



**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-22-013 (ARC-22-009) 215 SEABREEZE AVE (COMBO)

MEETING: April 13, 2022

**ZON-22-013 (ARC-22-009) 215 SEABREEZE AVE (COMBO)—VARIANCES.** The applicant, Edward & Margot Mehm, has filed an application requesting Town Council review and approval for a variance to reduce the required side yard setback in order to construct a pergola in the required yard. The Architectural Commission will perform design review of the application.

**ARCOM NOTICE:**

**ARC-22-009 (ZON-22-013) 215 SEABREEZE AVE (COMBO).** The applicant, Edward & Margot Mehm, has filed an application requesting Architectural Commission review and approval for construction of an unenclosed pergola structure in the rear of the property, including a setback variance. The variance portion of this application will be reviewed by Town Council.

Applicant: Edward & Margot Mehm  
Professional: Environment Design Group  
Representative: NA

**HISTORY:**

The item is scheduled to be heard at the January 26, 2022 ARCOM meeting for the construction of an unenclosed pergola structure in the rear of the property including variances.

The item was heard at the January 26, 2022 ARCOM meeting for the construction of new detached pergola including setback variances but deferred for one month at the direction of the Commission.

At the February 09, 2022 Town Council Development Review meeting, the item was deferred for one month at the request of the applicant.

At the February 23, 2022 ARCOM meeting, the application was approved (6-1) and the Commission additionally recommended favorably that the variances associated with project would not negatively impact the architecture (6-1).

At the March 09, 2022 Town Council Development Review meeting, the item was deferred for one month at the request of the applicant.

**THE PROJECT:**

The applicant has submitted plans, entitled "HAYATI BANASTEY", as prepared by **Environment Design Group**, dated 11/19/2021.

The following is the scope of work for the Project:

- The construction of a new trellis 17'-6" x 10'-10" (not to exceed 9' in height).
- Portion (39 SF) of previously approved paving to be removed to accommodate landscape open space requirements.

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 134-895(4): To allow a pergola to encroach 7'-3" into a required 12'-6" side-yard setback, in lieu of 5' encroachment allowed.

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| Site Data                       |                      |                                 |             |
|---------------------------------|----------------------|---------------------------------|-------------|
| <b>Zoning District</b>          | R-B Low Density Res. | <b>Lot Size (SF)</b>            | 6,125 SF    |
| <b>Future Land Use</b>          | SINGLE-FAMILY        | <b>Total Building Size (SF)</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                    | 3% max               | N/A                             | 3% (183 SF) |
| Building Height                 | N/A                  | N/A                             | N/A         |
| Overall Pergola Height          | 9'                   | N/A                             | 9'          |
| Point of Measure                | N/A                  | N/A                             | N/A         |
| Landscape Open Space (LOS)      | 45%                  | 45.2%                           | 45.2%       |
| 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 2007 single-family residence |
| South                           | Two-story 2009 single-family residence |
| East                            | Two-story 1925 single-family residence |
| West                            | Two-story 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 134-895(4): To allow a pergola to encroach 7'-3" into a required 12'-6" side-yard setback, in lieu of 5' encroachment allowed.

**STAFF ANALYSIS:**

The applicant is proposing to construct a new trellis measuring 17'-6" x 10'-10" and not to exceed 8' in height along the western side of the property. The design features a rectilinear form and is composed of white powder coated aluminum surface. The installation of the structure will not be visible from the r-o-w. The proposed location encroaches 7'-3" into a required 12'-6" side yard setback, in lieu of 5' encroachment allowed.