

**CITY OF FORT MYERS
BOARD OF ADJUSTMENTS
MINUTES OF THE FEBRUARY 22, 2023, MEETING**

On February 22, 2023, at 1:30 p.m. the City of Fort Myers Board of Adjustments met in the City Council Chambers, Oscar M. Corbin, Jr. City Hall, 2200 Second Street, in the City of Fort Myers, Florida.

ROLL CALL

Andrew Fitzgerald called the meeting to order at 1:32 p.m.

Members Present

Andrew Fitzgerald
Marvin Burges
Solomon Mitchell Jr.
Anthony Gargano
Steven Weisberg

Members Absent

Blake Bartholomew

Planning Staff Present

Nicole DeVaughn, Planning Manager
Taryn Thomas, Senior Planner
Cary Mock, Zoning Officer

Other Staff Present

Grant Alley City Attorney
Anthony Palermo, Assistant Community Development Director
William Porter, Engineer, Public Works

PLEDGE OF ALLEGIANCE COMMENCED

OATH OF OFFICE: Mary Hagemann, Deputy City Clerk, administered the oath of office to Steve Weisberg.

Grant Alley, City Attorney, swore in all witnesses.

EX PARTE COMMUNICATION ON ANY AGENDA ITEMS: None

ITEM NO. 1 PUBLIC HEARING: VARIANCE REQUEST FOR A PROPERTY LOCATED AT 2102 SOUTH ST. TO ALLOW THE CONSTRUCTION OF A DUPLEX ON A LOT THAT DOES NOT MEET MINIMUM TOTAL LOT SQUARE FOOTAGE DEVELOPMENT STANDARDS. (QUASI-JUDICIAL) (WARD 3)

Cary Mock, Zoning Officer, Community Development Department gave the staff presentation as follows:

BEGIN STAFF REPORT

PUBLIC HEARING (Quasi-Judicial): Consider a Variance for property located at 2102 South St., zoned Single Family Duplex (RS-D), to allow a reduction in total lot square footage from the required 11,500 square feet, to 7,894 +/- sq. ft. (Quasi-Judicial) (Ward 3)

1. Application Information

Owner:	4 Star Capital Group, LLC
Address:	2102 South Street
Location:	East of Cleveland; North of Canal St.; South of South St.
Size:	7,894 +/- sq. ft. (0.18 +/- acres) vacant
STRAP No.:	24-44-24-P4-01401.0120
Current Zoning:	Single Family Duplex (RS-D)
Future Land Use:	Residential Medium Density (RMD)
Request:	Variance from Chapter 118.2.1 duplex development standards for minimum total lot square footage
File:	VAR22-0022

Request for a variance from the terms of the Land Development LDC Code Sec. 118.2.1 is to address existing conditions. This parcel is a corner lot with a total lot square footage of 7,800 +/- square feet and does not meet current minimum total lot square footage of 10,000 square feet plus 15% for corner lots or 11,500 square feet for development of a duplex. The variance is sought due to a hardship caused by existing conditions of the parcel, which does not meet current LDC total lot square footage requirements.

2. Request

A total of 35 public notice letters were sent to property owners within 300 feet of the parcel. The property was posted with a sign alerting the general public about the case; and an ad ran in the News-Press. All actions occurred at least 10 days prior to the meeting on February 22, 2023.

3. Staff Recommendation

Staff recommends approval of the Variance Request. Land Development Code, Section 93.3.5.F. Findings, considered prior to approval by the Board of Adjustments; staff's review of each is as follows:

**Minutes – Board of Adjustments
February 22, 2023**

- 1. The Board of Adjustments shall make findings that the requirements of this section have been met by the applicant for a variance.**

Staff finds that the requirements have been met.

That hardship(s), as defined in this land development code, and circumstances exist which are peculiar to the land, structure, or community development involved and which are not applicable to other lands, structures, or buildings in the same district.

This parcel is a corner lot with a total lot square footage of 7,800 +/- square feet and does not meet current minimum lot square footage of 11,500 square feet for development of a duplex (corner lots are required to be 15% greater in size).

There are special conditions and circumstances peculiar to the land and structures which are not applicable to other lands or structures in the same district.

This existing lot is short 3,700 square feet +/- to meet the lot square footage requirements for development of a two-family/duplex.

The literal interpretation of the code would deprive the applicant of rights commonly enjoyed by other properties in the same district.

This existing corner lot cannot fulfill the lot square footage requirements. The development standards as described in Table 118.2.1.D Two Family Residential Dwelling Dimensional Standards (Duplex) state the minimum lot square footage in the RS-D zoning district is ten thousand square feet. The subject lot is seven thousand eight hundred total square feet only.

The special conditions and circumstances are not the result from actions of the applicant.

The hardship is the result of the lot size of the corner lot.

The variance would not confer on the applicant any special privilege that is denied by the section to other lands, structure, or building in the same district.

No special privilege being granted.

That granting the variance is in the best interest of the public and promotes the general health, safety and welfare of the neighborhood to be affected by the variance.

The granting of a variance will allow a duplex to be built on this RS-D parcel.

**Minutes – Board of Adjustments
February 22, 2023**

- 2. The Board of Adjustments shall further make a finding that the reasons set forth in the application justify the granting of the variance, and that the variance is the minimum variance that will make possible the reasonable use of the land, building, or structure.**

Staff finds that the variance is the minimum variance that will make possible the reasonable use and improvement of the land.

- 3. The Board of Adjustments shall further make a finding that the granting of the variance will be in harmony with the general purpose and intent of this Land Development Code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.**

Staff finds that the variance request will have no adverse impacts. Staff finds the variance will be in harmony with the general purpose and intent of this land development code and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

4. Recommended Action

Staff recommends approval of the Variance Request to allow the development of this parcel for a two-family home/duplex. Development of the site shall comply with all other regulations of the Land Development Code.

END STAFF REPORT

Mr. Weisman requested an aerial view of the adjacent properties to determine the surrounding housing types. Mr. Weisman stated the properties to the south appear to have duplexes but they are on larger lots than the subject parcel. All of the properties on both sides of the street of the subject parcel are developed as single-family homes.

Mr. Mock pointed out that catty-corner to the subject parcel is an institutional/multifamily development that was approved as the Southwest Florida Addiction Services (SWAFAS) Planned Unit Development.

Mr. Fitzgerald questioned what other uses could be developed in the Single-Family Duplex (RS-D) zoning district; and whether the lot met the requirements for single-family development.

Mr. Mock stated that single-family and duplex structures can be built in the RS-D zoning district and that the lot could currently accommodate single-family development.

PUBLIC INPUT: Norma Delatorre, owner 2128 South Street, stated that she has lived in the neighborhood for thirty years and does not support the construction of a duplex

**Minutes – Board of Adjustments
February 22, 2023**

because there are no other duplexes on her block. Ms. Delatorre stated she is against the application. Ms. Delatorre stated the subject property is on her block.

DISCUSSION: Mr. Burges stated the lot was cut off from a different lot, and is nearly 3,300 square feet less than required. He stated his concern that people will create substandard lots and then come to the Board for relief from the requirements

Mr. Fitzgerald questioned whether the area was originally zoned for single-family and then at a later date rezoned to allow duplex development.

Nicole DeVaughn, Planning Manager, stated the area was zoned to allow duplexes as far back as 1999, the oldest map she had on file. She further stated the record is unclear as to when the lot was split in the past.

Mr. Fitzgerald stated he wanted to clarify a duplex development is not required and that a single-family home can be built on the lot. He further stated he was unsure there is a hardship when the property can be developed with a different housing type.

Mr. Gargano stated as a policy, single-family neighborhoods should be preserved.

Ms. DeVaughn stated duplexes are considered a single-family product type.

Mr. Burges stated one of the requirements for a variance is that the hardship is not created by the applicant. He further stated the applicant buying a substandard lot is a self-created hardship.

Mr. Fitzgerald stated he viewed this as an issue of creating a special condition that that is not applicable to the surrounding properties.

MOTION: It was moved by Mr. Burges to deny the request to grant a variance to reduce the minimum lot size at 2102 South Street. The motion was seconded by Mr. Mitchell and unanimously approved 5-0, thereby denying the variance request.

ITEM NO. 2 PUBLIC HEARING: VARIANCE FOR PROPERTY LOCATED AT 3611-3621 CLEVELAND AVE., ZONED COMMERCIAL INTENSIVE (CI), TO ALLOW A REDUCTION IN MINIMUM REQUIRED SQUARE FOOTAGE OF LIVING AREA FROM THE REQUIRED 750 SQ. FT., TO 625 AND 637 SQ. FT. FOR THE DEVELOPMENT OF A MULTI-FAMILY PROJECT. (QUASI-JUDICIAL) (WARD 4)

Mr. Mock stated the item was removed from the agenda and will be heard at a future meeting.

PUBLIC COMMENT ON NON-AGENDA ITEMS:

OTHER BUSINESS: There being no other business the meeting ended at 2:03 p.m.