



Legislation Text

File #: 20-0152, **Version:** 1

ZV(R) 2019 36 - 38, Manuel Esteve, 16353 SW 6 Street

SUMMARY EXPLANATION AND BACKGROUND: PROJECT DESCRIPTION / BACKGROUND:

Manuel Esteve, owner, has submitted three (3) variance requests:

ZV(R) 2019-36: to allow an existing 290 square foot gazebo/pergola instead of the allowed 200 square foot maximum gazebo;

ZV(R) 2019-37: to allow a 1'-3" rear yard setback for an existing gazebo/pergola and pavers instead of the required 5' rear yard setback;

ZV(R) 2019-38: and to allow a 1'-3" west side yard setback for an existing gazebo/pergola and pavers instead of the required 5' s yard setback.

The gazebo/pergola and pavers were installed without permits and gazebo/pergola is currently under Code Compliance violation Case #1905003.

VARIANCE REQUEST DETAILS:

ZV(R) 2019-36 thru 37) Allow a 1'-3" rear yard setback and a 1'-3" west side yard setback instead of the allowed 5' rear and side yard setbacks for existing gazebo/pergola and pavers.

Code Reference: § 155.049 ACCESSORY USES AND STRUCTURES; SPECIAL PROVISIONS FOR CERTAIN SCREENED ENCLOSURES WITH COVERED ROOFS.

- (B) In residential districts, all accessory buildings and uses in a rear yard shall be located at least five feet from any plot line, at least 15 feet from any street line, and at least ten feet from any main building or other accessory building. For water front lots located within developments approved under the design criteria of (RS-7) single family zoning districts, accessory structures shall be allowed to extend to the zero setback side property line. These accessory structures shall include, but not be limited to, concrete slabs, paver decks, wood decks, pools and pool decks, and screen enclosures.

ZV(R) 2019-38) allow a 290 square foot accessory structure (gazebo/pergola) instead of the allowed maximum 200 square foot open accessory structure.

Code Reference: § 155.049 ACCESSORY USES AND STRUCTURES; SPECIAL PROVISIONS FOR CERTAIN SCREENED ENCLOSURES WITH COVERED ROOFS.

- (I) In all residential districts, free-standing open sided structures such as, but not limited to, gazebos, chickee huts and trellises shall not exceed 200 square feet.

VARIANCE DETERMINATION:

The Board of Adjustment shall not grant any single-family residential variances, permits, or make any decision, finding, and determination unless it first determines that:

Its decision and action taken is in harmony with the general purposes of the zoning ordinances of the city and is not contrary to the public interest, health, or welfare, taking into account the character and use of adjoining buildings and those in the vicinity, the number of persons residing or working in the buildings, and traffic conditions in the vicinity.

In the granting of single-family residential variances, the Board shall determine that the single-family residential variance granted is the minimum variance that will accomplish the intended purpose in accordance with above and:

- A) That there are special circumstances or conditions applying to the land or building for which the variance is sought, which circumstances are peculiar to the land or building and do not apply generally to land or buildings in the neighborhood, and that the strict application of the provisions of the zoning ordinances would result in an unnecessary hardship and deprive the applicant of the reasonable use of the land or building; or
- B) That any alleged hardship is not self-created by any person having an interest in the property nor is the result of a mere disregard for or in ignorance of the provisions of the zoning ordinances of the city; or
- C) That granting the variance is not incompatible with public policy, will not adversely affect any adjacent property owners, and that the circumstances which cause the special conditions are peculiar to the subject property.