

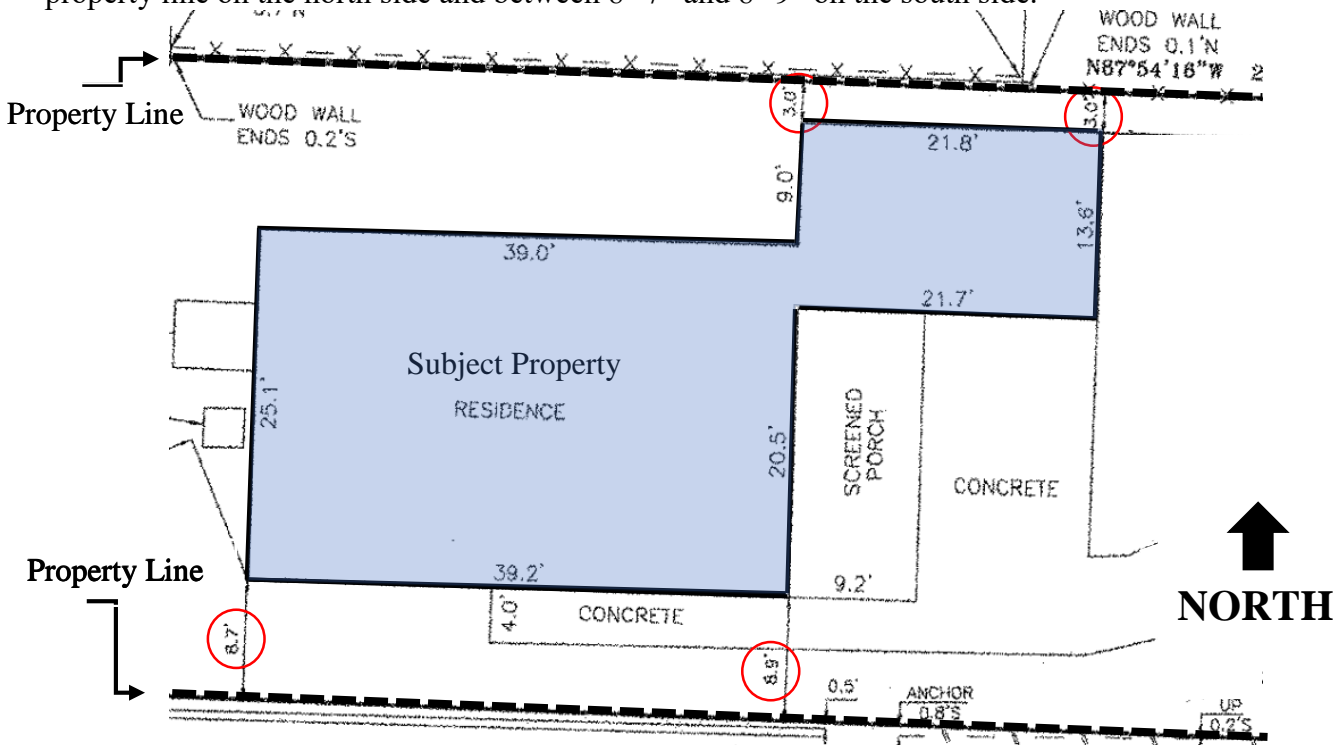


Meeting Name: Planning and Zoning Board
Meeting Date: July 15, 2024
Prepared By: Davila, F. CFM.
Item Title: Variance Request – 791 Ocean Drive

BACKGROUND:

The subject property is located at 791 Ocean Drive, within the Residential Transient and Multiple-Family – Moderate Density (RMT) Zoning District. To the north of the subject property is the Surfside at Juno Beach residential community, to the south is a single-family home, to the west is a vacant lot within the RMT zoning district, and to the east is The Waterfront Condominium (see attached location map).

The applicant is seeking a variance from the Section 34-337(6) of the Town Zoning Code. - Building site area regulations - side yard setbacks to allow the construction of a new structure using reduced side setbacks for the principal structure. The required side setbacks for single-family homes in the RMT Zoning District is 10 ft. per side. Currently, the existing structure at 791 Ocean Drive is located 3'- 0" from the property line on the north side and between 8'-7" and 8'-9" on the south side.



Per the Variance request, the applicant is requesting 5 ft. side setbacks for both the north and south property lines for the new principal structure.

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 responses to the criteria are part of the application and are attached and staff's responses are 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 on the survey, the lot is approximately 46 ft. in width. In the RMT Zoning District, the minimum width for lots is 75 ft., making Mr. Woods' lot a legal nonconforming lot. There are approximately 9 lots in the RMT zoning district with the same or similar width (less than 75 ft.). This is a special condition which is peculiar to all 9 lots. The width of the lot does not prevent the construction of a permitted use, such as a single-family home, and as an example please refer to 780 Hibiscus Lane (single-family home) that was built in 2015 on a lot with the same width and with the required 10 ft. side setbacks.
- (2) The special conditions or circumstances do not result from the actions of the applicant;
The existing home was built in 1950 and the lot was platted approximately in 1916. The lot and existing structure were built, to the best of the Town's knowledge, in compliance with the regulations in existence at that time.
It is the intent of the Code that all new structure(s) shall meet current standards. Deviating from the code does result from the actions of the applicant. In this case, the applicant could build an addition to the existing structure or a new structure with a 10 ft. side setback but chooses not to.
- (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 is at least one other property that built a new single-family home on a lot with the same width and with the required 10 ft. side setbacks.
- (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 RMT zoning district.
- (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.

A variance is authorized only for height, area, and size of a structure or the size of yards, parking requirements and other area requirements and open spaces. Establishment or expansion of a use or density otherwise prohibited or not permitted shall not be allowed by variance.

RECOMMENDATION:

Staff recommends that the Planning and Zoning Board deny the requested variance from Code Section 34-337(6) of the Town's Code of Ordinances to reduce the minimum side setback from 10 ft. to 5 ft.

Attachment(s):

1. Variance Application w/ applicant's backup material.
2. Location Map.