

**BOARD OF ADJUSTMENT MEETING  
CITY OF FORT LAUDERDALE  
WEDNESDAY, MAY 12, 2010 – 6:30 P.M.  
CITY HALL CITY COMMISSION CHAMBERS – 1ST FLOOR  
100 NORTH ANDREWS AVENUE  
FORT LAUDERDALE, FLORIDA**

	<b>Attendance</b>	<b>Cumulative Attendance 6/2009 through 5/2010</b>	
		<b>Present</b>	<b>Absent</b>
<b>Board Members</b>			
Diane Waterous Centorino, Chair	P	9	2
Caldwell Cooper	P	11	0
Gerald Jordan	P	10	1
Michael Madfis	P	11	0
Bruce Weihe	P	10	1
Birch Willey	P	10	1
Henry Sniezek	P	9	2
 <b>Alternates</b>			
Mary Graham	P	6	4
Karl Shallenberger	P	10	1
Leo Hansen	A	3	1

**Staff**

Sharon Miller, Assistant City Attorney  
Cheryl Felder, Service Clerk  
Terry Burgess, Zoning Administrator  
Yvonne Blackman, secretary  
Mohammed Malik, Chief Zoning Plans Examiner  
B. Chiappetta, Recording Secretary, ProtoType Services

**Communication to the City Commission**

None

**Purpose: Section 47-33.1.**

The Board of Adjustment shall receive and hear appeals in cases involving the ULDR, to hear applications for temporary nonconforming use permits, special exceptions and variances to the terms of the ULDR, and grant relief where authorized under the ULDR. The Board of Adjustment shall also hear, determine and decide appeals from reviewable interpretations, applications or determinations made by an administrative official in the enforcement of the ULDR, as provided herein.

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	<b><u>Appeal</u></b>		<b><u>District</u></b>	<b><u>Page</u></b>
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2.	<b>10-12</b>	Southport Retail, LLC	4	<a href="#">3</a>
3.	<b>10-13</b>	Dan Miller	4	<a href="#">4</a>
4.	<b>10-14</b>	Lucky 14, LLC	4	<a href="#">7</a>
5.	<b>10-15</b>	Robert Seymour	3	<a href="#">9</a>
		<b>For the Good of the City</b>		<a href="#">11</a>

**Call to Order**

Chair Centorino called the meeting to order at 6:31 p.m. She introduced Board members and described the functions of the Board and procedures that would be followed for the meeting.

**Approval of Minutes – April 2010**

**Motion** made by Mr. Cooper, seconded by Mr. Jordan, to approve the minutes of the Board's April 2010 meeting. In a voice vote, motion passed unanimously.

Board members disclosed communications they had regarding items on the agenda.

**All individuals wishing to speak on the matters listed on tonight's agenda were sworn in.**

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1. **Appeal No. 10-11**

**APPLICANT:** Douglas R. Hoffman  
**LEGAL:** "Victoria Highlands", P.B. 9, P. 47, Block 5, the S. 40'  
of Lot 6 & the N. 20' of Lot 7  
**ZONING:** RS- 8 (Residential Single Family/Low Medium Density District)  
**STREET:** 729 NE 19th Avenue  
**ADDRESS:** Fort Lauderdale, FL  
**DISTRICT:** 2

**APPEALING: Section 47-5.11 (List of permitted and conditional uses, RS-8 Residential Single Family/Low and Medium Density District)**

Appealing the interpretation of Section 47-5.11, to allow two (2) detached structures to be considered as "A" single Family Dwelling, Standard.

**APPEALING: Section 47-5.11 (List of permitted and conditional uses, RS-8 Residential Single Family/Low and Medium Density District)**

Requesting a variance to permit two (2) detached structures to be considered a Standard Single Family dwelling, where the code defines a single family dwelling standard as a building containing one dwelling unit that is not attached to any other dwelling by any means, and is surrounded by open space or yards.

**Motion** made by Mr. Jordan, seconded by Mr. Sniezek, to defer the case to June 9, 2010. In a roll call vote, motion passed 7 - 0.

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**2. Appeal No. 10-12**

**APPLICANT:** Southport Retail, LLC

**LEGAL:** "Herzfelds Add to Lauderdale Harbors", P.B. 35, P 22. The W. 988 ft. of the S. 470 ft. less the E. 175 ft. of the S. 150 ft, and the W. 500 feet of the S. 470 ft. less the S. 150 ft. of the West 150 ft in Block 6, being more particularly described in the application for a variance on file with the Clerk of the City of Fort Lauderdale Board of Adjustment

**ZONING:** B-1 (Boulevard Business)

**ADDRESS:** 1303 SE 17<sup>th</sup> Street

**DISTRICT:** 4

**APPEALING: Section 47-22.3.F (General regulations – Directional signs)**

Requesting a variance to allow the tenant's name or logo to cover 100% of the face panel in lieu of an arrow or other directional information, where Code allows 8 sq. ft., maximum and only 25% of face can be covered for the owner's name or logo.

**APPEALING: Section 47-22.3.P (General regulations – Shopping center or strip store signs)**

Requesting a variance to allow an illuminated wall directory of occupants for 8 alcove tenants, size 3' 2" x 36' and a total of 114.12 sq. ft., where Code requires it to be detached free-standing.

Ms. Denise Williams, Art Sign Company, stated this was a tenant directory over the alcove entrance to the tenant bays. She explained that visitors often overlooked the fact that shops were located in the alcove due to the lack of signage visible from the

street. She noted that the sign would span the columns and would match the height, color and decorative color of the sign band.

Brad from Art Sign Company explained to Mr. Weihe that these shops had been empty for years due to the lack of visibility. Mr. Jordan said he would not want to be a merchant in the alcove without the signage. He felt the proposed sign design was attractive.

Chair Centorino said it was obvious that the alcove shops were empty now and she realized no one would be willing to rent these shops without the signs.

Ms. Williams clarified for Mr. Cooper that the sign they were proposing would be illuminated; there was no additional sign with illumination.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

**Motion** made by Mr. Weihe, seconded by Mr. Cooper, to approve.

Mr. Weihe suggested including the condition that the signage be consistent with the photographs contained in the package before the Board. Mr. Weihe and Mr. Cooper accepted this amendment.

In a roll call vote, motion **passed** 7 - 0.

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### 3. **Appeal No. 10-13**

**APPLICANT:** Dan Miller  
**LEGAL:** "Harbour Heights Add.", P.B. 35, P. 21, Block 7, Lot 46  
**ZONING:** RS- 8 (Residential Single Family/Low Medium Density District)  
**ADDRESS:** 1901 SE 21<sup>st</sup> Avenue  
**DISTRICT:** 4

**APPEALING:** **Section 47-19.2.G.2 (Accessory building and structures, general - Decks)**

Requesting a variance to permit a 3.5-foot side yard setback for the construction of an above grade deck, where Code requires above-grade deck to be no closer than five (5) feet from any property line.

**APPEALING: Section 47-19.2.G.2 (Accessory building and structures, general – Freestanding shade structures)**

Requesting a variance to permit a deck at a height of 5 foot 11½ inches, where the code limit decks to a maximum height of two and one half (2½) feet above the finished floor elevation of the ground floor of the principal building.

**APPEALING: Section 47-19.2.P (Accessory building and structures, general – Freestanding shade structures)**

Requesting a variance to allow a freestanding shade structure to be 16 foot 2 inches in height, where the code has a maximum height of twelve (12) feet measured from the ground to the top of the structure.

**APPEALING: Section 47-19.2.P (Accessory building and structures, general – Freestanding shade structures)**

Requesting a variance to permit a freestanding shade structure to be 4 foot 7 inches, where the code requires a minimum of ten (10) feet from the wetface of the seawall when abutting a waterway.

Mr. Travis Kendall, planner, distributed a letter from the adjacent property owner supporting the request. Mr. Kendall gave a Power Point presentation describing the request, a copy of which is attached to these minutes for the public record.

Regarding the request for the 3.5-foot setback, Mr. Kendall referred to photos of the adjacent properties and pointed out that the shade structure had already been installed next to a 6-foot fence and large hedge on the adjacent neighbor's property, which greatly reduced the impact on the neighbor who could not see the deck or shade structure.

Regarding the request for a variance to permit a deck at a height of 5 feet 11½ inches, Mr. Kendall stated the deck was only 21 inches from the finished grade of the interior of the house. He added that the request included the railing.

Regarding the request for a variance to allow a freestanding shade structure to be 16 feet 2 inches in height, Mr. Kendall explained the additional height was necessitated by the roofing material that required additional slope.

Regarding the request to permit a freestanding shade structure to be 4 foot 7 inches from the rear property line, Mr. Kendall explained that the applicant owned an additional 25 feet into the Intracoastal, but the property measurements were taken from inside the seawall. Mr. Kendall stated the code required the additional setback to reduce the impact on adjacent neighbors, but in this area, there was a 1,100-foot setback to the adjacent commercial/industrial zone.

Mr. Kendall referred to the summary of findings in the packet, and said the applicant believed the proposed development was consistent with the criteria for the variances and asked the Board to approve them.

Mr. Kendall informed Mr. Cooper that the applicant had discovered at final inspection that the structure was too close to the property line. A permit had been issued for the deck but not for the shade structure. Mr. Kendall did not believe the permit had been issued allowing the deck to violate the setback requirements; he thought the location of the air conditioning compressors had forced the deck contractor to change its location closer to the property line.

Mr. Scott Schultz, contractor, stated they had pulled an after-the-fact permit because he thought the slab for the air conditioning unit was within the setback and was "unaware that the shade structure was different with the setbacks from the slab that they originally built with the air conditioning units." He had discussed the deck and presented site plans to someone in Engineering, but had not mentioned the shade structure. Mr. Cooper summarized that they had "built a structure and then you went and tried to pull a permit on it after it was erected."

Mr. Kendall confirmed that the deck had been built to cover the six air conditioning compressors. He stated the rear yard was the only available location for the compressors. Mr. Madfis remarked that the problem was that the house was designed in such a way that it left no room on the property for anything else and they were trying to "cram too much onto a site." Mr. Madfis was concerned about the ability of the adjacent neighbors to look down the waterway. Mr. Kendall pointed out that the adjacent neighbors had a fence and a wall obstructing their lines of sight.

Mr. Madfis remarked that the shade structure looked like "a big box in front of this window...as an architect it doesn't make any architectural sense to me. Just because you have no place else to put it and this is where it ends up, that's not what the book says. The planner, whoever was thinking this out should have been thinking about that and maybe these air conditioner compressors could have gone on the roof and appropriate screening would have been done there."

Chair Centorino said she walked by this house every day with her dog. She said the house was "so large on the lot" and she had been unable to visit the site due to padlocked gates. Chair Centorino added the house was not occupied and was on the market. She agreed with Mr. Madfis that if the house had been planned to be more appropriate to the site, the situation would not exist.

Mr. Sniezek said he did not understand how this was not a self-created hardship. Mr. Kendall acknowledged that "to maximize the ability to build this structure, the house,

created the situation where the compressors needed to go in the back yard.” He said the units needed to be screened wherever they were located on the property. Mr. Kendall informed Mr. Sniezek that the current owner had built the house.

Mr. Willey pointed out that the setbacks were always measured from the wetface of the seawall.

Mr. Schwartz stated the owner had built the house on spec. Mr. Kendall reiterated that the thatched roof necessitated the additional height and steep roof slope. Mr. Weihe noted other materials could have been used for the roof that would be able to conform with the height restrictions. Mr. Kendall said there were also aesthetic considerations regarding the structure and the natural environment. Mr. Madfis remarked that the “natural elements” of the shade structure were “completely inconsistent with the rest of the design of the home.” The home was massive and Mr. Madfis did not see any “environmental concern and/or relevance” but the owner was trying to include a Native American hut. If Mr. Madfis were building the shade structure, he said he would keep with the material and profiles of the home.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Jordan said he had gone by the property in a boat and it was “a big project, probably a little too big, but it sits way out there in the Intracoastal...it’s not bad.” He said he would probably vote in favor because he did not feel it was obtrusive.

Chair Centorino was still bothered by the hardship issue and said, “I just don’t see this as a hardship other than what you created by building too big a house and designing it in this fashion.” Mr. Cooper also believed the hardship was self-imposed.

**Motion** made by Mr. Madfis, seconded by Mr. Cooper, to approve all of the requests. In a roll call vote, motion **failed** 1 - 6 with Chair Centorino, Mr. Cooper, Mr. Willey, Mr. Weihe, Mr. Madfis and Mr. Sniezek opposed.

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#### **4. Appeal No. 10- 14**

**APPLICANT:** Lucky 14, LLC  
**LEGAL:** “Colee Hammock”, P.B. 1, P. 17, Block 33, Lots 15 & 16  
**ZONING:** B-1 (Boulevard Business)  
**ADDRESS:** 1415 E. Las Olas Blvd.  
**DISTRICT:** 4

**APPEALING: Section 5-26(b) (Distance between establishments)**

Requesting a special exception to allow the sale of alcohol at a distance of 150 feet from another establishment (Smith & Jones) that sells alcohol, where Code requires a minimum of 300 feet separating establishments that sells alcoholic or intoxicating beverages.

Mr. Bill Osborne, architect, explained the history of the building, and said they wanted to put a small, upscale restaurant in the location with a beer and wine license. He presented a copy of the restaurant menu to the Board.

Mr. Jordan reported the applicant had met with the Colee Hammock Homeowners Association, who agreed to the project, with certain stipulations. Mr. Jordan distributed a copy of the stipulations and Ms. Miller confirmed these could be included in the Board's motion. Mr. Jordan said Mr. Flanigan had agreed to the stipulations.

Mr. Cooper asked for a time certain regarding the nighttime hours. Mr. Osborne said Mr. Flanigan informed him he intended to be open from 11:00 am to 10:00 p.m.

Chair Centorino opened the public hearing. There being no members of the public wishing to address the Board on this item, Chair Centorino closed the public hearing and brought the discussion back to the Board.

Mr. Cooper felt the City Commission must address the distances between establishments on Las Olas because this was now an entertainment and shopping district.

Mr. Willey said the Board had granted "rather easily and I think properly" the distance exceptions in entertainment areas but he was uncomfortable accepting the stipulations without the owner present or being represented by counsel to agree to them.

Mr. Madfis was not comfortable with the stipulation to close the restaurant at 10:00 p.m. because he was aware that often a restaurant, especially a small one, must have an additional seating in order to be financially viable and this could be contingent on being open for just one additional hour. Ms. Miller informed Mr. Sniezek that the owner could seek a modification of the variance if he changed his mind later on about the stipulations.

Mr. Jordan suggested waiting until the next meeting for the owner to appear to confirm the stipulations.

Ms. Miller said the special exception could run with the property or the Board could specify that it stayed with the business use.



Mr. Cooper said he did not object to approving the exception this evening, but he did not want to restrict the owner to fewer hours than was permitted by code.

Mr. Osborne requested the Board vote on the liquor issue so the owner could proceed with his liquor license application. Ms. Miller said this was not advisable.

Mr. Weihe said for the purposes of this record, the 10:00 closing time should refer to the latest time anyone could be seated.

**Motion** made by Mr. Madfis, seconded by Mr. Jordan, to approve with the following conditions to which the owner had agreed, for this continued restaurant use:

1. This shall be a lunch through early evening dining business, not a nightclub or late nightspot, with the last seating being no later than 10:00 p.m.
2. Fish and garbage, due to frying and seafood refuse odors combined with the natural Fort Lauderdale heat, requires that seafood and garbage disposal be in a timely and secure manner.
3. Mr. Flanigan will provide parking for the employees at his expense, and Mr. Flanigan will direct employees where to park. Parking will not be in the residential neighborhood.
4. Delivery trucks will serve the business through the alley behind the location. Trucks will not delivery from SE 15th Avenue or East Las Olas Boulevard.
5. This special exception shall be contingent upon the use as a restaurant on this property.

In a roll call vote, motion **passed** 7 – 0.

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#### **5. Appeal No. 10-15**

**APPLICANT:** Robert Seymour  
**LEGAL:** "Fairfax Brolliar Addition Sec. 5", P.B. 40, P. 27, Block T, Lot 1  
**ZONING:** RS- 8 (Residential Single Family/Low Medium Density District)  
**STREET:** 3611 SW 21st Street  
**ADDRESS:** Fort Lauderdale, FL  
**DISTRICT:** 3

**APPEALING:** Section 47-5.11 (List of permitted and conditional uses, RS-8 Residential Single Family/Low and Medium Density District)

Appealing the interpretation of Section 47-5.11 – Front yard setback.

**APPEALING: Section 47-5.11 (List of permitted and conditional uses, RS-8 Residential Single Family/Low and Medium Density District)**

Requesting a variance to permit 15-foot front yard setback, where Code requires 25-foot minimum front yard setback.

Chair Centorino had gone by the property and not seen the notice sign posted. Some other Board members had seen it and others could not recall having seen it.

Mr. Charles Morehead, attorney for the applicant, stated the request had also been advertised in the newspaper, and he produced a photo showing the posted notice.

Mr. Morehead said the first issue was an interpretation regarding the front yard of the house. He said for 50 years, the front yard had been on 21<sup>st</sup> Street, where the address, front door and driveway were located. When the applicant applied for a permit to enlarge the house, staff was concerned that the house had “two front yards.” Mr. Morehead said the applicant needed a determination from the Board regarding this.

Mr. Cooper said the issue the Board had the last time this was presented was that there had been a driveway indicated on the previous set of plans. Mr. Morehead said they had removed the driveway and cut the corner off the addition to make it comply.

Mr. Madfis said according to history, the home had always respected the front yard setbacks applying to both streets. He said this was a unique situation and he was willing to consider a variance, but he questioned if this was the minimum variance required.

Mr. Burgess said if the Board found that the City was incorrect in its interpretation that this lot had two front yards, this would have to be applied throughout the City, not just to this property. However, granting a variance only for this property would not affect other properties. Mr. Morehead said if the Board wanted to address this as a variance, he was happy to address that issue.

Mr. Madfis wondered about the 17-foot ceiling in the garage addition and did not understand how it would be used. Mr. Morehead explained that the new addition from which they had cut the corner was living space with a second story component. Mr. Madfis remarked that one story would be less of an encroachment. Mr. Morehead said the owner was trying to work “within the hardship of needing a home that fits the family and works with the neighborhood but also takes into account the two out of 230 lots that are really addressing this particular lot size, angle and street intersection.” Mr. Madfis wondered what was so unique about this family structure that it presented a hardship of this nature. He understood the need for the garage and the hardship of the unique shape of the lot and the two front yards, but he did not understand the justification for

the two-story structure. Mr. Morehead said the owner needed an additional bedroom over the garage to fit the growing family.

Mr. Burgess confirmed that there had been an application for an interpretation from the Board regarding Section 47-5.11. He said elsewhere, the code stated there were 'double-frontage' lots, and said this happened often. He had discussed this with the applicant, who had decided to apply for the interpretation. Mr. Weihe said it would have been helpful if the Board had been provided with the code provision referring to double-frontage lots.

Regarding the criteria for a variance, Mr. Morehead said this was a unique property that created a hardship for expansion of the home as it was currently constructed. He noted the owner had not created the hardship. They were asking the Board to "apply some common sense to an existing lot..."

Mr. Madfis noted the lack of a second floor plan for the addition in the package. Mr. Madfis explained that currently, 75% of homes in the United States were inhabited by one or two people, and they could be contributing to a future economic problem if they continued to allow larger and larger homes for which there would be little demand.

Mr. Cooper said he was not prepared to vote regarding an interpretation of Section 47-5.11 but he was willing to grant a variance.

**Motion** made by Mr. Cooper, seconded by Mr. Weihe to approve the **variance request**. In a roll call vote, motion passed 6 - 1 with Mr. Madfis opposed.

Mr. Morehead withdrew the request for an interpretation of Section 47-5.11.

## **Report and for the Good of the City**

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Chair Centorino thank Mr. Weihe for his service on the Board.

Mr. Weihe announced next year he would be president of the Broward County Bar Association.

There being no further business to come before the Board, the meeting was adjourned at 8:07 p.m.

Chair:

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Chair Diane Waterous Centorino

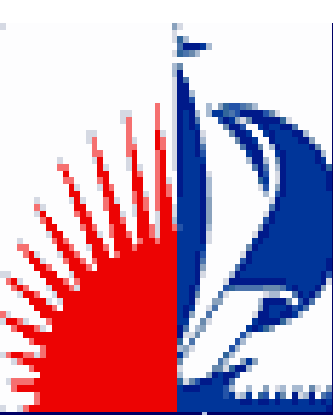
Attest:

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ProtoType Inc.

A digital recording was made of these proceedings, of which these minutes are a part, and is on file in the Planning and Zoning offices for period of two years.

Minutes prepared by: J. Opperlee, Prototype Services



# Board of Adjustment



**File:** 10-13  
**Location:** 1901 SE 21 Ave  
**Applicant:** Dan Miller

- Request:** A Variance to permit a 3.5 foot setback where 5 feet is required.
- Request:** A Variance to permit a deck at a height of 6 feet.
- Request:** A Variance to permit a freestanding shade structure to be 16 feet 2 inches where code permits twelve (12)
- Request:** A variance to allow a shade structure to be 4 foot seven inches from the rear property line.

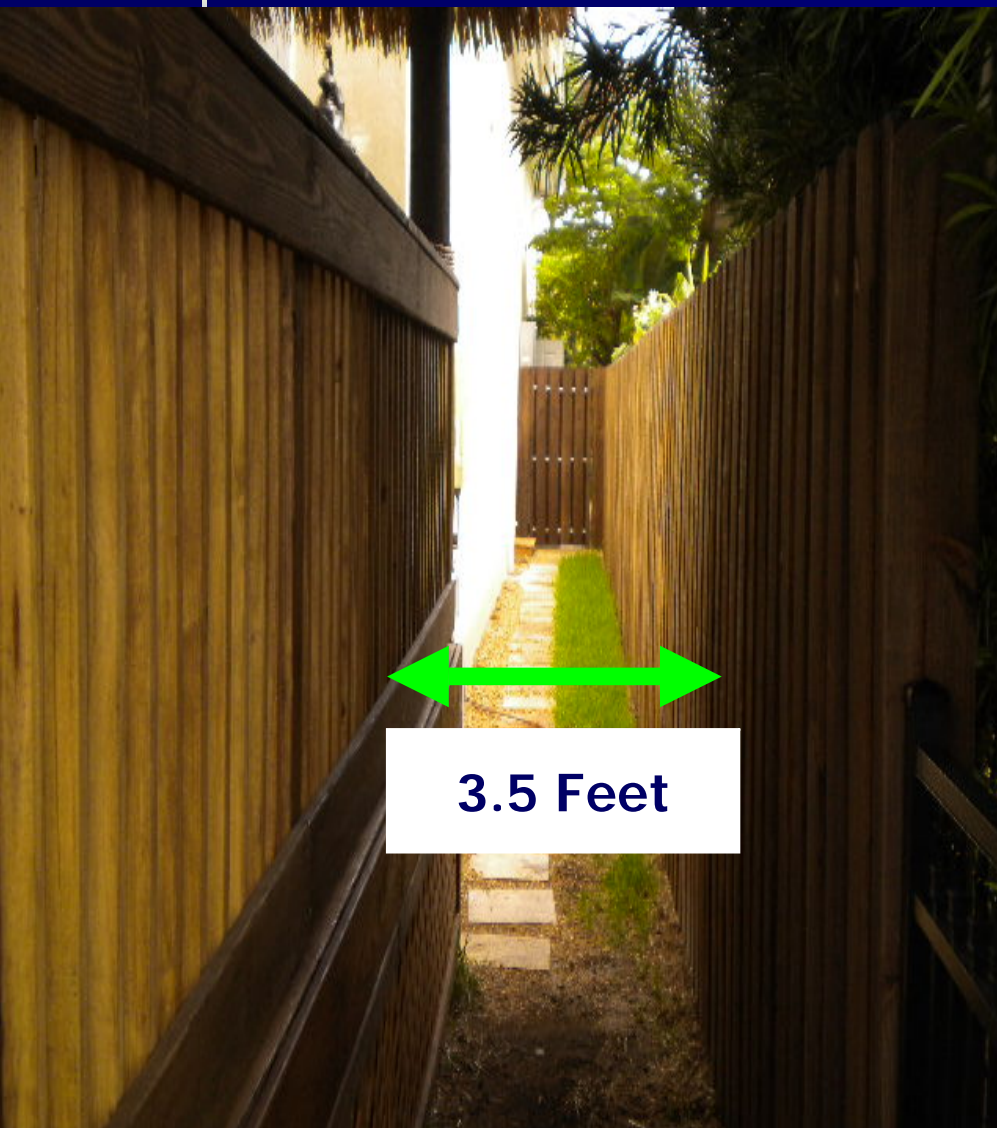


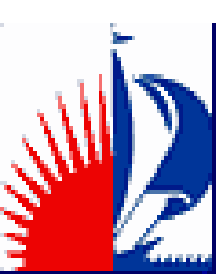


Request: A variance to permit a 3.5 foot setback where 5 feet is required.

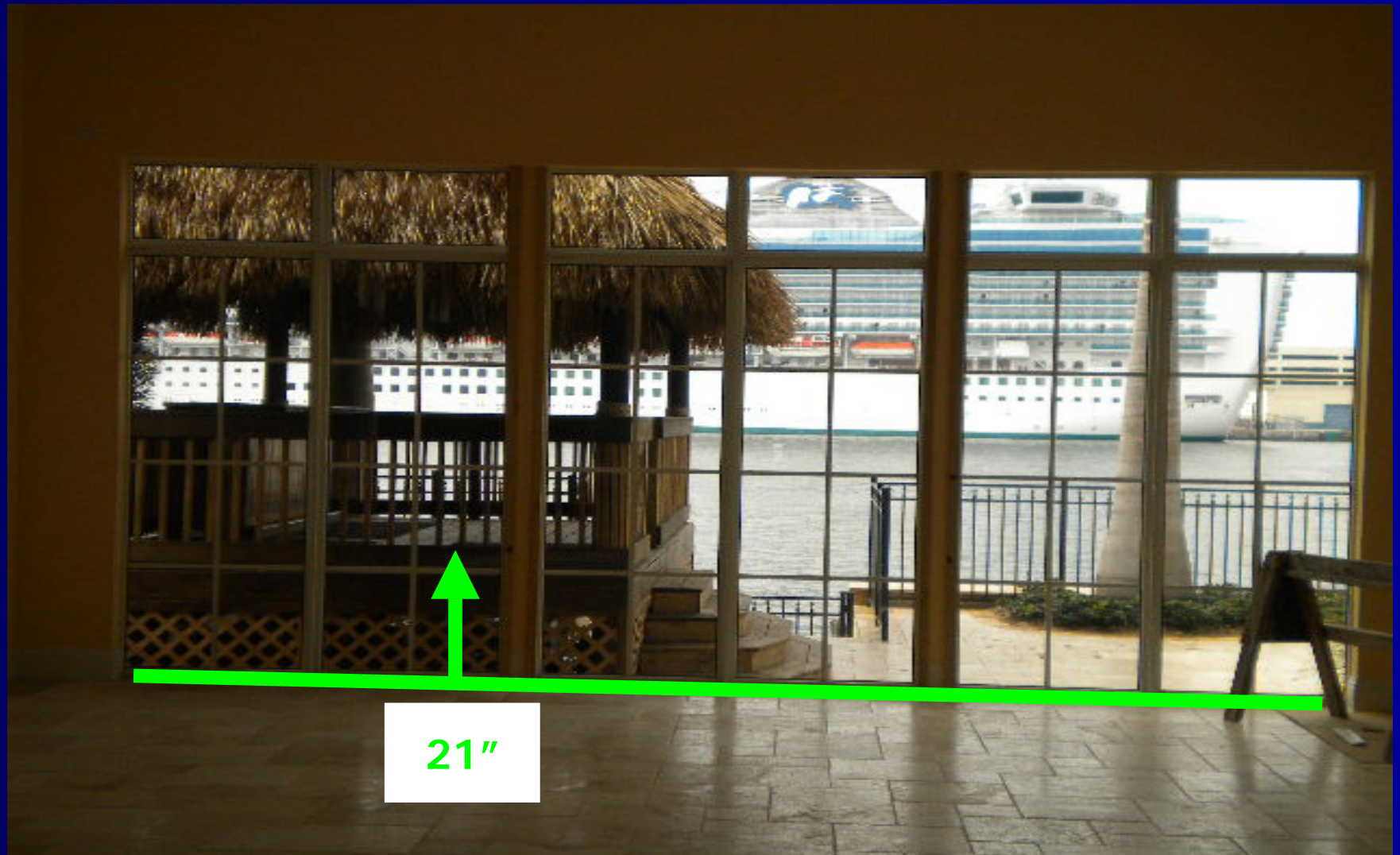
East View

West View

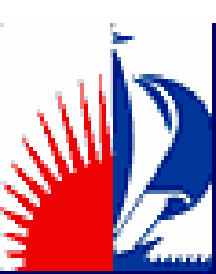




**Request:** A variance to permit a deck at a height of 6 feet.



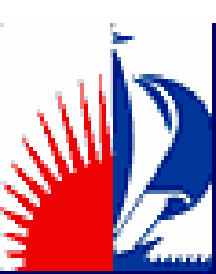




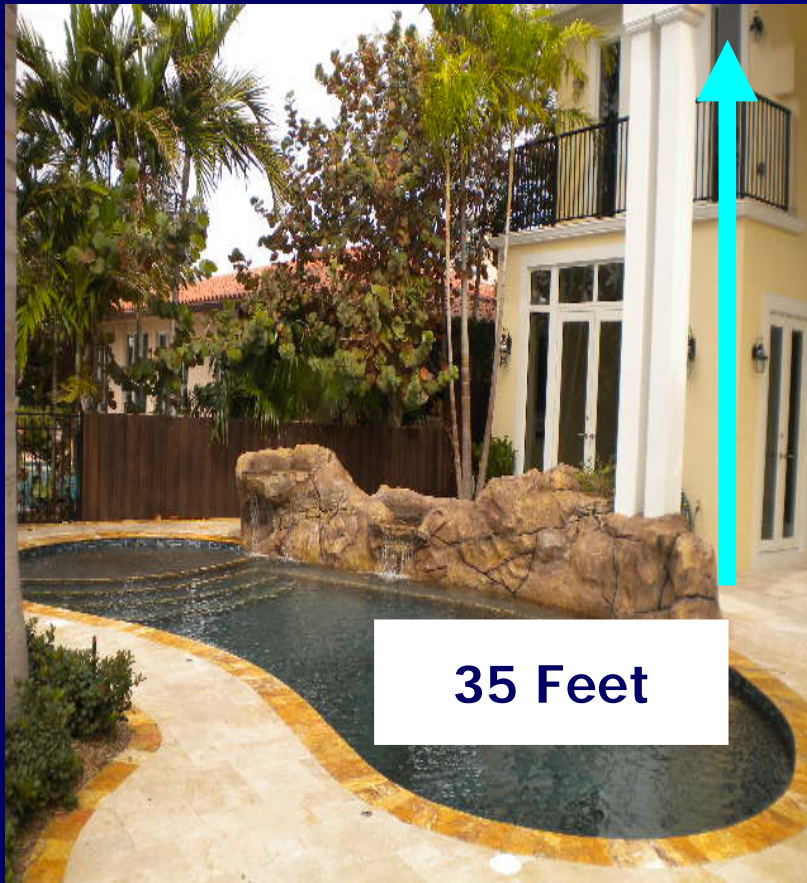
**Request:** A variance to permit a deck at a height of 6 feet.

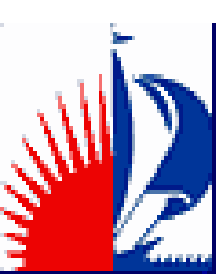




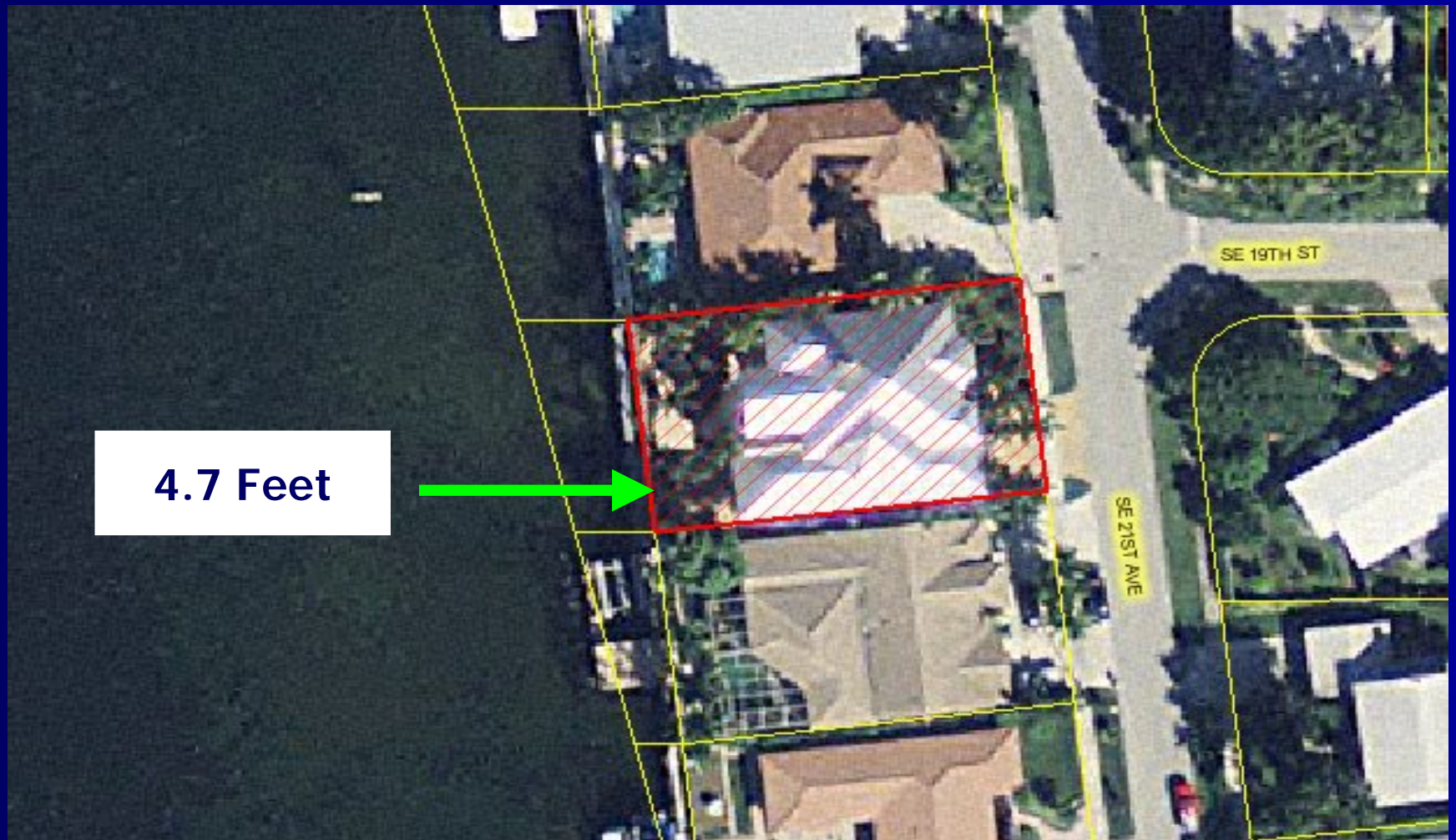


Request: A variance to permit a freestanding shade structure to be 16 feet in height.

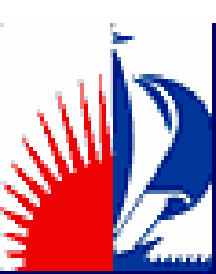




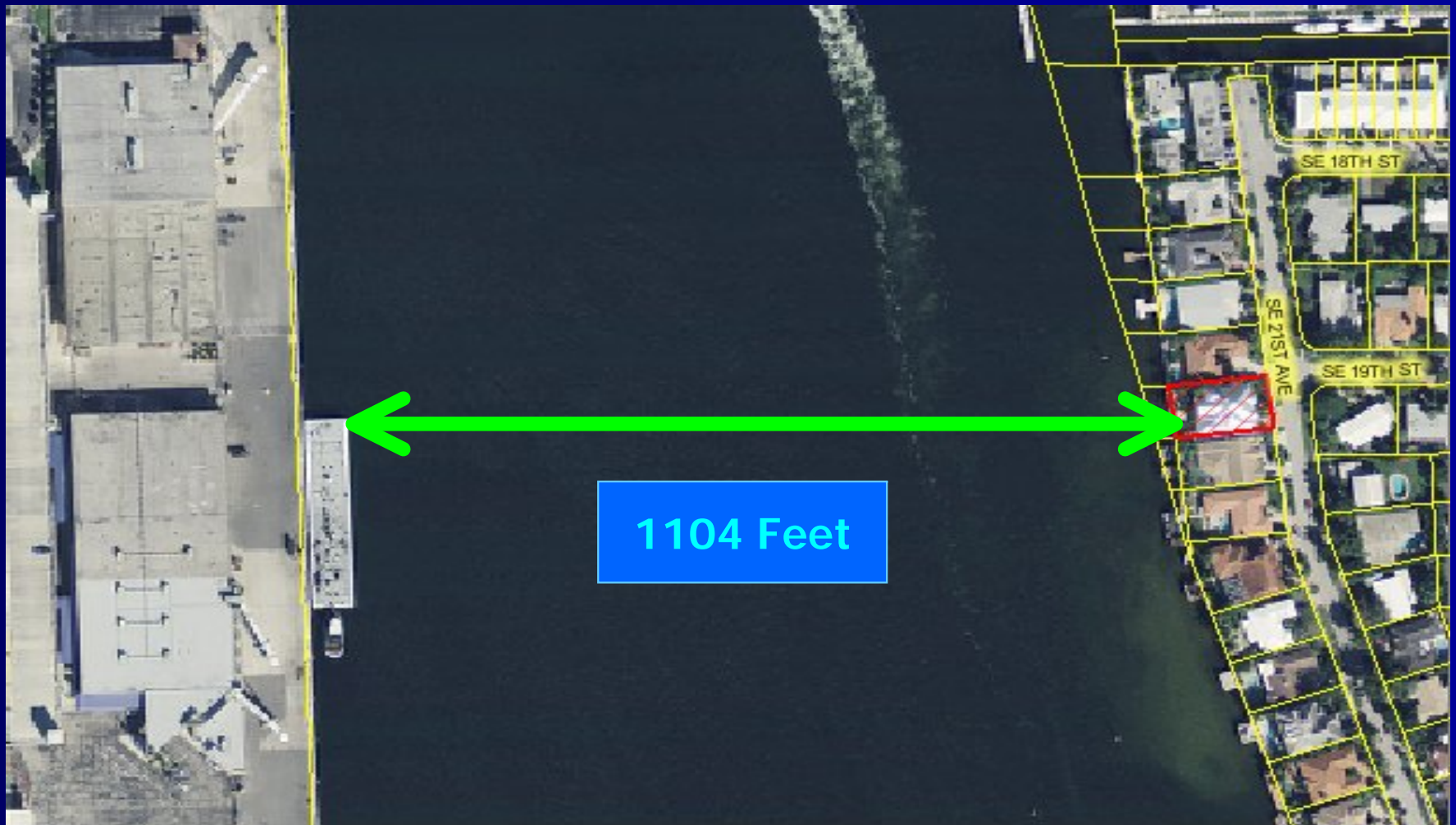
Request: A variance to allow a shade structure to be 4 foot seven inches from the rear property line.

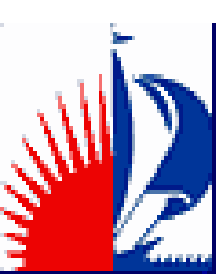






Request: A variance to allow a shade structure to be 4 foot seven inches from the rear property line.



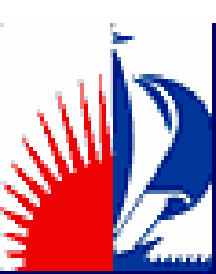


# Summary of Findings

**The proposed development is consistent with the Criteria as set forth in Zoning and Land Development Regulations.**

- 1) Special conditions and circumstances affect the property at issue which prevents the reasonable use of such property.
- 2) Circumstances which cause the special conditions are peculiar to the property at issue, or to such a small number of properties that they clearly constitute marked exceptions to other properties in the same zoning district.
- 3) Literal application of the provisions of the UDLR would deprive the applicant of a substantial property right that is enjoyed by other property owners in the same zoning district.
- 4) The unique hardship is not self created by the applicant or his predecessors, nor is the result of mere disregard for, or ignorance of, the provisions of the ULDR or antecedent zoning regulations.
- 5) The variance is the minimum variance that will make possible a reasonable use of the property and that will be in harmony with the general purposes and intent of the ULDR and the use as varied will not be incompatible with adjoining properties or the surrounding neighborhood or otherwise detrimental to the public welfare.





**Request:**

**Approval of all variances associated with the proposed shade structure.**

