



AGENDA

ORMOND BEACH BOARD OF ADJUSTMENT AND APPEALS

January 7, 2015

ORMOND BEACH CITY COMMISSION CHAMBERS

7:00 P.M.

- I. ROLL CALL
- II. ADMINISTRATIVE ITEMS
 - A. Election of Chairperson and Vice-Chair.
 - B. Approval of the 2015 Rules of Procedures
 - C. Acceptance of 2015 BOAA calendar.
- III. APPROVAL OF THE MINUTES
 - A. December 3, 2014
- IV. NEW BUSINESS
 - A. **Case No. 15-036: 511 Laurel Drive, pool screen enclosure variance.**

This is a request for a pool screen enclosure variance from Ms. Mary Perry, property owner of 511 Laurel Drive to construct a pool screen enclosure over a proposed pool. Section 2-50(X)(1)(c)(2) of the Land Development Code requires a 10' setback for a pool screen enclosure to the rear property line. The variance request from Ms. Perry seeks to allow a pool screen enclosure over a proposed pool with a 5' variance to the required pool screen enclosure setback of 10', with a resulting setback of 5' to the rear property line.
 - B. **Case No. 15-034: 185A Cardinal Drive, side yard variance.**

This is a request for a side yard variance submitted by Mr. Steve Abel, Abel Construction Enterprises, on behalf of the property owners, Laura and Radu Stanciulescu, of 185A Cardinal Drive. The property is zoned as R-4, Single Family Medium Residential. Chapter 2, Article II of the Land Development Code, Section 2-17(B)(9)(c) requires a 20' side yard setback. The applicant is requesting a side yard setback of 6' for a glass room addition, requiring a side yard variance of 14' from the required 20' setback to the side property line.
- V. OTHER BUSINESS
- VI. ADJOURNMENT

MINUTES
BOARD OF ADJUSTMENT

December 3, 2014

7:00 p.m.

Commission Chambers

22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Staff Present

Ryck Hundredmark
Jean Jenner
Norman Lane
Brian Nave (alternate)
Dennis McNamara, Chair

Steven Spraker, Senior Planner
Ann-Margret Emery, Deputy City Attorney
Melanie Nagel, Minutes Technician

II. APPROVAL OF THE MINUTES

A. November 5, 2014 Minutes

Mr. Hundredmark moved to approve the November 5, 2014 Minutes as submitted. Mr. Lane seconded the motion. Vote was called, and the motion was approved by members who attended the last meeting.

III. NEW BUSINESS

A. Case No. V2015-090: 759 South Atlantic Avenue, Georgian Inn Beach Club calculated rear yard variance, gazebo

Mr. Spraker, Senior Planner, City of Ormond Beach, stated this is an application for a calculated rear yard variance to build an open air gazebo at 759 South Atlantic Avenue. Mr. Spraker explained that along the oceanfront, the setbacks are determined by doing an average calculation of all of the buildings 800' feet to the north and south of the building, which came up with an average setback of 52.97 feet. One of the key points of the rear yard setback is to not block the view of adjoining property owners. To the north of the property is a vacant lot, and to the south is Andy Romano Park which has existing gazebos that are closer to the oceanfront than what is being requested. Mr. Spraker reviewed the location, orientation, and characteristics of the subject property and presented the staff report.

Mr. McNamara asked if the Board had any questions. Mr. Nave questioned that since it looks as if the gazebo is being built where there presently is parking, how is this not going to affect the parking? Mr. Spraker explained that they will submit a new site plan, with the new parking design. This variance shouldn't impact the parking, and does not grant the applicant any waiver to the parking

they have today. Tonight's discussion is solely for the gazebo, and the parking will stand on its own.

Mr. Lane questioned the setback line, and asked if the gazebos at Andy Romano Park were part of the determination for the setback. Mr. Spraker replied that only the main concession building was used for the calculation, since the gazebos are typically an accessory structure. Mr. Lane asked if this would also affect the calculated setback for the neighbors. Mr. Spraker stated that if it is a hard roof structure, and part of the principle building, if they were to ever go to re-development, they would work from that point. It might affect the vacant lot next door, but using the 800' average, it wouldn't impact it too much.

Mr. McNamara asked that if the variance is approved, is it just for the gazebo. Mr. Spraker stated that it is just for the gazebo. They would not be able to build an enclosed building expansion. They would have to come back to the Board.

Mr. Nave asked if there are any other buildings closer to the beach than this one. Mr. Spraker stated that it will be the closest to the beach if discussing principle structures. But, there are accessory structures, such as at the park that are closer than this, and this addition is more like an accessory structure.

Mr. Scott Waldroff, 1063 Red Maple Ct, New Smyrna Beach, architect for the project, stated that some of the sun deck will be deleted and that is where the extra parking will be added, so as not to lose any spaces. Since the structures at the park are not objectionable, it is felt that this project would be very similar to that. Mr. McNamara asked if this was a hotel or timeshare. Mr. Waldroff stated that it is a timeshare.

Mr. Lane inquired what the gazebo would be used for. Mr. Waldroff explained that the gazebo would be a shaded area with a bar/counter and seating, and a couple of grills for the guests to use. It would be a place for people to get out of the sun and sit. Mr. Lane asked if there was a restaurant on the property. Mr. Waldroff stated no, there was not.

Mr. McNamara asked if this would be a concession stand of some kind. Mr. Waldroff stated no, there are no plans to have any food catered or sold here.

Mr. Lane asked if this was part of a bigger improvement. Mr. Waldroff stated that this project is an improvement of the pool deck area.

Mr. Jenner stated that first, this is an improvement, and secondly, this will have a minor impact and it is great to see a property owner making some improvements. This is good for the city and has no impact on anyone and he is in favor of it.

Following discussion, Mr. Hundredmark moved to approve the rear yard variance, as submitted. Mr. Jenner seconded the motion. Vote was called, and the motion was unanimously approved.

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

Mr. Spraker, Senior Planner, City of Ormond Beach, stated this is an application for rear and side yard variances to build an addition at 1 London Lane. Mr. Spraker explained that this is another example of a development in which the existing built environment does not match the Land Development Codes setback requirements. Mr. Spraker reviewed the location, orientation, and characteristics of the subject property and presented the staff report.

Mr. Gary Fessock, 3777 Fiermo Drive, Port Orange, friend of the applicant, attended the meeting. He stated that the room presently on the back of the home is not very deep and is useless and the owners want to be able to use the room.

Mr. Nave asked if the pictures in the presentation were of the actual house, and wondered if the air conditioning unit would have to be moved. Mr. Spraker stated no, that it belonged to the neighboring unit. Mr. Spraker pointed out where the new addition would be.

Following discussion, Mr. Lane moved to approve the rear and side yard variances, as submitted. Mr. Hundemark seconded the motion. Vote was called, and the motion was unanimously approved.

IV. OTHER BUSINESS

- 1) Pool screen enclosures – Mr. Spraker explained that the last time this item was discussed, the final understanding of what was directed was to keep the screen enclosure at 10', but to allow screen enclosures over existing pools. Once Staff went to write the ordinance, if a person is allowed to put in a pool at the 5' setback, and you're allowed to cover existing pools, it automatically goes down to 5'. So, that is not going to work.

Mr. Lane stated that the intent was only for pools built before the date of the amendment. Mr. Spraker stated that he wanted to confirm what the Board is requesting. Basically, there are four options: 1) go down to 5' for everything; 2) if you have an existing non-conforming pool screen enclosure you can replace it; 3) combine options 1 & 2; or 4) do nothing.

Mr. Lane understood that if there is an existing pool at 5', that was built before a certain date, then they would get an automatic variance. Those are the cases that have come to the Board – someone has a pool deck that was built some time ago, and now they want to add a screen enclosure. Could they be grandfathered in? Mr. Spraker responded that he would not recommend it. Basically, you are taking away the ability of the adjoining property owner to object. Most of the variances have been approved because the applicant has gone to the neighbors and talked to them, and they have no objection to it. Originally Staff was of the mindset that it should be 5' and have one standard for everything, but you are then taking away a right that an adjoining property owner should have.

Mr. Spraker continued that the Board may approve it, but the applicant still has to go through the process of talking to the neighbors and making sure there is no impact, or there has to be some special condition. Language could be put in that if someone has an existing screen enclosure and it gets destroyed or they want to replace it, then that would be allowed. But Staff would not recommend ones that are 5' to automatically be allowed.

- 2) Variance advertising requirements – Mr. Spraker discussed the three current advertising requirements for variances – 1) legal newspaper ads; 2) posting a 2' x 3' sign at the property; and 3) mailing notices to abutting property owners, which includes physically touching it, or across the street. If there is a desire by the Board to change the requirements, Staff needs to know what the goal is.

Mr. McNamara asked about abutting property owners, versus within 300' of the property. Mr. Spraker stated that at least since 2005 it has always been abutting property owners.

Mr. Lane feels that it would be a good idea to go to a larger radius for notification, because other people are affected. Mr. Lane also thinks that some improvement to the signage, such as double-sided signs that can be seen when driving past the property, and signs at the next intersection, would reduce the number of people who feel like they were surprised by what was going on. Mr. Spraker stated that the sign is designed to advertise the property with the variance. If a sign is put at a corner, it could cause more confusion, because people wouldn't know what it was for.

Mr. Hundredmark commented that this discussion is taking place as a reaction to one individual who complained, and he isn't sure that should be a reason to make a change. Mr. Spraker stated it is a Board decision and Staff can do what the Board indicates. There has been discussion about the size of the signs, but the City Commission several years ago stated that a larger sign was fine for commercial sites, but didn't feel a large sign should be used in a residential area.

After discussion from Board members about who sees the signs, what size they should be, what information should be on them, what direction the signs should face, Mr. McNamara commented that the signs are doing what they are intended to do, which is to notify adjoining property owners. They're not meant to notify the whole city, but just the residents in the immediate area who might have a concern. Mr. Spraker commented that the Board can revisit this at any time, and can take some time to think about it and let Staff know what to do.

Mr. Jenner commented about the applicant or a representative of the applicant being present at a meeting for a variance, but yet tonight a friend of the applicant came to the meeting. Mr. Spraker stated that the applicant came to the office and knew they would be out-of-town, and authorized the friend to represent them. Mr. Jenner was concerned that if there were an appeal, or something went wrong, would this be an issue. Ms. Ann-Margaret Emery,

Deputy City Attorney, stated that the applicant runs the risk that if the Board has questions, and their representative can't answer them, then they may run the risk that they wouldn't have an adequate appeal, because they don't have information on record.

Mr. Hundredmark moved that the Board do nothing to change the way variances are advertised unless it becomes an issue in the future. Mr. Jenner agreed, and Mr. McNamara was in favor of keeping everything the same. Mr. Lane stated he could go along with the Board's decision.

V. ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:37 p.m.

Respectfully submitted,

Steven Spraker, 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.

CITY OF ORMOND BEACH

FLORIDA

PLANNING

MEMORANDUM

TO: BOAA Members

FROM: Steven Spraker, AICP, Senior Planner

DATE: December 29, 2014

SUBJECT: Board of Adjustment and Appeals Administrative Items

The City Commission shall appoint Board of Adjustment and Appeals members and alternates on January 6, 2015. This packet is being sent to the current Board members. This is the first meeting of the Board of Adjustment and Appeals (BOAA) for the year 2015. There are several administrative items on the agenda including the election of the chairperson/vice-chairperson, calendar of meetings and the rules of procedures.

Planning staff will continue to provide the BOAA members copies of the packets via hard copy and by e-mail. It would be beneficial for staff if BOAA members could respond to the packet e-mail to let us know if they will be attending the Board meeting. BOAA alternate members will receive packets via e-mail and staff will provide hard copies if an alternate member is requested to attend the Board meeting. If any alternate member desires hard copies of the packet, please contact me and staff can provide the packet to the member. Alternate member(s) are not required to attend the BOAA meetings unless substituting for a member who is absent.

The variance packet and agenda are also provided at the City website, under Boards and Committees. If there are any questions, I can be contacted at 676.3341 or by e-mail at Steven.Spraker@ormondbeach.org. Thank you.

BOARD OF ADJUSTMENT AND APPEALS – 2015 CALENDAR

Submittal Deadlines	Legal Notification*	Board Meeting Date
December 1, 2014	December 19, 2014	Wednesday, January 7
January 2	January 16	Wednesday, February 4
February 2	February 13	Wednesday, March 4
March 2	March 13	Wednesday, April 1
April 1	April 17	Wednesday, May 6
May 1	May 15	Wednesday, June 3
June 1	June 12	Wednesday, July 1
July 1	July 17	Wednesday, August 5
August 3	August 14	Wednesday, September 2
September 1	September 18	Wednesday, October 7
October 1	October 16	Wednesday, November 4
November 2	November 13	Wednesday, December 2
December 1	December 18	Wednesday, January 6, 2016

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

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

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

SECTION 1. OFFICERS, MEMBERS AND DUTIES

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

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

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

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

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

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

SECTION 2. MEETINGS

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

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

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

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

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

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

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

2.7 Adjournment. New items will not be heard by the Board after 10:00 PM unless authorized by a majority vote of the Board members present. Items which have not been heard before 10:00 PM may be continued to a date and time certain, or to the next regular meeting, as determined by affirmative vote of the majority of the Board members present.

SECTION 3. VOTING

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

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

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

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

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

3.3 Abstention. All members of the Board shall vote in favor of, or in opposition to, all matters coming before the Board for vote, and such vote shall be recorded in the official records of the Board. However, no member shall vote upon any matter which would inure to the member's special private gain or loss; which the member knows would inure to the special private gain or loss of any principal by whom the member is retained or to the parent organization or subsidiary of a corporate principal by which the member is retained, other than an agency as defined in §112.312(2), *Florida Statutes*; or which the member knows would inure to the special private gain or loss of a relative or business associate of the member. Any member so required to abstain shall, prior to the vote being taken, publicly state to the assembly the nature of the member's interest in the matter from which the member is abstaining from voting and, within fifteen (15) days after the vote occurs,

disclose the nature of the member's interest as a public record in a memorandum filed with the Secretary, who shall incorporate the memorandum in the minutes.

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

SECTION 4. ATTENDANCE

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

SECTION 5. APPEALS AND APPLICATIONS

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

SECTION 6. RESIDENCY REQUIREMENTS

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

SECTION 7. APPLICATIONS

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

SECTION 8. CONDUCT OF HEARINGS

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

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

8.1 In order to allow the meeting to proceed in an orderly fashion, the Board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of thirty (30) minutes for City staff, the designated representative of the applicant and the

designated representative of any organized group and to five (5) minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the Board. The Chairman may also direct speakers to limit their comments to issues which have not been previously stated;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

SECTION 9. DECISIONS

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

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

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

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

SECTION 10. AGENDA

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

SECTION 11. RECONSIDERATION, REHEARINGS AND REAPPLICATIONS

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

11.2 Rehearing.

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

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

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

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

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

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

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

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

SECTION 12. AMENDMENTS

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

SECTION 13. MOTIONS

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

SECTION 14. ROBERTS RULES OF ORDER

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

PRESENTED IN WRITING at a regular meeting of the Board on January 7, 2015.

APPROVED at a regular meeting of the Board on_____.

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: December 29, 2014

SUBJECT: 511 Laurel Drive

APPLICANT: Mary Perry, property owner

FILE NUMBER: V2015-036

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION: This is a request for a pool screen enclosure variance from Ms. Mary Perry, property owner of 511 Laurel Drive to construct a pool screen enclosure over a proposed pool. Section 2-50(X)(1)(c)(2) of the Land Development Code requires a 10' setback for a pool screen enclosure to the rear property line. The variance request from Ms. Perry seeks to allow a pool screen enclosure over a proposed pool with a 5' variance to the required pool screen enclosure setback of 10', with a resulting setback of 5' to the rear property line.

BACKGROUND: The property is designated as "Low Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-3 (Single 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.

Table 1: Adjacent land uses and zoning:

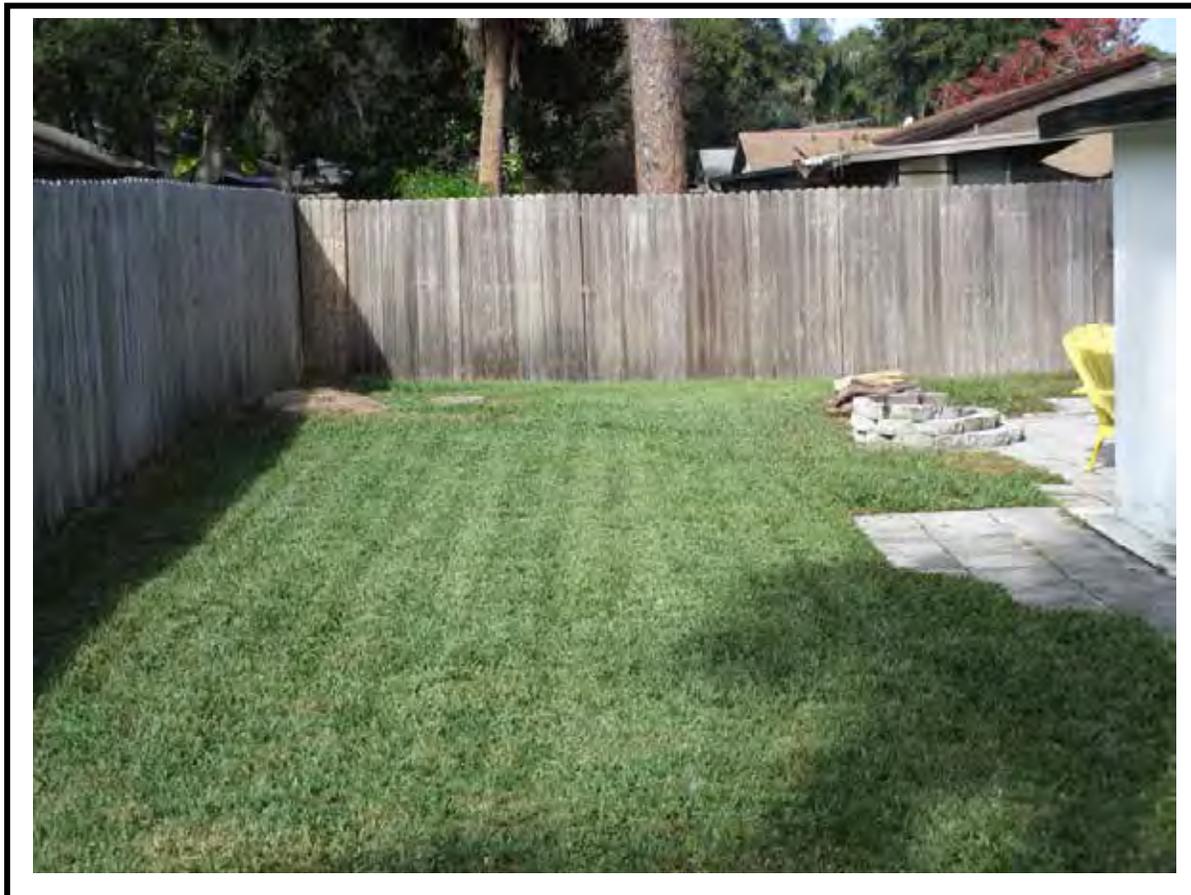
	Current Land Uses	Future Land Use Designation	Zoning
North	Single Family House	"Low Density Residential"	R-3 (Single Family Medium Density)
South	Single Family House	"Low Density Residential"	R-3 (Single Family Medium Density)
East	Single Family House	"Low Density Residential"	R-3 (Single Family Medium Density)
West	Single Family House	"Low Density Residential"	R-3 (Single Family Medium Density)

Site Aerial



Source: Bing Maps

Site picture, December 19, 2014 – area where pool is proposed



The subject property is 75' wide by 101' deep and is a conforming lot of record within the R-3 based upon the special provision of Section 2-15(H) of the Land Development Code. According to the Volusia County Property Appraiser, the house was constructed in 1981. The property is part of the Laurel Oak replat. As part of the plat, there is a 10' drainage and utilities easement along the rear and side property lines. The property owner has obtained letters of no objections from all utilities providers and Ormond Beach Public Works for the drainage easement for a partial easement release of 5'. The easement vacation is scheduled for the January 20, 2015 City Commission meeting. If the variance is approved, it shall be conditioned on the release of 5' of the rear drainage and utility easement.

ANALYSIS:

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.**

Case for the variances: The special condition relates to the depth of the property at 100' and the location of the existing house. The lot depth and house location constrain the ability to construct the pool screen enclosure.

Case against the variances: One could argue that given the location of the existing house and the regulations in the Land Development Code, the property owner can only have the pool without the screen enclosure.

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

Case for the variances: The applicants purchased the property after the house was constructed. The special conditions did not result from the actions of the applicant.

Case against the variances: None.

- 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.**

Case for the variances: The literal interpretation of the zoning regulations would prevent the construction of the pool screen enclosure. Meeting the 10' rear screen enclosure setback would require the enclosure to be located entirely in the pool water and is not possible. This condition is a direct cause of the location of the existing house and the 100' depth of the lot. Pool screen enclosures are commonly enjoyed by other properties in the City of Ormond Beach in the same zoning district.

Case against the variances: The Land Development Code establishes standards for screen enclosure setbacks and based on individual properties, not all sites can have pool screen enclosures.

- 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.**

Case for the variances: There is no practical alternative if a screen enclosure is to be allowed. As stated previously, applying the setbacks would require the pool screen enclosure to be located in the water of the pool. The request is the minimum necessary in order to allow the construction of the screen enclosure. Staff has received letters of no objections from the abutting property owners.

Case against the variances: As stated in criteria 3, property owners do not have an absolute right to screen enclosures at less than 10' to the rear property. In the past, one primary consideration of variance applications has been the impact to neighboring properties.

- 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.**

Case for the variances: The variance is not sought to reduce the cost of the construction of the pool screen enclosure.

Case against the variances: None.

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

Case for the variances: The request will not increase congestion, fire danger or public hazards.

Case against the variances: None.

- 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.

Case for the variances: The request will not diminish property values or alter the character of the surrounding area. One purpose of the variance process is to measure the impact of the improvement subject to the variance on adjoining properties. Staff has not received any objections and believes that the screen enclosure would not alter the character of the neighborhood.

Case against the variances: None.

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.**

Case for the variances: By approving the subject variance the city is not conferring a special privilege on the applicant that is denied by other property owners in the same zoning district.

Case against the variances: One can argue that granting the variance requests will lead to multiple applications for screen enclosures for pools with less than a 10' rear setback. Each application is a unique situation that must be reviewed independently based on the variance criteria, input from the required notification, and testimony at the public hearing.

RECOMMENDATION: It is recommended that the Board of Adjustments and Appeals **APPROVE** a pool screen enclosure over a proposed pool under with a 5' variance to the required pool screen enclosure setback of 10', with a resulting setback of 5' to the rear property line. The variance shall contain a condition that 5' of the existing 10' drainage and utility easement is required to be released by the City Commission (scheduled for January 20th) to allow construction of the pool and screen enclosure.

Attachments:

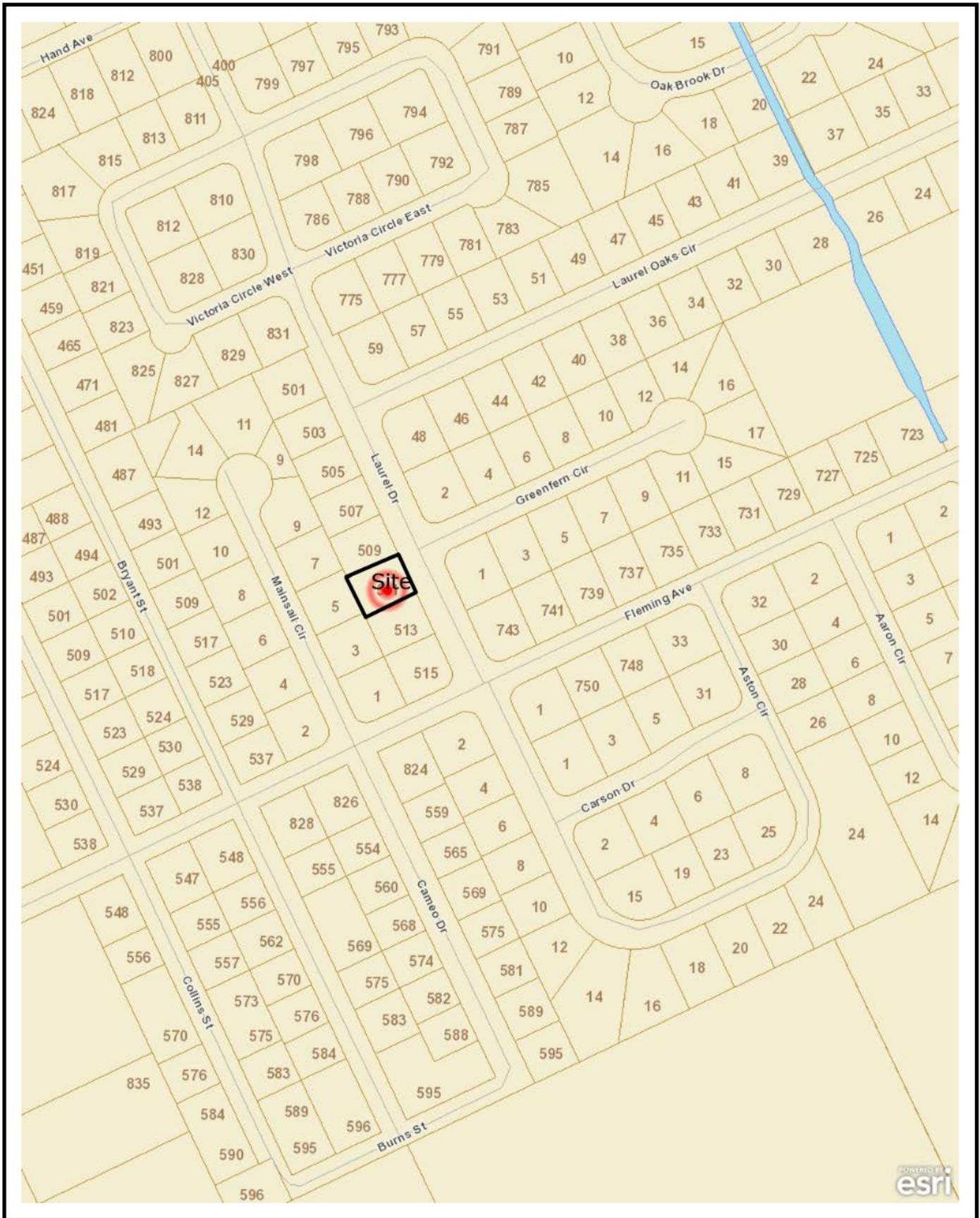
- 1: Variance Exhibit
- 2: Maps and pictures
- 3: Variance application

ATTACHMENT 1

Variance Exhibit

ATTACHMENT 2

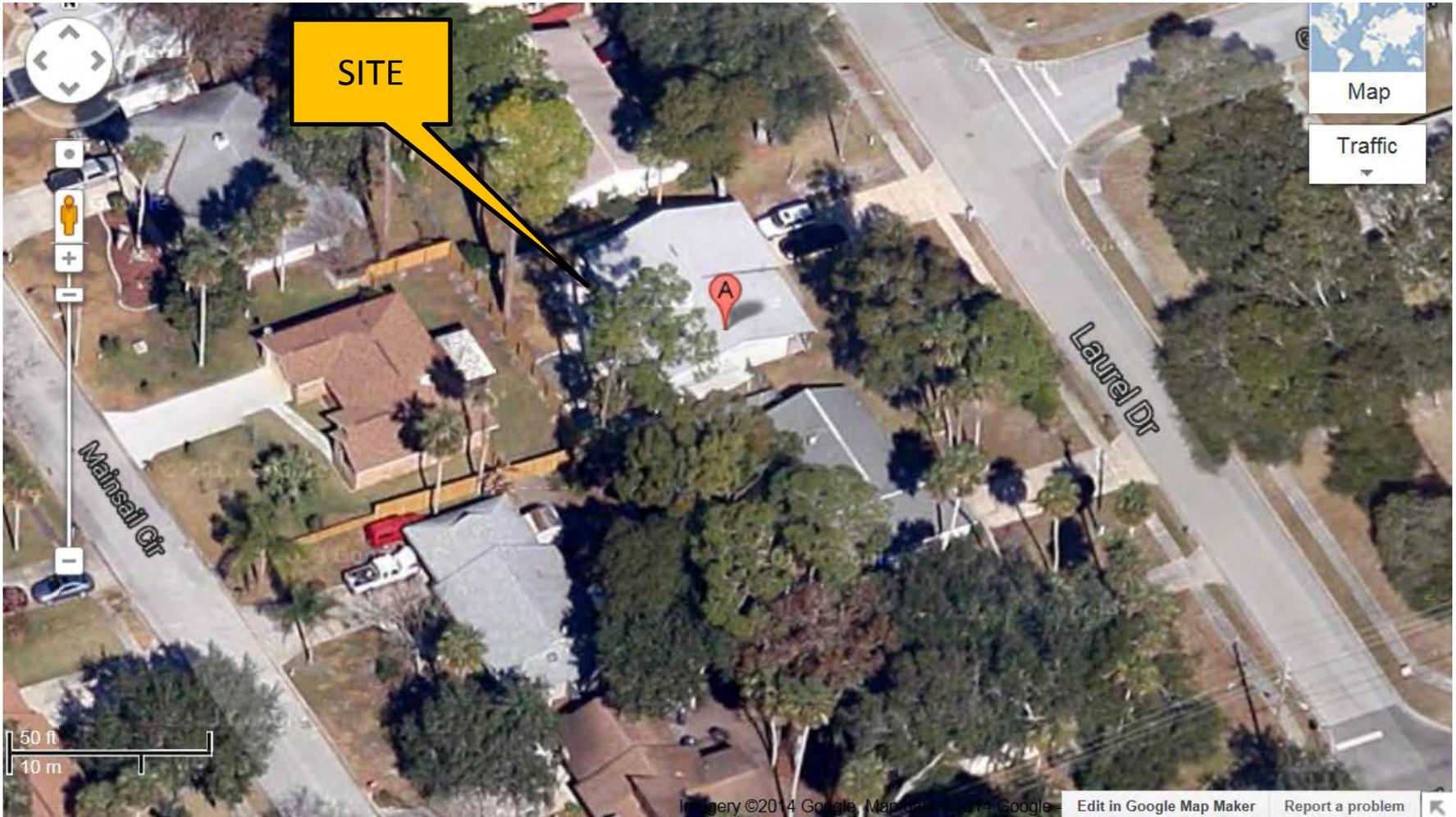
- Maps
- Pictures



LOCATION MAP
511 Laurel Drive

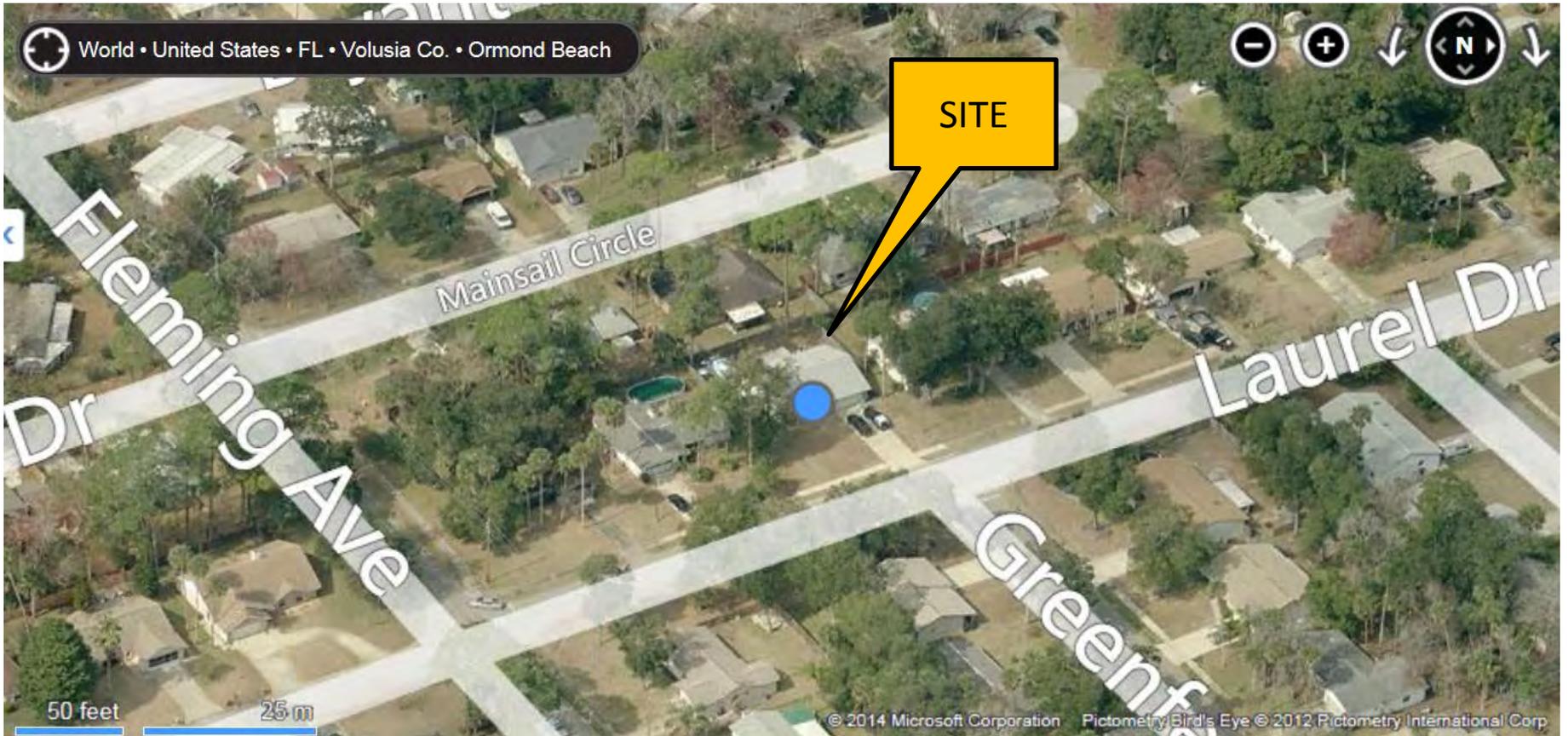


511 Laurel Drive site aerial



Source: Google Maps

511 Laurel Drive site aerial



Source: Bing Maps



**511 Laurel Drive
Rear yard area where pool and
Screen enclosure is proposed**



**511 Laurel Drive
Rear yard area where pool and
Screen enclosure is proposed**



**511 Laurel Drive
Rear yard area where pool and
Screen enclosure is proposed**



**Large pine trees
in and around
the rear yard.**

ATTACHMENT 3

Applicant provided
information



CITY OF ORMOND BEACH

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

www.ormondbeach.org

RECEIVED

v3.2013

DEC 08 2014

comdev@ormondbeach.org

15-36

VARIANCE - APPLICATION

For Planning Department Use

Application Number

Date Submitted

12/08/2014

APPLICATION TYPE AND FEES

	Application	Advertising Deposit for Advisory Board	Advertising Deposit for Commission	Total*
<input checked="" type="checkbox"/> Residential or Commercial	350	350	N/A	700
<input type="checkbox"/> 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 Larry + Mary Perry

Full Address 511 Laurel Dr.

Telephone 386-235-2794 Email mcperry68@aol.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 511 Laurel Drive Ormond Beach FL 32174

Parcel ID Number 42428000030

Legal Description Lot 3, Laurel Oaks Subdivision - Replat. per map book 36, Page 189, Public Records of Volusia County, Florida

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:

To allow construction of pool and pool enclosure closer to the rear property line than the ten foot minimum required by Land Development code.

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
<i>Kevin Schap</i>	<i>509 Laurel Drive</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Phil Fisher</i>	<i>513 Laurel Drive</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Barbara Fessell</i>	<i>5 Mainail Circle</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>

CRITERIA: CONFORMING

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

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:

Due to property layout / home no other place for pool + enclosure

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

Purchased house already built on property and did not layout property

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:

Due to home location and minimal pool size, no way to install pool and enclosure without variance. Spoke with neighbors and have signed approval.

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:

Due to layout of home + property, pool and enclosure may only be constructed in proposed area. This area will not encroach on neighbors properties

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:

This variance is not to lower cost but to utilize more space.

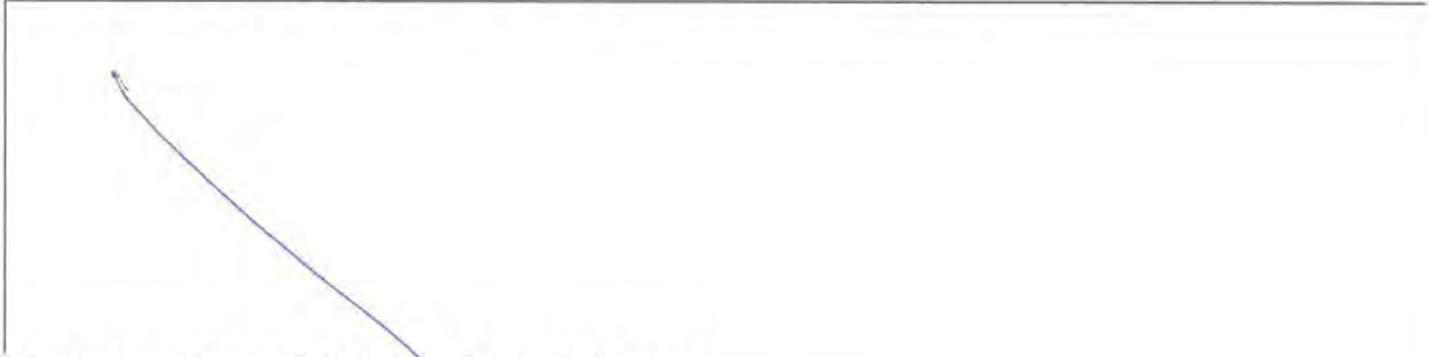
6. The proposed variance will not substantially increase congestion on surrounding streets, or the danger of fire or other hazard to the public:

The variance proposed will not effect congestion of surrounding streets, nor affect danger of fire or other hazards.

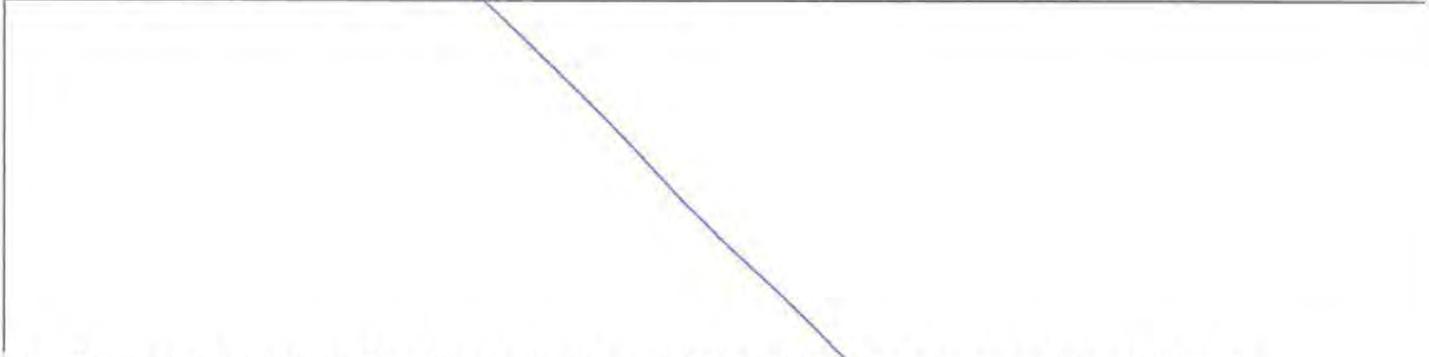
7. The effect of the proposed variance is in harmony with the general intent of this Code and the specific intent of the relevant subject area(s) of the Code and will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site:

The proposed variance will not deminish property values or effect the essential character of the Area

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.

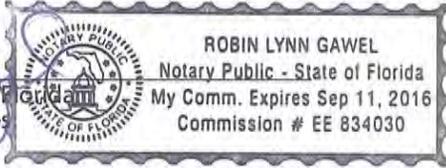
Signature: Mary C Preey

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 9th day of December, 2014, by Mary C Preey as owner (title*) for 511 Laurel Dr (name of corporation*), who provided FD-19 as identification, or who is personally known to me.

P600-583-68-913-0

[Signature]
Notary Public, State of Florida
My Commission Expires



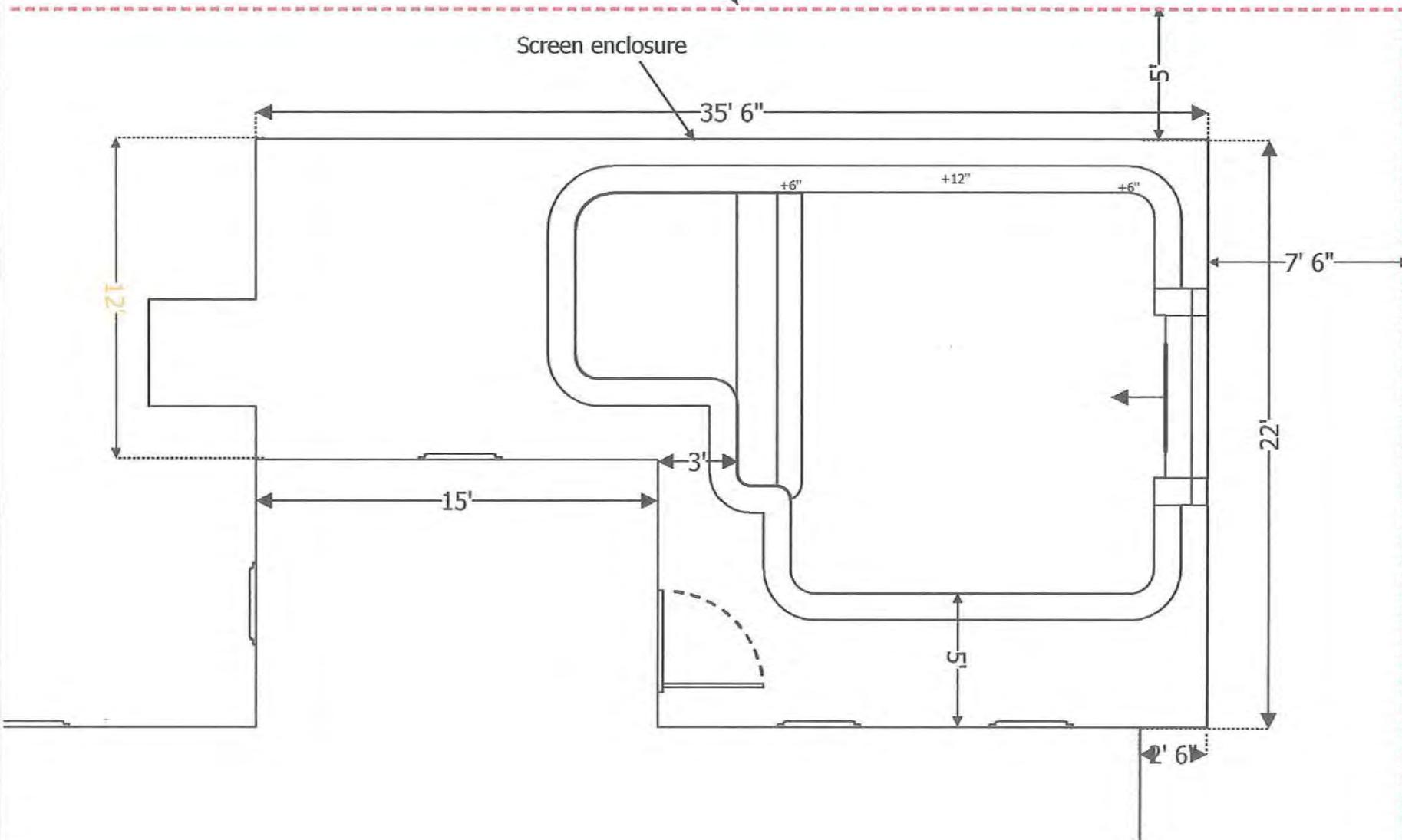
* If you are executing this document on behalf of a corporation please complete the spaces with your title and the name of your company as indicated.

PLAN VIEW



Property line

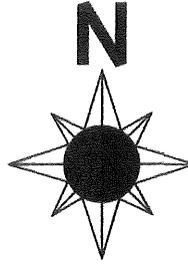
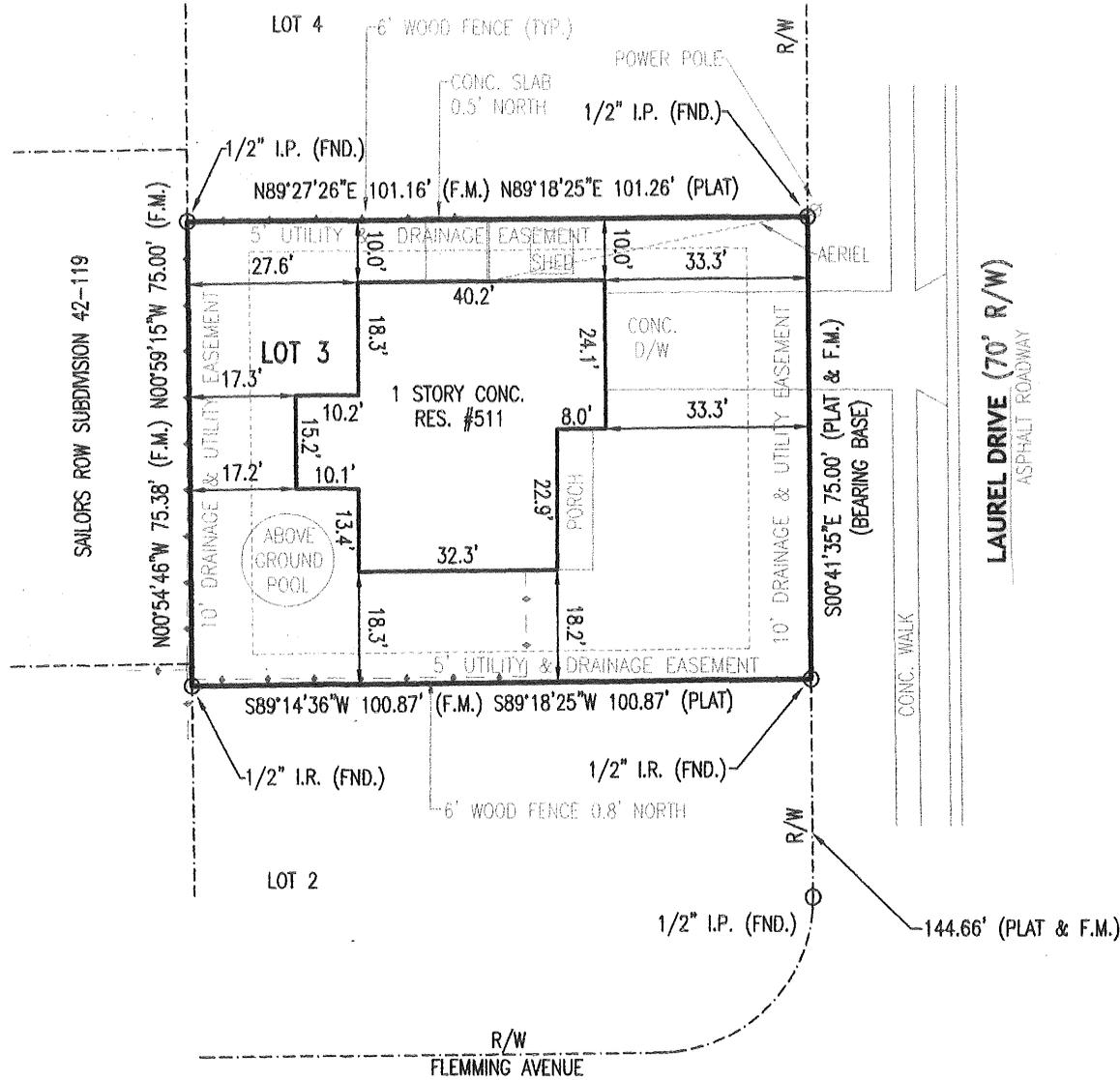
Screen enclosure



GENERAL NOTES:

- DATE OF FIELD SURVEY: 11-12-13.
- DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
- THIS SURVEY IS BASED ON EXISTING FIELD MONUMENTATION.
- NO UNDERGROUND FOUNDATIONS WERE LOCATED.
- NO UNDERGROUND UTILITIES WERE LOCATED EXCEPT AS SHOWN.
- BEARINGS REFERENCED TO THE WEST R/W LINE OF LAUREL DRIVE, BEING S00°41'35"E.
- NOT VALID WITHOUT THE SIGNATURE AND ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR & MAPPER.
- THIS SURVEY WAS DONE WITHOUT THE BENEFIT OF AN ABSTRACT. THERE MAYBE ADDITIONAL EASEMENTS, RESTRICTIONS AND/OR OTHER MATTERS NOT SHOWN THAT COULD AFFECT THIS PROPERTY THAT MAYBE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
- LEGAL DESCRIPTION FURNISHED BY CLIENT.

LEGAL DESCRIPTION:
 LOT 3, LAUREL OAKS SUBDIVISION - REPLAT, PER
 MAP BOOK 36, PAGE 189, PUBLIC RECORDS OF
 VOLUSIA COUNTY, FLORIDA.



LEGEND / ABBREVIATIONS:	F.D.O.T.	FLORIDA DEPARTMENT OF TRANSPORTATION	PG.	PAGE
ASPH.	EASE	EASEMENT	PLAT	PLAT DATA
A.S.	F.F.E.	FINISHED FLOOR ELEVATION	P.O.B.	POINT OF BEGINNING
A/C	F.M.	FIELD MEASURED	P.O.C.	POINT OF COMMENCEMENT
A/U	FND.	FLORIDA POWER & LIGHT	PP	POWER POLE
BLDG.	F.P.L.	FLORIDA POWER & LIGHT	PRO.	PROPOSED
BVD.	I.P.	IRON PIPE	RCP	REINFORCED CONCRETE PIPE
CALC.	I.R.	IRON ROD	R/W	RIGHT OF WAY
C.L.F.	M.B.	MAP BOOK	(R)	RADIAL
C.M.	N.D.	CHAIN LINK FENCE	RES.	RESIDENCE
C.M.P.	(N.R.)	CORRUGATED METAL PIPE	S/W	SIDEWALK
CONC.	O.R.	CONCRETE	TYP.	TYPICAL
DESC.	P.C.P.	DESCRIPTION		

REVISIONS	
ELEVATIONS REFER	(PER
MINIMUM F.F.E. =	COMMUNITY 125136
FLOOD ZONE X	PANEL
ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.	1212700214H 02/19/03.

BOUNDARY SURVEY

SURVEYOR'S CERTIFICATION:

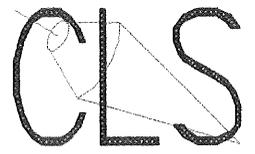
I HEREBY CERTIFY THAT THIS SURVEY OF THE SUBJECT PROPERTY IS TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE, INFORMATION AND BELIEF, AS SURVEYED IN THE FIELD UNDER MY SUPERVISION ON THE DATES SHOWN HEREON. I FURTHER CERTIFY THAT THIS SURVEY MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH IN FLORIDA ADMINISTRATIVE CODE CHAPTER 5A17, ADOPTED BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS, PURSUANT TO FLORIDA STATUTES SECTION 472.027, SUBJECT TO THE QUALIFICATIONS NOTED HEREON.

Gregg S. Cullum
 DATE: 11/12/13

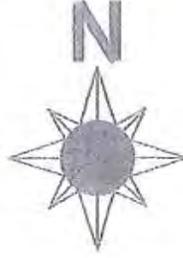
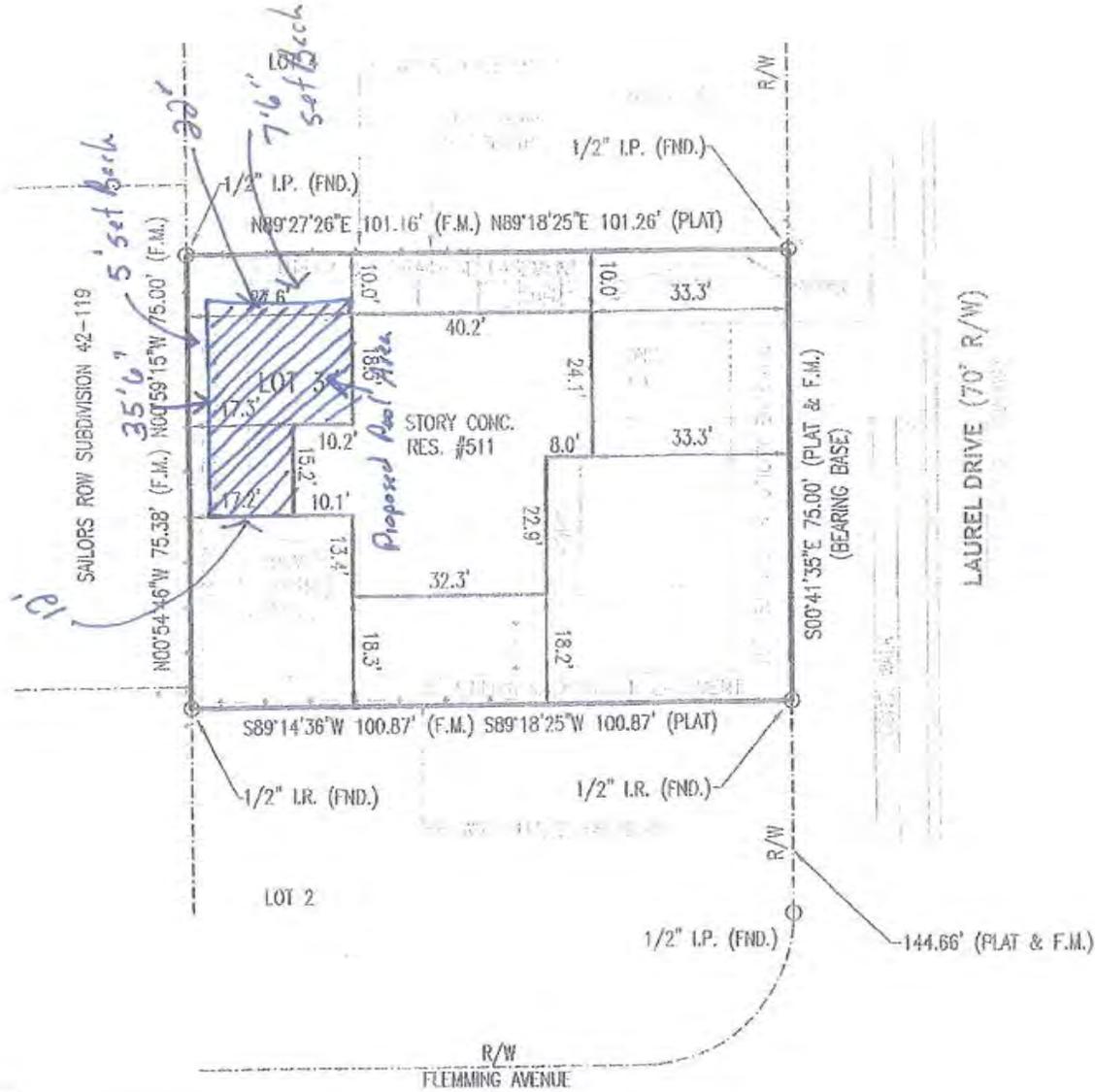
GREGG S. CULLUM P.S.M. #5095

PREPARED FOR:	MARY PERRY
JOB #:	2013-297
DATE:	11-12-13
SCALE:	1" = 30'
DRAWN BY:	GSC
CHECKED BY:	GSC
FIELD BOOK/PAGE:	90-34
SHEET	1 OF 1

NOT VALID UNLESS SIGNED BY A PROFESSIONAL SURVEYOR AND MAPPER AND SEALED WITH AN EMBOSSED SEAL



CULLUM LAND SURVEYING INC.
 GREGG S. CULLUM
 PROFESSIONAL SURVEYOR & MAPPER #5095
 LICENSED BUSINESS #7129
 5889 S. WILLIAMSON BLVD.
 SUITE 205
 PORT ORANGE, FLORIDA 32128
 386-761-7666
 (FAX) 386-761-7909



GENERAL NOTES:

1. DATE OF FIELD SURVEY: 11-12-13.
2. DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
3. THIS SURVEY IS BASED ON EXISTING FIELD MONUMENTATION.
4. NO UNDERGROUND FOUNDATIONS WERE LOCATED.
5. NO UNDERGROUND UTILITIES WERE LOCATED EXCEPT AS SHOWN.
6. BEARINGS REFERENCED TO THE WEST R/W LINE OF LAUREL DRIVE, BEING S00°41'35\"/>

LEGAL DESCRIPTION:
 LOT 3, LAUREL OAKS SUBDIVISION - REPLAT, PER
 MAP BOOK 36, PAGE 189, PUBLIC RECORDS OF
 VOLUSIA COUNTY, FLORIDA.

REVISIONS

LEGEND / ABBREVIATIONS:	F.D.O.T.	FLORIDA DEPARTMENT OF TRANSPORTATION	PG.	PAGE
ASPH.	EASE.	EASEMENT	PLAT	PLAT DATA
A.S.	F.F.E.	FINISHED FLOOR ELEVATION	P.O.B.	POINT OF BEGINNING
A/C	F.M.	FIELD MEASURED	P.D.C.	POINT OF COMMENCEMENT
A/U	FND.	FOUND	PP	POWER POLE
BLDG.	F.P.L.	FLORIDA POWER & LIGHT	PRO.	PROPOSED
BLVD.	I.P.	IRON PIPE	RCP	REINFORCED CONCRETE PIPE
CALC.	LR.	IRON ROD	R/W	RIGHT OF WAY
C.L.F.	M.B.	MAP BOOK	(R)	RADIAL
C.M.	N.D.	MAIL & DISC	RES.	RESIDENCE
CHP	(N.R.)	NON-RADIAL	S/W	SIDEWALK
CONC.	O.R.	OFFICIAL RECORDS BOOK		

ELEVATIONS REFER
 MINIMUM F.F.E. =
 FLOOD ZONE X
 COMMUNITY 125136
 (PER PANEL
 1212702144 02/19/03.
 REQUIREMENTS)
 ADDITIONS OR DELETIONS TO SURVEY MAPS OR REPORTS BY OTHER THAN THE SIGNING PARTY
 OR PARTIES IS PROHIBITED WITHOUT WRITTEN CONSENT OF THE SIGNING PARTY OR PARTIES.

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: December 29, 2015

SUBJECT: 185A Cardinal Drive

APPLICANT: Mr. Steve Abel, Abel Construction Enterprises (applicant),
on behalf of the property owners, Laura and Radu
Stanciulescu

FILE NUMBER: 2015-034

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION:

This is a request for a side yard variance submitted by Mr. Steve Abel, Abel Construction Enterprises, on behalf of the property owners, Laura and Radu Stanciulescu, of 185A Cardinal Drive. The property is zoned as R-4, Single Family Medium Residential. Chapter 2, Article II of the Land Development Code, Section 2-17(B)(9)(c) requires a 20' side yard setback. The applicant is requesting a side yard setback of 6' for a glass room addition, requiring a side yard variance of 14' from the required 20' setback to the side property line.

BACKGROUND:

The property is designated as "Medium Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-4 (Single Family Medium Residential) on the City's Official Zoning Map. The existing use of the property is consistent with the FLUM designation and zoning district.

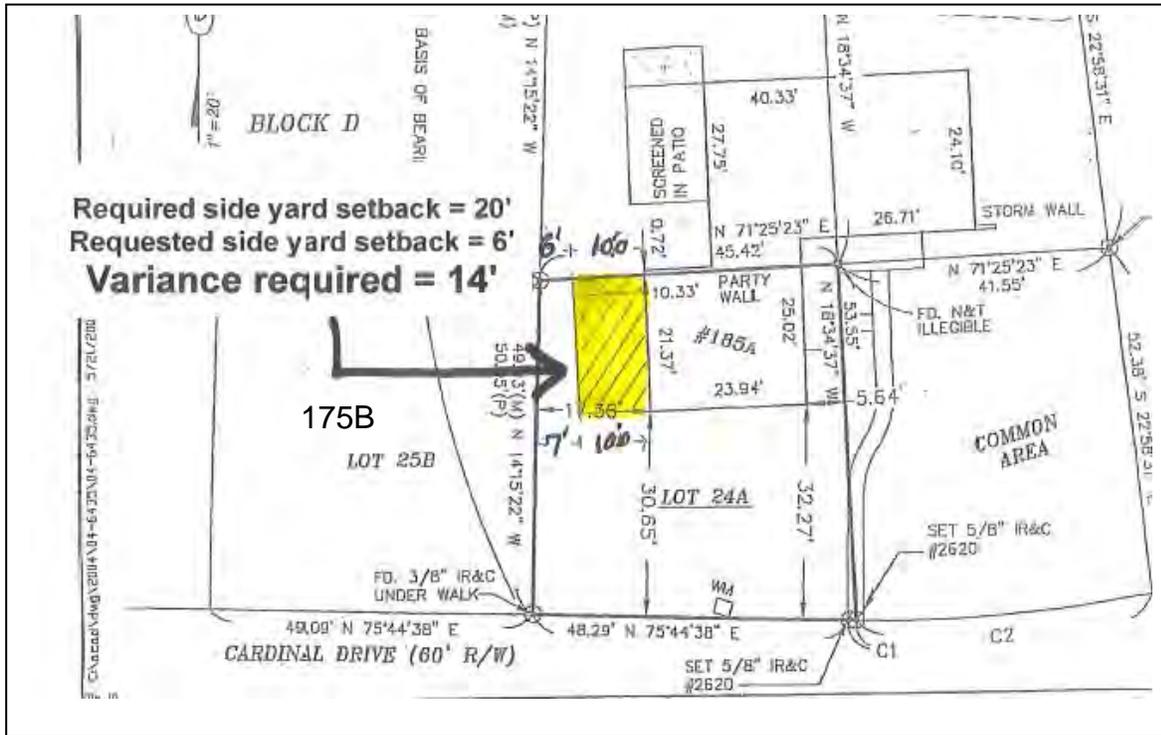
The subject property is located within Ocean Village Villas which was originally constructed in 1948. In the late 1980's and early 1990's the Ocean Villas Village entered into a Development Agreement (Resolution 89-70) with the City and began the process of platting the existing structures into single family, duplexes, triplexes, and 4-plexes. The existing structures were typically between 400 to 700 square feet and were previously used as vacation cottages.

The Ocean Village Villas Development Agreement did not provide any modifications to the R-4 zoning setbacks. Beginning in 1992, there was a realization that the existing structures did not comply with R-4 zoning setbacks and that renovation, expansion, and repair of the existing structures would have setback conflicts. City staff had various correspondences with the Ocean Village Villas Homeowners Association and in 1999 encouraged the amendment of the 1989 Development Order. In 2000, the Planning Director stated that City staff would support setbacks of 15' for the rear yard and 7' for the side yards. Staff has met with the Ocean Village Villas Homeowners Association who has attempted to work toward a solution for the setbacks but require approval of the individual property owners of the project. There has been no Development Order

amendment and property owners seeking expansions and renovations have done so through the variance process.

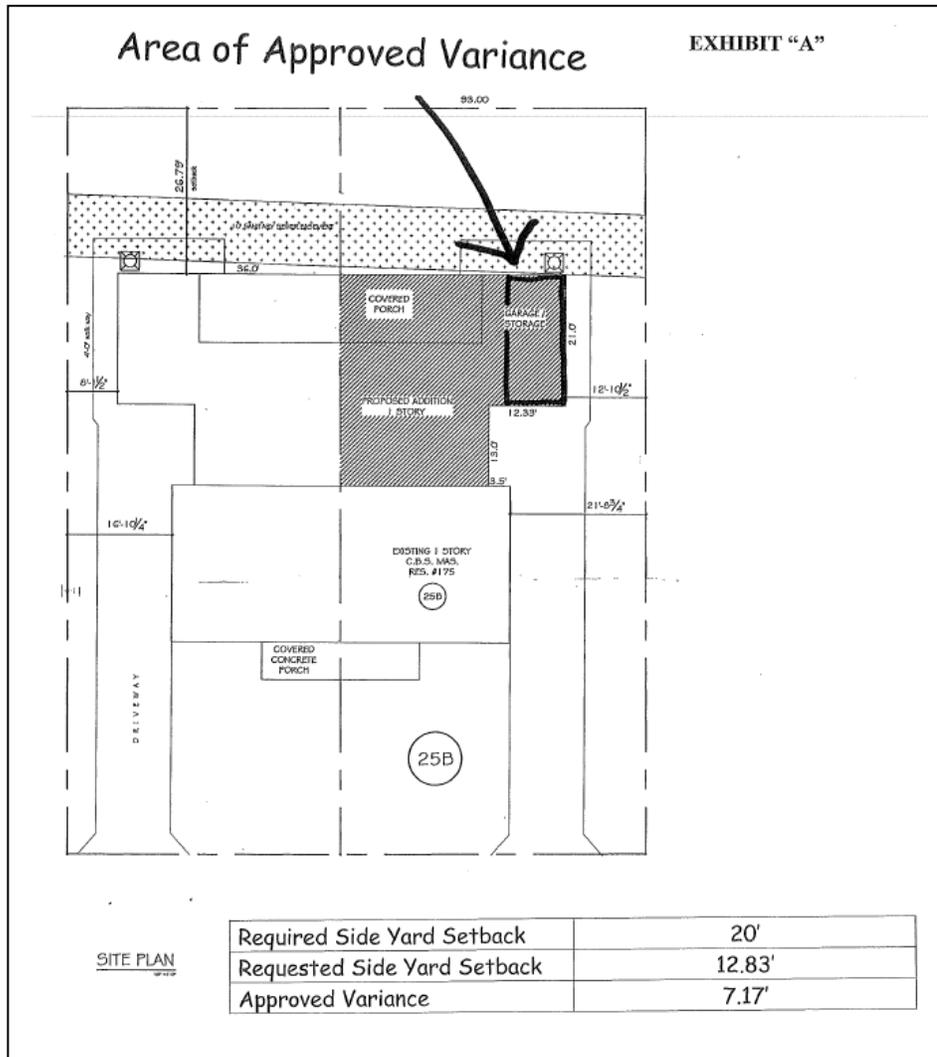
APPLICANT'S REQUEST: SIDE YARD SETBACK VARIANCE

The property is zoned as R-4, Single Family Medium Residential. Chapter 2, Article II of the Land Development Code, Section 2-17(B)(9)(c) requires a 20' side yard setback. The applicant is requesting a side yard setback of 6' for a glass room addition, requiring a side yard variance of 14' from the required 20' setback to the side property line. The variance exhibit is shown below:



Staff has received correspondence from the abutting property owner at 175 B Cardinal Drive regarding the proposed variance. The concerns from the homeowner include the proposed addition would be too close to the bedroom and take away the privacy between units.

The property at 175 Cardinal obtained variance approvals on June 2, 2010 for the A and B units of the duplex in order to expand the abutting property to the west. The expansion of the 175B Cardinal duplex property was primarily in the rear yard and did encroach into the required 20' setback by 7.17' within the rear portion of the site. The 2010 variance exhibit is shown below:



By comparing the 175B Cardinal Drive project survey and plot plan with the current application, the following distances would be applicable:

1. The 185A Cardinal Drive proposed setback is 6' from the property line.
2. The 175B Cardinal Drive existing building setback abutting their property line is 22.17'.
3. The 175B Cardinal Drive driveway is approximately 10' from the property line or 16' from the 185A Cardinal Drive proposed structure.
4. The distance between the structures at 185A Cardinal Drive and 175B Cardinal Drive is currently 38' at the closest point. The variance would reduce this dimension to 28' at the closest point with a proposed 6' building setback for 185A Cardinal Drive.

Site Picture



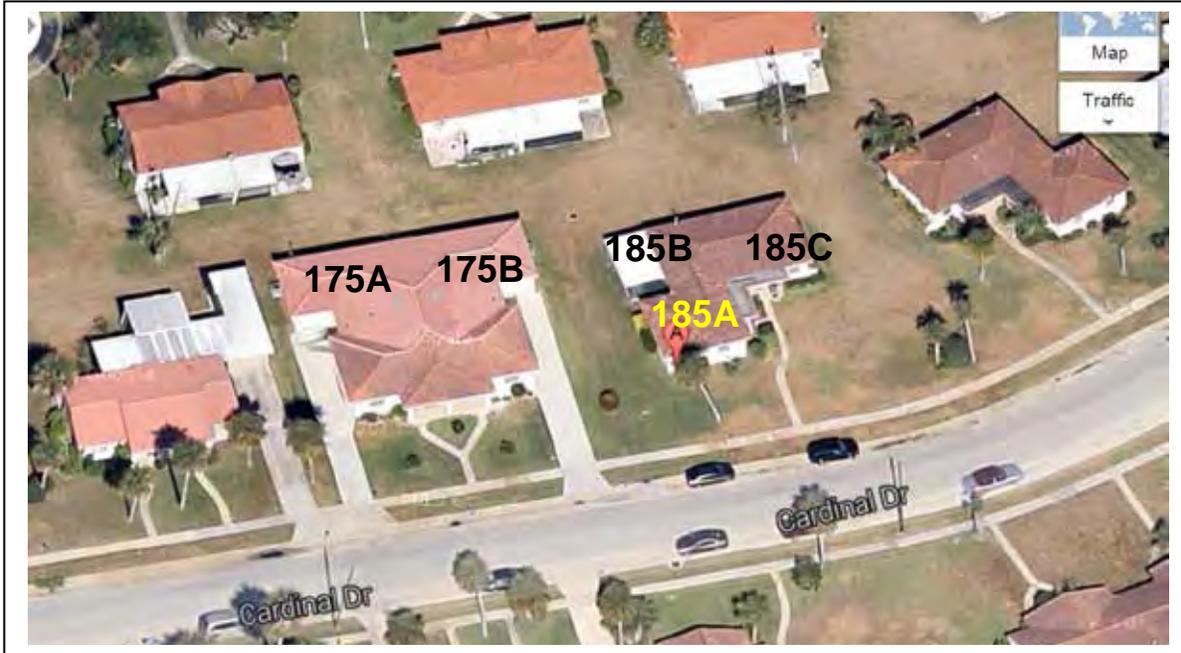
Adjacent land uses and zoning:

	Current Land Uses	Future Land Use Designation	Zoning
North	Triplex	"Medium Density Residential"	R-4 (Single Family Medium Residential)
South	Triplex	"Medium Density Residential"	R-4 (Single Family Medium Residential)
East	Triplex	"Medium Density Residential"	R-4 (Single Family Medium Residential)
West	Duplex	"Medium Density Residential"	R-4 (Single Family Medium Residential)

ANALYSIS:

The subject property is part of a three unit triplex. Unit A faces Cardinal Drive and unit B is located behind unit A, sharing a common wall. Unit B adjoins unit C to the east property line. There is a 10' by 10' common area located to the east of unit A and south of unit C.

Site Aerial



Source: Goggle maps

Unit A has limited opportunities to expand the existing living area based on unit B located to the north property line, the common area located along the west property line, and the front yard abutting the south line of the building. The Volusia County Property Appraiser shows that the building at 185A Cardinal Drive was constructed in 1947 and has 504 square feet of living area. The proposed room addition is 10' by 21.37" or 213.7 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."

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 variance: The R-4 zoning classification requires a minimum lot area of 15,000 square feet for triplexes. The property for all three units is less than 15,000 square feet and does not meet the lot standards. The lack of lot area further demonstrates that the redevelopment of this area did not consider the zoning designation and required setbacks.

Argument against the variance: One could argue since the minimum lot area is not met, no variances should be granted. It is important to view the entire history of this development and acknowledge that the existing setback standards are not appropriate for the built structures and the variance process is the only method to allow redevelopment and modernization.

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

Argument for the variance: There is no other practical alternative for the construction of the building addition at 185A Cardinal Drive. As stated earlier, the subject unit is bordered by 185C Cardinal Drive to the north, common area to the east, and the front yard to the south. The existing building configuration and the R-4 zoning district dimensions limit the ability to expand and meet the required setbacks.

Argument against the variance: None. Given the established lot lines, there is no ability to add building square footage. The only alternative option is not to allow the construction of the room addition.

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.**

Argument for the variance: The existing triplex residential use is a permitted use in the R-4 zoning district and is consistent with the purpose of this zoning district.

Argument against the variance: 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 variance: The proposed building addition shall maintain the front building setback and will extend from the side plane of the existing structure.

Argument against the variance: The building addition does extend into the side yard towards the building at 175B Cardinal Drive with that property owner expressing concerns regarding the variance. One could argue that the building does extend beyond the existing building line and should be denied.

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

Argument for the variance: The request is in scale with the adjacent structures and will be a one-story structure. The request is an investment into the Ocean

Village Villas area. The Ocean Village Villas 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 unit more functional for the property owners.

Argument against the variance: One could argue that the glass room addition at a 6' side yard setback is too close to the side property line.

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

Argument for the variance: The proposed glass room addition will not impact adjacent properties by limiting view or increasing light or noise. The remaining side yard setback is adequate to provide buffering and distance from the abutting property.

Argument against the variance: The addition is only 6' from the property line and is too close to the property line.

RECOMMENDATION: City Planning staff has, over time, indicated an acknowledgment that the R-4 zoning district setbacks are mis-applied to the Ocean Village Villas development and the Development Order should be amended. Beginning in 2000, the City Planning Director stated a willingness to amend the project setbacks. Staff believes that the variance allows the redevelopment, modernization, and is a necessary investment to maintain properties within the Ocean Village Villas.

It is recommended that the Board of Adjustments and Appeals **APPROVE** a side yard setback of 6' for a glass room addition, requiring a side yard variance of 14' from the required 20' setback to the side property line.

Attachments:

- 1: Variance Exhibit
- 2: Maps and pictures
- 3: Variance application

ATTACHMENT 1

Variance Exhibit

185A Cardinal Drive Plot Plan

LEGEND * = DEGREES, ' = MINUTES, " = SECONDS:
WHEN USED IN A BEARING
' = FEET, " = INCHES: WHEN USED IN A DISTANCE
CL = CENTERLINE
Δ = DELTA = CENTRAL ANGLE
-x- = FENCE
⊕ = FIRE HYDRANT
☆ = LIGHT POLE
± = MORE OR LESS
⊕ = UTILITY POLE

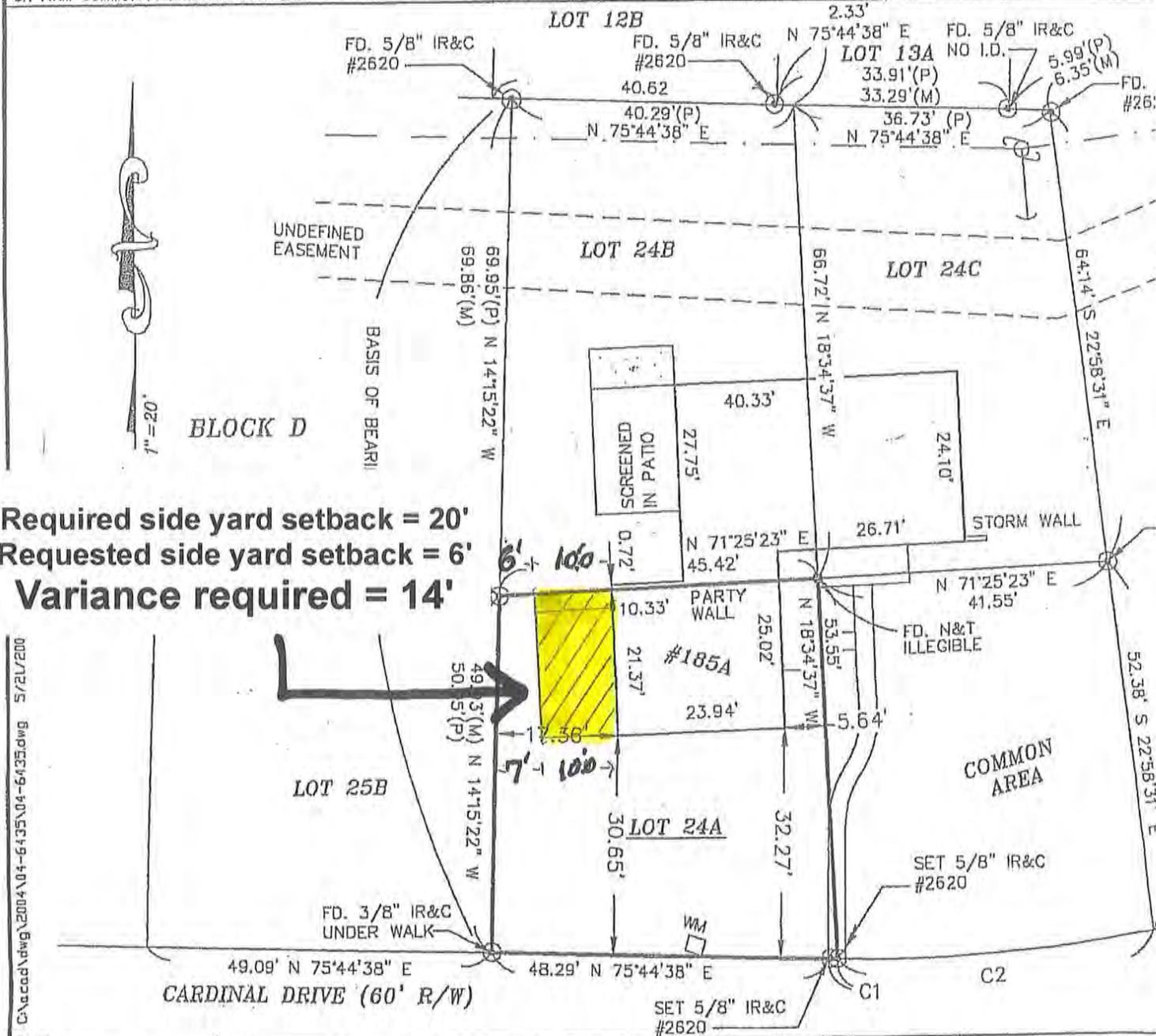
OH-E = OVERHEAD ELECTRIC
OH-T = OVERHEAD TELEPHONE
⊕ = SET 5/8" IR&C (#2620)
UNLESS OTHERWISE NOTED
⊕ = WATER VALVE
A/C = AIR CONDITIONER
A = ARC LENGTH
AC = ACRES
ASPH = ASPHALT
BFE = BASE FLOOD ELEVATION

⊕ = CALCULATED
(C) = CABLE TV
C&G = CURB & GUTTER
CH = CHORD DISTANCE
CH. BR. = CHORD BEARING
CLF = CHAIN-LINK FENCE
C.M. = CONCRETE MONUMENT
CMP = CORRUGATED METAL PIPE
C.O. = CLEAN OUT

(D) = DEED CALL
{DESC} = DESCRIPTION
E = EAST
EL = ELEVATION
EM = ELEC. METER
ESMT = EASEMENT
(F) = FIELD MEASUREMENT
FD = FOUND
F.D.O.T. = FLORIDA DEPARTMENT
OF TRANSPORTATION
N = NO

PROPERTY LIES IN FLOOD ZONE _____ PER PLOT OF DESCRIBED PROPERTY (AS SCALED)
ON FIRM COMMUNITY PANEL NUMBER _____ DATED _____

PUBLISHED BASE FLOOD ELEVATION _____
COMMUNITY ESTIMATED BASE FLOOD ELEVATION _____



Required side yard setback = 20'
Requested side yard setback = 6'
Variance required = 14'

C:\ecced\dwg\2004\04-6435\04-6435.dwg

SHEET 1 OF 1 SHEETS	JOB NO. 04-6435	FILE NO. 04-6435	SCALE 1"=20'	GENERAL NOTES: NO INSTRUMENTS OF RECORD REFLECTING EASEMENTS, RIGHTS-OF-WAY AND OR OWNERSHIP FURNISHED THIS SURVEYOR, EXCEPT AS SHOWN. THERE MAY BE ADDITIONAL RESTRICTIONS AT OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY THAT MAY BE FOUND IN THE RECORDS OF THIS COUNTY. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS HAVE LOCATED EXCEPT AS SHOWN. SURVEY PERFORMED WITHOUT THE BENEFIT OF AN ABSTRACT OR O OF TITLE. ALL MEASUREMENTS SHOWN ARE IN FEET AND HUNDREDTHS THEF
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PREPARED BY:
A.A. WILBERT JR., LAND SURVEYING, INC.
54-A VINING CT. ORMOND BEACH, FLORIDA 32176-6641
(386) 676-9056

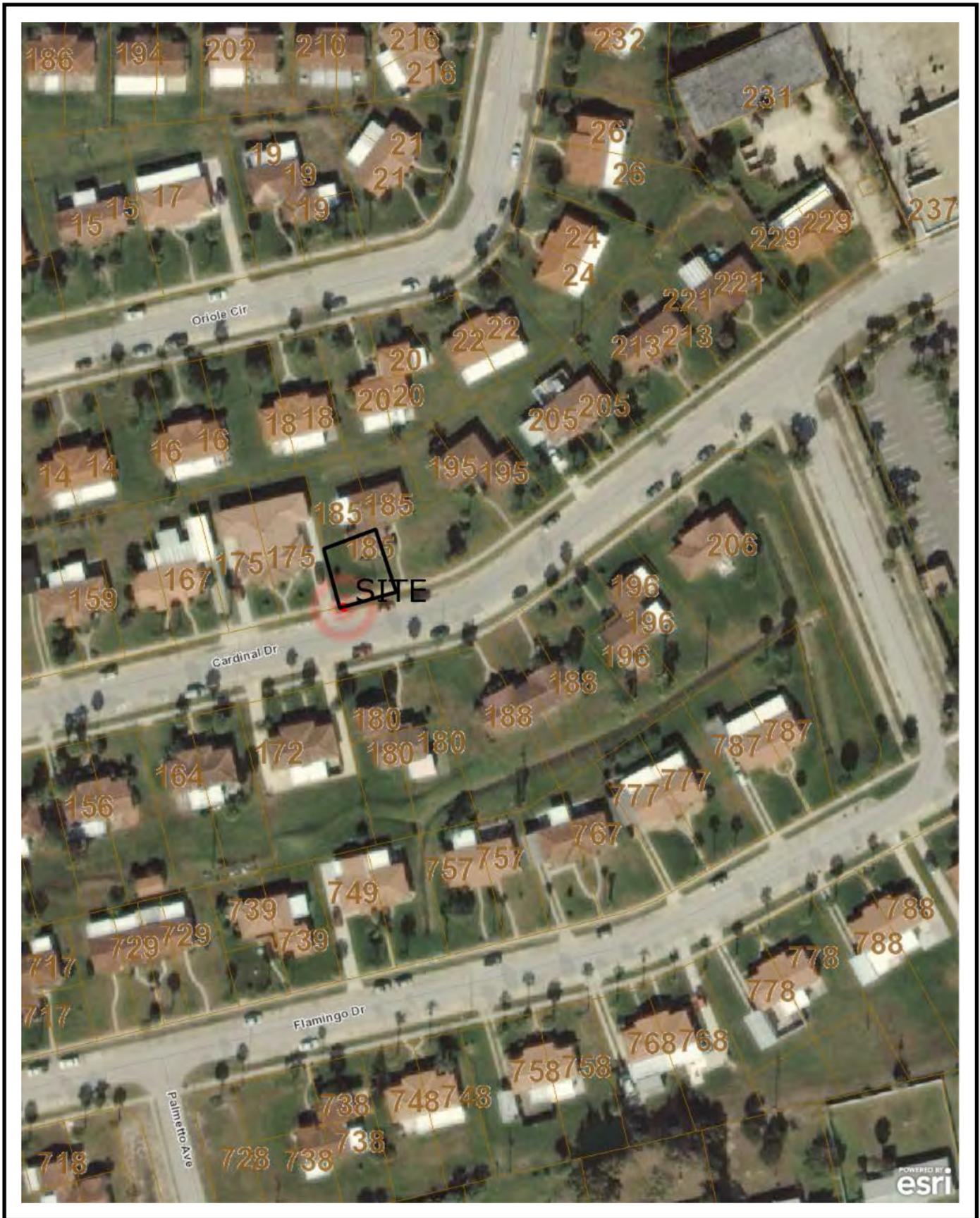
(Signature)
P.L.S. # 2620 L.B. # 4267 VALID ONLY WITH EMBOSSED SEAL

UNLESS IT BEARS THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR AND MAPPER THIS DRAWING, SKETCH, PLAT OR MAP IS FOR INFORMATIONAL PURPOSES ONLY AND IS NOT VALID

THE TERM CERTIFIED AS USED IN THIS STATEMENT, IS UNDERSTOOD TO BE THE PROFESSIONAL O OF THIS SURVEYOR AND FIRM WHICH IS FORMULATED ON HIS BEST KNOWLEDGE, INFORMATION BELIEF, AND AS SUCH, IT DOES NOT CONSTITUTE A GUARANTEE OR WARRANTY, EITHER EXPRESS IMPLIED, FURTHERMORE, THIS SURVEYOR AND FIRM DOES NOT ASSUME RESPONSIBILITY AND NOT BE LIABLE FOR CLAIMS ARISING FROM ERRONEOUS OR INCORRECT INFORMATION FURNISH THE OWNER, LENDER, OR OWNER'S CONTRACTORS OR OTHERS, WHICH IS USED AS A BASIS FORMULATE THIS SURVEYOR'S OPINION.

ATTACHMENT 2

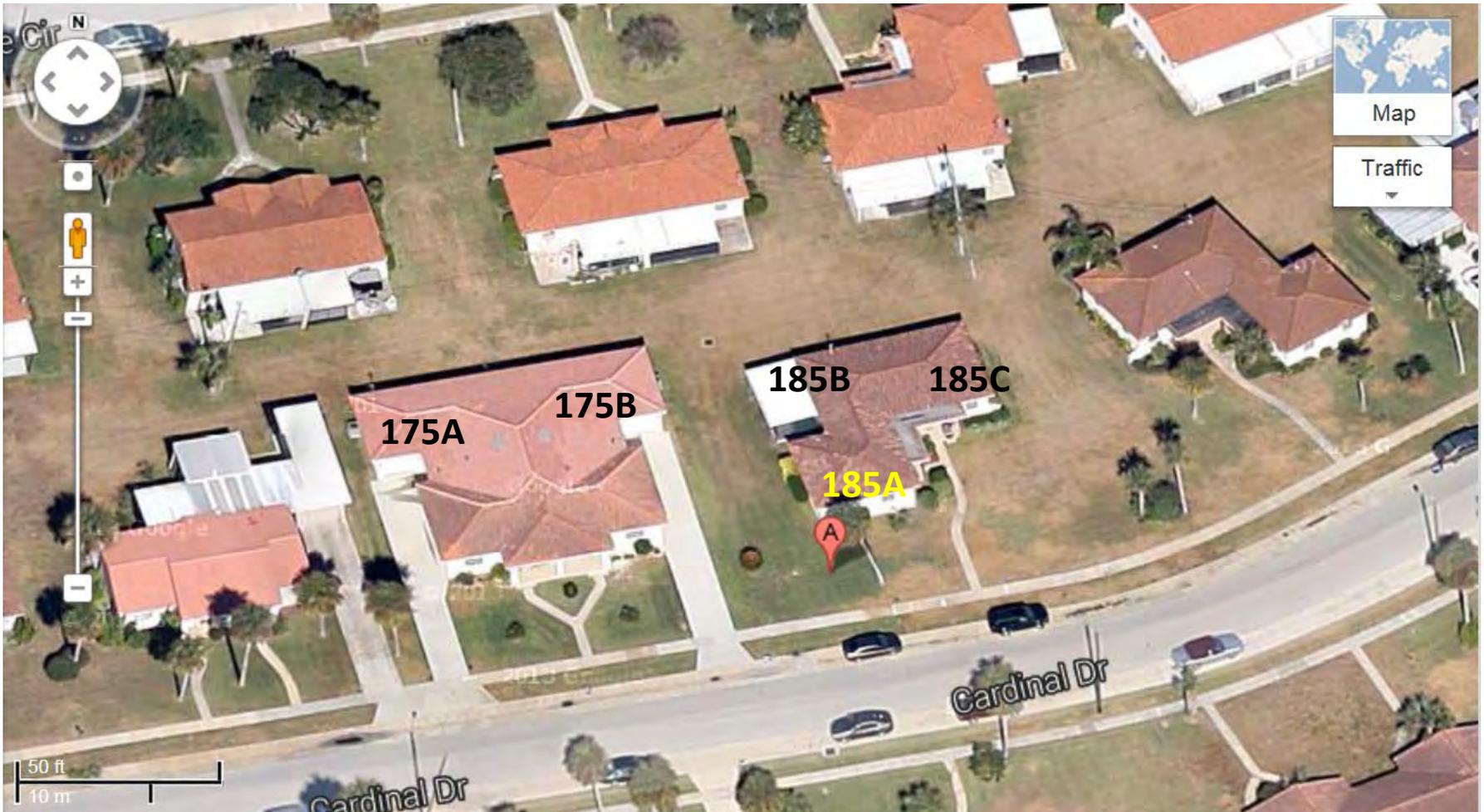
- Maps
- Pictures
- Setback correspondence



LOCATION MAP
185A Cardinal Drive



Cardinal Drive site aerial



Source: Google Maps

175B Cardinal Drive

Area of
proposed
room

185A Cardinal Drive



Area of
proposed
room

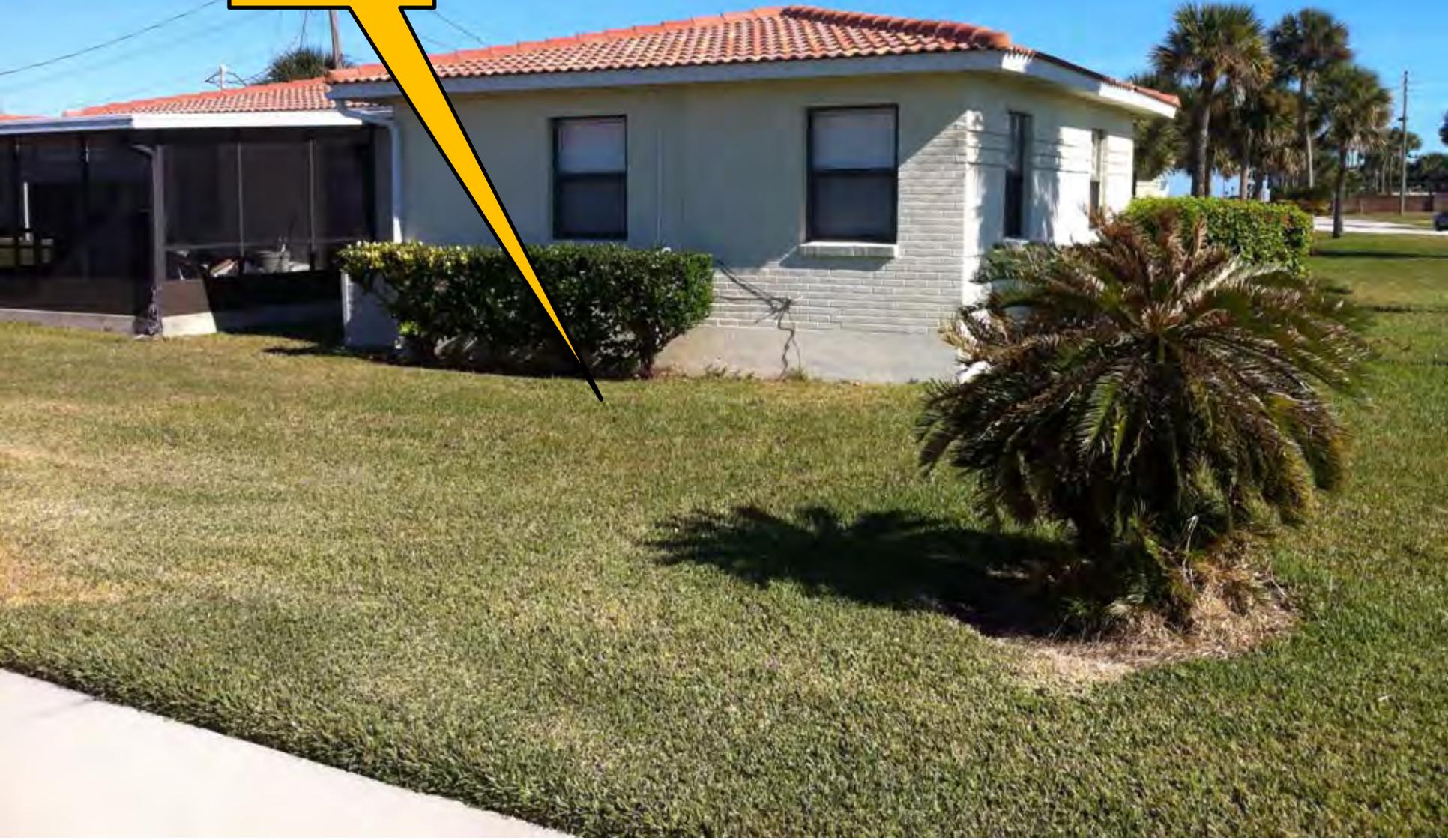


175B Cardinal Drive



Area of
proposed
room

185A Cardinal Drive



185 Cardinal Drive
triplex



Other examples of room additions
on the side of units within complex



CITY OF ORMOND BEACH
FLORIDA

PLANNING

MEMORANDUM

TO: Ocean Village Villas HOA
FROM: Don O'Donniley, Director of Planning
DATE: April 4, 2000
SUBJECT: Set Back Requirements

Staff has examined your request concerning set back requirements. The current set back requirements for side yards are twenty feet (20') and for rear yards, thirty feet (30') After reviewing the site plan as approved, staff has examined alternative set backs of fifteen feet (15') for rear yards and a minimum of seven for side yards.

An application would have to be submitted by the HOA on behalf of the property owners to amend the current Development Order to establish the alternate set backs. A fee of three hundred dollars (\$300.00) is required.

Our analysis has shown that most units adjoin a common area and this affords some degree of protection. The units are small and the current market favors larger units, with more space. However several concerns remain. First, the zoning district permits building heights of thirty feet (30'). This could result in additions to existing structures out of character with existing development. In addition, the additions will not be limited to existing building materials (spanish motif) and could damage the overall unity of architecture style; resulting in a decline in property values. Should the HOA suggest architectural controls, past experience has shown an unwillingness to expend the funds necessary to meet these standards. The result is no real relief will have been obtained and discord will occur around what is acceptable and what is not acceptable. Last, the regulations also limit maximum lot coverage to thirty five percent (35%). There will be instances where the amendment would expand the set back but the lot coverage limitation would not permit the size addition proposed by the owner.

88-24
File



CITY OF ORMOND BEACH

Public Works Department • Building Division • 22 South Beach Street • Ormond Beach, FL 32174 • (904) 676-3233 • Fax (904) 676-3361

November 2, 1999

Ocean Village Homeowners Assoc.
President
229 Cardinal Drive
Ormond Beach, Florida 32176

Dear Sir/Madam:

Per request of the Board of Adjustments and Appeals I am writing this letter for informational purposes regarding the construction of additions, to the structures in Ocean Villas Village.

The setback issue was addressed in 1992 by a previous Planning Director and Building Official. The current Planning Director, Don O'Donniley, concurred with the previous findings that Table 5-1 (enclosed) will be used for zero-lot line R-4 Zoning having one dwelling unit; and Table 5-2 (enclosed) for zero-lot line duplex and triplex lots.

The application of these standards has resulted in the denial of many permit requests leaving the option of requesting a variance from the Board of Adjustments and Appeals as the only recourse.

If the HOA sees this course of action as a problem for your residents, you may want to seek assistance through modifying the original Development Order. The HOA would need to file an application with the Planning Department then the proposed Development Order would be considered by the City Commission.

If I can be of any further assistance, please feel free to call me at 676-3233.

Sincerely,

Gary Hiatt
Plans Examiner

- c: Ted MacLeod, Public Works Director
- Don O'Donniley, Planning Director
- Robert A. Dunn, Chief Building Official

RECEIVED JUL 07 1992

CBO/NANCY/798 Flamingo ✓

MEMORANDUM

DATE: June 22, 1992
TO: Robert S. Tredik, Chief Building Official
FROM: Julia Pinnell, Assistant City Attorney
RE: Ocean Village Villas



I finally had an opportunity to discuss your concerns regarding Ocean Village with Fred today. Fred is of the opinion, as am I, that the dimensional requirements for the R-4 district in Table 5-2 should be applied to the multi-family, duplex and triplex units and the dimensional requirements for the R-4 district in Table 5-1 should be applied to the single family units at Ocean Village.

Because application of these standards will likely result in the denial of many permit requests from Ocean Village residents, Fred suggested that we recommend, either to the developer or the homeowner's association, that rather than having each applicant seek a variance from the Board of Adjustments, that the developer or H.O.A. seek assistance from the City Commission (i.e. change the development agreement or enact a resolution).

However, for the time being, it is our opinion that the above standards apply to Ocean Village.

CITY OF ORMOND BEACH

FLORIDA



The Birthplace of Speed

OFFICE OF CHIEF BUILDING OFFICIAL

April 9, 1992

Mr. James V. Durham
1021 3rd. Street
Port Orange, FL 32119

RE: 768-B FLAMINGO DRIVE

Dear Mr. Durham:

On April 7, 1992, this office received a permit application from you for the above referenced location. Please accept this letter as notification that we are not able to approve your permit for a garage addition at this time.

The referenced property, located within Ocean Village Villas, was approved by the City Commission under a blanket Development Order (D.O.) that authorized specific work. Any additional work outside the scope of the D.O. would require an amendment to the D.O. and be approved by the City Commission. The amendment request must be presented by the developer or homeowner's association.

If you should require additional information regarding the above please feel free to contact me directly at 676-3233.

Sincerely,

A handwritten signature in dark ink, appearing to read "R. S. Tredik". The signature is fluid and cursive, written over a white background.

Robert S. Tredik
Chief Building Official

RST/neb

cc. Nancy Bishop, Plans Examiner
Richard Jacobs, Planning Director
D. S. Patel, Ocean Village Villas

Flam.1tr

ATTACHMENT 3

Applicant provided
information

Dec. 1st, 2014

Laura Stanciulescu
185A Cardinal Dr.
Ormond Beach, FL
32176

or

1112 Cedarwood Pl.
Burlington ON
L7T4k6
Tel. 905-631-1510

To whom it may concern:

The undersigned authorizes Steve Abel, of Abel Construction Enterprises, located at 2312 Crescent Ridge Rd., Daytona Beach, FL 32118, tel. 386-255-6588, to apply on my behalf to the City of Ormond Beach for a zoning variance related to the building of a proposed Florida room on my property located at 185A Cardinal Dr. Ormond Beach FL 32176.

The authorized further authorizes Steve Abel to represent me in all communication with the City of Ormond Beach in relation to the zoning variance and obtaining the building permit for the proposed building.



Laura Stanciulescu

On this, the 1st day of December, 20 14, at the city of Hamilton, in the Province of Ontario, personally appeared Laura Stanciulescu, whose identity was proven to me by producing a valid Ontario Driver's Licence no. 58115-44306-46024 bearing a photo matching his or her likeness, and acknowledged executing the foregoing instrument for the purpose(s) stated therein.



Michael George Grosman
Notary Public
Province of Ontario



CITY OF ORMOND BEACH

v3.2013

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

www.ormondbeach.org

comdev@ormondbeach.org

VARIANCE - APPLICATION

For Planning Department Use

Application Number

Date Submitted

APPLICATION TYPE AND FEES

	Application	Advertising Deposit for Advisory Board	Advertising Deposit for Commission	Total*
<input checked="" type="checkbox"/> Residential or Commercial	350	350	N/A	700
<input type="checkbox"/> 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: STEVE ABEL - ABEL CONSTRUCTION ENTERPRISES

Full Address: 2312 CRESCENT RIDGE RD., DAYTONA BEACH, FL 32118

Telephone: 386-255-6588 Email: STEVEABEL08@BELLOUTH.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: LAURA or RADU STANCIULESCU

Full Address: 1112 CEDARWOOD PL. BURLINGTON, ON, L7T4K6 CANADA

Telephone: 905-631-1510 Email: RADUANDLAURA.S@GMAIL.COM

***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: 185A CARDINAL DR, ORMOND BEACH FL 32176

Parcel ID Number: 42232504024A

Legal Description: LOT 24-A BLK D OCEAN VILLAGE VILLAS
L.A.S MB 42 PGS 192 TO 197 INC
PER OR 3910 PG 3563 PER OR 5340
VOLUNTA COUNTY, FLORIDA

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:

ADD ADDITION TO EXISTING STRUCTURE.

Addition to be bronze aluminum frame glass roof. 10x21.57
request set back to 6' on west side.

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
ABUTTING PROPERTY OWNERS:			
have difficulty contacting them and many do not reside on property year-round. HOA takes into consideration all property owners' interests before granting approval. Date stamped HOA approval (encl) is enclosed.			
		<input type="checkbox"/>	<input type="checkbox"/>

CRITERIA: CONFORMING

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

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:

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

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:

BASED ON LOCATION OF EXISTING STRUCTURE TO PROPERTY LINE,
THERE IS NO OTHER AREA TO POSITION PROPOSED ADDITION
TO CONFORM TO SETBACK REQUIREMENTS

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, ADDITION IS ALLOWED IN R4 ZONING DISTRICT.

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

[Empty response box for question 4]

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

YES, PROPOSED ADDITION IS CONSISTENT WITH OTHER EXPANSIONS IN THIS DEVELOPMENT.

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

NO, ADDITION WILL NOT IMPACT NEGATIVELY SURROUNDING PROPERTIES.

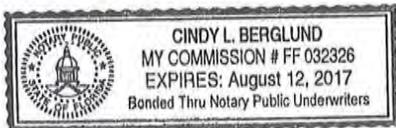
CERTIFICATION

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: [Handwritten Signature]

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 5th day of Dec, 2014, by William S Abel as _____ (title*) for _____ (name of corporation*), who provided FL DL as identification, or who is personally known to me.



Cindy L. Berglund
Notary Public, State of Florida
My Commission Expires: 8/12/17

* 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.

Prepared by:
Margie Patchett
Adams Cameron Title Services, Inc.
444 Seabreeze Blvd, Suite 170
Daytona Beach, Florida 32118

File Number: 20907

General Warranty Deed

Made this March 8, 2013 A.D. By **Zachary Albahae a/k/a Zachary M. Albahae and Adele Albahae, Individually and as Co-Trustees of the Zachary and Adele Albahae Joint Revocable Trust dated May 27, 2004**, 10866 NW 14th Street, Coral Springs, FL 33071, hereinafter called the grantor, to **Radu Stanciulescu and Laura Stanciulescu, husband and wife**, whose post office address is: 1112 Cedarwood Place, Burlington, ON L7T 4K6, hereinafter called the grantee:

(Whenever used herein the term "grantor" and "grantee" include all the parties to this instrument and the heirs, legal representatives and assigns of individuals, and the successors and assigns of corporations)

Witnesseth, that the grantor, for and in consideration of the sum of Ten Dollars, (\$10.00) and other valuable considerations, receipt whereof is hereby acknowledged, hereby grants, bargains, sells, aliens, remises, releases, conveys and confirms unto the grantee, all that certain land situate in Volusia County, Florida, viz:

Lot 24A, Block D, Ocean Village Villas, according to the map or plat thereof, as recorded in Map Book 42, Page(s) 192 through 197, inclusive, of the Public Records of Volusia County, Florida.

Said property is not the homestead of the Grantor(s) under the laws and constitution of the State of Florida in that neither Grantor(s) or any members of the household of Grantor(s) reside thereon.

Parcel ID Number: 4223-25-04-024A

Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

To Have and to Hold, the same in fee simple forever.

And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2012.

In Witness Whereof, the said grantor has signed and sealed these presents the day and year first above written.

Signed, sealed and delivered in our presence:

(sign) [Signature]

Witness Printed Name Joseph Laudando

(sign) [Signature] (Seal)
Zachary Albahae a/k/a Zachary M. Albahae, Individually and as Co-trustee of the Zachary and Adele Albahae Joint Revocable Trust dated May 27, 2004
Address: 10866 NW 14th Street, Coral Springs, FL 33071

(sign) [Signature]

Witness Printed Name Joseph C. Conditina

(sign) [Signature] (Seal)
Adele Albahae, Individually and as Co-trustees of the Zachary and Adele Albahae Joint Revocable Trust dated May 27, 2004:

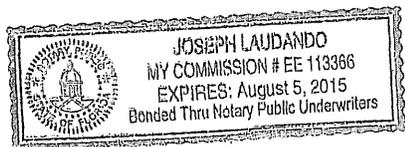
State of Florida
County of Broward

The foregoing instrument was acknowledged before me this 6 day of March, 2013, by Zachary Albahae a/k/a Zachary M. Albahae and Adele Albahae, Co-Trustees of the Zachary and Adele Albahae Joint Revocable Trust dated May 27, 2004, who is/are personally known to me or who has produced drivers license as identification.

(sign) [Signature]
Notary Public
Print Name: Joseph Laudando

My Commission Expires: 8/05/2015

(seal)



Stanciulescu, Laura

From: Radu and Laura S <raduandlaura.s@gmail.com>
Sent: Monday, December 01, 2014 8:24 PM
To: Stanciulescu, Laura
Subject: Fw: ARC Approval - Radu and Laura Stanciulescu - 185A Cardinal Drive -- Glass/acrylic Florida Room
Attachments: Document1.docx
Follow Up Flag: Follow up
Flag Status: Flagged

From: cbha
Sent: Wednesday, November 12, 2014 1:36 PM
To: raduandlauras@gmail.com
Cc: [Ocean Village Villas](#) ; [Steven Spraker](#) ; steveabel08@bellsouth.net ; [Kathie Renz](#) ; [Ted Cardinal](#) ; [Monique Kelley](#)
Subject: ARC Approval - Radu and Laura Stanciulescu - 185A Cardinal Drive -- Glass/acrylic Florida Room

Dear Radu and Laura,

Re: 185A Cardinal Drive, Ormond Beach, FL 32176

Attached please find your ARC approval for construction of a glass/acrylic Florida room to the rear (west side) of your home. If you will please print out then sign the document, you can return your signed copy to Karen Novak, manager at the Ocean Village Villas HOA, 635 Flamingo Dr., Ormond Beach, FL 32176. You are also welcome to FAX the signed copy to 386-677-8078 or email it to oceanvillagehoa@cfl.rr.com.

Please see paragraph one of the ARC Approval which addresses Steve Abel's email request to bring in fill to raise the elevation and denial of that request.

Any changes/deviations to the original plans/specifications submitted no matter how minor, will require additional approval by the ARC. The Association requires a copy of the licenses, certificate of insurance and permits of all contractors who will be involved in the construction. Advise all construction workers that they MUST NOT DRIVE OR PARK ON THE GRASS.

A copy of the building permit issued by the City of Ormond Beach must be received by the office PRIOR to the START of construction. Nothing in this approval is valid unless all the necessary prerequisites established by the Association have been met. Upon receipt by the Association of your signed acceptance of the terms of this approval, a copy of your approval letter, with our corporate seal upon it, will be sent directly to the City of Ormond Beach to await your permit application. This approval is valid for six months from the date of issue.

Thank you for applying to the ARC. We hope you will enjoy your new construction.

All the best,
Ocean Village Villas Architectural Review Committee

OCEAN VILLAGE VILLAS HOMEOWNERS ASSOCIATION, INC.

635 FLAMINGO DR. ORMOND BEACH, FL 32176

Phone: 386-677-9013 FAX: 386-677-8078

Email: oceanvillagehoa@cfl.rr.com

November 21, 2014

Radu and Laura Stanciulescu
1112 Cedarwood Pl.
Burlington, Ontario, CA L7T 4K6

RE: Your property at 185A Cardinal Dr., Ormond Beach, FL 32176

Dear Radu and Laura,

The ARC received your request, dated November 3, 2014. Based upon this addendum to your original request dated April 22, 2013 (for which the ARC gave preliminary approval on October 20, 2014), the ARC gives final approval for your project as submitted. They approve installing a 21' X 10' concrete slab on the west side of your property. They also approve constructing a 10' X 18.6' glass/acrylic Florida room on the west side of your residence with a door on the north side. This would include converting one of the existing windows on your west wall to a door as access to the new glass/acrylic room. The contractor will be Abel Construction Enterprises located at 2312 Crescent Ridge Rd, Daytona Beach. An informal request by email to raise the elevation by using fill was received by the contractor. The ARC cannot approve raising the elevation of the property. They will, however approve raising the height of the slab by pouring a thicker foundation, as was done for the Florida room of the adjoining property. For assistance, the ARC provides the following from the ARC Guidelines:

QUOTE

4. **Glass/Acrylic Florida Rooms.** Glass enclosed rooms shall be kept free and clear of unsightly material and shall not be used as a storage area that creates a visible nuisance to other owners or residents. Glass enclosed rooms shall be constructed of bronze aluminum. Windows shall be sliders or double-hung in style and trimmed in bronze. The glass shall be either clear or tinted bronze except when facing Zone 1 or Zone 2; then the glass shall be tinted bronze. A glass/acrylic Florida room shall not be added to the front (Zone 1) of any unit.

Please note that an exception exists that allows placing a glass/acrylic Florida room in Zone 2. This exception applies to triplex units only. A Florida room is permitted in Zone 2 of some one bedroom units in a triplex when the Florida room cannot be put anywhere else due to common areas, unconventional property lines, and rights of way.

The roof shall be white aluminum with white or bronze fascia and soffit and a bronze downspout. No solid aluminum panels are permitted with the exception of a maximum 24-inch high kickplate. Rooms shall be constructed on an approved concrete slab at least four (4) inches thick or on an existing slab.

Sliding glass doors are permitted. Doors are not permitted to open into the front yard (Zone 1). In the

case of some one-bedroom units of a triplex or quadplex, the door may open into the side yard (Zone 2). This should be a rare occurrence and shall only be allowed when it cannot open into the rear yard (Zone 3) due to property line irregularities.

Any screen room or **Glass Enclosed Florida Room**, porch, supporting posts; fence, soffit, fascia, windows or doors in need of repair or replacement may be replaced or repaired without ARC approval provided that such structures shall be repaired or replaced in the same exact style as the original structure. **However, a notice of intent to repair or rebuild a structure must be delivered to the Association within 60 days of the damage to or destruction of a structure and prior to the repair or rebuild.** Otherwise, all provisions of the ARC guidelines will apply for any repair or rebuilding after 60 days has past. Failure to apply to and have your project approved by the ARC will be considered a violation of the ARC guidelines.

2. **Landscaping.** Landscaping is considered an exterior modification and must receive ARC approval prior to implementing any such plans.

Dwelling Unit Owners are responsible for the replacement of sod (meaning grass) on their Lot. The association will provide basic lawn maintenance understood to mean that it will mow the lawn and maintain gardens. The association will weed and cut back gardens and flower beds that are overgrown, and will trim bushes and shrubs such as but not limited to Hibiscus and Oleander to a reasonable size. The association will ensure that the Lot is free of invasive species of trees, plants or bushes. Several examples of invasive species are Brazilian pepper tree and Salt Bush. The list of invasive species of plants is too long to quote here but it is available from a variety of sources. Individual taste and preferences allow owners to plant the flowers, bushes, and shrubs of their choice.

In matters of non-compliance, Article VI, Section 12 of the Declaration of Covenants states that the association shall have the right but not the duty to enter upon any lot or dwelling unit for the purposes of mowing, removing, clearing, cutting, or pruning of underbrush, weeds and other unsightly growth, which in the opinion of the association detracts from the overall beauty, setting, and safety of the property. Such entrance for the purpose of mowing, cutting, clearing or pruning shall not be deemed a trespass but shall be deemed a license coupled with an interest.

As explained in Florida Statute 373.185 (3)(a)(b)(c) Florida Friendly Landscaping and Xeriscaping is permitted and encouraged because it saves water (and money) and is an environmentally sound approach to grounds maintenance. Native ground covers such as but not limited to Sunshine Mimosa are approved for use in place of sod. Once established, ground cover requires little or no water because it is drought tolerant, salt resistant, and virtually impervious to insects such as mole crickets and chinch bugs.

The planting of fruit trees or vegetable gardens is not permitted. Both are prohibited because they attract a variety of vermin and agricultural diseases.

Plantings of shrubs, flowers, and decorative bushes in existing flower beds or around the perimeter of the house is permitted without ARC approval. Plantings shall not be scattered throughout the property unless approved by the ARC because of the likelihood of interfering with the irrigation system and lawn maintenance.

Large shrubs like Oleander are permitted but must be situated and cared for so as not to interfere with the irrigation system or lawn maintenance. Oleanders as tall as the Dwelling Unit is high are

demonstrably overgrown.

The only approved trees for planting is the palm tree. The City of Ormond Beach has and enforces a detailed ordinance governing the removal of existing trees. It would be wise to check with the City of Ormond Beach before removing any hard wood trees or palm trees.

We are aware that trees other than palm trees are on Village property. Given the above restrictions on their removal, we must live with them. There are also invasive species, such as the Brazilian pepper tree, that the City requests we remove whenever we find them. A knowledgeable landscaper can easily identify them and take them out.

Lawn ornaments shall be restricted to flowerbeds. A maximum of two (2) lawn ornaments per flowerbed is permitted in the front yard (Zone 1) and side yard (Zone 2). Lawn ornaments over two (2) feet in height shall be limited to the rear yard (Zone 3). Lawn ornaments may not exceed four (4) feet in height and shall be situated in such a manner as not to be objectionable or present an unsightly view to a neighbor or to the community at large. Lawn ornaments in the rear yard shall be restricted to a flower bed or patio area so as not to interfere with lawn care maintenance.

Pavers are authorized and may be used provided the color and style is consistent with the architectural scheme of the community.

24. Conflicting Provisions. Where any ARC guideline conflicts with any provisions of applicable federal, state, or local law, the ARC guidelines will control unless expressly prohibited by law. In case of any conflict between the ARC guidelines and the Amended and Restated Declaration, the Amended and Restated Declaration shall control, and in the case of any conflict between these ARC guidelines and the Articles of Incorporation and the Bylaws of the Association, the Articles of Incorporation and the Bylaws of the Association shall control.

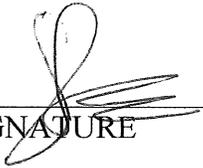
END QUOTE

Any changes/deviations to the original plans/specifications submitted no matter how minor, will require additional approval by the ARC. Unless the work is being done by the owner, prior to the start of construction the Association requires a copy of the licenses, certificate of insurance and permits of all contractors who will be involved in the construction. Advise all construction workers that they **MUST NOT DRIVE OR PARK ON THE GRASS.**

A copy of the building permit issued by the City of Ormond Beach must be received by the office **PRIOR** to the **START** of construction. Nothing in this approval is valid unless all the necessary prerequisites established by the Association have been met. Upon receipt by the Association of your signed acceptance of the terms of this approval, a copy of your approval letter, with our corporate seal upon it, will be sent directly to the City of Ormond Beach to await your permit application. This approval is valid for six months from the date of issue. Thank you for applying to the ARC. We hope you will enjoy your new construction.

By signing below, you agree to accept the terms of this approval. You also agree to allow the Architectural Review Committee (ARC) and the Homeowners' Association (HOA) management to enter onto your property to inspect your new construction while in process as well as to make a final inspection of all work. Failure to sign and agree with approval letter in its entirety will nullify this approval and approval will be considered denied. A copy of this letter needs to go to

the contractor to make sure all the specifications regarding materials, sizes, etc. are complied with.



SIGNATURE

DATE

Sincerely,
The Architectural Review Committee
Ocean Village Villas Homeowners Association

CC: Board of Directors, Ocean Village Villas Homeowners Association; Steven Spraker, Senior Planner, City of Ormond Beach Planning Department; Steve Abel, Abel Construction Enterprises; ARC members

PLOT PLAN

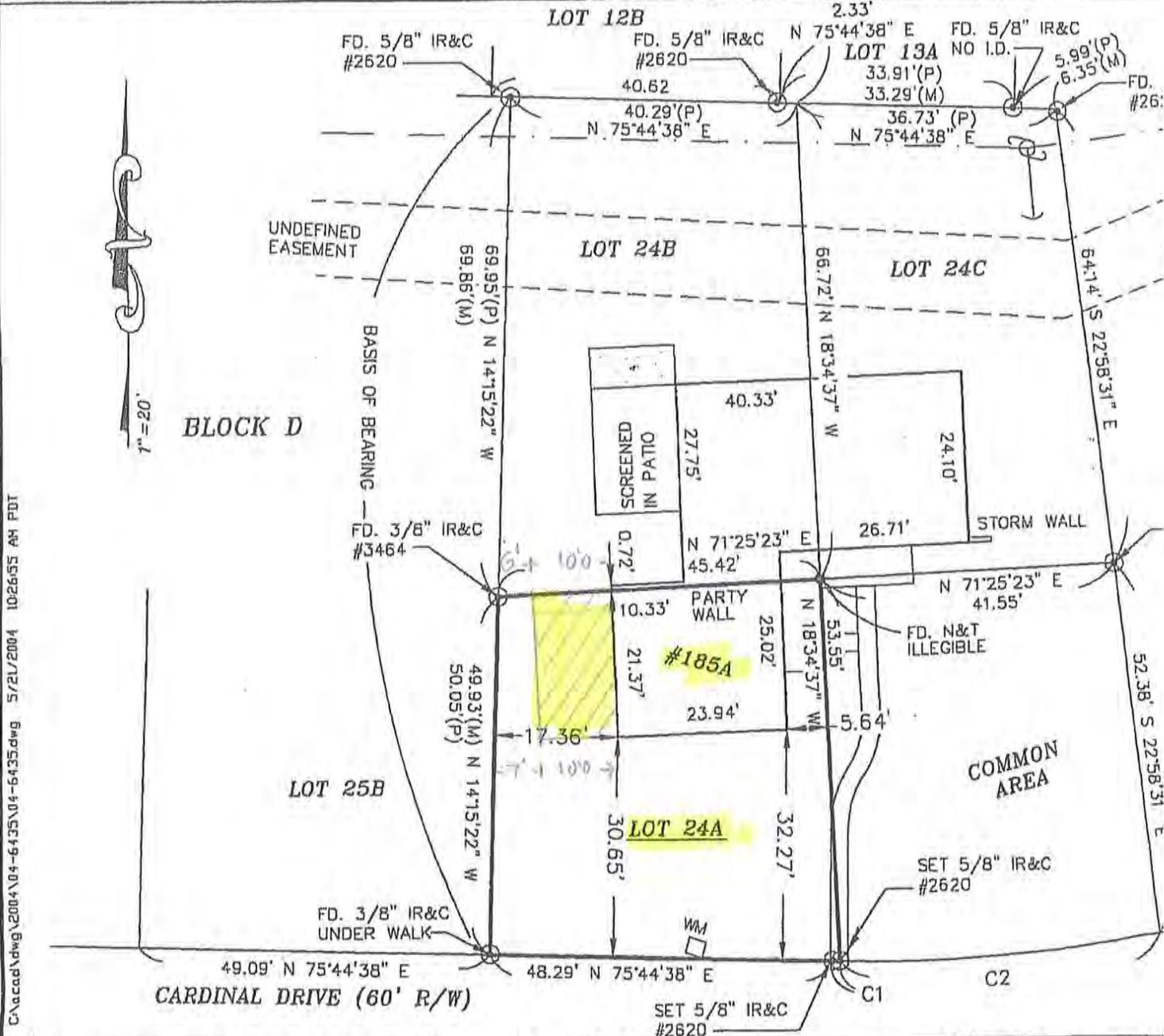
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 N = NO

PROPERTY LIES IN FLOOD ZONE _____ PER PLOT OF DESCRIBED PROPERTY (AS SCALED)
 ON FIRM COMMUNITY PANEL NUMBER _____ DATED _____ PUBLISHED BASE FLOOD ELEVATION _____
 COMMUNITY ESTIMATED BASE FLOOD ELEVATION _____



SHEET 1 OF 1 SHEETS JOB NO. 04-6435 FILE NO. 04-6435 SCALE 1"=20'

PREPARED BY:
A.A. WILBERT JR., LAND SURVEYING, INC.
 54-A VINING CT. ORMOND BEACH, FLORIDA 32176-6641
 (386) 676-9056

A.A. Wilbert Jr.
 P.L.S. # 2620 L.B. # 4267 VALID ONLY WITH EMBOSSED SEAL
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SARVOY

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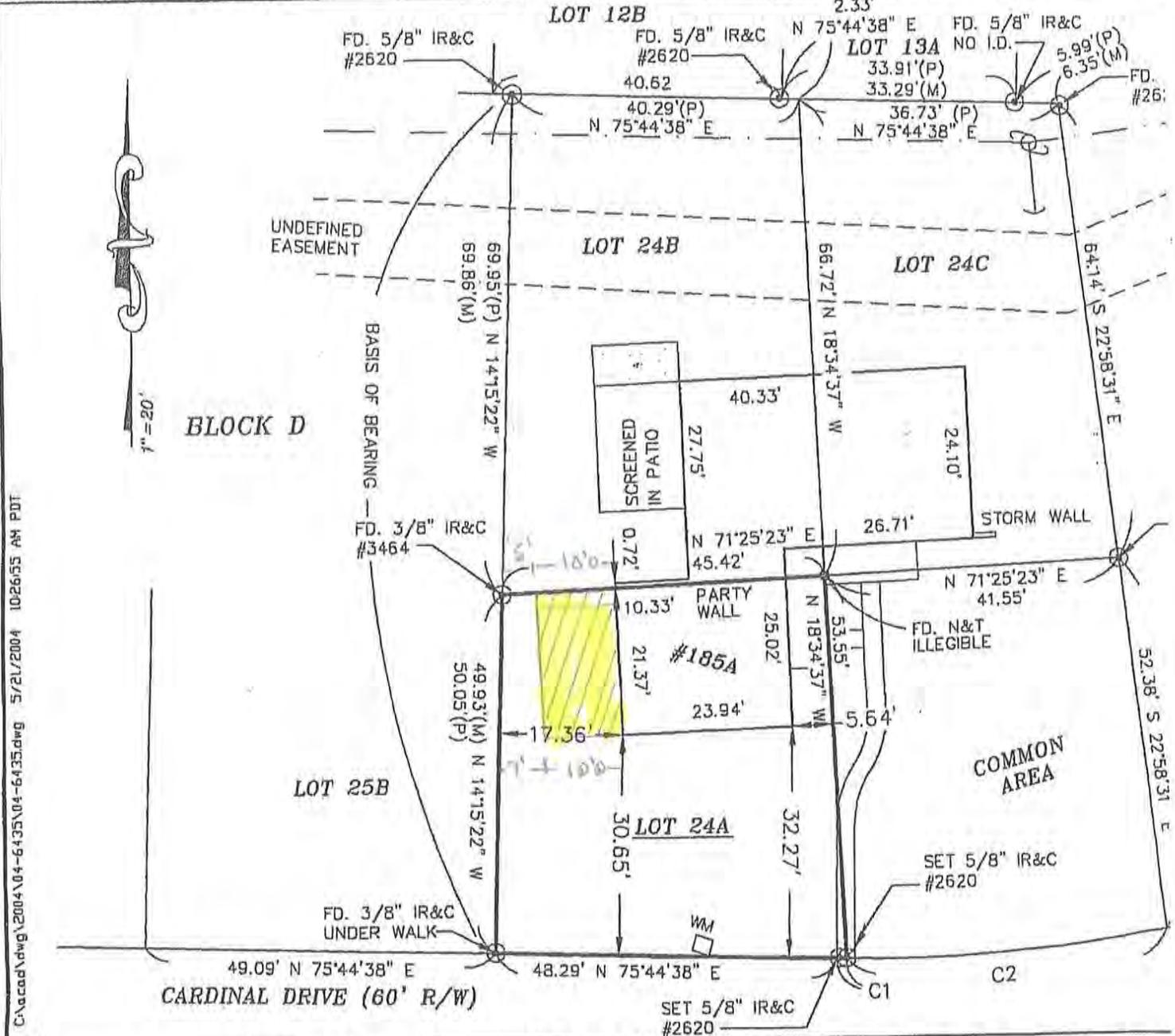
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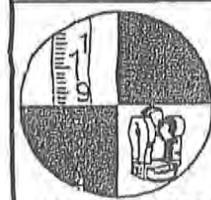
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