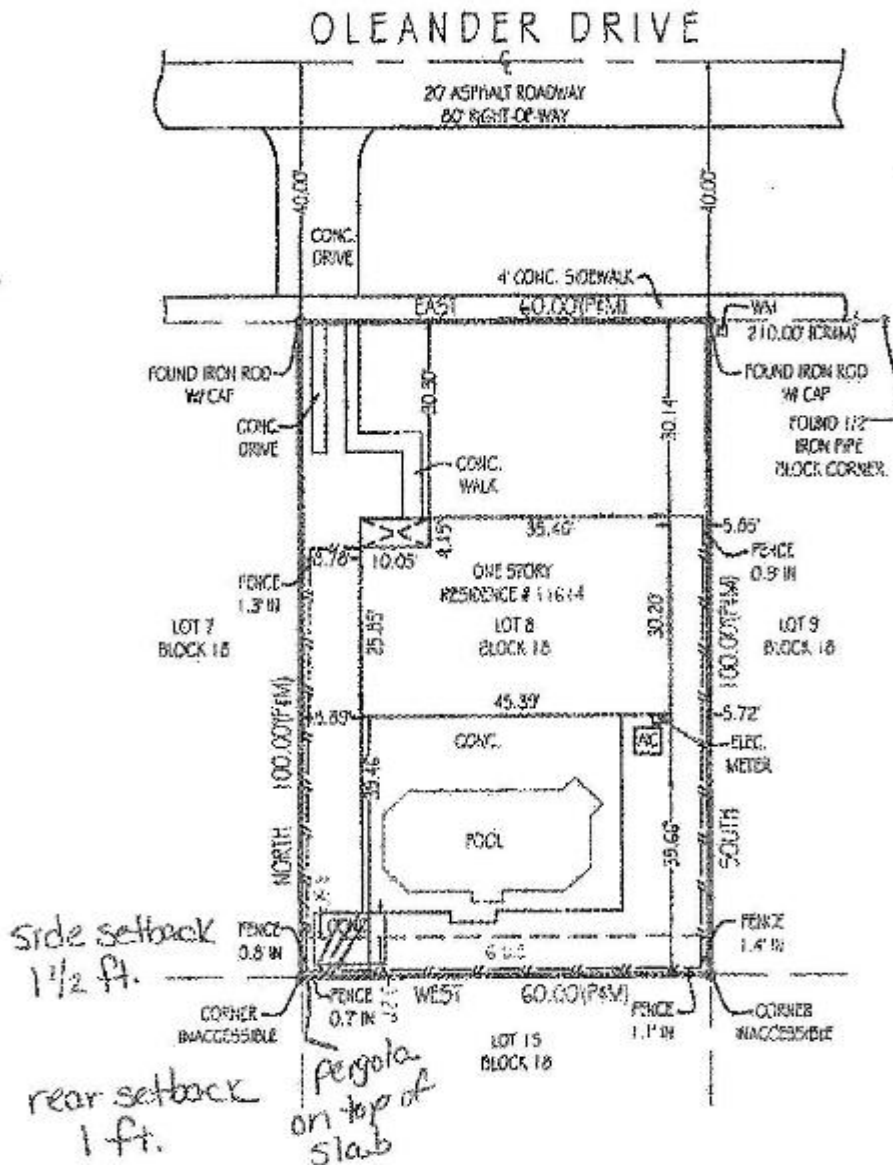
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**Attachment A  
Survey  
Application 19-0072 (VAR)**

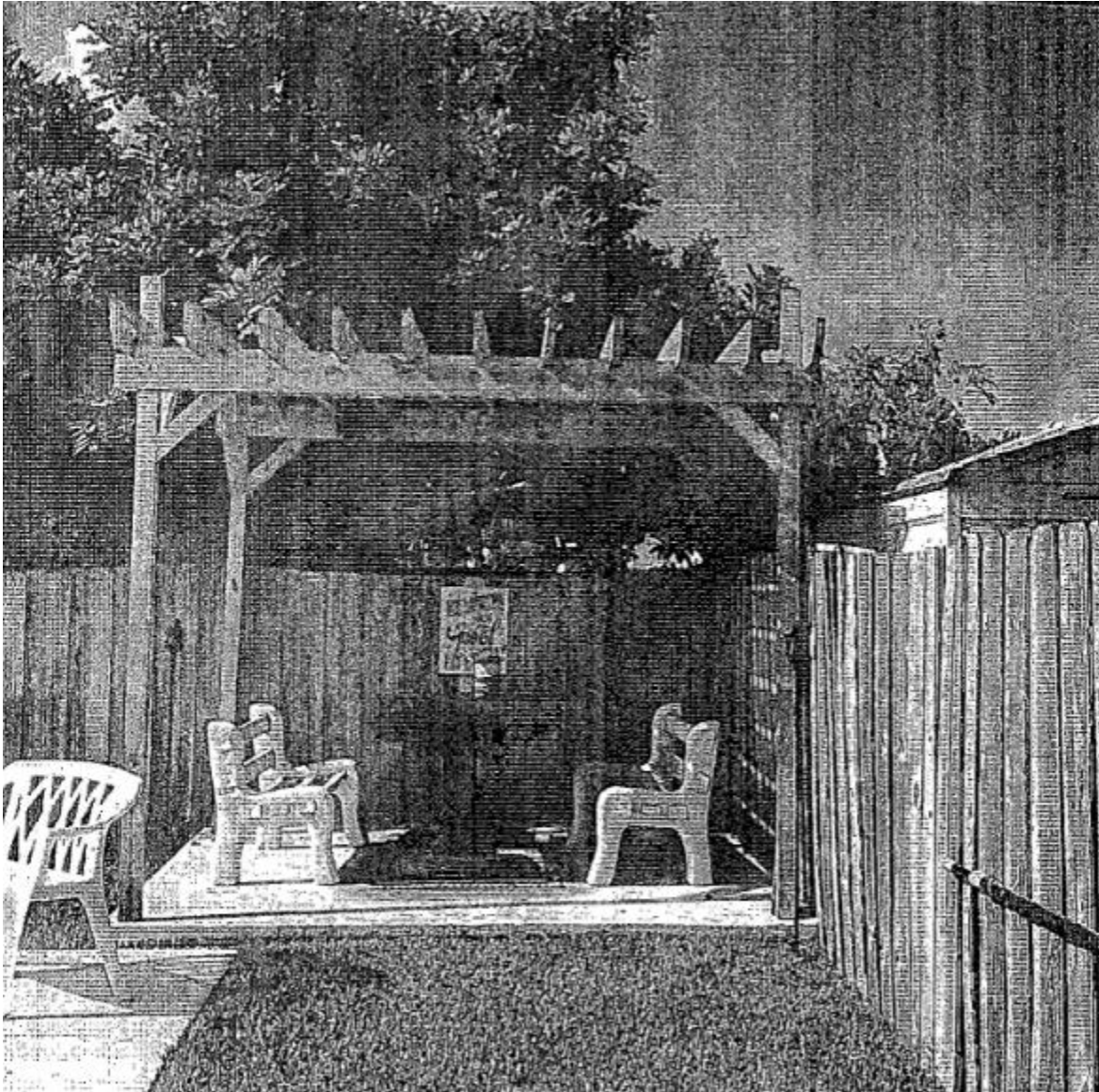
This is a survey showing the location of the pergola.



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**Attachment B  
Picture  
Application 19-0072 (VAR)**

This is a picture of the existing pergola.



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

**CASE NO. VC-19-13**  
**IN RE: Application No. 19-0072 (VAR)**  
**11614 Oleander Drive**

**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 a 1.5-foot side yard setback where the Village Code requires a 7.5-foot side yard setback and a 1-foot rear yard setback where the Village Code requires a 15-foot rear yard setback.
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-19-13**, 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 1.5-foot side yard setback where the Village Code requires a 7.5-foot side yard setback and a 1-foot rear yard setback where the Village Code requires a 15-foot rear yard setback 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.**

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Mayor Fred Pinto  
Village of Royal Palm Beach

Attest:

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Diane DiSanto, Village Clerk

**Exhibit A**  
**Legal Description**  
**Application No. 19-0072 (VAR)**  
**11614 Oleander Drive**

DESCRIPTION:

**Lot 8, Block 18, Section 2, Palm Beach Colony, according to the map or plat thereof as recorded in Plat Book 26 Page 108, Public Records of Palm Beach County, Florida**