




# 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> October 7, 2021	<b>File No.:</b> 2021-242-VAR-BOA	<b>Application Name:</b> 1225 Vista Del Mar – Variance
<p><b>Applicant/Agent:</b> Gary P. Eliopoulos/ GE Architecture, Inc.</p> <p><b>Location:</b> 1225 Vista Del Mar Dr</p> <p><b>PCN:</b> 12-43-46-16-25-000-0061</p> <p><b>Property Size:</b> 0.2592 Acres</p> <p><b>LUM:</b> LD (Low Density 0-5 Dwelling Units/ Acre)</p> <p><b>Zoning:</b> R-1-AA Single-Family Residential</p> <p><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-AA</li> </ul> <p><b>Existing Land Use:</b> Single-Family Residential</p> <p><b>Proposed Land Use:</b> No Change</p> <p><b>Overlay District:</b> North Beach Overlay District</p> <p><b>Item before the Board:</b> Variance request to allow the pool to encroach in the front setback.</p>		
<p><b>Optional Board Motions for Action Items:</b></p> <ol style="list-style-type: none"> <li>1. Move to <b>continue with direction.</b></li> <li>2. Move <b>approval</b> of the Variance request for 1225 Vista Del Mar Dr (2021-242-VAR-BOA) from LDR Section 4.6.15(G)(1) <b>to allow the swimming pool to encroach into the front setback</b> by finding that the request is consistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).</li> <li>3. Move <b>denial</b> of the Variance request for 1225 Vista Del Mar (2021-242-VAR-BOA) from LDR Section 4.6.15(G)(1) <b>to allow the swimming pool to encroach into the front setback</b> by finding that the request is inconsistent with the findings set forth in the Land Development Regulations Section 2.4.7(A)(5).</li> </ol>		
<p><b>Request</b></p> <p>The variance request is to reduce the required front setback for a proposed swimming pool from 30' to 10' 1 3/4".</p>		
<p><b>Background:</b></p> <p>The property consists of the west of Lot 6, all of Lots 7,8, and 9, LESS the West 15 feet of said Lot 9, VISTA DEL MAR, according to the Plat thereof, recoded in Plat Book 13, Page 21 of the Public Records of Palm Beach County, Florida. The lot is zoned Single-Family Residential (R-1-AA) and located within the North Beach Overlay District. Properties located within the North Beach Overlay District are also subject to the requirements of the Beach Property Owner's Design Manual.</p> <p>The one-story original structure was built 1934 in the Minimal Traditional style and remains on the property. In 1991, a two-story addition and modifications to the ground floor were permitted. There are existing nonconformities with respect to the front and side-interior setbacks. The property measures 80 feet wide by 135 feet deep and meets the requirements of lot size. The proposal consists of the demolition of the existing swimming pool and construction of a new swimming pool and spa.</p>		

<b>Project Planner:</b> Jennifer Buce, buce@mydelraybeach.com 561-243-7138	<b>Review Dates:</b> <u>Board of Adjustment:</u> October 7, 2021	<b>Attachments</b> 1. Site Plan 2. Site Photos 3. Survey 4. Justification Letter
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Records indicate that a variance was not required at the time of the original construction of the swimming pool.

A determination was made by the Development Services Division on April 28, 2021, that upon existing development patterns on this block; the front setback has been determined to be Vista Del Mar and Laing Street the rear. The determination was made for 1225 Vista Del Mar only based upon the following:

- Vista Del Mar Drive is a more prominent street, with a center median;
- The lots on the south side of Vista Del Mar are not through lots and face Vista Del Mar;
- Two lots on the north side of Laing Street face Laing Street, while others face side streets;
- A front setback is applied to Vista Del Mar Drive for the homes on the through lots on the north side of the street; and
- The front doors to the house are oriented toward Vista Del Mar Drive

#### Variance Analysis:

The subject request is for relief of the pool in the front setback pursuant to LDR Section 4.6.15(G)(1) which states swimming pools shall not extend into the front setback area in accordance with the Development Standard Matrix in LDR Section 4.3.4(K), the required setback for the R-1-AA zoning district for a single-family home is 30 feet. The applicant's justification letter is attached.

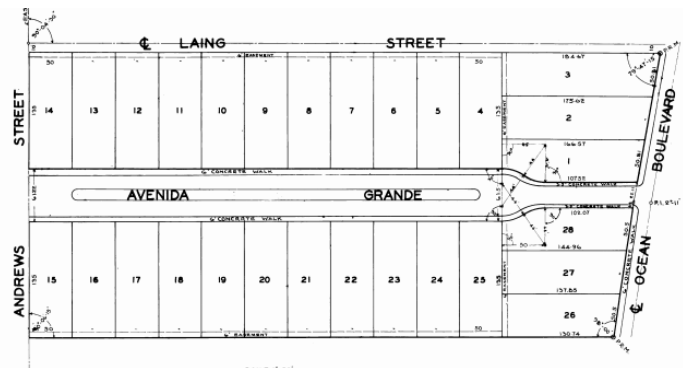
Pursuant to **LDR Section 2.2.4(D)(4) and (c)**, the Board of Adjustment has the authority to grant variances and hear appeals from the provisions of the General Development Standards (Article 4.3).

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).**

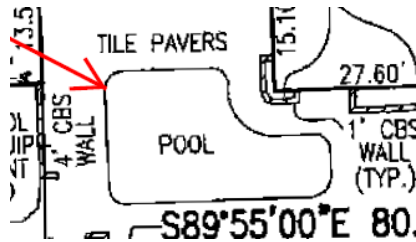
Pursuant to **LDR Section 1.3.5(1) Non-Conforming Structures**; A nonconforming structure shall not be altered or enlarged in any way which increases its nonconformity, vertically or horizontally. Enlargement or alteration of the structure in a way that complies with applicable dimensional standards and does not create any new nonconformity, or alteration of the structure in a way that decreases the degree of nonconformity, is permitted.

The property is in the R-1-AA zoning district and the North Beach Overlay District. The property generally consists of the east 5 feet of the west 20 feet of Lot 6. The graphic is the original plat of 1925. The lots were subdivided through the years, including 1225 Vista Del Mar. The original existing structure of the home has existing nonconformities to the front setback. The east side at 28.54' and the west side at 29.61'. The driveway and garage are built to the rear of the property where only a 10' setback is required for the side and rear interior. However, the concrete driveway and parking could pose an issue for the placement of the pool in the rear.



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

The requirements for LDR Section 4.6.15(G)(1); Swimming Pools is applied city wide. The applicant does have existing nonconformities on the existing property with respect to the front setback and to parts of the side interiors. Although, through the years, the lot size has increased as it pertains to the frontage from 50' to 80' feet, the constraints of the structure size have made it difficult to construct a pool within the setback requirements.

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

The actions are not a direct result of the applicant. The property owner purchased the property in 2020 and the original swimming pool was constructed in 1985. The owner is proposing to reconstruct a new swimming pool that will further impede into the setback to accommodate additional space from the structure as the applicant states the swimming pool is too close to the structure as built.

**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.**

Each variance submitted is to be reviewed and stand on its own. However, in 2000, 1221 Vista Del Mar Dr. received a variance from the front setback from 30' to 15' for a swimming pool. Similar variances have been granted in the North Beach Overlay Neighborhood.

**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 existing non-conforming swimming pool already encroaches into the front setback. The existing swimming pool is 15'8" from the property line. The applicant is proposing to replace the swimming pool and relocate it 10' 1 3/4" from the property line. This is to accommodate an approximately 5' separation from the existing building and the proposed swimming pool. However, the pool could be reduced in size to keep the existing nonconformity the same.

**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 for the swimming pool is increasing an existing nonconformity; the harmony of the with general purpose and intent of the existing regulations, 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." Further, the Single-Family Residential Districts are established in compliance with provisions of Goal HOU 2 of the Housing Element of the adopted Comprehensive Plan which calls for the preservation and maintenance of stable neighborhoods. The proposed swimming pool to the existing single-family home already exist and is being relocated an additional five feet closer to the property line. This will not affect the development pattern on the block that is established.

**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	September 24, 2021
2.4.2 (B)(1)(j)(ii) - Notice posted on the City's web page at least ten days prior	September 24, 2021
2.4.2 (B)(1)(j)(iv) - Notice posted at City Hall	September 24, 2021