



**VILLAGE OF ESTERO
PLANNING & ZONING BOARD
STAFF REPORT**

PROJECT NAME: MICCI VARIANCE
CASE TYPE: ADMINISTRATIVE VARIANCE
CASE NUMBER: ADD2019-E003
PLANNING & ZONING BOARD MEETING: AUGUST 20, 2019

APPLICATION SUMMARY

Request: Administrative Variance from Land Development Code Section 34-268(a)(1)(f) to reduce a required side setback from 5.0 feet to 4.91 feet for an existing single-family dwelling in Copper Oaks.

Applicant/Agent: Anna Micci, representing the property owners.

Property Owners: Ryan and Jamie Shafer.

Location: 10124 North Silver Palm Drive. This property is in the Copper Oaks residential planned development located along Three Oaks Parkway.

ZONING

Residential Planned Development, rezoned in 2004 (Resolution Z-04-020).

STAFF ANALYSIS

This single-family dwelling was constructed 14 years ago in 2005. Lee County permitted the dwelling under Building Permit No. RES2005-02955 and issued a Certificate of Occupancy on November 11, 2005.

The dwelling is located on an interior lot among other single-family lots. All of the single-family lots in Copper Oaks require minimum side setbacks of 5.0 feet. There are also zero lot line, townhouse and multifamily dwellings in this development.

The applicant previously sold this dwelling to new owners, Jamie and Ryan Shafer. During the closing process, it was determined from a boundary survey that a required side setback on the east side of the dwelling is 4.91 feet instead of the required minimum of 5.0 feet. A condition of the sale closing was the seller would address this nonconforming aspect of the property. The approval of this variance will make the dwelling a legal nonconforming structure.

Land Development Code (LDC) Section 34-268(a)(1)(f) allows for buildings or structures not in compliance with current setback regulations, and can be proven to have been properly permitted, to be considered for an Administrative Variance.

LDC Section 34-268(b) requires Administrative Variances to meet the following criteria:

- 1) *There are exceptional or extraordinary conditions or circumstances that are inherent to the property in question;*
- 2) *The variance granted is the minimum variance that will relieve the applicant of an unreasonable burden caused by the application of the regulation in question to the property; and*
- 3) *The granting of the variance will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

A Boundary Survey prepared by Online Land Surveyors, Inc. and dated May 7, 2019, shows an east side setback at 4.91 feet, which is less than the minimum requirement of 5.0 feet. The other front, side and rear building setbacks comply with the approved setbacks for this site.

The requested reduction from 5.0 to 4.91 feet for the nonconforming side setback is the minimum variance that will relieve the applicant of the unreasonable burden caused by the application of the regulation in question to the property because the building is already constructed.

STAFF RECOMMENDATION

Because the dwelling exists and the approval of this variance will change the status of the dwelling to a legal nonconforming structure, staff recommends approval with the following conditions:

1. The variance is limited to the existing single-family dwelling, as shown on the Boundary Survey by Online Surveyors, Inc. dated May 7, 2019.
2. The terms and conditions of the current zoning resolution for Copper Oaks remain in full force and effect, with the exception of this requested setback reduction.

ATTACHMENTS

- A. Boundary Survey dated May 7, 2019.
- B. Resolution Z-04-020.