

AGENDA
TOWN OF INDIALANTIC BOARD OF ADJUSTMENT
Council Chamber, 216 Fifth Avenue, Indialantic, FL 32903
January 13, 2021 AT 4:30 P.M.

A. Call to Order:

David A Justice	Chairman
Chris Campbell	Vice Chairman
Safvat Kalaghchy	Member
Jeffrey Schulte	Member
Sam Martorella	Member
Stephen Baughn	1 st Alternate
Michael Hill	2 nd Alternate

B. Approval of Prior Meeting Minutes:

Minutes – November 12, 2020

C. Variance Request:

1. Site Address: 300 Third Avenue

Applicant: Joe Lewandowski (Owner)

Zoning: R-1-B Single Family Residential

- a. Code Section 17-88 (3) (b) Fences; walls. Setbacks -- A variance of 10' to the required minimum 10' setback from the lot line on the abutting street for a side yard fence located on a corner lot, to allow a fence to be installed on the property line.

D. Adjournment:

Notice: Pursuant to section 286.0105, Florida Statutes, the town hereby advises the public that if a person decides to appeal any decision made by this board with respect to any matter considered at its meeting or hearing, he will need a record of the proceedings, and may need to ensure that a verbatim record of the proceedings is made which includes the testimony and evidence upon which the appeal is to be based. This notice does not constitute consent by the town for the introduction or admission into evidence of otherwise inadmissible or irrelevant evidence, nor does it authorize challenges or appeals not otherwise allowed by law.

Americans with Disabilities Act: Persons planning to attend the meeting who need special assistance must notify the office of the town clerk at 321-723-2242 no later than 48 hours prior to the meeting.

MINUTES
TOWN OF INDIALANTIC BOARD OF ADJUSTMENT
Council Chamber, 216 Fifth Avenue, Indialantic, FL 32903
November 12, 2020 AT 5:30 P.M.

A. Call to Order:

A regular meeting of the Board of Adjustment was called to order at 5:35 p.m. by Chairman Justice with the following members present:

David A Justice	Chair
Chris Campbell	Vice Chair
Jeffrey Schulte	Member
Stephen Baughn	1 st Alternate
Michael Hill	2 nd Alternate

Also present:

Michael Casey, Town Manager
Rebekah Raddon, Town Clerk

Chair Justice led the Pledge of Allegiance.

B. Approval of Prior Meeting Minutes:

Minutes – September 9, 2020

Motion by Vice Chair Campbell, seconded by Member Schulte, and vote unanimous to approve the meeting minutes. Motion carried 5-0.

Chair Justice excused absent board members Safvat Kalaghchy and Sam Martorella as they gave notice they were unable to attend tonight's meeting.

C. Variance Request – Continuation of September 9, 2020 hearing:

1. Site Address: 337 Second Avenue

Applicant: James Palmer-Smith (Owner)

Zoning: R-1-B Single Family Residential

- a. Code Section 17-122 (7) (b): A variance of 3' to the required 10' side setback
- ~~b. Code Section 17-122 (8): A variance of 1' to the required 20' rear setback (withdrawn)~~

Chair Justice spoke briefly about the continued hearing for the variance request.

Jim Palmer-Smith, applicant, 337 Second Ave, spoke via teleconference. He indicated that a two-car garage is not possible without a variance. He confirmed that he plans to have a second floor which will follow the footprint he provided. A member noted that variances, per the Town Code, are not granted based on needs, desires, or for an economic advantage, and asked the applicant to clarify what the hardship is.

Mr. Palmer-Smith said his variance request meets the practical difficulty standard. He explained that the dimensions of the two-car garage will allow space for clearance as well as a washer and dryer.

Mr. Casey noted that the code does not require a 2-car garage for remodels or additions; it is only required for new construction.

Ms. Raddon read the following emailed statement from absent member Kalaghchy:

In regards to the variance request, the applicants have demonstrated their willingness to work with the board. I support their modified variance request.

Chair Justice asked for public comments; there were none.

Further discussion ensued regarding the details of the proposed addition.

Motion by Vice Chair Campbell, seconded by Member Schulte to approve a variance of 3' to the side setback on east side of the property for a length of 29 feet to accommodate a two-story addition which will house a garage and laundry area on the ground floor, with the stipulation that the roof overhang cannot extend further than 24 inches.

Motion carried unanimously, 5-0.

VARIANCE APPROVED.

D. Adjournment:

There being no further discussion, the meeting was adjourned at 5:54 p.m.

Dave Justice, Chairman

Attested by:

Rebekah Raddon, Town Clerk



Application for Zoning Variance

Sec. 17-141. Authority.

RECEIVED
NOV 23 2020
BY VICTORIA
RECEIPT # 985169

(a) The board of adjustment may grant variances in specific cases to vary or alter the strict application of any of the requirements of this chapter, whereby such application of a particular requirement would result in a practical difficulty or an unnecessary hardship that would deprive the owner of the reasonable use of the land or building involved.

(b) To obtain a variance the applicant must demonstrate to the board of adjustment that:

- (1) A practical difficulty or an unnecessary hardship is caused by the literal application and enforcement of the zoning code provision from which a variance is sought;
- (2) The granting of the variance will not authorize a use prohibited, or result in a use variance, in the district in which the property is located;
- (3) The preponderance of evidence presented at the variance hearing does not demonstrate that the granting of the variance will seriously impair the use of adjacent property, or significantly reduce the value of adjacent property, regardless of the zoning district in which the adjacent property is located;
- (4) The need for the variance is made necessary by the unique character of the property;
- (5) The need for the variance is not caused in any way by the owner or occupant of the property upon which the variance is sought;
- (6) That the request for a variance is not solely based on an economic disadvantage to the owner or occupant of the property upon which the variance is sought, because an economic disadvantage to an applicant does not constitute a hardship or practical difficulty sufficient to warrant the granting of a variance; and
- (7) That the request for a variance is not solely based on a need or desire of the owner or occupant of the property upon which the variance is sought to be obtained to gain an economic benefit, because an economic advantage to an applicant does not constitute a hardship or practical difficulty sufficient to warrant the granting of a variance.

(c) In determining whether to grant a variance the board of adjustment may consider the goals, objectives and policies of the comprehensive plan.

(d) In granting a variance, the board of adjustment may prescribe any conditions that it deems necessary or desirable in the furtherance of the purpose of this chapter.

(e) If a variance is granted with the effect being that a building permit is required, the building permit must be obtained within twenty-four (24) months of the approval date, after that time, the variance is void. If a permit is issued and that permit expires then the variance is also terminated, or expires, with the permit. (Ord. No. 11-13, 3, 7-27-11; Ord. No. 17-08, 2, 4/12/17) JK applicant initial.

1. Applicant states that the property is located at:

Lot(s) 13 & 14 Block 12

Street Address 300 3RD AVE INDIALANTIC, FL 32903

2. Applicant's contact information:

Name: JOE LEWANDOWSKI Phone: 321-272-3612

joe.lewski@gmail.com

300 3RD AVE

Address: INDIALANTIC, FL 32903 Email: joe.lewski@gmail.com

3. Property Owner (If other than applicant): SAME

Property Owner Address: SAME

4. The relationship of the applicant to the property is:

OWNER: X ATTORNEY/AGENT*: _____ TENANT*: _____

*Owner authorization required.

5. The property is zoned (Circle one): R-1-A; R-1-B; R-2; R-3; R-P; C; C-1; C-2; SC; CH; T

6. The requested variance(s) is for the following non-conformities of the Indialantic Code:

Code Section	Explain Non-conformity (variance requested)
a. <u>17-88 (3)(b)</u>	<u>CODE SECTION REQUIRES (10) FOOT</u> <u>SETBACK FROM THE LOT LINE ON THE</u> <u>ADJUTING STREET FOR A CORNER LOT.</u> <u>I REQUEST TO BUILD MY FENCE ON</u>
b. _____	<u>THE LOT LINE.</u>

Attach additional pages as necessary

7. Current Property Survey and Site Plan for proposed variance are attached to this application

JL applicant initial

8. Site plans are the same as submitted to the Zoning Board, if applicable:

YES _____ NO X N/A _____ PERMIT WAS OBTAINED BY AAA QUALITY FENCE FOR A FENCE WITH (10) FOOT SETBACK

9. Describe the **Practical Difficulty** or **Unnecessary Hardship** which will be imposed if the variance is not granted (see definitions, pg. 3). Attach additional pages as necessary:

PLEASE SEE ATTACHED LETTER

Definitions

(50.3) Practical difficulty.

In the case of a variance, a practical difficulty is a standard which is similar to but less rigorous than the unnecessary hardship standard. It is a non-self created characteristic of the property. The standard asks whether a literal enforcement of a zoning regulation will create a practical difficulty in the use of the parcel of land for the purpose or in the manner for which it is zoned. Some of the factors that may be considered in determining whether a practical difficulty exists include: (i) how substantial the variance is in relation to

the requirement sought to be varied; (ii) whether a substantial change will be produced in the character of the neighborhood; (iii) whether the difficulty can be obviated by some method feasible for the applicant to pursue other than by a variance; and (iv) whether, in view of the manner in which the difficulty arose, the interest of justice will be served by allowing the variance. Finding that factors (i) (that the variance requested is not substantial); (ii) (that a substantial change in the character of the neighborhood will not occur if the variance is granted); (iii) (that the difficulty occurring can only be obviated by grant of the variance); and (iv) (that the interest of justice will be served by granting of the variance), are all factors in support of the variance.

(69.1) Unnecessary hardship.

In the case of a variance, an unnecessary hardship is a standard which is similar to but much more rigorous than the practical difficulty standard. The unnecessary hardship standard is a very restrictive standard. It is a non-self created characteristic of the property in question which renders it virtually impossible to use the land for the purpose or in the manner for which it is zoned. The standard asks whether a literal enforcement

of a zoning regulation will create an unnecessary hardship which makes it virtually impossible to use the land for the purpose for which it is zoned.

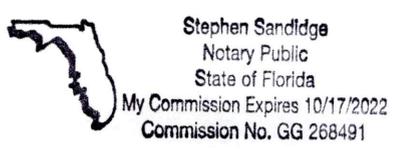
A nonrefundable fee of \$500.00 is required at the time the application is filed. Application does not guarantee variance will be granted.

I hereby agree to the payment of the fee as prescribed by the Indialantic Code of Ordinances. I hereby depose and say that all the above statements are true and correct to the best of my knowledge.

Signature of applicant Walter Lewandowski Date 11-23-20

The foregoing instrument was sworn to (or affirmed), subscribed, and acknowledged before me by means of physical presence or online notarization, this 23 day of November, 2020, by Walter Lewandowski, who is personally known to me or has produced Florida Divvy License as identification.

NOTARY: Stephen Sandidge Commission expires: 10-17-2022



FOR OFFICE USE ONLY

Application checked and accepted by Building Official: _____

C. P. J.

Date 11-30-20

ACTION BY BOARD OF ADJUSTMENT:

Approved _____

Disapproved _____

Date _____

Board of Adjustment Chairman

Board of Adjustment Secretary

Revised June 26, 2020

The Town of Indialantic Board of Adjustment
216 5th Avenue
Indialantic, FL
32903

Dear Members of the Board of Adjustment:

I am writing to seek a fence variance for my single-family home at 300 3rd Avenue, Indialantic. Current Indialantic code 17-88(3)(b) states that fences shall be a minimum of ten (10) feet from the lot line on the abutting street for a corner lot. I respectfully request to build a fence along the lot line on the abutting street.

17-88(3)(b):

All permitted fences, walls, or partial fences, or partial walls, except those walls shielding dumpsters, shall be setback a minimum of ten (10) feet from any lot line abutting a street. In the case of the front yard it shall be set back a minimum of twenty-five (25) feet, or to the front line of the building, whichever is greater.

In the case of a corner lot, the side yard fence shall be setback a minimum of ten (10) feet from the lot line on the abutting street.

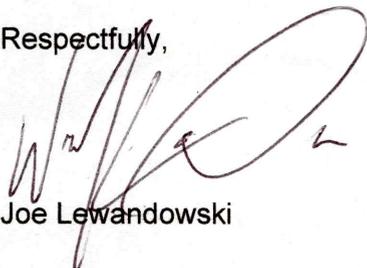
My two kids love to play around the house, and we want to put up a fence for privacy and also to keep balls from rolling into the road. My kids currently play along the street side of the house. If I must build the fence 10 feet from the property line, their play area would decrease from 25 feet wide to 15 feet wide.

I plan to install a six (6) foot fence in the board-on-board style. I've landscaped along the fence line so it will be attractive to cars which pass by. Once the fence is installed, I plan to create beds for the landscaping and fill with river rocks. This will be a nice addition to the aesthetics of Palm Ave. If the fence is built at the property line, there is still 20.25' to the street. This is consistent with the fences/walls built along Palm on the corner of Michigan, 1st Ave, and 2nd Ave. As there is a precedent for a fence to be erected at this distance from the street, I don't feel my fence will detract from the character of the neighborhood.

I've discussed the variance request with the adjacent neighbors behind me on 2nd Ave, Merle and Pam. They are both in agreement that building my fence along the property line will not be a problem for them.

I hope you agree that my request would produce an aesthetically proper addition if not an enhancement to my neighborhood. Should you have any questions, please do not hesitate to contact me at 321-272-3612. Thank you for your thoughtful consideration of this request.

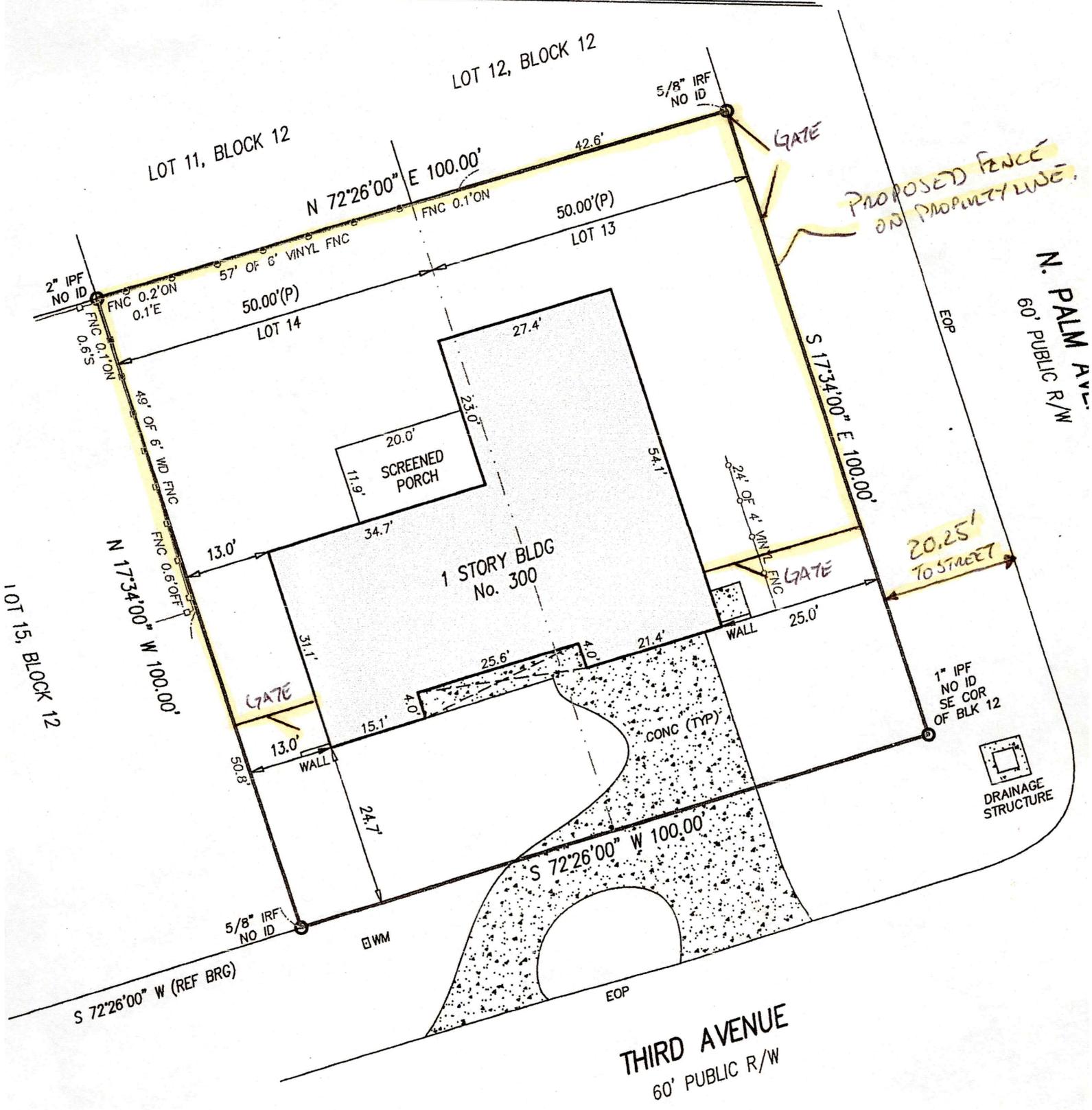
Respectfully,



Joe Lewandowski

SITE PLAN FOR PROPOSED VARIANCE

MAP OF BOUNDARY SURVEY



ADDITIONAL
ELEVATION
JC

LEGEND
 FEMA = FEDERAL EMERGENCY MANAGEMENT AGENCY
 FF = FINISHED FLOOR

PC = POINT OF CURVATURE
 PCC = POINT OF COMPOUND CURVATURE
 PCP = PERMANENT CONTROL POINT
 PI = POINT OF INTERSECTION
 PLS = PROFESSIONAL LAND SURVEYOR



Line drawn parallel to the street along the fence line on the corner of 1st & 2nd.

I'm requesting to build my fence along my property line. This location would be aligned with the other fences along Palm Ave.