



Cover Memorandum/Staff Report

File #: 21-496

Agenda Date: 6/1/2021

Item #: 7.B.

TO: Mayor and Commissioners
FROM: Anthea Giannotes, Development Services Department
THROUGH: Jennifer Alvarez, Interim City Manager
DATE: June 1, 2021

RESOLUTION NO: 89-21: A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF DELRAY BEACH, FLORIDA, GRANTING A WAIVER REQUEST TO SECTION 4.3.4(H)(4)(d) OF THE LAND DEVELOPMENT REGULATIONS TO ALLOW THE SECOND AND THIRD FLOOR BALCONIES TO EXTEND FOUR FEET TWO INCHES INTO THE FRONT SETBACK FOR THE PROPERTY LOCATED AT 1221 LAING STREET, AS MORE PARTICULARLY DESCRIBED HEREIN; PROVIDING FOR AN EFFECTIVE DATE; AND FOR OTHER PURPOSES. (QUASI JUDICIAL)

Recommended Action:

Review and Consider Resolution No. 89-21 to allow the balconies on the second and third stories to extend four feet two inches into the front setback.

Background:

The subject property is located at 1221 Laing Street and is zoned R-1-AAA (Single Family Residential) with a LUM of (LD) Low Density. The property is located in the North Beach Overlay District. Pursuant to Land Development Regulation (LDR) Section 4.4.3(F)(1), in addition to the provisions of Section 4.3.4(K), properties located within the North Beach/Seagate and Ocean Neighborhood Overlay Districts shall comply with the provisions of the adopted Beach Property Owners Design Manual (BPODM).

The lot is 50' x 109' and is nonconforming in lot depth, lot frontage and width, and minimum lot size. The lot is 5,398 SF whereas 12,500 SF is the required minimum lot size for the R-1-AAA zoning district. The circa 1938 Monterey-style two-story residence is proposed to be preserved and elevated over a new ground floor. The proposed project also includes a new two-story addition with a garage to the rear of the property.

As currently developed, the house has existing nonconformities with respect to the front, side-street, and side-interior setbacks. On April 1, 2021, the Board of Adjustment approved several setback variances to Section I - District Regulations and Incentives from the BPODM to allow additional stories on the existing footprint and the addition to the rear. The variance approvals do not exempt the project from Section II of the BPODM, which is the architectural design guidelines.

The current waiver request is to allow balconies on the second and third stories to extend four feet two inches into the setbacks. Pursuant to LDR Section 4.3.4(H)(4)(d) three feet of encroachment is allowed, which is the same amount overhangs in general can encroach. The existing balcony on the second story will move to the third story with the proposed elevation of the structures. A "new" balcony is proposed on the second story (previously the first story), consistent with the original

balcony design.

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 a 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 the same waiver would be granted under a similar circumstance on other property for another applicant or owner.

In 2012 and 2013, the properties at 1101 and 1240 Seaspray Avenue received similar approvals for balconies to encroach into the required setbacks more than the allowed three feet. Regarding the City's long-term vision, the Always Delray Comprehensive Plan Objective Hou 1.1 Neighborhood Character states *"Support and Respect the diverse and distinct character of Delray Beach's neighborhoods."*

City Attorney Review:

City Attorney approves for form and sufficiency.

Funding Source/Financial Impact:

N/A

Timing of Request:

N/A