



AGENDA

ORMOND BEACH BOARD OF ADJUSTMENT AND APPEALS

January 12, 2011

ORMOND BEACH CITY COMMISSION CHAMBERS

7:00 P.M.

- I. ROLL CALL
- II. APPROVAL OF THE MINUTES
 - A. November 30, 2010
- III. ADMINSTRATIVE ITEMS
 - A. Election of Chairperson and Vice-Chair.
 - B. Acceptance of BOAA calendar.
 - C. Approval of the 2011 Rules of Procedures.
- IV. NEW BUSINESS
 - A. **Case No. 11V-5: 301 Oak Drive, Room Addition- Side Corner Yard Variance**

This is a request for a side corner yard setback variance submitted by William L. and Bonnie B. Thompson, property owners of 301 Oak Drive. The property at 301 Oak Drive is zoned as R-2.5 (Single Family Low-Medium Density) and Chapter 2, Article II of the Land Development Code (LDC), Section 2-14.9.d., requires a side corner setback to be 20' from the property line to the principal structure. The current principal structure is located at 16' from the property line and is a legal non-conforming structure. The property owners are requesting a variance of 4' to construct a 27.4' x 10' addition to the structure on the northwest corner, thereby "squaring off" the principal structure.
 - B. **Case No. 11V-8: 46 Bluebird Lane, Screen Room Addition- Rear Yard Variance**

This is a request for a rear yard variance submitted by Scott and Patricia Jenkins, property owners of 46 Bluebird Lane. The property is zoned as R-2 (Single Family Low Density) and Chapter 2, Article II of the Land Development Code (LDC), Section 2-13.9.b., requires a rear yard setback of 25' from the property line to the principal structure. The property owners are requesting a 5' variance to construct a screen room addition at a 20' rear yard setback.
- V. ADJOURNMENT

CITY OF ORMOND BEACH

FLORIDA

PLANNING

MEMORANDUM

TO: BOAA Members

FROM: Steven Spraker, AICP, Senior Planner

DATE: January 5, 2011

SUBJECT: BOAA Administrative Items

This is the first meeting of the Board of Adjustment and Appeal Board for the year 2011. There are several administrative items on the agenda including the election of the chairperson/vice-chairperson, calendar of meetings and the rules of procedures:

If there are any questions, I can be contacted at 676.3341 or by e-mail at spraker@ormondbeach.org. Thank you.

BOARD OF ADJUSTMENT AND APPEALS - 2011 CALENDAR

Submittal Deadlines	Legal Notification*	Board Meeting Date
December 1, 2010	December 23, 2010	January 12
January 3	January 14	February 2
February 1	February 11	March 2
March 1	March 18	April 5
April 1	April 15	May 4
May 1	May 13	June 1
June 1	June 17	July 6
July 1	July 15	August 3
August 1	August 19	September 7
September 1	September 16	October 5
October 1	October 14	November 2
November 1	November 18	December 7
December 1	December 16	January 4, 2012

Note: Legal Notification consists of a legal ad in the newspaper, certified letters to abutting property owners and posting the property with a public notice sign. City staff will prepare the legal ad, the certified letters, and post the property as part of the application fee.

**RULES OF PROCEDURE
OF THE
BOARD OF ADJUSTMENTS AND APPEALS
FOR THE CITY OF
ORMOND BEACH, FLORIDA**

The Board of Adjustment and Appeals of the City of Ormond Beach, Florida ("Board") shall be governed by the terms of the Charter and Code of Ordinances of the City of Ormond Beach, the *Land Development Code* of the City of Ormond Beach, Florida, and the Rules of Procedure set forth herein and adopted by the Board.

SECTION 1. OFFICERS, MEMBERS AND DUTIES

1.1 Chairman. A Chairman shall be elected by the Board, in accordance with Section 1.16.A.6 of the *Land Development Code*. The Chairman shall decide upon all points of order and procedure subject to these rules, unless otherwise directed by a majority of the Board in session at the time. The Chairman shall appoint from the Board membership any committee found necessary to investigate matters before the Board. The Chairman shall sign all minutes of the Board and all pertinent correspondence.

1.2 Vice-Chairman. A Vice-Chairman shall be elected by the Board in accordance with Section 1.16A6 of the *Land Development Code*. The Vice-Chairman shall serve as Acting Chairman in the absence of the Chairman and, at such times, shall have the same powers and duties as the Chairman.

1.3 Secretary. The Secretary shall be the Director of Planning or the designee of the said Director. The Secretary shall keep all records, shall conduct all correspondence of the Board, shall cause to be given the required legal notice of each public hearing and shall generally take charge of the clerical work of the Board. The Secretary shall take, or cause to be taken, the minutes of every meeting of the Board. These shall show the record of all important facts pertaining to each meeting and hearing, every resolution acted upon by the Board, and all votes of members of the Board upon any resolution or upon the final determination of any questions, in dictating the names of members absent or failing to vote. The Secretary shall endeavor to present the final copy of the minutes to the Chairman for signature not later than five (5) days before the next regular meeting. The Secretary shall keep all records open to the public at all times during normal business hours (8:00 AM-5:00 PM), but shall in no event relinquish the original of any record to any person, unless such authority is granted by the Chairman of the Board.

1.4 Members. As required by the Land Development Code Subsection 1-16:A.2, members of the Board shall be appointed by the City Commission. Terms and conditions of appointment shall be governed by Article I, inclusive. Members shall provide the Secretary with their current home address and home and/or office telephone number, unless such information is made confidential by law. Such information shall be kept current by the members. In the event that a member of the Board shall be unable to attend a regularly scheduled meeting, the member shall notify the Secretary of the member's expected absence

no later than five (5) days before that meeting. The five (5) days notice of absence shall not apply to emergency absences beyond the member's control, nor to special meetings described in Subsection 2.2 below.

1.5 Viewing. The Board members shall make every effort to view any site being considered for recommendation. The Secretary shall provide each member with a map showing the subject site.

SECTION 2. MEETINGS

2.1 Regular Meetings. Regular meetings of the Board of Adjustment and Appeals shall be held on the first Wednesday of each month, at 7:00 P.M. in City Hall Commission Chambers. If the Chambers are not available, an alternate location shall be noted on the agenda and in all related advertising and notices. The time and place of the regular monthly meeting may be changed by affirmative vote of a majority of the Board.

2.2 Special Meetings. Special meetings of the Board may be called at any time by the Chairman, or at the direction of any three (3) members of the Board. At least seventy-two (72) hours advance notice of the time and place of special meetings shall be given by the Secretary or Chairman to each member of the Board.

2.3 Cancellation of Meetings. Whenever there is no business for the Board, or whenever so many members notify the Secretary of inability to attend that a quorum will not be available, the Chairman may dispense with the regular meeting by instructing the Secretary to give written or oral notice to all members not less than twenty-four (24) hours prior to the time set for the meeting.

2.4 Quorum. A quorum shall consist of four (4) members for the transaction of business.

2.5 Conduct of Meeting. All meetings shall be open to the public. The order of business at regular meetings shall be as follows:

- a. Roll Call
- b. Approval of the Minutes
- c. Unfinished Business, if any
- d. New Business and Hearing of Cases
- e. Board Comments, if any
- f. Adjournment

2.6 Continued Meetings. The Board may continue a regular or special meeting if all business cannot be disposed of on the day set, and no further public notice shall be necessary for resuming such a meeting if the time and place of its resumption is stated at the time of continuance and is not thereafter changed.

2.7 Adjournment. New items will not be heard by the Board after 10:00 PM unless authorized by a majority vote of the Board members present. Items which have not been

heard before 10:00 PM may be continued to a date and time certain, or to the next regular meeting, as determined by affirmative vote of the majority of the Board members present.

SECTION 3. VOTING

3.1 Vote. The affirmative vote of a majority of the members present and legally entitled to vote at any meeting shall be necessary to reverse any order, requirement, decision or determination of the Chief Building Official, or to decide in favor of the applicant on any matter. The Chairman shall have one (1) vote on all issues voted upon by the Board.

3.2 Voting Conflict of Interest. No member of the Board shall participate in any matter which would inure to the member's special private gain or loss, which the member knows would inure to the special private gain or loss of any principal by whom the member is retained, or to the parent organization or subsidiary of a corporate principal by which the member is retained; or which the member knows would inure to the special private gain or loss of a relative or business associate of the member without first disclosing the nature of the member's interest in the matter.

Such disclosure, indicating the nature of the conflict, shall be made in a written memorandum filed with the Secretary prior to the meeting in which consideration of the matter will take place, and shall be incorporated in the minutes. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the Board, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

In the event that disclosure has not been made prior to the meeting, or that any conflict is unknown prior to the meeting, the disclosure shall be made orally at the meeting when it becomes known that a conflict exists. A written memorandum disclosing the nature of the conflict shall then be filed within fifteen (15) days after the oral disclosure with the Secretary and shall be incorporated into the minutes of the meeting at which the oral disclosure was made. Any such memorandum shall become a public record upon filing, shall immediately be provided to the other members of the Board, and shall be read publicly at the next meeting held subsequent to the filing of this written memorandum.

Any member of the Board who, after written notice and public hearing, is found to have violated the provisions listed above, shall have the member's membership on the Board immediately terminated.

3.3 Abstention. All members of the Board shall vote in favor of, or in opposition to, all matters coming before the Board for vote, and such vote shall be recorded in the official records of the Board. However, no member shall vote upon any matter which would inure to the member's special private gain or loss; which the member knows would inure to the special private gain or loss of any principal by whom the member is retained or to the parent organization or subsidiary of a corporate principal by which the member is retained, other than an agency as defined in §112.312(2), *Florida Statutes*; or which the member knows would inure to the special private gain or loss of a relative or business associate of the member. Any member so required to abstain shall, prior to the vote being taken, publicly

state to the assembly the nature of the member's interest in the matter from which the member is abstaining from voting and, within fifteen (15) days after the vote occurs, disclose the nature of the member's interest as a public record in a memorandum filed with the Secretary, who shall incorporate the memorandum in the minutes.

3.4 Policy. It shall be the policy of the Board to provide sufficient findings of fact in making a decision on each issue pending before the Board. All findings of fact shall be based on the applicable standards and regulations contained in the Land Development Code, the information provided by the applicant, City Staff's review of the application and appropriate information or evidence and testimony presented at the public hearing.

SECTION 4. ATTENDANCE

Attendance of the Board of Adjustment and Appeal Board members shall be subject to the standards contained in the Code of Ordinances, Chapter 2 Administration, Article VI Boards, Commissions, Committees and Other Agencies, Division 1. Generally, Section 2-202, Attendance of Members, as amended.

SECTION 5. APPEALS AND APPLICATIONS

All appeals and applications shall be filed in the manner provided for in Article I of the *Land Development Code*.

SECTION 6. RESIDENCY REQUIREMENTS

All Board members must be residents of the City of Ormond Beach. A member who, after appointment or selection to the Board, ceases to be a resident of the city shall promptly tender a resignation, which shall be effective immediately upon its tender. Failure to resign shall result in the person's membership on the Board being terminated by the City Commission.

SECTION 7. APPLICATIONS

All applications for Board action shall be complete and filed in the manner provided for in the Land Development Code.

SECTION 8. CONDUCT OF HEARINGS

The applicant, their agent or attorney, must be present, at the public hearing before the Board of Adjustment and Appeal. Failure to be present, or to be represented, will result in the application being tabled until the next regularly scheduled meeting. The applicant shall be billed for any additional advertising costs associated with the failure to be present. If the applicant fails to appear before the Board of Adjustment and Appeal a second time, the Board may deny the application.

The order of procedure for each hearing shall be as follows:

8.1 In order to allow the meeting to proceed in an orderly fashion, the Board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of thirty (30) minutes for City staff, the designated representative of the applicant and the designated representative of any organized group and to five (5) minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the Board. The Chairman may also direct speakers to limit their comments to issues which have not been previously stated;

8.2 The Chairman or the Chairman's designee, shall request that staff present the application;

8.3 The staff shall present its analysis and recommendations regarding the application;

8.4 The Board, with permission of the Chairman, may question staff regarding the application.

8.5 The applicant or the applicant's agent shall be afforded the opportunity to speak, typically 10 minutes unless extended by the Board, in behalf of the application;

8.6 Any Board member, with permission of the Chairman, may question the applicant or his agent;

8.7 The Chairman shall direct persons wishing to speak in favor of, or in opposition to, the application shall be allowed to do so after signing in and stating their name and address - such presentation shall be made at the podium and be limited to five (5) minutes unless extended by the Board;

8.8 The Chairman shall ensure that there is sufficient time allocated to the applicant to provide comments and to address questions, comments and recommendations raised by the public hearing;

8.9 After public comments, a motion is required to allow Board discussion of the application. Any Board member, with permission of the Chairman, may ask the Applicant, staff, or member of the general public a question regarding the application.

8.10 After Board discussion, a motion is required to approve, approve with conditions, or deny an application.

8.11 The Chairman will state the name of the Board member making the motion and the name of the Board member who seconded the motion.

8.12 The recording secretary will perform a roll call vote of each Board member for or against the proposed motion.

8.13 After the vote, the Chairman shall announce a summary of the vote.

8.14 After the vote, the Chairman shall close the public hearing

8.15 Arguments between the parties shall not be permitted - all remarks shall be addressed to the Chair;

8.16 Where there is no opposition to an application, the Chairman, by consensus of the Board and upon confirmation that all Board members have read the staff report, may waive the staff analysis;

8.17 Members shall at all times speak directly into the microphones to facilitate the recording of the meetings; and

8.18 Copies of any and all letters, exhibits, or any information not otherwise provided prior to the meeting are required to be presented to the recording secretary for inclusion in the Board minutes.

SECTION 9. DECISIONS

9.1 Time. Decisions by the Board shall be made in the form of a motion upon completion of the hearing.

9.2 Applicant's Rights. The Chairman shall inform the applicant of his or her right to appeal an unfavorable decision to the Circuit Court within thirty (30) days, and of his or her need to implement a successful decision by obtaining the necessary permits within twelve (12) months. In cases in which work requiring a variance began prior to consideration by the Board, and a request for a variance is denied, the Chairman shall inform the applicant that the City will take action to have offending structure(s) removed unless the City Commission decides otherwise, upon application for consideration by the applicant.

9.3 Notification. The Secretary shall send a copy of the Board's Order to the appellant or applicant within thirty (30) days of the date of decision by the Board. A copy of the Board's Order shall be inserted in the applicant's file and a copy of all Orders sent shall be attached to the Chairman's copy of the minutes.

9.4 Follow-up. The Planning Director or designee should keep the Board advised of all subsequent actions taken by the City and/or by the applicant in cases in which the Board has rendered a final decision.

SECTION 10. AGENDA

Each appeal shall be placed upon the agenda of the Board by the Secretary. The order shall be by the time of filing with the first application submitted appearing as the first case. There may be a cut-off date established by the Board after which no further cases shall be added to the agenda. If more than ten (10) cases appear on the agenda, the Secretary may first confer with the Chairman before a decision is made concerning the number of cases to be heard. The agenda of cases to be heard shall be mailed to each member of the Board and each alternate five (5) days before the regular meeting.

SECTION 11. RECONSIDERATION, REHEARINGS AND REAPPLICATIONS

11.1 Reconsideration. Once a motion has been adopted, the Board may reconsider that matter at the same meeting, provided a motion to reconsider is made by a member who voted with the prevailing side.

11.2 Rehearing.

11.2.1 Any aggrieved party may apply for a rehearing before the Board by filing a written statement setting forth what fact(s) or principle(s) of law which the party believes was overlooked by the Board.

11.2.2 The application for a rehearing must be filed in the same manner as was the original application and within thirty (30) days of the date of the Board's Order. All filing fees and notice requirements shall apply as for an original application.

11.2.3 The matter will be placed on the first available agenda and, before any debate or argument, the Chairman will entertain a motion for or against rehearing the case. The motion will be considered without argument or debate other than by the Board, by the applicant or his agent or attorney, and by the City. All debate and argument shall be limited to matters allegedly overlooked in the original hearing of the case. No new evidence whatsoever will be considered.

11.2.4 If a motion to grant the rehearing is approved, the case shall proceed as an original hearing. If the rehearing request is denied, the Board's original ruling shall be final as of the date of denial of the motion for rehearing.

11.2.5 No more than one request for rehearing shall be entertained in any case.

11.3 Reapplication. Upon denial of any application, and exhaustion of all appeals therefrom, no reapplication to the Board may be made unless:

11.3.1 There is an allegation in the application demonstrating that there has been a substantial change in facts or conditions, any such allegation being supported by a statement setting forth the specific nature of the change; and

11.3.2 At least six (6) months has expired since the action of the Board, or the denial of any appeal therefrom, whichever is last to occur.

SECTION 12. AMENDMENTS

These Rules of Procedures may be amended or modified by an affirmative vote of not less than four (4) members of the Board, provided that such amendment be presented in writing at a regular meeting and action taken thereon at a subsequent regular meeting.

SECTION 13. MOTIONS

Every motion shall require an affirmative vote of the majority of the Board members present and voting. Prior to polling the board, the Chairman shall announce the movant and the second.

SECTION 14. ROBERTS RULES OF ORDER

Any point of procedure not otherwise addressed by these Rules shall be governed by *Roberts Rules of Order, Newly Revised*.

PRESENTED IN WRITING at a regular meeting of the Board on January 12, 2011.

APPROVED at a regular meeting of the Board on_____.

DATED: January 12, 2011.

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: January 5, 2011

SUBJECT: 301 Oak Drive

APPLICANT: William L. and Bonnie B. Thompson, Property Owners

FILE NUMBER: V-11-5

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is a request for a side corner yard setback variance submitted by William L. and Bonnie B. Thompson, property owners of 301 Oak Drive. The property at 301 Oak Drive is zoned as R-2.5 (Single Family Low-Medium Density) and Chapter 2, Article II of the Land Development Code (LDC), Section 2-14.9.d., requires a side corner setback to be 20' from the property line to the principal structure. The current principal structure is located at 16' from the property line and is a legal non-conforming structure. The property owners are requesting a variance of 4' to construct a 27.4' x 10' addition to the structure on the northwest corner, thereby "squaring off" the principal structure.

BACKGROUND:

The property is designated as "Low Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-2.5 (Single Family Low-Medium Density) on the City's Official Zoning Map. The existing use of the property is consistent with the FLUM designation and zoning district. The adjacent land uses and zoning for the surrounding properties are that of the subject property.

Adjacent land uses and zoning:

	Current Land Uses	Future Land Use Designation	Zoning
North	Single-Family House	"Low Density Residential"	R-2.5 (Single Family Low-Medium Density)
South	Single-Family House	"Low Density Residential"	R-2.5 (Single Family Low-Medium Density)
East	Single-Family House	"Low Density Residential"	R-2.5 (Single Family Low-Medium Density)
West	Single-Family House	"Low Density Residential"	R-2.5 (Single Family Low-Medium Density)

Site aerial of proposed room addition:



A search of historic files revealed that a permit was approved on March 18, 1959. The structure was built under the 1958 LDC at a time when side corner setbacks were not yet established, but rather “buildings erected on lots 80 feet or more in width, with two side yards, each of which shall be not less than 10 feet wide, shall be required”. Further, a permit dated December 8, 1976 was issued for the construction of an addition for a storage room and patio.

Since the construction of the house in 1959, it appears that the introduction of the side corner yard set back in the 1978 LDC have caused the principal structure to encroach into said set back and create the existing nonconformity. The Volusia County Property Appraiser’s website shows that the applicants purchased the property in August of 2010.

ANALYSIS:

The applicant is requesting a side corner yard setback of 16’ for a building addition, requiring a side corner yard variance of 4’ to the required 20’ setback. Per Chapter 2, Article V, Sec. 2-63. F., the City’s Board of Adjustment and Appeals may review variance requests to allow for the expansion of the nonconforming portion of a structure.

Potential Alternatives:

- 1. Grant the applicant’s request and permit a 16’ setback, granting a 4’ variance to the required 20’ side corner yard setback.**

The non-conforming variance criteria were established to allow property owners of non-conforming homes to square off existing homes. The existing structure has a 27.4' by 10' (274 square feet) area which the property owner is seeking a room addition. Allowing the 4' encroachment would allow the building and roof plane to remain consistent with the existing house and would not negatively impact surrounding property owners. As shown on the survey, along Driftwood Avenue there is a 13' green area in the right-of-way from the lot property line to the gutter along the roadway.

- 2. Deny the request as presented and approve a permit for the construction of the addition that is within the required side corner yard set back offset from the original principal structure.**

This option would allow a room expansion of 23.4' by 10' (234 square feet). The room addition would be off-set by 4 feet from the existing building line.

Neighbor Input:

The abutting neighbors to the east, west and south have indicated with their signatures that they have no objection to the proposed structure to be built.

CONCLUSION:

Chapter 1, Article II, Section 1-16.D.2, of the Land Development Code states, "The Board of Adjustment and Appeals shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved and are not the result of the actions of the applicant. If the basis for the request is the unique quality of the site, the Board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board shall base its findings on the cumulative effect of granting the variance to all who may apply."

The Board must consider the following criteria established in Chapter 1, Article II, Section 1-16.D.4, of the Land Development Code for the expansion of the non-conforming structure:

- 1. The property where the structure is located meets the minimum lot area standards for the zoning district, as specified in Chapter 2, Article II.**

The R-2.5 zoning classification requires a 90 foot lot width and a total lot area of 8,750 square feet. The lot meets both the width and square footage requirements.

- 2. There are no other ways of altering the structure that will not result in increasing the nonconforming cubic content of the structure.**

The applicant can perform an expansion of 23.4' rather than the requested 27.4'. The alternative would not match the existing building and roof plane and would cause issues with construction. There are limited opportunities for expansion upon the remainder of the property. The area of addition to the principal structure uniformly squares it off. An addition to the existing principal structure that is within current set backs would be unattractive and asymmetrical.

3. **The proposed expansion will be consistent with the use of the structure and surrounding structures, given that the use is permitted by right, conditional use or Special Exception in the zoning district within which the structure is located.**

The existing single-family residential use is a permitted use in the R-2.5 zoning district and is consistent with the purpose of this zoning district.

4. **The proposed expansion effectively “squares-off” an existing building, or does not extend beyond the furthest point of an adjacent building on the site.**

One of the purposes for the addition at its proposed location is that it does square off the existing building. The squaring off provides both visual and structural advantages rather than requiring a 4' offset to the existing building. Based on existing property and roadway construction, the 4' encroachment is not noticeable and will not impact and surrounding property owners.

5. **The proposed expansion is in scale with adjacent buildings.**

The proposed addition squares off the existing building and has no additional impact to the scale with adjacent buildings. Adjoining property owners have provided their signature that they have no issue with the expansion of the existing building at the proposed location.

6. **The proposed expansion will not impact adjacent properties by limiting views or increasing light and/or noise.**

The expansion will not impact adjacent properties by limiting views or increasing light or noise. The property owner has provided no objection signatures from the surrounding property owners stating that they have no objection with the granting of this variance.

RECOMMENDATION:

It is recommended that the Board of Adjustments and Appeals **APPROVE** a 4' side corner yard variance from the required 20' setback (Section 2-14.9.d. of the LDC) to allow a 27.4' by 10' room addition to the existing house at 301 Oak Drive.

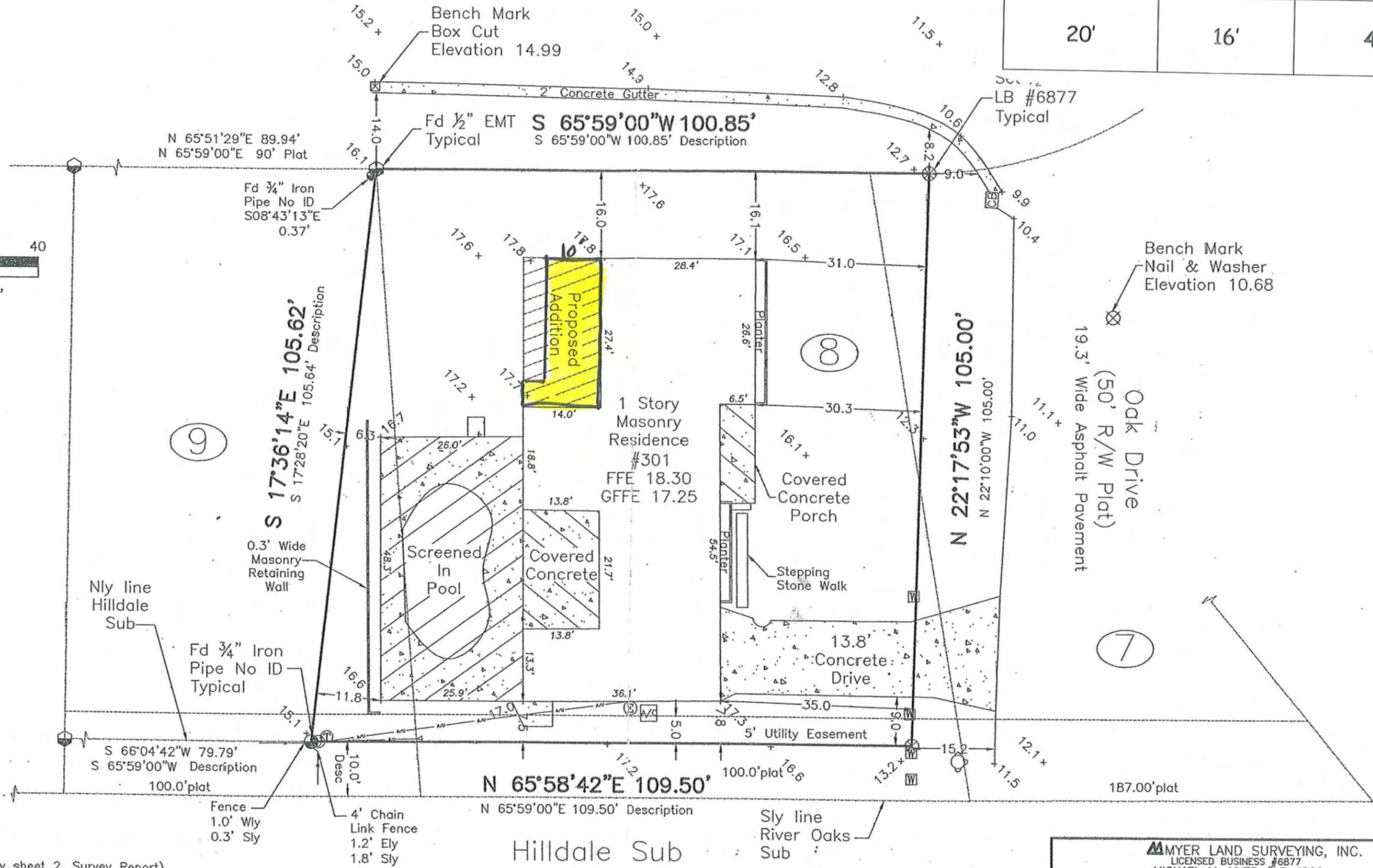
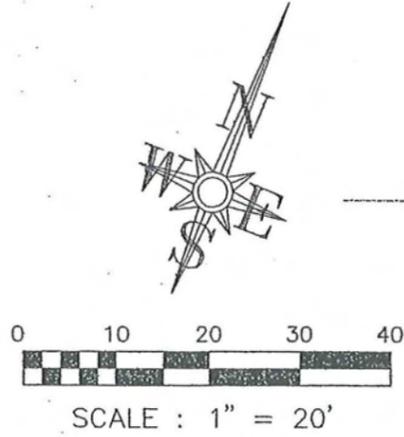
Exhibit A

Variance Exhibit

BOUNDARY SURVEY
Sheet 1 of 2

Driftwood Avenue
(50' R/W Plat)
18' Wide Asphalt Pavement

Side Corner Yard Setback		
Required Setback	Requested Setback	Variance requested
20'	16'	4'



(Not valid unless accompanied by sheet 2, Survey Report)

Hilldale Sub
(mb 19 pg 254)

MYER LAND SURVEYING, INC.
LICENSED BUSINESS #6877
MICHAEL M. MYER #LS 4006
PROFESSIONAL LAND SURVEYOR
316 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
386 255-6304 Phone 386 255-6306 Fax

SCALE	REVISED	DRAWN	CHECKED	DATE
1" = 20'		ALH	MMM	08-17-10

Exhibit B

- Map and Pictures



Proposed
room
addition

Oak Dr

Hilldale Ave

Oak Dr

Driftwood Ave

50 feet 10 m

© 2010 Microsoft Corporation © AIND © 2010 NAVTEQ



Request to
maintain
existing
building
plane



Area for proposed addition







LOCATION MAP
301 Oak Drive Side Corner Yard Variance

The City of Ormond Beach
Planning Department

Prepared by:

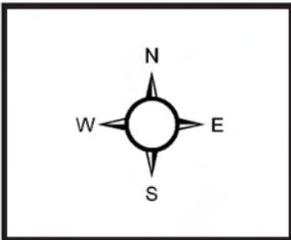


Exhibit C

Applicant Provided Information



CITY OF ORMOND BEACH

v5.3

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

www.ormondbeach.org

comdev@ormondbeach.org

VARIANCE - APPLICATION

For Planning Department Use

Application Number

Date Submitted

VARIANCE TYPE

Please select appropriate application type

Residential

FEES

	<u>Application</u>	<u>Advisory Board</u>	<u>Commission</u>	<u>Total*</u>
Residential and Commercial	350	354	N/A	704
After-the-Fact	700	354	N/A	1054

*The total is calculated as the Application plus approximate Advisory Board and Commission Public Notification Fees. Depending on the actual costs, Staff shall refund any remaining balance or require additional payment.

APPLICANT INFORMATION

This application is being submitted by Property Owner Agent, on behalf of Property Owner

Name

Address

City, State, Zip Code

Telephone

Email Address

If this application is being submitted by person other than the property owner, please provide the following Property Owner Information.

PROPERTY OWNER INFORMATION

Name | William L. and Bonnie B. Thompson
Address | 301 Oak Drive
City, State, Zip Code | Ormond Beach, FL 32176
Telephone | 386.233.9729
Email Address | thompson605@yahoo.com

If the property owner does not reside on the property for which the application refers, please provide the following Property Details.

PROPERTY DETAILS

Address | 301 Oak Drive Ormond Beach, FL
Zip Code | 32176
Parcel I.D. | (Full) 11-14-32-14-00-0080 (Short) 4211-14-00-0080
Legal Description | PART OF LOTS 7, 8, & 9 PER RB6 PG 559 BEING TRI W 10.85 FT ON N/S OF LOT 7 & W 89.5 FT ON S/S OF N 105 FT OF LOT 8 AND TRIE

REQUEST

For the Board of Adjustment and Appeals to grant a variance, there must be special conditions or circumstances existing which are peculiar to a particular piece of land, structure or building. The variance should not request special privilege denied to other lands, buildings or structures, and must prove deprivation of rights commonly enjoyed by other property owners in the subject property area that results in an unnecessary hardship. The request should be the minimum possible to make reasonable use of the land and, if granted, should not be injurious to the area or materially diminish the value of the surrounding properties, alter the essential characteristics of the neighborhood or otherwise be detrimental to the public welfare or create a public nuisance. A purely financial hardship does not, except under extreme circumstances, constitute sufficient grounds for hardship.

Request

The original structure was built in 1958. The structure is considered non conforming according to current set back requirements on the the North side of the structure. Owners are requesting permission to add a 10' x 14' addition to the structure on the North/West corner.

27.4'
W.L.T.

ABUTTING PROPERTY OWNERS

Please provide abutting property owner signatures or provide letters indicating position toward the request.

Signature	Street Address	32176	For	Against
Donna Lemnouri	300 Oak Drive O.B.		<input checked="" type="checkbox"/>	<input type="checkbox"/>
James Baker	126 DRIFTWOOD AV, OB		<input checked="" type="checkbox"/>	<input type="checkbox"/>
Karl S. Senger, III	291 Oak Drive, OB 32176		<input checked="" type="checkbox"/>	<input type="checkbox"/>

CRITERIA: CONFORMING

Section 1-16.D.3 of the Land Development Code requires that the Board of Adjustment and Appeals make a finding based on substantial competent evidence on each of the following 8 criteria. Additional pages, photographs, surveys, plot plans or other materials may be attached as exhibits.

NOTE: If the existing structure or property is nonconforming, complete the nonconforming criteria (page 4).

1. Special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures or buildings in the same zoning district:

No

2. The special conditions and circumstances do not result from the actions of the applicant:

No

3. Literal interpretation of the provisions of these zoning regulations deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these zoning regulations and would work unnecessary and undue hardship on the applicant:

No

4. No practical alternative exists and the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure:

It was suggested to reduce the addition to a 8ft X 14ft addition for approval. While making this meet the set back requirements it makes the interior layout of the bedroom look strange and asymmetrical. The proposed expansion effectively "squares-off" an existing building and does not extend beyond the furthest point of an adjacent structure on the lot

CRITERIA: CONFORMING (continued)

- 5. The variance request is not based exclusively upon a desire to reduce the cost of developing the site. Financial disadvantages or physical inconvenience to the applicant shall not in and of themselves constitute conclusive proof of unnecessary hardship:

No

- 6. The proposed variance will not substantially increase congestion on surrounding streets, or the danger of fire or other hazard to the public:

It will not.

- 7. The effect of the proposed variance is in harmony with the general intent of this Code and the specific intent of the relevant subject area(s) of the Code and will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site:

No.

- 8. Granting this variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings or structures in the same zoning district:

It will not.

CRITERIA: NONCONFORMING

Section 1-16.D.4 of the Land Development Code establishes separate criteria for the expansion of an existing nonconforming structure or portion of that structure. The Code requires that the Board of Adjustment and Appeals make a finding based on substantial competent evidence on each of the following 6 criteria. Additional pages, photographs, surveys, plot plans or any other materials may be attached as exhibits.

- 1. The property where the structure is located meets the minimum lot area standard for the zoning district, as specified in Chapter 2, Article II:

Yes.

CRITERIA: NONCONFORMING (continued)

2. There are no other ways of altering the structure that will not result in increasing the nonconforming cubic content of the structure:

It is our desire to add the additional space to our bedroom. By reducing the size of the addition and making it 2ft shorter on the north side which would fall within conformity would make the addition less than what we expected.

3. The proposed expansion will be consistent with the use of the structure and surrounding structures, given the use is permitted by right, conditional use or special exception in the zoning district within which the structure is located:

Yes

4. The proposed expansion effectively "squares-off" an existing building, or does not extend beyond the furthest point of an adjacent building on the site:

Yes

5. The proposed expansion is in scale with adjacent buildings:

Yes

6. The proposed expansion will not impact adjacent properties by limiting views or increasing light and/or noise:

No

CERTIFICATION

By submitting this application, I hereby certify that the information provided above is true and correct to the best of my knowledge and that I am aware of the application submittal requirements and review process for this application. I hereby authorize City of Ormond Beach Staff to place legal notice on my property and to take pictures pertaining to my request. I am aware of the required pre-application meeting and am aware that if all the submittal requirements are not provided, my application will be continued to the next regularly scheduled meeting.

Signed By:

Bonnie B. Thompson

Date:

Corporation

STATE OF FLORIDA)
COUNTY OF VOLUSIA) SS

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by _____, in their capacity as the _____, of _____ who is personally known to me or has provided identification.

Notary Public
State of Florida
My Commission Expires:

ATTEST: _____

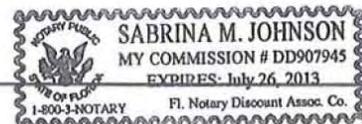
Individual

STATE OF FLORIDA)
COUNTY OF VOLUSIA) SS

The foregoing instrument was acknowledged before me this 16 day of Nov, 2010, by Bonnie Thompson, who provided FLC T512.06248 5280 as identification or is personally known to me.

Sabrina M. Johnson

Notary Public
State of Florida
My Commission Expires:





Above Space Reserved for Recording

(If required by your jurisdiction, list above the name & address of: 1) where to return this form; 2))

Quitclaim Deed

Date of this Document: August 3rd, 2010

Reference Number of Any Related Documents: _____

Grantor: BONNIE B. THOMPSON, A MARR
Name ROBERT W. BRINKER, A MARR
Street Address 301 OAK DRIVE
City/State/Zip ORMOND BEACH, FLORIDA,

Grantee:
Name BONNIE B. THOMPSON AND WILLIAM
Street Address 301 OAK DRIVE
City/State/Zip ORMOND BEACH, FLORIDA

Abbreviated Legal Description (i.e., lot, block, plat or section, township, range, quar
condo name): PART OF LOTS 7, 8 AND 9 PER R1B6 PG 559
ON N/5 OF LOT 7 AND 89.5 FT ON S/5 OF N 105 F

Assessor's Property Tax Parcel/Account Number(s): 4211-14-00-00

THIS QUITCLAIM DEED, executed this 3rd day of A
20 10, by first party, Grantor, BONNIE B. THOMPSON; ROBE
mailing address is 301 OAK DR. ORMOND BEACH, FL.
second party, Grantee, BONNIE B. THOMPSON AND WILLIAM
whose mailing address is 301 OAK DR. ORMOND BEACH

WITNESSETH that the said first party, for good consideration and for the sum of _
Dollars (\$ 10.00) paid by the said second party, the receipt where
does hereby remise, release and quitclaim unto the said second party forever, all thi

which the said first party has in and to the following described parcel of land, and improvements and appurtenances thereto in the County of Volusia, State of Florida
to wit: SEE ADDENDUM "A" ATTACHED HERETO

IN WITNESS WHEREOF, the said first party has signed and sealed these presents the day and year first written above. Signed, sealed and delivered in the presence of:

Signature of Witness Diane Parker
Print Name of Witness DIANE PARKER

Signature of Witness Alfred L. Weeks
Print Name of Witness ALFRED L. WEEKS

Signature of Grantor Bonnie B. Thompson
Print Name of Grantor ROBERT W. BRINKER
Bonnie B. Thompson

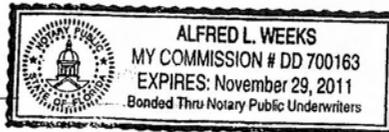
THIS PROPERTY IS NOT THE HOMESTEAD OF GRANITOR(S).

State of Florida
County of Volusia

On AUGUST 3, 2010, before me, ROBERT W. BRINKER AND BONNIE B. THOMPSON appeared _____, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature of Notary Alfred L. Weeks



Affiant _____ Known _____ Produced ID
Type of ID DRIVERS LICENSE
(Seal)

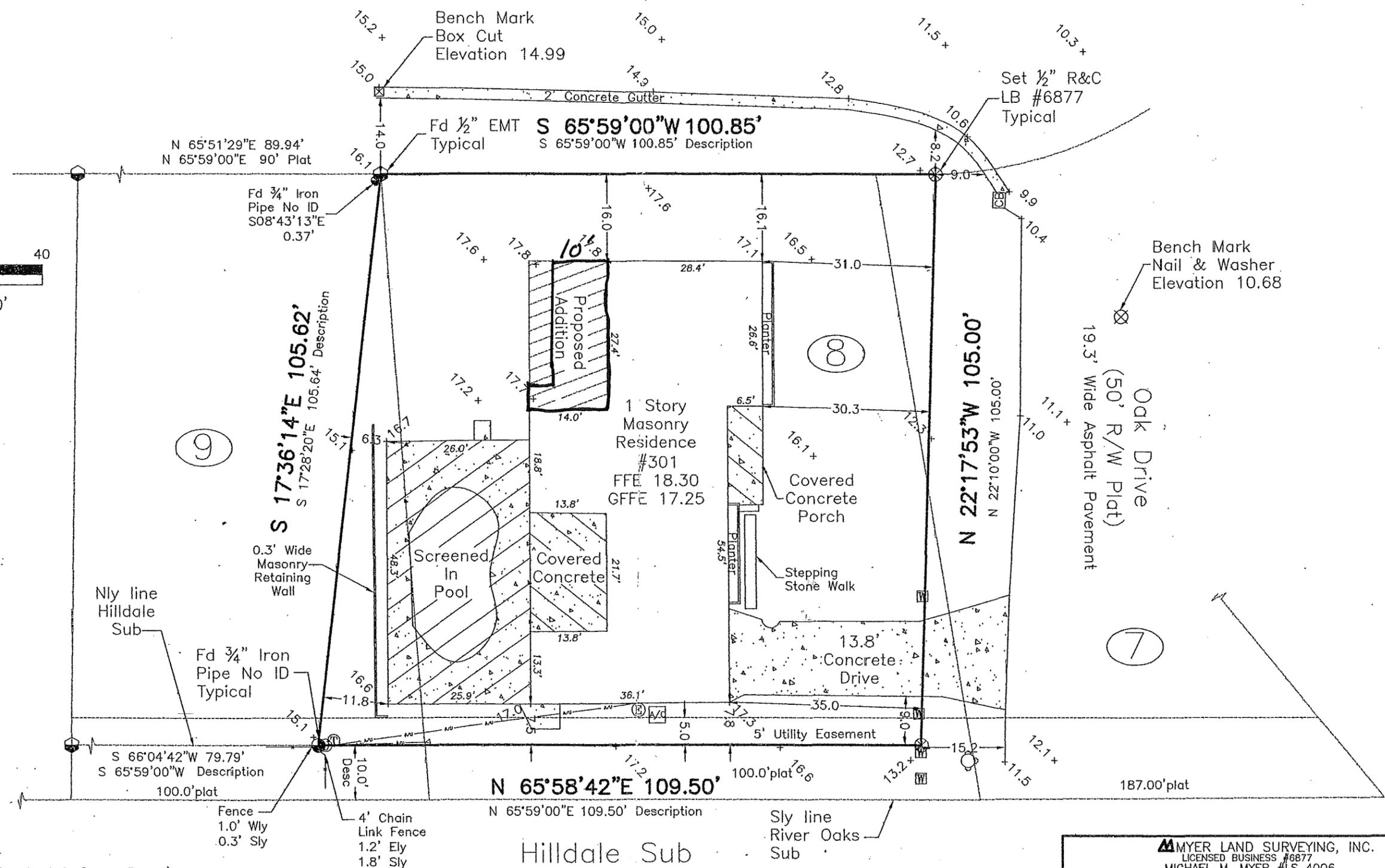
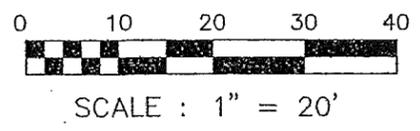
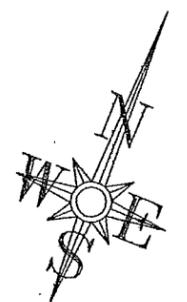
ADDENDUM "A"

Part of Lots 7, 8, and 9, River Oaks Subdivision, per Map Book 19, Page 156, Public Records of Volusia County, Florida, more particularly described as follows: Beginning at the Northwest corner of said Lot 8; thence South 17 degrees 28 minutes 20 second East 105.64 feet to a point in a line 10 feet Northerly of the South line of Lot 9, aforesaid, thence North 65 degrees 59 minutes East and parallel with the North lines of said Lots 7, 8, and 9, for a distance of 109.5 feet to a new street, thence North 22 degrees 10 minutes West along said new street, 105.00 feet, to a point in the South line of Driftwood Avenue; as shown on the Plat of Record thence South 65 degrees 59 minutes West and along the said South line of Driftwood Avenue, 100.85 feet to the Point of Beginning. Subject to an easement over the Southerly 5 feet thereof for the use of public utilities.

Property Appraiser's Parcel Number: 4211-14-00-0080.

BOUNDARY SURVEY
Sheet 1 of 2

Driftwood Avenue
(50' R/W Plat)
18' Wide Asphalt Pavement



(Not valid unless accompanied by sheet 2, Survey Report)

Hilldale Sub
(mb 19 pg 254)

MYER LAND SURVEYING, INC.
LICENSED BUSINESS #6877
MICHAEL M. MYER #LS 4006
PROFESSIONAL LAND SURVEYOR
316 RIDGEWOOD AVENUE HOLLY HILL, FLORIDA 32117
386 255-6304 Phone 386 255-6306 Fax

SCALE	REVISED	DRAWN	CHECKED	DATE
1" = 20'		ALH	MMM	08-17-10

SURVEY REPORT
Sheet 2 of 2

LEGAL DESCRIPTION:

Part of Lots 7, 8, and 9, RIVER OAKS SUBDIVISION, as per map thereof, recorded in Map Book 19, Page 156, of the Public Records of Volusia County, Florida, more particularly described as follows; Beginning at the Northwest corner of said Lot 8; thence South 17 degrees 28 minutes 20 second East 105.64 feet to a point in a line 10 feet Northerly of the South line of Lot 9, aforesaid, thence North 65 degrees 59 minutes East and parallel with the North lines of said Lots 7, 8, and 9, for a distance of 109.5 feet to a new street, thence North 22 degrees 10 minutes West along said new street, 105.00 feet, to a point in the South line of Driftwood Avenue; as shown on the Plat of Record thence South 65 degrees 59 minutes West along the said South line of Driftwood Avenue, 100.85 feet to the Point of Beginning. Subject to an easement over the Southerly 5 feet thereof for the use of public utilities.

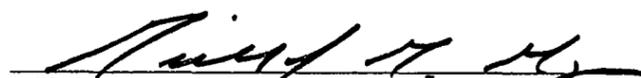
GENERAL NOTES:

1. Field survey completed 8/16/10.
2. Bearing basis description: S65°59W along the southerly right-of-way of Driftwood Avenue.
3. Underground utilities were not located, except as shown.
4. No title search has been performed by or provided to MYER LAND SURVEYING, INC.
5. Dimensions shown are feet and decimals thereof.
6. Underground foundation, if any, not located.
7. Elevations are based on N.G.V. Datum of 1929.

Flood Zone 'X' per Flood Insurance Program Community & Panel Number: City of Ormond Beach 125136. Map and Panel Number 12127C0216 H. Map revised 2/19/03.

GENERAL LEGEND:

A	Arc length	OR	Official Records
A/C	Air conditioning pad	P	Pool pump
A/U	Aerial utilities	PC	Point of curve
BM	Benchmark	PCC	Point of compound curve
C	Cable TV service	PCP	Permanent control point
CALC	Calculation	PKND	Parker Kraylon Nail & Disk
CB	Catch basin	POB	Point of beginning
CL	Centerline	POC	Point of commencement
CLF	Chain link fence	PP	Pinched pipe
CM	Concrete monument	PRC	Point of reverse curve
CMP	Corrugated metal pipe	PT	Point of tangent
CONC	Concrete	PVC	Polyvinyl chloride
CR	Cable riser	R	Radius
Δ	Delta	R&C	Rod and cap
DESC	Description	RCP	Reinforced Concrete Pipe
ⓔ	Electric meter	REC	Recovered
E(LY)	East(erly)	RLS	Registered land surveyor
EMT	Electrical metal tubing	R/W	Right of Way
FD	Found	Ⓢ	Utility services
FFE	Finished Floor Elevation	S(LY)	South(erly)
FLD	Field	T	Telephone service
FPL	Florida Power and Light	TYP	Typical
FPLS	Florida Professional Land Surveyor	UG	Underground
ⓐ	Gas meter	Ⓤ	Utility pole
IP	Iron pipe	Ⓥ	Valve
L	Light pole	Ⓦ	Water meter
LB	Licensed business	W(LY)	Westerly
N(LY)	North(erly)	WF	Wooden fence
N&D	Nail and disk		
NGVD	National Geodetic Vertical Datum		


(This Survey Report is not valid unless signed, embossed with signatory's seal and accompanied by Map of Boundary Survey, Job No. 10047)

MICHAEL M. MYER, PSM LS4006 (Copyright reserved)

Report and map of survey are exclusively prepared for the benefit of:

Robert W. Brinker
Bonnie B. Thompson

10047 EL FB 282 p 36
FB 289 pp 11-12 CRD 93136

MYER LAND SURVEYING, INC.
LICENSED BUSINESS #6877
MICHAEL M. MYER #LS 4006
PROFESSIONAL LAND SURVEYOR
316 Ridgewood Ave, Holly Hill, Florida 32117
Telephone (386) 255-6304 * FAX (386) 255-6306

- Turner Procession Plans
- "A permit sign which identifies the permit holder and the project shall be posted near the work area or entrance to the building. The sign shall be posted near the work area or entrance, posted FBC 150.4.
 - "Customer and roof downspouts shall discharge at least 10' away from building side walls." FBC 150.4.
 - "Temporary protective systems including all roofs and spray heads shall not be installed 10' from the building side walls." FBC 150.4.
 - "To provide for protection for retained substances, between wall covering and final work shall not be less than 6 inches." Exception: Floor or decorative concrete finish less than 5/8" thick allowed directly to the foundation wall FBC 140.1.6.
 - "Small treatment shall be done after all excavation and backfill is complete." FBC 118.1.1.
 - "Soil disturbed after the initial structure shall be retained including spaces below or above." FBC 118.1.2.
 - "Based areas in concrete floors for subsequent installation of trays, etc., shall be made with permanent metal in place before permanent formwork is set. A size and depth shall be determined by the distance of the tray after the initial structure." FBC 118.1.3.
 - "Household gas vapor venting must be installed in proper location and shall be installed before other work is installed after construction is complete." FBC 118.1.4.
 - "All concrete work shall be done after the foundation perimeter must be removed before exterior and interior." FBC 118.1.5.
 - "All concrete work shall be done after the foundation perimeter must be removed before exterior and interior." FBC 118.1.5.
 - "An exterior vertical electrical duct must be installed after construction is complete including landscaping and irrigation. Any soil disturbed after the vertical duct is installed, shall be restored." FBC 118.1.6.
 - "All buildings are required to have pre-construction meeting." FBC 118.1.7.
 - "A certificate of compliance must be issued to the building department by a licensed pre-construction meeting before a certificate of occupancy will be issued. The certificate of compliance shall state: The building has received a complete application for the proposed construction services. The structure is in accordance with the rules and laws of the Florida Department of Agriculture and Consumer Services." FBC 118.1.7.
 - "After all work is completed, there shall be no soil removed from below and within 10' of the building. This includes all site work, sub-vent bases, forms, shoring or other suitable construction material." FBC 2302.1.3.
 - "No wood, vegetation, stumps, earth, rock, etc., shall be buried within 10' of any building or proposed building." FBC 2302.1.4.

REVISIONS	BY

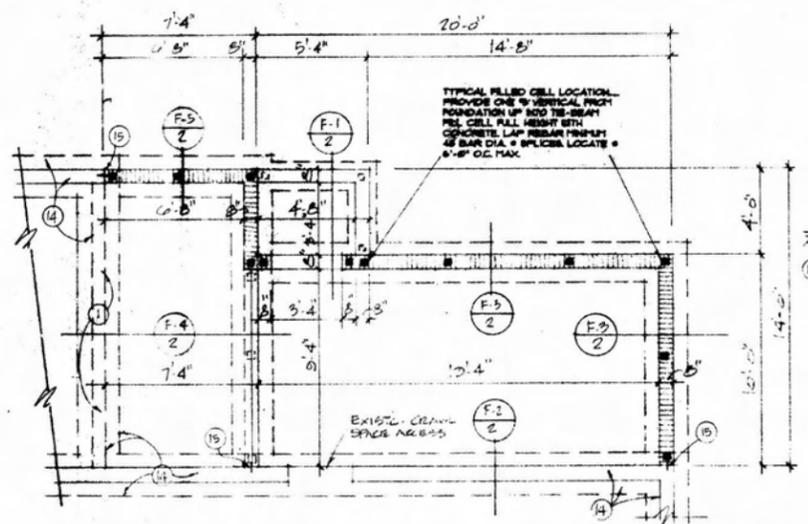
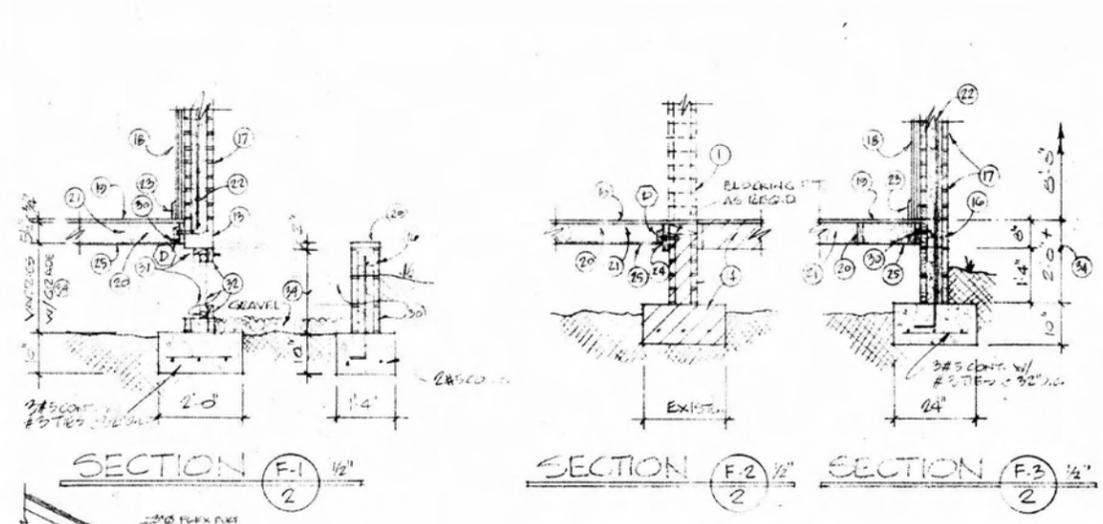
PROFESSIONAL DRAWING SERVICE
 CONTRACT
 DRAFTING & DESIGN
 P.O. BOX 333447
 ORLANDO, FLORIDA 32833-3447
 PHONE (407) 253-2772
 FAX (407) 253-2777
 WWW.PDS-DRAWING.COM

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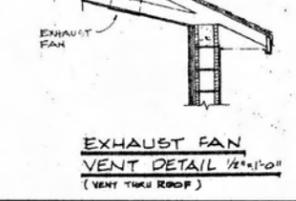
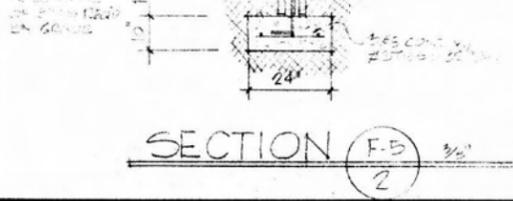
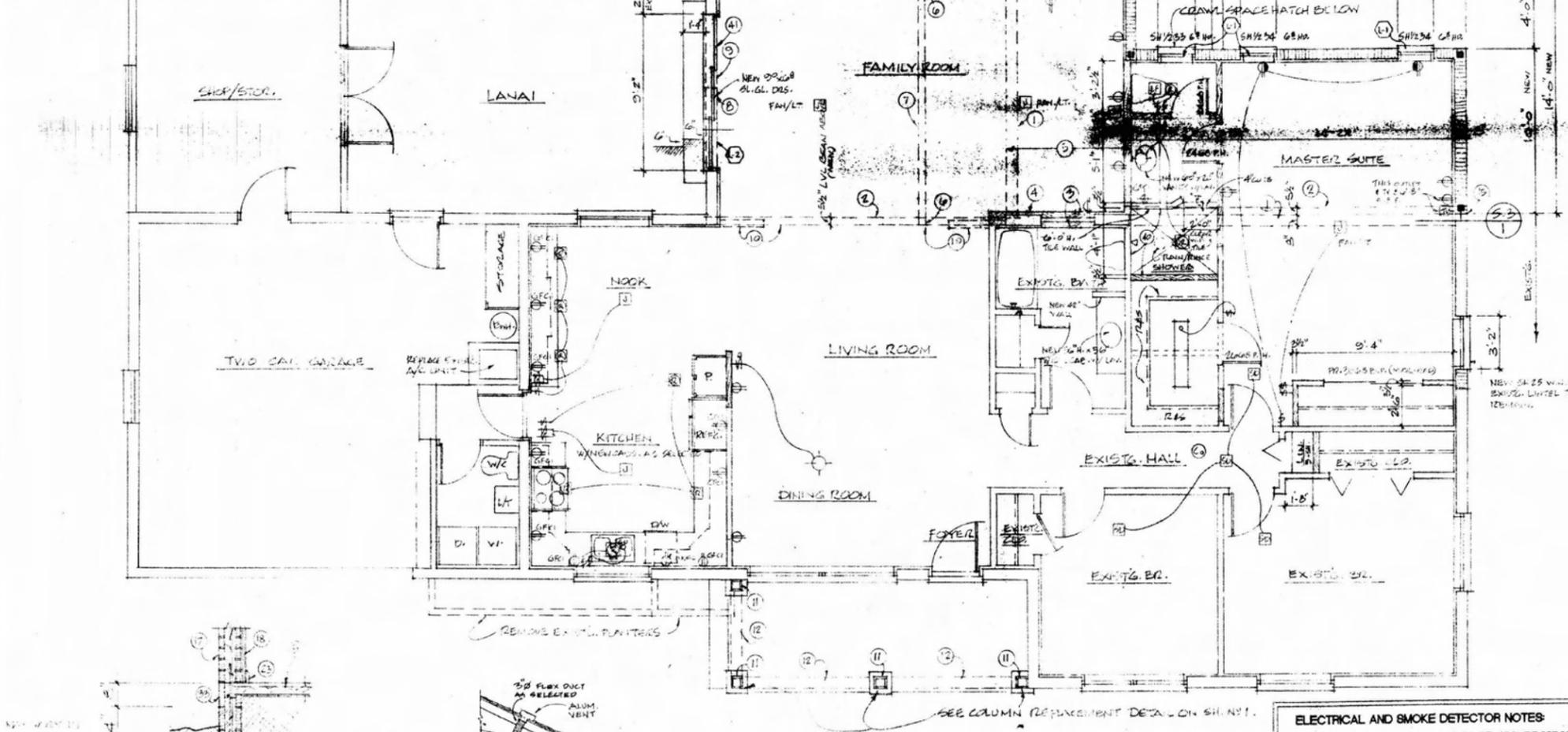
RICHARD BROOKFIELD
 ARCHITECT
 P.O. BOX 4185
 ORLANDO BEACH, FLORIDA 32175
 386-253-2777/386-253-2781 FAX
 FL REG. NO. AR-0014568

REVISIONS BY: **BILL & BONNIE THOMPSON**
 1201 SAN DUKE
 ORLANDO, FLORIDA 32804

Date: 9-10-10
 Scale: AS NOTED
 Drawn: P.C. BODE
 Job:
 Sheet: **2**
 of 3 Sheets



EXHAUST FAN VENT DETAIL (VENT THRU ROOF)



FLOOR PLAN 1/4"=1'-0" SHOWING ALL TO BE DEMOLISHED

ELECTRICAL AND SMOKE DETECTOR NOTES

- ALL CIRCUITS IN ALL BEDROOMS TO BE AFCI PROTECTED.
- ALL CIRCUITS IN ALL BATHROOMS, KITCHEN & GARAGE TO BE GFCI PROTECTED.
- PROVIDE SMOKE DETECTORS BOTH INSIDE AND OUTSIDE OF EACH BEDROOM. HARDWARE ALL DETECTORS TO AN ELECTRICAL POWER SOURCE AND EQUIPMENT WITH A MONITORED BATTERY BACKUP. WIRE DETECTORS SO ACTUATION OF ONE WILL ACTIVATE ALL OTHER DETECTORS (FBC SEC. 230.2).
- ALL ELECTRICAL WORK TO COMPLY WITH NEC 210-52 & 210-12 & 210-6.

NOTE:
 PROVIDE CARBON MONOXIDE DETECTORS WITH IN 10' OF ALL BEDROOMS.

5. ADD DUPLEX ELEC. OUTLETS TO MEET CODE (NEC 210.52) AS REQ'D.
 6. THE OVERCURRENT DEVICES OF ANY EXISTING ELEC. PNL. LOCATED IN CLOSETS MUST BE REWired AS REQ'D. BY NEC. 240.24.D

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: January 5, 2010

SUBJECT: 46 Bluebird Lane

APPLICANT: Scott and Patricia Jenkins, property owners of
46 Bluebird Lane

FILE NUMBER: 11-8

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is a request for a rear yard variance submitted by Scott and Patricia Jenkins, property owners, of 46 Bluebird Lane. The property is zoned as R-2 (Single Family Low Density) and Chapter 2, Article II of the Land Development Code (LDC), Section 2-13.9.b., requires a rear yard setback of 25' from the property line to the principal structure. The property owners are requesting a 5' variance to construct a screen room addition at a 20' rear yard setback.

BACKGROUND:

The property is designated as "Low Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-2 (Single Family Low Density) on the City's Official Zoning Map. The existing use of the property is consistent with the FLUM designation and zoning district.

Adjacent land uses and zoning:

	Current Land Uses	Future Land Use Designation	Zoning
North	Single-Family House	"Low Density Residential"	R-2 (Single Family Low Density)
South	Single-Family House	"Low Density Residential"	R-2 (Single Family Low Density)
East	Single-Family House	"Low Density Residential"	R-2 (Single Family Low Density)
West	Single-Family House	"Suburban Low Density Residential"	SR (Suburban Residential)

Site Aerial



According to the Volusia County Property Appraiser, the structure at 46 Bluebird Lane was constructed in 1983. The current property owner bought the house in 2002 and is seeking to construct a screen room addition to the existing structure. The property owner has obtained a patio permit to construct a concrete slab and is in the process of constructing this improvement. The contractor stated in obtaining the slab permit that it was understood that the construction of the slab does not impact the variance determination and it was an improvement that the property owner desired. The property owner is requesting a screen room with a hard roof and screen walls that is 13' deep and 32' in width, totaling 416 square feet.

ANALYSIS:

The lot at 46 Bluebird Lane is 125' wide and 100' deep. The property abuts properties along Arrowhead Drive that are zoned as SR (Suburban Residential). The property owners are requesting a hard roof screen room addition (screen walls). The existing house structure is located at a 33' setback from the property line. The existing backyard has a 6' wood fence set at 3' to 5' from the property line and an existing deck.

The R-2 zoning district requires a 25' rear yard setback. With the existing housing setback of 33', there is 8' remaining for a screen room addition that conforms to the

zoning district setbacks. The property owner has stated in the application that 8' screen room depth is an insufficient area to construct a room and would devalue the house rather improve the value of the house.

Potential Alternatives:

1. Grant the applicant's request for a 5' variance with a resulting 20' setback from the required 25' rear yard setback. This alternative as requested by the property owner and would provide an addition of approximately 416 square feet.
2. Allow an alternative setback that is greater than 20' but less than 25'. The Board can approve a variance that allows the addition within the setback, but not to the full 20' setback requested. For example, a 23' setback would allow a 10' deep room.
3. Deny the request and allow the 25' rear yard setback to stand. The room addition would be 8' in depth and 32' in width.

The applicant has provided signature of no objection from the property owner located to the rear of the proposed addition at 3 Arrowhead Drive. There has been no information provided from the property owner at 1 Arrowhead Drive. Staff has not received any objections or inquires since the variance case was advertised.

CONCLUSION:

Chapter 1, Article II, Section 1-16.D.2, of the Land Development Code states, "The Board of Adjustment and Appeals shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved and are not the result of the actions of the applicant. If the basis for the request is the unique quality of the site, the Board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board shall base its findings on the cumulative effect of granting the variance to all who may apply."

The Board must consider the following criteria established in Chapter 1, Article II, Section 1-16.D.4, of the Land Development Code for the expansion of the non-conforming structure:

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

Argument for the variance: The special condition of the property is the lot depth of 100'. The lot depth of 100' is lower than the typical lot dimensions for single family lots within Ormond Beach. Another factor is the location of the existing house structure.

Argument against the variance: The lot depth is a common limitation and there is 33' that exists from the house structure to the property line where a number of accessory structures could be located. The property owner also has the ability to place an 8' by 32' screen room addition that would be conforming.

2. **The special conditions and circumstances do not result from the actions of the applicant.**

Argument for the variance: The existing structure was created in 1983 and the lot depth did not result in any actions of the current property owners.

Argument against the variance: None. The lot dimensions were established prior to the current property owners.

3. **Literal interpretation of the provisions of these zoning regulations would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these zoning regulations and would work unnecessary and undue hardship on the applicant.**

Argument for the variance: The application of the zoning district setbacks in relationship to the lot depth would only allow an inadequate screen room depth of 8' and would be an undue hardship. A potential variance could range from 6" to 5'. The applicant has obtained the signature of the abutting property owner stating that there is no objection to the request. The existing Land Development Code allows other structures, such as sheds and pool screen enclosures to be located at a 10' setbacks and the screen room addition would not negatively impact surrounding properties.

Argument against the variance: The property is existing conforming lot of record and the existing structure meets all applicable setbacks. This request would turn a conforming structure into a non-conforming structure with the variance. The property owner has the right to construct an 8' wide by 32' screen room without the variance.

4. **No practical alternative exists and the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building, or structure.**

Argument for the variance: The location of a screen room is typically at the rear of the house and the proposed location aligns with the house access point. There is no practical alternative for the location of the screen room addition. The key issue is the depth of the addition, which the applicant has requested at 13'. Staff believes that a 10.5' deep screen room would allow a reasonable use of the screen room addition while minimizing the setback encroachment.

Argument against the variance: One can argue what is the minimum practical depth of the screen room addition. The range is from 8' to 13'. Staff concurs that 8' is a limited depth for a room and is not a functional use of space. The applicant is requesting a 5' variance to allow a 13' deep screen room. The key determination is the appropriate depth that should be permitted.

5. **The variance request is not based exclusively upon a desire to reduce the cost of developing the site. Financial disadvantages or physical inconvenience to the applicant shall not in and of themselves constitute conclusive proof of unnecessary hardship.**

Argument for the variance: The variance is not sought to reduce the cost of the construction of the project. The selected location is the most logical and practical place for the addition.

Argument against the variance: None. The variance is not sought to reduce the construction cost of the project.

6. **The proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.**

Argument for the variance: The request will not increase congestion, fire danger or public hazards. A 20' rear yard setback is commonplace in newer developments throughout the City, such as the Deer Creek and Creekside subdivision.

Argument against the variance: None. The variance will not create any hazards to the public.

7. **The effect of the proposed variance is in harmony with the general intent of this Code and the specific intent of the relevant subject area(s) of the Code and will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.**

Argument for the variance: The request will not diminish property values or alter the character of the surrounding area. This area of the City is an existing developed single-family area that abuts the large lot properties along Arrowhead Drive. The improvement will provide added value to the property and provide additional benefit to the property owner.

Argument against the variance: It is staff's opinion that the screen room addition will not diminish the property values of the surrounding properties and that a range of 20' versus a 25' would not be a noticeable change.

8. **Granting the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings, or structures in the same zoning district.**

Argument for the variance: The purpose of the variance process is to confer rights that are denied to a particular applicant because of a special condition or unique circumstance for their property. Staff believes that this request is appropriate based on the existing structure location and lot depth. The key determination for the Board will be the extent of the room depth.

Argument against the variance: The situation of a 100' deep lot is not unique condition and the property owner has the option of constructing an 8' deep

screen room addition or other accessory uses that conform to the zoning district setbacks.

RECOMMENDATION:

In reviewing the application, staff has come to the following conclusions:

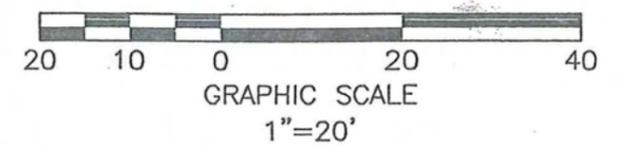
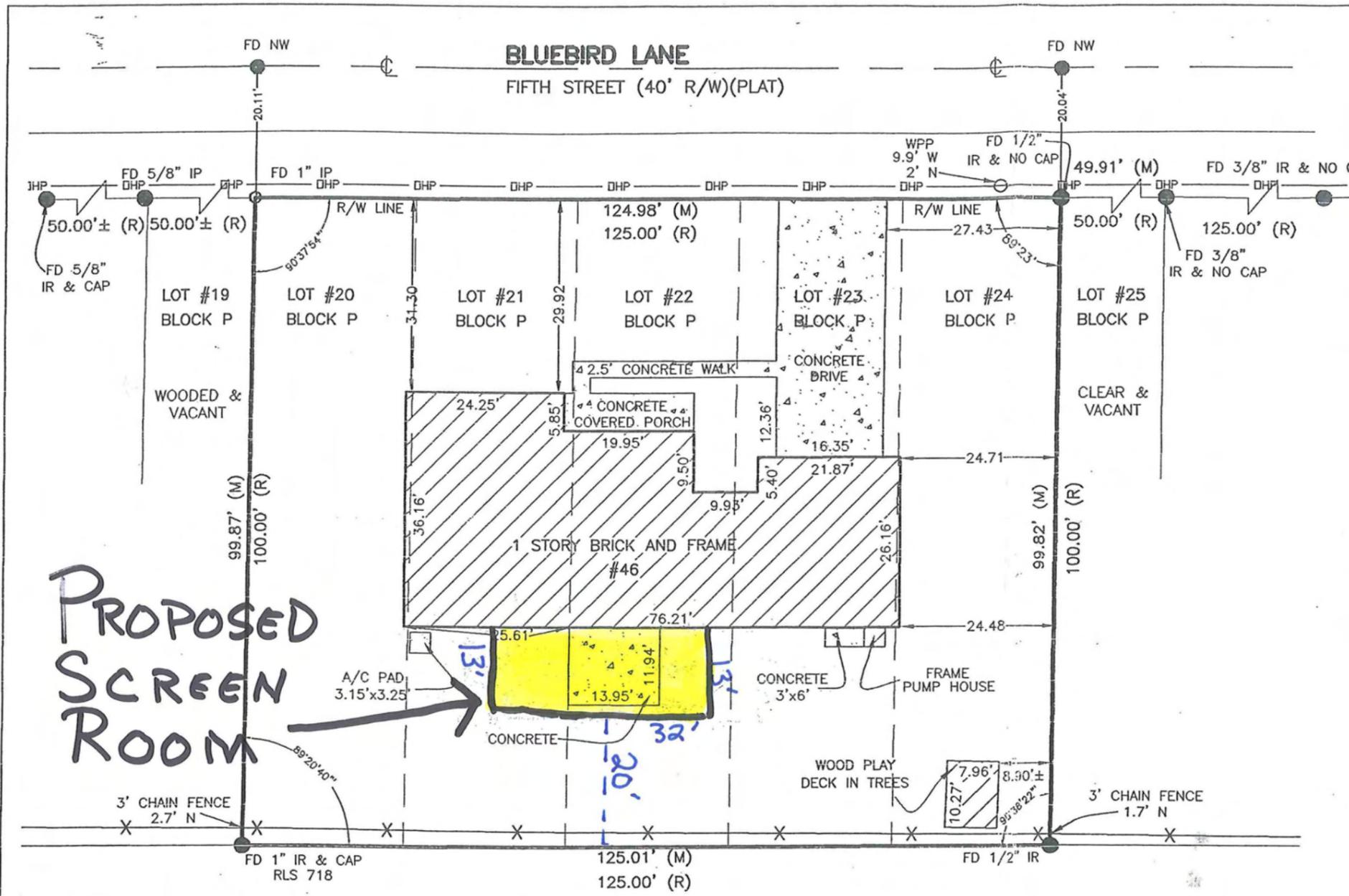
1. One goal of the City Land Development Code is to prevent and bring into compliance non-conforming structures and uses. This application seeks to convert a conforming lot and structure into a non-conforming structure. Staff understands the importance of allowing property owners to invest in their property and structures and create useful living areas.
2. 8' is not a functional depth of room. Staff cannot justify that 13' is the minimum room depth in order to have a reasonable use of the screen room addition. It would appear that an average between 8' and 13' would be more appropriate.
3. Staff has previously recommended approval of variances for room additions to create a functional room depth.
4. There has been no objection from abutting property owners to City staff.

Based on the conclusions listed above, it is recommended that the Board of Adjustment and Appeals **APPROVE** a variance of 2.5' to the required 25' rear yard setback, with a resulting setback of 22.5' for the construction a screen room addition of 10.5' in depth and 32' in width.

The property owner is seeking a variance of 5' to the required 25' rear yard setback, with a resulting setback of 20' for the construction a screen room addition of 13' in depth and 32' in width.

Exhibit A

Variance Exhibit



LOT 20-24, BLOCK P, TOMOKA PARK, AS RECORD IN MAP BOOK 21, PAGE 99, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

GENERAL NOTES:

- 1.) NO ANGLES OR BEARING SHOWN ON PLAT ALL ANGLES SHOWN ARE MEASURED.
- 2.) LEGAL DESCRIPTION PROVIDED BY CLIENT.
- 3.) RECORD DIMENSIONS ARE SHOWN IN PARENTHESIS (), WHEN DIFFERS FROM MEASURED.

Property Owner Request

Rear Yard Setback		
Required Setback	Requested Setback	Variance requested
25'	20'	5'

PROPOSED SCREEN ROOM

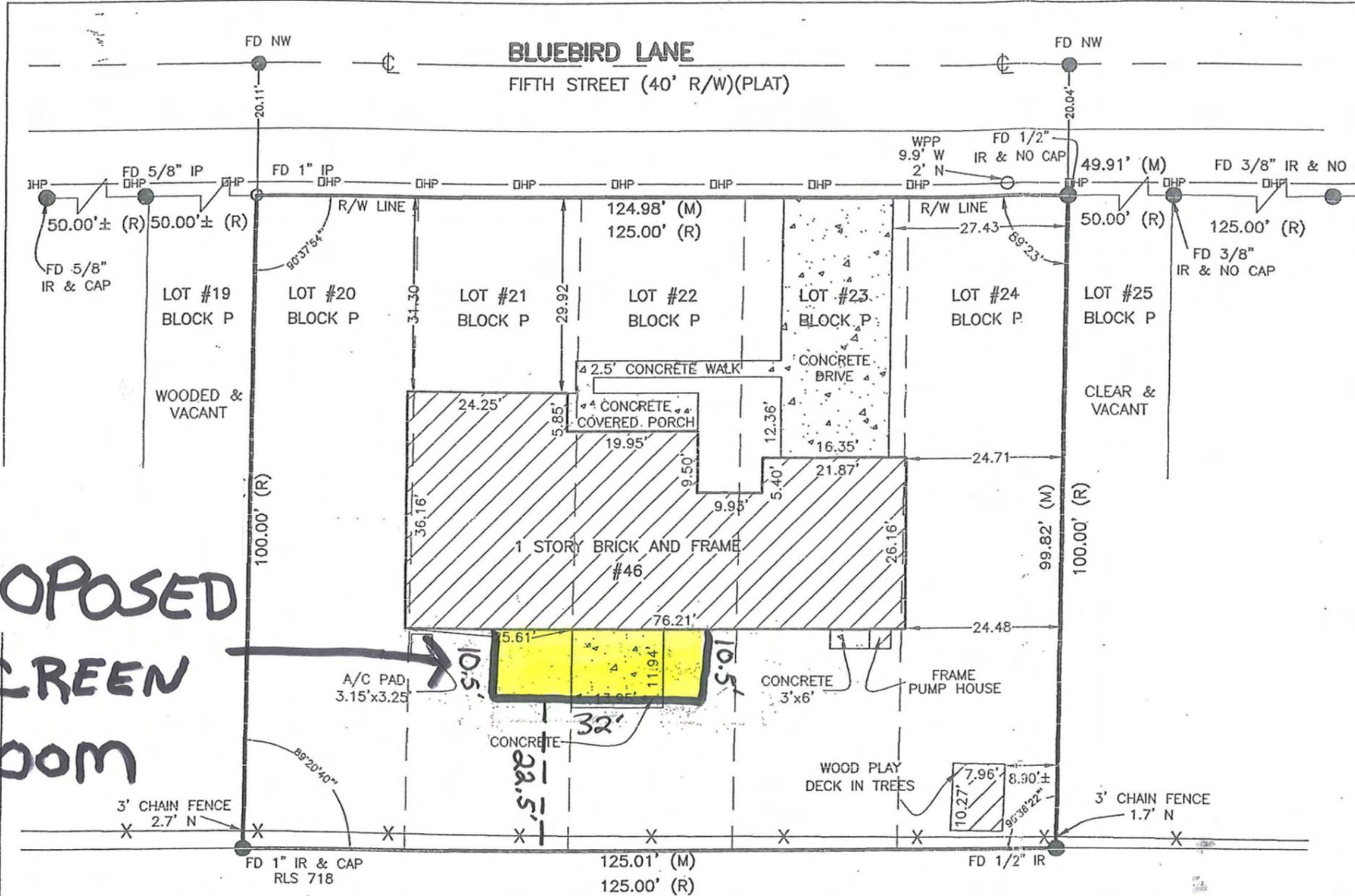
NOTICE:

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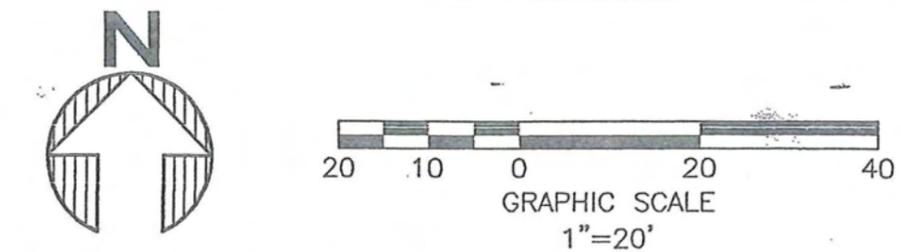
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CERTIFIED TO: - ASSOCIATED LAND TITLE GROUP - FIRST AMERICAN TITLE INS. COMPANY - SCOTT T. AND PATRICIA JENKINS - ABN AMRO MORTGAGE GROUP INC, ISACA	WO# 020127	FLOOD PLANE CERTIFICATION ACCORDING TO THE F.I.R.M/ MAP, COMMUNITY-PANEL NUMBER; 125155 0165E DATED: JUNE 4, 1990 THE PROPERTY APPEARS TO BE FLOOD ZONES _____ °C AND _____, AND THE BASE 100 YEAR FLOOD ELEVATION IS _____ MEAN SEA LEVEL.	TYPE OF SURVEY: BOUNDARY	Upham, Inc. Organization of Engineers, Surveyors & Landscape Architects P.O. Box 1105 • 265 Kenilworth Avenue • Ormond Beach, Florida 32174 (386)672-9515 • FAX (386)673-6554 • LB# 0003612 • LC# 0000357 Visit us at: www.uphaminc.com © 2002
		THE FOREGOING PLAT IS CERTIFIED TO MEET THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, AS PURSUANT TO SECTION 472.027, FLORIDA STATUTES. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER.	46 BLUEBIRD LANE PSM NO. 3905	
OFFICE WORK BY: BB DATE: 01/29/02	FIELD WORK BY: JO DATE: 01/25/02	SCALE: 1"=20'	DRAWING FILE NAME: 020127.dwg DISK ID: 807	FILE: T-46-P-16



**PROPOSED
SCREEN
ROOM**



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Staff Recommendation

Rear Yard Setback		
Required Setback	Recommended Setback	Staff Variance recommended
25'	22.5	2.5

- BRG BEARING
- CH CHORD
- (M) MEASURED
- NW NAIL AND WASHER
- (P) PLAT
- R/W RIGHT OF WAY
- X X-CUT
- WPP WOOD POWER POLE
- OHP OVERHEAD POWER

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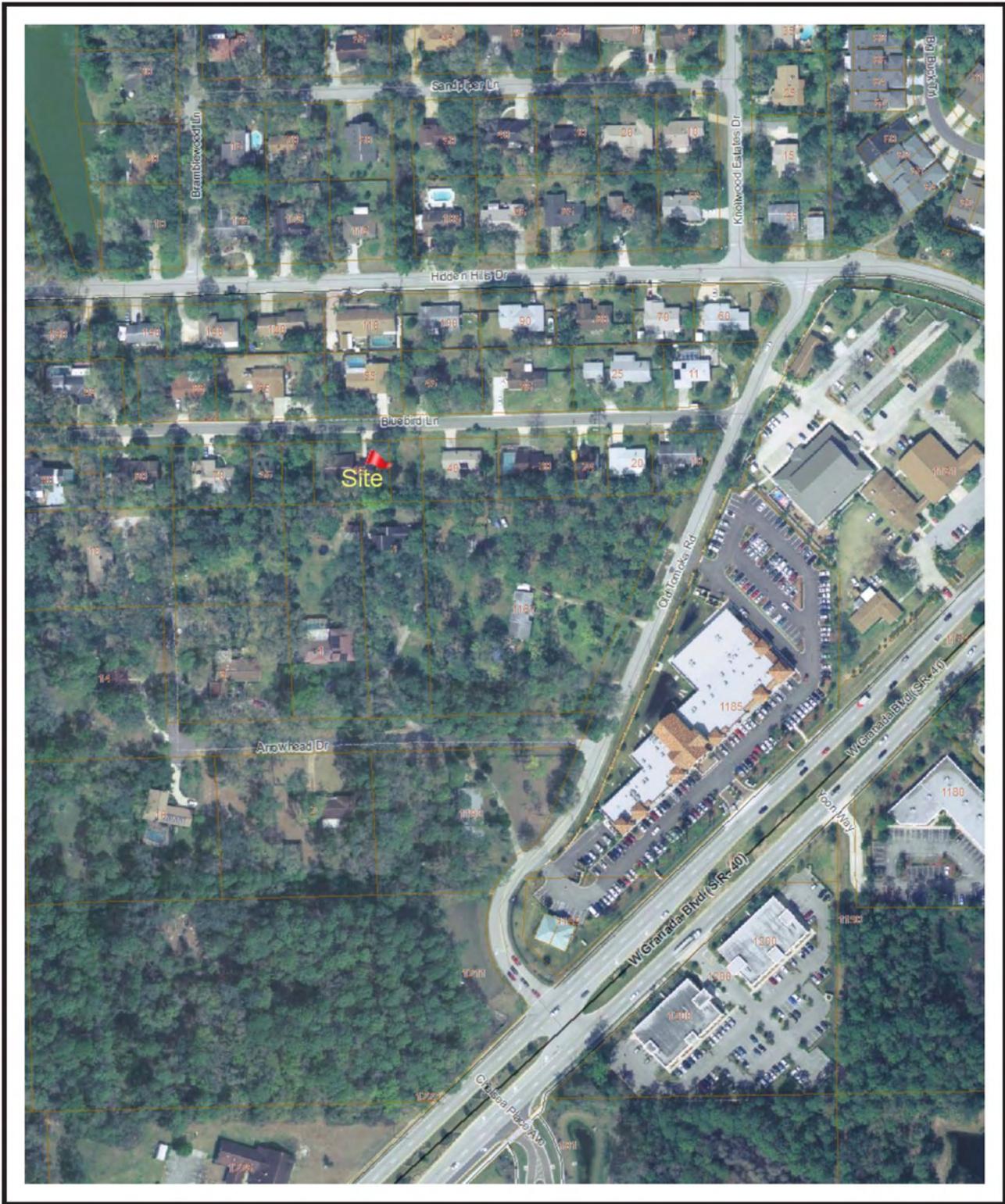
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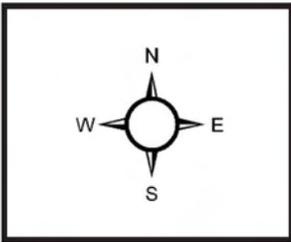
Exhibit B

- Map and Pictures



LOCATION MAP
46 Bluebird Lane - Rear Yard Variance

The City of Ormond Beach
Planning Department
Prepared by: December 23, 2010





1 Arrowhead Drive

3 Arrowhead Drive

46 Bluebird Lane

100 feet 25 m

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Proposed
Screen Porch
Location



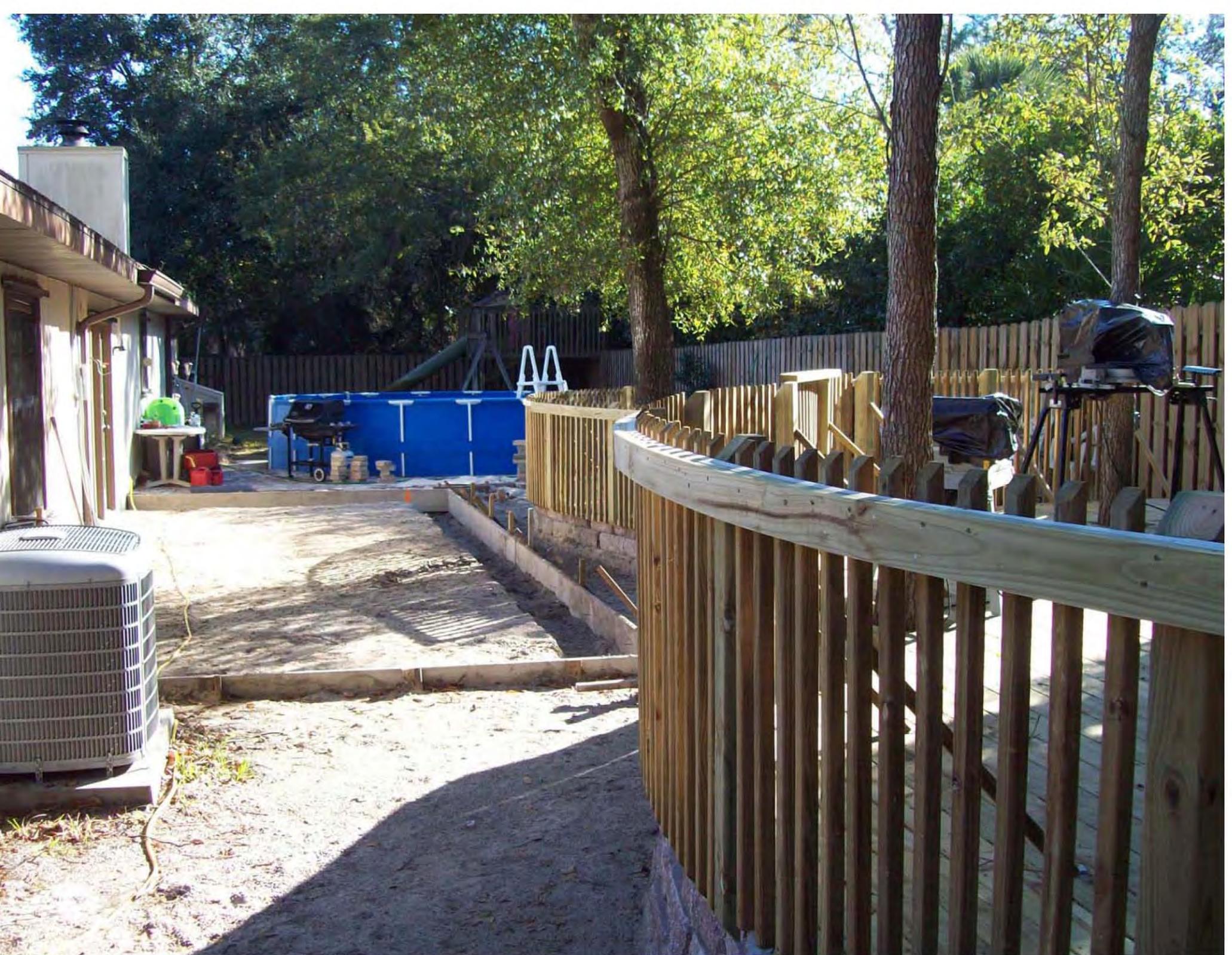


Exhibit C

Applicant Provided Information



Board of Adjustment and Appeals Variance Application

OFFICE USE ONLY

Application Number:

Date of Pre-Application Meeting:

SECTION 1: APPLICATION TYPES AND FEES

	Type of Application	Fee	Total Due
[]	Residential	\$450	
[]	Commercial	\$450	
[]	After the Fact Residential	\$900	
[]	After the Fact Commercial	\$900	

Note: All payments are to the "City of Ormond Beach" TOTAL FEES

SECTION 2: REQUIRED INFORMATION

1. Application fee (payable to the "City of Ormond Beach")	[]
2. An original deed or copy certified by the Clerk of the Circuit Court.	[]
3. A current survey, not older than five years, of the subject property.	[]
4. Plot plan or marked up survey displaying the proposed variance.	[]
5. Completed Rule of Procedures document.	[]
6. Completed Application.	[]

SECTION 3: APPLICANT INFORMATION

Project Address:	
Parcel Number:	
Subdivision	HIDDEN HILLS

Applicant:	SCOTT + PATRICIA JENKINS	
Mailing Address:	46 BLUEBIRD LN., ORMOND BEACH, FL	
E-mail Address:	WEBSTRIKE1@HOTMAIL.COM	
Phone Number:	(386) 671-7527	Fax Number:

Other Contact:		
Mailing Address:		
E-mail Address:		
Phone Number:		Fax Number:

SECTION 4: VARIANCE REQUEST

I hereby request the variance(s) that is the subject of the application for the grounds listed within this application. I am aware that in order for the Board of Adjustment and Appeals to grant a variance there must be special conditions or circumstances existing which are peculiar to my particular piece of land, structure, or building, and which are not applicable to other land, structures, or buildings in my area; that I am not requesting any special privilege denied by the Zoning regulations to other land, buildings, or structures. The grounds, as outlined in this application, show that I am deprived of rights commonly enjoyed by other property owners in my area under the terms of the regulations and work an unnecessary hardship on me. The variance I am requesting is the minimum possible to make reasonable use of the land and, if granted, will not be injurious to the area or materially diminish the value of the surrounding properties, alter the essential characteristics of the neighborhood or otherwise be detrimental to the public welfare or create a public nuisance. Finally, I am aware that a purely financial hardship does not, except under extreme circumstances, constitute sufficient grounds for hardship.

I hereby request the following variance(s):

Requested Variance (1)	request 5' in order to put screen room on back of house
------------------------	---

Requested Variance (2)	
------------------------	--

Requested Variance (3)	
------------------------	--

Please attach additional pages, if necessary, to detail the variance request.

SECTION 5: STATEMENT OF ABUTTING PROPERTY OWNERS

As owners of abutting properties, affixed are signatures indicating positions with respect to the applicant's request for variance. Letters, for or against the variance, may also be provided.

Signature	Street Address	For	Against
Juan Alford	3 Arrowhead Dr Orlando, FL 32124	X	

SECTION 6 (A): CRITERIA FOR GRANTING VARIANCES

Section 1-16.D.3. of the City Land Development Code requires that the Board of Adjustment and Appeals must make a positive finding based on substantial competent evidence on the criteria listed below. Within this Section that applicant must provide sufficient justification and evidence to the Board based on the criteria listed below. Please provide specific answers to the following criteria. Additional pages, attachments, photographs, surveys, plot plans or any other material may be attached to justify the variance request.

Criteria for Variance Applications:

1. Explain what special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district?

The land only has a total of 33 feet behind the house. Most homes have more room allowing them to add screen rooms.

2. Do the special conditions and circumstances result from the actions of the applicant?

No

3. How would the literal interpretation of the provisions of these zoning regulations deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of these zoning regulations and would work unnecessary and undue hardship on the applicant.

The current code only allows 25 feet off the back property line. The property only has a total of 35 feet behind the house making it unfeasible to add a screen room. An 8 foot screen room would devalue the house rather than improve the value of the house. Many houses in the local subdivision have screen rooms greater than 8 foot deep.

4. Explain why there is no practical alternative to the application and the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building, or structure.

A Screened porch is a common structure in a large part of Florida. Screen rooms exist off the back of the house. There are no other locations to add the screen room.

5. Explain how the variance request is not based exclusively upon a desire to reduce the cost of developing the site. Financial disadvantages or physical inconvenience to the applicant shall not in and of themselves constitute conclusive proof of unnecessary hardship.

There is no other common or accepted approach to building a screen room.

6. Explain how the proposed variance will not substantially increase congestion on surrounding public streets, the danger of fire, or other hazard to the public.

Since this is an enclosed fenced backyard it has no application to public streets or hazards.

7. What effect will the proposed variance have in relationship to the in harmony with the general intent of this Code and the specific intent of the relevant subject area(s) of the Code and will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.

Adding the additional screen room improves the value of the home. We continue to invest into our home and make valuable investments into it. This aligns it with the purpose of the code. It provides value to our home and homes around us.

8. Justify how the variance requested will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings, or structures in the same zoning district.

All most homes in the local area already have screen rooms and have been allowed this variance.

SECTION 6 (B): CRITERIA FOR GRANTING VARIANCES FOR NON-CONFORMING STRUCTURES

This Section should be used if the application proposes the expansion of existing non-conforming structures. The criteria for existing non-conforming structures are established in Section 2-63.F. of the Land Development Code and are separate from the criteria listed in Section 6(A) above. Within this Section that applicant must provide sufficient justification and evidence to the Board based on the criteria listed below. Please provide specific answers to the following criteria. Additional pages, attachments, photographs, surveys, plot plans or any other material may be attached to justify the variance request.

1. The property where the structure is located meets the minimum lot area standards for the zoning district, as specified in Chapter 2, Article II.

?

2. There are no other ways of altering the structure that will not result in increasing the nonconforming cubic content of the structure.

Since this is a screen room the only acceptable practice is to apply the room to the back of the house.

3. The proposed expansion will be consistent with the use of the structure and surrounding structures, given that the use is permitted by right, conditional use or Conditional Use Permit in the zoning district that the structure is located within.

The current structure would be similar or less intrusive than structures in the local area of hidden hills.

4. The proposed expansion effectively "squares-off" an existing building, or does not extend beyond the furthest point of an adjacent building on the site.

The structure is in a backyard and does not go past either side of the home.

5. The proposed expansion is in scale with adjacent buildings.

There are no adjacent buildings. Similar All lots ~~surround~~ around us are vacant and not maintained by city or owner. Similar houses on our street extend to past the point of our structure.

6. The proposed expansion will not impact adjacent properties by limiting views or increasing light and/or noise.

The screen room is behind a Foll fence and will not be visible by anyone.

SECTION 7: CERTIFICATION

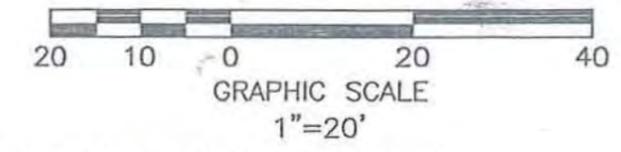
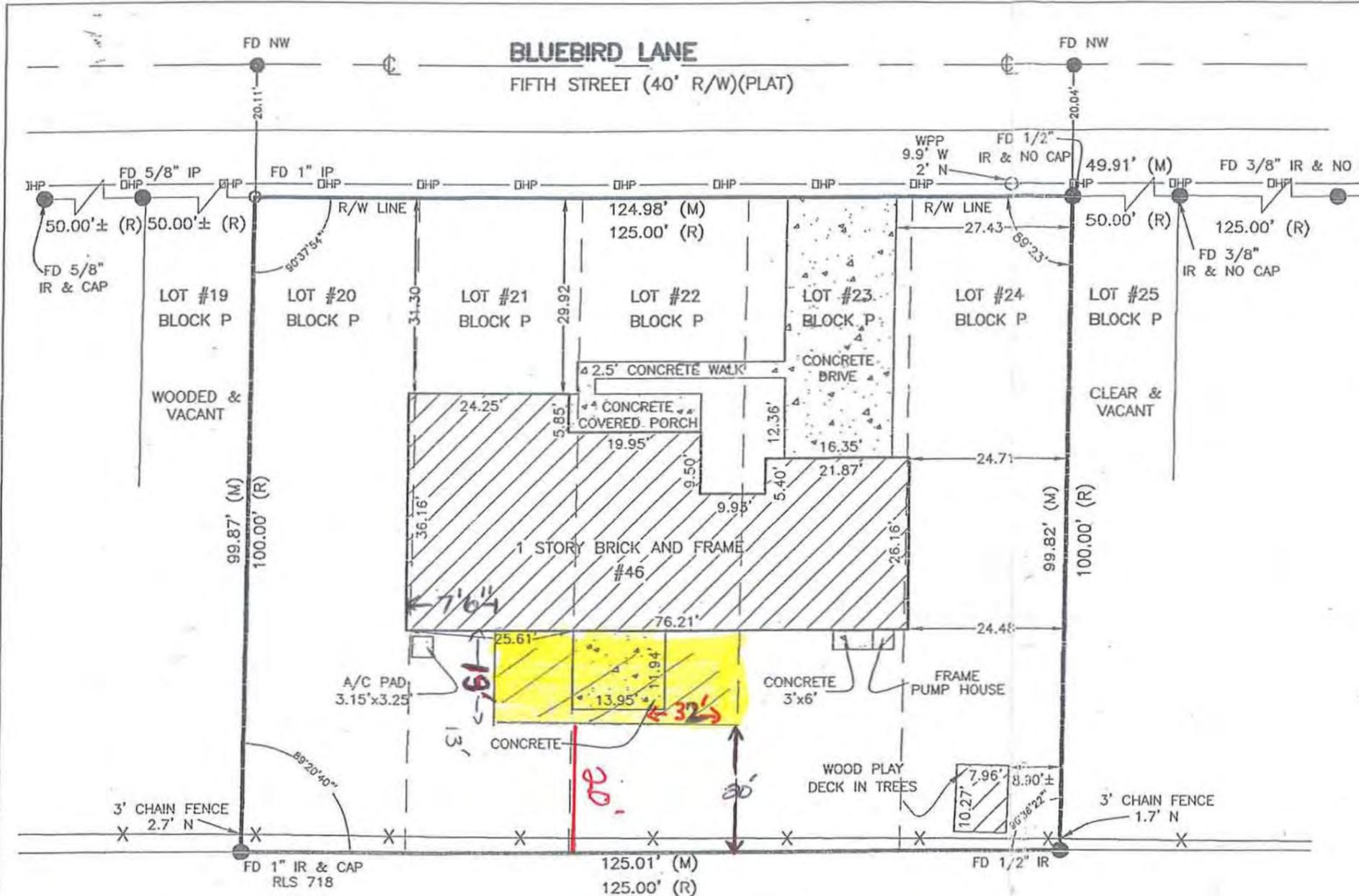
I hereby certify that the information provided above is true and correct to the best of my knowledge and that I am aware of the application submittal requirements and review process for the above application types. I hereby authorize City staff to place the legal notice on my property and to take pictures pertaining to my variance application. I am aware of the required pre-application and also aware if all the required information is not provided that my application will be continued to the next regularly scheduled Board meeting.

Scott Jenkins
Applicant's Signature

11/16/10
Date

STATE OF FLORIDA; COUNTY OF VOLUSIA
Affirmed and subscribed before me this 17th day of November, 20 10
by Scott Jenkins, who is personally known to me or who has
produced _____ (type of ID) as identification
Robin Lee Faircloth
Notary Public
My commission expires:





LOT 20-24, BLOCK P, TOMOKA PARK, AS RECORD IN MAP BOOK 21, PAGE 99, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

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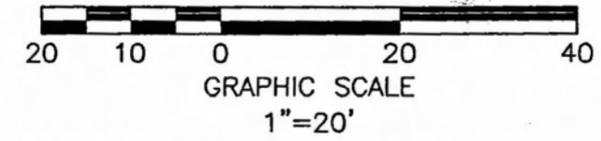
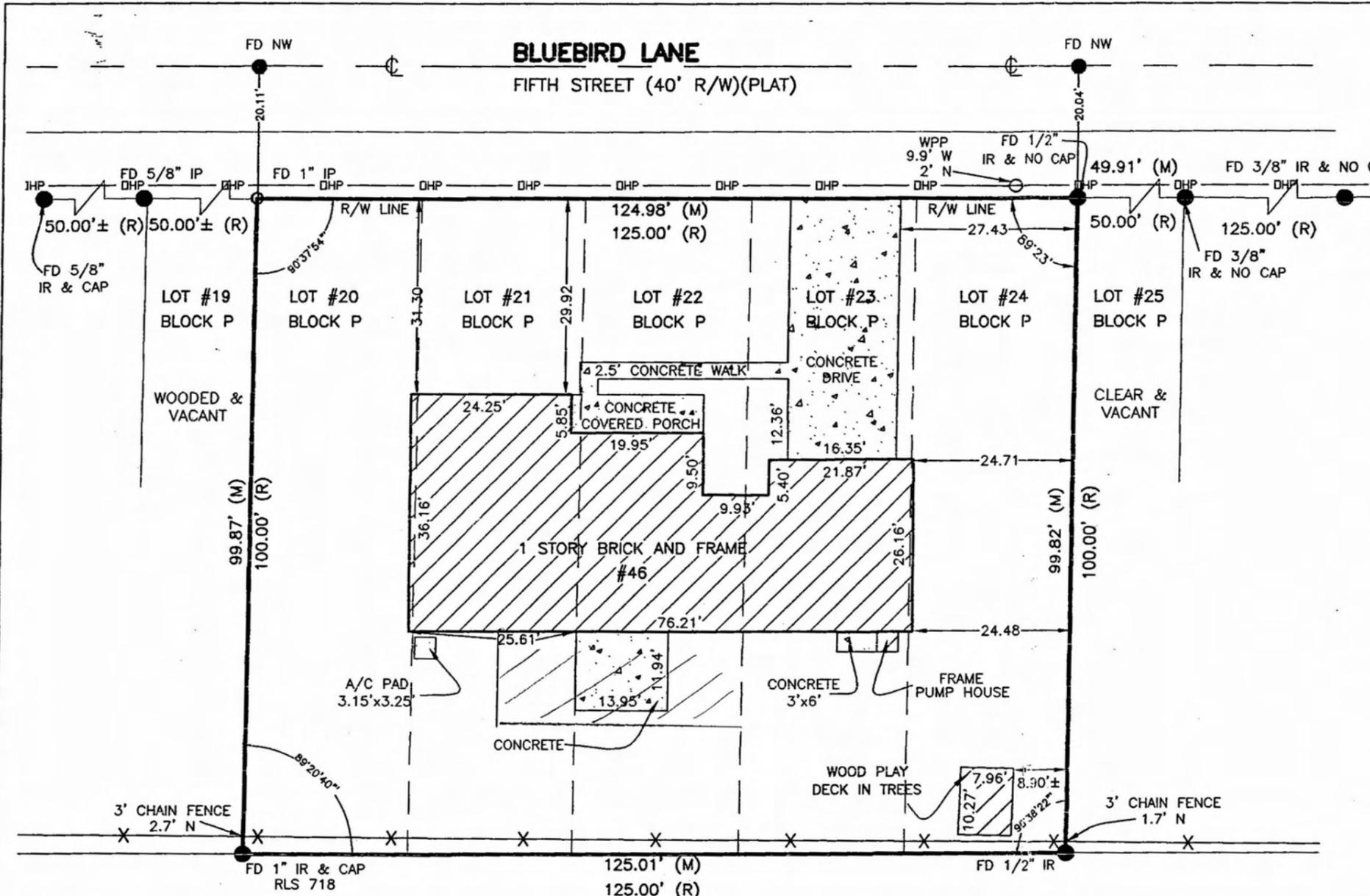
LEGEND:

- | | | | |
|-----|-------------------------|-----|-------------------|
| □ | 4"x4" CONCRETE MONUMENT | CM | CONCRETE MONUMENT |
| ● | 5/8" IRON ROD | (D) | DESCRIPTION |
| ○ | IRON PIPE | FD | FOUND |
| ⊙ | CENTER LINE | IP | IRON PIPE |
| ⊗ | NAIL AND WASHER | IR | IRON ROD |
| ⊗ | X-CUT | LB | LICENSED BUSINESS |
| ○ | WOOD POWER POLE | LS | LICENSED SURVEYOR |
| BRG | BEARING | (M) | MEASURED |
| CH | CHORD | NW | NAIL AND WASHER |
| | | (P) | PLAT |
| | | R/W | RIGHT OF WAY |
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| | | OHP | OVERHEAD POWER |

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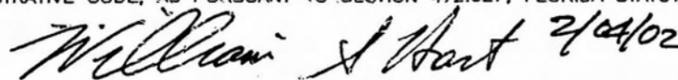
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LEGEND:

□	4"x4" CONCRETE MONUMENT	CM	CONCRETE MONUMENT
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○	IRON PIPE	FD	FOUND
⊕	CENTER LINE	IP	IRON PIPE
⊗	NAIL AND WASHER	IR	IRON ROD
⊗	X-CUT	LB	LICENSED BUSINESS
⊗	WOOD POWER POLE	LS	LICENSED SURVEYOR
⊗	BRG BEARING	(M)	MEASURED
⊗	CH CHORD	(P)	PLAT
		R/W	RIGHT OF WAY
		X	X-CUT
		WPP	WOOD POWER POLE
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 THE TERM CERTIFIED AS USED IN THIS STATEMENT IS FOR THE EXCLUSIVE USE OF THE PARTIES LISTED ON THIS SURVEY. IT IS ALSO, UNDERSTOOD TO BE THE PROFESSIONAL OPINION OF THIS SURVEYOR AND THE FIRM, FROM WHICH IS FORMULATED ON HIS BEST KNOWLEDGE, INFORMATION AND BELIEF, AND AS SUCH, DOES NOT CONSTITUTE A GUARANTEE OR WARRANTY, EITHER EXPRESSED OR IMPLIED. FURTHERMORE, THIS SURVEYOR AND FIRM, DOES NOT ASSUME RESPONSIBILITY AND SHALL NOT BE LIABLE FOR CLAIMS ARISING FROM ERRONEOUS OR INCORRECT INFORMATION FURNISHED BY THE OWNER, LENDER, OR OWNER'S CONTRACTORS OR OTHERS, WHICH IS USED AS A BASIS TO FORMULATE THIS SURVEYORS OPINION.
 ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE PARTY. PER FLORIDA STATUTES CHAPTER RULE 61G17-6.003(2)(e)

CERTIFIED TO: - ASSOCIATED LAND TITLE GROUP - FIRST AMERICAN TITLE INS. COMPANY - SCOTT T. AND PATRICIA JENKINS - ABN AMRO MORTGAGE GROUP INC, ISAOA		WO# 020127	FLOOD PLANE CERTIFICATION ACCORDING TO THE F.I.R.M/ MAP, COMMUNITY-PANEL NUMBER: 125155 0165E DATED: JUNE 4, 1990 THE PROPERTY APPEARS TO BE FLOOD ZONES "C" AND "D", AND THE BASE 100 YEAR FLOOD ELEVATION IS _____ MEAN SEA LEVEL. THE FOREGOING PLAT IS CERTIFIED TO MEET THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 61G17-6, FLORIDA ADMINISTRATIVE CODE, AS PURSUANT TO SECTION 472.027, FLORIDA STATUTES. 	TYPE OF SURVEY: BOUNDARY	 Upham, Inc. Organization of Engineers, Surveyors & Landscape Architects P.O. Box 1105 • 265 Kenilworth Avenue • Ormond Beach, Florida 32174 (386)672-9515 • FAX (386)673-6554 • LB# 0003612 • LC# 0000357 Visit us at: www.uphaminc.com © 2002	
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