

PLANNING AND ZONING BOARD REPORT

PZB Project Number 22-01500006: Request by Brian Gong for consideration of a variance to the maximum allowable fence height and a variance to allow a pool (accessory structure) within the front yard at 123 Wellesley Drive. The subject site is zoned Single Family Residential (SFR) and has a future land use designation of Single Family Residential (SFR).

Meeting Date: December 14, 2022

Property Owner: Brian Gong & Gretchen Gong

Applicant: Brian Gong

Address: 123 Wellesley Drive

PCNs: 38-43-44-15-16-065-0070

Size: 0.12-acre lot / ±1,850 square feet of existing structure

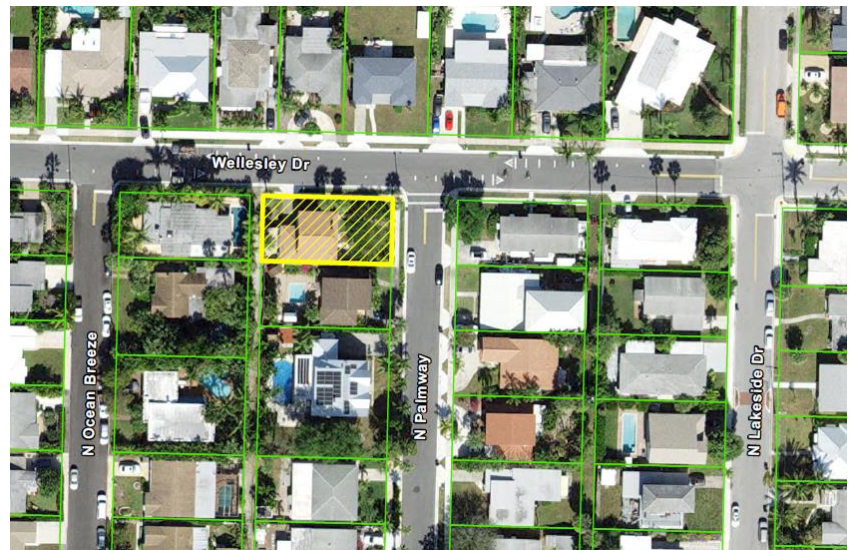
General Location: East 100 block of Wellesley Drive

Existing Land Use: Single-family Residential

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

Zoning District: Single Family Residential (SFR)

Location Map



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 and Strategic Plan. As the proposed variance request for the pool are consistent with the variance criteria in the LDRs, staff is recommending approval of that variance. For the fence variance request, staff has made positive findings for only one out of the four criteria. Therefore, staff recommends that the PZB discuss the applicant's request of the fence height to determine if the request is consistent with the required variance criteria.

PROJECT DESCRIPTION

The applicant, Brian Gong, is requesting a **variance** to the maximum fence height to allow the proposed placement of a 6-foot fence and an **additional variance** to allow a pool (accessory structure) within the front yard at 123 Wellesley Drive. The site, 123 Wellesley Drive, is a single-family zoned property located in the east 100 block of Wellesley Drive. The lot currently has a 1,850 square foot residence. The subject site is surrounded by single-family zoned properties to the north, east, south, and west.

COMMUNITY OUTREACH

Staff has received four letters of support from adjacent and nearby neighbors of 123 Wellesley Drive. The letters of support are located in Attachment B. Staff has also received an affected party request the from neighboring property at 1827 N Palmway.

BACKGROUND

The subject site is a 5,040 square foot residential lot. Below is a timeline summary of the residential property based on Palm Beach Property Appraiser's records and City records:

- February 4, 1985 – the 2-story single family residence was constructed.
- October 15, 2007 – the property received a building permit to reroof.
- April 29, 2016 – the property received a building permit for the installation of a 6 ft fence behind the building line and a 4 ft fence in front of building line. The following conditions of approval apply for permit 16-281:
 - The visibility triangle shall be 20 feet in each direction from the corner of Wellesley Drive and North Palmway.
 - Along the side rear property lines adjacent to the roadways, a fence shall not exceed 6 feet in height and be setback a minimum of 30 inches from the property line providing a landscape screen.
 - Fence shall be a wood board on board fence.
- September 29, 2022 – Applicant and staff held a pre-application meeting to discuss possible variance at 123 Wellesley Drive.
- October 28, 2022 – Applicant submitted a variance application for the maximum allowable fence height, and a variance to allow a pool (accessory structure) within the front yard.
- December 6, 2022 – a search of the City's database shows that there are no active code cases linked to this property.

ANALYSIS

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 placement of a pool and a 6-foot fence within the front yard 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 consistent with the goals, objectives, and polices of the City of Lake Worth Beach’s Comprehensive Plan and the Strategic Plan, should the PZB approve the subject variance requests.

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 proposed fence and pool are generally consistent with the LDR requirements for fencing and accessory structures, with the exception of the total height of the fence and the location of the pool. The proposed 6-foot fence is in conflict with the fence height limitation in LDR Section 23.4-4. The proposed pool location, which is in the front yard between the principal structure and the public right-of-way, is in conflict with LDR Sections 23.3-7 and 23.1-12. The applicant has requested relief from these code limitations by applying for two (2) individual variances.

Variance Requests		
LDR Citation	Required	Proposed
Fence Height (Section 23.4-4)	On the front property line and on that portion of the side property line from the front property line to the front building setback line, a fence or wall shall have a maximum height of four (4) feet from the natural grade of the lot.	6’ fence along the front (east) property line.
Accessory Structure Location (Section 23.1-12)	May not be constructed between any principal structure and a public street right-of-way.	Pool to be constructed in the front yard, between the principal structure and a public street right-of-way.
Accessory Structure Location (Section 23.3-7)	Shall be allowed within the rear or side yards of a double front or corner lot between the main structure and a public street, provided that minimum setbacks are maintained.	Pool to be constructed in the front yard, between the principal structure and a public street right-of-way.

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 – Pool

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: Based on the siting of the structure, the rear (west) setback of the primary structure is 15 feet. The property owner contends that there is not space in the backyard for a pool. With the existing 15 feet of space and the required 5-foot rear setback for accessory uses, there is only 10 feet of space from the exterior wall of the house to the required setback to build a pool. There is not sufficient space in either of the side yards to build a pool, leaving the front yard as the only feasible pool location. Based on the existing siting of the structure, staff concurs that there are special circumstances or conditions that are peculiar to the land and building that do not apply generally to the nearby lands and buildings. **Meets 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 subject property has accommodated a single-family use for over 30 years. Strict application of the LDRs would not deprive the applicant's continued use of the residence; however, a pool is a reasonable expectation for a single-family home in South Florida due to the context and climate. The applicant contends that a pool is a recreational amenity that is necessary for the reasonable use of the property. **Meets Criterion.**

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

Staff Analysis: The proposed variance of the accessory structure location is the minimum necessary to accommodate a new pool of this size and configuration in the front yard. **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: Although the character of the neighborhood does not include pools in the front yard, this request would not be unduly injurious or detrimental to the public welfare. The applicant's existing fencing and hedging that will screen the pool location in the front yard, and conditions of approval are in place that the proposed fencing (pending variance approval) will utilize landscaping to screen the yard. **Meets Criterion.**

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

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 applicant contends that the 4-foot fencing permitted by the LDRs is not sufficient to preserve their privacy and security in the front yard, and instead proposes a 6-foot fence which will be placed behind the existing clusia hedges. Homes located on corner lots are a common condition throughout Lake Worth Beach, and a 4-foot fence along the front yard is a standard requirement for all homes, including those on corner lots. While the placement of a pool in the front yard would create conditions that do not apply generally to nearby lands, the request does not meet Criterion 1, as the pool placement is the result of the applicant's actions by requesting a variance for the placement of the pool within the front yard. **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 applicant contends that the strict application of the LDRs deprives the property owner of 123 Wellesley Drive reasonable use of the land as it relates to privacy and security. Strict application of the LDRs would require fencing along the front yard to have a maximum height of 4 feet, as was approved in the 2016 fence permit (16-281) for the property. This fence configuration is standard across the City and would not deprive the applicant of reasonable use of the land as a single-family structure. There is also an existing Clusia hedge providing privacy and screening along the property lines adjacent to North Palmway and Wellesley Drive. **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 variance is not required for reasonable use of the land. A landscape screen on either side of the fence, such as the existing 6-foot-high clusia hedge, can provide additional privacy which is a concern expressed in the applicant's justification statement. **Does not meet 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 granting of the variance, as conditioned, will not have a negative visual impact or be unduly injurious to nearby properties the surrounding neighborhood. If the Board approves the fence variance, staff has drafted conditions of approval, including that the 6-foot fence is setback 30 inches from the property lines providing a landscape screen maintained at a height that fully screens the fencing. This landscape screening would nullify the visual impact of the 6-foot fence, as the existing hedge is already over 4 feet high and would hide the additional fence height. **Meets criterion.**

CONCLUSION AND CONDITIONS

Based on staff analysis, the variance request for the pool complies with all the variance criteria outlined above. For the fence variance request, staff has only made positive findings for one out of the four criteria. Staff recommends that the PZB discuss the applicant's request for the location of the fence and pool to determine if the request is consistent with the required variance criteria. If the PZB approves the variance requests, staff is recommending staff is recommending conditions of approval, including conditions requiring screening, setbacks, and visibility triangles for the front yard fencing.

Conditions of Approval:

1. The fence shall be set back 30 inches from the front (east) property line.
2. The visibility triangle shall be 20 feet in each direction from the corner of Wellesley Drive and North Palmway.
3. Existing hedge or alternate landscape approved by the city horticulturist shall be maintained at a height that fully screens the front (east) fence.
4. A full zoning review will be completed at the time of building permit. Note that additional comments may arise.

BOARD POTENTIAL MOTION:

I MOVE TO APPROVE PZB PROJECT NUMBER 22-01500006 with staff recommended conditions for **variance** to the accessory structure location to allow the installation of a pool in the front yard for the property at 123 Wellesley Drive, as the application meets the variance criteria based on the data and analysis in the staff report. I ALSO MOVE TO DISAPPROVE the request for a **variance** to the maximum fence height to allow the proposed placement of the 6-foot fence in the front yard, as the project does not meet the variance criteria for the following reasons [Board member please state reasons.]

I MOVE TO APPROVE PZB PROJECT NUMBER 22-01500006 with staff recommended conditions for a **variance** to the maximum fence height to allow the proposed placement of the 6-foot fence in the front yard and a **variance** to the accessory structure location to allow the installation of a pool in the front yard, for the property at 123 Wellesley Drive. The application meets the variance criteria based on the data and analysis in the staff report.

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 22-01500006 for a **variance** to the maximum fence height and a **variance** to the accessory structure location. 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 decision for the Variance. The Applicant may appeal the Board's decision to the City Commission.*

ATTACHMENTS

- A. Letters of Support/ Affected Party
- B. Application Package (survey, landscape plan & supporting documents)