



DEPARTMENT FOR COMMUNITY SUSTAINABILITY  
Planning Zoning Historic Preservation Division  
1900 2<sup>ND</sup> Avenue North  
Lake Worth Beach, FL 33461  
561-586-1687

DATE: April 28, 2021  
TO: Members of the Planning and Zoning Board  
FROM: Alexis Rosenberg, Senior Community Planner  
THRU: William Waters, AIA, NCARB, LEED, AP BD+C, ID SEED, Director for Community Sustainability  
MEETING: May 5, 2021

SUBJECT: **PZB Project Number 21-01500003**: Request by Wes Blackman, AICP of CWB Associates on behalf of David and Jennifer Hamel for consideration of a Variance to the minimum required side setback for a residential shed at 1831 North Palmway within the Single-Family Residential (SFR) zoning district. The subject property PCN is 38-43-44-15-16-065-0090.

**PROJECT DESCRIPTION:**

The applicant, Wes Blackman, AICP of CWB Associates on behalf of David and Jennifer Hamel, is requesting a five-foot variance to minimum required side setback for accessory structures in order to install a 240 square foot shed at 1831 North Palmway. The site, 1831 North Palmway, is a single family zoned property located in the north 1800 block of North Palmway. The lot currently houses a 2,814 square foot residence with a pool and a 120 square foot shed to the rear of the residence. The subject site is surrounded by single family zoned properties to the north, south, east, and west.

**Staff Recommendation:**

Staff has reviewed the documentation and materials provided, applying the applicable guidelines and standards found in the City of Lake Worth Zoning Code. The proposed Variance request does not meet all the criteria of the Comprehensive Plan and LDRs. Therefore, staff is not recommending approval of the subject variance application.

**PROPERTY DESCRIPTION:**

<b>Applicant</b>	Wes Blackman, AICP of CWB Associates
<b>Owner</b>	David and Jennifer Hamel
<b>General Location</b>	North 1800 block of North Palmway
<b>Existing PCN Numbers</b>	38-43-44-15-16-065-0090
<b>Existing Land Use</b>	Single-Family Residence

<b>Zoning</b>	Single Family Residential (SFR)
<b>Future Land Use Designation</b>	Single Family Residential (SFR)

**LOCATION MAP:**



**BACKGROUND:**

The subject site is a 10,000 (100' x 100') square foot residential lot that is made up of two 50-foot wide platted lots. The property is located at 1831 North Palmway which is within the north 1800 block of North Palmway. Below is a timeline summary of the residential property based on Palm Beach Property Appraiser's records and City records:

- 1925 – the 2,513 square foot single family residence was constructed.
- 1925 – a 416.25 square foot detached garage was constructed.
- Between 1946 and 1955 – the 416.25 square foot detached garage was demolished.
- June 27, 1967 – the property received a building permit to extend the existing pool to the north.
- July 31, 1967 – the property received a building permit to construct a 96 square foot utility shed. This shed has since been demolished as it is not depicted on the current survey.
- April 23, 1973 – the property received a building permit to construct a 510 square foot covered patio to the rear of the primary residence.
- December 19, 1994 – the property received a building permit to construct an asphalt driveway (currently reflected on the survey).
- February 2, 2021 – the property owner applied for a shed permit (permit 21-381) to replace the existing 120 square foot shed in the northwest corner of the property with a 240 square foot shed.
- February 25, 2021 – the shed permit was disapproved by zoning due to the fact that the proposed shed was not meeting the required side setback of 10 feet.
- April 12, 2021 – a variance application was submitted to the Department of Community Sustainability requesting a variance to the side setback to allow the proposed placement of the 240 square foot shed.
- April 14, 2021 – a search of the City's database shows that there are no active code cases linked to this property.



**ANALYSIS:****Public Support/Opposition**

Staff has received three letters of support from adjacent and nearby neighbors of 1831 North Palmway. The letters of support are located in Attachment D.

**Consistency with the Comprehensive Plan and Strategic Plan**

The subject site has a Future Land Use (FLU) designation of Single Family Residential (SFR). Per Policy 1.1.1.2, the SFR future land use area 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. There is currently one single family residence on the subject property. The variance being sought does not change the use of the property which will remain single family. Therefore, the proposal is generally consistent with Policy 1.1.1.2 of the Comprehensive Plan. The subject variance is associated with the replacement of a shed (120 sf) with a larger shed (240 sf), which is a minor change to the property overall. As such, review of the strategic plan is not applicable to an improvement of this scale.

Based on the analysis above, the proposed variance is not inconsistent with the goals, objectives, and policies of the City of Lake Worth Beach's Comprehensive Plan and the Strategic Plan should the PZB approve the subject variance request.

**Consistency with the City's Land Development Regulations**

Per Section 23.2-26, variances are authorized for height, area, size of structures, size of yards, parking requirements, and other area requirements and open spaces. The Department of Community Sustainability is tasked in the Code to review variance applications for consistency with the City's LDRs, for compliance with the findings for granting variances (analyzed in the next section) and to provide a recommendation for whether the application should be approved, approved with conditions, or denied.

**Staff Analysis:** The property 1831 North Palmway appears to meet the City LDRs with the exception of the existing shed's side setback which is 4.84 feet from the north side property line. Because the existing shed is considered a nonconforming structure, it is subject to the nonconforming section of the code, LDR Section 23.5-3, Nonconformities. The code states that if a nonconforming structure is deteriorated or destroyed by more than 50% of the assessed value, it shall not be constructed except in conformity with the current LDRs. Because the existing nonconforming shed is being replaced, the code requires the new proposed shed to meet the current setbacks, lot coverage, and accessory structure requirements.

The data and analysis below review the application against the regular findings for approval for all variance requests:

**Section 23.2-26(b) Regular findings of approval**

The land development regulations require all variance requests to be analyzed for consistency with Section 23.2-26(b). Staff has reviewed the application against this section which the analysis outlined as follows:

1. 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 action of the applicant.

**Staff Analysis:** The application states that there are special circumstances that apply to 1831 North Palmway that do not apply generally to nearby parcels of land. The applicant states that the subject property is the only parcel on the block that is 100 feet wide, with a majority of the other lots on the block being 50 feet wide. The applicant states that because the minimum lot width in the SFR zoning district is 50 feet, the minimum setback being a percentage of the lot width is not as important.

It is noted that 1831 North Palmway is comprised of two 50-foot wide platted lots of record (Lot 9 and Lot 10 of Block Q, North Lake Worth). If 1831 North Palmway was split into two 50-foot wide lots, the minimum side setback for the proposed shed would be five feet. However, due to the configuration of the existing single-family residence, the property cannot be split. Further, staff does not consider a double lot a special circumstance as there are many 100-foot-wide lots in the City. **Does Not Meet Criterion.**

2. 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.

**Staff Analysis:** The application states that the strict application of the LDRs deprive the property owner of 1831 North Palmway from using their property the way other properties are able to be used on the same block. As mentioned, a majority of the other lots on the block are 50 feet wide. Those 50-foot wide lots have a minimum five-foot side setback and therefore would be able to construct a shed at least five feet from their side property lines. The applicant states that a side setback requirement is intended to protect adjacent properties from development that may affect the provision of open space or be injurious to adjacent properties. The proposed shed at five feet from the side property line would not be injurious to adjacent properties. That applicant states that the minimum 10-foot setback requirement complicates the utilization of the land and buildings on the subject property. Furthermore, the applicant states that if the proposed shed was shifted to meet the required 10-foot side setback, a portion of the shed would encroach onto the pool deck which would hinder accesses to the shed and pool.

While the proposed location of the shed is ideal due to the existing access from the driveway, the applicant does have the option of locating the shed on the south side of the property outside of the setbacks. Therefore, the strict application of the LDRs does not prevent the applicant from having a shed. **Does Not Meet Criterion.**

3. The variance proposed is the minimum variance which makes possible the reasonable use of the land or building

**Staff Analysis:** The application states that the proposed variance is the minimum variance requested to make reasonable use of the shed. The proposed shed will not be located closer to the north side property line than the existing shed. The applicant states that the proposed side setback is consistent with the side setbacks for a majority of the other lots on the same block. Staff finds that while the proposed variance is minimal, it is not the minimum variance requested to make reasonable use of the land or building, as the applicant does have the option of located the shed on the south side of the property outside of the setbacks. **Does Not Meets Criterion.**

4. 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.

**Staff Analysis:** The application states that the proposed variance to the required 10-foot side setback will not be injurious to surrounding properties nor will it be detrimental to the public welfare. The applicant states that the purpose of the side setback requirements is to protect adjacent properties from buildings being built too close to the property line. There are 57 properties in the general area that are able to construct a shed with a five-foot side setback due to their lot width. The applicant also mentions that the code allows a wall height up to 18 feet with a five-foot side setback for properties with a lot width of 50 feet. The proposed shed has a wall height of eight feet and therefore is less intense than what the code allows for a narrower lot. Therefore, the proposed variance would not be unduly injurious to contiguous property and the surrounding neighborhood. **Meets Criterion.**

**CONCLUSION:**

Based on staff's analysis, the required findings cannot be made with respect to the variance request as it does not comply with all the variance criteria outlined above. Therefore, staff is not recommending approval of this application.

**Board Actions:**

I MOVE TO APPROVE PZB PROJECT NUMBER 21-01500003 with staff recommended conditions for a **variance** to the minimum required side setback, allowing a 240 square foot shed to be installed five feet from the north property line. The application meets the variance criteria based on the data and analysis in the staff report.

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 21-01500003 for a **variance** to the minimum required side setback. The project does not meet the variance criteria for the following reasons [Board member please state reasons.]

**Consequent Action:**

The Planning & Zoning Board's decision will be final for the Variance. The applicant or affected parties may appeal the Board's decision to the City Commission.

**ATTACHMENTS:**

- A. Zoning Map
- B. Application Package
- C. Site Photos
- D. Letters of Support