




DEVELOPMENT SERVICES

BUILDING | HISTORIC PRESERVATION | PLANNING & ZONING

Board of Adjustment		
Meeting: March 19, 2020	File No.: 2020-103-VAR-BOA	Application Name: 617 SE 5 th Street – Variance
<div style="display: flex;"> <div style="flex: 1;"> <p>General Data:</p> <p>Owner: Mizner Dev Beachway, LLC</p> <p>Agent: Eric Collin, Collin Builders</p> <p>Location: 617 SE 5th Street</p> <p>PCN: 12-43-46-21-01-001-0101</p> <p>Property Size: 0.22 Acres</p> <p>FLUM: Low Density (LD)</p> <p>Zoning: Single Family Residential (R-1-AA)</p> <p>Adjacent Zoning:</p> <ul style="list-style-type: none"> ○ North: R-1-AA ○ East: R-1-AA ○ South: Multiple Family Residential (RM) ○ West: General Commercial (GC) <p>Existing Land Use: Vacant</p> <p>Proposed Land Use: No Change</p> </div> <div style="flex: 1;">  </div> </div>		
<p>Item before the Board:</p> <p>Consideration of a variance request from Land Development Regulation (LDR) Section 4.3.4 (K) to allow a reduction of the required front yard setback from 30 ft. to 25 ft. for the property located at 617 SE 5th Street.</p>		
<p>Background:</p> <p>The subject property is located at 617 SE 5th Street within the R-1-AA zoning district. On October 12, 2018, a building permit application (18-179541) for the demolition of an existing single-family residence was received and a permit issued in November 2018. On September 19, 2019, a building permit application (19-185620) for construction of a two-story single-family residence was received and a permit issued in February 2020. During the building permit application review, the City Engineer requested a 10 ft ROW dedication along SE 7th Avenue. The deed has been submitted to the City for recording.</p> <p>Upon the recording of the right-of-way deed, the building envelope along SE 7th Avenue will be reduced by 10 ft.</p>		
<p>Variance Analysis:</p> <p>Per LDR Section 4.3.4(K), Single-Family Detached Dwellings within the R-1-AA zoning district are required to provide a minimum front setback of 30 ft. Per LDR Section 4.3.4(H), setbacks are established for front, interior side, street side, and rear lot lines. Lot lines established along rights-of-way (ROW) are established, for setback purposes, as being for the ultimate right-of-way as required for the minimum section for the class of street or as otherwise required by the Traffic Network as contained in the Transportation Element of the Comprehensive Plan.</p> <p>Per the comprehensive plan, SE SE 7th Avenue has a required right-of-way of 50 ft. Currently, the existing ROW width of SE 7th Avenue is 30 ft, all of which appears to have been taken from the properties along the west side of SE 7th Avenue.</p> <p>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).</p>		

Project Planner:

Christine Stivers, Senior Planner Stiversc@mydelraybeach.com
 Amy Alvarez, alvarez@mydelraybeach.com

Attachments

- Justification Letter
- Site Plan



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);**

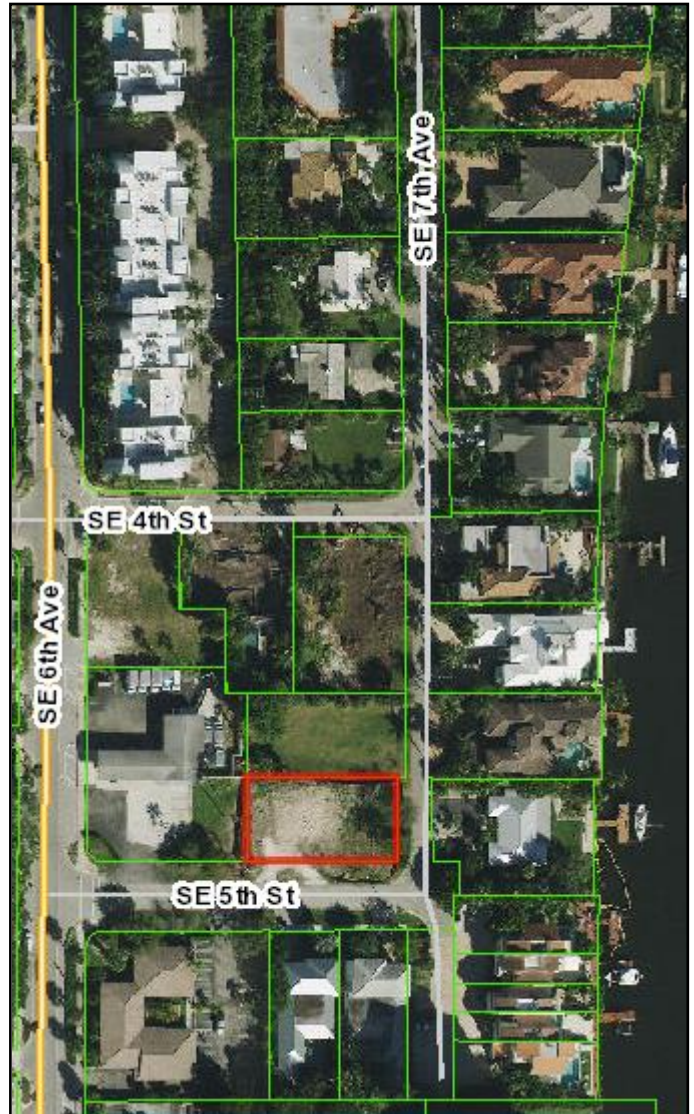
Applicants response: "Property abuts a narrow ROW. The dedication reduced the building envelope and is not in line with the adjoining property on 7th. The property backs a gas station and the variance will allow for better buffering.

Staff Analysis: The dedication of ROW will result in a decrease of the building envelope. As the burden of ROW dedication is falling upon those lots along the western side of SE 7th Avenue, and was not requested on eastern side of SE 7th Avenue, there is a special circumstance imposed on the subject property.

- 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 movement of the property line for a dedication reduces the depth of the lot and with the 7th Ave ROW dedication, the burden falls disproportionately to the 3 properties on the west side of the street.

Staff Analysis: Lot lines are established along ROWs for setback purposes. Setback distances are determined by the zoning district measured from the ROW line. A reversion or abandonment of ROW width can result in an increase in lot depth and building envelope area and conversely an increase in a ROW width by a required dedication can result in a decrease in lot depth and building envelope area. The ROW dedication along SE 7th Avenue has resulted in the reduction of the building envelope area and lot depth that was not imposed along the lots on the eastern side of SE 7th Avenue at their time of construction.



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

Applicants response: The applicant did not request the easement or dedication. All of the lack of ROW existed prior to applicant's purchase of the property. Again, the 7th Ave ROW dedication burden falls disproportionately to the 3 lots on the west side of the street.

Staff Analysis: The need for ROW dedication along SE 7th Avenue was not a result from actions of the applicant but a need for the city to improve the width of the ROW which had not been previously requested from the eastern side of SE 7th Avenue during home construction. Therefore, the acquisition of ROW has fallen upon those constructing on the vacant lots on the western side of the street.



- 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:

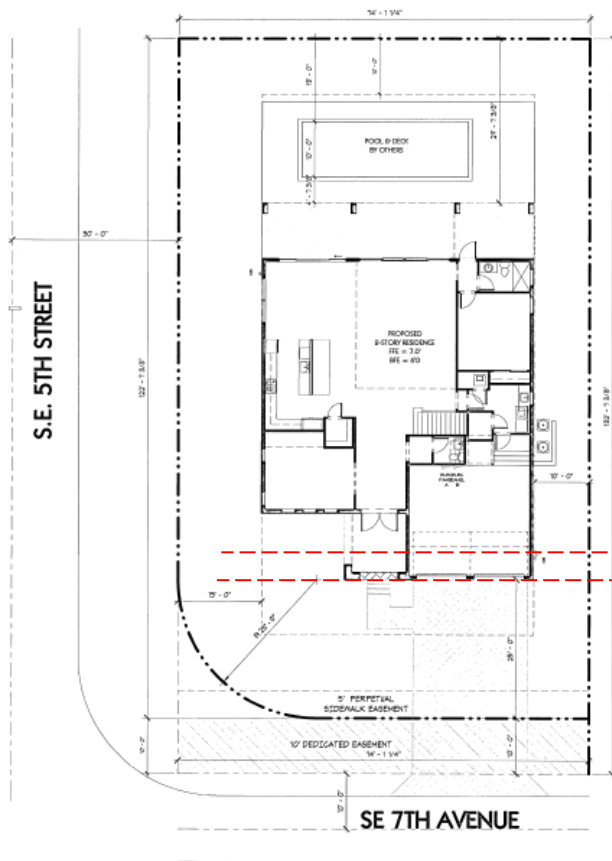
Applicants response: The applicant would not be requesting the variance if not for the ROW dedication. In addition, the property owners on the opposite side of the street do not have to dedicate property.

Staff Analysis: The granting of the variance will not confer onto the applicant any special privilege that is denied to other lands. It will allow the proposed home to have a similar setback from the edge of the road as the properties on the east side of SE 7th Avenue and allow the best use of the reduced building envelope.

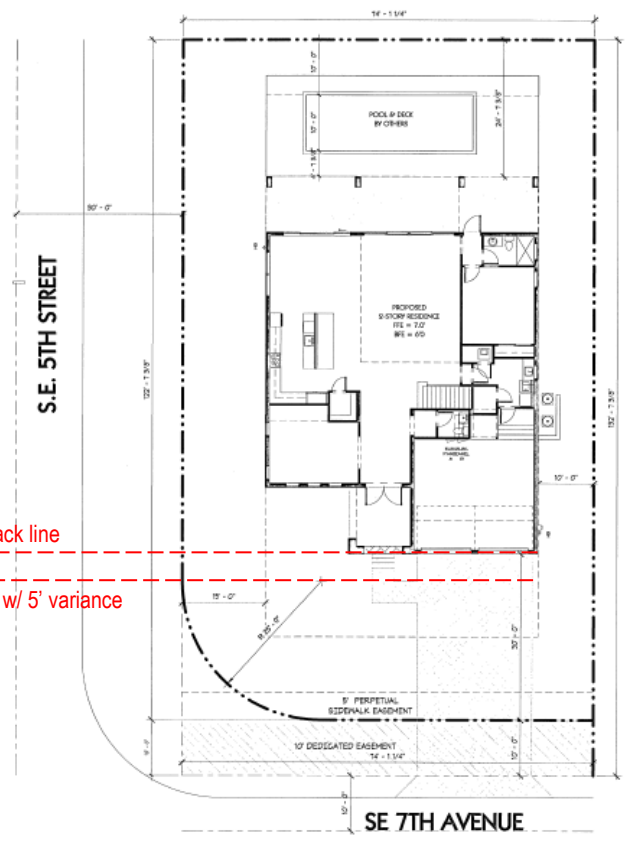
- e) That the reasons set forth in the variance petition justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure; and,

Applicants response: The minimum equates to the requested dedication in order to be consistent with the properties to the north and is reasonable given the ROW constraints on 7th Ave.

Staff Analysis: The relief of 5 ft is the minimum variance needed to make the best use of the reduced building envelope as well as maintain an edge of road building setback that is consistent with the residences on the east side of the street (approximately 30-35 feet).



② SITE PLAN PROPOSED
1" = 10'-0"



① SITE PLAN REQUIRED
1" = 10'-0"



- 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: The homes directly across the street (along 7th Avenue) have the same issues and we cannot see how the minor variance could undermine the existing regulations or be injurious to the neighborhood or the public at large.

Staff Analysis: The granting of relief for SE 7th Avenue would result in a consistency with the neighborhood setback characteristic as shown on the eastern side of SE 7th Avenue.

Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move approval of the Variance request (2020-103-VAR-BOA) from LDR Section 4.3.4 (K), to allow a reduction of the required front yard setback from 30 ft. to 25 ft. for the property located at 617 SE 5th 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 request (2020-103-VAR-BOA) from LDR Section 4.3.4 (K), to allow a reduction of the required front yard setback from 30 ft. to 25 ft. for the property located at 617 SE 5th Street, by finding that the request is inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).

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 9, 2020
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	March 9, 2020
2.4.2 (B)(1)(j)(iv) - The notice posted at City Hall	March 9, 2020