

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

**Agenda Item:**

**PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION 20-133 (VAR), AN APPLICATION BY CLAUDIA ALLISON, AND VARIANCE ORDER VC-21-02, THE APPLICANT IS SEEKING A VARIANCE TO ALLOW A SEVEN (7) FOOT REAR AND SIDE YARD POOL SETBACK IN LIEU OF THE REQUIRED 13-FOOT REAR AND SIDE YARD POOL SETBACK AS REQUIRED BY SECTION 26-62 (d)., FOR A PROPERTY LOCATED AT 104 HEMINGWAY COURT.**

**Issue:**

The Applicant is requesting a variance to allow for a seven (7) foot rear and seven (7) foot side yard setback in lieu of the required 13-foot foot rear and side yard setbacks required by Sec. 26-62 (d) of the Village Code, for a swimming pool. Please refer to **Attachment A** for an illustration of the positioning of the pool on property.

The Applicant asserts that the “existing conditions include a 13-foot rear and side setbacks which prohibit a common sized swimming pool on my property. We purchased the property as-is and have made no altercations or additions other than a wood fence, small paver patio and widening of driveway. We are asking for a variance to add a swimming pool because we love the neighborhood. It will only provide a means to construct a normal size swimming pool and hope all similar requests have been reviewed and granted.”

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; and;
- The literal interpretation of the Code would deprive the Applicant the rights enjoyed by other lands in the same zoning district;

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Director of P & Z	Denial	4-1-2021	Action

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- The variance requested is the minimum variance that will make possible the reasonable use of the property;
- The variance will be in harmony with the general intent and purpose of the Zoning Code and will not be injurious to the public welfare

Village Staff is not in support of this variance 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. This property is located within the Single Family Residential (RS-2) Zoning District which requires 13-foot side and rear yard setbacks.

The Village sent out the required mail notice, to all residents within a 300-foot radius of the subject property, notifying homeowners of the variance request. The Village did not receive any responses either supporting or objecting to the application. In addition, no letters to date have been provided by the Applicant supporting the request.

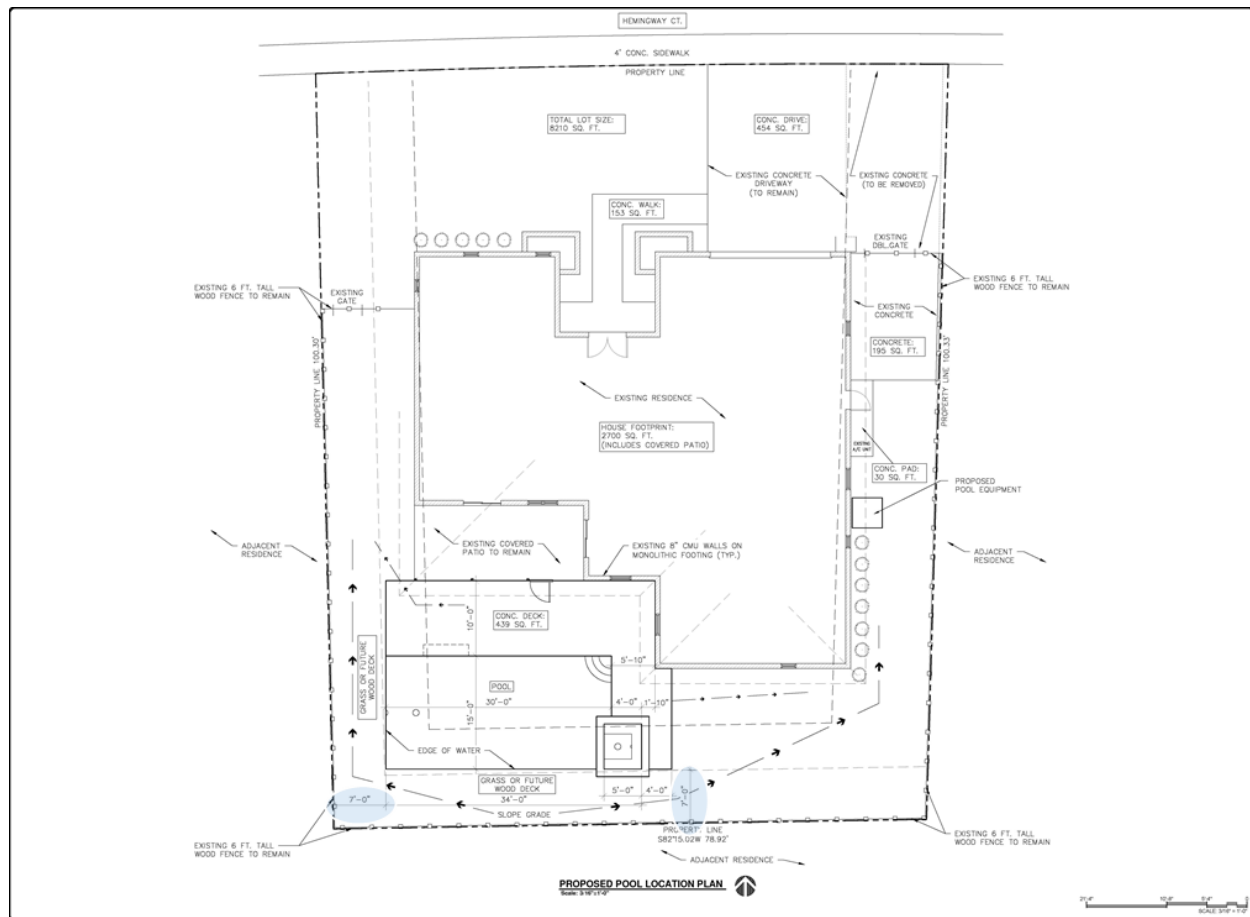
The Planning & Zoning Commission considered this application on February 23, 2021 and recommended Denial by a vote of 4-1, with Commissioner Ray Nazareth dissenting.

#### **Recommended Action:**

Staff is recommending Denial of Application 20-133 (VAR) and Variance Order VC-21-02.

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The below depicts the location of the pool and requested variances.



Initiator:	Village Manager	Agenda Date	Council
Director of P & Z	Denial	4-1-2021	Action

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

**CASE NO. VC-21-02**  
**IN RE: Application No. 20-133(VAR)**  
**104 Hemingway 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 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 26-62(d) in order to allow for a seven (7) foot rear yard pool setback where the Village Code requires a thirteen (13) foot rear yard pool setback and a seven (7) foot side yard pool setback where the Village Code requires a thirteen (13) foot side yard pool setback, variances of six (6) feet each.
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-21-02**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Section 26-62(d) in order to allow for a seven (7) foot rear yard pool setback where the Village Code requires a thirteen (13) foot rear yard pool setback and a seven (7) foot side yard pool setback where the Village Code requires a thirteen (13) foot side yard pool setback, variances of six (6) feet each, 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 1st day of April, 2021.**

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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. 20-133(VAR)**  
**104 Hemingway Court**

DESCRIPTION:

CRESTWOOD UNIT 1 PL 1 LT 11 BLK A