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April 16, 2021

Zoning Board of Appeals
City of Pompano Beach
100 West Atlantic Boulevard, Dept. 1510
Pompano Beach, Florida 33060

Via Electronic Mail: sreale@copbfl.com

RE: Variance for 2830 NE 12 ST (Folio 484331330630)

Dear members of the Zoning Board of Appeals,

PlanW3st is representing applicant-landowner Glen Rogers in pursuit of a Variance for the above-referenced property. The property is located west of the Intracoastal and south of NE 12th Street in Pompano Beach (refer to **Exhibit “A”** included with this narrative). Mr. Rogers purchased the property in 2017 (refer to the submitted BCPA sheet and Deed), happily looking forward to being a resident of the City of Pompano Beach. One of the property's features that appealed to Mr. Rogers was the tikki structure in the backyard that he envisioned would shelter an outdoor kitchen and seating area.

On January 25, 2021, a complaint was made to the City regarding the tikki structure being built without a permit. Mr. Rogers submitted the tikki structure for permit review in mid-February, in hopes of legalizing the existing structure. The permit, reviewed by the Planning and Zoning on 3/3/2021, was rejected requesting setbacks, height, and additional pervious area. Mr. Rogers then became aware that the tikki structure, built prior to his purchasing the property, was built about 3.5-feet taller than the zoning code allows. This is what brings Mr. Rogers's request in front of you. We respectfully request the Board consider a height variance to section 155.4303(NN)(3)(a)(i) [Standards for Specific Accessory Uses and Structures; Gazebo; Standards; Height and Area].

We understand that a Variance shall only be approved on a finding that the request as proposed meets the following standards and we believe we meet them all:

- 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;

The subject property is an 8,800 sq. ft. single-family lot that abuts the Poinciana Canal on the south side. The uniqueness is not in the property, but in the structure in question. The zoning code regulates tikki structures and chickee structures differently in that a chickee is defined in the state statutes [F.S.553.73(10)(i)], and is exempt from the Florida Building Code—meaning, it does not require a building permit. Both structures look exactly the

same and both structures require a zoning compliance permit, although this may not be clear to all contractors. One structure requires a building permit (a tikki) and the other does not (a chickee). The building permit requirement is triggered when the materials or construction methods differ from those defined in the Building Code for a chickee, or when electrical/plumbing/mechanical is added to the structure in some fashion. Since the subject tikki measures 15 feet in overall height (12-13.5 feet mean height) and is made of the same materials as a chickee, it is safe to assume that the structure may have been built as a chickee. The structure in question has electrical within it (light and fan), and shelters an outdoor kitchen, thus qualifying as a chickee regardless of how it was built. If the structure did not include electrical/mechanical/plumbing and was set on the ground and not on a deck or pavers, it would meet the setback (3 feet) and height (15 feet) according to code. Because the structure is a tikki, it is limited to 10 feet--3.5 feet less than the structure measures today.

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

Mr. Rogers purchased the property in April of 2017, when the tikki structure already existed. This was one of the features of the property that attracted Mr. Rogers to purchase the property from the beginning. The lack of permitting approval was never mentioned to Mr. Rogers when he purchased the property; on the contrary, the conveyance of the property was made subject to three things: Taxes of the year 2017 and subsequent years, restrictions, limitations, and public utility easements of record common to the plat, and zoning ordinances. Mr. Rogers agreed to all three conditions and signed the warranty deed, unknowing that there was no permit approval for the tikki structure.

Additionally, aerial research from the Broward County Property Appraiser's website shows the tikki structure was installed sometime between 2012 and 2013, at least 4 years prior to Mr. Rogers purchasing the property.



- 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;

As previously mentioned, the structure was existing when Mr. Rogers purchased the property. Mr. Rogers specifically purchased the property because of the tikki structure as he saw this as an amenity to his backyard. Not permitting him to keep the existing structure on the property would mean he would need to remove the structure, thereby incurring unreasonable costs that he neither anticipated nor brought on himself. The structure meets the setbacks and building a new one in the backyard would possibly violate a setback or the sight visibility triangle.

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

Allowing the tikki structure to remain is not providing Mr. Rogers with special privilege. The structure is not far into the rear yard that it causes a nuisance for waterway views, nor is it located in the front, visible from the street. The location of the structure is in compliance with setbacks; the only difference is the height. In comparing this structure to a legitimate chickee, both structures look exactly alike; in fact, chickees are permitted to be taller than Mr. Rogers's tikki (15 feet). According to F.S. 553.73(10)(i), the term "chickee" means "an open-sided wooden hut that has a thatched roof of palm or palmetto or other traditional materials, and that does not incorporate any electrical, plumbing, or other nonwood features." The last underlined portion of the definition is the only thing that differentiates the subject structure from a legitimate chickee. Additionally, the subject structure is not as tall as the main residence. Gazebos, chickees, and tikkis are common structures to have in a backyard along a waterway; therefore, Mr. Rogers's tikki is not out of character and would not look any more privileged to the naked eye—especially one from the water, across the water, or the street.

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

Mr. Rogers is not requesting the tikki be permitted at the 15-foot height that is permitted by code. The tikki is 13.5 feet tall (mean height), only 3.5 feet taller than the maximum height permitted by code for a gazebo (10 feet). The structure is in use currently, existing since Mr. Rogers purchased the property, and is not being modified or expanded.

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

The variance request is in harmony with the purpose and intent of the code as defined in section 155.1103 [General Purpose and Intent]. As the general purpose of the code is to promote the public health, safety, and general welfare, as well as implement the goals, objectives, and policies of the City of Pompano Beach Comprehensive Plan, the variance will assist in implementing with the following:

- A. Preserve and enhance present advantages and overcome present handicaps that exist in the city
- B. Encourage the most appropriate use of land, water, and resources;
- C. Deal effectively with future problems that may result from the use and development of land;
- E. Conserve, develop, utilize, and protect natural and historic resources;
- F. Maintain and protect the character and stability of the community and its established neighborhoods

- J. Establish comprehensive, consistent, effective, efficient, and equitable standards and procedures for the review and approval of land development that recognize and respect the rights of landowners and consider the interests of the city's citizens.

As previously mentioned, the variance is being requested to maintain a structure that was existing on the property when Mr. Rogers purchased it. As he found this structure an asset and amenity, he was proud to now own, allowing him to maintain it promotes his and the community's general welfare.

- 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;

As the structure is existing and has been since at least 2013, the structure is not would adversely affecting the health or safety of persons residing or working in the neighborhood, nor is it injurious to property or improvements in the neighborhood, or is it detrimental to the public welfare.

- h. The Variance is consistent with the comprehensive plan.

As detailed in f. above, the variance promotes several goals and policies of the comprehensive plan. Additionally, the request is consistent with the following:

Goal 01: The attainment of a living environment which provides the maximum physical, economic and social well-being for the City and its residents through the thoughtful and planned use and control of the natural and man-made environments that discourages urban sprawl, is energy efficient and reduces greenhouse gas emissions.

Goal 04: Provide safe well-maintained and adequate open space and recreational facilities for all Pompano Beach residents and visitors.

Goal 10: To protect, enhance and effectively manage the natural resources of the City in order to achieve a high environmental quality including factors that affect carbon attenuation and energy conservation.

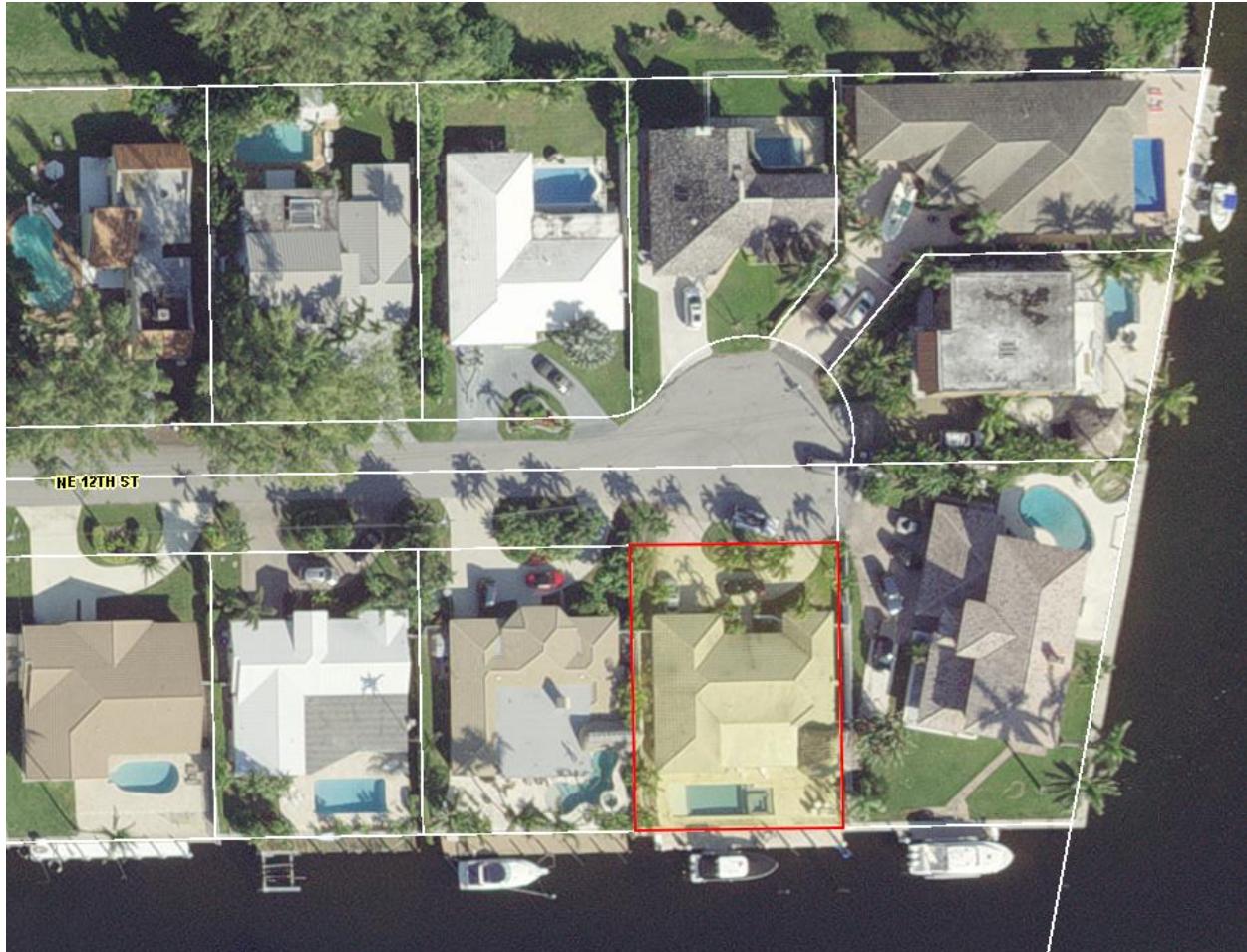
Thank you for your consideration. We respectfully request you allow Mr. Rogers to maintain his tikki structure as justified above.

Please do not hesitate to contact me with any questions.



Paola A. West, ISA-CA, CFM
Land Planner

Exhibit "A"



Folio Number: [484331330630](#)

Owner: NAPOLITANO, SUSAN
ROGERS, GLEN A

Situs Address: 2830 NE 12 ST POMPANO
BEACH FL 330623813

Legal: HARBOR VILLAGE SEC I 46-8 B
LOT 49 BLK 22