

Town of Lauderdale-By-The-Sea
Regular Planning and Zoning Board

Agenda

Wednesday, November 1, 2023

6:00 PM



Jarvis Hall 4505 N. Ocean Drive
www.Lauderdalebythesea-fl.gov

LAUDERDALE-BY-THE-SEA TOWN COMMISSION

Regular Planning and Zoning Board

Wednesday, November 1, 2023, 6:00 PM
Jarvis Hall 4505 N. Ocean Drive, 33308

1. **CALL TO ORDER**

2. **PLEDGE OF ALLEGIANCE TO THE FLAG**

3. **APPROVAL OF MINUTES**

3.a. September Minutes

4. **PUBLIC COMMENTS**

5. **NEW BUSINESS**

5.a. Case Number 2023-V-02: Michael Trevor Armstrong (Applicant) – Pursuant to Chapter 30 “Unified Land Development Regulations,” Article IV “Development Permits Applications, Requirements And Review Procedures,” Division 4 “Adjustments to the Code Procedures And Requirements” of the Town Code of Ordinances (“Town Code”), the Applicant has requested a Variance from Section 30-313(s)(2) and 30-313 (d)(1)(a) of the Town’s Code of Ordinances, to permit the construction of a canopy at the property line, within the required side and rear setbacks for where the rear setback for an accessory structure is five (5) feet and for the erection of a ten (10) foot high wall where the code allows a maximum height of six (6) feet for the property located at 1900 E Terra Mar Drive.

6. **OLD BUSINESS**

7. **UPDATES/BOARD MEMBER COMMENTS**

8. **ADJOURNMENT**

THE TOWN OF LAUDERDALE-BY-THE-SEA WILL FURNISH APPROPRIATE AUXILIARY AIDS AND SERVICES NECESSARY TO AFFORD INDIVIDUALS AN EQUAL OPPORTUNITY TO PARTICIPATE IN MEETINGS OF THE TOWN COMMISSION. IN ACCORDANCE WITH THE AMERICANS WITH DISABILITIES ACT AND FLORIDA STATUTE 286.26, PERSONS WITH DISABILITIES NEEDING SPECIAL ACCOMMODATION TO PARTICIPATE IN THIS PROCEEDING

SHOULD CONTACT THE TOWN CLERK NO LATER THAN TWO (2) DAYS PRIOR TO THE MEETING AT (954) 640-4200 FOR ASSISTANCE.

IF ANY PERSON DECIDES TO APPEAL ANY DECISION MADE BY THE TOWN COMMISSION WITH RESPECT TO ANY MATTER CONSIDERED AT SUCH MEETING OR HEARING, HE/SHE WILL NEED A RECORD OF THE PROCEEDINGS AND FOR SUCH PURPOSES MAY NEED TO ENSURE THAT A VERBATIM RECORDING OF THE PROCEEDINGS IS MADE, WHICH RECORD INCLUDES THE TESTIMONY AND EVIDENCE UPON WHICH THE APPEAL IS TO BE BASED.

PROCEDURES FOR PUBLIC COMMENTS:

Public Comments may address issues that are not on this meeting’s agenda, but should relate to the business of the Town, and should not contain personal attacks. If your comment requires follow up, the Town Manager will have a staff person respond to your concerns, and will advise us of the outcome.

The Town Clerk will read off the names of those who have signed up to speak. When your name is called, please come to the podium, state your name for the record, and indicate whether you are a Town resident. Do not state your address. You have up to three minutes to make your comments, but there is no requirement to use the entire time. If you wish to address a particular Commissioner or member of Town Administration, please do so by use of their title.

If you wish to approach the Commission dais to hand out a document or for some other reason, please request permission and

state your reason for doing so. All documents to be provided to the Commission should be handed to the Town Clerk for distribution.

These procedures have been developed to assure that the Town Commission meeting time is efficiently used, and that meetings are conducted in a polite and respectful manner. More information on the decorum rules for Town Commission meetings is available in Section 2-23 of the Town Code of Ordinances.

INVOCATION:

The Invocation before each Town Commission meeting is a voluntary service of a private citizen, offered to serve the spiritual needs of the members of the Town Commission and solemnize the meeting. It is not intended to be an opportunity to advance or disparage one faith or belief over another. The views expressed in the Invocation have not been previously reviewed by the Town and do not necessarily represent the beliefs of any Town employee or official. No person is required to be present at or participate in the Invocation, and the decision whether to be present or participate in the Invocation will not affect any person's right to actively participate in the official business of the Town or obtain any benefit from the Town. The Town's written Invocation policy is available on its website, and upon written request to the Town Clerk.all static

NON APPROVED
TOWN OF LAUDERDALE-BY-THE SEA
PLANNING AND ZONING BOARD MEETING MINUTES
LIVE STREAMED FROM JARVIS HALL
Tuesday, September 19, 2023

1. CALL TO ORDER & PLEDGE OF ALLEGIANCE

Chair Piersante called the in-person Planning and Zoning (P&Z) Board meeting for the Town of Lauderdale-By-The-Sea (L-B-T-S) to order at approximately 6:10PM.

2. PLEDGE OF ALLEGIANCE TO THE FLAG

The Pledge of Allegiance was recited.

ROLL CALL & WELCOME

Board Clerk Megan Small called the roll and present in-person were Chair Ron Piersante, Vice Chair Howard Goldberg, and Board Members Wayne Dillistin, Patricia Omana, and Denise Lambert. Also attending were 1st Alternate Karen Sylvester and 2nd Alternate Karen Blake. Present in person were Town Attorney James White, Development Services Director Jhanelle Campbell, Assistant Development Services Director Muriel Bryan Ramirez, and Board Clerk Megan Small.

3. APPROVAL OF MINUTES

a. Planning & Zoning (P&Z) Meeting Minutes – June 7, 2023

Vice Chair Goldberg made a motion to approve the minutes of the P&Z Meeting of June 7, 2023 as written. The motion was seconded by Board Member Dillistin. The motion to approve the June 7, 2023 minutes as written carried 5-0.

4. PUBLIC COMMENTS

Chair Piersante opened the meeting to the public for any comments on items not on the agenda. When an agenda item was presented, public comments regarding that item would be heard at that time. As there was no one from the public present, the Chair closed this portion of Public Comments.

5. NEW BUSINESS

5.a. An Ordinance of the Town of Lauderdale-By-The-Sea, Florida, Amending Chapter 30 "Unified Land Development Regulations," Article I "In General," Section 30-11 "Definitions" and Article V "Zoning," Section 30-311 "Boats, Boat Lifts, Boathouses, Mooring, and Docking" and Providing for Codification, Severability, Conflicts, and For An Effective Date.

Development Services Director Jhanelle Campbell presented this item. Meeting discussions/actions were notated but were not limited to what was typed. Director Campbell stated that in March 2022, the Town Commission directed Staff to review the Code for requirements for Marine Structures and compare them to other cities. At that time, Staff made several amendments to the Code (e.g., clarified definitions, removed duplicative terms, replaced regulations for marine structures in the waterway, instituted regulations for waterways wider than and narrower than 100 feet in width, and established new side setbacks for docks installed at commercial properties adjacent to residential property. They did not address

marine structures in the waterway. The problem was that when residents would come in to install a dock and they had a boatlift attached to that dock, they were space limited. Staff went back to the Commission and asked for direction. The Town Commission requested Staff to do research and they did. They found that their regulations were restrictive as it pertained to marine structures. They were directed to go back and amend the Ordinance again. The Director explained that it was the Ordinance the Board had before them. Their definition for navigational channel was currently 40% of the width of the waterway. They were now removing that requirement. By doing this, in changing the allowance for boatlifts in waterways less than 100 feet to be able to protrude 25% instead of 20%, that solved the issue. This would allow more of our residents to be able to enjoy their waterway structures and waterway. She called for questions.

Vice Chair Goldberg asked about existing ones that exceeded 25%. Director Campbell said that it would have to be handled case-by-case. For example, if it was permitted under Pompano, it would remain. The Vice Chair said that to increase from 20% to 25% was a plus in Lauderdale-By-The-Sea. This also was in concurrence with other municipalities. She answered the Chair that this change brought us pretty much in alliance with other municipalities. He felt that there was no reason not to be in favor of this change. She answered the Vice Chair that all canals in LBTS were roughly 80 feet. As a boater, 1st Alternate Karen Sylvester felt that being able to turnaround in these narrow waterways with 25% coming in could cause an issue along with traffic going back and forth. She has a boatlift and a boat and it was already difficult with the 20%. Vice Chair Goldberg said that where he lived, most of the time people with a big boat would back into the canal. They did not make a turn in the middle of the canal.

1st Alternate Sylvester said that people would not be able to turnaround now in her canal. The Director answered Board Member Dillistin that this would not impact the marina for the size of boats allowed there. She further stated that these proposed regulations did not apply to the Intracoastal. The Vice Chair felt this was a win-win for everyone and the 1st Alternate felt it was not a win-win for everyone. She was fine if the voting went the other way from how she felt but she wanted to state it was not a win-win for everyone. Board Member Dillistin was answered by the Director that this was basically what the Commissioners asked for. Vice Chair Goldberg said this was what the Commissioners wanted and we would be going along with other municipalities. 1st Alternate Sylvester said we should not go along with it just because other municipalities have it that way. We would not want high rises like other municipalities have. Vice Chair Goldberg described the location of one canal that went into the marina for which someone in that area put in a new boatlift that rose out of the water and became an extension of the dock. He was wondering if it would be included in the new regulations. Issues like this would be decided case-by-case. As no one else requested to speak or comment, the Chair called for a motion.

Vice Chair Goldberg made a motion to approve this agenda item. The motion was seconded by Board Member Lambert. Discussion: The Director answered the Chair that Staff's recommendation was approval. The motion to approve carried 5-0 (the full regular board was unanimous for this approval but for the record, 1st Alternate Sylvester would not have voted for this agenda item and 2nd Alternate Blake acknowledged as an alternate with a full board present, she could not vote).

Director Campbell and Chair Piersante welcomed 2nd Alternate Karen Blake and Director Campbell also welcomed Assistant Development Services Director Muriel Bryan Ramirez who was also an architect by training.

6. OLD BUSINESS

None.

7. UPDATES/BOARD MEMBER COMMENTS

Vice Chair Goldberg said that tomorrow the Chamber of Commerce has a social event and everyone was welcome to come. He gave the time and location for the event.

8. ADJOURNMENT

As all business was finished and without objection, the meeting was adjourned at approximately 6:28PM.

Chair Ron Piersante

ATTEST:

Date Accepted: _____



Agenda Item No: 5.a.

Planning and Zoning Board Agenda Item Report

Meeting Date: November 1, 2023

Submitted By: Jhanelle Campbell, Development Services Director

Submitting Department: Development Services

Item Type: Presentation

Agenda Section: NEW BUSINESS

Subject Title: Case Number 2023-V-02: Michael Trevor Armstrong (Applicant) – Pursuant to Chapter 30 “Unified Land Development Regulations,” Article IV “Development Permits Applications, Requirements And Review Procedures,” Division 4 “Adjustments to the Code Procedures And Requirements” of the Town Code of Ordinances (“Town Code”), the Applicant has requested a Variance from Section 30-313(s)(2) and 30-313 (d)(1)(a) of the Town’s Code of Ordinances, to permit the construction of a canopy at the property line, within the required side and rear setbacks for where the rear setback for an accessory structure is five (5) feet and for the erection of a ten (10) foot high wall where the code allows a maximum height of six (6) feet for the property located at 1900 E Terra Mar Drive.

Explanation:

Recommendation:

Exhibits:

1. 2023-V-02 1900 E Terra Mar Drive Staff Report
2. Ex 1 2023-V-02 Application and plans
3. Ex 2 Notice of Public Hearings 30-139
4. Ex 3 Section 30-313 Accessory Structures
5. Ex 4 Variance 30-127
6. Ex 5 2023-V-02 Narrative



Town of Lauderdale-By-The-Sea

Development Services Department

To: Planning & Zoning Board (the "Board")

From: Jhanelle Campbell, Development Services Director

Meeting Date: November 1, 2023

New Business: Case Number 2023-V-02: Michael Trevor Armstrong (Applicant) – Pursuant to Chapter 30 "Unified Land Development Regulations," Section 30-127 "Variance procedures and requirements" of the Town's Code of Ordinances ("Town Code"), the Applicant has requested a Variance (2023-V-02) from Section 30-313(s)(2) of the Town Code, to permit the construction of a canopy at the property line that encroaches into both the required five (5) foot side yard setback and the required fifteen (15) foot rear yard setback for an accessory structure and from Section 30-313(d)(1)(a) of the Town Code, to permit the erection of a wall ten (10) feet in height where a maximum height of six (6) feet is permitted for the subject property located at 1900 E Terra Mar Drive.

The Applicant, Michael Trevor Armstrong, is requesting a Variance (**Exhibit 1**) from Town Code Section 30-313(s)(2) to permit the construction of a canopy at the property line that encroaches on the required five (5) foot side yard setback and the required fifteen (15) foot rear yard setback for an accessory structure. Additionally, the Applicant is requesting a variance from Section 30-313(d)(1)(a) of the Town Code to permit the erection of a wall ten (10) feet in height where a maximum height of six (6) feet is permitted. The subject property is located at 1900 E Terra Mar Drive (the "Property") and is situated on the northeast corner of Terra Mar Drive and E Terra Mar Drive, with the rear of the Property abutting a canal.



The Applicant has paid the appropriate fee and submitted the required documents.

Notice was sent to all property owners within 300 feet of the subject property on October 20, 2023. The Property has been posted and the hearing has been advertised pursuant to Section 30-139 of the Code of Ordinances (**Exhibit 2**). To date, we have not received any responses to the notice.

Description of the Existing Site

The Property, zoned RS-4, is located at 1900 E Terra Mar Drive and is currently used as a single-family residence. The Property is located on the northeast corner of Terra Mar Drive and E Terra Mar Drive and abuts a canal.

Background

The existing building was constructed in the early 1950's, and underwent its most recent renovation in 2016. The property is 8,818 SF (0.20 acres) in size. The Applicant wishes to construct a canopy (accessory structure) along a portion of the side and rear property lines. Additionally, the Applicant intends to construct a ten (10) foot high wall. The Town Code requires an accessory structure to be setback a minimum of five (5) feet on the side yards and fifteen (15) feet on the rear yard lot lines that do not abut a waterway. Further, the Town Code does not allow walls to exceed six (6) feet in height. For side yard or rear yard property lines abutting the water, the required setback must equal the setback for the primary structure. In this case, the minimum rear yard setback for the canopy would be fifteen (15) feet.

Variance Request – Construct a canopy within the side and rear yard setbacks and erect a ten foot high wall

The Applicant has requested a variance to construct a canopy at the side and rear property line within the required side and rear yard setbacks for an accessory structure where Section 30-313(s)(1) and (2) of the Town Code (**Exhibit 3**) specify a minimum side yard setback of five (5) feet is required, and a minimum rear yard setback of fifteen (15) feet for waterfront properties, in line with the requirements for the primary structure in the RS-4 district. The Applicant is also requesting to construct a ten (10) foot high wall where Section 30-313(d)(1)(a) allows a maximum height of six (6) feet.

Criteria and Analysis

Section 30-127 of the Town Code (**Exhibit 4**) provides that a variance application shall be evaluated by considering the following criteria. Please note that the Applicant's response is taken directly from the application. For the full narrative from the Applicant, please see **Exhibit 5**.

1. *Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.*

Applicant statement: This property abuts a street on the west, the intercoastal waterway on the east, a bridge on the south, and a house on the north. An easement is also in place on the south side which is frequently accessed by workers. Every person walking along the bridge looks directly into and over the said property. This unique situation also invites homeless and intruders onto the property. Every vehicle light shines into the house, and traffic noise radiates into the property. Construction workers look into and over this property as they work on the easement utilities. Is for these reasons and security concerns that we are asking for a setback variance.

Staff findings: The property is located on the northwest side of the Terra Mar Bridge. There is a Town-owned right-of-way on both sides of the bridge. Although Town employees seldom, if ever, utilize this space, it is possible that other individuals working nearby use this area to get away from traffic and the sun. The equipment shown in the photos that are part of the Applicant's narrative (**Exhibit 5**) is the property of the Terra Mar Association, and is not Town owned. The Property's location, in close proximity to the bridge and the adjacent green area, places the Applicant in a position where their property is clearly visible from both the bridge and the adjacent green area.

This criterion has been met.

2. *The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.*

Applicant Statement: Aside from the reasons above, this property is accessible to anyone walking along the bridge and many people often fish from the bridge.

Staff Findings: In Lauderdale-By-The-Sea, there are very few properties that are located at the end of the oncoming lane of a bridge. Staff contacted the Broward County Sheriff's Office to request information on the number of times they have responded to issues on the Property regarding trespassing, or excessive noise

resulting from public activities such as walking, driving or fishing near the Property. While Broward Sheriff's Office records indicate only one recent service call at that address related to an unhoused person trespassing on the property and using the pool, we believe that the property's location, in close proximity to the bridge, can be seen as a hardship.

This criterion has been met.

3. *The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.*

Applicant Statement: The owner of the property is directly impacted by the absence of security and privacy enjoyed by all homeowners. The owner often travels for work and the wife and newborn baby are left alone to shelter in place at their home.

Staff Findings: The Applicant has options to increase security on the Property that would not require a variance, such as the extension of the existing wall along the rear property line.

This criterion has not been met.

4. *The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.*

Applicant Statement: The hardship is created by the land use regulations and specific lot layout.

Staff Findings: The Town Code permits the construction of a fence that can effectively safeguard the Applicant's Property from trespassers. The Applicant has not explored any alternative methods to enhance the privacy and/or security of their property because the intent of the canopy is to restrict views onto the Property from the bridge. A compliant fence will be installed on the northern portion of the rear property line.

This criterion has not been met.

5. *The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.*

Applicant Statement: The variance will be in harmony with the property and adjoining neighborhood. The new wall [and canopy] will provide a visual shelter from the street/bridge, deter would be intruders, provide the owner with privacy and consequently shade opportunity to the homeowner.

Staff Findings: The property situated on the opposite corner (1915 E Terra Mar Drive) is also positioned at the end of the bridge, and has public right-of-way immediately adjacent to the northern and western property lines. Vehicles exiting Terra Mar island are able to look into that property, just as vehicles driving onto Terra Mar island can see into the Applicant's property. The major difference with the property on the opposite corner is that it appears to have incorporated more landscaping, which has effectively created a visual barrier. The Applicant has not explored the possibility of installing landscaping that complies with the Town's Code and could serve as a visual barrier. Further, there is no indication in this application that the Applicant is requesting the minimum variance required for the proposed canopy and its supporting wall. There are also several multi-level buildings located across the canal from the Applicant's property, and they have an unobstructed view into the Property. The installation of the proposed canopy will not impact these views in any way.

This criterion has not been met.

6. *The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.*

Applicant Statement: The grant of the variance will be to build within the setback zone.

Staff Finding: Fences, walls, and gates are permitted along the side and rear yard property line, but are limited to six (6) feet in height.

This criterion has been met.

7. *Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.*

Applicant Statement: Failure of the variance will deny the owner the complete use of their home and its intended use. The owner will be denied the privacy and security which is enjoyed by all residents of Lauderdale by the Sea. This is a unique situation not duplicated anywhere within the city of Lauderdale by the Sea. The proposed wall/canopy will also enhance the city and community by not providing an unsightly view.

Staff Finding: The property will remain functional even if the variance is not approved.

This criteria has not been met.

STAFF RECOMMENDATIONS:

The Board has the following options:

1. Recommend approval of the Variance to the Town Commission;
2. Recommend approval of the Variance to the Town Commission with conditions; or
3. Recommend denial of the Variance to the Town Commission.

Staff believes that the granting of the variance is not justified based on the requirements of the Town Code and recommends **DENIAL**. The criteria to grant the request have not been met.

Should the Board recommend approval of the request to the Town Commission, staff recommends the following conditions of approval:

1. All construction shall be in accordance with the plans, incorporated into an approved Development Order as **Exhibit 1**, which are listed in this report, which incorporate all modifications and conditions approved by the Town Commission. If changes occur as part of the building permit and/or architectural review process, that Applicant will be required to provide this information to Staff to determine if a modification of the Site Plan approval is required.
2. Prior to issuance of a building permit, the Town Clerk shall certify that there are no outstanding fines, moneys, fees, taxes or other charges owed to the Town by the current or past owners or operators of the property in which the building permit is being issued. If fees are related to a code violation that requires a building permit to correct the violation, only the building permits required by the Town for correction of the violation may be issued. No other building permits will be issued until all outstanding debts to the Town are paid in full.
3. The approved site plan does not in any way create a right on the part of the applicant to obtain a permit from a state or federal agency, and does not create liability on the part of the Town for issuance of the approval if the applicant fails to obtain requisite approvals or fulfill the obligations imposed by a state or federal agency or undertakes action that result in a violation of federal or state law.
4. All applicable state and federal permits shall be obtained before commencement of construction.

In any case, the Board should list its findings and conclusions to support its recommendation to the Town Commission.

The Variance request is scheduled for the Town Commission meeting of November 14, 2023.

Exhibits:

1. 2023 V-02 Zoning Variance Application and Plans
2. Public Notice and Notice Requirements 30-139
3. Section 30-313(s)(1) and (2) – Accessory Structures
4. Variance Requirements 30-127
5. Applicant narrative with photographs

U:\0 Properties\Terra Mar\Terra Mar E 1900\2023-V-02\2023-V-02 Variance (1900 E Terra Mar Drive) Staff Report.docx

LAUDERDALE•BY•THE•SEA

Universal Development Application



4501 N. OCEAN DRIVE, LAUDERDALE-BY-THE-SEA, FL 33308
(954)-640-4210
ZONING@LBTS-FL.GOV
M-F 8:30-4:30 PM

Administrative Purpose

Application Number: 2023-V-02/ 1900 E TERRA MAR DRIVE

BTR #: _____

Date Application Submitted: 7/6/2023

Date Application found Completed: _____

Pre-Application Meeting Date: _____

Non-Refundable Application Fee: _____

Cost Recovery Fee: _____

In accordance with Section 30.111-30.113 of the Town's Unified Land Development Regulations: Development applications are required to be provided before any development permit is issued. Please refer to the Town's website to obtain a copy of the corresponding Application Checklist and Fee Schedule.

Check appropriate application and block:

- | | |
|---|---|
| ☐ Appeal of Administrative Decision | ☐ Historic Designation |
| ☐ Site Plan | ☐ Certificate of Appropriateness |
| ☐ Site Plan Level 1 Modification | ☐ Zoning Relief |
| ☐ Site Plan Level 2 Modification | ☐ Rezoning |
| ☐ Conditional Use _____ | ☐ Right-of-Way Vacation |
| ☐ Conditional Use Modification _____ | ☐ Comprehensive Plan Amendment |
| ☐ Administrative Adjustment _____ | ☐ Payment in Lieu of Parking |
| ☒ Variance <u>PROPERTY SETBACKS</u> | ☐ Parking Reduction _____ |
| ☐ Plat _____ | ☐ Other: _____ |
| ☐ Architectural Review _____ | |

Project Name: SAFETY PROPERTY SETBACKS

Folio Numbers: 4943 06 20 0660

Street Address: 1900 E TERRA MAR DRIVE, LAUDERDALE BY THE SEA, FL 33062

Legal Description: TERRA MAR ISLAND ESTATES 29-12 B LOT 1 BLK 5

Name of Property Owner: ARMSTRONG, MICHAEL TREVOR Property Owner's Phone #: _____

Address of Property Owner: 1900 E TERRA MAR DRIVE, LAUDERDALE BY THE SEA, FL 33062

Property Owner's Email Address: trevor.armstrong@stofgaming.com

Name of Applicant: ARMSTRONG, MICHAEL TREVOR Applicant's Phone #: (954) 347-6049

Applicant's Address: 1900 E TERRA MAR DRIVE, LAUDERDALE BY THE SEA, FL 33062

Applicant Email Address: trevor.armstrong@stofgaming.com

Name of Agent (e.g. Contractor Representing the Project): BALLON DESIGN, LLC

Agent's Email Address: vballon@ballon.design Agent's Phone #: (954) 665-4003

Agent's Address: 2800 WEST ST RD 84, FT LAUDERDALE, FL 33312

Land Use Plan Designation: SINGLE FAMILY RESIDENTIAL Zoning District: SRS-4 - SINGLE FAMILY DWELLING

Existing Use of the Subject Property: SINGLE FAMILY HOME

Proposed Use of the Subject Property: SINGLE FAMILY HOME

APPROVAL OF WAIVER OF TIME ALLOWED TO REVIEW APPLICATION

I M. ARMSTRONG (Applicant/ Property Owner) hereby waive my rights as to the required review time stated in House Bill 7103 as it relates to time limits to review applications for approval of a development permit or development order.

Print Name of Property Owner: MICHAEL T. ARMSTRONG Date: 6/1/2023

Signature of Property Owner: [Signature]

DEVELOPMENT APPLICATION SIGNATURE SECTION

Property Owner

Print Name of Property Owner: MICHAEL T. ARMSTRONG Date: 6/1/2023

Signature of Property Owner: [Signature]

State of Florida:

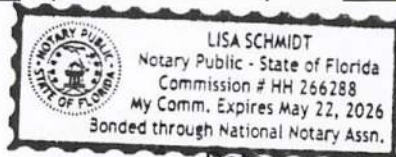
County:

SWORN AND SUBSCRIBED before me by means of ☐ physical presence or ☐ online notarization, this day 1st of JUNE, 20 23.

The person signing is ☒ personally known to me or has ☐ produced identification

Print Notary Name: LISA SCHMIDT My Commission Expires: MAY 22, 2026

Notary Signature: [Signature]



Applicant

Print Name of Property Owner: _____ Date: _____

Signature of Property Owner: _____

State of Florida:

County:

SWORN AND SUBSCRIBED before me by means of physical presence or online notarization, this day _____ of _____, 20_____.

The person signing is ☐ personally known to me or has ☐ produced identification

Print Notary Name: _____ My Commission Expires: _____

Notary Signature: _____



Lauderdale By the Sea

Re: Setback Variance Request

September 29, 2023

Planning & Zoning Board and Town Commission

4501 North Ocean Drive

Lauderdale-By-The-Sea, FL 33308

Tel: 954-640-4200

To Whom it may concern,

Request for setback variance on single family home built in 1953. Setback and height variance request will allow the construction of a wall and overhead canopy on the property line which will provide much needed security and privacy to the property. Please refer to the attached references and exhibits. We are requesting the property wall and canopy at the shown location be 10'-0" in height. We are in compliance with Section 30-127 as follows:

Section A items are attached, and all fees paid.

Section B are as follows:

1. Are there special conditions and circumstances existing that affect the land, structure or building involved preventing the reasonable use of such land, structure or building?

RESPONSE: This property abuts a street on the west, the intercoastal waterway on the east, a bridge on the south, and a house on the north. An easement is also in place on the south side which is frequently accessed by workers. Every person walking along the bridge looks directly into and over the said property. This unique situation/location also invites homeless and intruders into the property. Every vehicle light shines into the house, and traffic noise radiates into the property. Construction workers look into and over this property as they work on the easement utilities. Is for these reasons and security concerns that we are asking for a setback variance.

2. Are there circumstances which cause the hardship peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district?

RESPONSE: Aside from the reasons above, this property is accessible to anyone walking along the bridge and many people often fish from the bridge.

3. Does the literal interpretation of the provisions of the applicable regulation result in hardship upon the owner, as distinguished from a mere inconvenience?

RESPONSE: The owner of the property is directly impacted by the absence of security and privacy enjoyed by all homeowners. The owner often travels for work and the wife and newborn baby are left alone to shelter in place at their own home.

4. How is the hardship not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations?

RESPONSE: The hardship is created by the land use regulation, and specific lot layout.

5. Is a variance the minimum that will make possible the reasonable use of the property and the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will the variance not be injurious to the neighborhood or otherwise detrimental to the public welfare?

RESPONSE: The variance will be in harmony with the property and adjoining neighborhood. The new wall will provide a visual shelter from the street/bridge, deter would be intruders, provide the owner with privacy and consequently shade opportunity to the homeowner.

6. How does the grant of the variance not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies?

RESPONSE: The grant of the variance will be to build within the setback zone.

7. Will failure to grant the variance render the property unusable as a permitted use in the zoning district in which the property lies?

RESPONSE: Failure of the variance will deny the owner the complete use of their home and its intended use. The owner will be denied the privacy and security which is enjoyed by all residents of Lauderdale by the Sea. This is a unique situation not duplicated anywhere within the city of Lauderdale by the Sea. The proposed wall/canopy will also enhance the city and community by not providing an unsightly view.

Sincerely,



Victor A. Ballon



FAR VIEW FROM THE BRIDGE



CLOSER VIEW FROM THE BRIDGE



CLOSER VIEW FROM THE BRIDGE

DIRECT ACCESS FROM THE BRIDGE TO THE HOME



PEOPLE FISHING OFF THE BRIDGE ADJACENT TO THE HOME



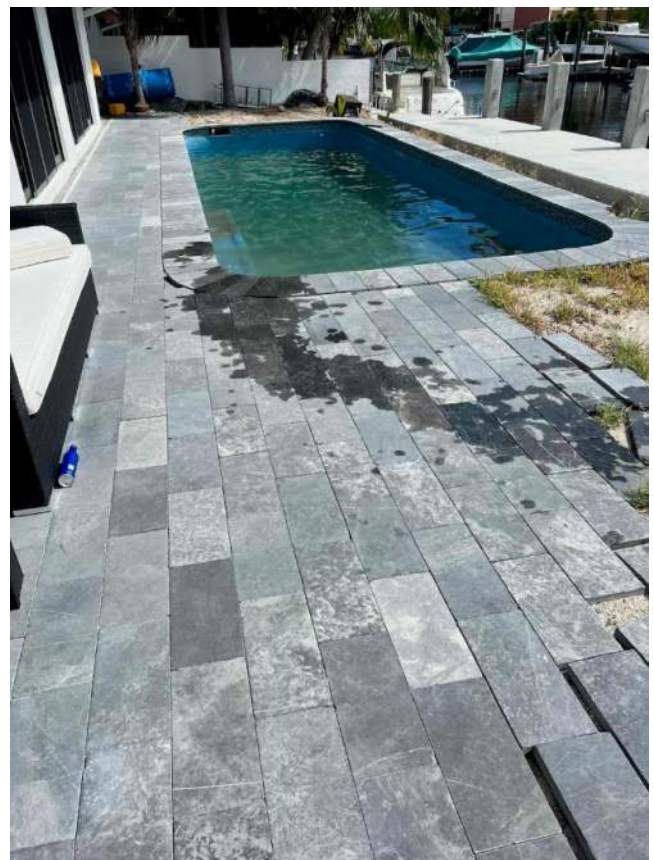
PEOPLE FISHING AND OVERLOOKING INTO THE PROPERTY FROM THE BRIDGE ADJACENT TO THE HOME





LATEST INCIDENT OF INTRUDERS TRESSPASSING INTO THE HOME

Date/time: August 28th around 11am.
Case Number: 13-2308-621
Reference Phone Number: 954-831-8700
Police Officers involved: Bryan Nicoletti and
Christopher Krickovich.
Office: Lauderdale By The Sea



VIEW STUDY OF NEW PRIVACY WALL - BEFORE



FAR VIEW

VIEW STUDY OF NEW PRIVACY WALL - AFTER



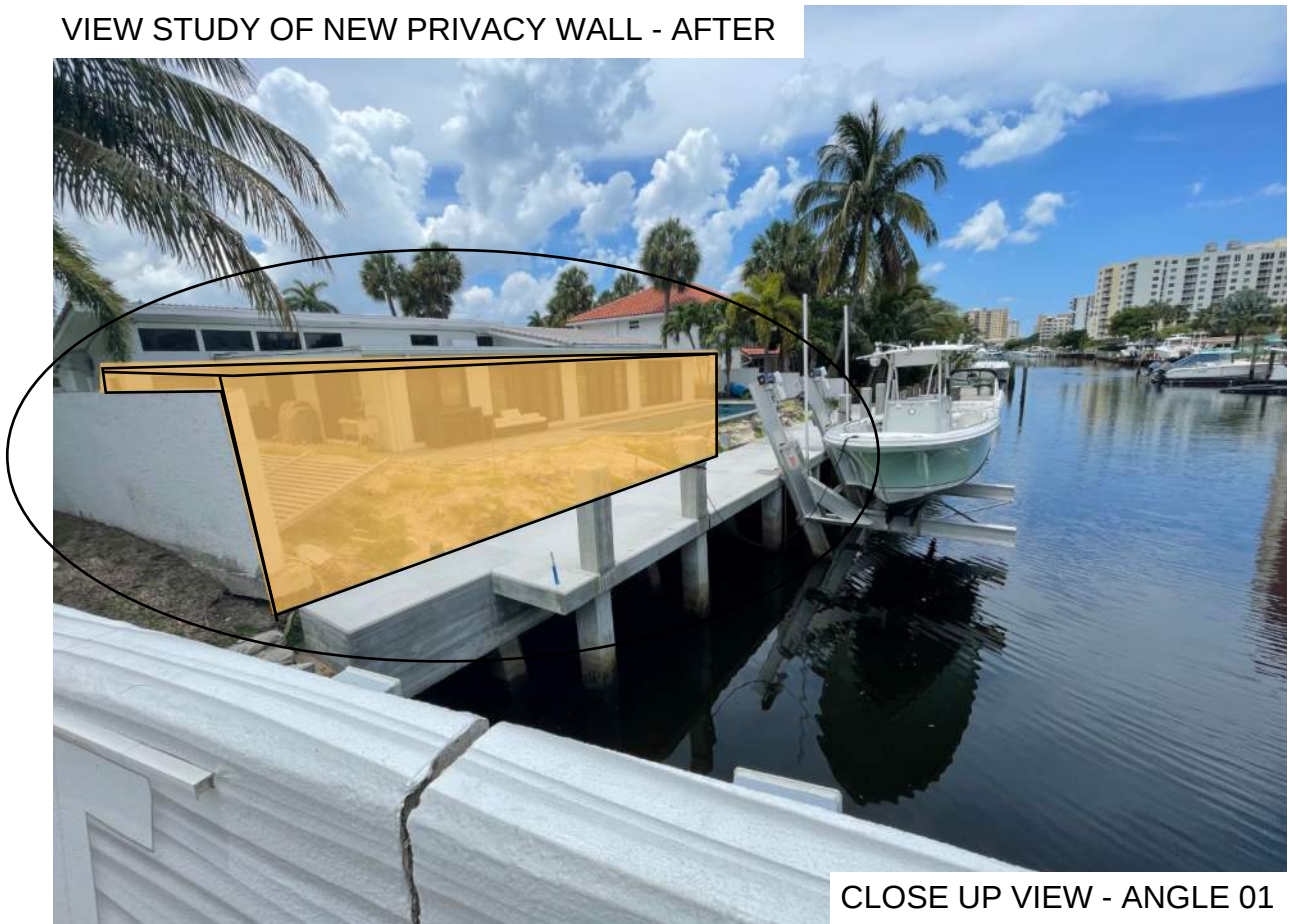
FAR VIEW

VIEW STUDY OF NEW PRIVACY WALL - BEFORE



CLOSE UP VIEW - ANGLE 01

VIEW STUDY OF NEW PRIVACY WALL - AFTER



CLOSE UP VIEW - ANGLE 01

VIEW STUDY OF NEW PRIVACY WALL - BEFORE



CLOSE UP VIEW - ANGLE 02

VIEW STUDY OF NEW PRIVACY WALL - AFTER



CLOSE UP VIEW - ANGLE 02

1. ALL DIMENSIONS INDICATED ON THIS SHEET ARE FROM FACE OF FINISH SURFACE UNLESS SPECIFICALLY NOTED OTHERWISE. ALL ANGLES ARE MULTIPLES OF 45° U.N.O.
2. CONTRACTOR SHALL COORDINATE ALL WORK ON THIS SHEET WITH THE DEMOLITION WORK, STRUCTURAL DRAWINGS.
3. EXISTING CONDITIONS NOT PART OF THIS PERMIT UNLESS SPECIFICALLY NOTED OTHERWISE.

NOTIFY THE ARCHITECT AND ENGINEERS IN WRITING OF ANY SYSTEMS OR UTILITIES CONFLICT THAT IS DISCOVERED. DO NOT PROCEED UNTIL APPROVED BY THE ARCHITECT IN WRITING.

5. FIELD VERIFY EXISTING CONDITIONS. ALERT ARCHITECT AND ENGINEERS OF ANY SYSTEMS OR UTILITIES CONFLICT DISCOVERED DURING DEMOLITION AND CONSTRUCTION PROCESS.

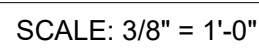
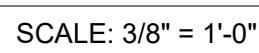
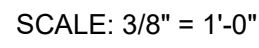
1	CONCRETE COLUMN, REF STRUCT. DETAILS FOR ADDITIONAL NOTES AND INFO.
2	MASONRY WALL, REF STRUCT. DETAILS FOR ADDITIONAL NOTES AND INFORMATION.
3	OPEN.
4	SEE ROOF SYSTEM BY FIRESTONE. OR APPROVED EQUAL. SLOPE TO SCUPPER WITH MIN 1/4" PER 10' ROOF PLAN TO PROVIDE A CONTINUOUS DRAINAGE PATH TO DRAIN.
5	PREHARDENED CORRUGATED INSTALLED METAL CAP FLASHING. CAP SHALL BE DESIGNED AND INSTALLED IN COMPLIANCE WITH SPIR ES-1. PAINTED TO MATCH WALL.
6	ROOF DRAIN OR SCUPPER WITH OVERFLOW
7	EXTERIOR JOINT.
8	PAVERS. FINISH TO MATCH EXISTING PAVERS UNLESS NOTED OTHERWISE.
9	LANDSCAPE AREA.

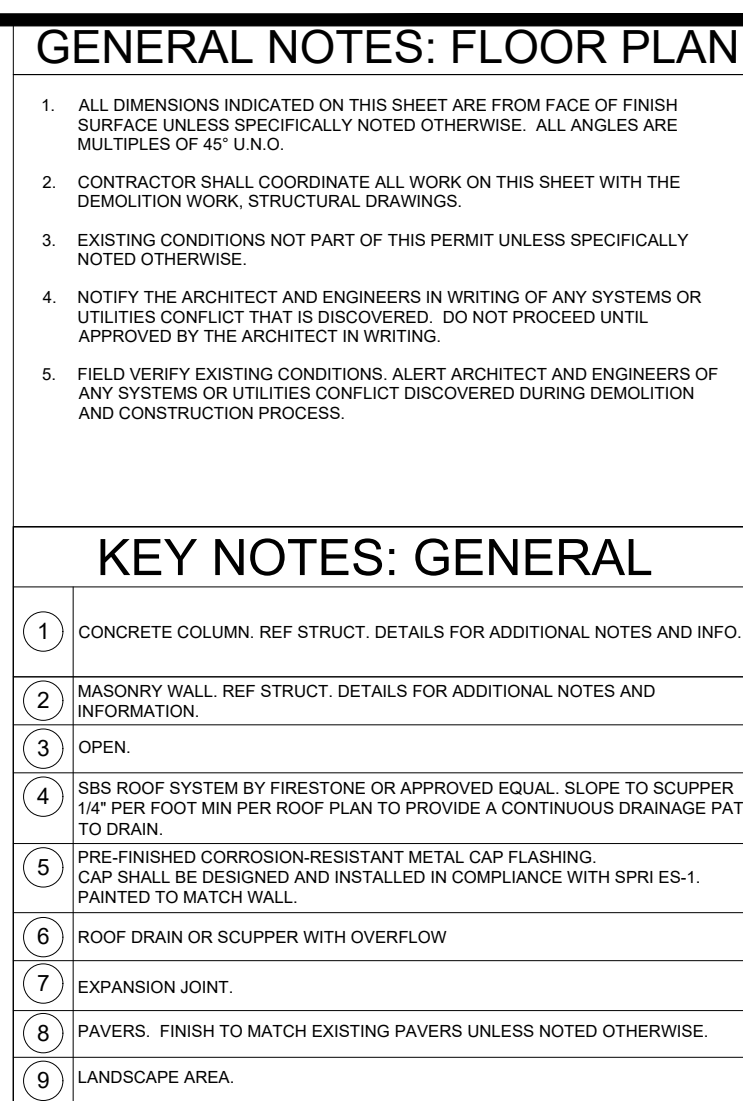
BALLON DESIGN
2800 W. STATE RD. 84
T. LAUDERDALE, FL 33312
(954)665-4003
<https://ballon.design>

TREVOR AND ANA ARMSTRONG
1900 EAST TERRA MAR DRIVE,
POMPANO BEACH FL 33062

[illegible]

EET NUMBER





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FT. LAUDERDALE, FL 33312
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FOR:
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[illegible]

SHEET NUMBER

Sec. 30-139. Notice of Public Hearings.

- (a) *Generally.* When an application for development approval is subject to a public hearing, the DSD shall ensure that the necessary public hearing is scheduled for the decision-making body reviewing the application and that proper notice of the public hearing is provided, as set forth herein. All notices for public hearings shall include the following information:
- (1) Applicant's name;
 - (2) The date, time, and place of the public hearing;
 - (3) A description of the property involved by street address or by legal description, and area of the subject property. A map may be substituted for the legal description or as required by State law;
 - (4) The nature, scope and purpose of the proposal being noticed;
 - (5) The Town departments where the public may inspect the application, staff report and related materials during normal business hours;
 - (6) A statement that affected parties may appear at the public hearing, be heard and submit evidence with respect to the application; and
 - (7) Other information as may be required by law.
- (b) *Mailed notice.*
- (1) Where mailed notice is required, pursuant to Table XXX, it shall be provided to all property owners within a 300 foot radius of the subject property, and shall include the subject property owner(s) and Town Development Services Department.
 - (2) Distances for purposes of mailed notice requirements shall be measured from the perimeter of the property subject to development approval, except that where the owner of the subject property owns contiguous property, the distance shall be measured from the perimeter of the boundary of the contiguous property.
 - (3) Property owners shall be determined by the ad valorem tax records of Broward County.
 - (4) The DSD shall prepare the written notice and provide said notice to the Town Clerk who shall be responsible for mailing the notices, with the exception of public participation meetings which shall be the responsibility of the applicant as set forth in section 30-114 of this Code.
 - (5) Mailed notice shall be deemed given when a notice has been properly addressed, stamped and deposited in a U.S. Postal depository or collected by an employee of the U.S. Postal Service.
 - (6) Notice by mailing is a courtesy only and no action taken by the Town shall be voided by the failure of any individual property owner to receive such notice.
- (c) *Published notice.* When the provisions of this chapter require published notice, the DSD shall provide that the notice be:
- (1) Published in the non-legal section of the local newspaper of general circulation that has been selected by the Town and in accordance with applicable Florida Statutes.
 - (2) Follow the timelines and ad type established in Table XXX in this article.
 - (3) For the purposes of this section and Table XXX:
 - a. "Display ad" shall be no less than two columns wide by ten inches long and the headline of the required notice shall be in a type no smaller than 18 point font size. If the ad is for a zoning map amendment, it shall also include a map pursuant to Florida Statutes 166.041(3)(c)2.

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- b. "Standard ad" shall be in the legal ad section of the classified ads of the newspaper and shall be in a type no smaller than 5 point font size.
- (d) *Posted notice.* When the provisions of this chapter require that notice be posted on the property subject to the application, the DSD shall provide the required sign to the applicant who will be responsible for posting the property, as set forth below:
- (1) Signs shall be placed on the property that is the subject of the application in accordance with timelines prescribed in Table XXX in this article prior to a required or requested hearing.
 - (2) If the subject property fronts on more than one right-of-way, then a sign shall be posted facing each right-of-way.
 - (3) Signs shall be placed no more than five feet from the street or if there is a sidewalk, no more than two feet beyond the property side edge of the sidewalk, so that the lettering is visible from the street.
 - (4) If the sign is destroyed or removed from the property, the applicant is responsible for obtaining another sign from the Town and posting the new sign on the property.
 - (5) The sign shall remain on the property until final disposition of the application. This shall include any deferral, rehearing, appeal, or requirement for review or hearing by another body. The sign information shall be updated to include any additional public hearings or public hearing deferrals consistent with Table XXX.
 - (6) No less than five days prior to the public hearing, the applicant shall execute and submit to the Department an affidavit of proof of the posting of the public notice sign in accordance with the provisions of this section. Updates as provided in (5) above shall also require such affidavit. If the applicant fails to submit the required affidavit, the DSD may postpone the application until the next public hearing after the affidavit has been supplied.
- (e) *Town Website Posting.* Notice of all development applications shall be provided on the Town's Website no later than ten days prior to any public hearing related to the application. Website Notice is a courtesy only and no action taken by the Town shall be voided by the failure of such notice to be posted.
- (f) *Re-noticing.* All costs of re-noticing the public hearing shall be borne by the party failing to comply with the applicable notice requirements, requesting the deferral or continuance, or whose actions are responsible for the deferral or continuance which may require re-noticing of the hearing. Continuances to a date certain, announced at the originally noticed meeting, shall not require re-notice of the new public hearing date. Continuances to unspecified dates, substantive changes to an application request during the period an application has been continued, or more than two continuances on the application, shall require re-noticing for the new public hearing date.
- (g) *Development applications requiring public hearing.* Public hearings on applications for development permit approvals other than rezoning, including, but not limited to administrative adjustments, appeals from administrative decisions, conditional uses, plats, site plans, vacations and variances shall be noticed as follows in accordance with Table XXX.
- (h) *Applicant bears burden of costs.* When the provisions of this chapter require that notice be provided, the costs of Town staff preparing the content of the notice and providing such notice shall be billed through cost recovery.
- (i) *Provisions of Florida Statutes to prevail.* Where provisions of the Florida Statutes conflict with provisions of this chapter, the Florida Statutes shall prevail except where this chapter contains supplementary requirements not in conflicting with the Florida Statutes.

Table XXX. Notice Requirements

Application Type	Florida Statute Reference	Public Participation Meeting	Board Notice Date (as applicable)	Commission Notice Date	Type of Notice			
					Website	Posted	Mailed 300'	Published (Ad Type)
Administrative adjustments, appeals from administrative decisions, plats, site plans, variances		n/a	10 days	10 days	X	X	X	n/a
Conditional uses for signs		10 days	n/a	10 days	X	X	X	n/a
A variance for a single-family home		n/a	10 days	10 days	X	X	X	n/a
Conditional uses, site plans, Level 2 site plan modifications, variances		10 days	10 days	10 days	X	X	X	n/a
Right-of-way vacations		10 days	10 days	10 days	X			X (Standard)
Architectural Review, Conditional Use Level 1 Modification, Site Plan Level 1 Modification		n/a			n/a	n/a	n/a	n/a
Comprehensive Plan - Text	163.3184	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)
Comprehensive Plan - Map	163.3184	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X	X	X	X (Display)
Land Development Code - Text Amendments changes to actual list of permitted, conditional, or	166.041(3)(c)2	10 days	10 days	7 days - 1st public hrg and 5 days - 2nd public hrg	X			X (Display)

prohibited uses within a zoning category).								
Land Development Code - all other Text Amendments	166.041	n/a	10 days	10 days	X			X (Standard)
Zoning Map Change (chapter 30)—Town (less than 10 contiguous acres)	166.041(3)(c)1	10 days	10 days	30 days	X		X	X (Standard)
Zoning Map Change (chapter 30)—Town (10 or more contiguous acres)	166.041(3)(c)2	10 days	10 days	7 days - 1st public hrg 5 days - 2nd public hrg	X	X	X*	X* (Display, with map)
Zoning Map Change (chapter 30)—Owner	166.041(3)(a)	10 days	10 days	10 days	X	X	X	X (Standard)

(Ord. No. 2022-05, § 3, 8-24-2022)

Section 30-313

(s) *Accessory buildings and structures.*

- (1) On a non-waterfront lot containing a single-family, duplex or townhouse dwelling, side and rear yard setbacks not abutting a street may be reduced to five feet for accessory buildings and structures.
- (2) On a waterfront lot, side and rear setbacks abutting the water shall be the same as for the primary structure.
- (3) Accessory buildings and structures may not exceed 12 feet in height on any lot.
- (4) The aggregate floor area of all accessory buildings or land area under an accessory structure shall not exceed five percent of the plot area.
- (5) No accessory building shall contain more than 50 percent of the floor area of the principal building.
- (6) Accessory buildings and structures in commercial zoning districts may be allowed, subject to Town Commission approval. Staff shall apply the standards listed above as best as possible before the Town Commission reviews the accessory buildings and structures in the commercial zoning district.

Sec. 30-127. Variances procedures and requirements.

- (a) *Purpose.* The purpose of this section is to:
- (1) Provide for minimum standards for consideration of variance applications;
 - (2) Provide for an orderly system of review of application for variances from the effect of zoning regulations on property within the Town in order to accord the owners and users of such property with the due process of law guaranteed by the Constitution of the United States of America and the State of Florida; and
 - (3) Provide for a set of procedures and standards to guide the DSD, Planning and Zoning Board and Town Commission in the review of an application for variance and the approval or denial thereof.
- (b) *Application.* Application shall be made as provided in section 30-112.
- (c) *Recommendations of the Planning and Zoning Board.*
- (1) The Planning and Zoning Board shall review applications for variances from the Town's Land Development Regulations in accordance with the procedures set forth in article IV, division 1 of this chapter.
 - (2) After receiving all relevant materials and information, the Planning and Zoning Board recommendation shall be by vote of a simple majority of the quorum present and voting.
 - (3) Decisions of the Planning and Zoning Board are advisory to the Town Commission.
 - (4) A recommendation for approval by the Planning and Zoning Board confers no legal right to the applicant in the absence of subsequent approval by the Town Commission.
- (d) *Action by Town Commission.*
- (1) The Town Commission shall make express findings on the elements necessary for the granting of a variance as provided in subsection (e) below.
 - (2) The decision of the Town Commission is not final until the filing of a development order with the Town Clerk which shall be recorded in the official records of Broward County.
- (e) *Criteria for considering an "application for a variance."* In considering an application for a variance, an application shall be evaluated by considering the following criteria:
- (1) Special conditions and circumstances exist affecting the land, structure or building involved preventing the reasonable use of such land, structure or building.
 - (2) The circumstances which cause the hardship are peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district.
 - (3) The literal interpretation of the provisions of the applicable regulation would result in a particular hardship upon the owner, as distinguished from a mere inconvenience.
 - (4) The hardship is not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations.
 - (5) The variance is the minimum variance that will make possible the reasonable use of the property and that the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

-
- (6) The grant of the variance does not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies.
 - (7) Financial hardship is not a basis for granting a variance unless the failure to grant the variance will render the property unusable as a permitted use in the zoning district in which the property lies.

(f) *Duration.*

- (1) Such rights and privileges shall be terminated at such time as designated in the conditions of the approval of the variance, or upon any interruption or cessation of the use permitted by the variance for one year or more.
- (2) The Town shall have continuing jurisdiction over all variances and may revoke, modify or suspend the approval of the variance, after a public hearing before the Town Commission and notice given in the same manner as required for approval of a variance under article IV, division 9 of this chapter, under the following conditions:
 - a. The variance was obtained by fraud or misrepresentation:
 - b. The variance has been exercised contrary to the conditions of its approval; or
 - c. The exception permitted by the variance has been exercised so as to be detrimental to the public health, safety or welfare, so as to constitute a nuisance.

(Ord. No. 2014-08, § 3, 7-7-2014; Ord. No. 2020-08 , § 4, 10-13-2020)

Lauderdale By the Sea

Re: Setback Variance Request

September 29, 2023

Planning & Zoning Board and Town Commission

4501 North Ocean Drive

Lauderdale-By-The-Sea, FL 33308

Tel: 954-640-4200

To Whom it may concern,

Request for setback variance on single family home built in 1953. Setback and height variance request will allow the construction of a wall and overhead canopy on the property line which will provide much needed security and privacy to the property. Please refer to the attached references and exhibits. We are requesting the property wall and canopy at the shown location be 10'-0" in height. We are in compliance with Section 30-127 as follows:

Section A items are attached, and all fees paid.

Section B are as follows:

1. Are there special conditions and circumstances existing that affect the land, structure or building involved preventing the reasonable use of such land, structure or building?

RESPONSE: This property abuts a street on the west, the intercoastal waterway on the east, a bridge on the south, and a house on the north. An easement is also in place on the south side which is frequently accessed by workers. Every person walking along the bridge looks directly into and over the said property. This unique situation/location also invites homeless and intruders into the property. Every vehicle light shines into the house, and traffic noise radiates into the property. Construction workers look into and over this property as they work on the easement utilities. Is for these reasons and security concerns that we are asking for a setback variance.

2. Are there circumstances which cause the hardship peculiar to the property or to such a small number of properties that they clearly constitute a marked exception to other properties in the district?

RESPONSE: Aside from the reasons above, this property is accessible to anyone walking along the bridge and many people often fish from the bridge.

3. Does the literal interpretation of the provisions of the applicable regulation result in hardship upon the owner, as distinguished from a mere inconvenience?

RESPONSE: The owner of the property is directly impacted by the absence of security and privacy enjoyed by all homeowners. The owner often travels for work and the wife and newborn baby are left alone to shelter in place at their own home.

4. How is the hardship not self-created or the result of mere disregard for, or ignorance of the provisions of the regulations?

RESPONSE: The hardship is created by the land use regulation, and specific lot layout.

5. Is a variance the minimum that will make possible the reasonable use of the property and the variance will be in harmony with the general purposes and intent of the applicable zoning regulations and will the variance not be injurious to the neighborhood or otherwise detrimental to the public welfare?

RESPONSE: The variance will be in harmony with the property and adjoining neighborhood. The new wall will provide a visual shelter from the street/bridge, deter would be intruders, provide the owner with privacy and consequently shade opportunity to the homeowner.

6. How does the grant of the variance not permit a use not generally permitted in the district involved or a use expressly or by implication prohibited by the terms of the regulations of the district in which the affected property lies?

RESPONSE: The grant of the variance will be to build within the setback zone.

7. Will failure to grant the variance render the property unusable as a permitted use in the zoning district in which the property lies?

RESPONSE: Failure of the variance will deny the owner the complete use of their home and its intended use. The owner will be denied the privacy and security which is enjoyed by all residents of Lauderdale by the Sea. This is a unique situation not duplicated anywhere within the city of Lauderdale by the Sea. The proposed wall/canopy will also enhance the city and community by not providing an unsightly view.

Sincerely,



Victor A. Ballon



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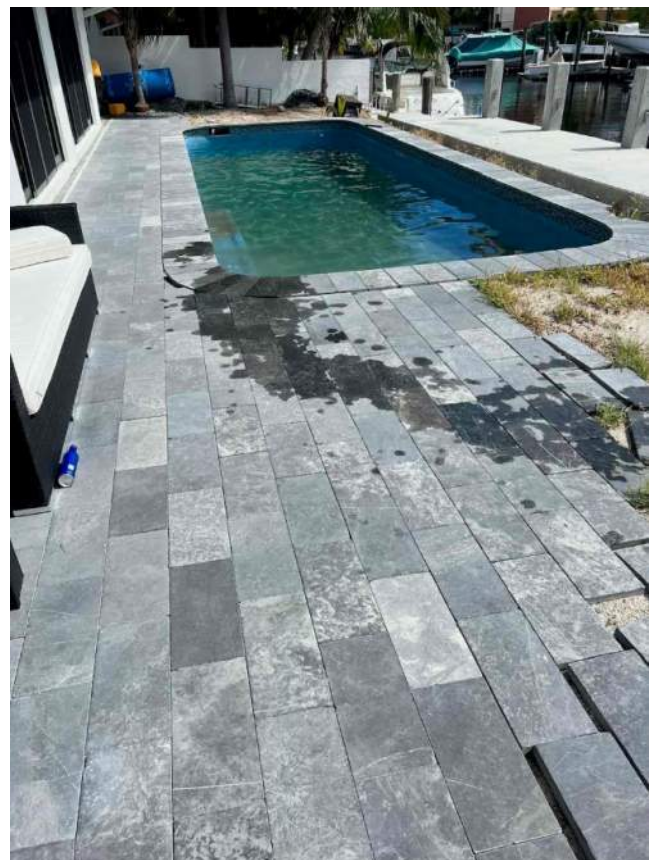
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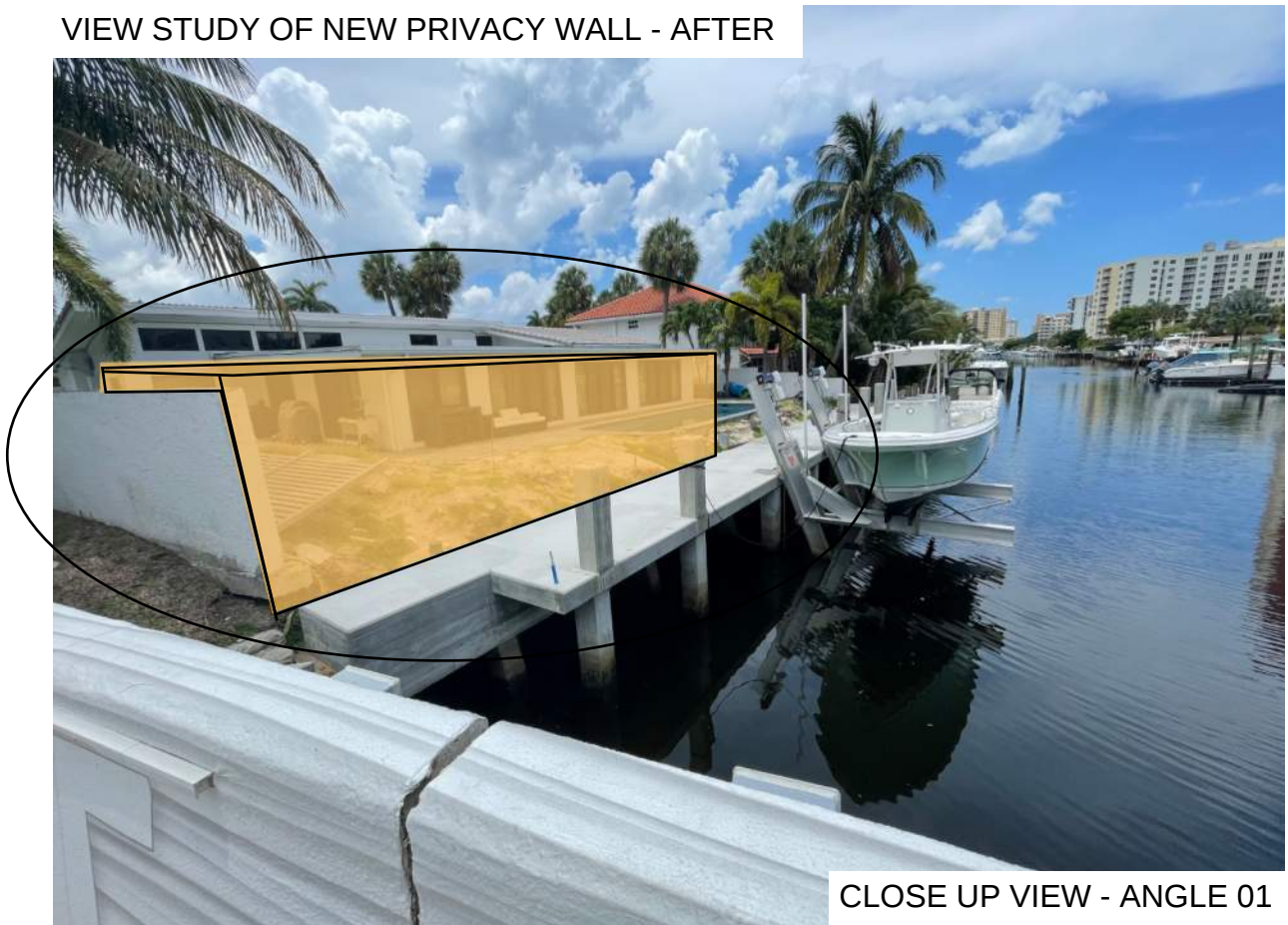
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CLOSE UP VIEW - ANGLE 02

VIEW STUDY OF NEW PRIVACY WALL - AFTER



CLOSE UP VIEW - ANGLE 02