



# 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 5, 2020 | **File No.:** 2020-199-VAR-BOA | **Application Name:** 300 Sandpiper Lane – Variance

### General Data:

**Applicant/Agent:** Gary P. Eliopoulos/ GE Architecture, Inc.

**Location:** 300 Sandpiper Lane

**PCN:** 12-43-46-16-A8-004-0090

**Property Size:** 0.22 Acres

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

**Zoning:** R-1-AAA Single-Family Residential

### Adjacent Zoning:

- **North:** R-1-AAA Single-Family Residential
- **East:** R-1-AA Single-Family Residential
- **South:** R-1-AA Single-Family Residential
- **West:** R-1-AAA Single-Family Residential

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

**Proposed Land Use:** No Change

### Item before the Board:

Consideration of a variance request from Land Development Regulation (LDR) Section 4.3.4 (K) to allow an addition to a single-family dwelling unit to encroach 8 feet into the required 12 foot rear setback area.



### Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move approval of the Variance request (2020-199-VAR-BOA) from LDR Section 4.3.4 (K), to allow an addition to a single-family dwelling unit to encroach between 8 feet into the required 12 foot rear setback area for the property located at 300 Sandpiper Lane, 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 (2020-199-VAR-BOA) from LDR Section 4.3.4 (K), to allow an addition to a single-family dwelling unit to encroach 8 feet into the required 12 foot rear setback area for the property located at 300 Sandpiper Lane, 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 allow an addition to a single-family dwelling unit to encroach 8 feet into the required 12 foot rear setback area. The subject property currently has a nonconforming rear setback of 4' 11" feet along the north property line where an existing free standing garage is constructed. Per LDR Section 4.3.4(K) Single-Family Detached Dwellings within the R-1-AAA Zoning District are required to provide a minimum rear setback of 12 feet. Per LDR Appendix A (structure and setback definitions), anything constructed or erected with a fixed location on the ground is considered a structure, and, therefore, is required to meet the minimum setback requirements per the subject zoning district. The proposed addition encroaches into the required rear setback 8 feet, in line with the existing garage. The addition is proposed to create a second story above the existing structure, pool house and guest bedroom.

#### Project Planner:

Elizabeth Eassa, AICP, Senior Planner  
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561-243-7325

#### Review Dates:

Board of Adjustment:  
November 5, 2020

#### Attachments

1. Site Plan
2. Site Photos
3. Survey
4. Justification Letter

**Background:**

The property consists of a portion of Lot 4, Crego Subdivision Amended Plat 3, as recorded in the Plat Book 1 Page 25, of the Public Records of Palm Beach County, Florida. The lot is located in the Single-Family Residential R-1-AAA Zoning District. It is nonconforming in regard to lot width and depth as it exists at 95 feet by 101 feet where 100 by 110 feet is required. The lot is developed with an existing two-story residence, free standing garage and pool.

**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);**

**Applicants response:** *THE EXISTING HISTORIC HOUSE AND SINGLE-CAR GARAGE ARE SITUATED ON A NON-CONFORMING LOT WITH THE FRONT BEING BASED OFF LAING STREET AND THE SIDE STREET BEING BASED OFF SANDPIPER LANE. BOTH STRUCTURES WERE CONSTRUCTED IN 1937 AND THE EXISTING GARAGE IS OVER THE REAR SETBACK.*

**Staff Analysis:** The rear setback requirement of 12 feet is a minimum development standard required to be provided by all single-family dwellings located within the R-1-AAA zoning district. Additionally, pursuant to Section 1.3.5(B) – Enlargement or alteration (of a non-conforming structure), a nonconforming structure shall not be altered or enlarged in any way which increases its nonconformity, vertically or horizontally. Only in the event that the enlargement or alteration of the structure occurs 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. As the applicant is proposing to increase the nonconforming setback line for the horizontal length of the addition adjacent to the north property line, the addition does not comply with the applicable dimensional standards of the aforementioned LDR section and is a direct violation of Section 1.3.5(B).

- b) **That literal interpretation of the regulations would deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning;12**

**Applicants response:** *PER LDR SECTION 4.3.4(K) BASE DEVELOPMENT DISTRICT STANDARDS, THE REQUIRED WIDTH IS 100'-0" AND THE REQUIRED DEPTH IS 110'-0". THIS PROPERTY IS 95'-0" WIDE AND 101'-0" DEEP, MAKING THIS LOT MUCH SMALLER THAN TYPICAL LOTS IN R-1-AAA ZONING. THIS CONDITION CREATES A HARDSHIP FOR THE OWNER TO DEVELOP THE LOTS AND DEPRIVES THEM OF THE RIGHTS COMMONLY ENJOYED BY OTHER PROPERTIES SUBJECT TO THE SAME ZONING. IT'S ALSO IMPORTANT TO UNDERSTAND THAT THE EXISTING GARAGE STRUCTURE IS ALREADY LOCATED OVER THE REAR SETBACK.*

**Staff Analysis:** The applicant is correct, the lot is nonconforming in regard to width and depth which does create a lack of land area that would commonly be enjoyed by a property in the R-1-AAA zoning District. The applicant could, however, design the addition to meet the setback requirements by offsetting the proposed addition from the existing structure that encroaches into the required setback. While the addition would lose approximately 177 square feet if designed in compliance with Code requirements, this would not deprive the applicant of rights commonly enjoyed by other properties subject to the same zoning regulations. The addition is still permitted to be built, so long as the portion proposed adjacent to the north property line is proposed 12 feet away from the property line.



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

**Applicants response:** *THE NON-CONFORMING CONDITION WAS EXISTING WHEN THIS HOUSE WAS PURCHASED BY THE CURRENT OWNER. THE EXISTING SINGLE-CAR GARAGE WAS CONSTRUCTED WITHIN THE REAR SETBACK.*

**Staff Analysis:** The current owner purchased the property in 2019. Aerial images dating back to 2008 depict the free standing garage in its current configuration, confirming that applicant's statement that the non-conforming condition was existing when the home was purchased by the current owner.

**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:** *GRANTING THIS REQUEST WILL ALLOW THE OWNER TO ENJOY THE ABILITY TO MAKE MINIMAL UPDATES TO THE PROPERTY (AN ADDITION TO THE SINGLE FAMILY RESIDENCE WHICH WILL INCLUDE A 2-CAR GARAGE WITH GUEST SUITE AND POOL HOUSE), THE SAME AS MANY OF THE SURROUNDING HOMES IN R-1-AAA ZONING. IF THIS PROPOSED VARIANCE IS APPROVED ON THIS NON-CONFORMING LOT, THE PROJECT WOULD HAVE 31.7% LOT COVERAGE, WITH A TOTAL OF 4,795 SQUARE FEET.*

**Staff Analysis:** Should the Board grant the variance, the applicant would be conferred special privilege that is denied to other lands, structures, and buildings that are subject to not only the same zoning regulations, but all other zoning district regulations as well because the applicant would be permitted to enlarge a structure in a way that increases a nonconformity, a direct violation of Section 1.3.5(B). While the special conditions and circumstances of the free standing garage being built within the required setback area is not a result of the actions of applicant, that does not ensure that additions can be built in a manner that would increase a nonconforming structure. The applicant is permitted to make additions to the existing structures and make minimal updates to the property pursuant to the lot coverage requirements of the R-1-AAA zoning district, however the minimum dimensional standards, including setback requirements, still apply.

**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:** *WE ARE PROPOSING TO USE THE EXISTING SINGLE-CAR FOOTPRINT, WHICH IS UNDERSIZED AND WHICH BY TODAY'S STANDARDS IS ACTUALLY COMPARABLE TO A 1½ CAR GARAGE. AGAIN, AS STATED ABOVE, THE TOTAL AREA UNDER ROOF WILL BE 4,795 SQ. FT. (3,680 SQ. FT. UNDER AIR).*

**Staff Analysis:** The property is nonconforming to today's development standards pertaining to a single-family dwelling unit in the R-1-AAA zoning district in regard to minimum width, depth and also in regard to the front and rear setbacks. The proposal includes the construction of an addition to the principal structure (the single-family home) and modification of the existing free standing garage to create a pool house, guest bedroom, bunk room and reconfigured garage area. The applicant is permitted to have the additions pursuant to the lot coverage requirements of the R-1-AAA zoning district, however the dimensional standards, including setback requirements, still apply. While the variance request would create a flush wall for the north elevation of the proposed addition if granted, not granting it would not preclude the applicant from proposing an addition that meets the LDR requirements. The lot is developed with an existing single-family dwelling unit, free standing garage and pool that still allows for additional square footage to be proposed which confirms that the applicant is able to make reasonable use of the land and existing structure.

**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 PROPOSED MINIMAL UPDATES HAVE BEEN SPECIFICALLY DESIGNED TO BE COMPATIBLE WITH THE ORIGINAL 1½ STORY HOUSE THAT WAS DESIGNED BY SAM OGREN, WHICH HAS 8'-0" CEILING HEIGHTS AND IS AT A LOWER GRADE ELEVATION THAN ALL THE SURROUNDING PROPERTIES. THE PROPOSED PROJECT WILL BE VERY COMPATIBLE WITH THE SURROUNDING PROPERTIES.*



**Staff Analysis:** If granted, the variance will be not in harmony with the general purpose and intent of the existing regulations. The variance will be a direct violation of Section 1.3.5(B) which states that a nonconforming structure shall not be altered or enlarged in any way which increases its nonconformity, vertically or horizontally.

While the variance request is not in harmony with the general purpose and intent of the existing regulations, granting it would not be injurious to the neighborhood, or otherwise detrimental to the public welfare. The purpose and intent of the Single-Family Residential Districts states that “the Single Family Residential Districts have been created in order to provide areas where the traditional single family detached residence can be established and maintained and be protected from the unwarranted intrusion of other inappropriate uses.” The addition to the existing single-family dwelling unit will compliment the traditional single-family neighborhood, but will encroach into the required rear setback. Setbacks have historically been required in order to provide daylight and air at the street level and between homes.

With respect to the applicant's response, staff cannot base their analysis on architectural aesthetics as architectural aesthetics do not have an impact on the welfare of the general public and the residents of the City of Delray Beach.

**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	August 21, 2020
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	August 21, 2020
2.4.2 (B)(1)(j)(iv) - The notice posted at City Hall	August 21, 2020