




# 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		
<b>Meeting:</b> April 1, 2021	<b>File No.:</b> 2021-078-VAR-BOA	<b>Application Name:</b> 1221 Laing Street – Variance
<b>Request</b>		
<p><b>Section 4.4.3 of the Land Development Regulations (LDR)</b> establishes the requirements for Single Family Residential (R-1) Districts. LDR Section 4.4.3(F)(1) provides additional development standards for properties subject to the adopted Beach Property Owners Design Manual. The requested variances are to certain requirements of “Section I – District Regulations and Incentives” of the Beach Property Owners Design Manual related to setbacks and maximum lot coverage.</p>		
<ol style="list-style-type: none"> <li>1. <b>Front Setback (South/Laing Street)</b>  <u>Requirement:</u> 1st story – 35’; 2nd/3rd Story – 45’  <u>Request:</u> Maintain a 1st and 2nd story setback of 29’-6”; Establish a setback on the 3rd story at 29’-6”. </li> <li>2. <b>Side Street Setback (West/Sandpiper Lane)</b>  <u>Requirement:</u> 17’  <u>Request:</u> Maintain existing setback of 1’ for the 1st story; Reduce the existing 2nd story setback from 12’-5” to 1’. </li> <li>3. <b>Side Interior (East)</b>  <u>Requirement:</u> 1st story -12’; 2nd/3rd Story – 17’  <u>Request:</u> Reduce existing setback from 6’- 6” to 5’- 2” for a portion of the 1st and 2nd stories associated with the construction of a two-story addition; Establish a setback on the 3rd story at 6’-7”. </li> <li>4. <b>Rear Setback (North)</b>  <u>Requirement:</u> 1st story -12’; 2nd Story – 17’  <u>Request:</u> Five feet, associated with the construction of a two-story addition. </li> <li>5. <b>Lot Coverage</b>  <u>Requirement:</u> 40 percent  <u>Request:</u> 41 percent </li> </ol>		
<p><b>Applicant/Agent:</b> Gary P. Eliopoulos/ GE Architecture, Inc.  <b>Location:</b> 1221 Laing Street  <b>PCN:</b> 12-43-46-16-A8-004-0080  <b>Property Size:</b> 0.13 Acres  <b>LUM:</b> LD (Low Density 0-5 Dwelling Units/ Acre)  <b>Zoning:</b> R-1-AAA Single-Family Residential  <b>Adjacent Zoning:</b></p> <ul style="list-style-type: none"> <li>○ North: R-1-AAA</li> <li>○ East: R-1-AA</li> <li>○ South: R-1-AA</li> <li>○ West: R-1-AAA</li> </ul> <p><b>Existing Land Use:</b> Single-Family Residential  <b>Proposed Land Use:</b> No Change  <b>Overlay District:</b> North Beach Overlay District  <b>Item before the Board:</b> Variance requests to Land Development Regulations Section 4.4.3(F)(1) related to certain requirements of “Section I – District Regulations and Incentives” of the Beach Property Owners Design Manual.</p>		
		

<p><b>Project Planner:</b> Jennifer Buce, buce@mydelraybeach.com 561-243-7138</p>	<p><b>Review Dates:</b> <u>Board of Adjustment:</u> April 1, 2021</p>	<p><b>Attachments</b></p> <ol style="list-style-type: none"> <li>1. Site Plan</li> <li>2. Site Photos</li> <li>3. Survey</li> <li>4. Justification Letter</li> </ol>
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**Optional Board Motions for Action Items:**

1. Move to **continue with direction**.
2. Move **approval** of the Variance requests (2021-078-VAR-BOA) from the Beach Property Owners Design Manual Section 1 – District Regulations and Incentives by finding the requests are consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5), as follows:

Front Setback (South/Laing Street)

Establishing a front setback for the 3rd story of 29 feet, 6 inches, whereas 45 feet are required.

Side Street Setback (West/Sandpiper Lane)

Reducing the existing non-conforming 2nd story setback from 12 feet, five inches to one foot .

Side Interior (East)

Reducing existing setback from 6 feet, 6 inches to 5 feet, 2 inches for a portion of the 1st and 2nd stories associated with the construction of a two-story addition, whereas 12 feet are required; and

Establishing a setback on the 3rd story of 6 feet, 7 inches, whereas 12 feet are required.

Rear Setback (North)

Establishing a rear setback of five feet, associated with the construction of a two-story addition, whereas 12 feet is required for the 1st story and 17 feet is required for the 2nd story.

Lot Coverage

Allowing a maximum lot coverage of 41 percent, whereas 40 percent is the limit.

3. Move **denial** of the Variance requests (2021-078-VAR-BOA) from the Beach Property Owners Design Manual Section 1 – District Regulations and Incentives by finding the requests are inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5), as follows:

Front Setback (South/Laing Street)

Establishing a front setback for the 3rd story of 29 feet, six inches, whereas 45 feet are required.

Side Street Setback (West/Sandpiper Lane)

Reducing the existing non-conforming 2nd story setback from 12 feet, five inches to one foot .

Side Interior (East)

Reducing existing setback from 6 feet, 6 inches to 5 feet, 2 inches for a portion of the 1st and 2nd stories associated with the construction of a two-story addition, whereas 12 feet are required; and

Establishing a setback on the 3rd story of 6 feet, 7 inches, whereas 12 feet are required.

Rear Setback (North)

Establishing a rear setback of five feet, associated with the construction of a two-story addition, whereas 12 feet is required for the 1st story and 17 feet is required for the 2nd story.

Lot Coverage

Allowing a maximum lot coverage of 41 percent, whereas 40 percent is the limit.

**Background:**

The property consists of E 50 ft. of W 300 ft. of Lot 4, (less N 42 Ft & S 10 Ft Laing St R/W) 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 zoned Single-Family Residential (R-1-AAA) and located within the North Beach Overlay District. Properties located within the North Beach Overlay District are subject to the requirements of the Beach Property Owner's Design Manual. The circa 1938 Monterey-style two-story residence remains on the property. As currently developed, the house has existing nonconformities with respect to the front, side-



street, and side-interior setbacks. The property is much smaller than the LDR requires in R-1-AAA and is nonconforming regarding lot depth, lot frontage and width, and minimum lot size.

The Beach Property Owners Design Manual is intended to serve as a guide for preserving and perpetuating the unique residential character of the North Beach and Seagate Neighborhoods. The Manual addresses various topics regarding the development of compatible single-family homes (new or additions) in the two neighborhoods and is to be utilized in conjunction with the LDRs and the Comprehensive Plan. Together, these documents provide a framework that can foster creative design approaches. Section I - District Regulations and Incentives of the Manual provides specific requirements on lot coverage, open space, and additional setbacks for multi-story homes which deviate from the development standards applicable to the R-1-AAA zoning district. Non-compliance with Section I requires a variance as outlined in LDR Section 2.4.7(A). It is noted that any relief to the design guidelines in Section II will require a waiver or consideration pursuant to LDR Section 2.4.7(B).

The applicant is proposing to elevate an existing two-story structure and build a new ground floor, including a new two-story addition with a garage to the rear of the property. By raising the structure, it will become a three-story residence that is proposed to maintain its existing nonconforming position on the lots and create new non-conformities related to the upper story setback requirements and proposed garage addition.

#### Variance Analysis:

The property measures 50 feet wide by 109 feet deep whereas a minimum width of 100 feet and depth of 110 feet is required for R-1-AAA properties. The lot is only half the size the code requires and uses to establish setback criteria. The subject request is for relief from the minimum setback requirements for the front, side-street, side-interior, and rear setback requirements, as well as the maximum lot coverage. Some of the requested variances are related to elevating the existing structure in its current position and some are requested to accommodate a new two-story garage addition in the rear of the property.

Pursuant to LDR Section 1.3.5(1) Non-Conforming Structures; Enlargement or alteration. A nonconforming structure shall not be altered or enlarged in any way which increases its nonconformity, vertically or horizontally. Enlargement or alteration of the 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 shaded portions of the chart below identify nonconformities and the development standards that relief is requested. The applicant's request and justification letter are attached.

Development Standard	Requirement	Provided	Complies	Proposed Change
Lot Frontage (Min./Max)	100	50**	No	
Lot Width (Min.)	100	109	Yes	
Lot Depth (Min)	110	109**	Yes	
Lot Area (Min.)	12,500	5,398**	No	
Height (Max.)	35 feet (NAVD)	32.5 ft	Yes	
Lot Coverage (Max.)	40%	41%	No	Addition
Open Space (Min.)	35%	24%**	No	
<b>Setbacks (Min.):</b>				
1 <sup>st</sup> Story Front (south)	35 ft	29.5 ft**	No	
2 <sup>nd</sup> Story Front(south)	45 ft	29.5 ft**	No	
3 <sup>rd</sup> Story Front(south)	45 ft	29.5 ft	No	Raise Existing
1 <sup>st</sup> Story Side Street (west)	17 ft	1 ft**	No	
2 <sup>nd</sup> Story Side Street (west)	17 ft	1 ft	No	Raise Existing
1 <sup>st</sup> Story Side Interior (east)	12 ft	5 ft, 2 in	No	Addition
2 <sup>nd</sup> Story Side Interior (east)	17 ft	5 ft, 2 in	No	Addition
3 <sup>rd</sup> Story Side Interior (east)	17 ft	6 ft, 7 in	No	Raise Existing
1 <sup>st</sup> Story Rear (north)	12 ft	5 ft	No	Addition



2 <sup>nd</sup> Story Rear (north)	17 ft.	5 ft.	No	Addition
**Existing nonconformities				

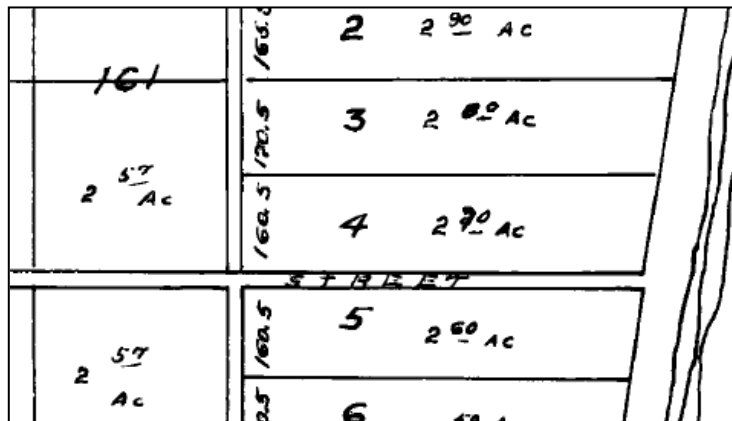
**Note:** Balconies are allowed to encroach three feet into a setback; the proposed balconies will encroach an additional four feet, three inches, which requires approval of a waiver by the City Commission.

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).**

The property is in the R-1-AAA zoning district and the North Beach Overlay District. The property generally consists of the east 50 feet of the west 300 feet of Lot 4, which originally consisted of 2.70 acres. The graphic provided includes Lot 4 from the original plat of 1899. As the lots were subdivided, including 1221 Laing Street, the lots became smaller and are now considered nonconforming to LDR Section 4.3.4(K) Development Standards. The subject lot now contains 5,398 SF whereas 12,500 is the required lot size for R-1-AAA; several of the surrounding lots still retain the original structures from the 1930's.



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

The structure was built in 1938 on a property that is now classified as an existing non-conformity. The location of the structure on the property combined with the small lot size limits the ability to improve the structure with additional square footage / living space without seeking relief.

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

The property owner purchased the property in 2020 and wishes to retain the existing structure while improving it by adding living area, as well as meeting the requirements to combat sea level rise. If the applicant were to demolish the structure it would be unrealistic to meet the minimum setback requirements on the lot that would result in a 21-foot-wide single-family residence. However, the proposed lot coverage is 41%, which exceeds the maximum allowed of 40% by a minimal amount. A small reduction in the square footage can reduce the lot coverage to comply with the 40% maximum. The current open space is 24% due to the existing hardscaping, and even with the proposed addition, the nonconformity is not increased. Therefore, the variance request to exceed the maximum lot coverage could be deemed to result from actions of the applicant.

- 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.**

The property is unique and has many existing nonconformities, with the exception of the rear setback and maximum lot coverage.



While each variance should stand on its own merit, similar setback variances have been granted on Laing St, Harmon Ct and Sandpiper Lane. The properties that were granted the variances are all within Lot 4 of the 1899 plat (above) on lots smaller than the LDR requires. However, consideration should be made by the Board regarding the proposed lot coverage at 41% and whether granting of the variance request would confer a special privilege.

- 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,**

The property is nonconforming with respect to the applicable development standards. The proposal includes the raising of the original structure to meet today's FEMA standards. While the applicant is permitted to renovate and include additions to an existing single-family home in the R-1-AAA zoning district; the restriction of the North Beach Overlay limits the applicant further given the nonconforming lot and existing nonconformities.

- 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.**

While the variance request does not comply with the Beach Overlay Guideline Design Manual setback requirements and lot coverage, the applicant is going to great effort to save the original structure. The characteristics of the existing house and architecture are in harmony with BPOA Design Manual Section II, which strives to ensure compatibility with the area. Granting the variances facilitates a taller structure on the site than currently exists and will allow more building mass along the street and adjoining properties than the current standards allow; however, there is no other potential detriment 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 home will complement the traditional single-family neighborhood. The proposal primarily retains the existing footprint of the residence by raising the house and adding a new floor which creates the new encroachments.

#### 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	February 19, 2021
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	February 19, 2021
2.4.2 (B)(1)(j)(iv) - Notice posted at City Hall	February 19, 2021