



## Legislation Text

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**File #:** 22-0554, **Version:** 1

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ZV(R) 2022-0020, Carlos Rios, 201 SW 65 Avenue

### **SUMMARY EXPLANATION AND BACKGROUND: PROJECT DESCRIPTION / BACKGROUND:**

Carlos Rios, owner, has submitted a variance request for an existing gazebo with an existing composite deck that were installed without permits.

Mr. Rios received Code Compliance Correction No. - #120238 for multiple code violations in reference to an existing shed and an existing gazebo with associated decking in his back yard.

Mr. Rios, at the November 4, 2021 Board of Adjustment meeting, previously requested variances ZV(R) 2021-17 thru 21 to address the violation notices and they were denied. Upon denial of the variance requests he removed the shed, decreased the size of the gazebo, and removed portions of the deck to comply with the setback requirements.

He is currently requesting the following variance:

**ZV(R) 2022-0020** - Existing gazebo and composite deck to have a 1' rear yard setback instead of required 5' rear yard setback.

Mr. Rios is aware that even with the approval of the rear yard setback variance request he will still need to file for a building permit.

There is no Homeowner's Association in this neighborhood.

### **VARIANCE REQUEST DETAILS:**

**ZV(R) 2022-0020** to allow a 1' rear yard setback for an existing gazebo and composite deck instead of the required 5' rear yard setback.

*Code Reference:* Table 155.620: Accessory Building and Structures:  
Type, Deck or Patio\*, Setback, Rear, 5 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 follow Section 155.301(O) Variance:

1. Purpose: To allow for the provision of relief from certain development standards of this LDC for one or more of the following reasons:
  - a) 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) 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) 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.