AGENDA

ORMOND BEACH
BOARD OF ADJUSTMENT AND APPEALS

December 3, 2014
ORMOND BEACH
CITY COMMISION CHAMBERS **7:00 P.M.**

I. ROLL CALL

II. APPROVAL OF THE MINUTES

A. November 5, 2014

III. NEW BUSINESS

A. <u>Case No. V2015-009: 759 South Atlantic Avenue, Georgian Inn Beach Club calculated rear yard variance, gazebo.</u>

This is a request for a front yard variance submitted by Georgian Inn Beach Club Association, Inc. at 759 South Atlantic Avenue to construct a hard roof gazebo within the calculated rear yard setback. Section 2-27(B)(9)(d) of the Land Development Code requires a calculated rear yard setback based on all structures north and south of the subject property. The average rear yard setback for a hard roofed structure is 52.97'. The open air gazebo is proposed to have a 31' rear yard setback, requiring a variance of 21.97'.

B. <u>Case No. V2015-010: 1 London Lane, rear and side yard variances, room addition.</u>

This is a request for a rear and side corner yard variance submitted by Phillip Sherwood of the Phillip Sherwood Revocable Trust, property owner of 1 London Lane. The property at 1 London Lane is zoned R-5 (Multi-Family Medium Density). The applicant is requesting two variances: **(1) Rear Yard:** Section 2-18.B.9.b of the Land Development Code requires a 20' rear yard setback. The applicant is requesting a rear yard setback of 10.2' to construct a room addition, requiring a variance of 9.8' to the required 20' rear yard setback. **(2) Side Yard:** Section 2-18.B.9.d of the Land Development Code requires a 20' side corner yard setback. The applicant is requesting a side corner yard setback of 14' to construct a room addition, requiring a variance of 6' to the required 20' side yard setback.

IV. OTHER BUSINESS

1. Pool screen enclosures.

2. Variance advertising requirements.

V. ADJOURNMENT

M I N U T E S

BOARD OF ADJUSTMENT

November 5, 2014 **7:00 p.m.**

HR Training Room
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present	Staff Present
Tony Perricelli	Laureen Kornel, Senior Planner
Ryck Hundredmark	Ann-Margret Emery, Deputy City Attorney
Norman Lane	Melanie Nagel, Minutes Technician
Dennis McNamara, Chair	

II. APPROVAL OF THE MINUTES

A. October 1, 2014 Minutes

Mr. Hundredmark moved to approve the October 1, 2014 Minutes as submitted. Mr. Perricelli seconded the motion. Vote was called, and the motion was approved.

III. NEW BUSINESS

A. Case No. V2015-003: 62 Chippingwood Lane rear and side yard setback room addition variance

Ms. Kornel, Senior Planner, City of Ormond Beach, stated this is a variance application for rear and side yard setbacks to construct a room addition at 62 Chippingwood Lane. Ms. Kornel explained the location, orientation, and characteristics of the subject property and presented the staff report.

Ms. Kornel continued by explaining that on Friday, October 31, 2014, one individual who did not provide her last name or address, identifying herself as living in the Gardens of New Britain subdivision, contacted the city expressing a number of concerns that were documented in an email to the Planning Director. The citizen felt the size of the addition proposed was excessive, the location of the sign posting was inadequate due to the location of the property being at the end of Chippingwood Lane, the adjacent property owner may not have been noticed and finally there were concerns voiced about previous additions being constructed without permits. It was explained that the property and abutting home owners had been noticed in accordance with the city's Land Development Code and that in fact staff's recommendation was a scaled down version of the request from a 15' x 15' addition to a 10' x 15' addition. Staff also advised that it is not uncommon

for people to complete work without permits and that the adjacent property owners had provided their signatures in support of the application.

Finally, Ms. Kornel provided three possible board actions and discussed each one as follows:

1. Grant the applicant's request as follows:
   a. Allow a 5' setback on the rear yard, granting a 15' variance, and
   b. Allow a 1.67' setback on the side yard, granting an 18.33'variance.

   Staff has concerns with Option 1 that the requested addition would extend further out from the existing structure than what has been approved for variances in the same subdivision in the past. However, it could be argued that the requested rear yard variance for a room addition does not impact the property any more than if the applicant were to ask for a variance with a final rear yard setback less than 5'. In addition, since the property to the north is green space and the property to the east are tennis courts, only one property owner directly to the west will be impacted and that property owner has provided written support of the requested 15' x 15' room addition.

2. Grant a modification of the setbacks recommended by staff as follows:
   a. Allow a 10' setback on the rear yard, granting a 10' variance; and
   b. Allow a 1.67 setback on the side yard, granting an 18.33' variance.

   Option 2 allows alternative setbacks that would enable the BOAA to make a decision consistent with approved variances in the same subdivision in the past.

3. Deny the request as presented and not allow the construction of the addition.

Ms. Kornel stated staff is recommending Option 2.

Mr. McNamara questioned why there was such a small side yard for the home. Ms. Kornel stated that it is the result of being a non-conforming property, and staff has not been able to determine from records how it was developed and what the setbacks were when it was originally developed.

Greg Reynolds, Greg Reynolds Construction, contractor for the applicant, stated staff's recommendation for approval is to take the size of the addition down from the proposed 15' x 15' to 10' x 15', but this room is going to be used for an elderly in-law to live at a later date, and Mr. Reynolds believes the 10' x 15' room recommendation by staff will be a restriction if the person would happen to be in a wheelchair.

Mr. McNamara asked what type of construction the addition would be. Mr. Reynolds stated it would be wood frame, with siding to match the upper story. It will be used as a bedroom/sitting area and be an actual living space.

Mr. Perricelli asked if the addition would stick out further than the screened porch that was shown at 56 Chippingwood. Mr. Reynolds stated that he doesn't know

for certain, but he believes that it would. Mr. Lane stated that he didn't think the addition at 56 Chippingwood was any greater than 10'.

Mr. Lane stated that he went and looked at the property and surrounding area, and most of the additions are screen rooms, whereas this addition would be a lot bigger and more substantial than the other additions that have been put on neighboring units.

Mr. Perricelli asked if any of the other additions in the neighborhood are rooms, as opposed to screen enclosures. Ms. Kornel stated that she couldn't say for certain because she hasn't looked at every unit within the subdivision, but she can vouch that the majority of the additions are screen rooms. Ms. Kornel stated that the key determining factor for staff, from the standpoint of the Land Development Code, is whether an addition is proposed with a hard roof or not.

Mr. McNamara stated to Mr. Reynolds that the Board believes the proposed addition at 15' x 15' is a little aggressive compared to other additions in the area. Mr. Reynolds stated that 15' is what the home owner wants, but maybe if it was made 12' then it would roughly be 5' to the fence. Ms. Kornel stated that 12' might be a compromise down from the requested 15'.

Ms. Kornel stated that if the room were 12' deep, then an 8' setback would be required, with a 12' variance for the rear yard, and the side yard would remain at an 18.33' variance. Mr. Hundredmark stated that the side yard is not the problem.

Following discussion, Mr. McNamara asked if there were any more questions. There were none.

Mr. Perricelli moved to approve staff's recommendation, allowing a 10' setback on the rear yard, granting a 10' variance, and allowing a 1.67' setback on the side yard, granting an 18.33' variance. Mr. Hundredmark seconded the motion. Vote was called, and the motion was unanimously approved.

IV. OTHER BUSINESS

Mr. Lane commented that it seems there have been a number of meetings lately where people have commented that they didn't know what was going on in their neighborhoods. It didn't make any difference that the signage and the legal notices were done correctly. In some cases, maybe the sign posting is inadequate. Mr. Lane asked how many neighbors are notified. Ms. Kornel stated all the adjacent owners are notified as required by the Code. Mr. Lane commented that is a pretty small circle, and the sign right in front of the house facing the street often is not seen, especially at the end of a cul-de-sac.

Mr. Lane asked who could make an adjustment to the Code and broaden the scope of the notices, and possibly put a sign at the address and the next intersection. Ms. Kornel stated that it would be the Planning Department, and they would have to amend the Land Development Code (LDC).

Mr. Perricelli stated that if a person was building on the ocean or river a notice would have to go to anyone within 300' to each side of the property owner.

Ms. Kornel advised that new construction of an entire building or development is generally more substantial than a variance request, hence a wider swath of notice to abutters is required.

Mr. Hundredmark wondered if most of the complaints were from postings on dead-end streets. Mr. Lane stated that the sign that was put out for the October variance was facing straight out to the street, and he never saw it. If it had been a double sided sign facing north and south, more people would have seen it as they drove past.

Mr. Hundredmark asked if there were a lot of complaints that came in. He questioned if there was only one complaining, and they refused to give their name or address, are they really serious about the complaint.

Ms. Kornel advised that she was not aware of complaints with respect to abutter notification other than this one case, which did seem unusual in that the property was located at the end of a dead end street. Ms. Kornel went on to advise she did not know the procedural history of notification to abutters for variances, but that she would be willing to check with Mr. Steven Spraker to see if he had that knowledge. She suggested that perhaps after staff has a chance to research the procedural history of notification to abutters for variances, the matter could be placed on the agenda for further discussion in the future.

Mr. Perricelli stated that all the people who came to last month's meeting and were all upset, don't understand what the Board is there for, and the Board cannot tell someone that they can't build. Mr. Lane added that the Board should have asked Mr. Spraker to read the part of the Land Development Code that explains everything. Ms. Kornel stated that sometimes no matter what explanation or interpretation of the Code is provided, people still don't understand the Land Development Code requirements. Further, the general public makes the assumption that amending the LDC is a simple procedure when in fact it is a costly process requiring three public hearings and advertisement. Ms. Kornel stated that next month staff could review the notification requirement for variances, if the Board wanted. Mr. Lane stated that he would like that.

V. ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:34 p.m.

Respectfully submitted,

_____

Laureen Kornel, AICP, Senior Planner

ATTEST:

_____

Dennis McNamara, Chair

Minutes prepared by Melanie Nagel.

Pursuant to section 286-0105, Florida Statutes, if any person decides to appeal any decision made by the board of adjustment with respect to any matter considered at this public meeting, such person will need a record of the proceedings and for such purpose, such person may need to ensure that a verbatim record of the proceedings is made, including the testimony and evidence upon which the appeal is to be based.

All persons appealing to the board of adjustment must be present, or represented at the public hearing scheduled for the consideration of his request. Failure to be present or to be represented, results in the automatic refusal by this board to grant permission for any variance. 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.

Persons with a disability, such as a vision, hearing or speech impairment, or persons needing other types of assistance and who wish to attend city commission meetings or any other board of committee meeting may contact the city clerk in writing, or may call 677-0311 for information regarding available aids and services.

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: November 24, 2014

SUBJECT: 759 South Atlantic Avenue, Georgian Inn Beach Club calculated rear yard variance, gazebo

APPLICANT: Georgian Inn Beach Club Association, Inc.

FILE NUMBER: 2015-009

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is a request for a front yard variance submitted by Georgian Inn Beach Club Association, Inc. at 759 South Atlantic Avenue to construct a hard roof gazebo within the calculated rear yard setback. Section 2-27(B)(9)(d) of the Land Development Code requires a calculated rear yard setback based on all structures north and south of the subject property. The average rear yard setback for a hard roofed structure is 52.97'. The open air gazebo is proposed to have a 31' rear yard setback, requiring a variance of 21.97'.

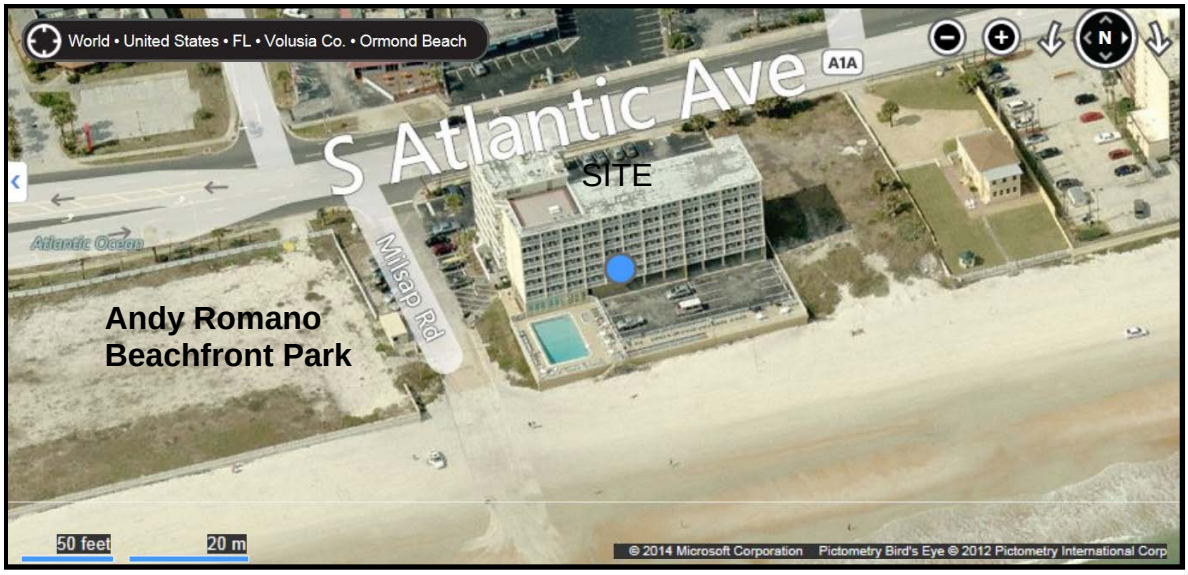
BACKGROUND:

The property is designated as "Oceanfront Tourist Commercial" on the City's Future Land Use Map (FLUM) and is zoned B-6 (Oceanfront Tourist Commercial 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	Vacant land	"Tourist Commercial"	B-6 (Oceanfront Tourist Commercial)
South	Andy Romano Beachfront Park	"Tourist Commercial"	B-6 (Oceanfront Tourist Commercial)
East	Beach & Atlantic Ocean	NA	NA
West	Restaurants	"Tourist Commercial"	B-7 (Highway Tourist Commercial)

Site Aerial



Source: Bing maps

Site picture

The Georgian Inn Beach Club is a 104 unit transient lodging facility. According to City Building Department records, the structure was permitted in 1972 and was issued a Certificate of Occupancy in 1973. The applicant has expressed a desire to install a gazebo and part of a renovation of the pool deck area. Gazebos that are less than 150 square feet are regulated as an accessory structure and are permitted to be 7 ½' to the rear and side property lines. The proposed gazebo is proposed to have a hard roof area of approximately 550 square feet and is required to meet the principal building setbacks of the zoning district. The Site Plan Review Committee (SPRC) met with the architect for the applicant who indicated that the pool area renovations would not decrease parking for the facility below one parking space per each transient lodging unit.

ANALYSIS:

The subject property at 759 South Atlantic Avenue is zoned B-6 (Oceanfront Tourist Commercial). Pursuant to Chapter 2, Article II of the Land Development Code, Section 2-27(B)(9)(d) of the Land Development Code requires a calculated rear yard setback based on all structures north and south of the subject property. The average rear yard setback for a hard roofed structure is 52.97'. The open air gazebo is proposed to have a 31' rear yard setback, requiring a variance of 21.97'.

The applicant's exhibit displays similar gazebo structures at Andy Romano Beachfront park that are located closer to the beach than what is being proposed. Within the B-6 zoning district there are several use categories which have varying setback requirements. Park and recreation facilities are permitted to have principal structures with a 10' setback. This setback is less than those for commercial uses which have the calculated average rear yard setback.

Potential Alternatives:

1. Grant the applicant's request for a 21.97' variance with a resulting 31' setback from the calculated average 52.97' rear yard setback.
2. Deny the request and require the gazebo to be no more than 150 square feet.

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 is the location of the existing building in relationship to the rear property line. The location of the building limits the location of the accessory use gazebo. The fact that the use is a 104 unit transient lodging unit causes the need for a larger gazebo structure than the 150 square feet allowed under the accessory use regulations.

   Argument against the variance: The existing building setback would require that gazebo's on-site meet the accessory structure requirements of no more than 150 square feet in area and no higher than 10'.

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

   Argument for the variance: The existing structure was constructed in 1972/1973 and the building location did not result in any actions of the current property owners.

   Argument against the variance: None. The location of the existing building was 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 calculated average rear yard setback would not allow the construction of the gazebo and would be an undue hardship. Within the application, the applicant states that the gazebo would not be located any closer than the gazebo structures located at Andy Romano park. Reducing the size of the gazebo would have a direct impact on the ability of facility guest enjoying their outdoor experience.

   Argument against the variance: The structure at 869 South Atlantic Avenue meets the calculated average rear yard building setback requirements. This request would turn a conforming structure into a non-conforming structure with 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: There is no other alternative then the variance requested. The gazebo is located as far west as possible while allowing an outdoor pool area with cover. The requested variance is the minimum variance possible to make reasonable use of the property and protect customers.

Argument against the variance: There is no other practical alternative to install a gazebo at this location. The issue becomes if the proposed gazebo merits the issuance of a variance to construct.

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 gazebo to be utilized as part of the outdoor experience for guests of the facility.

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. The variance is designed to protect and provide a covered shelter for guests of the facility.

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: This area of the City is predominately tourist related and the requested gazebo for guests is in harmony with surrounding property. A key factor of the calculated average rear yard is so no one structure blocks the view corridors of other buildings. The proposed gazebo does not have the height that would cause view corridor obstruction on-site or to surrounding properties. The gazebo location is no closer than gazebos located at Andy Romano Park. Staff does not believe that the request will not diminish property values or alter the character of the surrounding area

Argument against the variance: It is staff's opinion that the hard roof addition will not diminish the property values of the surrounding properties.

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.

Argument against the variance: The variance would make a conforming structure in terms of the front yard setback non-conforming. The Board will need to review the applicant's request, staff report, and abutting property owner to come to a final determination on the application.

RECOMMENDATION:

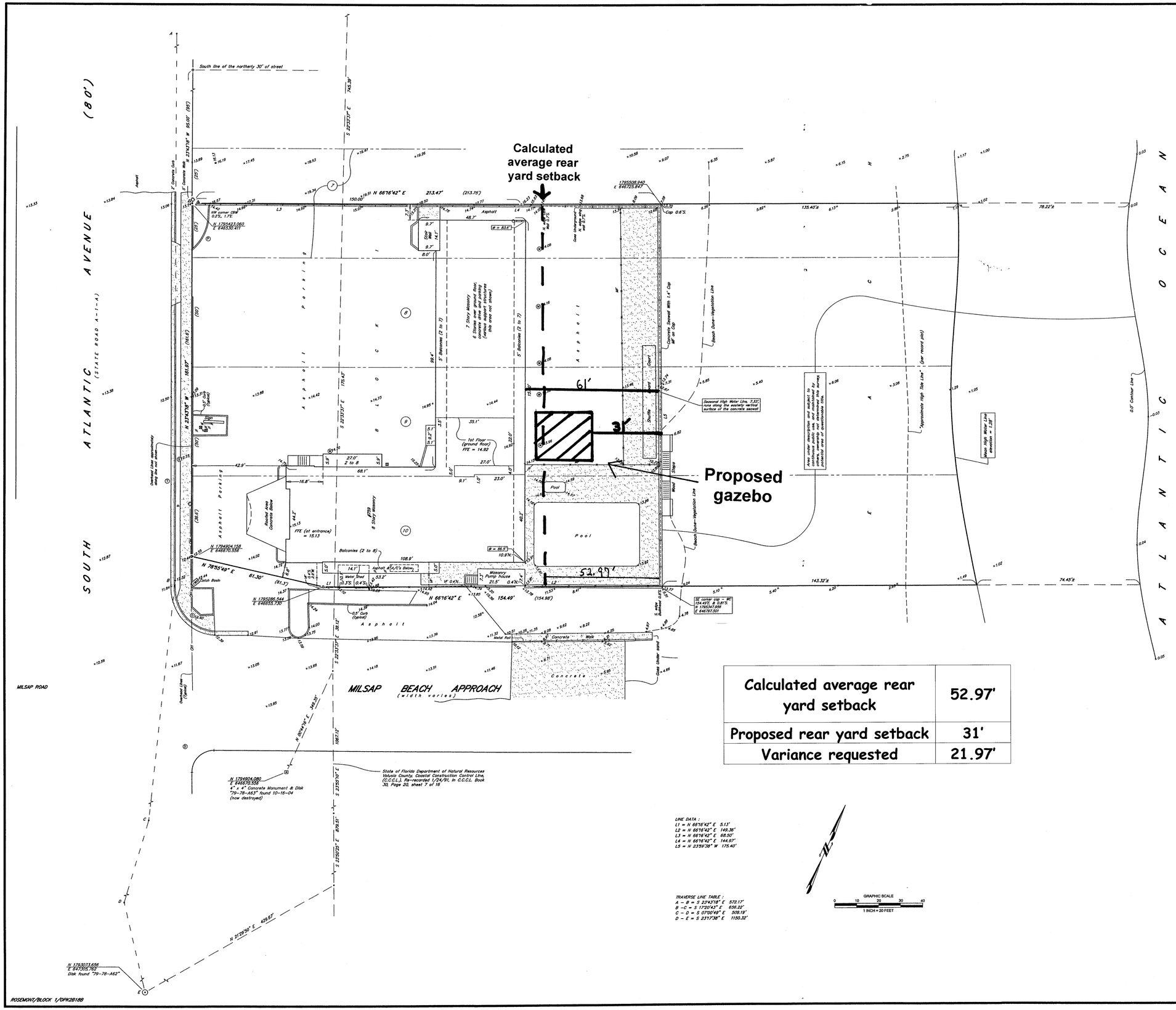
It is recommended that the Board of Adjustment and Appeals **APPROVE** a variance of 21.97, for a rear yard setback of 31' instead of the calculated average rear yard setback 52.97' to install a gazebo at the Georgina Inn Beach Club located at 759 South Atlantic Avenue.

Exhibits:

A: Variance Exhibit
B: Maps and pictures
C: Variance application

Exhibit A

Variance Exhibit



Calculated average rear yard setback	52.97'
Proposed rear yard setback	31'
Variance requested	21.97'

LINE DATA :
L1 = N 66°16'42" E 5.13'
L2 = N 66°16'42" E 149.36'
L3 = N 66°16'42" E 68.50'
L4 = N 66°16'42" E 144.97'
L5 = N 23°59'38" W 175.40'

TRAVERSE LINE TABLE :
A – B = S 23°43'18" E 572.17'
B – C = S 17°20'43" E 656.22'
C – D = S 07°00'49" E 509.19'
D – E = S 23°17'38" E 1150.32'

GRAPHIC SCALE
0 10 20 30 40
1 INCH = 20 FEET

NOTES:

SCALE: 1" = 20'

- ○ – 1 1/4" Iron Pipe and Red Cap #6883 recovered – Witness Corner
- ● – Cut recovered at back of walk on line & 0.18'W. – Witness Corner
- ⊙ – 1" Iron Pipe found 4-23-05
- ⊕ – Cut found
- ⊕ – Cut set
- ⊠ – Water Meter
- ⊼ – Valve
- Ⓟ – Electrical Manhole
- Ⓣ – Telephone Manhole
- Ⓢ – Stormwater Drainage Manhole
- ✱ Denotes measurements perpendicular to the CCCL (Coastal Construction Control Line).

FFE – Finished Floor Elevation
MF – Metal Fence
VF – Vinyl Fence
CBW – Concrete Block Wall
⊠ – Gas Meter
▫ – Sign
△ – Telephone Box
△ – Television Cable Box
◇ – Concrete Pole
Ⓢ – Sanitary Manhole
Ⓜ – Manhole

Lots shown hereon are from Rosemont Subdivision, Map Book 9, page 109, said lots not completely depicted. All of Replat of Georgian Inn Beach Club, not depicted this survey.

No overhead or underground features shown except as noted.

WC – Witness Corner

Record (Plat) dimensions are shown in parenthesis, field measurements are not.

Bearings are assumed, based on the line segment between Department of Natural Resources monuments 79-78-A63 and 79-78-A62 bearing S 19°08'17" E. Coordinates are on North American Datum of 1983.

Elevations are on North American Vertical Datum of 1988 based on National Geodetic Survey Monument "Z 319 RESET", having a published elevation of 10.34 feet.

Mean high water elevation and tide range taken from Tide Interpolation Point, ID 100912, per LABINS.

The easterly boundary of this property is a water boundary and maybe subject to change due to natural causes and it may or may not represent the actual location of the limit of title.

Property Owner: Georgian Inn Beach Club

Property area to the easterly edge of seawall = 37114± square feet (0.8520± acres)

No search or examination of title has been done on the subject property and absolutely no warranties, expressed or implied are made with regard to the state of title or any other aspect thereof. This Surveyor does not presume the description lines hereon and the ownership lines are coincident.

This survey and plat not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

There may be additional restrictions and/or other matters not shown hereon that may be found in the public records of this county, Florida.

PLAT OF BOUNDARY SURVEY OF:

REPLAT OF GEORGIAN INN BEACH CLUB, OF RECORD IN MAP BOOK 38, PAGE 48, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

The above described property lying westerly of the concrete block seawall is in unshaded zone "X", per the Flood Insurance Rate Map, Community Number 125136, Map and Panel Number 12127C0219H, dated 19 February, 2014.

CERTIFICATE:

This is to certify that the plat delineated hereon is in compliance with the Minimum Technical Standards per Sections 5J-17.050 to 5J-17.052, Florida Administrative Code, pursuant to Section 472.027 of the Florida Statutes.

14 October, 2014
(field date)

10-30-14
John J. Matejka, III, P.S.M. #4002
Licensed Business #6883

REPLAT OF GEORGIAN INN BEACH CLUB; ROSEMONT, BLOCK 1

FOR: GEORGIAN INN BEACH CLUB
759 SOUTH ATLANTIC AVENUE
ORMOND BEACH, FLORIDA

BY: J. J. MATEJKA & ASSOCIATES, INC.
PROFESSIONAL SURVEYORS & MAPPERS
408 HARVEY AVENUE
DAYTONA BEACH, FLORIDA
JOB #14 17752 PLAT #14X23

ROSEMONT/BLOCK 1/OPK2818B

EXHIBIT B

- Maps
- Pictures

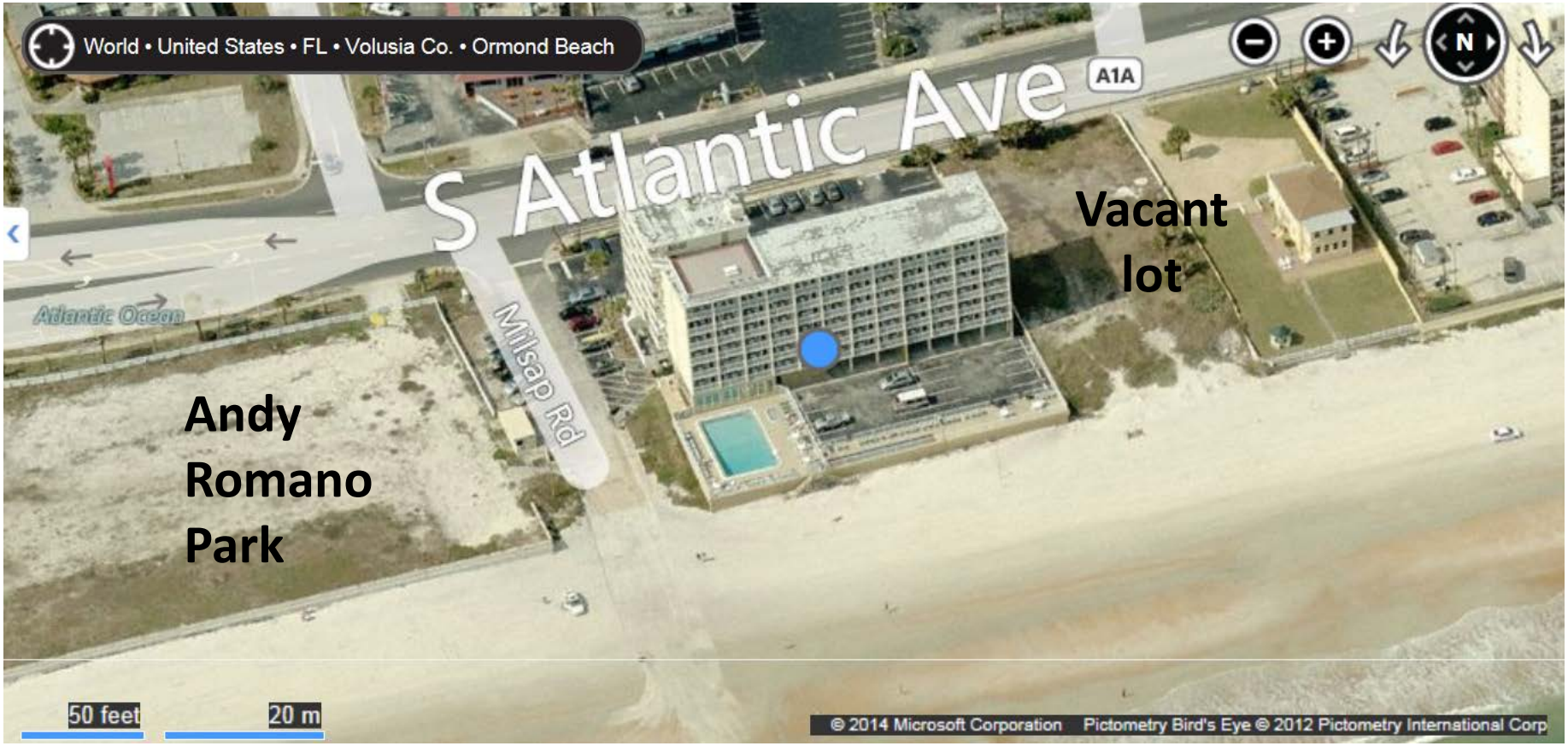
LOCATION MAP

759 South Atlantic Avenue

Planning Department

N
W E
S

759 South Atlantic Avenue, looking west



Source: Bing maps

759 South Atlantic Avenue, looking west

Source: Bing maps

Area of gazebo
11/14/2014

Area of gazebo
11/14/2014

Area of gazebo
11/14/2014

Exhibit C

Applicant provided information

15-9

CITY OF ORMOND BEACH
Planning Department
22 South Beach Street, Ormond Beach, FL 32174
Tel: (386) 676-3238 www.ormondbeach.org comdev@ormondbeach.org

v3.2013

REC'D OCT 30 2014

VARIANCE - APPLICATION

For Planning Department Use

Application Number _____ *Date Submitted* _____

APPLICATION TYPE AND FEES

	Application	Advertising Deposit for Advisory Board	Advertising Deposit for Commission	Total*
☑ Residential or Commercial	350	350	N/A	700
☐ After the Fact Residential or Commercial	700	350	N/A	1050

*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: GEORGIAN INN BEACH CLUB ASSOCIATION, INC.

Full Address: 759 S. ATLANTIC AVE., ORMOND BEACH, FL 32176

Telephone: 386 677 6043 Email: gm@gi-bc.com

* If this application is being submitted by a person other than the property owner, please provide the following Property Owner Information as well as a notarized letter designating you as agent.

PROPERTY OWNER INFORMATION***

Name

Full Address

Telephone Email

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

PROPERTY DETAILS

Full Address: 759 South Atlantic Ave., Ormond Beach, FL 32176

Parcel ID Number: 4223-22-00-0001

Legal Description: COMMON AREA FOR GEORGIAN INN BEACH CLUB PER OR 2274 PG 1306 & MB 38 PG 53

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:

Construct a 550 sq ft (roof area) open air gezebo structure at the condominium pool deck that is located partially beyond the City's beach front setback line.

ABUTTING PROPERTY OWNERS

sent email

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

Signature	Street Address	For	Against
	749 S ATLANTIC AV ORMOND BEACH 32176	☐	☐
	839 S ATLANTIC AV 128UT ORMOND BEACH	☐	☐
	this is city property - do not address	☐	☐

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.

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:

The proposed structure is not a principal structure. The principal structure is the existing condominium which is west of the City's beach setback line and is therefor conforming. The gazebo is an open air shade structure located adjacent to the pool. It cannot be located any further to the west because of the existing condominium structure.

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

The principal structure prevents the gazebo from being located west of the City's beach setback line.

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:

The proposed gazebo structure will be located similarly to the recently constructed open air (gazebo) structures at the adjacent property to the south.

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:

The proposed gazebo is located as far west as physically possible due to the existing condominium structure.

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:

There are no cost advantages to the proposed structure location.

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

The proposed structure will have no effect on the traffic of the surrounding streets, or the danger of fire or other hazard 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:

The proposed structure is not a principal structure. The open air gazebo will not diminish property values in, nor alter the essential character of, the area surrounding the site.

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:

The proposed gazebo structure will be located similarly to the recently constructed open air (gazebo) structures at the adjacent property to the south.

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:

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

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:

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:

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

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

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 hearing.

Signature: _____

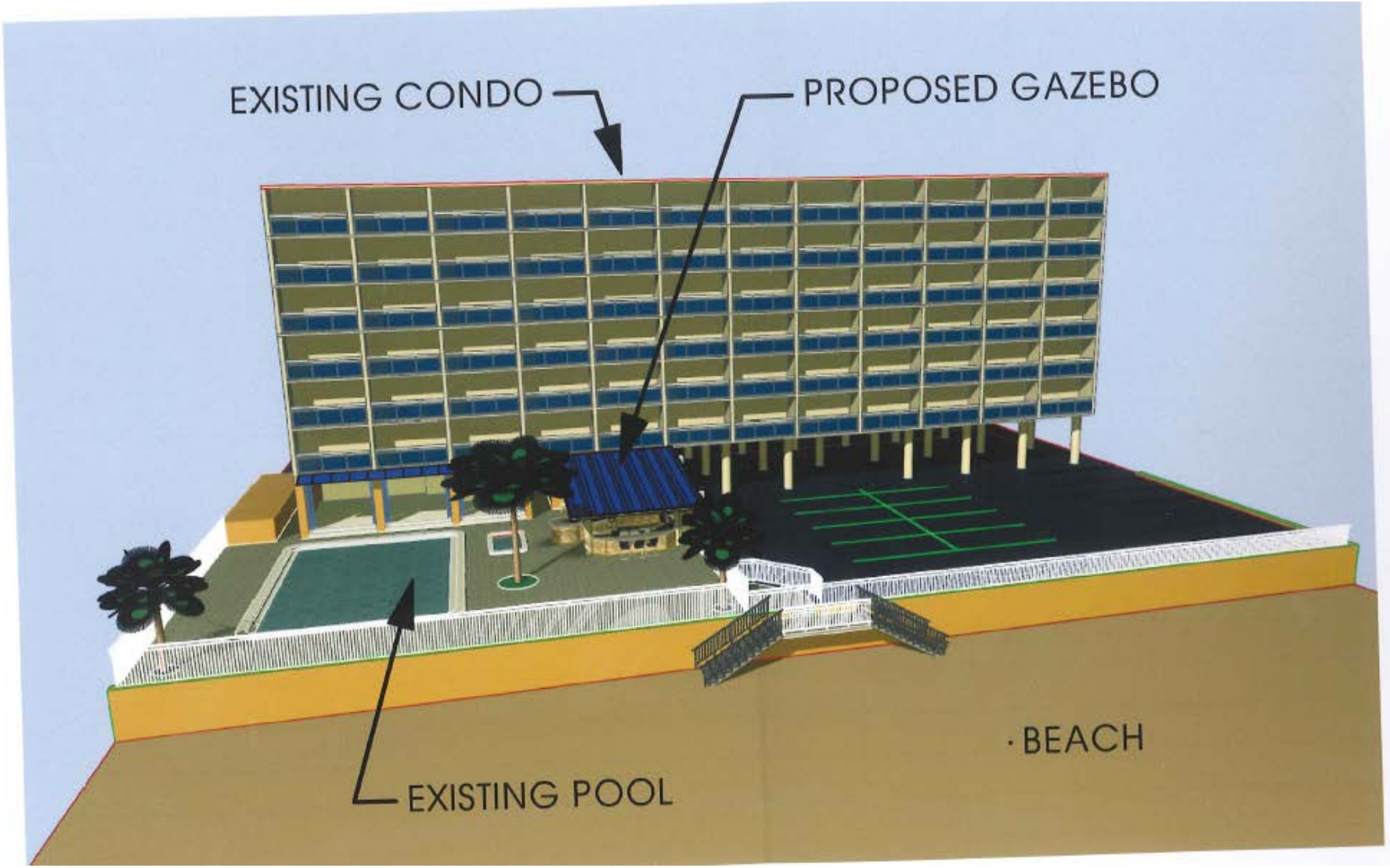
STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 30th day of Oct., 2014, by Alan Davis, as Board President (title*) for Georgian Inn Beach Club (name of corporation*), who (_) provided DL as identification, or (✓) who is personally known to me.

SHEREE MURRAY
MY COMMISSION EXPIRES September 30, 2017
#FF 058492
Bonded thru Budget Notary Services
NOTARY PUBLIC, STATE OF FLORIDA

Sheree Murray
Notary Public, State of Florida
My Commission Expires: 9/30/2017

* If you are executing this document on behalf of a corporation please complete the spaces with your title and the name of your company as indicated.


EXISTING CONDO
PROPOSED GAZEBO
EXISTING POOL
BEACH

PROPOSED GAZEBO
ESTIMATED CITY SETBACK LIN
SIMILAR EXISTING
GAZEBO STRUCTURES
Georgian Inn Beach Club
A1A
S Atlantic Ave
Milsap Rd
© 2014 Google
Google earth

29300665

BOOK PAGE
VOLUSIA COUNTY

This instrument was prepared by
R. Michael Kennedy

KENNEDY and FULLER, P.A.
Attorney at Law
687 Beville Road, Suite A
SOUTH DAYTONA, FLORIDA 32019
Phone: 904/755-0588

CORRECTIVE

Warranty Deed (STATUTORY FORM—SECTION 689.02 F.S.)

This Indenture, Made this 7th day of January, 1987, **Between**

AQUA SUN INVESTMENTS, INC., a Florida corporation,

of the County of Volusia, State of Florida, grantor*, and

GEORGIAN INN BEACH CLUB ASSOCIATION, INC.,

whose post office address is 759 South Atlantic Avenue, Ormond Beach,

of the County of Volusia, State of Florida 32074, grantee*,

Witnesseth, That said grantor, for and in consideration of the sum of ----------TEN and NO/100($10.00)---------- Dollars, and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs and assigns forever, the following described land, situate, lying and being in Volusia County, Florida, to-wit:

Unit Weeks 50 and 53 in Condominium Parcel Numbers 201 through 217, inclusive; Unit Weeks 51 and 53 in Condominium Parcel Numbers 301 through 317, inclusive; Unit Weeks 52 and 53 in Condominium Parcel Numbers 401 through 417, inclusive; Unit Weeks 1 and 53 in Condominium Parcel Numbers 501 through 517, inclusive; Unit Weeks 2 and 53 in Condominium Parcel Numbers 601 through 617, inclusive; Unit Weeks 3 and 53 in Condominium Parcel Numbers 701 through 717, inclusive; Unit Weeks 49 and 53 in Condominium Parcel Number 801; Unit Weeks 1 and 53 in Condominium Parcel Number 802, of GEORGIAN INN BEACH CLUB, a Condominium according to the Declaration of Condominium thereof, recorded in Official Records Book 2274, Page 1306 et seq., Public Records of Volusia County, Florida.

This Corrective Warranty Deed is being recorded to change Unit Week 1, Unit 801 to Unit Week 49, Unit 801 as the maintenance week (together with Unit Week 53) for Condominium Parcel Number 801.

and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

*"Grantor" and "grantee" are used for singular or plural, as context requires.

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

R. Michael Kennedy
Susan E. Stein

AQUA SUN INVESTMENTS, INC. (Seal)
By: Bill Carlson, President (Seal)
(Seal)
(Seal)

FILED FOR RECORD
RECORD VERIFIED
JAN 27 3 24 PM '87
Clerk Circuit Court

STATE OF FLORIDA
COUNTY OF VOLUSIA

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally appeared BILL CARLSON, President of AQUA SUN INVESTMENTS, INC a Florida corporation, to me known to be the person described in and who executed the foregoing instrument and acknowledged before me that he executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 7th day of January, 1987.

R. Michael Kennedy
Notary Public

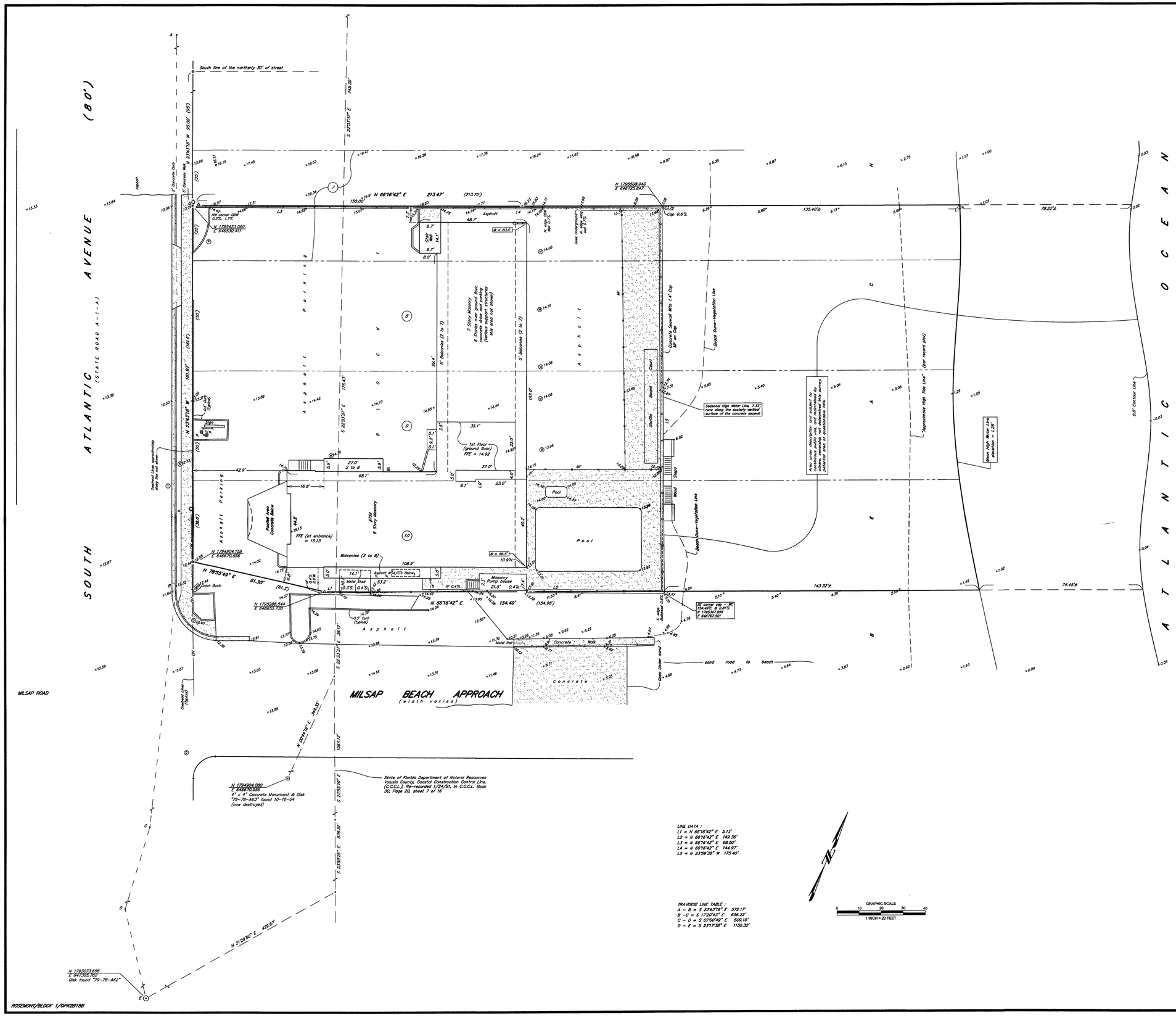
My commission expires:

DOC. TAX $ 5.00 RECEIPT PAYMENT ON
INT. TAX $ .50 INDICATED OR CLASS
INTANGIBLE TAX $ ____ OF INTANGIBLE TAX OR
STAMP TAX $ ____ STAMP TAX, STONED
Clerk Circuit Court Volusia Co. Florida

NOTARY PUBLIC STATE OF FLORIDA
MY COMMISSION EXP. APR 14, 1990
BONDED THRU GENERAL INS. UND.

01047

CIRCUIT COURT CLERK
VOLUSIA COUNTY, FLORIDA
STATE OF FLORIDA, VOLUSIA COUNTY
I HEREBY CERTIFY the foregoing is a true copy of the original filed in this office. This 27th day of October 2014
Clerk of Circuit and County Court
By: Susan E. Stein
Deputy Clerk



LINE DATA :
L1 = N 66°16'42" E 5.13'
L2 = N 66°16'42" E 149.36'
L3 = N 66°16'42" E 55.50'
L4 = N 66°16'42" E 144.97'
L5 = N 23°59'38" W 175.40'

TRAVERSE LINE TABLE :
A – B = S 23°43'18" E 572.17'
B – C = S 17°20'43" E 556.22'
C – D = S 07°30'49" E 509.19'
D – E = S 23°17'38" E 1150.32'

GRAPHIC SCALE
0 10 20 30 40
1 INCH = 20 FEET

NOTES: **SCALE: 1" = 20'**

- ⊙ – 1 1/4" Iron Pipe and Red Cap #6883 recovered – Witness Corner
- ● – Cut recovered at back of walk on line & 0.18'W. – Witness Corner
- ⊙ – 1" Iron Pipe found 4-23-05
- ⊕ – Cut found
- ⊕ – Cut set
- ⊠ – Water Meter
- ⊗ – Valve
- Ⓟ – Electrical Manhole
- Ⓣ – Telephone Manhole
- Ⓓ – Stormwater Drainage Manhole
- ✱ Denotes measurements perpendicular to the CCCL (Coastal Construction Control Line).

FFE – Finished Floor Elevation
MF – Metal Fence
VF – Vinyl Fence
CBW – Concrete Block Wall
⊞ – Gas Meter
▫ – Sign
Δ – Telephone Box
Δ – Television Cable Box
☼ – Concrete Pole
Ⓢ – Sanitary Manhole
Ⓜ – Manhole
WC – Witness Corner

Lots shown hereon are from Rosemont Subdivision, Map Book 9, page 109, said lots not completely depicted. All of Replat of Georgian Inn Beach Club, not depicted this survey.

No overhead or underground features shown except as noted.

Record (Plat) dimensions are shown in parenthesis, field measurements are not.

Bearings are assumed, based on the line segment between Department of Natural Resources monuments 79-78-A63 and 79-78-A62 bearing S 19°08'17" E. Coordinates are on North American Datum of 1983.

Elevations are on North American Vertical Datum of 1988 based on National Geodetic Survey Monument "Z 319 RESET", having a published elevation of 10.34 feet.

Mean high water elevation and tide range taken from Tide Interpolation Point, ID 100912, per LABINS.

The easterly boundary of this property is a water boundary and maybe subject to change due to natural causes and it may or may not represent the actual location of the limit of title.

Property Owner: Georgian Inn Beach Club

Property area to the easterly edge of seawall = 37114± square feet (0.8520± acres)

No search or examination of title has been done on the subject property and absolutely no warranties, expressed or implied are made with regard to the state of title or any other aspect thereof. This Surveyor does not presume the description lines hereon and the ownership lines are coincident.

This survey and plat not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

There may be additional restrictions and/or other matters not shown hereon that may be found in the public records of this county, Florida.

PLAT OF BOUNDARY SURVEY OF:

REPLAT OF GEORGIAN INN BEACH CLUB, OF RECORD IN MAP BOOK 38, PAGE 48, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

The above described property lying westerly of the concrete block seawall is in unshaded zone "X", per the Flood Insurance Rate Map, Community Number 125136, Map and Panel Number 12127C0219H, dated 19 February, 2014.

CERTIFICATE:

This is to certify that the plat delineated hereon is in compliance with the Minimum Technical Standards per Sections 5J-17.050 to 5J-17.052, Florida Administrative Code, pursuant to Section 472.027 of the Florida Statutes.

14 October, 2014
(field date)

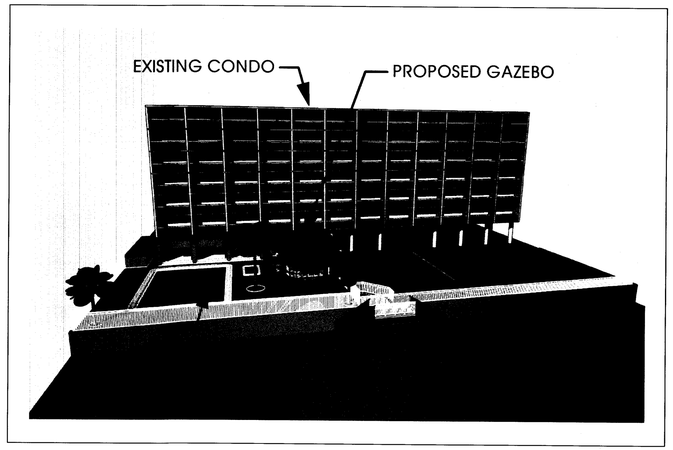
10-30-14
John J. Matejka, III, P.S.M. #4002
Licensed Business #6883

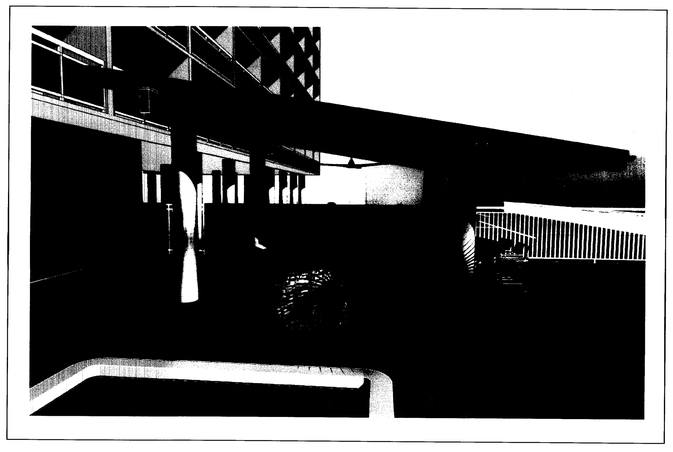
REPLAT OF GEORGIAN INN BEACH CLUB; ROSEMONT, BLOCK 1

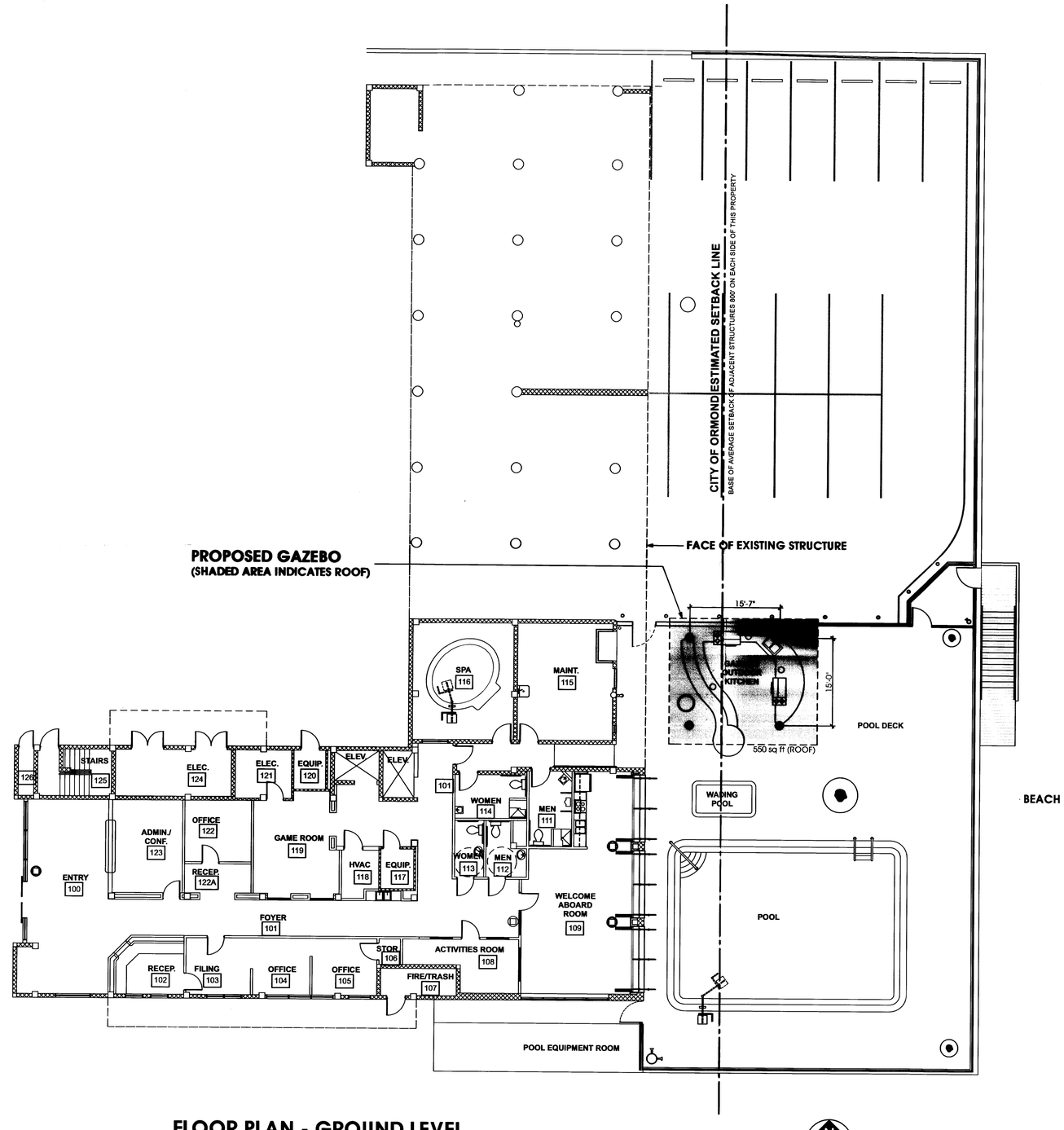
FOR: GEORGIAN INN BEACH CLUB
759 SOUTH ATLANTIC AVENUE
ORMOND BEACH, FLORIDA

BY: J. J. MATEJKA & ASSOCIATES, INC.
PROFESSIONAL SURVEYORS & MAPPERS
408 HARVEY AVENUE
DAYTONA BEACH, FLORIDA
JOB #14 17752 PLAT #14X23

All ideas, designs, arrangements and plans indicated or represented by this drawing are owned by and the property of SCOTT WALDROFF ARCHITECT, incorporated, and were created, evolved and developed for the use on and in connection with this specific project.







FLOOR PLAN - GROUND LEVEL

SCALE: 1"= 10'-0"

STATE OF FLORIDA
SCOTT WALDROFF
LICENSED ARCHITECT
REGISTERED
AR0001409

SCOTT WALDROFF
ARCHITECT
1063 RED MAPLE CT.
NEW SMYRNA BEACH, FL 32168
321-688-3211
scottw1@att.net

GEORGIAN INN BEACH CLUB

INTERIOR ALTERATIONS AND POOL DECK MODIFICATIONS

ORMOND BEACH, FLORIDA

No.	Date	ISSUED FOR:

REVISIONS

OCT. 2014

VARIANCE

SHEET NUMBER

1

of 1

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: November 21, 2014

SUBJECT: 1 London Lane

APPLICANT: Phillip Sherwood of the Phillip Sherwood Revocable Trust, property owner

FILE NUMBER: V-2015-010

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is a request for a rear and side corner yard variance submitted by Phillip Sherwood of the Phillip Sherwood Revocable Trust, property owner of 1 London Lane. The property at 1 London Lane is zoned R-5 (Multi-Family Medium Density). The applicant is requesting two variances: **(1) Rear Yard:** Section 2-18.B.9.b of the Land Development Code requires a 20' rear yard setback. The applicant is requesting a rear yard setback of 10.2' to construct a room addition, requiring a variance of 9.8' to the required 20' rear yard setback. **(2) Side Yard:** Section 2-18.B.9.d of the Land Development Code requires a 20' side corner yard setback. The applicant is requesting a side corner yard setback of 14' to construct a room addition, requiring a variance of 6' to the required 20' side yard setback.

BACKGROUND:

The property is designated as "Medium Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-5 (Multi Family 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 subject property is a multifamily unit within the Gardens of New Britain subdivision. There are four units with the building where the subject property is located. The Gardens of New Britain multi-family development was approved in 1977 by the City Commission with Resolution 77-106 and amended with Resolution 78-104.

Research through the 1977 and 1978 approvals does not indicate the establishment of a rear or side corner yard setback for room additions, other than the zoning district requirements. There have been few building permits over the last 15 years for room additions. Staff did find two permits that allowed the construction of sunrooms at a setback less than 25', however, no documentation exists on how the reduced setback was allowed. There have been two recent variance cases that have reduced the rear yard setback to 10'.

The adjacent land uses and zoning for the surrounding properties are as follows:

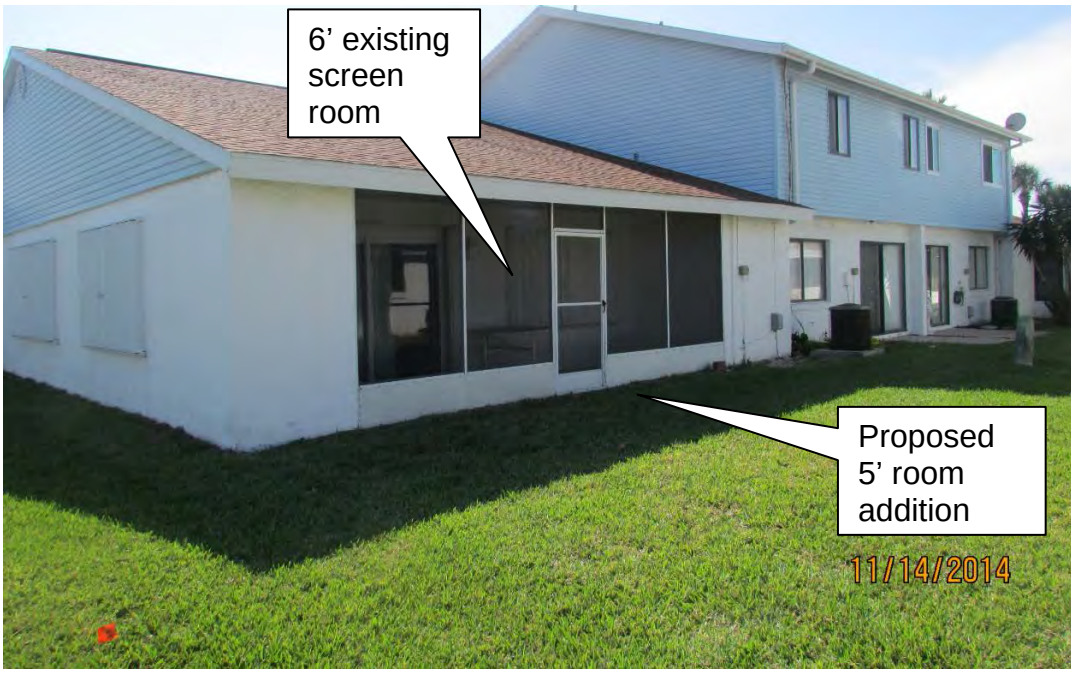
Adjacent land uses and zoning:

	Current Land Uses	Future Land Use Designation	Zoning
North	New Britain multi-family	"Medium Density Residential"	R-5 (Multi Family Medium Density)
South	New Britain multi-family	"Medium Density Residential"	R-5 (Multi Family Medium Density)
East	New Britain multi-family	"Medium Density Residential"	R-5 (Multi Family Medium Density)
West	New Britain multi-family	"Medium Density Residential"	R-5 (Multi Family Medium Density)

As show below, the development is bounded by Ormond Shores Drive to the north and Northshore Drive to the south.

The applicant is seeking to add on to the rear of the structure for a total of 5', which would leave a 10.2' rear yard setback and a side corner yard setback of 14'. The subject property is located on a corner roadway within the overall development. The side setback is even with the existing building plane of the structure. The existing structure has a 6' covered porch which is not a functional room to use based on the limited depth. The goal of the variance application is to allow a function use of the room area by expanding the room depth. Below are pictures of the area where the room addition is proposed:

Area of proposed addition:



Examples of existing additions in the complex.

ANALYSIS:

There are two variances that would be needed for the requested room addition. First, Section 2-18.B.9.b of the Land Development Code requires a 20' rear yard setback. The applicant is requesting a rear yard setback of 10.2' to construct a room addition, requiring a variance of 9.8' to the required 20' rear yard setback. The second variance needed pertains to Section 2-18.B.9.d of the Land Development Code that requires a 20' side corner yard setback. The applicant is requesting a side corner yard setback of 14' to construct a room addition, requiring a variance of 6' to the required 20' side yard setback.

Rear Yard Potential Alternatives:

1. Grant the applicant's request and allow a 10.2' setback on the rear yard, granting a 9.8' variance.
2. Deny the request as presented and not allow the construction of the screen room.

Side Yard Potential Alternatives:

1. Grant the applicant's request and allow a 14' setback on the rear yard, granting a 6' variance.
2. Deny the request as presented and not allow the construction of the screen room.

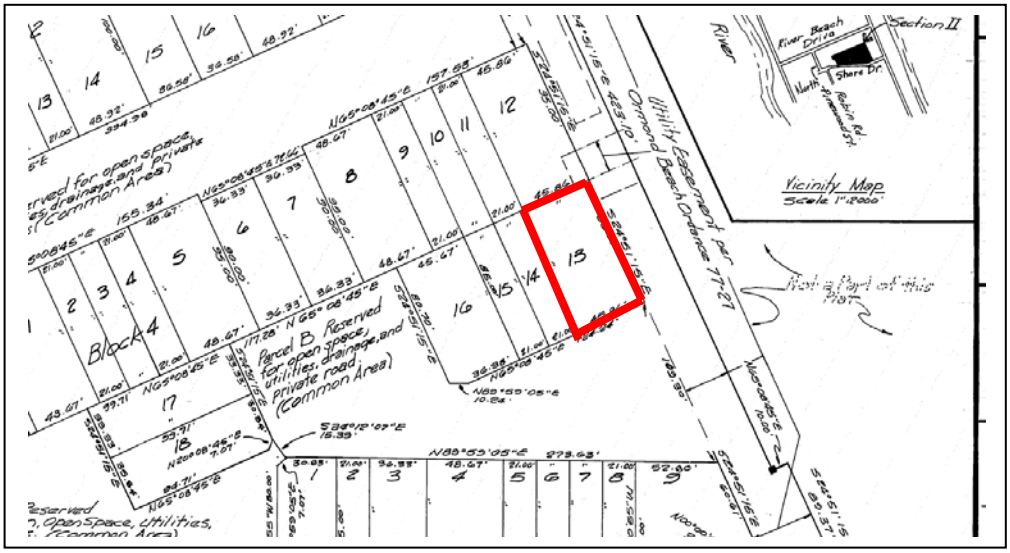
CONCLUSION:

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.**

   Argument for the rear and side corner yard variances: The R-5 zoning classification requires a minimum lot area of one acre for multi-family development. The property was platted as part of the New Britain subdivision, Unit II as shown below:



The subject property is lot 13 of the plat and is 45' in width and 85' in depth. The property is part of a four unit building is and located next to the drive aisle for the complex. The subject property meets the minimum lot standards established in the New Britain subdivision, Unit II plat approved by the City of Ormond Beach.

<u>Argument against the rear and side corner yard variances:</u> None. The property was a part of a multifamily development and was platted into a lot.

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

<u>Argument for the rear and side corner yard variances:</u> There is no other alternative for the construction of a building addition. The purpose of the building addition is to transform a non-functional screen room of 6' in depth into a functional room. The existing building configuration and the R-5 zoning district dimensions limit the ability to expand and meet the required setbacks. The Gardens at New Britain subdivision's existing built structures conflicts and does not comply with the general R-5 zoning district's dimensional standards. As a result, when property owners desire to expand their structures, a variance is required.

<u>Argument against the rear and side corner yard variances:</u> None. Given the established lot lines, there is no ability for additional building square footage. The only alternative would be to not allow the building expansion.

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.**

<u>Argument for the rear and side corner yard variances:</u> The existing multi-family use residential uses are a permitted use in the R-5 zoning district and are consistent with the purpose of this zoning district. There is a number of exiting hard roof additions throughout the complex and the proposed addition is consistent with the existing built environment.

Argument against the rear and side corner yard variances: None.

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

Argument for the rear and side corner yard variances: The proposed addition will be in line with the existing structure at 1 London Lane for the side corner yard and will not block any view corridors with the rear yard addition. The side corner yard variance does not extend out any further than the existing building. The proposed rear yard variance is consistent with the 10' rear yard setback Planning staff has supported in previous variance applications.

Argument against the rear and side corner yard variances: None.

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

Argument for the rear and side corner yard variances: The request is in scale with the adjacent structures and will be a one-story structure. The request is an investment into the Gardens of New Britain subdivision. The Gardens of New Britain project has architectural controls separate of the City Land Development Code that have approved the request and will ensure consistency of the proposed addition. The proposed addition will make the existing room more functional for the property owners.

Argument against the variance: None. The proposed expansion is in scale with surrounding buildings.

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

Argument for the variance: The proposed room addition will not impact adjacent properties by limiting view or increasing light or noise for either the rear or side yards.

Argument against the variance: None.

RECOMMENDATION: It is recommended that the Board of Adjustments and Appeals **APPROVE** the following two variances at 1 London Lane:

1. **Rear Yard:** A variance of 9.8' to the required 20' rear yard setback (Section 2-18.B.9.b of the Land Development Code), with a resulting setback of 10.2'.
2. **Side Yard:** A variance of 6' to the required 20' side corner yard setback (Section 2-18.B.9.d of the Land Development Code), with a resulting setback of 14'.

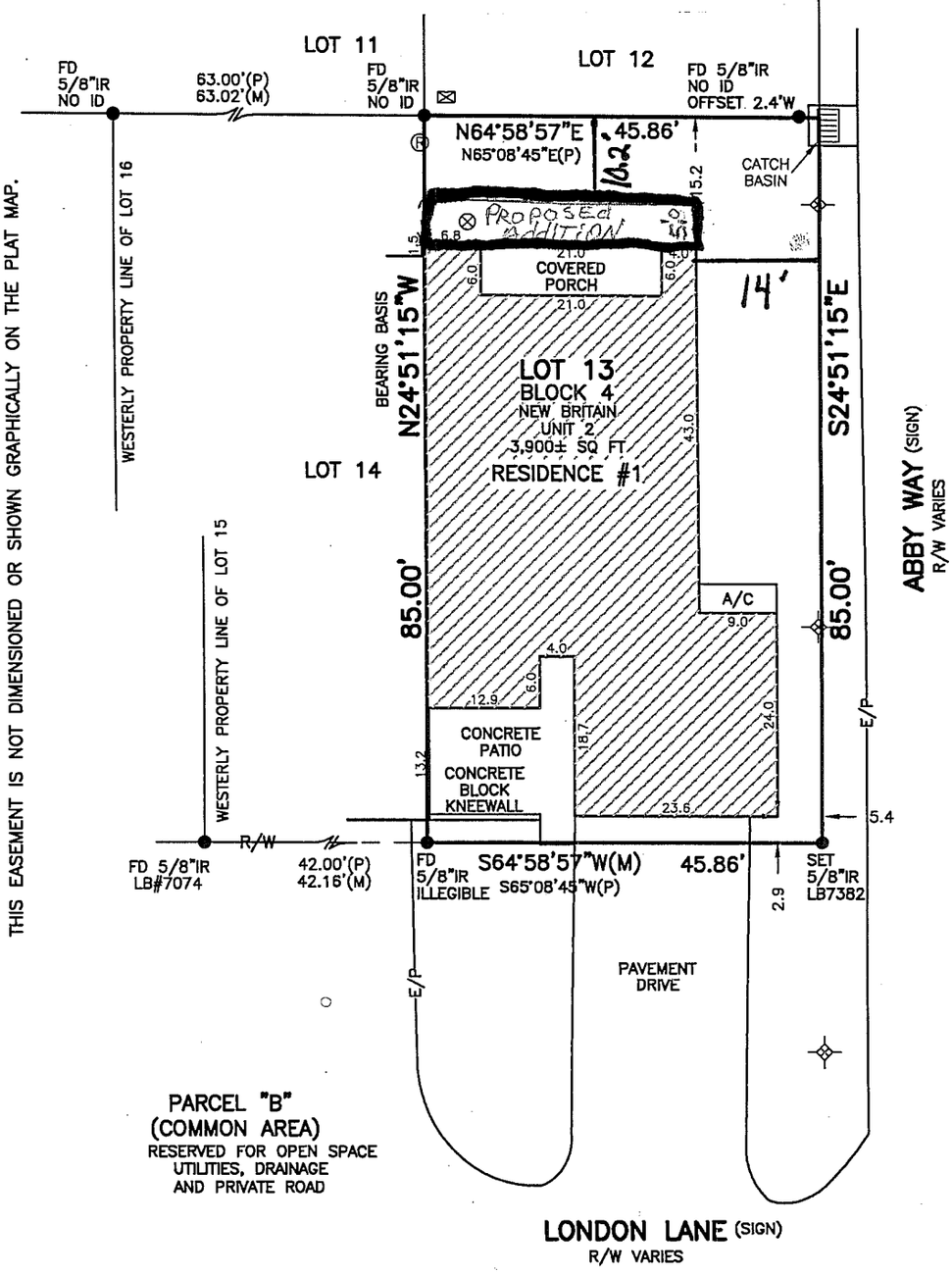
Exhibit A

Variance Exhibit

1 London Lane
Plot Plan

NOTE:
PER PLAT "A NON-EXCLUSIVE BLANKET EASEMENT IS HEREBY CREATED ON THE LOTS SHOWN HEREON FOR THE PURPOSE OF INSTALLING AND MAINTAINING UTILITIES AND DRAINAGE FACILITIES, WITH THE EXPRESSED PROVISION THAT ANYONE PERFORMING WORK WITHIN THESE EASEMENTS, SHALL RESTORE THE PROPERTY TO THE CONDITION EXISTING PRIOR TO SAID WORK.
AT SUCH TIME AS BUILDING PERMITS ARE ISSUED ON EACH LOT, THIS EASEMENT SHALL TERMINATE WITHIN THE CONFINES OF THE PERMITTED STRUCTURE.
THE DEVELOPER AND ITS ASSIGNS RESERVE THE RIGHT TO REVOKE THIS BLANKET EASEMENT BY CREATING SPECIFIC EASEMENTS FOR DRAINAGE AND UTILITIES, WHICH ARE DEFINED TO INCLUDE, WITHOUT LIMITATION, WATER AND SEWER, ELECTRICITY, CABLE TELEVISION, SECURITY SYSTEMS AND TELEPHONE"

THIS EASEMENT IS NOT DIMENSIONED OR SHOWN GRAPHICALLY ON THE PLAT MAP.



Required rear yard setback = 20'
Proposed rear yard setback = 10.2'
Variance required = 9.8'

Required side corner yard setback = 20'
Proposed side corner setback = 14'
Variance required 6'

NOTES:
1. Description furnished by client. No title work provided.
2. Underground improvements and utilities are not located.
3. Bearings are assumed and are based on plat datum.
4. Dimension category is shown in parenthesis ( ), when they differ from record dimensions. Monuments that fall within the suburban closure of 1:5000 [as per 5J-17.051(3)15bii] are not differentiated.
5. Overhead electric not located unless shown.

LEGEND:

℄	Center Line	L.B.	Licensed Business
FD	Found	L.S.	Licensed Surveyor
N/D	Nail and Disk	PSM	Professional Surveyor & Mapper
IR	Iron Rod	CONC	Concrete
(P)	Plat Bearing & Distance	P.C.P.	Permanent Control Point
(M)	Measured Bearing & Distance	W/M	Water Meter
C/S	Concrete Slab	P/P	Power Pole
R/W	Right of Way	®	Utility Riser
E/P	Edge of Pavement	⊗	Clean Out
A/C	Air Conditioner		Light Post
SQ FT	Square Feet		

DESCRIPTION:
LOT 13, BLOCK 4, NEW BRITAIN SECTION 2, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 96, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PREPARED FOR:
-- SHERWOOD, PHILIP & BARBARA
--
--
--

TYPE SURVEY: Boundary
DATE OF FIELD-OFFICE WORK ORDER# 06/10/14 06/11/14 1406034 JMM

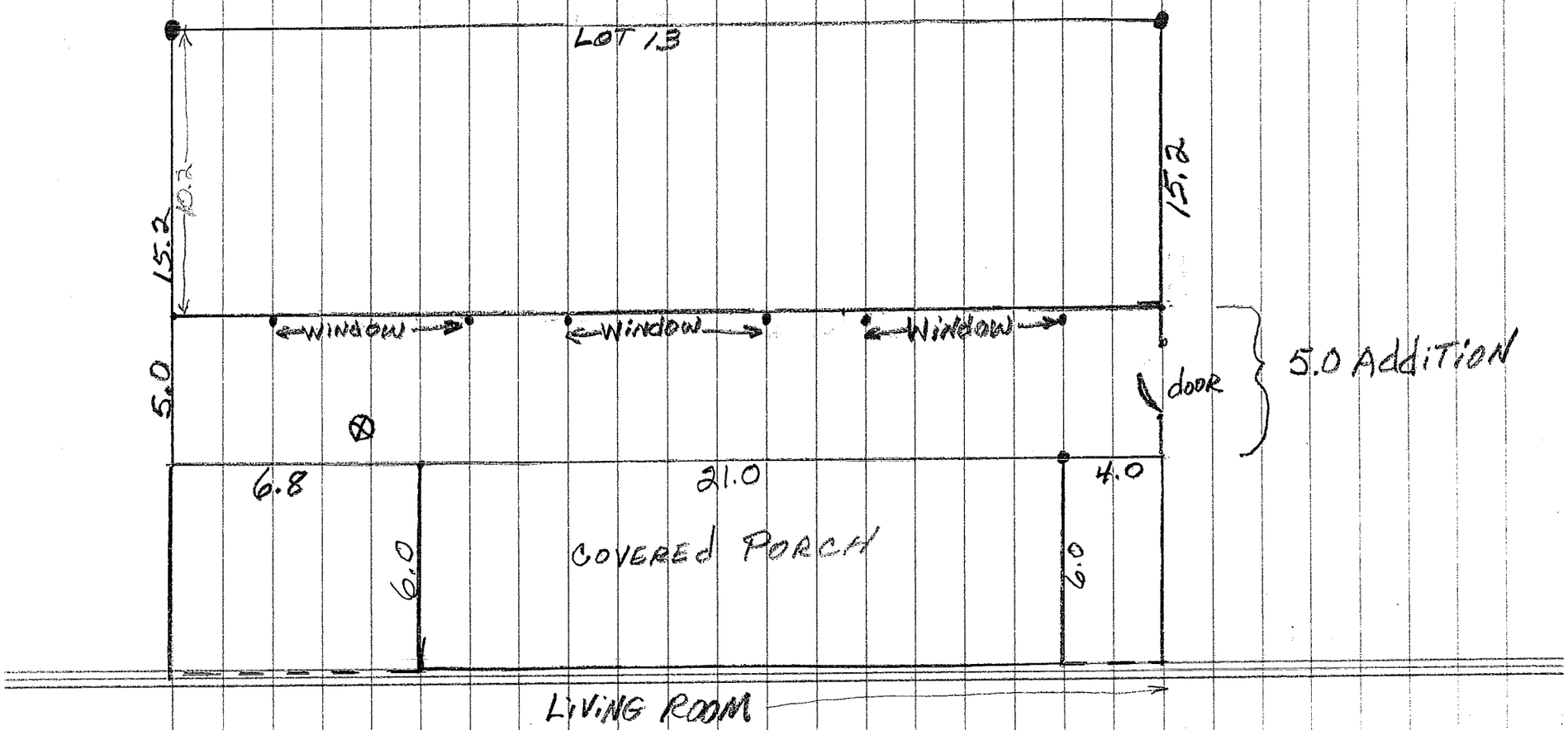
EAST COAST LAND SURVEYING
11 Coolidge Ave. Suite-J, Ormond Beach FL 32174
PHONE (386) 672-3633 or (386) 437-0123 FAX (386) 672-3635

THE FOREGOING PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, AS PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

A Sanzone 06/11/14

ANTHONY SANZONE, PSM# 6309 LB #7382

Not valid without the signature and the original raised seal of a Florida Licensed surveyor and mapper.

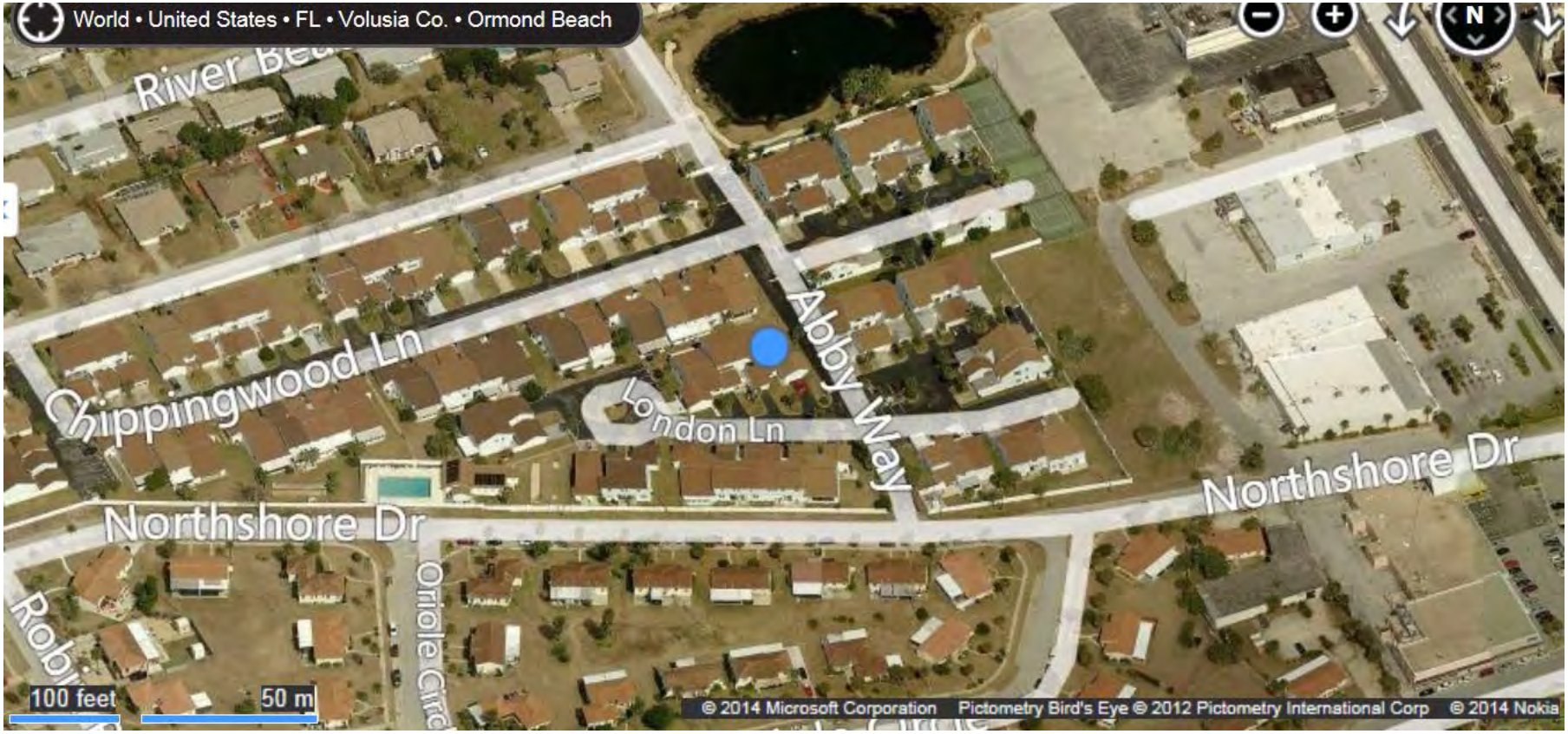

LOT 13
15.2
10.2
15.2
WINDOW
WINDOW
WINDOW
5.0
door
5.0 ADDITION
6.8
21.0
4.0
6.0
COVERED PORCH
6.0
LIVING ROOM

1 LONDON LN

EXHIBIT B

- Maps
- Pictures

Aerial view of the Gardens at New Britain



Source: Bing maps

Looking west

Source: Bing maps

Looking east

Source: Bing maps

Existing area to the rear of 1 London Lane.

Area where addition is proposed
11/14/2014

Front of 1 London Lane

Picture of existing room at 1 London Lane which is 5’ in width.

Other hard roof additions within close proximity to 1 London Lane.

Exhibit C

Applicant provided information

CITY OF ORMOND BEACH
Planning Department
22 South Beach Street, Ormond Beach, FL 32174
Tel: (386) 676-3238 www.ormondbeach.org comdev@ormondbeach.org

v3.2013

VARIANCE - APPLICATION

For Planning Department Use

Application Number | *Date Submitted*

APPLICATION TYPE AND FEES

	Application	Advertising Deposit for Advisory Board	Advertising Deposit for Commission	Total*
☒ Residential or Commercial	350	350	N/A	700
☐ After the Fact Residential or Commercial	700	350	N/A	1050

*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: PHILLIP D. SHERWOOD

Full Address: 1 LONDON LANE ORMOND BEACH, FL 32176

Telephone: 6308945239 OR 6308413393 Email: PHILSHERWOOD@COMCAST.NET

* If this application is being submitted by a person other than the property owner, please provide the following Property Owner Information as well as a notarized letter designating you as agent.

PROPERTY OWNER INFORMATION***

Name: THE PHILLIP D. SHERWOOD REVOCABLE TRUST DATED MARCH 27, 2001 AND THE BARBARA J.

Full Address: 702 VALLEY VIEW DR. SCHAUMBURG, IL 60193

Telephone: 6308945239 Email: PHILSHERWOOD@COMCAST.NET

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

PROPERTY DETAILS

Full Address: 1 LONDON LANE ORMOND BEACH, VOLUSIA COUNTY, FLORIDA 32176

Parcel ID Number: 23-14-32-20-04-0130

Legal Description: LOT 13 BLK 4 NEW BRITAIN SUB UNIT 2 MB 35 PG 96 PER OR 2823 PG 0404 PER DIC 5800 PG 3716 PER DIC 5800 PG 3715 PER OR

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:

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
Raymond D Wuehlen	51 Chippingwood Ln, 32176	☑	☐
Deborah A Wuehlen	51 Chippingwood Ln Ormond Beach 32176	☑	☐
		☐	☐

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.

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:

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

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:

Request:

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
X Kathleen Schulder	X 3 London Lane Ormond Beach, FL	☒	☐
[illegible]	43 Chippingwood Ln HOA	☒	☐
President HOA	11 1/2 London Ln	☐	☐

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.

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:

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

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:

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:

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:

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

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:

CRITERIA: NONCONFORMING SEE ATTACHMENTS

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 per the approved Plat.

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

There is no other way to alter the structure without going into the setback.

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, there are multiple stuctures located throughout the complex at the same setback.

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, the expansion will "square off" the existing building and does not extend beyond any adjacent buildings.

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

Yes in scale - see pictures.

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

NO does not block views and please see abutting property owners NO OBJECTION signatures.

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 hearing.

Signature: Phillip D Sherwood

Phillip D. Sherwood

STATE OF FLORIDA

COUNTY OF _____

The foregoing instrument was acknowledged before me this 22nd day of Oct, 2014, by Phillip D Sherwood, as _____ (title*) for _____ (name of corporation*), who (_) provided D.L S630 0044 7 224 as identification, or (_) who is personally known to me.

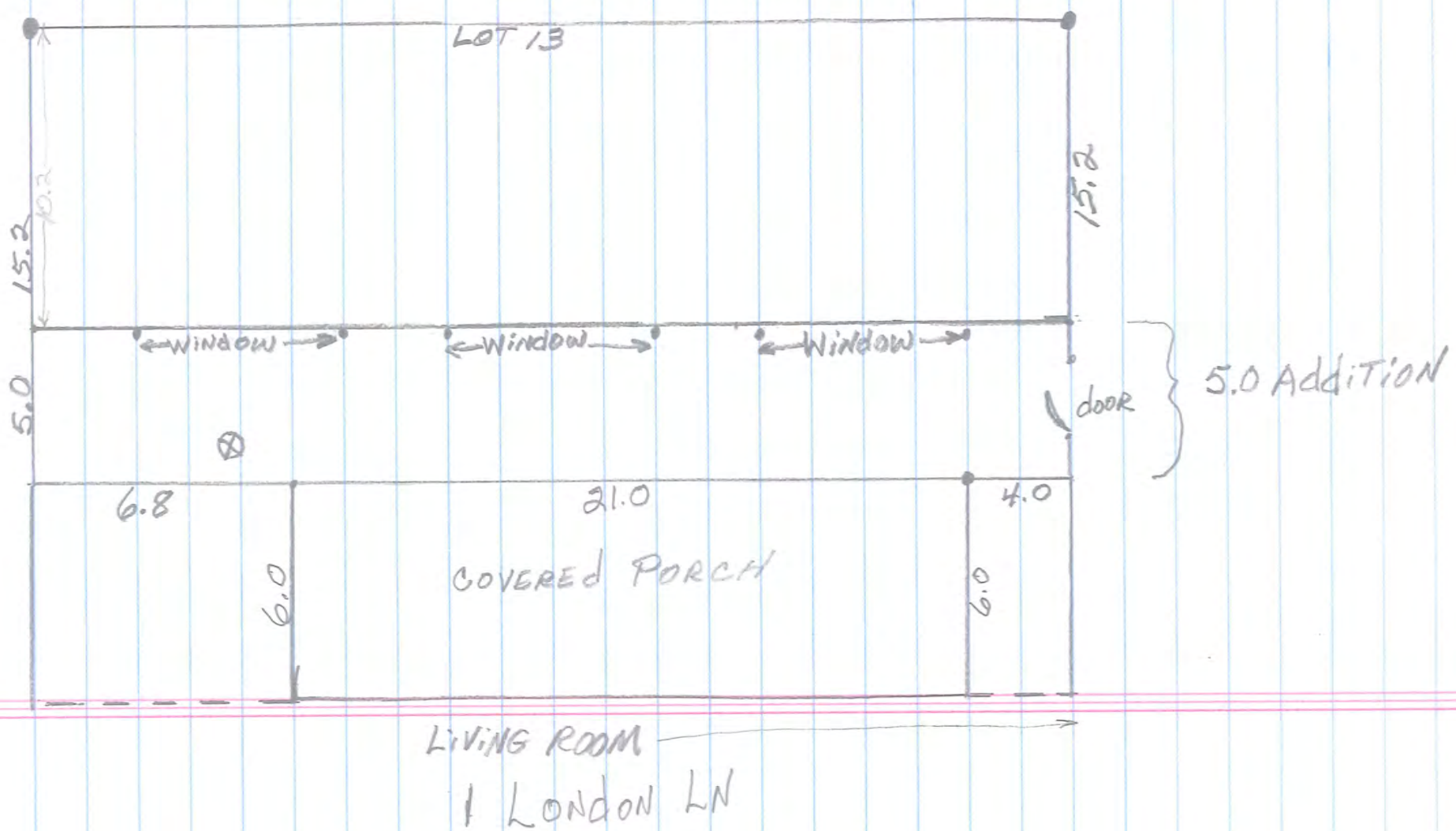
OFFICIAL SEAL
DHARMISTA V PATEL
NOTARY PUBLIC - STATE OF ILLINOIS
MY COMMISSION EXPIRES 09/10/16

Dharmista V Patel

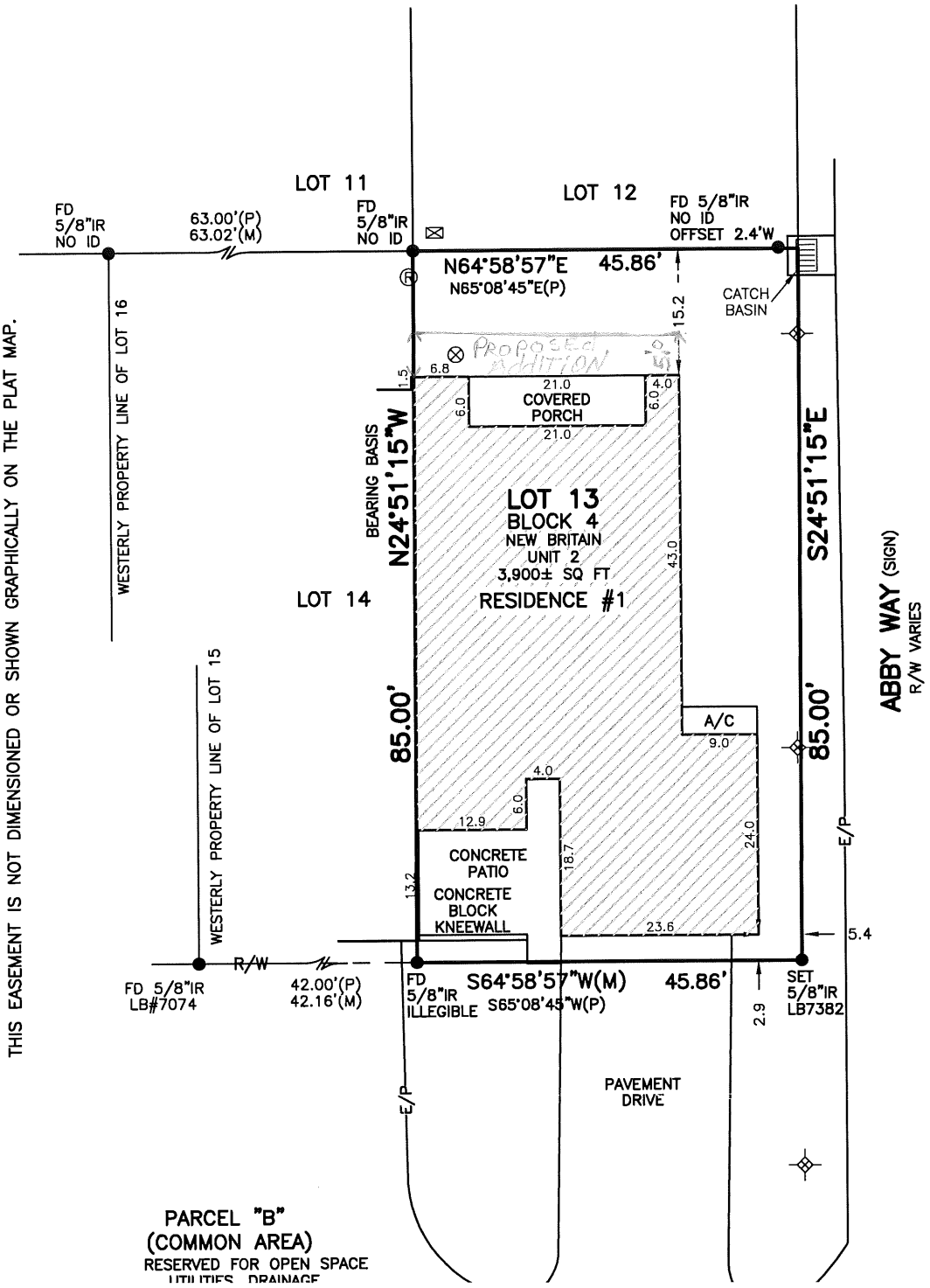
Notary Public, State of Florida

My Commission Expires: 9.10.16

* If you are executing this document on behalf of a corporation please complete the spaces with your title and the name of your company as indicated.


LOT 13
15.2
15.2
Window
Window
Window
5.0
door
5.0 Addition
6.8
21.0
4.0
6.0
COVERED PORCH
6.0
LIVING ROOM
1 LONDON LN

1 LONDON LANE



NOTE:

PER PLAT "A NON-EXCLUSIVE BLANKET EASEMENT IS HEREBY CREATED ON THE LOTS SHOWN HEREON FOR THE PURPOSE OF INSTALLING AND MAINTAINING UTILITIES AND DRAINAGE FACILITIES, WITH THE EXPRESSED PROVISION THAT ANYONE PERFORMING WORK WITHIN THESE EASEMENTS, SHALL RESTORE THE PROPERTY TO THE CONDITION EXISTING PRIOR TO SAID WORK.

AT SUCH TIME AS BUILDING PERMITS ARE ISSUED ON EACH LOT, THIS EASEMENT SHALL TERMINATE WITHIN THE CONFINES OF THE PERMITTED STRUCTURE.

THE DEVELOPER AND ITS ASSIGNS RESERVE THE RIGHT TO REVOKE THIS BLANKET EASEMENT BY CREATING SPECIFIC EASEMENTS FOR DRAINAGE AND UTILITIES, WHICH ARE DEFINED TO INCLUDE, WITHOUT LIMITATION, WATER AND SEWER, ELECTRICITY, CABLE TELEVISION, SECURITY SYSTEMS AND TELEPHONE"

THIS EASEMENT IS NOT DIMENSIONED OR SHOWN GRAPHICALLY ON THE PLAT MAP.

11/10/08

MEMORANDUM OF TRUST

I, PHILLIP D. SHERWOOD, now of Schaumburg, Illinois, make this Memorandum of Trust as a summary of certain provisions contained in a Declaration of Trust executed on the 27th day of March, 2001, between PHILLIP D. SHERWOOD as Settlor and PHILLIP D. SHERWOOD as Trustee, known as the PHILLIP D. SHERWOOD REVOCABLE TRUST;

Said Trust provides that the Trustee and any Successor Trustee shall have the following powers and authority:

> To enter upon and take possession of the trust estate, to collect the income and profits therefrom, and to invest and reinvest the estate in any property, real, personal or mixed including but not limited to savings accounts, checking accounts, money market funds, certificates of deposit; the buying, selling and trading of stocks, bonds, notes, real estate, mortgages, common or diversified trust funds, stock options, index options including puts and calls, stock of the corporate fiduciary, life insurance, annuity or endowments policies and any other real or personal property of any kind, in accordance with their judgment, not being limited by any present or future investment law; to acquire, maintain and dispose of accounts, interests in common or collective investments or trust funds; to buy, sell, and trade in securities of any nature, including short sales, on margin and for such purpose may maintain and operate margin accounts with brokers and may pledge securities held or purchased by them with such brokers as security for loans and advances made and may borrow money from a brokerage firm; to enter into any fixed or level payment withdrawal plan with any mutual fund(s) authorizing payment to the Settlor(s) or any other beneficiary hereunder of a specified monthly amount or amounts payable from income, dividends or capital gains distributions; to withdraw funds from savings accounts and certificates of deposit and to issue checks or drafts against checking accounts, savings accounts, money market accounts and mutual funds; to vote in person or by proxy with respect to property, or any combination thereof, either for cash or part cash or part deferred payments and at public or private sale; with respect to any securities, to vote upon any proposition or election at any meeting and to grant proxies, discretionary or otherwise, to vote at any such

meeting; to option, convey, exchange, lease and release for any length of time, mortgage, pledge, grant a security interest in, partition, plat, subdivide, improve, repair, surrender, abandon, or otherwise deal with or dispose of all of the trust estate, or any part thereof, at such time or times and in such manner either public or private, and upon such terms as in the discretion of the Trustee and the Successor Trustee seems expedient and proper; to borrow money on the general credit of the trust, or by pledging, granting a security for the repayment thereof, and to renew from time to time any such indebtedness; to make, execute and deliver any and all such instruments in writing as may be necessary and proper to carry out any disposition whatever of any trust property; to carry in their name or in the name of their nominee or nominees, and with or without designation of fiduciary capacity, securities or other property requiring or permitting registration; to delegate the authorities and powers, including discretionary powers and check writing privileges, conferred by the Declaration of Trust upon a Trustee, to any other person (except Settlor's spouse), persons or a corporation, therefore any one of two or more Trustees as well as non-fiduciary parties may be delegated such authority and power.

Any banking institution, trust company, stock brokerage firm, stock transfer agent and all other third parties are authorized to rely on the provisions and directions of this Memorandum of Trust and are exonerated from any loss, claim or liability in relying on said Memorandum of Trust.

I reserve the right to, at any time, revoke or amend the said Declaration of Trust and to alter, modify or terminate the Trust created by said Declaration.

The primary beneficiary of my trust after my death is my spouse and the contingent beneficiaries are my descendants, per stirpes.

I have appointed as Successor Trustees to the Declaration of Trust the following persons who shall act in the order in which their names appear: BARBARA J. SHERWOOD; KRISTIN E. SHERWOOD; AMY LYNN SHERWOOD (if age 27); BRIAN

T. SHERWOOD (if age 27); TIM BRACKEN, as Co-Trustee with any Trustee named who has not attained age 27, until said Trustee attains age 27.

My Successor Trustee shall assume active administration of this Trust in the event of my death or my physical or mental incapacity as certified in writing by a licensed physician.

IN WITNESS WHEREOF, I, PHILLIP D. SHERWOOD, have hereunto set my hand and seal to this, my Memorandum of Trust, this 10th day of NOVEMBER 2008.

PHILLIP D. SHERWOOD

Witnesses:

This instrument prepared by: John M. Gleason, 930 East Northwest Highway, Mt. Prospect, Illinois 60056, (847) 670-8200

11/10/08

MEMORANDUM OF TRUST

I, BARBARA J. SHERWOOD, now of Schaumburg, Illinois, make this Memorandum of Trust as a summary of certain provisions contained in a Declaration of Trust executed on the 27th day of March, 2001, between BARBARA J. SHERWOOD as Settlor and BARBARA J. SHERWOOD as Trustee, known as the BARBARA J. SHERWOOD REVOCABLE TRUST.

Said Trust provides that the Trustee and any Successor Trustee shall have the following powers and authority:

> To enter upon and take possession of the trust estate, to collect the income and profits therefrom, and to invest and reinvest the estate in any property, real, personal or mixed including but not limited to savings accounts, checking accounts, money market funds, certificates of deposit; the buying, selling and trading of stocks, bonds, notes, real estate, mortgages, common or diversified trust funds, stock options, index options including puts and calls, stock of the corporate fiduciary, life insurance, annuity or endowments policies and any other real or personal property of any kind, in accordance with their judgment, not being limited by any present or future investment law; to acquire, maintain and dispose of accounts, interests in common or collective investments or trust funds; to buy, sell, and trade in securities of any nature, including short sales, on margin and for such purpose may maintain and operate margin accounts with brokers and may pledge securities held or purchased by them with such brokers as security for loans and advances made and may borrow money from a brokerage firm; to enter into any fixed or level payment withdrawal plan with any mutual fund(s) authorizing payment to the Settlor(s) or any other beneficiary hereunder of a specified monthly amount or amounts payable from income, dividends or capital gains distributions; to withdraw funds from savings accounts and certificates of deposit and to issue checks or drafts against checking accounts, savings accounts, money market accounts and mutual funds; to vote in person or by proxy with respect to property, or any combination thereof, either for cash or part cash or part deferred payments and at public or private sale; with respect to any securities, to vote upon any proposition or election at any meeting and to grant proxies, discretionary or otherwise, to vote at any such

meeting; to option, convey, exchange, lease and release for any length of time, mortgage, pledge, grant a security interest in, partition, plat, subdivide, improve, repair, surrender, abandon, or otherwise deal with or dispose of all of the trust estate, or any part thereof, at such time or times and in such manner either public or private, and upon such terms as in the discretion of the Trustee and the Successor Trustee seems expedient and proper; to borrow money on the general credit of the trust, or by pledging, granting a security for the repayment thereof, and to renew from time to time any such indebtedness; to make, execute and deliver any and all such instruments in writing as may be necessary and proper to carry out any disposition whatever of any trust property; to carry in their name or in the name of their nominee or nominees, and with or without designation of fiduciary capacity, securities or other property requiring or permitting registration; to delegate the authorities and powers, including discretionary powers and check writing privileges, conferred by the Declaration of Trust upon a Trustee, to any other person (except Settlor's spouse), persons or a corporation, therefore any one of two or more Trustees as well as non-fiduciary parties may be delegated such authority and power.

Any banking institution, trust company, stock brokerage firm, stock transfer agent and all other third parties are authorized to rely on the provisions and directions of this Memorandum of Trust and are exonerated from any loss, claim or liability in relying on said Memorandum of Trust.

I reserve the right to, at any time, revoke or amend the said Declaration of Trust and to alter, modify or terminate the Trust created by said Declaration.

The primary beneficiary of my trust after my death is my spouse and the contingent beneficiaries are my descendants, per stirpes.

I have appointed as Successor Trustees to the Declaration of Trust the following persons who shall act in the order in which their names appear: PHILLIP D. SHERWOOD; KRISTIN E. SHERWOOD; AMY LYNN SHERWOOD (if age 27); BRIAN T.

SHERWOOD (if age 27); TIM BRACKEN, as Co-Trustee with any Trustee named who has not attained age 27, until said Trustee attains age 27.

My Successor Trustee shall assume active administration of this Trust in the event of my death or my physical or mental incapacity as certified in writing by a licensed physician.

IN WITNESS WHEREOF, I, BARBARA J. SHERWOOD, have hereunto set my hand and seal to this, my Memorandum of Trust, this 10th day of NOVEMBER, 2008.

Barbara J. Sherwood
BARBARA J. SHERWOOD

Witnesses:

This instrument prepared by: John M. Gleason, 930 East Northwest Highway, Mt. Prospect, Illinois 60056, (847) 670-8200

Spraker, Steven

From: Spraker, Steven
Sent: Tuesday, July 01, 2014 1:58 PM
To: 'bsherwood452@gmail.com'
Subject: 1 London Place, potential variance
Attachments: Visio Varience Flowchart 2014.pdf; variance application guidance notes v3.2013.pdf; variance application v3.2013.pdf

Planning staff met and discussed a potential variance for the property at 1 London Place to extend the covered porch an additional 5' to help achieve a more functional room for the property. Staff would recommend support of the variance application if a 5' room addition was sought with a final setback of 10.2'. Staff would highly recommend that you obtain signatures or letters of no objection from the abutting neighbors (to the rear and side) as well as the Home Owners Association for the room addition.

The next available Board of Adjustments meeting date is September 3rd with a submittal deadline of August 1st. I have attached a variance application, a flowchart of the process, and guidance notes for your information and use. Once you have had an opportunity to review, I would suggest that we meet so I can go over the process and any questions.

Thank you

Steven

Steven Spraker, AICP
Senior Planner

Planning Department
22 South Beach Street
Room 104
Ormond Beach, FL 32175
Direct Line: 386.676.3341
Department: 386.676.3238
Fax: 386.676.3361
E-mail: Steven.Spraker@ormondbeach.org

STEVEN,
The Letter of NO Objection from our HOA will follow ASAP.
I Also attached my Memorandum of Trust. (JUST IN CASE IT WAS NEEDED)
If you need anything further, please call. Thanks for your help + support, it is greatly appreciated.
Phil Sherwood
HM 630 894 5239
Cell 630 841 3393

CITY OF ORMOND BEACH

FLORIDA

PLANNING **M E M O R A N D U M**

TO: Board of Adjustments and Appeals members

FROM: Steven Spraker, AICP, Senior Planner

DATE: November 24, 2014

SUBJECT: LDC Amendment, Pool Screen Enclosure Amendments

Planning staff has further researched pool screen enclosures based on discussions at the September and October Board meetings. There are four options to amend the pool screen enclosure regulations:

1. Reduce the existing pool screen enclosure setbacks from 10' to 5' in the rear yard and 7.5' to 5' in the side yard (See September 2014 staff report – ATTACHMENT 1); or
2. Allow existing non-conforming screen enclosures to be replaced as they exist today (See Ordinance 2004-24 – ATTACHMENT 2); or
3. Combine options 1 & 2; or
4. Do nothing.

OPTION 1: The first option is the reduction of the side and rear yard setbacks to 5' and would combine the setback regulations for pools with and without screen enclosures. The primary concern with this option is the impacts to abutting property owners. By allowing reduced setbacks in the Land Development Code, abutting property owners that once had a 10' setback would now have a 5' setback for a screen enclosure. With the variance process, the abutting property owner would have the ability to object if there was a concern with a 5' setback.

Below are statistics regarding variances regarding pool screen enclosures:

Number of variance cases, 2006 to present:	85
Number of variance cases related to pools:	10
Number of variance cases related to pools where a 5' rear and rear yard setback would have not required a variance:	3
Number of variance cases related to pools where the applicant requesting a setback of closer than 5' to the rear or side yard:	5
Number of variance cases related to pools that did not relate to the rear or side yard setbacks:	2

Of the ten variance cases related to pool setbacks, 9 of the 10 cases were approved with the lone case being denied was related to a pool constructed without permits in a waterfront yard.

OPTION 2: Ordinance 2004-24 allowed existing screen enclosures to be replaced as they exist today regardless of the existing setback encroachment. This Ordinance was replaced with Ordinance 2005-038 and the replacement provision was deleted. It is unclear why the language within Ordinance 2004-24 was deleted. In reviewing the variance case list, staff was unable to locate any variances related to the replacement of an existing non-conforming screen enclosure.

OPTION 3: This option combines 1 & 2 to address new construction and existing screen enclosures. As shown by the case review within Option 1, this option would not solve all the issues related to screen enclosures. No matter where the standard is set, there will be cases that will seek to vary the standard based on site specific conditions.

OPTION 4: This option makes no amendments to the existing standards.

Recommendation: Staff recommends that the language of Ordinance 2004-24 **(OPTION 2)** be placed back into the Land Development Code. This amendment would allow existing screen enclosures to the replaced and/or modernized. Staff would not recommend OPTION 1 based on concern of the impacts to abutting property owners who have no ability to object if the rear and side yard setbacks for pool screen enclosures were amended to 5’ from the property line.

If you have any questions or need additional information, please contact me at extension 3341. Thank you.

ATTACHMENT 1

September 2014 staff report

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: September 22, 2104

SUBJECT: LDC Amendment, Pool Screen Enclosure Amendments

APPLICANT: Administrative

NUMBER: LDC 2014-134

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is an administrative request to amend Chapter 2, District and General Regulations, Article III, General Regulations of the Land Development Code to amend the pool screen enclosure setbacks based upon a request from the Board of Adjustment and Appeals. The amendments propose to:

1. Reduce the required rear and side yard pool screen enclosure setbacks from 10' (rear) and 7.5' (side) to 5' for both rear and side yard setbacks; and
2. Allow pools constructed prior to December 16, 2014, which are closer than 5' to the rear or side interior property line, with or without a screen enclosure, to construct or re-construct a pool screen enclosure within the proposed required 5' setback.

BACKGROUND:

Pools and pool screen enclosures are regulated by Sections 2-50 (x) and (aa) of the Land Development Code. At the September 3, 2014, Board of Adjustment and Appeals meeting there was a variance case where a homeowner sought to enclose an existing pool that was within the pool screen enclosure setback. The Board of Adjustment and Appeals has reviewed several variance applications where homeowners are attempting to enclose existing pools, but the pool exists within the 10' setback established for pool screen enclosures.

During the September 3, 2014 meeting Board of Adjustment and Appeals members requested that staff investigate and prepare amendments that would allow the setbacks for pools without screen enclosures and pools with screen enclosure to be the same setback. Additionally, the Board expressed interest in allowing homeowners to construct pool screen enclosures over existing pools or re-construct pool screen enclosures in the same footprint even if they exist closer to the setback than allowed by the Land Development Code regulations.

ANALYSIS:

Section 2-50(x) provides the existing pool setback regulations as follows:

1. Front yard. Pools cannot be within the front yard setback, typically 25' to 30' in most residential zoning districts.
2. Side corner yard. Pools cannot be within the side corner setback, typically 20' in most residential zoning districts.
3. Rear yard:
   a. No screen enclosure
      1. Edge of water shall not be closure than 7.5'.
      2. Edge of deck shall not be closer than 5'.
   b. Screen Enclosure
      1. Shall not be closer than 10'.
      2. Where there is common area or conservation area of 10' or greater, the screen enclosure setback is 5'.
4. Interior side yard:
   c. No screen enclosure
      1. Edge of water shall not be closure than 7.5'.
      2. Edge of deck shall not be closer than 5'.
   d. Screen Enclosure
      1. Shall not be closer than 7.5'.

The proposed Land Development Code amendment is as follows (strike through is deleted text and underlined text is added text):

Section 2-50(x)

(x) Pools. In addition to the requirements of this article, swimming pools, whether public or private, shall comply with chapter 3, articles I and II of this Code, the state building code, all applicable regulations of the state department of health and rehabilitative services and other state agencies, and to the following:

(1) Setbacks.

a. Front yard. Swimming pools or appurtenances thereto shall be prohibited in any required principal front yard building setback.

b. Side corner yard. Swimming pools or appurtenances thereto shall be prohibited in any required side yard building setback.

c. Rear yard and interior side yards.

1. No screen enclosure. ~~The edge of water for swimming pools with no screen enclosure shall not be closer than seven and one-half feet (7½') from the rear property line.~~ The edge of deck for swimming pools with no screen enclosure

shall not be closer than five feet (5') from rear or interior side yard property line.

2. Screen enclosure. Screen enclosures for pools shall not be closer than ~~ten~~ five feet (~~10~~ 5') from the rear or interior side yard property line. ~~Screen pool enclosures shall be located no closer than five feet (5') from the rear property line of a single-family residence in situations where the rear yard abuts a dedicated open space in private ownership, a conservation easement held in private ownership or common area owned by a homeowners' association measuring a distance of at least ten feet (10') from the closest point to the rear property line.~~

3. Pools constructed prior to December 16, 2014 which are closer than 5' to the rear or side interior property line, with or without a screen enclosure, shall be permitted to construct or re-construct a pool screen enclosure within the 5' setback. The pool screen enclosure shall not be constructed any closer than the existing pool or screen enclosure setback.

~~d. Interior side yard.~~

~~1. The edge of water for swimming pools with no screen enclosure shall not be closer than seven and one-half feet (7½') from the required interior side yard property line. The edge of deck for swimming pools with no screen enclosure shall not be closer than five feet (5') from the required interior side yard property line.~~

~~2. Screen pool enclosures shall be located no closer than seven and one-half feet (7½') from the required interior side yard property line.~~

(2) Location in relationship to the principal structure. ***No change to existing text.***

(3)Waterfront lots. On waterfront lots (excluding oceanfront), pools and screen enclosures shall be set back ten feet (10') from the rear lot line except that where the rear yard requirement is greater than thirty feet (30), one (1) additional foot of setback for each two (2) feet of required rear yard in excess of thirty feet (30') is required. There shall be a minimum of fifteen feet (15') from edge of deck to normal water line. ***No change to existing text.***

(4) Oceanfront lots. Patios, sun decks or pools shall be allowed with the following requirements:

a. The edge of water for swimming pools shall not be closer than ten feet (10') from the seawall.

b. Pools shall be prohibited in the front yard or side corner setback.

c. Patios and sun decks shall not be closer than ten feet (10') to either side property line.

d. Other than railings of open design, no enclosure or covering shall be allowed.

e. Any structure proposed seaward of the coastal construction control line shall comply with F.S. ch. 161, and the permitting requirements of the state department of environmental protection.

f. All such development shall be consistent with chapter 3, article II of this Code. ***No change to existing text.***

Section 2-50(aa)

(aa) Screen porches/enclosures.

(1) Location. In all residential districts, screen enclosures (e.g., entirely enclosed with screening) may be located to within ten feet (10') of the rear lot line; provided, however, side yard setbacks for screen enclosures shall be the same as for the principal building and provided further that no screen enclosure shall be permitted to encroach into any easement, dedicated space or right-of-way, or into any required waterfront or oceanfront yard or other shoreline setback provided under chapter 3, article II of this Code. ~~Screen pool enclosures shall be located no closer than five feet (5') from the rear property line of a single-family residence in situations where the rear yard abuts a dedicated open space in private ownership, a conservation easement held in private ownership or common area owned by a homeowners' association measuring a distance of a least ten feet (10') from the closest point to the rear property line~~. <u>Pool screen enclosures shall be regulated by Section 2-50(x) of this Code.</u>

(2) Townhouse/multifamily. For residential developments other than detached single-family subdivisions, the location of screen porches (e.g., screened on the sides but having an impervious roof) shall be identified on the plat or site plan.

(3) Existing developments. Where screen porches are not indicated on an approved site or development plan for uses requiring such approvals, application for screen porches shall be as follows:

a. The homeowners' association shall submit a request to amend the development order. Such request shall include a drawing clearly illustrating the location of all possible screen porches and stating the types of construction materials that may be used, and any necessary amendments to the declaration of covenants and restrictions.

b. The city commission may reduce the setback requirement for screen porches, provided:

1. The distance the screen porch would infringe on the setback would be the minimum necessary;

2. The addition of the screen porch will not have a detrimental effect on surrounding properties; and

3. The twenty-foot (20') minimum distance between buildings is maintained.

c. The city commission may require additional landscaping and/or fencing if necessary to negate the impact of the screen porch.

d. In addition to the drawing required by subsection (aa)(3)a of this section, the homeowners' association shall submit a legal opinion from its attorney that the request was duly approved and executed by the association and that the request is not in conflict with any deed restrictions or covenants applicable to the development.

e. Following approval of the amended development order by the city commission, an individual unit owner may request a building permit from the chief building official, provided that such request is consistent with the conditions of the amended development order.

A summary of the amendments are as follows:

1. Maintains that pools are not allowed in the front or side corner yard setbacks.
2. Deletes the requirement for the edge of water for swimming pools which requires a 2.5' deck around the pool. While staff believes that having a deck around all sides of the pool is preferable for maintenance of the pool, there may be instances where a homeowner desires less than a 2.5' deck area to make a pool fit into their property. Deleting this requirement allows the homeowner and pool contractor to decide the deck area around the pool.
3. Maintains a 5' edge of deck setback for pools with no screen enclosure in the rear and interior side yards.
4. Reduces the pool screen enclosure setback from 10' to 5' in the rear yard where no conservation or homeowner association tracts exist. This allows lots that are platted back to back to have a 5' pool screen enclosure setback.
5. Reduces the pool screen enclosure setback from 7.5' to 5' in the interior side yard.
6. Allows pools constructed prior to December 16, 2014 which are closer than 5' to the rear or side interior property line, with or without a screen enclosure, to be permitted to construct or re-construct a pool screen enclosure within the 5' setback. This regulation would assist with older constructed pools, of which many were annexed from Volusia County, that have been built within the pool setbacks standards established by the Land Development Code.
7. Waterfront lots – no changes proposed: if the zoning district rear setback is 30' or less, than the pool screen enclosure setback remains at 10'. If the zoning district rear setback is more than 30', a calculated setback is required that is designed to move the screen enclosure away from the water to provide view corridors of the waterfront.
8. Oceanfront lots – no changes proposed. Pool screen enclosures are prohibited.

9. Amends Section 2-50(aa) to refer all pool screen enclosure setback standards to Section 2-50(X) to maintain only one section with the screen enclosure setback standards.

10. The proposed amendment takes away an adjacent property owner's right to object to a screen enclosure that they view as too close to the property line. If the amendment is adopted, the impacted property owner who could at least go the BOAA under the existing regulation would not have that venue any longer.

CONCLUSION:

There are certain criteria that must be evaluated before adoption of an amendment according to the Land Development Code (LDC); the Planning Board must consider the following criteria when making their recommendation.

1. **The proposed development conforms to the standards and requirements of this Code and will not create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.**

   Staff cannot find any direct evidence of why the pool screen enclosure setbacks were established at 10' and a pool with no screen enclosure had a 5' setback. It is presumed that the regulation sought to provide additional setback for the vertical screen enclosure structure. The difference in the setbacks has led to confusion and frustration among homeowners. A homeowner can construct a pool at a 5' edge of deck setback. When they apply to construct a pool screen enclosure over the permitted pool, the homeowner is denied because it does not meet the 10' pool screen enclosure setback.

   In staff's research, there are multiple other jurisdictions that allow a 5' pool screen enclosure setback. It is not expected that the proposed Land Development Code amendments would create undue crowding beyond the conditions normally permitted in the zoning district, or adversely affect the public health, safety, welfare or quality of life.

2. **The proposed development is consistent with the Comprehensive Plan.**

   The proposed Land Development Code amendments are consistent with the Comprehensive Plan. Objective 2.1 of the Future Land Use Element of the Comprehensive Plan discussed the need to update Land Development Code regulations.

3. **The proposed development will not adversely impact environmentally sensitive lands or natural resources, including but not limited to waterbodies, wetlands, xeric communities, wildlife habitats, endangered or threatened plants and animal species or species of special concern, wellfields, and individual wells.**

   The proposed Land Development Code amendments will not have an adverse impact on environmentally sensitive lands.

4. **The proposed use will not substantially or permanently depreciate the value of surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare, or visual impacts on the neighborhood and adjoining properties**.

   The proposed amendments would allow a vertical structure, the pool screen enclosure, closer to the property line than the current regulatory standards. There are two positions that could be argued in response to this criterion. The first position is that the proposed Land Development Code amendments will have no adverse effect on surrounding property; create a nuisance; or deprive adjoining properties of adequate light and air; create excessive noise, odor, glare or visual impacts on adjoining properties. The impacts of noise of a swimming pool exist with or without the screen enclosure. Additionally, the lesser setback requirements would have no visual impacts to abutting property owner. The second position is that the amendments should not be approved based on the fact that a vertical structure, the pool screen enclosure, is proposed to be closer to the property line than is no allowed on back to back lots.

5. **There are adequate public facilities to serve the development, including but not limited to roads, sidewalks, bike paths, potable water, wastewater treatment, drainage, fire and police safety, parks and recreation facilities, schools, and playgrounds.**

   The proposed Land Development Code amendments are not applicable to public facilities.

6. **Ingress and egress to the property and traffic patterns are designed to protect and promote motorized vehicle and pedestrian/bicycle safety and convenience, allow for desirable traffic flow and control, and provide adequate access in case of fire or catastrophe. This finding shall be based on a traffic report where available, prepared by a qualified traffic consultant, engineer or planner which details the anticipated or projected effect of the project on adjacent roads and the impact on public safety.**

   There is no development proposed for the amendments. The application pertains to a Land Development Code amendment.

7. **The proposed development is functional in the use of space and aesthetically acceptable.**

   There is no development proposed for the amendments. The application pertains to a Land Development Code amendment.

8. **The proposed development provides for the safety of occupants and visitors.**

   There is no development proposed for the amendments. The application pertains to a Land Development Code amendment.

9. **The proposed use of materials and architectural features will not adversely impact the neighborhood and aesthetics of the area.**

   There is no development proposed for the amendments. The application pertains to a Land Development Code amendment.

10. **The testimony provided at public hearings**.

    There has not been a public hearing at this time. The comments from the Planning Board meeting will be incorporated into the City Commission packet.

RECOMMENDATION:

It is expected that this Land Development Code amendment would be reviewed by the Planning Board on October 9, 2014. It is requested that the Board of Adjustment and Appeals provide any input and/or amendments on the proposed amendments.

Attachment A

Proposed Land Development Code Amendments – Pool Screen Enclosures

Section 2-50(x)

(x) Pools. In addition to the requirements of this article, swimming pools, whether public or private, shall comply with chapter 3, articles I and II of this Code, the state building code, all applicable regulations of the state department of health and rehabilitative services and other state agencies, and to the following:

(1) Setbacks.

a. Front yard. Swimming pools or appurtenances thereto shall be prohibited in any required principal front yard building setback.

b. Side corner yard. Swimming pools or appurtenances thereto shall be prohibited in any required side yard building setback.

c. Rear yard and interior side yards.

1. No screen enclosure. ~~The edge of water for swimming pools with no screen enclosure shall not be closer than seven and one-half feet (7½') from the rear property line.~~ The edge of deck for swimming pools with no screen enclosure shall not be closer than five feet (5') from rear or interior side yard property line.

2. Screen enclosure. Screen enclosures for pools shall not be closer than ~~ten~~ five feet (~~10~~ 5') from the rear or interior side yard property line. ~~Screen pool enclosures shall be located no closer than five feet (5') from the rear property line of a single-family residence in situations where the rear yard abuts a dedicated open space in private ownership, a conservation easement held in private ownership or common area owned by a homeowners' association measuring a distance of at least ten feet (10') from the closest point to the rear property line.~~

3. Pools constructed prior to December 16, 2014 which are closer than 5' to the rear or side interior property line, with or without a screen enclosure, shall be permitted to construct or re-construct a pool screen enclosure within the 5' setback. The pool screen enclosure shall not be constructed any closer than the existing pool or screen enclosure setback.

~~d. Interior side yard.~~

~~1. The edge of water for swimming pools with no screen enclosure shall not be closer than seven and one-half feet (7½') from the required interior side yard property line. The edge of deck for swimming pools with no screen enclosure shall not be closer than five feet (5') from the required interior side yard property line.~~

~~2. Screen pool enclosures shall be located no closer than seven and one-half feet (7½') from the required interior side yard property line.~~

(2) Location in relationship to the principal structure. ***No change to existing text.***

(3)Waterfront lots. On waterfront lots (excluding oceanfront), pools and screen enclosures shall be set back ten feet (10') from the rear lot line except that where the rear yard requirement is greater than thirty feet (30), one (1) additional foot of setback for each two (2) feet of required rear yard in excess of thirty feet (30') is required. There shall be a minimum of fifteen feet (15') from edge of deck to normal water line. ***No change to existing text.***

(4) Oceanfront lots. Patios, sun decks or pools shall be allowed with the following requirements:

a. The edge of water for swimming pools shall not be closer than ten feet (10') from the seawall.

b. Pools shall be prohibited in the front yard or side corner setback.

c. Patios and sun decks shall not be closer than ten feet (10') to either side property line.

d. Other than railings of open design, no enclosure or covering shall be allowed.

e. Any structure proposed seaward of the coastal construction control line shall comply with F.S. ch. 161, and the permitting requirements of the state department of environmental protection.

f. All such development shall be consistent with chapter 3, article II of this Code. ***No change to existing text.***

Section 2-50(aa)

(aa) Screen porches/enclosures.

(1) Location. In all residential districts, screen enclosures (e.g., entirely enclosed with screening) may be located to within ten feet (10') of the rear lot line; provided, however, side yard setbacks for screen enclosures shall be the same as for the principal building and provided further that no screen enclosure shall be permitted to encroach into any easement, dedicated space or right-of-way, or into any required waterfront or oceanfront yard or other shoreline setback provided under chapter 3, article II of this Code. ~~Screen pool enclosures shall be located no closer than five feet (5') from the rear property line of a single-family residence in situations where the rear yard abuts a dedicated open space in private ownership, a conservation easement held in private ownership or common area owned by a homeowners' association measuring a distance of a least ten feet (10') from the closest point to the rear property line~~. <u>Pool screen enclosures shall be regulated by Section 2-50(x) of this Code.</u>

(2) Townhouse/multifamily. For residential developments other than detached single-family subdivisions, the location of screen porches (e.g., screened on the sides but having an impervious roof) shall be identified on the plat or site plan.

(3) Existing developments. Where screen porches are not indicated on an approved site or development plan for uses requiring such approvals, application for screen porches shall be as follows:

a. The homeowners' association shall submit a request to amend the development order. Such request shall include a drawing clearly illustrating the location of all possible screen porches and stating the types of construction materials that may be used, and any necessary amendments to the declaration of covenants and restrictions.

b. The city commission may reduce the setback requirement for screen porches, provided:

1. The distance the screen porch would infringe on the setback would be the minimum necessary;

2. The addition of the screen porch will not have a detrimental effect on surrounding properties; and

3. The twenty-foot (20') minimum distance between buildings is maintained.

c. The city commission may require additional landscaping and/or fencing if necessary to negate the impact of the screen porch.

d. In addition to the drawing required by subsection (aa)(3)a of this section, the homeowners' association shall submit a legal opinion from its attorney that the request was duly approved and executed by the association and that the request is not in conflict with any deed restrictions or covenants applicable to the development.

e. Following approval of the amended development order by the city commission, an individual unit owner may request a building permit from the chief building official, provided that such request is consistent with the conditions of the amended development order.

ATTACHMENT 2

Ordinance 2004-24

ORDINANCE NO. 2004-24

AN ORDINANCE AMENDING SECTION 2-50, ACCESSORY USES, OF ARTICLE III, GENERAL REGULATIONS, OF THE *2004 LAND DEVELOPMENT CODE* BY AMENDING REGULATIONS REGARDING EXISTING NON-CONFORMING POOL SCREEN ENCLOSURES; REPEALING ALL INCONSISTENT ORDINANCES OR PARTS THEREOF; PROVIDING FOR SEVERABILITY; AND SETTING FORTH AN EFFECTIVE DATE.

WHEREAS, the City's professional planning staff has requested amendments to the City of Ormond Beach *2004 Land Development Code* ("the *2004 LDC*") to amend the standards for existing non-conforming pool screen enclosures, and

WHEREAS, the local planning agency, being the Planning Board of the City of Ormond Beach, has reviewed the requested amendments and has made recommendations thereon to the City Commission, and

WHEREAS, all applicable notice requirements of Section 166.041(3)(a), *Florida Statutes*, have been complied with, and

WHEREAS, the City Commission finds the requested amendments to be consistent with the provisions of the *Comprehensive Plan* of the City of Ormond Beach, and in the overall best interest of the public health, safety and welfare, now therefore,

BE IT ENACTED BY THE PEOPLE OF THE CITY OF ORMOND BEACH, FLORIDA, THAT:

SECTION ONE. Section 2-50, Accessory Uses, of Article III, General Regulations, of Chapter 2, District and General Regulations, of the *2004 LDC* is hereby amended to read as follows:

R. **Pools.** In addition to the requirements of this Article, swimming pools, whether public or private, shall comply with Chapter 3, Articles I and II, The Florida Building Code, all applicable regulations of the Florida Department of Health and Rehabilitative Services and other State agencies, and to the following:

1. Swimming pools or appurtenances thereto shall be prohibited in any required front yards. The edge of water shall not be closer than seven and one-half feet (7.5') from the side and rear property lines. The edge of deck shall not be closer than five feet (5') from rear or side property lines. Screen enclosures for pools shall not be closer than ten feet (10) from rear property lines and shall comply with the side yard setback for principal structures.

2. No swimming pool shall be constructed closer than five feet (5') from any building; provided, however, that this Paragraph shall not apply to swimming pools which are an integral part of new construction and provided that the plans therefore have been certified as structurally sound by a registered architect or engineer.

3. On waterfront lots (excluding oceanfront), pools and screen enclosures shall be set back ten feet (10') from the rear lot line except that where the rear yard requirement is greater than thirty feet (30'), one (1) additional foot of setback for each two feet (2') of required rear yard in excess of thirty feet (30') is required. There shall be a minimum of fifteen feet (15') from edge of deck to normal water line.

4. Existing non-conforming pool screen enclosures may be removed and replaced provided that:

   a. The existing footprint of the pool screen enclosure is not enlarged.

   b. The proposed height of the new screen enclosure shall not exceed fourteen (14') feet.

   c. If an existing pool screen can not meet the conditions of (a) and (b) above, the application shall be required to obtain a variance as detailed in LDC Section 1-16, Board of Adjustments and Appeals.

Q. ...(No change in existing text)...

R. ...(No change in existing text)...

S. ...(No change in existing text)...

T. ...(No change in existing text)...

U. **Screen Porches/Enclosures**

1. **Location.** In all residential districts, screen enclosures (e.g., entirely enclosed with screening) may be located to within ten feet (10') of the rear lot line; provided, however, side yard setbacks for screen enclosures shall be the same as for the principal building and provided further that no screen enclosure shall be permitted to encroach into any easement, dedicated space, or right-of-way, or into any required waterfront or oceanfront yard or other shoreline setback provided under Chapter 3, Article II of this Code.

2. **Townhouse/Multi-Family.** For residential developments other than detached single-family subdivisions, the location of screen porches (e.g., screened on the sides but having an impervious roof) shall be identified on the plat or site plan.

3. **Existing Developments.** Where screen porches are not indicated on an approved site or development plan for

uses requiring such approvals, application for screen porches shall be as follows:

a. The Homeowners' Association shall submit a request to amend the Development Order. Such request shall include a drawing clearly illustrating the location of all possible screen porches and stating the types of construction materials that may be used, and any necessary amendments to the Declaration of Covenants and Restrictions.

b. The City Commission may reduce the setback requirement for screen porches, provided:

   (1) The distance the screen porch would infringe on the setback would be the minimum necessary;

   (2) The addition of the screen porch will not have a detrimental effect on surrounding properties; and

   (3) The twenty-foot (20') minimum distance between buildings is maintained.

c. The City Commission may require additional landscaping and/or fencing if necessary to negate the impact of the screen porch.

d. In addition to the drawing required by paragraph 3 (a), the Homeowners' Association shall submit a legal opinion from its attorney that the request was duly approved and executed by the Association and that the request is not in conflict with any Deed Restrictions or Covenants applicable to the development.

e Following approval of the amended Development Order by the City Commission, an individual unit owner may request a building permit from the Chief Building Official, provided that such request is consistent with the conditions of the amended Development Order.

4. **Existing Pool Screen Enclosures:** Existing non-conforming pool screen enclosures may be removed and replaced in accordance with LDC Section 2-50.P, Pools.

SECTION TWO. All Ordinances or parts of Ordinances in conflict herewith are hereby repealed to the extent of such conflict.

SECTION THREE. In the event any word, phrase, clause, sentence, paragraph, term, or provision of this Ordinance shall be held to be invalid by a court of competent jurisdiction, such judicial determination shall not affect any other word, clause, phrase, sentence, paragraph, term or provision, of this Ordinance, and the remainder of this Ordinance shall remain in full force and effect.

SECTION FOUR. This Ordinance shall take effect immediately upon its adoption.

PASSED UPON at the first reading of the City Commission, this 15th day of June, 2004.

PASSED UPON at the second and final reading of the City Commission, this 6th day of July, 2004.

FRED COSTELLO
Mayor

ATTEST:

VERONICA PATTERSON
City Clerk

S:\CITY COMMISSION ITEMS\ORDINANCE\2004\06-15-04\04-024A - SEC 2-50R&U POOLS ACCESSORY STRUCTURES.DOC\06/10/04 09:10
P04-0092A

CITY OF ORMOND BEACH

FLORIDA

PLANNING **M E M O R A N D U M**

TO: Board of Adjustments and Appeals members

FROM: Steven Spraker, AICP, Senior Planner

DATE: November 24, 2014

SUBJECT: Variance advertising requirements

At the November Board of Adjustments and Appeals meeting there was a discussion regarding the advertisements of variances. This item is being presented as a discussion item based on the request at the November Board meeting.

Section 1-16(c)(3) of the Land Development Code requires three forms of advertising:

1. Newspaper advertisements (legal ad);
2. Posting of the subject property. The size of the posting is not detailed in the Land Development Code, however, there was a City Commission item that directed staff to provide 2' by 3' signs for variance cases;
3. Mail notice to abutting property owners.

The Land Development Code states that the notice is to occur at least 15 days prior to the date set for said hearing, not counting the date of publication and the date of hearing. During each pre-application meeting staff advises applicants to discuss the potential variance with abutting neighbors and the HOA, if applicable.

This item is being presented base on the discussion of the last meeting and staff has no recommendations on this item. Thank you.