

PLANNING AND ZONING BOARD REPORT

PZB Project Number 24-01500002: Consideration of a variance to allow an electronic gate to be set back 5 feet from the front property line at 3 18th Avenue South. The subject site is zoned Single Family Residential (SFR) and has a future land use designation of Single Family Residential (SFR).

Meeting Date: May 1, 2024

Owners/Applicants: Peter and Louise Silberstein

Address: 3 18th Avenue South

PCN: 38-43-44-34-05-000-0120

Size: 0.3352 acre / ± 16,200 sf

General Location: Eastern end of 18th Avenue South

Existing Land Use: Vacant

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. The proposed variance request is not consistent with the variance criteria in LDR Section 23.2-26(b). Therefore, staff is recommending denial of the proposed variance.

PROJECT DESCRIPTION

The applicants, Peter and Louise Silberstein, are requesting a **variance** for an electronic gate to be set back five (5) feet from the front property line at 3 18th Avenue South. The subject site is a single-family zoned property located at the eastern end of 18th Avenue South. The lot is currently vacant, though the applicants have expressed that they intend to build a single-family residence. The subject site is surrounded by single-family zoned properties to the north, south, and west, while the east side borders the intracoastal waterway.

COMMUNITY OUTREACH

As of publication, staff has received one (1) public comment in opposition to the proposal.

BACKGROUND

The subject site is a ± 16,200 square foot vacant residential lot. Below is a timeline summary of the residential property based on City records:

- October 22, 2012 – received a building permit to rehab a sewer lift station
- January 30, 2018 – received a building permit to install a seawall with kayak launch
- March 20, 2024 – applicant applied for a variance for electronic gate
- April 19, 2024 – a search of the City’s database shows that there are no active code cases

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.”*

Analysis: The parcel is currently vacant, and the applicant has provided preliminary plans for the construction of a new single-family residence. The variance being sought does not alter or affect the future land use designation. As such, a formal consistency review of the strategic plan and comprehensive plan is not applicable to a proposal of this scale.

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 or denied. The applicant’s justification statement is included in **Attachment A**.

Analysis: The proposed electronic gate location conflicts with development requirements in the City’s Zoning Code, specifically placement of electronic gates for single-family and two-family residential uses.

Based on LDR Section 23.4-4(d)(4)(C), electronic gates shall be located a minimum of 25 feet from the property line/right-of-way to prevent stacking of automobiles into the public right-of-way. The applicant is requesting a variance to allow an electronic gate to be set back 5 feet from the front property line.

Required by Code	Proposed
<p><i>Electronic security gates and keypad/call boxes shall be located a minimum of twenty-five (25) feet from the property line/right-of-way to prevent stacking of automobiles into the public right-of-way. The minimum stacking distance may be increased in the event the city engineer determines traffic safety so requires. Such increase shall be based on a gate queuing analysis performed by a certified traffic engineer to be provided by the applicant.</i></p>	<p>An electronic gate setback 5' from the front (west) property line.</p>

Section 23.2-26(b) Variances, Required findings for 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 the action of the applicant.

Analysis: The property 3 18th Avenue North is a platted lot of record that is adjacent to the intracoastal waterway. A property adjacent to a body of water is somewhat unusual within the City but is typical of properties along the eastern edge of the City, including the immediate neighbors of 3 18th Avenue South. Based on the Palm Beach County Flood Map, the subject site is within the Coastal High Hazard Area (High Risk – VE) Flood Zone. Due to their proximity to the intracoastal waterway, most properties near or east of Federal Highway are within an identified flood zone. The applicants contend that the required 25-foot setback for electronic gates is not sufficient for the site due to the property's location within a flood zone, necessitating adherence to the Base Flood Elevation (BFE) for new structures. However, BFE height regulations do not alter fence placement requirements. As the circumstances of 3 18th Avenue South generally apply to nearby lands and the proposed gate location would be a result of the action of the applicant, the requested variance does not meet the intent of this criterion. **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.

Analysis: While fencing and gates are a reasonable expectation for single-family properties, the installation of a gate in the proposed configuration is not required for reasonable use of land as a single-family residence. Strict application of the LDRs would require electronic gates to be set back a minimum of 25 feet from the front property line. Based on the applicants' submitted site plan, the required 25-foot setback could be accommodated without alterations to the proposed house or driveway. Furthermore, the proposal could be revised to utilize a manual gate, which would not have any minimum setback requirements from the front property line. **Does not meet criterion.**

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

Analysis: As discussed above, the proposed variance is not required for reasonable use of the land. Alternative gate configurations could comply with the regulations in the LDRs without necessitating a variance, either by complying with the required electronic gate setback or by changing the proposal to a manual gate. **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.

Analysis: In 2013, the City adopted new Land Development Regulations through Ordinance 2013-34, which included regulations for the location of electronic gates due to potential issues with traffic and vehicle stacking. The subject variance request is contrary to the intent of the fence and gate regulations. Further, the preliminary site plan for 3 18th Avenue South indicates the proposed electronic gate will be set back 5 feet from the front property line and will be set back 6 feet from the southern side property line, which may create conflicts with ingress/egress to both the subject site and adjacent south property. **Does not meet criterion.**

CONCLUSION AND CONDITIONS

Variance requests are required to be reviewed for consistency with the criteria set forth in LDR Section 23.2-26(b). The applicants have not established by competent and substantial evidence that the proposed variance is consistent with any of the required review criteria, including that a hardship be established related to the circumstances of the property and that the strict application of the LDRs would deprive the property owners of reasonable use of the land. As the circumstances of the subject lot are typical for waterfront properties in Lake Worth Beach, a hardship was not established related to the property's circumstances. As alternative gate type and/or placement options are available that would comply with the Land Development Regulations, the proposed variance is not required for reasonable use of the land. Therefore, staff is recommending that the Planning and Zoning Board not approve the proposed variance based on the data and analysis in this report.

BOARD POTENTIAL MOTION:

I MOVE TO **DISAPPROVE** PZB Project Number 24-01500002 for a variance to the minimum setback distance to allow the proposed placement of an electronic gate set back 5 feet from the front property line at 3 18th Avenue South. The project does not meet the variance criteria based on the data and analysis in the staff report.

I MOVE TO **APPROVE** PZB Project Number 24-01500002 for a variance to the minimum setback distance to allow the proposed placement of an electronic gate set back 5 feet from the front property line at 3 18th Avenue South. The application meets the variance criteria for the following reasons [Board member please state reasons].

Consequent Action: *The Planning & Zoning Board's decision will be the final decision for the variance. The applicants may appeal the Board's decision to the City Commission.*

ATTACHMENTS

- A. Application Package (survey, site plan, and supporting documents)