



Town Council Agenda Report

SUBJECT: Quasi Judicial Hearing: Variance

CONTACT PERSON/NUMBER

Name: Mark Kutney, AICP
Phone: (954) 797-1101

TITLE OF AGENDA ITEM:

V 5-3-00 Benita Saunders, petitioner/owner - 1981 SW 139 Avenue/ Generally located on the west side of SW 139 Avenue approximately 300 feet north of SW 20 Street.

REPORT IN BRIEF:

The petitioner is seeking variances to exceed the maximum allowable square footage of a guest house, and allow for food processing and handling facilities within same, which are prohibited by code, in order to provide for live-in health care personnel to care for a disabled family member. Details of the family member's health condition are more specifically described in the development details section of the planning report.

The intent of an accessory guest house is to provide for intermittent or temporary occupancy by non-paying guests, and is not intended to provide separate living quarters which could function as a rental apartment or other type of fully functional second dwelling within single-family residential districts.

Relative to the petitioner's request for a variance to exceed the maximum 400 square foot floor area for a guest house by 170 square feet, staff does not find that there are special circumstances which are peculiar to such land or building which generally do not apply to others within the same zoning district. Relative to the petitioner's request for kitchen and laundry facilities, Section 12-309(A) does not allow such a variance to be granted, as variances are limited to height, area, and number of required parking spaces, size of structures or size of yards and open spaces, and separation requirements. Staff also finds that strict application of the code would not deprive the petitioner of reasonable use of the land, and that the request, despite the obvious medical hardship, can be considered to be self-created.

Staff acknowledges the petitioner's offer to deed restrict the use of the guest house to ensure it will not be used for rental purposes, however, this proposal does not affect staff's finding in the negative.

PREVIOUS ACTIONS: None.

CONCURRENCES: The Planning and Zoning Board recommended approval subject to the deed restrictions which were proposed by the petitioner for no rental of the guest house and to provide that a minimum size of 2.9 contiguous acres are for the improvements that are on the subject property, and the proposed improvement that is being requested tonight (motion carried 4-0, Mr. Davenport absent, June 14, 2000).

FISCAL IMPACT: Not Applicable.

RECOMMENDATION(S): Motion to deny.

Attachment(s): Planning Report, Land Use Map, Subject Site Map, Aerial.

Application #: V 5-3-00

Revisions:

Exhibit "A":

Original Report Date: 5/31/00

**TOWN OF DAVIE
Development Services Department
Planning & Zoning Division Staff
Report and Recommendation**

APPLICANT INFORMATION

Owner:

Agent:

Name: Benita Saunders

Name: Benita Saunders

Address: 681 W. Campus Circle

Address: 681 W. Campus Circle

City: Fort Lauderdale, FL 33312

City: Fort Lauderdale, FL 33312

Phone: (954) 581-9749

Phone: (954) 581-9749

BACKGROUND INFORMATION

Application Request: 1) To exceed the maximum allowable floor area for a guest house or cottage, and 2) to contain food storage, processing, handling, preparation areas and equipment, including but not limited to, a stove, oven, refrigerator, dishwasher, sink, disposal, washing machine and clothes dryer.

Address/Location: 1981 SW 139 Avenue/Generally located on the west side of SW 139 Avenue, approximately 300 feet north of SW 20 Street.

Future Land Plan Use Designation: Residential (1 du/ac)

Zoning: R-1, Estate Dwelling District

Existing Use: Vacant

Proposed Use: Single-family dwelling unit, with accessory guest living quarters.

Parcel Size: 6.95 acres (302,742 square feet)

Surrounding Uses:

Surrounding Land Use Plan:

North: One single-family dwelling and portions of vacant lands.

Residential (1 du/ac)

South: Four separate single-family dwellings

Residential (1 du/ac)

East: A single-family dwelling and a vacant land, across SW 139 Ave.

Residential (1 du/ac)

West: One single-family dwelling

Residential (1 du/ac)

Surrounding Zoning:

North: R-1, Estate Dwelling District
South: R-1, Estate Dwelling District
East: R-1, Estate Dwelling District
West: R-1, Estate Dwelling District

ZONING HISTORY

Related Zoning History: None.

Previous Request on same property: None.

DEVELOPMENT PLAN DETAILS

The petitioner is the owner of 6.9 acres of vacant land located off 139th Avenue just north of SW 20th Street. At this time, the petitioner has submitted for building permits to construct a 4,295 square foot single-family home, a 960 square foot detached garage, and a 2,356 square foot barn which includes, 4 horse stalls, a tack room and feed room (permit number 00-880). These uses are consistent with the existing R-1 (Estate Dwelling) zoning district.

In addition to the above principal use and accessory uses, the petitioner plans to construct a 570 square-foot guest house with full food storage, processing and handling facilities. Town Code limits guest houses to 400 square feet, and limits the interior facilities to a bathroom only. However, the petitioner has indicated that her daughter is in need of live-in health care as a result of an improperly performed spinal tap which resulted in paralysis in her daughter's legs and hydrocephalus in her brain. The petitioner also states, her daughter is scheduled for corrective surgery this fall and will require a recovery time in excess of a year which requires day-to-day medical care. Therefore, the petitioner is seeking a variance to exceed the maximum square footage of a guest house and to allow for additional interior facilities to provide living quarters on her property separate from her home for health care personnel (see attached petitioner's justification letter).

The proposed 570 square-foot guest house includes a kitchen with sink and disposal, food storage cabinets, and a food processing and handling area. A dishwasher, washing machine and dryer are also proposed for the guest house. The remaining area will be comprised of a sitting area, a bedroom, and a full bathroom.

Applicable Codes and Ordinances

Section 12-33(A)(9)(a), which states, a guest house or cottage is limited to a total maximum area of four hundred (400) square feet, exclusive of any patios, decks or screen porches. Such structure shall not contain or be designed to contain food storage, processing, handling or preparation areas or equipment, including, but not limited to, stoves, ovens, refrigerators, dishwashers, sinks, and disposals. In addition, such structure shall not contain, or be designed to contain, washing machines or clothes dryers.

Comprehensive Plan Considerations

Planning Area: The subject property falls within Planning Area 2. This area includes the westernmost section of the Town north of Orange Drive and south of SW 14th Street, and bound on the west by Interstate 75 and on the east by Flamingo Road. The predominant

acre. A major landholding, Imagination Farms, constitutes the last remaining dairy operation in Davie. Development of 400 single-family homes is taking place on approximately half the site. Development of the remainder of the site is imminent. This planning area contains small subdivisions of one-acre lots. Several larger parcels are currently being platted, in preparation for marketing or development as estate residences.

Broward County Comprehensive Plan Considerations

This property falls within flexibility Zone 113. No County actions are required at this time.

Staff Analysis

The petitioner is seeking variances to exceed the maximum allowable square footage of a guest house, and allow for food processing and handling facilities prohibited by code, in order to provide for live-in health care personnel to care for a disabled family member. Details of the family member's health condition are more specifically described in the development details section of this report.

The intent of an accessory guest house is to provide for intermittent or temporary occupancy by non-paying guests, and is not intended to provide separate living quarters which could function as a rental apartment or other type of fully functional second dwelling within single-family residential districts.

Relative to the petitioner's request for a variance to exceed the maximum 400 square foot floor area for a guest house by 170 square feet, staff does not find that there are special circumstances which are peculiar to such land or building which generally do not apply to others within the same zoning district. Relative to the petitioner's request for kitchen and laundry facilities, Section 12-309(A) does not allow such a variance to be granted, as variances are limited to height, area, and number of required parking spaces, size of structures or size of yards and open spaces, and separation requirements. Staff also finds that strict application of the code would not deprive the petitioner of reasonable use of the land, and that the request, despite the obvious medical hardship, can be considered to be self-created.

Staff acknowledges the petitioner's offer to deed restrict the use of the guest house to ensure it will not be used for rental purposes, however, this proposal does not affect staff's finding in the negative.

Findings of Fact

Variances: Section 12-309(B)(1):

Variance Request (1):

(a) There are not special circumstances and conditions applying to the land and building for which the variance is sought; the circumstances or conditions are not peculiar to such land or building and do apply generally to land or buildings in the same district, and that said circumstances or conditions are not such that the strict application of the provisions of this chapter would deprive the applicant of the reasonable use of such land or building for which the variance is sought; the alleged hardship is self-created by any person having an interest in the property;

(b) The granting of the variance is not necessary for the reasonable use of the land or building;

(c) Granting of the requested variances is not in harmony with the general purpose and intent of this chapter, however, may not be injurious to the neighborhood or otherwise detrimental to the public welfare as the subject site is 6.9 acres in area.

Variance Request (2):

Staff finds Code Section 12-309(A) does not authorize the Town to grant this request.

Staff Recommendation

Recommendation: Based upon the above and the finding of facts in the negative, staff recommends denial of petition V 5-3-00.

Planning and Zoning Recommendation

The Planning and Zoning Board recommended approval subject to the deed restrictions which were proposed by the petitioner for no rental of the guest house and to provide that a minimum size of 2.9 contiguous acres are for the improvements that are on the subject property, and the proposed improvement that is being requested tonight (motion carried 4-0, Mr. Davenport absent, June 14, 2000).

Exhibits

1. Petitioner Justification Letter
2. Proposed Site Layout Plan
3. Proposed Guest House Elevations
4. Land Use Map
5. Subject Site Map
6. Aerial

Prepared by: _____

Reviewed by: _____

TO THE TOWN COUNCIL:

THE REQUEST FOR A VARIANCE TO THE TOWN OF DAVIE BUILDING CODE IS BASED ON SPECIFIC HEALTH NEEDS. THE PROPERTY OWNER AND APPLICANT IS THE MOTHER OF A NINE YEAR OLD HANDICAP GIRL (WHEELCHAIR BOUND). THE FUTURE CARE FOR HER DAUGHTER WILL REQUIRE A FULL TIME LIVE IN HEALTH CARE WORKER. TO MAINTAIN A COMFORTABLE AND CONVIENT SITUATION MRS. SAUNDERS WOULD LIKE TO HAVE LIVING QUARTERS ON HER PROPERTY SEPARATE FROM HER HOME.

MEDICAL HISTORY OF NICOLE SAUNDERS

NICOLE SAUNDERS (NICKI) WAS BORN ON 12-11-90. AS A RESULT OF UNECESSARY AND IMPROPERLY PREFORMED SPINAL TAPS, NERVES IN HER SPINAL CORD WERE SEVERED. THIS RESULTED IN PARALYSIS IN HER LEGS AND HYDROCEPHALUS IN HER BRAIN.

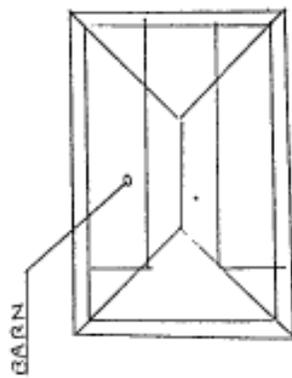
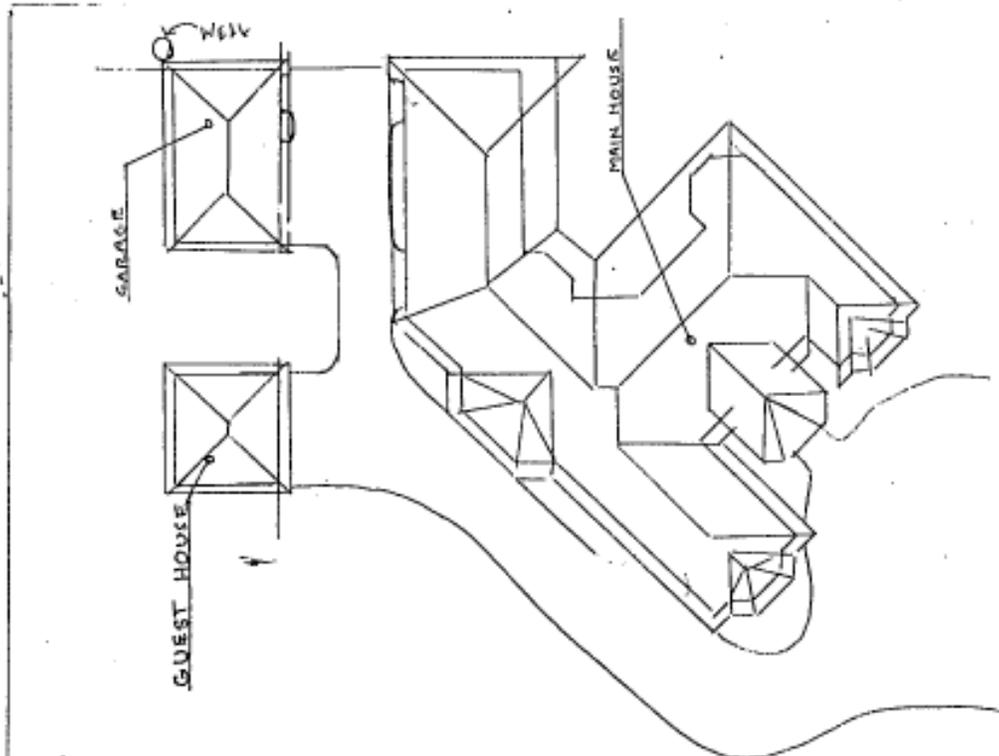
TO DATE SHE HAS HAD THREE MAJOR SURGERIES AND IS SCHEDULED FOR SERIOUS BACK SURGERY IN THE FALL OF THIS YEAR TO CORRECT A SEVERE CURVATURE OF THE SPINE. THIS IS AN EIGHTEEN-HOUR SURGICAL PROCEDURE AND THE RECOVERY TIME FOR THIS OPERATION IS IN EXCESS OF A YEAR WITH THE FUTURE LIMITATIONS OF HER MOBILITY UNCERTAIN. A FULLTIME QUALIFIED MEDICAL ASSISTANT WILL BE REQUIRED FOR AN UNDETERMINED AMOUNT OF TIME.

THE FOLLOWING DOCTORS HAVE BEEN INVOLVED IN NICKI'S VARIOUS MEDICAL TREATMENTS,

DR. ROSA MONTE-FERNANDEZ, PEDIATRICIAN
DR. MICHAEL JOFE, ORTHOPAEDIC SURGEON
DR. HARRY SHUFFLEBERGER, SURGEON

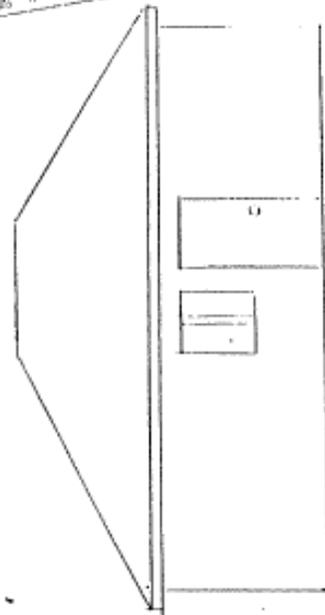
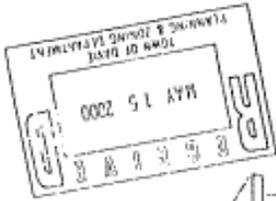
IF YOU WISH TO SPEAK WITH ANY OF THESE DOCTORS PLEASE LET ME KNOW AND I WILL HAVE THEM CONTACT YOU.

BENITA SAUNDERS
954-581-9749

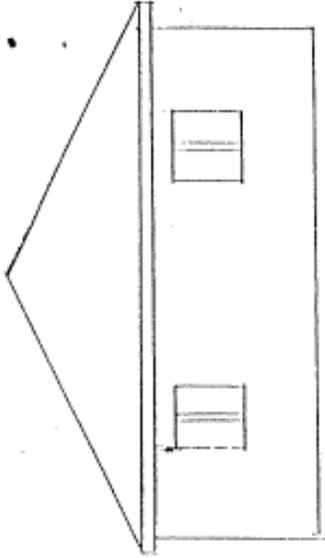


RESERVE
MAY 15 2000
TOWN OF DAVIS
PLANNING & ZONING DEPARTMENT

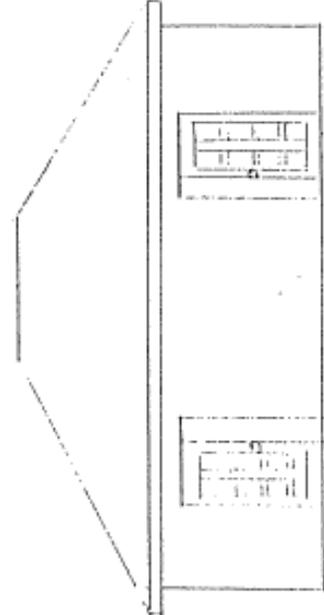
GENERAL NOTES



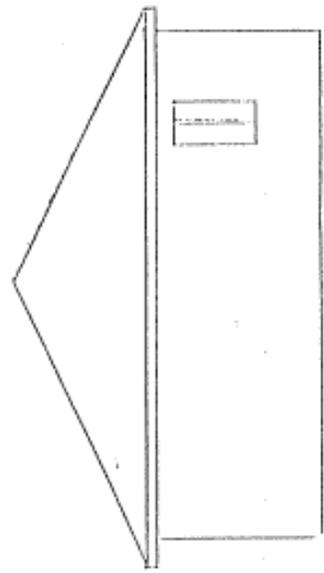
FRONT ELEVATION



REAR ELEVATION

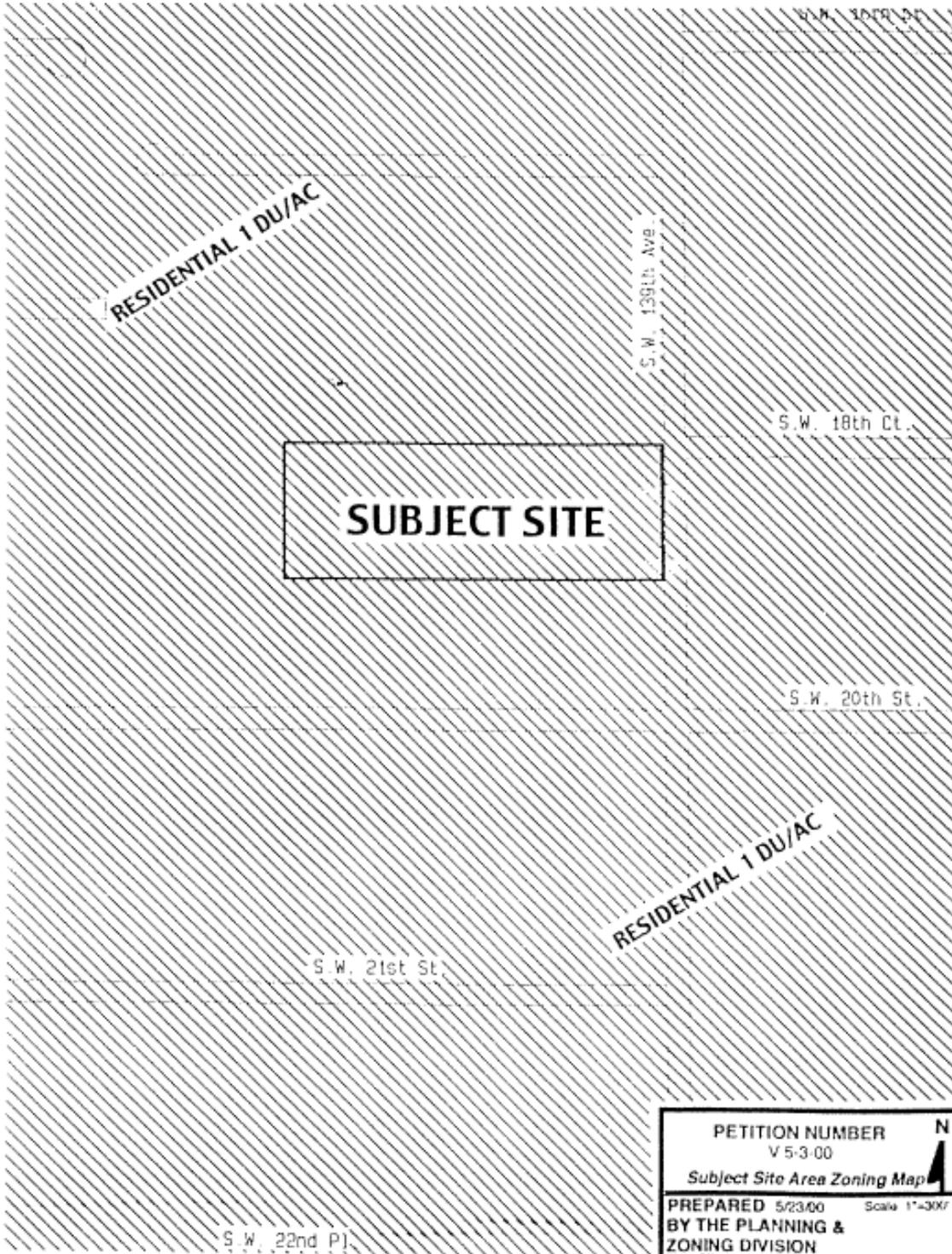


NEAR ELEVATION



LEFT ELEVATION

570 SQ. FT.



RESIDENTIAL 1 DU/AC

S.W. 139th Ave.

S.W. 18th Ct.

SUBJECT SITE

S.W. 20th St.

RESIDENTIAL 1 DU/AC

S.W. 21st St.

S.W. 22nd Pl.

PETITION NUMBER		N
V 5-3-00		
<i>Subject Site Area Zoning Map</i>		
PREPARED 5/23/00	Scale 1"=300'	
BY THE PLANNING & ZONING DIVISION		



Florida Fruit Lands Co.
 Sub No. 1, P.B. 2, D.C.R. 2, Pg. 17

PETITION NUMBER
 V 5-3-00
Subject Site Area
Future Land Use Plan

PREPARED 5/23/00 Scale: 1"=300'
BY THE PLANNING &
ZONING DIVISION

