



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

AGENDA ITEM **4.B.**

CASE NO **ZVAR-13-00100067**
Request for variance from the provisions of Section 24-106(e)(3), to reduce the required side yard setbacks for a principal structure from a combined fifteen (15) feet, with a minimum five (5) feet on either side, to a combined twelve and four-tenths (12.4) feet, with a minimum of four and five-tenths (4.5) feet on one side of an existing single-family dwelling located on a property within the Residential Single-Family (RS-2) zoning district at 345 10th Street.

LOCATION **345 10TH STREET**

APPLICANT **FREDERICK LOOMIS**

DATE **AUGUST 20, 2013**

STAFF **ERIKA HALL, PRINCIPAL PLANNER**

STAFF COMMENTS

Background

The subject property consists of two platted 50' wide by 150' deep lots of record – Lots 22 and 24, Block 13, Atlantic Beach Subdivision "A", which was recorded in the Public Records of Duval County on June 5, 1913 in plat book number 5, page 69. The property has a future land use designation of Residential Low Density (RL) according to the adopted 2020 Comprehensive Plan Amendment Map Series, Map A-1, Future Land Use Map, and it is within a Residential Single-Family (RS-2) zoning district, according to the current Official Zoning Map, as amended through Ordinance No. 90-13-218.

The original residential structure, located on the easternmost lot (Lot 22) was constructed in 1948, according to the Duval County Property Appraiser's Office data. A rear addition and an attached two car garage extending onto the western lot (Lot 24) were approved by the City of Atlantic Beach in 1972, according to local archived files.



FIGURE 1. Subject property consisting of Lots 22, 24 of Block 13, Atlantic Beach Subdivision "A", recorded in the Duval County Public Records on June 5, 1913.

However, the attached garage was either never constructed, or it was later replaced with a detached garage on Lot 24 and abutting the common platted lot line.

At this time, the property owner wishes to split the property along the original platted lot line so that he can sell the Lot 24. This is permissible, as the property consists of two lots which are vested as nonconforming lots of record, in accordance with the Section 24-17 definition of "lot of record" which is "(a) a lot that is part of a documented subdivision, the map of which has been recorded in the Office of the Clerk of the Circuit Court," or "(b) a lot or parcel of land described by metes and bounds, the description of which has been recorded in the Office of the Clerk of the Circuit Court, consistent with and in compliance with land development regulations in effect at the time of said recording," and, in accordance with Section 24-85(b)(1) regarding nonconforming lots of records, which states:

"Where a lot or parcel of land has a lot area or frontage that does not conform with the requirements of the zoning district in which it is located, but was a legally established and documented lot of record prior to adoption of this Code (January 1, 2002) or previous codes and applicable City of Atlantic Beach ordinances, such lot or parcel of land may be used for one single-family dwelling in any residential zoning district, **provided the minimum yard requirements for that residential zoning district are maintained, or provided that the owner of said lot has obtained a variance from the Community Development Board, in accordance with the requirements of Section 24-64 of this Chapter.**"

Analysis

Section 24-189(a) provides that "Building permits may be issued following divisions of land without the need for approval of a final subdivision plat or a replat only in accordance with each of the following provisions:

- (1) The division results in no more than two (2) contiguous lots or parcels.
- (2) The resultant new lots comply with the minimum lot area, width and depth, and access requirements of the applicable zoning district, the comprehensive plan and all other applicable requirements of these land development regulations.
- (3) **The division and the resultant new lots shall not create any nonconforming structures or any other nonconforming characteristic.**
- (4) Approval by the designated administrative official of a certified survey depicting the proposed new lots verifying compliance with the above requirements. Such certified survey shall be submitted to the city and approved prior to recording of a deed for transfer of ownership of lands, and shall be recorded as an addendum to the deed. It shall be the responsibility of the property owner(s) to provide evidence of the approved certified survey along with any application for building permits.

While the property owner proposes to remove all structures from the western lot (Lot 24), there remains an issue with the setbacks of the residential structure located on the eastern lot (Lot 22). Within the RS-2 zoning district, a minimum of fifteen (15) feet of combined side yard setbacks are required, with there being at least five (5) feet on each side. As constructed and measured from the front of the structure, the side yard setbacks are seven and nine-tenths (7.9) feet off the southwest corner and four and five-tenths (4.5) feet off the southeast corner, for a total of twelve and four-tenths (12.4) feet, which is two and six-tenths (2.6) feet short of the required minimum. Thus, staff is unable to process this administrative lot split until and unless a variance is granted to cure the nonconforming nature of the structure located on the eastern lot (Lot 22).

Section 24-64(b)(1) provides that "applications 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." According to Section 24-17, Definitions, "[a] variance shall mean relief granted from certain terms of this chapter. The relief granted shall be only to the extent as expressly allowed by this chapter and may be either an allowable exemption from certain

provision(s) or a relaxation of the strict, literal interpretation of certain provision(s). Any relief granted shall be in accordance with the provisions as set forth in Section 24-64 of this chapter, and such relief may be subject to conditions as set forth by the City of Atlantic Beach.”

Section 24-64(d) provides six distinct grounds for the approval of a variance:

- (1) Exceptional topographic conditions of or near the property.** Not applicable
- (2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.** Not applicable.
- (3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.** Not applicable.
- (4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.** As stated above, the subject property consist of two lots of record platted in 1913, and constructed with a single-family house in 1948, some eleven (11) years before the original 1959 Atlantic Beach zoning code was enacted. The requested variance of two and six-tenths (2.6) feet is a seventeen (17) percent deviation from the required standard.
- (5) Irregular shape of the property warranting special consideration.** Not applicable.
- (6) Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.** Not applicable.

REQUIRED ACTION

The Community Development Board may consider a **motion to approve ZVAR-13-00100067**, request for variance from the provisions of Section 24-106(e)(3), to reduce the required side yard setbacks for a principal structure from a combined fifteen (15) feet, with a minimum of five (5) feet on either side, to a combined twelve and four-tenths (12.4) feet, with a minimum of four and five-tenths (4.5) on one side of the existing single-family dwelling located within a Residential Single-Family (RS-2) zoning district at 345 10th Street, upon finding this request is consistent with the definition of a variance, and in accordance with the provisions of Section 24-64, specifically one or more of the grounds for approval delineated in Section 24-64(d) and as described above.

The Community Development Board may consider a **motion to deny ZVAR-13-00100067**, request for variance from the provisions of Section 24-106(e)(3), to reduce the required side yard setbacks for a principal structure from a combined fifteen (15) feet, with a minimum of five (5) feet on either side, to a combined twelve and four-tenths (12.4) feet, with a minimum of four and five-tenths (4.5) on one side of the existing single-family dwelling located within a Residential Single-Family (RS-2) zoning district at 345 10th Street, upon finding this request is either inconsistent with the definition of a variance, or it is not in accordance with the grounds for approval delineated in Section 24-64(d) and as described above, or it is consistent with one or more of the grounds for denial of a variance, as delineated in Section 24-64(c), described below.

No variance shall be granted if the Community Development Board, in its discretion, determines that the granting of the requested variance shall have a materially adverse impact upon one (1) or more of the following:

- (1) Light and air to adjacent properties.*
- (2) Congestion of streets.*
- (3) Public safety, including traffic safety, risk of fire, flood, crime or other threats to public safety.*

- (4) Established property values.*
- (5) The aesthetic environment of the community.*
- (6) The natural environment of the community, including environmentally sensitive areas, wildlife habitat, protected trees, or other significant environmental resources.*
- (7) The general health, welfare or beauty of the community.*

Variances shall not be granted solely for personal comfort or convenience, for relief from financial circumstances or for relief from situation created by the property owner.

ATTACHMENTS *None.*