



**TOWN OF PALM BEACH**  
Planning, Zoning & Building Department  
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PLANNING, ZONING, & BUILDING DEPARTMENT  
PZ&B Staff Memorandum: Town Council Development Review

TO: Mayor and Town Council

FROM: Wayne Bergman, MCP, LEED-AP  
Director PZ&B

SUBJECT: ZON-22-012 (ARC-22-008) 420 BRAZILIAN AVE (COMBO)

MEETING: February 09, 2022

**ZON-22-012 (ARC-22-008) 420 BRAZILIAN AVE (COMBO)—VARIANCES.** The applicant, Ronald Gross, has filed an application requesting Town Council review and approval of variances to place a generator in the front yard setback of an existing residence, to allow a generator screening height to exceed the maximum height allowed in the front yard setback, to reduce the required front setback and to further decrease nonconforming landscape open space area. The Architectural Commission will perform design review of the application.

**ARCOM NOTICE**

**ARC-22-008 (ZON-22-012) 420 BRAZILIAN AVE (COMBO).** The applicant, Ronald Gross, has filed an application requesting Architectural Commission review and approval for the installation of a new generator and screening wall in the required front yard of an existing residence, including variances from landscape open space, setback, and a height requirements. The variance portion of the application will be reviewed by Town Council.

Applicant: Ronald Gross  
Professional: Environment Design Group  
Representative: NA

**HISTORY:**

In 2021, neighboring condominium to the south of the subject application, the Australian, sold a 20 foot by 20 foot parcel to their neighbor to the north so the neighbor could have room to install a generator. This resulted in two (2) variances being required for the condominium. An application was submitted to Town Council for review and was denied at the February 10, 2021 meeting, pursuant to Z-20-00319.

The item is scheduled to be heard at the January 26, 2022 ARCOM meeting for the installation of a new generator and screening wall in the required front yard of an existing residence including variances.

**THE PROJECT:**

The applicant has submitted plans, entitled "Private Residence: 420 Brazilian", as prepared by **Environment Design Group**, dated 12/06/2021.

The following is the scope of work for the Project:

- The installation of a new generator in the required front yard.

The following Special Exceptions, Site Plan review and/or Variances required to complete the project, and shall be reviewed by Town Council:

- Variance 1: Sec 134-1667: To exceed by 1' the maximum allowable wall height in the front yard. 7 foot proposed, 6 foot allowed.
- Variance 2: Sec 134-948(11): To reduce the required landscape open space of 31.8% in lieu of the 32% existing and the 45% minimum.
- Variance 3: Sec 134-1729: To allow the generator in the front yard setback with a 7.16 foot front yard setback in lieu of the 25-foot minimum required.

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Site Data			
<b>Zoning District</b>	R-C Medium Density Res.	<b>Lot Size (sq ft)</b>	8,560 SF
<b>Future Land Use</b>	SINGLE-FAMILY	<b>Total Building Size (sq ft)</b>	N/A
<b>C-O-R</b>	N/A	<b>Flood Zone</b>	N/A
<b>Finished Floor Elevation</b>	N/A	<b>Max Fill</b>	N/A
Project			
	Required/Allowed	Existing	Proposed
Lot Coverage	N/A	N/A	N/A
Building Height	N/A	N/A	N/A
Overall Building Height	N/A	N/A	N/A
Point of Measure	N/A	N/A	N/A
Landscape Open Space (LOS)	45%	32%	31.8%
Native Plant Species %	N/A	N/A	N/A
Cubic Content Ratio (CCR)	N/A	N/A	N/A

\*If value is not applicable, N/A

\*If value is not changing, N/C

Surrounding Properties / Zoning	
North	Two-story townhouses
South	Four-story condominium, the Australian
East	Two-story 2010 single-family residence
West	Two-story 1939 single-family residence

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#### **VARIANCES CRITERIA SEC. 134-201**

The town council may authorize upon appeal such variance from the terms of this chapter as will not be contrary to the public interest where, owing to special conditions, a literal enforcement of



this chapter will result in unnecessary and undue hardship. In order to authorize any variance from the terms of this chapter, the town council must and shall find the following:

- (1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district.
- (2) The special conditions and circumstances do not result from the actions of the applicant.
- (3) Granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in this same zoning district.
- (4) Literal interpretation of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of this chapter and would work unnecessary and undue hardship on the applicant.
- (5) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.
- (6) For granting of a variance to sections 134-387 or 134-390 through 134-392, pertaining to the regulation of nonconforming uses, the following additional findings shall be made pertaining to the nonconforming use for which the variance is requested:
  - a. It is the continuance of a unique hotel or residential use that has, for at least 15 years proven compatible with the surrounding uses; and
  - b. Neither rezoning to a district which would allow the use, nor inclusion of the subject use as a permitted or special exception use in the district would act to achieve the preservation of the subject use without opening the possibility of the incursion of uses incompatible with the immediately surrounding area and, further, such variance shall:
    1. Be granted only for the continuation of the same hotel or residential use; and
    2. Require the applicant to submit a declaration of use limiting the utilization of the property for which the variance was granted to the same use as that existing at the time the variance was granted.
- (7) The grant of the variance will be in harmony with the general intent and purpose of this chapter, and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare. In granting any variance, the town council may prescribe appropriate conditions and safeguards in conformity with this chapter. Upon granting a variance the town council may require the landowner to provide a declaration of use agreement which shall be recorded in the public records to ensure continuing compliance with town council imposed conditions of such grants. Violation of such conditions and safeguards, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter.

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**CONSISTENCY WITH THE COMPREHENSIVE PLAN:**

A preliminary review of the project indicates that the proposed **use** is **consistent** with the **single family** designation of the Future Land Use Map of the Comprehensive Plan.

**COMPLIANCE WITH ZONING CODE:**

A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town code:

- Variance 1: Sec 134-1667: To exceed by 1' the maximum allowable wall height in the front yard. 7 foot proposed, 6 foot allowed.
- Variance 2: Sec 134-948(11): To reduce the required landscape open space of 31.8% in

lieu of the 32% existing and the 45% minimum.

- Variance 3: Sec 134-1729: To allow the generator in the front yard setback with a 7.16 foot front yard setback in lieu of the 25-foot minimum required.

**STAFF ANALYSIS:**

The applicant is proposing to install a 38 kw generator in the front yard of a property measuring 171.2' deep. An existing 6' high wall and hedge may visually screen the installation, but due to the prominent location of the generator, ARCOM review is required. The existing 6' high wall is proposed to be increased by 1' to screen the generator. The generator is proposed to be setback 7'-2" from the front property line, requiring setback relief.