



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

## BOARD OF ADJUSTMENT STAFF REPORT

### 1916 and 1920 Spanish Trail

Meeting	File No.	Application Type
September 4, 2025	2025-150-VAR-BOA	Variance
Property Owner	Applicant / Authorized Agent	
Alex J. Lewis and Francesca Lewis	Abrams Law Firm C/O Ryan Abrams, Esq.	

#### 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 minimum front setback requirement from 25 feet to 10 feet associated with the construction of a new swimming pool for each unit in the duplex structure located at 1916 and 1920 Spanish Trail.

#### General Data

**Location:** 1916 and 1920 Spanish Trail

**PCN:** 12-43-46-28-01-000-0961 &  
12-43-46-28-01-000-0962

**Property Size:** 1916 Spanish Trail  
(4,791.6 SF)  
1920 Spanish Trail  
(5,227 SF)

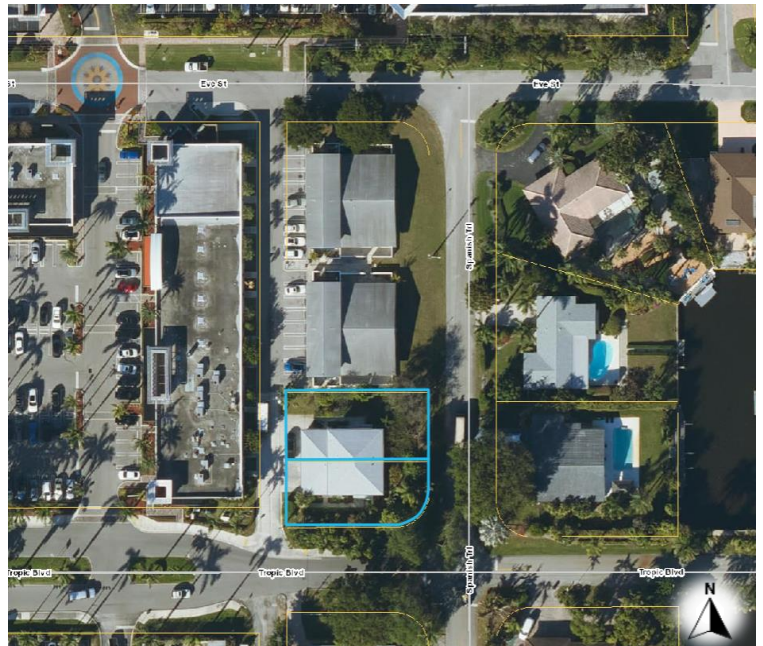
**Land Use Designation:** Medium Density (MD)

**Zoning District:** Medium Density Residential (RM)

**Existing Land Use:** Duplex

#### Adjacent Zoning and Uses:

- North: RM
- South: RM
- East: Single-Family Residential (R-1-AAB)
- West: Planned Commercial (PC)



**Legal Description (Combined):** Lot 96, Tropic Isle, according to the map or plat thereof as recorded in Plat Book 24, Page 235, Public Records of Palm Beach County.

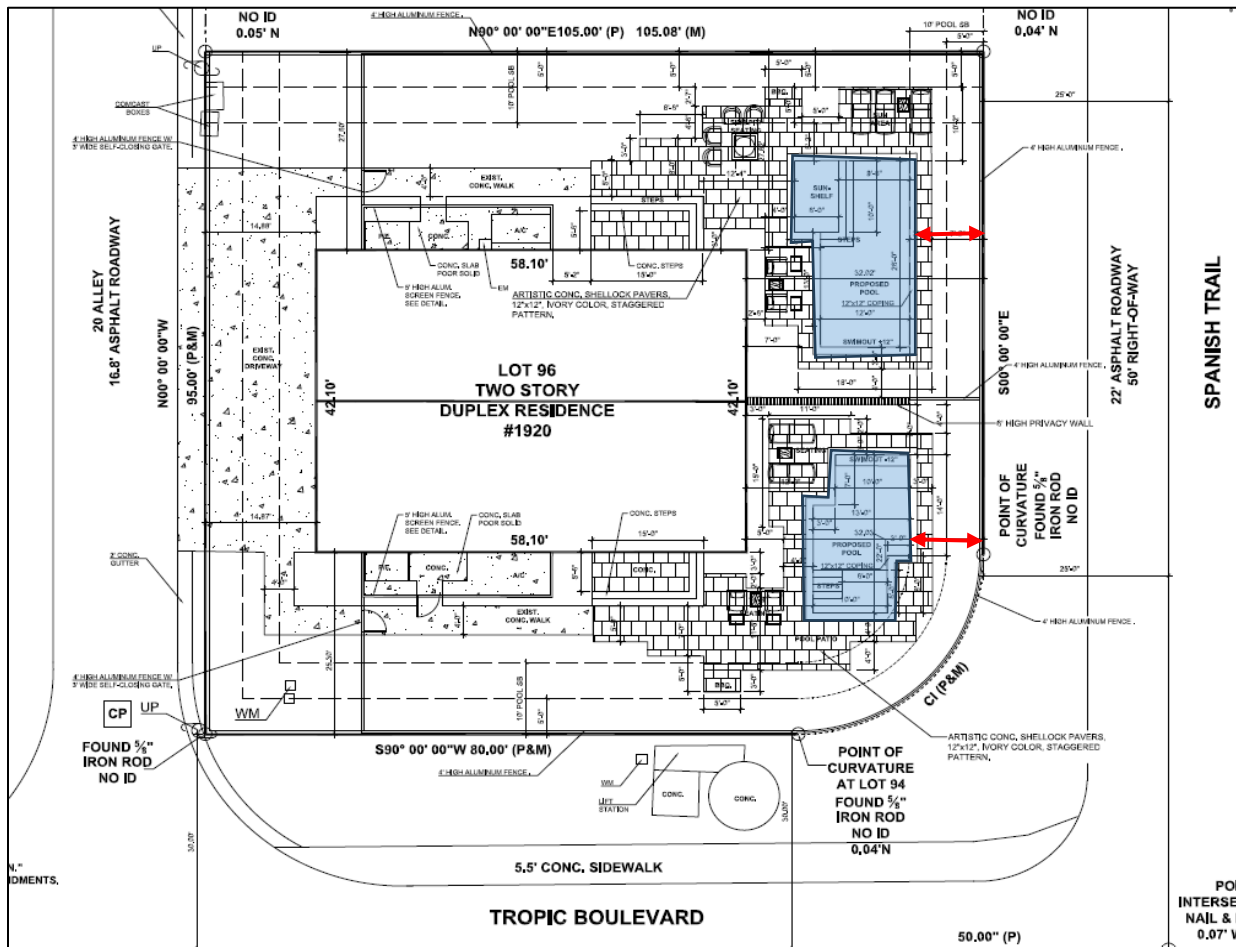
#### Background

The subject property, which is located within the Tropic Isle Neighborhood, was developed with a duplex in 1994 (building permit, 94-31397), with miscellaneous permits issued for improvements subsequent to construction. In the last year, the property was assigned two individual PCNs that resulted in two fee-simple lots, one for each unit. Pursuant to LDR Section 4.3.4(B), Lot area, ... the lot area for a duplex which is to be held in separate ownership may be reduced to a minimum of 4,000 square feet per lot when a two hour or more fire rated tenant separation wall becomes the basis for the separation of lots. In 2024, two permits (24-220344 and 24-220345) were submitted for the construction of a swimming pool on each lot. The swimming pool permits were not issued given that relief to the setbacks would be required due to the placement of each pool on each property.

## Request

Pursuant to **LDR Section 4.6.15(G)(1)(a)**, swimming pools may extend into the rear, interior or street side setback areas but no closer than ten feet to any property line. Swimming pools shall not extend into the front setback area required by Section 4.3.4(K). The front (east) of the property runs along Spanish Trail, and the south side of the property that is adjacent to Tropic Boulevard is subject to side-street regulations. The required front and side-street setbacks for a duplex structure in the RM zoning district is 25 feet. The request is to allow a swimming pool to encroach into the front setback area for both 1916 Spanish Trail and 1920 Spanish Trail. The encroachment results in a reduced front setback requirement from 25 feet to 10 feet; a variance is not required for the side-street setback adjacent to Tropic Boulevard, as swimming pools can extend up to 10 feet from the property line. The internal setback for swimming pools associated with a duplex is five feet between units, where seven is noted on the provided plan, thereby not requiring any relief.

The applicant's justification statement for the request is included as an attachment.



It is important to note that the additional improvements on the provided site plan have not been approved. The request before the Board is to determine where the edge of the pool will be located. Associated elements such as the pool deck, landscaping, fencing, and the pool barrier will be reviewed for compliance during review of the building permit.

- **Pool Deck:** limitations include the provision of on-site drainage and a minimum of 25 percent open space (landscaped).
- **Property Fence:** Must comply with the sight visibility triangle requirement of 40 feet, per LDR Section 4.6.14(B)(6), Other Intersections. The noted four-foot-tall aluminum fence may need to be reduced to three feet if located within the sight visibility triangle. Further, Given the property front and addressing is taken from Spanish Trail, proper access, i.e. a gate or other opening and a clear, paved path to the building entrance, must be provided for life-safety access purposes, particularly for the unit at 1916 Spanish Trail.

- Pool Barrier: Must provide a pool safety barrier in compliance with LDR Section 4.6.15 and the Florida Building Code; The LDR specifies that the pool safety barrier shall not be less than four feet in height “either around the swimming pool or around the premises on which the swimming pool is erected.”

The above items provide a general overview for the applicant and Board’s awareness; the complete regulations are available to the public online and will require a full review with the Building Permit application. Further, if the minimum requirements of the LDR are not met, further revisions would be required, or additional relief would need to be sought.

#### Variance Review and Analysis

Pursuant to **LDR Section 2.1.7(E)(1)(c)(3), Board of Adjustment: Duties, powers, and responsibility**, *the Board hereby has the authority to grant variances and hear appeals from Supplemental District Regulations, Article 4.6, for single-family or duplex uses, unless otherwise stated, except where said authority is expressly prohibited, granted to others, or relief is available through another process.*

The requested relief is from a requirement in **Article 4.6 – Section 4.6.15(G)(1), Swimming pool, whirlpools, and spas: Yard Encroachment**, which states, “*swimming pools shall not extend into the front setback area noted in Section 4.3.4(K).*”

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*

Pursuant to **LDR Section 2.4.11(A)(5)(a-f), Variance Findings**, the following findings must be made prior to the approval of a variance:

- 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.*
- That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning.*
- That the special conditions and circumstances have not resulted from actions of the applicant.*
- 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.*
- 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.*
- 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.*



The subject property is located within a stretch of RM zoned property that provides a buffer between the commercially zoned properties that front along South Federal Highway to the west, and the single-family residential Tropic Isle neighborhood, a “prestigious waterfront community”. The stretch of RM zoned properties between Eve Street and Tropic Boulevard take advantage of the alley by solely accessing the properties from the rear of the property. The residents do not have direct vehicular access from their properties, onto any of the adjacent streets, as it is limited to the alley. Therefore, what is technically their front yards, appears to be deemed more of a rear yard area for the residents given the development pattern.

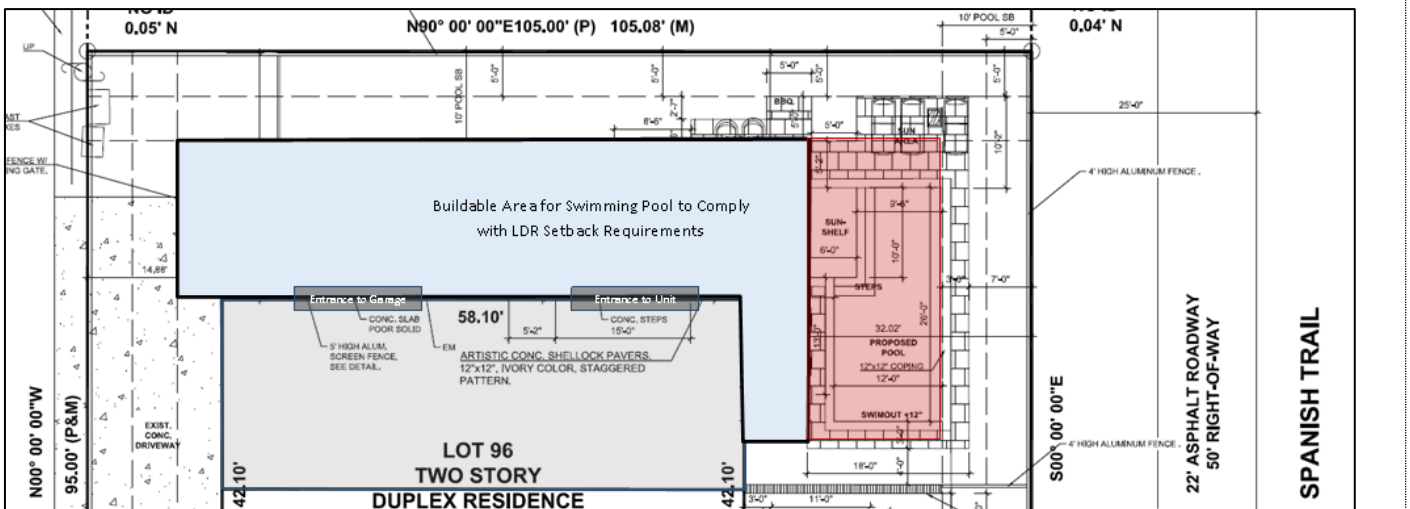


The subject duplex structure was permitted in 1994 under single ownership, and has since been divided with each portion exceeding the minimum lot size requirement of 4,000 sf for fee simple ownership. The building met the minimum development standards at the time of construction and has not been significantly modified. Now under newer ownership, the request is to provide a swimming pool for each unit within the structure.

#### Variance Review and Analysis – 1916 Spanish Trail

The Board should consider whether there are special conditions or circumstances related to the subject property and if the reduced front setback adjacent to Spanish Trail will not confer any special privilege onto the applicant. 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. However, the provision does not specifically anticipate instances where the zoning differs on each side of the street. In this case, the RM zoning is of a greater intensity than the single-family residential zoning. The property was developed to provide vehicular access from the alley, rather than place the vehicular access from within the neighborhood, which minimizes and mitigates impacts from the property's associated trips / traffic on the neighborhood.

The blue area in the graphic generally represents the buildable area for a swimming pool in consideration of the existing building while compliant with the minimum setback requirements. The red shaded area represents the buildable area if the request to reduce the front setback to ten feet is approved.



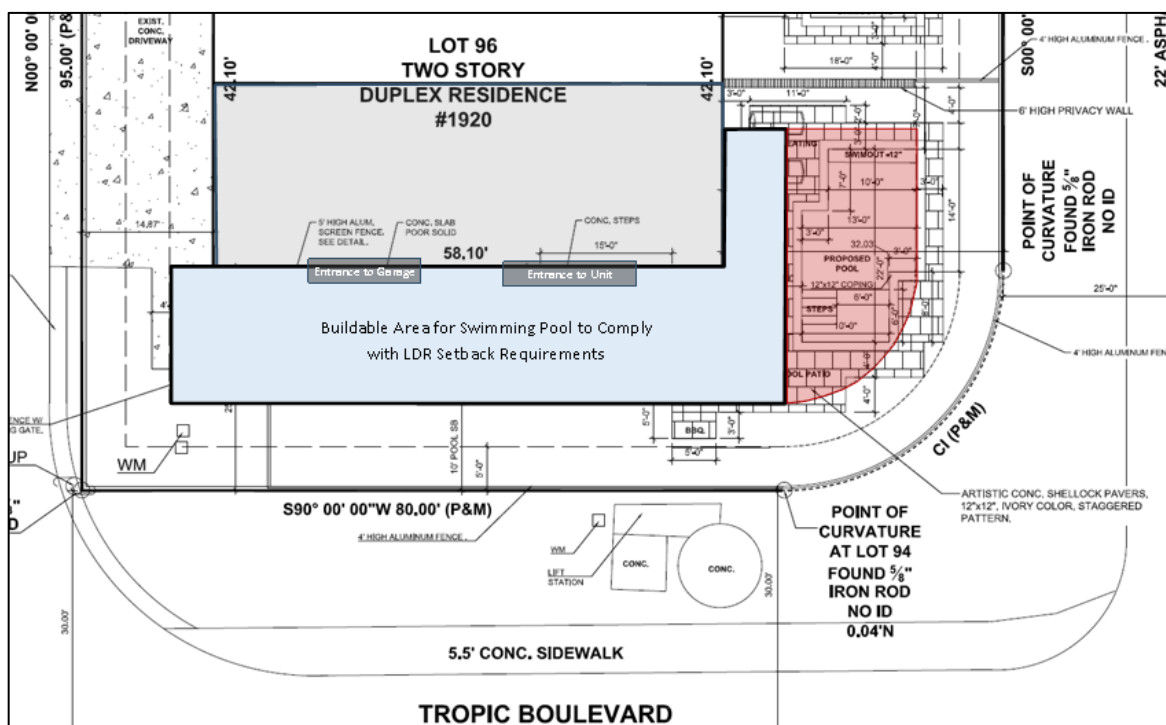
The Board should also consider if the literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning. The property has been and can continue to be used without a swimming pool for each unit; however, other properties of the same zoning and under the same circumstances of providing a buffer between commercial and single-family zoning, would also be considered to place a swimming pool in the front yard, given that all vehicular access was taken from a rear alley to minimize vehicular impacts on the neighborhood. While the location of a swimming pool in the front yard or adjacent to any of the surrounding streets does not currently exist, there are no other properties with the same circumstances outside of the block between Tropic Boulevard and Eve Street, along Spanish Trail. The other RM zoned properties to the south that are developed with either a duplex or a multi-family residence take vehicular access from Spanish Trail, as opposed to the alley along the rear of the property. Further, the single-family residences fronting onto Spanish Trail are limited in access to the properties and are not a true comparison for consideration, as they take vehicular access from Spanish Trail and the rear of the properties, which front onto finger canals connecting to the Intracoastal Waterway, are able to appropriately accommodate a swimming pool in the rear yard.

Given the analysis provided and the Findings, the Board must also consider whether the request to reduce the front setback requirement for the swimming pool from 25 feet to ten feet is the minimum necessary. Could a swimming pool be accommodated with a lesser request, meaning a larger setback, or could a swimming pool be accommodated in a more appropriate location, even if other relief would be required, but where the findings would be better met?

#### Variance Review and Analysis – 1920 Spanish Trail

The Board should consider whether there are special conditions or circumstances related to the subject property and if the reduced front setback adjacent to Spanish Trail will not confer any special privilege onto the applicant. 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. However, the provision does not specifically anticipate instances where the zoning differs on each side of the street. In this case, the RM zoning is of a greater intensity than the single-family residential zoning. The property was developed to provide vehicular access from the alley, rather than place the vehicular access from within the neighborhood, which minimizes and mitigates impacts from the property's associated trips / traffic on the neighborhood.

The blue area in the graphic generally represents the buildable area for a swimming pool in consideration of the existing building while compliant with the minimum setback requirements. The red shaded area represents the buildable area if the request to reduce the front setback to ten feet is approved.



The Board should also consider if the literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning. The property has been and can continue to be used without a swimming pool for each unit; however, other properties of the same zoning and under the same circumstances of providing a buffer between commercial and single-family zoning, would also be considered to place a swimming pool in the front yard, given that all vehicular access was taken from a rear alley to minimize vehicular impacts on the neighborhood. While the location of a swimming pool in the front yard or adjacent to any of the surrounding streets does not currently exist, there are no other properties with the same circumstances outside of the block between Tropic Boulevard and Eve Street, along Spanish Trail. The other RM zoned properties to the south that are developed with either a duplex or a multi-family residence take vehicular access from Spanish Trail, as opposed to the alley along the rear of the property. Further, the single-family residences fronting onto Spanish Trail are limited in access to the properties and are not a true comparison for consideration, as they take vehicular access from Spanish Trail and the rear of the properties, which front onto finger canals connecting to the Intracoastal Waterway, are able to appropriately accommodate a swimming pool in the rear yard.

Given the analysis provided and the Findings, the Board must also consider whether the request to reduce the front setback requirement for the swimming pool from 25 feet to ten feet is the minimum necessary. Could a swimming pool be accommodated with a lesser request, meaning a larger setback, or could a swimming pool be accommodated in a more appropriate location, even if other relief would be required, but where the findings would be better met? The ultimate swimming pool location for this property may also be further confined due to compliance with the pool barrier and sight visibility triangle requirements noted earlier in this report.

#### Optional Board Actions

##### 1916 Spanish Trail

- A. Move **approval** of the Variance request for **1916 Spanish Trail** (2025-150-VAR-BOA) from LDR Section 4.6.15(G)(1), to reduce the front setback from the minimum requirement of 25 feet to 10 feet associated with the construction of a 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 **1916 Spanish Trail** (2025-150-VAR-BOA) from LDR Section 4.6.15(G)(1), to reduce the front setback from the minimum requirement of 25 feet to 10 feet associated with the construction of a swimming pool., by finding that the request is not consistent with the findings set forth in LDR Section 2.4.11(A)(5)(a-f).
- C. Move to **continue with direction**.

##### 1920 Spanish Trail

- A. Move **approval** of the Variance request for **1920 Spanish Trail** (2025-150-VAR-BOA) from LDR Section 4.6.15(G)(1), to reduce the front setback from the minimum requirement of 25 feet to 10 feet associated with the construction of a 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 **1920 Spanish Trail** (2025-150-VAR-BOA) from LDR Section 4.6.15(G)(1), to reduce the front setback from the minimum requirement of 25 feet to 10 feet associated with the construction of a swimming pool, by finding that the request is not 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
2.6.2 (A); Written notice provided to property owners within 500 feet	August 22, 2025
2.6.2 (B); Property posted placard on subject property	August 25, 2025
2.6.2 (C); Notice posted at City Hall	August 22, 2025
2.6.2(D); Notice posted on City Web Page	August 22, 2025

Technical Review of Comments (TAC) Timeline

Review No.	Submittal Date	TAC Comments Transmitted
1	3/19/25	3/21/25
2	5/6/2025	N/A