




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: October 6, 2022	File No.: 2022-193-VAR-BOA	Application Name: 342 SW 4 th Avenue
<p>Applicant/Agent: Stuart and Shelby Development Inc.</p> <p>Location: 342 SW 4th Avenue</p> <p>PCN: 12-43-46-16-01-032-0170</p> <p>Property Size: 0.1039 Acres</p> <p>Land Use Designation: LD, 0-5 DU (Low Density)</p> <p>Zoning Designation: R-1-A Single-Family Residential</p> <p>Adjacent Zoning:</p> <ul style="list-style-type: none"> ○ North, South, East & West: R-1-A <p>Existing Land Use: Vacant</p> <p>Item before the Board: Variance request is to reduce the required 10-foot rear setback in the R-1-A zoning district pursuant to LDR Section 4.3.4(K) to 8 feet.</p>		
<p>Optional Board Motions for Action Items:</p> <ol style="list-style-type: none"> 1. Move to continue with direction. 2. Move approval of the Variance request for 342 SW 4th Avenue (2022-193-VAR-BOA) from LDR Section 4.3.4(K) to allow an eight foot setback to the rear of the property where ten 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 342 SW 4th Avenue (2022-193-VAR-BOA) from LDR Section 4.3.4(K) to allow an eight foot setback to the rear of the property where ten 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). 		
<p>Request</p> <p>The variance request is to reduce the required rear setback from 10 feet to 8 feet.</p>		

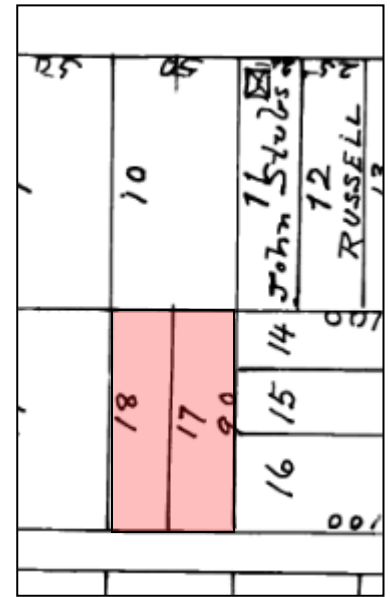
Project Planner: Jennifer Buce, buce@mydelraybeach.com 561-243-7138	Review Dates: <u>Board of Adjustment:</u> October 6, 2022	Attachments 1. Site Plan 2. Site Photos 3. Survey 4. Justification Letter
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**Background:**

Located in the Carver Square Neighborhood the property is zoned Single-Family Residential (R-1-A) with a Land Use Designation of Low Density (LD). The vacant lot was originally platted as Lots 17 and 18. of Block 32, according to the Plat thereof recorded in Plat Book 6, Page 97, of the Public Records of Palm Beach County in 1917.

September 19, 2022, the City Commission approved a minor subdivision for the properties of Lots 17, and 18 within Block 32 that front an alley. Lots 17 and 18 were replatted in the Reyes Plat to form one lot and is now Lot 1 on the recorded replat. The proposed home's only frontage is accessed by an improved alley.

Pursuant to LDR Section 5.3.1(A) 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 Element, providing for coordinated rights-of-way dedications with the Florida Department of Transportation and Palm Beach County, 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." Table MBL-1 classifies alleys as a local street and the jurisdiction is the City which requires an ultimate right of way of 20 feet. Ultimately, the road classification is designed to provide street improvements. In this case, the right-of-way is an improved alley, and the ultimate right-of-way is twenty feet. The original plat of 1917 and applicant's survey indicates that the ally is 16.4 feet wide, September 19, 2022, the City Commission approved a two-foot alley dedication which will provide four tenths more than the required one half of the ultimate right-of-way.

**Variance Analysis:**

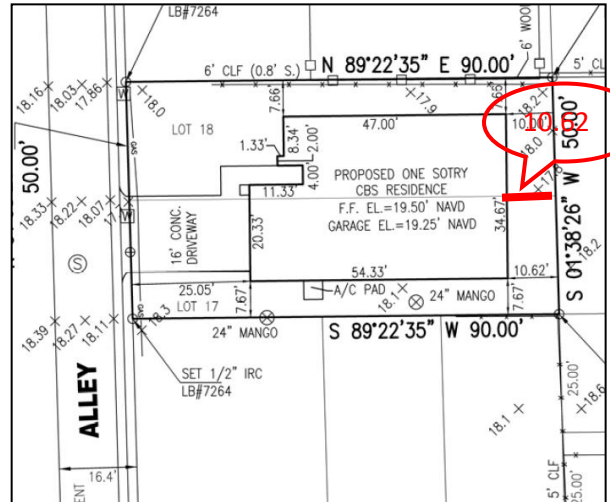
Pursuant to **LDR Section 2.2.4(D)(4) and (c)**, the Board of Adjustment has the authority to grant variances and hear appeals from the provisions of the General Development Standards (Article 4.3).

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-A zoning district within the Carver Square Neighborhood. The only access into the home is from the improved alley. The applicant is providing the required two-foot alley dedication which is considered the front of the property. Pursuant to **LDR Section 4.3.4(K)** lot width and depth within the R-1-A zoning district is 60 feet wide by 100 feet deep. The survey indicates that the property is 50 feet wide by 90 feet deep. After the two-foot dedication of the alley, the new depth of the property is 88 feet deep. Although this is new construction, the lot is small and limited to provide a modest home for a family.

- 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-A zoning district requires a 10-foot rear setback. The alley dedication requires the lot depth to be reduced by two feet. Since this is a platted lot and a single-family home



can be constructed, the 90-foot depth is an existing non-conformity by not meeting the depth requirement in the R-1-A zoning district and further reducing it by two feet could deprive the applicant of rights commonly enjoyed by others.

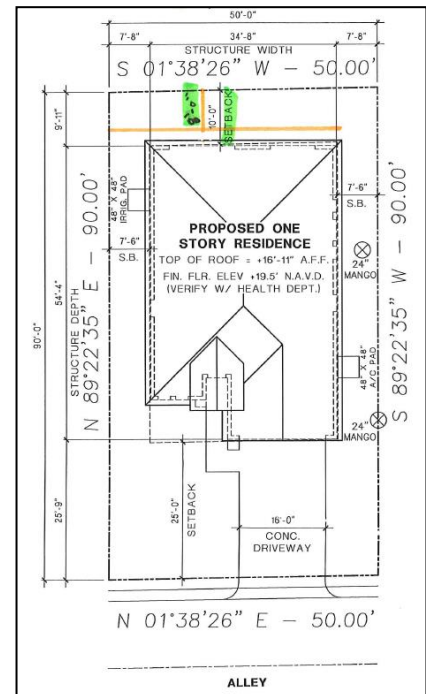
c) That the special conditions and circumstances have not resulted from actions of the applicant.

The two-foot alley dedication is not the result of actions of the applicant. Dedications whether public or private shall be consistent with the Always Delay Comprehensive Plan, Table MBL-1 "Street Network and Classification and Improvements" of the Mobility Element. Alleys are considered local streets which require 20 feet. The alley which is the only access to the proposed home is 16 feet which requires the applicant one half of the 20-foot requirement, resulting in a two-foot dedication. Many of the homes in the Southwest neighborhood are 50 feet wide by 100 feet deep. In this case, the lot is less 10 feet deep than the average lot.

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-1 MBL**. However, each variance was analyzed for lot size, width, depth, and unusual circumstances to the land at that time.

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,



When certain provisions of development are met such as new structures being constructed or over 25% additions to existing structures right-of-way dedications are required. The two-foot dedication to the rear of the property will allow the alley to establish a harmonized streetscape as new development for single family homes occur.

Pursuant to LDR Section 4.3.4(K), the required rear setback for R-1-A, is 10 feet. The applicant is requesting to reduce the rear setback by two feet which is the same amount that is being dedicated to make street improvements in the future and maintain the character of the streetscape.

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 generally be in purpose and intent with the regulation. Overall, the two feet to the rear of the property is minimal and should not be injurious to the neighborhood or disrupt the public welfare of the surrounding neighborhood. Osceola neighborhood is consistent in the small-scale size of the lots which are some of the oldest platted lots dating back to the early 1900's.



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	September 23, 2022
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	September 23, 2022
2.4.2 (B)(1)(j)(iv) - Notice posted at City Hall	September 23, 2022