

DRAFT



CITY OF FORT PIERCE
BOARD OF ADJUSTMENT

Board of Adjustment Minutes

OF THE REGULAR MEETING OF THE FORT PIERCE CITY BOARD OF ADJUSTMENT HELD ON THURSDAY, **JUNE 27, 2024, IN FORT PIERCE CITY HALL, COMMISSION CHAMBERS, 100 NORTH US HIGHWAY 1, FORT PIERCE, FLORIDA.**

1. CALL TO ORDER

2. PLEDGE OF ALLEGIANCE

3. ROLL CALL

Present: KeAndrea Davis; Darrell Drummond; James Crist; Jaimebeth Galinis, Chair

Absent: Charles Hayek

Staff Present: Sara Hedges, City Attorney
Kev Freeman, Planning Director
Alicia Rosenthal, Planning and Development Organizer

4. CONSIDERATION OF ABSENCES

Mr. Hayek was excused.

5. APPROVAL OF MINUTES

- a. Minutes from the February 22, 2024, meeting

Motion was made by Darrell Drummond, and seconded by James Crist to approve the minutes from the February 22, 2024 meeting.

AYE: James Crist, KeAndrea Davis, Darrell Drummond, Chair Jaimebeth Galinis
Passed

6. PUBLIC HEARINGS

a. **Variance - Estrada Residence - 205 S. 29th Street**

The clerk introduced the fence Variance for the Estrada residence located at 205 S. 29th Street.

The chair asked the Board attorney to explain the Quasi-Judicial Hearing procedures.

When acting as a quasi-judicial body, the Board is held to certain procedural requirements.

Quasi-judicial proceedings are less formal than proceedings before a circuit court, but are more formal than the other aspects of today's meeting. Quasi-judicial proceedings must follow basic standards of notice and due process, and decisions must be made based on competent substantial evidence. Therefore, board members have a duty to conduct quasi-judicial proceedings more like judges than legislators. This afternoon, the Board will follow the same uniform procedure in all quasi-judicial hearings.

The Chair called the proceeding to order.

The clerk confirmed the City complied with the advertisement and notice requirements.

The Chair inquired with the Board regarding ex-parte communications and asked the Clerk to call the roll:

Ms. Davis - no

Mr. Drummond - no

Mr. Crist - no

Madam Chair Galinas - no

The Chair opened the public hearing.

The clerk was asked to swear in those wanting to speak during this Quasi-Judicial hearing. Individuals in the audience intending to speak on this item were asked to stand, raise their right hand, and administered an oath to tell the truth, the whole truth, and nothing but the truth. Those that were sworn in were asked to clearly state their name for the record and confirm they were sworn in at such time as they were asked to come forward to testify.

Staff Presentation:

Kev Freeman, Planning Director, gave an overview of the application. He said the applicant is requesting to deviate from City Code 125-322(c)(1) to place a 6-foot fence within the first 25 feet front yard setback from the front property line. Mr. Freeman said the setback is a requirement of the R-3 zoning. Mr. Freeman explained the purpose and criteria for granting a Variance. Mr. Freeman said the applicant's reason for requesting a variance of 2 feet from the allowed 4-foot fence is for her children's safety. He said the applicant has stated that many people park on her lawn, due to the activities that occur (such as sports tournaments) at the park, directly across from her lawn. Mr. Freeman stated the applicant has also provided multiple incident reports from the Police Department of her vehicle being stolen, as well as an incident where two men with guns hid on the property during a police search. Mr. Freeman noted that without the variance, the owner said she did not feel secure in her home.

Mr. Freeman said the Future Land Use is low density residential and the zoning is R-3. He showed a diagram of the fence location, and pictures of the applicants' property facing north and south. He also showed existing fences at the intersection of 29th Street and Delaware Avenue and the proposed aluminum fence and gates.

Board questions for staff: Ms. Galinas asked if the applicant owns the corner lot and if the

fence was going across both lots. Ms. Davis asked about the location of the gates and if the proposed fence is aluminum. Mr. Crist asked if the proposed fence would be closer to the street.

Applicant questions for staff: None

Applicant presentation: Nancy Estrada, property owner, sworn, stated she is proposing a 6-foot fence because a 4-foot fence can be jumped. She said there is a lot of derelict activity in the park across the street and cars are parking on the grass next to her fence. She stated she wanted a 6-foot gate to match the 6-foot fence that would go around the entire property. Ms. Estrada highlighted that the 6-foot fence and gate is needed for her families safety and security.

Board questions for applicant: Mr. Crist asked if the 6-foot fence was currently only being proposed on part of the property.

Public comment: None

Staff final comment: None

Board comment: Mr. Crist suggested the applicant contact the city to post no parking signs in front of her house and in front of the park. He said not being able to see through a solid aluminum gate is a security issue. Mr. Crist suggested the applicant maintain their current fence to avoid security problems. Ms. Davis said the city put up wooden barriers along the park but nothing for the residents. She said she does not like the 6-foot aluminum gate and does not want to set a precedent. Ms. Davis said she would be okay with a 6-foot chain link fence. Chair Galinas suggested the applicant call Code Enforcement when cars are parked on her lot. She also said she does not want to set a precedent that if you live across the street from a park, you can put up a 6-foot fence. Mr. Drummond stated all the Variance criteria have to be met, and he is hesitant to set a precedent.

Applicant final comment: Ms. Estrada asked if she would be allowed to put up the 6-foot gate if a 6-foot fence was not allowed.

The Chair, seeing no one else, closed the public hearing.

Motion was made by Darrell Drummond, and seconded by KeAndrea Davis to deny the requested variance to deviate from City Code 125-322(c)(1) to place a 6-foot fence within the first 25 feet (front yard) from the front property line.

AYE: KeAndrea Davis, Darrell Drummond, James Crist, Chair Jaimebeth Galinis
Passed

7. DISCUSSION / OTHER BUSINESS

a. Annual Open Government Training

The Board postponed the presentation to the next Board of Adjustment meeting. Ms. Davis proposed recording the training and having the Board members review and sign off.

b. ELECTION OF CHAIR AND VICE-CHAIR

Motion was made by James Crist, and seconded by Chair Jaimebeth Galinis to elect Ms. Davis as Chair.

AYE: Darrell Drummond, James Crist, KeAndrea Davis, Chair Jaimebeth Galinis
Passed

Motion was made by KeAndrea Davis, and seconded by Darrell Drummond to elect Ms. Galinas as Vice-Chair.

AYE: James Crist, KeAndrea Davis, Darrell Drummond, Chair Jaimebeth Galinis
Passed

8. COMMENTS FROM THE PUBLIC

There were no comments from the public.

9. ADJOURNMENT



CITY OF FORT PIERCE
PLANNING BOARD OF ADJUSTMENT

VARIANCE

205 S 29th ST

6ft High Fence

ITEM TABLED FROM MAY 23, 2024 MEETING

APPLICANT: Nancy Estrada Avila

PROPERTY OWNER(S): Nancy Estrada Avila

PARCEL ID #: 2408-802-0019-000-6

SUMMARY

The applicant is requesting to deviate from City Code 125-322(c)(1) to place a 6-foot fence within the first 25 feet (front yard) from the front property line.

205 S. 29th Street – Variance



Sec. 125-98. - Purpose.

The purpose of a variance is to allow a modification of certain zoning ordinance regulations when such modification will not be contrary to the public interest and when, owing to conditions peculiar to the property and not the result of the actions of the applicant, a literal enforcement of the ordinance provisions would result in unnecessary and undue hardship.

Unnecessary and undue hardships may result from the size, shape or dimensions of a site; the location of existing structures on the site; geographic, topographic or physiographic features or other conditions on the site or in the immediate vicinity; or street locations or traffic conditions in the immediate vicinity.



Sec. 125-100. - Criteria for granting variances.

A variance may be granted only in the event that all of the following criteria are satisfied:

- (1) 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;
- (2) The special conditions and circumstances do not result from the actions of the applicant;
- (3) The literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would result in unnecessary and undue hardship on the applicant;
- (4) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and
- (5) The granting of the variance will be in harmony with the general intent and purpose of the ordinance codified in this section and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.



Applicants Justification

The applicant has requested the 6-ft fence (a variance of 2 ft from the allowed 4-ft high fence) due to her children's safety.

The applicant has stated that many people park on her lawn due to the activities that occur (such as sports tournaments) at the Park directly across from her lawn. The applicant has also provided multiple incident reports from the Police Department of her vehicle being stolen as well as an incident where two men with guns hid on the property during a police search.

Without the variance, the owner feels unsecure in her home



SITE LOCATION – 205 S 29th ST



205 S. 29th Street – Variance



FUTURE LAND USE – LOW DENSITY RESIDENTIAL



205 S. 29th Street – Variance



ZONING: R-3



205 S. 29th Street – Variance



S 29th ST - View North



205 S. 29th Street – Variance



S 29th ST - View South



205 S. 29th Street – Variance



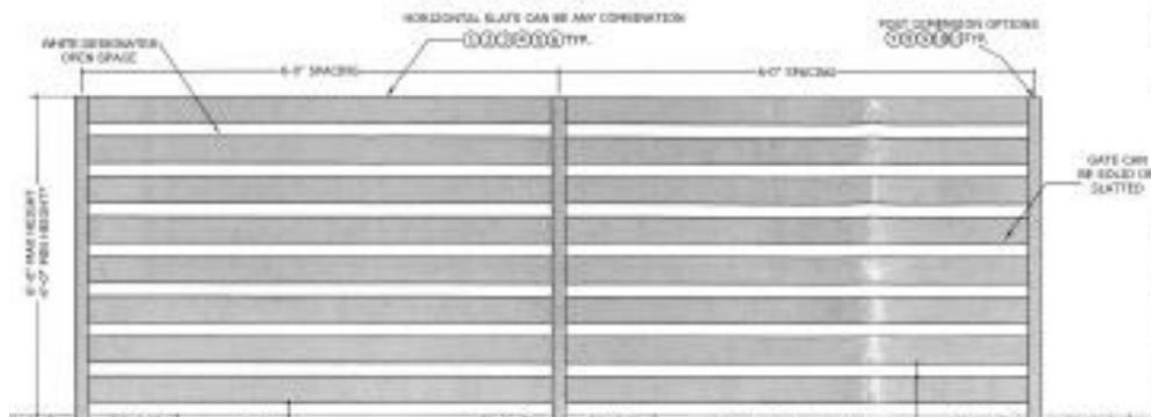
Existing Fences at the intersection of S 29th ST and Delaware Ave



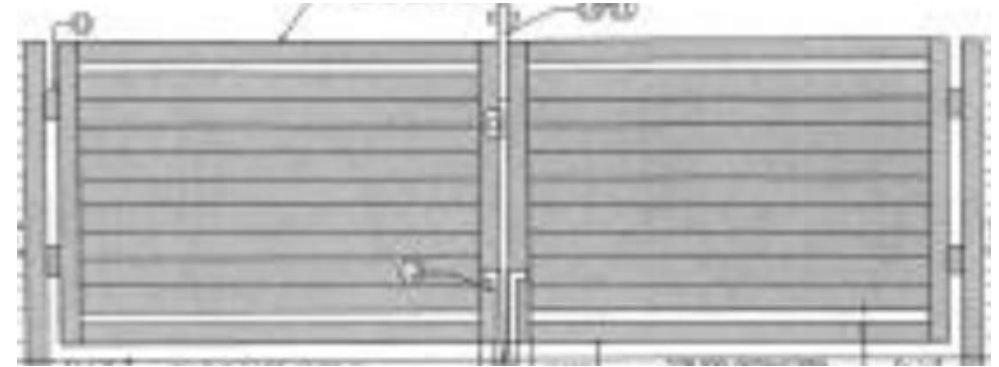
205 S. 29th Street – Variance



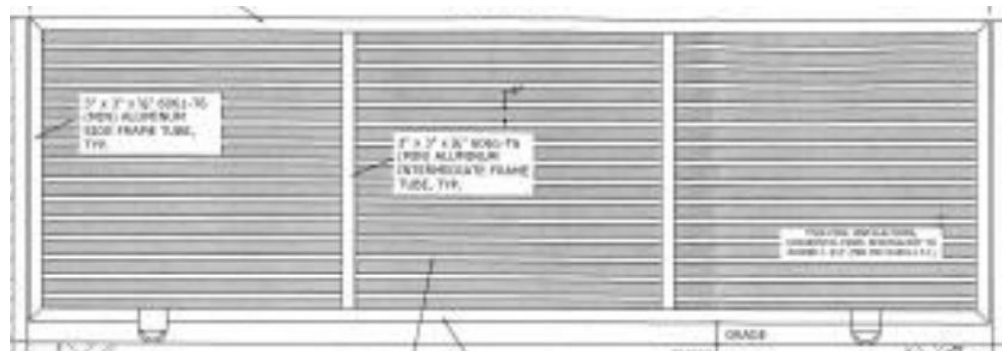
Proposed Aluminum Fence and Gate(s)



6ft Aluminum Fence



6ft Aluminum Gate



6ft Aluminum Rolling Gate

Recommendation

The Planning Board of Adjustment should consider the application against the criteria prior to granting a variance to deviate from City Code 125-322(c)(1) to place a 6-foot fence within the first 25 feet (front yard) from the front property line.

Options

1. APPROVE

or

2. APPROVE WITH CONDITIONS

or

3. DENY THE VARIANCE



Sec. 125-100. - Criteria for granting variances.

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- (2) The special conditions and circumstances do not result from the actions of the applicant;
- (3) The literal interpretation of the provisions of the zoning ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would result in unnecessary and undue hardship on the applicant;
- (4) The variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure; and
- (5) The granting of the variance will be in harmony with the general intent and purpose of the ordinance codified in this section and such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

