

# TOWN OF DAVIE

## TOWN COUNCIL AGENDA REPORT

**TO:** Mayor and Councilmembers

**FROM/PHONE:** Mark Kutney, AICP, Development Services Director/(954) 797-1101

**SUBJECT:** Quasi Judicial Hearing: Variance  
V 1-3-02 Genevra Ferrero, Esquire, Ruden, McClosky, Smith, Schuster,  
& Russell, PA/Daniel and Toni Glantz, 2431 SW 131 Terrace/Generally  
located at the northwest corner of SW 26 Street and SW 130 Avenue,  
within the Emerald Springs Homes of Davie Plat.

**AFFECTED DISTRICT:** District 4

**TITLE OF AGENDA ITEM:** V 1-3-02 Glantz, 2431 SW 131 Terrace (A-1)

**REPORT IN BRIEF:** The petitioner has requested a reduction in the required side yard setback from 25' to 13.79' in order to allow the addition of a recreation room on the southwest corner of the residence. According to the petitioner this is the only feasible place to add on to the home due to its internal layout and configuration of the lot.

The intent of the 25 foot side yard setback required by the Land Development Code is for the consistent placement of structures and to maintain openness provided by the minimum 50 foot separation between structures, within the A-1, Agricultural District. The subject site has special circumstances in that it is an odd shaped lot, and minor relief from the side yard setbacks within this development have been previously approved through the Administrative Special Permit procedure. Granting this request will not diminish the open space in such a way that it will infringe upon neighboring properties as the distance between the closest home to the south ranges from approximately 106 to 68 feet. Furthermore, the adjacent neighbors and the Emerald Springs Homes of Davie Homeowners Association have provided their written consent to the request. Staff has conducted an inspection of the subject site and finds that the request will not be detrimental to the neighborhood. However, based upon the literal interpretation of the Code that staff must make, the granting of this request is not necessary as the owner already has reasonable use of the land.

**PREVIOUS ACTIONS:** None

**CONCURRENCES:** At the April 24, 2002 Planning and Zoning Board meeting, Ms. Moore made a motion, seconded by Ms. Turin, to approve (Motion carried 3-0, Vice-Chair Bender and Mr. Waitkus were absent).

**FISCAL IMPACT:** None

**RECOMMENDATION(S):** Motion to deny

**Attachment(s):** Planning Report, Justification letter, Consent letters, Land use map, Subject

site map

Application #: V 1-3-02  
Exhibit "A"

Revisions:  
Original Report Date: 5/7/2002

---

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

---

**APPLICANT INFORMATION**

**Owners:**

**Name:** Daniel and Toni Glantz

**Address:** 2431 SW 131 Terrace

**City:** Davie, FL 33325

**Phone:** (954)929-4530

**Agent:**

**Name:** Genevra Ferrero, Esquire  
Ruden, McClosky, Smith,  
Schuster, & Russell, PA

**Address:** 200 East Broward Boulevard

**City:** Fort Lauderdale, FL 33301

**Phone:** (954)761-2913

---

**BACKGROUND INFORMATION**

**Date of Notification:** April 17, 2002    **Number of Notifications:** 34

**Application History:** No deferrals have been requested.

**Application Request:** Variance **FROM:**

requires 25 foot minimum side yards; **TO:** reduce the minimum side yard to 13.79 feet in order to allow the addition of a recreation room on the southwest corner of the residence.

**Address/Location:** 2431 SW 131 Terrace/Generally located at the northwest corner of SW 26 Street and SW 130 Avenue, within the Emerald Springs Homes of Davie Plat.

**Future Land Use Plan Designation:** Residential (1 DU/AC)

**Zoning:** A-1, Agricultural District

**Existing Use:** Single family dwelling

**Proposed Use:** same

**Parcel Size:** 0.805 acres (35,100 square feet)

**Surrounding Uses:**

**North:** Single family dwelling  
**South:** Single family dwelling  
**East:** Single family dwelling  
**West:** Single family dwelling

**Surrounding Land**

**Use Plan Designation:**

Residential (1 DU/AC)  
Residential (1 DU/AC)  
Residential (1 DU/AC)  
Residential (1 DU/AC)

**Surrounding Zoning:**

**North:** A-1, Agricultural District  
**South:** A-1, Agricultural District  
**East:** A-1, Agricultural District  
**West:** A-1, Agricultural District

---

**ZONING HISTORY**

**Related Zoning History:** Administrative Special Permit, ASP 1-1-99 Mellgren/Emerald Springs Homes of Davie, reduced the side yard setback on lots 14, 15, 30, 31, 47, 48, 49, 61, 62, 64 from 25' to 22.5', on January 15, 1999.

**Previous Request on same property:** The plat, P 1-4-90 Emerald Springs Homes of Davie, was approved on March 21, 1990.

The site plan, SP 9-2-93 Emerald Springs Homes of Davie, was approved on October 20, 1993.

The site plan for the guardhouse and entrance wall, SP 11-7-94 Emerald Springs Homes of Davie, was approved on November 30, 1994.

The site plan for the modular sales office, SP 10-1-95 Emerald Springs Homes of Davie, was approved on December 20, 1995.

---

**APPLICATION DETAILS**

The petitioner has requested a reduction in the required side yard setback from 25' to 13.79' in order to allow the addition of a recreation room on the southwest corner of the residence. According to the petitioner this is the only feasible place to add on to the home due to its internal layout and configuration of the lot.

---

**Applicable Codes and Ordinances**

Section 12-81A of the Land Development Code requires a side setback 25 feet in the A-1, Agricultural District.

---

**Comprehensive Plan Considerations**

**Planning Area:** The subject property falls within Planning Area 2. Planning Area 2 includes the westernmost section of the Town north of Orange Drive and south of SW 14 Street, and bound on the west by Interstate 75 and on the east by SW 100 Avenue. The predominant existing and planned land use is single family residential at a density of one dwelling per acre.

**Broward County Land Use Plan:** The subject site falls within Flexibility Zone 113.

**Applicable Goals, Objectives and Policies:** Policy 17-7 Adopted land development

regulations shall continue to set forth setbacks or separation regulations, landscaping requirements, and minimum open space criteria to enhance living environments.

---

### **Staff Analysis**

The intent of the 25 foot side yard setback required by the Land Development Code is for the consistent placement of structures and to maintain openness provided by the minimum 50 foot separation between structures, within the A-1, Agricultural District. The subject site has special circumstances in that it is an odd shaped lot, and minor relief from the side yard setbacks within this development have been previously approved through the Administrative Special Permit procedure. Granting this request will not diminish the open space in such a way that it will infringe upon neighboring properties as the distance between the closest home to the south ranges from approximately 106 to 68 feet. Furthermore, the adjacent neighbors and the Emerald Springs Homes of Davie Homeowners Association have provided their written consent to the request. Staff has conducted an inspection of the subject site and finds that the request will not be detrimental to the neighborhood. However, based upon the literal interpretation of the Code that staff must make, the granting of this request is not necessary as the owner already has reasonable use of the land.

---

### **Findings of Fact**

#### **Variances:**

#### **Section 12-309(B)(1):**

**The following findings of facts apply to the variance request.**

(a) There are special circumstances or conditions applying to the land or building for which the variances are sought, which circumstances or conditions are peculiar to such land or building and do not apply generally to land or buildings in the same district, and that said circumstances or conditions are such that the strict application of the provisions of this chapter would deprive the application of the reasonable use of such land or building for which the variances are sought, and that alleged hardship is not 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 and that the variance as requested is not the minimum variance that will accomplish this purpose.

(c) Granting of the requested variances will be in harmony with the general purpose and intent of this chapter and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

---

### **Staff Recommendation**

**Recommendation:** Based upon the above and negative finding of facts, staff must recommend **denial** of petition V 1-3-02.

---

## Planning & Zoning Board Recommendation

At the April 24, 2002 Planning and Zoning Board meeting, Ms. Moore made a motion, seconded by Ms. Turin, to approve (Motion carried 3-0, Vice-Chair Bender and Mr. Waitkus were absent).

---

### Exhibits

1. Justification letter
2. Consent letters
3. Land use map
4. Subject site map

Prepared by: \_\_\_\_\_

Reviewed by: \_\_\_\_\_

**NARRATIVE/JUSTIFICATION**  
**Glantz Variance Application**

Applicant Daniel Glantz ("Applicant") lives at 2431 S.W. 131<sup>st</sup> Terrace in the Town of Davie ("Town"). Due to the growing needs of his family, Applicant now desires to augment his current home through the addition of a recreational room (the "Addition") on the southern face of his home. However, Applicant's home is located in the Town's A-1 ("Agricultural") Zoning District, which requires a side yard and/or setback measuring twenty five (25) feet. Due to the nature and shape of Applicant's property, the Addition will impede slightly (the encroachment ranges between one (1) to eight (8) feet) into the established setback. Therefore, in furtherance of its development proposal, Applicant seeks a variance permitting Applicant to encroach into the established setback, in contravention of the requirements set forth in Section Sec. 12-81 of the Town's Code of Ordinances ("Code").

As discussed below, the granting of the requested variance will adhere to the variance review criteria set forth in Code Section 27-804, as Applicant will demonstrate: (A) that peculiar circumstances warrant the present variances, not shared by other properties in the same zoning district; (B) that these circumstances are not self created; (C) that to proceed otherwise would deny Applicant reasonable use of its property; (D) that the proposed variances are the minimum variances that will accomplish Applicant's stated purpose; and (E) that allowing the requested variance will be in harmony with the general purpose and intent of the Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

A. Unique and Special Circumstances or Conditions Exist that Are Not Shared by Other Properties in the Same Zoning District and Are Not Self Created

Special circumstances exist in the present case that warrant the granting of the requested variance. In fact, the variance at issue is simply the direct result of the size and shape of Applicant's particular piece of property, which is sharply angled on the southern side. Clearly then, these circumstances are not self created.

B. Strict Application of the Code Would Deprive Applicant of Reasonable Use of its Property.

Strict application of the Code would deprive Applicant of reasonable use and enjoyment of its property, as there is no other available location on Applicant's Property for the proposed Addition. The only available space to accomplish the Addition – the portion of Applicant's side yard that is adjacent to the garage and family bedrooms – would require Applicant to reconfigure the entire internal structure of his home, and disturb the home's architectural integrity. As stated above, a family bedroom and garage backs up to the unused portion of the side yard that would accommodate this expansion.

C. Variations Requested are the Minimum Variations Required to Accomplish Reasonable Use of the Property.

This request is the minimum variance required. All other regulations will be satisfied.

D. Granting of the Variances Will Be in Harmony with the General Intent and Purpose of the ULDR and Will Not Be Injurious to the Neighborhood or Otherwise Detrimental to the Public Welfare.

Approval of the requested variance is in harmony with the general intent and purpose of the Code. Indeed, the Code speaks to the Town's desire to implement policies that are efficient, effective and equitable, with respect for the rights of property owners and the consideration of the interests of Town citizens. The variance requested is entirely consistent with the Code's general intent and purpose, as:

- It will preserve the overall appearance of the neighborhood and maintain the architectural integrity of Applicant's home;
- Applicant will comply with all other Code requirements – including the maintenance of sufficient open space
- Applicant will not interrupt any of his neighbors' views of the lake abutting his property, and has obtained letters of support from both his adjoining neighbors and the home owners' association.

Accordingly, this variance request is simply the result of the growing needs of a family that are located on an oddly-shaped lot, with a home that has an architectural structure that requires the present action. The integrity of the neighborhood will be preserved, and the abutting neighbors have expressed their support of this variance. No inconsistent or illogical precedent will therefore be established through the granting of this variance.



January 23 2002

Town Council Members  
Town Hall  
6591 Orange Drive  
Davie, FL 33314

*Re: Variance Application Relating to Proposed Addition to Glantz Residence (located at 2431 S.W. 131<sup>st</sup> Terrace, Lot 45 of the Emerald Springs Homes of Davie Plat, recorded in the public records of Broward County at Plat Book 149, Page 48)*

Dear Council Members:

As President of the Emerald Springs Homes Of Davie Homeowners' Association ("Association"), I am writing to convey to the Town Council our strong support for the above-described variance application ("Variance"). The Association includes 1 single-family homes located 2431 SW 131 TERRACE. We believe that the Variance will be consistent the guidelines of our community, and appreciate all efforts Mr. Glantz has made to notify us of his efforts, and to involve us in the process.

If you have any questions, please do not hesitate to call.

Sincerely,

  
President  
Emerald Springs Homes of Davie Homeowners' Association

cc: Daniel Glantz

***Arnold and Lily Muskat  
2401 S.W. 131<sup>st</sup> Terrace  
Davie, FL 33325***

January 21, 2002

Town Council Members  
Town Hall  
6591 Orange Drive  
Davie, FL 33314

*Re: Variance Application Relating to Proposed Addition to the Glantz Residence (located at 2431 S.W. 131<sup>st</sup> Terrace, Lot 45 of the Emerald Springs Homes of Davie Plat, recorded in the public records of Broward County at Plat Book 149, Page 48)*

Dear Council Members:

I reside at 2401 S.W. 131<sup>st</sup> Terrace in the Town of Davie ("Town"), and am the next-door neighbor to Daniel and Toni Glantz. The Glantzes recently approached me to discuss their proposed addition to their home, and have allowed me to view all plans for the proposed addition. I understand that this addition will encroach slightly into the setback. However, I have no objection to the addition or the Glantzes' current variance application, and support their efforts.

Sincerely,

*Lily Muskat  
Arnold Muskat*

cc: Daniel Glantz

**Hugues and Marilyn Rousseau**  
**2461 S.W. 131<sup>st</sup> Terrace**  
**Davie, FL 33325**

January 22, 2002

Town Council Members  
Town Hall  
6591 Orange Drive  
Davie, FL 33314

*Re: Variance Application Relating to Proposed Addition to the Glantz Residence (located at 2431 S.W. 131<sup>st</sup> Terrace, Lot 45 of the Emerald Springs Homes of Davie Plat, recorded in the public records of Broward County at Plat Book 149, Page 48)*

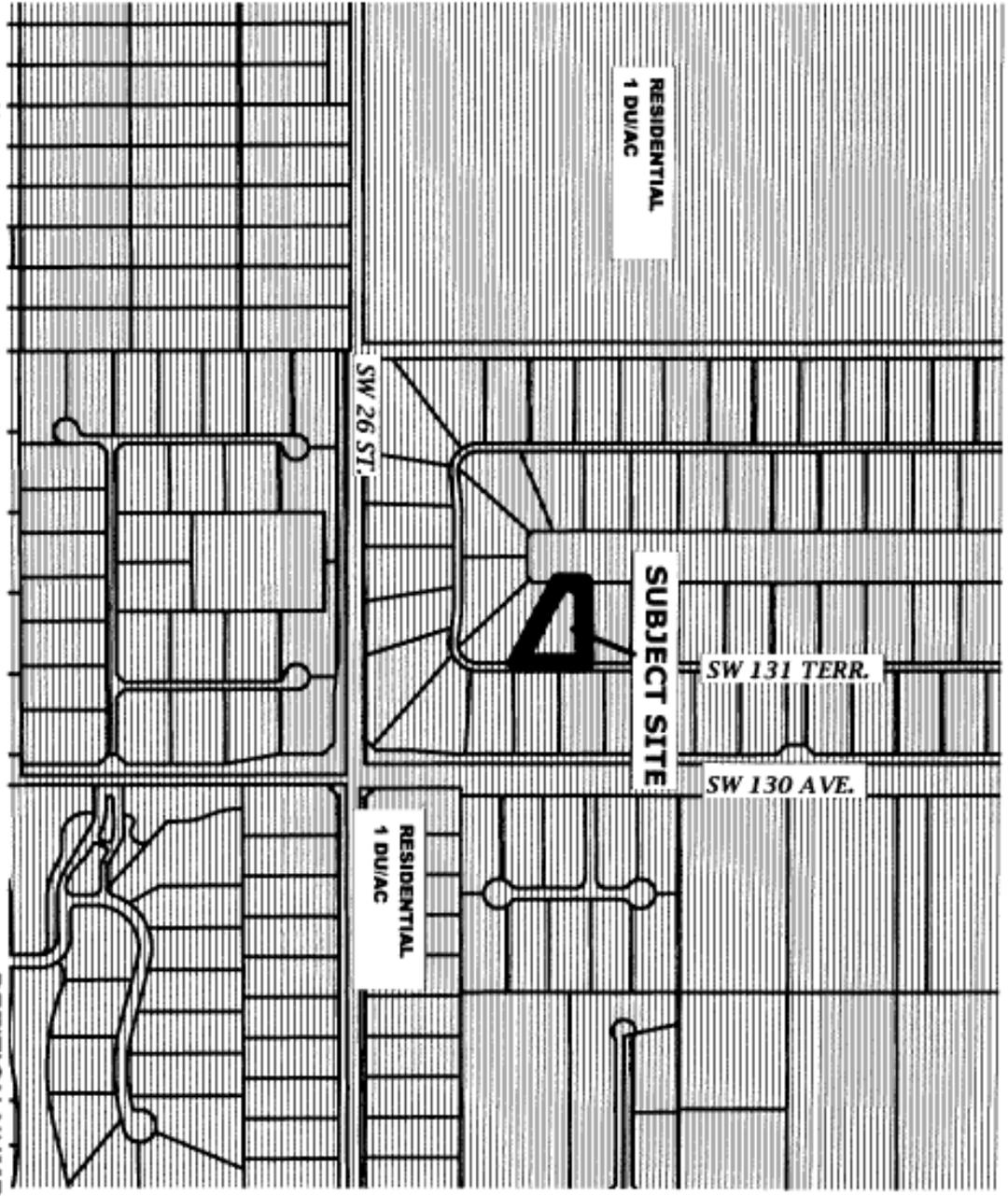
Dear Council Members:

I reside at 2461 S.W. 131<sup>st</sup> Terrace in the Town of Davie ("Town"), and am the next-door neighbor to Daniel and Toni Glantz. The Glantzes recently approached me to discuss their proposed addition to their home, and have allowed me to view all plans for the proposed addition. I understand that this addition will encroach slightly into the setback. However, I have no objection to the addition or the Glantzes' current variance application, and support their efforts.

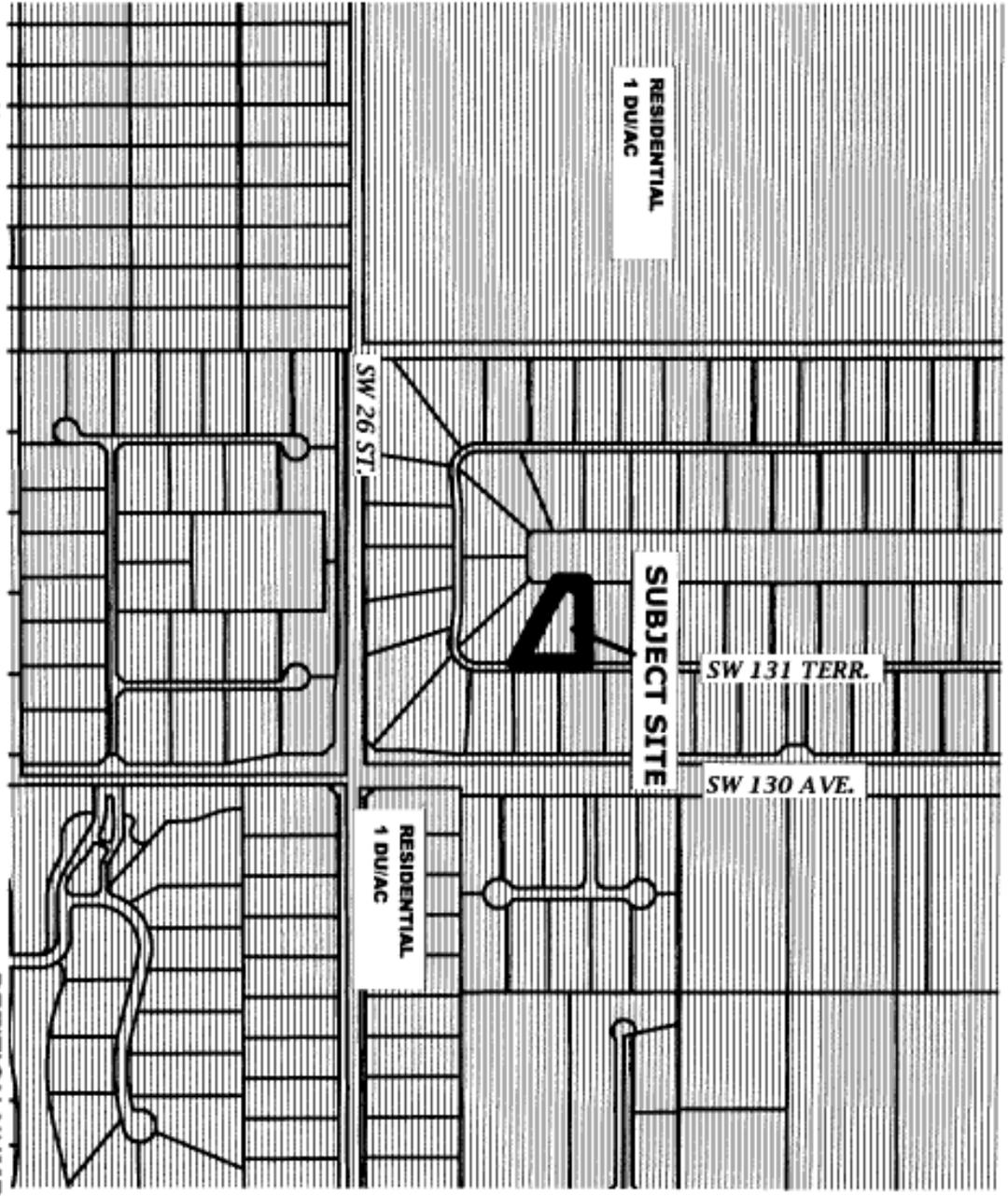
Sincerely,

*Hugues and Marilyn Rousseau 1/22/02*  
*[Signature]* 1/22/02

cc: Daniel Glantz



**PETITION NUMBER: V 1-3-02**  
FUTURE LAND USE MAP  
SCALE 1" = 400'  
TOWN OF DAVIE  
PLANNING & ZONING DIVISION - G  
PREPARED 3/6/02



**PETITION NUMBER: V 1-3-02**  
FUTURE LAND USE MAP  
SCALE 1" = 400'  
TOWN OF DAVIE  
PLANNING & ZONING DIVISION - G  
PREPARED 3/6/02