

City of Neptune Beach

Community Development Department
116 First Street • Neptune Beach, Florida 32266-6140



REPORT OF THE COMMUNITY DEVELOPMENT DEPARTMENT

APPLICATION FOR ZONING VARIANCE V-22-02

(PIN: 173023-0000)

January 12, 2022

Background

V22-02 Application for variance as outlined in Chapter 27, Article III Division 8 of the Unified Land Development Code of Neptune Beach for Gregory Saig for the property known as: 1402 1st Street (173023-0000).

The request is to vary section 27-329 (1) and 27-329 (2) Swimming pools, pool enclosures, hot tubs, and similar structures for the construction of a pool and deck in the front yard.

General Information

The applicant is seeking a variance request to construct a pool and deck in the front yard and to encroach upon the minimum setback for its construction.

More specifically, Section 27-329 (1) states the following:

Setbacks. Pools, hot tubs, or similar structures shall be located in side [yards], or rear yards. The minimum front setback for a pool, hot tub, or similar structure shall be no closer to the front yard setback than the front building line of the main or principal building as shown in Figure 27-329-1. In the case of a double frontage lot, a pool may be located in any yard provided that setback requirements are met.

Section 27-329 (2):

Setbacks maintained. A minimum of seven (7) feet from the side yard on an interior lot, fifteen (15) feet exterior side yard on a corner lot, seven (7) feet front yard setback on a double frontage lot, and five (5) feet rear yard setbacks shall be maintained (refer to figure 27-329-2). Minimum setbacks shall be measured from the lip of the pool.

Section 27-147: Required Findings Needed to Issue a Variance

- 1. How does the 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.**

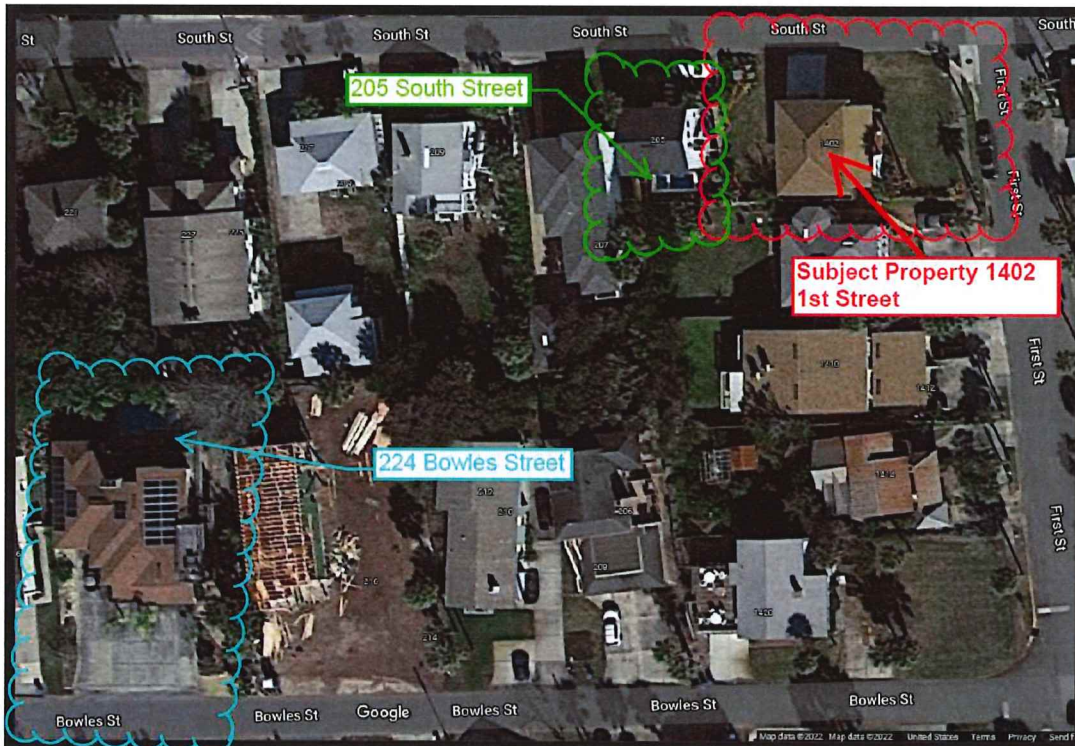
The applicant states in in their application the following:

“The location of my house and its relationship to adjacent house to the West, which has building columns and second story balcony 12” from my property line, causes the unique hardship of very little sunlight for my backyard pool. Hence, causing me to desire a pool and deck in the front yard.”

Staff have analyzed the request of the applicant and found that § 27-147 (1) **is not met**. The applicant’s basis for a unique and peculiar circumstance is that the backyard has shade and very little sunlight for a backyard pool. There are many properties within this zoning district with shade and pools in the backyard.

§ 27-147 (1) requires, “That 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.”

The property to the rear of the applicant, located at 205 South Street has a pool in the backyard with shade, as does the property located at 224 Bowles.



Staff contends that by constructing a pool, deck and fencing within the front yard, facing 1st Street, and placing the fence, deck and pool withing the required setbacks would alter the character of the 1st Street Corridor.

5. Explain how the proposed variance is in harmony with the general intent of the Unified Land Development Code.

The applicant states that, *“By the wonderful landscaping I will install surrounding the pool.”*

The Unified Land Development Code does not provide for constructing a pool in a front yard upon a corner lot. §27-329 (1) of the City’s Code clearly states that, “the minimum front setback for a pool, hot tub, or similar structure shall be no closer to the front yard setback than the front building line of the main or principal building...”.

6. Explain how the need for the proposed variance has not been created by the applicant or the developer.

The applicant states that, “my house and its relationship to adjacent property to the West was there when I bought it.”

Staff posits that the applicant knew about the adjacent property prior to purchasing the subject property and therefore the need for the variance would be created by the applicant’s desire to construct a swimming pool and deck in the front yard.

7. 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.

The applicant states that, *“No special privileges are expected just a pool with sunlight.”*

Staff have analyzed the request and found that there are no other pools in front yards within the immediate vicinity, and along the entire 1st Street Corridor, therefore granting this application would confer a special privilege.

Staff Recommendation

Staff recommends denial of V22-02 1401 1st Street.

V 22-02

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: <u>R-4</u>	Real Estate Parcel Number: <u>173023-0000</u>
Name & Address of Owner of Record: <u>Greg Sain</u>		Property Address: <u>1402 FIRST ST.</u> <u>NEPTUNE BEACH, FL. 32266</u>
Contact phone number# <u>904-962-5035</u>	Have any previous applications for variance been filed concerning this property? <u>NO</u>	
e-mail address <u>gsain@aol.com</u>	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): <u>TO allow A pool in front yard which code currently does not allow.</u> <u>27-329(1) + (2)</u>		
2. Explain the purpose of the variance (if granted)? <u>TO install A pool in front yard.</u>		
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. <u>The location of my house and its relationship to adjacent house to the west, which has building columns and second story balcony 12" from my property line, causes the unique hardship of very little sunlight for my backyard pool. Hence causing me to desire a pool and deck in the front yard.</u>		

B. How is the proposed variance the minimum necessary to allow reasonable use of the property?

It is the minimum needed for a standard size pool & Deck area.

C. Indicate how the proposed variance will not adversely affect adjacent or nearby properties or the public in general.

The pool will not affect any adjacent property as it will be fenced and shrubbed around where will not be visible.

D. Indicate how the proposed variance will not diminish property values nor alter the character of the area.

A pool and deck will only enhance property values.

E. Explain how the proposed variance is in harmony with the general intent of the Unified Land Development Code.

By the wonderful landscape I will install surrounding the pool.

F. Explain how the need for the proposed variance has not been created by you or the developer?

My house and its relationship to adjacent property to the west was there when I bought it.

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.

No special privileges are expected just a pool with sun light.

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)

Greg Saij

NAME OF AUTHORIZED AGENT

ADDRESS OF PROPERTY OWNER

1402 First St.

ADDRESS OF AUTHORIZED AGENT

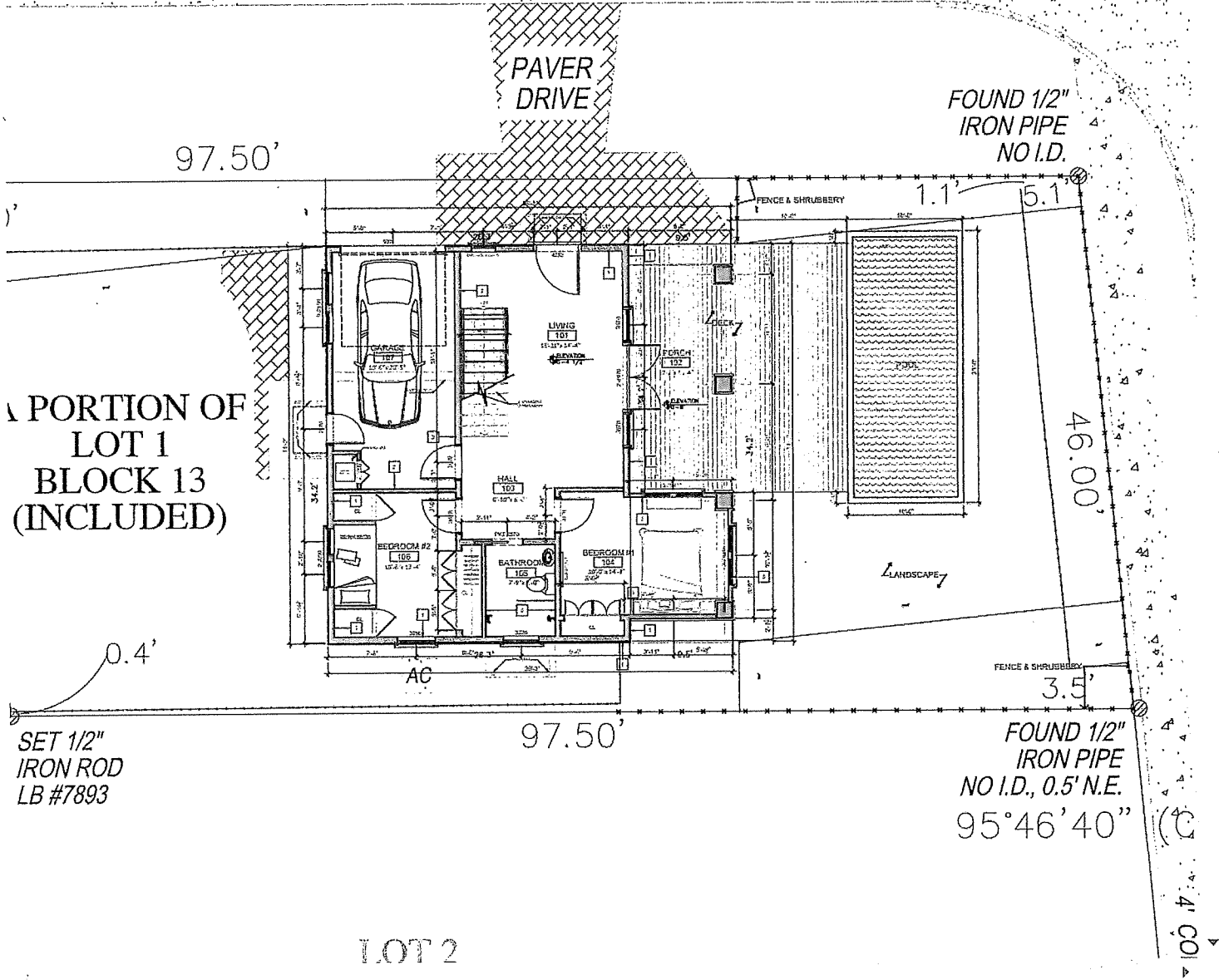
SIGNATURE OF OWNER OR AUTHORIZED AGENT:



GREG'S COTTAGE_PERMIT YARD DESIGN_9.22.21.pdf

UTH STREET 50' R/W (IMPROVED)

EDGE OF PAVEMENT



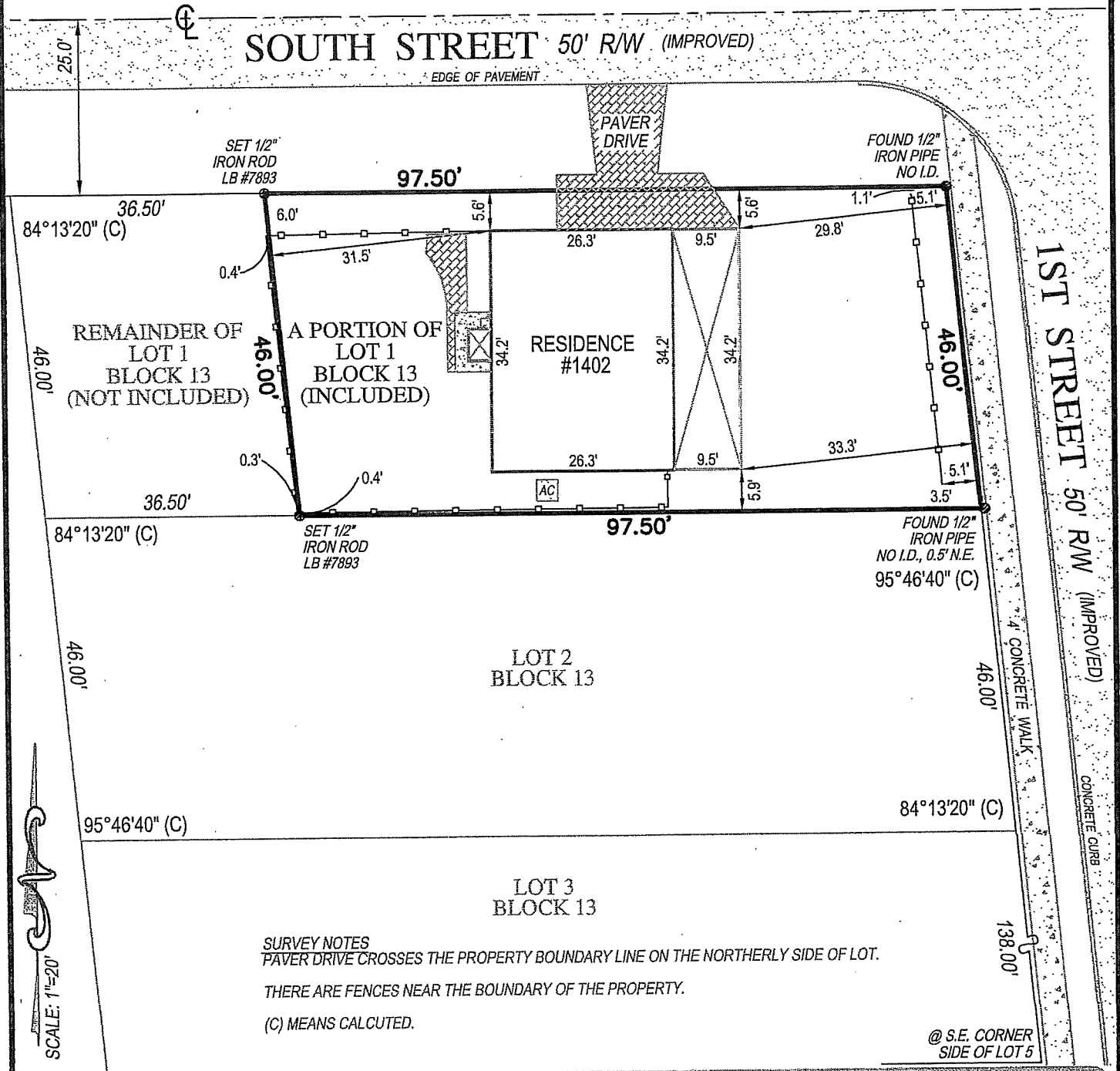
A PORTION OF LOT 1 BLOCK 13 (INCLUDED)

SET 1/2" IRON ROD LB #7893

FOUND 1/2" IRON PIPE NO I.D., 0.5' N.E. 95°46'40"

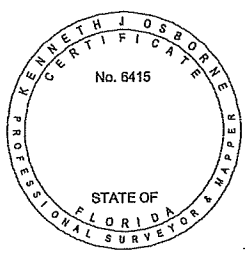
LOT 2

BOUNDARY SURVEY



SURVEY NOTES
 PAVER DRIVE CROSSES THE PROPERTY BOUNDARY LINE ON THE NORTHERLY SIDE OF LOT.
 THERE ARE FENCES NEAR THE BOUNDARY OF THE PROPERTY.
 (C) MEANS CALCUTED.

@ S.E. CORNER
SIDE OF LOT 5



SURVEYORS CERTIFICATE

I HEREBY CERTIFY THAT THIS BOUNDARY SURVEY IS A TRUE AND CORRECT REPRESENTATION OF A SURVEY PREPARED UNDER MY DIRECTION. NOT VALID WITHOUT AN AUTHENTICATED ELECTRONIC SIGNATURE AND AUTHENTICATED ELECTRONIC SEAL, OR A RAISED EMBOSSED SEAL AND SIGNATURE.

Digitally signed by
Kenneth J. Osborne
 Date: 2019.06.05
 13:48:39 -04'00'

TARGET SURVEYING, LLC

LB #7893

SERVING FLORIDA

6250 N. MILITARY TRAIL, SUITE 102
 WEST PALM BEACH, FL 33407
 PHONE (561) 640-4800
 STATEWIDE PHONE (800) 226-4807

Prepared by and return to:

Marsh Landing Title, LLC
320 1st Street North Suite 613
Jacksonville Beach, FL 32250
904-249-0603
File Number: MLT-19-0071
Will Call No.:

[Space Above This Line For Recording Data]

Warranty Deed

This Warranty Deed made this 5th day of June, 2019 between Julie Frey, Rebecca C. Smith and David Strother whose post office address is 409 Holiday Hill Circle E., Jacksonville, FL 32216, grantor, and Gregory Saig whose post office address is P.O. Box 50648, Jacksonville, FL 32240-0648, grantee:

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

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

The Easterly 97.5 feet of Lot 1, Block 13, Merimar, according to the map or plat thereof, as recorded in Plat book 8, Page(s) 30, of the Public Records of Duval County, Florida.

Parcel Identification Number: 173023-0000

Grantor warrants that at the time of this conveyance, the subject property is not the Grantor's homestead within the meaning set forth in the constitution of the state of Florida, nor is it contiguous to or a part of homestead property.

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, 2018.

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

Prepared by and return to:

Marsh Landing Title, LLC
320 1st Street North Suite 613
Jacksonville Beach, FL 32250
904-249-0603
File Number: MLT-19-0071
Will Call No.:

[Space Above This Line For Recording Data]

Personal Representative's Deed

This Personal Representative's Deed made this 5th day of June, 2019 between Julie Frey, Personal Representative of the Estate of Riley B. Strother, deceased whose post office address is 409 Holiday Hill Circle E., Jacksonville, FL 32216, grantor, and Gregory Saig whose post office address is P.O. Box 50648, Jacksonville, FL 32240-0648, grantee:

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

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

The Easterly 97.5 feet of Lot 1, Block 13, Merimar, according to the map or plat thereof, as recorded in Plat abook 8, Page(s) 30, of the Public Records of Duval County, Florida.

Parcel Identification Number: 173023-0000

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 has good right and lawful authority to sell and convey said land; that the grantor warrants the title to said land for any acts of Grantor and will defend the title against the lawful claims of all persons claiming by, through, or under Grantor.

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



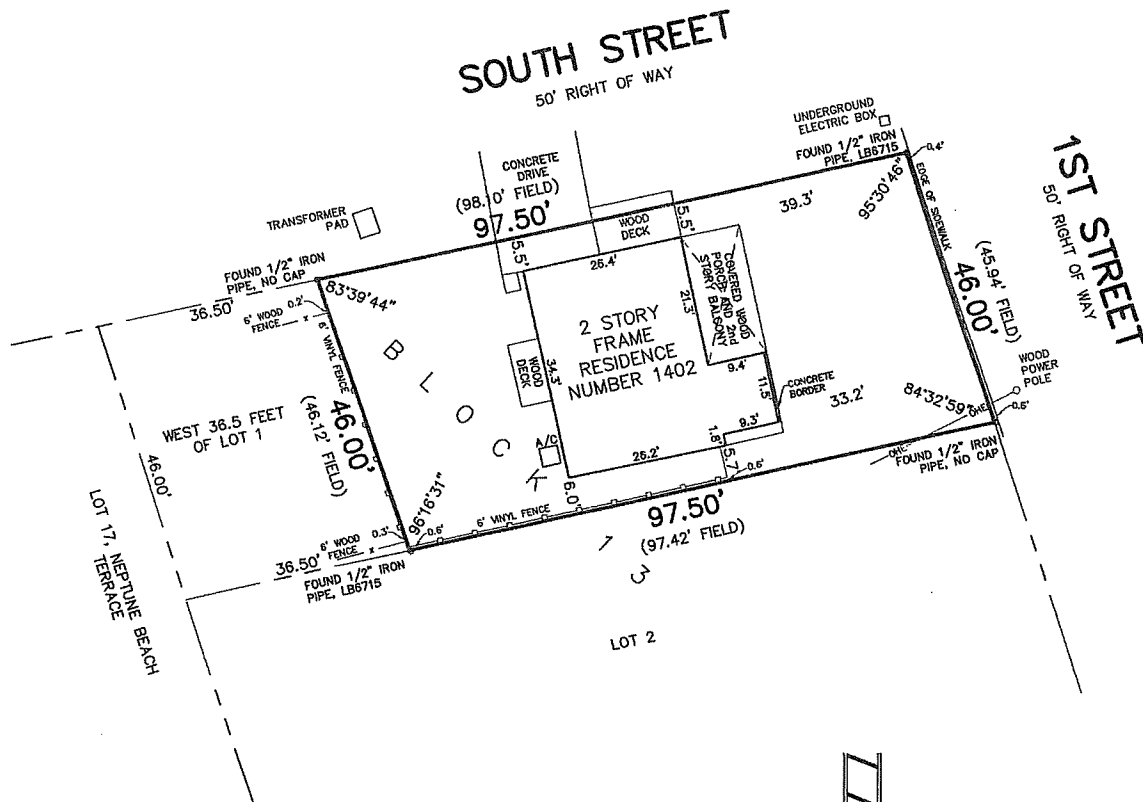




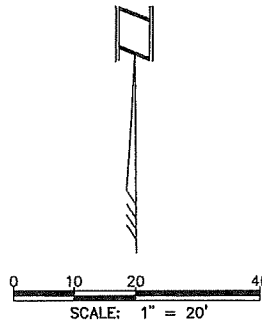


MAP SHOWING SURVEY OF

LOT 1 EXCEPT THE WEST 36.50 FEET, BLOCK 13, MERIMAR AS
RECORDED IN PLAT BOOK 8, PAGE 30, OF THE CURRENT PUBLIC
RECORDS OF DUVAL COUNTY, FLORIDA.



- NOTES:
1. THIS IS A BOUNDARY SURVEY.
 2. ANGLES PER FIELD SURVEY.
 3. NO BUILDING RESTRICTION LINES AS PER PLAT.
 4. NORTH PROTRACTED FROM PLAT.



**IMPERVIOUS CALCULATIONS
(IN SQUARE FEET(S.F.))**

LOT AREA	=	4,475 S.F.
HOUSE AREA	=	1,011 S.F.
WOOD DECKS	=	343 S.F.
CONCRETE (ALL)	=	121 S.F.
TOTAL	=	1,475 S.F.
	=	32.96%

THE PROPERTY DESCRIBED HEREON LIES IN FLOOD ZONE "X" (0.2% ANNUAL CHANCE FLOOD HAZARD) AS WELL AS CAN BE DETERMINED FROM THE FLOOD INSURANCE RATE MAP No. 12031C0409J, EFFECTIVE NOVEMBER 2, 2018 FOR DUVAL COUNTY, FLORIDA

THIS SURVEY IS CERTIFIED TO: GREGORY SAIG.

J. Boatwright
JASON D. BOATWRIGHT, P.S.M.
 FLORIDA LICENSED SURVEYOR and MAPPER No. LS 7292
 FLORIDA LICENSED SURVEYING & MAPPING BUSINESS No. LB 3672

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

CHECKED BY: _____
 DRAWN BY: SWC
 FILE: 2021-1618

BOATWRIGHT LAND SURVEYORS, INC.
 1500 ROBERTS DRIVE, JACKSONVILLE BEACH, FLORIDA (904)241-8550

DATE:
 NOVEMBER 24, 2021
 SHEET 1 OF 1

1402 1st St V22-02

Sec. 27-329. - Swimming pools, pool enclosures, hot tubs, and similar structures.

Swimming pools, pool enclosures, hot tubs, and similar structures shall be permitted, provided that the following design criteria are met:

- (1) *Setbacks.* Pools, hot tubs, or similar structures shall be located in side or rear yards. The minimum front setback for a pool, hot tub, or similar structure shall be no closer to the front yard setback than the front building line of the main or principal building as shown in Figure 27-329-1. [See Figures at the end of article V.] In the case of a double frontage lot, a pool may be located in any yard provided that setback requirements are met.
- (2) *Setback maintained.* A minimum of seven (7) feet from the side yard on an interior lot, fifteen (15) feet exterior side yard on a corner lot, seven (7) feet front yard setback on a double frontage lot, and five (5) feet rear yard setbacks shall be maintained (refer to Figure 27-329-2 [at the end of article V]). Minimum setbacks shall be measured from the lip of the pool.
- (3) *Safety fences.* Swimming pools and hot tubs shall be surrounded by an approved wall or fence, which is at least four (4) feet in height, but not over eight (8) feet, and controls unrestrained admittance to the enclosed area through the use of self-closing and self-latching doors and gates. The pool shall be setback at least three (3) feet from the wall or fence, as measured to the lip of the pool.
- (4) *Electric power lines.* Swimming pools and similar structures shall not be located under overhead electric power lines unless enclosed in conduit and rigidly supported, nor shall any power line be nearer than ten (10) feet horizontally or vertically from the pool's water edge.
- (5) *Excavations.* Excavations shall not exceed a 1:1 slope from the foundation of an existing house, unless a trench wall is provided.
- (6) *Lights.* Underwater lights used to illuminate the interior of the pool shall be so arranged as not to reflect light onto adjoining premises.

(Ord. No. 2004-10, § 1, 10-4-04)

State Law reference— Public swimming and bathing facilities, F.S. Ch. 514.

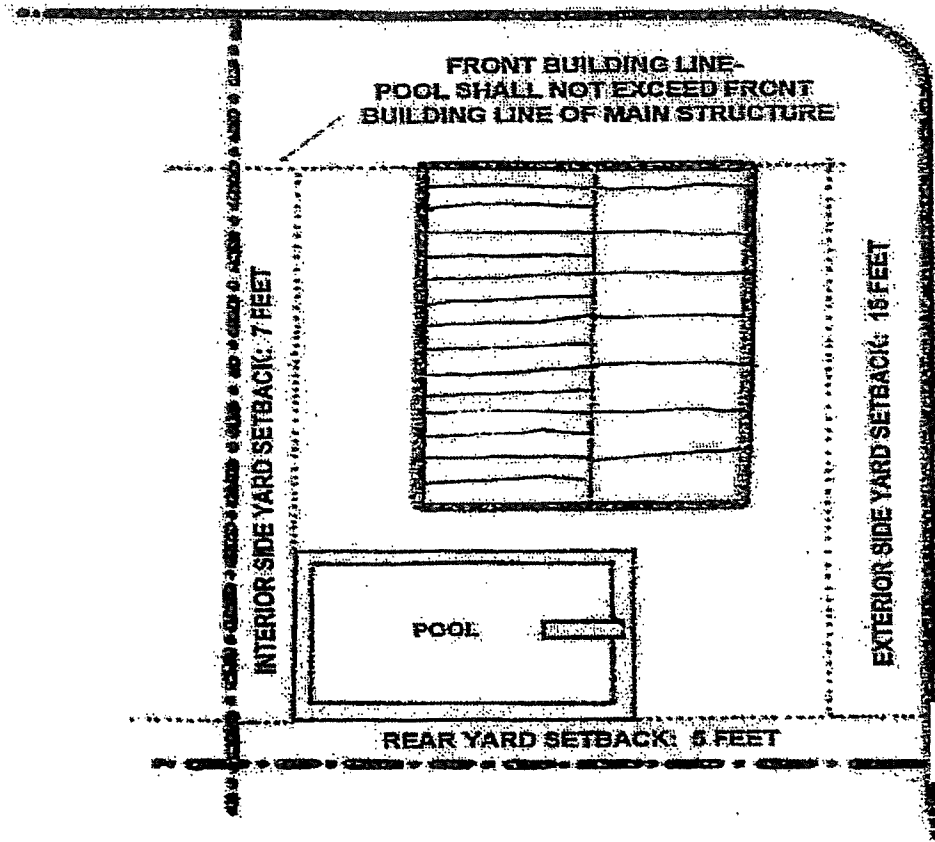


Figure 27-329-1

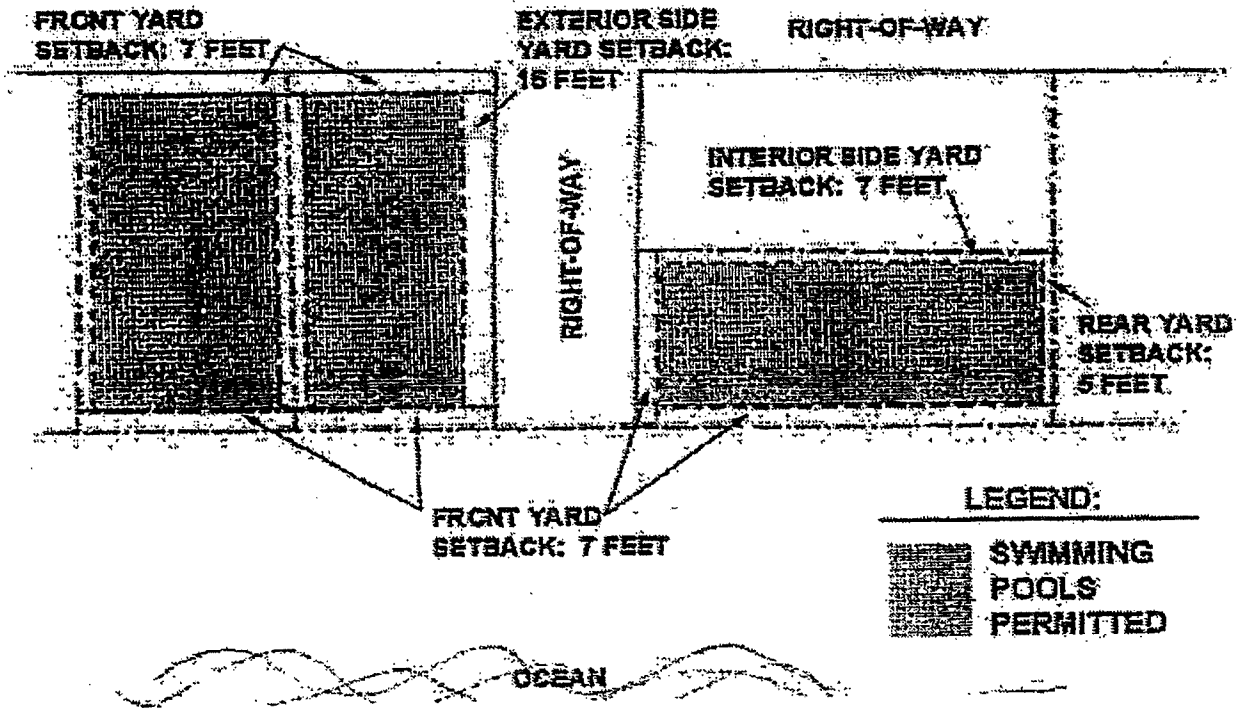


Figure 27-329-2