



AGENDA
COMMUNITY DEVELOPMENT BOARD MEETING
May 11, 2022, AT 6:00 PM
116 FIRST STREET
NEPTUNE BEACH, FL 32266

1. Call to Order and Roll Call.
2. Pledge of Allegiance.
3. Approval of April 13, 2022, minutes.
4. V22-05 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for John A. Harbison, Lauren Harbison Hession, Emily Harbison Hemmings and Cynthia Harbison, joint tenant with rights of survivorship, for the property known as 505 Bowles Street (RE# 173210-0000). The request is to vary Table 27-229-1 front yard setback of a corner lot. The request of 10 feet leaving 10 feet in lieu of the required 20 feet. The request for variance is to change the front yard and side yard designation allow for an expansion of the single car garage to a two-car garage facing Fourth Street.
5. V22-06 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Marshpoint Properties Two, LLC, for the property known as lots 8,9,10,11,12,13,15 & 16 Block 2 of Florida Beach Prado Ferrer (RE# 173292-0000, 173293-0000, 173294-0000, 173295-0000, 173296-0000, 173298-0000 & 173299-0000). The request is to vary Table 27-229-1 rear yard and both interior side setbacks. The request is 12 feet leaving 3 feet in lieu of the required 15 feet rear setback, 10 feet leaving 5 feet in lieu of the required 15 feet on the north side and 15 feet leaving 0 feet of the required 15 feet to the south side yard. The request for variance is to build a rectangular 2 story commercial building.
6. Public Comments
7. Open Discussion
8. Adjournment

Residents attending public meetings can use the code **SF64** to validate their parking session at no cost. For additional information on how to use the Pay to Park Program please click here: <https://www.ci.neptune-beach.fl.us/north-beaches-parking-program>

HOW TO VALIDATE PARKING

Residents attending public meetings can use a special code to validate their parking session at no cost. **Up to 30 minutes before the meeting starts, follow these steps:**

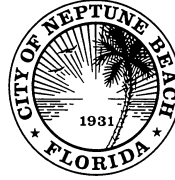
Make sure you are parked in a North Beaches public parking space – we can't validate valet parking or parking in private lots.

To use a kiosk:

1. Press the Start button
2. select 2
3. Enter your vehicle plate number
4. Enter the validation code **SF64**

To use the Flowbird app:

1. Tap the nearest yellow balloon
2. Tap "Park here."
3. From the payment screen, select "Redeem a code" at the top.
4. Confirm your information
5. Tap "Purchase" – the price will show "Free."



MINUTES
COMMUNITY DEVELOPMENT BOARD
April 13, 2022, AT 6:00 P.M.
COUNCIL CHAMBERS
116 FIRST STREET
NEPTUNE BEACH, FLORIDA 32266

Pursuant to proper notice a public hearing of the Community Development Board for the City of Neptune Beach was held both in person April 13, 2022, at 6:07 p.m. in the Council Chambers.

Attendance

Board members were in attendance:
Bob Frosio, Chair
Greg Schwatzenberger, Vice-Chair
Jonathan Raitti, Member
Rene Atayan, Member
William Hilton, Member
Charley Miller, Member

The following staff members were present:

Samantha Brisolara, Community Development Director
Zachary Roth, City Attorney
Piper Turner, Code Compliance Supervisor

Pledge

Pledge of Allegiance.

Call to Order/Roll
Call

Chair Frosio called the meeting to order at 6:00 p.m.

Minutes

Made by Hilton, seconded by Schwatzenberger.

MOTION: TO APPROVE FEBRUARY 9, 2002 MINUTES AS AMENDED AND MARCH 9, 2022, MINUTES AS SUMMITTED.

Roll Call Vote:

Ayes: 7-Hilton, Raitti, Randolph, Atayan, Miller, Schwatzenberger,
Forsio

Noes: 0

MOTION CARRIED

Swearing in Mr. Roth, City Attorney, asked anyone appearing before the board tonight to raise their right hand to be sworn in.

Variance application Michelle Lynn Larson Et Al & Anthony Rummell R/S 1515 Kings Road

V22-04 Application for variance as outlined in Chapter 27 Article III Division 8 of the Unified Land Development Code of Neptune Beach for Michelle Lynn Larson Et Al and Anthony Jay Rummell R/S for the property known as 1515 Kings Road (RE# 178620-0000). The request is to vary Sections 27-328(a)(2) location of an accessory structure. The request for variance is for an after the fact detached accessory structure for the storage of a boat.

Samantha Brisolara, Community Development Director presented the staff report.

I. BACKGROUND: An application for a variance was submitted on March 14, 2022, for a detached garage (boat shed). The applicant submitted for a variance on the March 9, 2022, Community Development Board meeting. The application was denied due to the lack of findings for approval. The applicant is resubmitting for a variance of only one provision of the code as he has worked to come into compliance for his previous variance requests.

II. DISCUSSION: The applicant is requesting a relief from the following Land Development Code provision:

- Sec. 27-328 (a)(2) a. "On multiple frontage lots, through lots and corner lots, accessory structures may only be located in any required interior side yard and/or required rear yard but not less than three (3) feet from any of those lot lines."

III. FINDINGS:

1. The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.
 - a. Applicant Response: "The carport is positioned to be used on the property while keeping the large oak tree in the front yard without having to take down the tree."
 - b. Staff Response: Staff finds that a tree in the front yard hinders the ability to maneuver the boat safely and successfully to the side and back yard. Additionally, the tree is a heritage tree and should be protected at all costs.
2. The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.
 - a. Applicant Response: "The carport was shifted slightly on the side yard so that access was obtainable to use structure as intended. Front post[s] of structure are less than 2' & 4' from the front of the residence."
 - b. Staff Response: Staff finds that the variance is the minimum necessary to allow the reasonable use of the land for a boat carport without further harming the natural state of the land.
3. The proposed variance would not adversely affect adjacent and nearby properties or the public in general.

- a. Applicant Response: "The proposed structure does not encroach on the side or front setbacks."
 - b. Staff Response: Staff finds that the setbacks of the structure comply with the regulations of the R-1 zoning district.
4. The proposed variance will not substantially diminish property values in, nor alter the essential character of, the area surrounding the site.
- a. Applicant Response: "The structure is a nice wood post & beam and architecturally sound with the community. I believe it raises the value of the property and neighborhood."
 - b. Staff Response: The location of the boat carport extends only 2 feet beyond the front facade of the house and does not diminish property values or alter the character of the area surrounding the site. The minor extension beyond the front of the house is not recognizable to the naked eye.
5. The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.
- a. Applicant Response: "With the reduction in overall height and the addition of the pervious driveway I believe this structure is in harmony with the U.L.D.C for the intended purpose of the structure given the current tree location."
 - b. Staff Response: Staff finds that the proposed use of the structure is subordinate to the principal use of the single-family home and is therefore in harmony with the general intent of the Accessory Structures section of the Land Development Code.
6. The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.
- a. Applicant Response: "The structure is shifted to accept the tree location in the front yard directly next to the driveway."
 - b. Staff Response: Staff finds that the location of the heritage tree impacts the ability of the property owner to successfully place the boat carport in a location that is behind the front façade of the house. The protection of the city's tree canopy is priority in relation to the location of the structure pursuant to the city's comprehensive plan policy A.1.6.12 "Protect the City's existing tree canopy..."
7. Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.
- a. Applicant Response: "The variance for location of carport has a direct relation with the tree location of this property alone." b. Staff Response: Staff finds that granting the variance will not confer the applicant any special privilege that would be denied to other lands buildings or structures in the same zoning district.

IV. CONCLUSION: Staff supports approval of the variance based on the findings stated above. The applicant may move forward with permitting but must comply with all other provisions in Article V, Accessory Structures and Uses as stated in the Land Development Code.

V. RECOMMENDED MOTION: a. I move to approve OR (approve with conditions) Variance Application V22-04

Mr. Anthony Rummell, 1515 Kings Road, applicant and property owner, addressed the Board. Stated he had made some changes to the original plan. The roof will be lowered to 13 feet 6 inches and will meet the code and a driveway will be added on the Kings Road side of the property. The position of the structure was placed where it is because of a large tree that would have had to be removed in order to comply with the setbacks.

The floor was opened for public comments. There being no comments, the public hearing was closed.

Board Discussion:

Mrs. Atayan: Has worked with the city to make a great compromise.

Mr. Hilton: Be careful of compromising. Has to meet the test of the finding of fact by saving the trees.

Mr. Miller: Ok with approving with conditions.

Mr. Ratti: The tree canopy should be protected. Two-sided lots limit the options.

Made by Miller, seconded by Hilton.

MOTION: MOVE TO APPROVED VARIANCE APPLICATION V22-04.

Roll Call Vote:

Ayes: 7 -Hilton, Miller, Raitti, Randolph, Atayan, Schwartzenger, Forsio

Noes: 0

MOTION CARRIED

Special Exception
SE22-01 Juanita
Stephens 120
Lemon St Smart
Balance Massage

An application for a special exception was submitted by Juanita Stephens on March 16, 2022, to operate a Massage Therapy business at 120 Lemon St., Neptune Beach, FL 32266. The property is in the Central Business District.

Samantha Brisolaro, Community Development Director presented the staff report.

I. BACKGROUND: An application for a special exception was submitted on March 16, 2022, to operate a Massage Therapy business at 120 Lemon St., Neptune Beach, FL 32266

The applicant was operating out of 120 Lemon St, without obtaining a business tax receipt or special exception. She was unaware of the requirements and had been told by her landlord that the building had a blanket business tax receipt and that she would not need one.

Code Enforcement only became aware of the massage therapy business when Ms. Stephens placed a sign advertising her business. Once Officer Dehm made contact with Ms. Stephens, she was more than willing to comply and has provided staff with all documentation pertaining to her business operations.

II. DISCUSSION: The applicant is requesting a special exception, as listed in Section 27-226 of the Land Development Code, to operate a Day Spa in the Central Business District (CBD) Zoning District:

- Sec. 27-226(k)(3) d. Uses by special exception: "Day spa;"

III. FINDINGS:

1. The proposed use is consistent with the comprehensive plan.
 - a. Applicant Response: "The business is located with two other businesses in one building creating a mix of uses."
 - b. Staff Response: Staff finds that the business is consistent with comprehensive plan policy A.1.4.2 (C) (5), Town Center which states that the area shall contain a mix of commercial uses and compatible residential uses that encourage an urban-intensive, pedestrian oriented neighborhood ambiance.

2. The proposed use would be compatible with the general character of the area, considering the population density; the design; density; scale; location, and orientation of existing and permissible structures in the area; property values; and the location of existing similar uses.
 - a. Applicant Response: "The special exception would be compatible with the lower intensity businesses in the same office complex. The operating hours will be during daylight hours and part-time.
 - b. Staff Response: The Central Business District is the most intense zoning district in our city (meaning allows the most uses). The use, if approved, would be operating part-time and before dusk, which is outside of the busiest time in the CBD (typically, after dusk). The nature of the business is low impact which is compatible with the office uses in which it shares a building.

While the use is low impact, there are no similar uses in the area.

3. The proposed use would not have an environmental impact inconsistent with the health, safety, and welfare of the community.
 - a. Applicant Response: "Due to the low impact nature of the business, there will be no environmental impacts."
 - b. Staff Response: Staff finds there are no substantial environmental impacts beyond typical solid waste generated by the building. There are no hazardous materials used for this type of use.

4. The proposed use would not generate or otherwise cause conditions that would have a detrimental effect on vehicular traffic, pedestrian movement, or parking inconsistent with the health, safety and welfare of the community.
 - a. Applicant Response: "I will only have one client at a time and all clients must have an appointment. No walk-ins will be allowed as to be courteous to other businesses in the same space."
 - b. Staff Response: The use as proposed is on an appointment basis only. As such, the typical turnaround time for a massage is a 1-hour time slot. This type of slow turn around does not adversely impact traffic, pedestrians, or parking.

5. The proposed use would not have a detrimental effect on the future development of the area as allowed in the comprehensive plan.
 - a. Applicant Response: "The proposed use is not detrimental to future development as it is for a personal service that is low impact."
 - b. Staff Response: The proposed use is consistent with other uses in the Central Business District. Due to the low impact of the business, any future development of the area, would not create any non-conformities or nuisances.

6. The proposed use would not result in the creation of objectionable or excessive noise, light, vibration, fumes, odors, dust or physical activities inconsistent with existing or permissible uses in the area.

a. Applicant Response: n/a

b. Staff Response: Staff finds that this question was not on the Special Exception Application and the applicant was not afforded the opportunity to provide a response. However, due to the interior and low impact nature of the business, there would be no inconsistencies with existing or permissible uses in the area and the business would not create any nuisances as proposed.

7. The proposed use would not overburden existing public services and facilities.

a. Applicant Response: "No overuse of public services or facilities is required to operate. A small amount of water is used to operate the towel and rock steamer."

b. Staff Response: Staff finds that the proposed use would not require a high level of service for the water and sewer facilities and the solid waste created by this use would be minimal as the towels and rocks are taken with the business owner for proper sanitizing.

8. The proposed use meets all other requirements as provided for elsewhere in this Code.

a. Applicant Response: "Parking only requires one space which is available by pay to park in front of the building. I have a designated parking spot for my own vehicle. I also have applied for the business tax receipt and am awaiting approval for it to be processed."

b. Staff Response: Staff finds that the use requires only one parking space per LDC, Table 27-540-1, which requires one (1) space per 300 square feet of gross floor area. In the CBD, parking requirements are further reduced by 50% (Sec. 27-540 (b)). Due to the low turnover, and the applicant having a designated parking space, the parking requirement would be met for the use.

Additionally, the two office uses also require only one (1) space per 400 square feet of gross floor area. The structure at 120 Lemon Street has a gross floor area of 1,668 square feet. If this is divided equally between the three businesses, each business is required to provide two (2) spaces. However, since they are in the CBD and are allotted a 50% reduction, each business is only required to supply once (1) parking space. There are four (4) pay to park spaces available for use in front of the building.

All other provisions of this code are met by the proposed use provided by the applicant.

IV. CONCLUSION: Staff supports approval of the Special Exception based on its low impact and compatibility with the surrounding uses. Further, the use is consistent with the Town Center designation in the Comprehensive Plan.

V. RECOMMENDED MOTION:

a. I move to approve /approve with conditions Special Exception SE22-01.

b. OR

c. I move to deny Special Exception SE22-01 based on lack of similar uses in the area as stated by Finding #2

Ms. Stephens, applicant, addressed the Board. Stated she stated that she was given the opportunity to rent space to operate a massage therapy business in the location. Her business is conducted in daylight hours only between 8:30 am and 6:00 pm by appointment only. She has another business location at the Beach so the impact will be low. Can only work on 4 to 5 clients a day. There is a parking space available in front of the building for clients to use.

The floor was opened for public comments.

Mary Phillips, Atlantic Beach, supports the applicant.
Michelle Tipton works with applicant and supports and asked the board to approve the applicant.
Lori Canderi, friend, stated that the applicant cares about her clients and the community will be well served by her.
John Tipton, supports the approval.

There being no comments, the public hearing was closed

Board Discussion:

Mr. Miller: Meets the proposed code as well as the current one.
Mr. Ratti: Would any future business owner need their own special exception? Yes, that is correct.

Made by Hilton, seconded by Miller.

MOTION: **MOVE TO RECOMMEND APPROVAL OF SPECIAL EXCEPTION APPLICATION SE22-01.**

Roll Call Vote:
Ayes: 7 -Hilton, Miller, Raitti, Randolph, Atayan, Swartzenger, Forsio
Notes: 0

MOTION CARRIED

Application was informed that City Council makes the final decision, and that this application would be forwarded to the May 2nd meeting, and they need to attend.

ULDC
revisions
discussion

Board discussion and review of Article V Accessory Structures and Use; Article VI Concurrency; Article VII Protection of Potable Water Wellsfields; Article XIII Parking & Loading; Chapter 8 Buildings and Building Regulations; Article VII Coastal Construction Code; Article XV Advertising; Article XVIII Nonconforming Lots, Uses and Signs

Vice-Chair Swartzenger read a statement as he would not be able to attend next month's meeting. A proposed map was shared with the board and members of the audience.

"Over the past several months through participation in CDB meetings, observation in city council meetings, my own research, and consistent resident feedback, I have come to the conclusion that there are a couple of main areas of the proposed code that are driving a wedge between the residents and their own city government. To me these are the R4 Overlay guidelines and the proposed changes in C1 zoning.

It was thru re-reading the following section of our code that I was inspired and then had an idea I wanted to share.

Article IV / Land Use

Sec. 27-215. - Purpose and intent.

(a) The City of Neptune Beach, Florida is a residential community. The primary goals of the city, upon which the comprehensive plan was developed, are to preserve the natural beauty, pleasant environment and unique character of the city; to retain the quality of our existing residential neighborhoods by encouraging the residents to maintain and improve their property and protect these areas from the encroachment of detrimental and noncompatible land uses; and to insure that future residential areas are well planned and provided with full and adequate urban services.

// This language Runs contradictory to the proposed zoning use changes in C1. but also provides excellent guidance on how to move forward.

I want to pass you each a zoning map with a slight change that will be good reference for the rest of my short statement.

Take a look at C1 both east and west of third St. There is a clear visual distinction, and it only makes sense to have a zoning distinction between C1 west of third and the smaller C1 area east of third. With BOA certain to redevelop in the future, have we considered a flex zoning zone? A mix of residential and commercial? The BOA redevelopment will be critical to the future of NB.

PUD's have also been a point of contention, with some residents asking for them to be removed completely. Residents are also wary of a PUD becoming a workaround for certain types of special exceptions that are explicitly excluded.

I propose keeping C1 west of third zoning as is, with the same special exceptions in place now... other than one change : an additional special exception allowing mixed use in terms of additional residential units. This idea is consistent to what was approved in our most recently passed Comprehensive Plan in Chapter 2, Page 20. (Given that much of the corridor is already residential, it is worth considering allowing mixed-use development in the C-1 zoning district that would allow for "missing middle" housing such as second-floor residential, bungalow courts, and employee housing.) In addition, and to create the zoning distinction, I propose to have a step down flex zone within the first block of the R4 overlay, with a hybrid of CBD components mixed in with Residential units as described in the R4 overlay zone.

Neptune Beach, up to this point, has done a beautiful job of mixing old with new. What I am asking you to consider is progress for the city, but within the guidelines and roots of our recently passed comprehensive plan."

Chair Forsio opened the floor for general comments from the public.

Shellie Thole, 124 Margaret St, C-1 is peaceful and quite and should remain that way. She is depending on the board to listen.

Chuck McCue, 1908 Third St, controlled growth is good. Prefers to have development of Atlantic Blvd. Worried about Coffee shops or restaurants on Third St. Would like office type uses. The C-1 would go from Atlantic Blvd to Bay Street and not extend to Seagate.

Scott Wiley, 723 Davis St, not in favor of C-1 changes. PUDs need to be removed from the Code completely.

David Bais, 800 First St, agrees with the previous speakers. Concerned with the Dover Kohl understanding of the city and what the citizens wanted. Examples: R-4 changed setbacks, Floor Area Ratio removed, impervious surfaces increased. We need more time to review before approval. The Comp Plan is a 25-year document. Needs to be taken seriously and slow.

Rob Johnson, 700 Valley Forge Rd N, the code has to be enforced. Setbacks, no one wants larger structures, slow down traffic, keep it the way it is. Don't let money rule the community.

Caitlin Baiata, 453 Bowles St, C-1 is the biggest elephant in the room. Everybody loves it. Remove all special exceptions from C-1.

Public Comments were closed, and the Board discussed the proposed changes.

Mr. Hilton reminded everyone that the Board is here to make a recommendation and the citizens should reach to City Council with their concerns.

<p>Article V Accessory Structures and Use: These types of structure would encourage short term rentals. Pull out section 27-328(4) completely. Change the 5-foot setbacks from the eaves not the exterior wall. Typos in lettering. 27-330 the wording needs to be redone. 27-331-add a 15-day extension allowable if requested in writing 27-332(a) remove last line 27-332 (e) remove word "extra" 27-340 Accessory apartments. Remove entire section.</p>
<p>Article VI Concurrency: 27-350(a) Change "encourage" to "shall"; add comma between designee and to 27-351-Get with Public Works concerning water and seer gallon capacity per day</p>
<p>Article VII Protection of Potable Water Wellsfields: No comments</p>
<p>Article XIII Parking & Loading: 27-532 last line "the parking space required shall be <u>rounded up</u> to the nearest whole number 27-536-move all definitions to section 27-15 and make sure motorized vehicle complies with new ordinances Fix typos especially Community Design back to Community Development 27-541 Change Community Development to either "Director" or "Department" to be consistent.</p>

In lieu fees to be assessed on full number of spaces required, not on any reduced credit such as in the CBD. Clarify in text. 27-542-bike racks should be made out of aluminum
Chapter 8 Buildings and Building Regulations: No comments
Article VII Coastal Construction Code” No comments
Article XV Advertising: 27-596-add a process for submitting an art project and if changes are to be made once a mural has been approved and installed.
Article XVIII Nonconforming Lots, Uses and Signs: 27-706-Create retrofits, add RC overlay retrofits. There was some discussion on how this would work and how far do you go.

Open Discussion

Chuck McCue: 27-563 cc vs watts for electric bikes. Bank of America and Regions Banks properties could use a wall along Second Street instead of landscaping. Prefers the spiral type of bike racks.

Board comments: The courts at Jarboe Park should be used for all types of sports. How do you determine what is art? It is hard to regulate. Fence height-should it be measured from the finish level of the house or the nature grade?

Adjournment

The next board meeting will be May 11, 2022, at 6:00 pm. There being no further business, the meeting was adjourned at 9 :27 p.m.

Robert Frosio, Chairperson

ATTEST:

Piper Turner, Board Secretary

CITY OF NEPTUNE BEACH – COMMUNITY DEVELOPMENT DEPARTMENT



STAFF REPORT

MEETING DATE: May 11, 2022
BOARD/COMMITTEE: Community Development Board
APPLICATION NUMBER: V22-05

TO: Community Development Board
FROM: Sam Brisolaro, Community Development Director
DATE: May 3, 2022
SUBJECT: Variance Request_505 Bowles St, Neptune Beach, FL

- I. **BACKGROUND:** An application for a variance was submitted on April 6, 2022, to turn an existing one-car attached garage into a two-car garage.
- II. **DISCUSSION:** The applicant is requesting a relief from the following Land Development Code provision:
- **Sec. 27-231 (c)(3)**
 - “Front yards on corner lots. The front yard shall be considered as parallel to the street upon which the lot has its least exterior frontage. Where the front yard on corner lots, as defined herein, is not keeping with the prevailing yard pattern, the city manager or designee may waive the requirement for the determination of the normal front yard and substitute a special yard requirement, which shall not exceed the average of the yards provided on adjacent lots.”

Neptune Beach’s determination of the front setback is contradictory in the ULDC. In §27-231 (c)(3), the front setback is based on the shortest width of the lot. However, §27-234 states the front setback is measured from the front of the building, excluding steps, to the front of the lot.” Based on this finding, the front setback should be on Fourth St.

The inconsistency in the Code has created the necessity for relief.

III. FINDINGS:

1. **The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.**

- a. **Applicant Response:** “The house was constructed in 1955. It includes a small single car garage that is not consistent with current standards. With setbacks as currently defined, the house is currently non-conforming because the existing attached garage encroaches 7” into the defined 20ft setback for front yards.”
- b. **Staff Response:** Staff finds that the house was constructed prior to the creation of setbacks for the R-2 Zoning District. Additionally, there is an inconsistency between §27-231(c)(3) Front Yard Setback Requirements and §27-234 Measurement of the Minimum Required Yard Setback. The front setback should be located on Fourth St based on §27-234. However, §27-231(c)(3) would require the front yard to be placed on Bowles St.

2. **The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.**

- a. **Applicant Response:** “No improvements to this side of the house can be made without the variance. This variance will allow me to make a reasonable improvement to the property so that it will be more consistent with the current homes in the area.”
- b. **Staff Response:** Staff finds the variance request is the minimum necessary to allow use of the property. Based on the inconsistency in the LDC, the need for the variance is to forgive a section of the code that does not correlate with the measurement section of the front yard found in §27-234.

3. **The proposed variance would not adversely affect adjacent and nearby properties or the public in general.**

- a. **Applicant Response:** “Any improvements made to the property will be designed to maintain the current character and standards for the area. No site lines will be affected for the intersection. The view for the neighboring properties will be maintained.
- b. **Staff Response:** Staff finds that the location of the proposed addition to the garage structure will not negatively impact adjacent or near by properties, nor would it negatively affect the public in general. The proposed setback for Bowles Street for the addition to the garage is 10’. This provides a clear visibility triangle for traffic stopping at the corner of Bowles and Fourth Streets.

Further, there is no proposed changes to structures located to the rear or southerly property lines where adjacent properties are located.

4. The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

- a. **Applicant Response:** “The desired improvements made to the property will help make the house more consistent with newer homes or other remodeled homes in the area. It should improve the appearance of the local area thus improving the marketability of neighboring homes. The structure will be built with the essential character of the area maintained.
- b. **Staff Response:** Staff finds that the variance will not diminish property values but will likely aid in increasing property values. Additionally, the variance will not alter the essential character of the area surrounding the site.

5. The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.

- a. **Applicant Response:** “The improvements planned will be consistent with the existing neighborhood standards.”
- b. **Staff Response:** Staff finds that the variance is in harmony with the general intent of the ULDC. Additionally, the setbacks will be maintained based on the house frontage instead of the shortest width of the lot as is customary in best planning practices.

6. The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.

- a. **Applicant Response:** “The house was constructed in 1955 long before the current setbacks were established.”
- b. **Staff Response:** The variance has not been created by the property owner but has been created by an inconsistency in the LDC.

7. Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.

- a. **Applicant Response:** “Of the 16 lots on the 2 blocks north and 2 blocks south of 4th street adjacent to Bowles St, it appears that 8 are conforming and are 8 non-conforming if the front of the lot is defined by the narrow dimension. This is simply based upon a review of the lot maps that were printed from the Tax Appraiser website and does include any variances that may have been approved.”

- b. **Staff Response:** Staff finds that any property owner may have been affected by this provision in the past and the board may, in the future, receive additional requests of the same nature until the time the updates to the Land Development Code are codified. Granting of this variance will not provide any special privilege that will not be afforded to other property owners seeking relief due to the inconsistency in the Code.

IV. **CONCLUSION:** Staff supports approval of the variance based on the inconsistency of code language, which was not brought on by the actions of the homeowner.

V. **RECOMMENDED MOTION:**

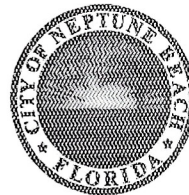
- a. I move to approve (OR approve with conditions) Variance Application V22-05.

OR

- b. I move to deny V22-05 based on the fact that the home was built prior to the creation of the Land Development Code setback language.

APPLICATION FOR ZONING VARIANCE

V22-05



THE CITY OF NEPTUNE BEACH
 COMMUNITY DEVELOPMENT DEPARTMENT
 116 FIRST STREET
 NEPTUNE BEACH, FLORIDA 32266-6140
 PH: 270-2400 Ext 34 or cdd@nbf.us

IMPORTANT NOTE: THE COMMUNITY DEVELOPMENT BOARD, IN CONSIDERING YOUR PETITION, IS ACTING IN A QUASI-JUDICIAL CAPACITY AND ANY DISCUSSION WITH MEMBERS, OTHER THAN AT A PUBLIC MEETING IS PROHIBITED AND ANY SUCH CONTACT MAY VOID YOUR PETITION.

Date Filed: RECEIVED APR 06 2022		Zoning District: R-2	Real Estate Parcel Number: 173210-0000
Name & Address of Owner of Record: John Harbison		Property Address: 505 Bowles St Neptune Beach, FL	
Contact phone number # 828 286 9016		Number of units on property 1 _____	
e-mail address jharbison9016@gmail.com (john.harbison@earthlink.net)		Have any previous applications for variance been filed concerning this property? No _____	
If Yes, Give Date: _____			
Section 27-15 of the Unified Land Development Code (ULDC) defines a variance as follows: <i>Grant of relief authorized by the board of appeals, or the city council upon recommendation by the planning and development review board, that relaxes specified provisions of the Code which will not be contrary to the public interest and that meets the requirements set forth in article III, division 8 of this Code.</i>			
1. Explain the proposed relief being sought from the code(s): Change the front yard and side yard designation. This changes the required setbacks and acknowledges the orientation of the house.			
2. Explain the purpose of the variance (if granted)? This will allow me to make improvements to the house by expanding the existing single car garage into a more standard 2 car garage.			
3. Based on the required findings needed to issue a variance in Section 27-147 explain the following (attach additional sheets as necessary): A. How does your property have unique and peculiar circumstances, which create an exceptional and unique hardship? Unique hardship shall be unique to the parcel and not shared by other property owners. The hardship cannot be created by or be the result of the property owner's own action. The house was constructed in 1955. It includes a small single car garage that is not consistent with current standards. With setbacks as currently defined, the house is currently nonconforming because the existing attached garage encroaches 7 inches into the defined 20ft setback for front yards.			

B. How is the proposed variance the minimum necessary to allow reasonable use of the property?
No improvements to this side of the house can be made without the variance. This variance will allow me to make a reasonable improvement to the property so that it will be more consistent with the current homes in the area.

C. Indicate how the proposed variance will not adversely affect adjacent or nearby properties or the public in general.
Any improvements made to the property will be designed to maintain the current character and standards for the area. No site lines will be affected for the intersection. The view for the neighboring properties will be maintained.

D. Indicate how the proposed variance will not diminish property values nor alter the character of the area.
The desired improvements will help make the house more consistent with newer homes or other remodeled homes in the area. It should improve the appearance of the local area thus improving the marketability of neighboring homes. The structure will be built with the essential character of the area maintained.

E. Explain how the proposed variance is in harmony with the general intent of the Unified Land Development Code.
The improvements planned will be consistent with the existing neighborhood standards.

F. Explain how the need for the proposed variance has not been created by you or the developer?
The house was constructed in 1955 long before the current setbacks were established.

G. Indicate how granting of the proposed variance will not confer upon you any special privileges that is denied by the code to other lands, buildings or structures in the same zoning district.
Of the 16 lots on the 2 blocks north and 2 blocks south of 4th street adjacent to Bowles St, it appears that 8 are conforming and 8 are non-conforming if the front of the lot is defined by the narrow dimension of the lot. This is simply based upon a review of the lot maps that were printed from the Tax Appraiser website and does include any variances that may have been approved.

4. **Required Attachments**-Applicant must include the following: (INCOMPLETE PACKAGES WILL BE RETURNED)
- A. 8 1/2" by 11" overhead site plan drawn to an appropriate scale showing the location of all existing and proposed improvements to the property and including all setback measurements from property lines. **WHICH HAS NOT BEEN REDUCED.**
 - B. Survey of the property certified by licensed surveyor dated within one year of application date. **WHICH HAS NOT BEEN REDUCED.**
 - C. Copy of Deed
 - D. Pictures of the property as it currently exists
5. Letter of authorization for agent to make application (Required only if not made by owner)
6. **NON-REFUNDABLE FEE:**
\$300.00 (Residentially zoning property) / \$500.00 (Commercially Zoned Property)

NO APPLICATION WILL BE ACCEPTED UNTIL ALL THE REQUESTED INFORMATION HAS BEEN SUPPLIED AND THE REQUIRED FEE HAS BEEN PAID. THE ACCEPTANCE OF AN APPLICATION DOES NOT GUARANTEE ITS APPROVAL BY THE COMMUNITY DEVELOPMENT BOARD. THE APPLICANT AND SURROUNDING PROPERTIES WILL BE NOTIFIED OF THE PUBLIC HEARING BY MAIL AND POSTING OF THE PROPERTY. THE APPLICANT OR HIS/HER AUTHORIZED AGENT MUST BE PRESENT AT THE MEETING.

*If a residential zoning variance is granted, then a 30 day wait period must pass before any required building permits can be released, in order to allow time for appeals.
*If a commercially zoned variance is granted by council, then a 30 day wait period must pass before any required building permits can be released, in order to allow time for appeals.

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE INFORMATION CONTAINED IN THIS APPLICATION. THAT I AM THE PROPERTY OWNER OR AUTHORIZED AGENT FOR THE OWNER WITH AUTHORITY TO MAKE THIS APPLICATION, AND THAT ALL OF THE INFORMATION CONTAINED IN THIS APPLICATION, INCLUDING THE ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HEREBY APPLY FOR A ZONING VARIANCE AS REQUESTED.

NAME (S) OF PROPERTY OWNER (S)

John A. Harbison

NAME OF AUTHORIZED AGENT

ADDRESS OF PROPERTY OWNER

505 Bowles St

ADDRESS OF AUTHORIZED AGENT

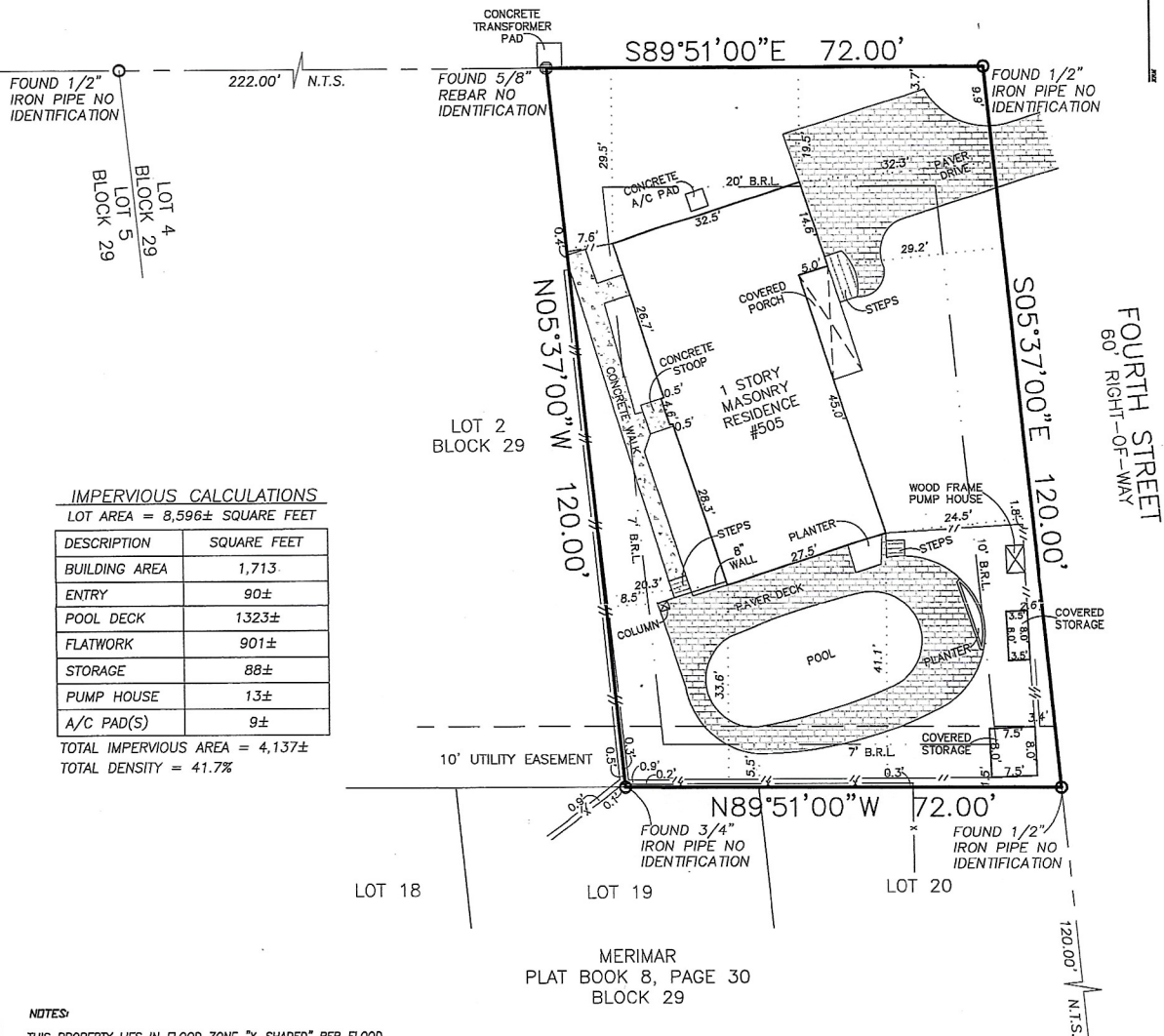
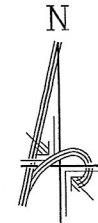
SIGNATURE OF OWNER OR AUTHORIZED AGENT:

John A. Harbison

MAP SHOWING BOUNDARY SURVEY OF:

LOT 1, BLOCK 29, MERIMAR TERRACE BY THE SEA, UNIT TWO, AS RECORDED IN PLAT BOOK 25, PAGE 64 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA

BOWLES STREET 50' RIGHT-OF-WAY



IMPERVIOUS CALCULATIONS

LOT AREA = 8,596± SQUARE FEET

DESCRIPTION	SQUARE FEET
BUILDING AREA	1,713
ENTRY	90±
POOL DECK	1323±
FLATWORK	901±
STORAGE	88±
PUMP HOUSE	13±
A/C PAD(S)	9±

TOTAL IMPERVIOUS AREA = 4,137±
TOTAL DENSITY = 41.7%

NOTES:

THIS PROPERTY LIES IN FLOOD ZONE "X-SHADED" PER FLOOD INSURANCE RATE MAP (FIRM), CITY OF NEPTUNE BEACH, DUVAL COUNTY, COMMUNITY No. 120079, MAP/PANEL No. 12031C-0409-J, REVISED NOVEMBER 2, 2018

BEARINGS BASED ON THE SOUTH RIGHT-OF-WAY LINE OF BOWLES STREET AS BEING S 89°51'00" E

(B.R.L.) BUILDING RESTRICTION LINE BY ZONE
N.T.S. DENOTES NOT TO SCALE

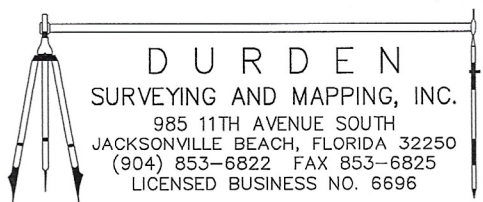
--- DENOTES 6' WOOD FENCE EXCEPT AS NOTED

-X- DENOTES 4' CHAIN LINK FENCE EXCEPT AS NOTED

THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

CERTIFIED TO:
JOHN HARBISON

DAVIS STREET
50' RIGHT-OF-WAY



DURDEN
SURVEYING AND MAPPING, INC.
985 11TH AVENUE SOUTH
JACKSONVILLE BEACH, FLORIDA 32250
(904) 853-6822 FAX 853-6825
LICENSED BUSINESS NO. 6696

SURVEYOR'S NOTE:

THE SURVEY HEREON WAS MADE WITHOUT THE BENEFIT OF ABSTRACT OR SEARCH OF TITLE AND THEREFORE THE UNDERSIGNED AND DURDEN SURVEYING AND MAPPING, INC., MAKE NO CERTIFICATIONS REGARDING INFORMATION SHOWN OR NOT SHOWN HEREON PERTAINING TO EASEMENTS, CLAIMS OF EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, OVERLAPS, BOUNDARY LINE DISPUTES, AGREEMENTS, RESERVATIONS OR OTHER SIMILAR MATTERS WHICH MAY APPEAR IN THE ABSTRACT OR SEARCH OF TITLE. THIS SURVEY NOT VALID UNLESS THIS PRINT IS EMBOSSED WITH THE SEAL OF THE ABOVE SIGNED.

I hereby certify that this survey meets the standards of practice as set forth by the Florida Board of Land Surveyors, pursuant to Section 472.027 Florida Statutes and Chapter 5J17 Florida Administrative Code

Bruce Durden Jr.
FLORIDA REGISTERED SURVEYOR No. 4707
H. BRUCE DURDEN, Jr.

FIELD: JANUARY 17, 2022

CAD FILE NO. I-1_B-29(505 BOWLES ST).DWG

SCALE: 1" = 20'

WORK ORDER NUMBER: 22004

B-10116

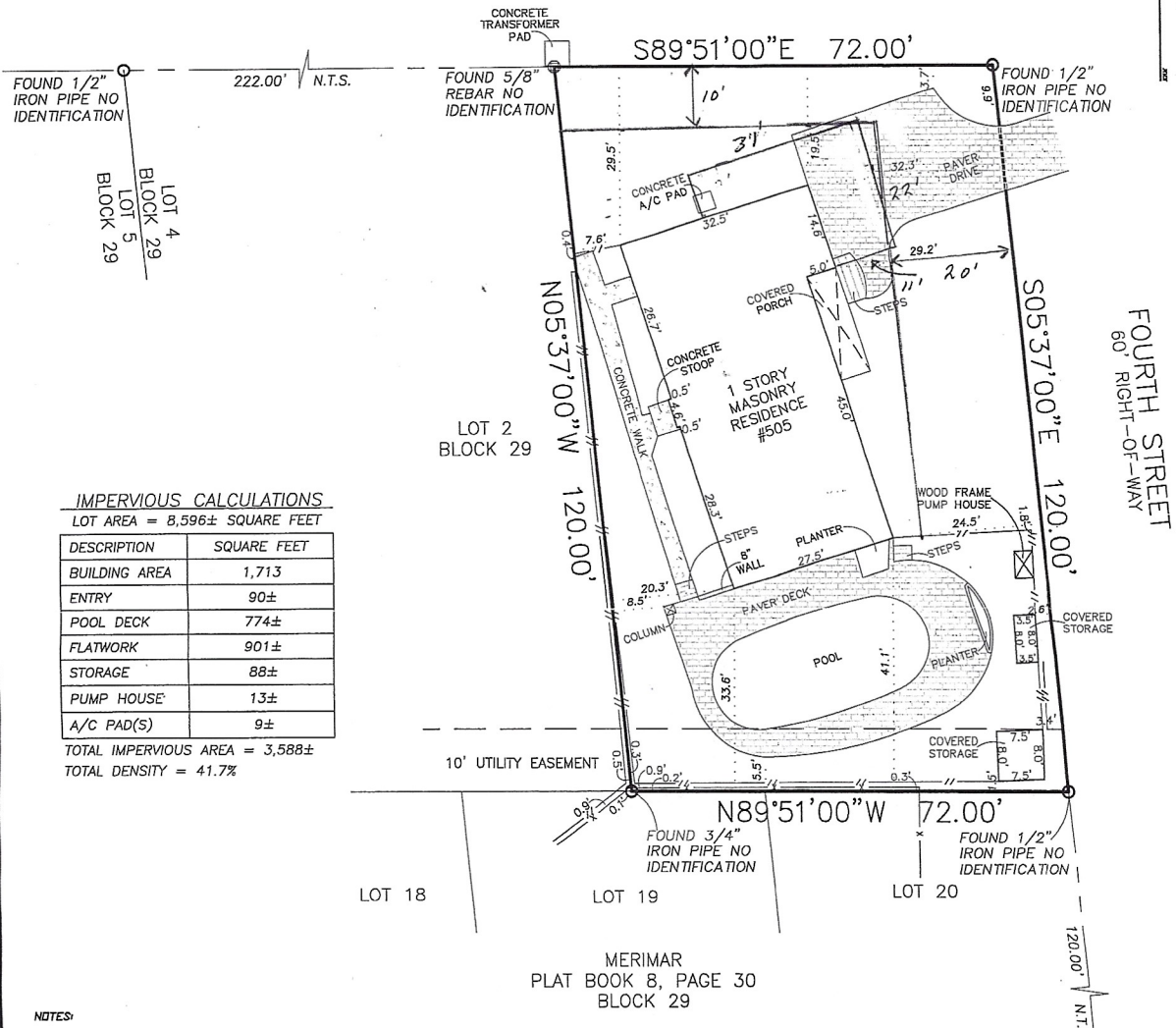
EXISTING

MAP SHOWING BOUNDARY SURVEY OF:

LOT 1, BLOCK 29, MERIMAR TERRACE BY THE SEA, UNIT TWO, AS RECORDED IN PLAT BOOK 25, PAGE 64 OF THE CURRENT PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA

OPT 1

BOWLES STREET
50' RIGHT-OF-WAY



IMPERVIOUS CALCULATIONS

LOT AREA = 8,596± SQUARE FEET

DESCRIPTION	SQUARE FEET
BUILDING AREA	1,713
ENTRY	90±
POOL DECK	774±
FLATWORK	901±
STORAGE	88±
PUMP HOUSE	13±
A/C PAD(S)	9±

TOTAL IMPERVIOUS AREA = 3,588±
TOTAL DENSITY = 41.7%

NOTES:

THIS PROPERTY LIES IN FLOOD ZONE "X-SHADED" PER FLOOD INSURANCE RATE MAP (FIRM), CITY OF NEPTUNE BEACH, DUVAL COUNTY, COMMUNITY No. 120079, MAP/PANEL No. 12031C-0409-J, REVISED NOVEMBER 2, 2018

BEARINGS BASED ON THE SOUTH RIGHT-OF-WAY LINE OF BOWLES STREET AS BEING S 89°51'00" E

NO BUILDING RESTRICTION LINE BY PLAT

N.T.S. DENOTES NOT TO SCALE

-//-- DENOTES 6" WOOD FENCE EXCEPT AS NOTED

-X- DENOTES 4" CHAIN LINK FENCE EXCEPT AS NOTED

THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT SHOWN ON THIS SURVEY THAT MAY BE FOUND IN THE PUBLIC RECORDS OF DUVAL COUNTY, FLORIDA.

CERTIFIED TO:
JOHN HARBISON

DAVIS STREET
50' RIGHT-OF-WAY

Proposed

DURDEN
SURVEYING AND MAPPING, INC.
985 11TH AVENUE SOUTH
JACKSONVILLE BEACH, FLORIDA 32250
(904) 853-6822 FAX 853-6825
LICENSED BUSINESS NO. 6696

SURVEYOR'S NOTE:

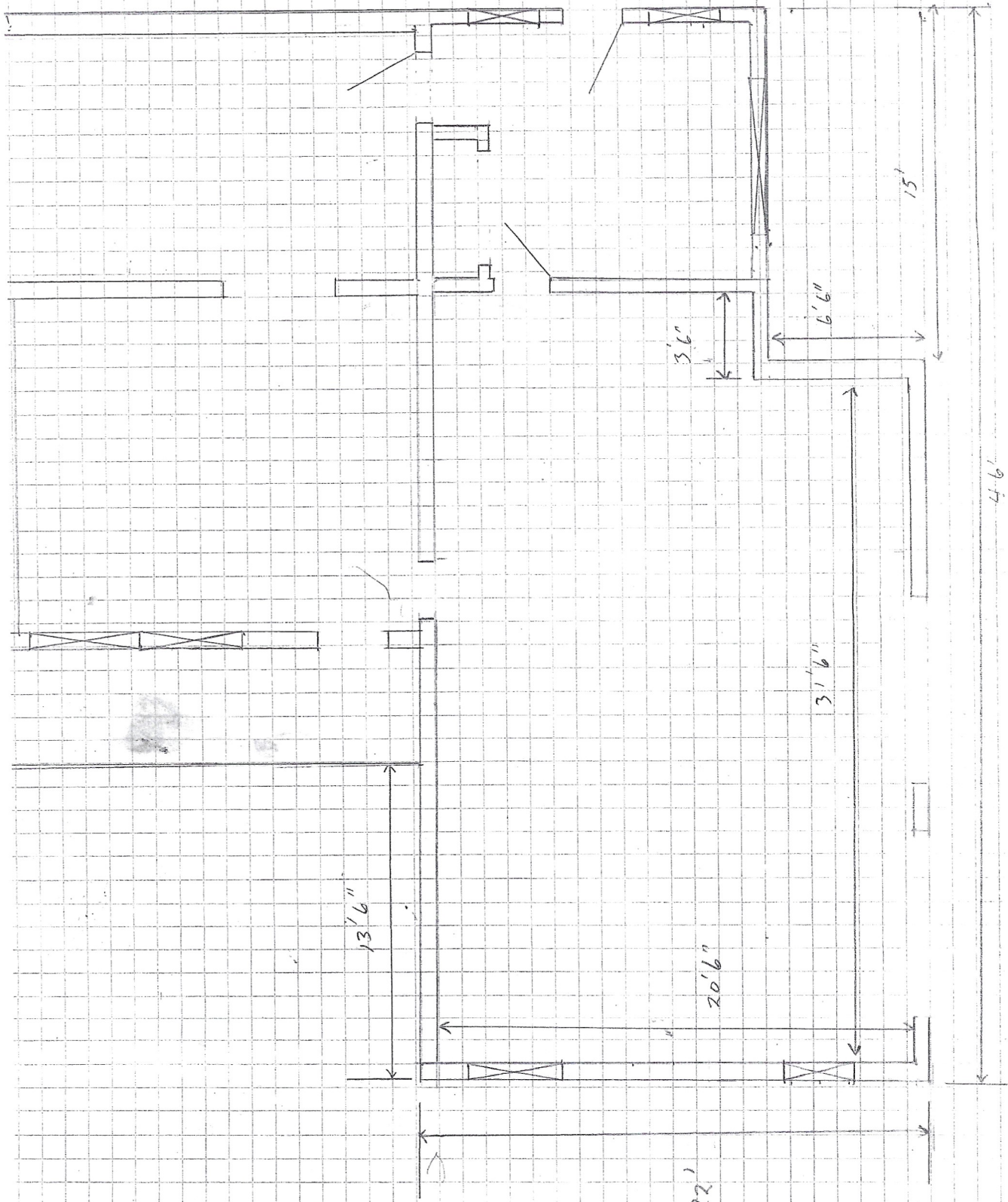
THE SURVEY HEREON WAS MADE WITHOUT THE BENEFIT OF ABSTRACT OR SEARCH OF TITLE AND THEREFORE THE UNDERSIGNED AND DURDEN SURVEYING AND MAPPING, INC., MAKE NO CERTIFICATIONS REGARDING INFORMATION SHOWN OR NOT SHOWN HEREON PERTAINING TO EASEMENTS, CLAIMS OF EASEMENTS, RIGHTS-OF-WAY, SETBACK LINES, OVERLAPS, BOUNDARY LINE DISPUTES, AGREEMENTS, RESERVATIONS OR OTHER SIMILAR MATTERS WHICH MAY APPEAR IN THE ABSTRACT OR SEARCH OF TITLE. THIS SURVEY NOT VALID UNLESS THIS PRINT IS EMBOSSED WITH THE SEAL OF THE ABOVE SIGNED.

I hereby certify that this survey meets the standards of practice as set forth by the Florida Board of Land Surveyors, pursuant to Section 472.027 Florida Statutes and Chapter 5J17 Florida Administrative Code

Bruce Durdan Jr.
FLORIDA REGISTERED SURVEYOR No. 4707
H. BRUCE DURDEN, JR.

FIELD: JANUARY 17, 2022
CAD FILE NO. L-1, B-29(505 BOWLES ST).DWG
SCALE: 1" = 20'
WORK ORDER NUMBER: 22004

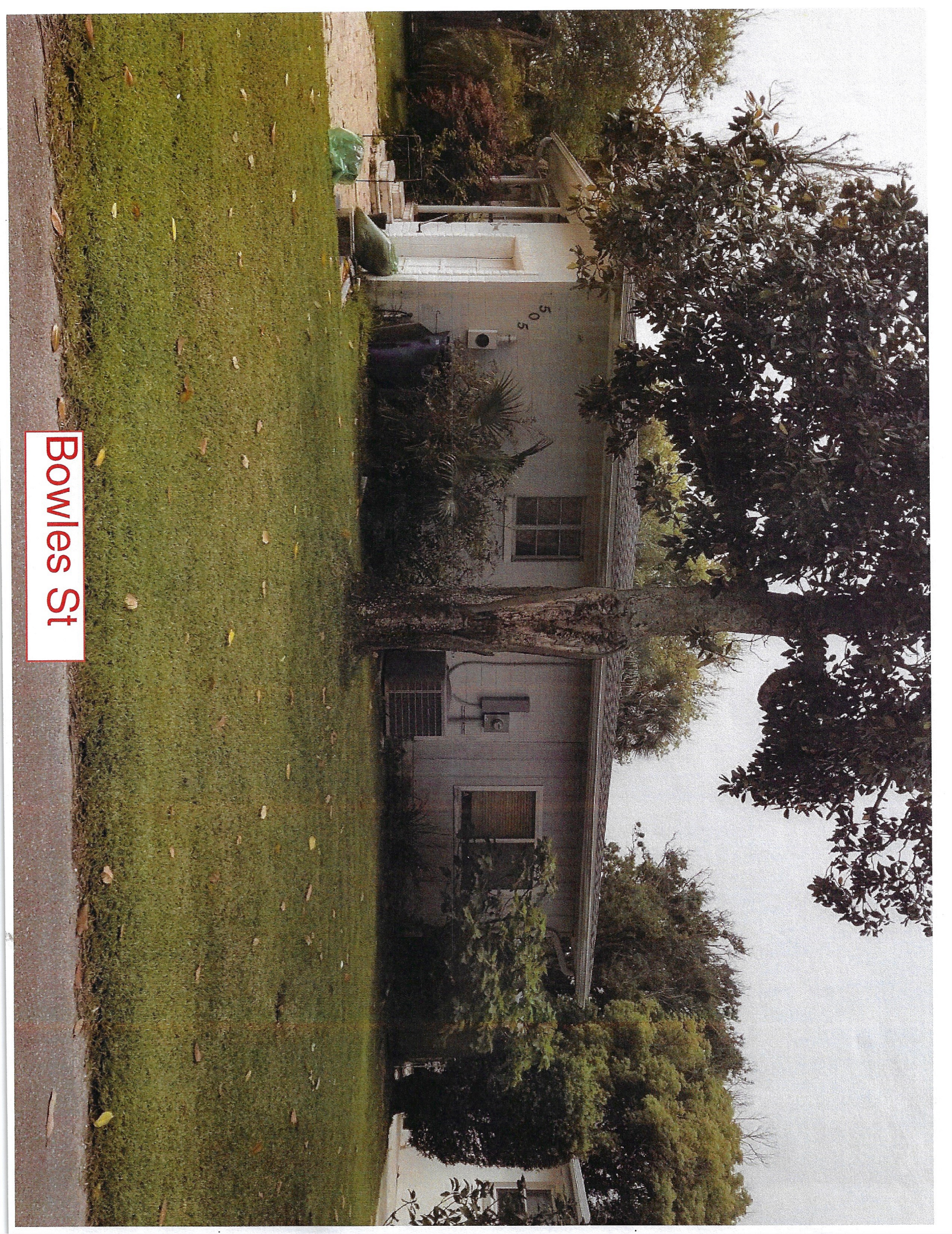
B-10116



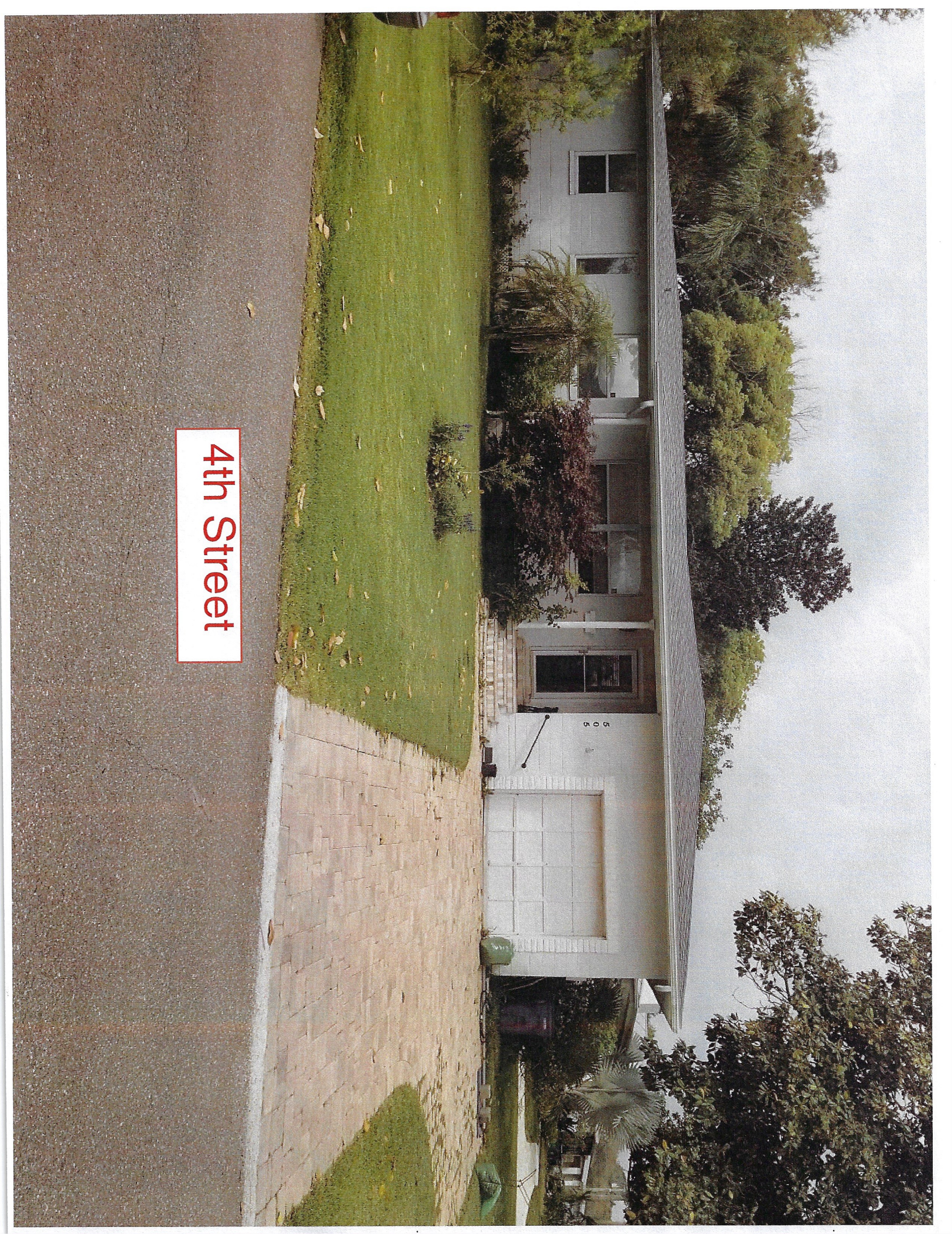
← 1st Street

OPT ↓

Bowling St



Bowles St



4th Street

4th Street

Bowles St

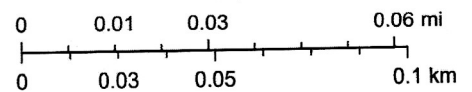


Duval Map



March 23, 2022

1:2,257



Sources: Esri, HERE, Garmin, Intermap, increment P Corp., GEBCO, USGS, FAO, NPS, NRCAN, GeoBase, IGN, Kadaster NL, Ordnance Survey, Esri Japan, METI, Esri China (Hong Kong), (c) OpenStreetMap contributors, and the GIS User Community

Prepared by and return to:
John A. Harbison
505 Bowles St.
Jacksonville, Florida 32266

Enhanced Life Estate Deed

Made this May 29, 2020 A.D. By **John A. Harbison**, an unmarried man, whose address is: 505 Bowles St, Jacksonville, Florida 32266, hereinafter called the grantor, to **Lauren Harbison Hession, Emily Harbison Hemmings and Cynthia Harbison** as joint tenants with rights of survivorship, whose post office address is: 505 Bowles St, Jacksonville, Florida 32266, 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 Love and Affection 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 Duval County, Florida, viz:

Lot 1, Block 29, Merimar Terrace By The Sea, Unit Two, as per plat thereof, recorded in Plat Book 25, Page(s) 64, of the Public Records of Duval County, Florida.

GRANTOR RESERVES UNTO HIMSELF, FOR AND DURING HIS LIFETIME, THE EXCLUSIVE POSSESSION, USE AND ENJOYMENT OF THE RENTS AND PROFITS OF THE PROPERTY DESCRIBED HEREIN. GRANTOR FURTHER RESERVES UNTO HIMSELF, FOR AND DURING HIS LIFETIME, THE RIGHT TO SELL, LEASE, ENCUMBER BY MORTGAGE, PLEDGE, LIEN, OR OTHERWISE MANAGE AND DISPOSE, IN WHOLE OR IN PART, OR GRANT ANY INTEREST THEREIN, OF THE AFORESAID PREMISES BY GIFT, SALE OR OTHERWISE SO AS TO TERMINATE THE INTEREST OF GRANTEE, AS GRANTOR IN THE SOLE DISCRETION OF GRANTOR SHALL DECIDE, EXCEPT TO DISPOSE OF SAID PROPERTY, IF ANY, BY DEVISE UPON THE DEATH OF GRANTOR. GRANTOR FURTHER RESERVES UNTO HIMSELF THE RIGHT TO CANCEL THIS DEED BY FURTHER CONVEYANCE BY SALE, GIFT OR OTHERWISE TO ANY PERSON OR ENTITY, INCLUDING GRANTOR, WHICH MAY DESTROY ANY AND ALL RIGHTS WHICH THE GRANTEE MAY POSSESS UNDER THIS DEED. GRANTEE SHALL HOLD A REMAINDER INTEREST IN THE PROPERTY DESCRIBED HEREIN AND UPON THE DEATH OF GRANTOR, IF THE PROPERTY DESCRIBED HEREIN HAS NOT BEEN PREVIOUSLY DISPOSED OF PRIOR TO THE DEATH OF THE GRANTOR, ALL RIGHT AND TITLE TO THE PROPERTY REMAINING SHALL FULLY VEST IN GRANTEE, SUBJECT TO ANY LIENS AND ENCUMBRANCES EXISTING AT THAT TIME BUT THIS REFERENCE TO LIENS AND ENCUMBRANCES SHALL NOT OPERATE TO IMPOSE ANY OF SAME THAT WOULD HAVE EXPIRED OR BECOME NULL AND VOID AS A RESULT OF THE DEATH OF THE GRANTOR.

NOTE: Grantees are the daughters of the Grantor. The sole consideration is the recited Love & Affection.

Parcel ID Number: 173210-0000

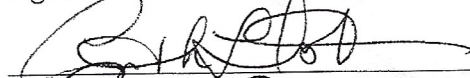
Together with all the tenements, hereditaments and appurtenances thereto belonging or in anywise appertaining.

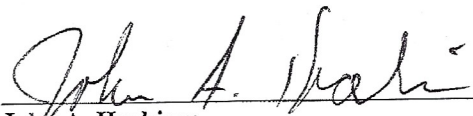
To Have and to Hold, the same in fee simple forever.

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 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.

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:




John A. Harbison (Seal)

Prepared by:

Sunshine Title Corporation
8613 Old Kings Road South, Bldg. 100
Jacksonville, Florida 32217

File Number: STC #96298

General Warranty Deed

Made this February 4, 2010 A.D. By **Maury D. Covington, Jr.**, a single man, whose address is: 1220 Palm Circle, Jacksonville Beach, Florida 32250-3580, hereinafter called the grantor, to **John A. Harbison**, a single person, whose post office address is: 13700 Sutton Park Drive, Apt #928, Jacksonville, Florida 32224, hereinafter called the grantee:

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

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

Lot 1, Block 29, Merimar Terrace by the Sea, Unit Two, as per plat thereof, recorded in Plat Book 25, Page 64, of the Public Records of Duval County, Florida.

Parcel ID Number: 173210-0000

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.

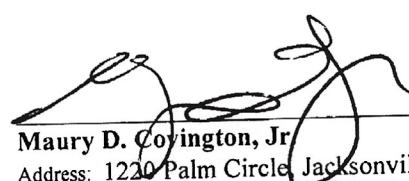
And the grantor hereby covenants with said grantee that the grantor is lawfully seized of said land in fee simple; that the grantor has good right and lawful authority to sell and convey said land; that the grantor hereby fully warrants the title to said land and will defend the same against the lawful claims of all persons whomsoever; and that said land is free of all encumbrances except taxes accruing subsequent to December 31, 2009.

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

Signed, sealed and delivered in our presence:



Witness Printed Name J.M. Danese, III



Maury D. Covington, Jr
Address: 1220 Palm Circle, Jacksonville Beach, Florida
32250-3580

(Seal)

(Seal)

CITY OF NEPTUNE BEACH – COMMUNITY DEVELOPMENT DEPARTMENT



STAFF REPORT

MEETING DATE: May 11, 2022
BOARD/COMMITTEE: Community Development Board
APPLICATION NUMBER: V22-06

TO: Community Development Board

FROM: Sam Brisolaro, Community Development Director

DATE: May 5, 2022

SUBJECT: Variance Request on Lots 8, 9, 10, 11, 12 & 13 Marsh Point Rd Neptune Beach, FL

BACKGROUND: An application for a variance was submitted on April 13, 2022, requesting relief from the rear setback and side yard setbacks. The applicant is planning to construct a 4,000 square foot, 2-story commercial office building with café and storage in the C-2 Zoning District on lots 8 – 13. The side yard setback variance, if granted, would only apply to lots 8 and 13. The applicant will be re-platting the subject lots into one larger lot prior to construction of the proposed building. The rear yard setback variance, if granted, would apply to all lots listed in the variance request.

Pending the Land Development Code Update and subsequent Future Land Use Map Amendment to the Comprehensive Plan, the subject lots will be located in the NC Overlay within the C-2 Zoning District. The side setbacks for the NC Overlay in the C-2 Zoning District is 0' for internal lots. Additionally, the rear yard setback is 10'. If approved, the side setback variance will be in compliance with the proposed land development code provision for the NC Overlay in C-2.

I. **DISCUSSION:** The applicant is requesting a relief from the following Land Development Code provisions:

- **Table 27-229-1**
 - “C-2 side yard setback minimum of 10’ and C-2 rear yard setback of 10’.”

II. FINDINGS:

1. **The property has unique and peculiar circumstances, which create an exceptional and unique hardship. For the purpose of this determination, the unique hardship shall be unique to the parcel and not shared by other property owners in the same zoning district.**

- a. **Applicant Response:** “1) Lots have irregular rear property lines
2) Lots too small to individually develop. 3) configuration of the alley in rear not practical.”
- b. **Staff Response:** Staff finds that the required improvements for a commercial development on lots 8-13 would be impossible. The LDC requires parking to be located on site, as well as ensuring proper drainage/storage of stormwater on site. The minimum parking size required by LDC §27-548 (b) (1) is 10’ wide by 20’ deep with curbing or curb stops at 18’. As such, the buildable space would be reduced by 20’ at the shortest distance between the depth of the lot.

2. **The proposed variance is the minimum necessary to allow the reasonable use of the parcel of land.**

- a. **Applicant Response:** “Smaller than proposed building size does not warrant development. Building would only be 28 ft deep without variance”
- b. **Staff Response:** Staff finds that lots 8 – 12 are very narrow and would not allow for a commercial structure and parking to be placed on the individual lots. As planned, the lots are to be re-platted prior to construction of the proposed commercial building. This replat will enable the lots to have a larger street frontage. However, the depth of the lots will remain unchanged. As such, the size of the lots are too narrow to allow for the LDC requirements for a commercial structure.

3. **The proposed variance would not adversely affect adjacent and nearby properties or the public in general.**

- a. **Applicant Response:** “Owner owns all adjacent properties.”
- b. **Staff Response:** Staff finds that the variance will not negatively impact adjacent or nearby properties. The rear setback will affect a dead-end alley that is currently considered City right-of-way. The alley serves as an access point for City utilities as well as refuse collection. However, city utilities running through the alley are located opposite the lots where the proposed variance is requested. Additionally, refuse collection will still be available to the rear of the proposed structure based on the irregular lot lines. There is no adverse impact on access to the city’s utilities or ability to collect refuse.

The property abutting lot 8 is currently used as warehouse/storage. The 10' setback proposed, as well as the intensity of the proposed office and ancillary storage does not indicate a negative impact to the property abutting lot 8.

The property abutting lot 12 is owned by Jacksonville Transportation Authority (JTA). The land is vacant and houses a light pole and lighting fixtures. During development review, the plans will be provided to JTA to allow for comment on the proposed development. Possible impacts to the JTA property would be overflow parking on the property. This can be mitigated through additional land use controls or conditions on the applicant to ensure protection of the JTA property. Staff suggests addition of a condition that overflow parking shall not be located on the vacant JTA property and that violators be towed and cited for failure to comply. Staff additionally suggests the condition that the applicant place no parking signs along the right-of-way of the JTA property. A right-of-way permit will be required.

All other properties in the vicinity are office and warehousing with one small retail convenience shop. The proposed use is compatible with the other uses in the area and no negative impacts are proposed from the variance request.

4. The proposed variance will not substantially diminish property values in, nor alter the essential character of the area surrounding the site.

- a. **Applicant Response:** “Extension of buildings already in existence. Plan to convert 2 parking spaces into green zone/green space.”
- b. **Staff Response:** Staff finds that property values will likely increase based on the redevelopment of vacant land in the area. The proposed use is consistent with existing uses in the area.

Additionally, the proposed addition of green space will aid in stormwater collection for the proposed structure as well as reduce the amount of concrete on the site. Pervious pavers used for parking areas also adds to the character of the area without impacting the overall impervious surfaces.

5. The effect of the proposed variance is in harmony with the general intent of the ULDC and the specific intent of the relevant subject area(s) of the ULDC.

- a. **Applicant Response:** “Allowable use not in conflict with ULD.”
- b. **Staff Response:** Staff finds that the effect of the variance is in harmony with the general intent of the Land Development Code for setbacks in commercial areas.

6. **The need for the variance has not been created by the actions of the property owner or developer nor is the result of mere disregard for the provisions from which relief is sought.**

a. **Applicant Response:** “Irregular lots with impractical alley platted long before owners’ ownership.”

b. **Staff Response:** Staff finds that the size and shape of the lots, even after re-platting into a larger lot are not conducive for commercial development. The Land Development Code requires on site parking, loading zone, on site stormwater retention, and other provisions which impact the ability to effectively develop a commercial use.

The current site plan does not show a loading zone. However, staff recommends adding a condition that a loading zone be added to the southeasterly corner of lot 8. This loading zone can double as two compact parallel parking spaces during non-loading times. The dumpster enclosure can be moved to the portion of lot 12 that jets east.

7. **Staff Response: Granting the variance will not confer upon the applicant any special privilege that is denied by the ULDC to other lands, buildings, or structures in the same zoning district.**

a. **Applicant Response:** “Same as above—alley and irregular lots”

b. **Staff Response:** Staff finds that granting the variance will not confer upon the applicant any special privilege based on the irregularity of the lots and inability to effectively develop the site for commercial use based on the zoning district and LDC requirements.

III. **CONCLUSION:** Staff supports approval of the variance with the following conditions:

- No Parking Signs shall be placed along the right-of-way of the JTA property
- A Loading Zone shall be added to the southeasterly corner of lot 8 and shall double as two parallel compact spaces when not used as a loading zone
- Move the dumpster enclosure to the portion of lot 12 that jets east.

IV. **RECOMMENDED MOTION:**

a. I move to approve Variance Application V22-06 with the following conditions:

- No Parking Signs shall be placed along the city right-of-way abutting the JTA property

- A Loading Zone shall be added to the southeasterly corner of lot 8 and shall double as two parallel compact spaces when not used as a loading zone
- Move the dumpster enclosure to the portion of lot 12 that jets east.

OR

- b. I move to deny V22-06 based on the potential impact to city utilities within the alleyway adjacent to the proposed rear setback distance as well as the location of the side setback to the JTA property located next to lot 12.

APPLICATION FOR ZONING VARIANCE



THE CITY OF NEPTUNE BEACH
 COMMUNITY DEVELOPMENT DEPARTMENT
 116 FIRST STREET
 NEPTUNE BEACH, FLORIDA 32266-6140
 PH: 270-2400 Ext 34 or cdd@nbfl.us

IMPORTANT NOTE: THE COMMUNITY DEVELOPMENT BOARD, IN CONSIDERING YOUR PETITION, IS ACTING IN A QUASI-JUDICIAL CAPACITY AND ANY DISCUSSION WITH MEMBERS, OTHER THAN AT A PUBLIC MEETING IS PROHIBITED AND ANY SUCH CONTACT MAY VOID YOUR PETITION.

Date Filed:	Zoning District:	Real Estate Parcel Number:
Name & Address of Owner of Record: Marshpoint PropertiesTwo LLC 2300 Marsh Point Rd, Suite 301 Neptune Beach, FL 32266		Property Address: Lots 8, 9, 10, 11, 12, 13, 15 & 16 Block 2 FBPF2 Number of units on property <u>None</u>
Contact phone number# <u>407.217.3255</u> e-mail address <u>jean@skyenterprises.com</u>		Have any previous applications for variance been filed concerning this property? <u>No</u> If Yes, Give Date: <u>N/A</u>
Section 27-15 of the Unified Land Development Code (ULDC) defines a variance as follows: <i>Grant of relief authorized by the board of appeals, or the city council upon recommendation by the planning and development review board, that relaxes specified provisions of the Code which will not be contrary to the public interest and that meets the requirements set forth in article III, division 8 of this Code.</i>		
1. Explain the proposed relief being sought from the code(s): Rear building setback requires 15 ft--Requesting 3 ft. Side yard setback requires 15 ft each side--Requesting 10 ft each side.		
2. Explain the purpose of the variance (if granted)? Build rectangular 2 story commercial building--40' x 100'. Current rear alleyway not practical. Lots have different depths.		
3. Based on the required findings needed to issue a variance in Section 27-147 explain the following (attach additional sheets as necessary): A. How does your property have unique and peculiar circumstances, which create an exceptional and unique hardship? Unique hardship shall be unique to the parcel and not shared by other property owners. The hardship cannot be created by or be the result of the property owner's own action. 1) Lots have irregular rear property lines 2) Lots too small to individually develop 3) Configuration of the alley in rear not practical		

<p>B. How is the proposed variance the minimum necessary to allow reasonable use of the property?</p> <p>Smaller than proposed building size does not warrant development Building would only be 28 ft deep without variance</p>
<p>C. Indicate how the proposed variance will not adversely affect adjacent or nearby properties or the public in general.</p> <p>Owner owns all adjacent properties</p>
<p>D. Indicate how the proposed variance will not diminish property values nor alter the character of the area.</p> <p>Extension of buildings already in existence <i>Plan to convert 2 parking spaces into green zone / green space.</i></p>
<p>E. Explain how the proposed variance is in harmony with the general intent of the Unified Land Development Code.</p> <p>Allowable use not in conflict with ULD</p>
<p>F. Explain how the need for the proposed variance has not been created by you or the developer?</p> <p>Irregular lots with impractical alley platted long before owner's ownership</p>
<p>G. Indicate how granting of the proposed variance will not confer upon you any special privileges that is denied by the code to other lands, buildings or structures in the same zoning district.</p> <p>Same as above--alley and irregular lots</p>

4. Required Attachments -Applicant must include the following: (INCOMPLETE PACKAGES WILL BE RETURNED)
A. 8 1/2" by 11" overhead site plan drawn to an appropriate scale showing the location of all existing and proposed improvements to the property and including all setback measurements from property lines. WHICH HAS NOT BEEN REDUCED.
B. Survey of the property certified by licensed surveyor dated within one year of application date. WHICH HAS NOT BEEN REDUCED.
C. Copy of Deed
D. Pictures of the property as it currently exists
5. Letter of authorization for agent to make application (Required only if not made by owner)
6. NON-REFUNDABLE FEE: \$300.00 (Residentially zoning property) / \$500.00 (Commercially Zoned Property)

NO APPLICATION WILL BE ACCEPTED UNTIL ALL THE REQUESTED INFORMATION HAS BEEN SUPPLIED AND THE REQUIRED FEE HAS BEEN PAID. THE ACCEPTANCE OF AN APPLICATION DOES NOT GUARANTEE ITS APPROVAL BY THE COMMUNITY DEVELOPMENT BOARD. THE APPLICANT AND SURROUNDING PROPERTIES WILL BE NOTIFIED OF THE PUBLIC HEARING BY MAIL AND POSTING OF THE PROPERTY. THE APPLICANT OR HIS/HER AUTHORIZED AGENT MUST BE PRESENT AT THE MEETING.

*If a residential zoning variance is granted, then a 30 day wait period must pass before any required building permits can be released, in order to allow time for appeals.

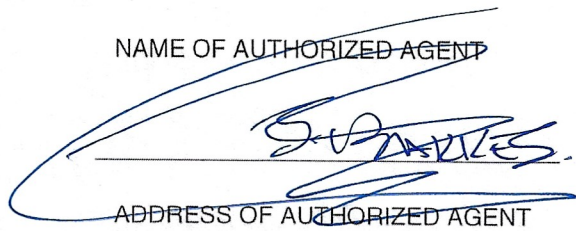
*If a commercially zoned variance is granted by council, then a 30 day wait period must pass before any required building permits can be released, in order to allow time for appeals.

I HEREBY CERTIFY THAT I HAVE READ AND UNDERSTAND THE INFORMATION CONTAINED IN THIS APPLICATION. THAT I AM THE PROPERTY OWNER OR AUTHORIZED AGENT FOR THE OWNER WITH AUTHORITY TO MAKE THIS APPLICATION, AND THAT ALL OF THE INFORMATION CONTAINED IN THIS APPLICATION, INCLUDING THE ATTACHMENTS ARE TRUE AND CORRECT TO THE BEST OF MY KNOWLEDGE. I HEREBY APPLY FOR A ZONING VARIANCE AS REQUESTED.

NAME (S) OF PROPERTY OWNER (S)

Jean Bakkes

NAME OF AUTHORIZED AGENT



ADDRESS OF PROPERTY OWNER

2300 Marsh Point Rd, Suite 301
Neptune Beach, FL 32266

ADDRESS OF AUTHORIZED AGENT

2300 Marsh Point Rd, Suite 301
Neptune Beach, FL 32266

SIGNATURE OF OWNER OR AUTHORIZED AGENT:

Table 27-229-1

Zoning District	Minimum Lot Area	Minimum Lot Width	Minimum Front Yard Setback (1)	Minimum Side Yard Setback	Minimum Corner Lot Side Yard Setback	Minimum Rear Yard Setback	Maximum Lot Coverage	Maximum Building Height
R-1	12,000 square feet	100 feet	25 feet	10 feet	15 feet	30 feet	50 percent	28 feet(5)
R-2	10,000 square feet	85 feet	20 feet	10% of lot width and minimum of 7 feet	10 Feet	25 feet	50 percent	28 feet
R-3	5,000 square feet	50 feet	15 feet	10% of lot width and minimum of 7 feet	10 feet	25 feet	50 percent	28 feet
R-4	4,356 square feet(3)	40 feet	Flexible (4)	7 feet	8 feet	Flexible (4)	50 percent	28 feet
R-5	2,562 square feet/ dwelling unit (2)	Apartment Complexes: 200 feet. For Single Family Dwellings see (2)	30 feet	For Apartment Complexes: 25 feet. For Single Family Dwellings see (2)	For Apartment Complexes : 25 feet. For Single Family Dwellings see (2)	For Apartment Complexes : 30 feet. For Single Family Dwellings see (2)	For Apartment Complexes: 35 percent. For Single Family Dwellings see (2)	28 feet
C-1	7,500 square feet	60 feet	25 feet	10 feet	15 feet	10 feet	60 percent(6)	35 feet
C-2	10,000 square feet	80 feet	25 feet	15 feet	20 feet	15 feet	70 percent(6)	35 feet
C-3	15,000 square feet	100 feet	25 feet	20 feet	25 feet	20 feet	75 percent(6)	35 feet
CBD	None	None	None	5 feet	7 feet	5 feet	85 percent	35 feet

NOTES:

(1) More specific front yard setbacks shall apply in locating new structures around the following road segments: (See subsection 27-231(b)).