



Legislation Text

File #: 18-089, **Version:** 1

TO: Mayor and Commissioners
FROM: Timothy Stillings, Planning, Zoning and Building Director
THROUGH: Mark R. Lauzier, City Manager
DATE: April 3, 2018

A WAIVER REQUEST TO LDR SECTION 4.3.3(Q)(2) GUEST COTTAGE, TO PERMIT THE EXPANSION OF AN EXISTING GUEST COTTAGE TO EXCEED THE MAXIMUM FLOOR AREA OF 700 SQ.FT. FOR A RESIDENCE LOCATED AT 402 N. OCEAN BLVD. (QUASI-JUDICIAL HEARING)

Recommended Action:

Motion to deny the waiver request to LDR Section 4.3.3(Q)(2), to allow the expansion of the existing guest cottage to exceed the maximum floor area of 700 sq.ft. based on a failure to make positive findings with LDR Section 2.4.7(B)(5).

Background:

The subject 0.483 acres (21,039 sq. ft) property is located at 402 North Ocean Blvd. on the northwest corner of North Ocean Blvd and Beach Dr. The property is zoned R-1-AAA (Single Family Residential) and is within the North Beach Seagate Overlay District. The property contains a 7,592 sq.ft., three-story residence and a 1,391 sq.ft, two-story detached accessory structure (which includes 50% of the garage square footage), built in 1963. The existing 1,391 sq.ft. accessory structure consists of a two-car garage and a master suite on the first floor. The second floor of the accessory structure consists of a family room with associated amenities and a covered balcony connecting the first and second level. The total square footage (1,117 sq.ft.) of the master suite on the first floor and the family room on the second floor account for the guest cottage floor area; therefore, the existing floor area is a legal nonconformity as it exceeds the maximum floor area allowed of 700 sq.ft.

Waiver Analysis:

Pursuant to LDR Section 4.3.3(Q)(2), a guest cottage shall not occupy more than 1/20th of the lot area and in no case shall exceed a floor area of 700 square feet. The proposal is to enclose 242 sq.ft. of the covered balcony as an addition of an office/library and a sunroom to the existing guest cottage within the accessory structure. If the waiver is granted for the conversion of the 242 SF balcony, the guest cottage square footage portion of the accessory structure will increase to 1,359 sq.ft., further increasing the nonconformity of the guest cottage square footage.

Pursuant to LDR Section 2.4.7(B)(5), prior to granting a waiver, the approving body shall make a finding that the granting of the waiver:

- (a) Shall not adversely affect the neighboring area;
- (b) Shall not significantly diminish the provision of public facilities;
- (c) Shall not create an unsafe situation; and

(d) Does not result in the grant of a special privilege in that the same waiver would be granted under similar circumstances on other property for another applicant or owner.

The applicant's justification letter is included as an attachment.

In reviewing the criteria, this waiver will not affect the neighboring area as the area proposed to be enclosed by walls already exists under the roof of the accessory structure and will not impact the lot coverage or the footprint of the structure. Provisions of public facilities would not be affected and the addition would not create an unsafe situation.

However, the granting of the waiver is not recommended as the existing guest cottage already exceeds the maximum floor area of 700 sq.ft. by 40% (1,117 sq.ft. existing), which is a legal nonconformity. The proposed addition would increase the nonconformity to 48% (700 sq.ft. allowed by code + 659 sq.ft. = 1,359 sq.ft) greater than the maximum floor area allowed. This requirement has been enforced throughout the city since its adoption. Therefore, the granting of the waiver would be considered a special privilege not granted under similar circumstances on other properties for other applicants or owners.

City Attorney Review:

Approved as to form and legal sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

Approval of the building permit application is dependent on waiver approval.