



## HISTORIC RESOURCES PRESERVATION BOARD REPORT

**HRPB Project Number 23-01500004:** A request for three variances to allow a shed and pavers exceeding the maximum impermeable surface coverage, as well as to allow a shade sail structure in the required setback and exceeding the maximum accessory structure coverage at 1115 North Ocean Breeze. The subject property is a contributing resource within the Northeast Lucerne Historic District and is located in the Single Family Residential (SFR) zoning district. The future land use designation is the Single Family Residential (SFR).

**Meeting Date:** July 12, 2023

**Property Owner:** Emilio Vazquez, Jr.

**Address:** 1115 North Ocean Breeze

**PCN:** 38-43-44-21-15-354-0130

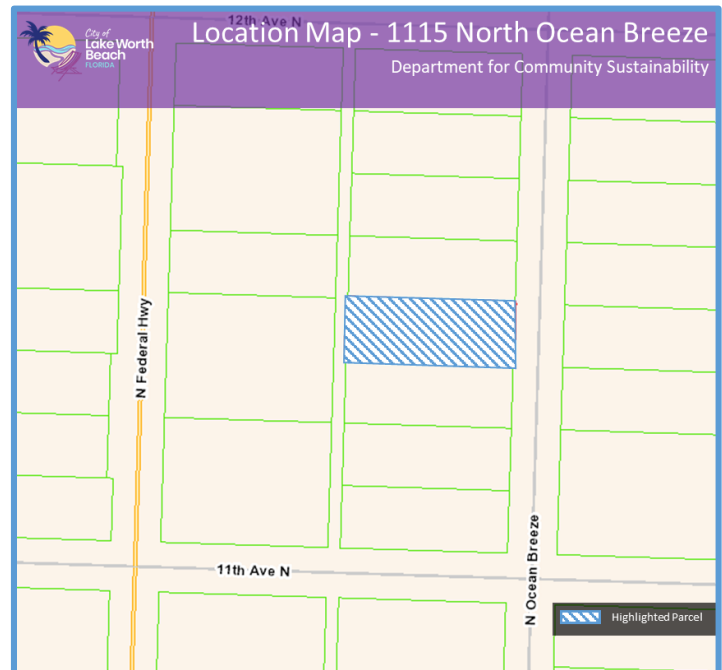
**Size:** ±0.15 acres / 6,750 sf

**General Location:** West side of North Ocean Breeze between 11<sup>th</sup> Avenue North and 12<sup>th</sup> Avenue North

**Existing Land Use:** Single Family Residential

**Future Land Use Designation:** Single Family Residential (SFR)

**Zoning District:** Single Family Residential (SFR)



## RECOMMENDATION

The documentation and materials provided with the application request were reviewed for compliance with the applicable guidelines and standards found in the City of Lake Worth Beach Land Development Regulations (LDRs) and for consistency with the Comprehensive Plan. The proposed variance requests are not consistent with the variance criteria in the LDRs. Therefore, **staff recommends denial of the variance application.**

## PROJECT DESCRIPTION

The property owner, Emilio Vazquez, Jr., is requesting three variances to allow a shed and pavers exceeding the maximum impermeable surface coverage, as well as to allow a shade sail structure in the required setback and exceeding the maximum accessory structure coverage at 1115 North Ocean Breeze. The shed, pavers, and shade sail were all installed without building permits. The subject property is located on the west side of North Ocean Breeze between 11<sup>th</sup> Avenue North and 12<sup>th</sup> Avenue North. The parcel is located in Single Family Residential (SFR) zoning district and has a Future Land Use (FLU) designation of Single Family Residential (SFR). A survey of the property is included in **Attachment A**.

## PUBLIC COMMENT

Staff has not received any letters of support or opposition for this application.

## BACKGROUND

The principal structure (house) at 1115 North Ocean Breeze was designed and constructed in 1946 by F.F. Menninger. Menninger was a local Lake Worth general contractor, who built the home for himself. The house was designed in the Wood Frame Minimal Traditional style, with front and rear porches, bevel wood siding, wood windows and doors, and a shingle roof. A one-car frame garage was constructed in 1952, and a small Florida room was added onto the rear elevation of the main structure in 1960. The property has undergone alterations over time, including multiple re-roofing projects, installation of vinyl siding in 1986, window and door replacements in 2014 and 2017, and conversion of the garage into a guest suite in 2015.

Based on property surveys and aerial photographs from the Property Appraiser, large areas of the property's backyard were paved without permits between 2015 and 2018.

The property was cited for work without permits on October 6, 2022, noting that a shed, gate, and shade sail (referred to as a carport on the citation) were all installed without permits. The property owner submitted for permits for the three citations on February 9, 2023. The shed and shade sail permits were disapproved on February 16<sup>th</sup> for missing documentation (dimensions of the shed and shade sail and location of the gate) and out-of-date surveys.

After re-submittal in April, the permits were again disapproved on April 17<sup>th</sup>. The gate permit was unable to be approved by staff and was not eligible for variances, as the gate location required use of a neighboring property for the residents of 1115 North Ocean Breeze to access a parking space. Staff advised the property owners to remove the gate and void the permit. The shed and shade sail permits were disapproved due to excess impermeable surface, excess accessory structure area, and encroaching on the rear setback. At a meeting with the applicant on April 25<sup>th</sup>, staff advised removing the shade sail and removing some of the unpermitted pavers to bring the property into zoning compliance. The property owner instead chose to apply for variances and requested for the project to be brought to the July HRPB meeting.

## ANALYSIS

### Consistency with the Comprehensive Plan

The subject site has a Future Land Use (FLU) designation of Single Family Residential (SFR). Per policy 1.1.1.2, the Single Family Residential category is *"intended primarily to permit development of single-family structures at a maximum of 7 dwelling units per acre. Single-family structures are designed for occupancy by one family or household. Single family homes do not include accessory apartments or other facilities that permit occupancy by more than one family or household. Residential units may be site-built (conventional) dwellings, mobile homes, or modular units."*

**Analysis:** The existing principal structure is a single family house that is consistent with the intent of the Single Family Residential designation. The variances being sought will not change the use of the property.

Based on the analysis above, the proposed development request is consistent with the goals, objectives, and polices of the City of Lake Worth Beach’s Comprehensive Plan.

**Consistency with the Land Development Regulations**

The shed, pavers, and shade sail structure at 1115 North Ocean Breeze conflict with the development requirements in the City’s Land Development Regulations, specifically the limitations for maximum impermeable surfaces, maximum accessory structure size, and rear accessory structure setbacks.

Per LDR Section 23.3-7(c)(5), the maximum impermeable surface area for medium-sized lots (5,000-7,499 square feet) shall be 55%. For 1115 North Ocean Breeze, this would allow up to 3,713 square feet of impermeable surface. With the pavers and shed that were installed without permit between 2015 and 2018, the property currently has 64% impermeable surface (4,358 square feet).

Per LDR Section 23.3-7(c)(5), the minimum rear setback for accessory structures is 5 feet. In the City’s Land Development Regulations (LDR Section 23.1-12), a structure is *“anything that is constructed or erected, the use of which requires a permanent location on the ground and requires a foundation or other form of permanent anchoring to the ground.”* As the proposed shade sail uses posts that are permanently affixed on the ground, it is considered a structure. The shade sail is currently located about 2 feet from the rear property line.

Per LDR Section 23.3-7(c)(8), the total of all accessory structures on a property shall not exceed 40% of the gross floor area of the principal structure. The LDRs provide for an exception, allowing one prefabricated storage building on each property to be excluded from this calculation. However, even when excluding the prefabricated shed at 1115 North Ocean Breeze, the accessory structures on the property still total 57.7% of the gross floor area of the principal structure (house).

Required by Code	Proposed
<b>LDR Section 23.3-7(c)(5):</b> <i>Maximum impermeable surface for entire lot shall be 55% for lots between 5,000-7,499 square feet</i>	Shed and pavers in the backyard, bringing the property to a total of 64% impermeable surface.
<b>LDR Section 23.3-7(c)(3):</b> <i>Minimum rear setback for accessory structures is 5 feet.</i>	Shade sail structure at rear setback of approximately 2 feet.
<b>LDR Section 23.3-7(c)(8):</b> <i>All accessory structures shall not exceed 40% of the gross floor area of the principal structure or 1,000 square feet, whichever is less, excluding approved prefabricated metal storage buildings totaling no more than 144 square feet.</i>	Accessory structures at 57.7% of the gross floor area of the principal structure (does not include area of shed structure).

**Section 23.2-26(b) – Variances, Required findings for approval:**

According to the City of Lake Worth Beach, Land Development Regulations Section 23.2-26, *“the power to grant any such variance shall be limited by and be contingent upon documentation that all required findings are made by the appropriate Board.”* As this property located in the Southeast Lucerne Historic District, the HRPB is tasked with making the required findings to grant a variance. The following analysis addresses each of the required findings for the requested variance. In addition, the applicant's justification statement is included in **Attachment B**.

- A. *Special circumstances or conditions exist which are peculiar to the land or building for which the variance is sought and do not apply generally to nearby lands and buildings and that this is not the result of an action of the applicant.*

**Analysis:** 1115 North Ocean Breeze is a 50' x 135' platted lot of record (6,750 square feet); this is the typical property size in the surrounding neighborhood and in Lake Worth Beach as a whole. Similarly-sized properties are routinely required to comply with requirements for total impermeable surface, maximum accessory structure size, and setbacks. Furthermore, the requested variances are the result of unpermitted work done by the applicant. As the circumstances of 1115 North Ocean Breeze apply generally to nearby lands and buildings and are the result of actions of the applicant, the requested variances do not meet the intent of this criterion. **Does not meet the criterion.**

- B. *The strict application of the provision of these LDRs would deprive the applicant of any reasonable use of the land or building for which the variance is sought;*

**Analysis:** The property has accommodated a single-family use for over 75 years. Strict application of the LDRs would not deprive the applicant's continued use of the residence. While a small storage shed is a reasonable expectation for a single-family home, the property owners can remove some of the unpermitted pavers in the backyard to bring the property into compliance with the impermeable surface requirements while retaining the shed. **Does not meet the criterion.**

- C. *That the variance proposed is the minimum variance which makes possible the reasonable use of the land or building;*

**Analysis:** The proposed variances are not the minimum required for reasonable use of the land. The property owners can remove some of the unpermitted pavers to retain the shed and meet impermeable surface requirements, and a shaded parking area is not required to reasonable use of a residential property. **Does not meet the criterion.**

- D. *That the granting of the variance will be in accordance with the spirit and purpose of this chapter, and will not be unduly injurious to contiguous property or the surrounding neighborhood nor otherwise detrimental to the public welfare. In deciding appeals from decisions of the development review official or in granting variances, the decision-making board is authorized and required to impose any reasonable conditions and safeguards it deems to be necessary or desirable, and violation of such conditions or safeguards when made a part of the terms under which a variance is granted, shall be deemed to be a violation of these LDRs.*

**Analysis:** The granting of the impermeable surface variance request would likely not be unduly injurious or detrimental to the public welfare, although the increased impermeable surface on the property may affect stormwater flow for contiguous properties, as water will not have as much area permeate into the ground during storms. The granting of the accessory structure size variance request will not be unduly injurious or detrimental to public welfare; the granting of the rear setback variance may have some negative impact on the surrounding neighborhood, as the shade sail is located only 2 feet from the public alley, but is unlikely to be unduly injurious. **Meets Criterion.**

#### **Consistency with the Historic Preservation Design Guidelines**

Prefabricated sheds and shade sail structures within historic district require staff-level COA review, but have minimal design review and are generally permitted as long as they comply with zoning requirements.

## CONCLUSION AND CONDITIONS

Based on staff analysis, the three variance requests do not meet all the variance criteria in LDR Section 23.2-26. Therefore, staff recommends denial of the proposed variances.

## BOARD POTENTIAL MOTION:

I MOVE TO **DISAPPROVE** HRPB Project Number 23-01500004 for three variances to allow a shed and pavers exceeding the maximum impermeable surface coverage, as well as to allow a shade sail structure in the required setback and exceeding the maximum accessory structure coverage at 1115 North Ocean Breeze. The application does not meet the variance criteria based on the data and analysis in the staff report.

I MOVE TO **APPROVE** HRPB Project Number 23-01500004 for three variances to allow a shed and pavers exceeding the maximum impermeable surface coverage, as well as to allow a shade sail structure in the required setback and exceeding the maximum accessory structure coverage at 1115 North Ocean Breeze. The project meets the variance criteria for the following reasons [Board member please state reasons.]

**Consequent Action:** *The Historic Resources Preservation Board's decision will be final decision for the variance. The Applicant may appeal the Board's decision directly to circuit court.*

## ATTACHMENTS

- A. Survey
- B. Applicant's Justification Statement
- C. Photos