



AGENDA

ORMOND BEACH BOARD OF ADJUSTMENT AND APPEALS

June 1, 2016

ORMOND BEACH CITY COMMISSION CHAMBERS

7:00 P.M.

I. ROLL CALL

II. APPROVAL OF THE MINUTES

A. April 6, 2016

III. NEW BUSINESS

A. Case 2016-067: 670 Hand Avenue, deck variance

This is a request for a deck variance submitted by Daniel Stutz, property owner of 670 Hand Avenue. The applicant seeks to allow a constructed deck to remain at a 0' side yard setback at 670 Hand Avenue. Section 2-50(w) of the Ormond Beach Land Development Code requires a 5' setback to the side interior property line for a deck. The applicant is seeking to allow the constructed deck to remain at a 0' side yard setback for a 5' variance to the required 5' setback for a deck.

B. Case 2016-046: 554 Riverside Drive, side yard variance

This is a request for a side yard variance associated with the construction of a new waterfront single-family house submitted by James S. Morris, P.A., on behalf of Maurice Kaufman, property owner of 554 Riverside Drive. The property at 554 Riverside Drive is zoned as R-1 (Residential Estate) and the applicant is seeking to construct a new single-family house on a vacant lot that would require a side yard variance of 4'. Section 2-12(B)(9)(c) of the Ormond Beach Land Development Code requires a minimum of 8' for the side yard setback. The applicant is requesting a side yard setback along the south property line, abutting 568 Riverside Drive, of 4' requiring a 4' variance to the required setback of 8'.

IV. OTHER BUSINESS

V. ADJOURNMENT

MINUTES
BOARD OF ADJUSTMENT

April 6, 2016

7:00 p.m.

Commission Chambers
22 South Beach Street
Ormond Beach, Florida

I. ROLL CALL

Members Present

Staff Present

Ryck Hundredmark
Jean Jenner
Stan Driscoll (alternate)
Norman Lane
Dennis McNamara, Chairman
Tony Perricelli (excused)

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

II. APPROVAL OF THE MINUTES

A. February 3, 2016 Minutes

Mr. Jenner moved to approve the February 3, 2016 Minutes as submitted. Mr. Hundredmark seconded the motion. Vote was called, and the motion was unanimously approved, with Mr. Lane abstaining.

III. NEW BUSINESS

A. Case No. 2016-047: 757A Flamingo Drive, Rear Yard Variance

Ms. Weedo, Senior Planner, City of Ormond Beach stated this is a request by Walter and Stephanie Zehnder, property owners of 757A Flamingo Drive, for a 140 sq. ft. living addition. Ms. Weedo displayed a copy of the survey showing the proposed living area addition and the existing screen room. The screen room was permitted in 2010, and didn't go through Planning for compliance with the LDC, so it was built with a 15' setback. The proposal is to build the new space on the existing patio slab, which will square up the home with the existing screen room. Staff has received no objections to the requested variance. The applicants have received approval from the HOA Architectural Review Committee, and have provided signatures of "no objection" from the three adjacent property owners. Staff is recommending approval of the requested 5' variance for the addition, and to include the existing non-conforming screened room at a 15' rear yard setback.

Mr. Driscoll asked if this was in what used to be the old Eleanor Village. Ms. Weedo stated it was. Mr. Driscoll commended the applicant for investing in the property.

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

B. Case No. 2016-046: 18 London Lane, Patio Variance

Mr. Steven Spraker, Senior Planner, City of Ormond Beach stated this is a request for a variance within the New Britain development. The property abuts an HOA common area, and there is a PVC vinyl fence at the back of the property, with the Northshore Drive ROW next to it. The complex is unique in the fact that it doesn't meet any of the setbacks in the R4 Zoning District. Staff can't find evidence that the original development order had special setbacks.

Mr. Spraker continued that the applicant is looking to expand their patio to make it more functional for outdoor living. They are proposing a 2' setback on both the rear and side yards, so they would need a 3' variance for both the rear and side yard. Staff is recommending approval of the variance application, and did not receive any objections from abutting property owners.

Ms. Carolyn Bracken, 18 London Lane, applicant for the variance stated that she had no comments.

Following discussion, Mr. Lane 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).

A. Case No. 2016-049: 474 Triton Road, Front & Rear Yard Variances

Mr. Steven Spraker stated this is a request for both a front and rear yard variance. The property sits on a very large cul-de-sac and has the golf course to the north and west side of it, and has one abutting property. The subdivision was done in 1959, and the applicant feels that the home has served its lifetime in terms of amenities. The applicant is looking to demolish the existing house, and construct a two-story house. The width of the house would be less than the existing and would meet the side yard setbacks, but variances would be needed for the front and rear yard. Mr. Spraker reviewed the location, orientation and characteristics of the variance, and presented the staff report. Staff is recommending approval.

Mr. Lane asked if there was an aerial view, or anything that would determine if the cabana would affect the view for the abutting neighbors. Mr. Spraker stated that there is nothing that would show the line of sight, but the abutting property is heavily landscaped. The aerial view shows so much vegetation, that it is hard to see how far back the neighboring house sits.

Mr. Driscoll stated that the Board had just awarded a variance for someone to put in a patio, and why is there not a variance required for this property owner to put in a swimming pool. Mr. Spraker stated that they are meeting the setback requirements. The code allows a pool to be 5' from the property line, and the pool is within the allowable setback.

Mr. Lane asked if they would be filling the property to raise the house. Mr. Spraker stated that he would prefer the contractor answer the question, but he was sure that some cutting and filling would have to be done.

Ms. Jean Ball with ICI Homes, Ormond Beach, stated that the back of the property is about 3-4' higher than the existing home, so they will be raising the new home up a couple of feet.

Mr. Driscoll stated that basically there is house wanting to be built, but it won't fit on the lot, so a variance request has come to the City to put a larger house on the lot. Mr. Spraker stated that there are certain variance criteria, and it was analyzed in the Staff Report both ways. When you look at the property and the size of the cul-de-sac, the width of the cul-de-sac impacts what can be built on the property. The Staff is recommending approval, but there is enough evidence in the Staff Report to support the decision either way.

Mr. Hundredmark asked if there was any discussion about a screen enclosure for the swimming pool at this point. Mr. Spraker stated that they would not be allowed a screen enclosure without a variance. The applicant indicated that they would not want a screen enclosure.

Mr. McNamara stated that the footprint to the old house is nearly identical to the new house. The new house is only 1' closer to the road.

Mr. Lane stated that looking at the abutting houses, the fronts and rears of the houses are pretty much aligned. It is just the cul-de-sac that impedes into the front yard.

Mr. McNamara stated that long ago, they used to measure from lot corner to lot corner for the setbacks, so when a house was on a cul-de-sac, it might be closer to the road than other homes. And referring to the elevation, in the plans that were provided, the existing house has an elevation of 13.1' and the proposed house is 14.2', so there is only a difference of 1'. Mr. McNamara stated that he thinks it will be a big improvement to the area.

Following discussion, Mr. Hundredmark moved to approve the variance as submitted. Mr. Lane seconded the motion. Vote was called. Mr. Jenner for; Mr. Driscoll against; Mr. Lane for; Mr. Hundredmark for; Mr. McNamara for. The motion carried (4-1).

V. OTHER BUSINESS

None.

VI. ADJOURNMENT

As there was no other business, the meeting was adjourned at 7:22 p.m.

Respectfully submitted,

Steven Spraker, 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: May 25, 2016

SUBJECT: 670 Hand Avenue, deck variance

APPLICANT: Daniel Stutz, property owner

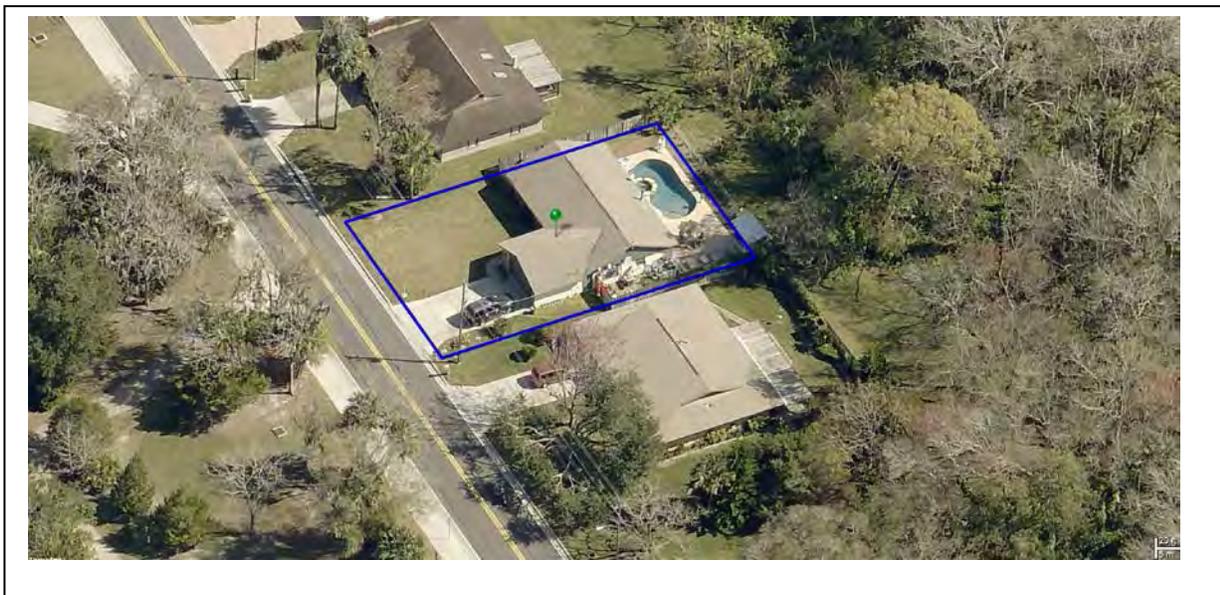
FILE NUMBER: 2016-067

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION: This is a request for a deck variance submitted by Daniel Stutz, property owner of 670 Hand Avenue. The applicant seeks to allow a constructed deck to remain at a 0' side yard setback at 670 Hand Avenue. Section 2-50(w) of the Ormond Beach Land Development Code requires a 5' setback to the side interior property line for a deck. The applicant is seeking to allow the constructed deck to remain at a 0' side yard setback for a 5' variance to the required 5' setback for a deck.

BACKGROUND: The property is designated as "Low Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-3 (Single-Family Medium Density) on the City's Official Zoning Map. The existing use of the property is consistent with the FLUM designation and zoning district. Below is an aerial of the subject property.

Exhibit 1: Aerial of 670 Hand Avenue (January 29, 2015)



Source: <http://explorer.pictometry.com/index.php>

On January 14, 2016, the property owner was issued a Notice of Violation (case #16-106866) for two violations. The first violation was an accessory building that was located too close to the rear and side yards and the second violation was a wood deck that was constructed too close to the property line. Below are pictures of the two violations:

Exhibit 2: Two notice of violations



Accessory building



Deck

The property owner has removed the accessory building, leaving only the existing deck as a single violation which the variance application is seeking to resolve. In discussing the construction of the deck with the property owner, it was stated that the deck was constructed in 2013 along with a pool permit. The 2013 pool permit does not show the deck as a permitted improvement. The property owner states that the pool was inspected and there was never any comments regarding the location of the deck. The pool permit passed all applicable inspections. In reviewing past aerials, the timing of the deck improvement does coincide with the property owner's stated timeline.

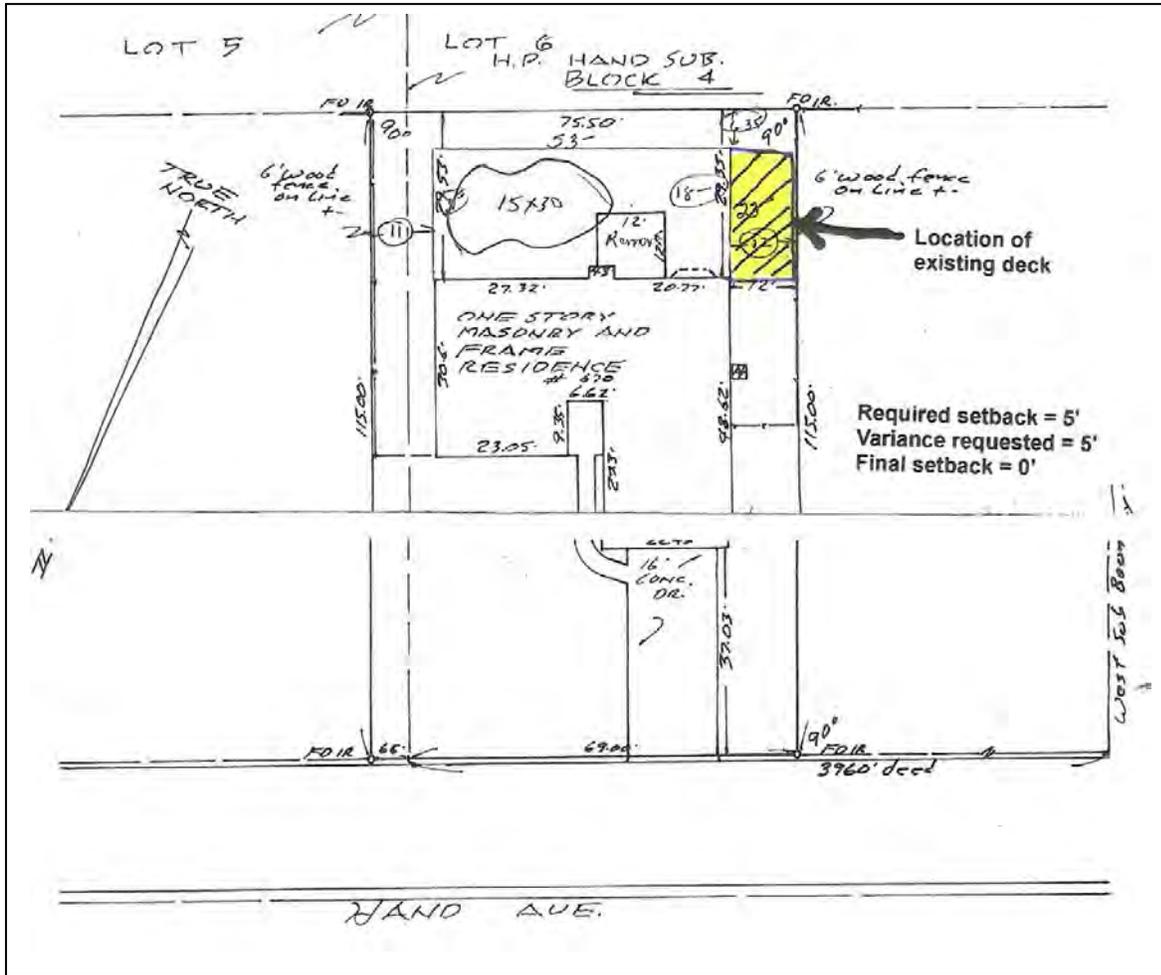
The adjacent land uses and zoning are as follows:

Exhibit 3: Abutting land uses

	Current Land Uses	Future Land Use Designation	Zoning
North	Central Park (across Hand Avenue)	"Open Space/Conservation"	SE (Special Environmental)
South	Vacant land	"Low Density Residential"	R-3 (Single-Family Medium Density)
East	Single-family house	"Low Density Residential"	R-3 (Single-Family Medium Density)
West	Single-family house	"Low Density Residential"	R-3 (Single-Family Medium Density)

ANALYSIS: The applicant seeks to allow an existing deck constructed within the required side yard with a setback of 0' to remain at 670 Hand Avenue. Section 2-50(w) of the Ormond Beach Land Development Code requires a 5' setback to the side interior property line for a deck. The applicant is seeking to allow the constructed deck to remain at a 0' side yard setback for a 5' variance to the required 5' setback for a deck as shown in the exhibit below. The deck is 12' in width and 23' in depth. The deck meets the setback for the rear yard setback.

Exhibit 4: existing deck variance exhibit



A key consideration in any variance application is the impact of an improvement to abutting neighbors. The applicant has obtained a signature of no objection from the abutting property owner at 678 Hand Avenue regarding the deck.

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 location of the pool limits the potential deck width. A deck width of 7', meeting the required 5' setback would not be functional and would limit movement around the deck.

Argument against the variance: There are no special conditions associated with this request and the Land Development Code requires a 5' setback to the side property line. The lot is 75' in width and 115' in depth and no special conditions exist.

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

Argument for the variance: The applicant did construct the deck with the pool permit with the belief that the deck was included in the pool permit.

Argument against the variance: City inspectors inspect the specific items that they are called out to properties to inspect. The deck was not included in the approved plans for the 2013 pool permit.

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 literal interpretation of the Land Development Code would allow a 7' deck. The property owner has stated a desire to maintain the desk as constructed in order to allow movement around the deck and make the pool area functional. The deck does not impede drainage and is located entirely behind an existing 6' high wood fence.

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

and rear yard setbacks would allow a patio of 7' in width and 23' in depth or 161 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 property owner has applied for the variance with the desire to maintain the existing deck as is. It is their belief that the requested side yard variance is the minimum variance needed to make a reasonable use of the outdoor living area. The deck is located behind the existing wood fence in the rear yard and there is no vertical impact of the deck (it can not be seen through the fence).

Argument against the variance: As stated above in previous criteria, reducing the overall size of the deck 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 subject property and surrounding properties are well maintained single family houses along Hand Avenue. The Notice of Violation was generated primarily based upon the accessory structure which has been removed from the property. The property owner believed that the deck was allowed as part of the 2013 pool permit and is seeking the variance to allow the deck to remain. In staff's review of the application, there is no negative impact of the improvement to the abutting property and no alteration of the character of the neighborhood or diminishing of property values. Staff was further influenced by the abutting property owner signing the application with no objection to the deck remaining.

Argument against the variance: The deck is located within the side yard and as stated earlier and could be reduced to meet the 5' required setback.

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 deck width could reduce or eliminate the need for the requested variance.

RECOMMENDATION:

In the final analysis, there is evidence to deny and approve the requested variance. Planning staff considered the overall impact of the request to the abutting property owner and neighborhood and do not believe that there adverse impacts as the result of the request. It is recommended that the Board of Adjustment and Appeals grant the requested variance to allow the existing deck to remain at a 0' side yard setback, requiring a 5' variance to the required 5' setback for a deck.

Attachments:

Attachment 1: Variance plot plan

Attachment 2: Maps and pictures

Attachment 3: Application

ATTACHMENT 1

Variance Exhibit

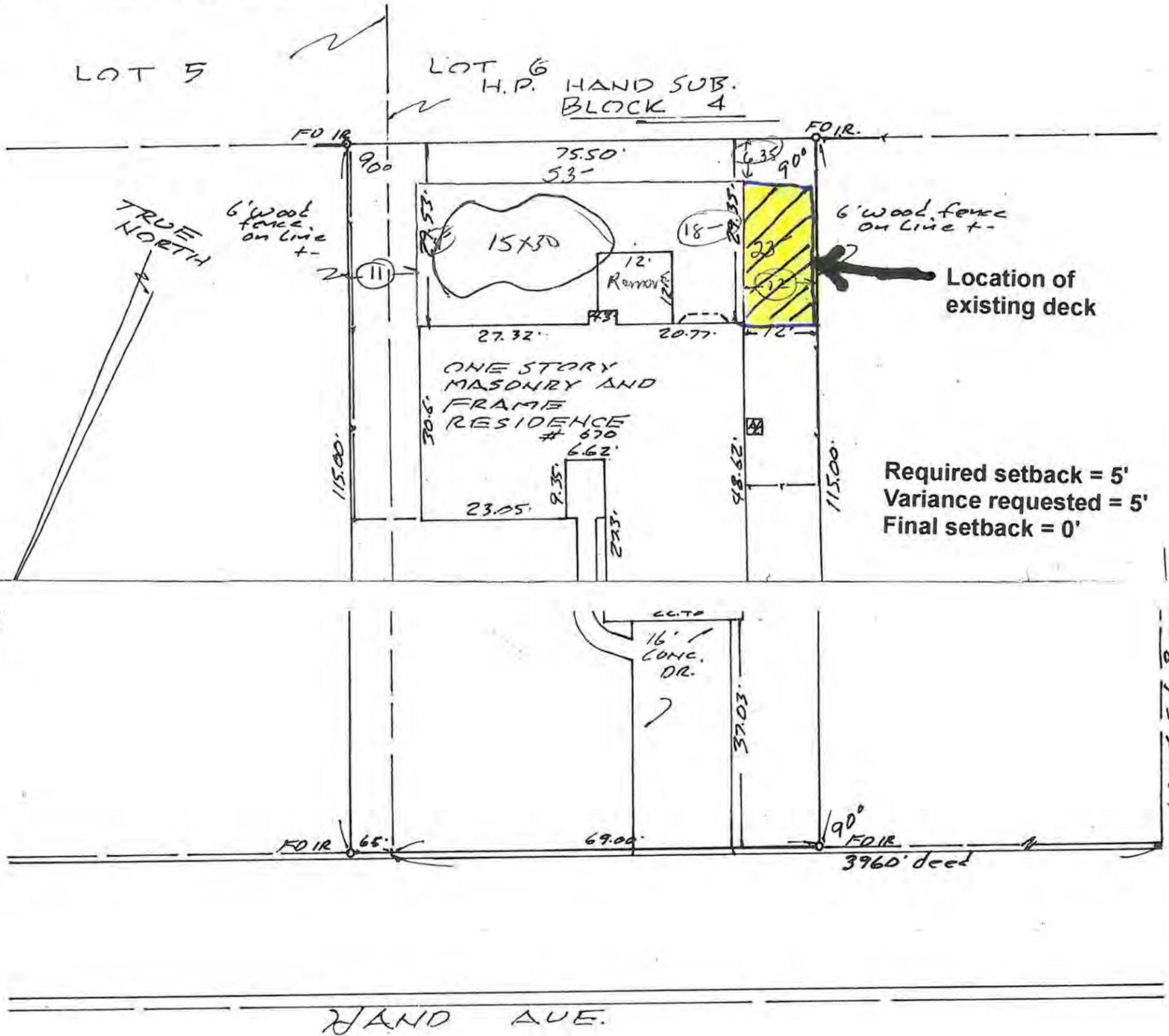
Halifax Land Surveying

425 Buchanan Way • South Daytona, Florida
 Phone: 904/767-5089 • FAX: 904/760-6445



LEGAL DESCRIPTION: THAT PORTION OF LOTS 5 AND 6, BLOCK 4, H.P. HAND PURCHASE OF THE THOMAS FITCH GRANT, OF RECORD IN DEED BOOK "P", PAGE 1, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTHERLY LINE OF HAND AVENUE WITH THE EASTERLY LINE OF SAID LOT 6, SAID POINT BEING A DISTANCE OF 3960' EASTERLY OF THE INTERSECTION OF SAID SOUTHERLY LINE OF HAND AVENUE WITH THE WESTERLY LINE OF SAID H.P. HAND SUBDIVISION; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF HAND AVENUE, A DISTANCE OF 69' TO A POINT; THENCE SOUTHERLY AND PARALLEL TO THE EASTERLY LINE OF LOT 6, A DISTANCE OF 115.00' TO A POINT; THENCE EASTERLY AND PARALLEL TO HAND AVENUE, A DISTANCE OF 75.5' TO A POINT; THENCE NORTHERLY AND PARALLEL TO THE EASTERLY LINE OF LOT 6, A DISTANCE OF 115.00' TO THE SOUTHERLY LINE OF HAND AVENUE; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF HAND AVENUE, A DISTANCE OF 6.5' TO THE POINT OF BEGINNING.



#670 HAND AVENUE, ORMOND BEACH, FLORIDA 32174

- SURVEYOR'S NOTES:**
1. BEARING STRUCTURE BASED ON RECORD PLAT.
 2. LEGAL DESCRIPTION PROVIDED BY CLIENT.
 3. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.

4. DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
5. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS LOCATED EXCEPT AS SHOWN. "A"
6. THIS PROPERTY IS LOCATED IN FLOOD ZONE.

F.I.R.M. 12127C0214 G 125136 4-15-2002

Certified To:

1. JERE W. GOFF II
2. COUNTRYWIDE HOME LOANS
3. NATIONAL SETTLEMENT MANAGEMENT, LLC
4. AMERICAN PIONEER TITLE INSURANCE COMPANY

Legend:

- | | |
|----------------------|-----------------------------|
| AC AIR CONDITIONER | MS MEASURE |
| CL CENTERLINE | NTS NOT TO SCALE |
| CB CONCRETE BLOCK | OHE OVERHEAD ELECTRIC |
| CLF CHAIN LINK FENCE | PCP PERMANENT CONTROL POINT |
| CM CONCRETE MONUMENT | P PLAT |
| CONC CONCRETE | REC RECOVER |
| D/W DRIVEWAY | R/W RIGHT OF WAY |
| FNO FOUND | SAW SIDEWALK |
| IP IRON PIPE | IR IRON ROD |

Type of Survey	Date	Remarks
1. BOUNDARY	1-13-03	
2.		
3.		
4.		
5.		

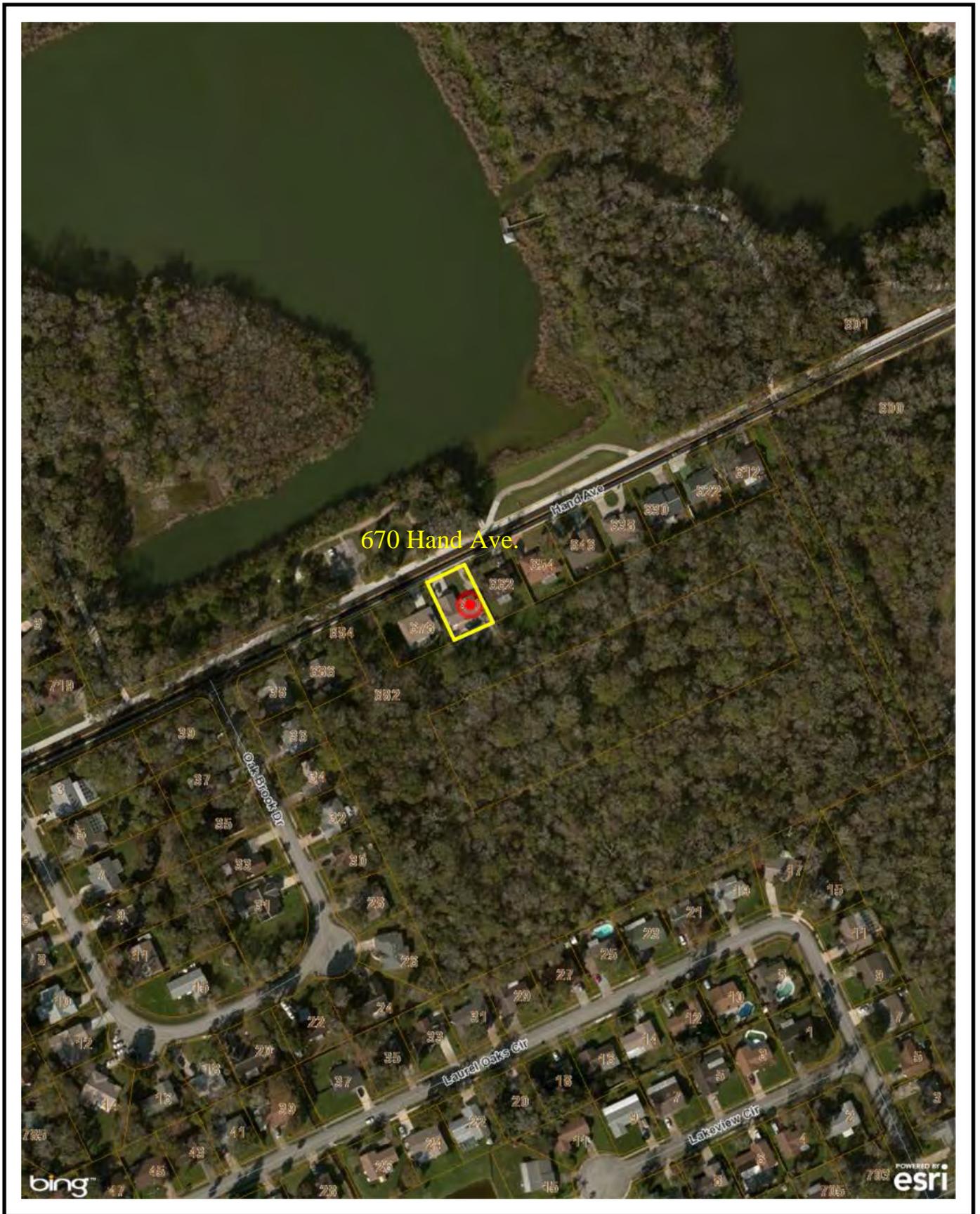
JOB NUMBER 11538 SCALE 1" = 20' DRAWN BY CR CREW HP COUNTY CODE 127 SHEET NO. 1 OF 1

THIS PLAT OF SURVEY IS HEREBY CERTIFIED AS BEING CORRECT AND MEETING THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS AND MAPPERS, NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR.

Clyde H. Rodgers, R.L.S. #3250

ATTACHMENT 2

- Maps and pictures



LOCATION MAP
670 Hand Avenue



670 Hand Ave, Jan. 2015



01/29/2015



Existing deck
proposed to
remain at a 0'
side yard
setback



**View from
abutting
property's
house**

ATTACHMENT 3

Applicant provided
information



CITY OF ORMOND BEACH

v3.2013

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

www.ormondbeach.org

comdev@ormondbeach.org

VARIANCE - APPLICATION

For Planning Department Use

Application Number

Date Submitted

APPLICATION TYPE AND FEES

	Application	Advertising Deposit for Advisory Board	Advertising Deposit for Commission	Total*
<input type="checkbox"/> Residential or Commercial	350	350	N/A	700
<input checked="" type="checkbox"/> After the Fact Residential or Commercial	700	350	N/A	1050

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

APPLICANT INFORMATION

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

Name: Daniel Stutz
 Full Address: 670 Hand Ave Ormond Beach FL 32174
 Telephone: 386 562-0789 Email: dstutz@cfi.net.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: Same as 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: 670 Hand Ave, Ormond Beach FL 32174
 Parcel ID Number: 4242-03-04-0061
 Legal Description: E 69 FT N 140 FT OF LOT 6 + W 6.9 FT OF N 140 FT OF LOT 5 BLK 4 HANDTRACK FITCH GRANT EXC ST PER OR 5027 PG 0934 PER OR 5691 PG 0301 PER 6494 PG 1521 PER OR 6941 PG 3797

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:

A wooden deck was installed during pool construction from pool deck to fence.

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
Susan Rawlin	675 Hand Ave O.R.F.L 3217	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

CRITERIA: CONFORMING

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

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

Wooden sun deck was installed during pool construction. It is a wooden deck that water (rain) can pass thru into the ground below. The water does not run off the adjacent property.

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

No action is needed construction is complete. It was complete during inspection of final pool inspection

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:

Pool has very little deck surface and this area is very enjoyed by owners. Does not create harm to common area or adjacent property.

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

No practical alternative exists. It is a minimum variance of the land. No structure just decking. There was a shed and electric that was removed requested by Alex's Robinson, Neighborhood Improvement officer. At Neighbor's request.

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

No hardship on site. No physical inconvenience. Deck is in fenced area.

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

No danger exist.

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:

Increased property value. Neat and well maintained.

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:

Request will not confer on any special privileges.
Does not interfere with surrounding property.

CRITERIA: NONCONFORMING

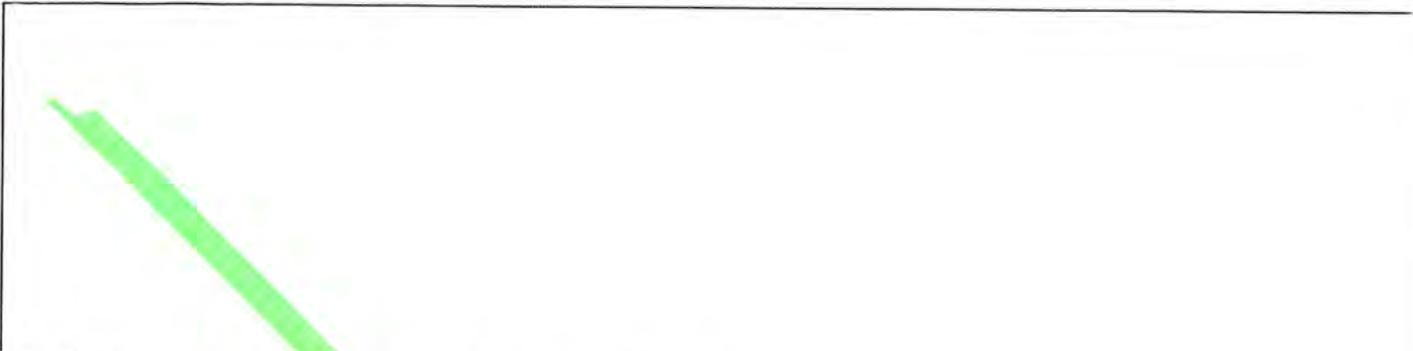
Section 1-16.D.4 of the Land Development Code establishes separate criteria for the expansion of an existing nonconforming structure or portion of that structure. The Code requires that the Board of Adjustment and Appeals make a finding based on substantial competent evidence on each of the following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

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

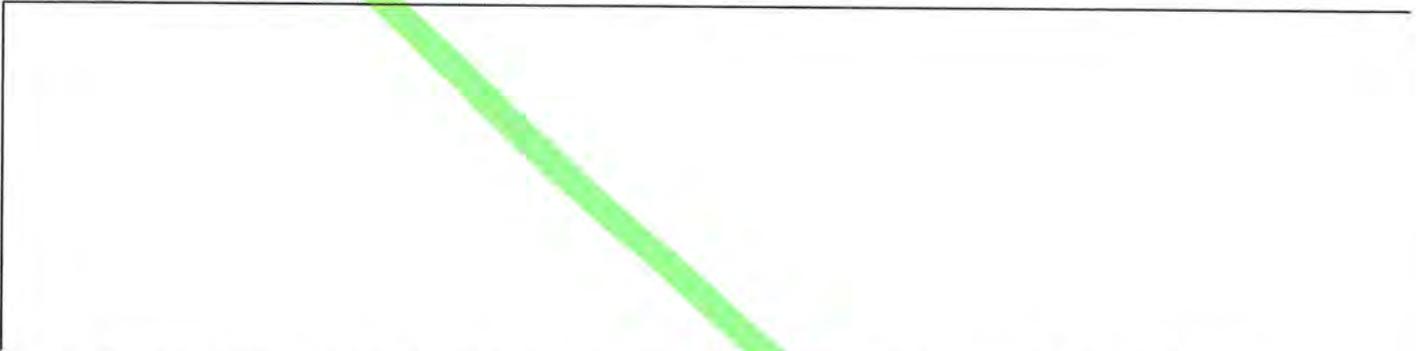
2. There are no other ways of altering the structure that will not result in increasing the nonconforming cubic content of the structure:

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:

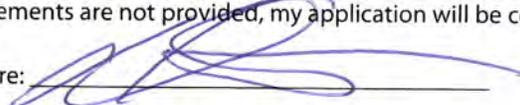


6. The proposed expansion will not impact adjacent properties by limiting views or increasing light and/or noise:



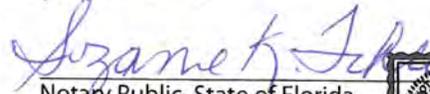
CERTIFICATION

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 13th day of April, 2016, by Daniel Stutz
as _____ (title*) for _____ (name of corporation*), who () provided
_____ as identification, or who is personally known to me.



Notary Public, State of Florida
My Commission Expires:



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



Certificate of Occupancy

City of Ormond Beach, Florida

Building Safety Division

This certificate issued pursuant to the requirements of the Florida Building Code certifying that at the time of issuance this structure was in compliance with the various ordinances of the City of Ormond Beach regulating building construction or use. Issued for the following:

Owner: STUTZ DANIEL
Address: 670 HAND AVE
Classification: OUTDOOR SWIMMING POOL
Construction Type: NO TYPE NECESSARY

Details:

Parcel I.D.:	4242-03-04-0061
Subdivision Name:	HAND PURCHASE OF T FITCH GRANT
Property Zoning:	GENERAL
Application Number:	14-00000324 000.000
Description of Work:	NO TYPE NECESSARY
Contractor:	BRYANT POOLS & SPAS
Occupancy Type:	RESIDENTIAL
Flood Zone:	NONE


Authorized Signature

12/24/13
Issued: 12/24/13

VOID UNLESS SIGNED















CITY OF ORMOND BEACH

v3.2013

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

www.ormondbeach.org

comdev@ormondbeach.org

VARIANCE - GUIDANCE NOTES

APPLICABILITY

The Board of Adjustment and Appeals of the City of Ormond Beach reviews applications for variance to specific literal enforcement of the following selected regulations in the Land Development Code:

1. The dimension standards established in Chapter 2, Articles II and III, for principal and accessory structures allowed in the respective zoning districts;
2. The flood hazard requirements contained in Chapter 3, Article II;
3. Height and location specified for fences, wall and similar structures as specified in Chapter 3, Article I, Section 3-07; and
4. Nonconformities as specified in Chapter 2, Article V, Section 2-61.

PRE-APPLICATION MEETING

Prior to submitting an application for variance, a pre-application meeting is required with representatives of the Planning and/or Building Department. The purpose of the meeting is to discuss the application process, fees, criteria for review of variances and to answer any related questions. The applicant should bring a copy of the site survey (no older than 5 years) and details of the proposal either on the survey or a plot plan. Contact the Planning Department for further information or to schedule.

APPLICATION REQUIREMENTS

The following information is required on or before the application deadline:

1. The application fee (payable to the City of Ormond Beach);
2. An original deed or copy certified by the Clerk of the Circuit Court to the subject property;
3. A property survey (not older than five years), signed and sealed by a Florida registered land surveyor;
4. A plot plan or marked up survey indicating the requested variance; and
5. The application form, signed by the applicant.

NOTIFICATION REQUIREMENTS

Public notice of the hearing is required 15 days prior to the date set for said hearing, not counting the date of publication and the date of the hearing, as follows:

1. A newspaper advertisement stating the requested variance and the opportunity to be heard;
2. A letter of notification, by certified mail, to all abutting property owners as shown on the latest available tax assessor rolls or condominium association; and
3. The City shall provide a public sign to the applicant, which shall be posted on the property 15 days prior to the hearing date. On property facing two streets, a notice shall be posted facing each street.

SITE VISIT

Would like to attend with you (STEVEN)

Staff will conduct at least 1 site visit to the property. By submitting an application, permission is given for City Staff to enter the property to conduct a site visit as part of the review. Site visits will be conducted during regular business hours (8:00 am to 5:00 pm, Monday through Friday) between the date of submittal and the date of the hearing. The purpose of the visit is to verify information submitted with the application, and to complete an analysis of the proposal for consistency with the City's Comprehensive Plan and Land Development Code. Denial or refusal to grant property access shall be considered grounds for rejecting the application.

STAFF REPORT

A Staff Report shall be prepared by City Staff that provides analysis of the requested variance based on the adopted criteria. Within the report, Staff shall make a recommendation to the Board for consideration. The applicant will receive a copy of the report and agenda prior to the public hearing.

PUBLIC HEARING

Applicants must be present or represented at the public hearing. Failure to be present or to be represented will result in the application being tabled until the next regularly scheduled meeting. The applicant shall be billed for any additional advertising costs associated with the failure to be present. 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 30 minutes for City staff, the designated representative of the applicant and the designated representative of any organized group, and to five minutes for members of organizations and other individual speakers. Additional time shall be allowed to respond to questions from the Board. The Chairman may also direct speakers to limit their comments to issues which have not been previously stated.

VARIANCE CRITERIA

The intended purpose of the variance process is to provide relief from the literal enforcement of the City's Land Development Code. All efforts to redesign and realign structures should be exhausted prior to requesting a variance. Variances are designed to be based on site specific conditions that would impose an unnecessary hardship on the applicant. Each variance application is reviewed according to the criteria adopted in the Land Development Code. Existing non-conformities or variances granted prior to this application do not establish precedence. The Board of Adjustment and Appeals is a quasi-judicial board and must review each application on the merits presented in the application, the staff report and testimony provided at the public hearing.

BOARD DECISION

The Board of Adjustment and Appeals is comprised of 5 members and 5 alternates appointed by the City Commission. To receive approval for a variance, a majority vote of 3 members of the Board is required. The Board may impose conditions and restrictions on variance applications as they deem appropriate and reasonable. In the event that there are only 4 members present, the applicant will have the option, prior to the item being heard, to continue the application to the Board's next regularly scheduled meeting. There will be no additional cost to the applicant. Once a variance is heard and a decision rendered, there is a 30 day appeal period in which the applicant or any party may appeal the Board's decision to the Circuit Court. No building permits may be issued in the 30 day appeal period. Building permits for approved variances must be issued and work commenced within 12 months of the approval date or the variance shall expire. Approved variances are recorded by the City within Volusia County public records (included as part of the application fee) and shall run with the subject property, not the applicant.

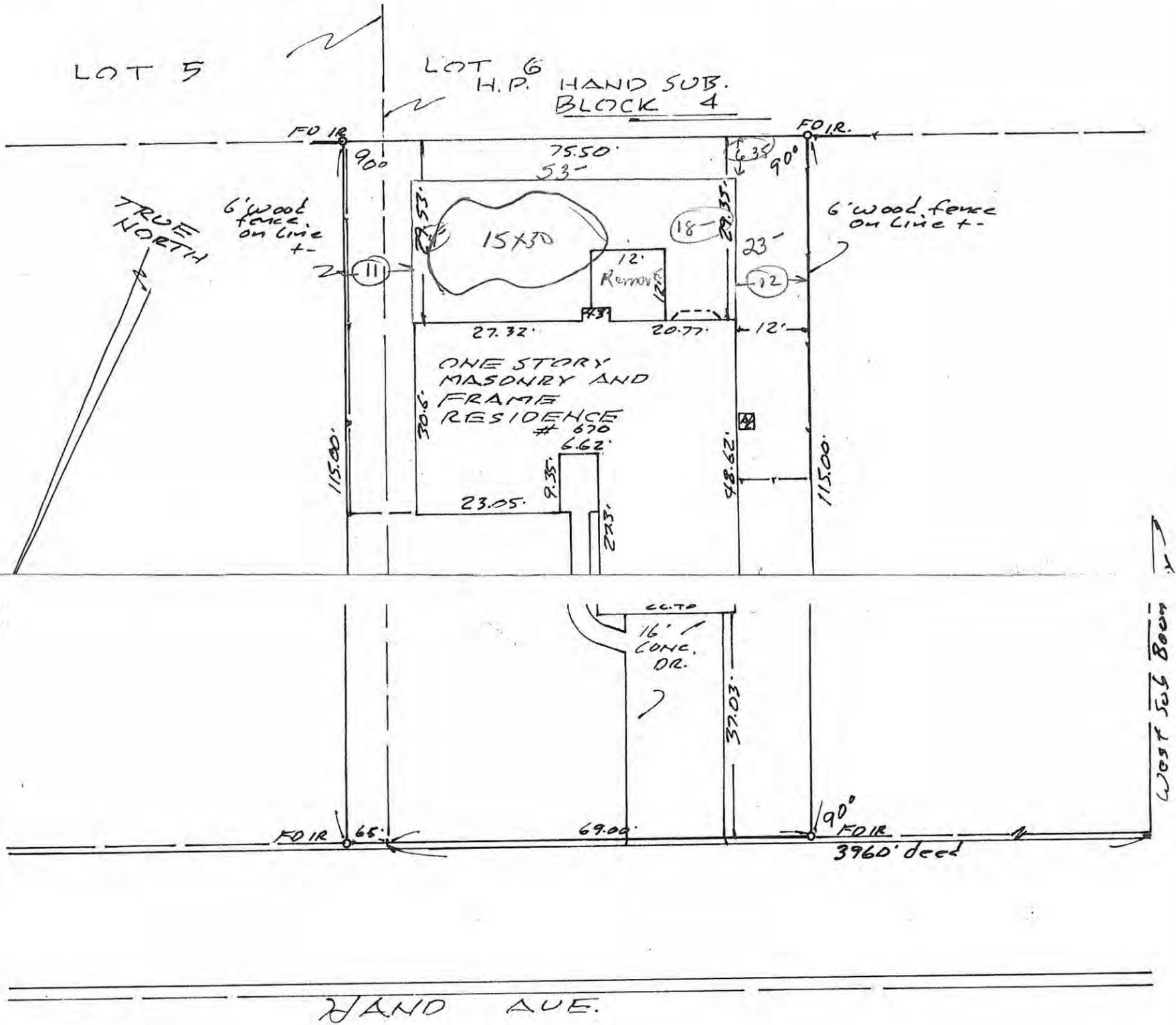
Halifax Land Surveying



425 Buchanan Way • South Daytona, Florida
 Phone: 904/767-5089 • FAX: 904/760-6445

LEGAL DESCRIPTION: THAT PORTION OF LOTS 5 AND 6, BLOCK 4, H.P. HAND PURCHASE OF THE THOMAS FITCH GRANT, OF RECORD IN DEED BOOK "P", PAGE 1, PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA DESCRIBED AS FOLLOWS:

BEGIN AT THE INTERSECTION OF THE SOUTHERLY LINE OF HAND AVENUE WITH THE EASTERLY LINE OF SAID LOT 6, SAID POINT BEING A DISTANCE OF 3960' EASTERLY OF THE INTERSECTION OF SAID SOUTHERLY LINE OF HAND AVENUE WITH THE WESTERLY LINE OF SAID H.P. HAND SUBDIVISION; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF HAND AVENUE, A DISTANCE OF 69' TO A POINT; THENCE SOUTHERLY AND PARALLEL TO THE EASTERLY LINE OF LOT 6, A DISTANCE OF 115.00' TO A POINT; THENCE EASTERLY AND PARALLEL TO HAND AVENUE, A DISTANCE OF 75.5' TO A POINT; THENCE NORTHERLY AND PARALLEL TO THE EASTERLY LINE OF LOT 6, A DISTANCE OF 115.00' TO THE SOUTHERLY LINE OF HAND AVENUE; THENCE WESTERLY ALONG THE SOUTHERLY LINE OF HAND AVENUE, A DISTANCE OF 6.5' TO THE POINT OF BEGINNING.



#670 HAND AVENUE, ORMOND BEACH, FLORIDA 32174

- SURVEYOR'S NOTES:**
1. BEARING STRUCTURE BASED ON RECORD PLAT.
 2. LEGAL DESCRIPTION PROVIDED BY CLIENT.
 3. NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS AND/OR OTHER MATTERS THAT ARE NOT SHOWN ON THIS PLAT OF SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF THIS COUNTY.
 4. DIMENSIONS SHOWN ARE IN FEET AND DECIMALS THEREOF.
 5. NO UNDERGROUND INSTALLATIONS OR IMPROVEMENTS LOCATED EXCEPT AS SHOWN. "A"
 6. THIS PROPERTY IS LOCATED IN FLOOD ZONE.

F.I.R.M. 12127C0214 G 125136 4-15-2002

Certified To:

1. JERE W. GOFF II
2. COUNTRYWIDE HOME LOANS
3. NATIONAL SETTLEMENT MANAGEMENT, LLC
4. AMERICAN PIONEER TITLE INSURANCE COMPANY

Legend:

- | | |
|----------------------|-----------------------------|
| AC AIR CONDITIONER | MS MEASURE |
| CL CENTERLINE | NTS NOT TO SCALE |
| CB CONCRETE BLOCK | OHE OVERHEAD ELECTRIC |
| CLF CHAIN LINK FENCE | PCP PERMANENT CONTROL POINT |
| CM CONCRETE MONUMENT | P PLAT |
| CONC CONCRETE | REC RECOVER |
| D/W DRIVEWAY | R/W RIGHT OF WAY |
| FNO FOUND | SW SIDEWALK |
| IP IRON PIPE | IR IRON ROD |

THIS PLAT OF SURVEY IS HEREBY CERTIFIED AS BEING CORRECT AND MEETING THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF LAND SURVEYORS AND MAPPERS, NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OF A FLORIDA LICENSED SURVEYOR.

CLYDE H. RODGERS, R.L.S. #3250

Type of Survey	Date	Remarks
1. BOUNDARY	1-13-03	
2.		
3.		
4.		
5.		

JOB NUMBER 11538 SCALE 1" = 20' DRAWN BY CR CREW HP COUNTY CODE 127 SHEET NO 1 OF 1

STAFF REPORT

City of Ormond Beach Department of Planning

DATE: May 25, 2016

SUBJECT: 554 Riverside Drive, side yard variance

APPLICANT: James S. Morris, P.A., on behalf of Maurice Kaufman,
property owner

FILE NUMBER: 2016-075

PROJECT PLANNER: Steven Spraker, AICP, Senior Planner

INTRODUCTION: This is a request for a side yard variance associated with the construction of a new waterfront single-family house submitted by James S. Morris, P.A., on behalf of Maurice Kaufman, property owner of 554 Riverside Drive. The property at 554 Riverside Drive is zoned as R-1 (Residential Estate) and the applicant is seeking to construct a new single-family house on a vacant lot that would require a side yard variance of 4'. Section 2-12(B)(9)(c) of the Ormond Beach Land Development Code requires a minimum of 8' for the side yard setback. The applicant is requesting a side yard setback along the south property line, abutting 568 Riverside Drive, of 4' requiring a 4' variance to the required setback of 8'.

BACKGROUND: The property is designated as "Low Density Residential" on the City's Future Land Use Map (FLUM) and is zoned R-1 (Residential Estate) on the City's Official Zoning Map. The existing use of the property is consistent with the FLUM designation and zoning district. Below is an aerial of the subject property.

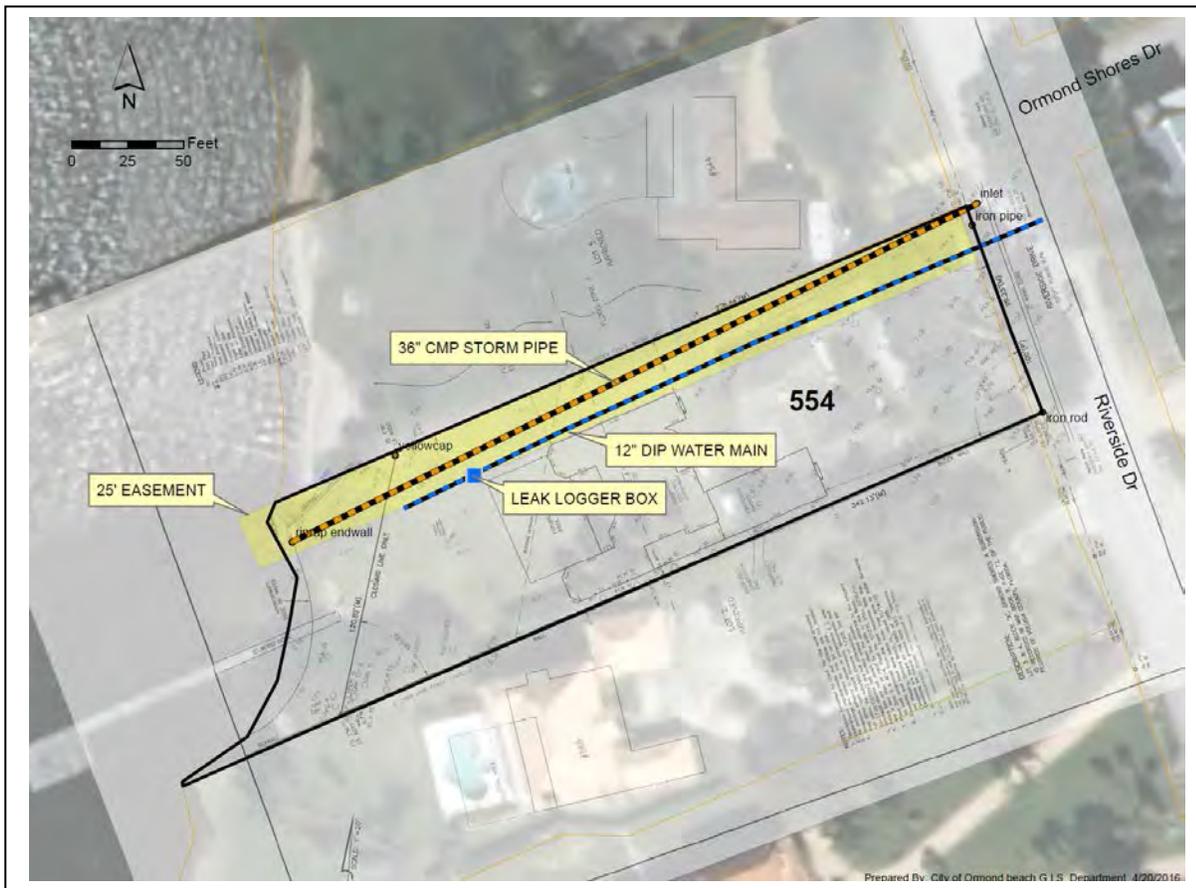
Exhibit 1: Aerial of 554 Riverside Drive



Source: Google maps

The subject property had an existing single-family structure which was demolished to allow construction of a new waterfront single-family structure. There was a building permit application submitted which received multiple comments regarding the placement of the proposed structure. The property is located along the waterfront and the R-1 zoning district which requires a calculated waterfront rear and front yard setback. The property at 554 Riverside Drive is unique based on an existing 25' side yard easement along the north property line that includes a 36" stormwater pipe and a 12" water line. Both the stormwater and water pipes are actively used and provide key utilities to the City's overall utility infrastructure. The applicant was unaware of the 25' side yard easement with the first building permit submittal. Below is an exhibit with the stormwater and water lines shown:

Exhibit 2: 25' easement with stormwater and water lines shown



After the first building permit submittal, the applicant started the redesign of the proposed waterfront single-family house. The calculated waterfront rear yard and front yards were provided and the new re-designed met both the front and rear calculated setbacks. In the re-design of the house, the applicant sought to reduce the side yard setback along the southern property line, abutting 568 Riverside Drive, from the required 8' setback to 4'.

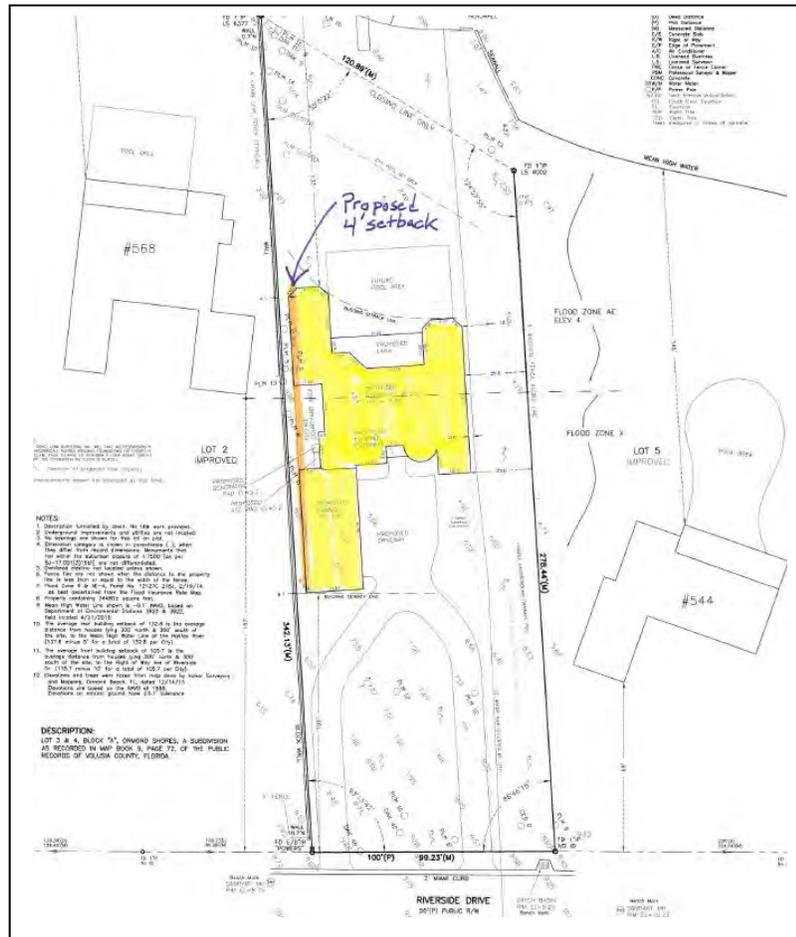
The adjacent land uses and zoning are as follows:

Exhibit 3: Abutting land uses

	Current Land Uses	Future Land Use Designation	Zoning
North	Single-family house	"Low Density Residential"	R-1 (Residential Estate)
South	Single-family house	"Low Density Residential"	R-1 (Residential Estate)
East	Single-family house	"Low Density Residential"	R-1 (Residential Estate)
West	Halifax River	NA	NA

ANALYSIS: The property at 554 Riverside Drive is zoned as R-1 (Residential Estate) and the applicant is seeking to construct a new single-family house on a vacant lot that would require a side yard variance of 4'. Section 2-12(B)(9)(c) of the Ormond Beach Land Development Code requires a minimum of 8' for the side yard setback. The applicant is requesting a side yard setback along the south property line, abutting 568 Riverside Drive, of 4' requiring a 4' variance to the required setback of 8'.

Exhibit 4: Proposed house variance exhibit



The proposed plot plan shows the house located outside the 25' easement and 4' from the southern property line abutting 568 Riverside Drive. The plot plan shows the proposed structure at 554 Riverside Drive is located behind the leading edge of the structure at 568 Riverside Drive based on the lot configurations and the shape of the river. Within the variance application, the applicant has provided a letter to the property owner at 568 Riverside Drive, but there has been no input either for or against the variance provided by either property owner abutting the subject property.

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 subject property is 100' in width and the typical combined side yard setbacks are 20' in width. With the 25' easement plus the required 8' side yard setback, the combined side yard setback is 33' or a 13% increase from the required side yard setbacks. The 25' easement is a special condition that impacts the width of any proposed single-family structure.

Argument against the variance: The width of the lot is 100' and the side yard setbacks with the easement are 33', leaving 67' in width for the waterfront single-family house. While the easement is a special condition or a site constraint, the easement does not prevent the construction of a single-family structure.

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

Argument for the variance: The special condition did not result from the action of the applicant. The property owner was unaware of the easement and has been required to redesign the single-family structure.

Argument against the variance: The easement is not a result of the applicant and is an existing condition. One can argue that reducing the overall width of the single-family structure could reduce or eliminate the need for the variance.

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 literal interpretation of the Land Development Code would restrict the overall width of the single-family structure. The variance is sought along the garage structure of 568 Riverside Drive and would not impact the view corridor of the property at 568 Riverside Drive. Not granting the 4' variance would impact the overall width of the single-family structure. It is important to note that no variances are being sought for the front or rear yards.

Argument against the variance: While the easement does impact the overall width of the single-family structure, the remaining width is adequate to construct the structure.

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 applicant has stated that no reasonable alternative exists and the proposed 4' variance is the minimum variance needed to make reasonable use of the property. The applicant cites the meandering western shoreline and the easement as conditions that do not allow other alternatives.

Argument against the variance: As stated above in previous criteria, reducing the overall width of the single-family structure 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 proposed use is a waterfront single-family structure with a significant investment by the property owner. The request is in harmony with intent of the Land Development Code and will not decrease

property values of abutting properties. The applicant states, without the variance, the home would be out of proportion of the surrounding waterfront residences. A key consideration is the impact of the variance request to abutting property owners. The plot plan shows the proposed garage is well forward (towards Riverside Drive) of the abutting property. The plot plan also shows that the proposed house structure only extends 10' beyond the abutting garage structure. The variance application does not negatively alter the character of abutting properties and would be in scale.

Argument against the variance: Reducing the width of the structure by 4' would not noticeably impact the overall structure mass and would be a reasonable use of the property. It is unclear if either property owner supports or objects to the proposed variance.

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 single-family structure width could reduce or eliminate the need for the requested variance.

RECOMMENDATION:

In the final analysis, there is evidence to deny and approve the requested variance. Additionally, there has been no input provided by the abutting property owners regarding their concerns or if they have no objection to the requested variance. Staff's analysis concludes that the plot plan meets the calculated waterfront rear and front yard setbacks, preserving important view corridors. The requested variance does not appear to impact the abutting property and the impacts are primarily limited to the garage at 568 Riverside Drive. It is recommended that the Board of Adjustment and Appeals grant the requested variance to allow a waterfront single-family house to be located at a 4' setback along the southern property line, abutting 568 Riverside Drive, requiring a 4' variance to the required 8' side yard setback.

Attachments:

Attachment 1: Variance plot plan

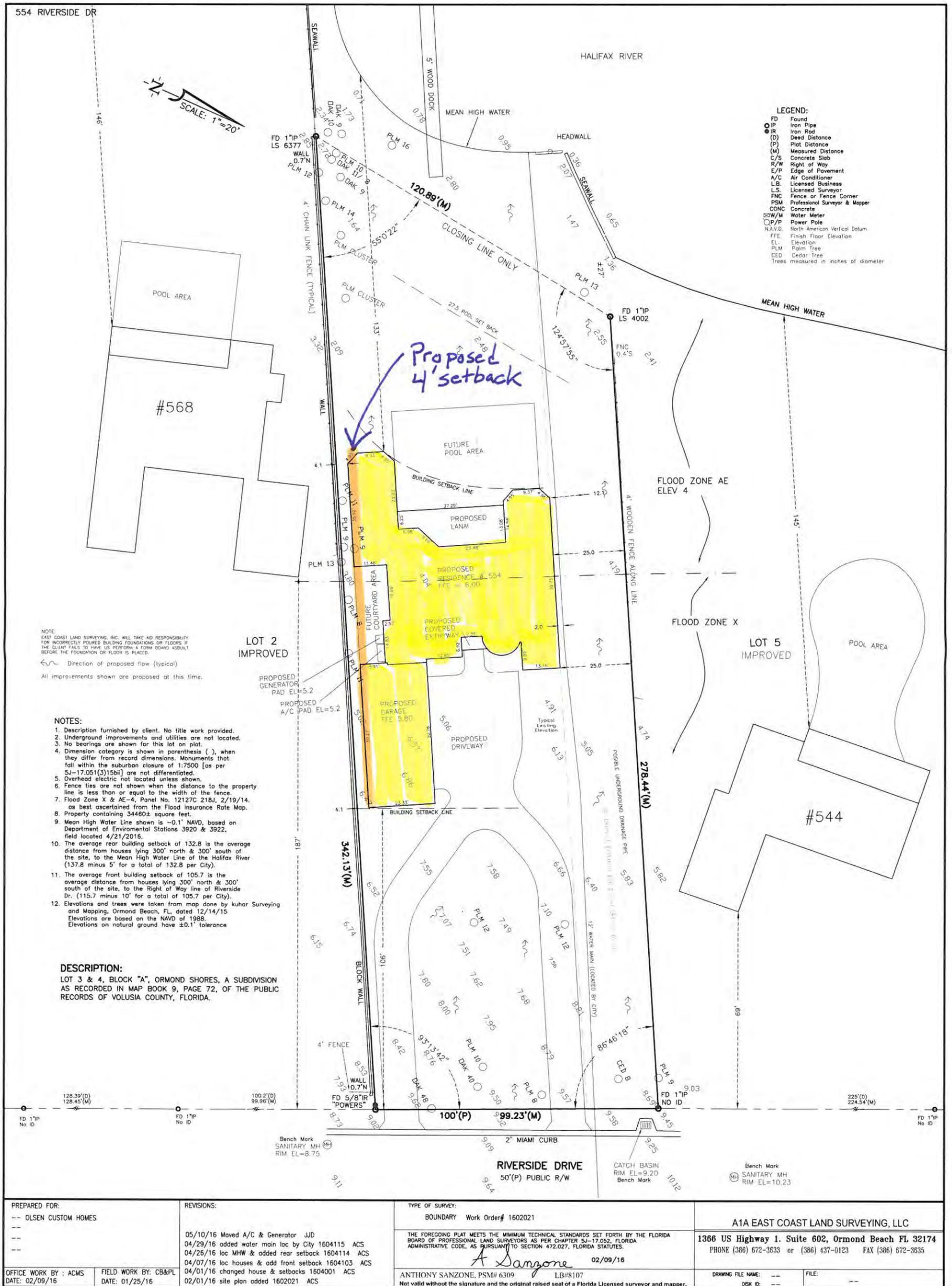
Attachment 2: Maps and pictures

Attachment 3: Application

ATTACHMENT 1

Variance Exhibit

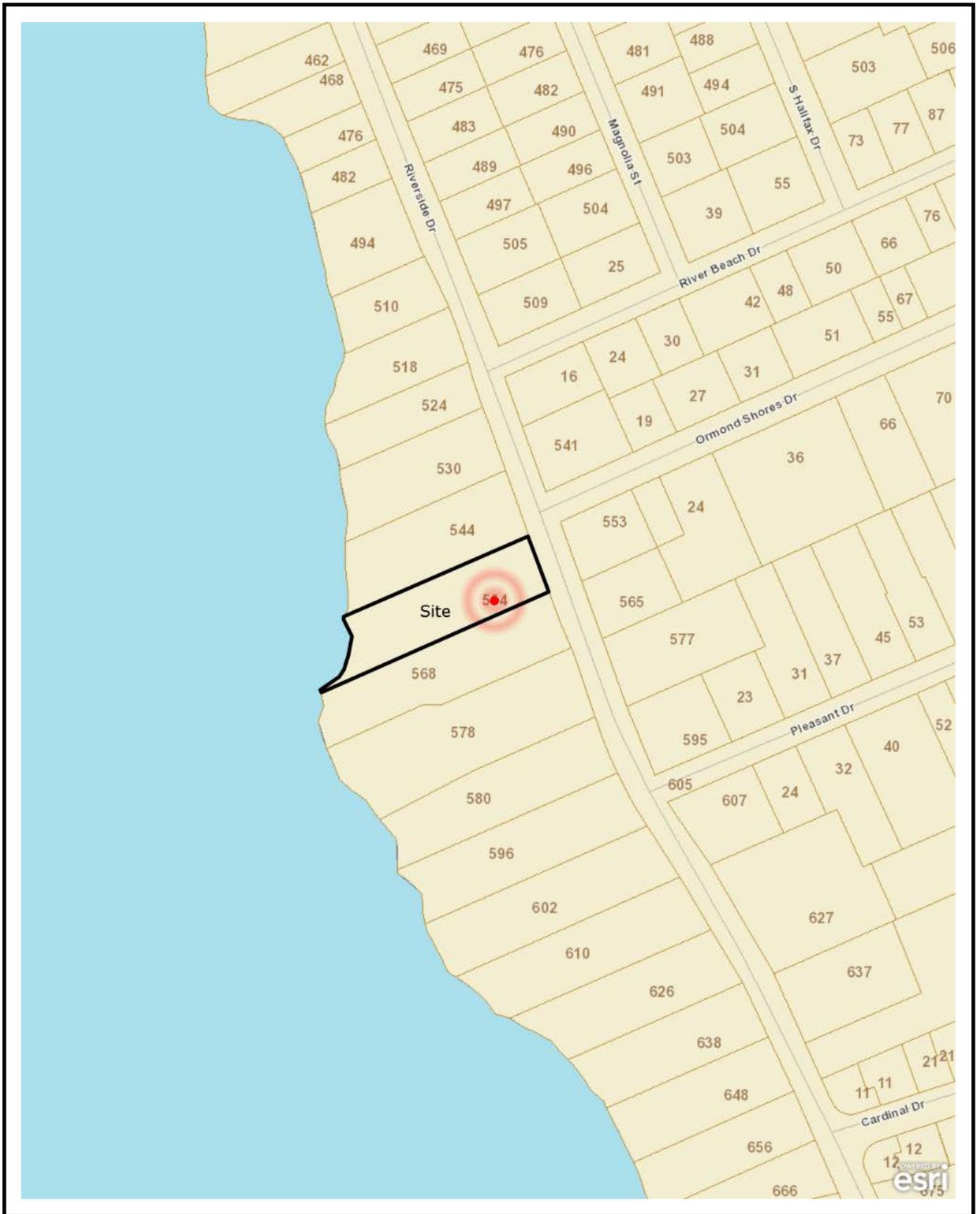
Variance exhibit for 554 Riverside Drive



Required setback = 8'
Proposed setback = 4'
Requested variance = 4'

ATTACHMENT 2

- Maps and pictures



LOCATION MAP
554 Riverside Drive



554 Riverside Drive



01/22/2015







ATTACHMENT 3

Applicant provided
information



CITY OF ORMOND BEACH

v3.2013

Planning Department

22 South Beach Street, Ormond Beach, FL 32174

Tel: (386) 676-3238

www.ormondbeach.org

comdev@ormondbeach.org

VARIANCE - APPLICATION

For Planning Department Use

Application Number

Date Submitted

APPLICATION TYPE AND FEES

	Application	Advertising Deposit for Advisory Board	Advertising Deposit for Commission	Total*
<input checked="" type="checkbox"/> Residential or Commercial	350	350	N/A	700
<input type="checkbox"/> After the Fact Residential or Commercial	700	350	N/A	1050

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

APPLICANT INFORMATION

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

Name James S. Morris, James S. Morris, P.A.

Full Address P.O. Box 291687, Port Orange, FL 32129

Telephone 386-310-8784

Email jim@jamesmorrissa.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 Maurice Kaufman

Full Address 6 Grey Dapple Way, Ormond Beach, FL 32174

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 554 Riverside Drive, Ormond BEach, FL 32176

Parcel ID Number 4223-05-01-0030

Legal Description LOTS 3 &4 BLK A ORMOND SHORES MB 9 PG 72 PER OR 4010 PG 1581 PER OR 7158 PG 429
PER OR 7158 PG 431 PER OR 7165 PG 498

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:

See attachment.

ABUTTING PROPERTY OWNERS

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

Signature	Street Address	For	Against
Christina Papalamoros	565 Riverside Dr., Ormond Beach		
Micheal D. Kohen, L/E	568 Riverside Dr., Ormond Beach	<input type="checkbox"/>	<input type="checkbox"/>
Carl H. & Elizabeth Ann Shoemaker	544 Riverside Dr., Ormond Beach	<input type="checkbox"/>	<input type="checkbox"/>
Brandon & Catherin Runyan	553 Riverside Dr., Ormond Beach	<input type="checkbox"/>	<input type="checkbox"/>
Ricky Ellis	541 Riverside Dr., Ormond Beach		

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:

See attachment.

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

See attachment.

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:

See attachment.

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:

See attachment.

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:

See attachment.

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

See attachment.

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:

See attachment.

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:

See attachment.

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:

N/A

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

N/A

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:

N/A

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:

N/A

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

N/A

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

N/A

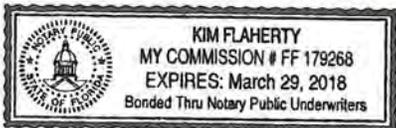
CERTIFICATION

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: *James Morris*

STATE OF FLORIDA
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 3rd day of May, 2016, by James S. Morris as Agent (title*) for Maurice Kaufman (name of corporation*), who provided _____ as identification, or who is personally known to me.



K Flaherty
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.

REQUEST:

The Land Development Code (LDC) requires total (cumulative) side yard setbacks of twenty (20') feet and a minimum of eight (8') feet; accordingly, if one setback is eight (8') feet, the LDC requires the other setback to be twelve (12') feet or more. Even with the variance proposed below for the subject property, total setbacks will be twenty-nine (29') feet.

The variance requested is to allow a minimum four (4') foot southern side yard setback in lieu of the code required minimum side yard setback of eight (8') feet. The attached site plan illustrates the area proposed by the request. The applicant's intention is that the adjustment in setback allowed by the proposed variance will be only as needed to build the attached residential foot print. As shown, the majority of the proposed residence will be much more than four (4') feet from the southern lot line.

The applicant will take steps to buffer the variance area to minimize the visual impact of the variance.

CRITERIA: CONFORMING

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

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

The property is a 100' wide lot located on the east shore of the Halifax River at a north/south point where the shoreline dramatically changes. South of the property, the shore projects further west than the subject property. North of the subject property, the shore tapers further east. The variation of the shoreline impacts the east/west area of the subject property available to support new home construction. The variation of the shoreline's westward projections in the area of the subject property, together with City required waterfront and front yard (street side) minimum setbacks, in part create a hardship on the property. These circumstances combined with the additional fact that the property (due to a title insurance omission unknown to the owner at the time of his August 24, 2015, purchase of the property) is encumbered by a twenty-five (25') wide City easement along the entire north border of the property. The area shoreline variation combined with the loss of buildable land to the easement creates a severe hardship on the property and makes it difficult to use for any residential purpose. See City public works map attached as Exhibit A for an illustration of the area shoreline and the existence of the easement and pipes located thereon.

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

They do not. The meandering western shoreline edge is a natural occurrence. The current City zoning regulations regarding waterfront and riverfront setbacks were not in effect when the previous home located on the property was built by its prior owners in the early 1960's (the former home was demolished before the current issues were discovered). The current zoning mandates a building area that limits the east/west area of the lot available to build a home.

The loss of the twenty-five (25') foot strip of property along the entire north side of the lot reduces the applicant's available lot width by 25% and leaves only 75 feet of the lot width (before side yard setbacks) to support a waterfront home. The limited available east/west area, the omission of the title insurer to notify of the easement and the applicant's inability before purchase of the property to know about the easement and pipes located therein are all factors of hardship that are not the fault or action of the applicant.

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

It will. Please see 1 and 2 above.

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:

No practical alternative exists. But for the conditions cited above, the applicant would not need a 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:

It is not. The proposed use is a single family home. Prior to the discovery of the easements, the property owner had designed a home for the lot that did not require any variances.

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

It will not. The proposed use is a single family home. The former use was a single family home.

- 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 request is in harmony with the intent of the Code to protect property values. The variance will not diminish area property values or alter the essential character of the area. Without the variance, the home would be out of proportion (smaller and less significant) in consideration of its riverfront lot and out of scale with other nearby waterfront residences. These conditions would reflect negatively on the area. The area of the adjacent single family homes to the south will, due to location of the new home and landscaping as well as the configuration of the home to the immediate south (see Exhibit B), be minimally impacted by a four (4') foot setback from its north side yard.

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

It will not. The owner of the lot finds himself in an awkward situation that only a variance will cure. Variances are necessary to allow a home of appropriate scale and value in comparison to the immediate neighborhood around the subject property.



554

36" CMP STORM PIPE

12" DIP WATER MAIN

LEAK LOGGER BOX

25' EASEMENT

Ormond Shores Dr

Riverside Dr

JAMES S. MORRIS
ATTORNEY AND COUNSELOR AT LAW

May 3, 2016

Dr. Michael D. Kohen
568 Riverside Drive
Ormond Beach, FL 32176

***Re: 554 Riverside Drive, Ormond Beach, Florida
Variance Request***

Dear Dr. Kohen,

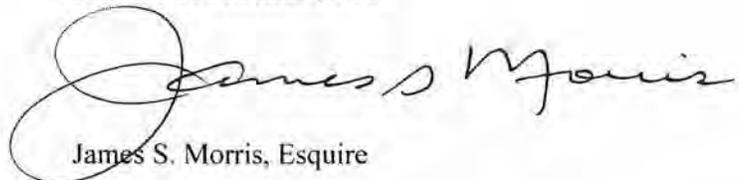
I represent Dr. Maurice Kaufman. Dr. Kaufman bought the residential lot immediately north of your home. After closing, Dr. Kaufman discovered that the title insurance company failed to list and advise of a twenty-five (25') foot wide easement encumbering the north edge of the Kaufman property. Due to the easement, Dr. Kaufman will not be able to build on the twenty-five (25') feet of property consumed by the referenced easement. Prior to purchase, Dr. Kaufman already had a home designed (without consideration of the easement) to fit onto the lot. Now, with the easement and the attendant troubles it brings, Dr. Kaufman is in the unfortunate position of requesting a southern side yard setback variance from the City of Ormond Beach.

City code requires an eight (8') foot side yard setback. Dr. Kaufman, as illustrated on the attached site plan, proposes a four (4') foot setback for only a small part of his home's south side. The area of the variance will be adjacent to the northern edge of your northern garage.

If you would be so kind as to permit myself and the builder, Eric Olsen, the opportunity to meet with you to discuss the Kaufman plan, it would very much be appreciated. In regard to the time and location to meet, I will work with your schedule to make it as convenient for you as possible. While I do not wish to invade your privacy, if a meeting at your home or office is a more comfortable location for you to meet with us, I do not mind coming to your house or your office to meet. Please let me know if you are willing to sit down at a place of your choosing for a few minutes and discuss this matter. Just let me know your preference as to date, time and place.

Best regards,

JAMES S. MORRIS, P.A.



James S. Morris, Esquire

JSM/kf

JAMES S. MORRIS, P.A. ♦ POST OFFICE BOX 291687 ♦ PORT ORANGE, FL 32129-1687
750 OAK HEIGHTS COURT, UNIT 304 ♦ PORT ORANGE, FL 32127
386-310-8784 ♦ 386-310-8783, FAX ♦ JJM@JAMESMORRISP.A.COM

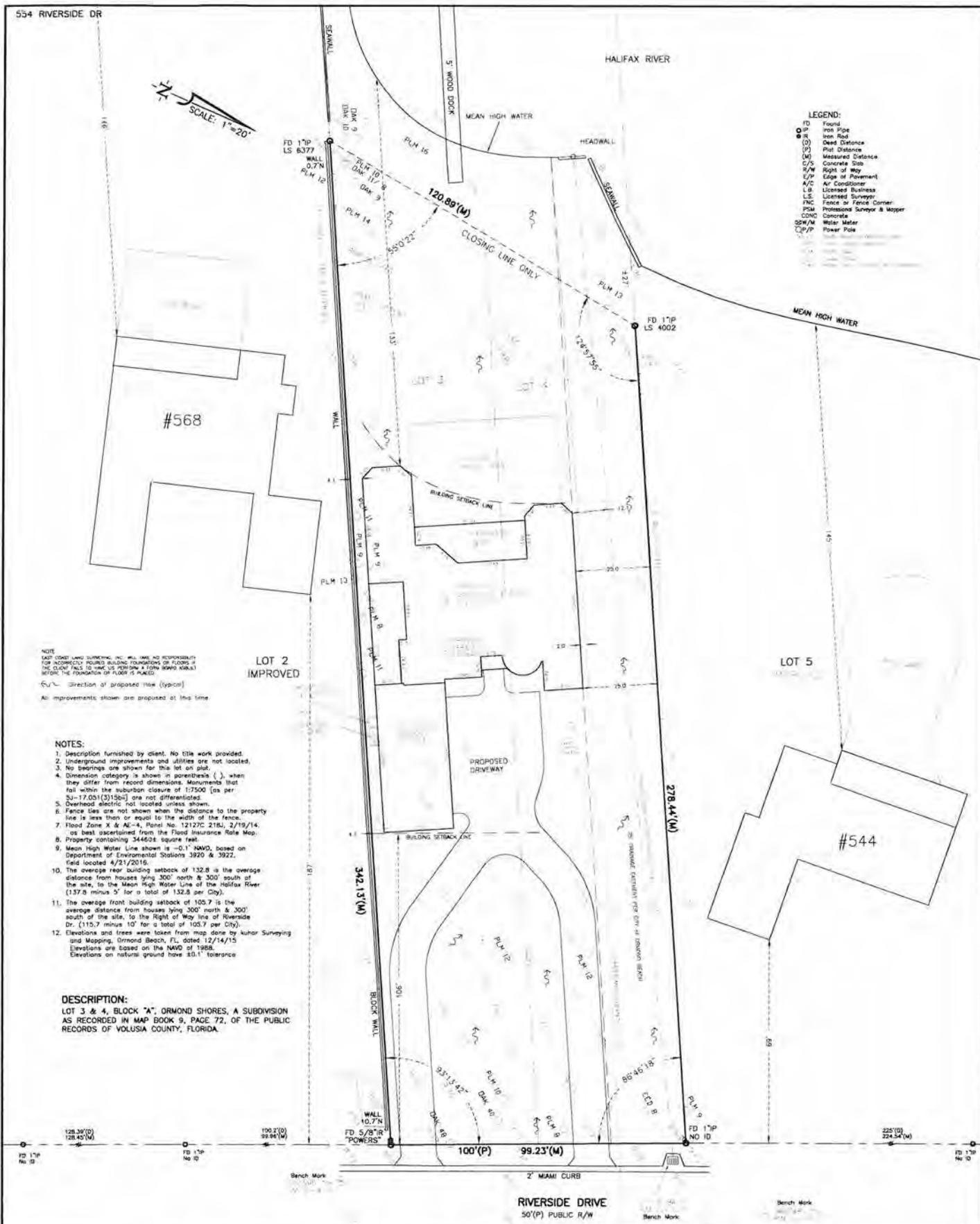


- LEGEND:**
- FD Found
 - IP Iron Pipe
 - R Iron Rod
 - (D) Dead Distance
 - (P) Plot Distance
 - (M) Measured Distance
 - C/S Concrete Strip
 - R/W Right of Way
 - L/P Edge of Pavement
 - A/C Air Conditioner
 - L.B. Licensed Business
 - L.S. Licensed Surveyor
 - FNC Fence or Fence Corner
 - PSM Professional Surveyor & Mapper
 - CONC Concrete
 - SW/M Water Meter
 - CP/P Power Pole

NOTE:
 EAST COAST LAND SURVEYING, INC. WILL HAVE NO RESPONSIBILITY FOR INADEQUATELY LOCATED BUILDING FOUNDATIONS OR FLOORS IF THE CLIENT FAILS TO HAVE US PERFORM A FOUNDATION MONITORING BEFORE THE FOUNDATION FOR FLOORS IS Poured.
 SW Direction of proposed flow (typical)
 All improvements shown are proposed at this time

- NOTES:**
1. Description furnished by client. No title work provided.
 2. Underground improvements and utilities are not located.
 3. No bearings are shown for this lot on plat.
 4. Dimension category is shown in parenthesis (), when they differ from record dimensions. Measurements that fall within the subdivision closure of 1:7500 [as per 30-17.05(3)(15b)] are not differentiated.
 5. Overhead electric not located unless shown.
 6. Fence ties are not shown when the distance to the property line is less than or equal to the width of the fence.
 7. Flood Zone X & AE-4, Panel No. 12127C 218U, 2/19/14, as best ascertained from the Flood Insurance Rate Map.
 8. Property containing 344604 square feet.
 9. Mean High Water Line shown is -0.1' NAVD, based on Department of Environmental Stations 3920 & 3922, field located 4/21/2016.
 10. The average rear building setback of 132.8 is the average distance from houses lying 300' north & 300' south of the site, to the Mean High Water Line of the Halifax River (137.9 minus 5' for a total of 132.8 per City).
 11. The average front building setback of 105.7 is the average distance from houses lying 300' north & 300' south of the site, to the Right of Way line of Riverside Dr. (115.7 minus 10' for a total of 105.7 per City).
 12. Elevations and trees were taken from map done by Kuhar Surveying and Mapping, Ormond Beach, FL, dated 12/14/15. Elevations are based on the NAVD of 1988. Elevations on natural ground have ±0.1' tolerance.

DESCRIPTION:
 LOT 3 & 4, BLOCK "A", ORMOND SHORES, A SUBDIVISION AS RECORDED IN MAP BOOK 9, PAGE 72, OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.



<p>PREPARED FOR: OLSEN CUSTOM HOMES</p>	<p>REVISIONS:</p> <ul style="list-style-type: none"> 04/29/18 added water main loc by City 1604114 ACS 04/26/18 loc MHW & 65546 rear setback 1604114 ACS 04/07/16 add front setback 1604103 ACS 04/01/16 changed house & setbacks 1604001 ACS 02/01/16 site plan added 1602021 ACS 	<p>TYPE OF SURVEY: BOUNDARY Work Order# 1602021</p> <p>THE FOREGOING PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 54-17.002, FLORIDA ADMINISTRATIVE CODE, AS AMENDED TO SECTION 472.027, FLORIDA STATUTES.</p> <p><i>Anthony Sanzone</i> 02/09/16</p> <p>ANTHONY SANZONE PSM #1039 11898107 Not valid without the signature and the original raised seal of a Florida Licensed surveyor and mapper.</p>	<p>A1A EAST COAST LAND SURVEYING, LLC 1366 US Highway 1, Suite 602, Ormond Beach FL 32174 PHONE (386) 672-9551 or (386) 637-0121 FAX (386) 672-1635</p> <p>DRAWING FILE NAME: FILE: DSK ID: FILE:</p>
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Google earth

feet
meters





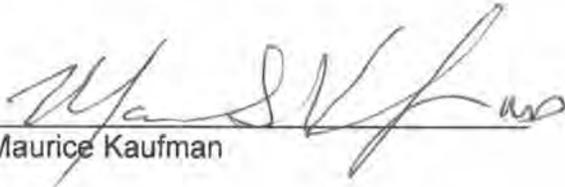
Google earth

feet
meters



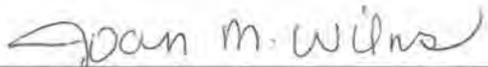
NOTARIZED AUTHORIZATION OF OWNER

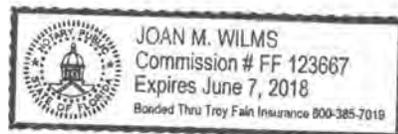
I, Maurice Kaufman, as the sole fee simple title holder of the property described as:
554 riverside Drive, Ormond Beach, Florida authorize James S. Morris, P.A. to
act as my agent in making application(s) relating to a variance request at the above
referenced property.


Maurice Kaufman

STATE OF FLORIDA
COUNTY OF VOLUSIA

The foregoing instrument was acknowledged before me this 4th day of May, 2016, by Maurice Kaufman, who [] are personally known to me or [] have produced Driver's Licenses as identification.


NOTARY PUBLIC
Joan M. Wilms
NAME OF NOTARY - TYPED OR PRINTED
COMMISSION # FF 123667

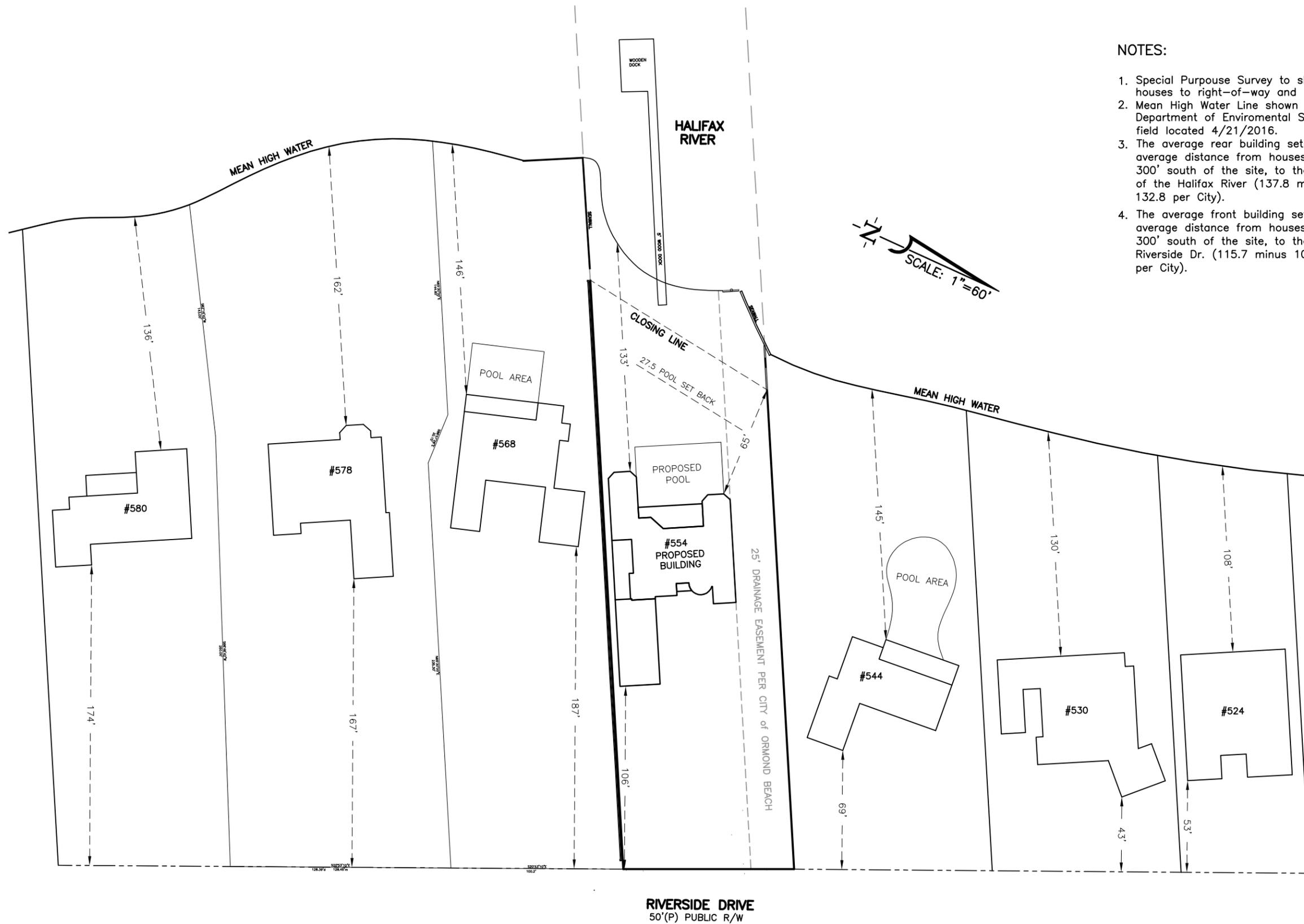




Google earth

feet
meters





- NOTES:
1. Special Purpose Survey to show relationship of houses to right-of-way and mean high water line.
 2. Mean High Water Line shown is -0.1' NAVD, based on Department of Environmental Stations 3920 & 3922, field located 4/21/2016.
 3. The average rear building setback of 132.8 is the average distance from houses lying 300' north & 300' south of the site, to the Mean High Water Line of the Halifax River (137.8 minus 5' for a total of 132.8 per City).
 4. The average front building setback of 105.7 is the average distance from houses lying 300' north & 300' south of the site, to the Right of Way line of Riverside Dr. (115.7 minus 10' for a total of 105.7 per City).

TYPE SURVEY: DATE FIELD-OFFICE WORK ORDER# BY:
Special 04/21/16 04/26/16 1604103 ACMS
Purpose

OFFICE WORK BY : ACMS
 FIELD WORK BY : SF&MF

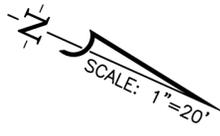
PREPARED FOR:
 -- OLSEN CUSTOM HOMES
 --
 --

THE FOREGOING PLAT IS CERTIFIED TO MEET THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 5J-17.052, FLORIDA ADMINISTRATIVE CODE, AS PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

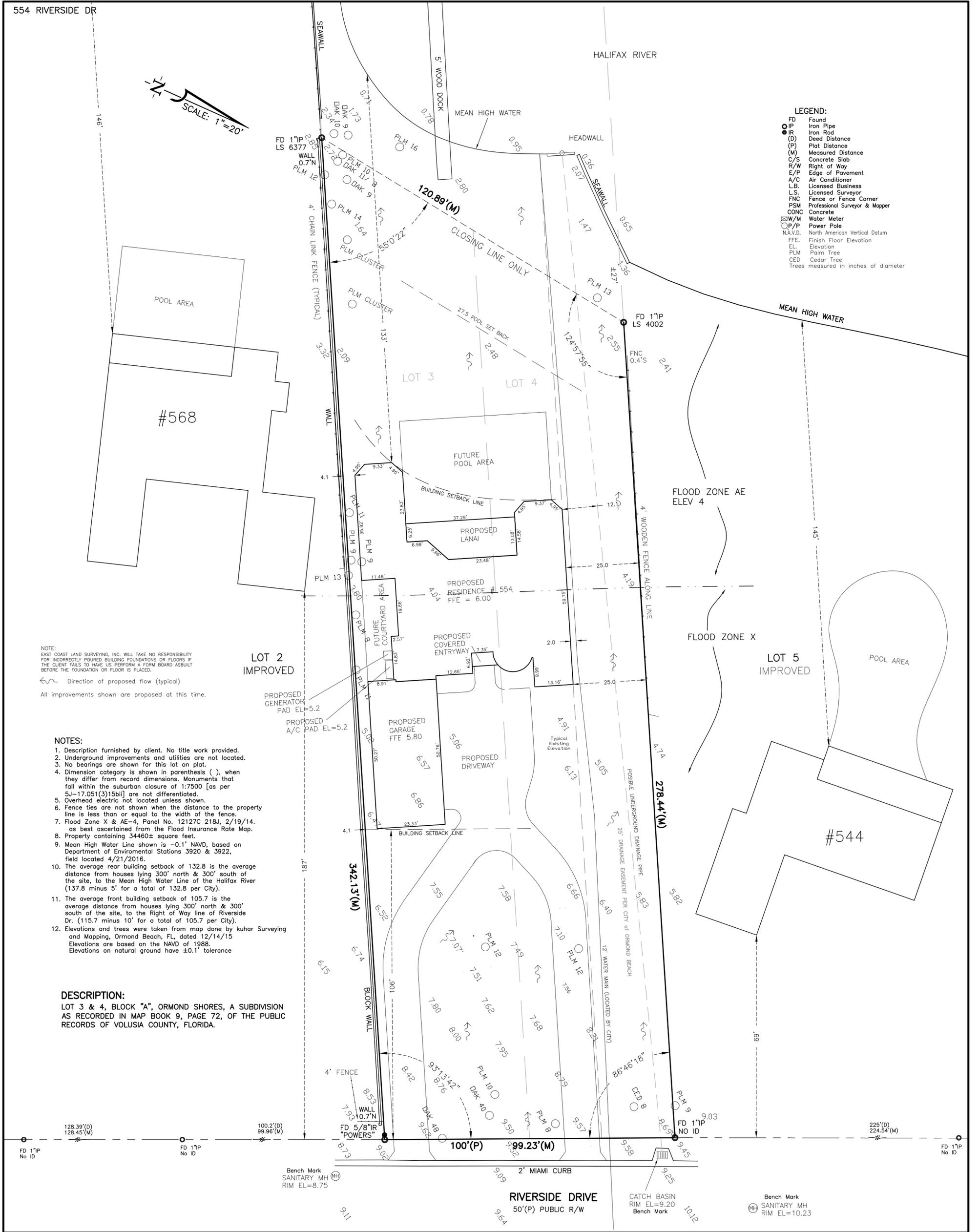
A Sanzone 04/26/16
 ANTHONY SANZONE, PSM# 6309 LB#8107
 Not valid without the signature and the original raised seal of a Florida Licensed surveyor and mapper.

A1A EAST COAST LAND SURVEYING, LLC
 1366 N US Highway 1, Suite 602, Ormond Beach FL 32174
 PHONE (386) 672-3633 FAX (386) 672-3635

554 RIVERSIDE DR



- LEGEND:**
- FD Found
 - IP Iron Pipe
 - IR Iron Rod
 - (D) Deed Distance
 - (P) Plot Distance
 - (M) Measured Distance
 - C/S Concrete Slab
 - R/W Right of Way
 - E/P Edge of Pavement
 - A/C Air Conditioner
 - L.B. Licensed Business
 - L.S. Licensed Surveyor
 - FNC Fence or Fence Corner
 - PSM Professional Surveyor & Mapper
 - CONC Concrete
 - W/M Water Meter
 - P/P Power Pole
 - NAVD. North American Vertical Datum
 - FFE. Finish Floor Elevation
 - EL Elevation
 - PLM Palm Tree
 - CED Cedar Tree
 - Trees measured in inches of diameter



NOTE:
EAST COAST LAND SURVEYING, INC. WILL TAKE NO RESPONSIBILITY FOR INCORRECTLY POURED BUILDING FOUNDATIONS OR FLOORS IF THE CLIENT FAILS TO HAVE US PERFORM A FORM BOARD ASBUILT BEFORE THE FOUNDATION OR FLOOR IS PLACED.

Direction of proposed flow (typical)
All improvements shown are proposed at this time.

NOTES:

1. Description furnished by client. No title work provided.
2. Underground improvements and utilities are not located.
3. No bearings are shown for this lot on plat.
4. Dimension category is shown in parenthesis (), when they differ from record dimensions. Monuments that fall within the suburban closure of 1:7500 [as per 5J-17.051(3)15bii] are not differentiated.
5. Overhead electric not located unless shown.
6. Fence ties are not shown when the distance to the property line is less than or equal to the width of the fence.
7. Flood Zone X & AE-4, Panel No. 12127C 218J, 2/19/14, as best ascertained from the Flood Insurance Rate Map.
8. Property containing 34460± square feet.
9. Mean High Water Line shown is -0.1' NAVD, based on Department of Environmental Stations 3920 & 3922, field located 4/21/2016.
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DESCRIPTION:

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<p>PREPARED FOR: -- OLSEN CUSTOM HOMES</p>	<p>REVISIONS: 05/10/16 Moved A/C & Generator JJD 04/29/16 added water main loc by City 1604115 ACS 04/26/16 loc MHW & added rear setback 1604114 ACS 04/07/16 loc houses & add front setback 1604103 ACS 04/01/16 changed house & setbacks 1604001 ACS 02/01/16 site plan added 1602021 ACS</p>	<p>TYPE OF SURVEY: BOUNDARY Work Order# 1602021</p> <p>THE FOREGOING PLAT MEETS THE MINIMUM TECHNICAL STANDARDS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS AS PER CHAPTER 5J-17.052, FLORIDA ADMINISTRATIVE CODE, AS PURSUANT TO SECTION 472.027, FLORIDA STATUTES.</p> <p><i>Anthony Sanzone</i> 02/09/16</p> <p>ANTHONY SANZONE, PSM# 6309 LB#8107 Not valid without the signature and the original raised seal of a Florida Licensed surveyor and mapper.</p>	<p>A1A EAST COAST LAND SURVEYING, LLC</p> <p>1366 US Highway 1, Suite 602, Ormond Beach FL 32174 PHONE (386) 672-3633 or (386) 437-0123 FAX (386) 672-3635</p> <p>DRAWING FILE NAME: -- FILE: -- DISK ID: --</p>
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