



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: April 7, 2022

File No.: 2022-072-VAR-BOA

Application Name: 1221 Laing Street

Applicant/Agent: Gary P. Eliopoulos/ G E Architecture, Inc.

Location: 1221 Laing Street

PCN: 12-43-46-16-A8-004-0080

Property Size: 0.13 Acres

LUM: LD (Low Density 0-5 Dwelling Units/ Acre)

Zoning: R-1-AAA Single-Family Residential

Adjacent Zoning:

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

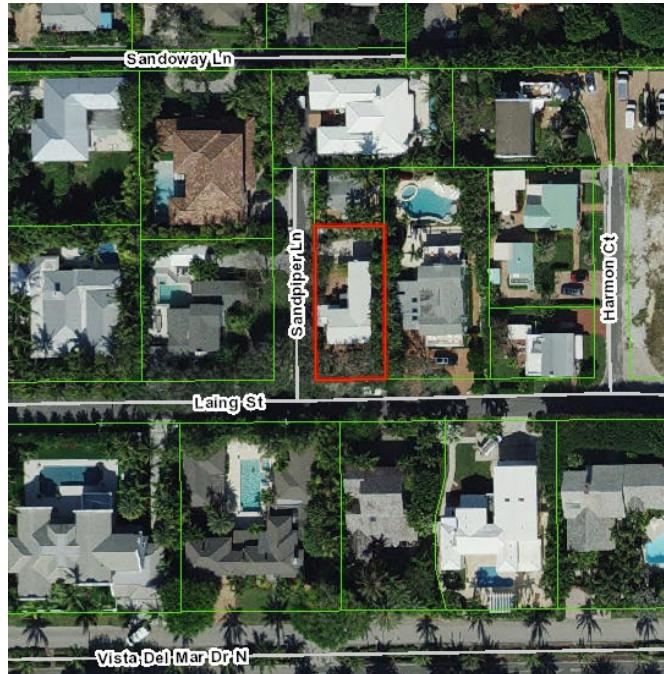
Existing Land Use: Single-Family Residential

Proposed Land Use: Single-Family Residential

Overlay District: North Beach Overlay District

Item before the Board:

Consideration of a variance request from Land Development Regulation (LDR) Section 4.6.15(G)(1) to allow a pool to extend into a street side setback area, maintaining a setback less than the minimum required 10 feet to instead allow a setback of 2'2".



Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move **approval** of the variance requests (2022-072-VAR-BOA) from LDR Section 4.6.15(G)(1) to allow a pool to extend into a street side setback area, maintaining a setback less than the minimum required 10 feet to instead allow a setback of 2'2" for the property located at 1221 Laing Street, 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 requests (2022-072-VAR-BOA) from LDR Section 4.6.15(G)(1) to allow a pool to extend into a street side setback area, maintaining a setback less than the minimum required 10 feet to instead allow a setback of 2'2" for the property located at 1221 Laing Street, 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 consider the encroachment of a pool into a street side setback area more than is allowable by code. LDR section 4.6.15(G)(1) allows for pools to extend into street side setback areas provided that they maintain a minimum 10 foot setback from the property line. This applicant is requesting a reduction in the minimum to allow for a 2'2" setback.

Background:

The property consists of the east 50 feet of the west 300 feet of Lot 4 as shown on amended plat number 3, of Beach Lots 4,5, and 6 in the City of Delray Beach, according to the plat thereof, as recorded in Plat Book 7, Page 53, of the Public Records of Palm Beach County. The lot is zoned Single-Family Residential (R-1-AAA) and is located within the North Beach Overlay District. Properties located within the North Beach Overlay District are subject to the requirements of the Beach Property Owner's Design

Project Planner: Julian Gdaniec, Senior Planner gdaniecj@mydelraybeach.com	Review Dates: Board of Adjustment: April 7, 2022	Attachments 1. Justification Statement 2. Survey 3. Site Plan 4. Pool Plan 5. Rendering
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Manual. The circa 1938 Monterey-style two-story residence remains on the property. As currently developed, the house has existing nonconformities with respect to the front, side-street, and side-interior setbacks. The overall property dimension is less than would be typically required per the LDR's in R-1-AAA and is, therefore, existing non-conforming regarding lot depth, lot frontage, lot width, and minimum lot size.

In 2021, the Board of Adjustment and City Commission had previously granted Variances and a Waiver, respectively, with regard to reduced setbacks and balcony encroachments in association with proposed alterations and an addition to the subject property. The same applicant, at this time, is requesting consideration of the aforementioned request to allow for a reduced minimum pool street side setback.

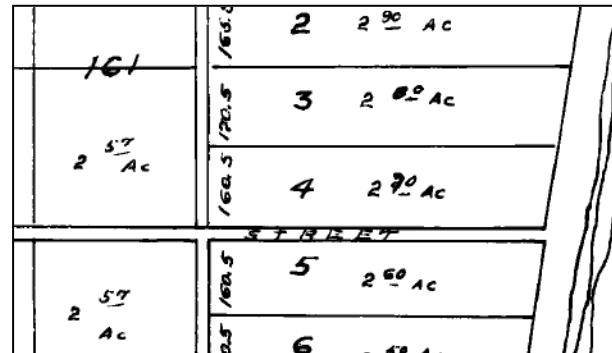
Variance Analysis:

Pursuant to LDR Section 2.2.4 (D)(4)(c), the Board of Adjustment has the authority to grant variances and hear appeals from the provisions of the Supplemental District Regulations (Article 4.6). The applicant's justification statement is attached.

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(s):

- 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);**

Staff Analysis: The property is in the R-1-AAA zoning district and the North Beach Overlay District. The property generally consists of the east 50 feet of the west 300 feet of Lot 4, which originally consisted of 2.70 acres. The graphic provided includes Lot 4 from the original plat of 1899. As the lots were subdivided, including 1221 Laing Street, the lots became smaller and are now considered nonconforming to LDR Section 4.3.4(K) Development Standards. The subject lot now contains 5,398 SF whereas 12,500 is the required lot size for R-1-AAA; several of the surrounding lots still retain the original structures from the 1930's. There is established precedent, evidenced by the approval of prior variances, that the existing smaller lot dimensions found within the neighborhood provide unique conditions that result in difficulty complying with certain development standards that may otherwise be achievable if the lot dimensions conformed to the minimum typical lot dimensions for the particular zoning district. Likewise, the reduced lot sizes common in this neighborhood may render compliance with certain supplemental development regulations more difficult than properties of larger dimension.



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

Staff Analysis: Section 4.6.15 of the LDR's states that pools may be constructed in a street side setback so long as a minimum side setback of at least 10' is maintained. Given that the distance between the existing perimeter wall and building setback is only 15'-10", should the minimum 10' setback be provided only an approximate 6' distance remains between the required waters edge of the pool and the existing building wall. The applicant has stated that certain construction best practices would require that the pool also be constructed at least some distance away from the existing building foundation. This renders the remaining space available to construct a pool minimal, at best; and may render the construction of a pool infeasible. A pool is a common amenity enjoyed by other properties within the same zoning district.



c) That the special conditions and circumstances have not resulted from actions of the applicant;

Staff Analysis: The special conditions and circumstances are due to the small lot dimensions relative to the typical requirements of the zoning district, as well as the placement and orientation of the existing 1938 structure on the site which limits the remaining available space to incorporate a pool. There are already numerous existing setback nonconformities that are present on site, independent of this particular request. The existing site conditions are not a result of the applicants' actions.

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.

Staff Analysis: The incorporation of a pool is not a special privilege and is instead, a commonly enjoyed amenity customary to many homes in South Florida. While each Variance request shall stand on its own merits, there is established precedent for setback variances on this property as well as others in the adjacent vicinity that are predicated on the established fact that the lot patterns and dimensions in this neighborhood provide difficulty in complying with standard code requirements that may otherwise be easily accommodate on lots with a more typical dimension profile found elsewhere in the City. The orientation of the existing structure limits the remaining usable space which further exacerbates the issues unique to this parcel. Demolition is not a desired alternative. Even so, a new construction project would have difficulty achieving a functional site design that did not rely on relief from at least some regulations.

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,

Staff Analysis: The applicant has provided justification predicated on the claim that the existing lot dimensions, when paired with the orientation and placement of the existing structure, are significant limiting factors that prevent adherence to the requirements. The applicant has also claimed that the proposed request is the minimum variance given best construction practices requiring a buffer between the pool and building foundation, while also maintaining functional use of the pool and adjacent patio space.

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

Staff Analysis: The variance request intends to preserve the existing character of the home while maintaining compatibility with the surrounding neighborhood. There is an existing perimeter wall that will remain, providing visual screening and sound buffering from the street. The main structure also has an existing side street setback of 1 foot, so the reduce pool setback of 2'-2" will encroach less than the existing western most wall of the structure. The amount of previous open space will not be reduced further, with the property maintaining the previously existing non-conforming figure of 24%. Lastly, the applicant has pointed out that the street which is directly adjacent to the proposed pool is a low traffic local street providing access to only four residences.

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	March 28, 2022
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	March 28, 2022
2.4.2 (B)(1)(j)(iv) - The notice posted at City Hall	March 28, 2022