

VARIANCE JUSTIFICATION STATEMENT- BOARD OF ADJUSTMENT

PROPERTIES OUTSIDE OF A HISTORIC AREA

The following questions pertain to the criteria upon which the Board of Adjustment will consider this application, per LDR Section 2.4.7 (A)(S). Please address each question separately as the answers provided will assist reviewing the proposal and can be included as part of the staff report presented to the Board:

☐ **JUSTIFICATION STATEMENT IS ATTACHED, WHICH ADDRESSES THE CRITERIA OF APPROVAL BELOW:**

- a) Describe which 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 (The matter of economic hardship shall not constitute a basis for the granting of a variance):

THE EXISTING HISTORIC HOUSE IS SITUATED ON A NON-CONFORMING LOT (MIN. LOT SIZE IS 12,500 SQ.FT; EXISTING LOT IS 5,398 SQ.FT) THIS STRUCTURE WAS CONSTRUCTED IN 1930, AND CURRENTLY ENROACHES INTO ALL THE SETBACKS. THE HOUSE ACTUALLY ENROACHES INTO THE SIDE STREET SET BACK 16'.0" - THE SITE HAS LIMITED SPACE AVAILABLE FOR A SPLASH POOL.

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

PER LDR SECTION 4.3.4(K), BASE DEVELOPMENT DISTRICT STANDARDS THE REQUIRED WIDTH IS 100'-0" AND THE REQUIRED DEPTH IS 110'-0". THIS PROPERTY IS 50'-0" WIDE AND 109'-0" DEEP, MAKING THIS LOT FAR SMALLER THAN TYPICAL LOTS IN R-1-AAA ZONING. THIS CONDITION CREATES A HARDSHIP FOR THE OWNER TO CONSTRUCT A SWIMMING POOL (SPLASH POOL) AND DEPRIVES THEM OF THE RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES SUBJECT TO THE SAME ZONING. IT'S ALSO IMPORTANT TO UNDERSTAND THAT THE EXISTING HISTORIC STRUCTURE IS ALREADY LOCATED OVER ALL THE SETBACKS.

- c) Explain how the special conditions and circumstances have not resulted from actions of the applicant:

THE NON-CONFORMING CONDITION WAS EXISTING WHEN THIS HOUSE WAS PURCHASED BY THE CURRENT OWNER. THE EXISTING HISTORIC STRUCTURE WAS CONSTRUCTED WITHIN ALL THE SETBACKS AND IS 7,102 SQ.FT BELOW THE REQUIRED 12,500 SQ.FT.

- d) Explain how granting the variance will not confer on to 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:

GRANTING THIS REQUEST WILL ALLOW THE OWNER TO ENJOY THE ABILITY TO CONSTRUCT A MODEST SWIMMING POOL (SPLASH POOL) WHICH WILL ENCROACH INTO THE EXISTING NON-CONFORMING SIDE STREET SETBACK 7'10". A SWIMMING POOL IS A STANDARD MOST HOMES IN ALL THE ZONING DISTRICTS ENJOY.

- e) Describe 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:

WE ARE PROPOSING A SWIMMING POOL (SPLASH POOL) THAT WILL ENCROACH INTO THE EXISTING NON-CONFORMING SIDE STREET SETBACK BY 7'10". IT IS IMPORTANT TO NOTE THAT THE EXISTING HOUSE IS ACTUALLY 1'-0" OFF THE SIDE STREET SETBACK. ALSO THAT THE LOT SIZE IS 7,102 SQ.FT SMALLER THAN THE MINIMUM LOT SIZE OF 12,500 SQ.FT

- f) Explain how 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:

THIS IS A UNIQUE PROPERTY DUE TO IT'S SMALL NON-CONFORMING SIZE AND THE EXISTING NON-CONFORMING SETBACKS. GRANTING THIS VARIANCE WILL ALLOW THE OWNER TO HAVE A SWIMMING POOL (SPLASH POOL), THE SAME AS PROPERTIES THROUGHOUT THE NEIGHBORHOOD.

- g) Please provide any other comments and information which can be relevant or assist the Board in reviewing this request

THIS IS ABOUT SAVING A HISTORIC HOUSE (WHICH CURRENTLY IS NOT PROTECTED) AND PROVIDING MODERN DAY UPGRADES WITHIN A HISTORIC SETTING.



architecture, planning & design
aa26002044

1045 e. atlantic ave, suite 303
delray beach, fl 33483

tel 561.276.6011
fax 561.276.6129

December 16, 2021

City of Delray Beach
Board of Adjustment
100 N. W. 1st Avenue
Delray Beach, FL 33444

Re: Weinberg Residence
1221 Laing Street
Delray Beach FL 33483

To Whom It May Concern:

Please accept this letter to request the item listed below from the Board of Adjustment for the proposed single-family residence at the above referenced property, as follows:

The client is proposing to construct a swimming pool (splash pool) on the above referenced property. We are requesting the following variance:

Item #1: Reduction in the side street setback from the required 10'-0" to 2'-2", to allow for the proposed swimming pool (splash pool) which will be at grade.

The property is located in R-1-AAA zoning with the following required setbacks per LDR Section 4.3.4(K) – Development Standards Matrix:

Front setback: 35'-0" (currently 29'-6")
Side setback: 12'-0" (currently 6'-6 1/2")
Side street setback: 17'-0" (currently 1'-0")
Rear setback: 12'-0" (currently 25'-1")
Minimum lot width: 100'-0" (currently 50'-0")
Minimum lot depth: 110'-0" (currently 109'-0")

The home is located on a non-conforming lot that is approximately 5,398 sq. ft. (50'-0" x 109'-0"), far smaller than property sizes typically within the R-1-AAA zoning, with the min. lot size being 12,500 sq. ft.

It is important to understand that the property was non-conforming when our client purchased it; the non-conforming conditions are not a result of our client's actions. This lot is a sliver of the minimum lot size, which clearly creates a challenging hardship for our client to construct a pool on this property. The existing non-conformities would actually prohibit the owner from being able to construct a swimming pool (splash pool) and would deny them rights commonly enjoyed by other properties subject to the same zoning.

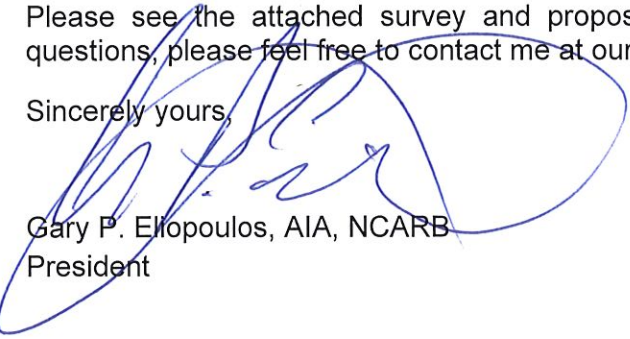
The request for the proposed new swimming pool (splash pool) to encroach into the side street setback is based on that the existing house is actual 1'-0" off of the side street setback. Although this is a side street setback, it's important to point out that Sandpiper Lane is a low volume service alley for 4 houses.

For the above reasons, we believe a reduced side street setback is justified with regard to LDR Section 4.6.15(G)(1).

(1) Swimming pools, the tops of which are no higher than grade level, may extend into the rear, interior or street side setback areas but no closer than ten feet to any property line, except as provided in subsection (2) and (4) below. Swimming pools shall not extend into the front setback area noted in Section 4.3.4(K). [Amd. Ord. 24-04 5/18/04]; [Amd. Ord. 41-92 9/8/92]; [Amd. Ord. 13-91 2/26/91]

Please see the attached survey and proposed drawings and photos. Should you have any questions, please feel free to contact me at our office (561) 276-6011.

Sincerely yours,



Gary P. Ellopoulos, AIA, NCARB
President