



## HISTORIC RESOURCES PRESERVATION BOARD REPORT

**HRPB Project Number 24-01500005:** A request for a variance to allow 43.5 linear feet of up to 7.5-foot high fencing along the south side property line at 1209 North Lakeside Drive. The subject property is a non-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 Single Family Residential (SFR).

**Meeting Date:** July 10, 2024

**Property Owners:** Jeffrey Arnold and Donald Barshaw

**Address:** 1209 North Lakeside Drive

**PCN:** 38-43-44-21-15-362-0142

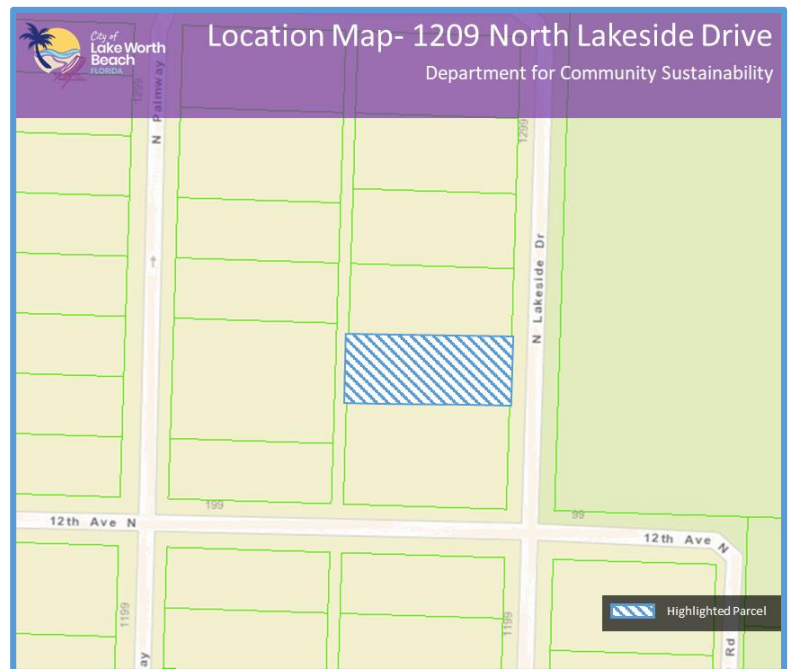
**Size:** ±0.155 acres / 6,750 sf

**General Location:** East side of North Lakeside Drive between 12<sup>th</sup> Avenue North and 13<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 request is not consistent with the variance criteria in the LDRs. Therefore, staff is recommending that the HRPB not approve the variance request.

## PROJECT DESCRIPTION

The property owners, Jeffrey Arnold and Donald Barshaw, are requesting a variance to allow approximately 43.5 linear feet of fencing ranging from 7 feet tall to 7.5 feet tall along the side property line of 1209 North Lakeside Drive. The fencing was previously installed without building permits. The parcel is located in the 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 received a letter of support for the application from the owners of the adjacent property to the south, 1205 North Lakeside Drive. That letter is included as **Attachment C**.

## BACKGROUND

The existing single-family house was designed by architect Gerhard Selzer and constructed in 1980. At some point prior to 2007, the structure's front door (facing North Lakeside Drive) was removed and replaced with a circular window. In 2020, the property received approval from the HRPB (#20-00100028) to demolish a rear sunroom and part of the existing garage, build a new family room, reconfigure the rear driveway, construct a new pool and outdoor shower, construct a front addition and covered front porch, and window and door replacement. The property received a COA in 2022 (#22-00100396) to apply stone veneer on the front façade and porch columns. The property also received approval in 2024 for new fencing in the backyard and along part of the south side property line.

## 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."*

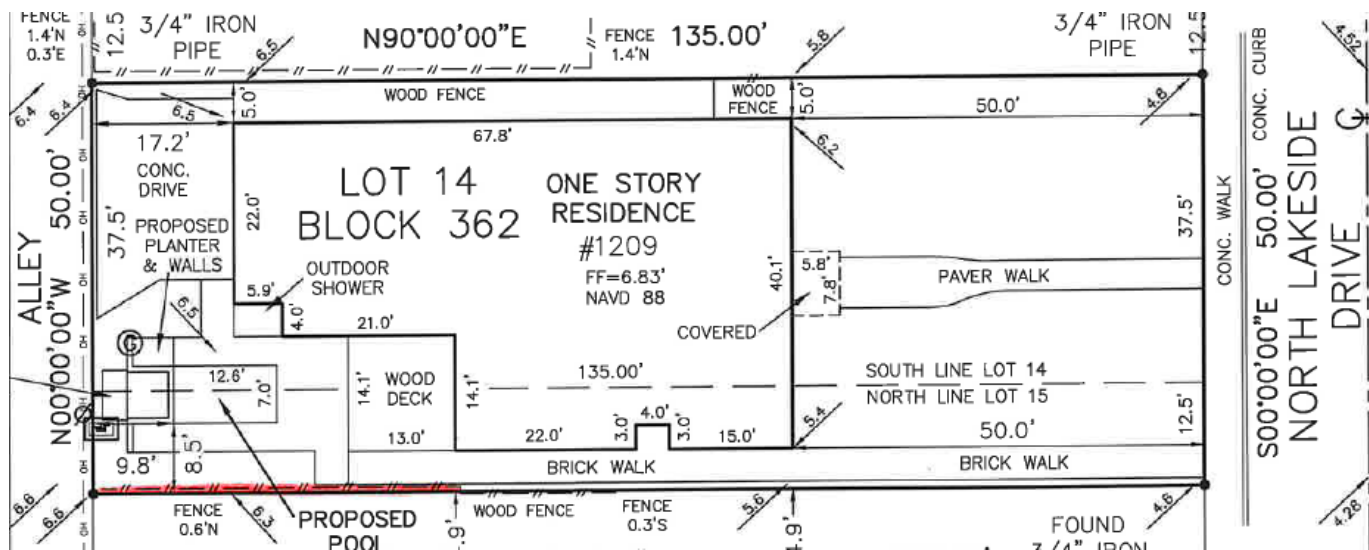
**Analysis:** The existing principal structure is a single family house that is consistent with the intent of the Single Family Residential designation. The variance being sought will not change the use of the property. As such, a formal consistency review of the comprehensive plan is not applicable to a project of this scale.

### Consistency with the 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.

**Analysis:** The fencing on the south side property line at 1209 North Lakeside Drive conflicts with the requirements in the City's Land Development Regulations, specifically the limitations for maximum fence height along side property lines.

Per LDR Section 23.4-4(d)(1)(C), the maximum height of fences or walls on the side property line is six (6) feet. The applicants are proposing about 43.5 linear feet of fencing on the south side property line that ranges from 7 to 7.5 feet in height (see survey image below).



Subject fencing at 1209 North Lakeside Drive, ranging from 7-7.5 feet tall (marked in red)

| Required by Code   | Proposed   |
|--|--|
| <p><b>LDR Section 23.4-4(d)(1)(C):</b> On the rear property line (not adjacent to an alley) and on that portion of the side property line from the rear property line to the front building setback line, a fence or wall shall have a maximum height of six (6) feet from the natural grade of the lot.</p> | <p>Approximately 43.5 linear feet of fencing along the south side property line, ranging in height from 7 feet to 7.5 feet</p> |

**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 is located in the Northeast 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:** 1209 North Lakeside Drive is a 50' x 135' parcel; this is the most common lot size throughout Lake Worth Beach. Single-family homes in the surrounding neighborhood and throughout the City are all required to comply with requirements for maximum fence height along their side property lines. Furthermore, the requested variance is the result of unpermitted work done by the applicants. However, the applicants contend that their property has special circumstances due to the location and height of their neighbor’s home, which is a two-story structure situated approximately 1.5 feet from their shared property line. As the circumstances of 1209 North Lakeside Drive apply generally to nearby lands and buildings and the variance request is the result of actions of the applicants, the requested variance does 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 40 years. Strict application of the LDRs would require fencing along the side property line to have a maximum height of six feet as measured from the average height of the natural grade on either side of the fence; this configuration would not deprive the applicants of reasonable use of the land as a single-family residence. **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:** As established above, the proposed variance is not required for reasonable use of the land. While a code-compliant six-foot-tall fence would provide slightly less privacy from the neighboring house, fencing that meets the code would still provide the property owners with privacy for their backyard and would visibility of their neighbors' utility meters, which is a concern expressed in the applicants' justification statement. **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.*

**Analysis:** In 2013, the City's new Land Development Regulations were adopted through Ordinance 2013-34. The new LDRs included fence height regulations for front yards, side property lines, and rear property lines. The granting of the variance would be contrary to the intent of the fence regulations. However, the granting of the fence height variance will likely not be unduly injurious to contiguous property, as owners of the adjacent property (1205 North Lakeside Drive) have provided a letter of support for the requested variance. **Does not meet criterion.**

#### Consistency with the Historic Preservation Design Guidelines

Fencing within historic districts does not require COA review.

### CONCLUSION AND CONDITIONS

Variance requests are required to be reviewed for consistency with the criteria set forth in LDR Section 23.2-26(b), including the requirement that a hardship be established related to the circumstances of the property. As the circumstances of the subject lot are typical, a hardship was not established. Further, the applicant has not established by competent and substantial evidence that the proposed variance is consistent with the required review criteria, including that the strict application of the LDRs would deprive the property owner of reasonable use of the land. Therefore, staff is recommending that the HRPB not approve the proposed variance based on the data and analysis in this report.

### BOARD POTENTIAL MOTION:

I MOVE TO **DISAPPROVE** HRPB Project Number 24-01500005 for a variance to allow 43.5 linear feet of up to 7.5-foot high fencing along the south side property line at 1209 North Lakeside Drive. 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 24-01500005 for a variance to allow 43.5 linear feet of up to 7.5-foot high fencing along the south side property line at 1209 North Lakeside Drive. 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 the final decision for the variance. The Applicant may appeal the Board's decision directly to circuit court.*

**ATTACHMENTS**

- A. Survey and Photos
- B. Applicant's Justification Statement
- C. Neighbor's Letter of Support