



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Haley Moccia, Planner

**DEPARTMENT:** Planning & Development

**MEETING:** Board of Adjustment – April 22<sup>nd</sup>, 2024

**SUBJECT:** Variance to Building Setbacks - Sec. 40-74. - Dimensional standards for lots and principal structures.

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### **BACKGROUND:**

The applicant is Chiaki Ito, the property owner of 307 Florida Ave. The subject property is located on the northern end of the peninsula that juts out from Canal St. The parcel is located in the R-1B zoning district which supports single-family and allows a density of 8.7 units per acre. The property consists of .24 acres from the High-Water Line, which makes this a large enough lot to allow up to 2 living units on the property.

The property is a sound side facing property and is bordered by single family homes. The property has a main single-family house and a detached garage with a single-family unit. The main house was built in 1947, before flood maps and zoning setbacks were established. Since this house was built before zoning setbacks were established, it was built encroaching into the right-side setback. The front of the house currently meets the 20' front setback requirements but the current front staircase encroaches too far into the front setback, it encroaches 4' (See Attachment 2). The termination of a staircase (the last two steps) is the only part of a staircase that the ordinance allows to encroach into a building setback. The ordinance allows the last 2.5' of the end of a staircase to encroach over the setback line, but this does not include any stair landings or any other part of the staircase column except the bottom termination.

### **REASON FOR THE VARIANCE:**

The Town applied for a FEMA Flood Mitigation Assistance grant (FEMA FMA) on the property owner's behalf. The FEMA FMA grant funds for the raising of houses to bring them into flood compliance to meet the current flood elevation requirements established by the 2018 Flood Insurance Rate Map (FIRM). The Town was awarded the grant, and Mrs. Ito's house was among 6 others on the island approved by the grant to be elevated to meet Flood Base Flood Elevation (BFE). Houses accepted into the FMA grant are evaluated by an engineer and the engineer determines if the house is structurally strong enough to be lifted. The engineer determined the house could be lifted, but they confirmed the house could not be moved back from the front

property line because the structure was located too close to the detached garage for it to be safe to move (See Attachment - 3).

When houses are raised, they require new staircase access. Unfortunately, due to the house's close proximity to the front building setback line, any new access added to the front of the building would encroach into the front setback. Many different designs were proposed by the engineer and town staff, but none were able to meet the town setback ordinance requirements. A front staircase access to the existing front door is required by NC Building code, which is why Mrs. Ito is seeking a variance to allow the new stair to encroach into the front setback. Without the variance, the house will not be able to be lifted and it would continue to pose potential flood damage risks to it and surrounding properties.

### **SUMMARY:**

The applicant is seeking a variance to allow a front staircase and staircase landing encroachment into the 20' front building setback. The variance would allow a new staircase landing and staircase column to encroach into the front setback up to 1' 10" or have a front setback of 18' 2" (See Attachment - 4).

### **REQUIRED FINDINGS:**

When unnecessary hardships would result from carrying out the strict letter of a zoning ordinance, the board of adjustment shall vary any of the provisions of the ordinance upon a showing of all of the following:

1. Unnecessary hardship would result from the strict application of the ordinance. It shall not be necessary to demonstrate that, in the absence of the variance, no reasonable use can be made of the property.
2. The hardship results from conditions that are peculiar to the property, such as location, size, or topography. Hardships resulting from personal circumstances, as well as hardships resulting from conditions that are common to the neighborhood or the general public, may not be the basis for granting a variance.
3. The hardship did not result from actions taken by the applicant or the property owner. The act of purchasing property with knowledge that circumstances exist that may justify the granting of a variance shall not be regarded as a self-created hardship.
4. The requested variance is consistent with the spirit, purpose, and intent of the ordinance, such that public safety is secured, and substantial justice is achieved.

**CONDITIONS:**

In granting any variance, the Board may prescribe reasonable and appropriate conditions and safeguards, in conformity with this ordinance. Violation of any such conditions or safeguards, when made part of the terms under which the variance is granted, shall be deemed a violation of this ordinance and punishable under Article 19 of the Zoning Ordinance.

**Attachments**

1. Variance Application
2. Survey of Existing Structure
3. Engineer Letter
4. Site Plan of Proposed Encroachment