

Resolution No. 2024-19

Variance at 402 Bali Terrace

PLANNING AND ZONING BOARD

MAY 15, 2024

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The Variance Request

The applicant is requesting a Variance to allow a 6-foot fence in the side street yard, although a Fence Permit (BLDR23-2248) was approved for a 5-foot fence in the side street yard.

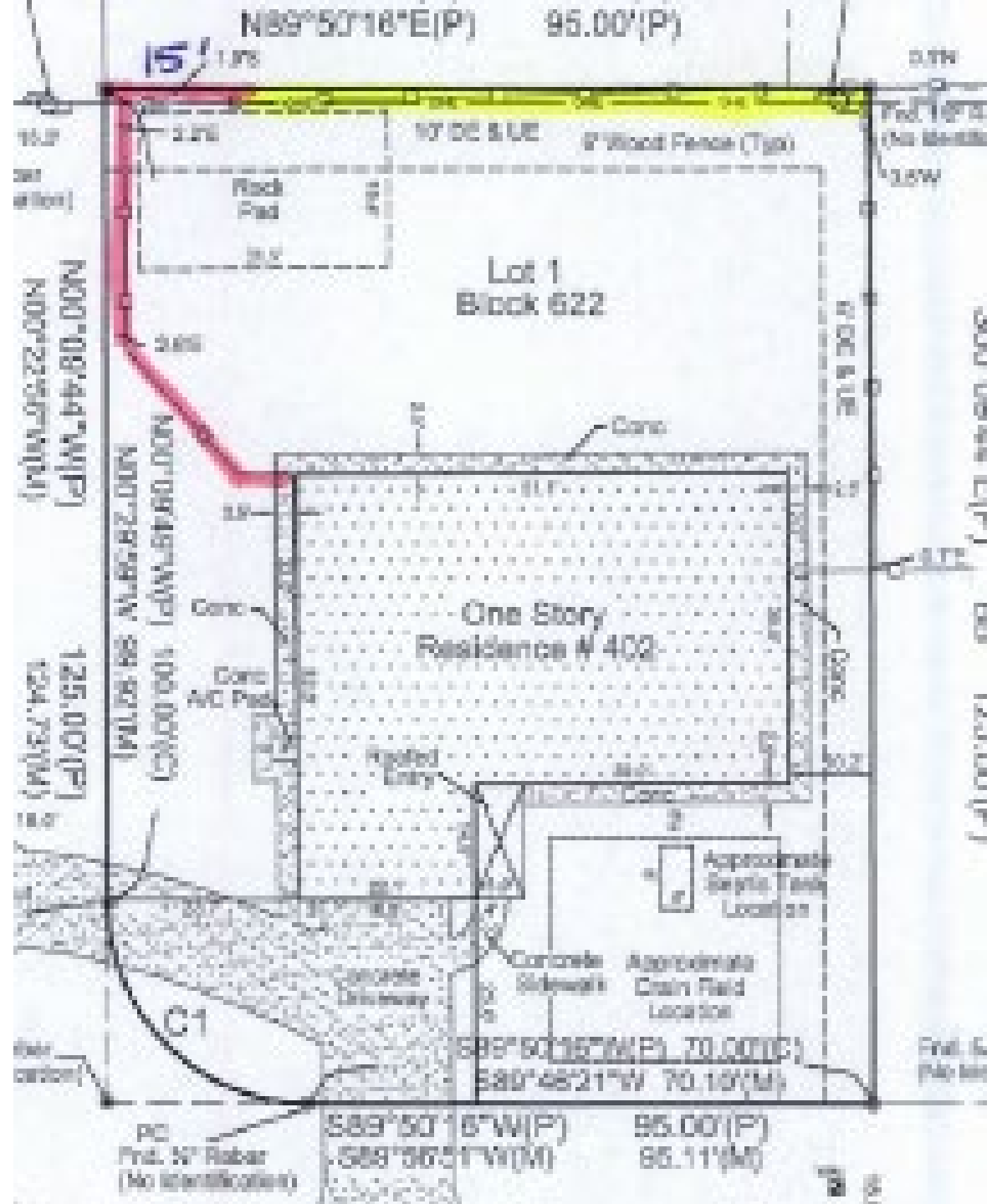
Background of the Variance

- ❑ **November 27, 2022** - Code Violation regarding fence work without a permit.
- ❑ **March 14, 2023** - Code notice of Violation was posted a second time for noncompliance.
- ❑ **March 26, 2023** - Extension was granted to the applicant to obtain an updated survey to apply for a fence permit.
- ❑ **April 10, 2023** - Permit for the fence is granted with clear demarcations of where a five (5) foot fence is allowed. This is the area of fencing that stands at six (6) feet currently. It was noted that this work was a remove and reinstall.
- ❑ **September 6, 2023** - A 90-day extension was granted for the fence permit.
- ❑ **January 1, 2024** - Another extension for the fence permit was granted to pursue the Variance application.

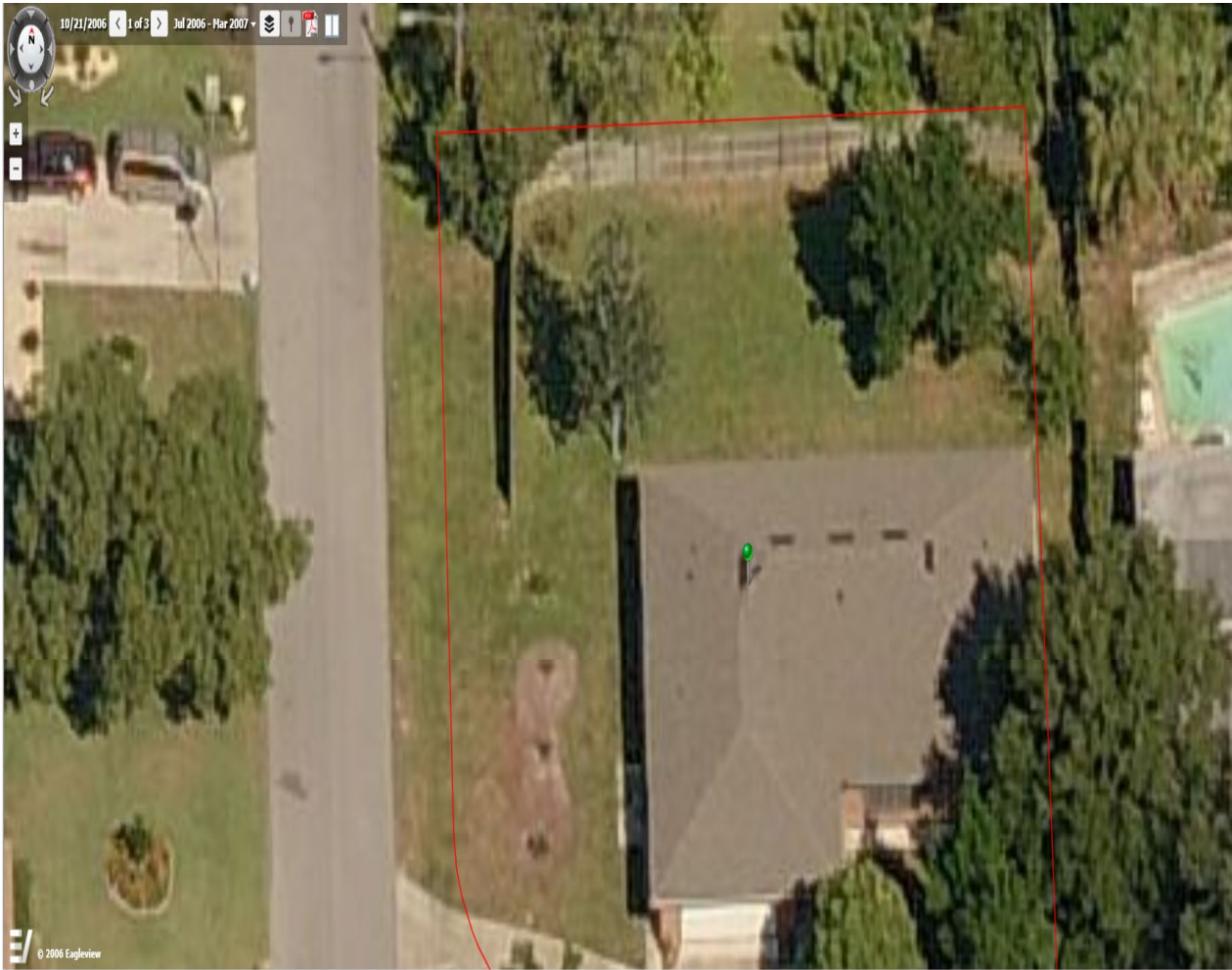
The approved Building Permit shows:

- the Pink outline is the 5-foot fence;
- the Yellow outline is the 6-foot fence.

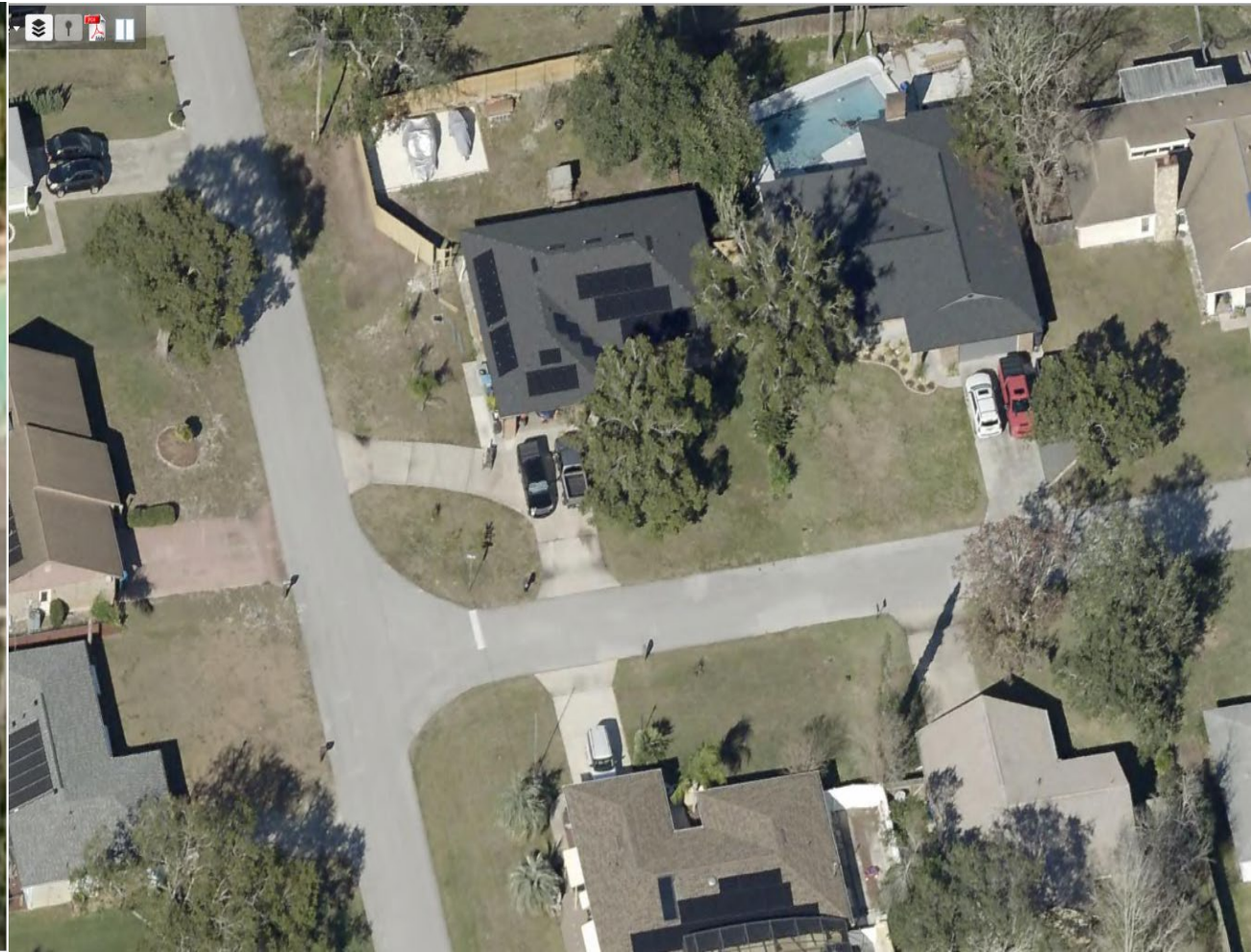
There is a 15-foot mark to show that the 6-foot fence can start 15 feet from the property line.



2006 AERIAL



2024 AERIAL



Matters of Consideration:

- ❑ 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, per the LDC.
- ❑ Special conditions and circumstances exist that do not result from the actions of the applicant. The applicant did not follow the permit that was approved on April 10, 2023, where the pink outline shows the approved 5-foot fence, and the yellow outline shows the approved 6-foot fence. Since the applicant did not follow the approved Fence Permit BLDR23-2248, the circumstances are a result of the actions of the applicant.
- ❑ Staff does not interpret the lack of a six-foot high fence as a hardship because all other corner lots are required to comply with this Section. The Fence Permit signed by Mr. Monsanto states, “The applicant agrees to comply with the Municipal Ordinances and with the conditions of this permit...” but the applicant did not comply and is now requesting a Variance.

Matters of Consideration Continued

- ❑ 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 LDC changes allowed for more flexibility in allowing 5-foot fences on the property line of the side street yard on corner lots.
- ❑ The 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.

Conclusion

- ❑ The property is not being prohibited from reasonable use and fencing is allowable, given certain restrictions.
- ❑ The status of the property as a corner lot is not particularly unusual for properties in Deltona, but there may be existing exceptions, irregularities, and nonconformance that currently exists within the City for various reasons.
- ❑ Given the circumstances in which new fence work was done without a permit, and the applicant did not follow the approved fence permit survey that was approved in April of 2023.

Staff Recommendation

Staff recommends the Planning and Zoning Board recommend the City Commission deny the request for a Variance to allow for the current six (6) foot wooden fence to remain in its current condition in the side street yard abutting Eleanor Avenue on the property located at 402 Bali Terrace.



Any Questions?