

Village of Royal Palm Beach
Village Council
Agenda Item Summary

Agenda Item:

PUBLIC HEARING TO CONSIDER VARIANCE APPLICATION NO. 23-107 (VAR) AND APPROVAL OF VARIANCE ORDER VC-23-04, AN APPLICATION BY ROYAL PALM BREWING COMPANY REQUESTING VARIANCE APPROVAL FROM SEC. 26-75.2(B)6. OF THE VILLAGE CODE TO ALLOW FOR A 189 SQUARE FOOT OUTDOOR SEATING AREA DIRECTLY ABUTTING A RESIDENTIAL ZONING DISTRICT, FOR A PROPERTY LOCATED AT 543 NORTH STATE ROAD 7, SUITES 103, 106 AND 107.

Issue:

The Applicant is requesting a Variance Approval from Sec. 26-75.2(b)6. of the Village Code to allow for a 189 square foot outdoor seating area directly abutting a Residential Zoning District, for a property located at 543 North State Road 7, Suites 103, 106 and 107. Village Code Section 26-75.2 (b) 6. allows outdoor seating areas or areas of patron congregation which directly abuts a Residential Zoning District through a Variance approval by the Village Council. Please refer to **Attachment A** for the location of the proposed outdoor seating area and **Attachment B** for the area’s distance from the residentially zoned property to the north and west.

Village Code Sec. 26-32 (f) (6) allows the Village Council to grant variances to the code when:

- Special conditions and circumstances exist which are not applicable to other lands in the same zoning district;

Applicant’s Response: “Our business is located in a general commercial zoning district that is adjacent to a residence. We were granted special exception of outdoor dining during COVID-19. Since removing the temporary seating our business has suffered financially.”

- Special conditions do not result from the actions of the Applicant;

Applicant’s Response: “We knew after the council allowed us to open a brewery in 2017, that in our particular location we couldn't have outdoor seating. We proved during our temporary COVID allotment we could offer outdoor dining with no recorded instances.”

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- Granting the variance will not confer on the Applicant special privileges that are denied to other lands in the same zoning district;

Applicant's Response: "The current code applies to breweries. We are the first and only brewery in Royal Palm Beach. Other bars and restaurants do not have the same limitations as breweries as it relates to outdoor dining."

- The literal interpretation of the Code would deprive the Applicant the rights enjoyed by other lands in the same zoning district;

Applicant's Response: "Bars and restaurants that sell food, beer, wine and even spirits are allowed to have outdoor seating that is adjacent to neighborhoods. We are asking to be afforded the same opportunities as other similar businesses in our Village."

- The variance requested is the minimum variance that will make possible the reasonable use of the property;

Applicant's Response: "We will follow all Village ordinances, including the use of planter boxes with 48" trellises to display a visually appealing outdoor space for our neighbors."

- The variance will be in harmony with the general intent and purpose of the Zoning Code; and

Applicant's Response: "Our outdoor sidewalk space is large enough to accommodate covered outdoor dining as well as allow for an 8' walkway for pedestrians. Our dining hours will be in accordance to Village noise ordinances as well."

- Such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant's Response: "During our COVID temporary seating, we had zero instances or reported complaints from the residents of Belle Terra. Most of our business neighbors have gone out of business - any new neighbor would be aware of our outdoor dining before signing a lease. PBSO was never contacted, and Code Enforcement was never called to our location during our temporary outdoor dining."

Village Staff is not in support of this variance because Staff believes that no special conditions or circumstances exist which are not applicable to other lands; and granting of the variance will confer on the applicant special privileges that are denied to other lands.

The Planning and Zoning Commission considered this application on September 18, 2023 and recommended _____ by a vote of X-X.

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Recommended Action:

Staff is recommending Denial of Application No. 23-107 (VAR) and Variance Order VC-23-04.

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Attachment A
Outdoor Seating Locations
Royal Palm Brewing Company
Application No. 23-107 (VAR)
Variance Order VC-23-04

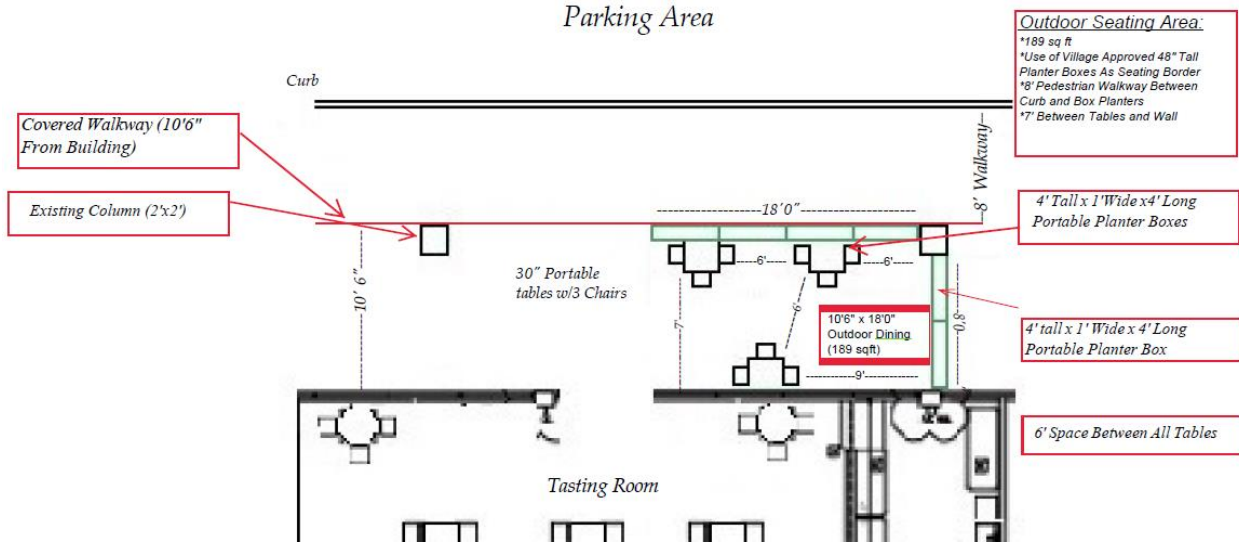
Directly below and highlighted in green is an illustration of the area to be occupied by the outdoor seating area.



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**Attachment A Cont'd
Outdoor Seating Locations
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Directly below is an illustration of the layout of the outdoor seating area.

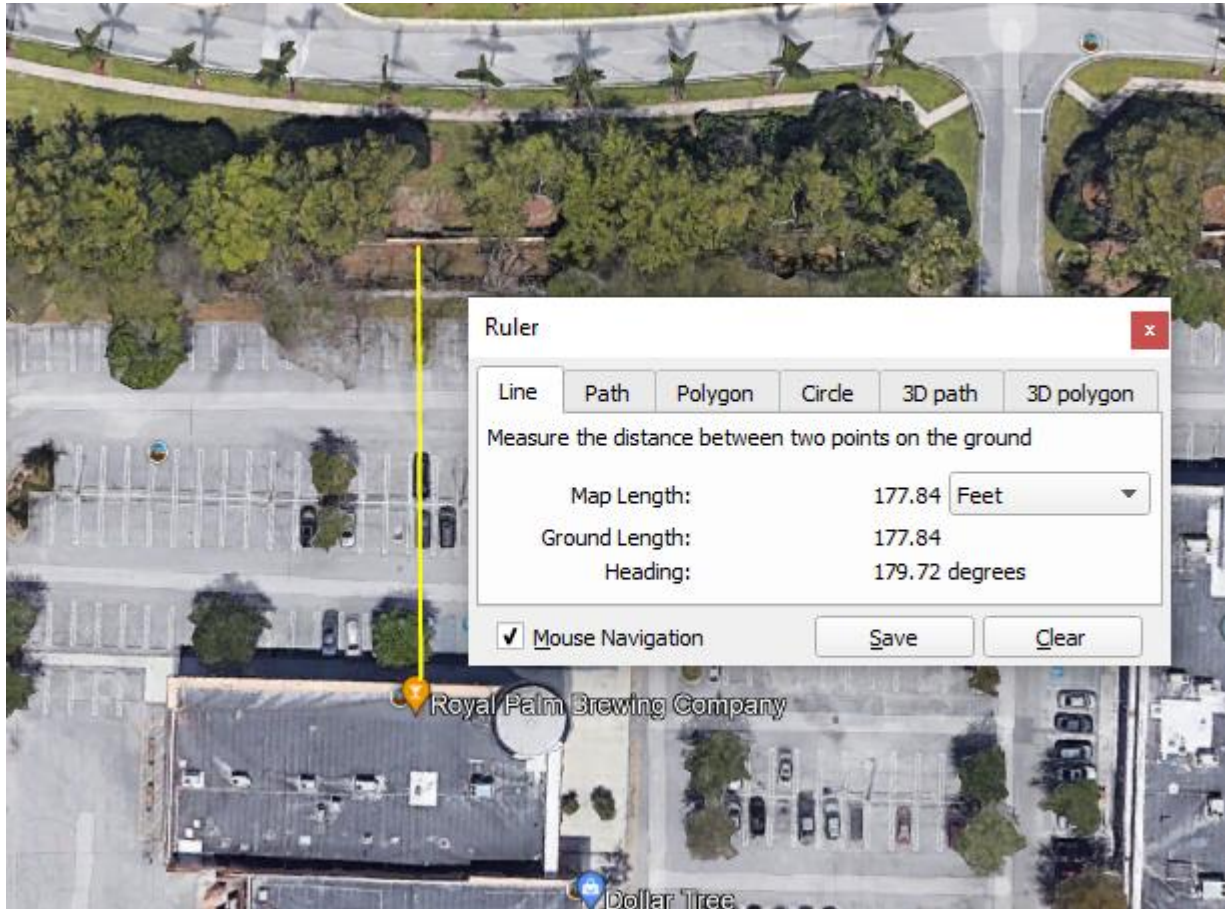


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**Attachment B
Outdoor Seating
Royal Palm Brewing Company
Application No. 23-107 (VAR)
Variance Order VC-23-04**

Directly below is an illustration showing a distance of 177 feet to the residentially zoned property to the north.

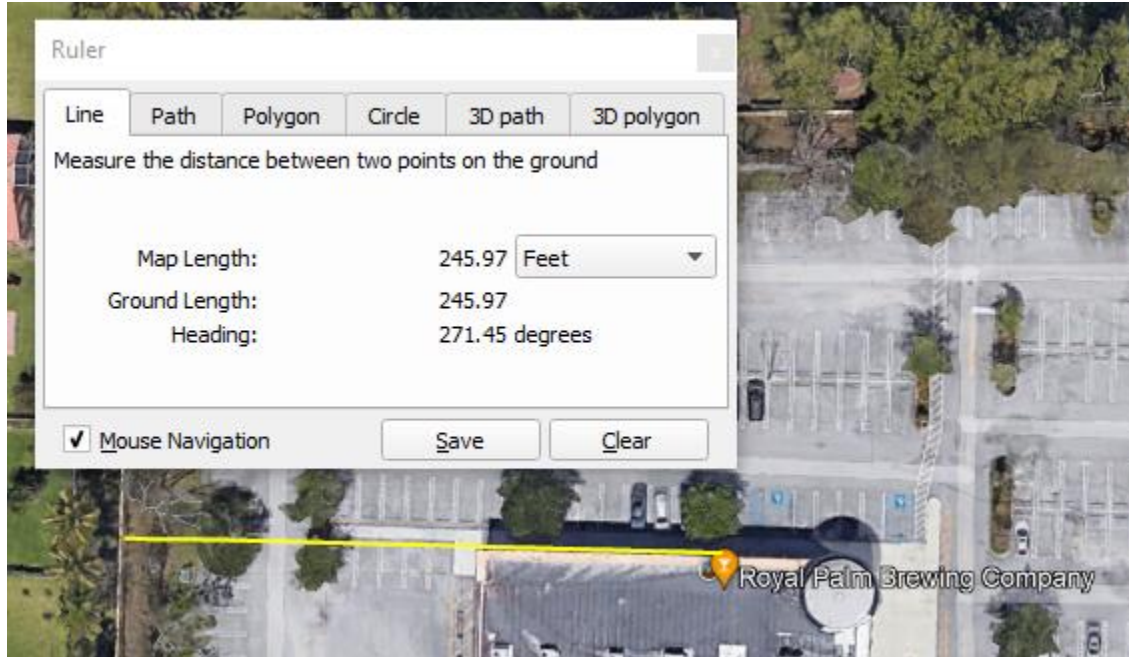


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Attachment B Cont'd
Outdoor Seating
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Directly below is an illustration showing a distance of 245 feet to the residentially zoned property to the west.



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**ORDER OF THE VILLAGE COUNCIL
VILLAGE OF ROYAL PALM BEACH
Chapter 26. Zoning**

CASE NO. VC-23-04
IN RE: Application No. 23-107(VAR)
Royal Palm Brewing Company @ 543 N. State Road 7, Suites
103, 106 and 107

Legal Description:
Attached as Exhibit "A"

ORDER APPROVING APPLICATION

This cause came to be heard upon the above application and the Royal Palm Beach Village Council having considered the evidence presented by the applicant and other interested persons at a hearing called and properly noticed, and the Royal Palm Beach Village Council being otherwise advised.

THEREUPON, the Village Council of the Village of Royal Palm Beach finds as follows:

1. The property which is the subject of said application is classified and zoned within the General Commercial (CG) Zoning District by the Zoning Code of the Village of Royal Palm Beach and the zoning map made a part thereof by reference.
2. The applicant is seeking a **Variance** from Royal Palm Beach Code of Ordinances at the following section: 26-75.2(b)6. of the Village Code to allow for a 189 square foot outdoor seating area directly abutting a residential zoning district.
3. Under the provisions of Sec. 26-32(f)(6) of the Village Code of Ordinances, the Village Council has the right, power and authority to act upon the application herein made.
4. In the judgment of the Village Council, the public welfare will best be served by **APPROVING** the application as set forth on the application documents.
5. **IT IS THEREUPON CONSIDERED, ORDERED AND ADJUDGED** by the Royal Palm Beach Village Council as follows:

The application for **Variance, VC-23-04**, with reference to the above-referenced property in the Village of Royal Palm Beach, Florida to permit a variance to Section 26-75.2(b)6. of the Village Code to allow for a 189 square foot outdoor seating area directly abutting a residential zoning district where Village Code only allows outdoor seating directly abutting a residential zoning district subject to variance approval by the Village Council is hereby **Approved** in accordance with the Village Code of Ordinances for the following reasons:

The applicant meets the following standards set forth in Section 26-32 (f)

(6). of the Village Code of Ordinances:

1. Special conditions and circumstances exist;
2. Special circumstances are not the result of actions of the applicant;
3. No special privilege is conferred;
4. Literal interpretation would constitute an unnecessary and undue hardship;
5. This is minimum variance for reasonable use of land;
6. Is in harmony with the intent and purpose of this division; and
7. Will not be injurious to area or detrimental to the public welfare.

Done and ordered this 21st day of September, 2023.

Mayor Fred Pinto
Village of Royal Palm Beach

Attest:

Diane DiSanto, Village Clerk

Exhibit A
Legal Description
Application No. 23-107(VAR)
Royal Palm Beach Brewing Company @ 543 N. State Road 7, Suites 103,
106 and 107

DESCRIPTION:

Parcel 1 (Fee Simple):

Tract C and Lots 1, 2 and 3, of the Commons at Royal Palm Beach, Plat Two, according to the Plat thereof, as recorded in Plat Book 96, Page 63, of the Public Records of Palm Beach County, Florida.

Parcel 2 (Fee Simple):

Tract B, of the Commons at Royal Palm Beach, Plat Two, according to the Plat thereof, as recorded in Plat Book 96, Page 63, of the Public Records of Palm Beach County, Florida.

Parcel 3 (Fee Simple):

Tract A, of the Commons at Royal Palm Beach, Plat Two, according to the Plat thereof, as recorded in Plat Book 96, Page 63, of the Public Records of Palm Beach County, Florida.

Parcel 4 (Easement):

Perpetual non-exclusive easements for private roadway purposes for the benefit of Parcel 1, as created and granted in that certain Private Roadway Access and Maintenance Agreement by and between Starwood Wasserman Palm Beach Holding LLC, and Lennar Homes, Inc., dated December 21, 2000, and recorded December 28, 2000, in Official Records Book 12223, Page 204, as re-recorded January 29, 2001, in Official Records Book 12278, Page 1053, both of the Public Records of Palm Beach County, Florida.

Parcel 5 (Easement):

Non-exclusive easements for the benefit of Parcel 1, as set forth in the Sewer Easement Agreement, recorded June 27, 2001, in Official Records Book 12681, Page 741, of the Public Records of Palm Beach County, Florida.

Parcel 6 (Easement):

Non-exclusive easements for the benefit of Parcel 1, as set forth in the Declaration of Covenants, Restrictions and Easements, recorded March 29, 2002, in Official Records Book 13556, Page 690; and as amended by First Amendment to Declaration of Covenants, Restrictions and Easements, recorded in Official Records Book 15367, Page 755, both of the Public Records of Palm Beach County, Florida.