



BOARD OF ADJUSTMENT MEETING

CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, Florida

Wednesday, 8/30/2017
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. Approval of Minutes**

7/26/2017
- 4. Agenda Items**
 - I. Case 17-00011: 5050 Gulf Blvd., Suite B – Applicant requests variances to Sections 26.23 & 26.34 of the Land Development Code to reduce the minimum required front yard setback to

allow for the construction of a new freestanding monument sign with an electronic message board.

- II. Case 17-00015: 8801 Gulf Blvd – Applicants request variances to Sections 6.13 & 8.7 of the Land Development Code to decrease the minimum required side and rear yard setbacks to allow for the construction of a screened pool enclosure.
- III. Case 17-00016: 6381 4th Palm Point – Applicant requests a variance to Section 6.23 of the Land Development Code to increase the maximum length of a residential dock to allow for the placement of a boatlift.

5. Adjournment

APPEAL

APPEAL: Florida Statutes 286.0105 Notices of meetings and hearings must advise that a record is required to appeal. Each board, commission, or agency of this state or of any political subdivision thereof shall include in the notice of any meeting or hearing, if notice of the meeting or hearing is required, of such board, commission, or agency, conspicuously on such notice, the advice that, if a person decides to appeal any decision made by the board, agency, or commission with respect to any matter considered at such meeting or hearing, he or she will need a record of the proceedings, and that, for such purpose, he or she may need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

AMERICANS WITH DISABILITIES ACT: Florida Statutes 286.26. Accessibility of public meetings to the physically handicapped. In accordance with the Americans with Disabilities Act and Florida Statutes, persons needing special accommodations to participate in a meeting should contact City Hall at (727) 367-2735 no later than forty-eight (48) hours prior to the meeting for assistance.

Electronic media must be submitted a minimum of 24 hours in advance to cityclerk@stpetebeach.org

The public is cordially invited to attend.

All agenda material is available for review at City Hall.

BOARD OF ADJUSTMENT MEETING

MINUTES

JULY 26, 2017

2:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT:

Paul Skipper, Chairman
Ron Holehouse, Vice Chairman
Tom DeYampert, Member
Sandie Lyman, Member

ABSENT:

Michael Bomar, Member

ALSO PRESENT:

Andrew Dickman, City Attorney
Jennifer Bryla, Community Development Director
Mike Larimore, Zoning Tech II
Mary Jo Murphy, Deputy City Clerk

1. Changes to the Agenda

Mike Larimore, Zoning Tech II, asked the board to continue Agenda Item No. 4, II, Case 17-00011, until August 30, 2017 Board of Adjustment meeting.

City Attorney Dickman suggested that Mr. Larimore write a letter to the applicant requesting confirmation that they are proceeding with the variance request.

- II. Case 17-00011:** 5050 Gulf Boulevard, Suite B – Applicant requests variances to Sections 26.23 & 26.34 of the Land Development Code to reduce the minimum required front yard setback to allow for the construction of a new freestanding monument sign with an electronic message board.

Chairman Skipper asked if anyone would like to speak in regard to Agenda Item No. 4, II. Hearing none, Chairman Skipper asked for a motion to continue to a date certain of August 30, 2017.

Member Lyman made a motion to continue Case No. 17-00011 until August 30th. The motion was seconded by Member Holehouse.

Chairman Skipper asked for board discussion. Hearing none, Chairman Skipper called for the vote.

The motion was unanimously approved by a voice vote, (4 yeses – 0 nos).

2. Audience Comments

There were no audience comments.

3. Minutes for Acceptance – 6/28/2017

Member Holehouse made a motion to approve the minutes from the June 28, 2017 meeting. The motion was seconded by Member Lyman and unanimously approved by a voice vote (4 yeses – 0 nos).

4. Agenda Items

- I. Case 17-00010: 262 Mar Street – Applicant requests variances to Sections 6.13 & 8.7 of the Land Development Code to increase the maximum allowable size of accessory residential structures and reduce the minimum required rear yard setback to allow for the construction of a gazebo-type structure.

Mike Larimore gave Staff's presentation to the board, and the recommendation was for denial of the maximum size increase and approval of the minimum rear yard waterfront setback reduction.

Chairman Skipper asked the applicant to come forward.

Bill Gingles, 262 Mar Street, St. Pete Beach, 33706, homeowner, requested approval for constructing a structure, which would replace an existing structure, to provide shade.

Chairman Skipper asked if anyone would like to speak on behalf or against the application. There were no comments.

Hearing none, Chairman Skipper closed the public hearing portion and opened it for discussion among the Board members.

Mr. Gingles, 262 Mar Street, St. Pete Beach, 33706, homeowner, spoke at the request of the board in regard to possible locations, a past permit issued for the backyard, privacy between houses, improving the existing structure and submitted a site plan via the document camera.

Chairman Skipper asked for further board discussion. Hearing none, Chairman Skipper asked for a motion.

Member DeYampert made a motion for approval for Case No. 17-00010 for the variance for size and the variance for location of the construction of the gazebo on this property. The motion was seconded by Member Lyman.

Chairman Skipper called for board discussion. At the conclusion of board discussion, Chairman Skipper called for a roll call vote.

The motion was unanimously denied by an individual roll call vote, (0 yeses - 4 nos).

Mr. Gingles, 262 Mar Street, St. Pete Beach, 33706, homeowner, spoke in regard to the procedure and costs involved with the variance application.

5. Adjournment

There being no further business before the board, the meeting was adjourned at 2:32 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Paul Skipper, Chairman

Minutes approved on: _____



St. Pete Beach Board of Adjustment

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

8/30/17

**Variance Case
#17-00015**

Applicant/Agent
Herman & Paula
Hernandez,
Homeowners

Location
8801 Gulf Blvd.

Commission District
District 1

Staff Representative
Mike Larimore,
Zoning Tech II

Related Cases
N/A

**Staff
Recommendation**
Approval

ITEM SUMMARY:

Item	Requirement	Existing Condition	Proposed
Land Development Code 6.13: Minimum required rear yard setback for screened pool enclosures	8 feet	5 feet	5 feet
Land Development Code 8.7: Minimum required side yard setback	7 feet	5 feet	5 feet

Applicants request variances to Sections 6.13 & 8.7 of the Land Development Code to decrease the minimum required side and rear yard setbacks to allow for the replacement of a screened pool enclosure.

Existing Use: Residential (Detached Single-Family)

Adjacent Uses

North: Residential (Detached Single-Family)

South: Infrastructure (88th Avenue)

East: Residential (Detached Single-Family)

West: Infrastructure (Gulf Blvd.)

The Applicants request variances to allow for the replacement of a screened pool enclosure. The Applicants state that the prior pool enclosure was constructed in 1968 and was demolished when the pool was reconstructed in 2016. The original pool popped and was lost when a contractor for the homeowners neglected the pool during a previous renovation. If the renovation had been completed as planned, the existing pool and enclosure

would not have required complete reconstruction. If the variances are granted, the new enclosure will be built with 5 foot rear and side setbacks and in the same footprint as the original enclosure.

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. As of the time of this report, no comments have been received.

COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:

The subject property is located in the RU-1 zoning district which allows for single-family residential and associated accessory structures. Screen pool enclosures are considered a type of residential accessory structure and have a minimum required rear setback of 8 feet and a minimum required side setback of the district (7 feet in this instance).

The Comprehensive Plan encourages the conservation, maintenance and rehabilitation of existing residential areas through the Land Development Code and other City codes (Policy 2.1.6, Future Land Use Policies).

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 subject property is peculiar in its orientation as a corner lot with an acute angle. The acute angle and the double frontages require the placement of the residence further from the streets; and thus, further limit where structures may be placed on the property. The conditions and circumstances are not the result of any action by the Applicants.*
- 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 district boundaries nor 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. The surrounding neighborhood properties have similar established layouts and setbacks.*
- 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 applicants. Peculiarities of the lot combined with setback requirements limit the options for placement of both principal and accessory structures on the lot. The reasonable use of the existing patio and pool area would be affected if the variance requests were not granted.*

STAFF RECOMMENDATION:

Staff recommends approval – The original screened pool enclosure was built in 1968. The loss of the original pool was not due to actions of the homeowners, but of a negligent contractor and required complete reconstruction of the pool. This reconstruction required demolition of the existing screened pool enclosure. The footprint of the proposed screened pool enclosure would be the same as the original enclosure and not increase any nonconformities.

Surrounding neighborhood properties reflect similar layout, orientation, and setback patterns. The preservation of the existing patio and pool necessitates the requested variances. The reasonable use of the existing pool and patio deck would be diminished if the variances were not granted.

	<u>Attachments:</u> A. Relevant Code Sections B. Aerial Photo C. Site Photo D. Variance Application E. Site Plan
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Attachment A.

Future Land Use Policies - Green Practices, Residential Character and Introduction to Land Use Categories

Policy 2.1.6

The conservation, maintenance and rehabilitation of existing residential areas shall be encouraged through provisions contained in the land development regulations and other applicable City codes.

LDC Sec. 6.13. - Residential accessory structures.

(c) Special accessory structures. Special accessory structures include, but are not limited to, swimming pools, pool enclosures, decks, patio covers, gazebos, fountains, garden trellises and children's playground equipment. Tree houses are specifically excluded as special accessory structures.

(2) Screened pool enclosures may be permitted by the city and shall be regulated as follows:

- a. Pool enclosures for swimming pools, spas and their accessory decks that will have a finished floor elevation in excess of two feet above grade shall meet all yard requirements for the district within which they are located. Other pool enclosures shall be regulated as follows:
- b. Required yards: Front and side yards shall be as required within the district for a principal structure. The minimum rear yard shall be eight feet.
- c. Maximum height: Pool enclosures within the setbacks required for principal structures may be constructed to the height allowed for the principal structure. For other pool enclosures, the maximum permitted height shall be 14 feet to the highest point of the enclosure

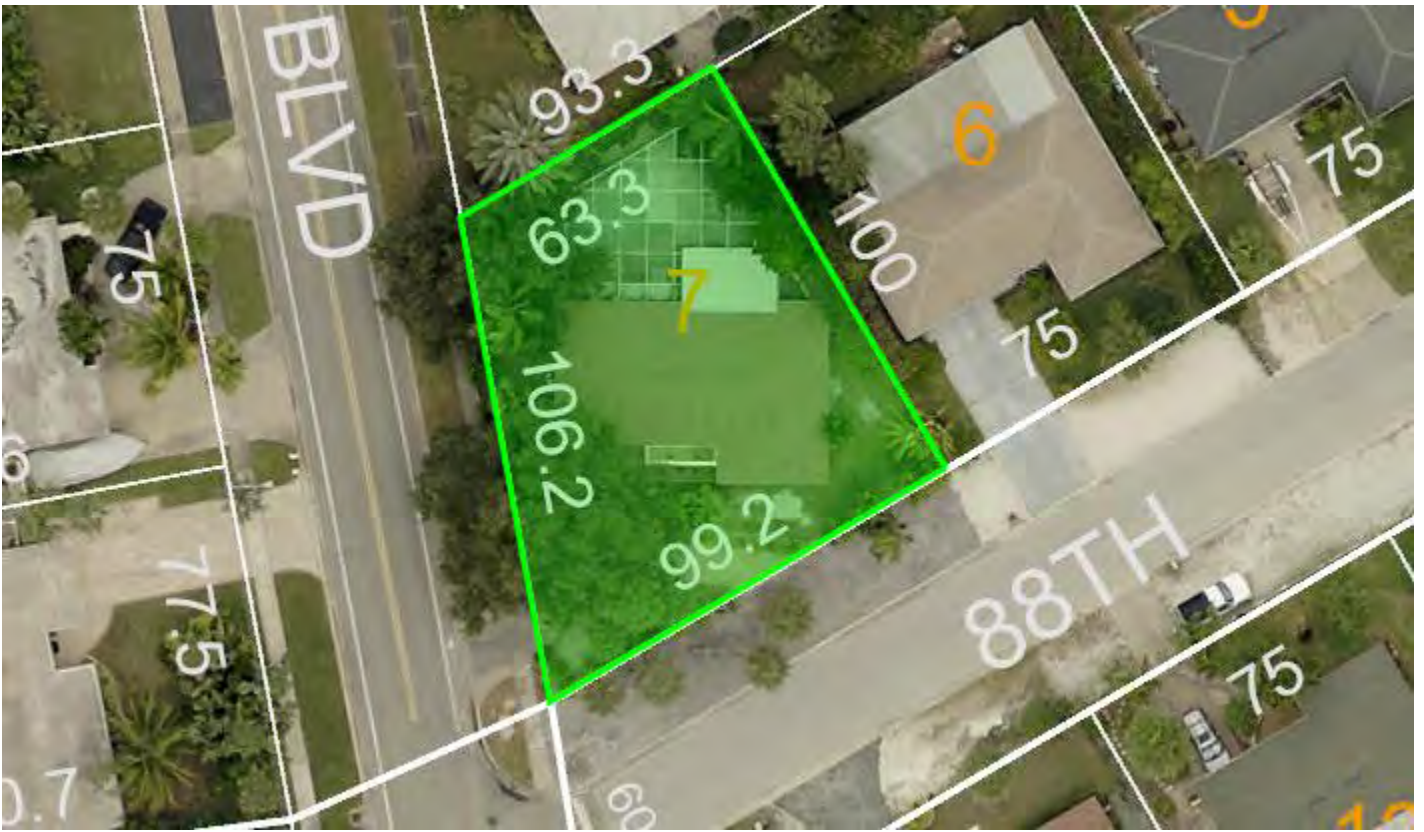
LDC Sec. 8.7. - Minimum yard requirements.

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.

Attachment B.



Above: Subject property highlighted.

Attachment C.



Above: Subject property, facing northeast



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



VARIANCE APPLICATION

Case Number: **PLN 17-00015**

PROPERTY FOR PROPOSED VARIANCE

Legal Description: St Petersburg Beach North Unit, No. 8, BLK 107, Lot 7
Parcel ID: 25-31-15-78282-107-0070
Address: 8801 Gulf BLVD, St Pete Beach, FL 33706
Current Zoning: RU-1 FLUM Designation: RU Lot Area: 8300
Existing Use: Residential Proposed Use: Residential

APPLICANT/AGENT:

Name: Herman and Parla Hernandez
Address: 8801 GULF BLVD
City: St Pete Beach State: FL
Zip: 33706 Phone: 469-878-1082
Email: hernandez3111@live.com

PROPERTY OWNER:

Name: Herman and Paula Hernandez
Address: 8801 GULF BLVD
City: St Pete Beach State: FL
Zip: 33706 Phone: 469-878-1082
Email: hernandez3111@live.com

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

See Attachment
LLC 6.13 C 5ft setback in rear
5ft on side yard
for screen enclosures

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.

See Attachment

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.

See Attachment

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

See Attachment

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

see Attachment

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

see Attachment

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

see Attachment

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.

see Attachment

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

see Attachment

Paula Hernandez 7.10.17
Herm Hernandez 7.10.17

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.

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

PA /// 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.

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

PA /// 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.

PA /// 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.

PA /// 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.

PA /// 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

Paula Hernandez
Herman Hernandez
Signature of Applicant

7.10.17

7-10-17

Date



PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, Herman Hernandez Jr, 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): Herman Hernandez Jr

Address: 8801 GULF BLVD, St Pete Beach, FL 33706

[Signature] Date 7.10.17

STATE OF FLORIDA)
) SS:
PINELLAS COUNTY)

The foregoing instrument was acknowledged before me this 10 day of July, 2017 by Herman Hernandez Jr who appeared before me, and is personally known to me, or has produced +(655320524550) as identification, and did take an oath.

My commission Expires:

NOTARY:

Print Name:

Notary Public, State of Florida

(Notarial Seal)



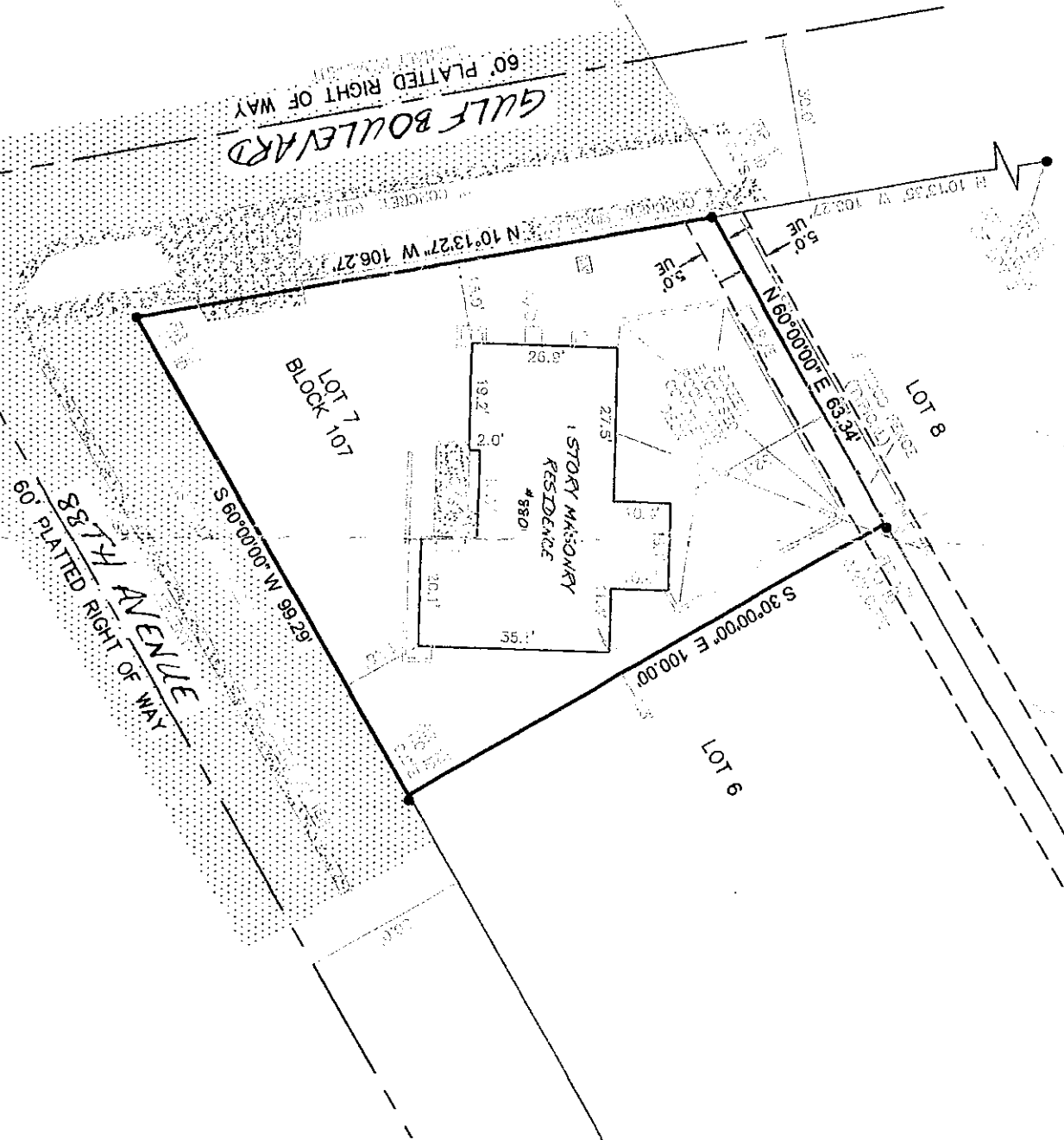
Herman and Paula Hernandez
8801 Gulf Blvd
St Pete Beach, Fl 33706

City of St Pete Beach Variance Attachment

Details of the Request: We are requesting a variance to the St Pete Beach Land Development Code - Variances. to reinstall a pool enclosure which follows the same footprint of the pre-existing pool enclosure.

1. On June 7, 2016 our pool popped out of the ground because of the negligence of The Pool Doctor (Darrell Long owner) St Petersburg, Florida, who had been contracted by us to renovate our pool. The pool was a complete loss and during the demolishing stage, the old pool enclosure was deemed unusable and unsafe because of corrosion and stress fractures found in the frame. The new enclosure greatly minimizes collateral damage in the event of a hurricane.
2. We purchased our home because it had a pool with a enclosure. It keeps out bugs, snakes, rats, etc., which was very important to us. It keeps out dirt, foliage, trash from getting into the water resulting in using less chemicals which is better for the environment and less backwashing thus saving water. The pool enclosure maximizes the enjoyment of the pool and allows us to use it any time.
3. Our current situation was the result of the negligent actions of the Pool Doctor's company.
4. The proposed Variance effects only our property. It should be noted that the old pool enclosure rested on a brick wall which was not damage when the pool popped out of the ground and that the new enclosure will be reinstall in the exact same footprint as the old one.
5. The proposed construction of the pool enclosure is necessary for reasonable use of the property and is permitted in the zoning district.
6. Our requested pool enclosure Variance would not alter the essential character of the neighborhood.
7. The petitioners equally important need for this pool enclosure is to insure harmony and peacefully coexistence with the neighbors. The old pool enclosure was constructed in 1968 and to our knowledge was never injurious nor detrimental to the public welfare. I hope you agree that my request would produce a continued enhancement to my neighborhood.
8. The proposed construction represents the least intrusive solution possible.

EASEMENT NOTE:
THERE IS A 5' UTILITY EASEMENT (UE)
ALONG THE REAR OF SUBJECT PROPERTY.



Legal Description (per Plat Book 11375, Page 801-802)
Lot 7, Block 107, St. Petersburg Beach North Unit No. 8, according to the plat thereof
recorded in Plat Book 39, Page 59, of the Public Records of Pinellas County, Florida.

(CERTIFIED TO: (AS FURNISHED)
Kerman Hernandez, Jr. & Paula S. Hernandez
Mortgage Mortgage, LLC, ISAO/ATMA
Coastline Title of Pinellas, LLC
and Republic National Title Insurance Company

SUBJECT PROPERTY SHOWN HEREON APPEARS TO BE LOCATED IN FLOOD
ZONE "AE". AREAS DETERMINED TO BE INSIDE THE 100-YEAR FLOODPLAIN,
PER FIRM, PANEL NUMBER 12103C0194G, LAST REVISION DATE 9/3/03. THIS
SURVEYOR MAKES NO GUARANTEES AS TO THE ACCURACY OF THE ABOVE
INFORMATION. THE LOCAL F.E.M.A. AGENT SHOULD BE CONTACTED FOR
VERIFICATION.

LIST OF POSSIBLE ENCROACHMENTS:
1/2 LIES PARTIALLY WITHIN EASEMENT AREA.
OWNERSHIP OF FENCES HAS NOT BEEN DETERMINED.
SOME UTILITIES LIE OUTSIDE OF EASEMENT AREA.

BASIS OF BEARING
BEARINGS ARE BASED ON THE EASTERLY RIGHT-OF-WAY OF GULF
BOULEVARD WHICH HAS A BEARING OF N 10°13'27" W PER PLAT.

- NOTES
1. Underground utility installations, underground improvements, foundations and/or
other underground structures were not located by this survey.
 2. The purpose of this survey is for use in obtaining title insurance and financing and
should not be used for construction purposes.
 3. Additions or deletions to this survey by anyone other than the signing party or
parties is prohibited without the written consent of the signing party or parties.
 4. The property shown hereon is subject to all easements, restrictions and
reservations which may be shown or noted on the record plat and within the
public records of the county the subject property is located. This survey only
depicts survey related information such as easements and encroachments that are
shown on a record plat or have been furnished to the Surveyor.
 5. Building lines and dimensions for improvements should not be used to reconstruct
boundary lines.

THIS SURVEY IS PREPARED FOR THE EXCLUSIVE
USE AND BENEFIT OF THE PARTIES LISTED
HEREON. LIABILITY TO THIRD PARTIES MAY NOT
BE TRANSFERRED OR ASSIGNED.

LB 7788

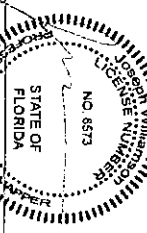


VISION LAND

941 S Pennsylvania Ave, Winter Park, FL 32789 | (888) 399-8474

SURVEYOR'S CERTIFICATE

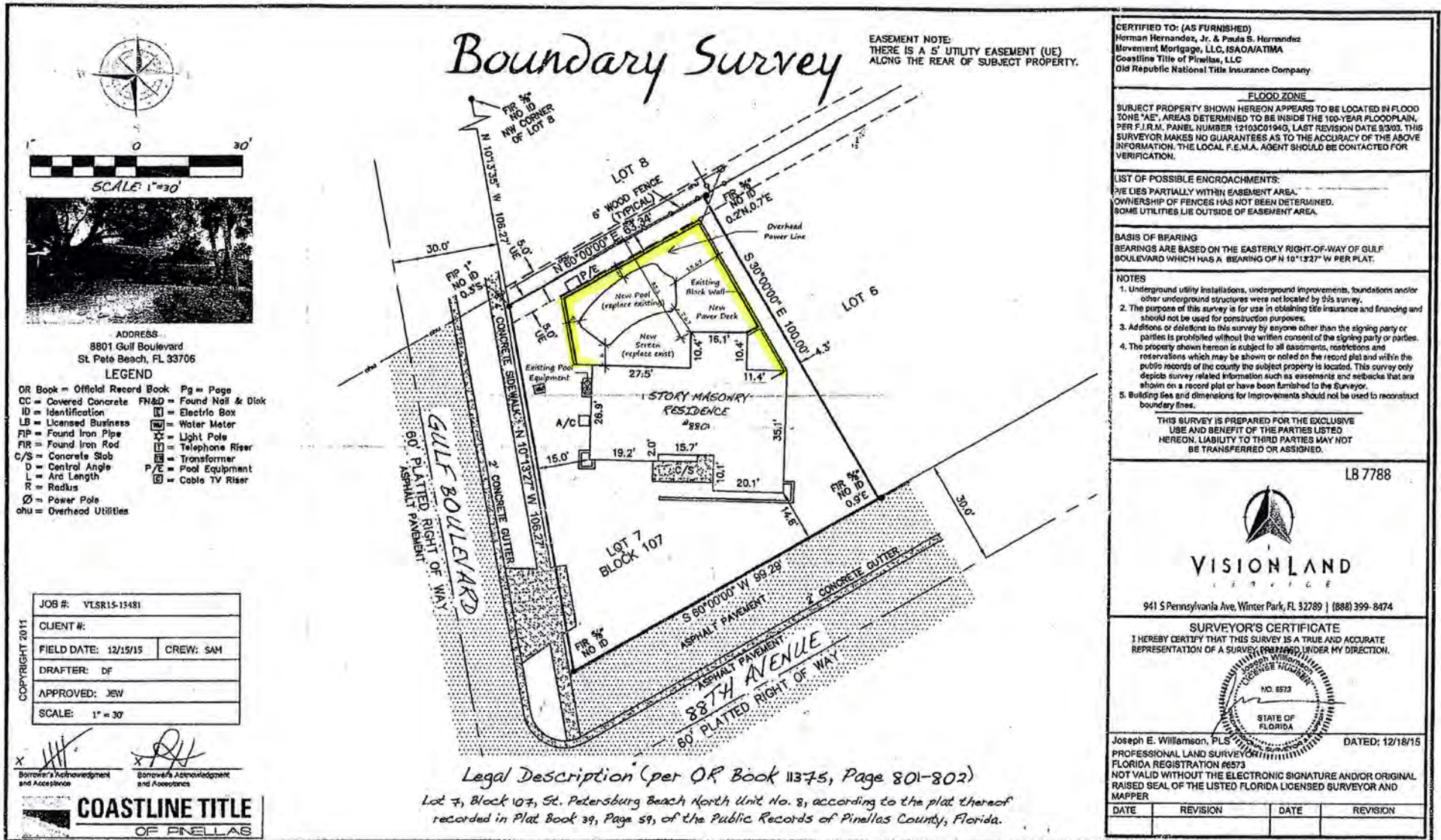
I HEREBY CERTIFY THAT THIS SURVEY IS A TRUE AND ACCURATE
REPRESENTATION OF A SURVEY TAKEN UNDER MY DIRECTION.



Joseph E. Williamson, PLS
PROFESSIONAL LAND SURVEYOR
FLORIDA REGISTRATION #6573
DATED: 12/18/15

NOT VALID WITHOUT THE ELECTRONIC SIGNATURE AND/OR ORIGINAL
RAISED SEAL OF THE LISTED FLORIDA LICENSED SURVEYOR AND
MAPPER

DATE	REVISION	DATE	REVISION





St. Pete Beach Board of Adjustment

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

8/30/17

**Variance Case
#17-00016**

Applicant/Agent
Jay LaBarre, Agent

Location
6381 4th Palm Point

Commission District
District 2

Staff Representative
Mike Larimore,
Zoning Tech II

Related Cases
N/A

**Staff
Recommendation**
Approval

ITEM SUMMARY:

Item	Requirement	Existing Condition	Proposed
Land Development Code 6.23:	$\frac{1}{2}$ the width of the zoning lot at the waterfront		
Maximum allowable length for residential docks	$\frac{1}{2}$ of 65 feet = 32.5 feet	55 feet	55 feet

Applicant requests a variance to Section 6.23 of the Land Development Code (LDC) to increase the maximum allowable length of a residential dock to allow for the placement of a new boatlift.

Existing Use: Residential (Detached Single-Family)
Adjacent Uses
North: Residential (Detached Single-Family)
South: Infrastructure (88th Avenue)
East: Residential (Detached Single-Family)
West: Infrastructure (Gulf Blvd.)

Applicant requests a variance to allow for the placement of a boatlift on the end of an existing dock. The proposed boatlift would replace a smaller existing personal watercraft (jetski) lift. The existing dock is nonconforming per Code due to its length. Two existing tie poles create an area in which the existing boatlift is situated. The proposed boatlift would be placed within this area.

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. As of the time of this report, no comments have been received.

COMPREHENSIVE PLAN/LAND DEVELOPMENT CODE:

The subject property is located in the RU-1 zoning district which allows for single-family residential and associated accessory structures including residential docks. The LDC regulates the maximum length and minimum setbacks of residential docks. The maximum allowable length of a residential dock is one-half of the width of the zoning lot at the waterfront. The proposed dock would not violate the minimum required side setbacks, but currently extends past the maximum allowable length.

The Comprehensive Plan encourages the conservation, maintenance and rehabilitation of existing residential areas through the Land Development Code and other City codes.

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 subject property is peculiar in its location on a 90 degree angle of seawall. The accumulation of sand against the angle has created a convex beach. This beach results in a shallow water depth and necessitates longer docks. As illustrated by the attached map, the 90 degree angle limits dock placement for property owners located on this portion of seawall. These conditions and circumstances are not the result of actions by the Applicant.*
- 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 district boundaries nor 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. The proposed placement of the boatlift would not negatively affect nearby property owners' ability to access the water.*
- 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 due to the peculiarity of the land and accumulation of sand along the seawall. Should the variance not be granted, the reasonable use and functionality of the existing dock would be lost.*

STAFF RECOMMENDATION:

Staff recommends approval – The combination of the lot's location on the 90 degree angle of seawall and the existence of accumulated sand along the seawall creates a need for longer docks in the immediate area to make them reasonably usable. The proposed boatlift will replace a smaller existing lift that will increase the functionality of the dock within the existing footprint created by the tie poles without negatively affecting nearby property owners.

Attachments:

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

Attachment A.

Sec. 6.23. - Docks.

(d) Additional requirements for residential docks. In addition to the preceding general requirements, residential docks shall adhere to the following:

- (1) No residential dock shall be designed or constructed to accommodate more than two boats for permanent mooring. No residential zoning lot shall have more than one dock. For the purpose of this section, personal watercraft (wave runners or jet skis) lifts shall not be considered a boat slip.
- (2) Notwithstanding the preceding, a residential dock for the joint use by two or more adjacent waterfront property owners may be permitted where the physical characteristics of the waterfront make it impractical to build individual docks.
- (3) No residential dock, davits, boatlifts or tie poles shall extend from the mean high water line or seawall of the appurtenant upland property to a length greater than one-half the width of the zoning lot at the waterfront. This requirement may be varied administratively provided that signed statements of "no objection" from both adjacent waterfront property owners have been submitted.
- (4) Residential dock, davits, boatlifts or tie poles shall be located within the center one-half of the width of the appurtenant upland property at the waterfront. For the purpose of this regulation, side lot lines of a lot shall be deemed to extend into the adjacent water body perpendicular to the shoreline which they intersect. This requirement may be varied administratively provided that a signed statement of "no objection" from the property owner encroached upon has been submitted with the permit application.

Attachment B.



Above: Subject property highlighted.

Attachment C.



Above: Subject property, facing northeast



City of St. Pete Beach
Community Development Department
155 Corey Avenue
St. Pete Beach, Florida 33706
727-367-2735
www.stpetebeach.org



VARIANCE APPLICATION

Case Number: PLN 17-00016

PROPERTY FOR PROPOSED VARIANCE

Legal Description: Three Palms Point Unit 8, Lot 15

Parcel ID: _____

Address: 6381 4th Palm Point, St. Pete Beach, FL 33706-2113

Current Zoning: RU-1 FLUM Designation: RU Lot Area: _____

Existing Use: Residential Proposed Use: Residential

APPLICANT/AGENT:

Name: Jay R. LaBarre

Address: 4025 46 St N

City: St. Pete State: FL

Zip: 33714 Phone: 727 7235306

Email: jay@labarre@gmail.com

PROPERTY OWNER:

Name: Robert Lee

Address: 6381 4th Palm Point

City: St. Pete Beach State: FL

Zip: 33706 Phone: 941-955-2099

Email: blee@leenlee.com
rmmcloud@me.com

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

DOCK - Section 6.23 of Land Development Code

Replace existing lift with 8000# cradle lift & 4 new pilings.

Remove existing PWC lift & pilings

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.

Yes. Layout of property is located on an elbow and we believe it would not be able to comply

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.

Would deprive applicant reasonable use of dock. Would not be able to use it to its fullest functionality without a boat lift. There is no other place to put the lift.

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

NO

4. The proposed variance will not have the effect of changing any district boundary on the zoning map. *NO*
5. The variance shall not permit a non-conforming use or permit a use not specifically permitted in the zoning district. *NO*
6. The variance shall not increase density or intensity over that which is permitted in the Comprehensive Plan. *NO*
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, There will be*
8. The variance proposed is the minimum variance that will make possible the reasonable use of the land, structure and building. *we believe so*



Signature of Applicant

7/7/17
Date

Signature of Authorized Agent

Date

For office use only:

Hearing Date: _____ Fees: _____

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

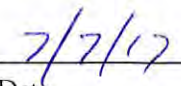
VARIANCE APPLICATION

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.

- X  I understand that the City will not accept or process an incomplete application.
- X  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.
- X  On all variances, a majority vote is required. Action on this application by the BOA/City Commission may be continued to a later meeting.
- X  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.
- X  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.
- X  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.
- X  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


Date

Owner's Authorization for Agent
Community Development Department
City of St. Pete Beach, Florida

I/WE

Robert Lee
(print name of property owner)

hereby authorize

Jay LaBarre
(print name of agent)

to represent me/us in an application for

Variance
(type of application: variance, conditional use, zoning, etc.)



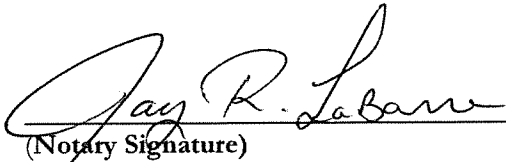
Signature of Owner

Signature of Owner

Robert Lewis Lee
Print Name of Owner

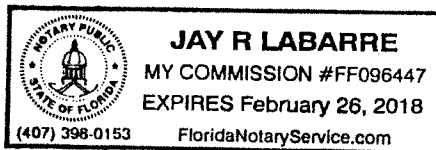
Print Name of Owner

The forgoing instrument was acknowledged before me this 17 day of July
2017, by Robert Lee who is personally known ☒ personally known
or produced _____ as identification.


(Notary Signature)

07/17/17
(Date)

My Commission Expires 02/26/2018





THE SUNSET CAPITAL OF FLORIDA

PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, Robert Lee, 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): Robert Lee
Address: 6381 4th Palm Point, St. Pete Beach, FL 33706

[Signature]
Signature

7/7/17
Date

STATE OF FLORIDA)
) SS:
PINELLAS COUNTY)

The foregoing instrument was acknowledged before me this 7 day of July, 2017 by Robert Lee, who appeared before me, and is personally known to me, or has produced _____ as identification, and did take an oath.

My commission Expires: 2/26/2018

NOTARY: Jay R. LaBarre

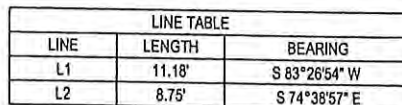
Print Name: Jay R. LaBarre

Notary Public, State of Florida

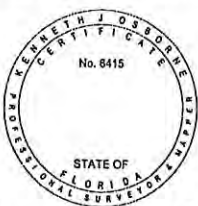
(Notarial Seal)



SCALE
1"=30'



THERE ARE FENCES NEAR THE BOUNDARY
OF THE PROPERTY.



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.

Kenneth
Osborne

Digitally signed by Kenneth Osborne
 Dn: cn=Kenneth Osborne,
 o=Target Surveying, LLC, ou,
 email=Kturnbull@targetsurveyin
 g.net, c=US
 Date: 2016.08.31 12:33:18 -0400

(SIGNED)

KENNETH J OSBORNE
PROFESSIONAL SURVEYOR AND MAPPER #6415

PAGE 2 OF 2 PAGES
(NOT COMPLETE WITHOUT PAGE 1)

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
STATEWIDE FACSIMILE (800) 741-0576

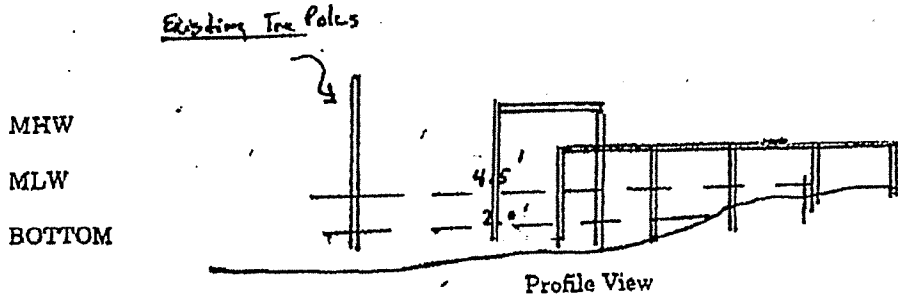
WEBSITE: <http://targetsurveying.net>

PRIVATE DOCK

70F7

Application # _____

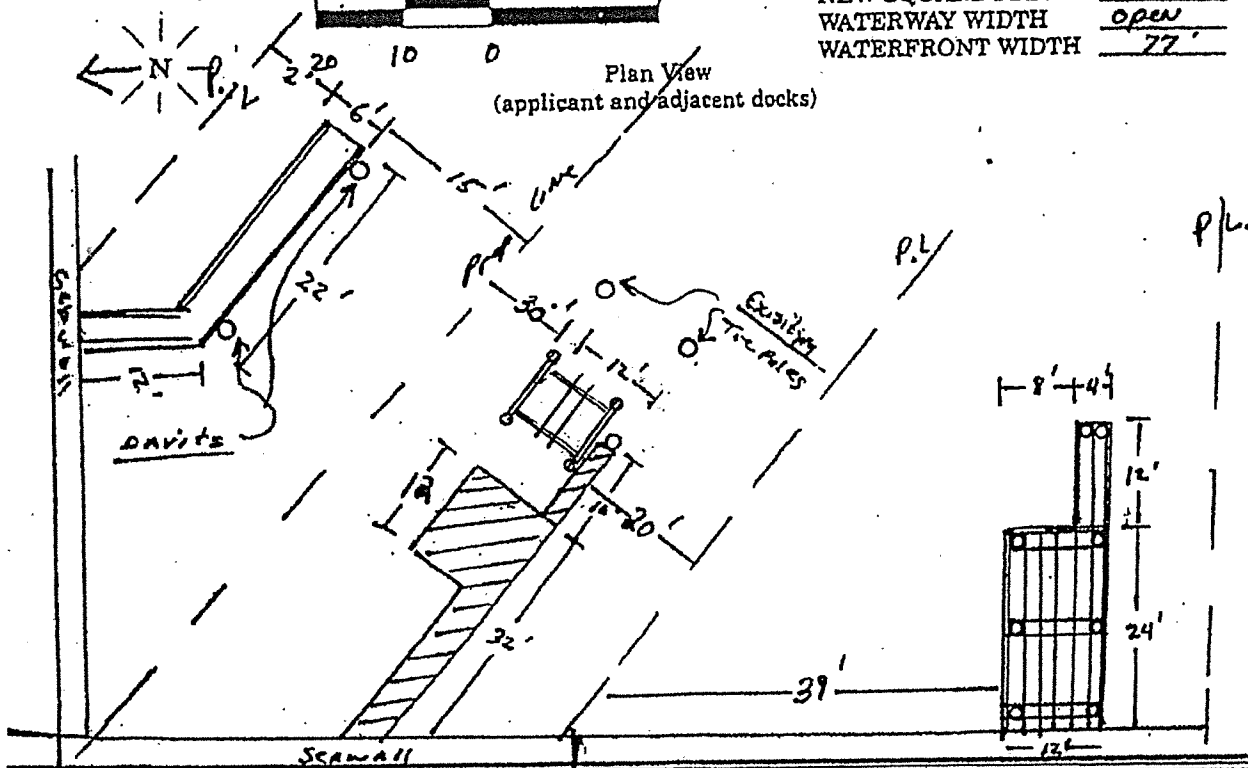
(OFFICIAL USE ONLY)



ENG. SCALE: 1" = 20'



TOTAL SQUARE FEET	233'
NEW SQUARE FEET	0'
WATERWAY WIDTH	open
WATERFRONT WIDTH	77'



The undersigned does not object to the proposed dock and requested variances as drawn in the space provided above.

✓ Left Owner

✓ Right Owner

Signature

Date

Signature

Date

Municipality Approval

Water and Navigation Approval