



STAFF REPORT

CITY OF GREEN COVE SPRINGS, FLORIDA

TO: Planning and Zoning Board **MEETING DATE:** April 22, 2025
FROM: Gabriel Barro, Planning & Zoning
SUBJECT: Request for a variance to allow a gazebo to be placed within required setbacks of the property located at 462 Vermont Ave

PROPERTY DESCRIPTION

APPLICANT: Ravindra Armogan **OWNER:** Ravindra Armogan
PROPERTY LOCATION: 462 Vermont Avenue
PARCEL NUMBER: 017136-001-10
FILE NUMBER: VAR-25-001
CURRENT ZONING: R-2
FUTURE LAND USE DESIGNATION: NEIGHBORHOOD

SURROUNDING LAND USE

NORTH: FLU: Neighborhood Z: R2 Use: Single Family Residential	SOUTH: FLU: Neighborhood Z: R2 Use: Single Family Residential
EAST: FLU: Neighborhood Z: R3 Use: Single Family Residential	WEST: FLU: Neighborhood Z: R3 Use: Single Family Residential

BACKGROUND

Ravindra Armogan, the owner and occupant of the property located at 462 S Vermont Ave, has requested a variance to allow a gazebo to be placed within the minimum setbacks required by the R2 zoning district. On July 2, 2024, a Code Enforcement case was opened for the property for an accessory structure, a wooden gazebo, placed without a permit. On July 11, 2024, the applicant submitted a Building Permit Application (BLD-24-0502) for the gazebo. The gazebo's location places it 3 feet from the side property line and 8 feet from the primary structure. Minimum setbacks for the R2 zoning district require a side setback of 7.5 feet per Sec. 117-88 of the Green Cove Springs city code. All properties within Green Cove Springs require that accessory structures placed within the designated side or rear yard be at least 6 feet from the primary structure.

The Building Permit Application was given a deficiency notice for not meeting the aforementioned setback requirements. There is no possible way for the gazebo to meet the 7.5 foot side setback and the 6-foot primary structure setback.

The applicant was cited for a code enforcement violation and scheduled to appear in front of the Magistrate at the March meeting for failing to secure a building permit as a result of encroachment within the required setback requirements. Subsequently, the applicant applied for a variance to allow the gazebo to be placed within the required setbacks, remaining in its current location. As a result, staff postponed the Magistrate action pending the findings of the variance request.

Definition of a Structure

Green Cove Springs – Structure means anything which is built, constructed or erected, the use of which requires permanent location in or upon the ground, an edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner, or attachment to something having permanent location on the land. The term "structure" shall be construed as if followed by the words "or part thereof and includes a building and any tents, lunch wagons, diners, camp cars or trailers on wheels or other supports, intended for business use or for use as living quarters.

Florida Building Code, 8th Edition – That which is built or constructed.

Orange Park - Anything which is built or constructed in or upon the ground, an edifice of any kind, or any piece of work artificially built up or composed of parts joined together in some definite manner. The term structure shall be construed as if followed by the words "or part thereof."

Jacksonville - That which is built or constructed, an edifice of any kind or a piece of work artificially built up or composed of parts joined together in some definite manner. The term structure shall be construed as if followed by the words or part thereof and shall include tents, awnings, cabanas and buildings.

Clay County – Anything vertically constructed or erected with a fixed location on the ground or attached to something having or requiring a fixed location on the ground, excluding bulkheads.

Variances To Be Considered as Part of Site Plan Review

(1) Any person desiring to undertake a development activity not in conformance with this subpart may apply for a variance in conjunction with the application for site plan review. The variance shall be granted or denied in conjunction with the approval for site plan review.

(2) All applications for a variance to this subpart shall be in writing and in such form as may be determined by the development services department. Applications shall state fully upon what grounds of hardship the request is made. The planning and zoning board may grant a variance varying terms of this subpart, providing such conditions and circumstances are:

- a. Peculiar to the specific land, structure or building;
- b. Do not apply generally to neighboring properties;
- c. That the strict application of the provisions of this subpart would deprive the applicant of the reasonable use of such land, structure or building;
- d. The peculiar conditions and circumstances are not the result of the actions of the applicant.

(3) Any variance granted will be the minimum variance that will make possible the reasonable use of such land, structure or building.

(4) A nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, or a permitted use in adjacent districts shall not be considered as grounds for issuance of a variance permitting any use not otherwise allowed in the district.

Limitations on Granting Variances

Initial determination. The planning and zoning board shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved. If so, the planning and zoning board may grant the variance, based on the required findings, for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the planning and zoning board shall make the required findings, based on the cumulative effect of granting the variance, to all who may apply.

The neighboring properties are of the same size and zoning. There are no physical or environmental conditions that are unique to the specific property involved that is different from adjacent and other nearby properties.

The planning and zoning board shall not grant the variance varying the requirements of any provision of this subpart unless it makes a positive finding, based on substantial competent evidence, on each of the following:

- (1) There are no reasonable uses of the property because of the practical or economic difficulties in carrying out the strict letter of the regulation and the hardship is not the result of the applicant's own actions.

The primary use of the property is a single-family home. There is no practical or economic difficulty depriving the owner from this use. The variance request is as a result of the applicant's actions.

- (2) If the applicant complies strictly with the provisions of this subpart, he is deprived of any rights that others in the district are allowed.

The neighboring properties are of the same size and zoning. The neighboring properties also have the same utility easement along the rear of the properties.

- (3) The hardship is suffered only by the applicant rather than by neighbors or the general public.

Neighboring properties are required to meet the same setbacks as the subject property.

- (4) The hardship relates to the land, rather than personal circumstances.

The land is not a contributing factor. All neighboring properties have a similar layout and are held to the same standards.

- (5) The variance requested is the minimum variance that will make reasonable use of the land, building or structure and will not result in the creation or extension of a nonconforming use or structure.

The applicant can make reasonable use of the land without encroaching on the required setback.

- (6) The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.

The proposed variance will not increase congestion or hazards.

- (7) The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

The proposed variance could impact the character of the area because it would create a precedence for future variance approvals for surrounding properties encroaching on approved setback requirements.

Attachments Include:

- Variance Application
- Boundary Survey showing gazebo location

STAFF RECOMMENDATION

Staff is recommending denial of the requested variance based on noncompliance with the following required findings for variance approval set forth in Section 101-159(c)(2):

- There are no reasonable uses of the property because of the practical or economic difficulties in carrying out the strict letter of the regulation and the hardship is not the result of the applicant's own actions.
- If the applicant complies strictly with the provisions of this subpart, he is deprived of any rights that others in the district are allowed.
- The hardship is suffered only by the applicant rather than by neighbors or the general public.
- The hardship relates to the land, rather than personal circumstances.
- The variance requested is the minimum variance that will make reasonable use of the land, building or structure and will not result in the creation or extension of a nonconforming use or structure.