



## AGENDA ITEM COVERSHEET

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**PREPARED BY:** Gloria Abbotts, Sr Planner

**DEPARTMENT:** Planning &  
Development

**MEETING:** Board of Adjustment – 12/5/2023

**SUBJECT:** Variance to the required 25' front yard setback for 311 Spencer Farlow Drive.  
Deck: 24.56'  
Pool: 21'

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### **BACKGROUND:**

The applicants Lary and Cory Ellis are requesting a variance of up to 4' from Section Sec. 40-74. - Dimensional standards for lots and principal structures, and Sec. 40-75. – Dimensional standards for accessory structures that require a 25' front yard setback. The property is located at 311 Spencer Farlow Drive and is in the R-2 zoning district. The property consists of a 0.171-acre lot, Lot 3B, Block 3, Harbour Point. Two permits were applied for at the property. One for a single-family home and a second for a pool. The contractor scheduled a final inspection of the swimming pool and home. A final survey is required for the final zoning inspection. The final survey depicted the front deck and swimming pool encroaching on the minimum 25' front setback (Attachment 2).

### **Deck:**

The first site plan that was submitted with the permit application for new construction (Attachment 3) depicted the incorrect front setback. Staff notified the applicant that the minimum front setback in R-2 is 25' and not 20'. An updated site plan was submitted to the permit application (Attachment 4) and the project was approved. The zoning ordinance requires that a foundation survey is submitted prior to the sheathing inspection. A foundation survey was submitted and approved (Attachment 5), but the front deck was not shown and had not been built yet. Upon review of the final survey and during the final zoning inspection, the 3 front deck pilings were shown encroaching into the minimum front setback. The 3 pilings for the front deck were built with setbacks of 24.68', 24.70', and 24.56' from the front property line along Spencer Farlow Drive.

### **Pool:**

In October 2022, the owner applied for a permit for a pool (Attachment 6), but it was never approved. The site plan submitted showed the pool meeting the 25' front setback. The permit application expired in April 2023. A new permit for the pool was applied for in April 2023, the site plan showed the pool on the site plan from the original site plan submittal, with the incorrect 20'

minimum front setback (Attachment 7). The front corner of the pool was built with a setback of 21' (Attachment 2). Pool setbacks are measured to the edge of the water.

To resolve the situation the applicant requests up to a 4' variance to the required 25' front yard setback. The home meets the minimum required side (7.5'), corner side (12.5') and rear (10') yard setbacks. To come into compliance with the ordinance the front deck and pool would have to be rebuilt.

#### **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:

If the board supports the findings staff recommends the below condition for the variance

The variance is granted for the existing house and pool only and any new structures on the property shall conform to the setback requirements.

**ATTACHMENTS:**

1. Application
2. Final As-built Survey – November 28, 2023
3. Submitted Site Plan submitted with Permit Application – June 3, 2023
4. Approved Site Plan submitted with Permit Application for New Construction of a Single-Family Home – June 29, 2023
5. Foundation Survey – January 26, 2023
6. Site Plan for First Pool Permit – October 18, 2022
7. Approved Site Plan submitted with Permit Application for New Construction of a Swimming Pool – May 1, 2023
8. Photos