



## Legislation Text

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**File #:** 23-0281, **Version:** 1

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ZV(R) 2023-0035 & 0047 - 0049, Gary & Penina Rosenthal, 1674 SW 158 Terrace

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

Gary Rosenthal, owner, has submitted four residential zoning variance requests for a proposed attached open sided roofed patio and an existing paver patio for the property located at 1674 SW 158 Terrace. The property is part of the Grand Palms Planned Unit Development (PUD) and follows the City's Land Development Code Section 155.652-Zero Lot Line Homes; and Accessory Structures Table 155.620. This request is subject to the City's Land Development Code.

#### Zoning Variance requests

- ZV(R) 2023-0035 is to allow a 2.1' side setback to the zero-side (south) property line for a proposed roofed open sided patio instead of the required 5'.
- ZV(R) 2023-0047 is to allow zero feet (0') side setback (south) instead of the required five-foot (5') setback to zero side property line for an existing paver patio.
- ZV(R) 2023-0048 is to allow zero feet (0') rear setback (west) instead of the required five-foot (5') setback to rear property line for an existing paver patio.
- ZV(R) 2023-0049 is to allow zero feet (0') side setback (north) instead of the required five-foot (5') non-zero side setback for an existing paver patio.

Mr. Rosenthal applied for a permit for a proposed roofed open sided patio (Permit Application #RO22-09684). During review of the permit application, it was determined that the side setback did not meet code requirements. In addition, it was discovered the existing paver patio was not permitted and did not meet the required setbacks. Code Violation # 230401660 for work without permit has been initiated. The variance requests are requesting to allow the proposed roofed patio and legalize the existing paver patio.

The applicant is aware that Board consideration of residential variance request do not preclude the property owner from obtaining all necessary development related approvals or permits.

The subject property is in the Grand Palms neighborhood. The applicant has provided a copy of the Home Owners Association (HOA) approval as well as support from the adjacent property owners.

**VARIANCE REQUEST DETAILS:**

**ZV(R) 2023-0035** to allow 2.1' Side Setback to Zero Side (south) Property Line for proposed roofed, open sided patio.

**ZV(R) 2023-0047** to allow a zero-foot (0') zero side (south) setback for an existing paver deck.

**ZV(R) 2023-0048** to allow a zero foot (0') rear setback (west) for an existing paver deck.

**ZV(R) 2023-0049** to allow a zero foot (0') non-zero side (north) setback for an existing paver deck.

*Code References:*

**ZV(R) 2023-0035**

**155.652 ZERO LOT LINE HOMES**

(B) Openings prohibited on the zero-lot line side. The wall of the dwelling located on the lot line shall have no windows, doors, air conditioning units, or any other type of openings with the exception of a condensate line. Atria or courts shall be permitted on the zero-lot line side when the court or atrium is enclosed by three walls of the dwelling unit, and a solid wall of at least eight feet in height is provided on the zero lot line. The wall shall be constructed of the same material as exterior walls of the unit or may be constructed of decorative opaque glass block.

**Table 155.620 Accessory Building and Structures**

ZV(R) 2023-0047)

Type, Deck or Patio\*, Setback, Side, 5 feet

ZV(R) 2023-0048)

Type, Deck or Patio\*, Setback, Rear, 5 feet

ZV(R) 2023-0049)

Type, Deck or Patio\*, Setback, Side, 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.