



AGENDA ITEM

Meeting Name: Town Council (acting as the Zoning Board of Adjustment and Appeals)

Meeting Date: January 28, 2026

Prepared By: Stephen Mayer

Item Title: Variance Request – (Bates) Unaddressed Cocoanut Avenue

PLANNING AND ZONING BOARD:

At the January 5, 2026, Planning and Zoning Board meeting, the Board heard the agenda item and a motion to recommend **denial** to the Town Council was approved with a vote of 4 to 1.

BACKGROUND:

The subject property is not addressed at this time and located at PCN #28-43-41-28-10-015-0030, within the Residential Single-Family (RS-5) Zoning District. The surrounding properties are all within the same zoning district.

Location Map



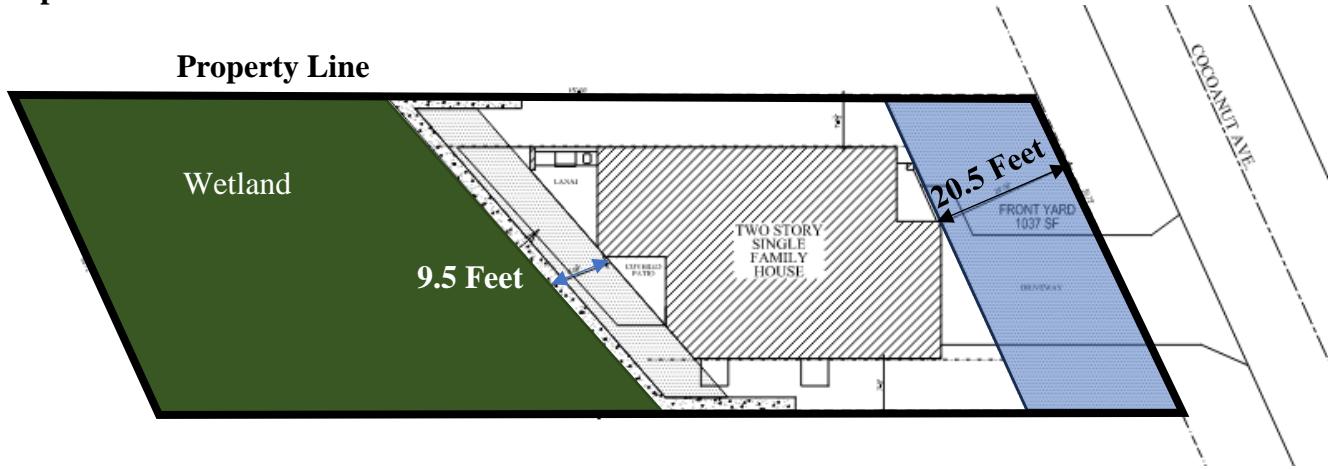
Adjacent Properties

	Use	Zoning
North	Single-Family House	RS-5
South	Vacant	RS-5
East	Single-Family House	RS-5
West	Wetland area	RS-5

The applicant is seeking a variance from the Town's Zoning Code Section 34-268 - Building site area regulations – front yard setbacks to allow the construction of a new structure using a reduced setback criteria as the main structure. According to the zoning code, the front setback for single-family homes is 25 feet.

Per the Variance request, the applicant is requesting a 5-foot reduction to the front setback, to allow a 20-foot front setback along Cocoanut Avenue. The goal for the applicant is to provide a larger back yard distance to the retaining wall mandated by Florida Department of Environmental Protection (FDEP). The variance request would add approximately 5 feet to the backyard area, from 5.25 feet to 9.5 feet, and increase the backyard area from 173 square feet to 384 square feet. Please see the proposed site plan below:

Proposed Site Plan with Front Setback Variance



Alternative Site Plan using Town Code

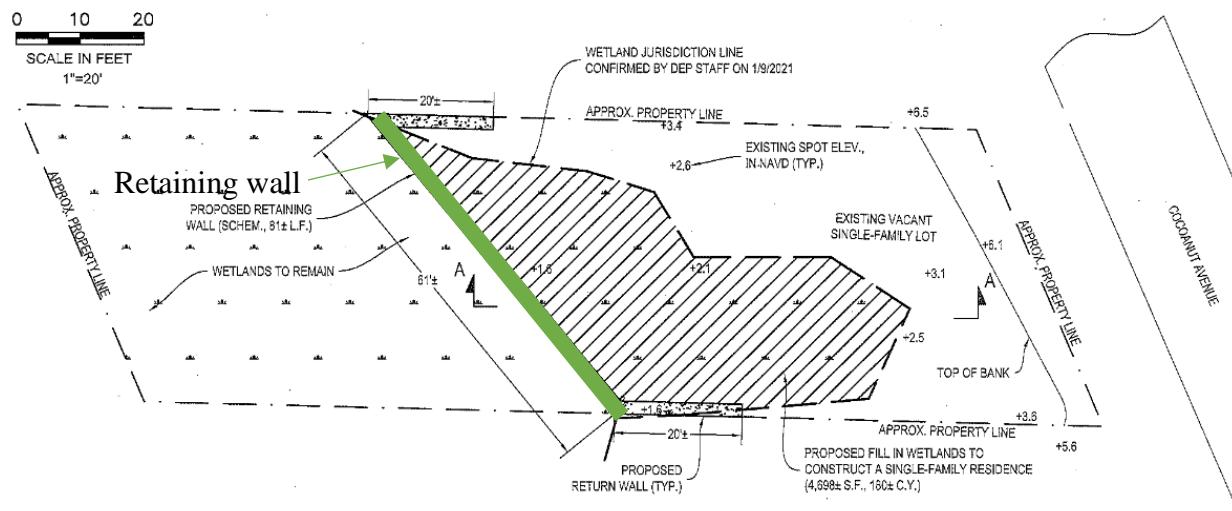


DISCUSSION:

The Town Code definition of a *variance* is a relaxation of the terms of the [code] where such variance will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of said ordinance would result in unnecessary and undue hardship on the land. To that end, the Board of Adjustment may grant a variance only if it determines that each of the five criteria are met. Please see below the five variance criteria, the applicant's response to the criteria is part of the application and are attached, staff's response in bold:

(1) Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district;

As shown in the proposed site plan, the proposed lot is 150' feet in depth, however, the subject property contains a protected wetland that encompasses approximately 42% of the property, located at the rear of the property. Properties on the west side of Cocoanut Avenue face the same limitation. The Florida Department of Environmental Protection (FDEP) established this through an Environmental Resource Permit, granted on April 14, 2022, and transferred to the applicant on April 7, 2025. (Please see the attached documents). The FDEP permit authorizes the installation of an approximate 81 foot long retaining wall at a designated location depicted on a survey (see attached and below), and the filling of approximately 4,698 square feet of wetlands for the construction of a single-family residence. The permit states that the 4,698 square feet of wetland impact offsets unavoidable adverse impacts with the purchase of .02 mitigation credits from the Loxahatchee Mitigation Bank.



As you can see from the survey above, the area shaded in gray are jurisdictional wetlands that have been offset due to off-site mitigation. But the wetlands to remain are protected by a proposed retaining wall. Without this permit, the site would be practically unbuildable.

Although these special circumstances do exist for this particular land, they are not unique. All houses to the west of Cocoanut face similar challenges. Five (5) other existing single-family houses have already been built without the need for variance, located at 13797 Cocoanut Ave, 13757 Cocoanut Ave, 13825 Cocoanut Ave, 13839 Cocoanut Ave, and 13867 Cocoanut Ave. Because there exists five (5) other properties that have been built upon these special circumstances without the need for a variance, staff finds that the applicant does not

have existing circumstances which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same district.

(2) The special conditions or circumstances do not result from the actions of the applicant;

The property is currently vacant and was purchased with the knowledge that an FDEP permit permits the filling of wetlands to retain enough buildable area for a single-family house. This permit was granted in 2022, and the applicant purchased the property on March 3, 2025. Therefore, the applicant was aware of the restrictions and was aware that they will be required to build within the parameters of the permit and the Town Code, specific to the front setback.

(3) A granting of the variance requested will not confer upon the applicant any special privilege that is denied by this chapter to other lands, buildings or structures in the same district;

The granting of the variance will confer upon the applicant a special privilege as the Town Code requires all properties to meet the Building Site Area Regulations (setbacks). As previously mentioned, there are at least five (5) other properties that built a new single-family home in a lot restricted by wetland preservation and did not require a variance to the front setback. Four (4) other vacant parcels would require the same variance to the front setback to enjoy the same special privilege that the applicant would receive if the proposed variance is granted.

(4) A literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of this chapter and would work unnecessary and undue hardship on the applicant; and

The literal interpretation of the code provisions does not deprive the applicant of any rights enjoyed by other properties within the RS-5 zoning district, especially those on the west side of Cocoanut, which are all impacted by jurisdictional wetlands.

(5) A prior application for the granting of the variance had not been submitted within the preceding 12 months.

The applicant has not filed for a variance within the past 12 months.

RECOMMENDATION:

Staff recommend that the Town Council, sitting as the Zoning Board of Adjustments and Appeals, **deny** the requested variance from Code Section 34-268 of the Town's Code of Ordinances to reduce the minimum front setback from 25 ft. to 20 ft.

Attachment(s):

1. Variance Application w/ applicant's backup material.