



**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 22-025 (ARC-22-037) 247 MIRAFLORES DR (COMBO)

MEETING: March 09, 2022

**ZON-22-025 (ARC-22-037) 247 MIRAFLORES DR (COMBO)—VARIANCE(S).** The applicant, Laetitia Oppenheim, has filed an application requesting Town Council review of variances to allow the (1) height of a generator and (2) associated screening wall to exceed the maximum height allowed within a required side-yard area. ARCOM will perform design review of the application.

**ARCOM NOTICE:**

**ARC-22-037 (ZON-22-025) 247 MIRAFLORES DR (COMBO).** The applicant, Laetitia Oppenheim, has filed an application requesting Architectural Commission review and approval for the installation of a generator and associated required site wall screening. The variance portion of the application will be reviewed by Town Council.

Applicant: Laetitia Oppenheim,  
Professional: Peter Pennoyer Architects and SMI Landscape Architecture  
Representative: Francis Lynch

**HISTORY:**

At the February 23, 2022 ARCOM an application will be heard for the installation of a generator and associated required site wall screening including variances.

**THE PROJECT:**

The applicant has submitted plans, entitled "247 Miraflores Dr. Palm Beach, FL 33480", as prepared by **Peter Pennoyer Architects**, dated 12/27/21.

The following is the scope of work for the Project:

- The installation of a new generator in the required east side 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. 134-1729(1)(c): To allow the height to the top of a generator to be 7.5' above the neighboring property's grade in lieu of the 7.0' maximum allowed for a generator located in a required side-yard setback.

generator located in a required side-yard setback.

- **VARIANCE 2:** Sec. 134-1669: To allow the height to the top of a site wall in a side-yard setback to be 8.0' high as measured from the lowest grade on either side of the lot in lieu of the 7.0' maximum allowed, to allow for the required screening of a generator.

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Site Data			
<b>Zoning District</b>	R-B Low Density Res.	<b>Lot Size (sq ft)</b>	13,850 SF
<b>Future Land Use</b>	SINGLE-FAMILY	<b>Total Building Size (sq ft)</b>	5,274 SF
<b>C-O-R</b>	2.0'	<b>Flood Zone</b>	AE 6.0'
<b>Generator Slab Elevation</b>	7.0' NAVD	<b>Max Fill</b>	N/A
<b>First Floor Elevation</b>	7.0' NAVD	<b>Neighbor Grade</b>	3.0' NAVD
Project			
	Required/Allowed	Existing	Proposed
Lot Coverage	30% (4155 SF)	25.7% (3,563 SF)	N/C
Building Height	N/A	N/A	N/A
Overall Building Height	N/A	N/A	N/A
Point of Measure	3.0 NAVD (neighbor grade)	N/A	N/A
Landscape Open Space (LOS)	45%	67.6%	N/C
Native Plant Species %	N/A	N/A	N/A
Cubic Content Ratio (CCR)	3.96	3.83	N/C

\*If value is not applicable, N/A

\*If value is not changing, N/C

Surrounding Properties / Zoning	
North	Two-story 1935 single-family residence
South	One-story 1993 single-family residence
East	Two-story 1989 single-family residence
West	One-story 1952 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 **application** is **consistent** with the **Single-Family** designation of the Future Land Use Map of the Comprehensive Plan.

#### **COMPLIANCE WITH ZONING CODE:**

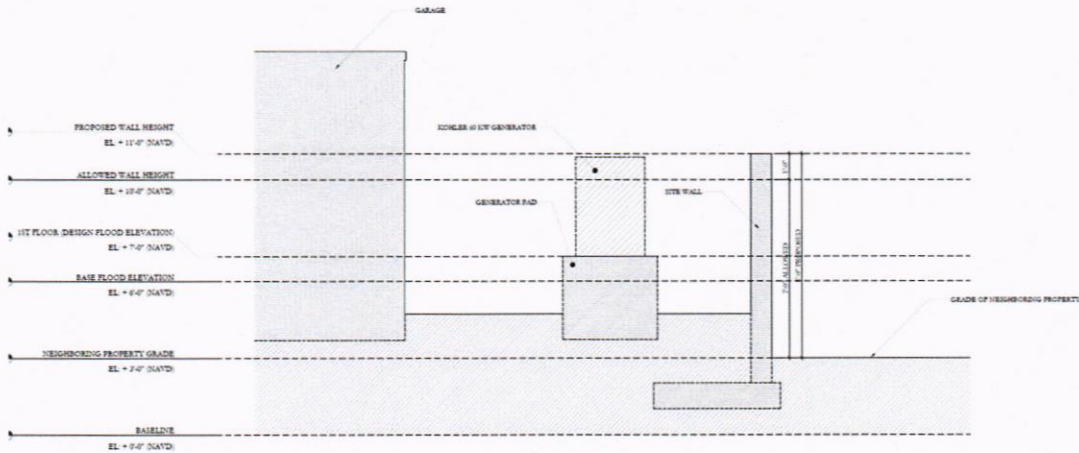
A preliminary review of the project indicates that the application, as proposed, appears to be inconsistent with the following sections of the Town code:

The applicant is requesting the following variance(s):

- **VARIANCE 1:** Sec. 134-1729(1)(c): To allow the height to the top of a generator to be 7.5' above the neighboring property's grade in lieu of the 7.0' maximum allowed for a generator located in a required side-yard setback.
- **VARIANCE 2:** Sec. 134-1669: To allow the height to the top of a site wall in a side-yard setback to be 8.0' high as measured from the lowest grade on either side of the lot in lieu of the 7.0' maximum allowed, to allow for the required screening of a generator.

**STAFF ANALYSIS:**

The applicant is proposing to install a 60 kw generator in the side yard of a property measuring 138'-6" deep. This request is for a height of 7.5' for the generator and 8.0' for the wall, which is six inches (6") for the generator and one foot (1.0') for the wall above that permitted by cod. The generator is proposed to be setback 5'-2" from the east side property line. The existing elevation of the subject property adjacent to the wall is approximately 6.0' NAVD; the existing elevation of the neighbor's property adjacent to the wall is 3.0' NAVD.



The disparity in the respective grades of the properties is a result of the FEMA requirement that also applies to the generator.