

RESOLUTION NO. 2024-19

**A RESOLUTION OF CITY OF DELTONA, FLORIDA;
GRANTING A VARIANCE TO ALLOW A SIX (6) FOOT
WOODEN FENCE IN THE SIDE STREET YARD LOCATED
ON THE PROPERTY AT 402 BALI TERRACE, WITHIN THE
R1, SINGLE FAMILY ZONING CLASSIFICATION, WITHIN
THE CITY OF DELTONA; PROVIDING FOR CONDITIONS,
CONFLICTS, SEVERABILITY, AND AN EFFECTIVE DATE.**

WHEREAS, the owner has submitted application for a Variance, VAR24-0001, to allow an existing six (6) foot wooden fence on the property located at 402 Bali Terrace. The subject property is part of the Deltona Lakes Plat; and,

WHEREAS, in accordance with Section 110-1103 of the City of Deltona Land Development Code (LDC), the City of Deltona held public hearings after due public notice to review the proposed Variance Application, VAR24-0001. The following criteria used to evaluate Variances within the City of Deltona Land Development Code Section 110-1103 (a)(1)(d) are met by Resolution 2024-19, as denoted by the explanations below.

- 1. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.**

The only special circumstance that exists at the subject property is the fact that this property is a corner lot. This is not unusual in nature, as many homes in Deltona are on corner lots that have to abide by the same criteria.

- 2. Special conditions and circumstances exist that do not result from the actions of the applicant.**

The fence of subject was estimated to have been erected in 2023, prior to November. It is worth mentioning the previous fence seemed to have been existing since at least 2006. However, the previous fence existed in a slightly different footprint. It was not an exact like-for-like replacement. Parts of the previous fence had been replaced, but the entire diagonal crossing to connect to the side of the house is different. While that is not the issue itself, this new

fence does result from the actions of the current owner as it was erected during their ownership.

- 3. Literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classifications, under the terms of the chapter, and would cause an unnecessary and undue hardship on the applicant.**

Staff does not interpret the lack of a six (6) foot high fence as a hardship because all other corner lots are required to comply with this Section. However, there are many exceptions that exist within the City. This can be due to a myriad of reasons, including but not limited to previous code changes, historical work that is not of record with the City, work without permits, or oversights in the zoning approval process.

- 4. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.**

The land is already being utilized as a single-family home. The current code does allow for a fence of five (5) feet or a setback of 15 feet from the property line if constructing a fence from six (6) to eight (8) feet in height. The most recent code changes allowed for more flexibility in allowing five-foot fences on the property line of the side street yard on corner lots.

- 5. The granting of the variance is in harmony with the general intent and purpose of this chapter and the City of Deltona Comprehensive Plan, as it may be amended from time to time, and that such variance will not be injurious to the area involved.**

Granting of the Variance is not necessarily consistent with the Comprehensive Plan because the only policy regarding fencing delineates that the City shall maintain guidelines and regulations for fences and walls.

Policy FLU1-7.2, "The City of Deltona shall maintain the viability of existing and proposed residential neighborhoods by maintaining guidelines and regulations for vehicular and pedestrian access, roadway buffers, landscaping, fences and walls, and the maintenance and use of common open space areas."

NOW, THEREFORE, BE IT RESOLVED BY THE CITY COMMISSION OF THE CITY OF DELTONA, FLORIDA:

Section 1. In accordance with the Code of the City of Deltona, Section 110-1103, the Deltona City Commission hereby grants approval of a Variance, VAR24-0001, in order to allow the unmodified existence of a six (6) foot wooden fence on the property located at 402 Bali Terrace thus exempting the property from Land Development Code Section 110-806 (e)(4). The subject property is part of the Deltona Lakes Plat, located at 402 Bali Terrace consistent with Sec. 110-1103 and subject to the following conditions:

- 1) All other portions of fencing and accessory structures shall be in conformance with applicable Land Development Code Sections.

Section 2. The Variance will be for the property legally described as follows: Lot 1, Block 622, DELTONA LAKES UNIT TWENTY-TWO, according to the plat thereof as recorded in Plat Book 27, Pages 11 through 15, inclusive, of the Public Records of Volusia County, Florida.

Section 3. Conflicts. All Resolutions or parts of Resolution insofar as they are inconsistent or in conflict with the provisions of this Resolution are hereby repealed to the extent of any conflict.

Section 4. Severability. In the event any portion of this Resolution is determined to be invalid, illegal, or unconstitutional by a court of competent jurisdiction, such decision shall in no manner affect the remaining portion or sections of the Resolution, which shall remain in full force and effect.

Section 5. Effective Date. This Resolution shall become effective immediately upon its adoption. If this resolution does not begin to serve the purpose for which it is granted within 12 months from the date of adoption, or if its use is abandoned for 12 consecutive months from the date of adoption, it shall expire.

**PASSED AND ADOPTED BY THE CITY COMMISSION OF THE CITY OF
DELTONA, FLORIDA, THIS _____ DAY OF _____, 2024.**

BY: _____
Santiago Avila, Jr., MAYOR

ATTEST:

Joyce Raftery, CMC, MMC, CITY CLERK

Approved as to form and legality
for use and reliance of the City of
Deltona, Florida

CITY ATTORNEY