



AGENDA
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD MEETING
CITY HALL COMMISSION CHAMBER
WEDNESDAY, OCTOBER 04, 2023 -- 6:00 PM

ROLL CALL and RECORDING OF ABSENCES:

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / REORDERING AND APPROVAL OF THE AGENDA

APPROVAL OF MINUTES:

- A. [September 6, 2023 minutes](#)

CASES:

SWEARING IN OF STAFF AND APPLICANTS

PROOF OF PUBLICATION

- 1) [1701 12th Avenue N - Fence Variance](#)

WITHDRAWALS / POSTPONEMENTS

CONSENT

PUBLIC HEARINGS:

BOARD DISCLOSURE

UNFINISHED BUSINESS:

NEW BUSINESS:

- A. [PZB Project Number 23-01500011: Consideration of a variance to allow a 6-foot high fence in the required setback for the property located at 1701 12th Avenue North. The subject site is zoned Single Family Residential \(SF-R\) and has a future land use designation of Single Family Residential \(SFR\).](#)

PLANNING ISSUES:

PUBLIC COMMENTS (3 minute limit)

DEPARTMENT REPORTS:

BOARD MEMBER COMMENTS:

ADJOURNMENT:

If a person decides to appeal any decision made by the board, agency or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105)

NOTE: ALL CITY BOARDS ARE AUTHORIZED TO CONVERT ANY PUBLICLY NOTICED MEETING INTO A WORKSHOP SESSION WHEN A QUORUM IS NOT REACHED. THE DECISION TO CONVERT THE MEETING INTO A WORKSHOP SESSION SHALL BE DETERMINED BY THE CHAIR OR THE CHAIR'S DESIGNEE, WHO IS PRESENT AT THE MEETING. NO OFFICIAL ACTION SHALL BE TAKEN AT THE WORKSHOP SESSION, AND THE MEMBERS PRESENT SHOULD LIMIT THEIR DISCUSSION TO THE ITEMS ON THE AGENDA FOR THE PUBLICLY NOTICED MEETING. *(Sec. 2-12 Lake Worth Code of Ordinances)*

Note: One or more members of any Board, Authority or Commission may attend and speak at any meeting of another City Board, Authority or Commission.



**MINUTES
CITY OF LAKE WORTH BEACH
PLANNING & ZONING BOARD REGULAR MEETING
CITY HALL COMMISSION CHAMBER
WEDNESDAY, SEPTEMBER 06, 2023 -- 6:00 PM**

SWEARING IN OF NEW MEMBERS: Board Secretary administered Oath of Office (Planning & Zoning Board) City of Lake Worth Beach to newly appointed Board members: Dave Mathews and Henry Pawski.

ROLL CALL and RECORDING OF ABSENCES: Present were: Juan Contin, Chairman; Daniel Walesky, Vice-Chair; Mark Humm, Zade Shamsi-Basha; Dave Mathews, Henry Pawski. Absent: Evelin Urcuyo. Also present were: Abraham Fogel, Senior Community Planner; Scott Rodriguez, Principal Planner; Erin Sita, Asst Director for Community Sustainability; Elizabeth Lenihan, Board Attorney; Sherie Coale, Board Secretary.

PLEDGE OF ALLEGIANCE

ADDITIONS / DELETIONS / RECORDING AND APPROVAL OF THE AGENDA No additions/deletions to the agenda.

Motion: D. Walesky moves to approve the agenda as presented, M. Humm 2nd.

Vote: Ayes all, unanimous.

APPROVAL OF MINUTES:

- A. July 19, 2023 Regular Meeting Minutes
- August 2, 2023 Regular Meeting Minutes

Motion: D. Walesky moves to approve the July and August meeting minutes as presented; M. Humm 2nd.

Vote: Ayes all, unanimous.

PZB TRAINING: E. Sita gives brief overview and history of Zoning. It is a valid police power upholding health, safety and welfare of communities. Florida adopted legislation allowing local governments to enact zoning codes. This was followed by the enacting of Comprehensive Plans. The Land Development Regulations are the primary method of implementing the Comprehensive Plan and those Elements within. Additional guidelines such as Major Thoroughfare Design Guidelines are adopted through reference. Plans/projects are reviewed against the LDR's and Comprehensive Plans. Public participation is required by the State. There are two roles for the Board: Advisory- providing the City Commission with recommendations related to Comprehensive Plan and LDR changes, Planned Developments, Incentives, Rezoning and Abandonments; and Decision-making for Variances, Conditional Uses, Major Site Plans.

Elizabeth Lenihan, Board Attorney-Review of Meeting procedures. Two type of Disclosures that may be encountered are Ethics Disclosures and Quasi-Judicial Disclosures (Ex-parte Communications involving direct investigations and/or communications with applicants prior to a meeting). Palm Beach County regulations are more stringent than the State. Brief discussion of Sunshine Law regarding

discussing projects with other Board members outside the meeting forum; Advises that should you have a question about whether you need to disclose or be recused from procedures, the City attorney office is open to discussion prior to any meeting.

Board: A question regarding viewing information on a personal laptop. This is not advisable as all Board members should have or have opportunity to avail themselves of the same level of decision making information. 55:37

CASES:

SWEARING IN OF STAFF AND APPLICANTS Board Secretary administered oath to those wishing to give testimony.

PROOF OF PUBLICATION – provided in the meeting packet.

- 1) 1806 Madrid Ave
1778 7th Ave N

WITHDRAWALS / POSTPONEMENTS None

CONSENT None

PUBLIC HEARINGS:

BOARD DISCLOSURE: J. Contin discloses he intends to recuse himself from New Business Item A. as he was spoke with a vendor with whom he is utilizing for his own project. This would be a voting conflict of interest.

UNFINISHED BUSINESS: None

NEW BUSINESS:

- A. PZB Project Numbers 23-01400025:** A Major Site Plan Amendment for the installation of ±34,454 square feet of canopies (+38,020 total square feet including existing structures) for previously approved recreational vehicle (RV) and boat storage spaces at 1778 7th Avenue North. The subject site is located within the Industrial Park of Commerce (I-POC) zoning district and has a future land use designation of Industrial (I).

Vice-Chair Daniel Walesky presides as the Chair, Juan Contin, has recused himself.

Staff: S. Rodriguez provides background information on the project. Previous approvals include additional paving, landscaping and drainage to support the storage facility. The application implements the requirement for a reduced queuing distance at entrance.

Agent for the applicant: Shayne Broadnix- is in agreement with the Conditions of Approval

Public Comment: Claudia Rodriguez owner of nearby property expresses concern regarding the traffic. Would like to see speed limit, and stop signs. Previously the property had one tenant for the tower; now there are 93 tenants plus the tower. There will be more traffic than 15 years ago, it is on a curve.

Board: Question about whether it is only storage with no on-site maintenance of vehicles. Agent confirms it is storage only.

Staff: The use was approved a few years ago, the site plan was modified in 2022 and here again with the addition of canopies.

Board: Does the City engineer sign off on the traffic flow? The City engineer wanted to increase stacking distance to accommodate the larger vehicles.

Motion: D. Mathews moves to approve PZB 23-01400025 with staff recommended Conditions based upon competent substantial evidence provided in the staff report and testimony given at the public hearing; Z. Shamsi-Basha 2nd.

Vote: Ayes all, unanimous. J. Contin abstained from Board discussion, was not present in the room, and did not vote.

B. PZB Project Numbers 23-00500013: A conditional use permit request for a ±6,800 square foot Contractor Showroom at 1806 Madrid Avenue. The subject site is located within the Industrial Park of Commerce (I-POC) zoning district and has a future land use designation of Industrial (I).

Staff: A. Fogel presents case findings and analysis. The proposal is for a contractor showroom within the same building as an existing warehouse. The contractor showroom will be for wholesale use and industry professionals displaying cabinets and countertops. Conditions #4,5,6 are atypical of a conditional use. As the area is difficult to view unless onsite, the previously approved landscaping will be verified with an on-site visit; the non-conforming pole sign would be removed if not integrated into the structure; this project facilitates the mitigation of the code compliance case.

Applicant: Mauricio Valle- Is familiar with the Conditions of Approval and in agreement with those Conditions

Public Comment: None

Board: H. Pawski verifies that the Conditions in the staff report are included in the motion.

Board Attorney: It includes all conditions in staff report, including those with time limitations.

Public Comment: None.

Motion: D. Walesky moves to approve PZB 23-00500013 based upon competent, substantial evidence provided in the staff report and testimony given at the public hearing.; H. Pawski 2nd.

Vote: Ayes all, unanimous.

PLANNING ISSUES: None

PUBLIC COMMENTS (3 minute limit) None

DEPARTMENT REPORTS: None

BOARD MEMBER COMMENTS: Welcome to the new Board members.

ADJOURNMENT: 7:22 PM

Legal Notice No. 48679

PLEASE TAKE NOTICE that the City of Lake Worth Beach's Planning and Zoning Board (PZB) will conduct a meeting at 7 North Dixie Highway, Lake Worth Beach on **Wednesday, October 4, 2023 at 6:00 pm** or as soon thereafter to consider the following application.

PZB Project Number 23-01500011: Consideration of a variance to allow a six-foot high fence in the required setback for the property located at 1701 12th Avenue North. The subject site is zoned Single Family Residential (SFR) and has a future land use designation of Single Family Residential (SFR). PCN #38-43-44-21-03-000-0570.

The public can view the meeting via YouTube at <https://www.youtube.com/c/CityofLakeWorthBeach>. The agenda and back-up materials are available at <https://lakeworthbeachfl.gov/government/advisory-board-agendas-and-minutes/>.

Public comment will be accommodated in person at the meeting, or virtually prior to the meeting through the web portal: <https://lakeworthbeachfl.gov/virtual-meetings/>. If you are unable to access the web portal, please email pzoning@lakeworthbeachfl.gov for a comment to be read into the record by a staff member. Written responses or comments can be sent to the Department for Community Sustainability Planning and Zoning Division, 1900 2nd Avenue North, Lake Worth Beach, FL 33461 and must arrive before the hearing date to be included in the formal record.

Affected parties, as defined in Section 23.1-12 of the Lake Worth Beach Code of Ordinances, who are interested in participation must notify the City of their status at least five (5) days before the hearing. Failure to follow the process will be considered a waiver of the right to participate as affected party in the hearing, but does not preclude the party from making public comment. Affected parties shall submit the evidence they wish the Planning and Zoning Board (PZB) to consider a minimum of one (1) full business day prior to the date of the meeting. Affected parties, whether individually or collectively and irrespective of the number of affected parties, shall have the right to request one (1) continuance provided that the request is to: address neighborhood concerns or new evidence, hire legal counsel or a professional services consultant, or is unable to be represented at the hearing. For additional information, please contact City staff at 561-586-1687 or pzoning@lakeworthbeachfl.gov.

If a person decides to appeal any decision made by the Board, Agency, or Commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based (FS 286.0105). **In accordance with the provisions of the American with Disabilities Act (ADA) this document may be requested in an alternative format. Persons in need of special accommodation to participate in this proceeding are entitled to the provision of certain assistance. Please call 561-586-1687 or email pzoning@lakeworthbeachfl.gov no later than five (5) days before the hearing if this assistance is required.**

Publish: The Lake Worth Herald
September 21, 2023

PLANNING AND ZONING BOARD REPORT

PZB Project Number 23-01500011: Consideration of a variance to allow a 6-foot high fence in the required setback for the property located at 1701 12th Avenue North. The subject site is zoned Single Family Residential (SF-R) and has a future land use designation of Single Family Residential (SFR).

Meeting Date: October 4, 2023

Property Owner/Applicant: Carolyn Deli

Address: 1701 12th Avenue North

PCN: 38-43-44-21-03-000-0570

Size: 0.2270-acre lot / ±2,062 square feet of existing structure

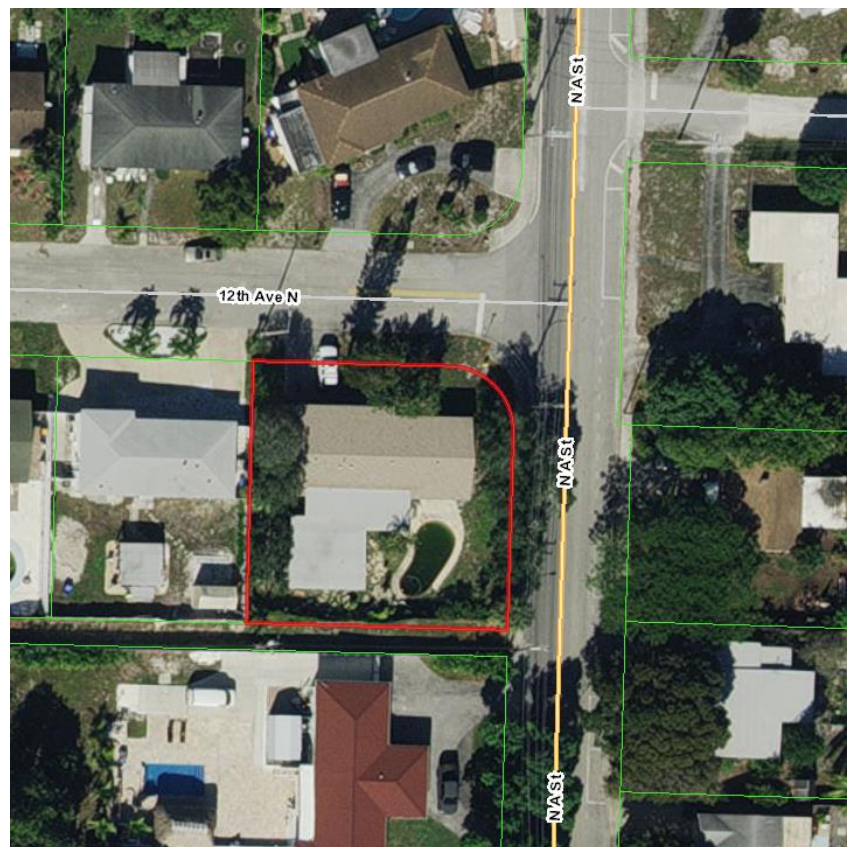
General Location: Southwest corner of 12th Avenue North and North A Street

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 proposed variance request is not consistent with LDR Section 23.4-4(d)(1)(D). The applicant has not established by competent and substantial evidence that the strict application of the LDRs would deprive reasonable use of the land. Therefore, Staff is recommending denial of the proposed variance.

PROJECT DESCRIPTION

The applicant, Carolyn Deli, is requesting a variance to allow a 6-foot high fence along the side property line fronting North A Street without the required 30" setback and landscape screen. The subject property is located on the southwest corner of 12th Avenue North and North A Street. The parcel is located within the Single-Family Residential (SF-R) zoning district and has a Future Land Use (FLU) designation of Single-Family Residential (SF-R).

COMMUNITY OUTREACH

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

BACKGROUND

The subject site is a 0.2270-acre residential lot. Below is a timeline summary of the residential property based on Palm Beach Property Appraiser's records and City records:

- 1954, a building permit (3795) was issued for the construction of a new single-family residence.
- 1959, a building permit (6890) was issued for a residential addition.
- 1991, a fence permit (91-00710) was issued for 6-foot high fencing on the southeast side of the property, fronting North A Street.
 - 1991, a building permit (91-00694) was issued for a new pool and deck.
- On December 13, 2022, a code compliance case (22-2210) was initiated. The violations included repairing, removing, or replacing, an existing fence that was in disrepair.
 - On July 13, 2023, the code compliance case was closed. The fence permit was submitted but not approved.
- On June 8, 2023, building permit #23-1937 was submitted to install new fencing.
 - On June 22, 2023, the zoning review was disapproved since the required height, setback, and landscape screen was not satisfied.
- On August 3, 2023, a pre-application meeting took place to discuss the variance procedures.
- On August 22, 2023, a variance application was submitted to the Department of Community Sustainability for the location of the fence.
 - On August 29, 2023, the application was deemed complete.
- September 18, 2023 – A search of the City's database shows that there are no active code cases associated with this property.

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 the 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. The variance being sought does not change the use of the property as it is a fence height variance. As such, a formal consistency review of the strategic plan and comprehensive plan is not applicable to an improvement of this scale. However, it is important to note that the proposed improvement would visually impact the neighborhood, including the specific intersection of 12th Avenue North and North A Street.

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. The applicant’s justification statement is included as **Attachment A**.

Staff Analysis: The proposed 62 linear feet of 6-foot high fencing along North A Street conflicts with the development requirements in the City’s Zoning Code, specifically height limitations for fencing in single-family and two-family uses. The property is located in the Single-Family Residential (SFR) Zoning District. Based on the LDR Section 23.4-4(d)(1)(D):

Required by Code	Proposed
Along side and rear property lines adjacent to roadways (except alleys) a fence shall have a maximum height of six (6) feet and 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 (see definitions). *	62 linear feet of 6-foot high fencing along a side property line adjacent to a roadway (North A Street) <u>without</u> a minimum of thirty (30) inches from the property line and <u>without</u> providing a landscape screen maintained at a minimum height of twenty-four (24) inches.

** Landscape screen (or "landscape hedge"): A line, row, or group of plant material installed and maintained at a minimum height of twenty-four (24) inches so as to form a continuous buffer acting as a visual screen that may include shrub hedging or decorative landscaping.*

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: Homes located on corners are a common condition throughout City blocks. The applicant contends that the location of existing trees would conflict with the location of a fence that is setback 30”. Staff recommended that the applicant apply for an administrative adjustment to determine that the lot had double frontage and to allow fencing along North A Street to have a maximum height of 4 feet (without a 30" setback for a landscape screen). Additional privacy can be achieved with hedging behind the 4-foot high fence or the existing trees. As the circumstances of the corner lot are common and relief was offered through the administrative adjustment process to address concerns related to privacy and existing tree locations, the proposed variance does not meet the intent of this criterion. **Does not meet the 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 was constructed in the 1950s as a single-family structure. Strict application of the LDRs that would require fencing along North A Street to have a maximum height of 4 feet (without a 30" setback for a landscape screen) or a maximum height of 6 feet (with the 30” setback for required planting) if an administrative adjustment was applied for and granted. Either of the fence configurations would not deprive the applicant of reasonable use of the land as a single-family structure. **Does not meet the 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 landscape screen on either side of the fence can provide additional privacy which is a concern expressed in the applicant's justification statement. **Does not meet the 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 Code was adopted through Ordinance 2013-34. The new code included fence regulations that require a setback and landscape screen for 6-foot high fences fronting streets in single-family and two-family properties. The 30" setback and landscape screen are required to create a visual buffer between 6-foot high fencing and the sidewalk to create an enhanced community appearance and streetscape. 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 the criterion.**

CONCLUSION

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 and that the hardship not be self-created. As the circumstances of the subject lot are typical, and relief was offered through the administrative adjustment process to address concerns related to privacy and existing tree locations with a 4 ft fence and landscape screening, 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 reasonable use of the land. Therefore, staff is recommending that the Planning & Zoning Board NOT APPROVE the proposed variance based on the data and analysis in this report.

BOARD POTENTIAL MOTION:

I MOVE TO APPROVE PZB PROJECT NUMBER 23-01500011 with staff recommended conditions for a **variance** to allow 6-foot high fencing along North A Street without the required setback or landscape screen for the property at 1701 12th Avenue North. The application meets the variance criteria based on the data and analysis in the staff report.

I MOVE TO DISAPPROVE PZB PROJECT NUMBER 23-01500011 for a **variance** to allow 6-foot high fencing along North A Street without the required setback or landscape screen for the property at 1701 12th Avenue North. 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)