



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

100 NW 1ST AVENUE, DELRAY BEACH, FLORIDA 33444
PLANNING & ZONING DIVISION: (561) 243-7040 • BUILDING DIVISION: (561) 243-7200

Board of Adjustment

Meeting: June 2, 2022

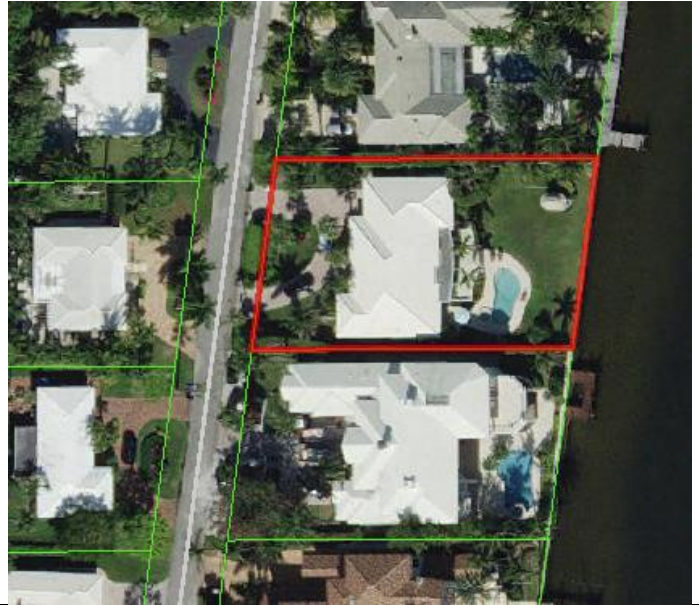
File No.: 2022-175-VAR-BOA

Application Name: 227 Palm Trail – Variance

Applicant/Agent: Tomas R. Speno and Laura Speno
Location: 227 Palm Trail
PCN: 12-43-46-16-09-000-0100
Property Size: 0.4120 Acres
Land Use Designation: Md (Medium Density)
Zoning Designation: R-1-AA Single-Family Residential
Adjacent Zoning:

- North: R-1-AA
- East: Intracoastal Waterway
- South: R-1-AA
- West: R-1-AA

Existing Land Use: Single-Family Residential
Item before the Board: Variance request is to reduce the front setback five feet.



Optional Board Motions for Action Items:

1. Move to **continue with direction**.
2. Move **approval** of the Variance request for 227 Palm Trail (2022-175-VAR-BOA) from LDR Section 4.3.4(K) **to allow a 25 foot front setback where 30 feet is required** by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).
3. Move **denial** of the Variance request for 227 Palm Trail (2022-175-VAR-BOA) from LDR Section 4.3.4(K) **to allow a 25 foot front setback where 30 feet is required** by finding that the request is inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).

Request

The variance request is to reduce the required front setback from 30 feet to 25 feet.

Background:

The property consists of Lot 10, Runnymede, according to the map of plat thereof as recorded in Plat Book 23, Page 71, Public Records of Palm Beach County, Florida. The lot is zoned Single-Family Residential (R-1-AA) and located within the Palm Trail Neighborhood.

The original structure was built 1961 and is set to be demolished with the construction of a new home. The applicant submitted a building permit on December 29, 2021, for the construction of the home and was disapproved by the Engineering Division on January 31, 2022, as a five-foot right-of-way dedication is required. **Pursuant to LDR Section 5.3.1(A) – Streets (rights-of-way); Right-of-way Dimensions and Dedication required. Right-of-way dimensions and dedications, whether public or private, shall be consistent with Table MBL-1 "Street Network and Classification and Improvements" of the Mobility**

<p>Project Planner: Jennifer Buce, buce@mydelraybeach.com 561-243-7138</p>	<p>Review Dates: <u>Board of Adjustment</u> June 2, 2022</p>	<p>Attachments</p> <ol style="list-style-type: none"> 1. Site Plan 2. Site Photos 3. Survey 4. Justification Letter
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Element, providing for coordinated rights-of-way dedications with the Florida Department of Transportation and Palm Beach County.

Palm Trail’s required right-of-way per **Table MBL** is classified as a local street and the jurisdiction is the City which requires an ultimate right of way of 50 feet. Pursuant to **LDR Section 5.3.1(A)(3)**; when development is adjacent to an existing or planned street, the development shall be responsible for providing one-half of the ultimate right-of-way or such portion of the ultimate right-of-way which is yet undedicated and which is on that development’s side of the ultimate right-of-way center line. In situations where there are unusual topographic features, greater or lesser dedications may be required.” In this case, the ultimate right-of-way is forty feet, therefore the homeowner is responsible for providing one-half of the ultimate right-of-way which is five feet. Ultimately, the road classification is designed to provide street improvements such as pedestrian pathways, sidewalks, and public utilities.

Variance Analysis:

Pursuant to **LDR Section 2.2.4(D)(4) and (c)**, the Board of Adjustment has the authority to grant variances and hear appeals from the provisions of the General Development Standards (Article 4.3).

Pursuant to **LDR Section 2.4.7(A)(5)(a) through (f)**, **Variance Findings**, the following findings must be made prior to the approval of a variance:

- a) **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 (The matter of economic hardship shall not constitute a basis for the granting of a variance).**

The property is in the R-1-AA zoning district within the Palm Trail Neighborhood. The minimum front setback in the R-1-AA zoning district is 30 feet. The applicant is requesting a reduction of five feet in the front setback due to **LDR Section 6.1.3** and the Comprehensive Plan. The survey indicates that the property is 103 feet wide by 175 feet deep. This requirement is applicable to all other lands in this zoning district. The required dedication of five feet for 227 Palm Trail will change the streetscape along the eastside of the road as no other homes have had to dedicate five feet as most of the homes are original builds. However, as new builds are proposed on this block the five-foot dedication will be required.

- b) **That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning.**

LDR Section 4.3.4(K) is applied city-wide. The R-1-AA zoning district requires a 30-foot front setback. The right-of-way dedication requires the lot depth to be reduced by five feet, however, the lot width prior to dedication is 175 whereas 100 is required, therefore it will not deprive the applicant of rights commonly enjoyed by others.

- c) **That the special conditions and circumstances have not resulted from actions of the applicant.**

The subject property was recently acquired by the applicant. The applicant purchased the property with an existing home on it. A demolition permit (22-203969) was approved and a permit for new construction was submitted in 2021 (21-201516). The right-of way dedication is not the result from actions of the applicant as the city requires a five-foot dedication pursuant to LDR Section 5.1.3 and the Comprehensive Plan. The size of the lot is sufficient to construct a single-family home within the confines of the R-1-AA zoning regulations.

- d) **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.**

Each variance submitted is to be reviewed and stand on its own. Variances have been granted in the past for dedications ranging from two feet to 15 feet. The amount of the right-of-way dedication depends on the classification of the road provided on the **Table MBL**. However, each variance was analyzed for lot size, width,



depth, and unusual circumstances to the land.

- e) **That 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; and,**

The City of Delray Beach has a required right-of way dedication for all local streets of 50 feet, per the Always Delray Comprehensive Plan Table MBL-1. The existing right-of-way along Palm Trail is 40 feet, requiring a five-foot dedication in the front. When certain provisions of development are met such as new structures being built or additions to existing structures right-of-way dedication is required. The five-foot right-of-way will modify the property lines and ultimately impact the front setback lines.

Pursuant to LDR Section 4.3.4(K), the required setback for R-1-AA, is 30 feet. The applicant is requesting to reduce the front setback by 5 feet and establish a 25-foot setback from the property line. The justification statement states, *“the applicant is being held to a standard that is more adverse to the buildability of the lot than what is intended by the LDR.”*

- f) **That 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 maintain the character of the streetscape and the placement of the house in relationship to the street by maintaining a consistent front setback. The granting of the variance would not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

Notice

Pursuant to LDR Section 2.4.2 (B)(1)(f), the City shall provide notice of the public hearing in accordance with Section 2.4.2(B)(1)(j) (i), (ii), and (iv) for variances before the Board of Adjustment.

LDR section	Date Posted
2.4.2 (B)(1)(j)(i) - Written notice provided to property owners within 500 feet	May 20, 2022
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	May 20, 2022
2.4.2 (B)(1)(j)(iv) - Notice posted at City Hall	May 20, 2022