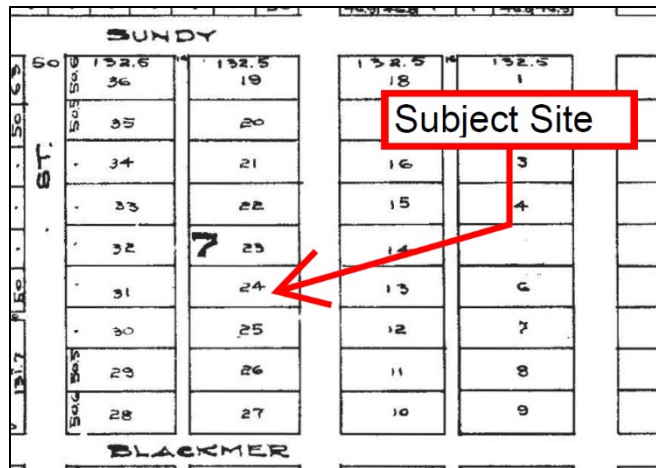


612 SE 3rd Avenue
Swimming Pool Variance
Justification Statement

- a) That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not generally applicable to other lands, structures, or buildings subject to the same zoning. Economic hardship shall not constitute a basis for the granting of a variance.

Response: the property measures 50.5' wide and 132.5' deep (as originally platted) which is nonconforming to current lot width of 50' and the lot area of 6,750 is nonconforming to the required lot area of 7,500 square feet in the zoning regulations for the R-1-A district. This is a legal lot of record as it was platted as part of the Osceola Park plat in 1913. The parcel is also adjacent to an existing improved alley that is 16' wide and includes overhead power, asphalt pavement and a valley gutter for drainage.



The owner has designed and permitted a reasonably sized two-story home meeting the front and side setbacks of 25' and 7.5' respectively and left sufficient space in the rear yard for a swimming pool of 12' x 30' and deck area that also meets the setbacks of 10' and 5' respectively from the rear property line. However, although the alley is already improved, the city required dedication of 2' for the alley as part of the permitting for the new home, thus reducing the depth of the property and reducing the size of the pool and pool deck by 2'. As such the owner is requesting a variance of 2' from the rear yard setback to enable construction of the pool and pool deck as originally designed. The special conditions and circumstances include the nonconforming lot size and the required dedication of right-of-way for the improved alley that prevent construction of the swimming pool and pool deck as originally planned.

- b) That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning.

Response: although the alley is already improved, the city required dedication of additional land for right-of-way that is not necessary for the function of the alley as it is currently improved and functioning. The dedication also increases the nonconforming lot size of this site, and none of the existing developed properties along the alley are being required to dedicated right-of-way and lose property depth and square footage. Literal interpretation of the rear setback regulations will deprive the applicant of the ability to construct a pool and pool deck on the lot of record as it existed prior to the 2' right-of-way dedication, where none of the existing developed properties in this block in the same zoning district are subject to these requirements.

- c) That the special conditions and circumstances have not resulted from actions of the applicant.

Response: the applicant did not plat the property, nor did the applicant require the dedication of right-of-way. In addition, the dedication is unnecessary for the function of the alley as it is currently improved and functioning. And although the code prohibits increasing a nonconforming condition by a private property owner, the City's required dedication causes the nonconforming lot size to be reduced even further and thus increasing the nonconformity.

- d) That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance.

Response: granting of the variance would enable construction of the pool and pool deck as originally design prior to dedication of the alley right-of-way. The alley is already improved and most lots on this block are developed without having dedicated any alley right-of-way, and as such granting the variance would enable this property owner to enjoy the same rights currently enjoyed by all their neighbors without any special privilege.

- e) That the reasons established in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.

Response: the reasons for granting the variance are that special conditions and circumstances exist which are not the actions of the applicant including the nonconformity of the existing legal lot of record, and the required dedication of alley right-of-way for an existing improved alleyway where additional right-of-way is not needed for the alley to properly function. The request of a 2' variance off-sets the required dedication to the City which causes an increase in the lot area nonconformity where such increased nonconformity is prohibited by Section 1.3.1 of the City Code. The requested variance is for no more that has been taken by the city, and as such is the minimum variance.

- f) That the granting of the variance will be in harmony with the general purpose and intent of existing regulations, and will not be injurious to the neighborhood, or be otherwise detrimental to the public welfare.

Response: granting of the variance of 2' will not have any impact on adjacent properties, on-site drainage, utilities, or function of public services, and as such will be in harmony with the general purpose and intent of the setback regulations. In addition, granting of the variance will help to off-set the unnecessary dedication which increased the lot size nonconformity of the subject site.