



# AGENDA

## ORMOND BEACH BOARD OF ADJUSTMENT AND APPEALS

December 7, 2016

**ORMOND BEACH CITY COMMISSION CHAMBERS**

**7:00 P.M.**

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**I. ROLL CALL**

**II. APPROVAL OF THE MINUTES**

A. November 2, 2016

**III. NEW BUSINESS**

**A. Case 2017-009: 8C Oriole Circle, Side Yard Variance**

This is a request for a side yard variance submitted by Robert Baillargeon, property owner, for a variance at 8C Oriole Circle to reconstruct a screen enclosure that was destroyed during hurricane Matthew. The variance request seeks to re-construct the structure as it existed prior to the hurricane. The property at 8C Oriole Circle is zoned R-4 (Single-Family Cluster and Townhouse). Section 2-17(B)(9)(c) of the Land Development Code requires a 20' side yard setback. The applicant is requesting a side yard setback of 7.57' to re-construct the destroyed screen room, requiring a variance of 12.43' to the required 20' side yard setback.

**IV. OTHER BUSINESS**

**V. ADJOURNMENT**

**MINUTES**  
**BOARD OF ADJUSTMENT**

**November 2, 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, Vice Chair  
Tony Perricelli  
Stan Driscoll (Alternate)  
Dennis McNamara, Chairman  
Norman Lane (excused)

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

**II. APPROVAL OF THE MINUTES**

**A. October 5, 2016 Minutes**

**Mr. Hundredmark moved to approve the October 5, 2016 Minutes as submitted. Mr. Driscoll seconded the motion. Vote was called, and the motion was approved, with Mr. Perricelli abstaining.**

**III. NEW BUSINESS**

**A. Case No. 2017-3: 1 Tomoka View Drive, Dock, Side Riparian Line Variance**

Ms. Becky Weedo, Senior Planner, City of Ormond Beach stated that this is a variance request from John and Jennifer Miller, 1 Tomoka View Drive, for a variance of 12' to the required 25' in order to replace a dock and add a boathouse. The proposed boathouse and dock are to be located a little further north and west of the old dock. The main reason for the request is due to the City owned culvert that is located on the east side of the property, which is causing heavy siltation and creating shallow water depths. A setback of 13' from the western riparian line allows adequate depth for the proposed dock and boathouse in all tide conditions.

Ms. Weedo explained that when the subdivision was developed, the homes were built on high bluffs, and the docks were placed closer to the riparian lines to maximize river views. Adjacent neighbors' docks appear to have similar setbacks. River views are not impeded by the docks built closer than 25' to the riparian line. Ms. Weedo explained the location, orientation, and characteristics of the subject property and presented the staff report. Ms. Weedo stated that staff is recommending approval.

Mr. Driscoll stated that a lot of people want to regulate the waterways, and he wanted to know if this is required to conform to the County's manatee protection plan. Ms. Weedo stated that there is a manatee fee that the applicant is required to pay, so it is regulated by the County's manatee plan.

Mr. Driscoll stated that he saw on the drawings that the boathouse in itself is larger than the square footage allowed by code. Ms. Weedo stated that actually it is not. The city allows 500 sq. ft. for the boathouse, up to 6' for the walkways, and 180 sq. ft. for a terminal platform. Mr. Driscoll stated that it is his understanding that any coverage of the waterway cannot exceed 500 sq. ft. which would include the dock going out to the boathouse. Ms. Weedo stated that what is allowed by code is the 500 sq. ft. for the boathouse, with a maximum of 18' in height, and if it's not in an aquatic preserve, the terminal platform can be up to 180 sq. ft. which is in addition to the 500 sq. ft. boathouse. If it is located in an aquatic preserve, the terminal platform cannot exceed 160 sq. ft. The walkway is in addition to the boathouse square footage. There was an amendment to the code for boathouse square footage related to docks for consistency with the DEP permitting process. No permit or written authorization is needed from DEP if the dock project is eligible for Consent by Rule.

Mr. Driscoll stated that if the Board grants this variance, the applicants still have to pull a permit to build the boathouse and dock, and the permit has to be in compliance with the Land Use and Development Code. Ms. Weedo stated that is correct. Mr. Driscoll complemented the applicants for pointing out in their submission, that up and down the river there are non-conforming issues. Mr. Driscoll has been on the river for over 25 years, and there are completely enclosed boathouses, multi-story boathouses, and he hopes the City does a better job enforcing codes along the river, because it is not a drainage ditch. That is why he has asked the questions he has; to be sure everything is being done correctly.

**Following discussion, Mr. Perricelli 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).**

#### **IV. OTHER BUSINESS**

None.

#### **V. ADJOURNMENT**

As there was no other business, the meeting was adjourned at 7:10 p.m.

Respectfully submitted,

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Becky Weedo, AICP, Senior Planner

ATTEST:

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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:** November 30, 2016

**SUBJECT:** 8C Oriole Circle

**APPLICANT:** Robert Baillargeon, property owner

**FILE NUMBER:** VAR 2017-009

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

### **INTRODUCTION:**

This is a request for a side yard variance submitted by Robert Baillargeon, property owner, for a variance at 8C Oriole Circle to reconstruct a screen enclosure that was destroyed during hurricane Matthew. The variance request seeks to re-construct the structure as it existed prior to the hurricane. The property at 8C Oriole Circle is zoned R-4 (Single-Family Cluster and Townhouse). Section 2-17(B)(9)(c) of the Land Development Code requires a 20' side yard setback. The applicant is requesting a side yard setback of 7.57' to re-construct the destroyed screen room, requiring a variance of 12.43' to the required 20' side yard setback.

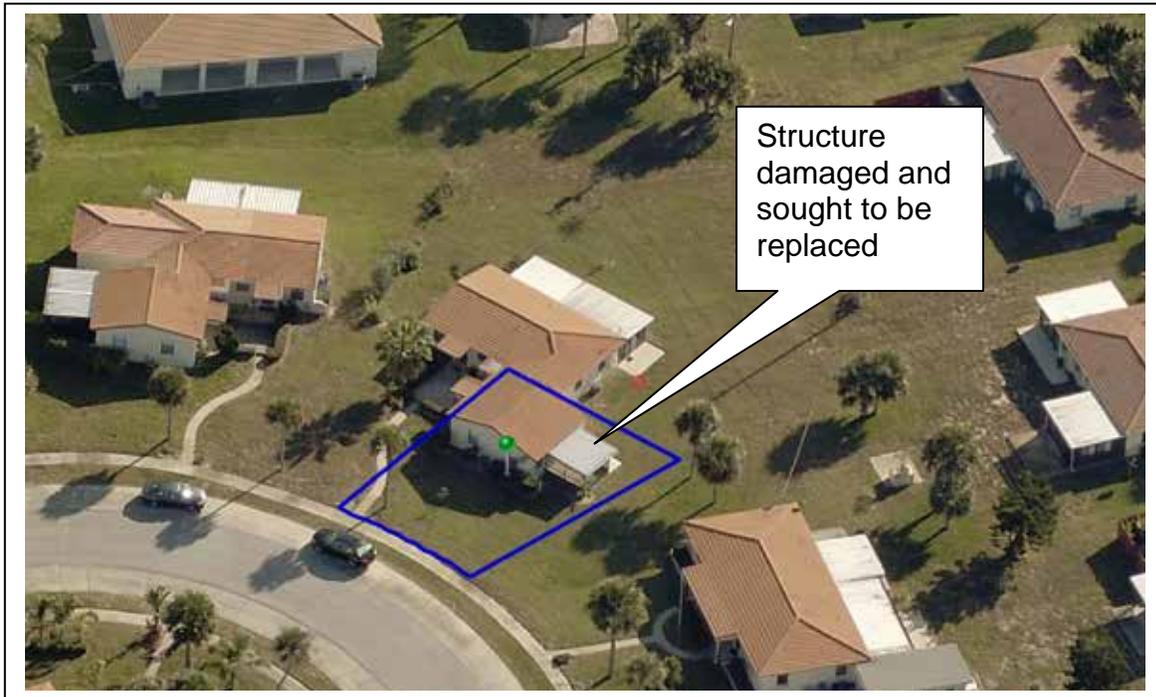
### **BACKGROUND:**

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

### **EXHIBIT 1: Adjacent land uses and zoning:**

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

**EXHIBIT 2: Site Aerial**



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

**EXHIBIT 3: Existing site photograph**



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

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

### **ANALYSIS:**

The subject property is part of a three unit triplex. Unit C faces Oriole Circle and is located closest to the street. There is a common area immediately east of unit 8C. There is a 10' by 10' common area located where units A and B adjoin. Units B and unit A are located to the south and southeast of Unit C. The Volusia County Property Appraiser shows that the building at 8C Oriole Circle has 504 square feet of living area. The screen room under the variance review is shown on the site survey, by the Property Appraiser's website, and photographs prior to the hurricane.

### **CONCLUSION:**

Chapter 1, Article II, Section 1-16.D.2, of the Land Development Code states, "The Board of Adjustment and Appeals shall first determine whether the need for the proposed variance arises out of the physical surroundings, shape, topographical condition, or other physical or environmental conditions that are unique to the specific property involved and are not the result of the actions of the applicant. If the basis for the request is the unique quality of the site, the Board shall make the following required findings based on the granting of the variance for that site alone. If, however, the condition is common to numerous sites so that requests for similar variances are likely to be received, the Board shall base its findings on the cumulative effect of granting the variance to all who may apply."

### **SIDE YARD SETBACK**

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

Argument for the variance: The R-4 zoning classification requires a minimum lot area of 15,000 square feet for triplexes. The property for all three units is approximately 13,158 square feet and is 16,468 square feet if the common area

for 8 Oriole Circle is included. The total lot area meets the minimum for the R-4 zoning district.

Argument against the variance: None, the total area for 8 Oriole Circle meets the minimum lot area for the zoning district.

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

Argument for the variance: There is no other practical alternative for the reconstruction of the screen room at 8C Oriole Circle. The existing principal building is shown at a setback of 22.33' on the survey and there is insufficient setback to allow a screen room without the variance. The existing building configuration and the R-4 zoning district dimensions limit the ability to expand and meet the required setbacks. The property owner is only seeking to reconstruct the screen room in the exact same location with the exact same dimensions.

Argument against the variance: None. Given the established lot lines, there is no ability to add addition building square footage without a variance.

- 3. The proposed expansion will be consistent with the use of the structure and surrounding structures, given that the use is permitted by right, conditional use or Special Exception in the zoning district within which the structure is located.**

Argument for the variance: The existing triplex residential use is a permitted use in the R-4 zoning district and is consistent with the purpose of this zoning district. The Ocean Village Villas development has had a long history with zoning setbacks that do not reflect the existing developed structures within the project.

Argument against the variance: None.

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

Argument for the variance: The proposed screen room is located in the exact same footprint as existed prior to the hurricane and will not block any view corridors.

Argument against the variance: None.

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

Argument for the variance: The request is in scale with the adjacent structures and will be a one-story structure. The screen room that is sought for reconstruction has existed for a number of years and is consistent with the built environment of the Ocean Village Villas development.

Argument against the variance: None.

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

Argument for the variance: The proposed re-constructed screen room will not impact adjacent properties by limiting view or increasing light or noise.

Argument against the variance: None.

**RECOMMENDATION:** City Planning staff has, over time, indicated an acknowledgment that the R-4 zoning district setbacks are mis-applied to the Ocean Village Villas development and the Development Order should be amended. Beginning in 2000, the City Planning Director stated a willingness to amend the project setbacks. Staff believes that the variance allows the property owner to re-establish the screen room as existed prior to hurricane Matthew.

It is recommended that the Board of Adjustments and Appeals **APPROVE** the re-construction of a screen room in the exact same footprint as existed prior to hurricane Matthew. The property at 8C Oriole Circle is zoned R-4 (Single-Family Cluster and Townhouse) and Section 2-17(B)(9)(c) of the Land Development Code requires a 20' side yard setback. It is recommended that side yard setback of 7.57' to re-construct a screen room be approved, requiring a variance of 12.43' to the required 20' side yard setback.

# **ATTACHMENT 1**

Variance Exhibit

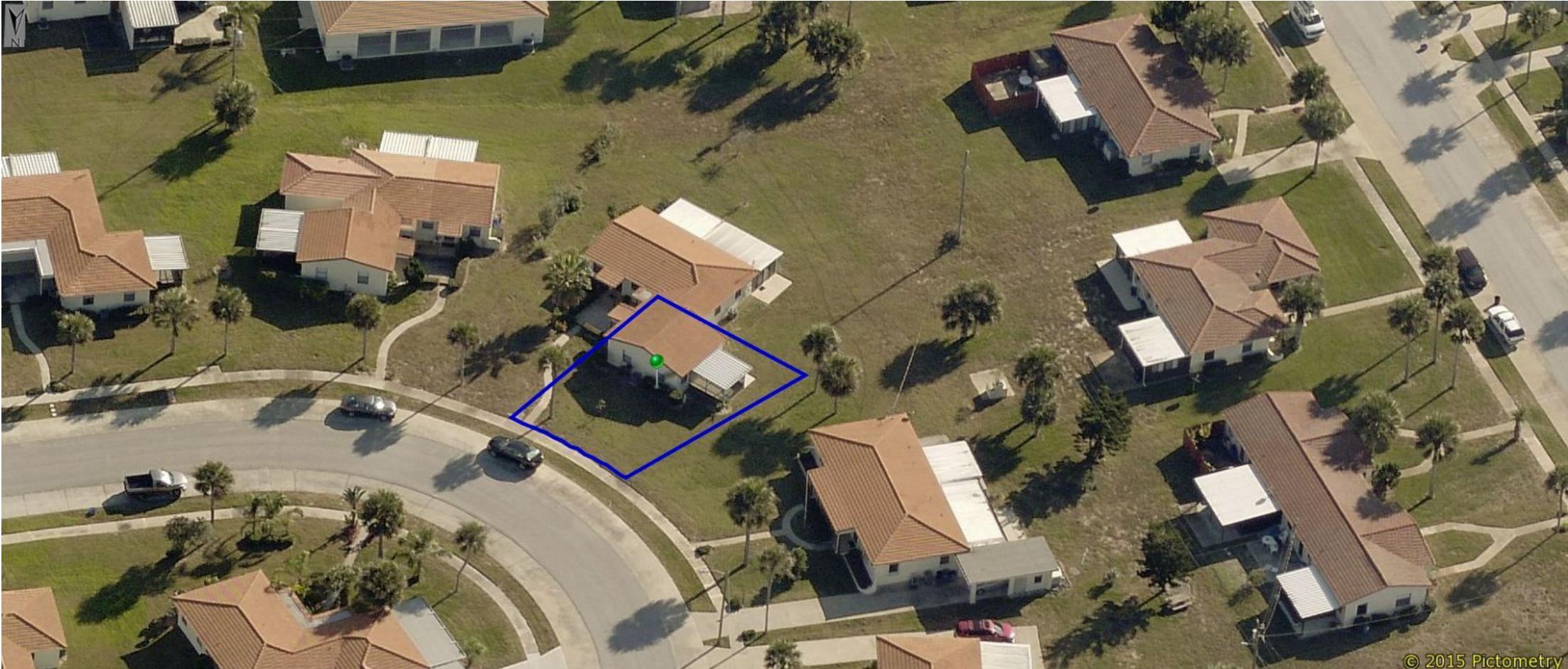


# **ATTACHMENT 2**

- Maps and pictures



# 8C Oriole Circle



© 2015 Pictometry

Picture of existing screen enclosure sought to be re-constructed



Source: Google maps

Aerial picture of existing screen enclosure sought to be re-constructed



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

Screen enclosure  
that was destroyed  
and sought to be  
re-constructed





**Photograph of the area between 8C Oriole Circle and 6A Oriole Circle**

Front of 8 Oriole Circle



# **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

10/24/2016

**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

Robert Baillargeon

Full Address

14 Princess Circle Ormond Beach, Fl. 32174

Telephone

386-212-2064

Email

rbailargeon@gmail.com

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

**PROPERTY OWNER INFORMATION\*\*\***

Name

Same.

Full Address

8C Oriole Circle Ormond Beach, Fl. 32176

Telephone

386-212-2064

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

8C Oriole Circle Ormond Beach, Fl. 32176

Parcel ID Number

C. atch.

Legal Description

**REQUEST**

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

Request:

**ABUTTING PROPERTY OWNERS**

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

Signature	Street Address	For	Against
<i>Quir Zimmerer</i>	<i>8B Oriole Circle</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
<i>R. Donisi</i>	<i>7B Oriole Circle</i>	<input checked="" type="checkbox"/>	<input type="checkbox"/>
		<input type="checkbox"/>	<input type="checkbox"/>

**CRITERIA: CONFORMING**

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

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

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

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

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

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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:

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

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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:

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

**CRITERIA: NONCONFORMING**

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

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

*Story:* My screen porch at 8C Oriole Circle was destroyed by Hurricane Matthew. I am trying to rebuild it for my tenant who was used to having it. This requires a permit and due to code a variance.

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

The existing layout of the porch and house is the reason to build where we are requesting.

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:

Triplex is used as allowed in the zoning district. Property was redeveloped from cottages to multi-family and the expansion is needed for enjoyment of property.

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:

I will have approximately 6 feet from the property line. The porch will not block any view from adjoining owners.

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

Yes, it will still be a 1 story structure. Other units have had porches done (as did this one) This would be no different than other expansions.

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

Correct expansion will not impact adjoining owners. Neighbors have signed and are in for the rebuilding of the screen porch.

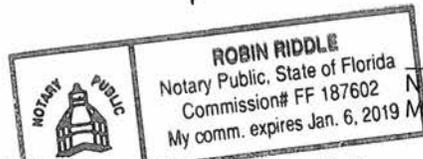
**CERTIFICATION**

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: Robert Baillargeon

STATE OF FLORIDA  
COUNTY OF Volusia

The foregoing instrument was acknowledged before me this 25 day of Oct, 2016, by Robert Baillargeon as \_\_\_\_\_ (title\*) for \_\_\_\_\_ (name of corporation\*), who  provided \_\_\_\_\_ as identification, or  who is personally known to me.



Robin Riddle  
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.



# This Warranty Deed

07/14/2000 14:46  
Doc stamps 315.00  
(Transfer Amt \$ 45000)  
Instrument # 2000-124184  
Book: 4571  
Page: 1473  
Diane M. Matousek  
Volusia County, Clerk of Court

Made this 12th day of July A.D. 2000  
by JAMES W. COMMONS, A SINGLE PERSON

hereinafter called the grantor, to  
**JULIE BAILLARGEON, A SINGLE PERSON AND  
ROBERT BAILLARGEON AND CHANTAL  
BAILLARGEON, HUSBAND AND WIFE**

whose post office address is:  
8-B ORIOLE CIRCLE  
ORMOND BEACH, FLORIDA 32176  
Grantees' Tax Id # :

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

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

**LOT 7A, BLOCK D, OCEAN VILLAGE VILLAS, ACCORDING TO MAP OR PLAT THEREOF, AS RECORDED IN MAP BOOK 42, PAGE 192 THROUGH 197 OF THE PUBLIC RECORDS OF VOLUSIA COUNTY, FLORIDA.**

**SUBJECT TO covenants, restrictions, easements of record and taxes for the current year.**

**Parcel Identification Number: 4223-25-04-007A**

**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, 99

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

*Signed, sealed and delivered in our presence:*

● Dinah D. Lee  
Name: Dinah D. Lee  
● Susie Paris  
Name: Susie Paris

● James W. Commons LS  
Name & Address: JAMES W. COMMONS  
Name & Address: LS

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

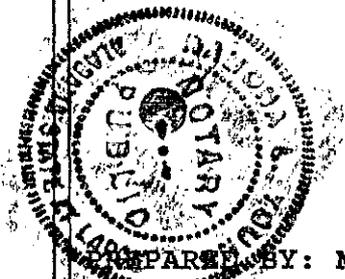
Name & Address: \_\_\_\_\_ LS  
Name & Address: \_\_\_\_\_ LS

State of ● ALABAMA  
County of ● Randolph

The foregoing instrument was acknowledged before me this 12th day of July, 2000

**JAMES W. COMMONS, A SINGLE PERSON**

who is personally known to me or who has produced **FL C552-459-19-093-0** as identification.  
**DRIVER LICENSE**



Ramona L Young  
Notary Public  
Print Name: Ramona L Young  
My Commission Expires: \_\_\_\_\_

PREPARED BY: MARLENE SPENCE  
RECORD & RETURN TO:  
Parker-Rose Title Agency, Inc.  
1134 Ridgewood Avenue  
Holly Hill, Florida 32117  
File No: PR-5843

NOTARY PUBLIC STATE OF ALABAMA AT LARGE.  
MY COMMISSION EXPIRES: Mar. 24, 2002.  
BONDED THRU NOTARY PUBLIC UNDERWRITERS.