



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## BOARD OF ADJUSTMENT STAFF REPORT

612 SE 3<sup>rd</sup> Avenue

Meeting	File No.	Application Type
March 6, 2025	2025-070-VAR-BOA	Variance
Property Owner	Applicant / Authorized Agent	
Garrett Bender	Place Planning and Design, Inc./Corey OGorman	

### Request

Consideration of a variance request from Land Development Regulation (LDR) Section 4.6.15(G)(1)(a), Swimming Pool, Whirlpools, and Spas: Yard Encroachment, to reduce the rear setback to eight feet, whereas a minimum of 10 feet is required, associated with the construction of a new swimming pool.

### General Data

**Location:** 612 SE 3<sup>rd</sup> Avenue

**PCN:** 12-43-46-21-01-007-0240

**Property Size:** 0.15Acres (6,534 SF)

**Land Use Designation:** Low Density (LD)

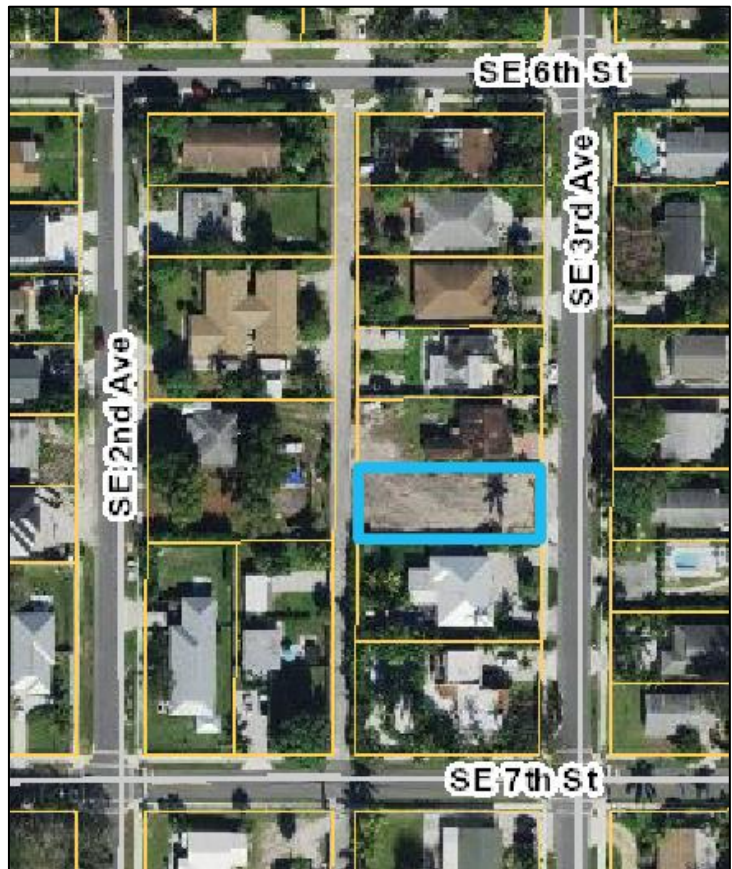
**Zoning District:** Single Family Residential District (R-1-A)

**Existing Land Use:** Single Family Home

#### Adjacent Zoning and Uses:

- North, South, East, and West: R-1A Single Family Residence

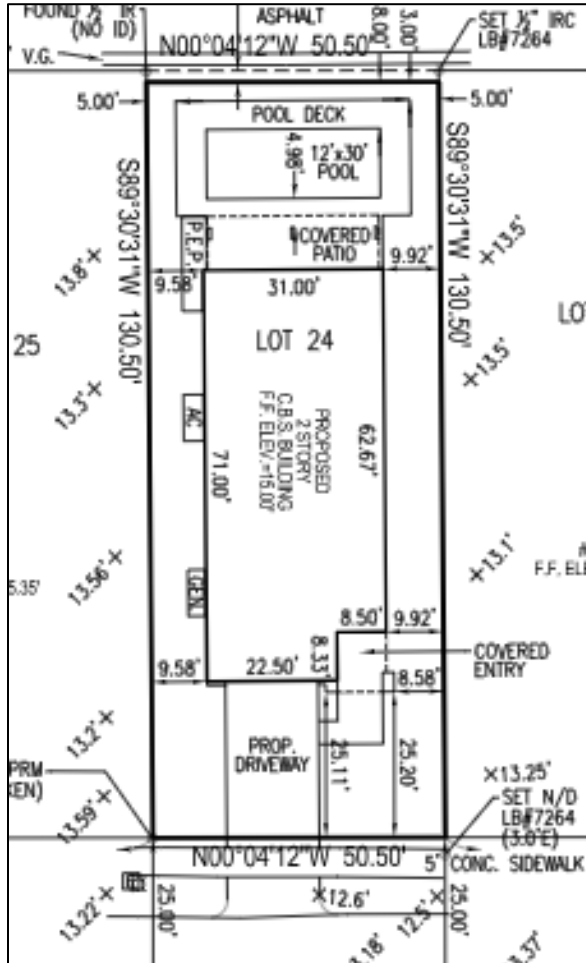
**Legal Description:** Lot 24, Block 7, Osceola Park, according to the plat thereof, in the Office of the Clerk of the Circuit Court in and for Palm Beach County, Florida, recorded in Plat Book, page 2, said lands situate, lying and being in Palm Beach County, Florida.



## Background

In 2023, a permit (23-215711) was approved for the construction of a two-story single-family home. During the approval process, a two-foot dedication for the improved rear alleyway was required. The property is zoned R-1-A, requiring a minimum lot size of 7,500 SF, lot width of 60 feet and lot depth of 100 ft. The property measures 50.5 feet by 132.5 feet (130.5 feet after the dedication) While the width of the subject property does not meet the R-1-A zoning district for minimum lot width of 60 feet, the lot is a legal lot of record and remains in the original configuration in 1913, according to the Osceola Park Plat.

The construction of the two-story single-family home did not require any relief to the setback requirements pursuant to LDR Section 4.3.4(K) Development Standards Matrix for the R-1-A zoning district. The applicant would like to construct a swimming pool to the rear of the property.



SUNDY		
50	132.5	132.5
36	36	19
35	35	20
34	34	21
33	33	22
32	32	23
31	31	24
30	30	25
29	29	26
28	28	27
BLACKMER		



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

**Pursuant to LDR Section 2.4.11(A) Relief, Variances**, is a departure from the dimensional or numeric requirements of the land development regulations where such variance will not be contrary to the public interest and where owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship. There are six findings listed above that must be found in the positive to only the subject property. While variances are applied city-wide, each request should be reviewed separately and only for the request that is presently being made. There must be special circumstances or uniqueness to the subject property. Consideration should be made if the action of the request is a result of the applicant.

While the subject property does not meet the frontage of 60 feet in the R-1-A zoning district, it does exceed the requirement of 100 feet for the depth of the lot. The Board should consider whether there are special conditions or circumstances that are relative to the subject property. **Section 4.6.15(G)(1)(a), Yard Encroachment; Swimming pools may extend into the rear, interior or street side setback areas but no closer than ten feet to any property line.** The Board should consider if the pool encroachment of two feet into the rear setback will not confer onto the applicant any special privilege. The intent of the pool setback requirement is to not fringe upon the neighboring properties and to maintain a uniformity in the streetscape within residential neighborhoods.

The board shall consider if the variance petition justifies that the granting of the variance is the minimum variance that will make possible the reasonable use of the land, is not the result of actions by the applicant, and if the literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning. The subject property is a newly constructed single-family residence.



The Neighborhoods, Districts and Corridors Element of the Always Delray Comprehensive Plan Objective NDC 2.2 Downtown and Surrounding Neighborhoods is “Protect and enhance the “Village by the Sea” character of the downtown and neighborhoods located east of I-95. According to the 2019 Osceola Redevelopment Plan, Osceola Park is one of Delray Beach’s first planned neighborhoods on the grid system and nearly half of the single-family homes are at least 40 years old, although the demolition of these single-family residences and new construction is becoming more popular, the board shall consider if the character of the neighborhood is not anticipated to conflict with or be detrimental to the well-established neighborhood.



### Optional Board Actions

- A. Move **approval** of the Variance request for **612 SE 3rd Avenue** (2025-070 VAR-BOA) from LDR Section 4.6.15(G)(1) to reduce the rear setback to eight feet, whereas a minimum of 10 feet is required, associated with the construction of a new swimming pool, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f),
- B. Move **denial** of the Variance request for **612 SE 3rd Avenue** (2025-070 VAR-BOA) from LDR Section 4.6.15(G)(1) to reduce the rear setback to eight feet, whereas a minimum of 10 feet is required, associated with the construction of a new swimming pool, by finding that the request is consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f),
- C. Move to **continue with direction**

### Public Notice

Pursuant to **LDR Section 2.6.3(G)**, Notice in accordance with Section 2.6.2 (A), (B), (C), and (D) shall be provided prior to a Public Hearing.

LDR section	Date Posted
26.2 (A); Written notice provided to property owners within 500 feet	February 21, 2025
2.6.2 (B); Property posted placard on subject property	February 21, 2025
2.6.2 (C); Notice posted at City Hall	February 25, 2025
2.6.2(D); Notice posted on City Web Page	February 25, 2025