

**PALM BEACH COUNTY
PLANNING, ZONING AND BUILDING DEPARTMENT
ZONING DIVISION**



**ADMINISTRATIVE VARIANCE – TYPE 1 - STAFF PUBLIC MEETING
STAFF REPORT
8/27/2020 9:00:00 AM**

AGENDA ITEM	CODE SECTION	REQUIRED	PROPOSED	VARIANCE
AV-2020-00442	V1. 3.D.1.E – Building Height	35 feet	37 feet	2 foot
	V2. Table 5.B.1.A - Pool/Spa Setbacks	Side Street -18 feet	6 feet	12 foot
	V3. Table 5.B.1.A - Pool/Spa Setbacks	Rear - 10.5 feet	6 feet	4.5 foot
SITUS ADDRESS:	1 Winthrop Ln Boynton Beach, FL 33435			
PCN:	00-43-45-34-10-000-0040			
OWNER NAME & ADDRESS:	Debbie Potak 1985 Parkside Cir S Boca Raton FL 33486			
AGENT NAME & ADDRESS:	Don Yoshino Yoshino Architecture 6453 W Rogers Cir Boca Raton FL 33487			
PROJECT MANAGER:	Sheri Hack, Site Planner I			
ZONING DISTRICT:	Multifamily Residential (RM)			
LAND USE:	High Residential 8 (HR-8)			
BCC DISTRICT:	District 4			
LEGAL AD:	Don Yoshino, Yoshino Architecture, Agent, for Debbie Potak, owner, to allow a proposed single family dwelling to exceed 35 feet in height, and to allow a proposed pool to encroach into the required side street and rear setbacks. Location: 1 Winthrop Ln, approximately 0.003 miles W. of East Ave. and 0.002 miles E. of Coral Rd. within the Gulfstream Park Subdivision in the Multifamily Residential (RM) Zoning District.			
LOT AREA:	0.11 acres			
LOT DIMENSIONS:	4,813 sq. feet			
CONFORMITY OF LOT:	Nonconforming			
CONFORMITY OF ELEMENT:	Nonconforming			
TYPE OF ELEMENT:	Proposed single family dwelling; and proposed swimming pool			
ELEMENT SIZE:	Single Family Dwelling, 37 ft. in height Pool, 1,080 sq. ft.			
BUILDING PERMIT #:	PR-2019-027290			
NOTICE OF VIOLATION:	N/A			
CONSTRUCTION STATUS:	Proposed			
APPLICANT REQUEST:	To allow a proposed single family dwelling to exceed 35 feet in height, and to allow a proposed pool to encroach into the required side street and rear setbacks.			

STAFF SUMMARY

Figure 1 – Aerial View



Figure 1 – Aerial View

The subject property is located at 1 Winthrop Ln, approximately 0.003 miles West of East Ave and approximately 0.002 miles East of Coral Rd within the Gulfstream Park Subdivision in the Multifamily Residential (RM) Zoning District. The parcel has a Future Land Use Designation (FLU) of High Residential 8 (HR-8).

The site is a small nonconforming corner lot consisting of approximately 0.11 acres. The applicant stated that at the time she applied for a building permit (B-2019-027290-0000) to construct a proposed three story single family dwelling with a first floor accessory quarters for her elderly mother, she was in compliance with ULDC Article 3.D.1.E, maximum building height requirements of 35 feet. However, during the building permit review process, it was realized that the property was located in the X500 flood zone area, and subject to new flood maps issued by the Federal Emergency Management Agency (FEMA). As a result the applicant is requesting a variance to exceed the maximum allowed height of 35 feet by two feet.

Pursuant to Article 1.C.4.C of the ULDC, height is measured from finished grade to highest point or peak of roof. Further, under ULDC Article 3.E.4 Height Exceptions, the parapet, parapet screening of mechanical equipment, and structures built over the top of a stairwell or elevator shaft which provide access to the rooftop for maintenance purposes or to house elevator mechanical equipment are exempt from height requirements. It should also be noted that other residences in the area reflect a variety of architectural styles and heights. In particular, due to natural grade changes and required minimum building floor elevations, a multifamily development located nearby at Gulf Stream Views, 11485 Old Ocean Blvd is situated higher in elevation than the surrounding area and was granted a Type 2 Variance by the Zoning Commission, under Application No. ZV-2018-2101.

The second variance request will allow a proposed pool to be located 6 feet from the side street and 6 feet from the rear property lines. Pursuant to ULDC Table 5.B.1.A - Pool/Spa Setbacks, an 18 foot side street and a 10.5 foot rear setback is required. The applicant is making the request to be able to construct an in ground rectangular pool, measuring 8 feet by 27 feet, and 4.5' at its maximum depth. The applicant has indicated that she is the primary caregiver for her elderly mother, and has provided physician documentation regarding her health conditions and the benefits from swimming to help strength and improve her overall health and well-being.

To mitigate any negative impact on affected property owners, staff is recommending conditions of approval such as prohibiting the construction of permanent structures on the roof, and installing an 8 foot high retaining wall along the rear and side property lines. Staff further recommends the installation of large shrubs as an additional landscape barrier to address potential impacts of the swimming pool.

Staff finds that the requests are reasonable, comply with the purposes and objectives of the Comprehensive Plan and the seven Standards set forth in Article 2 of the ULDC and any impacts of the variances will be positive for the surrounding area.

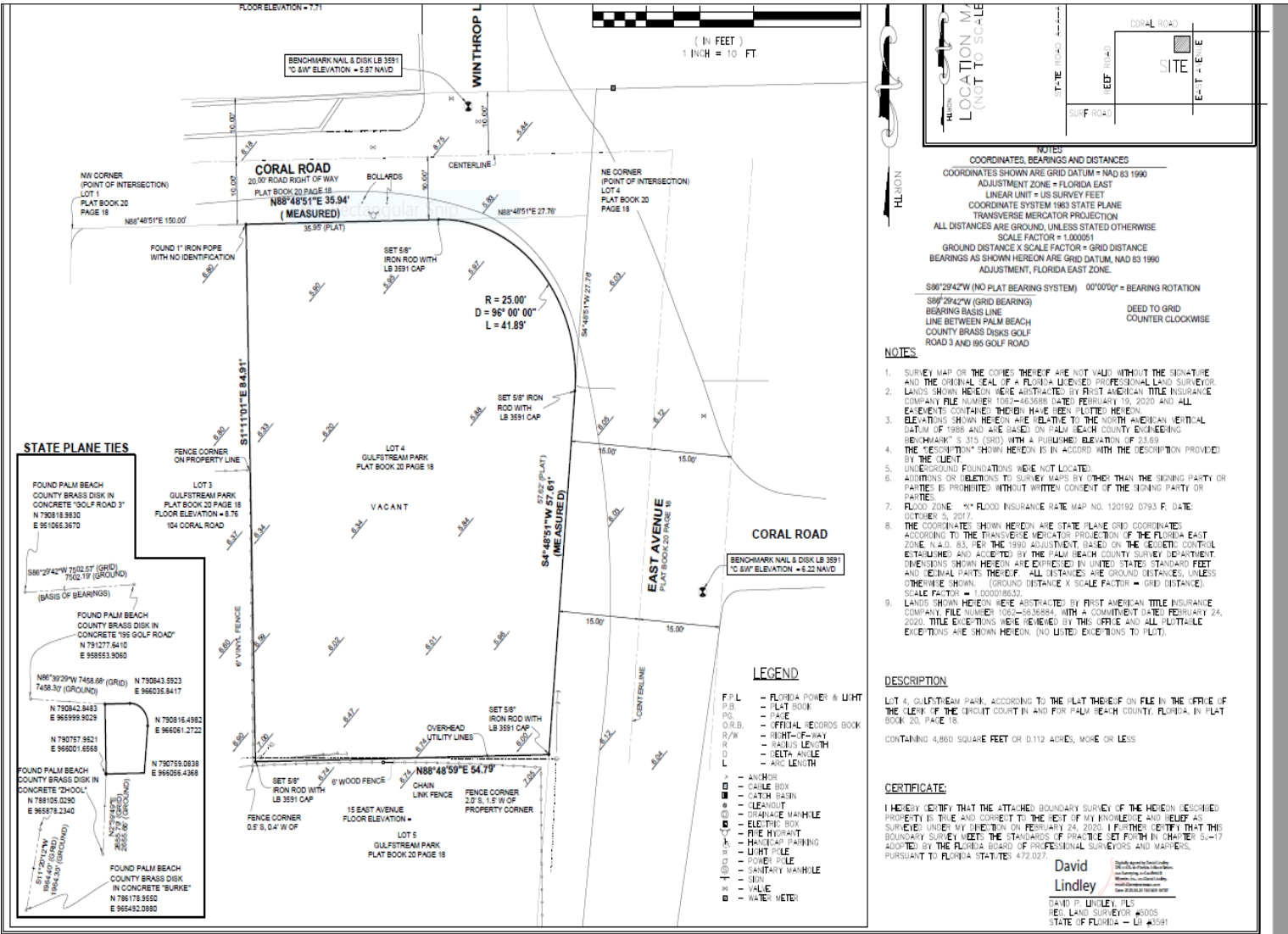
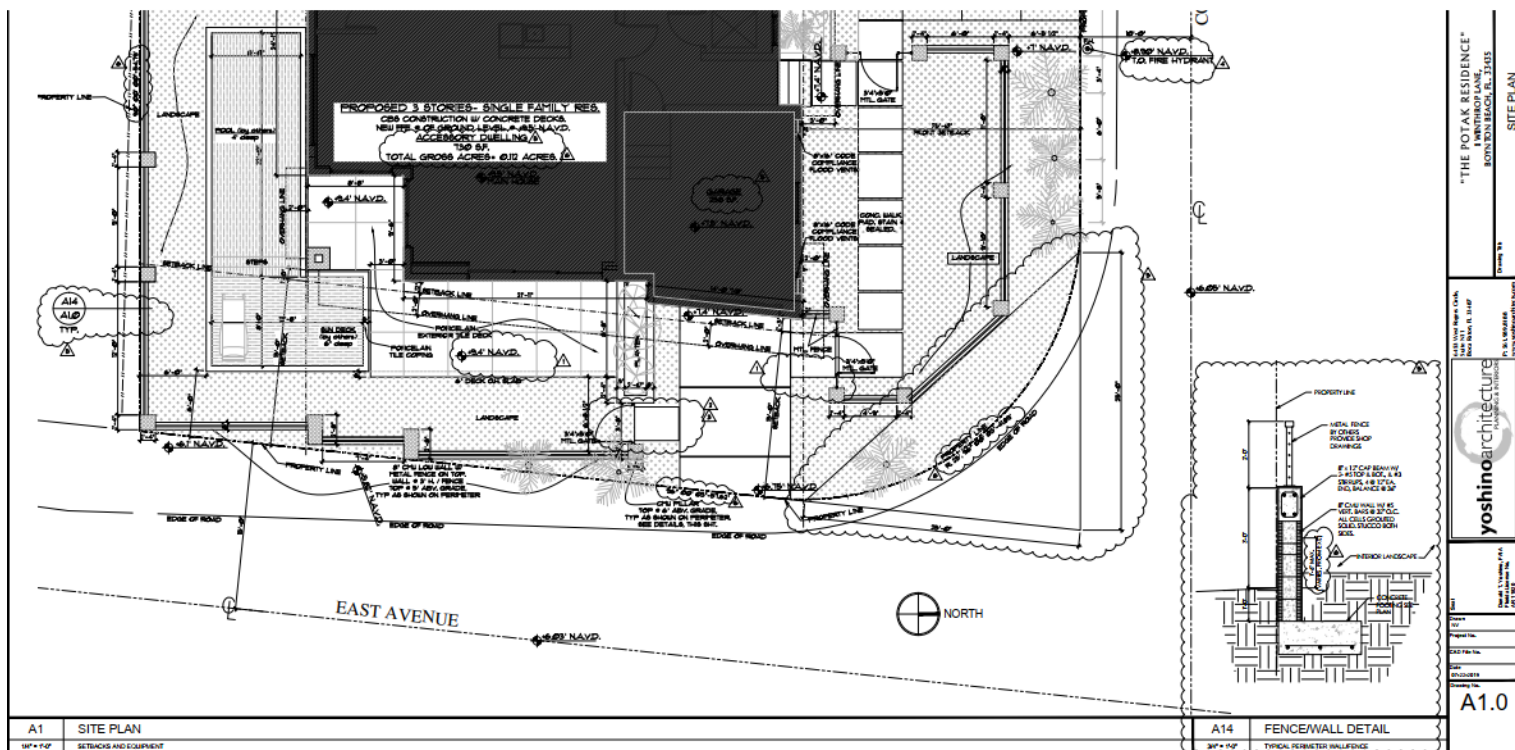


Figure 2 – Survey



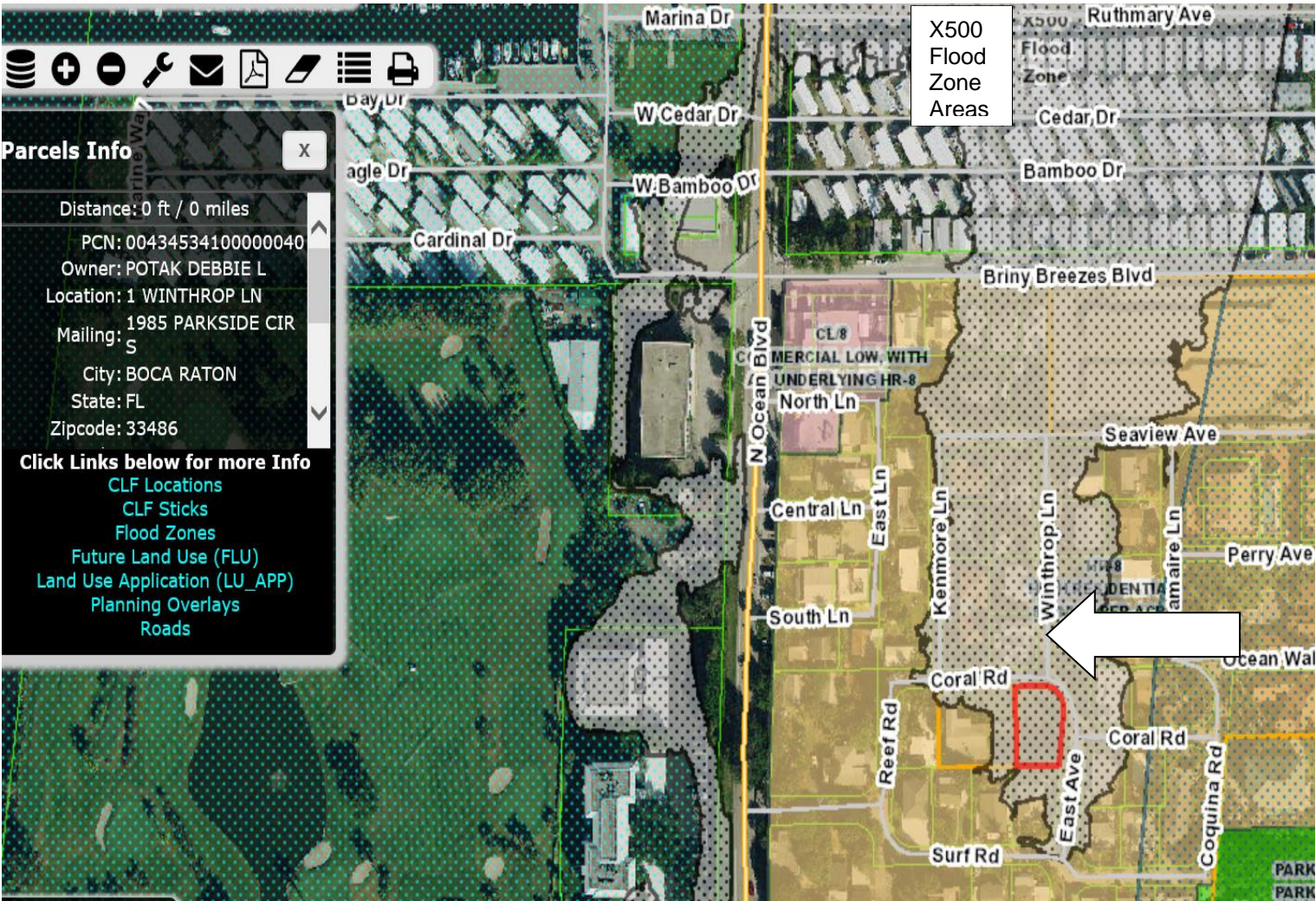


Figure 5 –Aerial Map X500 Flood Zone - Subject Site & Adjacent Properties

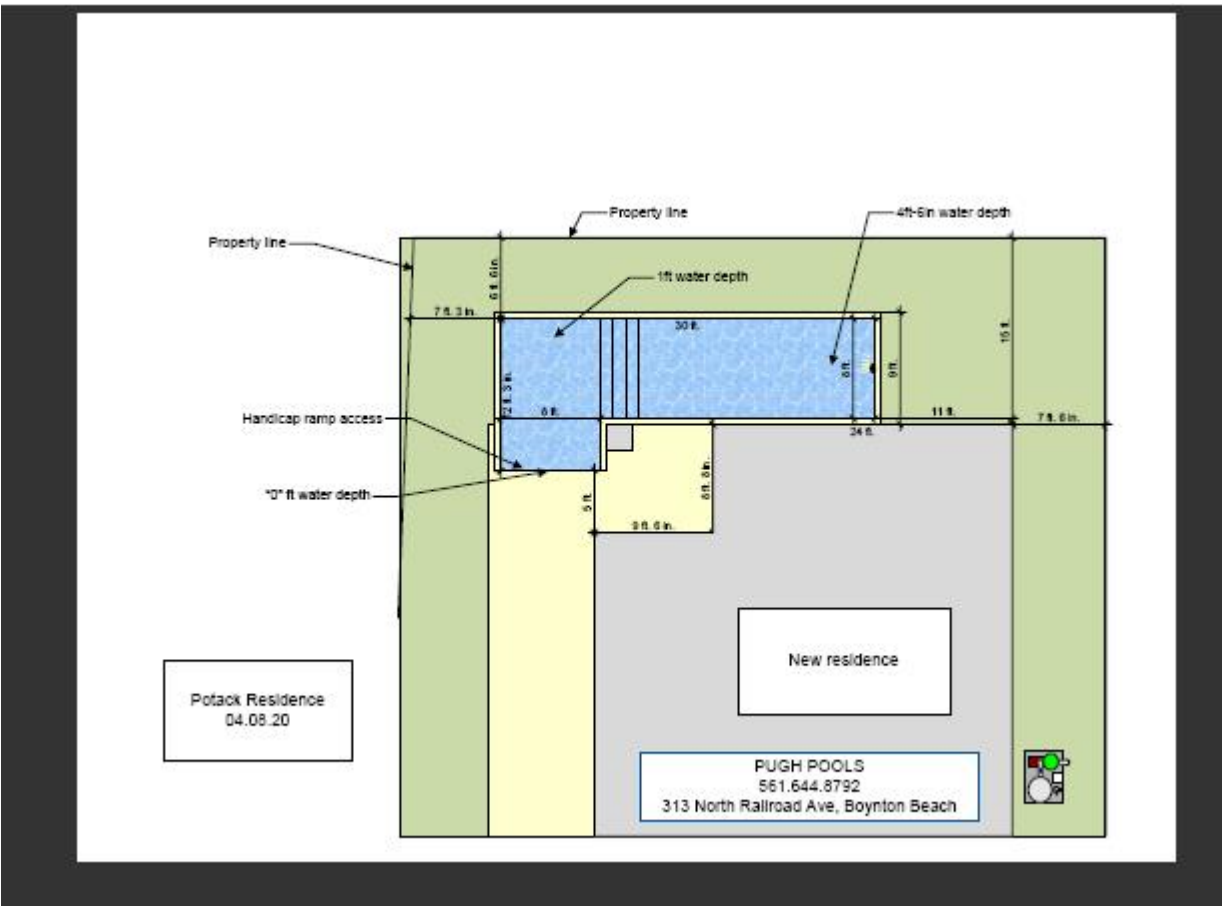



Figure 6 – Pool Design

STAFF RECOMMENDATIONS

Staff recommends **approval with conditions** for a Type 1 Variance request, based upon the following application of the standards enumerated in Article 2, Section 2.D.3 of the Palm Beach County Unified Land Development Code (ULDC), which a petitioner must meet before the Administrative Variance Public Meeting Staff may authorize a variance.


ANALYSIS OF ARTICLE 2, SECTION 2.D.3.H.2 VARIANCE STANDARDS

1. SPECIAL CONDITIONS AND CIRCUMSTANCES EXIST THAT ARE PECULIAR TO THE PARCEL OF LAND, BUILDING OR STRUCTURE, THAT ARE NOT APPLICABLE TO OTHER PARCELS OF LAND, STRUCTURES OR BUILDINGS IN THE SAME ZONING DISTRICT:

	<p>V1 (Exceeding Maximum Building Height) (V2 and V3 Pool Setbacks) Yes. Special conditions and circumstances exist that are peculiar to the parcel of land, building or structure, that are not applicable to other parcels of land, structures or buildings in the same zoning district.</p> <p>V1. The parcel is a small nonconforming corner lot located in the X500 flood zone. As a result, the applicant is subject to new flood maps issued by the Federal Emergency Management Agency (FEMA) that impact the manner in which structures in this area are constructed. The applicant was made aware of these changes that cause a two foot height discrepancy after her building permit application had been submitted.</p> <p>V2 and V3. The applicant is requesting the variances for the swimming pool to address the health concerns of her mother. Ms Potak advises that she is the primary caregiver and is requesting to be able to provide for the needs of her mother on site.</p>
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North View

2. SPECIAL CIRCUMSTANCES AND CONDITIONS DO NOT RESULT FROM THE ACTIONS OF THE APPLICANT:

	<p>V1, V2 and V3 Yes. Special circumstances and conditions do not result from the actions of the Applicant.</p> <p>V1. The applicant indicated that she was not aware of the changes made by FEMA until her building permit application had been submitted. In order to comply with the new guidelines, she is making the request to exceed the height by two feet.</p> <p>V2 and V3. The applicant’s justification statement states that she is the primary caregiver for her mother, who suffers from numerous health conditions, as supported by a letter from her doctor. The applicant further advises that swimming is necessary to ensure her mother’s overall health and well-being.</p>
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Side Interior View

3. GRANTING THE VARIANCE SHALL NOT CONFER UPON THE APPLICANT ANY SPECIAL PRIVILEGE DENIED BY THE COMPREHENSIVE PLAN AND THIS CODE TO OTHER PARCELS OF LAND, BUILDINGS OR STRUCTURES IN THE SAME ZONING DISTRICT:



Neighboring Gulf Stream Views

V1, V2 and V3 Yes. Granting of the variances will not confer upon the applicant any special privilege.

V1 Allowing the height to be increased by two feet will not confer special privilege. As previously indicated, the request is made necessary due to changes in FEMA requirements. In addition, a similar request for a multi-family development was granted by the Zoning Commission, under Application No. ZV-2018-2101.

V2 and V3. The areas of the pool encroachments are limited to the side street and rear of the site. The interior setback of 7.5 feet is meeting the requirements under ULDC 5.B.1.A - Pool/Spa Setbacks. Pools are common in the area and allowed as accessory to residential development.

4. LITERAL INTERPRETATION AND ENFORCEMENT OF THE TERMS AND PROVISIONS OF THIS CODE WOULD DEPRIVE THE APPLICANT OF RIGHTS COMMONLY ENJOYED BY OTHER PARCELS OF LAND IN THE SAME ZONING DISTRICT, AND WOULD WORK AN UNNECESSARY AND UNDUE HARDSHIP:

V1, V2 and V3 Yes. Literal interpretation and enforcement of the terms and provisions of this Code would deprive the applicant of rights commonly enjoyed by other parcels of land in the same Zoning District, and would work an unnecessary and undue hardship.

V1. As stated above, the applicant is requesting the variance in response to recent changes by FEMA. A literal interpretation of the Code would deny the applicant the ability to construct the dwelling in accordance with the Code and in order to provide accessory quarter's private living space for her mother, whom she states she is the primary caregiver.

V2 and V3. A literal interpretation of the Code would not allow the applicant to construct a pool that would address the needs of her mother. The applicant is requesting to construct an 8 foot wide pool that is 4.5 feet in depth.

5. GRANT OF VARIANCE IS THE MINIMUM VARIANCE THAT WILL MAKE POSSIBLE THE REASONABLE USE OF THE PARCEL OF LAND, BUILDING OR STRUCTURE:

V1, V1 and V3 Yes. Granting of the variance is the minimum variance that will make possible the reasonable use of the parcel of land, building or structure.

V1. Granting the variance will allow the applicant to meet the new FEMA requirements and construct her single family home with accessory quarters. The structure complies with all setback requirements. The request to increase the height by two feet would be considered the minimum request.

V2 and V3. The applicant has reduced the size of the swimming pool so that it addresses the need for her mother's therapy. The proposed pool will be 8 feet wide and 4.5 feet deep at its greatest depth. Allowing the encroachments will be the minimum variance. In addition, plant material will be installed along the areas of encroachment to mitigate any potential impacts.

6. GRANT OF THE VARIANCE WILL BE CONSISTENT WITH THE PURPOSES, GOALS, OBJECTIVES, AND POLICIES OF THE COMPREHENSIVE PLAN AND THIS CODE:

V1, V2 and V3 Yes. Granting of the variance will be consistent with the purposes, goals, objectives, and policies of the Comprehensive Plan and this Code.

V1. Granting of the request will allow the grade to be raised and ensure compliance with new FEMA requirements. This request is consistent with the goals of the Comprehensive Plan and the ULDC.

V2 and V3. The proposed pool will encroach the side street and rear setbacks. The condition requiring plant material along those property lines will ensure compliance with the Comprehensive Plan and the ULDC.

7. THE GRANT OF THE VARIANCE WILL NOT BE INJURIOUS TO THE AREA INVOLVED OR OTHERWISE DETRIMENTAL TO THE PUBLIC WELFARE:



V1, V2 and V3 Yes. Granting of the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

V1. Allowing the height of the structure to be increased by two feet will not be detrimental to the public welfare.

In addition, there is a multi-family development in close proximity that was granted a similar height variance by the Zoning Commission under Application No. ZV-2018-2101.

V2 and V3. Any potential negative impacts created by the pool will be mitigated by landscaping. Staff has proposed conditions of approval requiring the installation and maintenance of plant material along the affected property lines.

DEVELOPMENT ORDER

The development order for this particular variance shall lapse on August 27, 2021, one year from the approval date. (DATE: MONITORING: Zoning)

ADMINISTRATIVE VARIANCE PUBLIC MEETING CONDITIONS

1. At time of application for a Building Permit, the Property Owner shall provide a copy of this Variance Approval along with copies of the approved Survey to the Building Division. (BLDGPMT/ONGOING: BUILDING DIVISION – ZONING DIVISION)
2. On or before August 27, 2021, the Property Owner shall have received the required Building Permit, Final Building Inspection, and received the Certificate of Occupancy for the single family dwelling. (BLDGPMT/CC/DATE: BUILDING DIVISION)
3. On or before August 27, 2021, the Property Owner shall have received the required Building Permit and Final Building Inspection, and received the Certificate of Completion for the pool. (BLDGPMT/CC/DATE: BUILDING DIVISION)
4. On or before August 27, 2021, the Property Owner shall have received a Building permit, Final Inspection and received the Certificate of Completion for an eight foot wall along the sides and rear property lines. (BLDGPMT/CC/DATE: BUILDING DIVISION)
5. On or before August 27, 2021, the Property Owner shall install shrubs a minimum of 36 inches in height at time of planting, spaced 48 inches on center, and maintained at a height of 72 inches. (BLDGPMT/CC/DATE: BUILDING DIVISION – ZONING DIVISION)
6. The Property Owner shall not construct any permanent structures on the roof. (BLDGPMT/ONGOING: BUILDING DIVISION – ZONING DIVISION)