



HISTORIC RESOURCES PRESERVATION BOARD REPORT

HRPB Project Number 23-01500012: A request for a variance to allow a six-foot high fence in the front yard at 603 North Ocean Breeze. The subject property is a contributing resource within the Old Lucerne Historic District and is located in the Single Family Residential (SFR) zoning district. The future land use designation is the Single Family Residential (SFR).

Meeting Date: January 10, 2024

Property Owner: Renee and Robert Waldeck

Address: 603 North Ocean Breeze

PCN: 38-43-44-21-15-170-0150

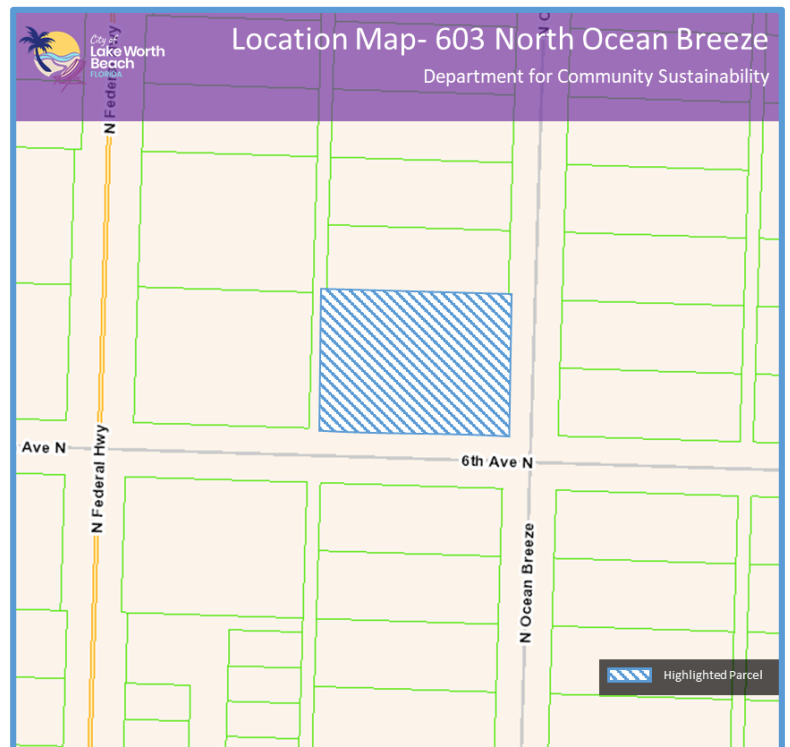
Size: ±0.31 acres / 13,500 sf

General Location: Northwest corner of 6th Avenue North and North Ocean Breeze

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, Renee and Robert Waldeck, are requesting a variance to allow approximately 58 linear feet of 6-foot-tall fencing in the front yard of 603 North Ocean Breeze. 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 not received any letters of support or opposition for this application.

BACKGROUND

The existing house and garage structures at 603 North Ocean Breeze were constructed in 1947. By 1956, the garage had been converted for use as both a garage and an apartment unit. A pool and rear patio were added in 1970, and fencing around the pool and backyard was installed in 1971 and 1985.

The property was cited by Code Compliance on May 19, 2023, noting that fencing in the front yard had been installed without permits. The property owners submitted a fence permit application on August 4, 2023, and staff disapproved the permit on August 17th, noting that the fencing in the front yard exceeded the maximum height allowance. After discussions with staff, the property owners chose to apply for a fence height variance; following the submittal of previously missing or incomplete documents, the project was scheduled for the December HRPB meeting.

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.

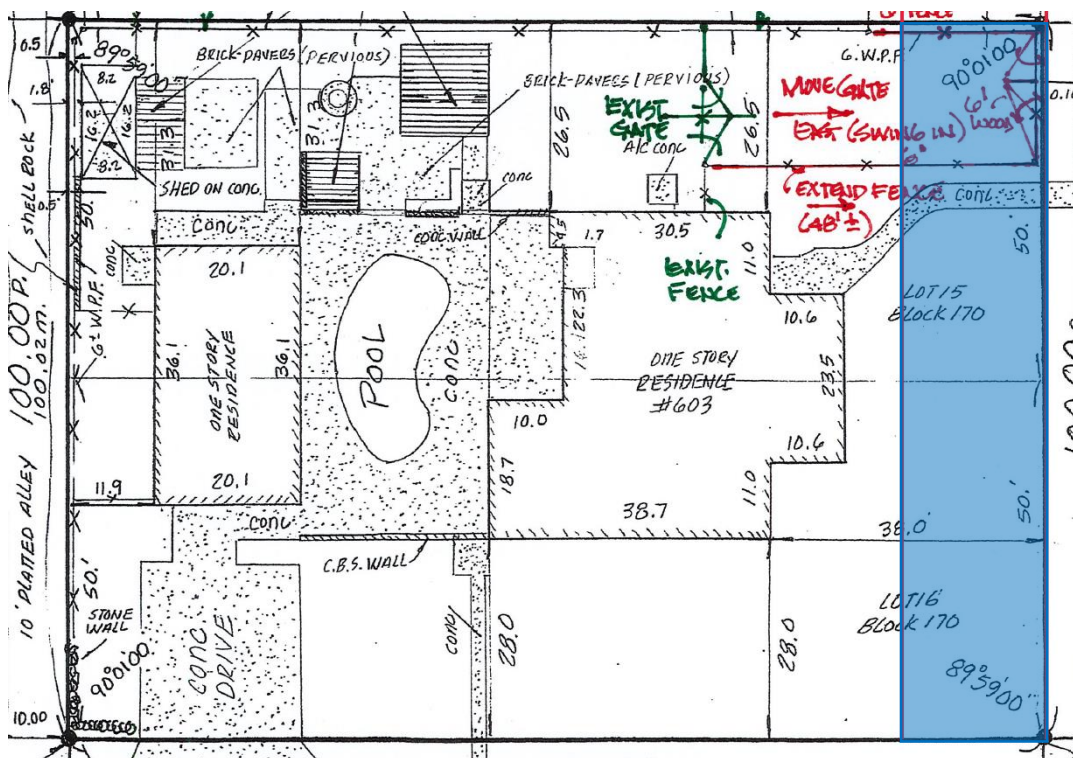
Consistency with the Land Development Regulations

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 in the front yard at 603 North Ocean Breeze conflicts with the development requirements in the City’s Land Development Regulations, specifically the limitations for maximum fence height in front yards.

Per LDR Section 23.4-4(d)(1)(a), the maximum height of fences or walls in the front yard (on the front property line and the portions of the side property lines between the front property line and the front building setback line), is four (4)

feet from the natural grade of the lot. The front yard area for 603 North Ocean Breeze includes the front property line along North Ocean Breeze and the first twenty (20) feet of depth from the front property line (see survey image below). About 58 linear feet of the six-foot tall fencing is located within the front yard area.



Front yard area at 603 North Ocean Breeze (marked in blue)

Required by Code	Proposed
<p>LDR Section 23.4-4(d)(1)(a): 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.</p>	<p>Approximately 58 linear feet of 6-foot tall fencing in the front yard</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 Old 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: 603 North Ocean Breeze is a 100’ x 135’ parcel, consisting of 2 platted lots of record; corner properties are a common condition throughout Lake Worth Beach. Single-family homes in the surrounding neighborhood and throughout the City are all required to comply with requirements for maximum front yard fence height. Furthermore, the requested variance is the result of unpermitted work done by the applicants. As the

circumstances of 603 North Ocean Breeze 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 75 years. Strict application of the LDRs would require fencing in the front yard to have a maximum height of four feet; 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: The proposed variance is not required for reasonable use of the land. A landscape screen on either side of a four-foot-tall fence would comply with the Land Development Regulations while also providing additional privacy, 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 may have a negative visual impact on the surrounding neighborhood and is contrary to the intent of the fence regulations. **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 any of 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 23-01500012 for a variance to allow approximately 58 linear feet of 6-foot tall fencing in the front yard at 603 North Ocean Breeze. 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 23-01500012 for a variance to allow approximately 58 linear feet of 6-foot tall fencing in the front yard at 603 North Ocean Breeze. 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
- B. Applicant's Justification Statement