

PALM BEACH COUNTY
 PLANNING, ZONING AND BUILDING DEPARTMENT
 ZONING DIVISION



ADMINISTRATIVE VARIANCE – TYPE I B - STAFF PUBLIC MEETING
STAFF REPORT
12/18/2008

AGENDA ITEM	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
AVB-2008-01782 Persaud's Property	1.F.4.b Nonconformities Percentage Setbacks (Side Interior Setback)	7.5 ft Percentage Setbacks (Side Interior Setback)	6.8 ft Percentage Setbacks (Side Interior Setback)	0.7 ft Percentage Setbacks (Side Interior Setback)
SITUS ADDRESS:	2902 Buckley Ave Lake Worth 33461			
AGENT NAME & ADDRESS:	None			
OWNER NAME & ADDRESS:	Cootoo and Radha Persaud 2902 Buckley Ave Lake Worth FL 33461			
PCN:	00-43-44-20-04-014-0210			
ZONING DISTRICT:	RM			
BCC DISTRICT:	3			
PROJECT MANAGER:	Lauren Benjamin, Site Planner I			
LEGAL AD:	Cootoo and Radha Persaud, owners, to allow a previously approved carport to be enclosed into a habitable structure to encroach into the required side-interior setback. LOC: 2902 Buckley Ave. approx. 1/2 mile east of Congress Ave on Buckley Ave. within the Englewood Manor subdivision in the RM zoning district. (Control : 2008-292).			
LAND USE:	HR-8	S/T/R: 20-44-43		
PETITION #:	2008-00292			
LOT AREA:	0.14 acre			
LOT DIMENSIONS:	approx. 101.5 ft x 60 ft			
CONFORMITY OF LOT:	Non-conforming			
CONFORMITY OF ELEMENT:	Non-conforming			
TYPE OF ELEMENT:	Structure (Enclosed Carport)			
ELEMENT SIZE:	approx. 10 ft x 22 ft			
BUILDING PERMIT #:	None			
NOTICE OF VIOLATION:	C0711090051			
CONSTRUCTION STATUS:	Existing			
APPLICANT REQUEST:	To allow a previously approved carport to be enclosed into a habitable structure to encroach into the required side-interior setback.			

STAFF SUMMARY



The subject property is located at 2902 Buckley Ave. approximately ½ mile East of Congress Ave. on Buckley Ave., within the Englewood Manor Subdivision in the RM (Medium Residential) Zoning District.

The owner purchased the home in 2004 and through Code Enforcement (C0711090051) was informed; the existing enclosed carport which is attached to the home did not have the required building permits, and was therefore illegal.

The owner is now working with Zoning staff to correct this violation and since the “use” of the carport was changed from un-enclosed garage/ carport to a habitable structure, the now enclosed carport must meet the Property Development Regulations (PDR’s) of the Unified Land Development Code (ULDC) for principle structures. In this case, the affected PDR is the required side-interior setback of 7.5 ft.



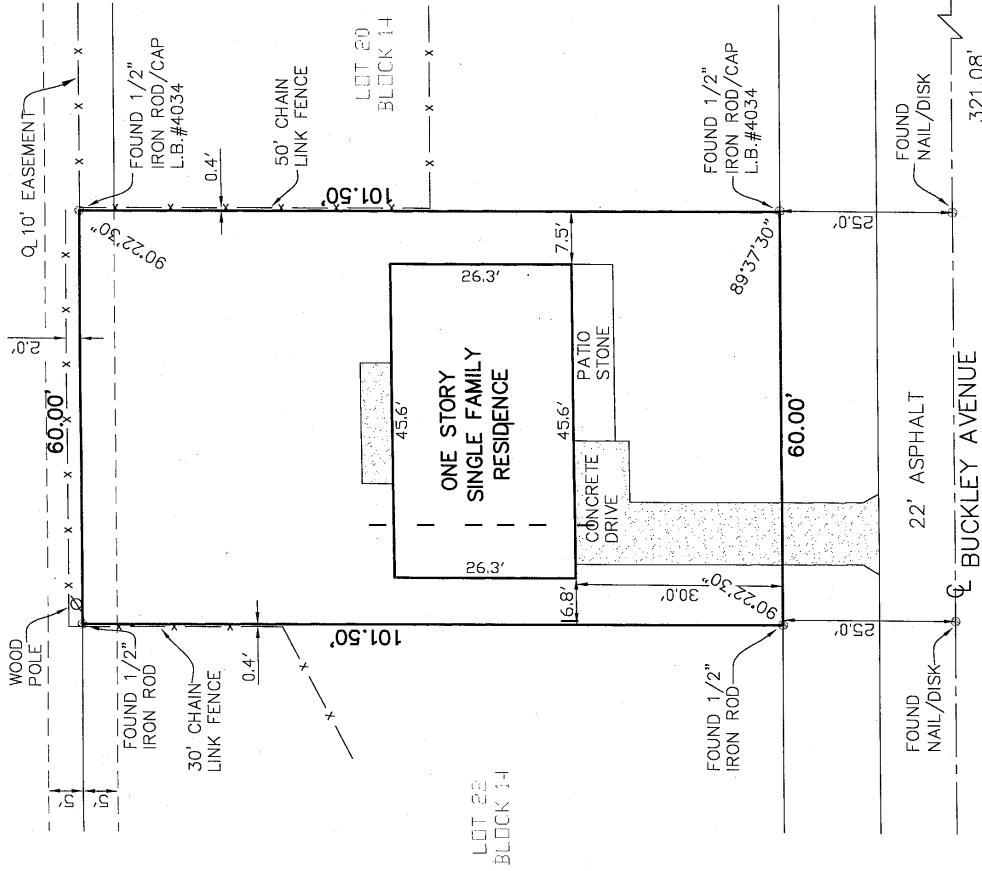
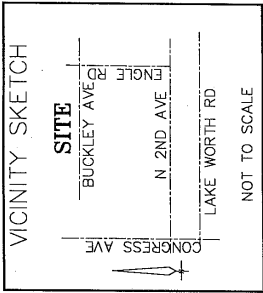
According to the Palm Beach County Property Appraiser, the single-family dwelling was constructed in 1957 with a side-interior setback of 6.8 ft, which pre-dates Palm Beach County’s first Zoning code (1958). The single-family dwelling, which is considered non-conforming by today’s code, was constructed 6.8 ft from the West property line with an attached carport. The existing enclosed carport ties into the existing roofline. Sometime between 1957 when the home was constructed, and May 2004 when the current property owner purchased the property the carport was enclosed without building permits.



In 2005 the property owner received a Code Enforcement violation (C0711090051) for having an enclosed carport without proper permits. Granting the owner’s variance request to allow the existing enclosed carport/ habitable room to remain, and encroach .7 ft into the required side-interior setback will cause no significant impact to the surrounding area. The residences footprint will not change nor encroach any further as the structure has existed for over 60 years.

Approval of the variance request will not only allow the owner reasonable use of the lot, it will bring the subject property into compliance with today’s Code. Therefore, staff supports the applicant’s variance request.

BOUNDARY SURVEY



LEGAL DESCRIPTION
 LOT 21, BLOCK 14, ENGLEWOOD MANOR,
 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 24, PAGE 52.

PROPERTY ADDRESS
 2902 BUCKLEY AVENUE
 LAKE WORTH, FLORIDA
 33461

FLOOD ZONE
 FLOOD ZONE "B"
 PANEL NUMBER
 120192 0165 C
 DATED: 10/15/82

PREPARED FOR:
 CAROL PERSAUD
 2902 BUCKLEY AVENUE
 LAKE WORTH, FLORIDA
 33461

PREPARED BY:
Bob Buggee, Inc.
 the "SURVEYOR"
 P. O. BOX 243887
 BOYNTON BEACH, FLORIDA 33424
 SURVEY & MAPPING BUSINESS #6942
 561-732-7877

CERTIFICATION
 I HEREBY CERTIFY THAT I MADE THIS SURVEY AND
 THAT IT MEETS THE MINIMUM TECHNICAL STANDARDS
 AS SET FORTH BY THE BOARD OF PROFESSIONAL
 SURVEYORS AND MAPPERS
 BY: *[Signature]*
 ROBERT A. BUGGEE - FLORIDA LAND SURVEYOR #3302
 233 EAST GATEWAY BLVD. BOYNTON BEACH
 FLORIDA 33435 DATE OF FIELD SURVEY: 10/22/08

- SURVEYOR'S NOTES**
1. UNDERGROUND IMPROVEMENTS NOT LOCATED EXCEPT AS SHOWN.
 2. LEGAL DESCRIPTION PROVIDED BY CLIENT.
 3. SURVEYOR HAS NOT ABSTRACTED THIS SURVEY FOR EASEMENTS AND RIGHTS OF WAYS OF RECORD.
 4. SURVEY IS NOT VALID WITHOUT A RAISED SEAL.
 5. BASIS OF BEARING IS RECORD PLAT UNLESS OTHERWISE NOTED.
 6. BEARING REFERENCE ROAD CENTERLINE UNLESS OTHERWISE NOTED.

FILE: 1004808

STAFF RECOMMENDATIONS

Approved with Conditions, based upon the following application of the standards enumerated in Article 2, Section 2.D.3 of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Administrative Variance Public Meeting Staff, may authorize a variance.

ANALYSIS OF ARTICLE 2, SECTION 2.D.3.G.2 VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

Yes. Special conditions and circumstances exist that are peculiar to the parcel. The residence was constructed in 1957 (per property appraiser's records) and prior to Palm Beach County's first Zoning Code. It is considered nonconforming because although it was constructed legally, it does not meet current building setbacks pursuant to the current ULDC. The configuration of the residence has not changed since 1957, it is only a use change from carport to enclosed structure for habitation (enclosed carport), which must now meet the principle structure setbacks.

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

Yes. Special circumstances and conditions do not result from the actions of the applicant . The single-family dwelling was originally constructed with an unenclosed carport; with a setback of 6.8 ft from the West (side-interior) property line. Thus, is considered non-conforming by today's code. Sometime between 1957 and 2004, the carport was illegally enclosed without building permits. In 2007, the owner recieved a Code Enforcement violation (C-07-11090051) for the illegally enclosed carport. Granting the variance request will not only satisfy the code violation, it will bring the existing non-conformities into compliance with today's code.

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:

Yes. Granting the variance shall not confer upon the applicant any special privileges. The configuration of the existing single-family dwelling and lot, are considered to be non-conforming by today's code. Since the enclosed carport does not exceed the original building footprint, the applicant's variance request causes no greater encroachment than has been existing previously. According to the aerial view from the Palm Beach County Property Appraiser's office, there currently exist other properties that have similar size structures, with similar lot sizes and setbacks.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

Yes. Literal interpretation and enforcement of the terms and provisions of this code would deprive the applicant of rights commonly enjoyed by other parcels of land. The home was constructed in 1957 with a unenclosed carport, setback 6.8 ft from the West (side-interior) property line; prior to the first Palm Beach county Zoning Code 1958. Although the structure is considered non-conforming by today's code, the variance request for the existing enclosed carport to remain is consistent with the character of the neighborhood (see Aerial View).

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

Yes. Granting the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure. Since the existing enclosed carport was illegally enclosed without building permits, and done so, prior to the owners purchase of the home; there is no way to determine exactly when the structure was enclosed. The change in use from carport to habitable space requires the structure to meet the current ULDC PDR's. Thus, making the existing non-conformity not a result of actions from the property owner. Granting the variance request is the minimum variance that will bring the existing non-conformities into compliance with today's code, and satisfy the existing Code Enforcement violation (C-0711090051).

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

Yes. Granting the variance will be consistent with the purposes, goals, objectives, and policies of the comprehensive plan and this code. The intent of the ULDC setback requirement is to promote sufficient separations between structures and the existing single family dwelling has maintained the same separation for over 40 years.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:

Yes. Granting the variance will not be injurious to the area involved. The building footprint of the single-family dwelling and carport have existed in its current configuration since 1957 has had no negative impact to the surrounding area.

AGENCY COMMENTS

Provide a digital file of the legal description as shown on the map sheet of the Survey in a text or word format. **(RESOLVED)**

ZONING COMMENTS

The Owner shall provide the Building Division with a copy of the Administrative Variance Public Meeting Result Letter **(AVB-2008-1782)** and a copy of the site plan and/ or survey presented to staff, simultaneously with the building permit application.

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on **12/18/2009**, one year from the approval date.

(DATE: MONITORING: Zoning)

ADMINISTRATIVE VARIANCE – TYPE I B – STAFF PUBLIC MEETING CONDITIONS

1. Prior to the Development Order expiration, **December 18, 2009**, the project shall have received and passed the first building inspection. (DATE: MONITORING: ZONING)