



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: April 1, 2021

File No.: 2021-101-VAR-BOA

Application Name: 25 NW 8th Street

Applicant/Agent: Eric Collin

Location: 25 NW 8th Street

PCN: 12-43-46-08-21-010-0040

Property Size: 0.32 Acres

FLUM: Single Family Residential

Zoning: Single Family Residential (R-1-AA)

Adjacent Zoning:

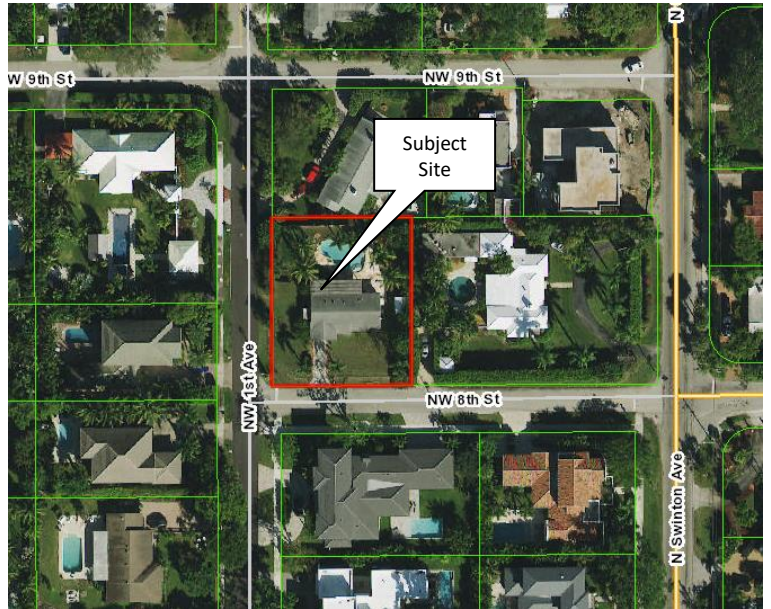
- **North:** R-1-AA
- **East:** R-1-AA
- **South:** R-1-AA
- **West:** R-1-AA

Existing Land Use: Vacant

Proposed Land Use: Single Family Residential

Item before the Board:

Consideration of a variance request from Land Development Regulation (LDR) Section 4.3.4 (K) to reduce the front setback from 30 feet to 23 feet and the side street setback from 15 feet to 8.5 feet.



Optional Board Motions for Action Items:

1. Move to continue with direction
2. Move **approval** of the variance requests (2021-101-VAR-BOA) from LDR Section 4.3.4 (K) to reduce the front setback from 30 feet by 7 feet to establish a 23 foot front setback and to reduce the side street setback from 15 feet by 6.5 feet to establish a 8.5 foot side street setback for the property located at 25 NW 8th 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 requests (2021-101-VAR-BOA) from LDR Section 4.3.4 (K) to reduce the front setback from 30 feet by 7 feet to establish a 23 foot front setback and to reduce the side street setback from 15 feet by 6.5 feet to establish a 8.5 foot side street setback for the property located at 25 NW 8th Street, by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).

Request:

The variance request is to consider the encroachment of a new Single-Family Home structure 7 feet into the required front setback area and 6.5 feet into the required side street setback to establish a 23 foot front setback and an 8.5 side street setback. Pursuant to 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 feet and a minimum side street setback of 15 feet. 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. Currently, the property is 0.32 acres and measures 119.00 feet deep by 108.17 wide

Background:

The property consists of the west 108.17 feet of the east 315 feet of the north 119 feet of the south 551 feet of Lot 10, of the subdivision of Section 8, Township 46 south, Range 43 east, Palm Beach County, Florida, according to the plate thereof, as recorded in the office of the clerk of the circuit court in and for Palm Beach County, Florida, in Plat Book 1, Page 4. The lot is 108.17 feet wide by 119 feet deep based on the survey dated February 9, 2021. It is located in the Single Family Residential (R-1-AA) Zoning District. The property previously contained a single-family home structure, but is now vacant.

Project Planner:

Rachel Falcone, Planner
FalconeR@mydelraybeach.com

Review Dates:

Board of Adjustment:
April 1, 2021

Attachments

1. Justification Statement
2. Survey
3. Site Plan



A 6.5 foot right-of-way dedication along NW 1st Avenue and a 7 foot right-of-way dedication along NW 8th Street was required by the Public Works Department as a part of the building permit for the new single family home (Permit #: 20-191981).

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(s):

- 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);**

Staff Analysis: The subject property is 108.17 feet wide by 119 feet deep according to the survey provided by the applicant. The property is surrounded by R-1-AA on all sides. The minimum front setback in the R-1-AA zoning district is 30 feet and the minimum side street setback is 15 feet. Due to LDR Sec. 6.1.3 and the Comprehensive Plan, the applicant is required to provide a 6.5 foot right-of-way (ROW) dedication along NW 1st Avenue and a 7 foot right-of-way (ROW) dedication along NW 8th Street, therefore, the applicant is requesting a reduction in the front setback and side street setback to allow the home to be consistent with the setbacks of homes within the neighborhood. This requirement is applicable to all other lands in this zoning district where deemed necessary to meet the Mobility Element of the Comprehensive Plan.

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

Staff Analysis: The R-1-AA zoning requires a 30 foot front setback and a 15 foot side street setback per LDR 4.3.4 (K). Due to the right-of-way dedication, the lot width and lot depth has been reduced, therefore, reducing the overall footprint of the proposed single family home. By allowing the structure to encroach within the front and side street setbacks, it will not deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.

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

Staff Analysis: The subject property was recently acquired by the Applicant, including a single family home, which was demolished for the reconstruction of a new home. Due to the new residential structure, a right-of-way dedication was required. The resulting dedication would place the property line 6.5 feet back along NW 1st Avenue and 7 feet back along NW 8th Street from its original location, and would change the front setback and side street of the home and construction plans submitted by the applicant. The applicant is willing to dedicate the right-of-way, and argues the new setback line would create a circumstance where the home is setback further than other homes within the neighborhood.

The previous comprehensive plan called for this street to be 60 feet, which would've required a 11.5 to 12 foot dedication from all property owners on either side of the street. At the February 4, 2020 City Commission Meeting, the Always Delray Comprehensive Plan updated the right-of-way requirements for this type of street to 50 feet of right-of-way. The requirement results in each side of the street being required to dedicate right-of-way when changes occur in properties, such as amount of livable space or construction of new homes.

Development Standards R-1-AA	Required Front Setback	Required Side Street Setback
Existing Property	Vacant	Vacant
Code Compliance	30 Feet	15 Feet
Proposed with Variance	23 Feet	8.5 Feet



- 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;

Staff Analysis: The requirements for setbacks, dedications of right-of-way, and construction of sidewalks is applicable citywide. The applicant seeks relief through a variance which would provide them with a setback less than that of other properties within the R-1-AA zoning district. Other properties in the surrounding area have been required to seek relief for similar setback, lot width, and lot depth requirements.

- 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,

Staff Analysis: The City of Delray Beach has a required right-of-way dedication for all streets of 50 feet for all (other) local streets, per Always Delray Comprehensive Plan Table MBL-1. The existing right-of-way along NW 8th Street adjacent to the subject property is 36 feet, requiring 7 feet on the northern portion of the street to be dedicated. The existing right-of-way along NW 1st Avenue adjacent to the subject property is 43.5 feet, requiring 6.5 feet on the eastern portion of the street to be dedicated. When certain provisions of development are met such as new structures being built or existing structures being expanded right-of-way dedication is required. The dedication of 7 feet and 6.5 feet of right-of-way would modify the property lines and ultimately impact the front and side street setback lines.

The required setbacks for the property are located in Table 4.3.4 (k), which includes a 30 foot front setback and a 15 foot side street setback. The applicant requests to reduce the front setback by 7 feet and establish a 23 foot setback from the property line and reduce the side street setback by 6.5 feet and establish a side street setback of 8.5 feet. The justification statement indicates that this is necessary to align the placement of the homes with other homes within the neighborhood.

- 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

Staff Analysis: The variance request intends to maintain the character of the property and placement of buildings in relationship to the street by maintaining a consistent front setback and side street setback. As a result the granting of a variance would generally not be injurious to the neighborhood, or otherwise detrimental to the public welfare.

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 22, 2021
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	March 22, 2021
2.4.2 (B)(1)(j)(iv) - The notice posted at City Hall	March 22, 2021