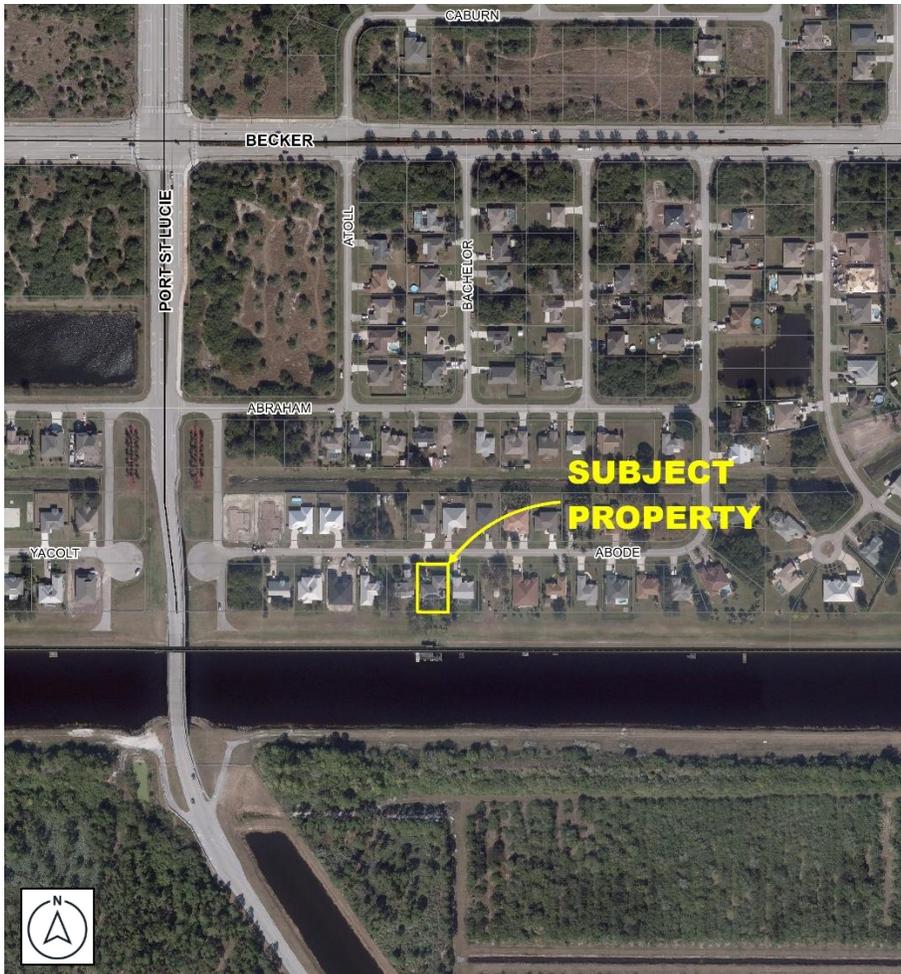




**Jared & Emily Greenberg**  
**Variance**  
**P22-269**



**Aerial Map**

**SUMMARY**

Applicant's Request:	To grant a variance of 9.51 feet to allow a 0.49-foot setback from the rear property line for an existing 21.50-foot by 24-foot (516 sf <sup>2</sup> ) covered playhouse.
Application Type:	Variance, Quasi-Judicial
Applicant / Property Owner:	Jared Greenberg
Address:	702 SW Abode Avenue
Location:	The property is generally located south of Becker Road, east of Port St. Lucie Boulevard, and north of the County Line Canal.
Project Planner:	Bethany Grubbs, Planner III

**Project Description**

The applicant is requesting a variance of 9.51 feet to allow a 0.49 setback from the rear property line for an existing 21.50-foot by 24-foot (516 sf<sup>2</sup>) covered playhouse. Section 158.217(C)(1) of the City’s Code of Ordinance states accessory uses or structures located within Single-Family Residential (RS-2) Zoning District shall have a minimum setback of ten (10) feet from the rear property line. The property is located at 702 SW Abode Avenue. There is a 10-foot drainage and utility and drainage easement along the rear of the property.

**Background**

On August 2, 2022, Code Compliance reported violations on the property regarding the fence being erected outside of the property line, along with an accessory structure, the covered playhouse, not meeting the applicable rear setback requirement. The structure was located outside of the property line and within the South Florida Water Management Right of Way. The City does not have the authority to permit structures outside of the property owner’s parcel. The applicant relocated the covered playhouse to fall within the confines of the subject parcel and amended the variance request. On November 3, 2020, the applicant received variance approval to construct a solar panel roof with poles along the eastern property line with a 0-foot side yard setback.

**Drainage and Utility Easement:** Public Works has no objection to this variance, but the applicant will still need to go through the abandonment of easement process to formally confirm the City does not need the easement for maintenance. Notably, Public Works has indicated that since the property is adjacent to the C-23 canal, which is maintained by the South Florida Water Management District it will support abandonment of the easement, absent discovery of new or unknown facts. If the variance is approved, the applicant will coordinate with Public Works to obtain an abandonment of the easement.

**Review Criteria**

An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299. Final action on the application (approval or denial) is in the form of an Order of the Planning and Zoning Board following a quasi-judicial public hearing. A vote of approval by five (5) members of the Planning and Zoning Board is required to grant a variance.

**Public Notice Requirements**

Public notice was mailed to owners within 750 feet on February 23, 2023, and the file was included in the ad for the Planning & Zoning Board’s agenda.

**Location and Site Information**

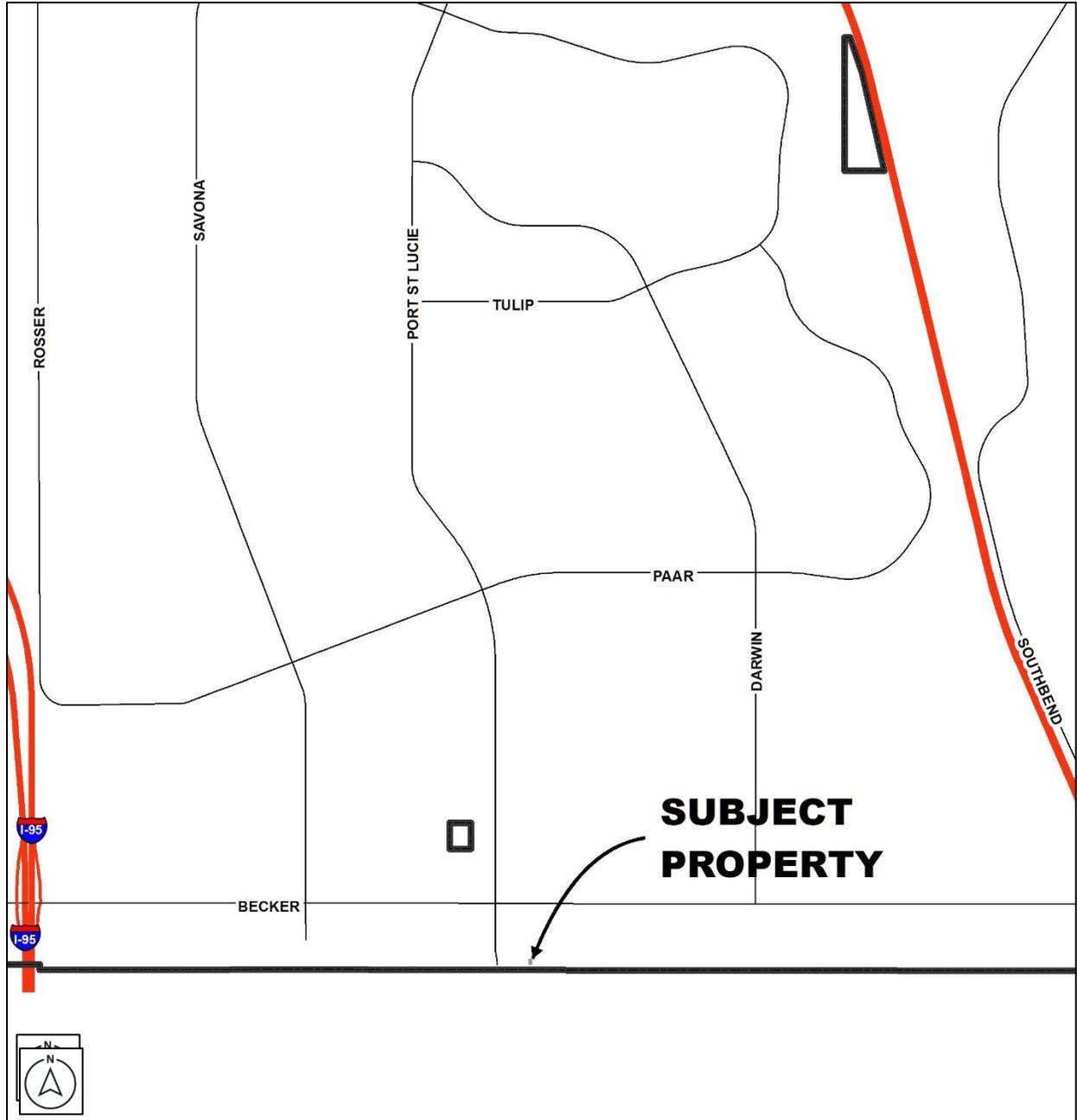
Parcel Number:	3420-660-3547-000-4
Property Size:	0.23-acres
Legal Description:	Port St. Lucie - Section 33, Block 2326, Lot 21
Future Land Use:	RL
Existing Zoning:	RL
Existing Use:	Single-Family Residence

**Surrounding Uses**

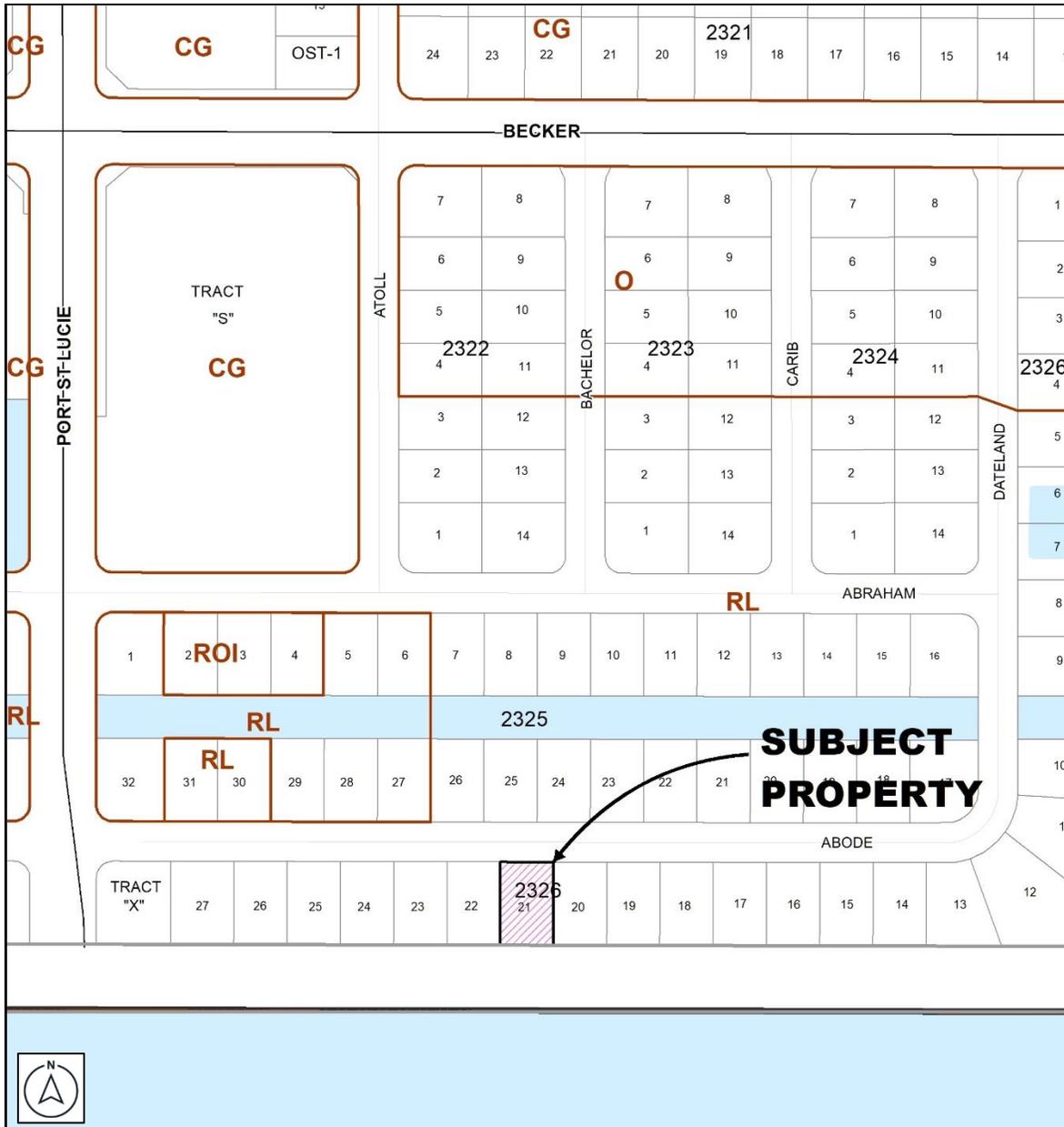
Direction	Future Land Use	Zoning	Existing Use
North	RL	RS-2	Single-Family Residence
South	N/A	N/A	County Line Canal (Martin)

East	RL	RS-2	Single-Family Residence
West	RL	RS-2	Single-Family Residence

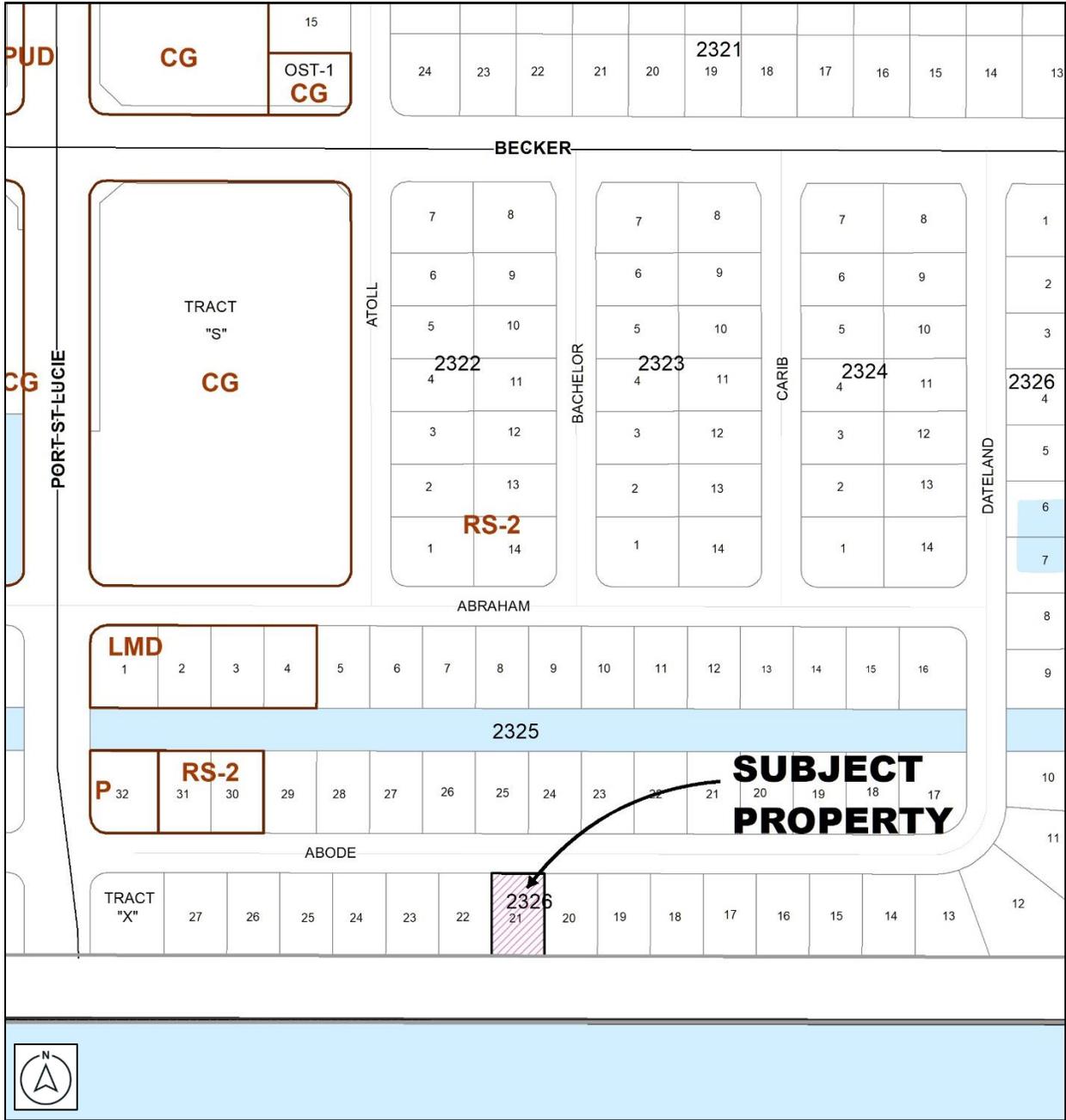
RL – Low Density Residential, RS-2 – Single-Family Residential



Location Map



Future land Use



Zoning

## IMPACTS AND FINDINGS

Section 158.295 (B) of the Zoning Code establishes the duties of the Planning and Zoning Board in authorizing a variance. The Planning and Zoning Board may authorize the variance from the provisions of the Zoning Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. Pursuant to Section 158.296, a variance is authorized only for height, area, and size of the structure, yard size, building setback, lot size requirements, and other applicable development regulations, excluding use. To authorize a variance, the Planning and Zoning Board should consider the criteria listed under Section 158.295 (B) (1) through (7). The applicant's response to this criterion is attached to the application. Staff's review is provided below.

**See the applicant's responses that are included in the Variance application.**

### **Compatibility with variance criteria Section 158.295 (B).**

- 1) That 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.
  - *Staff Findings: Special conditions and circumstances do not exist, which are peculiar to the land, structure, or building involved. The lot is a typical rectangular-shaped, quarter-acre lot found throughout the city.*
- 2) That the special conditions and circumstances do not result from any action of the applicant.
  - *Staff Findings: See No. 1 above. The applicant did not obtain a building permit.*
- 3) That 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 the same zoning district.
  - *Staff Findings: Special privileges would be conferred upon the applicant, a 10-foot rear setback is a regulatory standard applied to other lands, buildings, and structures; specifically accessory uses within the RS-2 zoning district.*
- 4) That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.
  - *Staff Findings: Literal interpretation of the provisions of the chapter would not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district or introduce unnecessary and undue hardships on the applicant. All property owners who own a single-family dwelling unit located in the Single-Family Residential (RS-2) Zoning District are permitted to have covered playhouses, as long as they meet the minimum setback requirements.*
- 5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
  - *Staff Findings: The property contains a primary structure and multiple accessory structures, such as solar panels, a shed, and a swimming pool. The applicant has reasonable use of the land and structures. The proposed covered playhouse could potentially be relocated elsewhere on the property.*

- 6) That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.
- *Staff Findings: The applicant would still be required to receive a permit from the City's Building Department. Variance approval to the rear yard setback must first be granted before the City's Building Department can issue a permit for the covered playhouse at the existing location. The applicant would also be required to receive approval from the City for abandonment of the existing 10-foot-wide utility and drainage easement located on the rear of the property.*
- 7) That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.
- *Staff Findings: Acknowledged.*

***Should the Board desire to approve the variance staff recommends conditioning the approval as follows:***

***The applicant shall obtain formal abandonment of the utility and drainage easement prior to obtaining a building permit, and within 120 days of the variance approval. If the applicant fails to comply with this condition the variance will be deemed null and void.***

*Any public comment that is received will be forwarded to the Board for consideration.*

## **PLANNING AND ZONING BOARD ACTION OPTIONS**

The Board may choose to approve, deny or table the proposed variance. If the Board finds that the variance application is consistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code (listed above), then the Board may:

- Motion to approve
- Motion to approve with conditions

If the Board finds that the variance application is inconsistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code, then the Board may:

- Motion to deny

Should the Board need further clarification or information from either the applicant and/or staff, the Board may:

- Motion to table or continue the hearing or review to a future meeting

***(NOTE TO APPLICANTS: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk's office and must be submitted within 15 days after the Planning and Zoning Board hearing).***