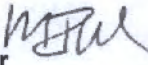


# **TOWN OF GOLDEN BEACH COMMUNITY DEVELOPMENT MEMORANDUM**

---

**To:** Building Regulatory Advisory Board  
Town of Golden Beach

**From:** Michael J. Miller, AICP   
Consultant Town Planner

**Date:** July 14<sup>th</sup>, 2021

**Subject:** Zoning Variances Application  
185 Ocean Boulevard – Proposed New Single-Family Home  
Lot 18 of Block A, Section C  
MMPA Acct. No.: 04-0101-0526

---

## **ISSUE**

The applicant, Ames International Architecture, Inc., as agent for the property owner, Pablo J. Umansky, has filed applications with the Town for approval of a new single-family home on an oceanfront undersized lot (50-foot width) and related variances. The applications include (1) a BRAB Site Development Plan design as well as (2) a request for zoning variances from the Town Code to construct a proposed single-family residence. The applicant has filed two (2) variance applications.

## **BACKGROUND INFORMATION**

The subject site is currently developed with a one-story home built in 1953 (according to MDPA website) with approximately 3,100 sq. ft. of floor area. The home and all site improvements will be demolished and removed from the site. The subject site is "undersized" meaning it is at least 50' in width but less than 75' in width and has at least 7,500 sq. ft. of lot area. The adjoining sites are developed; therefore, there is no opportunity to acquire / combine sites to create a "full-sized" lot for a large oceanfront estate.

The applicant is proposing to construct a new 3-story home on the site (two habitable floors over one grade level uninhabitable). Due to the narrow lot width and undulating dune topography the applicant is requesting relief related to: (1) upper floor (above 18') additional building setbacks, and (2) lot grade elevations (greater than 11' NGVD).

The following are the applicant's initial requests:

- Variance from §66-102(a) Lot Elevation – Lots abutting Ocean Boulevard where the minimum elevation shall be 12 inches above the crown of the road, and the maximum elevation shall not exceed an elevation of 11 feet NGVD.



- Variance from §66-69.1(h)(1)(c) - All residences designed as two-story structures shall be required to increase the side setback along two-thirds of the length of the second story by one foot for each one foot (1:1) of building height above the first 18 feet.

#### **PROPERTY DESCRIPTION**

The subject site is rectangularly shaped extending from Ocean Boulevard to the Atlantic Ocean. The site is approximately 50' in width. The east / west property lines are about 240' in length. The site area is 12,000 sq. ft. / .275 acres in size according to the survey and MDPA records. An additional beach area is located between the eastern property line and mean sea level. The site is generally level with topography ranging from about 9.0' near Ocean Boulevard to just below 12.0' at the rear (oceanfront) property line. As stated above both adjoining sites are developed with existing single-family home. There are existing sections of concrete walls and various types of fences along both the north and south property lines.

#### **SUMMARY ANALYSIS**

As per the Town's request MMPA has completed our review of the above referenced variance application requests and provide the following comments for consideration:

**Variance #1 - Variance from Section 66-102(a) to allow portions of the redeveloped lot grade to exceed 11.0' NGVD. The applicant is requesting to not exceed the current lot elevations, some of which already exceed 11.0'.**

The applicant is requesting a variance to exceed the Town Code lot grade limit of 11.0' NGVD. As stated above portions of the developed lot range from about 9.0' NGVD near Ocean Boulevard to about 12.0' NGVD near the eastern property line. The proposed redevelopment plans show several rear yard elevations around the pool area between 11.0' NGVD and 12.0' NGVD. The applicant seeks permission to grade the lot at near similar conditions.

**Variance #2 - Variance from Section 66-69.1(h)(1)(c) to not require those portions of the house built above 18' to increase the side yard setbacks at a 1':1' ratio.**

The applicant is requesting a variance to not provide additional setbacks for the taller portions of the new home (over 18' in height). The applicant argues that due to the existing narrow 50' wide lot and minimum 7.5' side setbacks only 35' of buildable area exists. By requiring the upper floor areas to pinch in severely affects the design usability within the remaining building envelope. The Town's administration will support this request.

#### **ANALYSIS**

#### **NON-USE VARIANCE JUSTIFICATION**

- 1) *The variance requested is for relief from the provisions of the Town Code.*

The applicant seeks relief from Town Zoning Code Section §66-102(a) and Section 66-69.1(h)(1)(c) of the Town's Code of Ordinances which are all relate to the narrow lot constraints and existing lot elevations / grades. These are the proper Code provisions.



**MMPA Comment** – The Code sections stated are correct.

2) In Order to recommend the granting of the variance, it must meet the following criteria.

- a. The variance is in fact a Variance from a zoning regulation as set forth within the Zoning Chapter of the Town Code.

**MMPA Comment** – This has been confirmed by MMPA as described above and as set forth in the variance applications by the applicant.

- b. *Special conditions and circumstances exist which are peculiar to the land or structure involved, and which are not applicable to other lands or structures in the same district.*

*The applicant states special conditions will arise due to reduction in finish floor elevation of exterior. Please note that current conditions are based on existing conditions. The applicant also states that due to the somewhat rare narrow lot width which affects the useability of the site, previous Town approvals for similar situations, and loss of upper floor area negatively affects the home design. It is stated the top floor will only have two (2) bedroom suites as per agreement with the Town Manager discussions. Lastly as related to the increase in the lowest habitable floor elevation there would only be about 6' clear area from the ground to the 18'-2" elevation which negatively affects the usability of the ground level. By allowing an increase the area is more useable. Several other oceanfront sites have requested and received similar variance approvals.*

**MMPA Comment** – In our opinion, there is a valid reason for the requested variances due to the narrow width of the lot, the inability to acquire land to increase the lot size, and the lot elevations exist and not proposed to be altered from the existing conditions.

- c. *The special conditions and circumstances do not result from the actions of the applicant.*

*The applicant states no special conditions and/or circumstances will be produced by this variance and actions of the applicant. The overall lot height of the areas in question will remain as it. The owner cannot acquire additional land to create a larger site and the loss of upper floor area results in a design hardship. Due to the undulating dune lot elevations and Code limitations the ground level would not be usable due to the height constraint.*

**MMPA Comment** – In our opinion, there is a valid reason for the requested variances due to the narrow width of the lot, the inability to acquire land to increase the lot size, and the lot elevations exist and not proposed to be altered from the existing conditions.



- d. *Granting the variance requested will not confer on the applicant any special privilege that is denied by the Zoning Chapter of the Town Code to other lands or structures in the same district.*

*The applicant states no privileges will be granted to the owner. The rear yard will remain at the existing elevations and is compatible with the current existing elevations of the site and adjacent properties to both north and south sides. The overall building height will not be increased.*

**MMPA Comment** – In our opinion, there is a valid reason for the requested variances due to the narrow width of the lot, the inability to acquire land to increase the lot size, and the lot elevations exist and not proposed to be altered from the existing conditions.

- 3) *Literal interpretations of the provisions of the Zoning Chapter of the Town Code would deprive the applicant of rights commonly enjoyed by other properties in the same district under the terms of zoning regulations and would work unnecessary and undue hardship on the applicant.*

*The applicant states yes, because adhering to the new requirements will compromise the design integrity and efficiency of the site and therefore render it not feasible. The State DEP will not allow excavation of fill east of the Coastal Construction Control Line (CCCL). The applicant also states yes, that if built in compliance with the Code limitations the design and usability will be negatively compromised and not feasible.*

**MMPA Comment** – In our opinion, there is a valid reason for the requested variances due to the narrow width of the lot, the inability to acquire land to increase the lot size, and the lot elevations exist and not proposed to be altered from the existing conditions. Application of the Code criteria negatively affects this site.

- 4) *The Variance granted in the minimum Variance that will make possible the reasonable use of the land or structure.*

*The applicant states this variance will grant the minimum required to make this project viable and still maintain the original configuration and pre-approved heights, including zoning requirements.*

**MMPA Comment** – In our opinion, there is a valid reason for the requested variances due to the narrow width of the lot, the inability to acquire land to increase the lot size, and the lot elevations exist and not proposed to be altered from the existing conditions. MMPA believes these are minimal requests.

- 5) *The granting of the variance will be in harmony with the general intent and purpose of the Town Code and the variance will not be injurious to the area involved or otherwise detrimental to the public welfare.*

*The applicant states granting of the variance will be in harmony with the general intent and purpose of the code, keeping public welfare intact. The variance requested meets with all the conditions above.*

**MMPA Comment** – One of the intents of Zoning Codes and other Land Development Regulations (LDRs) is to balance the interest of the general welfare of the Town and that of individual property owners. In this instance the requested variance would not be injurious to the area involved or otherwise detrimental to the public welfare. In our opinion, there is a valid reason for the requested variances.

#### **SUMMARY & RECOMMENDATIONS**

MMPA was requested to review and comment on the requested zoning variances for a proposed replacement single-family home. MMPA has attempted to analyze each request and provide urban design comments and advise to the Town.

**As to Variance request #1** - For the reasons stated herein related to allowing the new lot grades to be similar to the existing lot grades, that current slightly exceed the Code limitations in some locations (11.0'), MMPA feels the request is reasonable.

**As to Variance request #2** - For the reasons stated herein related to allowing for reduced upper floor side setbacks for the house due to the narrow lot width (50') and resultant negative affect on the house design, MMPA feels the setback reduction request is reasonable.