



Varian, Lisa
Variance (Side Yard Setback)
P23-063

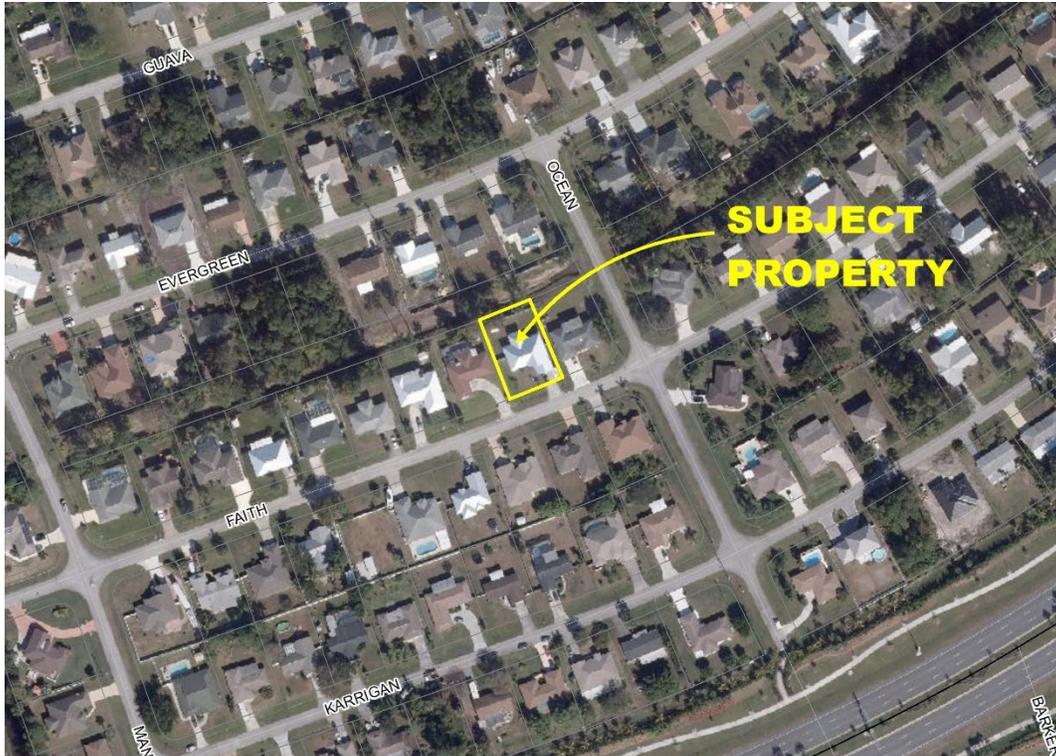


Figure 1. Aerial Map

SUMMARY

Applicant’s Request:	To grant a variance to Section 158.217(C) of the City Code to allow for a 1.5-foot encroachment into the side yard setback for a pool deck and screen enclosure.
Application Type:	Variance, Quasi-Judicial
Applicant:	Lori Moxley, Apex Pavers Inc
Property Owner:	Lisa Varian
Address:	481 SE Faith Ter
Location:	North side of SE Faith Terrace, west of SE Ocean Lane
Project Planner:	Francis Forman, Planner II

Project Description

Variance request: The applicant is requesting a variance of 1.5 feet to allow an 8.5-foot setback from the side property line for a proposed pool deck and screen enclosure. Section 158.127(C) Accessory Uses in Single-Family Residential Districts, states that the minimum side yard setbacks for this property are 10 feet as set forth by the applicable zoning district of RS-2.

Background: The applicant is proposing to develop a pool deck and screen enclosure that will align with the outer edge of the existing residential house. The provided survey shows the existing home was constructed within the 10-foot side setback causing it to be noncompliant. However, the formboard survey on record for the home shows that the foundation was correctly placed on the site meeting the required 10-foot side setbacks, as shown in Figure 2. It appears a surveyor error resulted in the home being constructed to close to the property line.

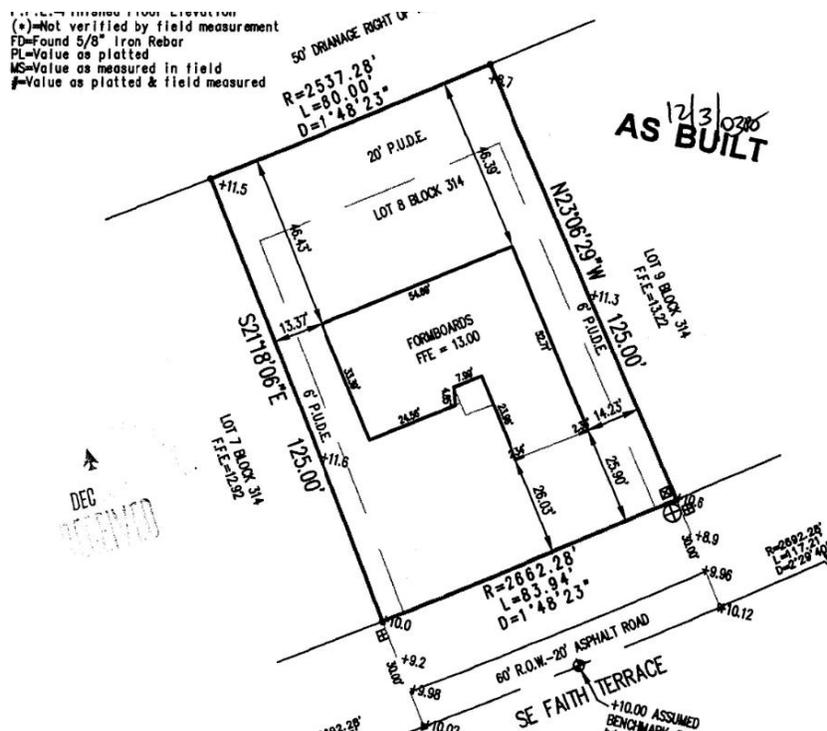


Figure 2. Formboard Survey

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:	3420-505-0672-000-0
Property Size:	+/- 0.23 acres
Legal Description:	Lot 8, Block 314, Port St. Lucie Section 2
Future Land Use:	RL (Low Density Residential)
Existing Zoning:	RS-2 (Single-Family Residential)
Existing Use:	Single-Family Residence

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
West	RL	RS-2	Single-Family Residence

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

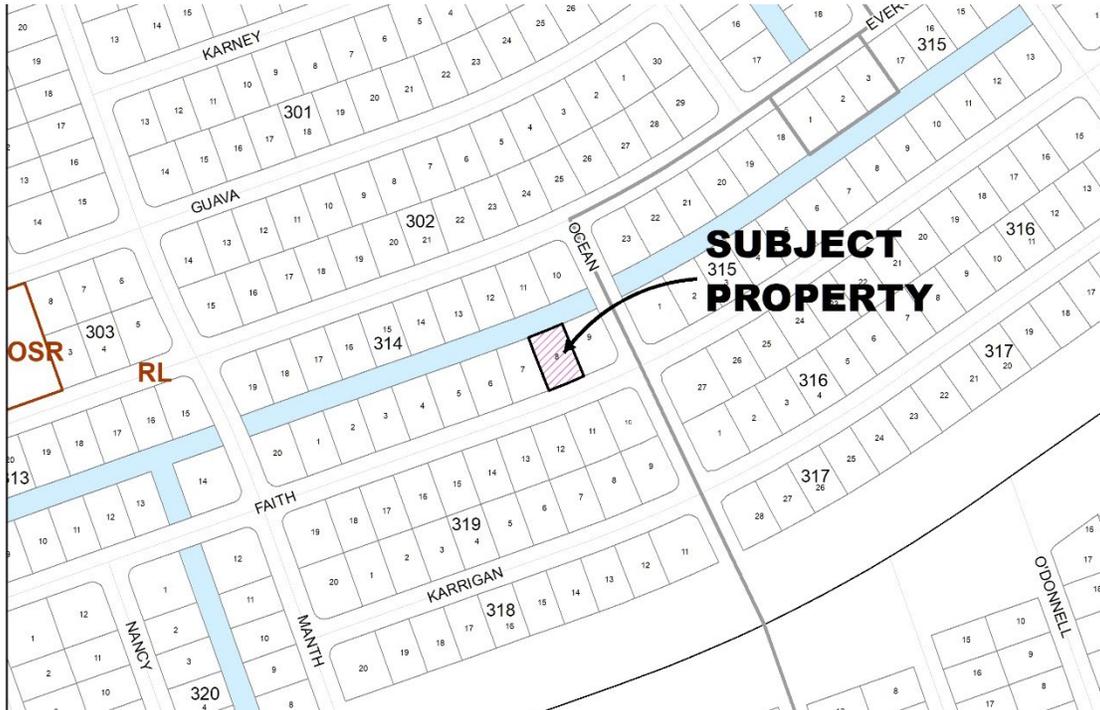


Figure 3. Land Use Map

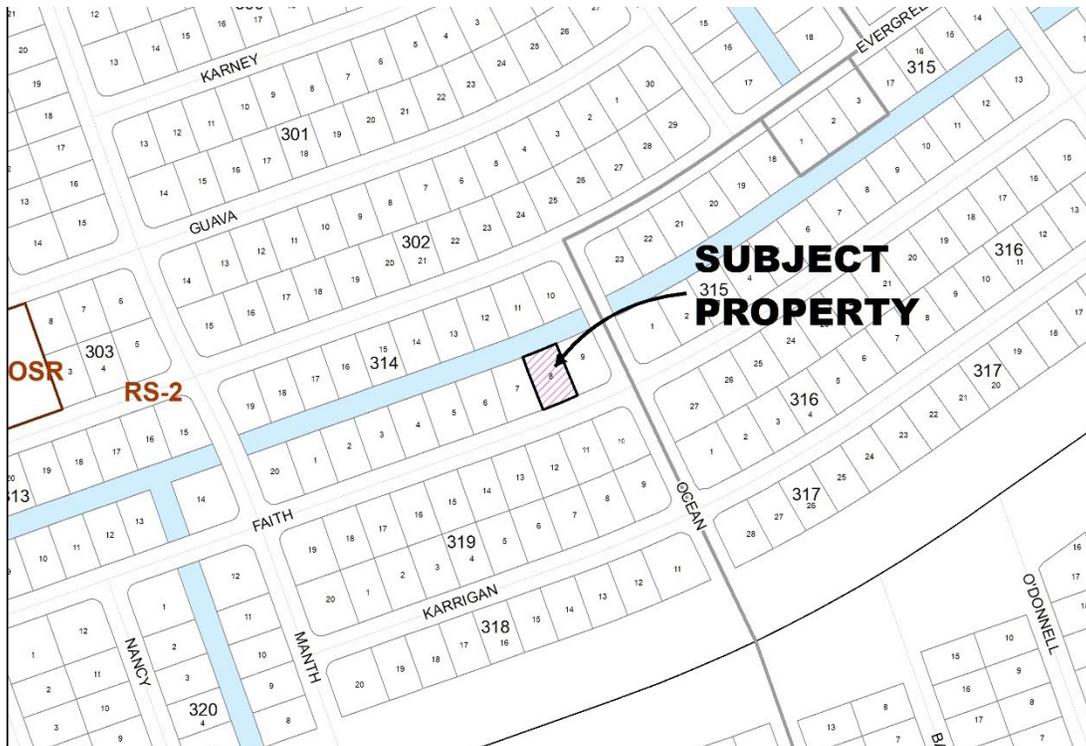


Figure 4. Zoning Map

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 existing single-family residence was previously constructed within the ten-foot side yard setback causing the home to be nonconforming. The location of the structure is a special condition and circumstance that is peculiar to this property that is not applicable to other lands within the same zoning district.*
2. That the special conditions and circumstances do not result from any action of the applicant.
 - **Staff Findings:** *The request for the variance is self-imposed by the applicant through*

the proposed location of the screen enclosure and pool deck being aligned with the residence located within the side yard setback.

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 #2. The request for the variance is self-imposed by the applicant through the proposed screen enclosure and pool deck location. Granting the variance would confer special privileges on the applicant.*
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: The literal interpretation of the provisions would not deprive the applicant of any commonly enjoyed rights by other property owners. The variance is self-imposed by the proposed placement of the screen enclosure and pool deck.*
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 request for the variance is self-imposed and would not be needed with the relocation of the proposed screen enclosure and pool.*
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: The request for the variance is self-imposed and would not be within the general intent and purpose of the chapter.*
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).