



**CITY OF ATLANTIC BEACH
COMMUNITY DEVELOPMENT BOARD
STAFF REPORT**

AGENDA ITEM 4.A.

CASE NO ZVAR-13-00100045

Request for variance from Section 24-151(b)(1)d, reducing the required rear yard setback for a detached one-story garage exceeding six hundred (600) square feet in area, from twenty (20) feet to five (5) feet.

LOCATION 356 10TH STREET

APPLICANT PER OLOF & MARITA EZELIUS

DATE MARCH 19, 2013

STAFF ERIKA HALL, PRINCIPAL PLANNER

STAFF COMMENTS

Background

The subject parcel is Lot 25, Block 12 as platted in 1913 as part of the Atlantic Beach Subdivision "A". (See Exhibit 1). The parcel maintains original configuration and dimensions, being fifty (5) feet frontage by one hundred thirty (130) feet depth, for a total area of six thousand five hundred (6,500) square feet. The parcel is currently zoned Residential Single-Family (RS-2) and has a Future Land Use designation of Residential Low Density (RL).

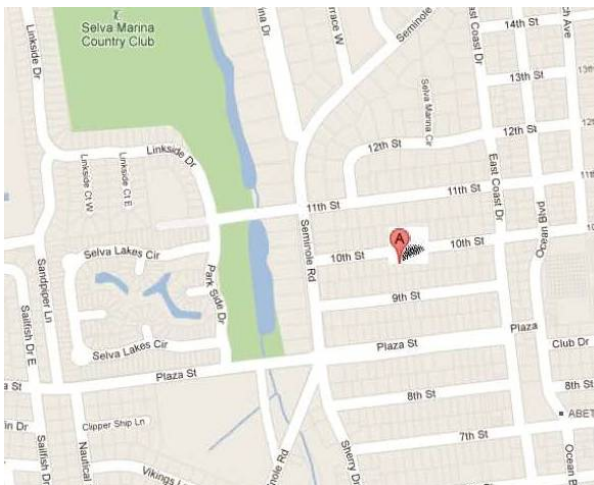


FIGURE 1. 356 10th Street location map. Google Earth, accessed March 4, 2013.



FIGURE 2. 356 10th Street, street view. Google Earth, accessed March 4, 2013.

The parcel is currently occupied by a two-story, single-family structure constructed in 1975, having a total area of approximately one thousand five hundred forty-four (1,544) square feet and an on-ground footprint of eight hundred sixty-four (864) square feet. In addition to the existing single-family structure, a driveway along the western property line, a sidewalk leading to the back yard, a rear patio, and a pad for an existing storage shed in the rear yard contribute to the total impervious surface, which is calculated to be approximately one thousand eight hundred sixteen (1,816) square feet, or about twenty-eight (28) percent of the total lot area. (See Exhibit 2).

As noted in the applicants' narrative, there is neither a carport nor a garage on the property, and the structure has a flat-roof design, and thus there is no attic storage space. To accommodate vehicles and remedy lack of storage space, the applicants are proposing to construct a single-story detached garage measuring thirty-five (35) feet wide by twenty-five (25) feet deep, for a total area of eight hundred seventy-five (875) square feet in area. Inclusion of such a garage and reconfiguration of existing driveway, sidewalk and patio spaces would increase the total impervious surface area to approximately three thousand one hundred ninety-four (3,194) square feet, would still be slightly below the maximum allowable impervious surface, at just over forty-nine (49) percent.

TABLE 1. TOTAL IMPERVIOUS SURFACE AREA COMPARISON		
ELEMENT	EXISTING	PROPOSED
House	882	882
Driveway	532	1,379
Sidewalk	44	29
Patio	190	--
Shed	168	--
Garage/Shower	--	904
TOTAL (SQURE FEET)	1,816	3,194
TOTAL (PERCENT)	27.98	49.14

Current provisions of the Atlantic Beach Municipal Code regulating accessory structures, particularly single-story detached garages, are as follows:

- Detached private garages, carports, guest house or guest quarters, not to exceed six hundred (600) square feet of lot area and fifteen (15) feet in height. Only one (1) detached private garage, carport, guest house or guest quarters shall be allowed on any single residential lot, and shall be a minimum distance of five (5) feet from rear and side lot lines. Such detached structures exceeding six hundred (600) square feet of lot area shall comply with applicable setbacks as established for the principal building. [Section 24-151(b)(1)d]

At eight hundred seventy-five (875) square feet in area, the proposed structure exceeds the maximum allowable area of a single-story detached garage, and therefore is required to meet the applicable RS-2 rear yard setback of twenty (20) feet, per Section 24-106(e)(2) and the applicable RS-2 side yard setback of combined fifteen (15) feet and five (5) feet minimum on either side. However, two large oaks in the rear yard prevent placement of the accessory structure in compliance with the required twenty (20) foot rear yard setback, while maintaining the desired footprint. Therefore, the applicant is seeking a variance from Section 24-151(b)(1)d, reducing the required rear setback from twenty (20) feet to five (5) feet.

Analysis

Section 24-64(b)(1) provides that “[a]pplications for a variance shall be considered on a case-by-case basis, and shall be approved only upon findings of fact that the application is consistent with the definition of a variance

and consistent with the provisions of this section.” Section 24-64(d) provides six distinct grounds for the approval of a variance:

- (1) ***Exceptional topographic conditions of or near the property.*** There are no exceptional topographic variations affecting the subject property; therefore this provision is not applicable.
- (2) ***Surrounding conditions or circumstances impacting the property disparately from nearby properties.*** There are no surrounding conditions or circumstances impacting the subject property differently or to a greater extent than nearby properties; therefore this provision is not applicable.
- (3) ***Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.*** By contemporary standards, it is a reasonable expectation for residential properties to have either an attached or detached garage for the storage of vehicles and other personal/household goods. Both attached garages of any size and detached garages with a footprint greater than six hundred (600) square feet must comply with the required rear and side yard setbacks applicable to the principal structure within the given zoning district. The applicants have stated that the two aforementioned large oaks located in the rear yard – and which the applicants would like to preserve – prohibit construction of either an attached or detached garage with the desired footprint. (See Exhibits 3, 4). At this point, two questions must be addressed: Do the trees constitute exceptional circumstances, and if so, do these particular trees prohibit reasonable use of the property.

Regarding the first question, staff refers Board members to the minutes from the August 21, 2007 Community Development Board regular meeting. Similar to the current request, item 5.B. was a request to construct a nine hundred (900) square foot detached garage. In paragraph four, on page eight of ten, then Board member Carolyn Woods asked the applicant “would it be possible to attach the garage to the house. [The applicant] replied that it would not be possible without taking down trees.” In paragraph eight, on the same page, “Ms. Woods questioned whether trees qualified as exceptional circumstances, to which [then Community Development Director] Ms. Doerr replied that the Board has generally decided not.” This particular application for variance was withdrawn by the applicant.

However, this Board may wish to consider and find that trees do qualify as exceptional circumstances. According to provisions of Chapter 23, Protection of Trees and Native Vegetation, “[p]riority shall be given to the protection and preservation of existing resources.” [Section 23-1(a)] Further, the stated intent of that Chapter is “[t]o promote and sustain community values by providing for an aesthetically pleasing environment where a healthy tree canopy is maintained and regenerated” [Section 23-1(b)(2)]; “[t]o protect natural systems and avoid impairment of their natural functions including the provision of shade and cooling on lots and development parcels, sidewalks, streets and other public places” [Section 23-1(b)(3)]; and, “[t]o encourage protection of healthy trees” [Section 23-1(b)(5)].

Similarly, grounds for denial of a variance include adverse impact upon “[e]stablished property values” [Section 24-64(c)(4)]; “[t]he aesthetic environment of the community” [Section 24-64(c)(5)]; and “[t]he natural environment of the community, including environmentally sensitive areas, wildlife habitat, protected trees, or other significant environmental resources” [Section 24-64(c)(6)]. Thus, it would seem reasonable to assume that purposeful avoidance of such adverse impacts might be grounds for approval of a variance.

Regarding the second question, however, it is doubtful that these particular trees prohibit reasonable use of the property. Reasonable use is the minimum necessary accommodation. In terms of detached garages, it is established within the Atlantic Beach Municipal Code that a six hundred (600) square-foot, one-story garage is reasonable when located at least five (5) feet from the rear property line. Additionally, a two-story detached garage, also with a six hundred (600) square-foot footprint, is deemed reasonable when located at least ten (10) feet from the rear property line.

(4) ***Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.*** As noted in the applicants' narrative, staff did find that at the time of construction of the existing house in 1975, the original zoning ordinance of 1959 was still in effect. The subject property was zoned as "RA", and the following provision regarding accessory buildings was applicable:

- "Accessory buildings or structures, the use of which is incident to the main building, including private garages, tool rooms, etc., shall be permitted in the rear yard area, shall not be more than one story in height and shall not cover more than 12 percent of the lot area. Only one such building shall be permitted on each building site and no part of any accessory building shall be nearer than five feet to any side or rear lot line." [Section III-1, General Provisions, page 7; Ordinance No. 90-59-3]

Application of this provision which was in effect at the time of construction of the existing house would permit a one-story detached garage up to seven hundred eighty (780) square feet in area, to be located at least five (5) feet from the rear and side property lines.

It should be noted that there have been numerous revisions to the Zoning Code and Land Development Regulations over the last 38 years. Each revision requires multiple public hearings with opportunities for citizens to support or object to changes, including at least one public hearing before this Local Planning Agency, and then at least two readings and public hearings before the City Commission before adoption into the Municipal Code of Ordinances.

- (5) ***Irregular shape of the property warranting special consideration.*** The subject property is of regular rectangular shape; therefore this provision is not applicable.
- (6) ***Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.*** The subject property is not of substandard size, but is platted lot of record, with size consistent with others on the same plat; therefore this provision is not applicable.

ATTACHMENTS

EXHIBIT 1 – Atlantic Beach Subdivision "A" Plat

EXHIBIT 2 – 1989 Survey, Existing Conditions, Impervious Surface Areas & Proposed Location

EXHIBIT 3 – Detached Garage in Compliance, 20-FT Rear Yard Setback

EXHIBIT 4 – Attached Garage in Compliance, 20-FT Rear Yard Setback