



BOARD OF ADJUSTMENT MEETING

CITY OF ST. PETE BEACH

155 Corey Avenue
St. Pete Beach, FL 33706

October 30, 2019
2:00 PM

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. Items added will be assigned agenda item numbers and items that are moved will retain the same item numbers. A notation will be made that those items will be taken out of order.
2. **Audience Comments** – Three minutes per person to issues not on the agenda.
3. **Approval of Minutes**
 - a. 09/25/19
4. **Action Items**
 - a. **VARIANCE – FENCE – FRONT YARD**
7998 Boca Ciega Dr (Case No. 19043); Jack and Karla Lafferty are requesting a Variance for the installation of a six-foot-tall fence that exceeds the allowable four feet in height along 80th Ave. The property is zoned RU-2 Residential.
5. **Discussion Items**
 - a. **Proposed Amendments to Land Development Code Sec. 3.12**
Discussion of proposed changes to variance criteria and introduction of practical difficulty and administrative (de minimis) variances.
6. **Adjournment – Next Meeting: 11/20/19**

The public is cordially invited to attend.

APPEAL: Florida Statutes Chapter 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.

CODE OF ORDINANCES, SECTION 1-15: Award of attorney's fees and other costs. In all instances where a lawsuit is instituted or defended on behalf of the city to enforce any provision of the Code of Ordinances, to collect fees, liens, assessments or fines, or otherwise secure compliance with any provision of the Code of Ordinances, the city shall be entitled to recover all costs incurred, including reasonable attorney's fees and court costs through the trial and appellate levels. This section shall apply to all instances where the city is required to defend an appeal from any order, notice or determination by the city or its officials.

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

All agenda material is available for review at City Hall.

BOARD OF ADJUSTMENT MEETING

MINUTES

September 25, 2019

2:00 P.M.

CALL TO ORDER

PLEDGE OF ALLEGIANCE

ROLL CALL

PRESENT:

Sandie Lyman, Vice Chair
Denise Chase, Member
Michael Bomar, Member

ABSENT: Paul Skipper, Chair
Jake Holehouse, Member

ALSO PRESENT:

Andrew Dickman, City Attorney
Wesley Wright, Community Development Director
Lynn Rosetti, Senior Planner
Brandon Berry, Planner I
Ginny Keeter-Bodkin, Deputy City Clerk

1. Changes to the Agenda

There were no changes to the agenda.

2. Audience Comments

There were no audience comments.

3. Approval of Minutes

a. 08/28/2019

Member Chase made a motion to approve the minutes from the August 28, 2019 meeting. The motion was seconded by Member Bomar and unanimously approved by a roll call vote (3-0).

4. Action Items

- a. **VARIANCE – BOAT LIFT EXTENSION/ENCROACHMENT:** 3786 Belle Vista Dr. E. (Case No. 19036); Bryan Burge of Edge Marine Construction, for James Kopco and Erin Marquis, is requesting a Variance for a 13'4"-wide boat lift addition that extends further than 50% of the waterfront width from the seawall and encroaches into an 11.6' eastern side setback. The appurtenant property is zoned RU-1.

Planner I, Brandon Berry, stated that this was a continuation from last month and that no aspect of the request has changed since that time and no additional calls or letters have been received.

Applicant James Kopco, 3786 Belle Vista Dr. E., gave comment that there has been no conversation with his neighbor since the last meeting. He stated that he submitted a copy of the permit Ms. McBrayer received for a boatlift, which is the same as he and his wife are now requesting.

Marsha McBrayer, 3772 Belle Vista Dr. E., stated that she and the applicants spoke a few weeks ago and she would prefer that the setbacks are adhered to with the boatlift in the center of the property. She asked that the variance be denied.

Contractor Bryan Burge of Edge Marine Construction, 4790 95th St. N., St. Petersburg, commented that the applicants are not asking for anything different than Ms. McBrayer already has.

Hearing no further audience comments or opposition, Vice Chair Lyman closed the public hearing portion and opened for board discussion. Discussion concluded that a significant cost differential for restructuring the dock in a different way would be considered a hardship.

Hearing no further Board discussion, Vice Chair Lyman called for a vote.

Member Chase made a motion to approve the Variance for Case No. 19036. The motion was seconded by Member Bomar and passed unanimously by a roll call vote (3-0).

- b. **VARIANCES – POOL, DECK & EQUIPMENT ENCROACHMENT**

106 20th Ave (Case No. 19035); Cassandra Guess for Iliana Guess is requesting multiple Variances to allow for the installation of a (1) pool, (2) deck and (3) pool equipment that encroaches into the required rear yard. The property is zoned RLM-2/PAG.

Mr. Berry gave a presentation on the variances and stated that two letters of support have been received. Staff recommends that the applicant make modifications to the orientation of the pool and/or modify the size of the pool to comply with the Land Development Code

and that if the variance is warranted, the property must come into compliance with the 70 percent maximum impervious ratio for the zoning district.

Vice Chair Lyman opened the meeting for public comment.

Casi Guess, applicant's daughter, of 106 20th Avenue, spoke about the details of the request for the variance and the Board members asked questions.

Chris Smith, 102 20th Avenue, asked questions about hose drainage during pool installation; Mr. Berry will speak with Building Official Bill Palmer and get back with her.

Hearing no comments, Vice Chair Lyman closed the public hearing portion and opened it for discussion among the Board members.

Casi Guess agreed that she would increase the green space to come into compliance. Mr. Berry stated that his department will work with her on the exact additional footage of greenspace required.

City Attorney Dickman commented that although the exact square footage numbers are not provided today, it is a condition that if approved, the applicants must work with the Planning Department to meet the requirements.

Hearing no further discussion, the Chair called for a motion.

Member Bomar made a motion to approve the Variance for Case No. 19035 with the condition that the applicants bring the green space into compliance with the City Code. The motion was seconded by Member Chase and passed unanimously by a roll call vote (3-0).

5. Adjournment – Next Meeting 10/30/2019

There being no further business before the board, the meeting was adjourned at 2:58 p.m.

Attest:

Rebecca C. Haynes, City Clerk

Sandie Lyman, Vice Chair

Minutes approved on: _____



**DEPARTMENT OF COMMUNITY DEVELOPMENT
PLANNING & ZONING
STAFF FINDINGS REPORT
TO THE
BOARD OF ADJUSTMENT**

VARIANCE CASE NO. 19043 – Jack and Karla Lafferty

MEETING DATE: October 30, 2019

PREPARED BY: Brandon Berry, Planner I; Planning & Zoning

REQUEST	Variance to allow the installation of a fence that exceeds the allowable four feet in height in a secondary front yard.
SUBJECT PROPERTY	7998 Boca Ciega Dr; ST. PETE BEACH REPLAT BLK 87, LOT 22; Parcel ID# 36-31-15-77994-087-0220
ACERAGE	0.1 acres (4,500 sq. ft).
LAND USE	RU-2 Residential District on the Zoning Map; RU on the Future Land Use Map
SURROUNDING AREA	North – 80 th Ave and tri-plex South - Duplex East – Boca Ciega Dr and single-family residence West – Duplex

BACKGROUND

The property is located on the corner of Boca Ciega Dr and 80th Ave and contains a new single-family residence constructed in 2018. The applicant states that they wish to install the fence at the proposed height to provide a safe and protective barrier.

ANALYSIS

The applicant is requesting to install a six-foot-tall fence in a secondary front yard. Per Land Development Code Sec. 6.15, fences shall not exceed four feet in height in secondary front yards. This property is located in the RU-2 district, which has a required secondary front yard of ten feet. Except for within the ten-foot secondary front yard and twenty-foot front yard along Boca Ciega Dr, the applicant can install a six-foot fence as proposed.

Land Development Code Section 3.12, Variances: The appropriate board of authority may authorize variances to the land development regulations if the applicant is able to demonstrate the following conditions:

- (a) 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;**

At 45'x100', the lot is substantially smaller in width (required 60') and area (required 6,000 sq. ft) than a lot in the RU-2 district could be if platted today. This property being a corner lot does somewhat further limit the comfortable usability of the applicant's backyard, which is located opposite Boca Ciega Dr and adjacent 80th Ave. These conditions are not the result of the applicant.

- (b) 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;**

None are being considered.

- (c) 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 variance will not change any district boundary on the zoning map, grant a nonconforming use, increase development density or permit a use not specifically permitted in the district.

- (d) 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 variance appears to be in harmony with the Land Development Code, which promotes the general public safety and comfort. The fence is proposed to be located only in the secondary front yard, and will end approximately 38 linear feet from the curb along Boca Ciega Dr. The fence will also be approximately 20 linear feet from the curb along 80th Ave. Staff interpret the residential fence height restrictions in the Land Development Code to ensure visibility at intersections and preserve waterfront vistas. Staff do not find that this proposal is in conflict with either of those interpretations.

- (e) **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.**

Staff find that the variance request is minimal, and requiring adherence to the Land Development Code standards may deprive the applicant some of the quiet enjoyment of their backyard.

Any variance granted hereunder shall expire one (1) year from the date of the development order providing for such variance, unless a building permit for the construction authorized by such variance is obtained within such time and said building permit has not expired prior to the completion of construction in accordance therewith.

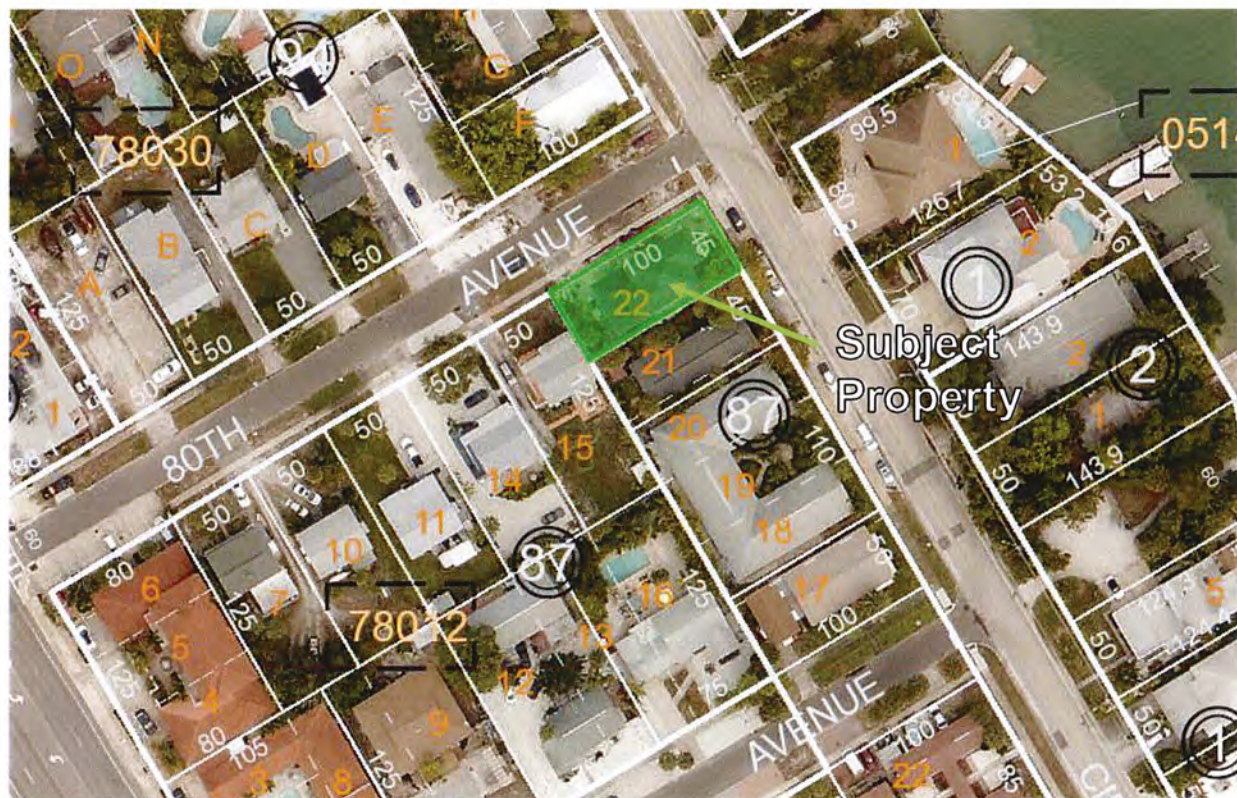
SUMMARY:

Staff find that the variance is in harmony with the land development regulations. The proposal provides the applicant reasonable use of their backyard and does not conflict with visibility or vistas, which staff interpret the fence height standards to protect.

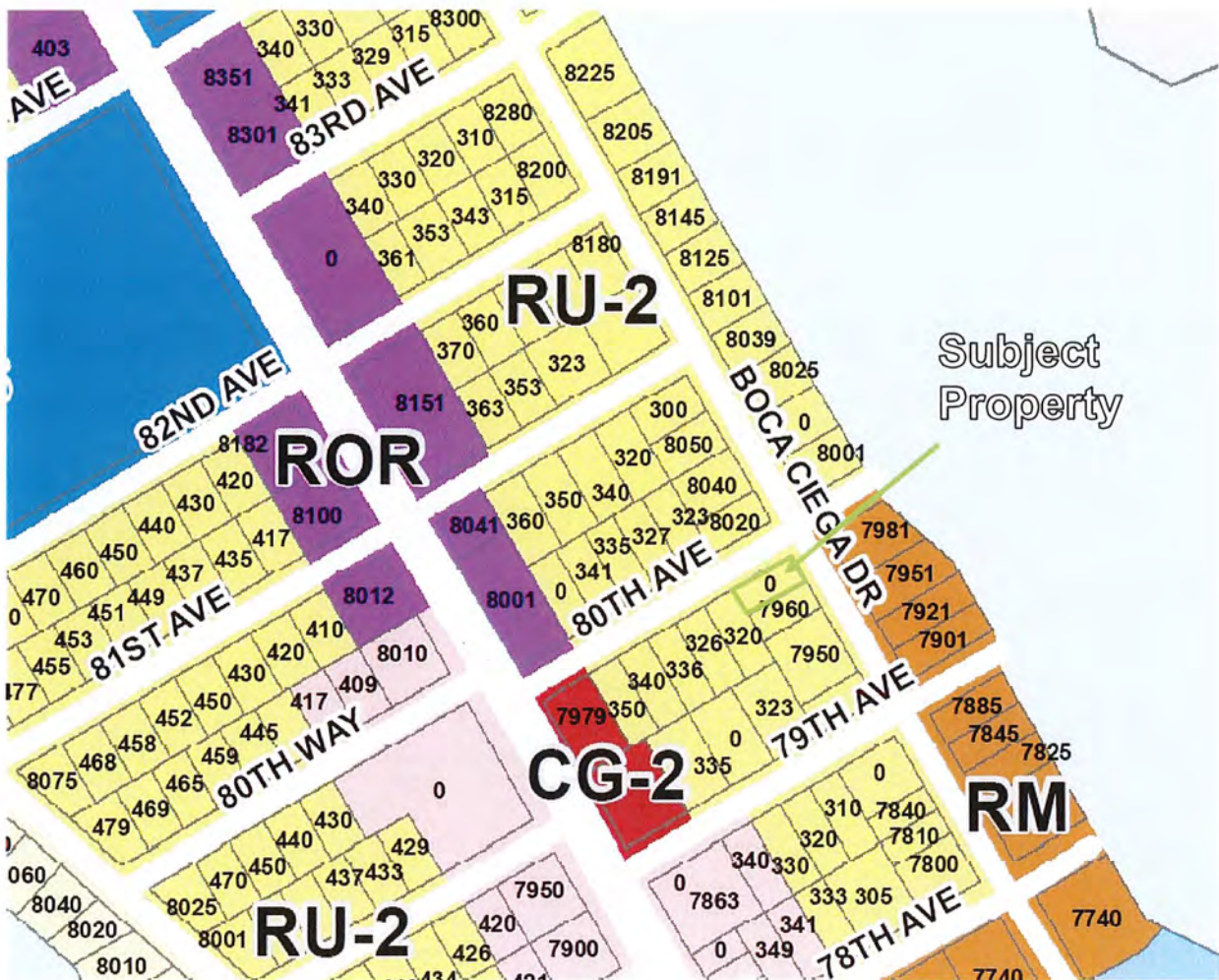
RECOMMENDATION:

Staff recommend approval.

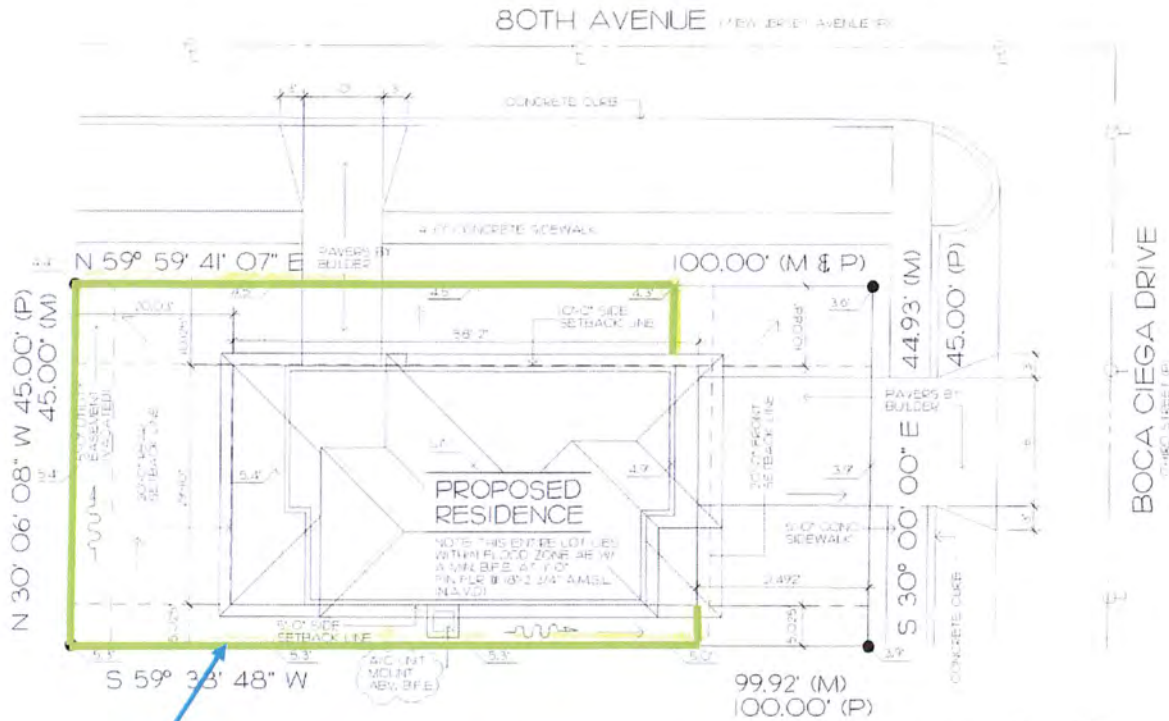
AERIAL MAP



ZONING MAP



FENCE PLAN - PROPOSED



GREEN LINE shows
area proposed for
6' tall fence

NOTE: PROVIDE 12 TREES
TO PROPERTY PER
REC. 22.5(A)

SEP 30 2019



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: 14043

PROPERTY FOR PROPOSED VARIANCE

Legal Description: St. Pete Beach Beplat BLK 87, Lot 22
Parcel ID: 36-31-15-77994-087-0220
Address: 7998 Boca Ciega Dr.

Current Zoning: RU-2 FLUM Designation: RU Lot Area: 0.1

APPLICANT/AGENT:

Name: _____
Address: _____
City: _____ State: _____
Zip: _____ Phone: _____

PROPERTY OWNER:

Name: Jack + Karla Lafferty
Address: 7998 Boca Ciega Dr.
City: SPB State: FL
Zip: 33706 Phone: 321-229-6454

Email: Klafferty2019@outlook.com Email: j.lafferty@embargmail.com

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

Sec. 6.15 variance - 6' fence in secondary front
yard. - BB

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.

Home is new construction on a corner lot where neighbors have become accustomed to parking on street (Boca Ciega Dr.) in front of house and on side of house (80th Ave) right up to the stop sign.

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.

We are asking to be able to install a six foot privacy fence, not just a four foot fence on the 80th Ave. side. The fence would not go past the front of the house (picture attached). We have 2 large dogs and the four foot fence would not adequately contain them. The six foot fence would provide a safe, protective barrier.

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

Prior to purchasing this lot in early 2018, we spoke with a gentleman in the planning & zoning office to specifically ask if a six foot fence was allowed and he told us as long as it does not interfere with drivers' line of sight at the corner stop sign. What we are asking for does not at all impede drivers' line of sight.

As previously stated, neighbors park their cars very close to the stop sign and that blocks drivers' line of sight. (picture attached)

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

We will not be changing 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.

We are only planning to use the six foot fence for private and pet containment.

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

It will not.

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 six foot privacy fence will be a white PVC fence which will be aesthetically pleasing to the design of the neighborhood. It will not be injurious nor 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.

yes, we are only asking for a six foot fence, not an eight foot fence.

Paula Jeffery
Paula Jeffery

9/27/19

9/27/19

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



PUBLIC HEARING SIGN POSTING AFFIDAVIT

Applicant, Jack Lafferty, 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): Jack Lafferty

Address: 7998 Boca Ciega Dr. St. Pete Beach

Signature [Signature] Date 9-30-19

STATE OF FLORIDA)
PINELLAS COUNTY) SS:

The foregoing instrument was acknowledged before me this 30 day of Sept, 2019 by Jack Lafferty, who appeared before me, and is personally known to me, or has produced FLDL# 211-0 as identification, and did take an oath.

My Commission Expires:

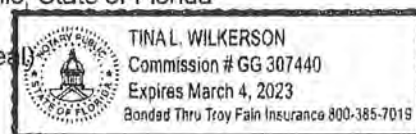
March 4, 2023

NOTARY: Tina L Wilkerson

Print Name: Tina L Wilkerson

Notary Public, State of Florida

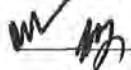
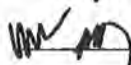
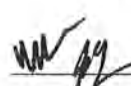
(Notarial Seal)



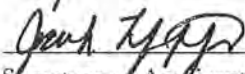
SEP 30 2019

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

	9/27/19
	9/27/19
Signature of Applicant	Date



Proposed 6' privacy fence

SEP 30 2019

From city of SPB

Karla Cofferly property
@ 7998 Boca Ciega Drive
St Pete Beach FL

8' fence allowance area

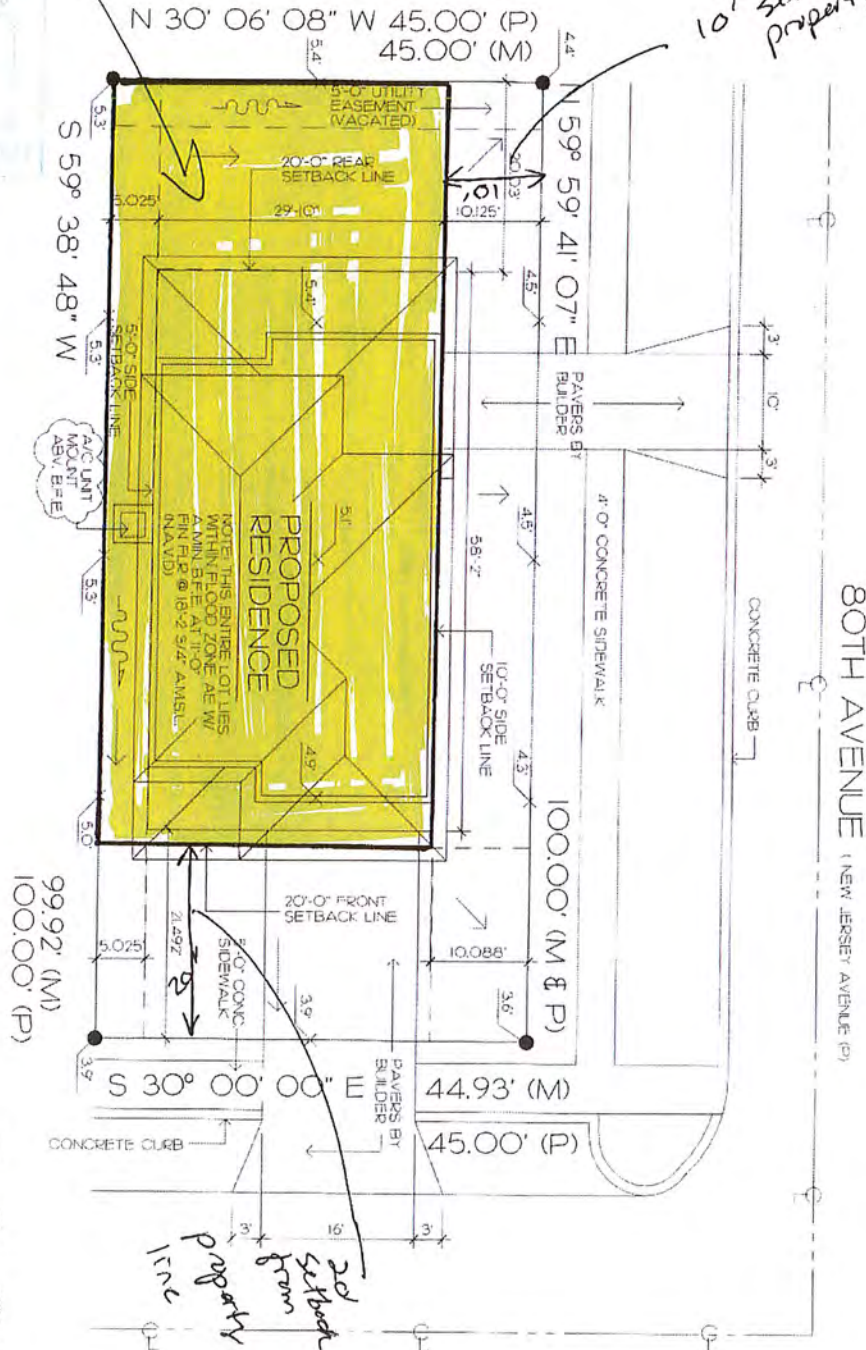
10' setback from property line

SEP 30 2019

PLOT PLAN

$$\overline{\text{O}=\text{C}-\text{C}=\text{O}}$$

NOTE: PROVIDE (2) T
TO PROPERTY
SEC.22.5(A)



SECTION 36, TOWNSHIP 31 SOUTH, RANGE 15 EAST

CERTIFIED TO:

JACK AND KARLA LAFFERTY
FIRST HOME BANK
SEMINOLE TITLE COMPANY
COMMONWEALTH LAND TITLE INSURANCE COMPANY

LEGAL DESCRIPTION

LOT 22, BLOCK 87, ACCORDING TO THE PLAT OF
RE-PLAT ST. PETERSBURG BEACH SUB-DIVISION
AS RECORDED IN PLAT BOOK 5, PAGES 28 & 29
OF THE PUBLIC RECORDS OF PINELLAS COUNTY, FLORIDA
BOUNDARY AND TOPOGRAPHIC SURVEY WITH
TREE LOCATION - 9/13/13
ADDED TITLE WORK - 8/20/13
UPDATE SURVEY - 6/28/18
STAKED BUILDING ENVELOPE
WITH 4' OFFSETS - 9/24/18
TIE-IN/FOUNDATION SURVEY - 10/22/18
ELEVATION CERTIFICATE - 11/13/18
FINAL SURVEY - 9/26/19

This Survey was prepared with the benefit of a title search
by Old Republic National Title Insurance Company, Fund File
No. 04-2013-2985, effective date of August 5, 2013.

ABBREVIATIONS:

CP = CENTERLINE
CPL = CABBAGE PALM TREE
ELEV = ELEVATION
IR = IRON ROD
LB = LICENSED BUSINESS
LW = LEAST WESTERLY
O.R. = OFFICIAL RECORDS
(P) = PLAT
TBM = TEMPORARY BENCHMARK
(TYP) = TYPICAL

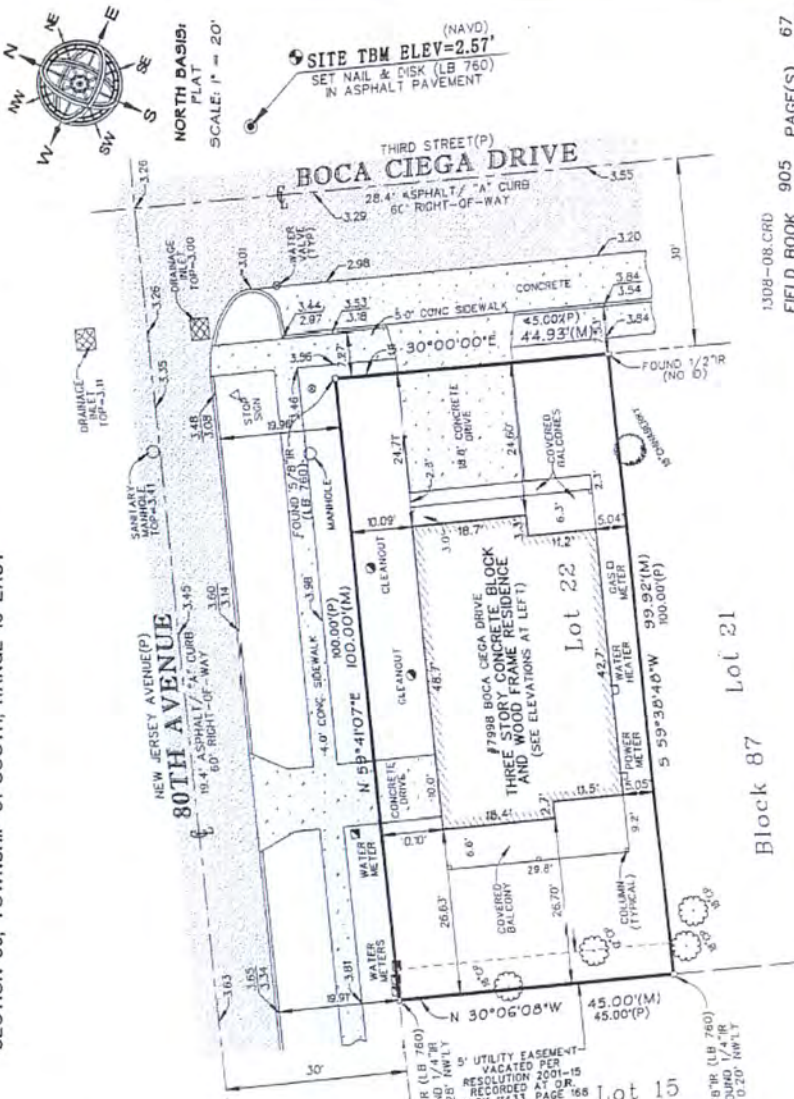
BUILDING ELEVATIONS:

LOWEST LIVING FLOOR ELEV=18.19
LOWEST GARAGE FLOOR ELEV=5.37
WATER HEATER ELEV=13.40
HIGHEST ADJACENT GRADE ELEV=5.53
LOWEST ADJACENT GRADE ELEV=4.84

Flood Zone
FLOOD ZONE AE(1%)
COMMUNITY PANEL #126149 12103C0257 G
REVISED 9/3/03

Basis of Bearings:
SOUTHWESTERLY RIGHT-OF-WAY LINE OF BOCA CIEGA DRIVE
AS BEING 5.10°00'00"E, PER PLAT BOOK 22, PAGE 95.

Benchmark:
PINELLAS COUNTY MAP #267 (BLIND L)
ELEV=59.92 NAVD. ADJUSTED TO
ELEV=3.04' NAVD. MSL=0.00'



1308-08.CRD
FIELD BOOK 905 PAGE(S) 67

I hereby certify that the survey represented hereon meets the
requirements of Chapter 500, Florida Administrative Code

John C. Brendla
JOHN C. BRENDLA
Florida Surveyor's Registration No. 4601
Certificate of Authorization No. 760

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

Prepared by:
JOHN C. BRENDLA AND ASSOCIATES, INC.
PROFESSIONAL LAND SURVEYORS AND MAPPERS
4015 82nd Avenue North
Pinellas Park, Florida 33708
Phone (727) 576-7546 ~ fax (727) 577-9932

ORDINANCE NO. 2019-XX

**AN ORDINANCE OF THE CITY OF ST. PETE BEACH,
AMENDING THE LAND DEVELOPMENT CODE, SECTION 2.1 –
WORDS, TERMS AND PHRASES DEFINED; SECTION 3.12 –
VARIANCES; AND PROVIDING FOR CODIFICATION,
PROVIDING FOR SEVERABILITY; PROVIDING FOR REPEAL
OF ORDINANCES IN CONFLICT; AND PROVIDING AN
EFFECTIVE DATE.**

WHEREAS, the City Commission of the City of St. Pete Beach (insert language); and

WHEREAS, (insert language); and

WHEREAS, (insert language); and

WHEREAS, (insert language) and

WHEREAS, (insert language).

**NOW, THEREFORE, THE CITY COMMISSION OF THE CITY OF ST. PETE BEACH
FLORIDA, HEREBY ORDAINS:**

SECTION 1. Recitals. The above recitals (“Whereas” clauses) are hereby adopted as legislative findings, purpose and intent of the City Commission.

SECTION 2. The provisions in this Section pertaining to the City’s Land Development Code are amended as follows:

Division 2, Sec. 2.1 (Words, terms and phrases defined) shall be amended as follows:

Pervious refers to any surface or material that permits water penetration into the ground. Such materials may include rock, stone, gravel, pebbles, shell and other similar materials including organic and inorganic mulches installed in such a manner to permit water to penetrate the ground beneath the material. The materials may be provided with a porous underlayment for stability or to enhance attractiveness of the area so long as the surface and any underlayment remains pervious.

Words ~~stricken~~ through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

Variance means a grant of relief by the City Manager, appropriate board of authority or city commission from the requirements of the Land Development Code which permits development in a manner otherwise prohibited, subject to the standards set forth in section 3.12.

Division 3, Sec. 3.12 shall be amended as follows:

~~(a) — Authority and approval criteria.~~

~~(1) — The appropriate board of authority may authorize variances to the land development regulations if the applicant is able to demonstrate the following conditions:~~

~~(a) — 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; and~~

~~(b) — 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; and~~

~~(c) — 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; and~~

~~(d) — 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; and~~

~~[e] — 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.~~

General Variances

(a) Purpose, definition, scope and limitations.

(1) Unnecessary and undue hardship variance. An unnecessary and undue hardship variance is a relaxation of the terms or provisions of the Land Development Code of the

Words stricken through shall be deleted. Words underscored constitute the amendment proposed. The symbol *** constitutes code sections not shown for purposes of brevity. Remaining provisions are now in effect and remain unchanged.

City of St Pete Beach (zoning code) where such action will not be contrary to the public interest and where, owing to conditions peculiar to the property and not the result of actions of the applicant, a literal enforcement of the zoning code would result in unnecessary and undue hardship on the property.

(2) Practical difficulty variance. A practical difficulty variance is a relaxation of the terms or provisions of the Land Development Code which is less rigorous than the unnecessary and undue hardship standard. Practical difficulty variances shall only be applicable to impervious surface ratio, setback lines, or landscaping for single family homes located on single lots in the established residential districts. If a practical difficulty variance is granted, the maximum reduction in the required pervious area of a property shall be 50 percent. A practical difficulty variance for a reduction in the required pervious area of a property shall only be granted by the city one time per property. The standard provides for a variance where a literal enforcement of a zoning regulation will create a practical difficulty in the use of the parcel of land for the purpose or in the manner for which it is zoned, considering various factors set forth below.

(3) Administrative (de minimis) variances. When the literal or strict enforcement of the provisions of this chapter causes unusual, exceptional, unnecessary difficulties or injustice because of the size of the tract, parcel or lot, the topography, the condition or nature of adjoining areas or the existence of other unusual physical conditions. The sum of all variances approved by the City Manager under these administrative procedures shall not exceed 12 inches for setbacks and accessory structure height for each property or lot.

(b) Authority and approval criteria.

(1) The City Manager or appropriate board of authority may authorize variances to the land development code if the applicant is able to demonstrate the following conditions:

a. Unnecessary and undue hardship variance. Standards of review for an unnecessary and undue hardship variance. The appropriate board of authority shall approve an unnecessary and undue hardship variance only if the variance applicant demonstrates by clear and convincing evidence that all of the following are met and satisfied:

1. Special conditions and circumstances exist which are peculiar to the land, structure, or building involved, and which are not applicable to other lands, structures, or buildings in the same zoning district;
2. The special conditions and circumstances do not result from the actions of the applicant or a prior owner of the property;
3. Literal interpretation of the provisions of the zoning code deprives the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the zoning code and results in unnecessary and undue hardship on the applicant;

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4. The hardship has not been deliberately or knowingly created or suffered to establish a use or structure which is not otherwise consistent with the comprehensive plan or the zoning code;

5. An applicant's desire or ability to achieve greater financial return or maximum financial return from his property does not constitute hardship;

6. Granting the variance application conveys the same treatment to the applicant as to the owner of other lands, buildings, or structures in the same zoning district;

7. The requested variance is the minimum variance that makes possible the reasonable use of the land, building, or structure; and

8. The requested variance is in harmony with the general intent and purpose of the comprehensive plan and the zoning code, is not injurious to the neighborhood or otherwise detrimental to the public safety and welfare, is compatible with the neighborhood, and will not substantially diminish or impair property values within the neighborhood.

b. Practical difficulty variance. Standards of review for a practical difficulty variance. The appropriate board of authority shall approve a practical difficulty variance if it finds, based on substantial competent evidence, that following factors demonstrate that a practical difficulty exists:

1. How substantial the variance is in relation to the requirement sought to be varied;

2. Whether an adverse change will be produced in the character of the neighborhood;

3. Whether the difficulty can be obviated by some method feasible for the applicant to pursue other than by a variance; and

4. Whether, in view of the manner in which the difficulty arose, the interest of justice will be served by allowing the variance.

c. Administrative (de minimis) variances. The City Manager may grant an Administrative (de minimis) variances to the setback and accessory structure height requirements found in this chapter in accordance with the following procedure:

1. An application for an administrative variance shall be submitted to the City Manager. The application shall set forth the reasons justifying the administrative granting of the variance including:

a. Special conditions and circumstances that exist which are particular to the land involved and are not applicable to other surrounding lands;

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b. The basis for seeking a variance;

c. How a literal interpretation of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties located in the City;

d. That the granting of the variance requested will not confer on the applicant any special privilege that is otherwise denied other similarly situated lands, buildings, or structures in the same zoning district; and

e. An explanation of how the request meets the requirements for approval under this section.

2. To approve a variance application, the City Manager shall find:

a. That the requirements of this section have been met;

b. The reasons set forth in the application justify the administrative granting of the variance;

c. That the variance is the minimal variance that would make possible the use of the land;

d. That the granting of the variance would be in harmony with the general purpose and intent of this Code; and

e. That the variance shall not be injurious to the surrounding property owners and impair desirable general development of the neighborhood or the community as proposed in the Comprehensive Plan or otherwise be detrimental to the public welfare.

3. Notice of administrative variance. The City Manager shall, at the expense of the applicant, provide legal publication and posted notice of an application for variance approval on the subject property, and shall give written notice to adjacent property owners, of the preliminary determination regarding the administrative variance as provided herein, and shall hear any objections regarding the preliminary determination during a subsequent 30-day period. At the conclusion of the 30-day period, the City Manager shall approve, approve with modifications and/or conditions, or deny the administrative variance request by written development order.

(2) When application is made to the city commission for approval of a conditional use permit, any necessary variances shall be considered by the commission at the same time as the conditional use permit request. Such variances may be approved or denied by the city commission without regard to the disposition of the conditional use permit request.

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(3) Any variance granted hereunder shall expire one (1) year from the date of the development order providing for such variance, unless a building permit for the construction authorized by such variance is obtained within such time and said building permit has not expired prior to the completion of construction in accordance therewith.

~~(bc)~~ Limitations on variance authority of appointed boards. Any request for variance to the city's coastal control line shall be made directly to the city commission. No board of authority shall grant a variance from any requirement imposed by the city commission as a condition of rezoning, conditional use approval or any other action of the commission resulting in the granting of specific development rights.

~~(ed)~~ Application submission requirements. Each application is due no later than 30 days prior to the public hearing or final administrative determination and shall contain the following information, accompanied by the payment of the applicable fee set forth in Appendix A, St. Pete Beach Code of Ordinances:

(1) A completed application, signed by the property owner. The format of the application shall be determined by the City Manager.

(2) Proof of ownership.

(3) When the applicant is a representative of the property owner or purchaser under contract, a notarized statement authorizing the representative to act as an agent of the property owner with regard to the application and associated procedures.

(4) A property survey containing the legal description, land area, and existing improvements on the site. The survey shall be signed and sealed by a surveyor licensed in the State, and shall have been performed not more than ten (10) years prior to the date of application. The survey shall accurately depict all improvements on the site. If all improvements are not depicted on the survey, the applicant shall conduct a new survey of the property and submit it with the application materials.

(5) A site plan illustrating the request, drawn to scale. The sheet size shall not be less than eleven inches by seventeen inches (11 × 17) and shall not be more than thirty-six inches by forty-eight inches (36 × 48). An electronic version may be required.

(6) Any stipulation, condition, or proffer the applicant wishes to offer along with the application.

(7) Applicants are encouraged and may be required to submit additional information, such as elevations, photos, and/or product information, when appropriate.

~~(de)~~ Determination of completeness of application. The city shall determine whether the application is complete. If the application is complete, the application shall be forwarded for review. If the application is not complete the city shall take no further action on the application until the required information is submitted by the applicant.

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