

CITY OF DELRAY BEACH DEVELOPMENT SERVICES DEPARTMENT
SUPPLEMENTAL FORMS

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)(5). 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 structure was built in accordance with required setbacks when constructed as a storage building. Conversion of the building to an efficiency residential dwelling unit resulted in the proper recalcification from a duplex (2 units on site) to a multifamily classification (3 units on site). This changes the setback requirements from 15'; to 25'.

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

The subject structure was permitted and in existence since 2007. In conformance with required setbacks for a storage building. The conversion of the use of the structure (by others) was completed prior to the applicant purchasing the property in 2022. The new owner performed upgrades to the structure as well. Through a code enforcement action it was discovered that the conversion was not properly permitted. Permitting of the property requires a site plan to be approved. The site plan cannot be approved because of an existing insufficient rear setback. The variance request is not uncommon and can be granted on similar projects

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

The applicant purchased the property in 2022 as a 3 unit property. The conversion of the subject unit was completed prior to taking ownership. A permit was issued to do work on the 2 unit structure to close in a roofed front courtyard/ porch area and the installation of a pool. Onsite inspections discovered lack of permits for the subject existing building conversion and remodeling done by the new owner (applicant). The applicant is working to remedy the situation and properly permit all work that has been performed on site.

- d) Explain how 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:

No special privilege would be granted as a similar variance related to insufficient rear setbacks due to a change of use of an existing structure could be granted in any other similar situation.

- 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:

The structure was constructed with inadequate rear setback rear setback of 14.7 feet which is less than the required 15 feet when it was constructed as a nonresidential structure. The structure was permitted under a previous ownership so there is no information as to how the permit was closed out. The conversion of the use to residential changed the classification of the property from duplex to multifamily which requires the rear setback to be 25 feet. The granting of the variance to permit a 14.7 foot rear setback will be the minimum required to bring the structure into conformity. A 6 foot high fence has been installed along the rear property line to provide additional screening.

- 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:

The granting of the variance will not be injurious to the neighborhood as the structure has been in existence since 2007. The conversion of use to residential will have little impact on the neighbors as the vehicular access to the structure will be by way of Spanish Trail at the eastern side of the property away from neighbors. Access to the structure will be by way of walking along the northern portion of the property. New fences have been installed along the rear and a portion of the north side (in the area of the subject structure) to provide additional screening of adjacent properties.

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

The character of the surrounding area is primarily multi-family buildings. To the west is a 4 unit building. To the south west is a 3 unit building. Directly south is a 2 unit building and directly north is a 3 unit building. To the north west is the Coconut Palm HOA community pool which services 6 units. There are no single family residences adjacent to the subject property. Approval of the variance to permit the converted unit to be on the subject property is not detrimental to the multifamily character of the surrounding neighborhood.

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