



DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

BOARD OF ADJUSTMENT STAFF REPORT

1220 Crestwood Drive

Meeting	File No.	Application Type
March 6, 2025	2024-251-VAR-BOA	Variance
Property Owner	Applicant / Authorized Agent	
Denise M and Galan G Daukas	Thomas M. Stanley, Esq. – MacMillan & Stanley, PLLC	

Request

Consideration of three variances from Land Development Regulations (LDR) Section 4.3.4(K), Development Standards Matrix - Residential Zoning Districts associated with additions to the existing single-family residence, as follows

- reduce the front (north) setback from the minimum requirement of 35 feet to 20 feet,
- reduce the side-interior (west) setback from the minimum requirement of 12 feet to 10 feet 2.6 inches,
- reduce the side-interior (east) setback from the minimum requirement of 12 feet to 10 feet 1 inch

General Data

Location: 1220 Crestwood Drive

PCN: 12-43-46-09-35-000-0040

Property Size: 0.20 acres (8,712 SF)

Land Use Designation: Low Density (LD)

Zoning district: Single-Family Residential (R-1-AAA); North Beach Overlay District

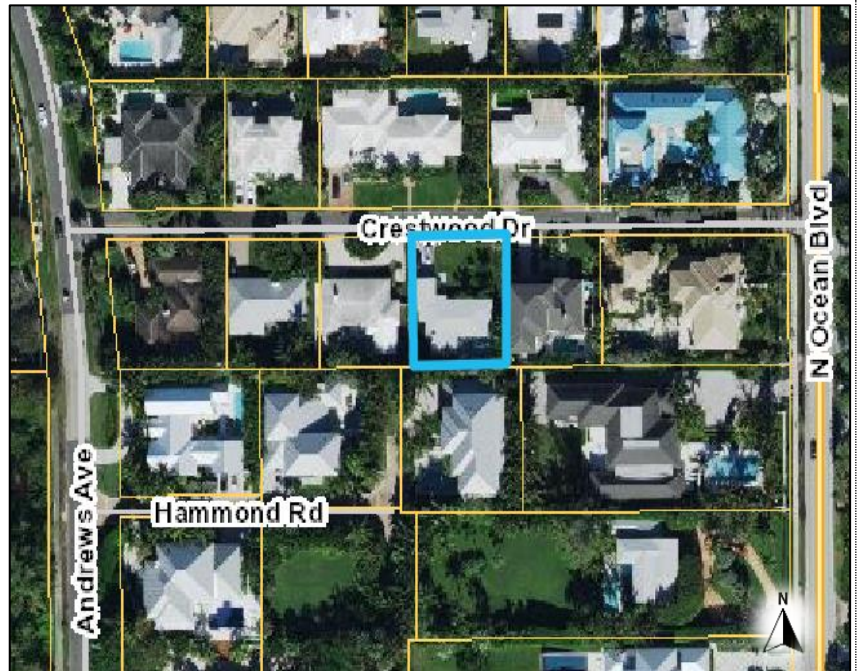
Existing Land Use: Single-Family Residence

Adjacent Zoning:

- North, South, East, West: R-1-AAA

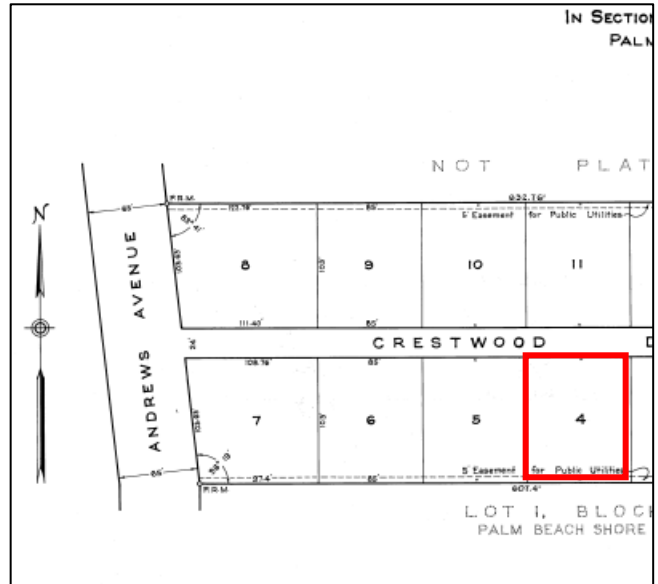
Legal Description:

Lot 4, Crestwood, according to the map or plat thereof as recorded in Plat Book 23, Page 161 Public Records of Palm Beach County, Florida.



Background

The one-story single-family residence was constructed in 1959. The lot size has not been altered from its original configuration of the Plat of Crestwood that was recorded in 1954. Permit research indicates that an interior alteration was approved in 2012 and the installation of a swimming pool and spa to the rear of the property in 2016; neither request required relief.



Given the original date of construction, there are existing legal non-conformities. Pursuant to **LDR Section 1.3.5(A), Nonconforming structures: Definition**, a *nonconforming structure* shall mean any structure or building that was lawfully developed but does not comply with the following standards governed by the Land Development Regulations: size, height, coverage, setbacks, or other location or design aspects. Therefore, when property is redeveloped, the provision of **LDR Section 4.3.1(A), Application of District Regulations**, applies, which states, *no building, structure, or land shall hereafter be used or occupied, and no building, structure, or part thereof, shall hereafter be constructed, erected, moved, reconstructed, or structurally altered except in conformity with all of the regulations herein specified for the zoning district in which it is located.*

LDR Section 4.3.4(K), Development Standards Matrix – Residential Zoning District, properties located within the R-1-AAA zoning district require the following listed in the table below:

	Required	Provided	Proposing
Minimum Lot Size	12,500 SF	8,756 SF*	N/A
Lot Width	100 Feet	85 Feet*	N/A
Lot Depth	110 Feet	103 Feet*	N/A
Front Setback	35 Feet	35.01 Feet	20 Feet
Side Interior Setback (west)	12 Feet	10 Feet 2.6 Inches	10 Feet 2.6Inches
Side Interior Setback (east)	12 Feet	10 Feet 1 Inch	10 Feet 1 Inch
Rear Setback	12 Feet	10.74 Feet*	N/A

*Existing non-conformities.

Request

The request is to construct an addition to the front and each of the sides of the home; the side additions are consistent with the current non-conforming setbacks as to remain uniform with the existing structure. The current residence consists of 2,130 square feet and the proposed addition consists of a total of 954 square feet.

The consideration of the addition is for three variances to LDR Section 4.3.4(K), Development Standards Matrix – Residential, R-1-AAA zoning district:

- reduce the front (north) setback from the minimum requirement of 35 feet to 20 feet,
- reduce the side-interior (west) setback from the minimum requirement of 12 feet to 10 feet 2.6 inches,
- reduce the side-interior (east) setback from the minimum requirement of 12 feet to 10 feet 1 inch

The residence currently is setback 51 feet from the property line along Crestwood Drive. The addition is proposed with a setback of 20 feet. The addition measures 24 feet deep from the existing front façade, however, the requested setback is based on the resulting property line subsequent to the requisite right of way dedication. Forty feet of right-of-way is required along Crestwood Drive. The current right-of-way along Crestwood Drive is twenty-four feet, thereby requiring a dedication of eight feet. **LDR Section 5.3.1(A)(3) Streets (rights of -way)**, *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.*

Each request requires their own action as seen in the analysis below.

FEMA Requirements

The subject property is located within Zone AE with a Base Flood Elevation of 7' NAVD. It is important to note that while variance requests may be specifically associated with the intended plans, the requested improvements to the existing structure are required to follow the FEMA regulations for construction in the Special Flood Hazard Area, including the FEMA 50% rule. Should the proposed addition exceed 50% of the existing square footage of the structure, the applicant will also be required to bring the existing structure into compliance with the applicable FEMA regulations. Although the square footage of the proposed addition meets the requirements, the costs of these improvements must not exceed 50% of the improvements value for the structure. Should the costs exceed that limit, the applicant may have to bring the structure into compliance.



Variance Review and Analysis

Front Setback (North)

Pursuant to **LDR Section 2.1.7(E)(1)(c)1, Board of Adjustment: Duties, powers, and responsibilities**, the Board is authorized to hear and grant variance requests to **Base District Development Standards, LDR Section 4.3.4**, for single-family or duplex uses, unless otherwise stated.

Pursuant to **LDR Section 2.4.11(A), Relief: Variances**, *a variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.* There are six findings listed below that must be found in the positive to only the subject property. While variances are applied city-wide, each request should be reviewed separately and only for the request that is presently being made. There must be special circumstances or uniqueness to the subject property. Consideration should be made if the action of the request is a result of the applicant.

Pursuant to **LDR Section 2.4.11(A)(5) (a-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. Economic hardship shall not constitute a basis for the granting of a variance;*
- (b) *That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;*
- (c) *That the special conditions and circumstances have not resulted from actions of the applicant;*

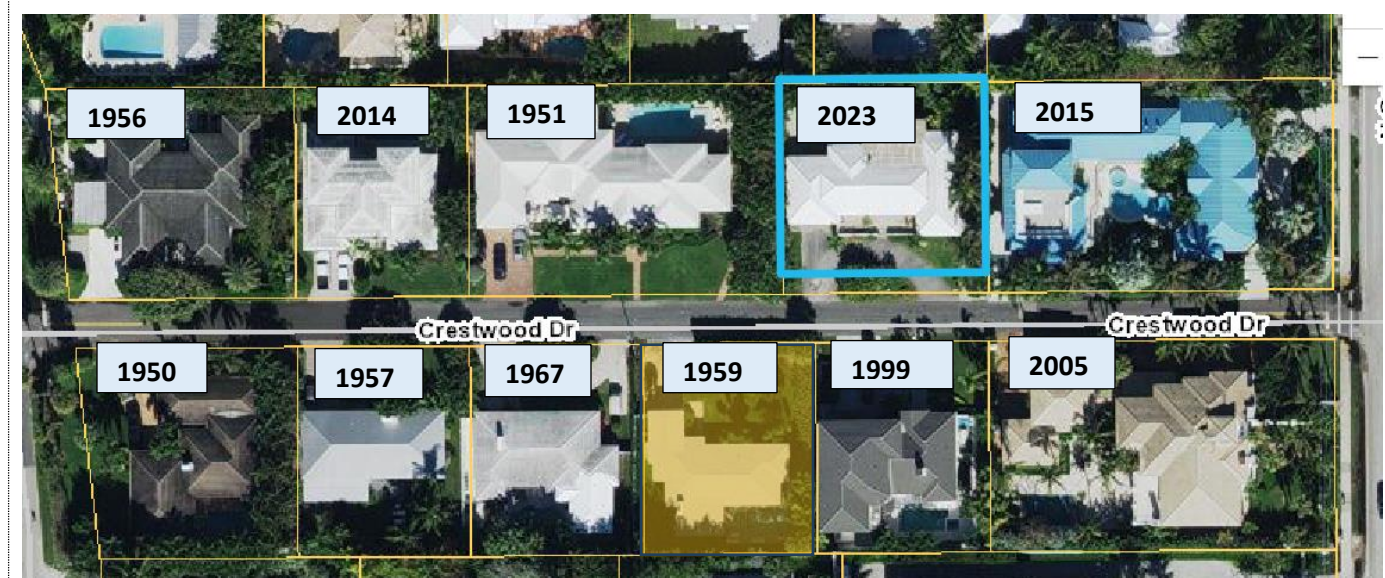
- (d) *That granting the variance will not confer onto the applicant any special privilege that is denied to other lands, structures, and buildings under the same zoning. Neither the permitted, nor nonconforming use, of neighborhood lands, structures, or buildings under the same zoning shall be considered grounds for the issuance of a variance;*
- (e) *That the reasons established 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,*
- (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.*

LDR Section 4.3.4(K) establishes the perimeters of lot size, width, depth, open space, minimum height and setbacks for single family residence. The subject property is zoned R-1-AAA. The required front setback for R-1-AAA is 35 feet. The current structure maintains a front setback of 51.73 feet.

In consideration of the criteria listed above, the Board must consider whether special conditions or circumstances exist that are relative to the subject property and the literal application of the zoning code would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning district for a single-family residence.

The Board must also consider whether the special conditions and circumstances have not resulted from the actions of the applicant. The photo below demonstrates the current condition and build dates of the single-family residence along Crestwood Drive. Several original structures remain on Crestwood Drive with the most current new construction outlined in blue (1227 Crestwood Drive) dedicating the required eight feet of right-of-way.

While setback regulations are applied city-wide, the Board should consider if granting the variance would not confer a special privilege. As the new construction of single-family homes progresses on Crestwood Drive, each property will be subject to the eight-foot right-of-way dedication. The applicant's justification statement (see attached) primarily bases the front setback request on the dedication of land for right-of-way purposes and the resulting substandard lot area. Consideration as to the request and its impact on the streetscape and whether or not the resulting conditions are harmonious or injurious with the neighborhood. While each variance shall stand on its own findings, it is noted that 1227 Crestwood Drive received approval of a reduction of 10 feet for the front setback in 2022 and 1209 Crestwood Drive received approval of a variance to reduce the front setback in 2013 (without the required eight-foot dedication).



Side Interior Setback (West)

Pursuant to **LDR Section 2.1.7(E)(1)(c)1, Board of Adjustment: Duties, powers, and responsibilities**, the Board is authorized to hear and grant variance requests to **Base District Development Standards, LDR Section 4.3.4**, for single-family or duplex uses, unless otherwise stated.

Pursuant to **LDR Section 2.4.11(A), Relief: Variances**, *a variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.* There are six findings listed below that must be found in the positive to only the subject property. While variances are applied city-wide, each request should be reviewed separately and only for the request that is presently being made. There must be special circumstances or uniqueness to the subject property. Consideration should be made if the action of the request is a result of the applicant.

Pursuant to **LDR Section 2.4.11(A)(5) (a-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. Economic hardship shall not constitute a basis for the granting of a variance;*
- (b) *That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;*
- (c) *That the special conditions and circumstances have not resulted from actions of the applicant;*
- (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;*
- (e) *That the reasons established 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,*
- (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.*

In consideration of the criteria listed above, the Board must consider whether special conditions or circumstances exist that are relative to the property and the literal application of the zoning code would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning district for a single-family residence. Furthermore, the Board should consider whether granting the variance for the side interior setback located on the west side of the property is a special privilege or would be injurious to the neighborhood. The R-1-AAA zoning district, requires a 12 foot setback for the side interior. The applicant desires to maintain the existing non-conformity of 10 feet 2.6 inches. (See the attached justification statement)

While the existing setback on the west side will be maintained, the Board should consider whether additional building area within the side interior setback will have an impact on the adjacent property to the east. The larger lot size requirements in the R-1-AAA zoning district afford for estate size lots with single-family residences set further back from adjacent properties for more privacy of their outdoor spaces. However, the properties along the streetscape were platted prior to the existing development standards, and largely remain in the original configuration.

Side interior Setback (East)

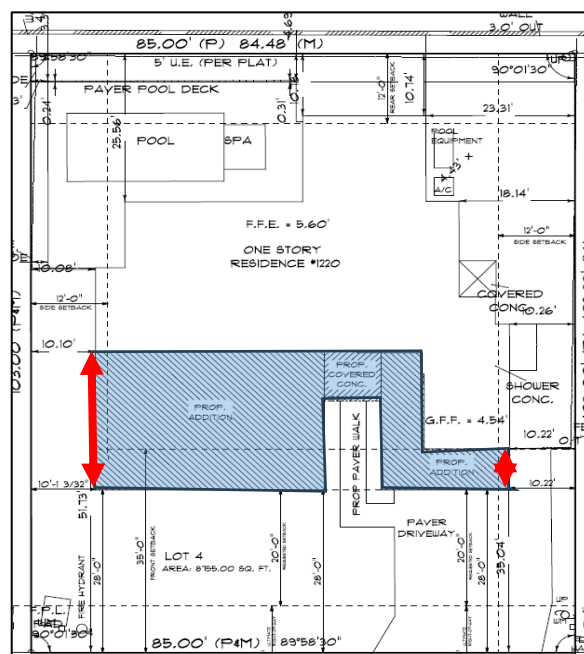
Pursuant to **LDR Section 2.1.7(E)(1)(c)1, Board of Adjustment: Duties, powers, and responsibilities**, the Board is authorized to hear and grant variance requests to **Base District Development Standards, LDR Section 4.3.4**, for single-family or duplex uses, unless otherwise stated.

Pursuant to **LDR Section 2.4.11(A), Relief: Variances**, *a variance is a departure from the dimensional or numeric requirements of these land development regulations where such variance will not be contrary to the public interest and where, owing to the existing conditions peculiar to the property and not the result of the actions of the landowner, a literal enforcement of the regulations would result in unnecessary and undue hardship.* There are six findings listed below that must be found in the positive to only the subject property. While variances are applied city-wide, each request should be reviewed separately and only for the request that is presently being made. There must be special circumstances or uniqueness to the subject property. Consideration should be made if the action of the request is a result of the applicant.

Pursuant to **LDR Section 2.4.11(A)(5) (a-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. Economic hardship shall not constitute a basis for the granting of a variance;*
- (b) *That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;*
- (c) *That the special conditions and circumstances have not resulted from actions of the applicant;*
- (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;*
- (e) *That the reasons established 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,*
- (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.*

In consideration of the criteria listed above, the Board must consider whether special conditions or circumstances exist that are relative to the property and the literal application of the zoning code would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning district for a single-family residence. The applicant is also proposing to maintain the existing non-conformity of the east side interior at 10 feet 1 inch, whereas 12 feet is required. While the variance request is minimal, the Board should consider if the neighbor to the west will have a negative impact as a result of the addition. The addition to the west is greater than the proposed addition on the east side. The west extends from the front to the rear by approximately twenty-four feet whereas the east side is less than 10 feet from front to rear. Furthermore, the Board should consider whether granting the variance for the side interior setback located on the west side of the property is a special privilege or would be injurious to the neighborhood. While setback regulations are applicable city-wide; research indicates that there has been no relief granted on Crestwood Drive for side interior setbacks. However, 1210 Crestwood Drive and 1216 Crestwood Drive have legal non-conformities to the side interior. (See the attached justification statement)



Optional Board Actions

Front Setback

- A. Move **approval** of the Variance request for **1220 Crestwood Drive** (2024-251-VAR-BOA) from **LDR Section 4.3.4(K), Development Standards Matrix – Residential Zoning Districts** to reduce the front (north) setback from the minimum requirement of 35 feet to 20 feet, associated with a proposed addition to the existing single-family residence, by finding that the request is consistent with the findings set forth in LDR Section **2.4.11(A)(5)(a-f)**.
- B. Move **denial** of the Variance request for **1220 Crestwood Drive** (2024-251-VAR-BOA) from **LDR Section 4.3.4(K), Development Standards Matrix – Residential Zoning Districts** to reduce the front (north) setback from the minimum requirement of 35 feet to 20 feet, associated with a proposed addition to the existing single-family residence, by finding that the request is consistent with the findings set forth in LDR Section **2.4.11(A)(5)(a-f)**.
- C. Move to **continue with direction**.

Side-Interior Setback (West)

- A. Move **approval** of the Variance request for **1220 Crestwood Drive** (2024-251-VAR-BOA) from **LDR Section 4.3.4(K), Development Standards Matrix – Residential Zoning Districts** reduce the side-interior (west) setback from the minimum requirement of 12 feet to 10 feet 2.6 inches, , associated with a proposed addition to the existing single-family residence, by finding that the request is consistent with the findings set forth in LDR Section **2.4.11(A)(5)(a-f)**.
- B. Move **denial** of the Variance request for **1220 Crestwood Drive** (2024-251-VAR-BOA) from **LDR Section 4.3.4(K), Development Standards Matrix – Residential Zoning Districts** reduce the side-interior (west) setback from the minimum requirement of 12 feet to 10 feet 2.6 inches, associated with a proposed addition to the existing single-family residence, by finding that the request is consistent with the findings set forth in LDR Section **2.4.11(A)(5)(a-f)**.
- C. Move to **continue with direction**.

Side-Interior Setback (East)

- A. Move **approval** of the Variance request for **1220 Crestwood Drive** (2024-251-VAR-BOA) from **LDR Section 4.3.4(K), Development Standards Matrix – Residential Zoning Districts** minimum requirement of 12 feet to 10 feet 1 inch, associated with a proposed addition to the existing single-family residence, by finding that the request is consistent with the findings set forth in LDR Section **2.4.11(A)(5)(a-)**
- B. Move **denial** of the Variance request for **1220 Crestwood Drive** (2024-251-VAR-BOA) from **LDR Section 4.3.4(K), Development Standards Matrix – Residential Zoning Districts** minimum requirement of 12 feet to 10 feet 1 inch, associated with a proposed addition to the existing single-family residence, by finding that the request is consistent with the findings set forth in LDR Section **2.4.11(A)(5)(a-)**
- C. Move to **continue with direction**.

Public Notice

Pursuant to **LDR Section 2.6.3(G)**, Notice in accordance with Section 2.6.2 (A), (B), (C), and (D) shall be provided prior to a Public Hearing.

LDR Section	Date Posted
2.6.2 (A); Written notice provided to property owners within 500 feet	February 24, 2025
2.6.2 (B); Property posted placard on subject property	February 24, 2025
2.6.2 (C); Notice posted at City Hall	February 26, 2025
2.6.2 (D); Notice posted on City Web Page	February 26, 2025