



City of Hallandale Beach Planning and Zoning Board Agenda Cover Memo

Applicant :	Ralph Choeff	Meeting Date:	December 21, 2017	
Project Name:	Avan Variance	Property Address:	641 Palm Drive	
Application #s:	V-16-03168	Application Type:	Variance	
Planning District:	SE Quadrant	Quasi Judicial: <i>(Enter X in box)</i>	YES	NO
			X	
Parcel Size:	13,873 Square feet (0.32 acre)	Public Hearing: <i>(Enter X in box)</i>	YES	NO
			X	
Applicable Zoning :	Residential Single-Family District (RS-5) District			
Existing Use:	Vacant lot			
Proposed Use:	1 Single-Family Residence with Outdoor Kitchen Area			
Comprehensive Plan Future Land Use Designation:	Low Density up to 7.0 DU/Acre			
Surrounding Zoning:		Surrounding Land Use:		
North: Residential Single-Family District (RS-5) District		North: Single-family Residence (SFR)		
South: Residential Single-Family District (RS-5) District		South: Single-family Residence (SFR)		
East: Residential Single-Family District (RS-5) District		East: Single-family Residence (SFR)		
West: Residential Single-Family District (RS-5) District		West: Single-family Residence (SFR)		
Staff Recommendation:		Strategic Plan Priority Area:		
<input type="checkbox"/> Approve <input type="checkbox"/> Approve with Conditions <input checked="" type="checkbox"/> Deny		<input type="checkbox"/> Safety <input type="checkbox"/> Quality <input type="checkbox"/> Vibrant Appeal		
Sponsor Name:	Keven Klopp, Development Services Director	Prepared By:	Vanessa Leroy, Associate Planner	

Requests:

Application # V-16-03168, by Ralph Choeff, requesting variances to construct a new single-family dwelling and an accessory structure in the rear yard of the property located at 641 Palm Drive. The variances requested are from the following Sections of the Hallandale Beach Zoning and Land Development Code:

- a. Section 32-141(d)(3), to allow an overall building height of 35 feet 6 inches, when a maximum of 30 feet is allowed.
- b. Section 32-141(d)(4)(b)(2), to allow an accessory structure within the rear yard at 20 feet 9 inches from the rear lot line, where 40 feet are required.
- c. Section 32-552(c), to allow a generator to encroach 6 feet into side yard setback, when a maximum of 4 feet is allowed; and to allow a side yard clearance area of 4 feet, when 10 feet are required.

Staff Summary:

Background:

A Minor Development review application, # DR-17-01593, was submitted for the construction of a new single-family dwelling on the property located at 641 Palm Drive. The plans proposed illustrate an accessory structure located 19 feet 3 inches into the minimum required 40-foot rear yard setback and a building height of 35 feet 6 inches, exceeding the maximum building height allowed of 30 feet. Consequently, the Minor Development review was not approved. As such, the applicant is requesting variances from the following Code Sections:

- a. Section 32-141(d)(3), to allow an overall building height of 35 feet 6 inches, when a maximum of 30 feet is allowed.
- b. Section 32-141(d)(4)(b)(2), to allow an accessory structure within the rear yard at 20 feet 9 inches from the rear lot line, where 40 feet are required.
- c. Section 32-552(c), to allow a generator to encroach 6 feet into side yard setback, when a maximum of 4 feet is allowed; and to allow a side yard clearance area of 4 feet, when 10 feet are required.

Notifications of the proposed variance application number V-16-03168 were mailed to the property owners according to Article IX, Notice Requirements, Section 32-1001- 1004 of the City's Code of Ordinances.

Why Action Is Necessary:

Pursuant to Section 2-231(f)(3) and Section 32-965(a) of the City's Code of Ordinances, the Planning and Zoning Board has the authority to approve non-administrative variances pertaining to minor developments. The applicant is requesting a non-administrative variance, greater than the 25 percent maximum threshold to process such application administratively; therefore, Planning and Zoning Board approval is required for the request to be granted.

Analysis:

The subject property is zoned Residential Single-Family (RS-5) Zoning District.

BUILDING HEIGHT. Pursuant to Section 32-141(d)(3), buildings within RS-5 must not exceed 30 feet in height. The overall building height proposed exceeds the maximum height allowed of 30 feet by up to 5 feet 6 inches. The plans propose an open-air terrace on the rooftop. A solid handrail is proposed at an elevation of 31 feet 4 inches. An elevator and stairs shaft leading to the rooftop are proposed at an elevation of 34 feet. An architectural feature wall is proposed at an elevation of 35'-6". Pursuant to Section 32-361, the 30-foot height limitation required in RS-5 applies only to buildings and portions of buildings designed for human occupancy or use. Steeples, flagpoles, elevator penthouses, air conditioning units, television or radio antennas, other mechanical or functional features may exceed the district height requirements after being approved by the director prior to installations. The proposed overall height of the building represents a variance of 18.3% of the Code requirement.

OUTDOOR ACCESSORY STRUCTURE. Pursuant to Section 32-141(d)(4)(b)(2), the minimum rear yard setback required is 40 feet. Accessory structures, such as gazebos, chickees and cabanas, are permitted within the rear and side yards, provided that they meet the underlying zoning district's required yard setbacks. Accessory structures on properties zone RS-5, located in Golden Isles, are subject to the same setback requirements as for the primary structure. The primary single-family structure proposed meets the required setbacks. However, the proposed accessory outdoor structure encroaches 19 feet 3 inches into the required 40-foot rear yard setback. This represents a 32% variance from the Code requirement.

GENERATOR. Pursuant to Section 32-552(c), the generator, which is considered an accessory mechanical equipment, similar to air conditioning, pool filters/pump or water sprinkler units, may project up to four feet into a required front, side or rear yard setback, provided a minimum of three feet of setback remains beyond the projection in RS or RD zones and a minimum of three feet of clear passage remains at all times. RS-5 requires 10 feet side yard setback. The plans show the generator encroaching 6 feet into the side yard setback (a variance of 50% of the requirement) and leaving 4 feet between the generator and the side lot line (a variance of 60% of the requirement).

According to the Florida Building Code (FBC) R1602.0, the generator exhaust must be at least 10 feet from any building opening. Such requirements may not be waived or granted a variance. As such, the applicant has agreed to observe this requirement, whereas the generator will be placed at least 10 feet from building openings.

In reviewing applications for variances, the following standards are required to be adhered to in making any decisions or recommendations:

To authorize any variances to the terms of Section 32-965, it must be found that:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, structures or buildings in the same zoning district.

Not in Compliance. The property currently does not have any special conditions and circumstances that are peculiar to the land, structure or building involved, and which are not generally applicable to other lands, structures or buildings in the same zoning district.

- (2) The special conditions and circumstances do not result from the actions of the applicant.

Not in Compliance. The nonconformities for which the proposed variances are requested would be self-imposed by the applicant. The property is currently vacant and could be developed into a single-family dwelling meeting all Code requirements.

- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district.

Not in Compliance. Granting the applicant's variance request would confer special privilege to the subject property, as no hardship was determined, the variances requested are excessive.

- (4) Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by the properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardships on the applicant.

Not in Compliance. Literal interpretation of the adopted Code of Ordinances would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district will not cause unnecessary and undue hardship on the applicant.

- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Not in Compliance. The requested variance is not the minimum variance that would make possible the reasonable use of the land. The proposed variances exceed the criteria established by the Code. The reasonable use of the single-family dwelling is not affected by the current Code regulations.

- (6) The grant of the variance will be in harmony with the general intent and purpose of this chapter.

Not in Compliance. The purpose and intent of the RS-5 district is to provide suitable sites for the development of detached single-family dwellings on relatively large lots. Setbacks are required in order to maintain comfortable distances between structures. In addition, setbacks help in creating and maintaining a uniform aesthetic without imposing viewshed encumbrances upon neighboring properties. As such, the approval of the requested variances will be contrary to the general intent and purpose of the Zoning and Land Development Code.

- (7) Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
Compliance. The proposed variance would not be injurious to the area involved or otherwise detrimental to the public welfare.

Options for a reduced variation from City Code requirements were discussed with the applicant. In 2016, the applicant proposed a 34-foot high building and an outdoor accessory structure with 17'-6" setback to the rear lot line. The previously submitted plans were withdrawn by the applicant. The revised plans presented today retain Code deficiencies and differ from what was originally presented to the City, where the nonconforming conditions are reduced for setback requirements but worsened in maximum building height allowed.

Staff Recommendations:

Analysis of the application was based upon the variance criteria cited in Chapter 32-965. Staff finds that the application for variances of the required rear and side yard setbacks and maximum height allowed at the subject property are non-compliant with the minimum requirements of the Code; are not in harmony with the general purpose and intent of the Code; and, no sufficient hardship has been demonstrated for approval.

As such, staff recommends the Planning and Zoning Board DENY application V-16-03168, requesting variances of the following Sections:

- a. Section 32-141(d)(3), to allow an overall building height of 35 feet 6 inches, when a maximum of 30 feet is allowed.
- b. Section 32-141(d)(4)(b)(2), to allow an accessory structure within the rear yard at 20 feet 9 inches from the rear lot line, where 40 feet are required.
- c. Section 32-552(c), to allow a generator to encroach 6 feet into side yard setback, when a maximum of 4 feet is allowed; and to allow a side yard clearance area of 4 feet, when 10 feet are required.

Attachment(s):

Exhibit 1 – Location Map
Exhibit 2 – Aerial Map
Exhibit 3 – Applicant's Letter and Response to Section 32-965
Exhibit 4 – Plans/Surveys
Exhibit 5 – Affidavit or Awareness of HOA Responsibilities