



Legislation Text

File #: 17-0846, **Version:** 1

TO: Honorable Mayor & Members of the North Port Commission

FROM: Jonathan R. Lewis, ICMA-CM, City Manager

TITLE: Resolution No. 2017-R-06, Petition No. VAC-17-004, the request of Clifton R. Davis and Anna L. Davis to vacate a portion of the platted 20-foot rear maintenance easement to allow for a newly constructed in-ground swimming pool and deck to remain. The site contains \pm 208 square feet and is located at 4230 Wall Lane, North Port, Florida (Lot 45, Block 267, First Addition to Port Charlotte Subdivision) (PID # 0990026745) (Section 27, Township 39S, Range 21 East) (Quasi-Judicial)

Recommended Action

Approve Resolution No. 2017-R-06, Petition No. VAC-17-004, the request of Clifton R. Davis and Anna L. Davis to vacate a portion of the platted 20-foot rear maintenance easement to allow for a newly constructed in-ground swimming pool and deck to remain.

Background Information

Clifton R. Davis and Anna L. Davis are petitioning the City of North Port to grant a partial vacation of the platted 20-foot rear maintenance easement to allow for a newly constructed in-ground swimming pool and deck to remain. The site contains \pm 208 square feet and is located at 4230 Wall Lane, North Port, Florida, PID # 0990026745.

On September 26, 2016, Tropical Pools on behalf of the property owners Clifton R. Davis and Anna L. Davis submitted a building permit to construct an in-ground swimming pool and deck. The permit was reviewed by the Building Division and the permit was approved. The survey submitted with the permit application showed the placement of the pool encroached 5.2-feet into the 20-foot maintenance easement and a setback of 14.8-feet from the rear property line.

On November 15, 2016, Tropical Pools again on behalf of the property owners submitted to the Building Division an addition permit for the pool cage. Through the review process, it would found that the pool cage would encroach 5.2-feet into the 20-foot rear maintenance easement. In addition it would not meet the minimum setback for accessory structures pursuant to Chapter, 53, Section 53-240.A.(5) and Section 53-240.BB.(2) of the Unified Land Development Code which provides that no accessory structure shall be located on waterfront property closer than twenty (20) feet to the rear lot line.

No official documentation was included with the submission of either building permit that would allow for the pool encroachment or granting a variance from the minimum setback requirements.

When the error was discovered, planning staff was notified so research the matter and find a solution.

After researching the matter, the planning division provided to the property owners three (3) options in an e-mail dated November 29, 2016. The options are listed below:

Option #1 - Decrease the size of the pool to meet the 20-foot rear setback and not encroach into the easement.

Option #2 - Apply for an occupation of easement for the pool and a variance from the minimum setback.

Option #3 - Apply for a partial vacation of easement for the pool encroachment and a variance from the minimum setback

The property owners selected option #3 to request a partial vacation of easement and a variance from the minimum 20-foot rear setback requirement. The Neighborhood Development Services Planning Division received an application for a partial vacation of easement and variance on January 9, 2017.

A variance was granted by the Zoning Board of Appeals on February 10, 2017 to allow the 14.8-foot rear setback with a 3-2 vote. The granting of the variance resolved the setback issue. The matter before the Commission is to address the 5.2-foot encroachment of the pool and deck into the 20-foot rear maintenance easement.

Subsequently, because of the matter above and to ensure it does not occur again, safeguards have been added by the Building Official concerning the permit review process as follows:

1. Any permit submitted to the building division with a permanent structure that is encroaching into any easement or does not meet the minimum setback of the zoning district shall be placed on hold until verification from zoning that the property owner has been approved to occupy said easement.

Pursuant to Florida Statutes Chapter 177.101, an application has been made to the City of North Port by Clifton R. Davis and Anna L. Davis to formally request a partial vacation of the platted rear twenty (20) foot maintenance easement located on lot 45, Block 267, First Addition to Port Charlotte Subdivision, Section 27, Township 39 South and Range 21East.

A legal notice of intent to vacate was published by the applicant in a newspaper of general circulation, for (2) two weeks consecutively.

The Unified Land Development Chapter 53-267 D. provides for vacation of platted easements in accordance with F.S. Chapter 177.

Neighborhood Development Services Planning Division did duly notify the public utilities concerned and has received written approval from these agencies consenting to the partial vacation of the platted rear 20-foot rear maintenance easement.

The Planning and Zoning Advisory Board (PZAB) at their regularly scheduled meeting of February 16, 2017, recommended that the City Commission approve Resolution No. 2017-R-06, Petition No. VAC-17-004, the request of Clifton R. Davis and Anna L. Davis to vacate a portion of the platted 20-foot rear maintenance easement to allow for a newly constructed in-ground swimming pool and deck to remain with a unanimous 7-0 vote.

The Planning & Zoning Advisory Board made the following findings of fact:

- (1) A permit for the subject pool and pool cage was issued;
- (2) The Planning and Zoning Advisory Board does not find that Mr. and Mrs. Davis are at fault or responsible for any errors in permitting or construction;
- (3) The financial damages to the Davises, should the Commission attempt to reverse course and demand a remedy, would be onerous financially;
- (4) The Planning & Zoning Board unanimously stated on the record they were not happy about the situation, however, in order to provide relief to the applicants, Mr. and Mrs. Clifton R. Davis, the Planning & Zoning Advisory Board recommends approval of Resolution No. 2017-R-06, Petition No. VAC-17-004.

Staff has no objection to the request for the partial vacation of platted rear 20-foot maintenance easement located on lot 45, Block 267, First Addition to the Port Charlotte Subdivision and based on staff's evaluation and stated findings, staff is recommending approval

Strategic Plan

Goals: Financially Responsible City Providing Quality Municipal Services

Financial Impact

Not Applicable

Procurement

Not Applicable

Attachments:

1. Resolution No. 2017-R-06
2. E-mail to Mr. & Mrs. Davis dated November 29, 2016
3. VAC-17-004, Staff Report

Prepared by: Sherry Willette-Grondin

Department Director: Scott Williams