



## **BOARD OF ADJUSTMENT MEETING**

### **CITY OF ST. PETE BEACH**

155 Corey Avenue  
St. Pete Beach, Florida

**Wednesday, 1/25/2017**  
**2:00 p.m.**

Call to Order  
Pledge of Allegiance  
Roll Call

- 1. Changes to the Agenda** – Agenda items to be added, moved or deleted will be addressed at this time. Added items will be assigned agenda item numbers and moved items should remain with the same item numbers. Notation will be made that those items will be taken out of order.
- 2. Audience Comments** – Comments shall be limited to three minutes per person to issues not on the agenda.
- 3. Minutes for Acceptance**

12/14/2016

## **4. Public Hearings**

- I. Case 2015-0075: 3940 Oleander Way – Applicant requests a variance to Section 8.7(a) of the Land Development Code to reduce the required front yard setback and the required side yard setback to allow for the construction of a carport.
- II. Case 2015-0076: 2601 Pass-A-Grille Way – Applicant requests a variance to Section 6.15 of the Land Development Code to increase the maximum allowable fence height within a waterfront yard.
- III. Case 2016-0077: 224 45<sup>th</sup> Avenue – Applicants request a variance to Section 9.7(a) of the Land Development Code to reduce the required rear yard setback to allow for the construction of a screened porch addition.
- IV. Case 2016-0078: 495 41<sup>st</sup> Avenue – Applicant requests a variance to Section 8.6(a) of the Land Development Code to reduce the minimum required lot width to allow for the subsequent subdivision of the lot into two lots.

## **5. Adjournment**

### **APPEAL**

If a person decides to appeal any decision made at this meeting, he or she will need a record of the proceeding and, for such purpose, may need to ensure that a verbatim record of the meeting is made, which record includes the testimony and evidence upon which the appeal is to be based. (F.S. 286.0105) The City does not furnish verbatim transcripts; interested parties should make the necessary arrangements for verbatim transcripts.

### **AMERICANS WITH DISABILITIES ACT**

In Accordance with the American's with Disabilities Act and F.S. 286.26, persons with disabilities needing special accommodations to participate in this meeting should contact City Hall at (727) 367-2735 no later than (4) days prior to the meeting for assistance. The public is cordially invited to attend. All agenda material is available for review at City Hall.



# St. Pete Beach Board of Adjustment

155 Corey Avenue  
St. Pete Beach, FL 33706  
727-367-2735

1/25/17

**Variance Case  
#2016-0075**

**Applicant/Agent**  
Monte Pierce, Owner

**Location**  
3940 Oleander Way

**Commission  
District**  
District 3

**Staff Representative**  
Mike Larimore, Zoning  
Tech II

**Related Cases**  
N/A

**Staff  
Recommendation**  
Denial

## ITEM SUMMARY:

| Item                                                    | Requirement | Existing Condition | Proposed |
|---------------------------------------------------------|-------------|--------------------|----------|
| Land Development Code 8.7(a):<br><br>Front Yard Setback | 20 feet     | 20 feet            | 10 feet  |
| Land Development Code 8.7(a):<br><br>Side Yard Setback  | 7 feet      | 7.3 feet           | 5 feet   |

Applicant requests variances to Section 8.7(a) of the Land Development Code to reduce the required front yard setback from 20 feet to 10 feet and the required side yard setback from 7 feet to 5 feet to allow for the construction of a carport.

Existing Use: Residential (Detached Single-Family)

Adjacent Uses

North: Residential (Detached Single-Family)

South: Residential (Detached Single-Family)

East: Infrastructure (Oleander Way)

West: Residential (Detached Single-Family)

The Applicant is requesting variances to front and side setbacks in order to construct a detached carport. The lot is an interior lot that faces Oleander Way to the east with single family residences to the north, south, and west.

## **PUBLIC NOTICE:**

Notice of public hearing has been advertised as required by State Statutes, including: a legal advertisement in a local newspaper, written notices of hearing to owners of property within 300 feet of the subject property, and the posting of a public hearing sign for 7 days on the subject property prior to the public hearing. At the time of this report, no letters of comment have been received.

## **COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:**

The primary use of the property for a detached single-family residence is consistent with the City's Comprehensive Plan and Land Development Code.

The proposed carport is an allowable permitted residential accessory structure. The Land Development Code regulates the setbacks and allowable height of detached garages and carports.

## **CRITERIA REVIEW (LDC 3.12.a):**

The Board of Adjustment may authorize variances to the land development regulations if the applicant is able to demonstrate compliance with all five (5) of the following conditions. Staff analysis of criteria in *red italics* below:

- 1) The existence of conditions and circumstances that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same district which have complied with these regulations without hardship; that the strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building; and the peculiar conditions and circumstances are not the result of the actions of the applicant. *The existing conditions, circumstances, and orientation of the subject property are not peculiar.*
- 2) Neither a nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, nor a permitted use in adjacent districts shall be considered as grounds for issuance of a variance. *No other structures or uses are being considered.*
- 3) The proposed variance will not have the effect of changing any district boundary on the zoning map, nor constitute the granting of a nonconforming use. Under no circumstances shall a variance permit an increase in development density or permit a use not specifically permitted in the district. *The proposed variances will not affect any boundaries or permit a nonconforming use.*
- 4) The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the variance, the appropriate board of authority may prescribe any conditions and safeguards it deems



necessary or desirable as a condition of approval of the variance application. *The requested variances are not in harmony with the general intent of the Land Development Code density or setback regulations.*

- 5) The appropriate board of authority finds as a reasonable conclusion that hardship would unnecessarily result from a literal enforcement of the provisions of the land development regulations as set forth in the application, and the variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building. *The literal enforcement of the land development regulations would not result in a hardship for the Applicant. An accessory structure is not requisite for reasonable use of the land.*

### **STAFF RECOMMENDATION:**

Staff recommends denial – The proposed carport is considered an accessory residential structure in Land Development Code Section 6.13 and therefore not requisite for reasonable use of the land. The configuration of the subject property is not peculiar in any way that would necessitate a variance to allow for reasonable use of the land.

#### Attachments:

- A. Relevant Code Section
- B. Aerial Photo
- C. Site Photo
- D. Variance Application
- E. Survey / Site Plan

Attachment A.

Sec. 8.7. - Minimum yard requirements.

The minimum yard requirements for principal structures in the RU-1 Residential District are as required in this section.

(a) Detached single-family dwellings.

- (1) Front yard: 20 feet.
- (2) Secondary front yard: 20 feet.
- (3) Side yards: The lesser of ten percent of the lot width or seven feet.
- (4) Rear yard: 20 feet.

Sec. 6.13. - Accessory residential structures.

Accessory residential structures may be permitted only on zoning lots having one or more existing residential dwelling units and shall be regulated as follows:

(a) Garage, private residential, as defined, fall into one of two types, either attached to or detached from the principal residential structure. Under the terms of this section, the term "garage" shall also include carports. For the purposes of this Code, a garage shall be deemed to be attached only when it shares at least 75 percent of the length of one wall in common with the principal structure to which it is an accessory.

- (1) Attached garage. An attached garage shall be subject to the same required yard and height requirements as the principal structure.
- (2) Detached garage. Detached garages shall be regulated as follows:

a. Required yards:

|                       |                                                         |
|-----------------------|---------------------------------------------------------|
| Front yard:           | 20 feet                                                 |
| Secondary front yard: | As required for the principal structure                 |
| Side yards:           | As required for the principal structure                 |
| Rear yard:            | Ten feet if accessible from an alley; otherwise 20 feet |

- b. Maximum height: 12 feet above the crown of any street abutting the property.
- c. In no case shall a detached garage have any sleeping room, kitchen facilities or plumbing

Attachment B.



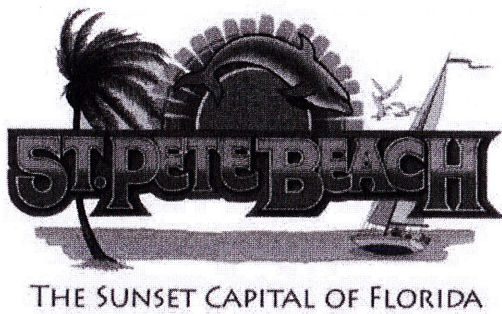
Above: Subject property highlighted.

Attachment C.



Above: Subject property, facing west





**City of St. Pete Beach**  
Community Development Department  
155 Corey Avenue  
St. Pete Beach, Florida 33706  
727-367-2735  
[www.stpetebeach.org](http://www.stpetebeach.org)



## VARIANCE APPLICATION

Case Number: 2016-0075

### PROPERTY FOR PROPOSED VARIANCE

Legal Description: LOT 11 BLOCK A FIFTH ADDITION TO BELLA VISTA BEACH  
ACCORDING TO THE MAP OR PLAT THEREOF AS RECORDED  
Parcel ID: IN PLAT BOOK 27 PAGE 18 OF PUBLIC RECORDS OF PINELLAS COUNTY FL  
Address: 3940 OLEANDER WAY ST PETE BEACH  
33706  
Current Zoning: RU-1 FLUM Designation: RU Lot Area: 7000  
Existing Use: SINGLE FAMILY HOME Proposed Use: SINGLE FAMILY HOME

### APPLICANT/AGENT:

Name: Monte Pierce  
Address: 3940 OLEANDER WAY  
City: ST PETE BEACH State: FL  
Zip: 33706 Phone: 303 434 5887  
Email: Pierce271@hotmail.com

### PROPERTY OWNER:

Name: Monte & MARY Pierce  
Address: 3940 OLEANDER WAY  
City: ST PETE BEACH State: FL  
Zip: 33706 Phone: 303 434 5887  
Email: Pierce271@hotmail.com

### DETAILS OF THE REQUEST: Cite code sections for which variance is requested: (Add additional sheets if necessary)

OFFICE  
Will make Garage Living space, due to Sick  
MOM going to live with us for care.  
we will have to have Mom live in  
3rd Bedroom, which we are using for office  
& move office to Garage. Need  
carport to use for vehicle.

**Additional Documents:**

| Check here if document is attached | Required Document                                                                                |
|------------------------------------|--------------------------------------------------------------------------------------------------|
| ✓                                  | Recent Survey of the property illustrating all boundaries, easements, and physical improvements. |
| ✓                                  | Site Plan drawn to scale showing proposed deviations of the code.                                |

In order for an application for a variance to be approved or approved with conditions, the Board of Adjustment must make a positive finding with regard to each of the provisions below, which are also located in Division 3 of the Land Development Code. The applicant has the burden of proof demonstrating that the application for the variance complies with each of the requirements. Please explain in detail how your case meets these requirements (attach additional sheets if necessary):

1. Conditions and circumstances exist that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same zoning district which have complied with these regulations without hardship.

MOTHER-IN-LAW MOVING IN 3RD BEDROOM OF HOUSE. WILL MOVE OFFICE INTO GARAGE & WILL NEED A CARPORT FOR VEHICLE.

2. The strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building.

CURRENT SETBACKS PREVENT TO CONSTRUCT CARPORT.

3. The peculiar conditions and circumstances are not the result of the actions of the applicant.

I DID NOT BUILD PRESENT HOUSE.



4. The proposed variance will not have the effect of changing any district boundary on the zoning map.

Correct N/A

5. The variance shall not permit a non-conforming use or permit a use not specifically permitted in the zoning district.

Correct N/A

6. The variance shall not increase density or intensity over that which is permitted in the Comprehensive Plan.

Correct N/A

7. The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

Correct

8. The variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.

Correct  
M. [Signature] 12/1/16

Signature of Applicant

Date

Signature of Authorized Agent

Date

For office use only:

Hearing Date: \_\_\_\_\_ Fees: \_\_\_\_\_

Board Action: ☐ Approved as requested ☐ Approved with conditions ☐ Denied ☐ Continued

## VARIANCE APPLICATION

Applicants must acknowledge understanding of the following. Initial each of the statements below. If you do not understand any of these, staff will explain them to you.

 I understand that the City will not accept or process an incomplete application.

 I understand that a non-conforming use or structure in a particular zoning district does not, in any way, provide justification for the granting of a variance. Furthermore, the existence of a permitted use or structure in adjacent districts does not constitute grounds for a variance.

 On all variances, a majority vote is required. Action on this application by the BOA/City Commission may be continued to a later meeting.

 I understand that if a variance is approved by the BOA/City Commission, the applicant is required to obtain the appropriate building permits within 1 year from the date of the decision. If no permit is obtained within 1 year, the approval from the Board/City Commission becomes voided.

 I understand that if any application filed under the provisions of this Code is denied, no subsequent application seeking substantially the same or similar approval shall be filed within six months of the final decision on the original application.

 I understand that any person aggrieved by the final decision has the right to file a petition in the Pinellas County Circuit Court within 30 calendar days after the decision. Permits for construction may be granted prior to the expiration of this 30-day period, but an appeal will be grounds for revocation of the permit.

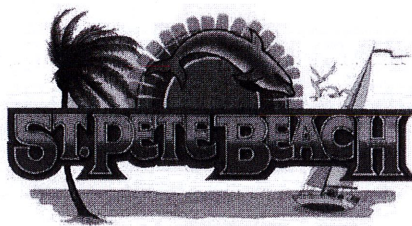
 I understand that I, as the applicant, or my authorized representative must be present at all scheduled public meetings on the application.

After acknowledgement of these conditions, complete the application form on the following pages

  
Signature of Applicant

12/1/10  
Date





THE SUNSET CAPITAL OF FLORIDA

## PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, Monte Pierce, agrees to post the sign(s) in a conspicuous place, at the principal access to the property, in full view of the public, and not more than five (5) feet from the nearest street right of way or easement a minimum of seven (7) days in advance of the Public Hearing and remain in place until the requested action has been heard and decided. Multiple sign postings shall not be more than three hundred (300) feet apart. If the subject parcel(s) abut more than one (1) street, notices shall be posted along each street. When the subject parcel(s) does not front a public road, the sign shall be posted at the point on a public road by which the property is, or can be, reached.

The sign shall be maintained in good readable condition by the applicant. If the said sign is destroyed, lost, or becomes unreadable, the applicant or applicant's representative shall obtain a replacement sign. Any sign posted in accordance with these requirements shall be removed from the property and disposed of by the applicant or applicant's agent not later than 24 hours following the final decision.

### Applicant/Agent (must fill out agent authorization form):

Name(print): MONTÉ PIERCE

Address: 3940 OLEANDER WAY ST PETE BEACH, FL 33706

Monte Pierce 12/1/16

Signature

Date

STATE OF FLORIDA

PINELLAS COUNTY

) SS:

)

The foregoing instrument was acknowledged before me this 1 day of Dec, 2016 by Monte Pierce, who appeared before me, and is personally known to me, or has produced FL DL as identification, and did take an oath.

P620-550-60-053-0

My commission Expires:

NOTARY:

Print Name:

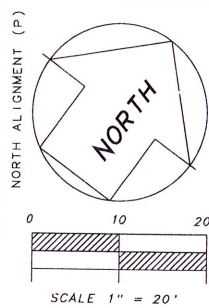
Dorinda Beltrami-Hurst

Notary Public, State of Florida

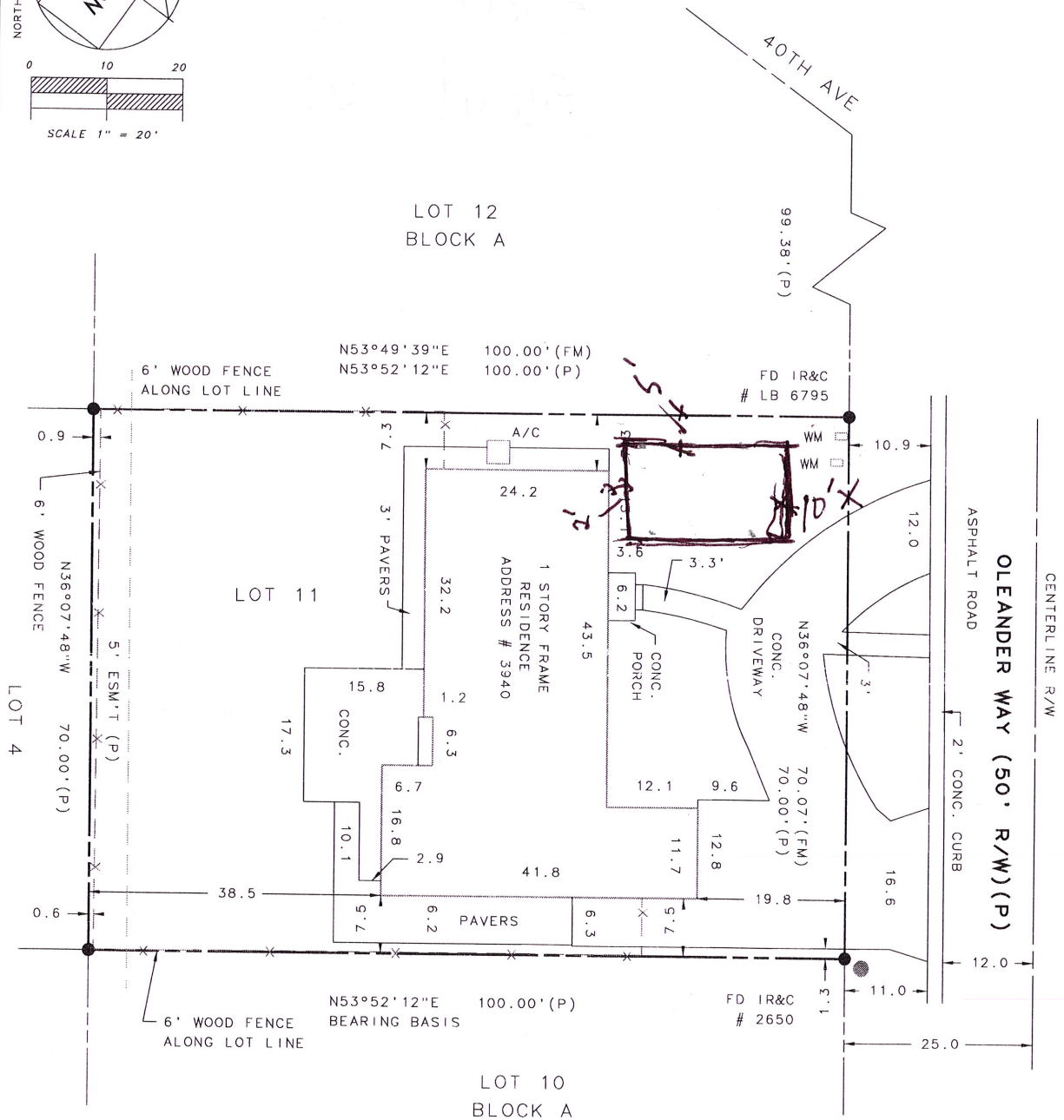
Dorinda Beltrami-Hurst

(Notarial Seal)

**DORINDA BELTRAMI-HURST**  
Notary Public, State of Florida  
My Comm. Expires May 4, 2020  
No. FF 989457



# MAP OF SURVEY 3940 OLEANDER WAY ST PETE BEACH, FL 33706



FIFTH ADDITION TO  
BELLE VISTA BEACH  
PB 27 PG 18

AS-BUILT SURVEY  
PREPARED BY: LAWRENCE E. POWERS LS # 5505  
PO BOX 48026, ST PETERSBURG, FL 33743  
P: 727-537-9895 E: SURVEYINGSTPETE@GMAIL.COM  
DATE: APRIL 14, 2015 PROJECT #: 3940



# St. Pete Beach Board of Adjustment

155 Corey Avenue  
St. Pete Beach, FL 33706  
727-367-2735

1/25/17

**Variance Case  
#2016-0076**

**Applicant/Agent**  
Colleen Schumacher,  
Owner

**Location**  
2601 Pass-A-Grille Way

**Commission  
District**  
District 4

**Staff Representative**  
Mike Larimore, Zoning  
Tech II

**Related Cases**  
N/A

**Staff  
Recommendation**  
Approval

## ITEM SUMMARY:

| Item                                            | Requirement                                        | Existing Condition | Proposed |
|-------------------------------------------------|----------------------------------------------------|--------------------|----------|
| Land Development Code 6.15:<br><br>Fence Height | 4 feet height maximum in required waterfront yards | N/A                | 6 feet   |

Applicant requests a variance to Section 6.15 of the Land Development Code to increase the maximum allowable fence height within a waterfront yard from 4 feet to 6 feet.

Existing Use: Residential (Detached Single-Family)  
Adjacent Uses  
North: Residential (Detached Single-Family)  
South: Infrastructure (Street-end)  
East: Water (Little McPherson Bayou)  
West: Infrastructure (Pass-A-Grille Way)

The Applicant is requesting a variance to allow for two sections of fence along the southern property line: an 8 foot section that will match the existing fence along the north property line. The section is proposed to move 4 feet from the water's edge to 6 feet in height 8 feet off the water's edge. This will be a gradual rise in height along the 8 foot section. The second section of fence is a 12 foot section and is requesting 6 feet in height along the entire section. The request would result in 20 feet of fencing along the southern edge of the property.

The subject property was granted a previous variance to allow for the construction of a pool in 2016. The Applicant wishes to construct a graduated fence to increase the privacy of the rear yard pool. The graduated fence will be constructed to match the existing fencing on the northern property line. The southern property line, on which the proposed fence would be placed, is adjoining a 20 foot wide right-of-way currently used as a street end and provides resident access to the water.

## **PUBLIC NOTICE:**

Notice of public hearing has been advertised as required by State Statutes, including: a legal advertisement in a local newspaper, written notices of hearing to owners of property within 300 feet of the subject property, and the posting of a public hearing sign for 7 days on the subject property prior to the public hearing. At the time of this report, no letters of comment have been received.

## **COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:**

The construction of a fence is consistent with the City's Comprehensive Plan and Land Development Code.

The height of fences and walls are regulated in the Land Development Code. The maximum allowable height is 4 feet in required front yards and waterfront yards and 8 feet in all other yards.

## **CRITERIA REVIEW (LDC 3.12.a):**

The Board of Adjustment may authorize variances to the land development regulations if the applicant is able to demonstrate compliance with all five (5) of the following conditions. Staff analysis of criteria in *red italics* below:

- 1) The existence of conditions and circumstances that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same district which have complied with these regulations without hardship; that the strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building; and the peculiar conditions and circumstances are not the result of the actions of the applicant. *The orientation of the subject property is peculiar in that it abuts a street end. Although height exceeds the 4 foot maximum in some areas, the viewshed at the water's edge is still intact and can still be visually accessed. Additionally, the waterfront street end could not be developed in accordance with the City Charter.*
- 2) Neither a nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, nor a permitted use in adjacent districts shall be considered as grounds for issuance of a variance. *No other structures or uses are being considered.*
- 3) The proposed variance will not have the effect of changing any district boundary on the zoning map, nor constitute the granting of a nonconforming use. Under no circumstances shall a variance permit an increase in development density or permit a use not specifically permitted in the district. *The proposed variances will not affect any boundaries or permit a nonconforming use.*
- 4) The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not



be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the variance, the appropriate board of authority may prescribe any conditions and safeguards it deems necessary or desirable as a condition of approval of the variance application. *The requested variance is in harmony with the general intent of the Land Development Code.*

- 5) The appropriate board of authority finds as a reasonable conclusion that hardship would unnecessarily result from a literal enforcement of the provisions of the land development regulations as set forth in the application, and the variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building. *The literal enforcement of the land development regulations would not result in a hardship for the Applicant. The reduction of privacy is a reasonable expectation for a corner property owner.*

### **STAFF RECOMMENDATION:**

Staff recommends approval – The proposed fence and its location are reasonable and unique. Staff believes that the primary purpose and intent of the height limitation for fences and walls in front and waterfront yards are for visibility purposes for vehicular traffic and aesthetic design protection for neighboring property owners. The alleyway immediately adjacent to the property is unique in that it does not allow for automobile access in its current state. Waterborne traffic does not have a need to see over or around the proposed fence as it is an interior-placed lot on Little McPherson Bayou.

The request is reasonable in that the fence will still remain lower closest to the waterway while still providing reasonable privacy to the rear yard pool. Additionally, the Florida Building Code requires a self-closing gate that opens outward with a self-locking latch that is a minimum height of 54 inches above finished grade on fencing around pools to prevent access to the pool by children, thus superseding the 4 foot (48 inch) height maximum the Land Development Code allows.

#### Attachments:

- A. Relevant Code Section
- B. Aerial Photo
- C. Site Photo
- D. Variance Application
- E. Proposed Fence Sketch
- F. Survey

## Attachment A.

### Sec. 6.15. - Fences and walls.

Fences and walls are permitted, provided fences and walls shall not exceed four feet in height in required front yards and eight feet in height elsewhere; provided, however, fences and walls in waterfront yards shall not exceed four feet in height. See also Section 6.21 for visibility requirements at street intersections.

- (a) The height of a fence or a wall shall be determined from grade to the average top elevation of the fence or wall. Landscape berms, in conjunction with fences, shall be included in height determinations.
- (b) No fence shall impede or divert the flow of water through any drainage way without the approval of the city.
- (c) In general, the design of fences shall be in keeping with neighborhood appearance. Fences shall be constructed of commonly used materials such as chain link, masonry, vinyl-, wrought iron, or wood. All fences except chain-link fences shall have upper and lower rails between posts. A chain-link fence shall have a top rail. Such materials as corrugated or sheet metal or any scrap or offensive material shall not be permitted. In addition, fences shall not contain any substance such as broken glass, spikes, barbs, nails, electronically charged wiring or similar materials designed to inflict pain or injury to any person or animal.
- (d) Temporary fencing during construction is permitted and regulated in Section 98 of the Code of Ordinances. Once a building permit is closed or becomes inactive, the temporary construction fencing shall be removed. The parcel may remain without a fence or a permanent fence can be erected pursuant to this section.

(Ord. No. 03-7, § 3, 5-1-03; Ord. No. 2013-05, §1(Exh. A), 1-22-13)

Attachment B.



Above: Subject property highlighted.

Attachment C.



Above: Subject property, facing north





**City of St. Pete Beach**  
Community Development Department  
155 Corey Avenue  
St. Pete Beach, Florida 33706  
727-367-2735  
[www.stpetebeach.org](http://www.stpetebeach.org)



## VARIANCE APPLICATION

Case Number:

2016-0076

### PROPERTY FOR PROPOSED VARIANCE

Legal Description: North Pass A Grille Sec A BlkC, S49ft of Lot 16  
Parcel ID 18-32-16-61002-003-0160  
Address 2601 Pass A Grille Way  
Current Zoning: RU-2/PAG FLUM Designation: RU Lot Area: 49x110  
Existing Use: SFR Proposed Use: SFR

### APPLICANT/AGENT:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Zip: \_\_\_\_\_ Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

### PROPERTY OWNER:

Name: Colleen Schumacher  
Address: 2601 Pass A Grille Way  
City: St. Pete Beach State: F  
Zip: 33706 Phone: 813-363-4690  
Email: cschumacher1@yahoo.com

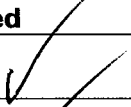
### DETAILS OF THE REQUEST: Cite code sections for which variance is requested: (Add additional sheets if necessary)

Increase height of south boundry fence in the 20' setback from 4' height at seawall edge graduated to a 6' height.  
Beginning at a 4' height at seawall edge and gradually increasing to 6' height at end of the first 8' section  
of fence as shown in attached photo of exisiting north boundry fence.

LDC 6.15 GS



**Additional Documents:**

| Check here if document is attached                                                | Required Document                                                                                |
|-----------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------|
|  | Recent Survey of the property illustrating all boundaries, easements, and physical improvements. |
|  | Site Plan drawn to scale showing proposed deviations of the code.                                |

**In order for an application for a variance to be approved or approved with conditions, the Board of Adjustment must make a positive finding with regard to each of the provisions below, which are also located in Division 3 of the Land Development Code. The applicant has the burden of proof demonstrating that the application for the variance complies with each of the requirements. Please explain in detail how your case meets these requirements (attach additional sheets if necessary):**

1. Conditions and circumstances exist that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same zoning district which have complied with these regulations without hardship.

Due to the fact that the south property line abuts a vacant parcel/street end owned by the city it will drastically reduce pool access safety concerns. Additionally, the south neighboring property line is 30' away so it doesn't block views or access to water and will provide privacy and mitigate any potential noise and will be the most neighbor-friendly.

2. The strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building.

If the fence is 4' in height for the entire 20' setback, it will pose a risk to drowning due to relatively easy public access via the vacant parcel/street end owned by the city. A 4' height will also result in potential loss of both public and property owner privacy and security.

3. The peculiar conditions and circumstances are not the result of the actions of the applicant.

A fence at similar height in the 20' seawall setback existing at the time of purchase of the property in March 2015 was removed by city contractors due to the need for tree removal for the ongoing Pass A Grille street improvement project. As a result, there is currently no fence providing safety or privacy for the public, neighboring residents or the property owner.

4. The proposed variance will not have the effect of changing any district boundary on the zoning map.

The proposed fence replacement is being done within existing property lines and would lead to no changing of any district boundary on the zoning map.

5. The variance shall not permit a non-conforming use or permit a use not specifically permitted in the zoning district.

The construction of a fence is allowed for residential property in this area, so the request conforms to allowed development in the applicable zoning district.

6. The variance shall not increase density or intensity over that which is permitted in the Comprehensive Plan.

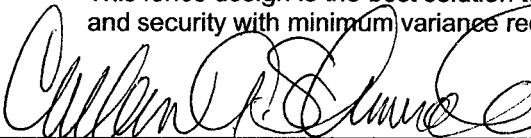
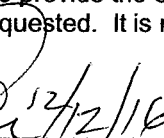
The request has no impact on the planned density of the property and neighborhood in the zoning district.

7. The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The replacement of a fence on this property is in complete harmony with land development regulations in this district. The inability to replace/construct a fence at a height above 4' could potentially have a detrimental impact on anyone with access to city property as it would result in a loss of both safety and privacy.

8. The variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.

This fence design is the best solution to provide the city, public and property owner with the most safety and security with minimum variance requested. It is non-invasive and benefits everyone concerned.

  12/12/16

| Signature of Applicant | Date | Signature of Authorized Agent | Date |
|------------------------|------|-------------------------------|------|
|                        |      |                               |      |

For office use only:

Hearing Date: \_\_\_\_\_ Fees: \_\_\_\_\_

Board Action: ☐ Approved as requested ☐ Approved with conditions ☐ Denied ☐ Continued

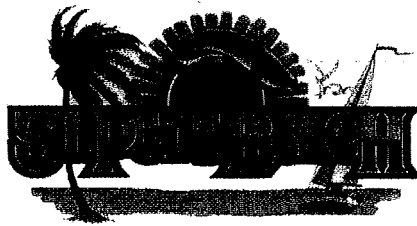
## VARIANCE APPLICATION

**Applicants must acknowledge understanding of the following. Initial each of the statements below. If you do not understand any of these, staff will explain them to you.**

- ☒ I understand that the City will not accept or process an incomplete application.
- ☒ I understand that a non-conforming use or structure in a particular zoning district does not, in any way, provide justification for the granting of a variance. Furthermore, the existence of a permitted use or structure in adjacent districts does not constitute grounds for a variance.
- ☒ On all variances, a majority vote is required. Action on this application by the BOA/City Commission may be continued to a later meeting.
- ☒ I understand that if a variance is approved by the BOA/City Commission, the applicant is required to obtain the appropriate building permits within 1 year from the date of the decision. If no permit is obtained within 1 year, the approval from the Board/City Commission becomes voided.
- ☒ I understand that if any application filed under the provisions of this Code is denied, no subsequent application seeking substantially the same or similar approval shall be filed within six months of the final decision on the original application.
- ☒ I understand that any person aggrieved by the final decision has the right to file a petition in the Pinellas County Circuit Court within 30 calendar days after the decision. Permits for construction may be granted prior to the expiration of this 30-day period, but an appeal will be grounds for revocation of the permit.
- ☒ I understand that I, as the applicant, or my authorized representative must be present at all scheduled public meetings on the application.

**After acknowledgement of these conditions, complete the application form on the following pages**

Cullen A. Schumacher 12/8/16  
Signature of Applicant Date



THE SUNSET CAPITAL OF FLORIDA

## PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, Colleen A. Schumacher, agrees to post the sign(s) in a conspicuous place, at the principal access to the property, in full view of the public, and not more than five (5) feet from the nearest street right of way or easement a minimum of seven (7) days in advance of the Public Hearing and remain in place until the requested action has been heard and decided. Multiple sign postings shall not be more than three hundred (300) feet apart. If the subject parcel(s) abut more than one (1) street, notices shall be posted along each street. When the subject parcel(s) does not front a public road, the sign shall be posted at the point on a public road by which the property is, or can be, reached.

The sign shall be maintained in good readable condition by the applicant. If the said sign is destroyed, lost, or becomes unreadable, the applicant or applicant's representative shall obtain a replacement sign. Any sign posted in accordance with these requirements shall be removed from the property and disposed of by the applicant or applicant's agent not later than 24 hours following the final decision.

### Applicant/Agent (must fill out agent authorization form):

Name(print): Colleen A. Schumacher  
 Address: 2601 Pass A Grille Way St. Pete Beach  
FL 33706  
Colleen A. Schumacher 12/12/16  
 Signature Date

STATE OF FLORIDA )  
 ) SS:  
 PINELLAS COUNTY )

The foregoing instrument was acknowledged before me this 12 day of DEC, 2016 by Colleen Schumacher, who appeared before me, and is personally known to me, or has produced FL DL as identification, and did take an oath.  
8526-101-57-840-0

My commission Expires:

NOTARY:

Print Name:

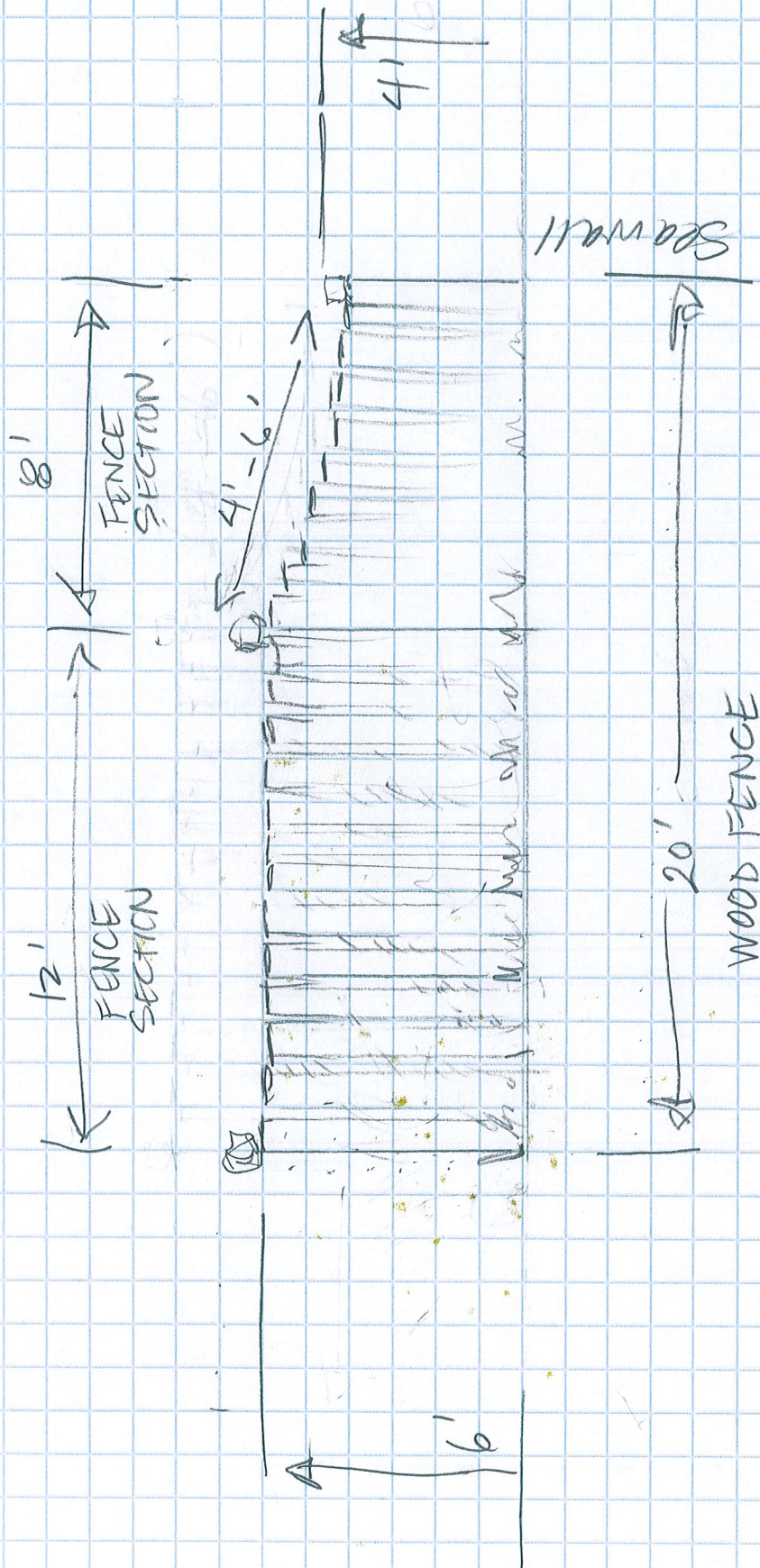
Notary Public, State of Florida

(Notarial Seal)

**DORINDA BELTRAMI-HURST**  
 Notary Public, State of Florida  
 My Comm. Expires May 4, 2020  
 No. FF 989457



Attachment E.



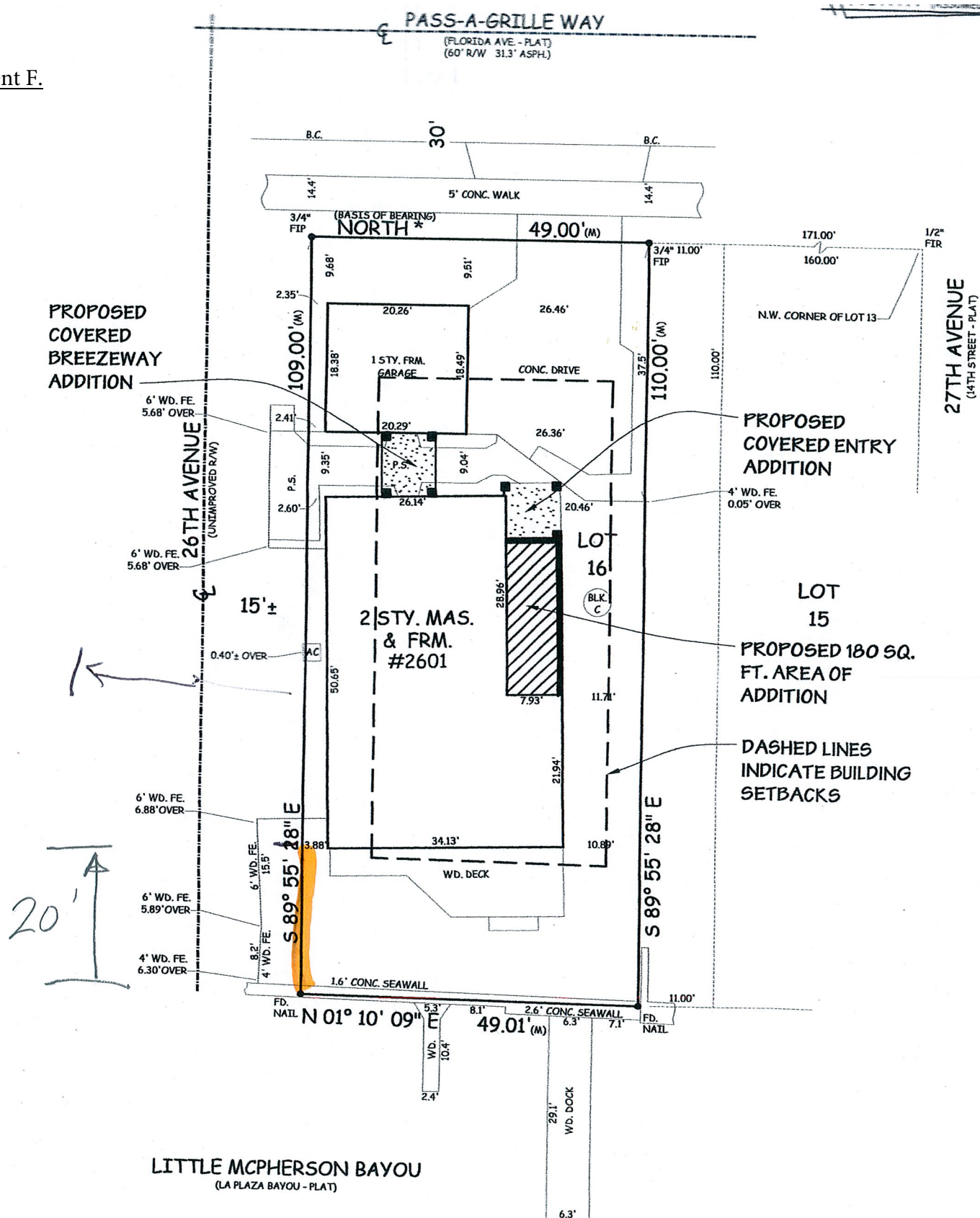
TO MATCH NORTH SIDE FENCE  
(see attached photo)



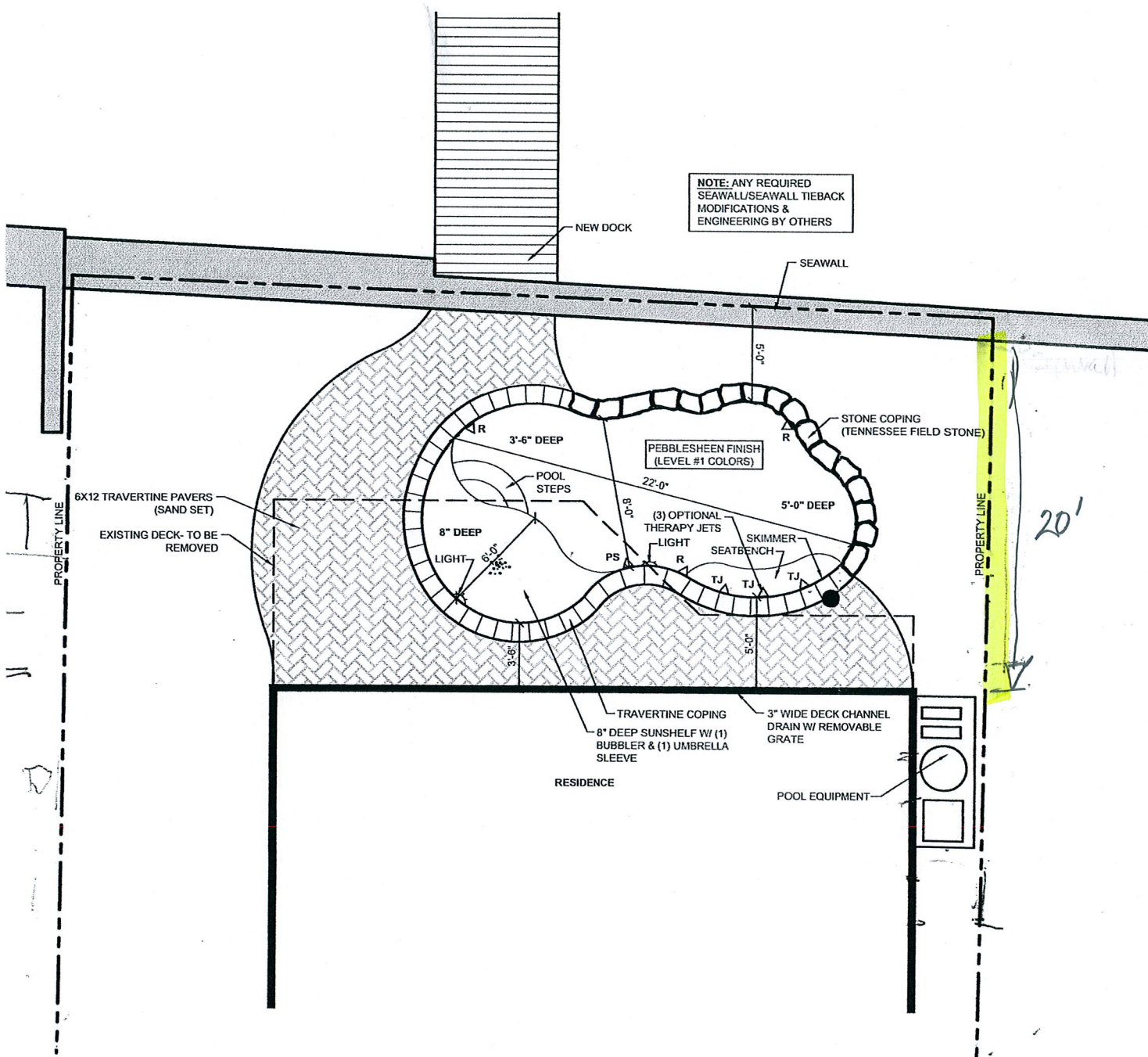


FENCE  
X 10 FT  
X 15 IN





A BOUNDARY SURVEY OF: Lot 16 less the Northerly 11.00 feet thereof, Block C, SECTION "A" NORTH PASSAGRILLE, as recorded in Plat Book 5, Page 18 of the Public Records of Pinellas County, Florida.







# St. Pete Beach Board of Adjustment

155 Corey Avenue  
St. Pete Beach, FL 33706  
727-367-2735

1/25/17

**Variance Case  
#2016-0077**

**Applicant/Agent**  
James & Kimberly  
Reeder, Owners

**Location**  
224 45<sup>th</sup> Avenue

**Commission  
District**  
District 3

**Staff Representative**  
Mike Larimore, Zoning  
Tech II

**Related Cases**  
Variance Case  
#2011-0011

**Staff  
Recommendation**  
Denial

## ITEM SUMMARY:

| Item                                                   | Requirement | Existing Condition | Proposed |
|--------------------------------------------------------|-------------|--------------------|----------|
| Land Development Code 9.7(a):<br><br>Rear Yard Setback | 20 feet     | 30 feet            | 17 feet  |

Applicants request a variance to Section 9.7(a) of the Land Development Code to reduce the required rear yard setback from 20 feet to 17 feet to allow for the construction of a screened porch addition.

Existing Use: Residential (Detached Single-Family)  
Adjacent Uses  
North: Infrastructure (45<sup>th</sup> Avenue)  
South: Residential (Detached Single-Family)  
East: Residential (Detached Single-Family)  
West: Residential (Detached Single Family)

The Applicants are requesting a variance to reduce the rear setback to construct a screened porch addition. The previous property owner received a similar variance in 2011 to allow for expansion of the home with a 17 foot rear yard setback.

## PUBLIC NOTICE:

Notice of public hearing has been advertised as required by State Statutes, including: a legal advertisement in a local newspaper, written notices of hearing to owners of property within 300 feet of the subject property, and the posting of a public hearing sign for 7 days on the subject property prior to the public hearing. At the time of this report, no letters of comment have been received.

## COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:

The primary use of the property for a detached single-family residence is consistent with the City's Comprehensive Plan and Land Development Code.

The proposed porch is an allowable permitted residential structure. The Land Development Code regulates the setbacks for such structures as having to meet the same setbacks as the principal structure (20 foot rear yard, 7 foot side yard).

## CRITERIA REVIEW (LDC 3.12.a):

The Board of Adjustment may authorize variances to the land development regulations if the applicant is able to demonstrate compliance with all five (5) of the following conditions. Staff analysis of criteria in *red italics* below:

- 1) The existence of conditions and circumstances that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same district which have complied with these regulations without hardship; that the strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building; and the peculiar conditions and circumstances are not the result of the actions of the applicant. *The orientation of the subject property is not peculiar. The granted variance from 2011 for a reduction of rear yard setback from 20 feet to 17 feet for the expansion of the home is unique, however the new porch is an accessory structure not required to allow for the reasonable use of the land or existing building.*
- 2) Neither a nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, nor a permitted use in adjacent districts shall be considered as grounds for issuance of a variance. *No other structures or uses are being considered.*
- 3) The proposed variance will not have the effect of changing any district boundary on the zoning map, nor constitute the granting of a nonconforming use. Under no circumstances shall a variance permit an increase in development density or permit a use not specifically permitted in the district. *The proposed variance will not affect any boundaries or permit a nonconforming use.*
- 4) The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the variance, the appropriate board of authority may prescribe any conditions and safeguards it deems necessary or desirable as a condition of approval of the variance application. *The requested variance is not in harmony with the general intent of the Land Development Code.*

- 5) The appropriate board of authority finds as a reasonable conclusion that hardship would unnecessarily result from a literal enforcement of the provisions of the land development regulations as set forth in the application, and the variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building. *The literal enforcement of the land development regulations would not result in a hardship for the Applicant. An accessory structure is not requisite for reasonable use of the land.*

### **STAFF RECOMMENDATION:**

Staff recommends denial – The proposed porch addition is an accessory structure and therefore not requisite for reasonable use of the land or existing building. The previously approved variance in 2011 does not affect the determination of this variance request. The previous request was granted for the previous owner and although the new owners were not aware of such a variance, this does not preclude the denial of the new request.

#### Attachments:

- A. Relevant Code Section
- B. Aerial Photo
- C. Site Photo
- D. Variance Application
- E. Survey
- F. Site Plan

#### Attachment A.

##### Sec. 9.7. - Minimum yard requirements.

The minimum yard requirements for principal structures in the RU-2 Residential District are as required in this section.

##### (a) Detached single-family dwellings.

- (1) Front yard: 20 feet.
- (2) Secondary front yard: Ten feet.
- (3) Side yards: Ten percent of the lot width.
- (4) Rear yard: 20 feet.



Attachment B.



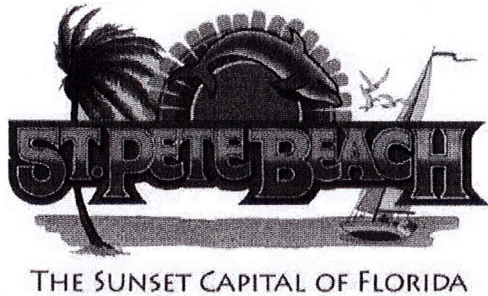
Above: Subject property highlighted.

Attachment C.



Above: Subject property, facing south





**City of St. Pete Beach**  
Community Development Department  
155 Corey Avenue  
St. Pete Beach, Florida 33706  
727-367-2735  
[www.stpetebeach.org](http://www.stpetebeach.org)



## VARIANCE APPLICATION

Case Number: 2016-0077

### PROPERTY FOR PROPOSED VARIANCE

Legal Description: Lido Beach 1st Add BLK 3, LOT 18  
Parcel ID: 07-32-16-51678-003-018  
Address: 224 45th Ave. St. Pete Beach, FL 33706  
Current Zoning: RU2 FLUM Designation: RU Lot Area: 70x91  
Existing Use: Detached Single Family Proposed Use: Same

### APPLICANT/AGENT:

Name: \_\_\_\_\_  
Address: \_\_\_\_\_  
City: \_\_\_\_\_ State: \_\_\_\_\_  
Zip: \_\_\_\_\_ Phone: \_\_\_\_\_  
Email: \_\_\_\_\_

### PROPERTY OWNER:

Name: James B. and Kimberly J. Reeder  
Address: 224 45th Ave.  
City: St. Pete Beach State: FL  
Zip: 33706 Phone: 727-410-8337  
Email: jbrchip@yahoo.com

**DETAILS OF THE REQUEST: Cite code sections for which variance is requested:** (Add additional sheets if necessary)

Screen ~~in~~ porch addition  
Code Section 9.7a Reduction in Rear yard  
setback to 17'

**Additional Documents:**

| Check here if document is attached | Required Document                                                                                |
|------------------------------------|--------------------------------------------------------------------------------------------------|
| ✓                                  | Recent Survey of the property illustrating all boundaries, easements, and physical improvements. |
| ✓                                  | Site Plan drawn to scale showing proposed deviations of the code.                                |

In order for an application for a variance to be approved or approved with conditions, the Board of Adjustment must make a positive finding with regard to each of the provisions below, which are also located in Division 3 of the Land Development Code. The applicant has the burden of proof demonstrating that the application for the variance complies with each of the requirements. Please explain in detail how your case meets these requirements (attach additional sheets if necessary):

1. Conditions and circumstances exist that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same zoning district which have complied with these regulations without hardship.

*We currently have a paved brick patio and wish to add a screened porch in place of the patio. Screened porch would not encroach on neighboring lands.*

2. The strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building.

*Yes, if the strict application of the provisions of the land would deprive us, as owners, the ability to construct a screened porch in our back yard.*

3. The peculiar conditions and circumstances are not the result of the actions of the applicant.

*There is no peculiar conditions*



4. The proposed variance will not have the effect of changing any district boundary on the zoning map.

*No, N/A.*

5. The variance shall not permit a non-conforming use or permit a use not specifically permitted in the zoning district.

*No, N/A.*

6. The variance shall not increase density or intensity over that which is permitted in the Comprehensive Plan.

*No, N/A.*

7. The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

*yes.*

8. The variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.

*yes.*

|                                                                                     |                                                                                      |
|-------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------|
|  |  |
| <b>Signature of Applicant</b>                                                       | <b>Signature of Authorized Agent</b>                                                 |
| <b>Date</b>                                                                         | <b>Date</b>                                                                          |

For office use only:

Hearing Date: \_\_\_\_\_ Fees: \_\_\_\_\_

Board Action: ☐ Approved as requested ☐ Approved with conditions ☐ Denied ☐ Continued

## VARIANCE APPLICATION

Applicants must acknowledge understanding of the following. Initial each of the statements below. If you do not understand any of these, staff will explain them to you.

KJR I understand that the City will not accept or process an incomplete application.

KJR I understand that a non-conforming use or structure in a particular zoning district does not, in any way, provide justification for the granting of a variance. Furthermore, the existence of a permitted use or structure in adjacent districts does not constitute grounds for a variance.

KJR On all variances, a majority vote is required. Action on this application by the BOA/City Commission may be continued to a later meeting.

KJR I understand that if a variance is approved by the BOA/City Commission, the applicant is required to obtain the appropriate building permits within 1 year from the date of the decision. If no permit is obtained within 1 year, the approval from the Board/City Commission becomes voided.

KJR I understand that if any application filed under the provisions of this Code is denied, no subsequent application seeking substantially the same or similar approval shall be filed within six months of the final decision on the original application.

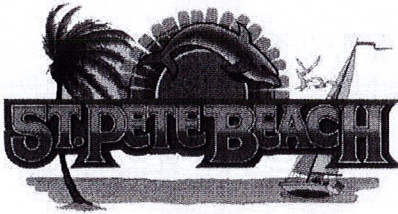
KJR I understand that any person aggrieved by the final decision has the right to file a petition in the Pinellas County Circuit Court within 30 calendar days after the decision. Permits for construction may be granted prior to the expiration of this 30-day period, but an appeal will be grounds for revocation of the permit.

KJR I understand that I, as the applicant, or my authorized representative must be present at all scheduled public meetings on the application.

After acknowledgement of these conditions, complete the application form on the following pages

Kimberly J. Reeder  
Signature of Applicant

12/19/16  
Date



THE SUNSET CAPITAL OF FLORIDA

## PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, \_\_\_\_\_, agrees to post the sign(s) in a conspicuous place, at the principal access to the property, in full view of the public, and not more than five (5) feet from the nearest street right of way or easement a minimum of seven (7) days in advance of the Public Hearing and remain in place until the requested action has been heard and decided. Multiple sign postings shall not be more than three hundred (300) feet apart. If the subject parcel(s) abut more than one (1) street, notices shall be posted along each street. When the subject parcel(s) does not front a public road, the sign shall be posted at the point on a public road by which the property is, or can be, reached.

The sign shall be maintained in good readable condition by the applicant. If the said sign is destroyed, lost, or becomes unreadable, the applicant or applicant's representative shall obtain a replacement sign. Any sign posted in accordance with these requirements shall be removed from the property and disposed of by the applicant or applicant's agent not later than 24 hours following the final decision.

### Applicant/Agent (must fill out agent authorization form):

Name(print): Kimberly J. Reeder  
Address: 224 45th Ave St. Pete Beach FL 33706

Kimberly J. Reeder 12/19/16  
Signature Date

STATE OF FLORIDA )  
 ) SS:  
PINELLAS COUNTY )

The foregoing instrument was acknowledged before me this 19 day of Dec, 2016 by Kimberly Jo Reeder, who appeared before me, and is personally known to me, or has produced IN DC as identification, and did take an oath.  
8923-59-8889

My commission Expires:

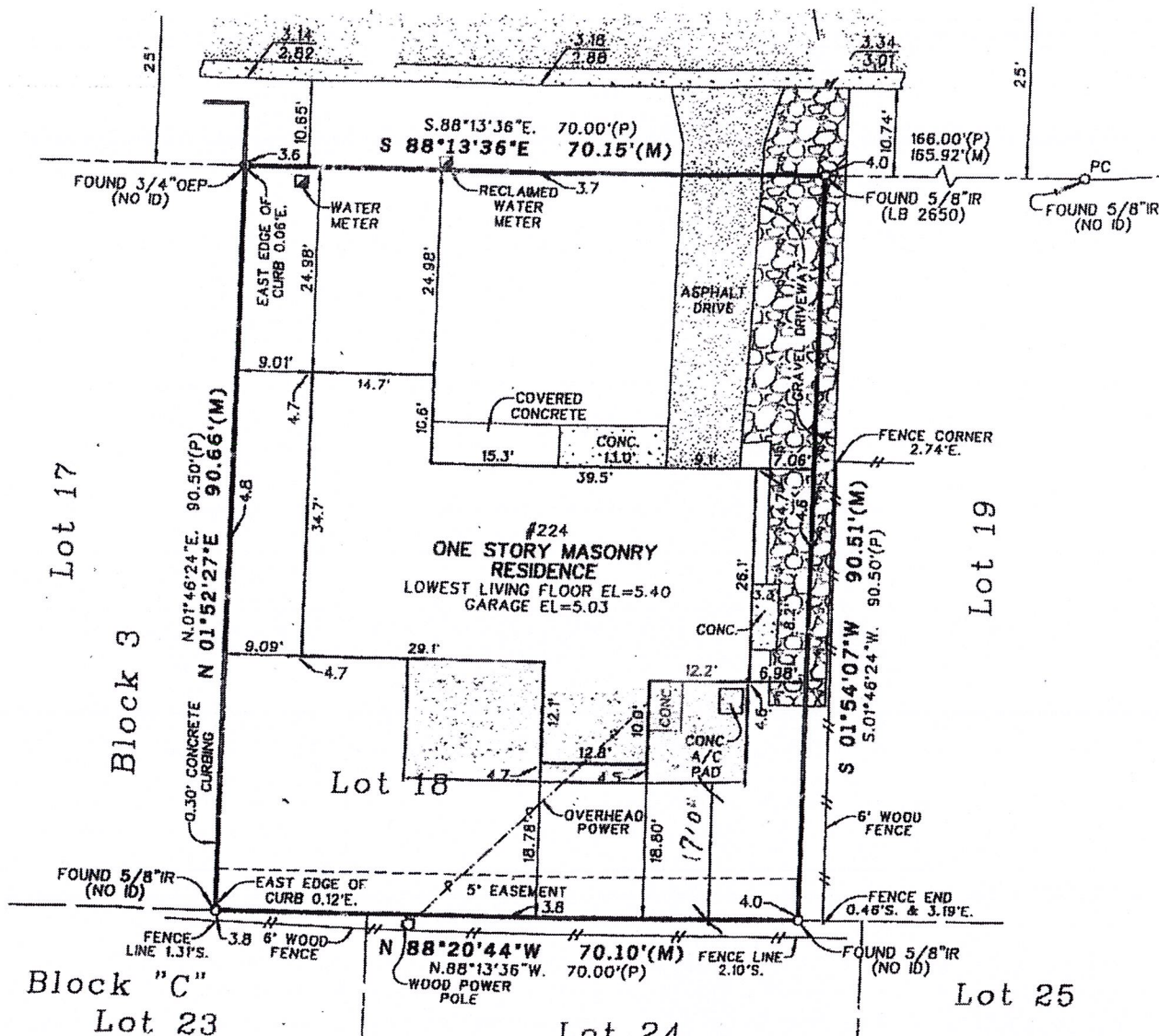
NOTARY: Dorinda Beltrami-Hurst  
Print Name:

Notary Public, State of Florida

(Notarial Seal)

**DORINDA BELTRAMI-HURST**  
Notary Public, State of Florida  
My Comm. Expires May 4, 2020  
No. FF 989457





**ABBREVIATIONS:**

A/C = AIR CONDITIONER  
 C = CENTERLINE  
 CONC. = CONCRETE  
 EL = ELEVATION  
 ELEV. = ELEVATION  
 ID = IDENTIFICATION  
 IR = IRON ROD  
 LB = LICENSED BUSINESS  
 (M) = MEASURED  
 OEP = OPEN END PIPE  
 (P) = PLAT  
 PC = POINT OF CURVATURE  
 TBM = TEMPORARY BENCHMARK

Flood Zone  
 FLOOD ZONE AE (12' MINIMUM ELEVATION)  
 COMMUNITY PANEL #125149 12103C0276 G  
 REVISED 9/03/03

Basis of Bearings:  
 NORTH RIGHT-OF-WAY LINE OF 45TH AVENUE  
 AS BEING S.88°13'36"E., PER PLAT.

Benchmark:  
 COUNTY MAP #280 (128 SRD)  
 EL. = 4.458' N.G.V.D., ADJUSTED TO  
 EL. = 3.70' N.A.V.D. M.S.L. = 0.00'

NOTE: This survey is made for the exclusive use of the current owners of the property and also those who purchase, mortgage or guarantee the title thereto within one (1) year from date hereof.

1102-19.CRD

FIELD BOOK 890 PAGES 6,7,11

This Survey was prepared without the benefit of a title search and is subject to all easements, rights-of-way, and other matters of record.

NOTE: Survey not valid without the signature and the original raised seal of a Florida Licensed Surveyor and Mapper.

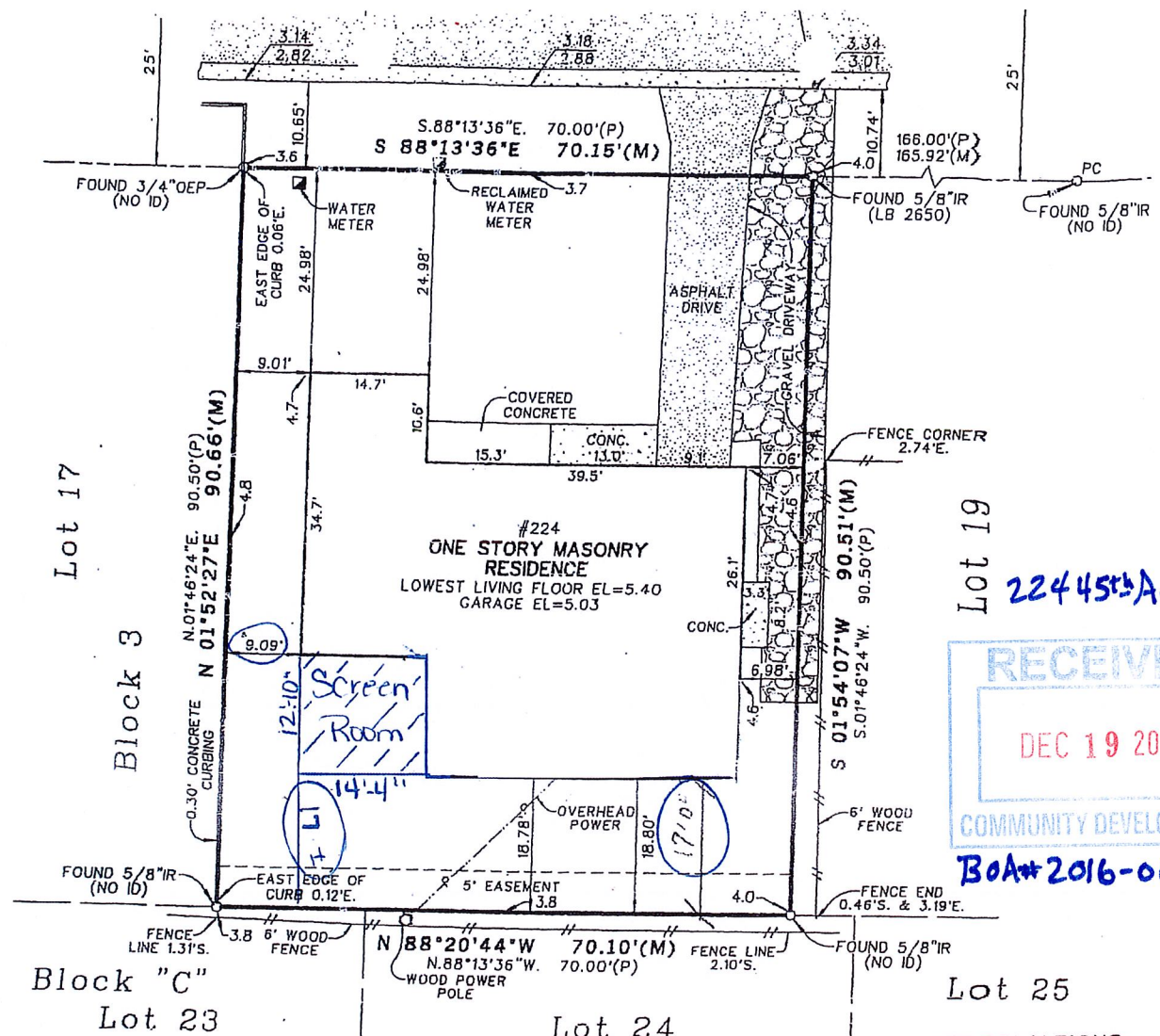
I hereby certify that the survey represented hereon meets the requirements of Chapter 6J-17.062, Florida Administrative Code.

**JOHN C. BRENDLA**  
 Florida Surveyor's Registration No. 1269  
 Certificate of Authorization No. 760

Prepared by:  
**JOHN C. BRENDLA & ASSOCIATES, INC.**  
 CONSULTING ENGINEERS AND LAND SURVEYORS  
 4016 82nd Avenue North  
 Pinellas Park, Florida 33781  
 phone (727) 578-7546 ~ fax (727) 577-9932

JOB# 1102-19  
 Drawn: DS





## Flood Zone

FLOOD ZONE AE (12' MINIMUM ELEVATION)  
 COMMUNITY PANEL #125149 12103C0276 G  
 REVISED 9/03/03

## Basis of Bearings:

NORTH RIGHT-OF-WAY LINE OF 45TH AVENUE  
 AS BEING S.88°13'36"E., PER PLAT.

## Benchmark:

COUNTY MAP #280 (128 SRD)  
 EL. = 4.456' N.G.V.D., ADJUSTED TO  
 EL. = 3.70' N.A.V.D. M.S.L. = 0.00'

NOTE: This survey is made for the exclusive use of the current owners of the property and also those who purchase, mortgage or guarantee the title thereto within one (1) year from date hereof.

1102-19.CRD

FIELD BOOK 890 PAGES 6,11

## ABBREVIATIONS:

A/C = AIR CONDITIONER  
 C = CENTERLINE  
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 (M) = MEASURED  
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 (P) = PLAT  
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This Survey was prepared without the benefit of a title search and is subject to all easements, rights-of-way, and other matters of record.

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 Pinellas Park, Florida 33781  
 phone (727) 576-7546 ~ fax (727) 577-9932



# St. Pete Beach Board of Adjustment

155 Corey Avenue  
St. Pete Beach, FL 33706  
727-367-2735

1/25/17

**Variance Case  
#2016-0078**

**Applicant/Agent**  
Neale de Planque,  
Owner

**Location**  
495 41<sup>st</sup> Avenue

**Commission  
District**  
District 3

**Staff Representative**  
Mike Larimore, Zoning  
Tech II

**Related Cases**  
N/A

**Staff  
Recommendation**  
Approval with (1)  
condition

## ITEM SUMMARY:

| Item                                                   | Requirement | Existing Condition | Proposed  |
|--------------------------------------------------------|-------------|--------------------|-----------|
| Land Development Code 8.6(a):<br><br>Minimum lot width | 70 feet     | N/A                | 68.5 feet |

Applicant requests variances to Section 8.6(a) of the Land Development Code to reduce the minimum required lot width from 70 feet to 68.5 feet to allow for the subdivision of the lot into two lots.

Existing Use: Residential (Detached Single-Family)  
Adjacent Uses  
North: Residential (Detached Single-Family)  
South: Water (Boca Ciega Bay)  
East: Water (Boca Ciega Bay)  
West: Infrastructure (41<sup>st</sup> Avenue)

The Applicant is requesting a variance to the minimum required lot width to allow for the subdivision of the lot into two lots. The lot is located on the end of a cul-de-sac and as a result has a narrow front yard and a wide rear yard.

Our Code determines lot width for irregularly shaped lots by averaging the front property line length and rear property line length to determine an overall width. The front lot line length is 51.9 feet and the rear lot line is 222.5 feet averaging 137.2 feet. The minimum lot width for the RU-1 zoning district is 70 feet, therefore the subject property is roughly 2.8 feet deficient in width to be legally subdivided per the City Code. Minimum lot area is an additional standard zoning lots must meet. The minimum lot area for the RU-1 zoning district is 7,000 square feet, the subject property is roughly 15,985 square feet in area. If subdivided equally, the two subsequent lots would be 7,992.5 square feet each.



## **PUBLIC NOTICE:**

Notice of public hearing has been advertised as required by State Statutes, including: a legal advertisement in a local newspaper, written notices of hearing to owners of property within 300 feet of the subject property, and the posting of a public hearing sign for 7 days on the subject property prior to the public hearing. At the time of this report, no letters of comment have been received.

## **COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:**

The primary use of the property for a detached single-family residence is consistent with the City's Comprehensive Plan and Land Development Code. The maximum density allowed of 7.5 units/acre would be preserved and in accordance with the City's Comprehensive Plan and Land Development Code if the lot were subdivided into two lots.

Minimum lot width and lot area are defined in the Land Development Code for each zoning district. In order for a zoning lot to be considered legal and buildable, the lot must meet or exceed the minimum lot width and area criteria.

## **CRITERIA REVIEW (LDC 3.12.a):**

The Board of Adjustment may authorize variances to the land development regulations if the applicant is able to demonstrate compliance with all five (5) of the following conditions. Staff analysis of criteria in *red italics* below:

- 1) The existence of conditions and circumstances that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same district which have complied with these regulations without hardship; that the strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building; and the peculiar conditions and circumstances are not the result of the actions of the applicant. *The location and orientation of the subject property is peculiar. The subject property is a wedge-shaped lot defined by its location on a cul-de-sac resulting in an excessively narrow front yard and excessively wide rear yard. Although this condition is not necessarily unique, the size of the subject lot is unique.*
- 2) Neither a nonconforming use of neighboring lands, structures or buildings, legal or illegal, in the same district, nor a permitted use in adjacent districts shall be considered as grounds for issuance of a variance. *No other structures or uses are being considered.*
- 3) The proposed variance will not have the effect of changing any district boundary on the zoning map, nor constitute the granting of a nonconforming use. Under no circumstances shall a variance permit an increase in development density or permit a use not specifically permitted in the district. *The proposed variances will not affect any*

*boundaries or permit a nonconforming use. The request would not increase development density as outlined in the City's Comprehensive Plan and Land Development Code.*

- 4) The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare. In granting the variance, the appropriate board of authority may prescribe any conditions and safeguards it deems necessary or desirable as a condition of approval of the variance application. *The requested variance is in harmony with the general intent of the Land Development Code density regulations. The lot is of adequate size if subdivided and the single-family use pattern could be preserved using current setback regulations.*
- 5) The appropriate board of authority finds as a reasonable conclusion that hardship would unnecessarily result from a literal enforcement of the provisions of the land development regulations as set forth in the application, and the variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building. *The literal enforcement of the land development regulations would result in a hardship for the Applicant.*

### **STAFF RECOMMENDATION:**

Staff recommends approval with one (1) condition – The subject property is unique in that it is a large wedge-shaped lot located on the end of a cul-de-sac. While the average lot width is approximately 3 ft. less than the 140 ft. requirement to allow for subdivision, the lot area well exceeds the minimum required for two lots. If the lot were evenly divided, the lot areas of the resulting lots would be approximately 7,992 ft<sup>2</sup>, nearly 1,000 ft<sup>2</sup> over the 7,000 ft<sup>2</sup> minimum requirement each.

Staff recommends approval with one (1) condition. Staff recommends that the subsequent subdivision create two equal lots, in terms of both width and area.

#### Attachments:

- A. Relevant Code Section
- B. Aerial Photo
- C. Site Photo
- D. Variance Application
- E. Survey

Attachment A.

Sec. 8.6. - Minimum zoning lot requirements.

The maximum residential density permitted in the RU-1 Residential District shall not exceed 7.5 units per acre. The minimum lot area and width requirements in the RU-1 Residential District are as follows:

- (a) Detached single-family dwellings.
  - (1) Lot area: 7,000 square feet.
  - (2) Lot width: 70 feet.

Attachment B.



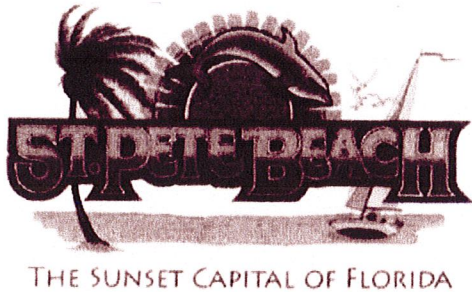
Above: Subject property highlighted.



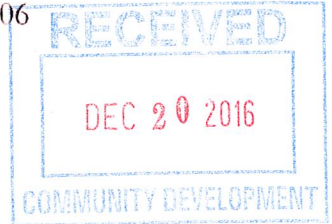
Attachment C.



Above: Subject property, facing east



**City of St. Pete Beach**  
Community Development Department  
155 Corey Avenue  
St. Pete Beach, Florida 33706  
727-367-2735  
[www.stpetebeach.org](http://www.stpetebeach.org)



## VARIANCE APPLICATION

Case Number: 2016-0078

### PROPERTY FOR PROPOSED VARIANCE

Legal Description: Lot 16, in Block 1, of Belle Vista Point Second Addition, according to the Plat thereof as recorded

Parcel ID 07-32-16-0724-009-0160 in Plat Book 43, at page 35, of the Public Records of Pinellas

Address 495 41st Ave, St Pete Beach, FL 33706 County, FL

Current Zoning: RU1 FLUM Designation: RU Lot Area: 15,985

Existing Use: Single Family Proposed Use: Single Family

#### APPLICANT/AGENT:

Name: Neale de Planque

Address: 495 41st Ave

City: St Pete Beach

State: FL

Zip: 33706

Phone: 727 363 0748

Email: \_\_\_\_\_

#### PROPERTY OWNER:

Name: Neale de Planque

Address: 495 41st Ave

City: St Pete Beach

State: FL

Zip: 33706

Phone: 727 363 0748

Email: \_\_\_\_\_

**DETAILS OF THE REQUEST: Cite code sections for which variance is requested:** (Add additional sheets if necessary)

Sec. 8.6 Minimum zoning lot requirements. 8.6 (2) Lot width: 70 feet. Based on the calculations for irregular lots, a variance of 1 1/2 feet would be required in order to subdivide this property into two lots. The property has a lot area of 15,985 sq ft and exceeds the 7000 minimum lot requirement. The applicant requests permission to subdivide the subject parcel into two buildable lots.

**Additional Documents:**

| Check here if document is attached | Required Document                                                                                |
|------------------------------------|--------------------------------------------------------------------------------------------------|
| X                                  | Recent Survey of the property illustrating all boundaries, easements, and physical improvements. |
|                                    | Site Plan drawn to scale showing proposed deviations of the code.                                |

**In order for an application for a variance to be approved or approved with conditions, the Board of Adjustment must make a positive finding with regard to each of the provisions below, which are also located in Division 3 of the Land Development Code. The applicant has the burden of proof demonstrating that the application for the variance complies with each of the requirements. Please explain in detail how your case meets these requirements (attach additional sheets if necessary):**

1. Conditions and circumstances exist that are peculiar to the subject land, structure or building and do not apply generally to neighboring lands, structures or buildings in the same zoning district which have complied with these regulations without hardship.

This is the only irregular lot in the neighboring lands which has the area which allows it to be subdivided

2. The strict application of the provisions of the land development regulations would deprive the applicant of reasonable use of such land, structure or building.

Without a 1 1/2 ft variance to lot width, the applicant would not be able to build two homes on subject lot.

3. The peculiar conditions and circumstances are not the result of the actions of the applicant.

The property was deeded in the configuration that it currently exists. The applicant has taken title to the subject property in the same configuration which was not a result of a action of the applicant.



4. The proposed variance will not have the effect of changing any district boundary on the zoning map.

The proposed variance will have on effect on the district boundary on the zoning map.

5. The variance shall not permit a non-conforming use or permit a use not specifically permitted in the zoning district.

The proposed use will not be non-conforming and is specifically permitted in the zoning district

6. The variance shall not increase density or intensity over that which is permitted in the Comprehensive Plan.

It will not increase density or intensity over that which is permitted in the Comprehensive Plan.

7. The granting of a variance will be in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

The variance is in harmony with the general purpose and intent of the land development regulations and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.

8. The variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building.

It would maximize the use of the land with minimum infrastructure impact and create two FEMA compliant new homes in place of one older homesteaded non FEMA compliant home. The city would also benefit from the requisite increase in tax revenues.

Signature of Applicant

Date

Signature of Authorized Agent

Date

For office use only:

Hearing Date: \_\_\_\_\_ Fees: \_\_\_\_\_

Board Action: ☐ Approved as requested ☐ Approved with conditions ☐ Denied ☐ Continued

## VARIANCE APPLICATION

Applicants must acknowledge understanding of the following. Initial each of the statements below. If you do not understand any of these, staff will explain them to you.

Wdcl I understand that the City will not accept or process an incomplete application.

Wdcl I understand that a non-conforming use or structure in a particular zoning district does not, in any way, provide justification for the granting of a variance. Furthermore, the existence of a permitted use or structure in adjacent districts does not constitute grounds for a variance.

Wdcl On all variances, a majority vote is required. Action on this application by the BOA/City Commission may be continued to a later meeting.

Wdcl I understand that if a variance is approved by the BOA/City Commission, the applicant is required to obtain the appropriate building permits within 1 year from the date of the decision. If no permit is obtained within 1 year, the approval from the Board/City Commission becomes voided.

Wdcl I understand that if any application filed under the provisions of this Code is denied, no subsequent application seeking substantially the same or similar approval shall be filed within six months of the final decision on the original application.

Wdcl I understand that any person aggrieved by the final decision has the right to file a petition in the Pinellas County Circuit Court within 30 calendar days after the decision. Permits for construction may be granted prior to the expiration of this 30-day period, but an appeal will be grounds for revocation of the permit.

Wdcl I understand that I, as the applicant, or my authorized representative must be present at all scheduled public meetings on the application.

After acknowledgement of these conditions, complete the application form on the following pages

Wdcl  
Signature of Applicant

12/20/16  
Date



THE SUNSET CAPITAL OF FLORIDA

## PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, Neale de Planque, agrees to post the sign(s) in a conspicuous place, at the principal access to the property, in full view of the public, and not more than five (5) feet from the nearest street right of way or easement a minimum of seven (7) days in advance of the Public Hearing and remain in place until the requested action has been heard and decided. Multiple sign postings shall not be more than three hundred (300) feet apart. If the subject parcel(s) abut more than one (1) street, notices shall be posted along each street. When the subject parcel(s) does not front a public road, the sign shall be posted at the point on a public road by which the property is, or can be, reached.

The sign shall be maintained in good readable condition by the applicant. If the said sign is destroyed, lost, or becomes unreadable, the applicant or applicant's representative shall obtain a replacement sign. Any sign posted in accordance with these requirements shall be removed from the property and disposed of by the applicant or applicant's agent not later than 24 hours following the final decision.

### Applicant/Agent (must fill out agent authorization form):

Name(print): Neale de Planque

Address: 495 41st Ave, St Pete Beach, FL 33706

Signature

[Signature]

12/20/16

Date

STATE OF FLORIDA )

PINELLAS COUNTY )

) SS:

The foregoing instrument was acknowledged before me this 20 day of December, 2016 by Neale de Planque, who appeared before me, and is personally known to me, or has produced Driver's License as identification, and did take an oath.

My commission Expires:

NOTARY: Patti A. Herr

Print Name: PATTI A. HERR

Notary Public, State of Florida

(Notarial Seal)

**PATTI A. HERR**  
Notary Public, State of Florida  
My Comm. Expires Feb. 13, 2017  
No. EE 846035



