

## PLANNING AND ZONING BOARD REPORT

**PZB Project Number 24-01500003:** Consideration of two variances to allow an 8-foot-tall fence and to allow a fence without the required side setback and landscape screen at 531 North C Street. The subject site is zoned Single Family Residential (SFR) and has a future land use designation of Single Family Residential (SFR).

**Meeting Date:** June 5, 2024

**Property Owner/Applicant:** Sharon L. Thompson

**Address:** 531 North C Street

**PCNs:** 38-43-44-21-15-136-0090

**Size:** 0.155-acre lot / ±1,222 square feet of existing structures

**General Location:** South of 6<sup>th</sup> Avenue North, between North B Street and North C Street.

**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. Neither of the proposed variance requests are consistent with the variance criteria in LDR Section 23.2-26(b). Therefore, staff is recommending denial of the proposed variance requests.

## PROJECT DESCRIPTION

The applicant, Sharon L. Thompson, is requesting **two variances** to allow an 8-foot-tall fence and to allow a fence without the required side setback and landscape screen at 531 North C Street. The site is a single-family zoned property located at the southwest corner of 6th Avenue North and North C Street. The lot currently has a ±1,222 square foot residence. The subject site is surrounded by single-family zoned properties to the north, east, south, and west.

## COMMUNITY OUTREACH

Staff has not received any letters of support or opposition for this application.

## 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:

### Building permit history:

- 1947 – Construct one-story single-family residence
- 1959 – Reroof
- 1979 – Reroof
- 1987 – Install 6' chain link fence
- 1990 – Install wood fence, 3'-0" in front and 8'-0" in rear (inside of hedges on rear)
- 1993 – Remodel, concrete driveway, reroof
- 2005 – Reroof
- 2006 – Install shed
- 2015 – Install accordion shutters
- January 23, 2023 – Repair and replace fence
- December 1, 2023 – Applied to replace fence, not approved due to proposed location
- 2024 – Replace windows and doors

### Code Compliance:

- May 13, 2024 – a search of the City's database shows that there is one active code case linked to the property
  - Violation was reported November 30, 2023, for:
    - Fencing installed without a permit
    - Location of recreational vehicle storage in residential district

## 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.

**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 and strategic plan is not applicable to a project 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, approved with conditions, or denied.

**Staff Analysis:** The proposed fencing is not consistent with the LDR requirements for fencing, specifically the height limitations and requirements for additional setback and landscape screening for side and rear fences adjacent to roadways. 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(d)(1))	<u>Along side and rear property lines adjacent to roadways (except alleys) a fence or wall placed at the property line shall have a maximum height of four (4) feet. Fencing over four feet in height, up to a maximum height of six (6) feet, must be set back a minimum of thirty (30) inches from the property line providing a landscape screen maintained at a minimum height of twenty-four (24) inches.</u>	<b>An 8’ tall fence along the side (north) property line</b>
Fence Location (Section 23.4-4(d)(1))	<u>Along side and rear property lines adjacent to roadways (except alleys) a fence or wall placed at the property line shall have a maximum height of four (4) feet. Fencing over four feet in height, up to a maximum height of six (6) feet, must be set back a minimum of thirty (30) inches from the property line providing a landscape screen maintained at a minimum height of twenty-four (24) inches.</u>	<b>To be placed on the side (north) property line without the minimum 30 inch set back and landscape screen</b>

**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.” The PZB is tasked with making the required findings to grant a variance. The following analysis addresses each of the required findings for the requested variances. In addition, the applicant's justification statement is included in **Attachment A**.

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.*

**Analysis:** The applicant contends that the 6-foot-tall fencing permitted by the LDRs is not sufficient to preserve their privacy and security in the side yard, and instead proposes an 8-foot-tall fence on the side (north) property

line. Furthermore, the applicant contends that the required 30-inch setback would require the removal of existing trees and roots. Homes located on corner lots are a common condition throughout Lake Worth Beach, and maximum 6-foot fence height along side the property adjacent to roadways (excluding alleys) is a standard requirement for all homes, including those on corner lots. Per discussions with the City Horticulturalist, the fencing may be placed behind the existing trees and roots can be ground down to accommodate the fence placement. As the circumstances of 531 North C Street generally apply to similar properties and nearby lands and the proposed variance is the result of the action of the applicant (unpermitted fence installation), 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.*

**Staff Analysis:** The property has accommodated a single-family use for over 77 years. Strict application of the LDRs would require fencing placed on the side property line adjacent to a roadway to be a maximum of 4 feet tall; fencing up to 6 feet tall could be installed along a side property line with a 30-inch setback and landscape screen; either of these configurations would not deprive the applicant of reasonable use of the land as a single-family residence. **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 6-foot-tall fence with a 30-inch setback and landscape screen permitted by the LDRs is sufficient to provide privacy and security, 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:** 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 may have a negative visual impact on the surrounding neighborhood and is contrary to the intent of the fence regulations; the 30-inch setback and landscape screen requirement is intended to create a visual and physical buffer between tall fencing and the sidewalk. **Does not meet criterion.**

## CONCLUSION

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 variances are consistent with any of the required review criteria, including that a hardship be established related to the circumstances of the property. As the circumstances of the subject lot are typical for corner properties in Lake Worth Beach, a hardship was not established related to the property's circumstances. Further, the applicant has not established by competent and substantial evidence that strict application of the LDRs would deprive the property owner of reasonable use of the land. Therefore, staff is recommending that the Planning and Zoning Board not approve the proposed variances based on the data and analysis in this report.

## BOARD POTENTIAL MOTION:

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 24-01500003 for **two variances** to allow an 8-foot-tall fence and to allow a fence without the required side setback and landscape screen 531 North C Street. The application does not meet the variance criteria based on the data and analysis in the staff report.

I MOVE TO APPROVE PZB PROJECT NUMBER 24-01500003 for **two variances** to allow an 8-foot-tall fence and to allow a fence without the required side setback and landscape screen 531 North C Street. The project meets 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. Application Package (survey, site plan & supporting documents)