



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: December 3, 2020 | **File No.:** 2020-268-VAR-BOA | **Application Name:** 209 Lake Terrace – Variance

General Data:

Applicant/Agent: Louis Friend

Location: 209 Lake Terrace

PCN: 12-43-46-08-06-000-0020

Property Size: 0.18 Acres

FLUM: LD (Low Density 0-5 du/ acre)

Zoning: R-1-AA/ Lake Ida Overlay (Single-Family Residential)

Adjacent Zoning:

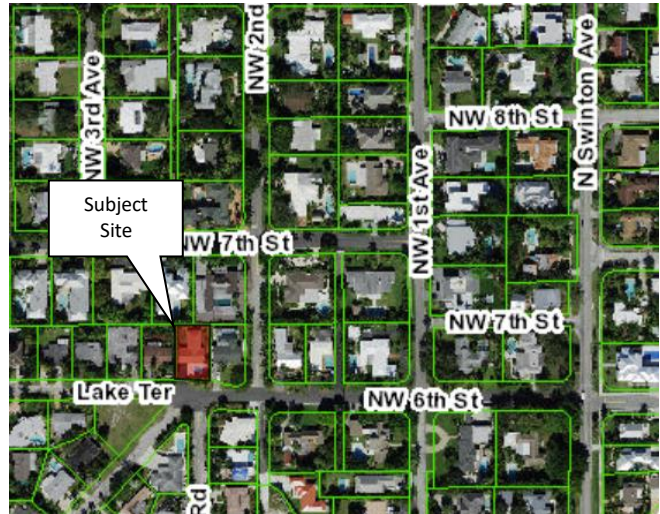
- **North:** R-1-AA/ Lake Ida Overlay (Single-Family Residential)
- **East:** R-1-AA/ Lake Ida Overlay (Single-Family Residential)
- **South:** R-1-AA/ Lake Ida Overlay (Single-Family Residential)
- **West:** R-1-AA/ Lake Ida Overlay (Single-Family Residential)

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 4.6.9(C)(2)(a), to allow for two permanent parking spaces to be located in the front setback area of a single-family detached residential property located at 220 Lake Terrace.



Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move approval of the Variance request (2020-268-VAR-BOA) from LDR Section 4.6.9(C)(2)(a), to allow for two permanent parking spaces to be located in the front setback area of a single-family detached residential property located at 209 Lake Terrace, 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 (2020-268-VAR-BOA) from LDR Section 4.6.9(C)(2)(a), to allow for two permanent parking spaces to be located in the front setback area of a single-family detached residential property located at 209 Lake Terrace, 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 justification letter provided by the Applicant indicates that the Applicant is proposing to renovate their existing single-family home and create a more accessible front entrance by enclosing their 1-car carport. The conversion of the carport would require that the two required parking spaces for the single-family home would be located in the existing driveway, within the front setback area. 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. 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

Project Planner:

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Review Dates:

Board of Adjustment:
December 3, 2020

Attachments

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



improved for parking purposes.” As the Applicant lot is 50.23 feet wide, one parking space is permitted to be within the front setback area. The item before the Board of Adjustment is a variance request from LDR Section 4.6.9(C)(2)(a), to allow for 1 additional permanent parking space, for a total of 2 permanent parking spaces, to be located within the front setback area of a single-family residential property.

Background:

The property consists of Lot 2, Plat of Chevy Chase, as recorded in the Plat Book 24, Page 27, of the Public Records of Palm Beach County, Florida. The lot is 50.23 feet wide by 111.98 feet deep and is located in the Single-Family Residential (R-1-AA) Zoning District, within the Lake Ida Overlay. The property contains a 1-story, 2,160 square foot single-family dwelling unit, driveway and pool. The structure was built in 1955.

The existing pool that is developed on the property is located within the front setback area. The Applicant states that the location of the pool resulted in the front door of the home to be fenced to meet Florida Building Code safety requirements. As such, the front entryway has been moved to the side of the house and is difficult for guests to find. The Applicant is requesting to enclose the existing carport to create a more functional and easily accessible front entryway from the street.

It should be noted that the existing asphalt driveway is 34-feet in length from the front property line to the existing carport, and 15-feet wide. There is an additional 9 feet of paved driveway beyond the property line to the street. There is no public sidewalk. A typical parking space, per LDR Section 4.6.9(D)(4)(a), is required to be designed at 8-feet in width and 22-feet in length when designed as parallel spaces, and 9-feet in width by 18-feet in length when designed in a perpendicular configuration. Based on the City standards for parking space design, the Applicant would not have sufficient space to fit two vehicles in the driveway without one of the two being placed within the right-of-way and potentially on the public street.

The Applicant purchased the home in 2019, and states that the pool was existing at the time the home was purchased. Aerial images dating back to as early as 2007 depict the pool being constructed on the property, confirming the Applicant's statement.

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 home was purchased with a preexisting, nonconforming pool located in the front of the home. The pool, and original entryway to the front of the home, is enclosed with a wooden fence (per LDR Section 4.6.15 (B)(2)). Currently, the main entryway into the home is through the carport at the west side of the residence. I am requesting relief on section 4.6.9(C)(2)(a), which requires front setback rules for residential parking spots, so I can close in my existing carport using the current footprint to create a functioning front entrance.*

Staff Analysis: As previously discussed, the Applicant purchased the home in 2019, and aerial images dating back to as early as 2007 depict the pool being constructed on the property, confirming the Applicant's statement. The wooden fence is a requirement of the Florida Building Code for safety and as the pool is situated in the front setback area, this area which includes the front entryway has been enclosed to meet the safety requirements.

While the Applicant states that the fence precludes them from having a recognizable entry way from the street, it should be noted that a swinging gate could be added to the existing fence to allow for a better articulation of the path to the existing front entry. Additionally, the entry within the carport could also be renovated to be more prominent in a way that would not cause a potential parking conflict in the area



deficient driveway.

- 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 proposal is requesting relief from LDR Section 4.6.9(C)(2)(a), which requires that single-family detached residences provide two spaces per dwelling unit outside the required 25 ft. front setback in the single-family residential zoning district. This will allow access to the residence from the front of the structure.*

Staff Analysis: LDR Section 4.6.9(C)(2)(a) states that required parking be located outside of the front setback area for single-family homes. If the single-family lot is less than 60 feet in width, one of the two required parking spaces is permitted within the front setback area. As the Applicant's lot is 50.23 feet wide, the Applicant is permitted to have one permanent required space to be located in the front setback area. Literal interpretation of the LDR section would prohibit the Applicant from enclosing the carport as this area is where the second permanent parking space would be located. This would deprive the Applicant of being able to have an easily accessible front entryway from the street as the intended front entryway is currently enclosed with a fence that is required by the Florida Building Code for pool safety.

As previously discussed, it should be noted that the existing asphalt driveway is 34-feet in length from the front property line to the existing carport, and 15-feet wide. There is an additional 9 feet of paved driveway beyond the property line to the street. There is no public sidewalk. A typical parking space, per LDR Section 4.6.9(D)(4)(a), is required to be designed at 8-feet in width and 22-feet in length when designed as parallel spaces, and 9-feet in width by 18-feet in length when designed in a perpendicular configuration. Based on the City standards for parking space design, the Applicant would not have sufficient space to fit two vehicles in the driveway without one of the two being placed within the right-of-way and potentially on the public street.

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

Applicants response: *The home was purchased with the existing pool and fencing at the front of the residence. A variance is being requested to allow access to the residence from the front, without having to go through the pool area (which can be a safety concern for guests), or the side of the home.*

Staff Analysis: As previously discussed, the Applicant purchased the home in 2019, and aerial images dating back to as early as 2007 depict the pool being constructed on the property, confirming the Applicant's statement.

- 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 location of the pool is a unique hardship and highly uncommon for the area. Most homes are accessed through a front entryway. By enclosing my existing carport using the existing footprint, this will allow the ability to create a functioning front entrance into the home.*

Staff Analysis: The Applicant is requesting to add an addition that will include a more recognizable front entrance to their home which is not a special privilege that is afforded to other lands, structures or buildings under the same zoning. The request to allow two permanent parking spaces within the front setback area is a privilege that is denied to others, however.



- 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: *Based on the property size and the amount of land available to allow for a functioning front entryway to the residence, this cannot be accommodated without eliminating the required parking spaces per code and without the approval of this variance request. The proposed remedy would use the existing carport footprint, minimizing any impact to the neighbors and surrounding area.*

Staff Analysis: As previously discussed, a swinging gate could be added to the existing fence to allow for a better articulation of the path to the existing front entry. Additionally, the entry within the carport could also be renovated to be more prominent in a way that would not cause a potential parking conflict in the area deficient driveway.

- 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: *Closing in the carport to create a proper front entrance will improve the overall function and exterior appearance, enhancing the home's curb appeal and help beautify the neighborhood. Granting this variance request will complement the single-family neighborhood.*

Staff Analysis: If granted, the variance will not be in harmony with the general purpose and intent of the existing regulations. The existing driveway is deficient, pursuant to the dimensional requirements of LDR Section 4.6.9(D)(4)(a), to adequately account for the two required parking spaces that are associated with a single-family home and therefore if the carport is eliminated there is potential that the vehicles associated with the inhabitants of the household will not have adequate room to park. As required parking is intended to be contained on the property, allowing the carport enclosure and moving required parking off the site would not be in harmony with the existing regulations and would be injurious to the surrounding neighborhood.

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	November 20, 2020
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	November 20, 2020
2.4.2 (B)(1)(j)(iv) - The notice posted at City Hall	November 20, 2020