



Petitioner: Andy J. Tingue
Property Owner: Andy J. Tingue
Project Planner: Tye Chighizola
Applicant Request: Variance to reduce the base flood elevation from 83.1 feet to 78.1 feet.

Parcel Information

Acres: ± 0.49 acres
 Parcel(s) #: 27711-000-00
 Location: 3713 SE 8th Street
 Future Land Use: Neighborhood
 Zoning District: R-1
 Existing Use: Single Family Residence

Adjacent Property Information

Direction	Future Land Use	Zoning District	Current Use
North	Neighborhood	R-1, Single Family District	Single-family residences of Virginia Heights
East	Neighborhood	R-1, Single Family District	Single-family residences of Virginia Heights
South	Neighborhood	R-1, Single Family District	Water Retention Area (WRA)
West	Neighborhood	R-1, Single Family District	WRA

Background:

The subject property is a typical neighborhood lot with 100 feet of frontage by 215 feet deep, located at 3713 SE 8th Street (Parcel # 27711-000-00). A single-family residence (approximately 63 feet wide by 41 feet deep) was constructed in 1968. The homeowner purchased the property in 2019.

The property is adjacent to two water retention areas to the west and south. In 1990, the two water retention areas were expanded as part of the widening of SE 36th Avenue. The expansion allowed for a design high water elevation of 77.51 feet based on the adopted level of service of a 100-year

24 storm (Exhibit A). In 2008, the Federal Emergency Management Agency (FEMA) study added multiple properties surrounding the retention areas into the floodplain (Exhibit B).

During a severe storm in June 2023, a tree fell on the house, causing significant damage and injuring an occupant (Exhibit C). The family had to temporarily move into an RV on the property until the house was repaired or rebuilt. In October 2023, it was determined that the house was beyond repair, and the homeowner, facing a challenging situation, submitted plans to rebuild the house with a footprint of 63 feet wide by 49 feet deep.

Due to the City's expedited review process, when the permit changed from a repair to new construction, the floodplain requirements defined in Chapter 90 (Flood Prevention and Protection) of the Code of Ordinances were not addressed. As an owner-builder, the homeowner started constructing the new home in December 2023 and completed it in June 2024. The Chief Building Official has issued a Temporary Certificate of Occupancy (CO) to allow the family to move out of the RV and into the house. At the time of application for CO it was discovered that the new structure was located in a FEMA flood hazard area. After review by the floodplain administrator, it was determined that due to the topography of the property, the adjacent properties, and the adjacent City infrastructure, compliance with the elevation requirements of Chapter 90 would not have been feasible. As defined in Subsection 90.17, a variance to reduce the base floor elevation will allow the homeowner to receive a Final Certificate of Occupancy.

The new house's elevation is slightly higher than the old house's, at a base floor elevation of 79.1, but below the required base flood elevation of 83.1. The home must be at a base flood elevation of 84.1 to meet the requirements of Chapter 90. The old and new elevations of the house are consistent with the elevations of the surrounding residential properties.

Chapter 90 Code Requirements

Variance Standards - Subsections 90.17 (a), (c), (g and (h):

(a) *General.* The board of adjustment shall hear and decide on requests for variances from the strict application of this chapter. Pursuant to FS § 553.73(5), the board of adjustment shall hear and decide on requests for variances from the strict application of the flood-resistant construction requirements of the Florida Building Code.

(c) *Limitations on authority to grant variances.* The board of adjustment shall base its decisions on variances on technical justifications submitted by applicants, the considerations for issuance in subsection (g) below, the conditions of issuance set forth in subsection (h) of this section, and the comments and recommendations of the floodplain administrator and the city building official. The Board of Adjustment has the right to attach such conditions as it deems necessary to further the purposes and objectives of this chapter.

(g) *Considerations for issuance of variances.* In reviewing requests for variances, the board of adjustment shall consider all technical evaluations, all relevant factors, all other applicable provisions of the Florida Building Code, this chapter, and the following:

- (1) The danger that materials and debris may be swept onto other lands resulting in further injury or damage.
 - (2) The danger to life and property due to flooding or erosion damage.
 - (3) The susceptibility of the proposed development, including contents, to flood damage and the effect of such damage on current and future owners.
 - (4) The importance of the services provided by the proposed development to the City.
 - (5) The availability of alternate locations for the proposed development that are subject to a lower risk of flooding or erosion.
 - (6) The compatibility of the proposed development with existing and anticipated development.
 - (7) The relationship of the proposed development to the comprehensive plan and floodplain management program for the area.
 - (8) The safety of access to the property in times of flooding for ordinary and emergency vehicles.
 - (9) The expected heights, velocity, duration, rate of rise and debris and sediment transport of the floodwaters and the effects of wave action, if applicable, expected at the site; and
 - (10) The costs of providing governmental services during and after flood conditions including maintenance and repair of public utilities and facilities such as sewer, gas, electrical and water systems, streets, and bridges.
- (h) Conditions for issuance of variances. Variances shall be issued only upon:
- (1) Submission by the applicant, of a showing of good and sufficient cause that the unique characteristics of the size, configuration, or topography of the site limit compliance with any provision of this chapter or the required elevation standards.
 - (2) Determination by the board of adjustment that:
 - a. Failure to grant the variance would result in exceptional hardship due to the physical characteristics of the land that render the lot undevelopable; increased costs to satisfy the requirements or inconvenience do not constitute a hardship.
 - b. The granting of a variance will not result in increased flood heights, additional threats to public safety, extraordinary public expense, nor create nuisances, cause fraud on or victimization of the public, or conflict with existing local laws and ordinances; and
 - c. The variance is the minimum necessary, considering the flood hazard, to afford relief.
 - (3) Receipt of a signed statement by the applicant that the variance, if granted, shall be recorded in the Public Records of Marion County in such a manner that it appears in the chain of title of the affected parcel of land; and
 - (4) If the request is for a variance to allow construction of the lowest floor of a new building, or substantial improvement of a building, below the required elevation, a copy in the record of a written notice from the floodplain administrator to the applicant for the variance, specifying the difference between the base flood elevation and the proposed elevation of the lowest floor, stating that the cost of federal flood insurance will be commensurate with the increased risk resulting from the reduced floor elevation (up to amounts as high as \$25.00 for \$100.00 of

insurance coverage), and stating that construction below the base flood elevation increases risks to life and property.

Staff Analysis

Approval of the variance with conditions is recommended to allow the reduction of the base flood elevation from 83.1 feet to 78.1 feet pursuant to Subsection 90.17 (a), (c), (g), and (h) of the Ocala Code of Ordinances. The staff's analysis for a recommendation to approve a variance is based on the following:

1. The homeowner was impacted by a catastrophic event that caused injuries and displacement to the family. The homeowner hoped to repair the home, but the damage was too severe after months of evaluations by the insurance company.
2. The existing infrastructure (driveways, water/sewer, stormwater, and electric) supported rebuilding the house in the same footprint. Therefore, replacing the house in the exact location did not impact city services.
3. The homeowner had limitations concerning the timing and funding available to replace the house. Any changes to the house's location would have caused significant financial increases, such as design and site work.
4. The neighborhood's adjacent properties are at the same elevation as Tingué House. Increasing the height by five feet would be cost-prohibited and could cause runoff issues to the adjoining properties.
5. The variance granting will not increase the property or neighborhood's flooding potential or create a nuisance to the adjacent properties. Over the years, no significant flooding has occurred along SE 8th Street.
6. The City may consider a long-term solution to expand the existing water retention facilities and submit a Letter of Map Amendment (LOMA) to remove the properties from the floodplain. Currently, the City is making similar changes to the water retention area in Fisher Park.
7. The City Engineer and Chief Building Official have reviewed the variance request for consistency with Chapter 90 and the Florida Building Code.

Staff Recommendation: Approval with Conditions

1. A Certificate of Occupancy must be issued within 60 days of the Board of Adjustment's approval, or this Variance will expire.
2. Add a slab for the air conditioning system.
3. Applicant must comply with the recording requirements of 90.17 (h) (3) & (4)