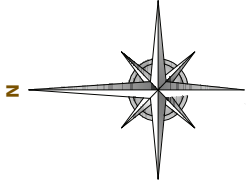


ABBREVIATIONS / SYMBOLS:

A/C	= AIR CONDITIONING UNIT	OVERHEAD CABLES	
ADJ	= ADJACENT	METAL FENCE	x
BCR	= BROWARD COUNTY RECORDS	METAL FENCE	o
BM	= BENCHMARK	WOOD FENCE	//
CALC	= CALCULATED	PLASTIC FENCE	□
CA	= CENTRAL ANGLE	EASEMENT LINES	---
C/L	= CENTERLINE	CENTERLINE (C/L)	---
CB	= CATCH BASIN		
CBS	= CONCRETE BLOCK WALL		
CHATT	= CHATTAHOOCHEE		
CONC	= CONCRETE		
CM	= CONCRETE MONUMENT		
COL	= COLUMN		
D	= DEED		
DE	= DRAINAGE EASEMENT		
DS	= DRAINAGE STRUCTURE		
ELEV.	= ELEVATION		
EOW	= EDGE OF WATER		
FD	= FOUND		
FF	= FINISHED FLOOR		
ID	= IDENTIFICATION		
INV	= INVERT		
IP	= IRON PIPE		
IR	= IRON ROD		
L	= LENGTH		
LAE	= LIMITED ACCESS EASEMENT		
LME	= LAKE MAINTENANCE EASEMENT		
LP	= LIGHT POLE		
M	= MEASURED		
N/D	= NAIL AND DISC		
N/G	= NATURAL GROUND		
NR	= NON RADIAL		
NTS	= NOT TO SCALE		
OH	= OVERHEAD CABLES		
ORB	= OFFICIAL RECORD BOOK		
P	= PLAT		
PB	= PLAT BOOK		
PBCR	= PALM BEACH COUNTY RECORDS		
PC	= POINT OF CURVATURE		
PCC	= POINT OF COMPOUND CURVATURE		
PCP	= PERMANENT CONTROL POINT		
PG	= PAGE		
PI	= POINT OF INTERSECTION		
POB	= POINT OF BEGINNING		
POC	= POINT OF COMMENCEMENT		
PRC	= POINT OF REVERSE CURVATURE		
PRM	= PERMANENT REFERENCE MONUMENT		
PT	= POINT OF TANGENCY		
R	= RADIUS		
RGE	= RANGE		
ROE	= ROOF OVERHANG EASEMENT		
R/W	= RIGHT OF WAY		
SEC	= SECTION		
S/W	= SIDEWALK		
TOB	= TOP OF BANK		
TYP	= TYPICAL		
UE	= UTILITY EASEMENT		
WF	= WOOD FENCE		
WPP	= WOOD POWER POLE (UTILITY POLE)		
		FIRE HYDRANT	⦿
		WATER VALVE	⦿
		UTILITY POLE	⦿
		WATER METER	⦿



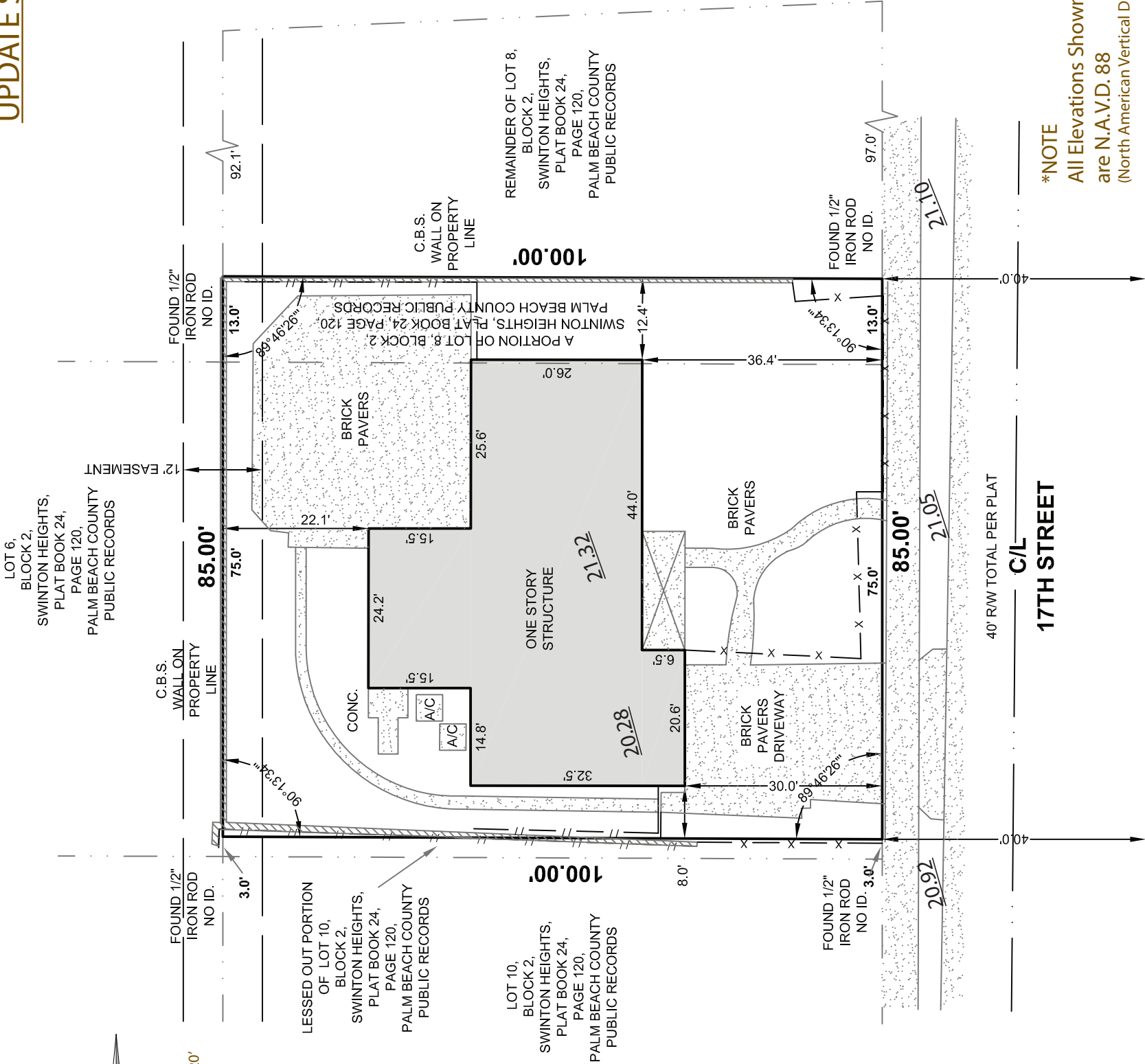
SCALE: 1" = 20'



GENERAL NOTES:

- LEGAL DESCRIPTION FURNISHED BY CLIENT. NO SEARCH OF PUBLIC RECORDS WERE MADE BY THIS OFFICE.
- ANY ELEVATIONS SHOWN HEREON ARE PER NGVD (NATIONAL GEODETIC VERTICAL DATUM) OF 1929.
- NO EXCAVATIONS WERE PERFORMED AS TO DETERMINE UNDERGROUND ENCROACHMENTS.
- DISTANCES AND ANGLES ARE FIELD MEASURED AND CORRESPOND WITH RECORD DATA UNLESS NOTED.
- IN SOME INSTANCES, GRAPHIC REPRESENTATIONS HAVE BEEN EXAGGERATED TO MORE CLEARLY ILLUSTRATE RELATIONSHIPS BETWEEN PHYSICAL IMPROVEMENTS AND/OR LOT LINES. IN ALL CASES, DIMENSIONS SHOWN SHALL CONTROL THE LOCATION OF THE IMPROVEMENTS OVER SCALED POSITIONS.
- ADDITIONS OR DELETIONS TO THIS SURVEY MAP BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT THE WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES. (CHAPTER 61017-5.003 OF THE FLORIDA ADMINISTRATIVE CODE PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES).

UPDATE SURVEY



\*NOTE

All Elevations Shown

are N.A.V.D. 88

(North American Vertical Datum of 1988)

MAP OF SURVEY

PROPERTY ADDRESS:

125 NE 17th Street, Delray Beach, FL 33444

LEGAL DESCRIPTION:

The West 13 feet of Lot 8 and all of Lot 9, Less the West 3 feet, Block 2, of Swinton Heights according to the Plat thereof recorded in Plat Book 24, Page 120 of the Public Records of Palm Beach County, Florida.

CERTIFICATIONS:

Antonio Liguori and Sarah Liguori  
Padula Bennardo Levine, LLP  
Old Republic National Insurance Company  
Paradise Bank

**FIELD DATE**  
8/20/2018

**UPDATE SURVEY**  
10/4/2019

**JOB NUMBER**  
18 - 00872

**FLOOD DATA:**

Zone: X

Map Number: 12099C

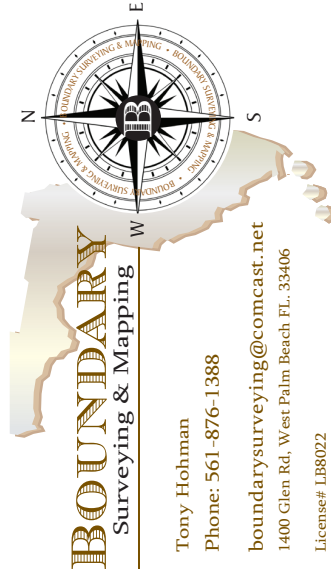
Community Number: 12510

Panel Number: 0977 Suffix: F

Map Date: October 5, 2017

City of Delray

Palm Beach County



Tony Hohman

Phone: 561-876-1388

boundarysurveying@comcast.net

1400 Glen Rd, West Palm Beach FL, 33406

License# LB8022

I HEREBY CERTIFY: THAT THIS MAP OF BOUNDARY

**SURVEY** WAS PREPARED UNDER MY DIRECTION AND IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE AND BELIEF. FURTHERMORE, THIS SURVEY MEETS THE INTENT OF THE MINIMUM TECHNICAL STANDARDS FOR LAND SURVEYING IN THE STATE OF FLORIDA, PURSUANT TO RULES 17 OF THE FLORIDA ADMINISTRATIVE CODE, AND THE IMPLEMENTING RULE, CHAPTER 472.027 OF THE FLORIDA STATUTES.

SIGNED:  TONY HOHMAN  
GINO FURLANO, SURVEYOR AND MAPPER  
FLORIDA LICENSE NO. 55449 N.E.

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF THE FLORIDA LICENSED SURVEYOR/MAPPER NAMED ABOVE.



# DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

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

## Board of Adjustment

Meeting: November 7, 2019 | File No.: 2019-292-VAR-BOA | Application Name: 125 NE 17<sup>th</sup> Street – Variance

### General Data:

**Applicant:** Antonio & Sarah Liguori  
**Agent:** Gary Eliopoulos, GE Architecture, Inc.  
**Location:** 125 NE 17<sup>th</sup> Street  
**PCN:** 12-43-46-09-20-002-0082  
**Property Size:** 0.1951 Acres  
**FLUM:** LD (Low Density)  
**Zoning:** R-1-AA (Single-Family)

### Adjacent Zoning:

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

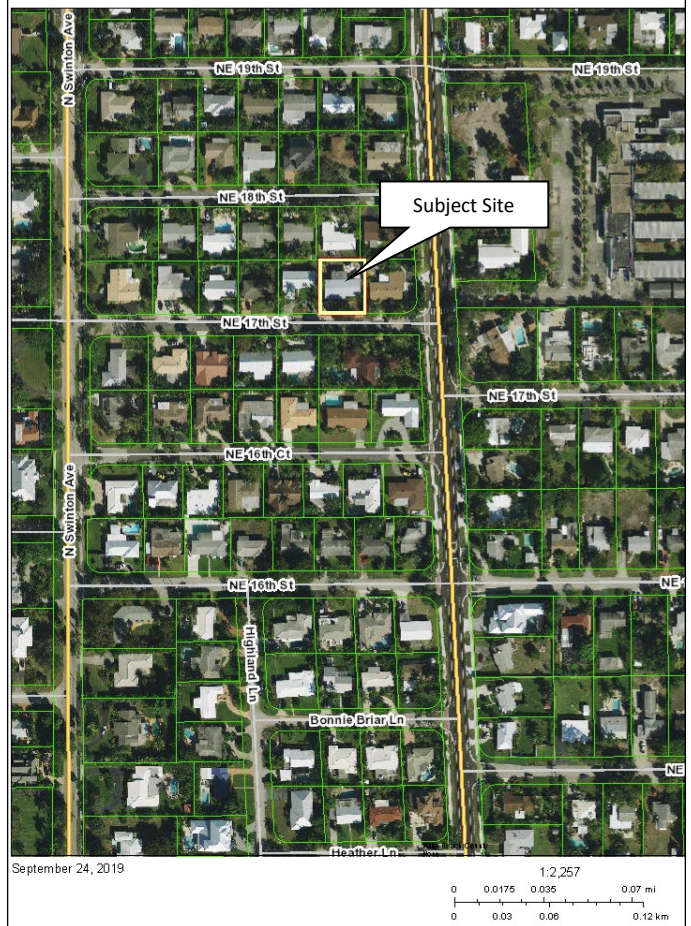
**Existing Land Use:** Single-Family Residential

**Proposed Land Use:** Single-Family Residential

### Item before the Board:

Consideration of a variance request from Land Development Regulation (LDR) Section 4.6.9 (C)(2)(a), to allow for one permanent parking space to be located in the front setback of a single-family detached residential property located at 125 NE 17<sup>th</sup> Street.

Location Map



### Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move the Variance request (2019-292-VAR-BOA) from LDR Section 4.6.9 (C)(2), to allow for one parking space to be located within the 30' required front setback at 125 NE 17<sup>th</sup> Street, by finding that the request is consistent with the findings set forth in the Land Development Regulations.
3. Move denial of the Variance request (2019-292-VAR-BOA) from LDR Section 4.6.9 (C)(2), to allow for one parking space to be located within the 30' required front setback at 125 NE 17<sup>th</sup> Street, by finding that the request is consistent with the findings set forth in the Land Development Regulations.

#### Project Planner:

Kent Walia, AICP, Senior Planner  
[walia@mydelraybeach.com](mailto:walia@mydelraybeach.com)  
561-243-7365

#### Review Dates:

Board of Adjustment:  
November 7, 2019

#### Attachments

1. Site Plan
2. Justification Letter

**Request:**

The justification letter provided indicates that the property owner is proposing to renovate their house by increasing the habitable area of the home by converting half of their two-car garage into a bedroom and bathroom addition. The conversion of the square footage would reduce the size of the garage from a two-car garage to one-car garage. The second required parking space is being proposed to be relocated within the front setback in the driveway. LDR Section 4.6.9 (C)(2)(a) states that “two spaces per dwelling unit are required for single-family detached residences in Single-Family (R-1) zoned districts. Required parking spaces shall not be located in the front setback or side street setback areas.” The item before the Board of Adjustment is a variance request from LDR Section 4.6.9 (C)(2)(a), to allow for one permanent parking space to be located in the front setback of a single-family detached residential property.

**Background:**

The subject property is a 0.1951-acre site with a physical address of 125 NE 17th Street located within the R-1-AA Single-Family zoning district. On the property is an existing one-story, 2,278 sf, single-family home. The subject site is situated on the west 13' of Lot 8 and all of Lot 9 less the west 3', Block 2, of the Plat of Swinton Heights (the Swinton Heights Plat), according to the plat thereof as recorded in Plat Book 24, Page 120, Public Records of Palm of Beach County, Florida. The following is the history involving the site:

- On July 29, 1954, the Plat of Swinton Heights was recorded in Palm Beach County Property Appraiser plat Book 24, Page 120.
- The Palm Beach County Property Appraiser (Property Appraiser) lists that the house was built in 1955.
- On August 30, 2019, a permit (19-185345) was applied for an interior alternation for the home. The permit application was associated with the interior renovation of the home by converting half of the existing garage space into a bedroom and bathroom addition. The proposed conversion would change the existing two-car garage into a one-car garage, and would relocate the second parking space on to the existing driveway within the front setback. The permit was unable to be issued due to the conflict with LDR Section 4.6.9 (C)(2)(a), which restricts permanent parking in the front setback. Thus, the permit status is pending.
- On September 13, 2019, the Development Services Department received the subject variance application (2019-292-VAR-BOA) requesting relief from LDR Section 4.6.9 (C)(2)(a).

**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 supplemental district regulations (Article 4.6) except where said authority is expressly prohibited or granted to others.

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);**

**Applicants response:** *This is an existing single-family residence, constructed in 1955. The lot is 8,500 square feet, which does not meet the minimum requirement for R-1-AA zoning.*

**Staff Analysis:** The following chart compares the Lot configuration provided in the survey with the minimum requirements for the R-1-AA zoning district set forth in LDR Section 4.3.4 (K) Development Standards Matrix:





LDR Requirement	Minimum Required	Provided	Notes
Minimum Lot Size	9,500 sf	<b>8,500 sf</b>	<b>Does not meet LDR</b>
Lot Width	75'	85'	Meets LDR
Lot Depth	100'	100'	Meets LDR
Minimum Floor Area	1,500 sf	2,278 sf	Meets LDR
Setback			
▪ Front	▪ 30'	▪ 30'	▪ Meets LDR
▪ Rear	▪ 10'	▪ 22'-1"	▪ Meets LDR
▪ Side Interior	▪ 10'	▪ <b>8' (west), 12'-4" (east)</b>	▪ <b>West less than LDR</b>

When the existing conditions of the subject site are compared to the R-1-AA zoning regulations in the LDR, the information reveals that (1) the existing property area is less than the minimum required, and (2) the side interior setback on the west is less than the minimum required. First, the existing property area is 8,500 sf, which is 1,000 sf less than the minimum required 9,500 sf, thus the site is a Nonconforming Lot of Record. Second, the existing side interior setback on the west side of the property is 8', which is 2' less than the minimum required 10' side setback, thus the house is a Nonconforming structure. It is important to note that pursuant to LDR Section 1.3.5 (B)(1), "enlargement or alteration of a Nonconforming structure in a way that complies with applicable dimensional standards and does not create any new nonconformity, or alteration of the structure in a way that decreases the degree of nonconformity is permitted."

The applicant is requesting a variance from LDR Section 4.6.9 (C)(2)(a), to relocate one parking space into the front setback in order to convert half of their two-car parking garage into a bedroom and bathroom addition. Currently, the property complies with the LDR section by providing two parking space in the garage, outside the front setback. The request to relocate a permanent parking space into the front setback creates a new nonconformity which currently doesn't exist, thus conflicting with LDR section 1.3.5 (B)(1). However, it can be determined from the site plan provided, that the building can accommodate the proposed bedroom and bathroom expansion in another location while maintaining the existing two-car garage in order to comply with the LDR. Thus, no special conditions or circumstance can be found which are peculiar to the land, structure, or building that are not generally applicable to other lands, structures, or buildings with the same zoning which constitutes a basis for a hardship to grant 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;**

**Applicants response:** *The owner will be making renovations to the existing single-family residence on the property. Due to the smaller lot size, we are requesting for the 1 of the required parking spaces to be located within the front setback area.*

**Staff Analysis:** Pursuant to LDR section 4.6.9 (C)(2)(a), "Two spaces are required per dwelling unit. Tandem parking may be used in the Single Family (R-1) Residential Districts or Low Density Residential (RL) District. Required parking spaces shall not be located in the front setback or side street setback areas. For lots that are less than 60 feet wide and do not have alley access, one parking space may be located in either the front setback area or the side street setback area, provided that no more than 50 percent of the front and side street setback area may be improved for parking purposes." Thus, the aforementioned LDR section does not allow for parking within the front setback of properties with a lot width larger than 60' within the R-1-AA zoned district.

The subject site is a 85' wide by 100' depth property. The home situated on the property currently has a two-car garage, thus complying with the LDR section. The applicant is requesting a variance from LDR Section 4.6.9 (C)(2)(a) to relocate a required parking space into the front yard setback in order to change the existing two-car garage into a one-car garage by converting half of their garage into a bedroom and bathroom addition. The smaller conforming Lot size does not appear to restrict the proposed building expansion from being located elsewhere on the house. Research shows that there are other properties in the neighborhood



that have one-car garages with the second space in the front setback. However, records do not show that these properties were granted variances to park in the front setback, as most were built legally nonconforming prior to incorporation this LDR requirement. The LDR section recognizes that for Lots that are less than 60 feet wide and do not have alley access, one parking space may be located in either the front setback area or the side street setback area, provided that no more than 50 percent of the front and side street setback area may be improved for parking purposes. As such, any permit application for a property in a Single-Family zoning district with a width of greater than 60' feet would have to comply with the aforementioned LDR section in providing parking outside of the front setback. Thus the literal interpretation of this regulations would not deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning district.

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

**Applicants response:** *The existing house was built in 1955 and is nonconforming to minimum lot requirements as per LDR's.*

**Staff Analysis:** The applicant is requesting a variance from LDR Section 4.6.9 (C)(2)(a) to locate a parking space in the front yard setback in order to change an existing two-car garage into a one-car garage and convert the remaining space into a bedroom and bathroom addition. Since the home currently has a two-car garage which allows the property to comply with 4.6.9 (C)(2)(a), the proposed request creates a new nonconformity which currently doesn't exist. Although the property is nonconforming due to lot area and setback conflicts, the special condition and circumstance warranting the variance from this LDR section results from the applicant's request to add the bedroom and bathroom into the garage space.

**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;**

**Applicants response:** *10 of the 12 residences on the street have one-car garages and parking spaces that are located within the front setback area. Two of the 10 existing properties have both required parking spaces within the front setbacks because they do not have garages. Clearly granting this request will allow the owner to enjoy the same rights commonly enjoyed by other properties subject to the same zoning and on the same street.*

**Staff Analysis:** The applicant is requesting a variance from LDR Section 4.6.9 (C)(2)(a), to locate one parking space in the front yard setback, in order to convert half of an existing two-car garage into a bedroom and bathroom addition. Research shows that most of the homes in the neighborhood have either one or two-car garages. Records indicate that most of the homes with one-car garages were built prior to the incorporation of the LDR and were not granted variances. As mentioned, the current LDR requires that all homes in the Single-Family zoning districts provide off-street parking spaces outside of the front setback. If a variance were to be provided it would grant a "Special Privilege" to the applicant which is otherwise denied to other lands, structures, and buildings under the same zoning.

**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,**

**Applicants response:** *The variance request is justifiable due to the existing conditions that apply to this property (non-conforming lot size). If granted, this variance will allow the owners to make much needed renovations to increase living space without increasing square footage and still be in compliance with the number of parking spaces required as per LDR 4.6.9 (C)(2)(a).*

**Staff Analysis:** Although the subject site has a nonconforming lot size and structure, the property is still able to accommodate the minimum required parking spaces outside of the front setback. The proposed interior



renovation which is prompting the variance is not justifiable as the lot configuration, rear and east setback, or structure are not limiting the applicant's options for building the addition elsewhere on the property. More specifically, if the addition were to be located in another area on the site, and not in the garage area, then the property would maintain its current compliance with the code.

- 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

**Applicants response:** *Granting this variance will allow the owner to enjoy the same rights commonly enjoyed by the other properties subject to the same zoning. It would be in harmony with the neighborhood, since the majority of the homes on the street already have parking spaces located within the front setback areas.*

**Staff Analysis:** Pursuant to LDR Section 4.6.9 (C)(2)(a), two parking spaces are required per dwelling unit for Single-Family zoned properties, and shall not be located in the front setback area. The code requirement allows for properties to maintain adequate space for two required parking spaces and for temporary guest parking. The plans provided show that the garage would be reduced from a 19'-4"x20'-4" two-car garage to a 9'-8"x15'-4" one-car garage with a bedroom and bathroom expansion. Furthermore, the plans propose that the second required parking space would be located in the front driveway. The driveway measures approximately 9' wide x 30' long. The LDR lists standard car parking spaces are 9' wide x 18' long. In the event that guests were to park on the property, then the tandem parking of an additional vehicle in the existing driveway would create a blocking of the sidewalk (18'+18' =36'). Thus, relief from the requirement would reduce a Lot's availability to accommodate guest parking and could potentially compel guest vehicles to block sidewalks, occupy swales, and to park in the streets, degrading streetscape quality.

**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	10/28/2019
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	10/28/2019
2.4.2 (B)(1)(j)(iv) - The notice posted at City Hall	10/28/2019