

To: The Planning & Zoning Board of Pompano Beach

Re: Request for Variance P&Z #21-11000009 LN-128 (2749 SE 11th Street)

The undersigned residents in the area surrounding the proposed project would like to voice our opposition to the request for variance due to its failure to meet the following Variance Review Standards.

VARIANCE REVIEW STANDARDS

A Variance application shall be approved only on a finding that there is competent substantial evidence in the record that all of the following standards are met:

a) There are extraordinary and exceptional conditions (such as topographic conditions, narrowness, shallowness, or the shape of the parcel of land) pertaining to the particular land or structure for which the Variance is sought, that do not generally apply to other lands or structures in the vicinity;

Fundamentally, the hardship being claimed is that the landowner supposedly did not know about the FEMA Substantial Improvement 50% rule at the time of purchase. Based on the Board's review standards, this is not a qualifying hardship as this is not an extraordinary or exceptional condition of the property. The land is of above average size for the neighborhood, but is otherwise average in shape and elevation. Additionally, the existing structure is consistent with the neighborhood as most houses in the surrounding area were built in the 1960s and 1970s. The variance being sought is simply an effort to circumvent the FEMA Substantial Improvements 50% rule.

Further, the primary dwelling is 3,642 square feet according to the BCPA. Code allows a secondary dwelling to be a maximum of 25% of this amount, which would be approximately 910 square feet. At 3,547 square feet, the proposed project is nearly 3.9 times the allowable limit. Having desires that far exceed what the building code allows does not constitute a hardship.

Because the general conditions at 2749 SE 11th Street are typical for the neighborhood, the applicant has failed to demonstrate any extraordinary or exceptional conditions pertaining to the particular land or structure. The standard set forth in paragraph a. has not been met. This should immediately disqualify this request for variance and the board should have no choice but to reject this application.

b) The extraordinary and exceptional conditions referred to in paragraph a., above, are not the result of the actions of the landowner;

As no extraordinary or exceptional conditions have been demonstrated, the standard in paragraph a. has not been met. The elevation of the primary dwelling is typical for its date of construction and is not the fault of the landowner. However, it is the scale and scope of

the landowner's proposed project that creates the code problem. As such, the code issues raised are the result of the landowner's wishes to build far beyond what the code allows and are not the result of special conditions present at the parcel in question. The standard set forth in paragraph b. has not been met.

c) Because of the extraordinary and exceptional conditions referred to in paragraph a., above, the application of this Code to the land or structure for which the Variance is sought would effectively prohibit or unreasonably restrict the utilization of the land or structure and result in unnecessary and undue hardship;

There is a 3,642 square foot primary dwelling including a 3 car garage accompanied by a pool and gazebo on the lot in question. The existing code allows for an secondary dwelling up to about 910 square feet. Allowing up to 4,552 square feet of total living space in no way unreasonably restricts the utilization of the land or results in undue hardship. The standard set forth in paragraph c. has not been met.

d) The Variance would not confer any special privilege on the landowner that is denied to other lands or structures that are similarly situated.

The lot in question is larger than average for the neighborhood, but there are a few similarly sized lots in the area. None of these above average sized lots have multiple dwellings built on them. As such, allowing two dwellings that are nominally 3,600 square feet each would definitely convey a special privilege to the landowner. The standard set forth in paragraph d. has not been met.

e) The extent of the Variance is the minimum necessary to allow a reasonable use of the land or structure;

The existing code allows a secondary dwelling of up to an additional 910 square feet. Allowing a total living area of 4,552 square feet in no way unreasonably restricts the utilization of the land or results in undue hardship. Allowing an additional dwelling that is 3.9 times the allowable size is far in excess of the minimum necessary to allow reasonable use of the land. The standard set forth in paragraph e. has not been met.

f) The Variance is in harmony with the general purpose and intent of this Code and preserves its spirit;

The general purpose and intent of this code would be violated by approving a project that is nearly 3.9 times the size of what the code allows. The standard set forth in paragraph f. has not been met. .

g) The Variance would not adversely affect the health or safety of persons residing or working in the neighborhood, be injurious to property or improvements in the neighborhood, or otherwise be detrimental to the public welfare; and

The precedent that approval of this request would set could be very detrimental to many neighborhoods as any landowner could simply claim that they did not know about the FEMA Substantial Improvements 50% rule as an excuse to circumvent other codes. The FEMA Rule and the codes relating to Accessory Dwellings Units exist for a reason.

Further, the future use of the secondary dwelling is not known. The landowner claims it is not to be for non-family use. However, the current landowner or a future owner may attempt to utilize the secondary dwelling as rental unit, possibly a short-term rental. Short-term rentals have been a problem in this neighborhood both aggravating residents and draining law enforcement resources. Numerous complaints against 2629 SE 11th Street are evidence of this. This would most definitely be injurious and detrimental to the safety and wellbeing of the neighborhood. The standard set forth in paragraph g. has not been met.

h) The Variance is consistent with the comprehensive plan.

Goal 03 of the comprehensive plan states, "The housing element encourages the rehabilitation of existing substandard housing and to further improve the existing housing stock's resilience to climate change impacts such as more frequent flooding, larger and wetter hurricanes and higher temperatures." Approving this request would directly contradict Goal 03 as it provides a way to circumvent the FEMA Substantial Improvements 50% rule rather than encourage improvement of the existing housing stock's resilience to the effect of climate change. The standard set forth in paragraph h. has not been met.

This application fails every single review standard by which the board is to evaluate a request for variance. The Board should have no choice but to deny this application.

Signed

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Address



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