



April 17, 2018

Mr. Tim Stillings
Planning, Zoning and Building Director
City of Delray Beach
100 N.W. 1st Avenue
Delray Beach, Florida 33444

PROPERTY: 515 NW 1ST AVENUE
WAIVER REQUEST: LDR SECTION 4.4.3(F)(2)(d) [REAR & FRONT SETBACK]

Dear Mr. Stillings:

Please accept this request for Waiver pursuant to Section 2.4.7(B)(2) of the Delray Beach Land Development Regulations (“LDRs”). The request seeks relief from LDR Section 4.4.3(F)(2)(d) relating to required rear and front setback for a single-family dwelling located at 515 NW 1st Avenue (the “Property”).

The Waivers being sought are:

- (i) Allowing the existing structure to remain at the existing and conforming ten-foot (10’) rear setback, rather than having to tear down part of the existing structure to meet the now required fifteen-foot (15’), which requirement is triggered by the requested building permits to build the addition (effectively, a request for a reduction of the rear setback from 15 feet to 10 feet); and
- (ii) A reduction of the required front setback from twenty-five feet (25’) to fifteen feet, one inch (15’-1”), as the result of the City’s condition that the owner dedicates a large portion of his existing front yard for future public right-of-way purposes in order to construct the desired addition.

A. REAR YARD SETBACK - LAKE IDA NEIGHBORHOOD OVERLAY DISTRICT

The Property in question is located at 515 NW 1st Avenue and has a zoning designation of R-1-AA, Single Family Residential. The standard rear setback for single-family homes in R-1-AA zoned districts is ten feet (10’). The home as it exists conforms with the rear setback requirement.

The owner seeks to build a modest, two-story structure to slightly enlarge the existing dwelling to add an enclosed garage with a second-floor bedroom. This addition of a second story (of any size) however causes an increased setback requirement of fifteen feet (15’) for the entire

structure due to revisions to the Land Development Regulations adopted pursuant to the Lake Ida Neighborhood Overlay District codified in LDR 4.5.16.

By way of background, on June 17, 2008, the City adopted Ordinance 24-08 which created the "Lake Ida Neighborhood Overlay District." One the provisions of the Overlay District was to require a fifteen-foot (15') rear setback for construction of a new two-story residential home.

Ten years ago, the overarching concern at the time was that homes within the Lake Ida neighborhood were being bought up at record pace due to the real estate boon; being tom down; and new "McMansion" homes were constructed that did not meet the "character" of the Lake Ida neighborhood. Since such single-family dwellings are not reviewed by any City board such as the Site Plan Review and Appearance Board (SPRAB), there were no "checks and balances" at the time to prevent such overdevelopment from occurring.

What was not contemplated at that time was the impact this Ordinance would have upon the ability of homeowners to make improvements to existing properties, such as this one. The ramifications of this super-setback requirement is to require the owner to demolish the entirety of the rear wall of the home and then reconstruct that wall five feet (5') inside the existing structure, significantly reducing interior habitable space, exposing the interior of the home to the outside elements during reconstruction, and potentially compromising structural integrity requiring further building reinforcement at an additional cost.

The pressing issue in June 2008 was to quickly address potential overdevelopment of the Lake Ida Neighborhood by tear-downs and newly-constructed two-story homes with inadequate setbacks. The public comment and official City Minutes relating to the development and adoption of the Overlay District support this position. The current situation and unique circumstance was simply not contemplated at the time the Lake Ida Neighborhood Task Force or the City Commission proposed, discussed, considered, and adopted Ordinance 24-08 approximately 10 years ago. The owner/applicant is therefore respectfully requesting the City grant a Waiver from the rear yard setback requirement in LDR Section 4.4.3(F)(2)(d), under the standards set forth in LDR Section 2.4.7(B)(5).

1. Approval of the waiver will not adversely affect the neighboring area.

The intention of the Lake Ida Neighborhood Task Force when proposing the Lake Ida Neighborhood Overlay District development standards was to halt rampant construction of architecturally incompatible new housing, not to impede or obstruct common renovations and additions to existing properties that were compatible and compliant with the neighborhood, or to prevent similar improvements to existing residential homes.

The architect's proposed design of a second-story addition complies with all zoning and building code regulations and is architecturally compatible with the surrounding neighborhood. The addition is entirely to the front of the Property and in no way encroaches into the rear setback. The addition does not impact any adjacent properties or the neighboring area in any manner, but

rather compliments and enhances the neighborhood by increasing its aesthetics and its taxable value.

Denial of the requested Waiver would impose a hardship upon the owner as he would have to remove the entire existing rear wall of his home; reconstruct that wall five (5) feet inside the existing structure; significantly reduce interior habitable space; expose the interior of the home to outside elements for a period of time; and unnecessarily increase construction costs due to required additional structural reinforcement.

2. Approval of the waiver will not significantly diminish the provision of public facilities.

Approval of the Waiver does not significantly add to the provision of public facilities. This request is a change in a required setback only.

3. Approval of the waiver will not create an unsafe situation.

Approval of the Waiver will not create an unsafe situation. This request is a change in a required setback only and no safety concerns are raised by this request.

4. Approval of the waiver will not result in the grant of a special privilege in that the same waiver has been granted under similar circumstances on other property for other applicants or owners.

The City Commission has approved similar waivers in overlay districts, most recently granting a similar request for setback relief for the property located at 917 Bucida Road, on September 26, 2017.

The owner therefore respectfully asks the City Commission to grant the Waiver to allow the existing structure to remain at the existing and conforming ten-foot (10') rear setback, rather than having to tear down part of the existing structure to meet the now required fifteen-foot (15') rear setback, which requirement is only triggered as a result of wanting to improve the Property.

B. FRONT YARD SETBACK

The proposed addition for 515 NW 1st Avenue was reviewed by City Engineer Patrick Figurella. He opined that, pursuant to LDR Section 5.3.1(D)(2), and as a condition for the owner to build the home addition, the owner would be required to dedicate 25-feet of his existing front yard to the City for public right-of-way purposes, as well as grant an additional 5-foot easement for sidewalk purposes. The dedication would cause the front yard setback to become non-conforming, from the required 25-feet down to 15-feet, one inch. (15'1"). Due to this exaction of private property for future public benefit, the owner/applicant is also required to seek a Waiver from the front yard setback requirement in LDR Section 4.4.3(F)(2)(d).

1. Approval of the waiver will not adversely affect the neighboring area.

In an attempt to align the existing dedicated (but unused) right of way up and down NW 1st Avenue, the City Engineer has asked the owner to dedicate 25-feet of his front yard for that alignment purpose. Rather than adversely affect the neighboring area, the dedication will positively affect the neighboring area by providing future right of way for transportation, utility and storm water management planning. Approval of the Waiver facilitates this dedication of private property to the public.

2. Approval of the waiver will not significantly diminish the provision of public facilities.

Approval of the Waiver will significantly add to the provision of public facilities such that the owner is voluntarily dedicating significant private property for public right-of-way purposes, which benefits future transportation, utility and storm water management planning. Public facilities such as paved roads, storm water drainage, water & sewer, and electric utilities are present within the existing right of way and the dedication is not otherwise necessary to meet concurrency. Approval of the requested Waiver will facilitate the dedication and therefore enhance the provision of public facilities at no additional cost to the City.

3. Approval of the waiver will not create an unsafe situation.

Approval of the Waiver will not create an unsafe situation. This request is a change in a required setback only and no safety concerns are raised by this request.

4. Approval of the waiver will not result in the grant of a special privilege in that the same waiver has been granted under similar circumstances on other property for other applicants or owners.

An aerial review of the Property in collaboration with the City Engineer and the City's land planners revealed that the lots north and south of the Property appear to have been subdivided prior to statutory platting requirements and are inconsistently shaped, hampering the City's ability to develop and cohesive alignment of public right-of-way. In exchange for such public dedications, the City would very likely grant such waivers to setbacks for existing structures (as compared to requests for entirely new construction).

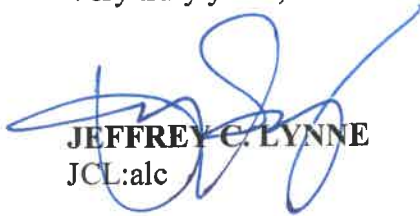
However, upon information and belief, it appears other lots along NW 1st Avenue had been granted building permits and approvals to renovate and construct similar additions without the condition imposed by the City to dedicate private property for the future benefit of the public. Rather than being afforded a "special privilege," the owner of 515 NW 1st Avenue is somewhat being treated differently. Granting of the Waiver is therefore simply just and reasonable under the circumstances.

Based upon the foregoing, we respectfully request that positive findings be made with respect to LDR Section 2.4.7(B)(5) and that the Waivers be approved as requested. Should further

Waiver Request – Rear and Front Setback
515 NW 1st Avenue
April 17, 2018
Page 5

information be required in order to process this application or to make a more fully-informed determination, please do not hesitate to contact us at your convenience. We sincerely thank you for your time.

Very truly yours,



JEFFREY C. LYNNE
JCL:alc