

# STAFF REPORT

## City of Ormond Beach Department of Planning

**DATE:** February 24, 2015

**SUBJECT:** 241 South Halifax Drive

**APPLICANT:** Rick J. and Reghan Taylor, property owners

**FILE NUMBER:** 2015-064

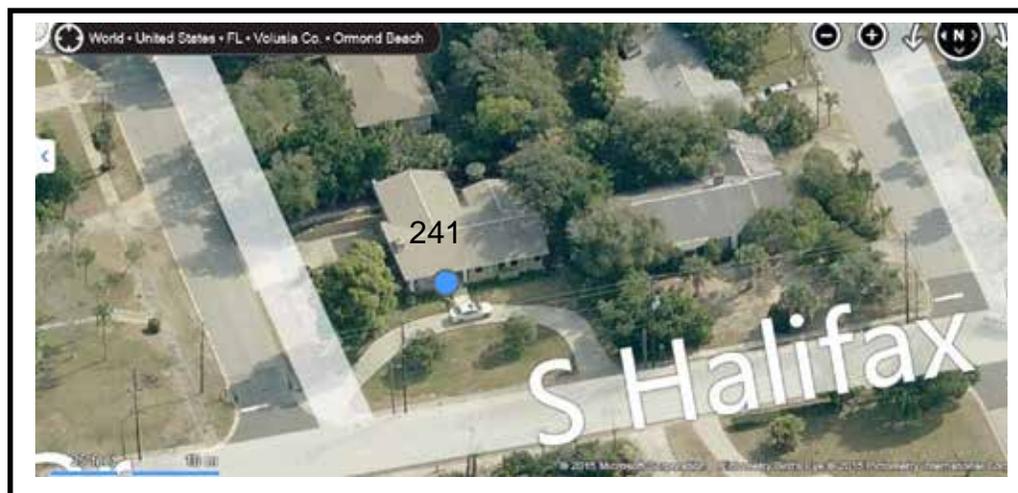
**PROJECT PLANNER:** Steven Spraker, AICP, Senior Planner

**INTRODUCTION:** This is a request by Rick J. and Reghan Taylor, applicant and property owners of 241 South Halifax Drive, for two variances to construct a pool and associated decking at 241 South Halifax Drive. The variances are as follows:

**Rear Yard Variance:** Section 2-50(X)(1)(c)(1) of the Land Development Code requires that for swimming pools that the edge of water shall not be closer than 7.5' to the rear property line and the edge of deck shall not be closer than 5' from the rear property line. The applicants are seeking to allow a swimming pool with the edge of water and edge of deck setback to be at 2.5' for the rear yard setback, requiring a 5' variance to the edge of water standard and a 2.5' variance to the edge of deck standard.

**Side Yard Variance:** Section 2-50(X)(1)(d)(1) of the Land Development Code requires that for swimming pools that the edge of water shall not be closer than 7.5' to the rear property line and the edge of deck shall not be closer than 5' from the interior side yard property line. The applicants are seeking to allow a swimming pool with the edge of water and edge of deck setback to be at 2.5' for the interior side yard, requiring a 5' variance to the edge of water standard and a 2.5' variance to the edge of deck standard for the interior side yard.

**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. Below is a site aerial of the property.



Source: Bing Maps

Below is a table of the adjacent land uses and zonings:

	<b>Current Land Uses</b>	<b>Future Land Use Designation</b>	<b>Zoning</b>
<b>North</b>	Single Family House	“Low Density Residential”	R-2 (Single Family Low-Medium Density)
<b>South</b>	Single Family House	“Low Density Residential”	R-3 (Single Family Medium Density)
<b>East</b>	Single Family House	“Low Density Residential”	R-2 (Single Family Medium Density)
<b>West</b>	Single Family House	“Low Density Residential”	R-1 (Single Family Low Density)

The Volusia County Property Appraisers website shows the property at 241 South Halifax was constructed in 1956. The site survey shows the property is a corner lot at Halifax Drive and Seminole Avenue. The lot depth is 124.5’ along Seminole Avenue and the lot width is 107.5’ along Halifax Drive. The property is addressed off of Halifax Drive and has access points to both Seminole Avenue and Halifax Drive. The lot has significant grade changes from Halifax Drive to the rear of the property as shown in the pictures below:



Looking eastward from S. Halifax Drive



Looking south from Seminole Drive

The property survey shows that the existing house is setback approximately 64’ from South Halifax Drive and 36.9’ to Seminole Drive. Within the existing rear yard a wood deck exists.



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: There are two special conditions related to the subject property. The first condition is the location of the house in relationship to the lot. The house has an extraordinary setback of approximately 64' which impedes the installation of typical accessory structures within the rear and side yard. The second condition is the geography of the lot with an approximately 6' change in grades of the property.

Case against the variances: One can argue that not every single-family house is entitled to a pool and deck and the application should be denied.

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

Case for the variances: The applicants recently purchased the property and did not contribute to the location of the existing house or the geography of the lot. The applicant is seeking to make improvements in the subject property in enhance their overall quality of life. The special conditions did not result from the actions of the applicant.

Case against the variances: As stated in condition one, a position that not every single family house has the right to a pool could be argued.

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 and associated decking. A pool is a common accessory structure enjoyed with single-family residences. The location of the existing house limits the ability to place a pool and associated decking within the rear and side yards.

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

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: The location of the existing house constricts the ability to construct a reasonable size pool and associated decking. The requested 2.5' setback for the side and rear yards is the minimum necessary in order to allow the construction of the pool and associated decking. The property owner has agreed to install a yard drainage system in response to a neighbors concern. Staff has not received any objections or correspondence against the variance

request. The surrounding property owners to the east and south abutting the property have provided a signature for the variance application.

Case against the variances: As stated in criteria above, property owners do not have an absolute right to pool and associated decking. 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 and associated decking.

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 pool and associated decking 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. Each variance application is required to stand on its own merits.

Case against the variances: One can argue that granting the variance requests will lead to multiple applications for pool and associated decking with less than the required setbacks. Staff would state that 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** the following variances to allow the construction of a pool and associated decking as follows:

**Rear Yard Variance:** Section 2-50(X)(1)(c)(1) of the Land Development Code requires that for swimming pools that the edge of water shall not be closer than 7.5' to the rear property line and the edge of deck shall not be closer than 5' from the rear property line. The applicants are seeking to allow a swimming pool with the edge of water and edge of deck setback to be at 2.5' for the rear yard setback, requiring a 5' variance to the edge of water standard and a 2.5' variance to the edge of deck standard.

**Side Yard Variance:** Section 2-50(X)(1)(d)(1) of the Land Development Code requires that for swimming pools that the edge of water shall not be closer than 7.5' to the rear property line and the edge of deck shall not be closer than 5' from the interior side yard property line. The applicants are seeking to allow a swimming pool with the edge of water and edge of deck setback to be at 2.5' for the interior side yard, requiring a 5' variance to the edge of water standard and a 2.5' variance to the edge of deck standard for the interior side yard.

With a condition that the applicant volunteered yard drainage system be a condition of the permit and included in the pool permit application.

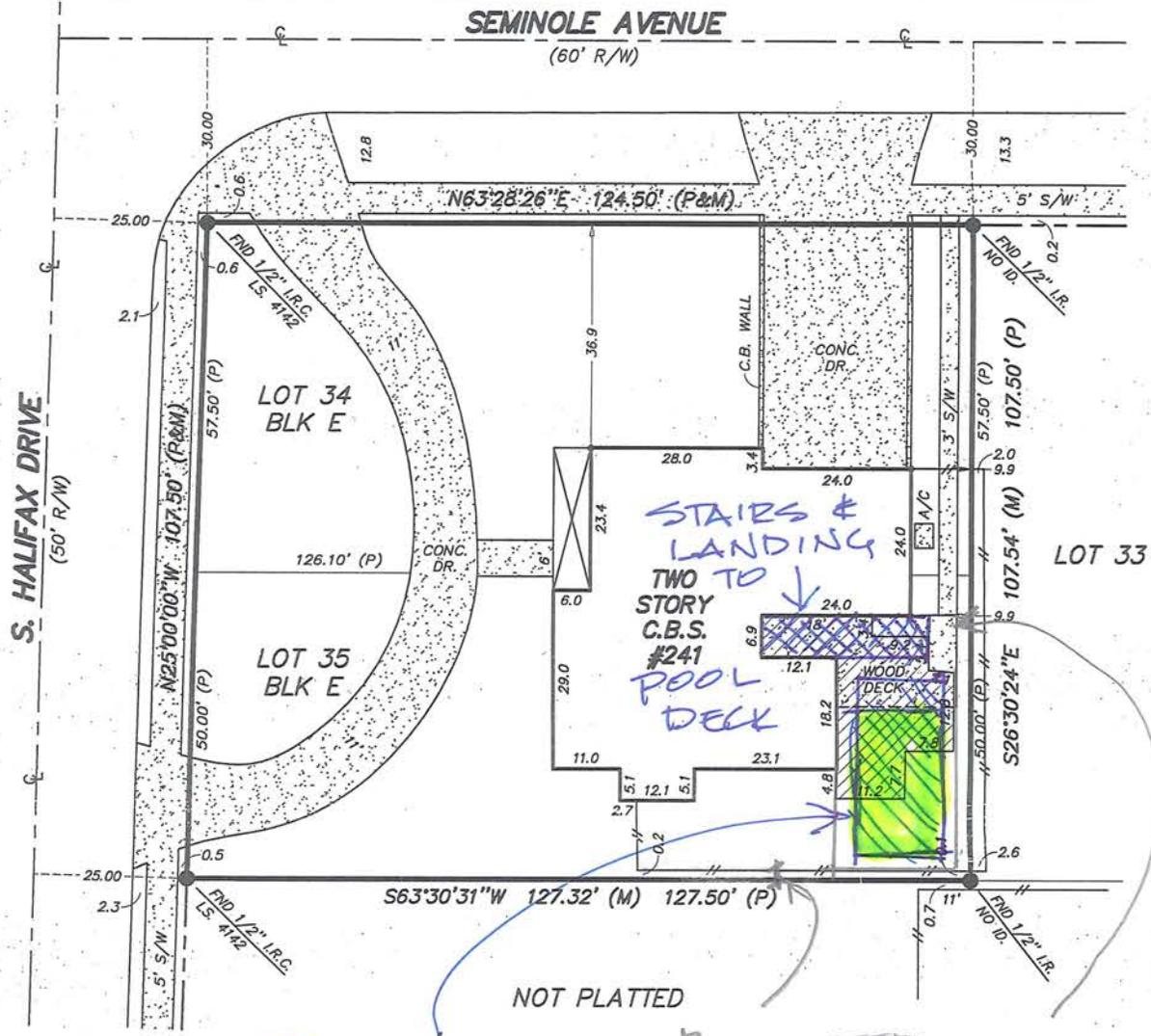
# **ATTACHMENT 1**

Variance Exhibit

# BOUNDARY SURVEY

LEGAL DESCRIPTION: LOTS 34 & 35, BLOCK E, SEMINOLE - PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 10, PAGE(S) 94, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

Yard	Improvement	Required Setback	Requested setback	Variance requested
Rear	Edge of water	7.5'	2.5'	5'
Rear	Edge of deck	5'	2.5'	2.5'
Side	Edge of water	7.5'	2.5'	5'
Side	Edge of deck	5'	2.5'	2.5'



PROPOSED  
15' x 30'  
POOL

REQUESTED  
2' 6" SETBACK  
TO EDGE OF  
POOL/DECK

ADAMS  
CAMERON TITLE  
SERVICES, INC.

RIGHT-OF-WAY LINE CENTERLINE BARB WIRE FENCE WOOD FENCE CHAIN LINK FENCE PLASTIC FENCE	A/C - AIR CONDITIONER Δ - CENTRAL ANGLE BLK - BLOCK C.B. - CHORD BEARING C.B.S. - CONCRETE BLOCK STRUCTURE C.M. - CONCRETE MONUMENT CONC. - CONCRETE D - DEED D.E. - DRAINAGE EASEMENT E - EAST F.F.E. - FINISHED FLOOR ELEVATION FND - FOUND ID. - IDENTIFICATION I.P. - IRON PIPE	I.R. - IRON ROD I.R.C. - IRON ROD & CAP L - ARC LENGTH L.B. - LAND SURVEYING BUSINESS L.S. - LAND SURVEYOR M - MEASURED N - NORTH N&D - NAIL AND DISK P - PLAT P.C. - POINT OF CURVATURE P.C.C. - POINT OF COMPOUND CURVATURE P.C.P. - PERMANENT CONTROL POINT P.L. - PROPERTY LINE P.O.B. - POINT OF BEGINNING
P.O.C. - POINT OF COMMENCEMENT P.O.L. - POINT ON LINE P.R.C. - POINT OF REVERSE CURVE P.R.M. - PERMANENT REFERENCE MONUMENT P.T. - POINT OF TANGENT R - RADIUS R/W - RIGHT OF WAY S/W - SIDEWALK S - SOUTH U.E. - UTILITY EASEMENT W - WEST W.F.S. - WOOD FRAME STRUCTURE ○ = SET 1/2" I.R.C. PSM LB#7371		

DRAWN BY:  
MP

CHECKED BY:  
BRETT

BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF S. HALIFAX DRIVE BEING N25°00'00"E ASSUMED

CERTIFIED TO:  
ERIC E. STONE  
REMN MORTGAGE NETWORK, INC.  
ADAMS CAMERON TITLE SERVICES, INC.  
FIDELITY NATIONAL TITLE INSURANCE COMPANY

Long Surveying, Inc.

"Specializing in Residential Surveying"  
LB No. 7371  
143 Villa Di Este Terrace #113  
Lake Mary, FL 32746  
Office 407-330-9717 or 407-330-9716  
Fax 407-330-9775  
WWW.LONGSURVEYING.COM

NOTES:  
1) This survey is based on the legal description as provided by the Client  
2) This Surveyor has not abstracted the land shown hereon for easements, rights of way or restrictions of record which may affect the title or use of the land  
3) Do not reconstruct property lines from building ties  
4) No footing or overhangs have been located except as shown  
5) No improvements or utilities have been located except as shown  
6) This survey is not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper

COMMUNITY NO:  
125136  
PANEL:  
0216 SUFFIX:  
H F.I.R.M. DATE:  
02/19/03  
FLOOD ZONE:  
X

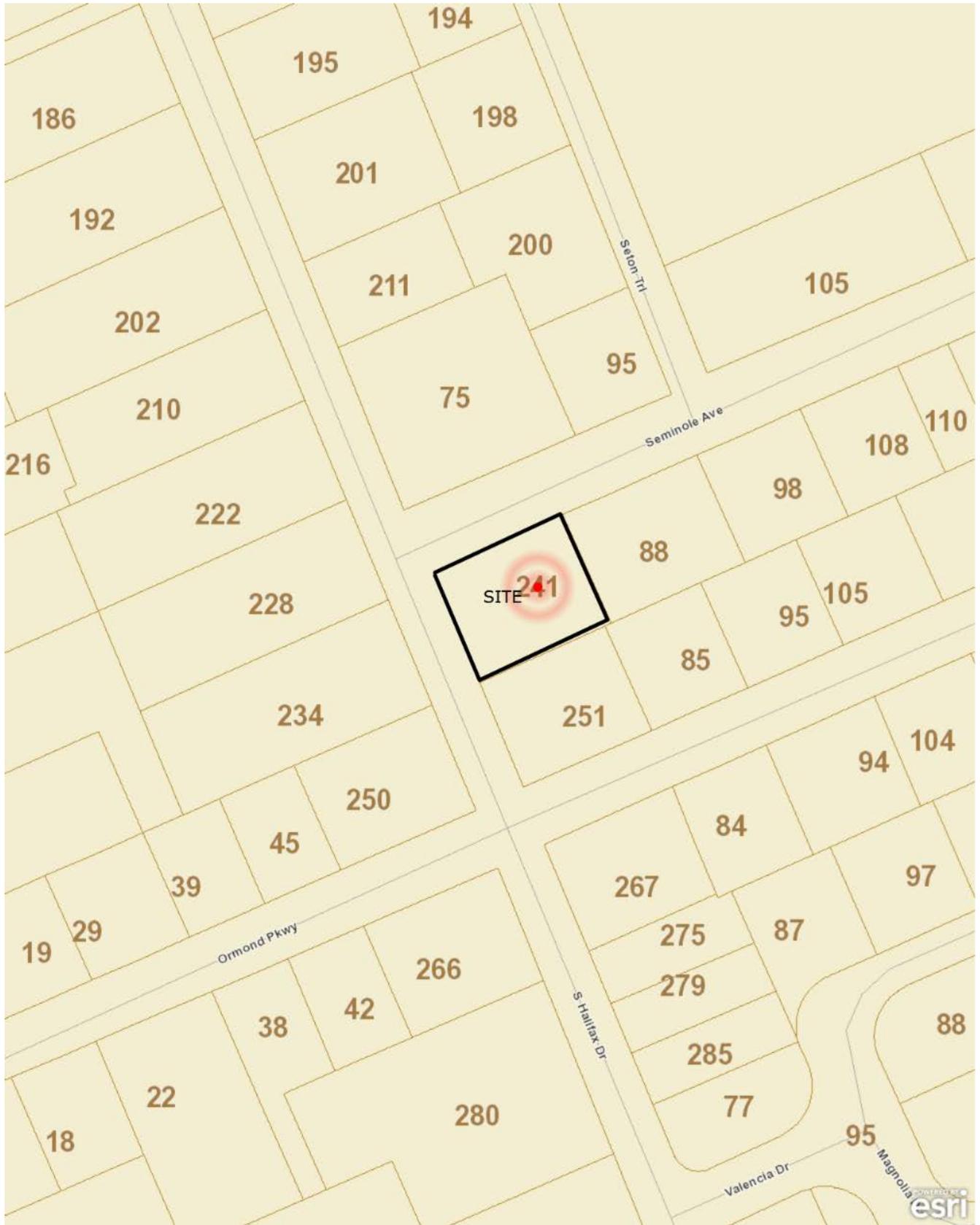
SURVEY NO.  
46230 FIELD DATE:  
06/14/12

Certification: I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Jon M. Shoemaker P.S.M. No. 5144

# ATTACHMENT 2

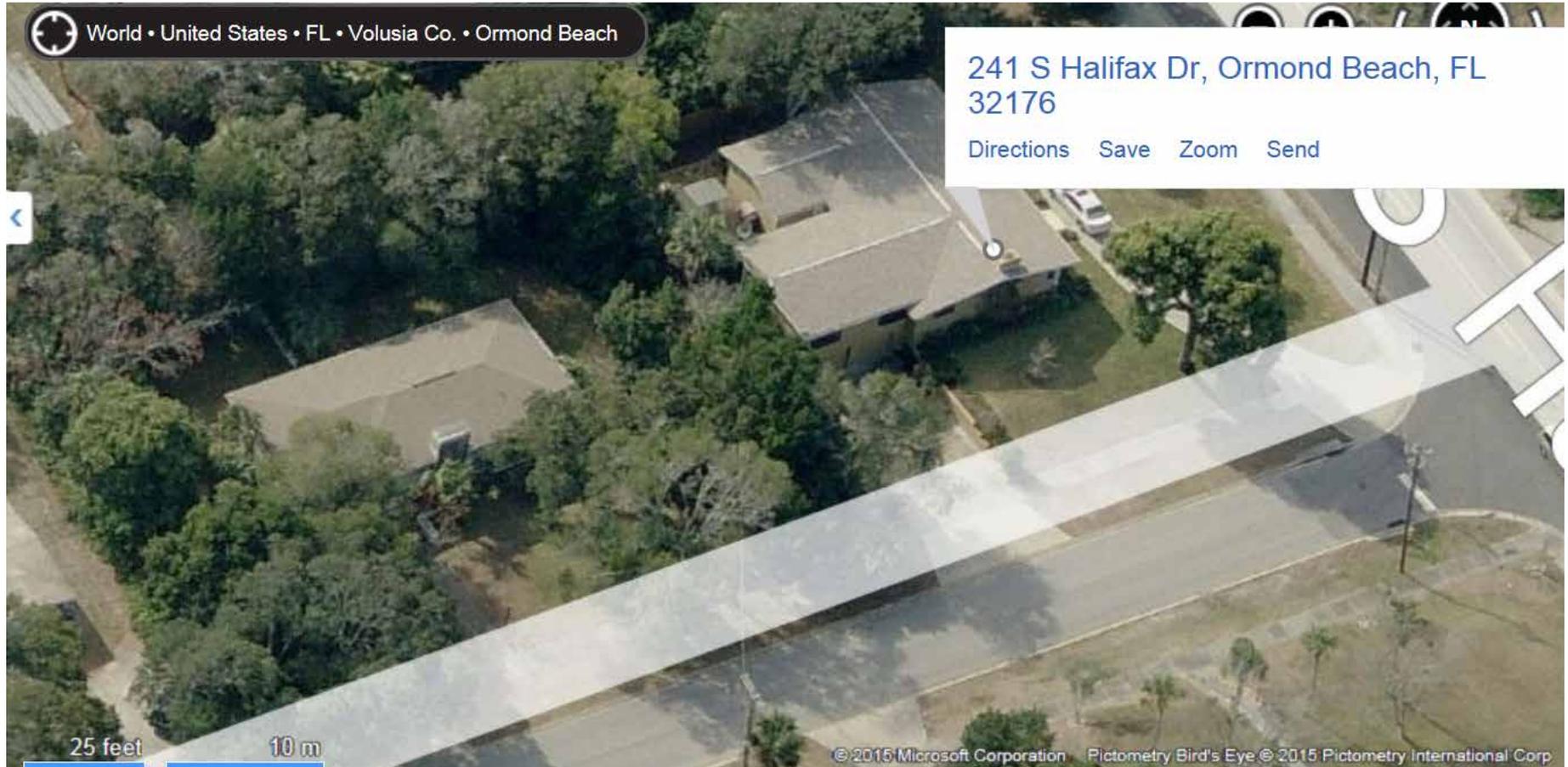
- Maps
- Pictures



LOCATION MAP  
241 South Halifax Avenue, location map



## Site aerial, 241 South Halifax Drive



Source: Bing Maps



Existing deck, note grade changes



Rear property boundary



241 South Halifax Drive – contour map



Source: Google maps

# **ATTACHMENT 3**

Applicant provided  
information



**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

Full Address

Telephone  Email

\* 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

Parcel ID Number

Legal Description

**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:

Our request for a variance on the distance allowed from the property line to the pool deck/waterline. The reason that we are requesting this variance is due to the size of the back yard that is smaller than usual due to the unusual large setback at the front of the house. The house was constructed in 1956 and there fore does not fit into the conformity of a build that would be done today. Additionally there is an extreme grade change that occurs i the backyard that requires a deck with steps to reach the pool deck.

**ABUTTING PROPERTY OWNERS**

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

Signature	Street Address	For	Against
	88 Seminole Avenue	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<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:

We purchased this property in January 2014. The home is placed very close to the rear and interior side property line. This is due to the home being setback over thirty (30) from the front and corner side property lines. The requested variance would allow us to replace existing spa, wood and concrete decking with a pool and outside kitchen. This is not possible unless a variance is allowed to compensate for the legal, non-conforming location of the home.

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

The home has been in this location since 1956 when the home and garage were constructed. We have not expanded or otherwise altered the home to create the conditions that warrant the variance.

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

The placement of the pool is required to ensure safe access given the topography on the lot. If we are not awarded the variance we will not be able to place a pool on the property such that there is adequate deck space that is allowed on other similarly zoned-properties in Ormond Beach.

Request:

[Empty box for request details]

**ABUTTING PROPERTY OWNERS**

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

Signature	Street Address	For	Against
<i>Walter O. Daw</i>	88 Seminole Avenue	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>Ray B. W. [unclear]</i>	85 Ormond Pkwy	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<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.

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We purchased this property in January 2014. The home is placed very close to the rear and interior side property line. This is due to the home being setback over thirty (30) from the front and corner side property lines. The requested variance would allow us to replace existing spa, wood and concrete decking with a pool and outside kitchen. This is not possible unless a variance is allowed to compensate for the legal, non-conforming location of the home. Additionally due to the age of the construction the Garage has a extremely low ceiling height which does not allow many of the cars and trucks of today to "fit".

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

The home has been in this location since 1956 when the home and garage were constructed. We have not expanded or otherwise altered the home to create the conditions that warrant the variance.

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

The placement of the pool is required to ensure safe access given the topography on the lot. If we are not awarded the variance we will not be able to place a pool on the property such that there is adequate deck space that is allowed on other similarly zoned-properties in Ormond Beach. The additional Garage is needed to be able to park cars in a secure location without changing the setback allowed to other homes on the street and without making any changes to the set back currently in place with neighbors.

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

The variance maintains the current rear yard setback of an existing deck and allows for encroachment into an area already impacted by a gravel walkway. Our property has a major drop in elevation and new stairs are required so that we could access the pool from the main house. The critical element is that this variance will allow for the placement of deck space needed for safe access from the pool and to allow for landing of stairs from the home.

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:

We are not seeking a cheaper alternative. The requested variance results in an increase of cost due to the structure, as well as storm water improvements proposed as part of the variance.

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

There are not any additional hazards to the public that would result from the granting of the variance. We held conversations with our neighbors. The neighbor to the east, Ms. Davis, indicated a concern with potential flooding, with the pool, of her property if we placed the pool and deck as proposed. We have addressed her concern by proposing to install a drainage system that will catch any stormwater flowing from the deck in a series of yard drains that connect to perforate drain pipes that route the stormwater to Seminole Drive. Seminole Drive has a curb and gutter system that will accommodate any stormwater that may flow from the proposed pool and deck. The garage addition was supported by all local Owner/live in residents.

Please be aware that we do not believe that there will be additional storm water since the pool is replacing an existing concrete and wood deck. Also we are using pavers for the pool deck so there should be no additional stormwater flowing from our property. We are willing to make the on-site drainage improvements a condition for approval of the requested variance.

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:

We believe that the proposed pool and deck will increase the value of our property and will do so in a manner consistent with other single-family homes in our neighborhood that have pools.

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

The variance will not grant any special privilege to the applicants and is needed to allow for reasonable and safe use of the property for an accessory structure that would otherwise not be easily located on the subject property.

**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:

Not applicable

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

Not applicable

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:

Not applicable

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:

Not applicable

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

Not applicable

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

Not applicable

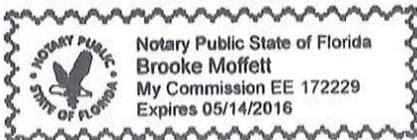
**CERTIFICATION**

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

Signature: 

STATE OF FLORIDA  
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 11th day of February 2015, by Rich Taylor  
as NA (title\*) for NA (name of corporation\*), who  provided  
\_\_\_\_\_ as identification, or  who is personally known to me.



  
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.

February 7, 2015

SENT VIA CERTIFIED MAIL, RETURN RECEIPT REQUESTED

Mrs. Jeanne Hines  
251 S. Halifax Drive  
Ormond Beach FL 32176

Dear Mrs. Jeanne Hines;

This letter is to inform you that we are seeking approval of a variance for the installation of a pool, paver-brick deck and garage extension at our property located at 241 South Halifax Avenue. The City of Ormond Beach requires that property owners seeking a variance contact the adjoining property owners to:

1. Inform them of the requested variance.
2. Provide them with the details and specifics of the variance request.
3. Obtain approval or denial from the adjoining property owners.

Attached for your information is the application packet we plan on submitted on Monday, February 2, 2015 so that we may be placed on the agenda for the March 4, 2015 meeting of the Ormond Beach Board of Appeal and Adjustment. Please be aware that this is a public hearing and you will have the right to speak at the meeting.

We are seeking the variances in order to reasonable accommodate the construction of a pool and deck in rear yard. We would not need the variance, except that our house is placed 10-feet from our rear yard property line. We need a setback of 2 foot from the rear, East side and 5 feet South side property line in order to fir the pool and deck. We need this variance to compensate for the fact that the house was built over 36-feet from the front property line so that we cannot fit anything in the rear yard. We plan on constructing full upgrades to stormwater and landscaping to ensure we do not impact any of our neighbors.

In addition, we plan to modify our garage by expanding it so it will be 20-feet from the backside of the Seminole Avenue sidewalk. This is needed to address the fact that the existing garage does not have the height to accommodate trucks, jeeps or vans.

Please see the page of this letter acknowledging your receipt and your approval/denial of our request. Please use the self-addressed stamped envelopes to mail this to the City of Ormond Beach Planning Department and to us.

We are trying to improve our home and make it a beautiful compliment to the neighborhood. We appreciate any assistance you can provide. Please feel free to call us at 386-214-9009 if you have any questions.

Sincerely,

Rick and Reaghan Taylor  
241 South Halifax Avenue  
Ormond Beach, FL 32176

Dear City of Ormond Beach Planning Department:

I am the owner of property at \_\_\_\_\_ and I have read the letter and the attachments pertaining to the requested variances at 241 South Halifax Avenue requested by Rick and Reagan Taylor and I:

\_\_\_\_\_ Support the request as presented

\_\_\_\_\_ Support the request subject to the following:

\_\_\_\_\_ Do not support the request as presented

Name: \_\_\_\_\_

Address: \_\_\_\_\_

Contact Information: Phone \_\_\_\_\_

Email: \_\_\_\_\_

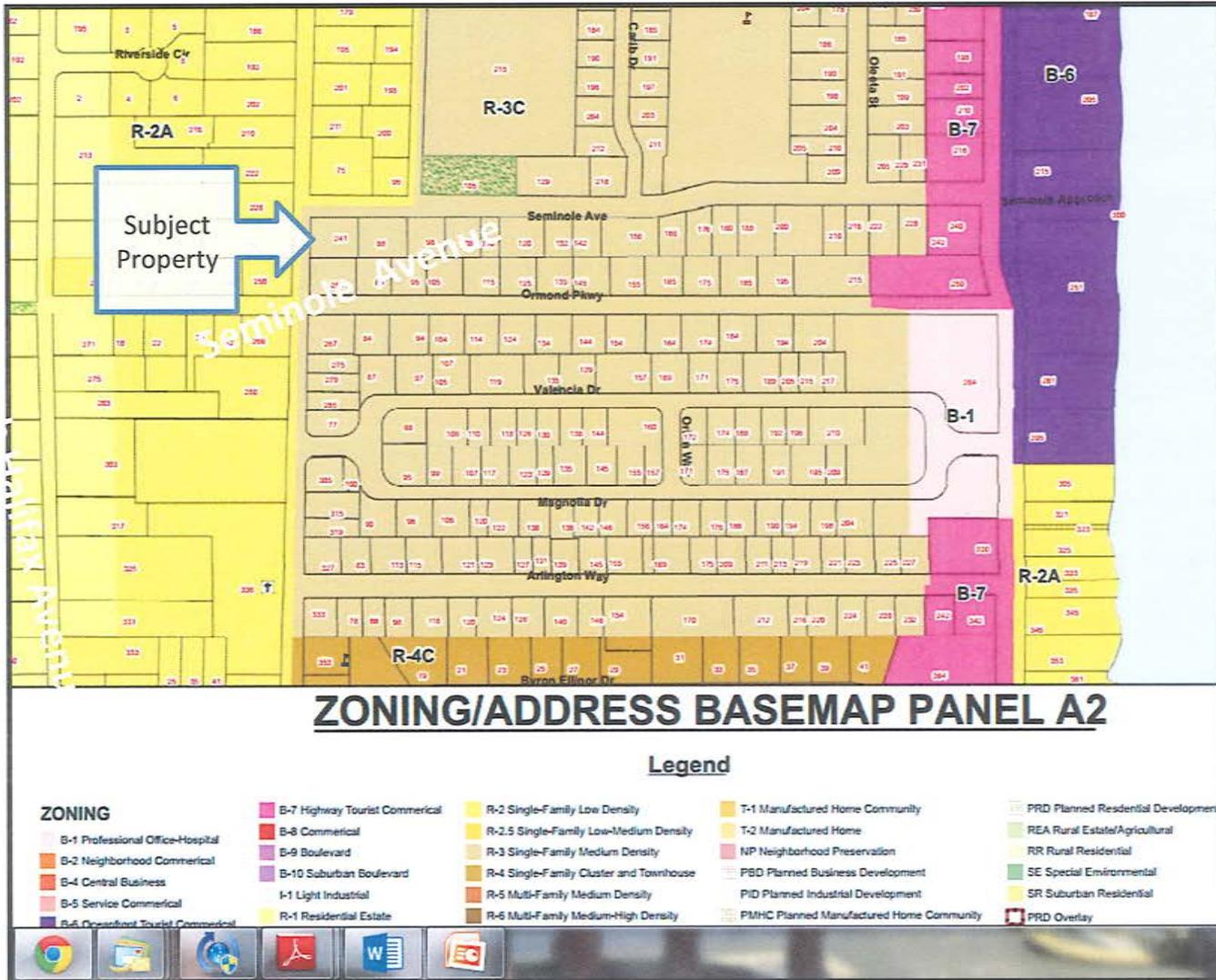
Signature: \_\_\_\_\_

Applicant copy

# Aerial View of 241 South Halifax Avenue



# Zoning of 241 South Halifax Avenue



## Land Use of 241 South Halifax Avenue



**FUTURE LAND USE/ADDRESS BASEMAP PANEL A2**

### Legend

#### LAND USE

- Rural Estate/Agriculture (REA)
- Rural Residential (RR)
- Suburban Low Density Residential (SLDR)

22 Situs Address

Low Density Residential (LDR)

Medium Density Residential (MDR)

High Density Residential (HDR)

Office/Professional (O/P)

Tourist Commercial (TC)

General Commercial (GC)

Heavy Commercial (HC)

Public/Institutional (P/I)

Activity Center (AC)

Industrial/Utilities (I/U)

Recreation/Open Space (R/OS)

Open Space/Conservation (OS/C)

Park

City Limits

Church

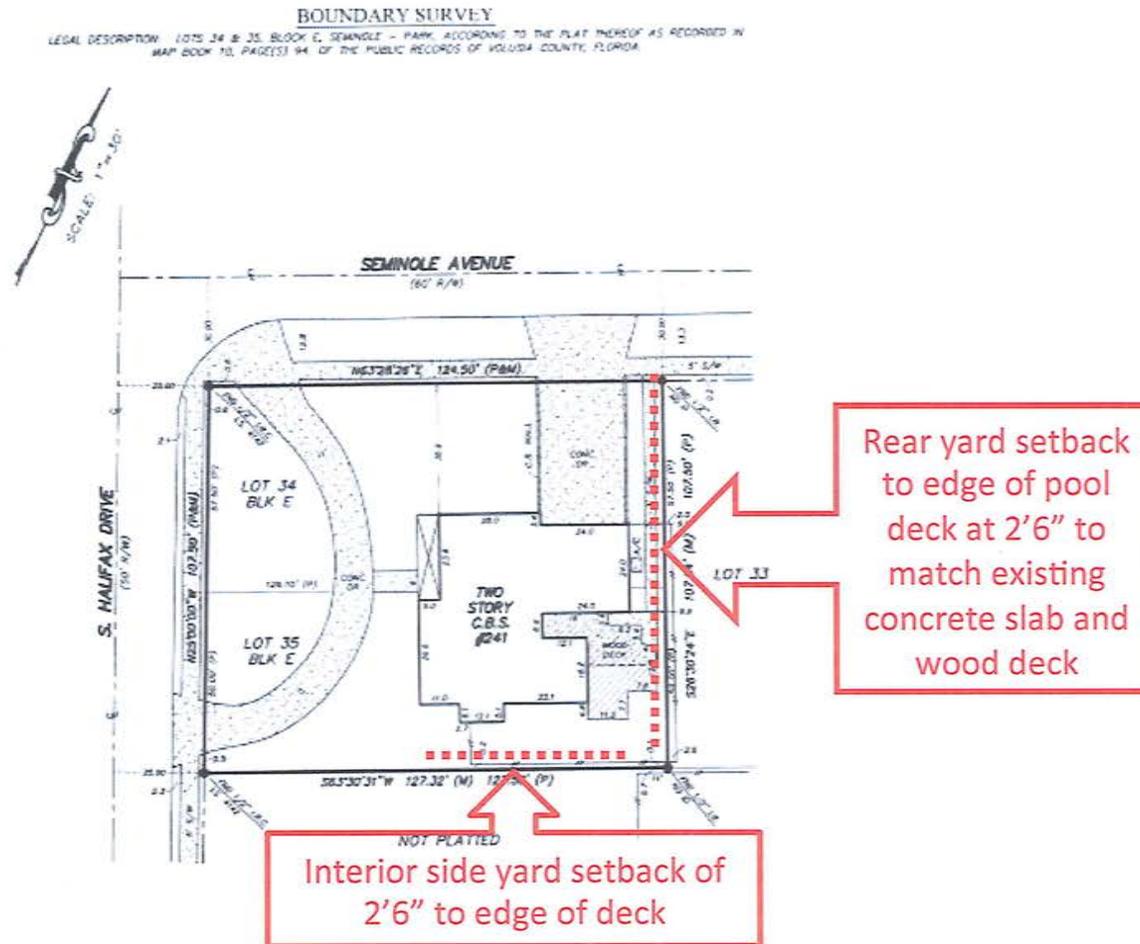
Private School

Public School

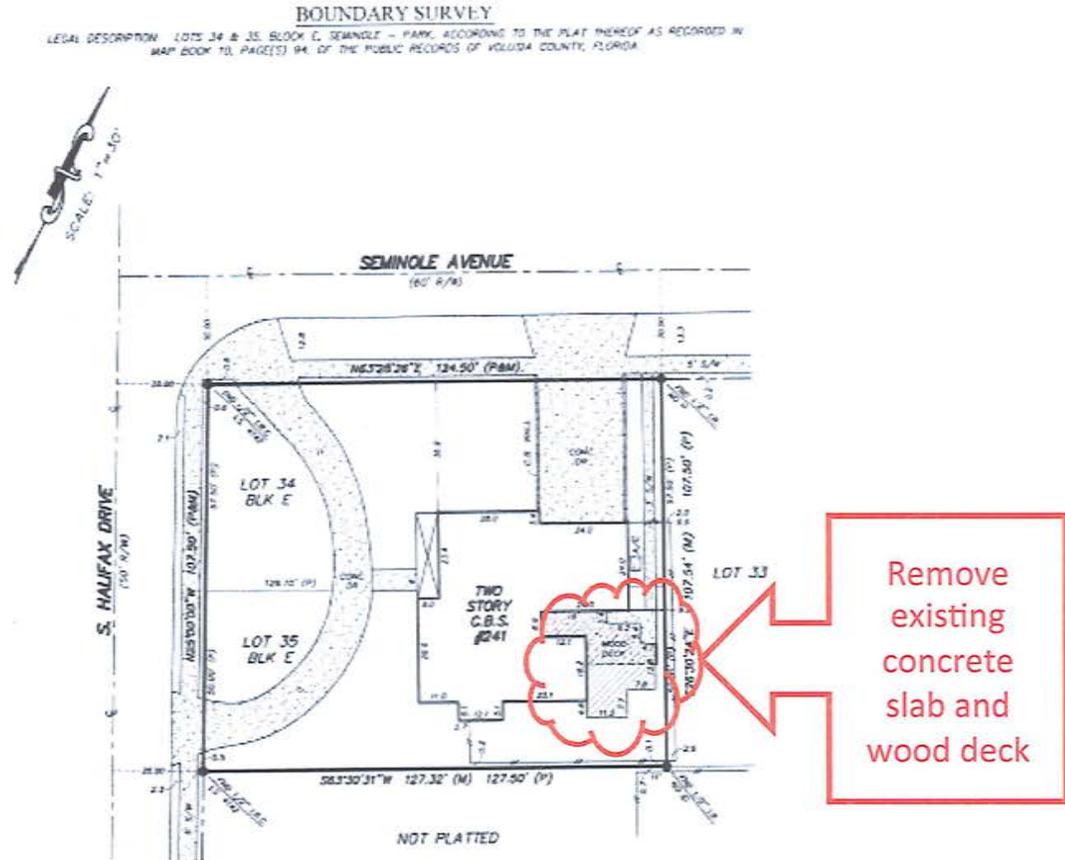
MDR City of Ormond Beach Future Land Use

# Requested Variances

Note that deck will constructed of pavers set on sand to add permeability.



# Proposed Changes



Demolition plan

# Proposed Changes

## BOUNDARY SURVEY

LEGAL DESCRIPTION: LOTS 34 & 35, BLOCK E, SEMINOLE - PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 10, PAGE(S) 94, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

### Pool Concept Plan

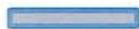
#### Legend:



Pool Deck



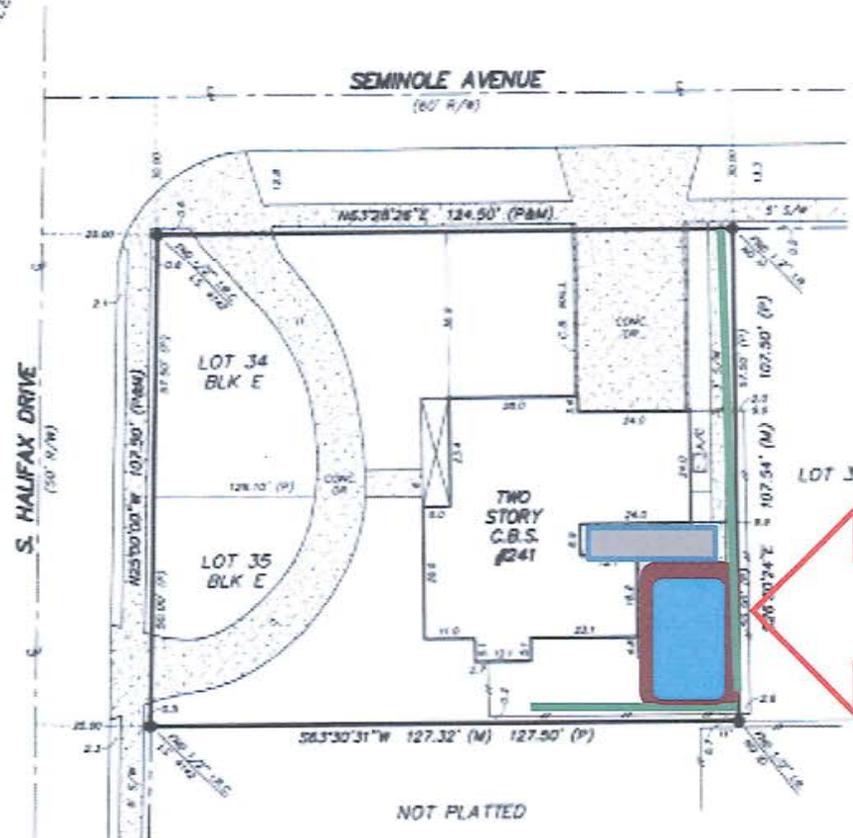
Pool



New Stairs from Home



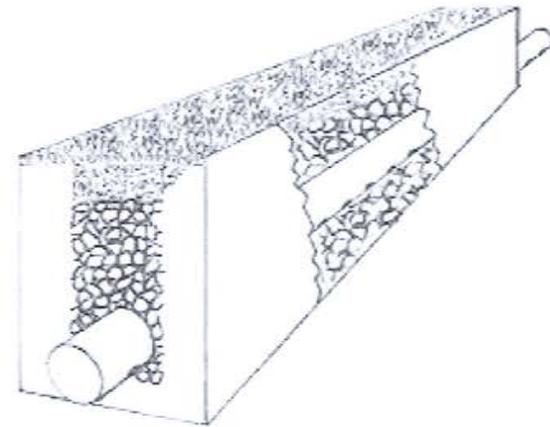
Yard Drain System (see add'l details)



Construct new stairs to access rear yard/pool; construct pool and paver deck; install catch basins and 6" perforated pipe and route to Seminole Avenue; Install landscaping to screen yard from neighbor.

# Yard Drainage System

In order to address the potential, but highly unlikely flow of water to the east and south we will install a yard drainage system utilizing a catch basin, perforated pipe that outfalls to Seminole Avenue.



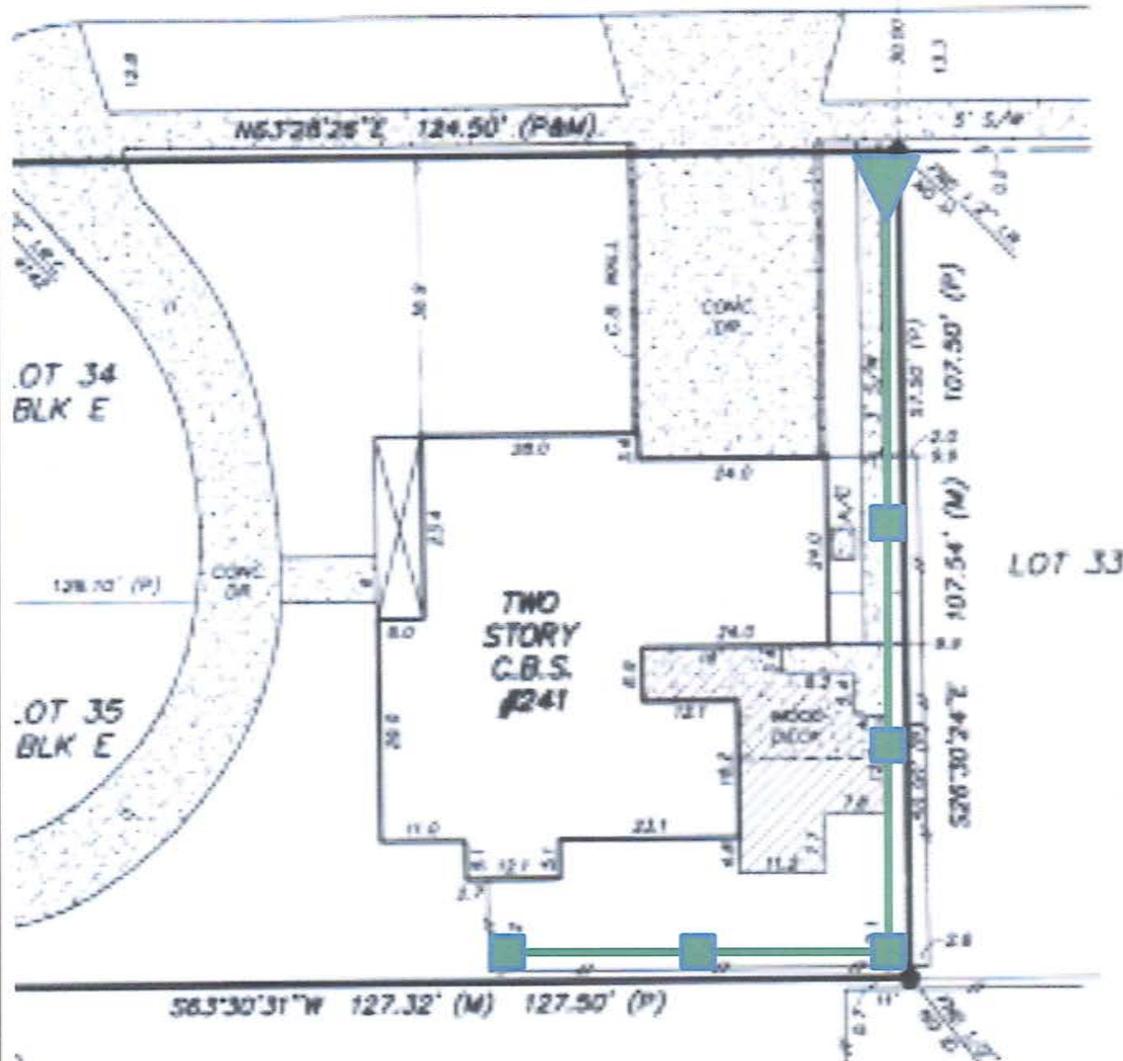
# Yard Drainage System

Legend:

6" perf.  
Drainage  
Pipe

12" x 12"  
catch basin

Baffle Box or  
other  
diffuser



North East Side of House Facing Seminole Ave



North East Side of House Facing South



North East Side of Deck  
Right side stairs lead to house



From Exiting Door of House to Deck



View from right side of exiting from House



View SE Corner Steps of Deck  
Shows Elevation change from Exiting door of



SE Corner Deck Stairs



View from SW corner of Deck



Elevation of NE Stairs from House



Elevation of NE Stairs from House



Elevation of NE Stairs to Deck House

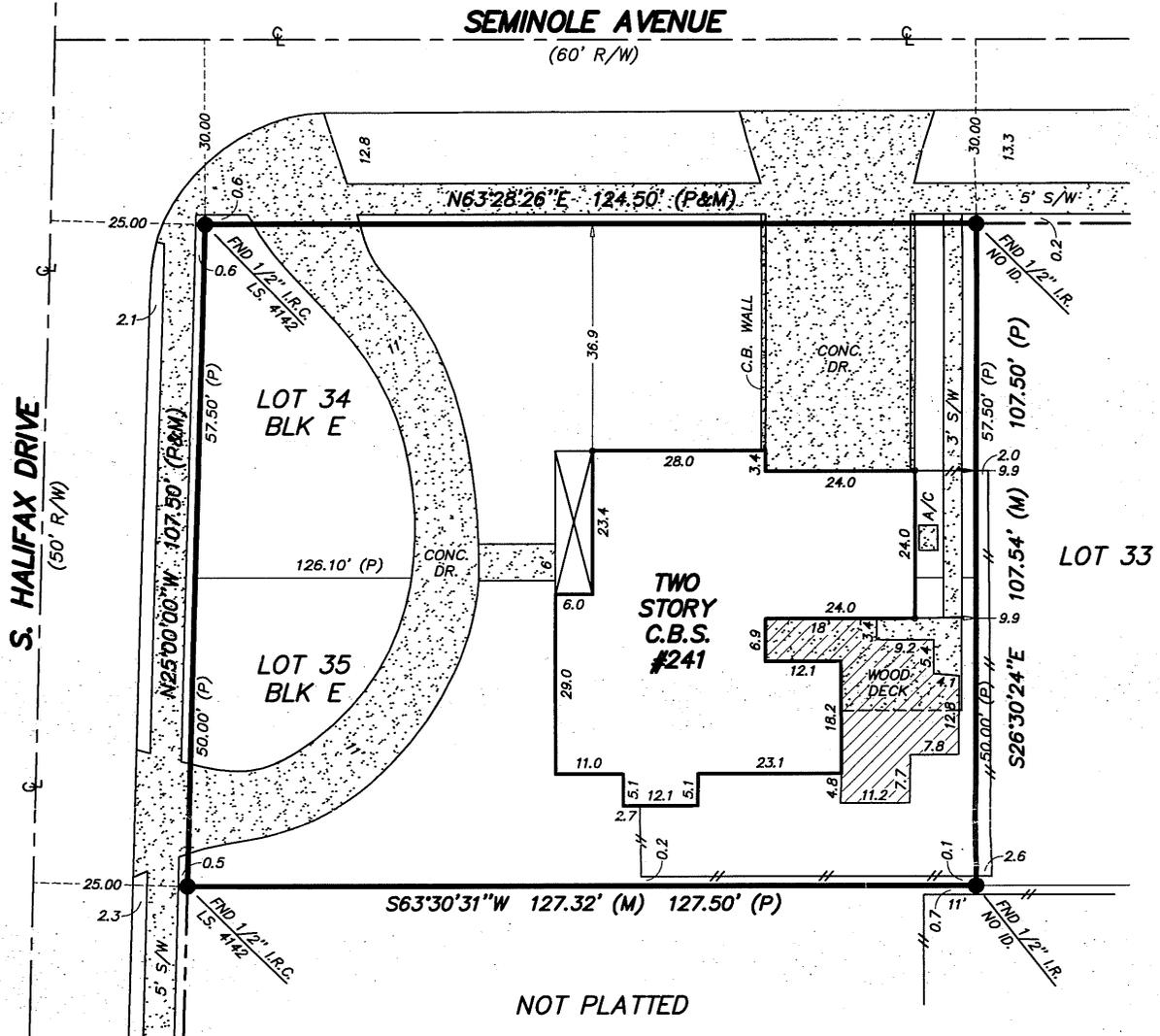
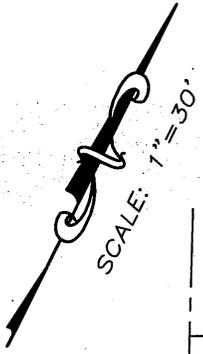


View from Deck looking at Seminole Ave



# BOUNDARY SURVEY

LEGAL DESCRIPTION: LOTS 34 & 35, BLOCK E, SEMINOLE - PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 10, PAGE(S) 94, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



**ADAMS  
CAMERON TITLE  
SERVICES, INC.**

RIGHT-OF-WAY LINE	CENTERLINE	BARB WIRE FENCE	WOOD FENCE	CHAIN LINK FENCE	PLASTIC FENCE
A/C - AIR CONDITIONER	I.R. - IRON ROD	P.O.C. - POINT OF COMMENCEMENT			
Δ - CENTRAL ANGLE	I.R.C. - IRON ROD & CAP	P.O.L. - POINT ON LINE			
BLK - BLOCK	L - ARC LENGTH	P.R.C. - POINT OF REVERSE CURVE			
C.B. - CHORD BEARING	L.B. - LAND SURVEYING BUSINESS	P.R.M. - PERMANENT REFERENCE MONUMENT			
C.B.S. - CONCRETE BLOCK STRUCTURE	L.S. - LAND SURVEYOR	P.T. - POINT OF TANGENT			
C.M. - CONCRETE MONUMENT	M - MEASURED	R - RADIUS			
CONC. - CONCRETE	N - NORTH	R/W - RIGHT OF WAY			
D - DEED	N&D - NAIL AND DISK	S/W - SIDEWALK			
D.E. - DRAINAGE EASEMENT	P - PLAT	S - SOUTH			
E - EAST	P.C. - POINT OF CURVATURE	U.E. - UTILITY EASEMENT			
F.F.E. - FINISHED FLOOR ELEVATION	P.C.C. - POINT OF COMPOUND CURVATURE	W - WEST			
FND - FOUND	P.C.P. - PERMANENT CONTROL POINT	W.F.S. - WOOD FRAME STRUCTURE			
ID. - IDENTIFICATION	P.L. - PROPERTY LINE	○ = SET 1/2" I.R.C. PSM LB#7371			
I.P. - IRON PIPE	P.O.B. - POINT OF BEGINNING				

DRAWN BY:  
MP

CHECKED BY:  
BRETT

CERTIFIED TO:  
ERIC E. STONE  
REMN MORTGAGE NETWORK, INC.  
ADAMS CAMERON TITLE SERVICES, INC.  
FIDELITY NATIONAL TITLE INSURANCE COMPANY

COMMUNITY NO:  
125136  
PANEL: 0216 SUFFIX: H F.I.R.M. DATE: 02/19/03  
FLOOD ZONE: X

SURVEY NO:  
46230  
FIELD DATE:  
06/14/12

BEARINGS SHOWN HEREON ARE BASED UPON  
THE CENTERLINE OF S. HALIFAX DRIVE BEING  
N25°00'00"E ASSUMED

**Long Surveying, Inc.**

"Specializing in Residential Surveying"

LB No. 7371

143 Villa Di Este Terrace #113

Lake Mary, FL 32746

Office 407-330-9717 or 407-330-9716

Fax 407-330-9775

WWW.LONGSURVEYING.COM

**NOTES:**

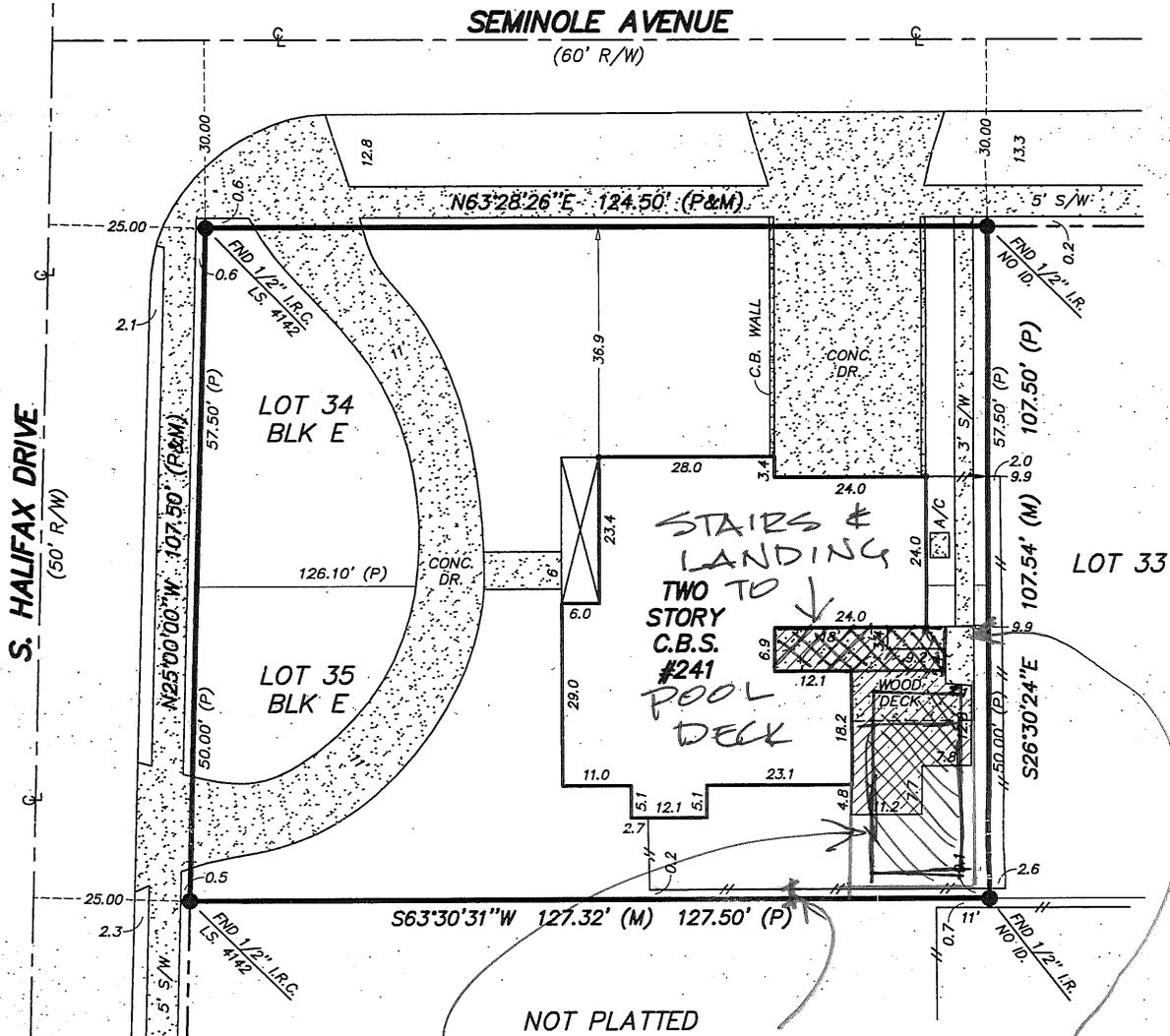
- 1) This survey is based on the legal description as provided by the Client
- 2) This Surveyor has not abstracted the land shown hereon for easements, rights of way or restrictions of record which may affect the title or use of the land
- 3) Do not reconstruct property lines from building ties
- 4) No footing or overhangs have been located except as shown
- 5) No improvements or utilities have been located except as shown
- 6) This survey is not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper

**Certification:** I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

Jon M. Shoemaker P.S.M. No. 5144

# BOUNDARY SURVEY

LEGAL DESCRIPTION: LOTS 34 & 35, BLOCK E, SEMINOLE - PARK, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 10, PAGE(S) 94, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



*Proposed  
15' x 30'  
Pool*

*Requested  
2' 6" setback  
to edge of  
pool/deck*

**ADAMS  
CAMERON TITLE  
SERVICES, INC.**

RIGHT-OF-WAY LINE	CENTERLINE	BARB WIRE FENCE	WOOD FENCE	CHAIN LINK FENCE	PLASTIC FENCE
A/C - AIR CONDITIONER	I.R. - IRON ROD	P.O.C. - POINT OF COMMENCEMENT			
Δ - CENTRAL ANGLE	I.R.C. - IRON ROD & CAP	P.O.L. - POINT ON LINE			
BLK - BLOCK	L - ARC LENGTH	P.R.C. - POINT OF REVERSE CURVE			
C.B. - CHORD BEARING	L.B. - LAND SURVEYING BUSINESS	P.R.M. - PERMANENT REFERENCE MONUMENT			
C.B.S. - CONCRETE BLOCK STRUCTURE	L.S. - LAND SURVEYOR	P.T. - POINT OF TANGENT			
C.M. - CONCRETE MONUMENT	M - MEASURED	R - RADIUS			
CONC. - CONCRETE	N - NORTH	R/W - RIGHT OF WAY			
D - DEED	N&D - NAIL AND DISK	S/W - SIDEWALK			
D.E. - DRAINAGE EASEMENT	P - PLAT	S - SOUTH			
E - EAST	P.C. - POINT OF CURVATURE	U.E. - UTILITY EASEMENT			
F.F.E. - FINISHED FLOOR ELEVATION	P.C.C. - POINT OF COMPOUND CURVATURE	W - WEST			
FND - FOUND	P.C.P. - PERMANENT CONTROL POINT	W.F.S. - WOOD FRAME STRUCTURE			
ID. - IDENTIFICATION	P.L. - PROPERTY LINE	○ = SET 1/2" I.R.C. PSM LB#7371			
I.P. - IRON PIPE	P.O.B. - POINT OF BEGINNING				

DRAWN BY: MP  
CHECKED BY: BRETT

CERTIFIED TO:  
ERIC E. STONE  
REMN MORTGAGE NETWORK, INC.  
ADAMS CAMERON TITLE SERVICES, INC.  
FIDELITY NATIONAL TITLE INSURANCE COMPANY

COMMUNITY NO: 125136  
PANEL: 0216 SUFFIX: H F.I.R.M. DATE: 02/19/03  
FLOOD ZONE: X

SURVEY NO: 46230 FIELD DATE: 06/14/12

BEARINGS SHOWN HEREON ARE BASED UPON THE CENTERLINE OF S. HALIFAX DRIVE BEING N25°00'00"E ASSUMED

**Long Surveying, Inc.**  
"Specializing in Residential Surveying"  
LB No. 7371  
143 Villa Di Este Terrace #113  
Lake Mary, FL 32746  
Office 407-330-9717 or 407-330-9716  
Fax 407-330-9775  
WWW.LONGSURVEYING.COM

- NOTES:
- This survey is based on the legal description as provided by the Client
  - This Surveyor has not abstracted the land shown hereon for easements, rights of way or restrictions of record which may affect the title or use of the land
  - Do not reconstruct property lines from building ties
  - No footing or overhangs have been located except as shown
  - No improvements or utilities have been located except as shown
  - This survey is not valid without the signature and the original raised seal of a Florida licensed Surveyor and Mapper

*Certification: I certify that this survey was made under my direction and that it meets the minimum technical standards set forth by the Board of Professional Land Surveyors and Mappers in Chapter 61G17-6, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.*

Jon M. Shoemaker P.S.M. No. 5144

# STAFF REPORT

## City of Ormond Beach Department of Planning

**DATE:** February 24, 2015

**SUBJECT:** 830 West River Oak Drive, pool screen enclosure rear and interior side yard variances

**APPLICANT:** Christopher Durost, Property Owner

**FILE NUMBER:** 2015-061

**PROJECT PLANNER:** Steven Spraker, AICP, Senior Planner

**INTRODUCTION:** This is a request by Christopher Durost, applicant and property owner of 830 West River Oak Drive, requesting two variances to locate a pool screen enclosure over an existing pool and deck along the rear and side interior lot line. The variances are as follows:

**Rear Yard Variance:** 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 applicant is requesting a 6' variance to the pool screen enclosure standard with a resulting setback of 4' to the rear property line.

**Side Yard Variance:** Section 2-50(X)(1)(d)(2) of the Land Development Code requires a 7.5' setback for a pool screen enclosure to the side interior property line. The applicant is requesting a 2.5' variance to the pool screen enclosure standard with a resulting setback of 5' to the side interior property line.

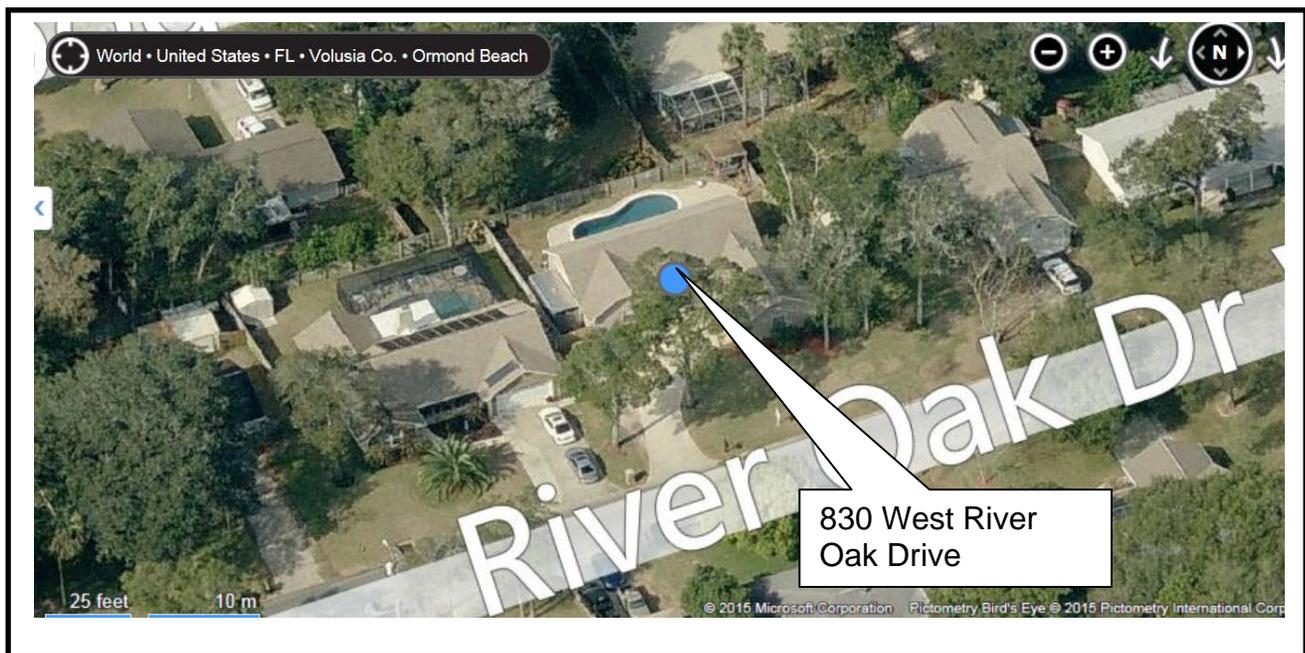
**BACKGROUND:** On February 13, 2015, staff conducted a site visit to install a sign posting the March 4, 2015, public hearing date and to document the location of the existing pool and patio. Upon conducting the site visit, staff observed the interior side yard setback and determined that an interior side yard setback variance for the screen enclosure would also be required in addition to the requested rear yard setback variance. While the application only requests the rear yard variance for the screen enclosure, the applicant has agreed that an interior side yard setback will also be required as shown on the Variance Exhibit.

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
<b>North</b>	Single Family House	“Low Density Residential”	R-3 (Single Family Medium Density)
<b>South</b>	Single Family House	“Low Density Residential”	R-3 (Single Family Medium Density)
<b>East</b>	Single Family House	“Low Density Residential”	R-3 (Single Family Medium Density)
<b>West</b>	Single Family House	“Low Density Residential”	R-3 (Single Family Medium Density)

**Site Aerial**



The subject property is 80’ wide by 115’ deep and is a conforming lot of record. According to the Volusia County Property Appraiser, the house was constructed in 1977 and the pool and deck in 2006. The applicants purchased the home on January 9, 2015.

When the pool screen setback is applied to the subject property, the screen would be in the waters of the pool. There have been several cases in recent months with applicants desiring to place a pool screen enclosure over the existing pool for several reasons, including trees within the area producing material that impacts the pool, keeping animals out of the pool and to increase enjoyment and the ability to use the pool to its maximum potential.

**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 location of the existing pool and deck that was constructed in 2006. The location of the pool and deck does not allow the opportunity to construct a screen enclosure that can meet the rear and side yard setbacks (10' and 7.5' respectively).

Case against the variances: Alternatively, one may argue that the location of the pool and deck is not a special condition and is common throughout the City. The existing pool and deck is non-conforming and the screen enclosure would only expand the existing the nonconformity and should not be permitted.

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 pool and deck had been 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 rear yard setback of 10' would require the enclosure to be located entirely in the pool water and is not possible. There is a concrete deck around the side yard and meeting the 7.5' setback would in a loss of useable deck area. 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 for the rear and side yards. As stated previously, applying the setbacks would require the pool screen enclosure in the water of the pool for the rear yard and result in a loss of deck area in the side yard. The request is the minimum necessary in order to allow the construction of the screen enclosure. Staff has not received any objections or correspondence against the variance request.

Case against the variances: As stated in above in criteria 3, property owners do not have an absolute right to screen enclosures at less than 10' and 7.5' to the rear and side property lines respectively.

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' and 7.5' rear and side setback respectively. Staff would state that there have been approved requests in the past for these types of situations, most recently 12 Tanglewood Circle, 376 Tymber Run, 11 Bridge Terrace, 176 Woodland Avenue, and 141 Country Club. 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** the following variances to allow the construction of a pool screen enclosure:

**Rear Yard Variance:** 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 applicant is requesting a 6' variance to the pool screen enclosure standard with a resulting setback of 4' to the rear property line.

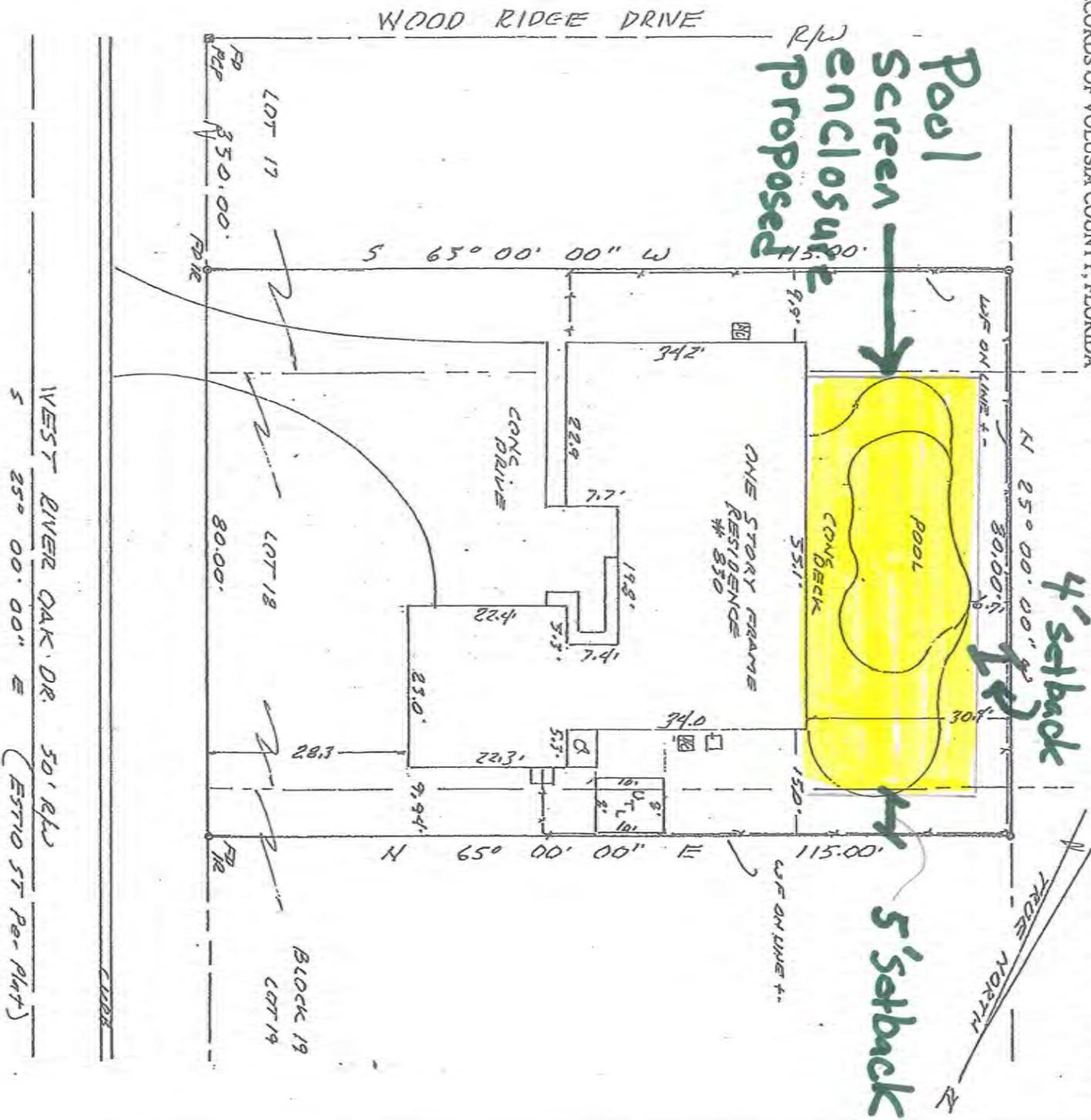
**Side Yard Variance:** Section 2-50(X)(1)(d)(2) of the Land Development Code requires a 7.5' setback for a pool screen enclosure to the side interior property line. The applicant is requesting a 2.5' variance to the pool screen enclosure standard with a resulting setback of 5' to the side interior property line.

# **ATTACHMENT 1**

Variance Exhibit

**HALIFAX LAND SURVEYING**  
 #425 BUCHANAN WAY, SO. DAYTONA, FLORIDA 32119  
 PHONE: 386-767-5089 / FAX: 386-760-6445

LEGAL DESCRIPTION  
 THE NORTHERLY 14.5 FEET OF LOT 17, ALL OF LOT 18, AND THE SOUTHERLY 6.5 FEET OF LOT 19, BLOCK 19, PLAT OF DAYTONA SHORES SECTION No.2, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 10, PAGE 112, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA



#830 WEST RIVER OAK DRIVE ORMOND BEACH, FL 32174

**SURVEYOR'S NOTES:**  
 1. BEARING STRUCTURE IS ASSUMED UNLESS OTHERWISE STATED.  
 2. LEGAL DESCRIPTION PROVIDED BY CLIENT.  
 3. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.  
 4. DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.  
 5. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS LOCATED EXCEPT AS SHOWN.  
 6. ELEVATIONS IF SHOWN REFER TO NGVD 1929 DATUM.  
 7. THIS PROPERTY IS LOCATED IN FLOOD ZONE "X" FIRM 12127C00212 H 125136 2-15-03

**LEGEND:**

AC AIR CONDITIONER	CP CONCRETE PAD	M MEASURED DISTANCE	PP POWER POLE	TV TELEVISION
CB CATCH BASIN	D DEED	MHE MANHOLE ELECTRIC	R RADIAL LINE	WF6 WOODEN FENCE 6FT.
CL CENTER LINE	FD FOUND	NTS NOT TO SCALE	R/W RIGHT OF WAY	WM WATER METER
CLF4 CHAIN LINK FENCE 4 FT.	FH FIRE HYDRANT	OHP OVERHEAD POWER	SMH SANITATION MANHOLE	WV WATER VALVE
CLF6 CHAIN LINK FENCE 6 FT.	FPT FL. POWER TRANSFORMER	R PLAT	SP SCREENED PORCH	
CM CONCRETE MONUMENT	IP IRON PIPE	POB POINT OF BEGINNING	SW SIDEWALK	
CONC CONCRETE	IR IRON ROD	FOR POINT OF REFERENCE	TEL TELEPHONE	

CERTIFIED TO: (1) BUYER: PAUL RYAN (2) UNDERWRITER: WESTCOAST LAND TITLE INSURANCE COMPANY (3) LENDER: WELLS FARGO HOME MORTGAGE (4) TITLE COMPANY: PREMIUM TITLE SERVICES, INC.

TYPE OF SURVEY: BOUNDARY  
 DATE: 10-27-11

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR.

JOB NO. 14420 SCALE 1"=20' DRAWN BY CR CREW CR SHEET NO. 1a-1 CO. CODE 127

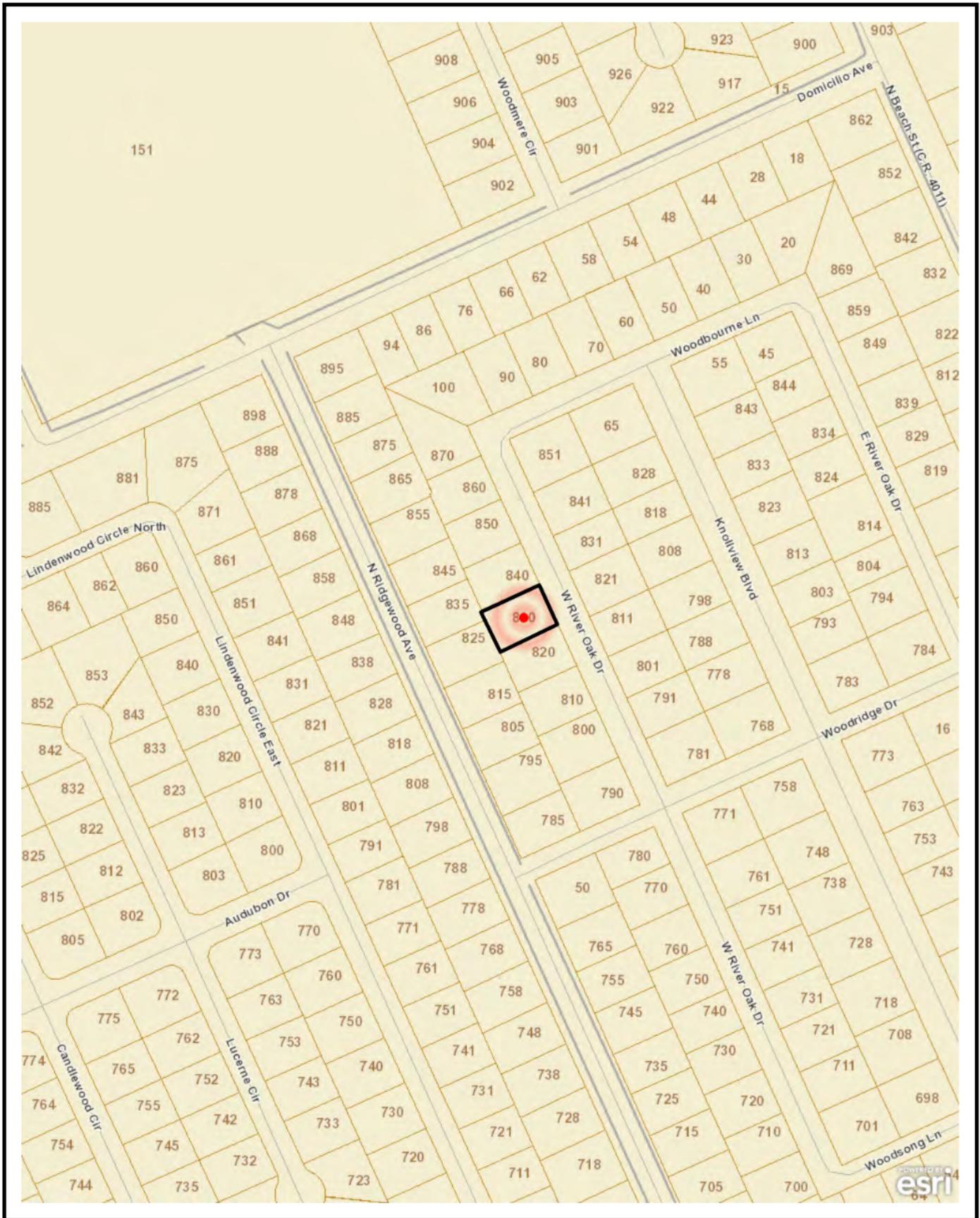
Clyde H. Rodgers PSM #3290

830 West River Oak, variance exhibit

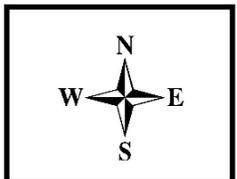
Yard	Improvement	Required Setback	Requested setback	Variance requested
Rear	Screen enclosure	10'	4'	6'
Side	Screen enclosure	7.5'	5'	2.5'

# ATTACHMENT 2

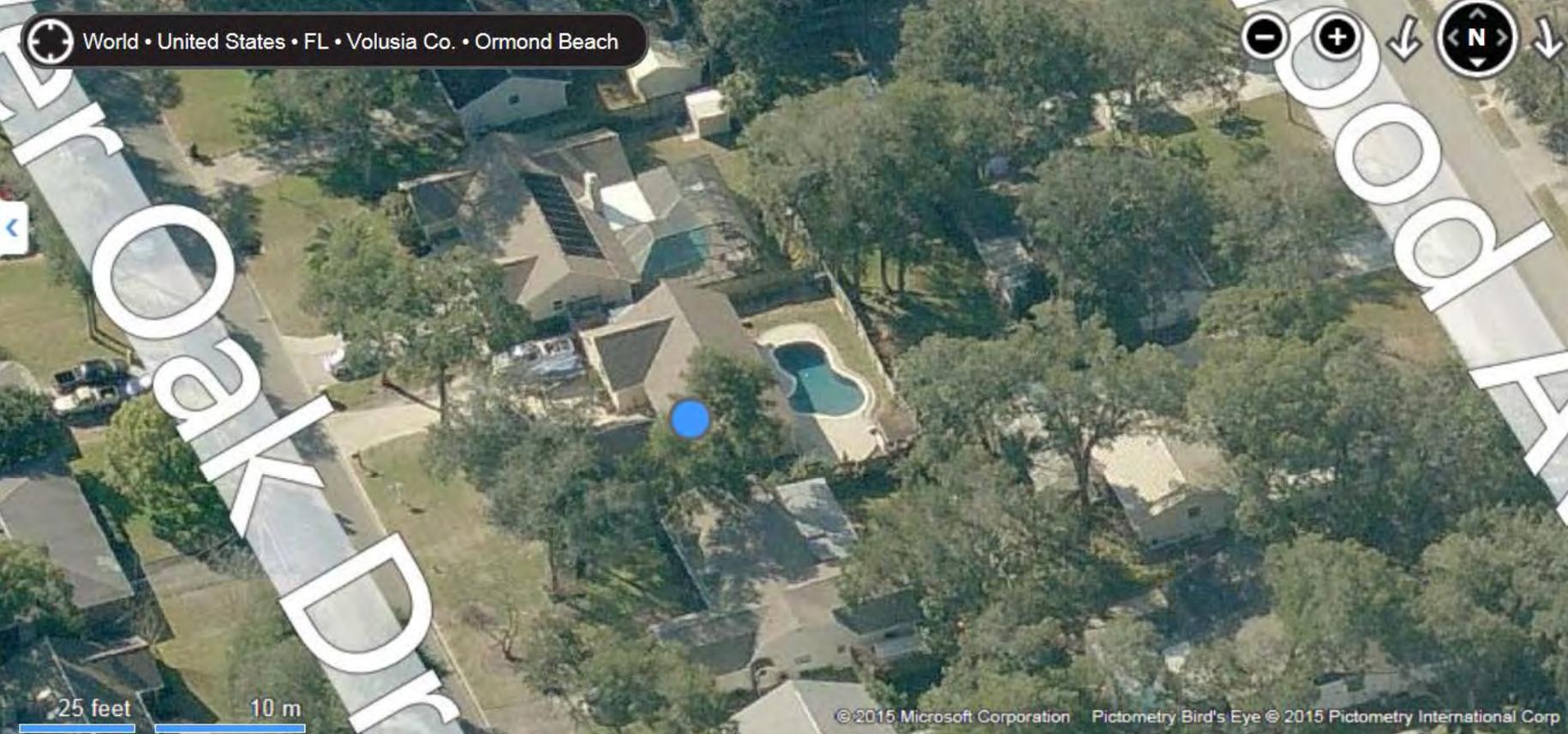
- Maps
- Pictures



LOCATION MAP  
830 West River Oak Drive



830 West River Oak Circle, site aerial



Source: Bing Maps

# **ATTACHMENT 3**

Applicant provided  
information



**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

Full Address

Telephone

Email

\* 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

Parcel ID Number

Legal Description

**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 ENCLOSE POOL AREA, FOR SAFETY AND KEEP POOL AREA CLEAN. I JUST PURCHASED THE PROPERTY AND WOULD LIKE THIS VARIANCE TO IMPROVE THE PROPERTY. A 6 FOOT VARIANCE TO THE REAR IS REQUESTED TO INSTALL A SCREEN ENCLOSURE

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
	820 W. RIVER OAK DR.	<input type="checkbox"/>	<input type="checkbox"/>
	840 W. RIVER OAK DR.	<input type="checkbox"/>	<input type="checkbox"/>
	835 N. RIDGEWOOD 825 N. RIDGEWOOD	<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:

BASED ON THE POOL LAYOUT THE REQUEST IS NEEDED TO PROTECT POOL AND LOCATION OF PROPOSED ENCLOSURE.

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

PURCHASED HOME WITH EXISTING POOL DICTATING THE LOCATION OF THE ENCLOSURE

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

THE PROPERTY TO THE SOUTH AND OTHER NEIGHBORS WHO HAVE POOLS ON THEIR PROPERTY HAVE ENCLOSED TO PROTECT THE POOL AREAS. THE NEIGHBORS HAVE NO OBJECTIONS TO THE INSTALLATION AND PROPOSED IMPROVEMENT TO THE PROPERTY

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

The Rear property where the variance is sought doesn't encroach or diminish sight lines. The property adjoining have large trees and enclosures over pools.

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:

Cost savings will only result in pool maintenance over time.

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

An enclosure around the pool enhances the safety and security to the property. Doesn't cause any additional hazard to the public.

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

The enclosure investment should increase values to the neighborhood. The rear variance is sought after to improve aesthetics of the property.

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:

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

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

[Empty response box for question 4]

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

[Empty response box for question 5]

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

[Empty response box for question 6]

**CERTIFICATION**

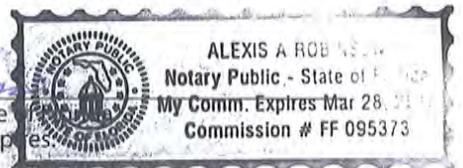
By submitting this application, I hereby certify that the information provided above is true and correct to the best of my knowledge and that I am aware of the application submittal requirements and review process for this application. I hereby authorize City of Ormond Beach Staff to place legal notice 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: *Christopher J. Dorrest*

STATE OF FLORIDA  
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 23 day of Jan., 20 15, by Christopher J. Dorrest as Homeowner (title\*) for \_\_\_\_\_ (name of corporation\*), who ( ) provided 037525088 DL# as identification, or ( ) who is personally known to me.

*Alexis A. Roberson*  
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.

The Volusia County Property Appraiser makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The values shown in the Total Values section at the end of the Property Record Card are "Working Tax Roll" values, as our valuations proceed during the year. These Working Values are subject to change until the Notice of Proposed Taxes (TRIM) are mailed in mid-August. For Official Tax Roll Values, see the History of Values section within the property record card below.

Last Updated: 12-30-2014 Today's Date: 12-31-2014		Volusia County Property Appraiser's Office			
		Property Record Card (PRC) Morgan B. Gilreath Jr., M.A., A.S.A., C.F.A. Property Appraiser			
Full Parcel ID	42-13-32-05-19-0190	Mill Group	201 Ormond Beach		
Short Parcel ID	3242-05-19-0190				
Alternate Key	2997141	2014 Final Millage Rate	20.64470		
Parcel Status	Active Parcel	PC Code	01		
Date Created	22 DEC 1981				
Owner Name	HENDERSON WALLACE H TR			<input type="button" value="GO TO ADD'L OWNERS"/>	
Owner Name/Address 1	WALLACE H HENDERSON REVOC TR				
Owner Address 2	840 W RIVER OAK DR				
Owner Address 3	ORMOND BEACH FL				
Owner Zip Code	32174				
Owner Percentage	100	Ownership Type			
Location Address	840 W RIVER OAK DR ORMOND BEACH 32174				

LEGAL DESCRIPTION	<input type="button" value="GO TO ADD'L LEGAL"/>
13 32 42 N 52.5 FT LOT 19 & S 27.5 FT LOT 20 BLK 19 DAYTONA	
SHORES SEC 2 MB 10 PG 112 PER OR 5067 PG 0149 PER UNREC D/C	

SALES HISTORY							<input type="button" value="GO TO ADD'L SALES"/>
#	BOOK	PAGE	DATE	INSTRUMENT	QUALIFICATION	IMPROVED?	SALE PRICE
1	6806	4569	12/2012	Death Certificate	Unqualified Sale	Yes	100
2	6474	0645	5/2010	Quit Claim Deed	Unqualified Sale	Yes	100
3	5067	0149	5/2003	Warranty Deed	Qualified Sale	Yes	159,900

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Last Updated: 12-30-2014 Today's Date: 12-31-2014		Volusia County Property Appraiser's Office			
		Property Record Card (PRC) Morgan B. Gilreath Jr., M.A., A.S.A., C.F.A. Property Appraiser			
Full Parcel ID	42-13-32-05-19-0170	Mill Group	201 Ormond Beach		
Short Parcel ID	3242-05-19-0170				
Alternate Key	2997125	2014 Final Millage Rate	20.64470		
Parcel Status	Active Parcel	PC Code	01		
Date Created	22 DEC 1981				
Owner Name	FORSTER CARL F & ANDREA B			<input type="button" value="GO TO ADDL OWNERS"/>	
Owner Name/Address 1					
Owner Address 2	820 W RIVER OAK DR				
Owner Address 3	ORMOND BEACH FL				
Owner Zip Code	32174				
Owner Percentage	100	Ownership Type			
Location Address	820 W RIVER OAK DR ORMOND BEACH 32174				

**LEGAL DESCRIPTION**

13 32 42 N 35.5 FT LOT 16 & S 44.5 FT LOT 17 BLK 19 DAYTONA

SHRS SEC 2 MB 10 PG 112 PER OR 4761 PG 2416

**SALES HISTORY**

#	BOOK	PAGE	DATE	INSTRUMENT	QUALIFICATION	IMPROVED?	SALE PRICE
1	4761	2416	10/2001	Warranty Deed	Qualified Sale	Yes	145,000
2	4697	0717	6/2001	Quit Claim Deed	Unqualified Sale	Yes	1
3	4162	1351	12/1996	Warranty Deed	Qualified Sale	Yes	95,000

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Last Updated: 12-30-2014 Today's Date: 12-31-2014		Volusia County Property Appraiser's Office			
		Property Record Card (PRC) Morgan B. Gilreath Jr., M.A., A.S.A., C.F.A. Property Appraiser			
Full Parcel ID	42-13-32-05-19-0070	Mill Group	201 Ormond Beach		
Short Parcel ID	3242-05-19-0070	2014 Final Millage Rate		20.64470	
Alternate Key	2997052	PC Code	01		
Parcel Status	Active Parcel				
Date Created	22 DEC 1981				
Owner Name	FRUDA THOMAS R JR & KIMBERLY R			<a href="#">GO TO ADD'L OWNERS</a>	
Owner Name/Address 1					
Owner Address 2	835 N RIDGEWOOD AVE				
Owner Address 3	ORMOND BEACH FL				
Owner Zip Code	321744630				
Owner Percentage	100	Ownership Type			
Location Address	835 N RIDGEWOOD AV ORMOND BEACH 32174				

<b>LEGAL DESCRIPTION</b>
13 32 42 S 7.5 FT OF LOT 9 & LOT 8 & N 13.5 FT OF LOT 7 BLK
19 DAYTONA SHRS SEC 2 MB 10 PG 112 PER OR 3189 PG 0801

<b>SALES HISTORY</b>							
#	BOOK	PAGE	DATE	INSTRUMENT	QUALIFICATION	IMPROVED?	SALE PRICE
1	3189	0801	9/1988	Warranty Deed	Qualified Sale	Yes	75,900
2	1783	1676	6/1975	Warranty Deed	Qualified Sale	Yes	45,900



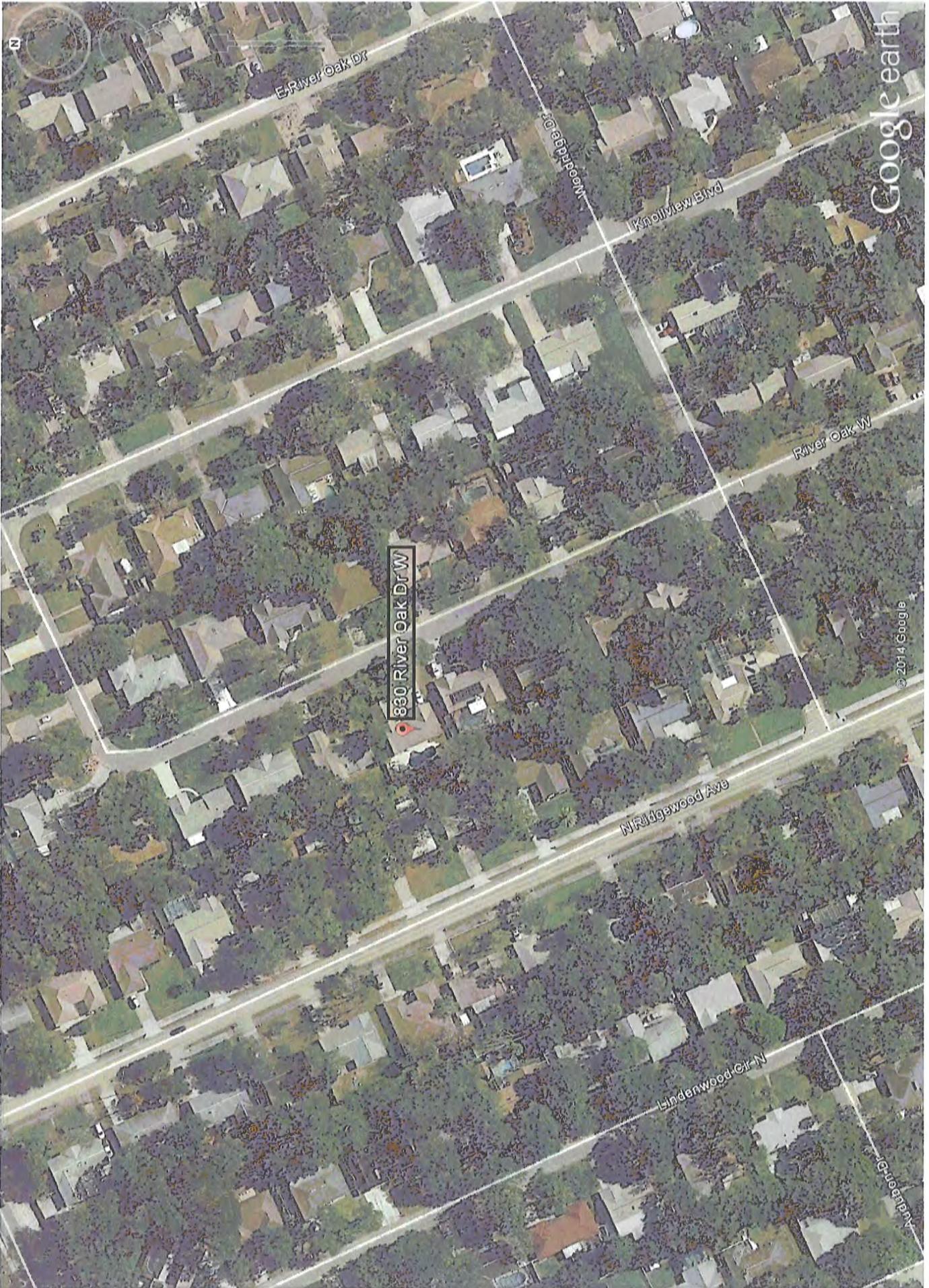
The Volusia County Property Appraiser makes every effort to produce the most accurate information possible. No warranties, expressed or implied, are provided for the data herein, its use or interpretation. The values shown in the Total Values section at the end of the Property Record Card are "Working Tax Roll" values, as our valuations proceed during the year. These Working Values are subject to change until the Notice of Proposed Taxes (TRIM) are mailed in mid-August. For Official Tax Roll Values, see the [History of Values](#) section within the property record card below.

Last Updated: 12-30-2014 Today's Date: 12-31-2014		Volusia County Property Appraiser's Office			
		Property Record Card (PRC) Morgan B. Gilreath Jr., M.A., A.S.A., C.F.A. Property Appraiser			
Full Parcel ID	42-13-32-05-19-0050	Mill Group	201 Ormond Beach		
Short Parcel ID	3242-05-19-0050				
Alternate Key	2997044	2014 Final Millage Rate	20.64470		
Parcel Status	Active Parcel	PC Code	01		
Date Created	22 DEC 1981				
Owner Name	DILORETO ARMAND A & PHYLLIS I			<a href="#">GO TO ADDL OWNERS</a>	
Owner Name/Address 1					
Owner Address 2	825 N RIDGEWOOD AVE				
Owner Address 3	ORMOND BEACH FL				
Owner Zip Code	321744630				
Owner Percentage	100	Ownership Type			
Location Address	825 N RIDGEWOOD AV ORMOND BEACH 32174				

<b>LEGAL DESCRIPTION</b>
13 32 42 S 45.5 FT OF LOT 7 & N 34.5 FT OF LOT 6 BLK 19
DAYTONA SHRS SEC 2 MB 10 PG 112 PER OR 1785 PG 601

<b>SALES HISTORY</b>							
#	BOOK	PAGE	DATE	INSTRUMENT	QUALIFICATION	IMPROVED?	SALE PRICE
1	1783	0390	6/1975	Warranty Deed	Qualified Sale	Yes	45,900





E River Oak Dr

Knollview Blvd

Knollview Blvd

River Oak W

880 River Oak Dr W

N Ridgewood Ave

Lindenwood Cir N

Google earth

© 2014 Google

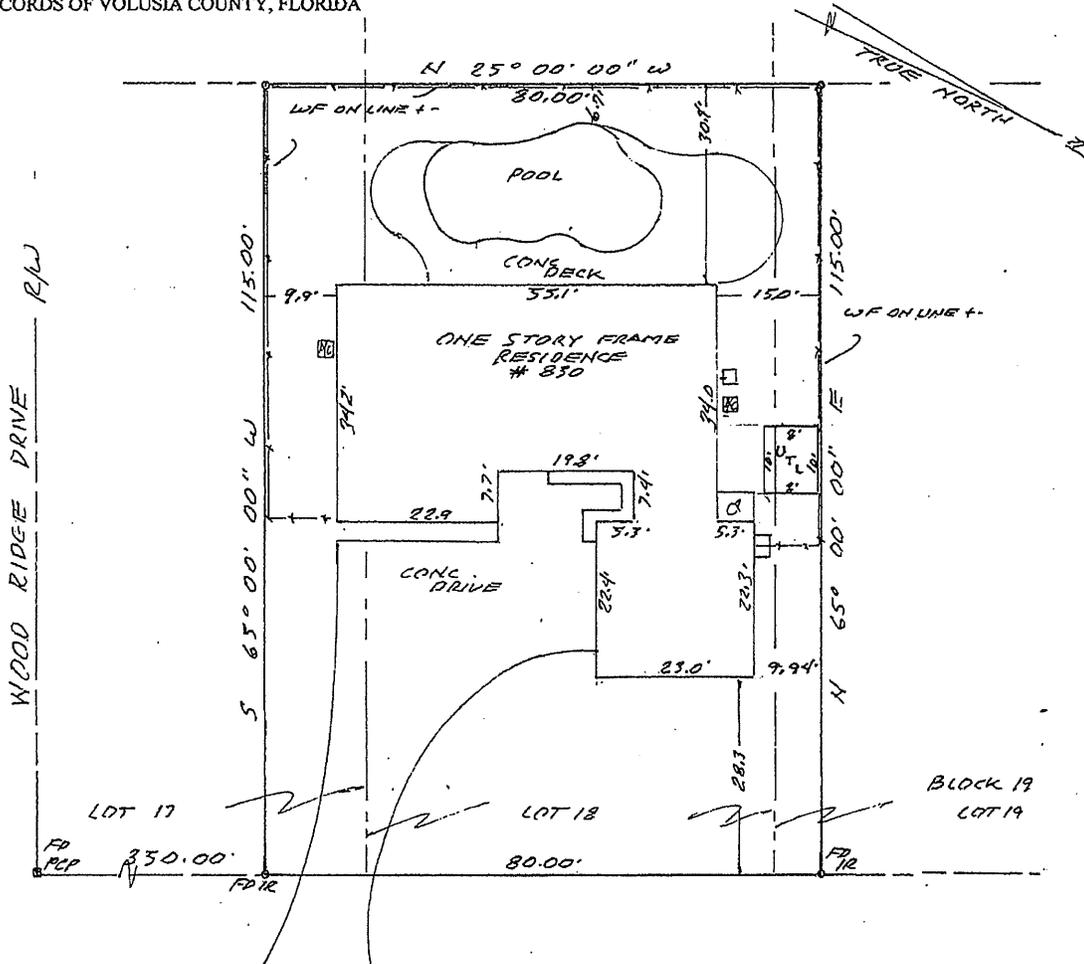
© 2014 Google

# HALIFAX LAND SURVEYING

#425 BUCHANAN WAY, SO. DAYTONA, FLORIDA 32119  
PHONE: 386-767-5089 / FAX: 386-760-6445

### LEGAL DESCRIPTION

THE NORTHERLY 14.5 FEET OF LOT 17, ALL OF LOT 18, AND THE SOUTHERLY 6.5 FEET OF LOT 19, BLOCK 19, PLAT OF DAYTONA SHORES SECTION No.2, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 10, PAGE 112, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA



#830 WEST RIVER OAK DRIVE ORMOND BEACH, FL 32174

#### SURVEYOR'S NOTES:

- |   |  |
|---|--|
| <p>1. BEARING STRUCTURE IS ASSUMED UNLESS OTHERWISE STATED.</p> <p>2. LEGAL DESCRIPTION PROVIDED BY CLIENT.</p> <p>3. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.</p> | <p>4. DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.</p> <p>5. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS LOCATED EXCEPT AS SHOWN.</p> <p>6. ELEVATIONS IF SHOWN REFER TO NGVD 1929 DATUM.</p> <p>7. THIS PROPERTY IS LOCATED IN FLOOD ZONE "X" FIRM 12127C0212 H 125136 2-15-03</p> |
|---|--|

#### LEGEND:

AC AIR CONDITIONER	CP CONCRETE PAD	M MEASURED DISTANCE	PP POWER POLE	TV TELEVISION
CB CATCH BASIN	D DEED	MHE MANHOLE ELECTRIC	R RADIAL LINE	WF6 WOODEN FENCE 6FT.
CL CENTER LINE	FD FOUND	NTS NOT TO SCALE	RW RIGHT OF WAY	WM WATER METER
CLF4 CHAIN LINK FENCE 4 FT.	FH FIRE HYDRANT	OHP OVERHEAD POWER	SMH SANITATION MANHOLE	WV WATER VALVE
CLF6 CHAIN LINK FENCE 6 FT.	FPT FL POWER TRANSFORMER	P PLAT	SP SCREENED PORCH	
CM CONCRETE MONUMENT	IP IRON PIPE	POB POINT OF BEGINNING	SW SIDEWALK	
CONC CONCRETE	IR IRON ROD	POR POINT OF REFERENCE	TEL TELEPHONE	

CERTIFIED TO: (1) BUYER: PAUL RYAN (2) UNDERWRITER: WESTCOR LAND TITLE INSURANCE COMPANY (3) LENDER: WELLS FARGO HOME MORTGAGE (4) TITLE COMPANY: PREMIUM TITLE SERVICES, INC.

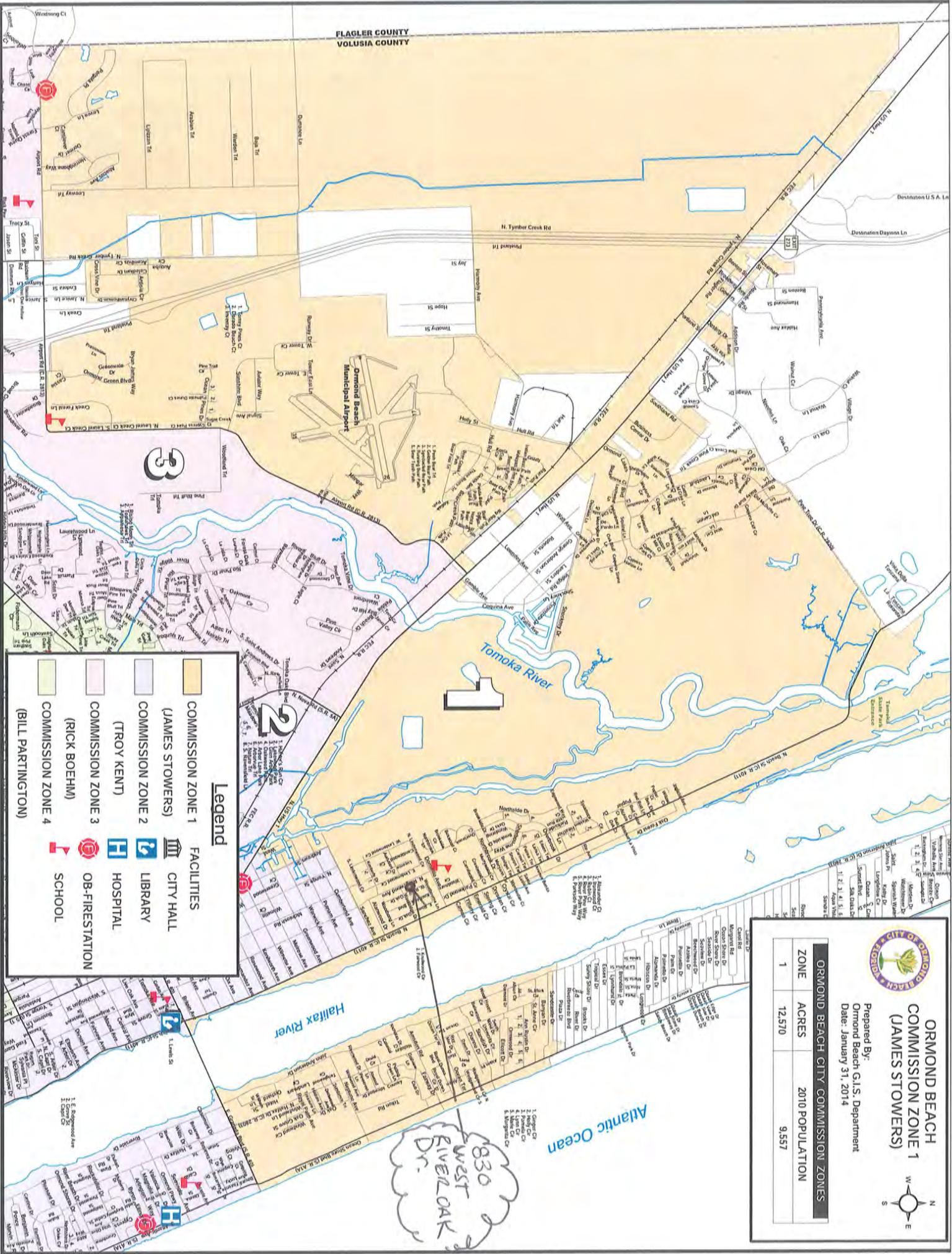
TYPE OF SURVEY | DATE | REMARKS

BOUNDARY	10-07-11	

NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A LICENSED FLORIDA SURVEYOR.

  
 CLYDE H. RODGERS PSM #3290

JOB NO. 14420 SCALE 1"=20' DRAWN BY CR CREW CR SHEET NO. 1061 CO. CODE 127



**Legend**

	COMMISSION ZONE 1 (JAMES STOWERS)		CITY HALL
	COMMISSION ZONE 2 (TROY KENT)		LIBRARY
	COMMISSION ZONE 3 (RICK BOEHM)		HOSPITAL
	COMMISSION ZONE 4 (BILL PARTINGTON)		OB-FIRESTATION
			SCHOOL

**CITY OF ORMOND BEACH**

**ORMOND BEACH CITY COMMISSION ZONES**

ZONE	ACRES	2010 POPULATION
1	12,570	9,557

Prepared By:  
Ormond Beach GIS Department  
Date: January 31, 2014

ORMOND BEACH  
COMMISSION ZONE 1  
(JAMES STOWERS)

830 WEST RIVER OAK DR.







Prepared by:  
Billie Jo J. Kaler  
Realty Pro Title  
1275 West Granada Boulevard, Suite 5A  
Ormond Beach, Florida 32174

File Number: 141325

### General Warranty Deed

Made this January 9, 2015 A.D. By **Paul Edward Ryan, an unmarried man**, whose address is: 830 West River Oak Drive, Ormond Beach, Florida 32174, hereinafter called the grantor, to **Christopher J. Durost and Kimberly Durost, husband and wife**, whose post office address is: 830 West River Oak Drive, Ormond Beach, Florida 32174, 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:

THE NORTHERLY 14.5 FEET OF LOT 17, ALL OF LOT 18, AND THE SOUTHERLY 6.5 FEET OF LOT 19, BLOCK 19, PLAT OF SECTION NO. 2, DAYTONA SHORES, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 10, PAGE 112 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

Parcel ID Number: 32134205190180

**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.

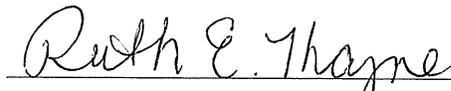
**And** the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2014.

**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:*

  
\_\_\_\_\_  
Witness Printed Name BILLIE JO KALER

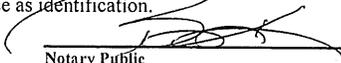
  
\_\_\_\_\_  
Paul Edward Ryan (Seal)  
Address: 830 West River Oak Drive, Ormond Beach, Florida  
32174

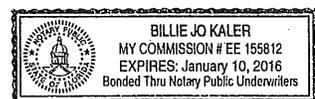
  
\_\_\_\_\_  
Witness Printed Name RUTH E. THAYNE

\_\_\_\_\_  
(Seal)  
Address:

State of Florida  
County of Volusia

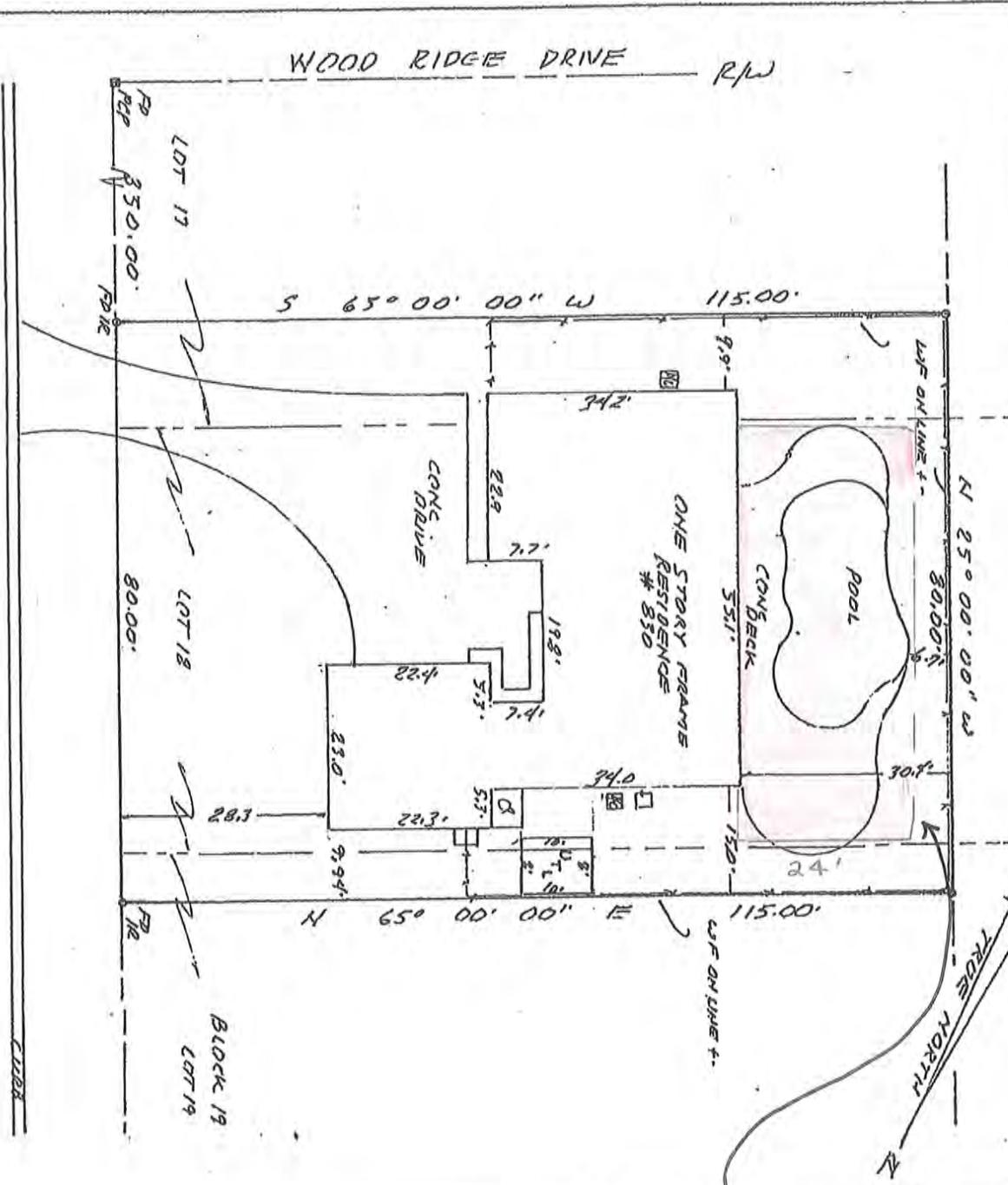
The foregoing instrument was acknowledged before me this 9th day of January, 2015, by Paul Edward Ryan, an unmarried man, who is/are personally known to me or who has produced Drivers License as identification.

  
\_\_\_\_\_  
Notary Public  
Print Name: \_\_\_\_\_  
My Commission Expires: \_\_\_\_\_



**HAILEX LAND SURVEYING**  
 #425 BUCHANAN WAY, SO. DAYTONA, FLORIDA 32119  
 PHONE: 386-767-5089 / FAX: 386-760-6445

LEGAL DESCRIPTION  
 THE NORTHERLY 14.5 FEET OF LOT 17, ALL OF LOT 18, AND THE SOUTHERLY 6.5 FEET OF LOT 19, BLOCK 19, PLAT OF DAYTONA SHORES SECTION No.2, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 10, PAGE 112, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA



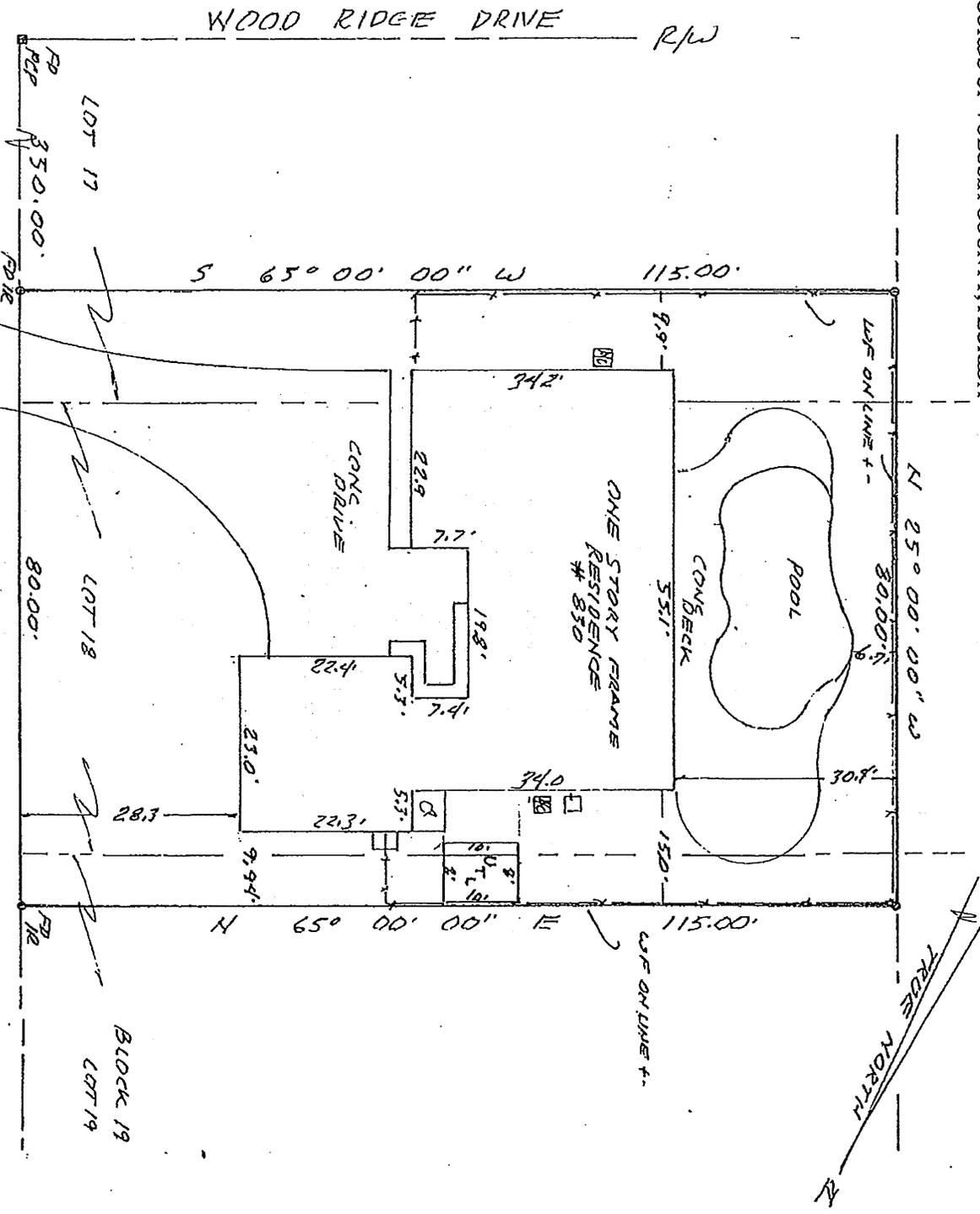
Screen  
 ENCLOSED  
 24 X 53  
 HEIGHT -  
 9'- RISING TO  
 13' IN CENTER

CURB

**HAITFAX LAND SURVEYING**  
 #425 BUCHANAN WAY, SO. DAYTONA, FLORIDA 32119  
 PHONE: 386-767-5089 / FAX: 386-760-6445

LEGAL DESCRIPTION

THE NORTHERLY 14.5 FEET OF LOT 17, ALL OF LOT 18, AND THE SOUTHERLY 6.5 FEET OF LOT 19, BLOCK 19, PLAT OF DAYTONA SHORES SECTION No.2, ACCORDING TO THE PLAT THEREOF, RECORDED IN MAP BOOK 10, PAGE 112, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA



# STAFF REPORT

## City of Ormond Beach Department of Planning

**DATE:** February 23, 2015

**SUBJECT:** 920 Buena Vista Avenue

**APPLICANT:** Jo Ellen Zayer, property owner

**FILE NUMBER:** V2015-066

**PROJECT PLANNER:** Becky Weedo, AICP, Senior Planner

**INTRODUCTION:** This is a request to replace a detached garage in the current location on the site from Ms. Jo Ellen Zayer, property owner of 920 Buena Vista Avenue. The applicant is seeking two variances to replace the existing detached garage as follows:

(1) Rear Yard: Section 2-15(B)(9)(b) of the Land Development Code requires a 20' setback from the rear property line. The applicant is seeking to allow the existing setback of the detached garage be at a 2.4' requiring a 17.6' variance to the rear property line; and

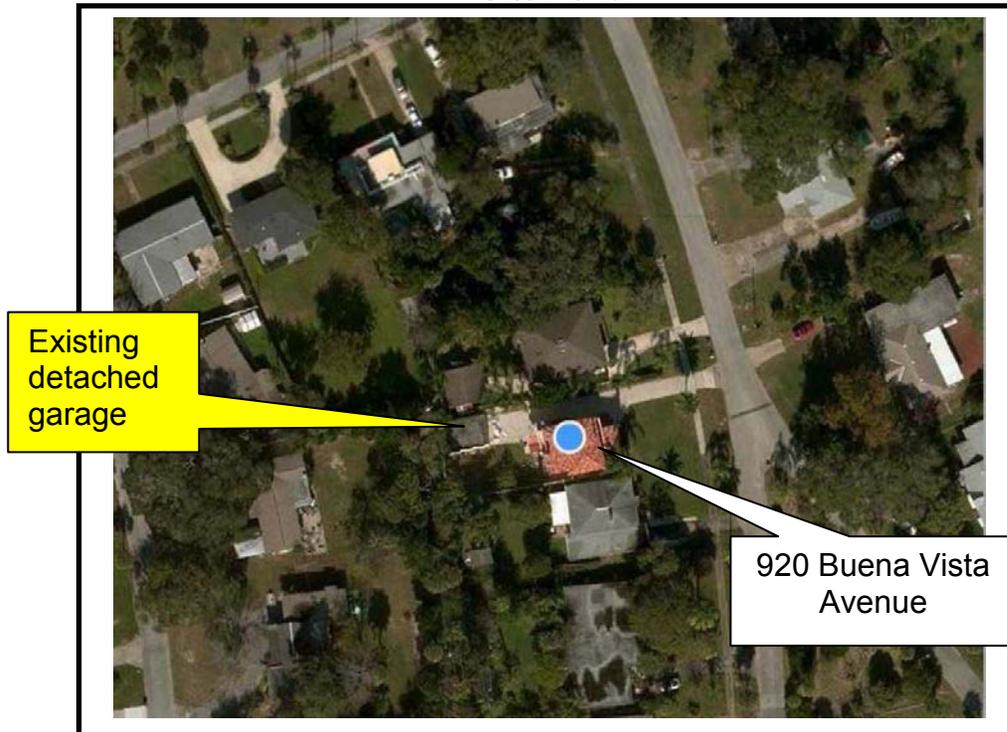
(2) Side Yard: Section 2-15(B)(9)(c) of the Land Development Code requires an 8' minimum side yard setback from the interior side yard property line. The applicant is seeking to allow the existing setback of the detached garage to be at 1.4' requiring a 6.6' variance to the interior side yard.

**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.

### Adjacent land uses and zoning:

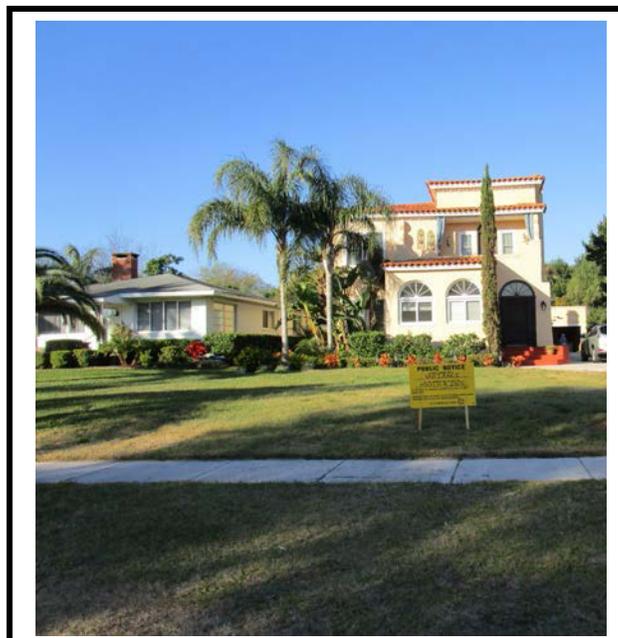
	Current Land Uses	Future Land Use Designation	Zoning
North	Single Family House	"Low Density Residential"	R-3 (Single Family Medium Density)
South	Single Family House	"Low Density Residential"	R-3 (Single Family Medium Density)
East	Single Family House	"Low Density Residential"	R-3 (Single Family Medium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

### Site Aerial



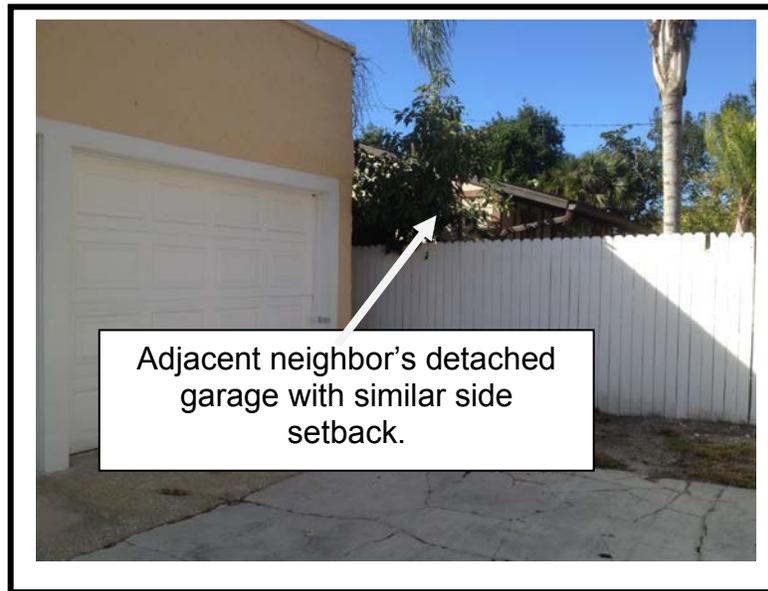
The Volusia County Property Appraiser website shows that the single family structure and detached garage were constructed in 1932. Both structures are considered historic by age. The subject property has several unique qualities as listed below:

1. The 1924 subdivision plat for the subject property indicates a 50' front yard building setback where the Land Development Code requires a 25' front yard setback.



Front of house in relationship to the street.

2. The lot width is 53', where the Land Development Code requires a 75' lot width.



3. There are existing overhead power lines within the rear yard of the property.



It is unclear how the existing detached garage was previously permitted with a 2.4' rear yard setback and a 1.4' interior side setback. City staff researched previous variances and could not locate any existing variance approvals for the subject property.

The current property owner/applicant recently purchased the property and seeks to replace the damaged detached garage. Below are pictures of the damage to the detached garage.



City staff members have reviewed the potential demolition of the detached garage from a historic preservation perspective and have approved the demolition. Staff determined that the existing detached garage is deteriorated beyond a point of reasonable repair.

**ANALYSIS:**

The applicant's request is to replace the existing detached garage in the exact same location as it exists today in keeping with the character of the neighborhood and not increasing stormwater impact. The applicant is seeking to allow the existing rear yard setback of the detached garage be at a 2.4' requiring a 17.6' variance to the rear property line and to allow the existing side yard setback of the detached garage to be at 1.4' requiring a 6.6' variance to the interior side yard.

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 (1) the width of the lot at  $\pm 53'$ , (2) a 1924 platted front setback of 50', (3) the location of the electrical lines in the rear of the property, and (4) the existing location of the house and driveway. The platted front setback, the narrow lot width, the overhead electrical utility lines and the house and driveway location constrain the ability to reconstruct the detached garage.

Case against the variances: Given the location of the existing house and the regulations in the Land Development Code, the property owner could potentially rebuild the garage to meet the setback requirements if the electrical lines were buried or moved, if the garage were moved sideways with a modified driveway, and if a portion of the existing foundation was removed to diminish stormwater impacts on adjacent properties.

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

Case for the variances: The applicant purchased the property this year before the detached garage was constructed. The special conditions did not result from the actions of the applicant.

Case against the variances: The property owner bought the property knowing the garage was in a deteriorated condition. Had the property owner performed a due diligence, it would have been known that either a variance was needed to replace the garage in the existing location or relocation perpendicular to the house orientation was needed to meet the code.

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 reconstruction of the existing detached garage. Meeting the 20' rear setback and the 8' minimum interior side setback would restrict vehicle access into the garage and place the structure under the overhead electrical lines which is prohibited. This condition is a direct cause of the location of the existing house, the 53' wide lot, the overhead electrical lines, and the 50' platted front setback. Detached garages are commonly enjoyed by other properties in the City of Ormond Beach in the same zoning district. The adjacent property has a

similar setback with a detached garage. Properties which have similar lot layout and building placement are from the same phase of the plat indicating it was planned.

Case against the variances: Compliance with the setbacks would recognize the setbacks that other properties in the same zoning district were required to meet when detached garages were approved by the city.

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 detached garage is to be reconstructed. As stated previously, applying the setbacks would require the detached garage to be located to prevent vehicle access and place it under existing overhead electrical lines which is prohibited. The plat restriction prevents locating the garage closer to the Buena Vista right-of-way. The request is the minimum necessary in order to allow the reconstruction of the detached garage in order to preserve the character of the neighborhood based on the 1924 plat and minimize stormwater impacts. Staff has received signatures of no objections from the abutting property owners who have responded. The rear property owner has been contacted but no response has been received at this time.

Case against the variances: Placement of the new garage could be placed in the approximate location but at a greater setback to decrease the amount of relief needed.

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 detached garage. It is to keep the character of the neighborhood preserved and minimize stormwater impact.

Case against the variances: The added cost to relocate the electrical lines, build a new foundation and remove or modify the existing foundation for drainage is not sufficient proof of unnecessary hardship

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: Denial of the case and placing the detached garage where a variance would not be needed would also not increase congestion, fire danger, or public 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.**

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 from the adjoining property owners who have responded. The rear property owner has been contacted but has not responded. It is believed that the detached garage would not alter the character of the neighborhood in fact it is in keeping with the way the area was developed in 1924 and the structures that were built.

Case against the variances: Relocation of the garage would alter the character of the building layout for this phase of the plat.

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: Nonconforming structures mean the structure does not comply with current standards. The purpose of standards within the zoning ordinance is to ensure conformance when opportunities occur such as demolition. Approval of the case would extend the nonconforming structure's reprieve from the zoning regulation that governs all structures in the underlying zoning district.

**RECOMMENDATION:** It is recommended that the Board of Adjustments and Appeals **APPROVE** the reconstruction of an existing detached garage in the exact same location. The reconstruction requires a 17.6' variance to the rear property line setback of 20' and a 6.6' variance to the interior side yard line setback to the required minimum of 8'.

Attachments:

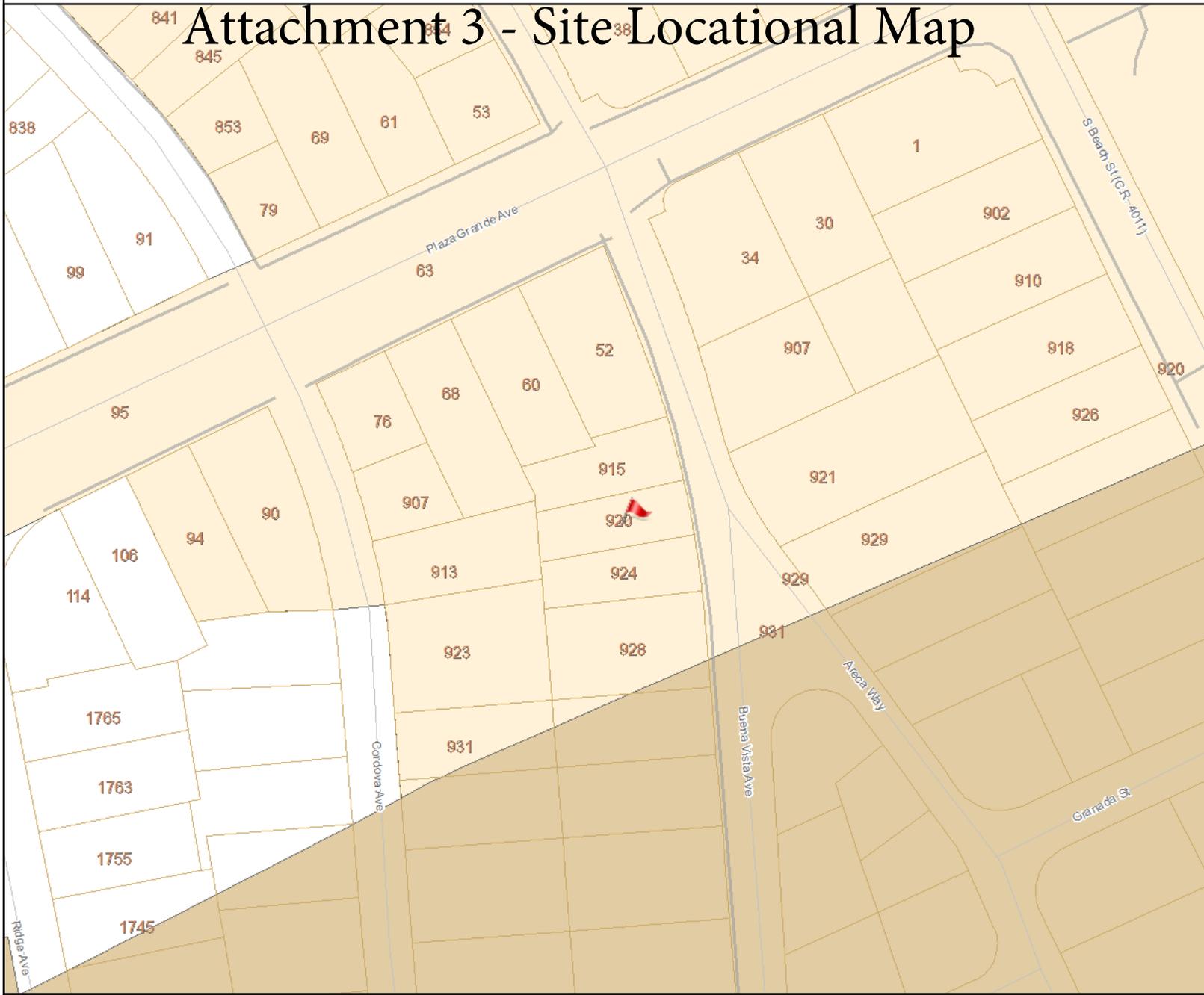
- 1: Variance Exhibit
- 2: 1924 Recorded Plat
- 3: Site Maps and Photos
- 4: Variance Application





# 920 Buena Vista Avenue

## Attachment 3 - Site Locational Map



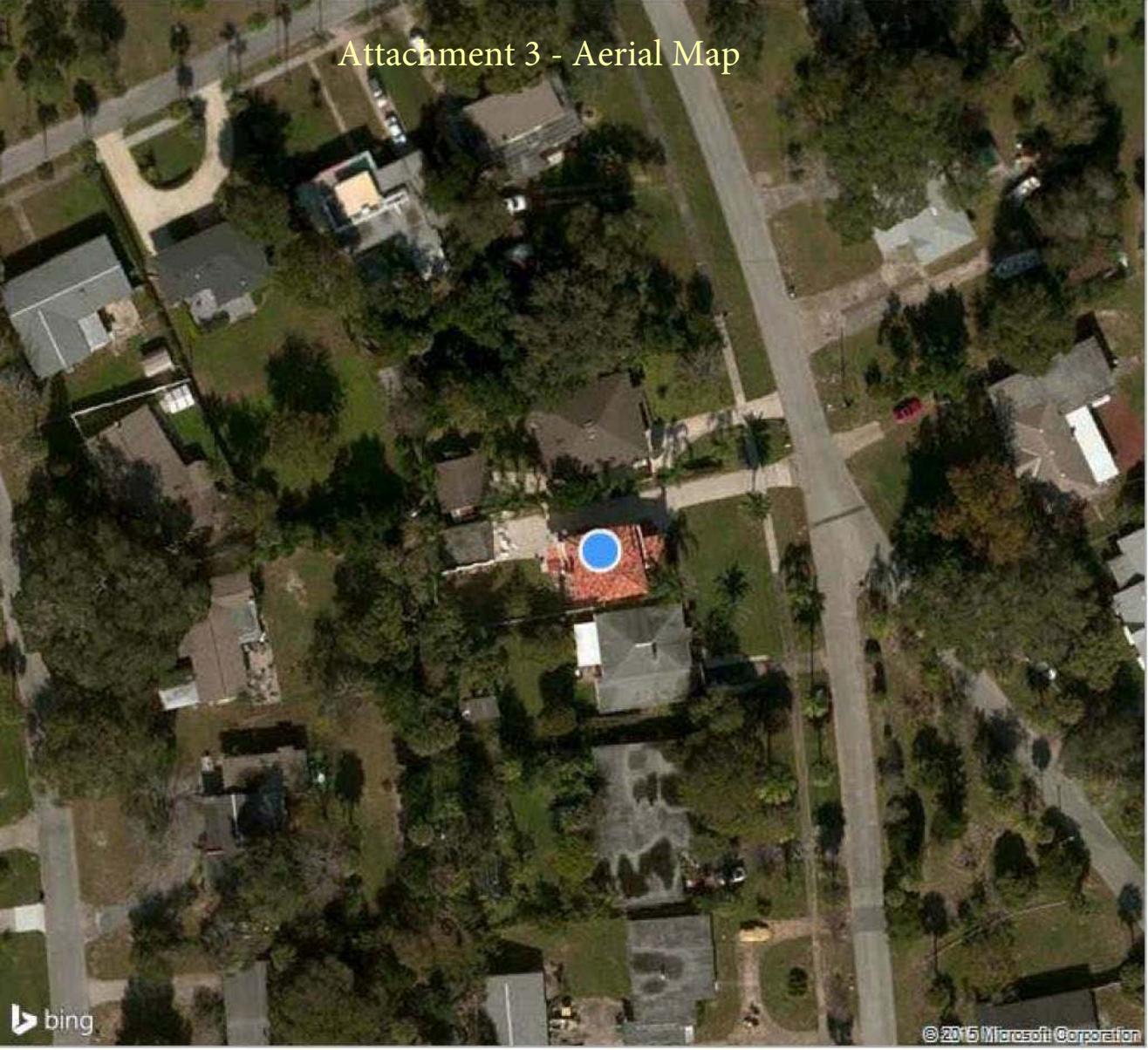
- Sidewalks
  - Golf Courses
  - Address Points
  - ⚡ Traffic Signals
  - ✈ Airport and Railroad
    - AIRPORT
    - RAILROAD
  - City Streets
    - DIRT
    - MAJOR
    - PAVED
  - Water Features
  - Property Lines
  - City Limits
    - ORMOND BEACH
    - HOLLY HILL
    - DAYTONA BEACH
- 153 ft



GIS data is provided on an "as is" basis. The accuracy or reliability of the data is not guaranteed or warranted in any way. The City of Ormond Beach specifically disclaims any warranty either expressed or implied, including, but not limited to, the implied warranties of merchantability and fitness for a particular use. The entire risk as to quality and performance of the data is with the end user. In no event will the City, its staff or its representatives be liable for any direct, indirect, incidental, special, consequential, or other damages, including loss of profit, arising out of the use of this data even if the City has been advised of the possibility of such damages.



Attachment 3 - Aerial Map



# Attachment 3 - Front of Home Showing Distance From Road



# Attachment 3 - Photo of Overhead Electrical Lines

← overhead lines



Attachment 3 - Neighbor's garage showing similar setback



**Attachment 3 - Interior Side of Garage Showing Deterioration**



Attachment 3 - Rear side of Garage



# Attachment 4 - Variance Application



CITY OF ORMOND BEACH

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

www.ormondbeach.org

comdev@ormondbeach.org

v3.2013

## VARIANCE - APPLICATION

For Planning Department Use

Application Number

15-066

Date Submitted

2/10/15

### 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

Jo Ellen Zayer

Full Address

920 Buena Vista Ave., Ormond Beach, FL 32174

Telephone

619-871-2280

Email

jo-ellen.zayer@gmail.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

920 Buena Vista Ave., Ormond Beach, FL 32174

Parcel ID Number

4242-20-16-0200

Legal Description

Property in the County of Volusia, State of Florida  
Lot 20, Block 16, Section B, Rio Vista as per map  
in Map Book 6, page 50 of Public Records of Volusia  
County, Florida

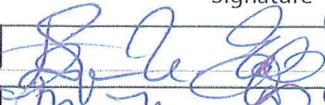
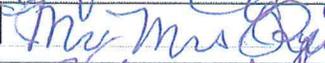
### REQUEST

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: I am requesting a variance to rebuild the garage at 920 Buena Vista Ave., Armond Beach, FL, 32174. It was built in 1932 and now is a rotting wooden structure. I would like to use the existing space that the garage is now located at. If try and moved the garage would displace the drainage and have an impact on the adjoining properties. Also there are power lines that run across my property and would inhibit any relocation as buildings are not allowed to be under the powerlines

**ABUTTING PROPERTY OWNERS**

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

Signature	Street Address	For	Against
	915 Buena Vista Ave	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	924 Buena Vista Ave	<input checked="" type="checkbox"/>	<input type="checkbox"/>
	921 BUENA VISTA AVE.	<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:

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

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

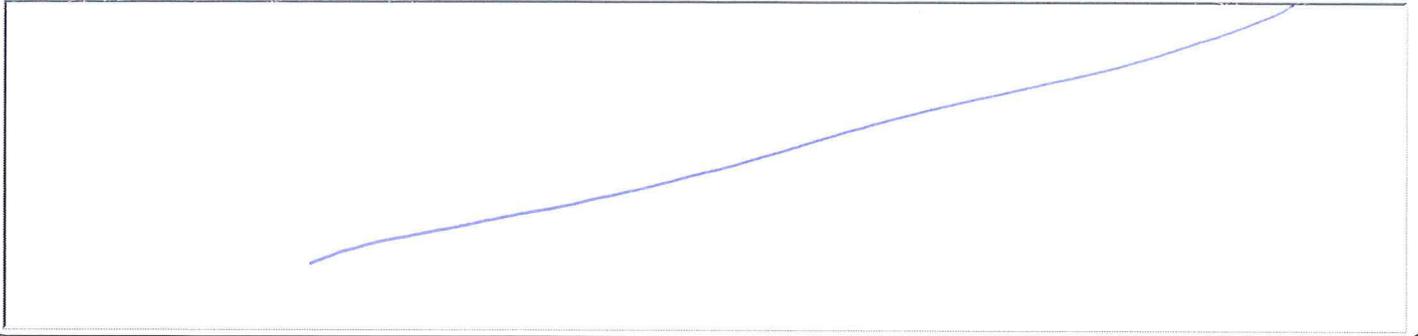
4. No practical alternative exists and the variance, if granted, is the minimum variance that will make possible the reasonable use of the land, building or structure:

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

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

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

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



**CRITERIA: NONCONFORMING**

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:

*the property  
yes it meets the lot area standard for the zoning district.*

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

*There is no other way to build the garage due to the location of the house. I would like to put the garage where the existing garage has been since 1932.*

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:

*It is consistent with zoning district. There are other detached garages in the area with similar set backs. (see picture)*

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:

Simply to replace the existing garage at the same set backs as currently exist.

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

yes to request to replace existing garage with the same set backs as currently exist.

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

The garage has been in that location since 1932. I have spoken to the abutting neighbors and they have no problems with me building a new garage. The garage will not limit views or increase 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: Jo Ellen Zayer

STATE OF FLORIDA  
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 10 day of February, 2015, by Jo Ellen Zayer as me (title\*) for me (name of corporation\*), who  provided CA Driver Licence as identification, or  who is personally known to me.



Sauklein  
Notary Public, State of Florida  
My Commission Expires: May 3, 2016

\* 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.