



**Planning, Zoning & Economic Development  
Memorandum**

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**DATE:** June 1, 2021

**TO:** Members of the Planning and Zoning Board

**THRU:** Danny A. Holmes, AICP  
Planning, Zoning & Economic Dev Director

**FROM:** Gayle Easterling, AICP Senior Planner  
Thalein Rainford, Planner

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**I. PROJECT SUMMARY**

- A. Project Name: Physical Site Development Variance – Nusbickel Residence  
(aka Paragon Homes – Lot 4) / PM21-0012
- B. Physical Site Development Variance request:
- From: Section 27-72(b)(4), which requires a 25’ side yard setback in the RS-1EP Single Family zoning district.
- To: Reduce the required side yard setback from 25 feet to 20 feet.
- C. Recommendation: **APPROVAL** subject to conditions noted in Section V.B. of this staff report.

**II. APPLICATION SUMMARY**

- A. Owner: Thomas & Kristin E. Nusbickel
- B. Agent: C William Laystrom, Jr.
- C. Location: 12320 N.W. 15<sup>th</sup> Street
- D. Size: 38,633 square feet
- E. Folio Number: 494036670040
- F. Legal Description: See Exhibit C

G. Future Land Use Plan Designation, Current Zoning and Use of Subject Property:

<u>Existing Use &amp; Zoning</u>	<u>Future Land Use Map</u>
Subject: Property: Single-Family Residential / RS-1EP	Residential (1 du/ac)
North: N.W. 15 <sup>th</sup> Street then Community Facility zoned CF-P	Right-of-way & Community Facility
South: Single Family Residential zoned RS-1EP	Residential (1 du/ac)
East: Vacant land zoned RS-1EP	Residential (1 du/ac)
West: Single Family Residential zoned RS-1EP	Residential (1 du/ac)

**III. BACKGROUND**

A. Subject Property/The Site

Paragon Homes of Plantation is developing 5 single family lots on the east side of Flamingo Road at NW 15<sup>th</sup> Street. All five lots have been sold with the fifth lot pending construction (12300).



Paragon Homes

## B. Synopsis

Permits, spot surveys, and final surveys for the three completed homes on Lots 1, 2, & 4, appeared to meet code with regards to the side setbacks with each lot indicating the minimum 25-foot side setback requirement. Lot 1 was transferred from Paragon Homes to a private owner in May 2016. This home was resold in August 2018 and upon review of the title work and survey for the transfer of ownership, an inadvertent survey error was discovered which indicated the property line for each home was 5 feet west of its represented location.

In lieu of each home meeting the 25-foot required side setback, three of the five lots will have a 20' setback on east side and a minimum 30-foot setback on the west side. The result of the survey error provides for the intended 50-foot separation between homes on Lots 1 and 2 together with Lots 3 and 4. The separation between structures on Lots 2 and 3 together with Lots 4 and 5 will be a minimum of 45'. A variance for Lot 2 (12360, PM19-0052) to reduce the east side setback was granted by the Planning and Zoning Board on October 1, 2019. A variance for Lot 1 (12380, PM20-0004) to reduce the east side setback was granted by the Planning and Zoning Board on March 3, 2020. The survey error has been corrected for Lot 3 (12340) and vacant Lot 5 (12300).

The property owners, with assistance from Paragon Homes, is seeking an east side setback variance for Lot 4 (12320) to allow the home to remain as constructed with a 20-foot east side setback and 46-foot west side setback.

In deciding to approve or deny the variance, the Board shall determine if the applicant substantially met the criteria outlined below in Section 27-52(g)(1).

## IV. PROJECT ANALYSIS, CRITERIA AND FINDINGS

### A. Comprehensive Plan Considerations

Not applicable.

### B. Zoning Considerations

#### Physical site development variances (Section 27-52):

(a) A variance from the terms of this chapter shall not be granted by the Board unless and until:

- (3) The Board has made findings that the requirements of this section have been met by the applicant, and that the reasons set forth in the appeal justify the granting of the variance, to wit:

- a. That in fact special conditions and circumstances do exist affecting the land, structure or building involved which prevent the reasonable use of said land, structure or building;

Applicant: The Applicant submits that during development of lots 1, 2, and 4, a surveyor's error was made which placed the side yard property line for each lot 5 feet to the east of the correct locations. Due to this error, the residences are 5 feet short of the City of Plantation's 25-foot side setback requirement on the eastern sides and has 5 feet extra on the western sides. The distance separation between each residence does not change.

Staff: *Four of the five lots are constructed and have received Certificates of Occupancy. The general intent of the code to provide a 50-foot separation between structures has been met.*

- b. That the literal interpretation of the provisions of this chapter would deprive the applicant of a substantial property right that is enjoyed by other property owners in the district. (It is of no moment whatever that the denial of the variance might deny the property owner some opportunity to use the property in a more profitable way, or to sell it at a greater profit than is possible under the terms of this chapter);

Applicant: The Applicant submits that the intention of the setback requirements under Section 27-134 of the Plantation Code of Ordinances is to create a minimum separation distance between residences. In this particular situation, even though the residences fall 5 feet short of the eastern side setback requirements, there is an equivalent 5-foot increase to the western side yard setback leaving the distance between each residence the same.

Staff: *Staff agrees.*

- c. That the special conditions and circumstances do not result from the action of the applicant;

Applicant: The Applicant submits that the variance requested will alleviate a surveyor's error made during the construction process and bring the residences into compliance with the Plantation Code of Ordinances.

Staff: *Although the circumstances are a result from the action of the surveyor, the error was inadvertent and unintentional.*

- d. That granting the variance requested will not be detrimental to adjacent property or adversely affect the public welfare;

Applicant: The Applicant submits that the variance requested will not in any way adversely affect the public welfare. The variance requested will not alter the distance between each residence.

Staff: Given that a 71-foot separation between homes on Lot 3 and Lot 4 has been maintained, the requested variance should not be detrimental to adjacent property owners.

C. Citizen Comments

The City of Plantation sends out notices to surrounding property owners when planning and zoning actions are requested. This provides an opportunity for citizen participation in the zoning process. In this case, the Planning, Zoning & Economic Development Department sent out notices on May 17, 2021, and to date has not received any written citizen comments nor phone calls about this application.

D. Concerns, Issues and other Pertinent Information

Code Violations: There are no violations for the property at this time.

V. **RECOMMENDATION:**

A. **APPROVAL** subject to staff comments noted below:

B. **STAFF COMMENTS:**  
**PLANNING AND ZONING:**

1. Fence and hedge lines that are encroaching onto the adjacent lot as a result of the survey error must be relocated within the correct lot lines.

**LANDSCAPE:**

1. Staff has no objections for the side setback reduction, however please be advised of Landscaping Maintenance requirements pursuant Article X - Landscape Standards: Minimum Landscape requirements and tree protection for possible existing trees along with tree removal/relocation permits acquired through the Public Works Department – Environmental Landscape Division.
2. Section 27-253. Issuance of Certificate of Occupancy
  - (b) The City has the right to inspect all properties to ensure that landscape has been installed, maintained, and irrigated in accordance with the landscape plan approved by the city and the provisions of this article and may require the property owner to make all appropriate corrections.
3. Please be advised: Our soils in the City of Plantation lack certain elements; therefore, we typically suggest to have a soil analysis done to determine the proper fertilizer regiment. Please follow manufacturer recommended rates and methods of application.

**ENGINEERING DEPARTMENT:**

1. Staff has no objections for the side setback reduction, however please be advised of the existing 10' drainage easement abutting the eastern, western and southern property lines. Fence and hedge lines that are encroaching onto the drainage easement need to be evaluated and relocated accordingly.

**BUILDING:** No objections.

**FIRE:** No objections as to this physical site development variance request.

**UTILITIES:** No objection to the Side setback reduction – Physical Variance.

**VII. EXHIBITS:**

- A. Letter of Intent
- B. Aerial Map
- C. Zoning Map
- D. Legal Description

**EXHIBIT A**  
**Letter of Intent**

**LAW OFFICES**  
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**VOIGT, WACHS, ADAIR & DISHOWITZ, LLP**

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OF COUNSEL  
JOHN W. PERLOFF, P.A.  
JODIE SIEGEL, P.A.

Re: Paragon Homes – Setback Variance Request  
Date: June 1, 2021

**LETTER OF INTENT**

The Applicant, Paragon Homes of Plantation Acres, LLC., hereby respectfully requests a variance from the Plantation Code of Ordinances (the “Code”) to reduce the setback requirements from 25 feet to 20 feet for the eastern side of the property located at 12380 N.W. 15<sup>th</sup> Street, Plantation, FL (the “Property”).

During development of the single-family residence located on the Property, an error was made and the property line for the lot was mistakenly marked 5 feet to the west of where the property line was actually located. This error caused the single-family residence constructed on the Property to be built with a side setback 5 feet short of the Code’s 25-foot side setback requirement on its eastern side. The Western side yard setback is likewise 5 feet wider than the Code requires. The distance between the homes remains the same.

In order to alleviate any future issues stemming from the eastern side setback, the Applicant respectfully requests that the City of Plantation grant a variance reducing the setback requirements

for the eastern side of the Properties from 25 feet to 20 feet. Respectfully submitted by C. William Laystrom, Jr., Esq. this 6th day of April, 2021.



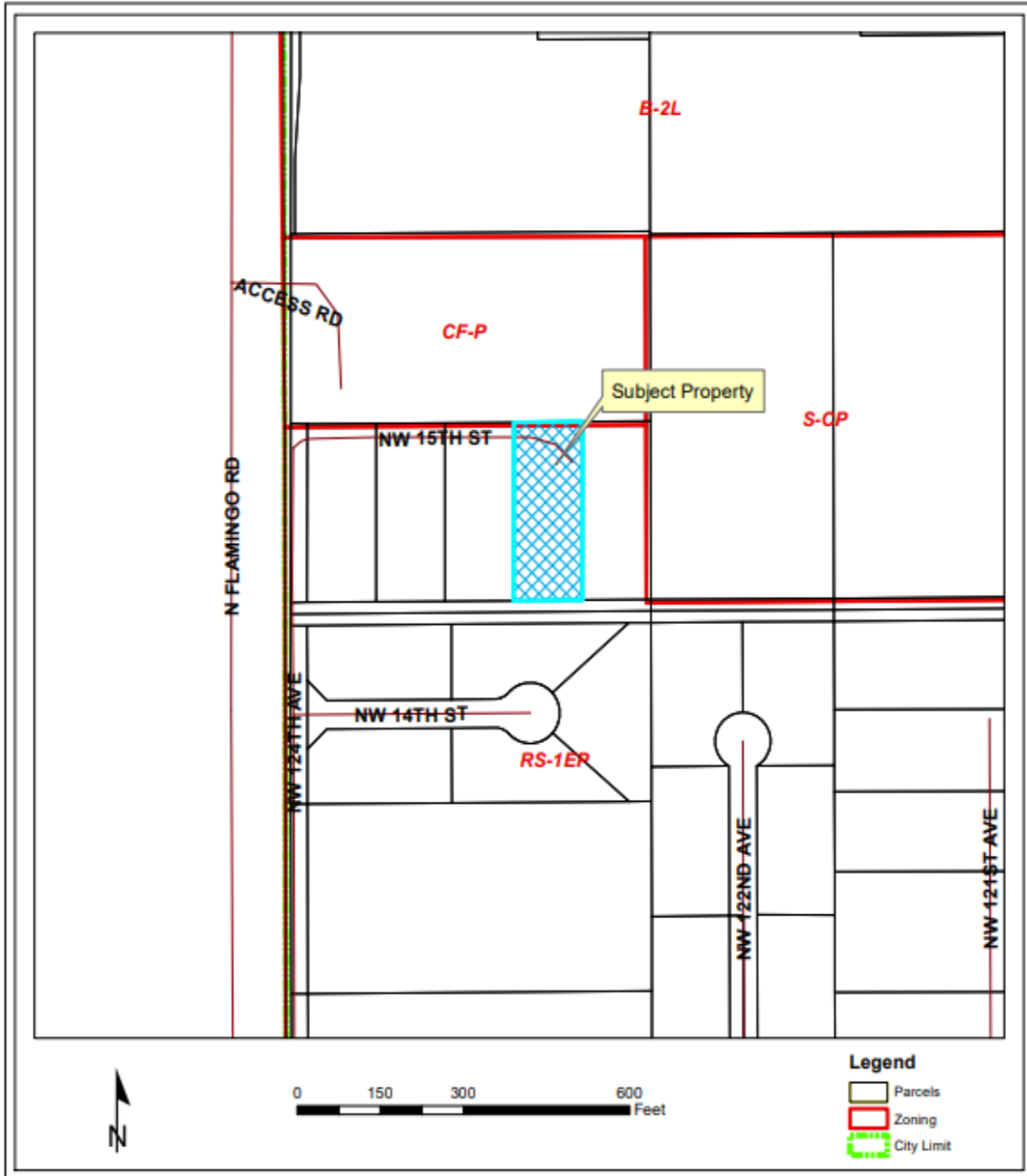
AERIAL MAP



12320 NW 15th St.  
CASE # PM21-0012  
PLANTATION, FLORIDA  
05/24/21

**EXHIBIT C  
Zoning Map**

**ZONING MAP**



12320 NW 15th St.  
CASE # PM21-0012



PLANTATION, FLORIDA  
05/24/21

**EXHIBIT D**  
**Legal Description**

**Lot 4 of SMRT Estates Plat, according to the plat thereof, recorded in Plat Book 172, Page 58 of the Public Records of Broward County, Florida.**

**Folio # 494036-67-0040**