



**Planning, Zoning & Economic Development
Memorandum**

DATE: August 3, 2021

TO: Members of the Planning and Zoning Board

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

FROM: Gayle Easterling, AICP Senior Planner *GE*
Shawn Lamey, APA, Principal Planner *SL*

I. PROJECT SUMMARY

A. Project Name: Practical Difficulty Waiver – Lankri Residence Pergola / PM21-0029

B. Waiver request:

To allow a pergola & outdoor kitchen to encroach into the required side and rear yard setback.

1) From: Section 27-310(d) which requires a 7.5-foot side yard setback to the pergola & outdoor kitchen in the RS-3K S zoning district.

To: Reduce the required side yard setback from 7.5 feet to 4.5 feet.

2) From: Section 27-310(d) which requires a 10-foot rear yard setback to the pergola & outdoor kitchen in the RS-3K S zoning district.

To: Reduce the required rear yard setback from 10 feet to 2.8 feet.

C. Recommendation: Staff recommends **DENIAL** of the requested practical difficulty waiver. In the event the Planning and Zoning Board finds that the applicant has proven entitlement to the practical difficulty variances and recommends approval of the requests, Staff recommends the approval be subject to the conditions included in Section V.B.

II. APPLICATION SUMMARY

- A. Owner: Inbar Laski & Aviad Lankri
- B. Agent: Aviad Lankri
- C. Location: 10170 S.W. 1st Street
- D. Size: 11,700 ± square feet
- E. Folio Number: 504107040180
- F. Legal Description: See Exhibit D

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

<u>Existing Use & Zoning</u>	<u>Future Land Use Map</u>
Subject: Property: Single-Family Residential / RS-3K “S” (Residential Single Family)	Residential (3 du/ac)
North: SW 1 st Street then Single-Family Residential / RS-3K “S” (Residential Single Family)	Right-of-way & Residential (3 du/ac)
South: Single-Family Residential / RS-3K “S” (Residential Single Family)	Residential (3 du/ac)
East: Single-Family Residential / RS-3K “S” (Residential Single Family)	Residential (3 du/ac)
West: Single-Family Residential / RS-3K “S” (Residential Single Family)	Residential (3 du/ac)

III. BACKGROUND

A. Subject Property/The Site

The subject site is zoned RS-3K “S” (Residential Single-Family Zoning District), 11,700 ± square feet in area, and located on the south side of SW 1st Street approximately 130 feet east of Nob Hill Road within the Jacaranda Cay neighborhood. The lot is developed with a 3,381± square foot single-story residence with a rear yard swimming pool and patio. The site is bound by single-family residential uses to the east, west and south, together with SW 1st Street to the north then single-family residential uses. Refer to Exhibits B and C for the location and zoning maps.

B. Synopsis

The property is subject to code enforcement action relating to construction of a pergola and outdoor kitchen without a permit. The covered pergola is approximately 196 square feet in area (14' x 14') and 8.3 feet in height. A building permit (B21-02392) was applied for by the applicant to rectify the code violation but was denied due to non-compliance with the side and rear setback requirements. See Exhibit G for site photos. Section 27-310(d) of the Code requires a 10-foot rear and 7.5-foot side setback for accessory structures (pergolas, shade houses, gazebos, cabanas, greenhouses, shed etc.) in the RS-3K "S" zoning district.

The owner/applicant requests approval of a practical difficulty waiver to allow the existing pergola with outdoor kitchen to encroach 3.0 feet into the required 7.5-foot side setback and 7.2 feet into the required 10-foot rear yard setback. Although, the pergola is located within a 6-foot utility easement, the Utilities Department has stated there are no existing or planned infrastructure in the easement; therefore, they have no objection to the encroachment. The property is well maintained and the pergola location has minimal visual impact.

IV. PROJECT ANALYSIS, CRITERIA AND FINDINGS

A. Comprehensive Plan Considerations

Not applicable.

B. Zoning Considerations

The variance process for physical site development is intended to provide limited relief from the requirements of this Code in those cases where strict application of those requirements will create an undue hardship or practical difficulty, as distinguished from a mere inconvenience, prohibiting the use of land in a manner otherwise allowed under this Code.

Practical difficulty Waiver (Section 27-52(g)(2):

Practical difficulty. If the application does not meet the undue hardship criteria, the application may be considered under the requirements of practical difficulty hardship. The following are the standards that must be met for consideration of whether a practical difficulty exists:

a. The request shall not be substantial in relation to what is required by the Code; and

Applicant: I am referring you to my file with a letter from my neighbors with no objection to the pergola or the setback.

Staff: The requested reduction in setbacks are considered by staff to be substantial to what is required by code. The applicant is requesting a side setback reduction of 3.0 feet (a 40% reduction in code requirement) and rear setback reduction of 7.2 feet (a 72% reduction in code requirement). Maintaining the structure in its current location is; however, supported by the Jacaranda Cay Homeowner's Association and not opposed to by adjacent property owners. Meets Standard – No

b. The approval of the practical difficulty will be compatible with development patterns; and

Applicant: Shrubs and fencing help to make compatible.

Staff: The rear yard is enclosed with a 6' high PVC fence; therefor, only the top 2.3 feet of the pergola is visible from neighboring properties. Trees provide visual screening of the pergola from the street. Given the minimal visual impact, the pergola appears compatible with existing development patterns. Meets Standard - Yes

c. The essential character of the neighborhood would be preserved; and

Applicant: The neighborhood is preserved.

Staff: Given the minimal visual impact, the pergola does not alter the character of the neighborhood. Meets Standard - Yes

d. The request can be approved without causing substantial detriment to adjoining properties; and

Applicant: I have a letter signed by my neighbors with no objection.

Staff: The applicant has communicated with the neighbors and received support from four (4) adjacent neighbors; therefore, the request does not appear to cause a substantial detriment to adjoining properties. Meets Standard - Yes

e. The request is due to unique circumstances of the property, the property owner, and/or the applicant which would render conformity with the strict requirements of the Code unnecessarily burdensome.

Applicant: When we bought the house in 2013 the decking and pool was existing so the only place left to build the pergola was in the SW corner of my yard.

Staff: The minimum lot size for residential uses in the RS-3K "S" district is 7,500 square feet with a minimum width of 75 feet and a minimum depth of 100 feet. The subject site is 11,700 in area with a lot width of 90 feet and lot depth of 130 feet. The pergola could have been smaller in size or constructed partially on top of the existing pool deck meet the required setbacks. Meets Standard - No

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 July 19, 2021, and to date has not received any written citizen comments nor phone calls about this application.

The applicant has provided a letter from the Jacaranda Cay HOA approving the request. (See Exhibit "E"). The owners have solicited and received support from the four (4) adjacent neighbors. (See Exhibit "F").

D. Concerns, Issues and other Pertinent Information

Code Violations: There is currently an open violation at this time. Case # CE21-00473 for the construction of pergola/outdoor kitchen and fence in the rear yard without the required permits.

V. **RECOMMENDATION:**

A. Staff recommends **DENIAL** of the requested practical difficulty waivers. In the event the Planning and Zoning Board approves the requests, Staff recommends the following conditions:

B. **STAFF COMMENTS:**

PLANNING AND ZONING:

1. If approved, the applicant shall obtain a building permit from the Building Department within twelve (12) months of the waiver decision. This Planning and Zoning Board approval will allow for the structure currently in permit review (B21-02392).
2. The Planning and Zoning Board approval is limited to the site plan, stamped received June 25, 2021.

LANDSCAPE: Staff has no objections to the Variance Request.

ENGINEERING DEPARTMENT:

1. The proposed trellis encroaches into a 6' utility easement. Please provide no objection from all required utilities to ensure no conflict

BUILDING: No objection.

FIRE: No objections as to this practical difficulty waiver.

UTILITIES: No objection per email to Zoning. There is no Utilities' infrastructure currently located within the 6' easement and would not anticipate any future installations.

VII. EXHIBITS:

- A. Letter of Intent
- B. Aerial Map
- C. Zoning Map
- D. Legal Description
- E. HOA Approval letter
- F. Letters of Support
- G. Site Photos

**EXHIBIT A
Letter of Intent**

June 22, 2021

City of Plantation
Zoning Technician
PZED Department

**Re: Letter of Intent
PZB Variance -Lankri 10170 SW 1 St. (B21-02392)**

Dear Board Members,

I would like to appear before the Board to explain my shortcomings in regard to raising the Pergola on my property

Building the Pergola was my dream for many years, and I finally managed to save the money and found the time to build it during the Pandemic. I did some research online and understood that I can do the project under 'owner built' permit to be submitted afterwards and I totally missed the setback requirement. I sincerely apologize for my poor understanding. I have never intended to do it unlawfully or to hide the project from the city. I believed all I needed is the Home Association approval.

I worked hard on building it for couple of months, used the best products for safety, design and code, and thought I did everything right. I was wrong and I am very sorry.

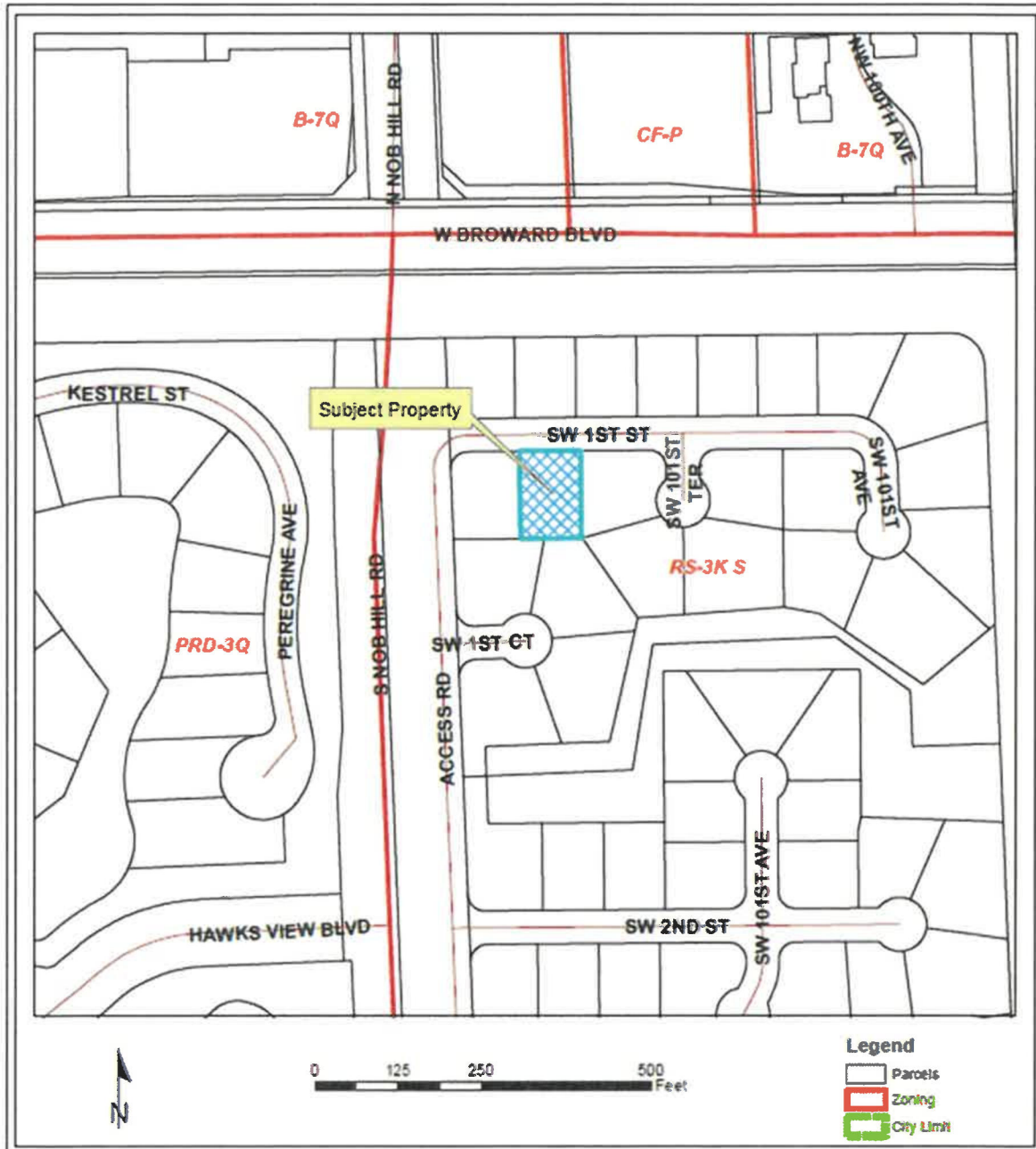
The Pergola size is 14x14 it located in my backyard it's made from wood and the color is dark brown, I am asking to have a reduction on a set back code.

I kindly request your consideration and allowance regarding the setback. I will continue to provide you with all the documentation needed for approval. I hope you will forgive this oversight on my part and help me correct the status of my Pergola

Thank You.
Sincerely,

Aviad Lankri

ZONING MAP



10170 SW 1st Street
CASE # PM21-0029



PLANTATION, FLORIDA
07/14/21

EXHIBIT D
Legal Description

Abbreviated Legal Description	JACARANDA AREA 981 96-50 B LOT 18 BLK 1
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EXHIBIT E
HOA Approval Letter

JACARANDA CAY HOMEOWNER'S ASSOCIATION

P.O. Box 15502 Plantation, Florida 33318

June 25th, 2021

Inbar Laski
10170 SW 1 Street
Plantation, Florida 33324

JUN 26 2021

RE: Homeowner Association authorization to proceed with new rear yard pergola & summer kitchen.

Dear Inbar,

Thank you for providing the Jacaranda Cay Homeowner Association / Architectural Control Committee with the scope of work for your rear yard pergola & summer kitchen which is a 14' x 14' wood construction to be finished in a dark brown color and as more specifically described in the drawings attached hereto.

Please accept this letter as your authorization to proceed with the work as specified.

Please ensure the work is completed within 120 days from the date of this letter. Commercial work hours are from 8:00 AM – 5:00 PM Monday – Friday, 9:00 AM – 3:00 PM on Saturdays, and never on Sundays. For underground utilities, please remember to call an underground utility locator service before you dig.

Many kind regards,

Alan F. Forgea, President

Alan F. Forgea, President Jacaranda Cay Homeowner's Association &
Chairman, Architectural Review Committee

electronically submitted 06.25.21

EXHIBIT F
Letters of No Objection

RECEIVED

JUN 26 2021

City of Plantation
Planning, Zoning & Economic Development

Via Hand Delivery

City of Plantation
Zoning Technician
PZED Department

Re: PZB Variance -Lankri 10170 SW 1 St. (B21-02392)

Dear Madam/Sir,

I, DANIEL HARRIS residing at 10180 SW 1st St. Plantation FL
and the neighbor of the Lankri family at 10170 SW 1st Street, Plantation, FL 33324, state the following:

Our families are good neighbors for the past 7 years. We share the same fence and property lines.
Our family has no objections whatsoever to the Pergola raised on the Lankri's property.
It causes us no harm or any disturbances, and we continue to enjoy our peaceful surrounding.

Thank You.
Sincerely,

Signed: 

Date: 6/22/21

RECEIVED

JUN 25 2021

City of Plantation
Planning, Zoning & Economic Development

Via Hand Delivery

City of Plantation
Zoning Technician
PZED Department

Re: PZB Variance -Lankri 10170 SW 1 St. (B21-02392)

Dear Madam/Sir,

I, Edward Neville residing at 10181 SW 1st Ct., Plantation FL 33324

and the neighbor of the Lankri family at 10170 SW 1st Street, Plantation, FL 33324, state the following:

Our families are good neighbors for the past 7 years. We share the same fence and property lines.
Our family has no objections whatsoever to the Pergola raised on the Lankri's property.
It causes us no harm or any disturbances, and we continue to enjoy our peaceful surrounding.

Thank You.
Sincerely,

Signed:



Date:

June 21, 2021

RECEIVED

JUN 24 2021

City of Plantation
Planning, Zoning & Economic Development

Via Hand Delivery

City of Plantation
Zoning Technician
PZED Department

Re: PZB Variance -Lankri 10170 SW 1 St. (B21-02392)

Dear Madam/Sir,

I, Brandon Baggett residing at 10161 SW 1st Ct

and the neighbor of the Lankri family at 10170 SW 1st Street, Plantation, FL 33324, state the following:

Our families are good neighbors for the past 7 years. We share the same fence and property lines. Our family has no objections whatsoever to the Pergola raised on the Lankri's property. It causes us no harm or any disturbances, and we continue to enjoy our peaceful surrounding.

Thank You.
Sincerely,

Signed:  Date: 6/24/2021

RECEIVED

JUN 26 2021

City of Plantation
Planning, Zoning & Economic Development

Via Hand Delivery

City of Plantation
Zoning Technician
PZED Department

Re: PZB Variance -Lankri 10170 SW 1 St. (B21-02392)

Dear Madam/Sir,

I, Michael Ahern residing at 101 SW 101st Ter.

and the neighbor of the Lankri family at 10170 SW 1st Street, Plantation, FL 33324, state the following:

Our families are good neighbors for the past 7 years. We share the same fence and property lines. Our family has no objections whatsoever to the Pergola raised on the Lankri's property. It causes us no harm or any disturbances, and we continue to enjoy our peaceful surrounding.

Thank You.
Sincerely,

Signed: Michael Ahern Date: 06/24/2021

Front home elevation



Pergola with outdoor kitchen



Pool and paver view from Pergola



Pergola view from SW 1st Court

