

**PLANNING AND ZONING BOARD REPORT**

**PZB Project Number 22-01500008:** Consideration of a variance by Yolanda Silva at 731 South M Street to allow the installation of a shed between the principal structure and the public street. The subject site is zoned Single Family Residential (SF-R) and has a future land use designation of Single Family Residential (SFR).

**Meeting Date:** January 18, 2023

**Property Owner/Applicant:** Yolanda Silva

**Address:** 731 South M Street

**PCNs:** 38-43-44-21-15-215-0160

**Size:** 0.15-acre lot / ±1,400 square feet of existing structures

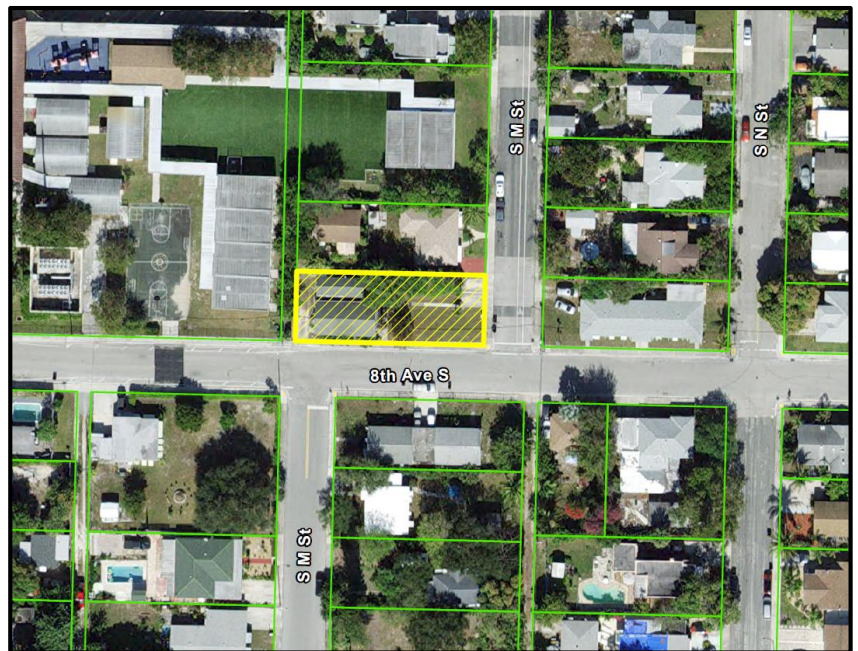
**General Location:** Northwest corner of South M Street and 8<sup>th</sup> Avenue South

**Existing Land Use:** Two-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. The proposed variance request is consistent with the variance criteria in the LDRs. Therefore, staff is recommending approval of the subject variance application.

## PROJECT DESCRIPTION

The applicant, Yolanda Silva, is requesting a variance to allow a 10'x12', 120 sf shed (accessory structure) within the front yard at 731 South M Street. The site, 731 South M St, is a single-family zoned property located on the Northwest corner of South M Street and 8<sup>th</sup> Avenue South. The lot currently houses a 924 square foot primary residence and a 480 square foot accessory dwelling unit. The subject site is surrounded by single-family zoned properties to the north, east, and south and an elementary school to the west zoned Public (P).

## COMMUNITY OUTREACH

Staff has not received letters of support or opposition from adjacent or nearby neighbors.

## BACKGROUND

The subject site is a 6,750 square foot residential lot. Below is a timeline summary of the residential property based on Palm Beach Property Appraiser's records and City records:

- 1945 – Permit #7098 was issued for the construction of two (2) single-family residences.
- 1946 – Permit #7295 was issued for the construction of a garage/ washroom.
- 1950 – The garage was enlarged and converted into a dwelling unit per permit #1207.
- August 28, 1997 – One (1) of the three (3) single-family residences located on the property caught fire.
- September 2, 1997 – The structure where the fire occurred was deemed unsafe by the building official.
- December 19, 1997 – The property received a building permit for the demolition of the unsafe structure.
- November 4, 2022 – A variance application was submitted to the Department of Community Sustainability for the location of the shed.
- January 5, 2023 – A search of the City's database shows that there are no active code cases associated with 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 are currently two single-family residences on the subject property that are legal non-conforming structures and uses. The variance being sought does not change the use of the property, which will remain two 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 shed in front of the principal structure, which is a minor change to the appearance of 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 policies of the City of Lake Worth Beach’s Comprehensive Plan and staff recommends that the PZB approve the subject 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 proposed shed is generally consistent with the LDR requirements for accessory structures with the exception of the location. The proposed shed location, which is between the principal structure and the public right-of-way, is in conflict with LDR Sections 23.1-12 and 23.3-7. Shed is consistent with the side setback and lot coverage requirements of the single family residential (SFR) zoning district. The applicant has requested relief from the code limitations by applying for the variance.

Zoning Analysis		
Development Standard	Base Zoning District Single-Family Residential (SFR)	Provided
Lot Size (min)	5,000 sf	6,750 sf
Lot Width (min)	50’	50’
Accessory Structure Setbacks (Shed)	Front	41’
	Rear	82’
	Side	5’
Impermeable Surface Coverage (max)	55%	41.05%
Structure Coverage (max)	35%	22.75%

Variance Requests		
LDR Citation	Required	Proposed
Accessory Structure Location (Section 23.1-12)	May not be constructed between any principal structure and a public street right-of-way.	<b>Shed to be constructed in the front yard, between the principal structure and a public street right-of-way.</b>
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.	<b>Shed to be constructed in the front yard, between the principal structure and a public street right-of-way.</b>

The data and analysis below review the application against the regular findings for approval of 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 and the analysis is 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 is not the result of action of the applicant.

**Staff Analysis:** Based on the siting of the structure, the rear (west) setback of the principal structure is 4.5 feet. The property owner contends that there is no space in the backyard for a shed. With the existing 4.5 feet of space and the required 5-foot rear setback for accessory uses, there is not enough space from the exterior wall of the house to the required setback to install a shed. Additionally, the side yards behind the front building line ranges between 4.6 to 5 feet which is not sufficient space to install a shed. The only feasible shed location is between the principal structure and the public street. 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 two-family use for several decades. Strict application of the LDRs would not deprive the applicant's continued use of the residences. However, a shed is a reasonable expectation for a property that contains two single-family structures for additional storage of tools and miscellaneous objects to keep the site visually pleasing. Per the City's Land Development Regulations (LDRs) Sections 23.1-12 and 23.3-7, accessory structures may not be constructed between any principal structure and a public street right-of-way. The applicant contends that a shed is an accessory structure 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 property resides on the Northwest corner of 8<sup>th</sup> Avenue South and South M Street. The proposed shed will be setback approximately 41 feet from the east property line. However, the property's configuration does not allow the applicant to accommodate a shed in a location allowed by the City's current LDRs. The proposed shed will comply with the front and side setbacks as stated in LDR section 23.3-7 *Minimum front setback shall be twenty (20) feet and minimum side setback shall be ten (10) percent of lot width (5 feet for a 50-foot wide lot).* Staff finds that the proposed variance is reasonable to accommodate the proposed shed's location and size. **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 accessory structures between the principal structure and public right of way, this request would not be unduly injurious to adjacent properties and would allow for reasonable expectation of storage in a residential zoning district due to the increased front setback of 41 feet. Staff is recommending a condition of approval to require landscaping to screen the proposed shed from the public rights of way, therefore minimizing the visual impact to the surrounding properties. The applicant states that the purpose of the proposed shed is to protect her belongings from further break-ins and additional robberies due to a lack of safe storage for tools. **Meets Criterion.**

## CONCLUSION AND CONDITIONS

Based on staff's analysis, the variance request complies with all the variance criteria outlined above. Therefore, staff is recommending approval of this application with conditions:

1. The shed shall not exceed the maximum of 144 square feet as consistent with LDR Section 23.3-7.
2. The shed shall comply with all minimum setback requirements as established in LDR section 23.3-7.
3. Shed shall have a landscape screen as approved by the city horticulturist to minimize visual impact to the surrounding properties. The landscape screen shall include also include a shade tree, if feasible. The landscape plan shall be included with the building permit for the proposed shed.
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 22-01500008 with staff recommended conditions for a **variance** to the accessory structure location to allow the installation of a shed between the principal structure and the public street, for the property at 731 South M Street. The application meets the variance criteria based on the data and analysis in the staff report.

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 22-01500008 for a **variance** to the accessory structure location to allow the installation of a shed between the principal structure and the public street. 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 the final decision for the Variance. The Applicant may appeal the Board's decision directly to circuit court.*

**ATTACHMENTS**

- A. Application Package (survey & supporting documents)