AGENDA

ORMOND BEACH
BOARD OF ADJUSTMENT AND APPEALS

April 6, 2016

ORMOND BEACH CITY COMMISSION CHAMBERS 7:00 P.M.

I. ROLL CALL

II. APPROVAL OF THE MINUTES

A. February 3, 2016

III. NEW BUSINESS

A. Case 2016-047: 757A Flamingo Drive, Rear Yard Variance

This is a request for a rear yard variance submitted by Walter and Stephanie Zehnder, property owners. The property is zoned as R-4, Single Family Medium Residential. Chapter 2, Article II of the Land Development Code, Section 2-17.B.9.c. requires a 20' rear yard setback. The applicant is requesting a variance to allow the construction of a 140 square foot addition that would square up with an existing screened in patio, requiring a rear yard variance of 5'. Staff is recommending that the 5' variance request include the living area addition as well as an existing permitted non conforming screened room.

B. Case 2016-046: 18 London Lane, Patio Variance

This is a request for a patio variance submitted by Carolyn Bracken, property owner of 18 London Lane. The applicant seeks to allow a patio addition in the rear and side yards with a setback of 2' for the property at 18 London Lane. Section 2-50(w) of the Ormond Beach Land Development Code requires a 5' setback to the side interior and rear property line for a patio. The applicant is seeking to allow a patio at a 2' side yard and rear yard setback, a 3' variance to the required 5' setback for a patio.

C. Case 2016-049: 474 Triton Road, Front and Rear Yard Variances

This is a request for two variances submitted by Sandra Upchurch, property owner of 474 Triton Road. The subject property is zoned R-2.5 (Single Family Low-Medium Density). The applicant is requesting two variances to allow the demolition of the existing structure and construction of a new single family home as follows:

1. **Front yard setback variance:** Section 2-14(B)(9)(a) of the Land Development Code requires a 30' front yard setback. The variance application seeks to allow the single family house structure at a front yard setback of 19.09', at the closest point to the front property line, requiring a 10.91' variance to the required 30' front yard setback.

2. **Rear yard setback variance:** Section 2-14(B)(9)(b) of the Land Development Code requires a 20' rear yard setback. The variance application seeks to allow a cabana structure at a rear yard setback of 16', at the closest point to the rear property line, requiring a 4' variance to the required 20' rear yard setback.

IV. OTHER BUSINESS

V. ADJOURNMENT

M I N U T E S

BOARD OF ADJUSTMENT

February 3, 2016 **7:00 p.m.**

Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present	Staff Present
Ryck Hundredmark	Becky Weedo, Senior Planner
Jean Jenner	Ann-Margret Emery, Deputy City Attorney
Frank Ganz (alternate)	Melanie Nagel, Minutes Technician
Tony Perricelli	
Dennis McNamara	
Norman Lane (excused)	

II. APPROVAL OF THE MINUTES

A. January 6, 2016 Minutes

Mr. Perricelli moved to approve the January 6, 2016 Minutes as submitted. Mr. Hundredmark seconded the motion. Vote was called, and the motion was unanimously approved.

III. NEW BUSINESS

A. Case No. 2016-022: 1900 John Anderson Drive, Boathouse Variance

Ms. Weedo, Senior Planner, City of Ormond Beach stated this is a request for a variance, submitted by Craig and Nancy Neeb, to replace the existing boathouse at 1900 John Anderson Drive. Ms. Weedo asked that a letter of opposition from Volusia County be entered into the record. This correspondence was provided to the Board members by email the day prior to the meeting.

Ms. Weedo explained that it is the County's opinion that the City does not have jurisdiction over the dock at 1900 John Anderson Drive. However, the City is proceeding with the advertised public hearing for the variance request for the boathouse since: 1) the annexation of the waterway occurred in 2000, 2) the City has approved at least three variances between 2000 and 2016 for docks and has issued approximately 63 dock permits for properties with land in the jurisdiction of Volusia County, and 3) County staff has recognized the City's jurisdiction in past staff reports. One of the attachments from the County is a memo dated July 23, 1999 specifically stating "3. The construction of a dock which normally extends out over water will require a City of Ormond Beach permit…"

Ms. Weedo continued that the Land Development Code for docks requires a minimum setback of 25' from the riparian lines of the adjacent owners if the length of the shoreline is sixty-five (65') or more. The shoreline is approximately 95.51'. At the shoreline, the dock is about 7' from the adjacent owner's riparian line and tucked into the southern side of the seawall. There are other docks with boathouses in the area that have similar setbacks. If the boathouse is moved to the center of the property, the view for the neighbor to the south will be impacted.

Other than the letter that was received from the County, the City has not received any other objections. The property owner received signatures from the adjacent property owners, stating that they have no objections. Staff is recommending approval.

Mr. McNamara asked about the letter from the county. Ms. Weedo stated that Legal and the City Manager have made the determination that the City does have jurisdiction, and have sent a letter to the Deputy County Manager stating the same.

Mr. Perricelli asked if the whole boathouse and dock were being torn down, and everything will be new, or are they just doing it as needed. Will it be pilings and everything?

Mr. Craig Neeb, 1900 John Anderson Drive, applicant, stated that the plans are to replace the boathouse. Last year they replaced the existing dock structure, and wanted to wait a year to replace the boathouse. When they went for the permitting, they realized it needed a variance request. The boathouse has been there for quite a few years and is in disrepair.

Mr. McNamara asked if the pilings would be staying. Mr. Neeb replied that they are replacing all of the pilings.

Following discussion, Mr. Jenner moved to approve the variance as submitted. Mr. Hundredmark seconded the motion. Vote was called and the Board unanimously approved the variance application (5-0).

V. OTHER BUSINESS

Mr. Jenner asked if the Board members could get the phone number for the CC Chambers, so if something unexpectedly happens, and they are going to be late to a meeting, or unable to attend, they could call into the meeting. Ms. Nagel, Minutes Technician, explained that there is not a telephone in the Chambers, but she could give Board members her cell phone number, so they could call her direct if they are going to be late, or not able to make the meeting.

Ms. Nagel also asked the Board members to please reply to her email about whether they will be attending or not, since she has to get an alternate to attend in their place, if they cannot be at a meeting.

VI. ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:11 p.m.

Respectfully submitted,

_____

Becky Weedo, AICP, Senior Planner

ATTEST:

_____

Dennis McNamara, Chairman

Minutes prepared by Melanie Nagel.

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

All persons appealing to the board of adjustment must be present, or represented at the public hearing scheduled for the consideration of his request. Failure to be present or to be represented, results in the automatic refusal by this board to grant permission for any variance. In order to allow the meeting to proceed in an orderly fashion, the board, by motion, may limit the time allowed for remarks concerning a specific agenda item to a maximum of thirty (30) minutes for city staff, the designated representative of the applicant and the designated representative of any organized group and to five (5) minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the board.

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

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: March 30, 2016

SUBJECT: 757A Flamingo Drive

APPLICANT: Walter and Stephanie Zehnder, Property Owners

FILE NUMBER: 16-047

PROJECT PLANNER: Becky Weedo, AICP, Senior Planner

INTRODUCTION:

This is a request for a rear yard variance submitted by Walter and Stephanie Zehnder, property owners. The property is zoned as R-4, Single Family Medium Residential. Chapter 2, Article II of the Land Development Code, Section 2-17.B.9.c. requires a 20' rear yard setback. The applicant is requesting a variance to allow the construction of a 140 square foot addition that would square up with an existing screened in patio, requiring a rear yard variance of 5'.

BACKGROUND:

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

Site Aerial

757 A Flamingo Drive Survey-Existing and Proposed

Adjacent land uses and zoning:

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

The subject property is located within Ocean Village Villas which was originally constructed in 1947. In the late 1980's and early 1990's the Ocean Village Villas entered into a Development Agreement (Resolution 89-70) with the City and began the process of platting the existing structures into single family, duplexes, triplexes, and quadraplexes. The existing structures were typically between 400 to 700 square feet and were previously used as vacation cottages.

The Ocean Village Villas Development Agreement (Resolution 89-70) did not provide any modifications to the R-4 zoning setbacks. Beginning in 1992, there was a realization that the existing structures did not comply with R-4 zoning setbacks and that renovation, expansion, and repair of the existing structures would have setback conflicts. City staff had various correspondences with the Ocean Village Villas Homeowners Association and in 1999 encouraged the amendment of the 1989 Development Order. In 2000, the Planning Director stated that City staff would support setbacks of 15' for the rear yard and 7' for the side yards. There has been no Development Order amendment filed by the HOA thus requiring property owners seeking expansions and renovations to individually go through the variance process.

ANALYSIS:

The duplex lot is 110'± deep by approximately 48' in width. The existing duplex structure is about 675 square feet and is currently conforming except for a 230.8± square foot screened in patio which currently has a 15' rear setback. Research was conducted to determine how the screened room was allowed. It was discovered that permit number 10-2605 was issued on April 21, 2010 for a screen room with hard roof. The application was never reviewed by a planner for compliance with the Land Development Code standards so now there is a nonconforming structure with a 15' rear yard setback.

The applicant is proposing to expand the living area with a 14' by 10' bedroom expansion, or 140 square feet. The living area addition meets the side yard setback but the additional 14' will require a 5' variance to the rear yard line. It is staff's recommendation to include the existing screened room approximately 14' by 17' as part of the variance request so if the structure is ever damaged or destroyed by 50% or more, it will be able to be rebuilt without going through another variance process.

The applicant has provided signatures "For" the variance request from Elsie Bennett, 749 Flamingo Drive; Audrey Durrua, 180A Cardinal Drive; and Corisann Lampe, 757B Flamingo Drive. Also, the Ocean Village Villas Homeowners Association, Architectural Review Committee approved the request for a permanent addition on December 22, 2015.

CONCLUSION:

Chapter 1, Article II, Section 1-16.D.2, of the Land Development Code states, "The Board of Adjustment and Appeals shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific

condition, or other physical or environmental conditions that are unique to the specific property involved and are not the result of the actions of the applicant. If the basis for the request is the unique quality of the site, the Board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board shall base its findings on the cumulative effect of granting the variance to all who may apply."

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

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

   Argument for the variance: The special conditions of the property are related directly to the conversion of the property from cottage rentals to platted lots of records as a duplex. The 1989 Development Order did not provide alternative setbacks to those contained within the Land Development Code and have prevented the reasonable expansion, redevelopment, and maintenance of these properties without a variance approval.

   Argument against the variance: The property owner could potentially build a smaller addition that would not require a variance.

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

   Argument for the variance: The Development Order was approved in 1989 and is not the action of the applicant.

   Argument against the variance: The property owner bought the property with the existing living area. Had the property owner performed a due diligence, it would have been known that a variance was needed to add additional square footage 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.**

   Argument for the variance: The front yard setback of the subject property is 55.8'. The required front yard setback is only 25'. Other Homeowners in the area have structures situated closer to the front setback line and have been able to expand to the rear of their dwellings without the need of a variance. The request for a rear yard variance of 5' maintains the 15' setback that the City agreed to in 2000.

Argument against the variance: Compliance with the setbacks would recognize the setbacks that other properties in the same zoning district were required to meet when additions 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.**

   Argument for the variance: The homeowner's association will not allow expansion to the front. Therefore, there is no practical alternative for the expansion of the living area at 757A Flamingo Drive and the request is the minimum needed to make reasonable use of the land.

   Argument against the variance: The applicant could reduce the size of the addition and meet the Land Development Code setbacks.

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

   Argument for the variance: The variance is not sought to reduce the cost of the construction of the project.

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

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

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

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

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

   Argument for the variance: The request will not diminish property values or alter the character of the surrounding area. The request is a substantial investment in the Ocean Village Villa area. The Ocean Village Villas has architectural controls separate of the City Land Development Code that will ensure consistency of the proposed living area.

   Argument against the variance: None**.** The variance request is in compliance with the 15' rear yard setback agreement by the City in 2000 and does not 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.**

Argument for the variance: The purpose of the variance process is to confer rights that are denied to a particular applicant because of a special condition or unique circumstance for their property. City Planning staff have over time indicated an acknowledgment that the R-4 zoning district setbacks are misapplied to Ocean Village Villas and the Development Order should be amended. In 2000, the City Planning Director stated a willingness to allow 15' rear yard setbacks. Staff believes that the variance allows the redevelopment, modernization, and necessary investment to maintain properties within the Ocean Village Villas.

Argument against the variance: Reducing the overall building addition could reduce or eliminate the need for the requested variance.

RECOMMENDATION: Staff believes that the variance allows the redevelopment and modernization of the property and is a necessary investment to maintain properties within older neighborhoods. It is recommended that the Board of Adjustments and Appeals **APPROVE** a variance of 5' to allow an addition of 14' by 10' and to include the existing nonconforming screened room approximately 14' x 17' at a 15' rear yard setback, where the R-4 zoning district currently requires a 20' rear yard setback.

Attachments:

Attachment 1: Survey

Attachment 2: Maps and pictures

Attachment 3: Variance application and ARC approval

ATTACHMENT 1

Variance Exhibit

BOUNDARY SURVEY OF:

Lot 20A, OCEAN VILLAGE VILLAS, according to the plat thereof as recorded in Plat Book 42, Pages 192 through 197, of the Public Records of Volusia County, Florida.

THIS SURVEY IS CERTIFIED TO:

WALTER & STEPHANIE ZEHNDER

FLOOD CERTIFICATION:

This is to certify that I have consulted the National Flood Insurance Flood Hazard Boundary Map and found the subject property is not within a special flood hazard area, according to Map No. 12127C 0218J, dated 02/19/2014. (ZONE X)

PROPERTY ADDRESS:

757A FLAMINGO DR., ORMOND BEACH, FL 32176

BEARINGS BASED ON RECORD PLAT--The Southerly line of Lot 20A being S.75°56'29"W.

PROPERTY SERVED BY CITY WATER

NOTES:

1) Subject to restrictions, reservations, easements and rights-of-way, if any, appearing of record.
2) Survey performed without the benefit of a title search.
3) Underground utilites and other below ground features, not located, other than shown.

LEGEND:

U.E.=Utility Easement
D.E.=Drainage Easement
U.& D.E.=Utility & Drainage Easement
(P)=Plat data
(D)=Deed data
(M)=Field measured data
(C)=Calculated data
F.=Found
F.C.=Fence corner
P.C.=Point of Curve
P.T.=Point of Tangency
P.C.C.=Point of Compound Curve
P.R.C.=Point of Reverse Curve
R/W=Right of way
LS=Land Surveyor
LB=Licensed Business
PSM=Professional Surveyor & Mapper
C/S=Concrete Slab
WPF=Wood Privacy Fence
WRF=Wood Rail Fence
BWF=Barbed Wire Fence
WF=Wire Fence
MRF=Metal Rail Fence
CLF=Chain Link Fence
PF=Privacy Fence
WM=Water Meter
ETP=Electric Transformer Pad
TR=Telephone Riser
TVR=Cable TV Riser
CM=Concrete Monument
CBM=Concrete Block Wall

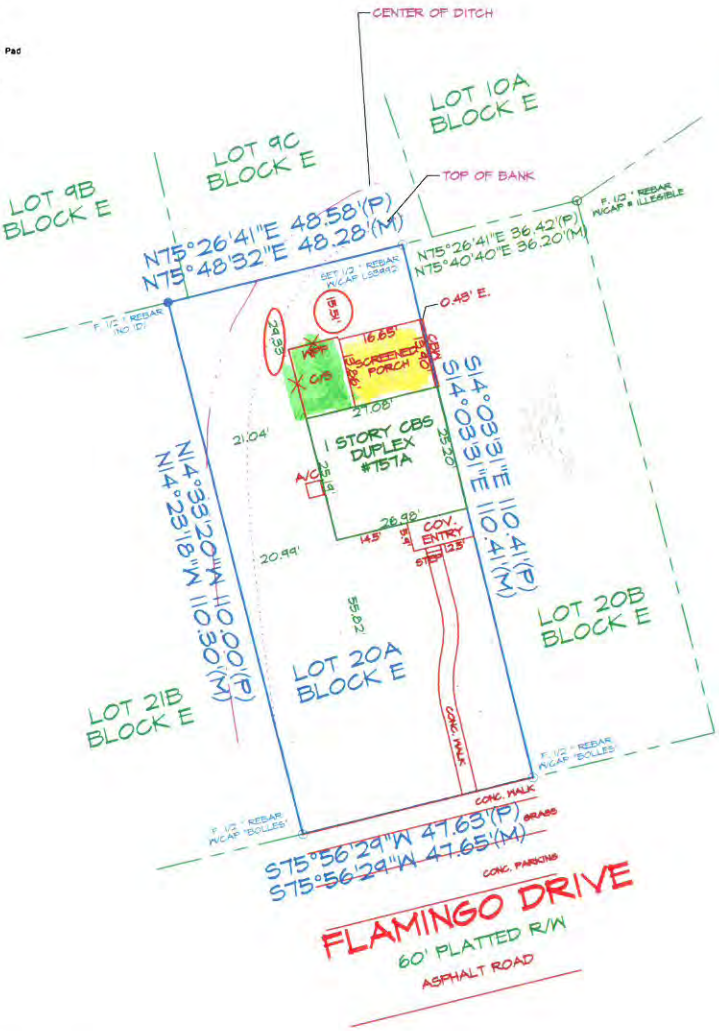
SCALE 1"=30'

0 30 60

N
W E
S

Existing screened patio

Location of proposed addition



This survey is certified to and prepared for the exclusive benefit of the entities and/or individuals shown hereon, valid on the most current date shown, and shall not be relied upon by any other entity or individual whatsoever.

There may be additional restrictions and/or other matters of record not shown on this Survey that may be found in the Public Records of the County or contained within the Title Commitment.

THIS DRAWING IS THE SOLE PROPERTY OF LANGFORD SURVEYING CFL, INC AND CANNOT BE EDITED IN ANY MANNER WITHOUT THE WRITTEN PERMISSION OF LANGFORD SURVEYING CFL, INC. OTHER THAN THE ORIGINAL CLIENT. REPRODUCTIONS OF THIS SKETCH ARE NOT VALID WITHOUT THE EXPRESSED WRITTEN PERMISSION OF LANGFORD SURVEYING CFL, INC. ©

Langford Surveying CFL, Inc.
5415 Lake Howell Rd. #160
Winter Park, FL 32792
407-332-7202 Fax 800-654-2339
www.langfordsurveying.com
jim@langfordsurveying.com

NOTE:
Date of survey may differ from date of signature. If so, the date of survey is the applicable date.

JAMES P. LANGFORD CERTIFICATE No. 3992 STATE OF FLORIDA REGISTERED SURVEYOR & MAPPER

DATE SIGNED: 01/18/2016

James P. Langford, P.L.S. 3992 LB7803
VALID ONLY WITH AN AUTHENTICATED ELECTRONIC OR EMBOSSED SURVEYOR'S SEAL & SIGNATURE

Date of Survey:	Drawn by:	Checked by:	Scale:	File name/no.
01/18/2016	JPL	JPL	1"=30'	16-01/14

ATTACHMENT 2

- Maps and pictures

Aerial of proposed room expansion

Source: Pictometry.com

Proposed addition (inside fence) will square up with existing screened patio.

Proposed addition is within the existing fence. This is the side yard view. The addition meets the required side yard setback of 20' in the R-4 Zoning District.

This is the rear yard view. The proposed addition is within the fence which is 15' from the rear property line.

ATTACHMENT 3

Applicant provided information

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

v3.2013

REC'D FEB 29 2016

VARIANCE - APPLICATION

For Planning Department Use

Application Number _____ *Date Submitted* 2/29/16

APPLICATION TYPE AND FEES

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

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

APPLICANT INFORMATION

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

Name: WALTER & STEPHANIE ZEHNDER

Full Address: 757 A FLAMINGO DR., ORMOND BEACH 32176

Telephone: 727-742-0704 Email: WTZEHNDER@AOL.COM

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

PROPERTY OWNER INFORMATION***

Name:

Full Address:

Telephone: Email:

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

PROPERTY DETAILS

Full Address: 757A FLAMINGO DR. ORMOND BEACH 32176

Parcel ID Number:

Legal Description: LOT 20A, BLOCK E, OCEAN VILLAGE VILLAS, ACCORDING TO THE PLAT THEREOF AS RECORDED IN MAP BOOK 42, PAGES 192-197 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FL.

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 EXPAND AN EXISTING SMALL BED ROOM TO BETTER ACCOMODATE FAMILY MEMBERS AND GUESTS. THE PLANNED ADDITION WILL EXTEND FIVE FEET BEYOND THE REAR MINIMUM SET BACK LINE.

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
Elsie Bennett	749 B Flamingo	☒	☐
Audrey F Durrer	180 A Cardenal	☒	☐
Constance Lange	752 B Flamingo	☒	☐

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:

OCEAN VILLAGE VILLAGE VILLAS IS AN OLDER DEVELOPMENT WITHOUT AMENDED SET BACKS. THE CURRENT STRUCTURE SITS 25.8 FT BEHIND THE EXISTING FRONT SET BACK LINE.

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

WE DID NOT CREATE THE SPECIAL CONDITION.

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:

OTHER HOMEOWNERS WHOSE STRUCTURES ARE SITUATED CLOSER TO THE FRONT SET BACK LINE HAVE BEEN ABLE TO EXPAND TO THE REAR OF THEIR DWELLINGS WITHOUT NEED OF A VARIANCE.

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

THERE ARE NO OTHER ALTERNATIVES TO THIS EXPANSION. HOA WILL NOT ALLOW EXPANSION TO THE FRONT AND IT IS NOT POSSIBLE TO EXPAND TO THE SIDE.

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:

THE REQUEST IS NOT BASED UPON A DESIRE TO REDUCE THE COST OF DEVELOPMENT OF THE SITE

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

THE ADDITION WILL MEET CODE IN ALL ASPECTS
THERE WILL BE NO INCREASE IN TRAFFIC.

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 ADDITION IS IN HARMONY WITH THE CODE.
IT WILL ACTUALLY ENHANCE THE PROPERTY VALUE.

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 ADDITION WILL HAVE THE SAME LOOK AS THE EXISTING BUILDING AND WITH ALL OTHER BUILDINGS IN THE SUBDIVISION, IT WILL BE IN CONFORMITY WITH OTHER REAR ATTACHED ADDITIONS IN THE SUBDIVISION.

CRITERIA: NONCONFORMING

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

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

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

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

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

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

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

CERTIFICATION

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

Signature: Stephanie H. Zehnder

STATE OF FLORIDA
COUNTY OF Volusia
The foregoing instrument was acknowledged before me this 29th day of Feb, 2016, by Stephanie H. Zehnder, as homeowner (title*) for _____ (name of corporation*), who (X) provided FLDL# Z536-788-49-884-0 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.

OCEAN VILLAGE VILLAS HOMEOWNERS ASSOCIATION, INC.
635 FLAMINGO DR. ORMOND BEACH, FL 32176
Phone: 386-677-9013 FAX: 386-677-8078
Email: oceanvillagehoa@cfl.rr.com

Dec. 22, 2015

Walter Zehnder
3126 Blue Heron St.
Safety Harbor, FL 34695

RE: Your property at 757A Flamingo Drive, Ormond Beach, FL 32176

Dear Walter,

On Dec. 21, the ARC held a meeting to consider your Request for Improvement, dated Dec. 16, 2015. The ARC has approved your request to construct a 14' X 10' permanent addition (in the form of a bedroom expansion) per your description, at the rear (north side) of your property at 757A Flamingo Drive. The installation will be done by Howard Construction LLC of Orange Park, FL. Thank you for providing their documentation with your request. For assistance, the ARC provides the following from the ARC Guidelines:

QUOTE

1. **Permanent Additions**: All additions to the original structure other than screened rooms or Florida glass enclosed rooms shall be constructed of brick when facing the front yard (Zone 1). Cement block construction may be used in place of brick for areas facing the side yard (Zone 2) and the rear yard (Zone 3). If cement block is used it must be stuccoed with sufficient thickness to conceal the mortar joints between the cement blocks. The stucco must have a smooth natural finish and be painted "colonial white" to match the existing buildings. If brick is used for the permanent addition, it must be painted "colonial white" as well. Under no circumstances is dryvit permitted as an exterior building material.

The maximum height of the addition must not exceed the height of the original structure.

The roof of a permanent addition must be covered with Mediterranean Style Tile colored Mission Red to match the existing roof. The roof on the addition must have the same pitch as the original roof. The new roof must be tied into the original structure in such a way as to look like a continuation of the original structure and not as an addition. The roof should have a minimum overhang of 12-inches with a 12-inch white aluminum soffit. There should be incorporated a 6-inch white vinyl or white aluminum fascia to provide scale to the roof edges.

Flat pan style house roofs are not permitted under any circumstances. The only approved flat roof style is for carports.

All windows for permanent additions in the front of the house (Zone 1) and the side of the house (Zone 2) shall be bronze framed with black screening if a screen is used. The windows in Zone 1 and Zone 2 shall be of the standard double-hung model used in the original building. Windows in the rear of the house (Zone 3) that are not visible from the street shall be bronze framed with black screening. Sliders

may be used in Zone 3. Window glass shall be either clear or bronze tinted. Window treatments shall be uniform and shall be either off-white (almond) or white when viewed from the exterior. This means that window treatments shall have an almond or white liner that faces the exterior of the property. The interior color may be any color the owner desires.

If gutters are installed they shall be white with white downspouts.

Landscaping for a permanent addition shall match the existing landscaping. Additional shrubs may be needed to extend existing flowerbeds in front and on the side. Please refer to paragraph 2, Landscaping, for guidance in planting trees, shrubs, bushes and other flora if extending the scope of the general landscaping around the house.

The Association must be notified before any heavy construction equipment is driven across the lawn so the Association can move or turn off the irrigation sprinkler heads located on every lawn. The thin walled pipe used in the irrigation system is easily damaged by these machines. Any damage done to the irrigation system will be repaired by the Association but at the Owner's expense. Any peripheral damage to abutting Association property will also be repaired by the Association at the owner's expense.

The building site should be kept as clean as possible. All rubbish or refuse shall be removed on a regular basis so it does not become an eyesore or interfere with regular lawn maintenance such as grass cutting and the watering of the lawn.

Pavers may be used around the house provided the color is consistent with existing driveway and walkways.

14. **Storm, Screen and Wood Doors**. **Wooden screen doors are not permitted**. As a practical matter, unprotected exterior wooden doors suffer terribly in the harsh salt air beachside climate. They discolor, warp, and fall apart quickly.

White doors are not permitted. Wooden doors shall be painted "Redwood" red or varnished. The Association has a sample of this color paint. Storm and screen doors shall be bronze aluminum with black or bronze screening. No lattice design, bars, or other decorative doors shall be permitted without ARC approval. The wood front door may be varnished or painted "redwood" red in color.

15. **Windows**. All windows shall be bronze trimmed. Windows in the front of the house (Zone 1) and the side of the house (Zone 2) shall be double-hung. Windows in the rear of the house (Zone 3) may be sliders. Glass shall be clear or bronze tinted. Window treatments shall be uniform and be white or almond (off-white) in color on the side facing the exterior of the building. As a matter of interest, the best way to protect your property is to buy Miami-Dade Notice of Acceptance windows. Those so qualified offer the best protection from windborne debris, cyclic pressure and water. The local building code may also require windows of this type.

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

END QUOTE

Any changes/deviations to the original plans/specifications submitted no matter how minor, will require additional approval by the ARC. Unless the work is being done by the owner, prior to the start of construction the Association requires a copy of the licenses, certificate of insurance and permits of all contractors who will be involved in the construction. Advise all construction workers that they MUST NOT DRIVE OR PARK ON THE GRASS. In the event that it is necessary to drive on the grass, please coordinate with the HOA office to have the irrigation contractor identify the location of irrigation, so that the lines may be identified and avoided.

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

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

_____ _____

SIGNATURE DATE

Sincerely,
The Architectural Review Committee
Ocean Village Villas Homeowners Association

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

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: March 24, 2016

SUBJECT: 18 London Lane, patio variance

APPLICANT: Carolyn Bracken, property owner

FILE NUMBER: 2016-046

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION: This is a request for a patio variance submitted by Carolyn Bracken, property owner of 18 London Lane. The applicant seeks to allow a patio addition in the rear and side yards with a setback of 2' for the property at 18 London Lane. Section 2-50(w) of the Ormond Beach Land Development Code requires a 5' setback to the side interior and rear property line for a patio. The applicant is seeking to allow a patio at a 2' side yard and rear yard setback, a 3' variance to the required 5' setback for a patio.

BACKGROUND: The property is designated as "Medium Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-5 (Multifamily Medium Density) on the City's Official Zoning Map. The existing use of the property is consistent with the FLUM designation and zoning district. The subject property is a multifamily unit within the Gardens of New Britain. The Gardens of New Britain multi-family development was approved in 1977 by the City Commission with Resolution 77-106 and amended with Resolution 78-104. As shown below, the development is bounded by North Shores Drive to the south:

Exhibit 1: Gardens of New Britain development

Source: Vantagepoints

Below is a site aerial of the subject property:

Exhibit 2: Aerial of 18 London Lane

Source: 2016 Pictometry

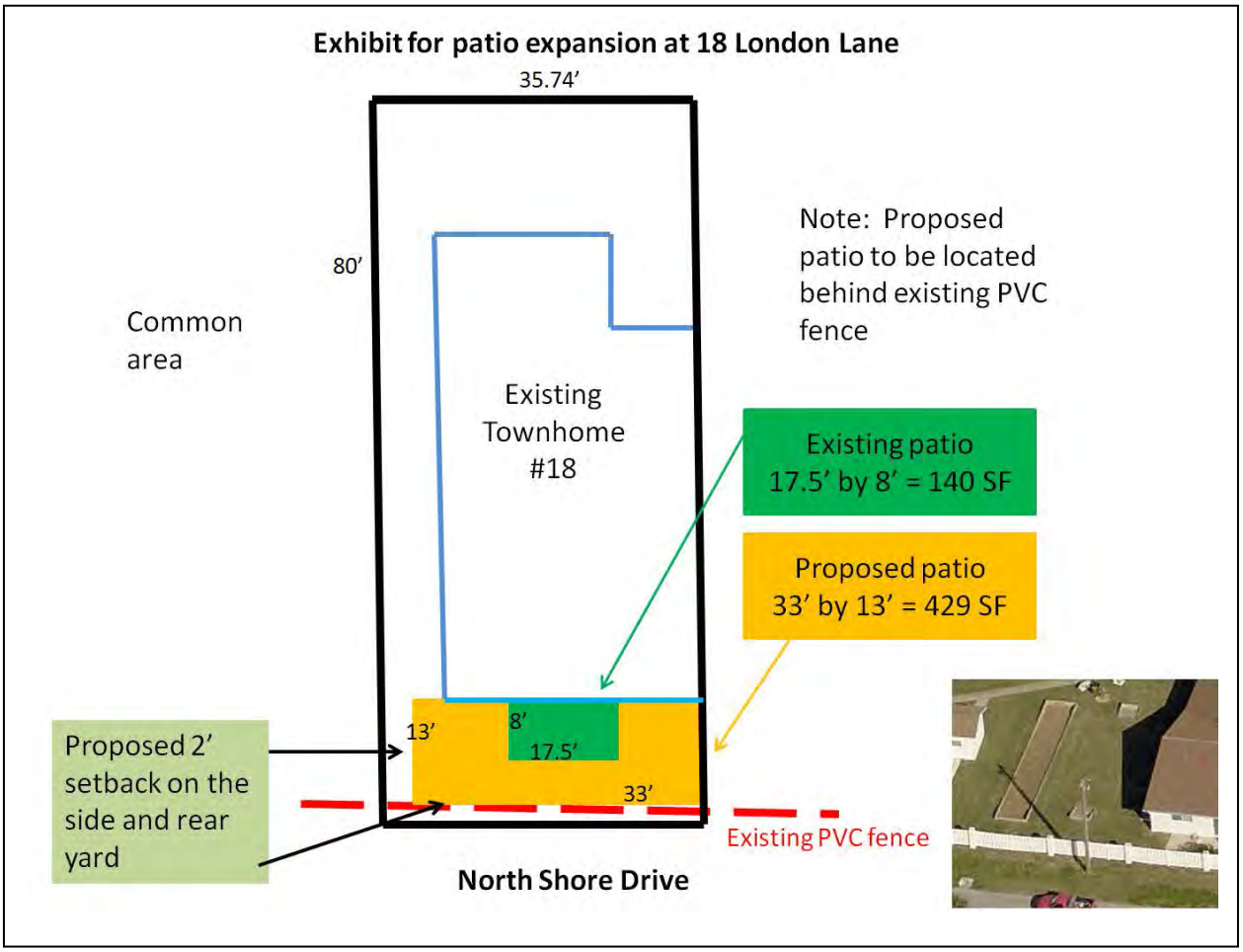
The adjacent land uses and zoning are as follows:

Exhibit 3: Abutting land uses

	Current Land Uses	Future Land Use Designation	Zoning
North	Gardens of New Britain multi-family	"Medium Density Residential"	R-5 (Multi Family Medium Density)
South	Duplexes and triplexes	"Medium Density Residential"	R-4 (Single-Family Cluster and Townhouse Zoning District)
East	Gardens of New Britain multi-family	"Medium Density Residential"	R-5 (Multi Family Medium Density)
West	Gardens of New Britain multi-family	"Medium Density Residential"	R-5 (Multi Family Medium Density)

ANALYSIS: The applicant seeks to allow a patio expansion in the rear and side yards with a setback of 2' for the property at 18 London Lane. Section 2-50(w) of the Ormond Beach Land Development Code requires a 5' setback to the side interior and rear property lines for a patio. The applicant is seeking to allow a patio at a 2' side yard and rear yard setback, a 3' variance to the required 5' setback for a patio. The subject property is part of an overall multifamily development and has adjoining units to the east of their property. To the west of the subject property is a common area that includes the pool. The proposed patio expansion would extend the patio from the existing 140 square feet to 429 square feet as shown in the exhibit below.

Exhibit 4: patio expansion drawing



The patio expansion is shown as a total of 33' in width and 13' in depth. The patio expansion would be located behind the existing PVC fence. The variance is solely for the patio and would not allow any vertical structure to be constructed on the patio.

REVIEW CRITERIA:

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)(3) of the Land Development Code:

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

   Argument for the variance: The overall Gardens of New Britain development was approved in the late 1970's, but there are many developed conditions that do not meet the Land Development Code regulations. The existing lot is 85' in depth and 35' in width. There is limited area to allow a rear yard accessory use.

   Argument against the variance: There are no special conditions associated with this request and the Land Development Code requires a 5' setback on both the rear and side property lines.

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

   Argument for the variance: The applicant did not cause the building location or have a part in the approval of the 1977 approval.

   Argument against the variance: The applicant could reduce the size of the patio in either the side or rear yard to meet the Land Development Code setbacks.

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

   Argument for the variance: The variance application states that there are many similar sized patios and sunrooms within the Gardens of New Britain development and application of the 5' rear and side yard setbacks would be an undue hardship. The patio would not extend beyond the existing PVC fence to the south property line (rear yard) and there is an existing common yard to the west (side yard). Meeting the existing setbacks would not allow a functional patio area and there are no property owners impacted by the variance request.

   Argument against the variance: The Land Development Code allows patios as an accessory use with a minimal 5' setback. Meeting the required side and rear

yard setbacks would allow a patio of 30' in width and 10' in depth or 300 square feet.

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

   Argument for the variance: The variance application states that the requested side and rear yard variances are the minimum variance needed to make a reasonable use of the outdoor living area. The proposed patio expansion is located behind the existing PVC fence in the rear yard and abuts a common area along the side yard.

   Argument against the variance: As stated above in previous criteria, reducing the overall size of the proposed patio expansion could reduce or eliminate the need for the variance.

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

   Argument for the variance: The variance is not sought to reduce the cost of the construction of the project.

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

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

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

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

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

   Argument for the variance: The Gardens of New Britain is a multifamily project which does not meet many of the zoning district setbacks. The proposed expansion of the patio is in harmony with the scale of the existing buildings and project improvements. The patio is not a hard roof structure and does not impact abutting properties. The application indicates that the abutting property owners have no objections to the variance request.

   Argument against the variance: There have been no objections to the requested variance. The patio is located on the rear and side yards and staff does not believe that the proposed patio expansion would have any impact on property values or alter the character of the area.

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

   Argument for the variance: The purpose of the variance process is to confer rights that are denied to a particular applicant because of a special condition or unique circumstance for their property.

   Argument against the variance: As stated above in the other criteria, reducing the overall proposed patio expansion could reduce or eliminate the need for the requested variance.

RECOMMENDATION:

It is recommended that the Board of Adjustment and Appeals grant the requested variance to allow a patio expansion at a 2' side yard and rear yard setback, a 3' variance to the required 5' setback for a patio.

Attachments:

Attachment 1: Variance plot plan

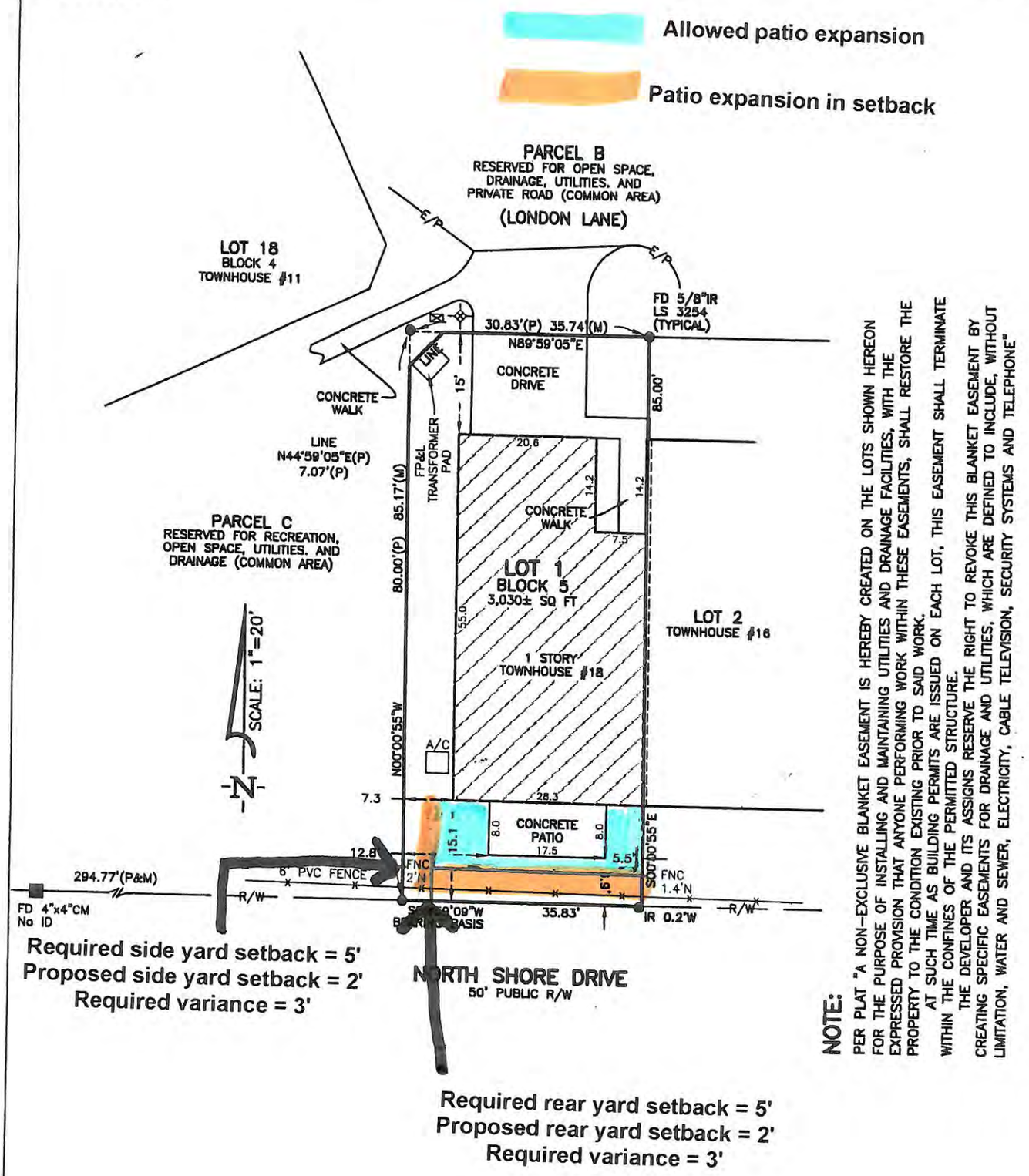
Attachment 2: Maps and pictures

Attachment 3: Application

ATTACHMENT 1

Variance Exhibit

18 LONDON LANE



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

NOTES:

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

LEGEND:

C.M.	Concrete Monument	L.B.	Licensed Business
FD	Found	L.S.	Licensed Surveyor
IR	Iron Rod	PSM	Professional Surveyor & Mapper
(P)	Plat Bearing & Distance	CONC	Concrete
(M)	Measured Bearing & Distance	P.C.P.	Permanent Control Point
C/S	Concrete Slab	FNC	Fence or Fence Corner
R/W	Right of Way	W/M	Water Meter
E/P	Edge of Pavement		Light Post
A/C	Air Conditioner		
SQ FT	Square Feet		

DESCRIPTION:

LOT 1, BLOCK 5, NEW BRITAIN SECTION 2, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 96, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PREPARED FOR:
-- TIM & CAROLYN BRACKEN
--
--
--

TYPE SURVEY: Boundary

DATE OF FIELD	OFFICE WORK	ORDER#	
04/14/15	05/28/15	1505057	JMM

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

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

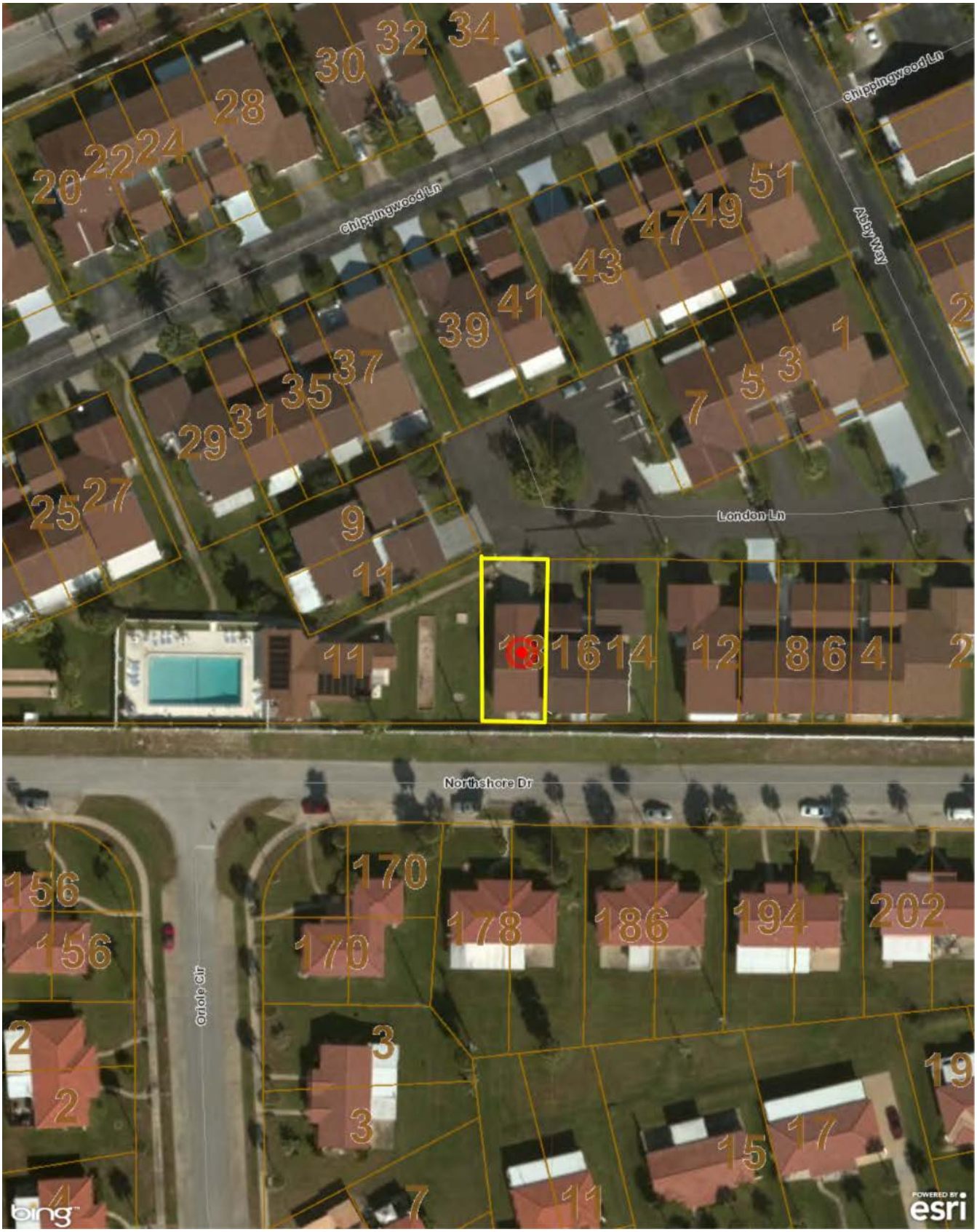
A Sanzone 05/28/15

ANTHONY SANZONE, PSM# 6309 LB #73

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

ATTACHMENT 2

- Maps and pictures



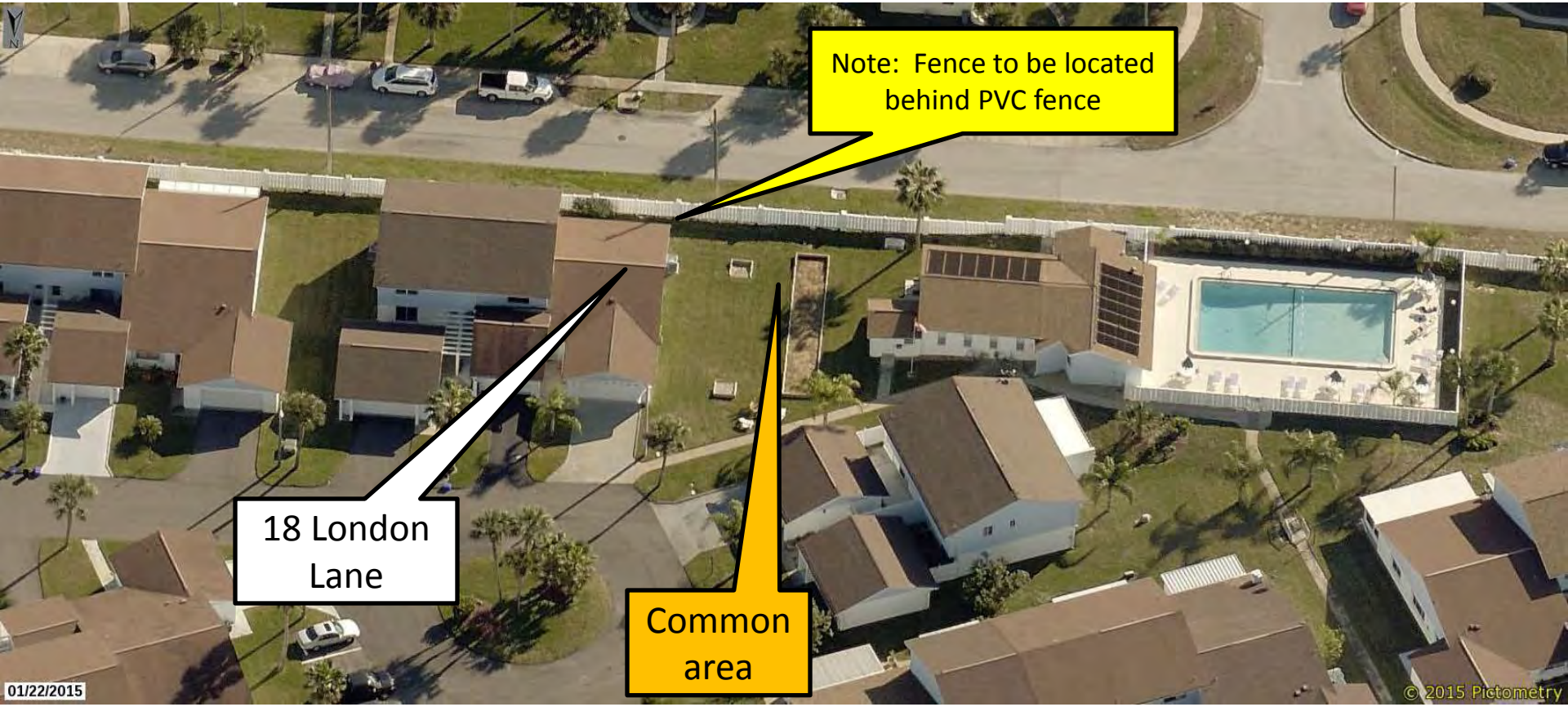
LOCATION MAP
18 London Lane

N
W E
S

Aerial view of 18 London Lane

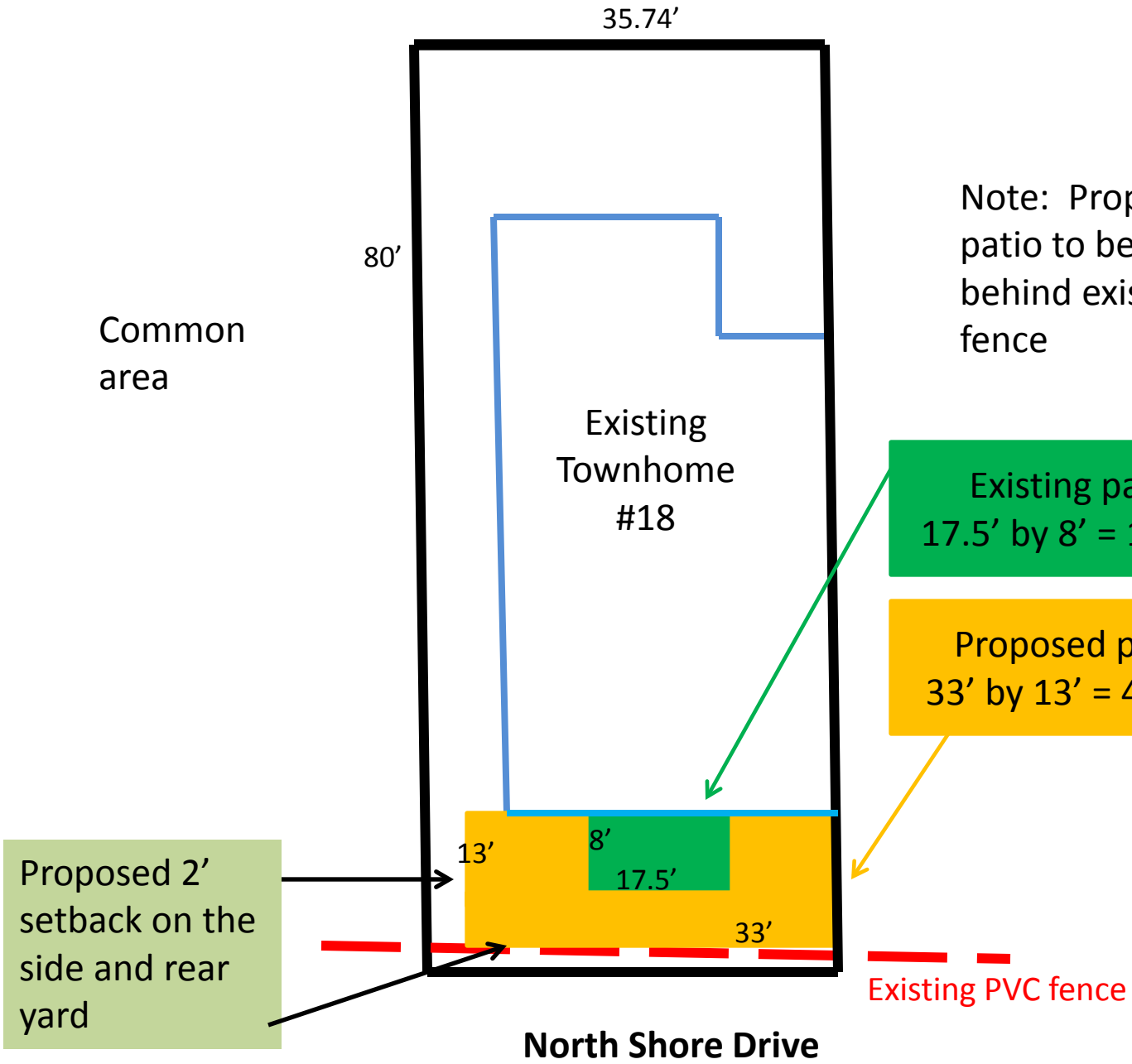
Source: Pictometry.com

Aerial of proposed patio expansion

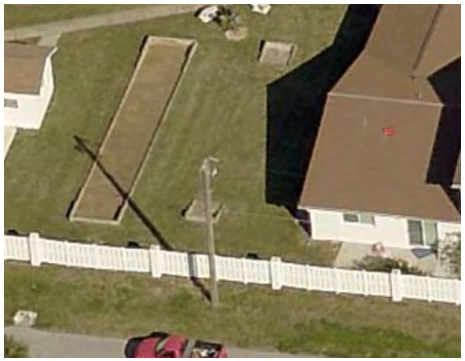


Source: Pictometry.com

Exhibit for patio expansion at 18 London Lane



Note: Proposed patio to be located behind existing PVC fence



Area of proposed patio expansion
rear
side

Area of proposed patio expansion – looking towards common area.

ATTACHMENT 3

Applicant provided information

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

v3.2013

RECEIVED
FEB 25 2016
By: NJS

VARIANCE - APPLICATION

For Planning Department Use

Application Number 16-46 *Date Submitted*

APPLICATION TYPE AND FEES

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

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

APPLICANT INFORMATION

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

Name: Carolyn M. Bracken

Full Address: 18 London Lane, Ormond Beach, FL 32176

Telephone: 630 730-3852 Email: carolynbracken@aol.com

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

PROPERTY OWNER INFORMATION***

Name: Carolyn M. Bracken

Full Address: 1229 Challenge Drive, Batavia, IL 60510

Telephone: 630 406-9447 Email: carolynbracken@aol.com

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

PROPERTY DETAILS

Full Address: 18 London Lane, Ormond Beach, FL 32176

Parcel ID Number: Full 23143220050010 0018 / short 4223-20-05-0010-0018

Legal Description: Lot 1 Blk 5 New Britain Sub Unit 2 MB 35 PG 96 Per Or 3118 PG 1174 Per Or 5513 PG 1194 Per Or 6280 PG 2243

REQUEST

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

Request:

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
J Andoscia	16 London Lane	✓	
John Johnson ~~Secret~~ Treasurer Gardens of New Britain	24 Chippingwood Ln	✓	

CRITERIA: CONFORMING

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

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

Yes, there is no back yard area suitable for being outside when other properties have more than ample outdoor living space. Given the lot area + set back, I'd like to encroach 3 ft into the lot line in the rear and on the side

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

Correct, this is the original structure. There is no other unit of this size in the development. It is a smaller end unit built not to infringe on common ground

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:

Yes, other properties have larger patios and many have additional room/porches added. A number of properties on Chippingwood (3) and 1 on London Lane received variences, in order to enjoy their rear yards. My request is consistent with other BA approvals

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:

Correct, this is the minimum amount of space needed to add some additional outdoor space. I'm only asking for an addition 3 ft on both the side + rear, which is the minimum 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:

Correct, this is additional costs that I will incur. These improvements will not detract from the values of the adjacent units

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

No congestion, danger of fire or hazard to the public will be increased. There is a fence behind the property and construction will be ~~five~~ feet from the property line

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:

Correct, no property values will be diminished and all neccessary parties have signed off on this request

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:

Correct, no special privileges are being granted that would be denied to others 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:

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

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

CERTIFICATION

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

Signature: Carolyn M Brocker

STATE OF FLORIDA
COUNTY OF Volusia

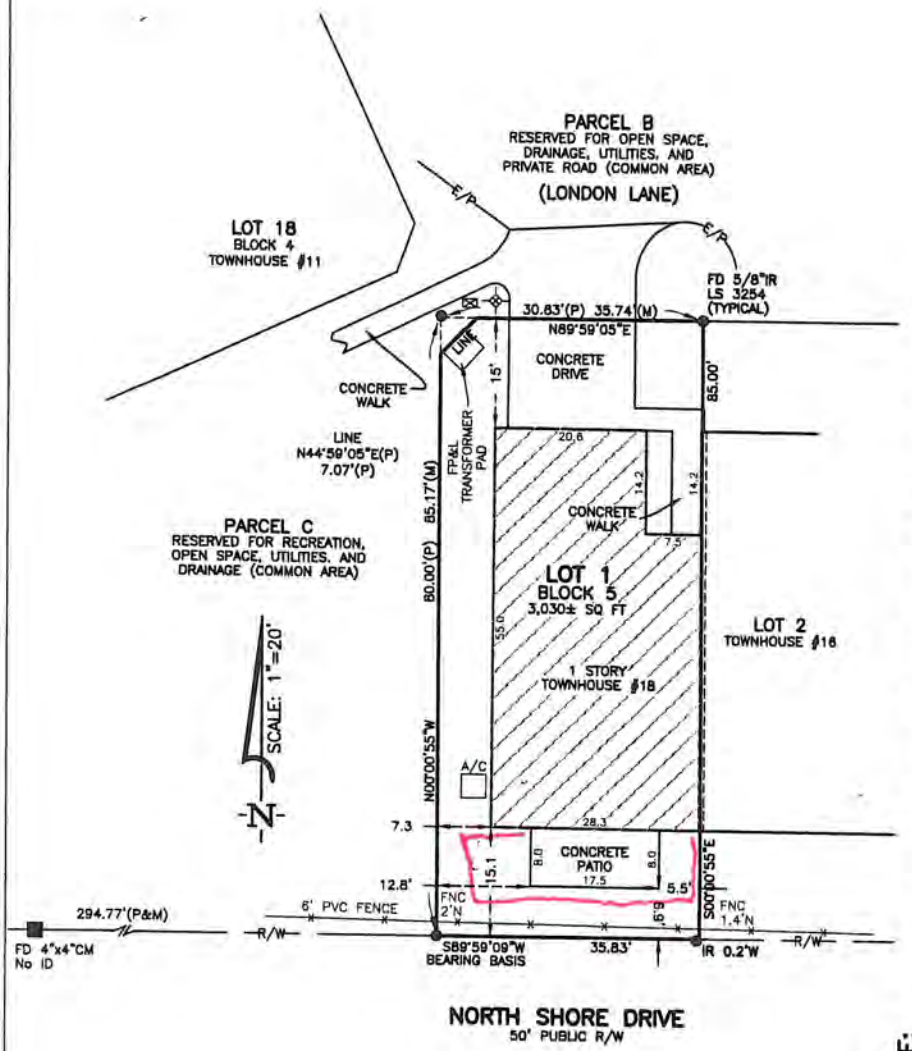
The foregoing instrument was acknowledged before me this 25 day of Feb, 2016, by Carolyn Brocker, as _____ (title*) for _____ (name of corporation*), who (_) provided Illinois DL as identification, or (_) who is personally known to me.

MARIA A. BOSLEY
MY COMMISSION # FF 197983
EXPIRES: February 10, 2019
Bonded Thru Notary Public Underwriters

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.

18 LONDON LANE



NOTE:

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

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

NOTES:

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

LEGEND:

C.M.	Concrete Monument	L.B.	Licensed Business
FD	Found	L.S.	Licensed Surveyor
IR	Iron Rod	PSM	Professional Surveyor & Mapper
(P)	Plat Bearing & Distance	CONC	Concrete
(M)	Measured Bearing & Distance	P.C.P.	Permanent Control Point
C/S	Concrete Slab	FNC	Fence or Fence Corner
R/W	Right of Way	W/M	Water Meter
E/P	Edge of Pavement		Light Post
A/C	Air Conditioner		
SQ FT	Square Feet		

DESCRIPTION:

LOT 1, BLOCK 5, NEW BRITAIN SECTION 2, ACCORDING TO THE MAP OR PLAT THEREOF, AS RECORDED IN PLAT BOOK 35, PAGE 96, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.

PREPARED FOR:
-- TIM & CAROLYN BRACKEN
--
--
--

TYPE SURVEY: Boundary
DATE OF FIELD-OFFICE WORK ORDER# 04/14/15 05/28/15 1505057 JMM

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

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

A Sanzone 05/28/15

ANTHONY SANZONE, PSM# 6309 LB #7382

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

STAFF REPORT

City of Ormond Beach
Department of Planning

DATE: March 28, 2016

SUBJECT: 474 Triton Road, front and rear yard setback variances

APPLICANT: Sandra Upchurch, property owner

FILE NUMBER: 2016-049

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION: This is a request for two variances submitted by Sandra Upchurch, property owner of 474 Triton Road. The subject property is zoned R-2.5 (Single Family Low-Medium Density). The applicant is requesting two variances to allow the demolition of the existing structure and construction of a new single family home as follows:

1. **Front yard setback variance:** Section 2-14(B)(9)(a) of the Land Development Code requires a 30' front yard setback. The variance application seeks to allow the single family house structure at a front yard setback of 19.09', at the closest point to the front property line, requiring a 10.91' variance to the required 30' front yard setback.
2. **Rear yard setback variance:** Section 2-14(B)(9)(b) of the Land Development Code requires a 20' rear yard setback. The variance application seeks to allow a cabana structure at a rear yard setback of 16', at the closest point to the rear property line, requiring a 4' variance to the required 20' rear yard setback.

BACKGROUND: The subject property currently has an existing one-story single-family house which is proposed for demolition. The property is designated as "Low Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-2.5 (Single Family Low-Medium Density) on the City's Official Zoning Map. The existing use of the property is consistent with the FLUM designation and zoning district. The adjacent land uses and zoning are as follows:

Exhibit 1: Abutting land uses and zoning

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

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

Below is a site aerial of the subject property:

Exhibit 2: Aerial of 474 Triton Road

Source: 2016 Pictometry

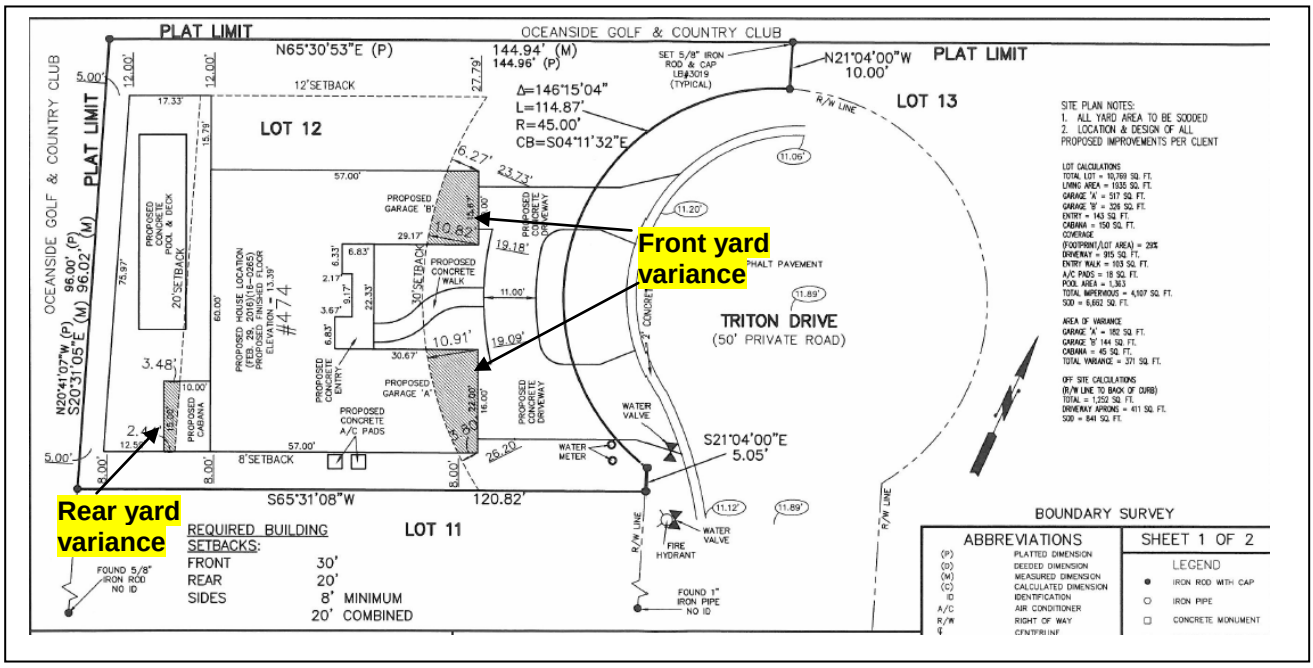
<u>ANALYSIS</u>: The applicant is requesting two variances to allow the demolition of the existing structure and construction of a new single family home as follows:

1. **Front yard setback variance:** Section 2-14(B)(9)(a) of the Land Development Code requires a 30' front yard setback. The variance application seeks to allow the single family house structure at a front yard setback of 19.09', at the closest point to the front property line, requiring a 10.91' variance to the required 30' front yard setback.

2. **Rear yard setback variance:** Section 2-14(B)(9)(b) of the Land Development Code requires a 20' rear yard setback. The variance application seeks to allow a cabana structure at a rear yard setback of 16', at the closest point to the rear property line, requiring a 4' variance to the required 20' rear yard setback.

All other site and building development shall be required to meet the applicable Land Development Code regulations. Each variance shall be reviewed independently and the Board may vote on each variance separately.

Exhibit 3: variance exhibit



REVIEW CRITERIA:

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."

FRONT YARD SETBACK VARIANCE:

The variance application seeks to allow the single family house structure at a front yard setback of 19.09', at the closest point to the front property line, requiring a 10.91' variance to the required 30' front yard setback. The variance is sought based upon the 75' width of the Triton Road cul-de-sac and the front yard setback that is created on the subject property.

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

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

   Argument for the variance: The subject property is lot 12 of the Fairway Heights subdivision, platted in 1959. The special condition relates to the oversize cul-de-sac that reduces the overall buildable land area within the lot. The variance request seeks to locate a new house at 19.09', at the closest point to the Triton Road cul-de-sac. The front yard encroachment of the proposed house does not appear out of proportion with the large size of the roadway.

   Argument against the variance: The cul-de-sac is an existing condition that was created in 1959 and is not a special condition.

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

   Argument for the variance: The subject property and cul-de-sac was platted in 1959 and the variance requested is not a result of the applicant's actions.

   Argument against the variance: None, the applicant had no role in the platting of the subdivision.

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

   Argument for the variance: Within the variance application, the applicant stated, "To honor the existing setbacks would drastically minimize the size and efficiency of our new home". The variance application states that the proposed house would be a two story house that was designed to minimize the encroachment into the required setbacks. Application of the zoning district setback would reduce the depth of the buildable area of the lot based upon the cul-de-sac and be a hardship to the property owner.

   Argument against the variance: A key consideration of the application is the size of house and accessory uses allowed on the subject property. One can argue that the size of the single-family structure could be reduced to decrease the variance requested.

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

   Argument for the variance: There is no practical alternative that would not reduce the depth of the buildable area of the house. The existing house structure encroaches into the front yard setback. The proposed plot plan is the minimum variance needed to make reasonable use of the property. Based on

the width of the cul-de-sac, the front yard variance is not a noticeable encroachment based on the location at the end of the street.

Argument against the variance: As stated above in previous criteria, reducing the overall building size could reduce or eliminate the need for the front yard variance.

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

Argument for the variance: The variance is not sought to reduce the cost of the construction of the project.

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

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

Argument for the variance: The request will not increase congestion, fire danger or public hazards. The property has only one neighbor and is bounded by the golf course on two sides and Triton Road on the other side.

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

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

Argument for the variance: Staff does not believe the variance request would diminish property values or alter the character of the surrounding area. Staff believes that the project would increase the subject properties assessed value and be an asset to the neighborhood. The property abuts the golf course on the rear and side yards. All abutting property owners have signed the application with no objections to the variance.

Argument against the variance: None. The proposed structure and improvements further strengthen the residential character of Triton Road.

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

Argument for the variance: The purpose of the variance process is to confer rights that are denied to a particular applicant because of a special condition or unique circumstance for their property. Staff believes that this request is appropriate based on the cul-de-sac width, support of the abutting property owners, and the analysis provided in this report.

Argument against the variance: As stated above in the other criteria, reducing the overall building size could reduce or eliminate the need for the front yard variance.

REAR YARD SETBACK VARIANCE:

The variance application seeks to allow a cabana structure at a rear yard setback of 16', at the closest point to the rear property line, requiring a 4' variance to the required 20' rear yard setback. The Board must consider the following criteria established in Chapter 1, Article II, Section 1-16.D.4, of the Land Development Code for the expansion of the non-conforming structure:

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

   Argument for the variance: The subject property is lot 12 of the Fairway Heights subdivision, platted in 1959. The special condition relates to the slope of the rear yard lot line from south to the north. The property owner designed the proposed cabana along the deepest part of the rear yard setback.

   Argument against the variance: The subject property was platted with the sloping lot line and the applicant knew of this condition when the property was purchased.

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

   Argument for the variance: The subject property and rear lot line was platted in 1959 and the variance requested is not a result of the applicant's actions.

   Argument against the variance: None, the applicant had a role in the platting of the subdivision.

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

   Argument for the variance: Cabana's and other accessory uses are common in the rear yard and are enjoyed by many property owners along the golf course. The property abuts the golf course and the encroachment is minor and would have no impact on the golf course. Application of the zoning district setback would reduce the depth of the proposed cabana and would be a hardship to the property owner.

   Argument against the variance: Staff would typically argue to reduce the overall size of the improvement. However, reducing the size of the cabana would only allow an improvement that is 6' in depth and not a functional improvement.

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

   Argument for the variance: There is no practical alternative that would allow the proposed cabana to be located to meet the principal building setback of 20'. The property owner has located the cabana in the deepest part of the rear yard and the variance need is directly related to the slope of the rear property line.

Argument against the variance: No argument exists against this criterion. There is no other location to locate the cabana.

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

   Argument for the variance: The variance is not sought to reduce the cost of the construction of the project.

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

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

   Argument for the variance: The request will not increase congestion, fire danger or public hazards. The property has only one neighbor and is bounded by the golf course on two sides and Triton Road on the final side.

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

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

   Argument for the variance: Staff does not believe the request would diminish property values or alter the character of the surrounding area. Staff believes that the project would increase the subject properties assessed value and be an asset to the neighborhood. The property abuts the golf course on the rear and side yards. All abutting property owners have signed the application with no objections to the variance.

   Argument against the variance: None. The proposed structure and improvements further to strengthen the residential character of Triton Road.

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

   Argument for the variance: The purpose of the variance process is to confer rights that are denied to a particular applicant because of a special condition or unique circumstance for their property. Staff believes that this request is appropriate based on the slope of the property line, support of the abutting property owners, and the analysis provided in this report.

   Argument against the variance: As stated above in the other criteria, the only other alternative would be to not construct the proposed cabana.

RECOMMENDATION:

It is recommended that the Board of Adjustment and Appeals grant the two setback variances requested to allow the demolition of the existing structure and construction of a new single family home as follows:

1. **Front yard setback variance:** Section 2-14(B)(9)(a) of the Land Development Code requires a 30' front yard setback. The variance application seeks to allow the single family house structure at a front yard setback of 19.09', at the closest point to the front property line, requiring a 10.91' variance to the required 30' front yard setback.
2. **Rear yard setback variance:** Section 2-14(B)(9)(b) of the Land Development Code requires a 20' rear yard setback. The variance application seeks to allow a cabana structure at a rear yard setback of 16', at the closest point to the rear property line, requiring a 4' variance to the required 20' rear yard setback.

Attachments:

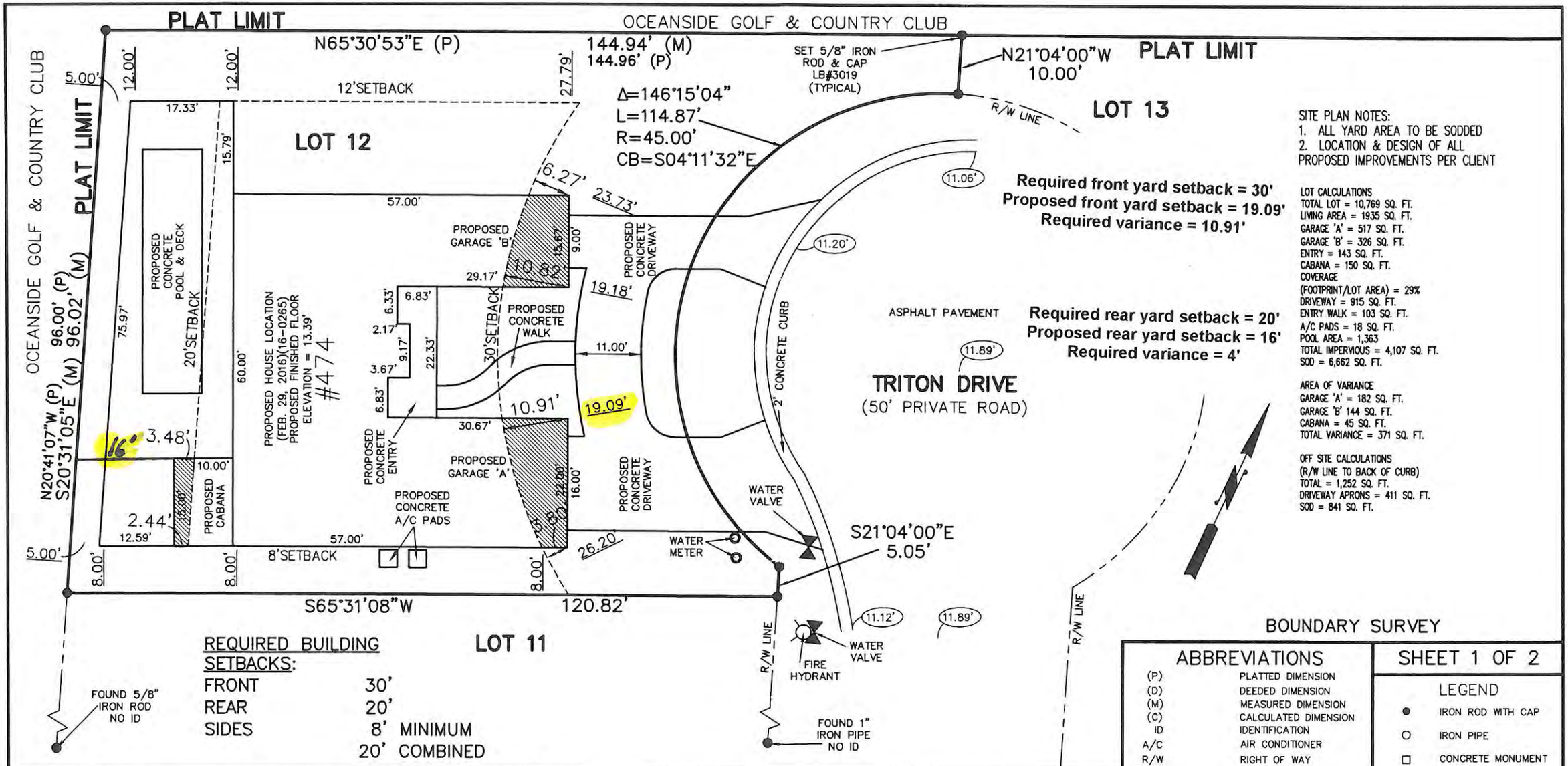
Attachment 1: Variance plot plan

Attachment 2: Maps and pictures

Attachment 3: Application

ATTACHMENT 1

Variance Exhibit



SITE PLAN NOTES:
1. ALL YARD AREA TO BE SODDED
2. LOCATION & DESIGN OF ALL PROPOSED IMPROVEMENTS PER CLIENT

LOT CALCULATIONS
TOTAL LOT = 10,769 SQ. FT.
LIVING AREA = 1935 SQ. FT.
GARAGE 'A' = 517 SQ. FT.
GARAGE 'B' = 326 SQ. FT.
ENTRY = 143 SQ. FT.
CABANA = 150 SQ. FT.
COVERAGE
(FOOTPRINT/LOT AREA) = 29%
DRIVEWAY = 915 SQ. FT.
ENTRY WALK = 103 SQ. FT.
A/C PADS = 18 SQ. FT.
POOL AREA = 1,363
TOTAL IMPERVIOUS = 4,107 SQ. FT.
SOD = 6,662 SQ. FT.

AREA OF VARIANCE
GARAGE 'A' = 182 SQ. FT.
GARAGE 'B' 144 SQ. FT.
CABANA = 45 SQ. FT.
TOTAL VARIANCE = 371 SQ. FT.

OFF SITE CALCULATIONS
(R/W LINE TO BACK OF CURB)
TOTAL = 1,252 SQ. FT.
DRIVEWAY APRONS = 411 SQ. FT.
SOD = 841 SQ. FT.

BOUNDARY SURVEY

ABBREVIATIONS

(P)	PLATTED DIMENSION
(D)	DEEDED DIMENSION
(M)	MEASURED DIMENSION
(C)	CALCULATED DIMENSION
ID	IDENTIFICATION
A/C	AIR CONDITIONER
R/W	RIGHT OF WAY
℄	CENTERLINE
D	CENTRAL ANGLE
R	RADIUS
L	ARC LENGTH
CB	CHORD BEARING
FP&L CO.	FLORIDA POWER & LIGHT COMPANY
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
U.S.C. & G.S.	UNITED STATES COAST AND GEODETIC SURVEY

SHEET 1 OF 2

LEGEND

●	IRON ROD WITH CAP
○	IRON PIPE
□	CONCRETE MONUMENT
■	PERMANENT REFERENCE MONUMENT
△	PERMANENT CONTROL POINT
(R)	RADIAL LINE
(NR)	NON-RADIAL LINE
⬭	EXISTING ELEVATION
▭	PROPOSED ELEVATION

SLIGER & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385
LICENSED BUSINESS CERTIFICATION NUMBER 3019
www.sligerassociates.com

Copyright © 2016 Sliger & Associates, Inc.

FOR: JOHN & SANDRA UPCHURCH

DESCRIPTION: LOT 12, FAIRWAY HEIGHTS SUBDIVISON, AS RECORDED IN MAP BOOK 19 PAGE 277, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY FLOIRDA.

ADDRESS: 474 TRITON DRIVE

DATA FILE: 160122SS.txt

SCALE 1"= 20'

JOB #16-0265

ATTACHMENT 2

- Maps and pictures

LOCATION MAP
474 Triton Road

N
W E
S

474 Triton Road aerial

01/29/2015

474 Triton Road aerial

01/29/2015

Existing house at 474 Triton Road – proposed to be demolished.

Abutting property at 470 Triton Road

Existing rear yard view at 474 Triton Road

Subject property abuts the Oceanside golf course

Existing side yard view (north)

ATTACHMENT 3

Applicant provided information

March 7, 2016

City of Ormond Beach
Planning Department
Attn: Steven Spraker/BOAA
22 South Beach Street
Room 104
Ormond Beach, FL 32175

Re: 474 Triton Road; variance hearing 4/6/16

Dear Board of Adjustments and Appeals Members,

Thank you in advance for your consideration on April 6, 2016 of our variance request. I only wish my husband John and I could be there to personally answer your questions and describe our building project to you. However, for the last month or so I have been misreading the hearing calendar and was under the wrong impression the hearing was on April 1, 2016. We are able to attend a hearing on April 1st but will be out of the country beginning April 4th and will be unable to attend the April 6th meeting. Admittedly, I am slightly relieved that our variance will not be considered and discussed on "April Fools Day!"

We considered postponing the hearing so that my husband and I could personally respond to your inquiries, however, we hate to delay our project by a month. Additionally, all three of our abutting neighbors are supportive of our variance request and our understanding is that the Planning Department is recommending approval so we have our fingers crossed for a smooth hearing process. Nevertheless, given our inability to attend, I wanted to provide you with some insight into our request so you have a little bit of the back story and our perspective.

We have been contemplating demolition since we acquired the property ten years ago. We did what people in real estate tell you to do which is we bought "for the location." We just love our quiet, child-friendly, golf course street. As we expected, the house has its limitations such as a poor floor plan, very limited storage, inadequate bathrooms, etc.. And, of course all of these things can be changed with renovations. However, the most significant drawback to the home is how it sits on the lot. It sits below the level of the golf course due to a berm to the West of our home. The view of the golf course is very limited because the house sits so low on the lot. This is the one drawback that cannot be changed with a house renovation. To sit our house up just a bit higher on our lot will require demolition of the existing home.

We spent quite a bit of time contemplating what to build. In that process we learned how drastic our lot was limited as far as building space due to the substantial arc of the cul-de-sac and the angled rear property line. We settled on our current plan because it offered a 3 car garage, it has a second floor which limits the amount of square footage we would take up on our size-restricted lot and it generally represents a more modern approach to living than what our 1950's ranch house did. We are thrilled with our new floor plan.

After we settled upon house plans we were surprised to learn after ordering a current survey that our 1950's home already violates the front set back. Apparently it is already almost 10 feet into the required 30 foot front yard setback. Although we considered some plans to fit within the 50 feet of depth we could have used without a variance of any sort, we found that to be very limiting, so much so that our family's needs could not be accommodated. We then shifted our attention to minimizing the variances requested as much as possible.

To minimize our variance request we moved the house as far to the South as we could because that side of the lot had the most usable space and depth. We also moved the house forward a bit so that no golf course views would be impeded at all. We felt a more significant front yard variance larger would be preferable over a large rear yard variance for a few reasons: 1) because our existing home already violated the front yard set back by 10 feet and 2) there is no view in the front that will be spoiled for our neighbors with a front yard variance but a larger rear yard variance could begin to impact the golf course view for our neighbors to the South. Our proposed home will only be a 1 ½ feet more into the front setback than our current house is. So our new home instead of encroaching 10 feet into the front yard setback will encroach 11 ½ feet into that setback.

We have gone to great pains to honor the intent of the Land Development Code and hope that becomes evident after you look at our survey and proposed placement of our home, driveway and pool. In light of the fact that we cannot attend we have asked our very competent and experienced contractor, Jean Ball with ICI Homes, to represent us at the April 6th meeting. She has our authority to speak on our behalf at the meeting and answer any questions you may have.

John and I thank you in advance for your consideration.

Sincerely,

Sandy Upchurch
474 Triton Road
Ormond Beach, FL 32176
386-795-2731

March 7, 2016

City of Ormond Beach
Planning Department
Attn: Steven Spraker
22 South Beach Street
Room 104
Ormond Beach, FL 32175

Re: 474 Triton Road; variance hearing 4/6/16

Dear Steven,

It has just come to my attention that the variance hearing at which time the Board of Adjustments and Appeals will consider our variance is on April 6, 2016. It appears for the last month or so I have been misreading the hearing calendar and was under the wrong impression the hearing was on April 1, 2016. Admittedly, I am relieved that our variance will not be considered and discussed on "April Fools Day!" Unfortunately my husband, John, and I have plans out of the country beginning April 4th and we will be unable to attend the hearing.

I would normally suggest that we postpone the hearing so that my husband and I could personally respond to inquiries from the board members. However, I hate to delay our project by a month. Additionally, all three of our abutting neighbors are supportive of our variance request and our understanding is that the Planning Department is recommending approval.

In light of the fact that we cannot attend we have asked our very competent and experienced contractor, Jean Ball with ICI Homes, to represent us at the April 6th meeting. She has our authority to speak on our behalf at the meeting, answer questions asked by the board members and if necessary request an extension of time to the next meeting should our proposal require revisions and further consideration.

Please let us know if you need anything additional information from us or from Jean prior to the hearing.

Sincerely,

Sandy Upchurch
474 Triton Road
Ormond Beach, FL 32176
386-795-2731

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

v3.2013

VARIANCE - APPLICATION

For Planning Department Use

Application Number _____ *Date Submitted* _____

APPLICATION TYPE AND FEES

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

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

APPLICANT INFORMATION

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

Name: John N. and Sandra C. Upchurch

Full Address: 474 Triton Road, Ormond Beach, FL 32176

Telephone: 386-795-2731 Email: supchurch1@cfl.rr.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: see above

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: 474 Triton Road, Ormond Beach, FL 32176

Parcel ID Number: 4211-11-00-0120

Legal Description: Lot 12, Fairway Heights, a subdivision in Ormond, as per map in Map Book 19, Page 277, 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:

Due to the unusual configuration and shape of our lot (on a cul-de-sac with an angled rear property line), we are requesting a variance of 3.5 feet from the required rear yard setback of 20 feet and we are requesting a variance of 11 feet from the required front yard setback of 30 feet. The front yard variance requested infringes only 1.5 feet more into the setback than how the current house is presently positioned which is how it was originally built in the 1950's.

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
Oceanside Country Club - Manager David Main	75 N. Halifax Drive, Ormond Beach, FL 32176	☑	☐
Jonathan D. and Georgia Kaney	470 Triton Road, Ormond Beach, FL 32176	☑	☐
Josephine H. Reilly	465 Triton Road, Ormond Beach, FL 32176	☑	☐

CRITERIA: CONFORMING

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

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

Two conditions impact placement of a single family home on our lot; we are on a cul-de-sac which is quite large and our rear property line is sloped.

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

We did purchase our home 10 years ago recognizing it was on a cul-de-sac which at the time was a great selling point to us since we have younger kids but we were unaware when we purchased the property that the size of the cul-de-sac arc and the sloping rear property line would make it difficult to build a new home that meets more current/updated building trends for our neighborhood such as increased square footage, room for a pool, increased inside storage and space for a 3rd garage so that all of our cars will be out of sight. However, our actions did not create these building impediments

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:

It is our desire not to build a mini-mansion but rather a home that recognizes more modern building trends than those that existed when it was originally built in the 1950's. We would like to place a pool on our property which is a commodity many of our neighbors have and we are in need of a more contemporary floor plan that offers reasonable storage space and utilizes all the square footage in our home rather than wasting rooms that are visited on special occasions only. There are several tear-down/ rebuilt home on our street. It is our intent to follow their lead by building a relatively modest-sized home that will meet our family's needs for years to come. To honor the existing site restrictions would drastically minimize the size and efficiency of our new home. We have decided to build a second floor so as to minimize our variance request rather than spreading our home further across our limited lot space requiring a more significant variance.

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

The home we have designed was not our first choice but we moved toward it gradually after learning of and coming to grips with our space limitations. We have greatly reduced the size of our covered porch in the rear (reduced in by 1/2 its intended size) to minimize the rear variance request and we have determined that to get the 3000+ square feet our home requires to meet our family's needs as our kids get older we needed a two story plan rather than our preferred one story. We have also purposely moved this home as far to the South as possible to take advantage of the slightly longer depth on that side of the lot. Originally we positioned the home more toward the center of the lot but this required a more significant rear variance. This home and the positioning of it on our lot was our ultimate selection specifically because the variances necessary were relatively minimal.

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:

The home we have selected was simply the home that required the smallest variance of all the homes we designed/considered while also meeting our space/storage/floorplan needs. In order to honor all setbacks we would need to have designed a home that was only 50 feet deep, including garages. We found that prospect very very limiting in the design process. Finances were not a concern to us but livability was.

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

Our proposal will have no impact on surrounding streets nor will it impact fire danger or hazards to others. In fact, we believe our house will benefit the neighborhood because once completed our cars will fit in the garage for the first time in 10 years. Also, we live at the end of a cul-de-sac in a beachside neighborhood that consists of only our one street so our home has very little traffic except for turnaround traffic and those out for a weekend drive.

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:

Our home apparently was built in the 1950's with a front yard setback violation of which we were entirely unaware until we began this current home design/build process. Our new home will only come 1.5 feet more forward on our lot than the way it is currently positioned. The encroachments to the front and rear will hardly be noticeable because they are so in keeping with the current home and our neighbors homes but also because of our positioning at the end of the cul-de-sac. Our new home will not be noticeably jutting out to the rear or the front in comparison to our neighbors and the encroachments will be even less noticeable since we practically sit alone at the end of a highly curved cul-de-sac. We believe rather than diminishing home values, our significant investment in our home will contribute to the upturn in values that our street is presently experiencing and that we will also be contributing to what appears to be the relatively recent beautification trend on our lovely and coveted street of which are so proud.

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:

We will not be getting a privilege with this variance but rather we will be receiving what most if not all of our neighbors would likely be entitled to without a variance. It is our desire to build a 3200 square foot home with a pool. This is something that most of our neighbors have without the need of a variance. This is evidenced by the fact that two homes were recently torn down and rebuilt just down the street from us and it is our understanding that variances were not necessary for either of those construction projects.

CRITERIA: NONCONFORMING

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

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

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

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

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

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

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

CERTIFICATION

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

Signature: _____

STATE OF FLORIDA
COUNTY OF Volusia
The foregoing instrument was acknowledged before me this 2 day of Mar, 2016, by S. Upchurch,
as _____ (title*) for _____ (name of corporation*), who (_) provided
_____ as identification, or (✓) who is personally known to me.

JUDY STANDFAST
Commission # FF 188005
Expires March 17, 2019
Bonded Thru Troy Fain Insurance 800-385-7019

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.

03/18/2005 09:20 AM
Doc stamps 3318.00
(Transfer Amt $ 474000)
Instrument# 2005-068850 # 1
Book: 5513
Page: 2573
Diane M. Matousek
Volusia County, Clerk of Court

Prepared by and return to:
James G. Hahl
Van Houten, Ponder & Hahl, P.A.
114 South Palmetto Avenue_
Daytona Beach, FL 32114
386-257-1777
File Number: **H0043-2**
Parcel Identification No. **4211-11-00-0120**

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this **22nd** day of **February, 2005** between **Earle A. Paxson, an unremarried widower** whose post office address is **474 Triton Road, Ormond Beach, FL 32176**, grantor, and **John N. Upchurch and Sandra C. Upchurch, husband and wife** whose post office address is **474 Triton Road, Ormond Beach, FL 32176**, grantee:

(Whenever used herein the terms "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, trusts and trustees)

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

> **Lot 12, Fairway Heights, a subdivision in Ormond, as per map in Map Book 19, Page 277, Public Records of Volusia County, Florida.**
>
> **SUBJECT TO covenants, conditions, restrictions, easements, and reservations of record, if any, the mention of which shall not be deemed to reimpose the same; taxes for the year 2005 and subsequent years.**

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, 2004**.

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

Signed, sealed and delivered in our presence:

Witness Name: P. T. McNerney

Earle A. Paxson (Seal)
Earle A. Paxson

Robin C. Schmidt
Witness Name: Robin C. Schmidt

State of Florida
County of Volusia

The foregoing instrument was acknowledged before me this 22nd day of February, 2005 by Earle A. Paxson, who [ ] is personally known or [X] has produced a driver's license as identification.

Robin C. Schmidt
Notary Public

[Notary Seal]

Printed Name: _____

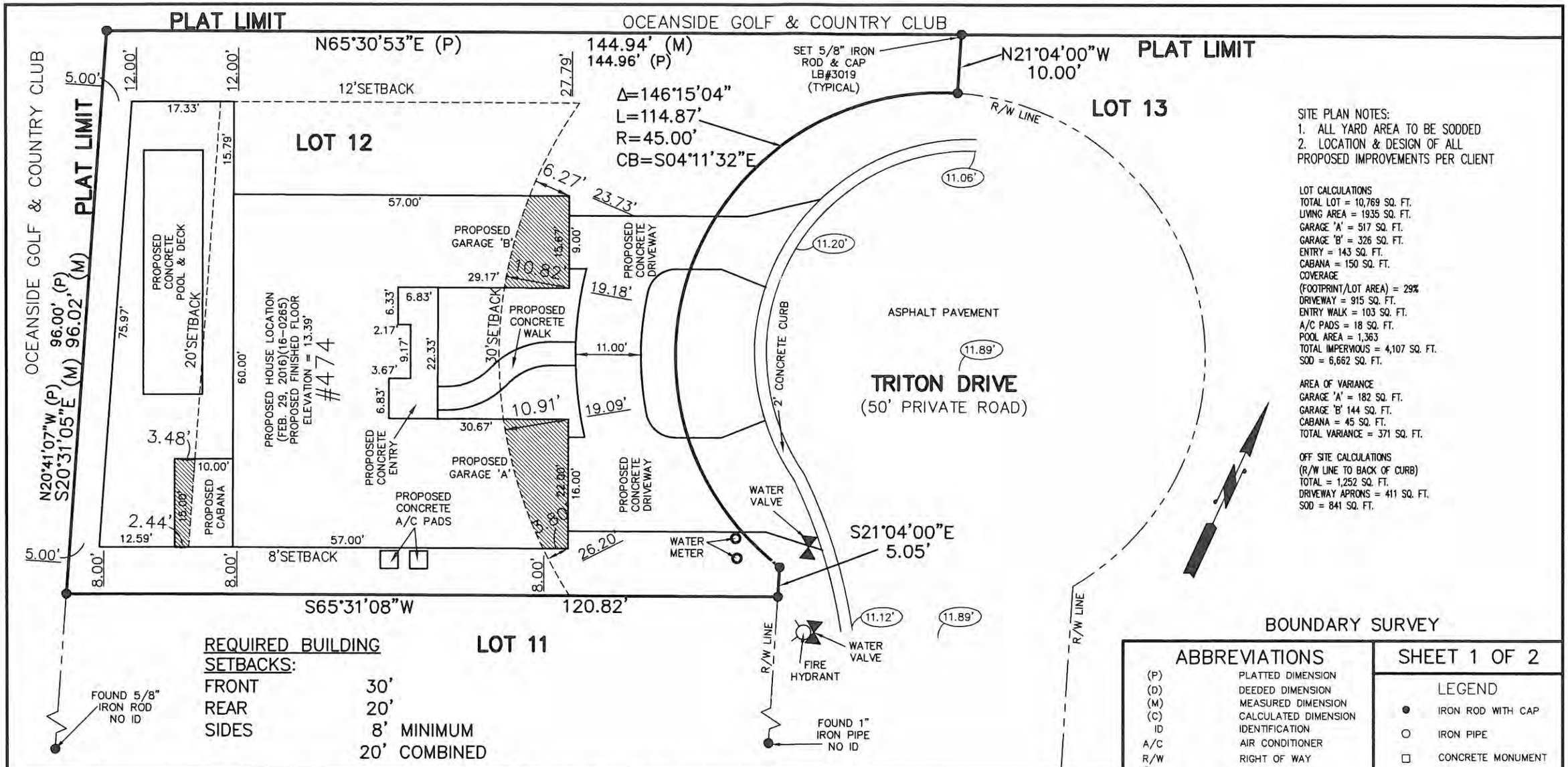
My Commission Expires: _____

ROBIN C. SCHMIDT
MY COMMISSION # DD 318154
EXPIRES: June 20, 2008
Bonded Thru Notary Public Underwriters

CIRCUIT COURT CLERK SUUM CUIQUE VOLUSIA COUNTY, FLORIDA

STATE OF FLORIDA, VOLUSIA COUNTY
I HEREBY CERTIFY the foregoing is a true copy of the original filed in this office. This
16th day of February 2016
Clerk of Circuit and County Court
By: E Whitaker
Deputy Clerk

DoubleTime®



SITE PLAN NOTES:
1. ALL YARD AREA TO BE SODDED
2. LOCATION & DESIGN OF ALL PROPOSED IMPROVEMENTS PER CLIENT

LOT CALCULATIONS
TOTAL LOT = 10,769 SQ. FT.
LIVING AREA = 1935 SQ. FT.
GARAGE 'A' = 517 SQ. FT.
GARAGE 'B' = 326 SQ. FT.
ENTRY = 143 SQ. FT.
CABANA = 150 SQ. FT.
COVERAGE
(FOOTPRINT/LOT AREA) = 29%
DRIVEWAY = 915 SQ. FT.
ENTRY WALK = 103 SQ. FT.
A/C PADS = 18 SQ. FT.
POOL AREA = 1,363
TOTAL IMPERVIOUS = 4,107 SQ. FT.
SOD = 6,662 SQ. FT.

AREA OF VARIANCE
GARAGE 'A' = 182 SQ. FT.
GARAGE 'B' 144 SQ. FT.
CABANA = 45 SQ. FT.
TOTAL VARIANCE = 371 SQ. FT.

OFF SITE CALCULATIONS
(R/W LINE TO BACK OF CURB)
TOTAL = 1,252 SQ. FT.
DRIVEWAY APRONS = 411 SQ. FT.
SOD = 841 SQ. FT.

BOUNDARY SURVEY

SHEET 1 OF 2

ABBREVIATIONS

(P)	PLATTED DIMENSION
(D)	DEEDED DIMENSION
(M)	MEASURED DIMENSION
(C)	CALCULATED DIMENSION
ID	IDENTIFICATION
A/C	AIR CONDITIONER
R/W	RIGHT OF WAY
℄	CENTERLINE
D	CENTRAL ANGLE
R	RADIUS
L	ARC LENGTH
CB	CHORD BEARING
FP&L CO.	FLORIDA POWER & LIGHT COMPANY
N.G.V.D.	NATIONAL GEODETIC VERTICAL DATUM
U.S.C. & G.S.	UNITED STATES COAST AND GEODETIC SURVEY

LEGEND

●	IRON ROD WITH CAP
○	IRON PIPE
□	CONCRETE MONUMENT
■	PERMANENT REFERENCE MONUMENT
△	PERMANENT CONTROL POINT
(R)	RADIAL LINE
(NR)	NON-RADIAL LINE
⬭	EXISTING ELEVATION
▭	PROPOSED ELEVATION

SLIGER & ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS
3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385
LICENSED BUSINESS CERTIFICATION NUMBER 3019
www.sligerassociates.com

Copyright © 2016 Sliger & Associates, Inc.

FOR: JOHN & SANDRA UPCHURCH

DESCRIPTION: LOT 12, FAIRWAY HEIGHTS SUBDIVISON, AS RECORDED IN MAP BOOK 19 PAGE 277, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY FLOIRDA.

ADDRESS: 474 TRITON DRIVE

DATA FILE: 160122SS.txt

SCALE 1"= 20'

JOB #16-0265

SLIGER & ASSOCIATES, INC.

PROFESSIONAL LAND SURVEYORS
LICENSED BUSINESS CERTIFICATION NO. 3019
3921 NOVA ROAD
PORT ORANGE, FL. 32127
(386) 761-5385

Copyright © 2016 Sliger & Associates, Inc.
www.sligerassociates.com

SURVEYORS NOTES

1. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY/SKETCH OF DESCRIPTION THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY. THIS SURVEY/ SKETCH OF DESCRIPTION PREPARED WITHOUT BENEFIT OF AN ABSTRACT.

2. DIMENSIONS ARE SHOWN IN FEET AND DECIMALS THEREOF.

3. BEARING STRUCTURE BASED ON RECORD PLAT WITH THE BEARING ON NORTH LINE OF LOT 12, BEING N65°30'53"E.

4. UNDERGROUND FOUNDATIONS, IF ANY, NOT LOCATED.

5. THIS PROPERTY IS LOCATED IN FLOOD INSURANCE RATE MAP (F.I.R.M.) ZONE "X". THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M. MAP NO. 12127C0216J. MAP EFFECTIVE DATE: FEB. 19, 2003. APPROXIMATE SCALE: 1"= 500'.

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

7. UNLESS OTHERWISE SHOWN, RECORD DISTANCES AND DIRECTIONS AND FIELD MEASURED DISTANCES AND DIRECTIONS ARE THE SAME.

8. ELEVATIONS REFER TO GPS RTK STATIC OBSERVATIONS AND ARE BELIEVED TO BE ON N.A.V.D. 1988. ELEVATIONS SHOWN ARE FOR RELATIONSHIP PURPOSES ONLY.

9. REVISED FEB. 29, 2016 TO SHOW PROPOSED IMPROVEMENTS AND LOT CALCULATIONS PER CLIENT. NO ADDITIONAL FIELD WORK PERFORMED THIS DATE. (16-0265)

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

REFERENCE: LOT 12, FAIRWAY HEIGHTS SUBDIVISOIN

PLAT PREPARED FOR THE FOLLOWING: (ONLY THE LAST DATE IS CERTIFIED ON SEALED COPY)

THIS PLAT OF SURVEY IS CERTIFIED TO AND PREPARED FOR THE SOLE AND EXCLUSIVE BENEFIT OF THE ENTITIES AND\OR INDIVIDUALS LISTED BELOW, ON THE MOST CURRENT DATE, AND SHALL NOT BE RELIED UPON BY ANY OTHER ENTITY OR INDIVIDUAL WHOMSOEVER.

TYPE OF SURVEY	CERTIFIED TO	SURVEY DATE	JOB NUMBER
BOUNDARY	JOHN & SANDRA UPCHURCH	FEB. 9, 2016	16-0122
	INTERVEST CONSTRUCTION, INC.		
NOT CERTIFIED TO ANY ENTITIES AND/OR INDIVIDUALS OTHER THAN THOSE LISTED ABOVE.			

SHEET 2 OF 2

VALID WITH SIGNATURE & EMBOSSED SEAL ONLY

FOR: JOHN & SANDRA UPCHURCH

	DATE	JOB NO.	P.C.	DRW.	CHECKED BY
SKETCH OF DESCRIPTION					
BOUNDARY SURVEY	FEB. 9, 2016	16-0122	SS	MB	STK
TOPOGRAPHIC SURVEY					
FOUNDATION LOCATED					
FINAL IMPROVEMENTS					
RECERTIFICATION					
PROPOSED HOUSE LOCATION	FEB. 29, 2016	16-0265		JR	STK

I HEREBY CERTIFY THAT THIS PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS IN CHAPTER 5J-17.05, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

J.E. ZAPERT, P.L.S. NO. 4046
STEVEN T. KRUGER, P.L.S. NO. 4722
C.O. VAN KLEECK JR., P.S.M. NO. 6149
MICHAEL S. MURPHY, P.S.M. NO. 6208