

**RESOLUTION NO. 22-48**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA, GRANTING THE REQUEST FOR VARIANCE PETITION #V10-6-21, ATTACHED HERETO AS EXHIBIT “A” AND INCORPORATED HEREIN, SUBMITTED BY NUR-UL-ISLAM OF SOUTH FLORIDA, INC., FOR THE PROPERTY GENERALLY LOCATED AT 10600 S.W. 59<sup>TH</sup> AVENUE IN COOPER CITY, FLORIDA; GRANTING A VARIANCE FROM BROWARD COUNTY CODE SECTION 39-367 AND SECTION 39-103 TO ALLOW FOR THE CONSTRUCTION OF A TWO-STORY MOSQUE TOTALING 11,927 SQ/FT, INCLUDING ONE MINARET TOWER AT A HEIGHT OF 100FT AND TWO MINARET TOWERS AT A HEIGHT OF 70FT, ALONG WITH A DOME AT 51FT IN HEIGHT; PROVIDING FOR CONFLICTS; PROVIDING FOR SEVERABILITY; AND PROVIDING FOR AN EFFECTIVE DATE.**

**WHEREAS**, Nur-Ul-Islam of South Florida, Inc., through its agent, Liz Adler of Greenspoon Marder, (collectively, the “Applicant”), filed an application for a variance (#V10-6-21) seeking a variance from Section 39-367 and Section 39-103 of the Broward County Code of Ordinances to allow for the construction of a two-story mosque totaling 1,927 sq. ft., including one (1) minaret tower at a height of 100ft and two (2) minaret towers at a height of 70 ft, along with a dome at 51ft. in height, on the property generally located at 10600 S.W. 59<sup>th</sup> Avenue (the “Property”); and

**WHEREAS**, the Property was annexed into the City in 2000 and is subject to a pre-annexation agreement, whereby the Broward County Code of Ordinances continues to regulate the land use and development of the Property; and

**WHEREAS**, a Public Hearing on this request was held by the Planning & Zoning Board on October 17, 2022, after due notice of publication; and

**WHEREAS**, the Planning & Zoning Board has submitted to the City Commission their recommendation, a copy of which is included in the Staff Report attached hereto as Exhibit “B,” and recommends approval of the requested variance; and

**WHEREAS**, the Staff Report further details the historical background of the Property, including the prior variance granted by Broward County for the Property which authorized the construction of the mosque contemplated herein;

**WHEREAS**, the variance previously granted by Broward County expired, and the Applicant is now seeking similar relief from the City; and

**WHEREAS**, public notice was provided in accordance with law; and

**WHEREAS**, the City Commission has reviewed the Applicant’s request and considered the recommendation of the Planning and Zoning Board and finds that granting the Applicant’s request for a variance is in the best interests of the citizens and residents of the City.

**NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF COOPER CITY, FLORIDA:**

**Section 1:    Recitals Adopted.** That each of the above stated recitals is hereby adopted and confirmed. All exhibits to this resolution are incorporated herein and expressly made a part hereof.

**Section 2:    Approval.** That the Applicant’s request (#V10-6-21) is hereby approved and in accordance with Section 23-153 of the Code of Ordinances of the City of Cooper City a variance is granted from Section 39-367 and Section 39-103 of the Broward County Code of Ordinances to allow for the construction of a two-story mosque totaling 1,927 sq. ft., including one (1) minaret tower at a height of 100ft and two (2) minaret towers

at a height of 70 ft, along with a dome at 51ft. in height, subject to further review and approval by the Broward County Aviation Department.

**Section 3:** Issuance of a development permit by a municipality does not in any way create any right on the part of an applicant to obtain a permit from a state or federal agency and does not create any liability on the part of the municipality for issuance of the permit if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes actions that result in a violation of state or federal law.

**Section 4. Conflicts.** All resolutions inconsistent or in conflict herewith shall be and are hereby repealed insofar as there is conflict or inconsistency.

**Section 5. Severability.** If any section, sentence, clause, or phrase of this Resolution is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this resolution.

**Section 6. Effective Date.** This Resolution shall become effective upon its passage and adoption by the City Commission.

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**PASSED AND ADOPTED** this \_\_\_\_\_ day of \_\_\_\_\_, 2022.

\_\_\_\_\_  
GREG ROSS  
Mayor

ATTEST:

\_\_\_\_\_  
TEDRA ALLEN  
City Clerk

APPROVED AS TO LEGAL FORM:

\_\_\_\_\_  
OFFICE OF THE CITY ATTORNEY

**ROLL CALL**

Mayor Ross \_\_\_\_\_  
Commissioner Pulcini \_\_\_\_\_  
Commissioner Meltzer \_\_\_\_\_  
Commissioner Shrouder \_\_\_\_\_  
Commissioner Green \_\_\_\_\_

RECEIVED



CITY OF COOPER CITY  
COMMUNITY DEVELOPMENT DEPARTMENT /  
PLANNING AND ZONING DIVISION

SEP 06 2022

CITY OF COOPER CITY  
9090 SW 50th PLACE  
COOPER CITY, FL 33328  
(954) 434-4300

**VARIANCE APPLICATION**

**ATTENTION:** Prior to submission of application, the Petitioner &/or Owner must schedule a pre-submittal meeting with the Community Development Staff to review the proposed project, the submittal and processing requirements. The submittal dates for DRC and P&Z Board can be found on the City's website at: [www.coopercityfl.org](http://www.coopercityfl.org). ALL ADVERTISING AND RECORDING FEES WILL BE THE RESPONSIBILITY OF THE APPLICANT.

FOR STAFF ONLY:  
PETITION # 10-6-21  
DATE PETITION FILED:  
10-13-21

Date of Pre-Submittal Meeting: \_\_\_\_\_

**INSTRUCTIONS TO APPLICANT:**

1. Please complete all requested information on this application. If not applicable, indicate with N/A.
2. A completed Notarized General Application must accompany this application.
3. Make Checks payable to the City of Cooper City per the current Fee Schedule.



**I. PROPERTY INFORMATION**

ADDRESS OF PROPERTY AND GENERAL LOCATION INFORMATION:

10600 SW 59 Street, Cooper City, FL 33328 - SW corner of SW 59 Street and SW 106 Avenue/Cherry Road

SIZE AND DIMENSIONS OF PROPERTY:

4.2 acres

**III. VARIANCE REQUEST(S)**

*Attach Separate Sheet(s) if More Space is Needed.*

CODE SECTION	REQUIREMENT	REQUEST	DEGREE OF DEVIATION
39-103 (Broward County)	25 Max Height for Minarets (2 stories/20 feet + 25%)	(1) 100 ft. Minaret	75 ft.
39-103 (Broward County)	25 Max Height for Minarets (2 stories/20 feet + 25%)	(2) 70 ft. Minarets	45 ft.
39-103 (Broward County)	25 Max Height for Domes (2 stories/20 feet + 25%)	(3) 51 ft. Dome	26 ft.
39-103 (Broward County)	20 Max Height for Building (2 stories/20 feet)	(4) 25 ft. Building Height	5 ft.

**IV. ADJACENT PROPERTIES**

Adjacent Property	Land Use Plan Designation	Zoning Designation	Existing Use(s) of Property
NORTH	Estate Residential (Davie)	A-1 (County)	Church & Vacant Parcel
SOUTH	Estate Residential (Davie)	CF & A-2 (County)	Church & Vacant Parcel
EAST	L-2	PRD & X-1	Private School/Church & Agricultural
WEST	Estate Residential (Davie)	A-1 (County)	Mixed-use (Store/Office/Residential)

**V. VARIANCE CRITERIA**

Please address each of the following review criteria in an attached justification statement.

- (a) Special and unique conditions exist which are peculiar to the petitioner's case and which are not generally applicable to other property located in the zoning district.



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- (b) The special and unique conditions are not directly attributable to the actions of the petitioner.
- (c) The literal interpretation of the zoning code, as applied to the petitioner, would deprive the petitioner of rights commonly enjoyed by the owners of other property in the zoning district.
- (d) The variance granted is the minimum variance necessary for the petitioner to make reasonable use of the property.
- (e) Granting the variance is not detrimental to the public welfare, or injurious to property or improvements in the zoning district or neighborhood involved.
- (f) Granting the variance is not contrary to the objectives of the Comprehensive Plan as adopted April 6, 1989 by the Cooper City Commission.

VI. SUBMITTAL CHECKLIST		
QTY	REQUIRED	YES (√)
1	Completed Original General Application	<input type="checkbox"/>
1	Completed Original Variance Application	<input type="checkbox"/>
1	Certificate of Title, property deed or other proof of ownership	<input type="checkbox"/>
14	Surveys and 1 Signed & Sealed Survey	<input type="checkbox"/>
14	Architectural Plans (if applicable – check with staff)	<input type="checkbox"/>
14	Site Plans	<input type="checkbox"/>
14	Aerials Photos of subject site clearly delineating site boundary lines.	<input type="checkbox"/>
14	Subject Site Maps clearly delineating site boundary lines with adjacent and nearby street names labeled.	<input type="checkbox"/>
14	Justification Statements	<input type="checkbox"/>
1	List of names & addresses of property owners in the 400' radius	<input type="checkbox"/>
1	Sets of Mailing Envelopes (with labels already on the envelopes)	<input type="checkbox"/>
1	Radius Map from Property Appraisers Office showing 400' radius on tax map.	<input type="checkbox"/>

VI. STAFF USE ONLY			
Petition #: <u>U 10-6-21</u>	Staff Intake By: <u>B Johnson</u>	Intake Date: <u>10/13/21</u>	
Sufficiency Completed by: <u>J Chockley</u>	Sufficiency Date: <u>10/15/21</u>		

VIII. COOPER CITY CODE
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**Sec. 23-153. Variance.**

- (a) *Purpose and intent.* For purposes of this section, “variance” shall mean a modification of the zoning district regulations when such variance will not be contrary to the public interest and when, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance would result in unnecessary and undue hardship.
- (b) *Applicability.* A variance is authorized only for height, area, size of structure or size of yards and open spaces, and off-street parking and loading requirements. Establishment or expansion of a use otherwise prohibited shall not be allowed by variance nor shall a variance be granted because of the presence of non-conformities in the zoning district or classification or in adjoining zoning districts or classifications.
  - (1) Use variance. The establishment or expansion of a use otherwise prohibited in the zoning district may be permitted by variance provided that the characteristics of the site (for example, the presence of jurisdictional wetlands, environmentally-sensitive lands) or other pre-existing uses on the site or adjacent thereto would serve to preclude the development of the property within the permitted uses allowed in the applicable zoning district.



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Applicants for use variances shall submit with their application, a statement from a Florida registered engineer explaining the unique circumstances of the site which would preclude alternate development within the permitted uses of the zoning district.

(c) *Application.* Any person applying for a building permit found to be in non-conformance to the city zoning code may apply for a variance from the existing zoning regulations of the city if found to be in accordance with subsection (b) above, and the procedures for requesting a variance which are set forth as follows:

- (1) Clear architectural plans and site plan shall be submitted, prior to variance application, to the building department, in such detail that all required variances to the city code may be determined by city staff.
- (2) The building department shall issue to the applicant in writing a letter indicating:
  - a. Administrative denial of application for a building permit;
  - b. That the city has received plans in such detail as to enable determination of all required variances to specific sections of the city code;
  - c. A specific list of variances required in order for the plans to be in complete compliance with the city code.
- (3) Filing of variance application shall be in duplicate, on forms to be supplied by the city, with the city clerk. The application must be accompanied by the letter required in subsection (2) above, and shall include the following:
  - a. Name of applicant;
  - b. Applicant's relation to the property involved;
  - c. The legal description of the property;
  - d. The variance(s) from existing regulations requested;
  - e. The hardship for requesting the variance(s).
  - f. A copy of the administrative denial from the building department.
- (4) Each application for a variance shall be accompanied by a fee (refer to fee schedule), payable to the city. Said fee shall be nonrefundable, provided, however, the city commission shall have the authority to direct the refunding of said fee in their sole and exclusive discretion.

(ci) *Scheduling of public hearings.* Upon receipt of the application the city clerk shall docket same for a public hearing to be held for review and recommendation by the planning and zoning board at the next regular meeting of the planning and zoning board, which shall be at least twenty-five (25) days subsequent to the date of the filing of the application. The city clerk shall docket same for a public hearing to be held by the city commission at the next regular or special meeting of the city commission, which shall be at least twenty-five (25) days subsequent to the date of the filing of the recommendation by the planning and zoning board.

(cii) *Notification.*

- (1) Notice of each meeting shall be published by the city clerk in a newspaper of general circulation in the city, which notice shall be published once, with the dates of the respective meetings.
- (2) The city clerk shall send notice of the aforesaid planning and zoning board meeting and city commission public hearing by first class United States mail to each owner of real property located within four hundred (400) feet of the property on which the variance is requested. Notice of said meetings shall also be sent, via certified mail, to the petitioner.
- (3) Notice of each public hearing shall be posted in a conspicuous place in the city hall at least fifteen (15) days prior to the date of the hearing.



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- (f) *Planning and zoning board action.* The planning and zoning board shall consider the application for the variance at the meeting docketed by the city clerk, and may recommend approval of the variance as requested, recommend approval as amended, recommend disapproval or table the variance.
- (g) *City commission action.* The city commission shall consider the application for the variance at the hearing docketed by the city clerk, and the approval of the variance as requested or as amended by the commission shall only be on the affirmative vote of at least three (3) members of the commission.
- (h) *Expiration of approval.* Any variance authorized by the city commission shall expire ninety (90) days after the date of action on the variance by the city commission unless building permit, based upon and incorporating the variance, is issued within the aforementioned ninety (90) day period.
- (i) *Reapplication.* Upon rejection by the city commission of any application for a change, exception, and/or variance in existing zoning ordinances and regulations as same affects a specific lot, piece or parcel of land in the city, a period of not less than twelve (12) months shall elapse before the city commission will accept other, further, or new applications for the same change, exception, and/or variance, regardless of the identity of the petitioner.

(Ord. 95-4-2, § 1, 4-11-95)

**Sec. 23-154. Additional fees for rezonings and variances.**

In addition to all other fees required in connection with an application for a zoning change or an application for a granting of a variance, the applicant shall pay unto the city the actual cost incurred by the city in the completion of the ownership search of adjacent property owners who are required to receive notification of the application, the cost of publication of the notice and the cost of mailing and duplicating the notice. The city shall upon a determination of the exact cost as aforesaid forthwith notify the applicant of the costs incurred or to be incurred as hereinabove set forth and may defer any further action upon the application for rezoning or for a variance until the aforesaid costs have been paid in full, which costs shall be determined to be a part of the application fee, and in addition to any amount otherwise required. The city may, as a condition precedent to taking any action on the application, require the posting of a deposit in an amount estimated by the city to be the costs to be incurred as aforesaid. All funds received hereunder shall be receipted and deposited in the same manner as the application fee heretofore required on the applications for rezoning and/or granting of variances.

(Ord. No. 03-1-4, § 1, 1-28-03)  
Rev. Suppl. No 5 (July, 2003)





# MEMORANDUM

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To: City Commission

From: Jason Chockley, Assistant Director Community Development

Date: November 29, 2022

Re: Nur-Ul-Islam Mosque -Variance  
Petition # V 10-6-21

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AGENT/OWNER: Liz Adler, Greenspoon Marder, LLP / Nur-Ul-Islam of S. Florida, Inc.

LOCATION: 10600 S.W. 59<sup>th</sup> Avenue

LAND USE DESIGNATION: E-Estate

ZONING DESIGNATION: I-1, Institutional-Educational Zoning District, Broward County

SIZE/ACRES: 4.2 acres

ANALYSIS: This item is a variance petition seeking deviation from Broward County Code Section 39-367 & 39-103 which limits a height of two stories (20ft.) plus 25% for towers/domes if the building is located within 200ft of a residentially zoned property. The mosque building is proposed 192ft from a residentially zoned property.

The new two-story mosque building totals 11,927 sq./ft. On the roof of this building are 3 minaret towers with one at 100ft and two at 70ft along with a dome at 51ft in height. The new mosque building at 35ft and a minaret at 100ft had been previously approved by Broward County in Sept of 2000 when the property was unincorporated, but that height variance expired after 180 days. The request is to restore the mosque building on the site plan as originally approved by the County along with two new 70ft minarets and a 51ft dome.

HISTORICAL BACKGROUND:

10/21/1999 Pre-annexation paperwork filed with Cooper City which included a letter to Mike Woolsey (Planning Dept. Director), which noted Broward County approvals for the construction of up to 36,000 sq/ft of a full-time school building and a mosque/hall facility. (Letter in variance justification packet)

9/7/2000 Broward County approved a height variance of a 28ft tall school building, 30ft for a cafeteria, 35ft for a mosque, and 100ft for a tower instead of the maximum allowable height of 20ft. Variance approval expired after 180 days

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per County Code section 39-43. (County variance approval in justification packet).

10/1/2000 Nur-UI-Islam property is annexed into the City of Cooper City.

VARIANCE JUSTIFICATION: The applicant has responded to the variance review criteria in an effort to justify approval of the variance stating that both domes and minarets are important features of Islamic architecture.

The applicant outlines in their justification statement that the height of the proposed minarets is proportionate to the height of the proposed buildings and will further establish their property as a mosque to not only City residents but residents of South Florida. “The purpose of the minaret is to ensure a reasonable amount of visibility to passerby and to serve as a beacon for the Islamic faith”.

The applicant states that the proposed request would not pose any detriment to the public welfare or negatively affect surrounding properties and is not contrary to the objectives of the City’s Comprehensive Plan due to the fact that religious institutions offer significant social contributions to the community.

The applicant’s full justification packet is included in the backup materials.

The proposed heights will need approval from the Broward County Aviation Dept.

OUTSTANDING STAFF COMMENTS/RECOMMENDATIONS: All comments & concerns have been addressed.

STAFF FINDING: Staff has determined that the application meets all the submittal requirements for review and processing of a variance petition and may therefore be recommended for approval contingent on approval from the Broward County Aviation Dept.

PLANNING AND ZONING BOARD RECOMMENDATION: The Planning and Zoning Board, at their meeting of October 17, 2022, recommended **Approval** of the proposed Variance 5-3 with Mr. David Rouse, Ms. Kelly Brown and Mr. Jim Federici, dissenting.