

CARNEY STANTON P.L.

Attorneys At Law

135 S.E. 5TH AVENUE, SUITE 202
DELRAY BEACH, FLORIDA 33483

TEL: (561) 278-5565

FAX: (561) 330-8233

EMAIL: tfc@carneystanton.com

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Anthea Gianniotis
Director, Development Services
City of Delray Beach
100 NW 1st Avenue
Delray Beach, FL 33444

In Re: Justification Letter /
Request for Reduction of Side Setback

Dear Ms. Gianniotis:

The purpose of this letter is to provide justification for the request to reduce the setback requirement related to the construction of a new residence located at 809 NW 2nd Street, Delray Beach, FL 33444.

The property is located in the R-1-A zoning district. Under current regulations, the required side setback (against the alley) is 15 feet. The applicant wishes to construct a home, compatible with other homes in the area, but with the required dedication of 2' for the alley (pursuant to L.D.R. Section 5.3.1 (a), the 67.5' (already) unsized lot if further reduced to 65.5'..

The particular circumstances of this property justify the granting of the variance to allow the reduction of the side setback due to the fact that this lot is dramatically undersized for the area and, without the variance, not enough space is left to build an adequately sized home. Thus, the hardship of the lot itself, denies the applicant the ability to build what most other properties in the city can build. As required by the Land Development Regulations, reasons set forth below:

1. That special conditions and circumstances exist which are peculiar to the land involved and which are not generally applicable to other lands, structures or buildings in the same zoning?

The dimensions of the lot in question are 69.85 (average) feet. deep and 67.85 feet. wide. The border is Martin Luther King Boulevard. As per the submitted survey, the total property size is 4,738 sq. ft. A review of the lots in the area (including lots immediately adjacent to the property) demonstrates that the size of this lot is small by comparison to the other lots within the neighborhood. Already, applying the setbacks as set forth in the zoning district, you end up with a

buildable area much smaller than the minimum established by the LDRs. Then, further reducing the lot size with the dedication requirement, the lot is further restricted. Similarly situated lots (which are typically ranging between 7,500 and 8,000) allow for the construction of nearly 3,000 sq. ft. of buildable space for a single home. The size of this lot, with the existing building setbacks would allow for the construction of a house significantly smaller. By this difference for the same lots within the same residential zoning district, a normal-size lot would permit 3,000 sq. ft. and this undersized lot will only allow for a buildable footprint of approximately 1,500 sq. ft.

Thus, the challenges with the size of the lot should allow the reduction of the side setback.

2. That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning?

Recognizing the size of the lot (in comparison to other lots within the same zoning district) applying the strict setback rules in a disproportionate setback in comparison to the other properties. As stated, the applicant is negatively impacted by literally interpreting the regulation to provide for the same setbacks on this dramatically undersized lots, and, as such, the applicant would not be enjoying the same rights as other properties subject to the same zoning.

3. That the special conditions and circumstance have not resulted from actions of the applicant?

The size of this lot was not due to any actions by the applicant. The applicant did not subdivide the property or otherwise convey any portions of the property. This was the circumstances (the size) of the lot at the time of purchase. Except for purchasing the property, the conditions and circumstances of this lot are not a result of the applicant's activities.

4. 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?

Other properties within the zoning classification of this property have the ability to construct not only a personal residence on the land, but also amenities (including swimming pools). Allowing the reduced setback resulting from the 2' dedication will permit the applicant to construct a home with sufficient space to contain typical "main level" features (kitchen, living room, dining room, powder room and staircase) located on the ground floor.

5. 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?

Granting of the variance is the minimum variance that will make possible the reasonable use of the land by including its ability to have a house with features enjoyed by many other properties within the same zoning district, the only difference being they are larger (more standard) lots and that special relief is warranted where the lot size is already undersized and where a undersized lot is required to dedicate additional land to comply with the Land Development Regulations.

6. 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?

Purpose and intent of the existing regulations is to promote single family residential dwelling units, with amenities, within a particular zoning district. Allowing this variance will provide the opportunity for a significant investment into this neighborhood and will only improve the valuations of the surrounding neighborhood.

7. Please provide any other comments and deformation which can be relevant or assist the Board in reviewing this request?

It is clear when looking at the aerial provided with the application that this lot is smaller in comparison to the other lots. It is important that the residence being constructed enhances the neighborhood. With this reduction, a house can be built which will enhance the neighborhood.

Respectfully submitted,

CARNEY STANTON P.L.

A handwritten signature in blue ink, appearing to read "Thomas F. Carney, Jr.", written over a horizontal line.

By: _____

Thomas F. Carney, Jr.