



**Reyes, Ismael & Mayerlyn
 Variance (Side Setback Reduction)
 P22-267**



Figure 1. Aerial Map

SUMMARY

Applicant’s Request:	To grant a variance of 3.82 feet to Section 158.073(H)(2) Side Yard Requirements and Landscaping to allow a 6.18-foot setback from the west side property line for a proposed home.
Application Type:	Variance, Quasi-Judicial
Applicant:	Mayerlyn Reyes
Property Owner:	Mayerlyn Reyes
Address:	2707 SW Onaway Avenue
Location:	South of SW Fairgreen Rd and east of SW Salvatierra Blvd.
Project Planner:	Francis Forman, Planner II

Project Description

Variance Requested: The applicant is requesting a variance 3.82 feet to allow a 6.18-foot setback from the west side property line for the construction of a single-family structure.

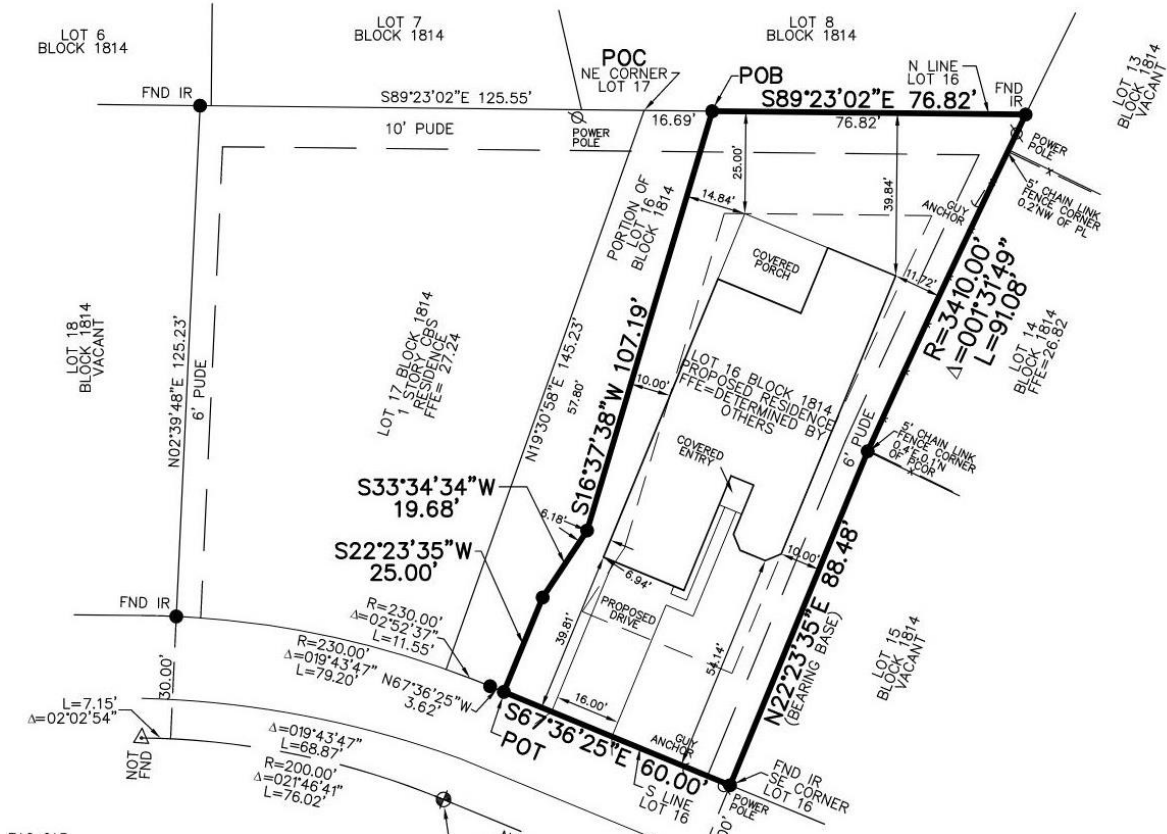


Figure 2. Subject Site Survey

Background: The owners of lots 16 and 17 constructed the existing 2,600 square foot single-family home in 2003 (as shown is Figure 3 below) over the property line, which combined the two lots. In December of 2020, the applicant applied for an “exemption from platting,” per section 156.022 of the City’s Subdivision Regulations, to have the previous lot line separating the two lots moved so that the existing home would be on its own lot and meet the 10-foot side yard setback. This would also allow for lot 16 to be sold and developed later.

Lot 16 is still a conforming and legal lot that meets all code requirements of the RS-2 single-family zoning district in accordance with minimum width frontage and overall square footage for the site. However, once the two properties were separated, an irregular side property line was created that was located on the west side of lot 16, past the 25-foot building setback which intrudes into the site. Due to this intruding side property line, the overall width of the site in this area has been reduced and limits the possible size and orientation of any structure located on this site. This irregular side property line that was created from the moving of the lot line is the reason for this variance.

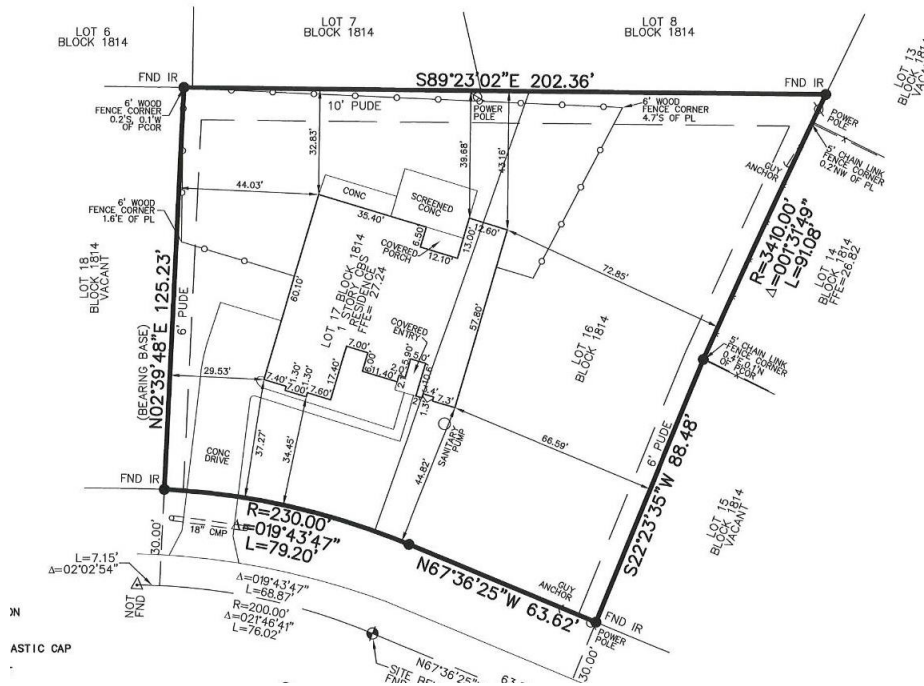


Figure 3. Previously combined Lot 17 & Lot 16

Review Criteria

An application for a variance is reviewed for consistency with Article XV of the Zoning Code, Sections 158.295 through 158.299. Final action on the application (approval or denial) is in the form of an Order of the Planning and Zoning Board following a quasi-judicial public hearing. A vote of approval by five (5) members of the Planning and Zoning Board is required to grant a variance.

Public Notice Requirements

Public notice was mailed to owners within 750 feet and the file was included in the ad for the Planning & Zoning Board’s agenda.

Location and Site Information

Parcel Number:	3420-670-1671-010-2
Property Size:	0.236 acres
Legal Description:	A portion of Lot 16 - Block 1814 - Port St. Lucie – Section 35
Future Land Use:	RL (Low Density Residential)
Existing Zoning:	RS-2 (Single-Family Residential)
Existing Use:	Vacant Land

Surrounding Uses

Direction	Future Land Use	Zoning	Existing Use
North	RL	RS-2	Single-Family Residence
South	RL	RS-2	Single-Family Residence
East	RL	RS-2	Single-Family Residence/Vacant
West	RL	RS-2	Single-Family Residence

RL, Low Density Residential – RS-2, Single Family Residential



Figure 4. Land Use Map

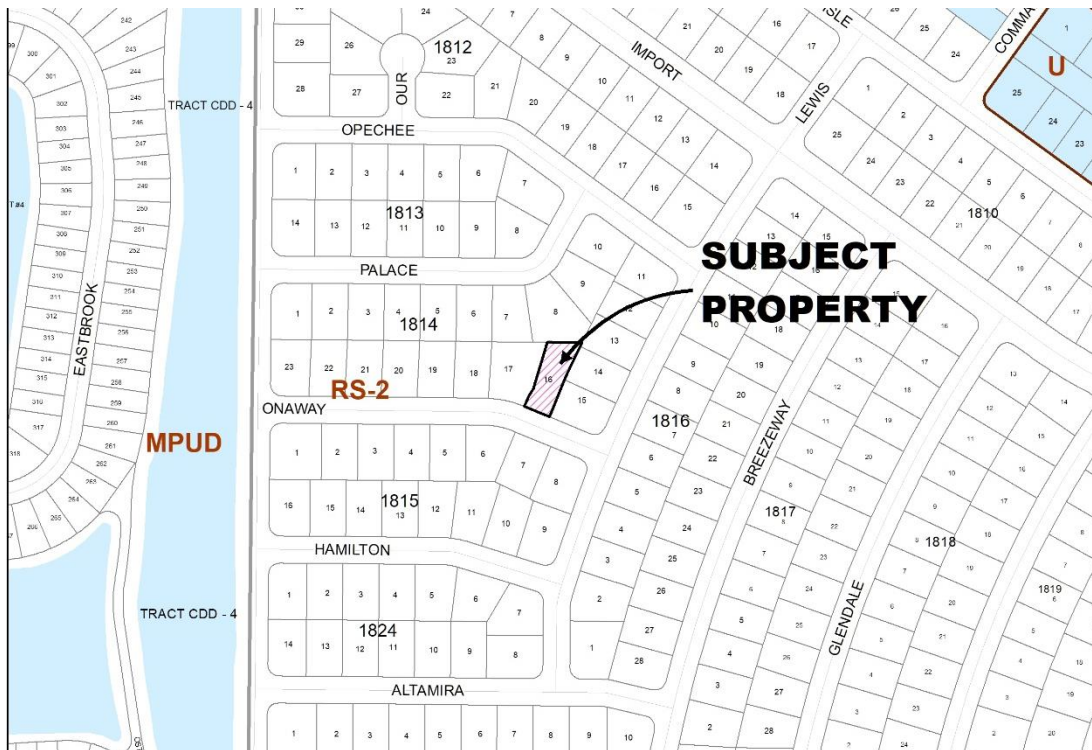


Figure 5. Zoning Map

IMPACTS AND FINDINGS

Section 158.295 (B) of the Zoning Code establishes the duties of the Planning and Zoning Board in authorizing a variance. The Planning and Zoning Board may authorize the variance from the provisions of the Zoning Code as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions will result in unnecessary and undue hardship. Pursuant to Section 158.296, a variance is authorized only for height, area, and size of the structure, yard size, building setback, lot size requirements, and other applicable development regulations, excluding use. To authorize a variance, the Planning and Zoning Board should consider the criteria listed under Section 158.295 (B) (1) through (7). The applicant's response to this criterion is attached to the application. Staff's review is provided below.

See the applicant's responses that are included in the Variance application.

Compatibility with variance criteria Section 158:295 (B).

1. That special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.
 - *Staff Findings: The applicant created the need for this variance by moving the property line through the "exemption from platting" process back in December of 2020. The western property line was created in such a way that a portion of the line intrudes into the site to make room for the existing structure on lot 17, causing a portion of the subject site to be smaller and leading the proposed single-family residence to be too close to meet the required 10-foot building setback.*
2. That the special conditions and circumstances do not result from any action of the applicant.
 - *Staff Findings: See comment #1. The variance is self-imposed by the applicant through the previous "exemption from platting" process creating a unique lot.*
3. That granting the variance requested will not confer on the applicant any special privilege that is denied by this chapter to other lands, buildings, or structures, in the same zoning district.
 - *Staff Findings: See comment #1. The variance is self-imposed by the applicant through the previous "exemption from platting" process.*
4. That literal interpretation of the provisions of the chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the chapter and would work unnecessary and undue hardship on the applicant.
 - *Staff Findings: See comment #1. The variance is self-imposed by the applicant through the previous "exemption from platting" process.*
5. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building, or structure.
 - *Staff Findings: The variance granted is the minimum variance that will make possible the reasonable use of the proposed single-family structure, given that the structure is stated to be only 40 feet wide. A regular 80 foot wide by 125 foot deep lot would accommodate a 60-foot wide house.*
6. That the granting of the variance will be in harmony with the general intent and purpose of the chapter and that the variance will not be injurious to the area involved or otherwise

detrimental to the public welfare.

- *Staff Findings: See comment #1. The variance is self-imposed by the applicant through the previous “exemption from platting” process.*

7. That there will be full compliance with any additional conditions and safeguards which the Planning and Zoning Board or Zoning Administrator may prescribe, including but not limited to reasonable time limits within which the action for which variance is required shall be begun or completed, or both.

- *Staff Findings: Acknowledged.*

PLANNING AND ZONING BOARD ACTION OPTIONS

The Board may choose to approve, deny or table the proposed variance. If the Board finds that the variance application is consistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code (listed above), then the Board may:

- Motion to approve
- Motion to approve with conditions

If the Board finds that the variance application is inconsistent with the criteria as listed in Section 158.295 (B) (1) through (7) of the City code, then the Board may:

- Motion to deny

Should the Board need further clarification or information from either the applicant and/or staff, the Board may:

- Motion to table or continue the hearing or review to a future meeting

(NOTE TO APPLICANTS: Any request for a variance that is denied by the Planning and Zoning Board may be appealed to the Board of Zoning Appeals. Appeal applications are made through the City Clerk’s office and must be submitted within 15 days after the Planning and Zoning Board hearing).