



**MINUTES  
COMMUNITY DEVELOPMENT BOARD  
OCTOBER 12, 2022, AT 6:00 P.M.  
COUNCIL CHAMBERS  
116 FIRST STREET  
NEPTUNE BEACH, FLORIDA 32266**

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Pursuant to proper notice a public hearing of the Community Development Board for the City of Neptune Beach was held both in person October 12, 2022, at 6:00 p.m. in the Council Chambers.

Attendance

Board members were in attendance:  
Bob Frosio, Chair  
Greg Swartzberger, Vice-Chair  
Jonathan Raiti, Member  
Rene Atayan, Member  
William Hilton, Member  
Charley Miller, Member  
Jeremy Randolph, Member

The following staff members were present:

Samantha Brisolara, Community Development Director  
Zachary Roth, City Attorney  
Piper Turner, Code Compliance Supervisor

Pledge

Pledge of Allegiance.

Call to Order/  
Roll Call

Chair Frosio called the meeting to order at 6:00 p.m.

Minutes

Made by Atayan, seconded by Randolph.

**MOTION: TO AUGUST 10, 2022, MINUTES AS SUBMITTED.**

Roll Call Vote:

Ayes: 7-Hilton, Raiti, Randolph, Atayan, Miller, Swartzberger,  
Frosio

Noes: 0

**MOTION CARRIED**

October 12, 2022

Swearing in Mr. Roth, City Attorney, asked anyone appearing before the board tonight to raise their right hand to be sworn in.

Variance application V22-08 114 North Street V22-08 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Scott Sterton and Kelly Erickson, for the property known as 114 North Street (RE# 172651-0000). The requests are to vary Table 27-239 rear yard (request of 6 feet, leaving 9 feet in lieu of the required 15 feet), both side yard setbacks (request of 2 feet each side, leaving 5 feet in lieu of the required 7 feet on each side), lot area (request of 2197.8 square feet, leaving 2158.2 square feet in lieu of the required 4356 square feet). Section 27-237(11) Floor area ratio (request of 25% in lieu of the required maximum of 65% leaving 90%). Section 27-705(2) & (3) Lot size and minimum lot width for non-conforming lots of records. Section 27-236(d)(1) Frontage requirements and standards. Request to eliminate the one architectural feature requirement. The request for variances is for the redevelopment/construction of new single-family residence.

**BACKGROUND:** An application for a variance was submitted on September 7, 2022, to build on a nonconforming lot of record.

**DISCUSSION:** The nonconforming lot was recorded via deed prior to 1991 based on the Property Appraiser's deed history. The is 36.5\ by 60' (2190 sf) which is below the required minimum width of 50' and minimum square footage of 4356 square feet. Due to the property size and location to the adjacent similar lots, relief is required for 2 feet of the side setback leaving 5 feet for each side and 6 feet rear setback leaving 9' rear yard. Further, the applicant is requesting an increase of 28% to the maximum FAR allow for 90% to make reasonable use of the lot.

**FINDINGS:**

1. **The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.**
  - a. **Applicant Response:** "The subject property is an exceptionally small, platted lot of record, approximately 35\ by 60' with a two-story single-family house constructed in the 1930's. The existing house does not comply with lot coverage or setbacks, is in poor condition, and if destroyed could not be rebuilt according to the current code."
  - b. **Staff Response:** Staff finds that the property is unique due to its size. The adjacent lots to the west are 40' by 60', while the lot to the east is 58' by 159'. The subject lot is the smallest lot on the block. The LDC 27-703(a)(1), Purpose and intent states:  
"An existing lot that qualifies as a nonconforming lot of record may be used for the purposes allowed in its zoning district".  
Further, 27-705 provides the definition of a nonconforming lot to be any lot of record recorded prior to January 1, 1991. Staff finds this lot was recorded via deed prior to that date.

The zoning of the subject lot is R-4 and located in the RC Overlay, which allows for residential uses. Given the zoning and establishment of the lot prior to January 1, 1991, the lot qualifies for residential construction.

2. **The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.**

a. **Applicant Response:** "The proposed variance(s) are the minimum necessary to construct a new single-family home which will be consistent with the NB code architectural requirements and allow a square footage and configuration consistent with nearby NB residential construction. The proposed site plan is reasonable, and any further constraints would potentially jeopardize the project feasibility."

b. **Staff Response:** Staff finds that the LDC allows for residential construction on the nonconforming lot of record. Further staff finds that a variance for the side and rear setbacks are the minimum necessary to allow for construction of a single-family dwelling.

Staff does not agree that the required FAR of 90% is the minimum necessary for reasonable use of the land. The LDC requires 65% FAR. The maximum sf allowed by the code for a lot is 1365 sf (less porches and required architectural features).

The current structure from 1930 also a single-family home is 1800 sf, or 82% FAR. Staff recommends not exceeding a FAR of 85% as not to further negatively impact stormwater run-off and neighboring properties.

3. **The proposed variance would not adversely affect adjacent and nearby properties or the public in general.**

a. **Applicant Response:** "The proposed variances would allow for redevelopment of the parcel. As it will replace a 92-year-old home with new construction, improve numerous issues, including lot coverage from 75.3% to 47.8%, front setback from 4'6" to 10'. Side setbacks from 2' & 3'2" to both being 5'. Additionally new construction will be to current building, wind and energy codes. All improvements will benefit adjacent properties and the public.

b. **Staff Response:** Staff finds the proposed variances to the side and rear setbacks and building on the would not negatively impact adjacent and nearby properties.

Currently, the existing structure is built almost 5' from the property line and has 2' and 3' side setbacks, which allows for no parking or stormwater retention on site. The provided site plan shows no parking along the r-o-w due to the proposed structure being set back to ensure parking and room for retention. The proposed plan greatly decreases the current nonconformities and further increases

surrounding properties quality of life by minimizing parking and other issues.

Staff does not support the 90% FAR but would recommend 85% based on the size of the surrounding properties.

4. **The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.**

a. **Applicant Response:** "The proposed variance will not diminish property values, rather the redevelopment of the 92 year old home with new construction will increase property values.

b. **Staff Response:** Staff finds that the variance will not diminish property values but will likely aid in increasing property values.

5. **The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.**

a. **Applicant Response:** "The variances are in harmony with the LDC as it will bring the site up to current development code standards."

b. **Staff Response:** Staff finds that the variance is in harmony with the general intent of the ULDC.

Staff does not agree that the FAR request is in harmony with the general intent of the LDC as the RC Overlay's special requirements require historic development patterns that are sensitive to the history and character of the surrounding neighborhood (per 27-243).

6. **The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.**

a. **Applicant Response:** "The house was constructed in 1930 and is disrepair. The proposed with be as close to code requirements as reasonably possible for an exceptionally small lot."

b. **Staff Response:** Staff agrees the request for the side and rear setbacks are not created by the actions of the property owners.

Staff find the FAR requested is due to the owner desire for additional square footage.

7. **Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.**

- a. **Applicant Response:** "The subject parcel is unique and exception in that it is small, and redevelopment requires cooperation and relief from unduly burdensome provisions of the code."
- b. **Staff Response:** Staff finds that granting the side and rear setbacks will not confer any special privilege.

The grant of the FAR is excessive based on the surrounding properties. The average FAR of the 4 surrounding properties is roughly 80%.

**CONCLUSION:** Staff supports approval to build on the nonconforming lot of record for the required side and rear setbacks and a FAR not to exceed 85% excluding porches and balconies. Staff suggest adding a condition that the property owner must have the one architectural feature as required by the LDC since the proposed site plan did not include an architectural feature.

**RECOMMENDED MOTION:**

- A. Move to approve V22-08.
- B. Move to approve V22-08 with the condition that the FAR be limited to 85% and the required architectural feature be included with the formal submission for permitting.
- C. Move to deny V22-05 based on the applicant's request of 90% FAR which is a self-induced hardship.

Mr. Ian Brown, attorney property owner, addressed the board. He stated that the lot was small on a street of small lots. This lot is 35' by 60' which is half the size of the lot size required. Currently the lot has a 75% lot coverage. This plan will reduce lot coverage to 50% or less. 108 square feet is what places the property at 90% FAR. The proposed setbacks are better than what currently exists.

Kelly Erickson, property owner, stated that there would be a garage for parking.

Paul Zebouni, contractor, stated making the new house out of block is a good idea for fire prevention. An 82% floor area ratio would reduce the structure by 600 square feet on each floor.

The floor was opened for public comments.

Eric Mott, 100 Lora Street, the current house does not add value to the neighborhood but hates to see the older houses torn down.

Jamie Karr, 100 Lora St, the FAR is less important than the lot coverage since drainage is important. Would love to see the house pushed back. Supports the 90% FAR.

There being no comments, the public hearing was closed.

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Board discussion: and questions for the applicant:

Mr. Hilton: Concerned with Florida Area Ratio. This lot is one of the smallest and it was purchased at 82% FAR.

Mr. Schwartzberger: Asked when the property was purchased? June 2022. He prefers to preserve the old character of the homes in Neptune Beach. Why are you wanting to tear it down? It is a 92-year-old house with lots of concrete. The cost to rehab would exceed 50% of the value of the house with trips the Florida Building Code requirements to bring everything up to current code.

Mr. Forsio: If the FAR request is not granted will the front wall be moved back? Yes, it will be a garage.

Mr. Randolph: Has no problem with 90% FAR as they are currently parking a truck in the road due to the setback. Will be reducing lot coverage and doubling the size yard setbacks.

Mr. Raitti: Concerned about fire safety. The narrowness of the side setbacks.

Mrs. Atayan: Finds that FAR is restrictive and isn't necessary. The neighbors like the setbacks, lot coverage and height.

Made by Hilton, seconded by Atayan.

**MOTION: MOVE TO APPROVED VARIANCE APPLICATION V22-08 AS SUBMITTED.**

Roll Call Vote:

Ayes: 6-Hilton, Miller, Randolph, Atayan, Schwartzberger, Forsio

Noes: 1-Raiti

**MOTION CARRIED**

Variance application V22-09 117-119 Oleander Street

V22-09 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Joy M. Huder, for the property known as 117-119 Oleander Street (173729-0000). The request is to vary Section 27-237(11) Floor area ratio (request of 5.9% in lieu of the required maximum of 65% leaving 70.9%) and Section 27-238 Maximum lot coverage (request of 42.31% in lieu of the required 50% leaving 92.31% impervious). The request for variances is to complete a partially built second story deck over the existing carport. The new deck is larger in size than the original and stairs to be relocated.

Samantha Brisolara, Community Development Director presented the staff report.

**BACKGROUND:** An application for a variance was submitted on September 14, 2022, requesting relief from the maximum lot coverage (27-238(13) and expansion of a nonconforming structure section 27-706(1).

**DISCUSSION:** The property owner of the duplex demolished an existing deck due to dilapidation and rebuilt the deck larger than the original without proper permitting. Unbeknownst to the owner, they were expanding the existing

conformity of a d duplex on a lot smaller than 8000 square feet. The owner has been willing to work with staff to correct their mistake.

**FINDINGS:**

- 1) **The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.**
  - a. **Applicant Response:** "Owner is a senior citizen with mobility impaired and required safe decking above the carport. Current concrete pad required for clearance and ability to forward face vehicle to exit and enter.
  - b. **Staff Response:** Staff finds that the deck and impervious surface on the lot has existed since the 1960's base on photos provided. Additionally, due to the existing impervious surface, the expansion of the deck does not increase the coverage of the site. The applicant is willing to reduce a portion of the impervious surface to align better with the current code.
- 2) **The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.**
  - a. **Applicant Response:** "Current pad usage necessary for clearance of residential work vehicle. And senior resident to access rear door".
  - b. **Staff Response:** Staff finds that most of the existing impervious surface would allow for continued parking onsite. The property owner has agreed to reduce the amount of impervious where available.
- 3) **The proposed variance would not adversely affect adjacent and nearby properties or the public in general.**
  - a. **Applicant Response:** "There is no change to the parking or permeability."
  - b. **Staff Response:** Due to the existence of a deck for over 60 years, staff does not fine the variance would have a negative effect. The new deck is an upgrade to the rear of the structure.
- 4) **The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.**
  - a. **Applicant Response:** "Deck provides new and safe structure in the existing footprint and removed unsafe decking. Partial pavers are to be removed on eastern side of building and in the rear."
  - b. **Staff Response:** Staff finds that property values will not decrease. Numerous upper decks in the RC Overlay and is improvement.

5) **The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.**

- a. **Applicant Response:** "Reduction of impervious surface and quality of life."
- b. **Staff Response:** Staff finds that the proposed variance to in harmony and allows for better quality of life for the property owner.

6) **The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.**

- a. **Applicant Response:** "Usage of existing footprint. Replacement of rotted decking in same area."
- b. **Staff Response:** Staff finds that the owner was unaware that an expansion or a repair and permit requirement created the need for the variance. Did not expand beyond the existing footprint.

7) **Staff Response: Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.**

- a. **Applicant Response:** "Usage of the existing footprint and remove of same pavers."
- b. **Staff Response:** Staff finds that granting the variance will not confer upon the applicant any special privilege.

**CONCLUSION:** Staff supports approval of the V22-09 based on the lack of expansion of impervious surface as was the owner's statement to reduce the existing impervious site by removing 250 square feet of pavers on the eastern side of the property

**RECOMMENDED MOTION:**

Move to approve Variance application V22-0 with the following conditions:

I recommend approval of V22-09 with the condition that 250 square feet of impervious area (pavers) be removed. Additionally, the area to be resodded within 3 years form the date of this approval.

OR

I recommend denial of V22-09 based on the working without a permit and expanding the nonconformity.



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Julie Geissman, representative of owner, addressed the Board. Stated that her grandfather built the house in 1961 as a summer home. She has had to move back into the house to take care of her mother for health issues. They started to replace the deck over the carport due to the deteriorating condition and started to expand the deck to the end of the carport to create more outdoor living space. The deck as been started but not finished.

The floor was opened for public comments. There being none, the public hearing was closed.

Made by Hilton, seconded by Schwartzberger.

MOTION: **MOVE TO RECOMMEND APPROVAL OF V22-09 WITH THE CONDITION THAT 250 SQUARE FEET OF IMPERVIOUS AREA BE REMOVED. ADDITIONALLY, THE AREA TO BE RESODDED WITHIN TWO (2) YEARS.**

Roll Call Vote:

Ayes: 7 -Hilton, Miller, Raiti, Randolph, Atayan, Schwartzberger, Forsio

Notes: 0

**MOTION CARRIED**

CDB22-01 Interpretation of Unified Land Development Code concerning porches and garages in the RC Overlay district.

Samantha Brisolaro, Community Development Director, stated there has been questions about the interpretation of the code change regarding garages in the RC Overlay district. Section 27-243 (5) (i) To ensure that they do not dominate the street-facing building façades or overshadow pedestrian entryways, attached and detached garages shall be subordinate in height, footprint, and proportion to the primary structure on the site, and shall be compatible with the principal structure in terms of roof form, materials, and color (Figure 27-243-8).

Gave examples of different types of garages. (Included with minutes),

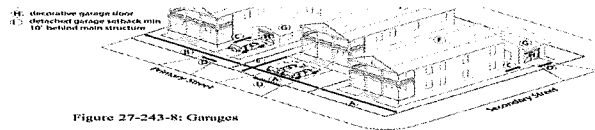


Figure 27-243-8: Garages

Recommended determination:

- a) The code is clear that garages must be subordinate to the primary façade and should be setback by at least 12 inches to show subordination to the primary structure. OR
- b) The doesn't specifically state that garages must be setback from the primary structure and houses in the RC Overlay should be allowed to have garages flush with the architectural feature of choice.

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The floor was open for public comments.

Sharon Jacham, 1714 Strand, addressed the board. Asked the board to make sure the codes are written clearly. The wording needs to say exactly what "subordinate" is. Is it really 12 inches or is it something else. She is trying to build a new house but can not find where the code says what subordinate is.

Board discussion:

Mr. Hilton: Would this trip the nonconforming property if the reach the 50% value? It is important to put in in the language and should be submitted to City Council.

Mr. Forsio: Not comfortable with the language.

Mr. Randolph: The code does not say 12 inches. It needs to be specified.

Mrs. Atayan: Would prefer a percentage rather than distant.

Mr. Schwartzenberger: We did not pay enough attention to the rewrite of the Land Development Code.

Made by Hilton, seconded by Miller.

**MOTION: RECOMMEND TO CITY COUNCIL TO REVIEW SECTION 27-243. GIVE THREE (3) OR MORE EXAMPLES. THIS SECTION SHALL NOT APPLY TO EXISTING STRUCTURES OR RENOVATIONS.**

Roll Call Vote:

Ayes: 7-Hilton, Raiti, Randolph, Atayan, Miller, Schwartzenberger,  
Forsio

Noes: 0

**MOTION CARRIED**

Adjournment

There being no further business, the meeting was adjourned at 8:26 p.m.

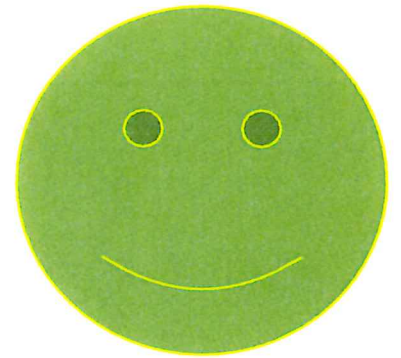
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Robert Frosio, Chairperson

ATTEST:

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Piper Turner, Board Secretary



### III. RECOMMENDED DETERMINATION:

- a) The code is clear that garages must be subordinate to the primary façade and should be setback by at least 12" to show subordination to a primary structure.

OR

- b) The code doesn't specifically state that garages must be setback from the primary structure and houses in the RC Overlay should be allowed to have garages flush with the architectural feature of choice.