



City of Venice
Development Services
Building Department

STAFF REPORT

To: Architectural Review Board

By: Greg Schneider, Building Official

Date: February 4, 2019

Re: 112 S Park Blvd, New single-family home construction with a variance request for the pool to be located in the side front yard

The property is located within the **Historic District** at the northwest corner of Park Blvd and Granada Ave.

The City Clerk received an appeal request, dated December 20, 2018, applicable to ARB case number 18-5106, heard and approved by ARB on December 13, 2018.

The appellant's letter is included with this staff report for review.

In lieu of the appellants appeal request proceeding to a review by City Council as outlined in Section **86-25 (f)**, Appeals, the applicant decided to withdraw their ARB 18-5106 application submittal, thusly vacating ARB's approval. The applicant's letter is included with this staff report for review.

Therefore, the applicant is now submitting application number PLAR19-00025, requesting approval to construct a new single-family home that includes a variance request for the pool to be located within the side front yard.

The applicant's application submittal contains drawings and renderings sufficient to show the architectural definition of the structure including elevation views, door and window details, roof design and proposed material, wall finish and color, floor plans, site plan with location of the pool.

As proposed, the single-family home appears in general compliance with the ARB Guidelines Handbook, Design and Construction Regulations.

The proposed pool location however is in contravention of ARB Guidelines Handbook, Design and Construction Regulations, **Section G, Equipment Concealment, subsection b**, in partswimming pool and spas shall be located to the rear of a building and be appropriately screened from public view.

As such, in accordance with **86-25 (g)**, Variances, the board has authority to grant a variance from the requirements of the these regulations. However, the burden of proof shall be on the applicant to show that due to special conditions, a literal enforcement of the regulations will cause an unnecessary and undue hardship on the applicant. And, in accordance with **Sec. 86-25(b)(2)**, a Certificate of Architectural Compliance (CAC) is required for the new single-family structure within the Historic District.

DEC 20 '18 11:16



City of Venice, Florida Notice of Appeal

Notice is hereby given in accordance with Section 86-21 of the City of Venice Land Development Code that Curt & Courtney Whitaker appeals to the Venice City Council the decision rendered by the Administrative Review Board on 12/13/18 which denied/granted Petition 18-5106.

M. Curtis Whitaker
Printed Name

M. C. Whitaker
Signature

613 West Venice Ave
Venice, FL 34285
Mailing Address

603-731-2080
Telephone Number

DEC 20 '18 11:16

December 20, 2018

To: Venice City Council

From: Curt and Tommye Whittaker
613 West Venice Avenue, Venice, FL
603-731-2080

Re: Appeal of Architectural Review Board Decision on Petition 18-5106 (Construction of a Single Family Home at 112 South Park Blvd) ("Petition"), Caithness Construction LLC (Parcel 0176-07-0034)

ARB Hearing Date: December 13, 2018

Dear Venice City Council:

Pursuant to City Ordinance Section 86-25(f), the undersigned respectfully appeal the decision by the City's Architectural Review Board ("ARB") to approve (with conditions) the above referenced Petition. The ARB's action was made at its meeting of December 13, 2018. This letter was filed with the City's Clerk on the date set forth above, and within 10 days of the referenced ARB's decision.

Background.

Parcel 0176-07-0034 (the "Parcel") is located on the corner of Park Boulevard and Granada Avenue, within the Historic District (or HV district) as described in Ordinance Sec. 86-25. The Parcel sits at the front corner of the Venice Ave/Park Ave/Granada block, and will border (one two sides) the former Lister estate at 605 West Venice. Given its prominent location at this intersection of two Historic District blocks, any new structure on 112 South Park Blvd is subject to a high level of scrutiny for historic consistency as provided by the City's Regulations applicable to the HV district.

At present there is a residence of 1970's vintage on this Parcel. Caithness Construction LLC ("Caithness") has filed two petitions with the City regarding : one to demolish the current residence (Petition 18-5105), and the other to construct a new single family home (Petition 18-5106). The latter Petition is the subject of this appeal.

On December 13, 2018, the ARB reviewed Petition 18-5106, including the plans submitted by Caithness. The ARB's review materials included a note from the City's Historic Resources Officer that the plans did not comport with the City's Regulations regarding construction within the HV district, because they included a pool structure set apart in the exposed yard, rather than having it screened by the home structure. We also filed written comments with the ARB, focusing on the location of the pool, and pointed out the inconsistency of the pool location with City Regulations. We could not be present at the meeting, as we were out of town on December 13.

The video of the ARB meeting of December 13, 2018 shows the ARB reviewing the Petition, providing a variety of comments on various aspects of the design, and settling with the petitioner Caithness on a list of certain changes to materials, windows and paving. The discussion also including questions about the location of the garage and pool structures, and concerns about how existing oaks may affect pool operations. In the end, the ARB on a 4-1 vote approved the Petition with conditions affected items such

as doors, window treatments, shutters and fencing locations. No variance was discussed or granted with respect to the basic design inconsistencies with the City's Regulations.

Because the ARB did not adhere to City Regulations in this instance with respect to the garage and the pool locations, and because the location of a pool in the exposed yard of a residence would be unprecedented within the City's HV district, we are appealing the ARB's decision of December 13, 2018 with respect to Petition 18-5106. We ask the Council to reverse the action of the ARB. Such a reversal would allow the petitioner to renew the Petition with the ARB, and attempt to meet the evidentiary requirements for a major variance from the City's Regulations.

Applicable City Regulations.

City Ordinance Sec. 86-25 establishes the ARB, and empowers it to serve as the City's administrative body with respect to architectural review standards and districts adopted by ordinance (Sec. 86-25(a)(13)(g)).

Sec. 86-25 establishes the Historic Venice (HV) district and Venetian Theme (VT) district, and describes their boundaries. The Parcel subject to his appeal lies within the HV district; thus the Petition by Caithness for a Certificate of Architectural Compliance.

Sec. 86-25(b)(2) requires a Certificate of Architectural Compliance ("CAC") for, among other things, the demolition or erection of all structures within the HV district.

Sec. 86-25(b)(2)(d)(3) provides that the ARB will consider any CAC application and, *based upon its regulations*, will issue a CAC, a CAC with conditions, or deny a CAC. The ARB cannot dictate design or materials, but can deny a petition, or condition an approval. Also, the ARB can prescribe conditions if granting a variance from its regulations. See Sec. 86-25(g)(3).

Sec. 86-25(b)(2)(e)(2) adopts the Architectural Guidelines Handbook (2002 Edition, as amended on March 11, 2014) ("Handbook") as part of the Ordinance, and includes the Handbook in its definition of "Regulations". Thus, the Handbook constitutes a duly adopted City Regulation. And these particular City Regulations are enforced by the ARB.

Sec. 86-25(b)(2)(f) provides for an appeal by any aggrieved person of an ARB decision to the City Council by filing a letter with the City Clerk within 10 day so the ARB decision. We request that the City Clerk provide the Council with copies of the Petition.

At issue here are two separate regulations set forth in the Handbook's Design and Construction Regulations with respect to the HV district:

A(4): "The garage shall be placed behind the residence where the site permits. Where the site does not permit rear placement, the next preferred choice is side placement so that garage door is not visible from the front façade. Where the lot is too narrow or other factors practically prohibit side placement, then the garage may be in the front provided the garage is set back from the plane of the front façade at least 10% of the lot width. (emphasis added)

G(b): Ground mounted equipment, swimming pools and spas shall be located to the rear of a building and be appropriately screened from public view. (emphasis added)

ARB Action Being Appealed.

At the ARB's December 13, 2018 hearing, Board Member Jon Barrick voted against the final motion approving Petition 18-5106 (with conditions), after being the only ARB member noting that the Petition's plans simply did not conform to either of the above Regulations. Four other members voted to approve the Petition 18-5106, with stipulated conditions regarding a variety of design elements.

The fundamental problem with the ARB's action is that it failed to adhere to the requirements for granting a *variance* from the Handbook's Regulations. The specific procedures for granting any such variance are set forth in Ord. Section 86-25(g) ("Variances"). There is no question that with a garage door facing Park Avenue, and a pool complex in the front yard viewable from either Park Avenue or Granada Avenue, the Petition's design does not comport with the above referenced Regulations. And the only means of not comporting with those regulations is to gain a variance from the ARB under Ord. Sec. 86-25(g).

The ARB did not cite to that Regulation, list its conditions for a variance, nor take evidence on each of the factors required to be considered in order to grant any such variance. As a result, the ARB's decision to simply grant approval of Petition 18-5106, even with conditions, is flatly inconsistent with the requirements of the City's Regulations. For that reason, the decision of December 13, 2018 with respect to the Petition must be vacated.

Requested City Council Action.

In making this appeal, we do not minimize the sincere efforts of the ARB in reviewing the Petition. The ARB took considerable time with the Petition, and included several detailed conditions. However, most of the ARB members seemed reluctant to insist on a wholesale rethinking of the proposed Petition design based on its fundamental inconsistency with the City's Regulations regarding garage and pool locations within the HV district. But requiring developers to work within the historic protections afforded the HV district is, we submit, one of the ARB's primary responsibilities.

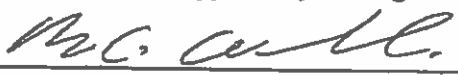
In our written comments to the ARB, we focused primarily on the fact that no other residence anywhere within the HV district has an exposed pool complex like the one proposed in the Petition. Some HV district pools are minimally visible from public sidewalks, but are in the rear of the residence and well screened. The proposed pool complex here would be a first of its kind within the HV district. As such, any variance allowing such a structure needs to be fully tested against the specific factors set forth in Ord. Sec. 86-25(g). Under that Regulation, the burden is on the Petitioner to demonstrate that "due to special conditions, a literal enforcement of the regulations will cause an unnecessary and undue hardship on the applicant." That demonstration must address each listed factor.

We don't prejudge the applicant's ability to make that demonstration. Caithness Construction is a well-known and well-regarded developer in Venice, and capable of finding sound solutions. Here, we simply point out that the ARB did not require the Petition applicant to meet that burden, and quantify (with evidence that the City Council could review) what kind of hardship would be imposed by alternative structure designs. If the Petition is returned to the ARB for further review, the result may be an

alternative design that is not the applicant's first preference, but one that comports with the HV district regulations.

The fact is that within the HV district, not every parcel can accommodate every preference that a builder or resident might have. Even more, an "undue hardship" on a developer cannot be a self-perceived reduction in the potential sales value of a spec home. If a developer could successfully assert "undue hardship" merely by alleging its own belief that the potential market value of new construction might be reduced by following the HV district regulations, those regulations would be meaningless. The HV district imposes real limits on new construction and building modifications for good reasons involving the protection of Venice's unusual architectural heritage – and if an HV district parcel cannot accommodate a specific design, there are other parcels outside the HV district that can do so.

We appreciate the opportunity to bring this matter to your attention.


Curt Whittaker


Tommye Whittaker



January 17, 2018

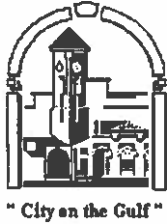
City of Venice
Architectural Review Board
401 W. Venice Avenue
Venice, FL 34285

Re: ARB Submittal - 112 Park Blvd. S.

Please withdraw our submittal ARB-18-5106 presented at the December 13, 2018 meeting.

Sincerely,

Mark Caithness



City of Venice
Planning & Zoning Division

MEMORANDUM

To: Audrey Symowicz
From: Roger Clark, AICP, Planning Manager
Date: February 6, 2019
Re: ARB Application No. PLAR19-00025, 112 S. Park Blvd.

Based on review of the applicant's submittal, Planning & Zoning provides the following comments:

1. No comments. Full review of all regulatory standards applicable to the subject application will occur during zoning review of the building permit.

MEMORANDUM

To: Audrey Symowicz, Development Services ~ Building Division

From: Harry Klinkhamer, Historical Resources Manager

Date: February 4, 2019

Re: ARB Application No. PLAR19-00025, 112 S. Park Blvd.

Based on review of the applicant's submittal, Historical Resources provides the following comments:

1. 86-25(b)(2)g2(v) *The cost of compliance with the regulations compared to the cost of the improvement with the variance and the value of the existing structure.*

Applicant does not provide this cost analysis on page 2 of their letter.

2. B. Roofs; 1. Form (a) -- *Uniformly sloping roofs, or any combination of flat and uniformly sloping roofs, having a height from eave to peak, that exceeds 80% of the average height of the supporting walls, are prohibited in both Districts. (An exception may be made for the use of a dome in a religious building).*

It is not clear from the materials provided if the slope of the roof between the garage and the second story is below 80% of the average height of the supporting walls.

3. G. Equipment Concealment (b) -- *Ground mounted equipment, swimming pools and spas shall be located to the rear of a building and be appropriately screened from public view.*

The location of the pool does not comply. Applicant is seeking a variance for this.