

June 7, 2023 Board of Adjustment Hearing

WEDNESDAY, JUNE 7, 2023

5:30 PM

- 1. CALL TO ORDER**
- 2. ROLL CALL/PLEDGE OF ALLEGIANCE**
- 3. AGENDA APPROVAL** - (Matters not specifically listed on the agenda may be added and acted upon with a super-majority vote of the Council members present and eligible to vote on the matter)
- 4. APPROVAL OF MINUTES**
 - A. April 5, 2023 Minutes**
- 5. OLD BUSINESS**
- 6. NEW BUSINESS**
 - A. BOA-001074-2023 – Henson Shed (Accessory Structure) 4485B Luke Ave Variance Request**
 - B. BOA-001141-2023 – Gilligan’s Site Variance Request**
- 7. PUBLIC COMMENTS**
- 8. NEXT MEETING DATE: July 5, 2023**

If a person decides to appeal any decision made by the City Council, committee, board, panel, or agency 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 will may need to ensure that a record of the verbatim record of the proceedings is made, which record includes the testimony and evidence upon the appeal is to be based. "Persons with disabilities who require assistance to participate in this meeting are requested to notify the City Clerk’s Office 850.837.4242 at least 48 hours in advance".

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BOARD OF ADJUSTMENT
DESTIN CITY HALL BOARDROOM
WEDNESDAY, APRIL 5, 2023
5:30 P.M.**

1. CALL TO ORDER:

Chairman Weidenhamer called the Board of Adjustment Meeting to order at 5:30 p.m., on Wednesday, April 5, 2023, at Destin City Hall Boardroom.

2. ROLL CALL & PLEDGE OF ALLEGIANCE:

Present:

Tom Weidenhamer
Daniella Piper
David Emerson
Cyron Marler
James Moomaw
Robert Pinard

Staff Present:

Kim Montgomery Deputy City Clerk
Daniel Butler Senior Planner
Steven O'Connor, Principal Planner
Daniel Butler, Senior Planner
Kyle Bauman City Attorney
Kim Kopp, Land Use Attorney (LUA)

3. APPROVAL OF AGENDA:

With no changes to the agenda, the Chairman announced the agenda is approved.

4. APPROVAL OF MINUTES:

➤ **March 1, 2023**

Motion to approve the minutes of the March 1, 2023, meeting was made by Board member Marler, with Board member Emerson providing the second. The motion passed 6-0.

5. PUBLIC COMMENT:

None

6. NEW BUSINESS:

A. Variance Request - 735 Planet Drive - BOA-000991-2023

Staff explained the applicant is requesting relief from LDC Section 7.12.08, Table 7-3, which relates to the setbacks within the Bay Estates (BE) zoning district. There is an existing shed (accessory structure) that does not meet the required side setbacks; and the applicant is requesting to anchor the shed (accessory structure) at the current location (2' from property line)

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a to the ground to increase the structural integrity.

The City Attorney swore in staff members and members of the public who will be testifying for the request. He then explained to the members that they are to base their decision on the evidence at this hearing and to not be biased by any outside prejudices. He then asked each individual Board members if they have had any ex parte discussions. Based on the information provided by the members he announced that it appears that all members are able to provide a fair and unbiased decision for the hearing at this meeting. The City Attorney then asked the applicant's and staff's Counsel if they had any objections to waiving the reading of the Notice into the record, with both Counsel's agreement. The Land Use Attorney then entered the city's Staff Report and Recommendation and all attachments thereto into the record. Counsel for the applicant, Mr. Jeff Burns, verified the letters from the neighbors and the site plan are a part of the record. The City's Land Use Attorney, Ms. Kim Kopp, (LUA) verified that they are.

Mr. Burns briefly explained that one of the witnesses for the defendant needs to get home and she would need to be cross examined first, so she could be released.

Mr. Burns then examined the following:

Ms. Mary Noser of 734 Planet Drive who has resided at her residence since 1992, stated that she knew the former owner of said property and stipulated for the record that Mr. Brunson, was somewhat of a packrat and the property was overgrown and he had accumulated a lot of things for fishing all over the property. Mr. Burns then asked her if there was a shed located on the property during the time that Mr. Brunson owned the property. According to Mrs. Noser, there was, it was an old shed that had fallen into disrepair and exclaimed that the one there now is a lot better looking than what was there.

The LUA's asked Mrs. Noser if she lived next door or across the street from Mr. Trammell. According to Ms. Noser, she lives across the street. The LUA then asked Mrs. Noser if the shed, where it is currently located, bothers her in any way. Ms. Noser stipulated that it did not and reiterated her previous statement, that it is much better looking than the original shed.

Board member Weidenhamer asked Mrs. Noser when she originally bought her property, was the shed located where the one is presently located. Mrs. Noser stated that yes, there was a shed in that spot.

Board member Piper asked if it is a different shed. According to Mrs. Noser, it has been completely overhauled to better match his house.

The following is the criteria that staff based their finding on per the requirements of the

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Land Development Code:

FINDINGS: According to LDC Section 2.25.03(C), to authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or 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.

Applicant response: Two factors necessitate granting the variance request.

First, the only location on the property for the shed anchoring that will not create drainage issues, if the shed is improved by affixing it to the ground, is the proposed location within the setback. No other location in the backyard can hold the shed without either cutting down century-old oak trees or reducing the percolation holding capacity of the backyard.

Second, the original owner of the property, Mr. Brunson, who developed the property and built the home in 1978, placed the home much further to the western part of the lot. He also placed a shed in the location where the current shed sits and landscaped the property in a manner to prevent drainage issues while sitting the shed in its current location. Additionally, the lot is shaped in a manner that the lot lines intersect Planet Drive at a 45-degree angle.

When considering the lot shape, Mr. Brunson's off-center placement of the home, and Mr. Brunson's design of the yard to prevent drainage issues (with the shed in mind), then the only viable ingress/egress from the front yard to the back yard, is through the eastern side yard. Considering factor 1 (drainage concerns if shed is anchored somewhere else) then the only location for the shed is the eastern side yard within the setback. The current lawful non-conforming shed sitting is the only part of the eastern side yard that will not both block ingress/egress to the backyard and result in drainage problems along the eastern side yard.

Staff Findings: The Board needs to determine whether special conditions do exist in the fact that the original property owner sited the structure in its original location.

B. That special conditions and circumstances do not result from the actions of the Applicant.

Applicant response: The Owner is not responsible for any of the hardships noted above. The on-site drainage conditions are naturally occurring, Mr. Brunson's off-center placement of

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the home was done before the City's existence in 1978, and the shed placement and drainage-minded landscaping by Mr. Brunson was done before the City was incorporated.

Staff Findings: The applicant states that the primary residence and the shed (accessory structure) were constructed prior to the incorporation of the city. Therefore, the Board needs to determine if these conditions do not result from the actions of the applicant.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings or structures in the same zoning district.

Applicant Response: The granting of this variance will not provide any special privilege to the subject property, nor the owner of the subject property. The variance request is due to hardships unique to the subject property that are not the result of the Owner's actions.

Staff Findings: The Board needs to determine that granting of this variance would not confer the applicant any special privileges, as the applicant did not construct the structure. Relocating the shed (accessory structure) could negatively affect the surrounding landscape and stormwater retention.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance and would result in unnecessary and undue hardship on the Applicant.

Applicant Response: Requiring the applicant to meet the relevant language of the setback requirement would create a situation where applicant must either:

(1) deprive the Applicant of normal ingress/egress to the backyard by moving the shed closer to applicant's home,

(2) undergo an unnecessary and undue hardship by creating a location in the backyard for the shed by cutting down irreplaceable century old Southern Live Oak trees and expending significant resources to rework the drainage conditions of the backyard to ensure stormwater is not discharged onto neighboring properties, or

(3) having no shed at all therefore depriving the Applicant of a right commonly enjoyed by all of his neighbors.

Staff Findings: The Applicant states that the literal interpretation of the code section would require some sort of action from the applicant to relocate the shed (accessory structure). Staff defers to the Board on whether this criteria has been met and whether the evidence and justification provided by the applicant satisfies this criteria.

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E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: Given the aforementioned site constraints, the requested variance is the minimum possible to create a safe, consistent development with regards to the subject property and the necessary ingress/egress locations, while preventing drainage problems for both the Owner and the Owner's neighbors.

Staff Findings: The Board needs to determine whether this request is the minimum variance that will make possible the continued reasonable use of the existing structure.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: No portion of the request is detrimental or injurious to the area or public welfare. The request is consistent with the overall pattern of development previously approved in the general location, while also maintaining the overall intent of the City's Land Development Code as it relates to the development and public safety.

Staff Findings: Granting this request would not alter the overall use of the property (single-family dwelling) and would not be injurious to the area involved or to the public's welfare.

Mr. Burns then asked the applicant, Mr. Matthew Trammell, a series of personal questions in relation to his upbringing and then his studies towards his professional career as an Engineer. He then asked Mr. Trammell for the timeline of what all took place from the time he purchased the property to how it currently is for the purpose of providing the Board with the reasonings why the shed is at its current location.

Mr. Trammell explained that when he purchased the property, was very overgrown and had various items throughout that were associated with the fishing industry. There were several small out structures including a shed, located where the one in question is now. He explained that he cleaned up and removed all the items throughout the property and used the old shed until it was damaged, from Hurricane Michael. Explaining that by that time, it had begun to deteriorate being that it was made of plywood. After demolition of the damaged, old shed, he did attempt to relocate it in the yard but quickly realized that because of the way lot is situated, and the topography of the land, that slopes northward towards the Choctawhatchee Bay, when it rains real hard, stormwater water sheets off his property towards the north and he realized it was better placed in its original location. He also stipulated the house was originally built to preserve several of the heritage oaks on the property that are at least a century old and contributes to the way the stormwater runs off. He explained further all of his utilities; the sewage, air conditioner

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and its lines, and irrigation pump and lines as well as ingress and egress to the property are all on the opposite side of his home and the shed could not have been moved to that side of the property. Mr. Trammel then explained that he also sent letter to all his neighbors to his property, and they all signed statements saying they had no issues with the location of the shed except for his neighbor, Mayor Jarvis who personally told him that he had no issues with the shed and the other neighbor, who lives out of state and did not reply.

Chairman Weidenhamer opened the hearing to the public for comment.

Mr. Tim Krueger of 605 Harbor Lane spoke against the Variance Request stating how setbacks are put in place for a reason, how everyone knows they are in place, and have to be adhered to, and how if anyone should be aware of setback requirements, it should be an Engineer that works in the city. He then questioned the use of the shed since it has windows, window treatments, electricity and what appears to be to an air conditioning unit and feels that it may possibly be used as a short term rental, even though those are not allowed in the zoning district. He spoke of how affording this Variance request could potentially open up the ability for others to come and ask for variances for things that are not allowed, and finally, respectfully asked the Board to deny the request.

With no further public input, Chairman Weidenhamer closed the hearing to the public.

Chairman Weidenhamer asked why the permit was not obtained to construct the shed. He then spoke of an old shed that he had that fell apart and when he went to the Building Department to obtain the permit to construct a new one, the setbacks required him to build his new shed, off of the property line from where his old shed was located within the required setbacks.

Mr. Trammell explained that he did not seek a permit for this shed and pleaded ignorance for not being aware of the Land Development Code requirements for buildings. Additionally, this shed was a repair/replacement from a disaster declaration at the time and explained the way he understood it, for State and Federal permitting generally, the permitting requirements are waived as a result of structures being damaged. He explained that he did not expand or change the footprint of the shed and in hindsight, he realizes what he should have done, and it would have saved him a lot of trouble and money and is why he is before them now.

For clarification purposes, Mr. Burns asked Mr. Trammell to explain why permits were not required after a statewide declaration from the Governor and if he is referring to the Emergency Declaration from of Hurricane Michael. Mr. Trammell answered affirmatively, and briefly explained the shed was damaged from Hurricane Michael and he replaced it without a permit because at the time, permits are waived during disaster declarations.

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Board member Piper asked Mr. Trammell if he had an air conditioner in the new shed. According to Mr. Trammell, he does have a mini split unit in the shed and the previous shed was also wired for electricity.

Chairman Weidenhamer asked staff what the regulations are for the percentage of damage that negates simple repair compared to new construction. According to Mr. O'Connor there is not a percentage, it is just based on what is necessary to get the structure repaired or replaced based on the Florida Building Code regulations.

Noel Bell, the city Building Official added that typically during a State of Emergency, if your structures or home on your property are damaged, you are allowed to immediately make the necessary repairs to not further the damage.

Board member Piper then asked how the city handles such issues when a shed that has been at its present location prior to incorporation of the city is then damaged from a hurricane.

Mr. O'Connor explained that any said structure that was built prior to the incorporation of the city, the structure is deemed a legal nonconforming structure and it what they consider grandfathered. Should the structure be damaged over 50%, the owner has one year to replace the structure to its original state, within the same footprint, or they lose the non-conforming status, and any new structure would have to be built to the current code requirements.

Board member Emerson asked if there was a geographic area for the disaster declaration of Hurricane Michael. In other words, was Okaloosa County included in the State of Emergency Declaration?

The LUA stated that staff would perform and search to find out. After a few minutes, she then asked Mr. O'Connor if he was able to find out the answer. According to Mr. O'Connor upon searching online, he was able to discern that Okaloosa County was indeed included in the Disaster Declaration from Hurricane Michael.

Board member Emerson asked Mr. Trammell if the shed could not be relocated to closer to the house and out of the setback area. According to Mr. Trammell the whole reason for replacing the shed to its original location was to control his stormwater, as it was originally designed, to stay on his property and not have it pushed to his neighbor's property. Also, to keep it within its original footprint to keep its grandfather status.

Board member Marler spoke of similar cases that had come before this board when he was previously serving and how those Variances were granted.

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In closing, Mr. Burn spoke of the requirements that have to be met in order to grant the Variance and the special circumstances that existed as well as the extensive testimony that was given, based on the orientation of the property and how the home was built, the presence of the heritage oaks in the backyard, and how the stormwater would have been effected not only for Mr. Trammell's home, but also its impacts on the adjacent property owners as well. He then provided information on similar Variance Requests that have previously been brought before the Board of Adjustment and during those cases, the board has exercised good judgment on the cases and normally the ones that were denied did not provide adequate evidence for their requests.

Additionally, Mr. Trammell is willing to stipulate in asking for a variance to allow him to seek and obtain an after-the-fact permit to redo the foundations of the shed in accordance to city code within the setback and also as a condition, he will stipulate to no short term rentals or any uses other than storage of items in that shed, will be the only uses. He's also willing to pay any penalties associated with a retroactive permit.

Chairman Weidenhamer made the recommended motion for the Board of Adjustment approve the proposed request, BOA-000991-2022, to allow the applicant's shed (accessory structure) to remain in its original, existing location, with the condition that the applicant anchor the shed to the ground, as presented, and obtain any permitting needed from the city of Destin retroactively. Board member Emerson provided the second.

In discussion, Board member Piper amended the motion to add the stipulation to provide that no short term rentals or no occupancy use.

The Land Use Attorney stated that the stipulation can be added however, those are not allowed per code for that zoning district. **Board member Emerson provided the second for the amendment. On a roll call vote, the motion passed 6-0.**

5. OTHER BUSINESS:

The City Attorney explained to the members that in a recent past Board of Adjustment Hearing, they granted a Variance to Shirley Perman whose address is 155 Calhoun Avenue for the construction of a dock in the same location of an old dock and close to her neighbor, Tim Shores, for which Mr. Shores appealed the case before the 1st Judicial Circuit Court. With that occurrence, Mrs. Perman decided that she was no longer interested in her Variance and decided to seek a permit to build her dock in a location within its required setbacks. Therefore, that obviated the need for the Variance and staff is requesting that the Board rescind the request, which would be recorded.

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Motion by Chairman Weidenhamer to rescind the settlement agreement for case #2022CA001640F, with Board member Piper providing the second.

Chairman Weidenhamer opened the hearing to the public, with no one coming forward to speak, he closed the public hearing and called for the vote. **The motion passed 6-0.**

6. ADJOURNMENT:

There being no further business the meeting was adjourned at 7:15 p.m.

Adopted and approved this _____ day of _____ 2022.

Tom Weidenhamer, Chairman

Kim Montgomery, Deputy City Clerk

CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: June 7, 2023
BOARD/COMMITTEE: Board of Adjustment
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 6.A.

TO: Board of Adjustment

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney
Steve O'Connor, Principal Planner

FROM: Chris Willis, Planner

DATE: May 26, 2023

SUBJECT: BOA-001074-2023 – Henson Shed (Accessory Structure) 4485B Luke Ave
Variance Request

I. BACKGROUND: This is an application for approval of a Variance Request regarding an existing shed (accessory structure) located at 4485B Luke Avenue (Parcel ID: 00-2S-22-0582-0000-0140) The applicant is requesting relief from ***LDC Section 7.12.08, Table 7-3***, which relates to the setbacks within the Crystal Beach Neighborhood (CBN) zoning district. There is an existing shed (accessory structure) that does not meet the required side setbacks.

Applicant: Scott Henson

Location: 4485B Luke Avenue, Destin, FL 32541

Size of Property: 0.14 acres

Current Zoning: Crystal Beach Neighborhood (CBN)

Future Land Use Map Classification: Crystal Beach Neighborhood (CBN)

Comprehensive Plan Compliance: N/A

Legal Notice: The legal notice for the proposed variance request was submitted for publication in the Northwest Florida Daily News with publication dates of April 23, 2023, and April 28, 2023.

Request: The applicant is requesting relief from ***LDC Section 7.12.08, Table 7-3***, which relates to the setbacks within the Crystal Beach Neighborhood (CBN) zoning district. There is an existing shed (accessory structure) that does not meet the required side setbacks.

As stated above, the applicant is requesting a variance from ***LDC Section 7.12.08, Table 7-***

3 as shown below. The applicant requests relief from the minimum ten-foot (10') rear yard setback.

Zoning	Minimum Lot Area (sq. ft.)	Minimum Lot Size		Maximum Building Height	Setbacks			Maximum Density (units per acre)	Maximum Floor Area Ratio	Minimum Open Space (%)
		Width	Depth		Front	Side	Rear			
CBN-one d.u.	7,500	70	100	30/3 stories	20	7 ½	10	6.00	N/a	30

II. DISCUSSION: The applicant is requesting to keep the existing shed (accessory structure) in its current location $\pm 8''$ from the rear property line. The rear setback requirements for CBN and the plat are ten-feet (10') from the rear property line.

FINDINGS:

According to *LDC Section 2.25.03(C)*, *to authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship*. In order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or 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.

Applicant response: The applicant stated that an unintentional mistake was made out of ignorance nearly 30 years ago. The shed has existed in its current location for almost 30 years without issue with neighboring property owners, the general public or storms. Because of how my home is oriented on my lot, there is no way that the shed can be relocated on this lot without being in violation of the setbacks. So, the only real option for compliance is the removal of the shed.

Staff Findings: The Applicant has not identified nor provided any evidence of any special circumstances existing on site. Staff also cannot identify any special circumstances that are peculiar to the property. Ignorance of the Land Development Code (LDC) is not a special circumstance either. The orientation of the applicant's lot is not a special condition or circumstance as there are several other lots within the same plat, with the same configuration that are in compliance with the LDC.

B. That special conditions and circumstances do not result from the actions of the Applicant.

Applicant response: There was no intent for locating and constructing the shed in the setback. I was traveling frequently during that period and my only contribution to the construction was paying for materials.

Staff Findings: The Applicant has not identified nor provided any evidence of any special circumstances existing on site. Staff also cannot identify any special circumstances that are peculiar to the property. Further it was the applicant's action of

constructing the shed within the rear yard setback which created the nonconformity.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings or structures in the same zoning district.

Applicant Response: The Crystal Beach Cottages subdivision is nearly built out and the property north of his lot (BestBuy, Office Max, Pet Smart, etc.) will probably never be developed further to the south. The buildings in the commercial retail complex are about 140 feet from my shed at the closest point (see attachments provided). The 140 feet between my shed and the retail businesses north of the subject property consists of a Florida Power and Light easement with high wire transmission lines and stormwater infrastructure.

The property contains two large stormwater ponds required to service the retail businesses on the north side of the property fronting Hwy. 98. Utilities to all of the flag lots like the subject property owners in the subdivision, traverse from Luke Avenue under easements and no utilities are conveyed to the flag lots from the FPL easement or the setbacks on the north side of the flag lots.

Staff Findings: The condition, use, ownership status of surrounding properties are not criteria when evaluating special privileges. If granted, this would give the applicant special privileges that would not be given to other people applying for building permits in the same zoning district.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance, and would it result in unnecessary and undue hardship on the Applicant.

Applicant Response: Construction of structures within setbacks of properties within the zoning district is commonplace. And as noted in the attached detail of circumstances, there does not appear to be any safety issues, now or in the future, based on location.

Staff Findings: The applicant has not provided any concrete evidence that construction of structures within the zoning district is commonplace. Nor has Staff identified any evidence proving that the applicant would be deprived of rights commonly enjoyed by other properties in the same zoning district, that would result in unnecessary and undue hardship for the applicant.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: It will.

Staff Findings: As staff has identified in Criteria C, the granting of this variance would confer special privileges and therefore is not the minimum variance.

F. That the granting of the variance will be in harmony with the general intent and

purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: The structure existed for nearly 30 years and is in harmony with the general and the purpose of the Zoning Ordinance. The variance is fully within my property boundary and separated from adjacent properties accessible to the public by a thick vegetated buffer.

Staff Findings: Setbacks are a character-defining design element for neighborhoods and zoning districts. The intent and purpose of Crystal Beach Neighborhood (CBN), per the City of Destin Land Development Code (LDC) and Comprehensive Plan, is to adhere to performance standards which include setbacks in Table 7-3, Table of Dimensional Regulations. The granting of this variance will not be in harmony with the general intent and purpose of the Crystal Beach Neighborhood (CBN) zoning district. However, as the structure has existed for 30 years without incident it has not posed an imminent threat to public welfare.

[@Christopher Willis](#) reword this paragraph to make it sound like it was written by the applicant, not a staff interpretation. Also, the multiple "The applicant states" phrases are repetitive. It is implied in the "Applicant Response" title of the paragraph.

- A. **Link to Strategic Goals / Objectives:** n/a
- B. **Effect on Budget (EOB):** n/a
- C. **Level of Service (LOS):** n/a
- D. **Legislative Sponsor:**

III. CONCLUSION: The applicant is seeking approval of a variance to the setbacks to keep the existing shed (accessory structure) in its current location, which is located approximately eight inches (8") from the rear property line.

Per ***Land Development Code (LDC), Section 2.25.03(C)***, to authorize a variance request, the Board of Adjustment must find that all six (6) of the aforementioned criteria must be satisfied. After hearing all the testimony regarding the proposed variance request, the Board of Adjustment must determine whether to approve or deny the variance request. Should the Board decide to approve the request, Staff recommends that a condition be added that the shed (accessory structure) be anchored to the ground.

The Board will need to determine whether the provisions of LDC 2.25.03.C have been met.

IV. RECOMMENDED MOTION:

I move to recommend that the Board of Adjustments deny the proposed Variance Request, BOA-001074-2023.

ALTERNATIVE MOTION:

I move to recommend that the Board of Adjustments approve/approve with conditions the proposed Variance Request, BOA-001074-2023.

Attachments:

1. 1. Site Plan
2. 2. Crystal Beach Cottages Plat
3. 3. Variance Application Submittal

PROJECT # 92-212

EMERALD COAST ASSOCIATES, INC.

40000 EMERALD COAST PARKWAY DESTIN, FLORIDA (904) 837-8242

REQUESTED BY: SCOTT R. HENSON
CERTIFIED TO: SEE SHEET 2 OF 2

TITLE COMPANY:

TYPE OF SURVEY BOUNDARY

8" SCALE 1"=30'

SHEET 1 OF 2

GULF POWER, RIGHT OF WAY

LOT 12

LOT 14

LOT 15

LOT 13

LOT 16

LOT 17

LOT 18

LOT 19

LOT 20

LOT 21

LOT 22

LOT 23

LOT 24

LOT 25

LOT 26

LOT 27

LOT 28

LOT 29

LOT 30

LOT 31

LOT 32

LOT 33

LOT 34

LOT 35

LOT 36

LEGAL DESCRIPTION: LOT 14, CRYSTAL BEACH COTTAGES, A PLANNED UNIT DEVELOPMENT

PLATBOOK 12 PAGE 75

COUNTY OF OKALOOSA

SECTION

TOWNSHIP 2 SOUTH

RANGE 22 WEST

BEARING REFERENCE SEE NOTES DRAFTER SM

DATE SURVEYED 05-02-92

F.B. 462 PAGE 39 PARTY CHIEF D.G.R.

THERE ARE NO VISIBLE ENCROACHMENTS

NOT VALID

UNLESS SEALED

WITH

AN EMBOSSED SEAL

RUSSELL D. ALDRICH REGISTERED FLORIDA SURVEYOR NO. 4694

5-6-92

20.4

5-6-92

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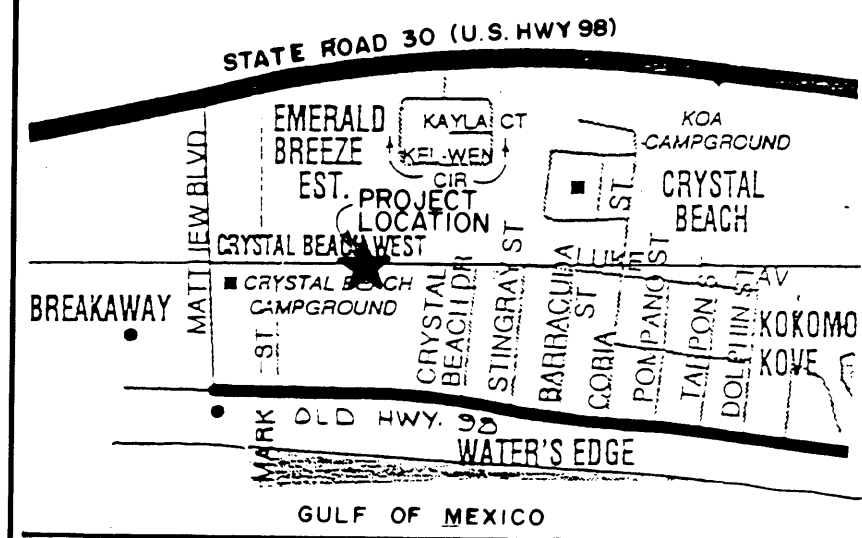
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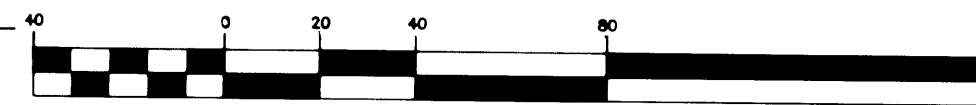
5-6-92

CRYSTAL BEACH COTTAGES

A PLANNED UNIT DEVELOPMENT IN TOWNSHIP 2 SOUTH, RANGE 22 WEST, AND A RESUBDIVISION OF BLOCK 36, CRYSTAL BEACH SUBDIVISION, CITY OF DESTIN, OKALOOSA COUNTY, FLORIDA

VICINITY MAP
(NOT TO SCALE)

GRAPHIC SCALE



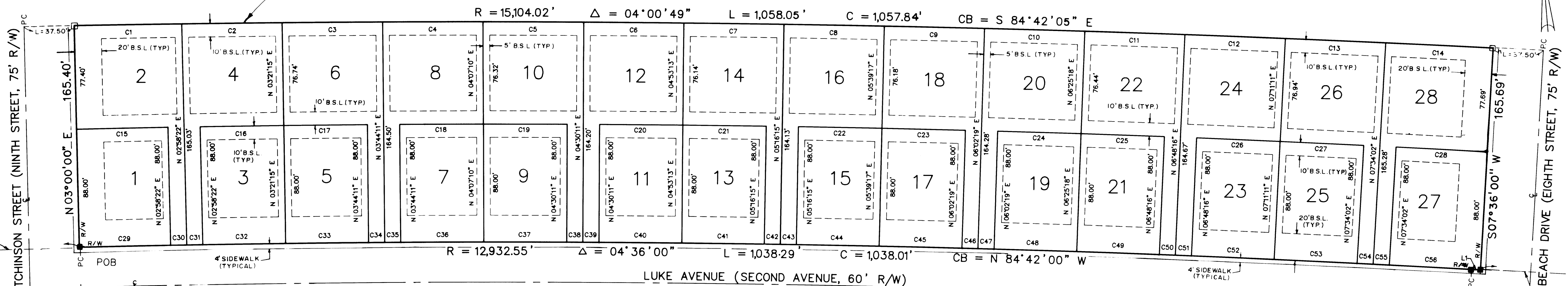
(IN FEET)

1 inch = 40 ft

JULY, 1991

AFFIDAVIT OF ERROR
RECORDED IN OR 1721-1215
1/19/93

BLOCK 37

POC
SOUTHEAST CORNER
OF BLOCK 37

CURVE TABULATION:

CURVE	RADIUS	LENGTH	CHORD	BEARING	DELTA
C1	15104.02'	80.00'	80.00'	N 86°33'24" E	00°19'13"
C2	15104.02'	74.83'	74.83'	N 86°15'47" E	00°17'02"
C3	15104.02'	74.84'	74.84'	N 85°58'45" E	00°17'02"
C4	15104.02'	74.83'	74.83'	N 85°41'43" E	00°17'02"
C5	15104.02'	74.84'	74.84'	N 85°24'41" E	00°17'02"
C6	15104.02'	74.83'	74.83'	N 85°07'39" E	00°17'02"
C7	15104.02'	74.84'	74.84'	N 84°50'37" E	00°17'02"
C8	15104.02'	74.83'	74.83'	N 84°33'35" E	00°17'02"
C9	15104.02'	74.84'	74.84'	N 84°16'33" E	00°17'02"
C10	15104.02'	74.83'	74.83'	N 83°59'31" E	00°17'02"
C11	15104.02'	74.84'	74.84'	N 83°42'29" E	00°17'02"
C12	15104.02'	74.83'	74.83'	N 83°25'28" E	00°17'02"
C13	15104.02'	74.84'	74.84'	N 83°08'26" E	00°17'02"
C14	15104.02'	80.00'	80.00'	N 82°50'48" E	00°18'13"
C15	13020.55'	68.01'	68.01'	N 86°51'02" E	00°17'57"
C16	13020.55'	62.32'	62.32'	N 86°27'29" E	00°16'27"
C17	13020.55'	62.33'	62.33'	N 85°59'00" E	00°16'27"
C18	13020.55'	62.32'	62.32'	N 85°40'15" E	00°16'27"
C19	13020.55'	62.33'	62.33'	N 85°31'47" E	00°16'27"
C20	13020.55'	62.32'	62.32'	N 85°09'00" E	00°16'27"
C21	13020.55'	62.33'	62.33'	N 84°52'33" E	00°16'27"
C22	13020.55'	62.32'	62.32'	N 84°29'45" E	00°16'27"
C23	13020.55'	62.33'	62.33'	N 84°13'18" E	00°16'27"
C24	13020.55'	62.32'	62.32'	N 83°50'30" E	00°16'27"
C25	13020.55'	62.33'	62.33'	N 83°34'03" E	00°16'27"
C26	13020.55'	62.32'	62.32'	N 83°11'16" E	00°16'27"
C27	13020.55'	62.33'	62.33'	N 82°54'48" E	00°16'27"
C28	13020.55'	68.01'	68.01'	N 82°31'15" E	00°17'57"
C29	12932.55'	68.01'	68.01'	N 86°50'58" E	00°18'09"
C30	12932.55'	12.00'	12.00'	N 86°40'20" E	00°03'11"
C31	12932.55'	12.00'	12.00'	N 86°37'08" E	00°03'11"
C32	12932.55'	61.73'	61.73'	N 84°29'44" E	00°16'25"
C33	12932.55'	61.74'	61.74'	N 86°10'56" E	00°16'25"
C34	12932.55'	12.00'	12.00'	N 86°01'08" E	00°03'11"
C35	12932.55'	12.00'	12.00'	N 85°57'56" E	00°03'11"
C36	12932.55'	61.73'	61.73'	N 85°48'08" E	00°16'25"
C37	12932.55'	61.74'	61.74'	N 85°31'44" E	00°16'25"
C38	12932.55'	12.00'	12.00'	N 85°21'55" E	00°03'11"
C39	12932.55'	12.00'	12.00'	N 85°18'44" E	00°03'11"
C40	12932.55'	61.73'	61.73'	N 85°08'56" E	00°16'25"
C41	12932.55'	61.74'	61.74'	N 84°58'11" E	00°16'25"
C42	12932.55'	12.00'	12.00'	N 84°42'43" E	00°03'11"
C43	12932.55'	12.00'	12.00'	N 84°39'32" E	00°03'11"
C44	12932.55'	61.73'	61.73'	N 84°29'44" E	00°16'25"
C45	12932.55'	61.74'	61.74'	N 84°13'19" E	00°16'25"
C46	12932.55'	12.00'	12.00'	N 84°03'31" E	00°03'11"
C47	12932.55'	12.00'	12.00'	N 84°00'20" E	00°03'11"
C48	12932.55'	61.73'	61.73'	N 83°50'32" E	00°16'25"
C49	12932.55'	61.74'	61.74'	N 83°34'07" E	00°16'25"
C50	12932.55'	12.00'	12.00'	N 83°24'19" E	00°03'11"
C51	12932.55'	12.00'	12.00'	N 83°21'08" E	00°03'11"
C52	12932.55'	61.73'	61.73'	N 83°11'20" E	00°16'25"
C53	12932.55'	61.74'	61.74'	N 82°54'55" E	00°16'25"
C54	12932.55'	12.00'	12.00'	N 82°45'07" E	00°03'11"
C55	12932.55'	12.00'	12.00'	N 82°41'56" E	00°03'11"
C56	12932.55'	61.46'	61.46'	N 82°38'10" E	00°16'20"

LINE TABULATION:
LINE DIRECTION DISTANCE
L1 N 82°24'00" W 6.54'RAYMOND RICHARDSON & ASSOCIATES, INC.
40888 EMERALD COAST PARKWAY
DESTIN, FLORIDA PROJECT NO. 91-189

DESCRIPTION:

A PARCEL OF LAND LYING IN TOWNSHIP 2 SOUTH, RANGE 22 WEST, CITY OF DESTIN, OKALOOSA COUNTY, FLORIDA, ALSO BEING A RESUBDIVISION OF BLOCK 36, CRYSTAL BEACH SUBDIVISION, AS RECORDED IN PLAT BOOK 1, AT PAGE 17, OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCE AT THE SOUTHEAST CORNER OF BLOCK 37, OF THE AFORESAID CRYSTAL BEACH SUBDIVISION; THENCE GO SOUTH 87°00'00" EAST ALONG THE NORTH RIGHT-OF-WAY LINE OF LUKE AVENUE (SECOND AVENUE, 60' R/W), A DISTANCE OF 75.00 FEET TO THE SOUTHWEST CORNER OF THE AFORESAID BLOCK 36 AND THE POINT OF BEGINNING; THENCE GO NORTH 03°00'00" EAST ALONG THE EAST RIGHT-OF-WAY LINE OF HUTCHINSON STREET (NINTH STREET, 75' R/W), A DISTANCE OF 165.40 FEET TO A POINT ON A CURVE, BEING CONCAVE SOUTHERLY AND HAVING A RADIUS OF 15104.02 FEET; THENCE GO EASTERLY ALONG SAID CURVE, AN ARC DISTANCE OF 1058.05 FEET (CH. = 1057.84', CH. BRG. = S 84°42'05" E) TO A POINT ON THE WEST RIGHT-OF-WAY LINE OF CRYSTAL BEACH DRIVE (EIGHTH STREET, 75' R/W); THENCE GO SOUTH 07°36'00" WEST ALONG SAID WEST RIGHT-OF-WAY LINE, A DISTANCE OF 165.69 FEET TO A POINT ON THE NORTH RIGHT-OF-WAY LINE OF LUKE AVENUE (SECOND AVENUE, 60' R/W); THENCE GO NORTH 82°24'00" WEST ALONG SAID NORTH RIGHT-OF-WAY LINE, A DISTANCE OF 6.54 FEET TO A POINT OF CURVATURE; THENCE GO ALONG SAID CURVE TO THE LEFT, HAVING A RADIUS OF 12932.55 FEET, AN ARC DISTANCE OF 1038.29 FEET (CH. = 1038.01', CH. BRG. = N 84°42'00" W) TO THE POINT OF BEGINNING. SAID PARCEL OF LAND CONTAINS 3.9731 ACRES.

SURVEYOR'S NOTES:

- NOTICE: THERE MAY BE ADDITIONAL RESTRICTIONS THAT ARE NOT RECORDED ON THIS PLAT THAT MAY BE FOUND IN THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA.
- BEARINGS SHOWN HEREON ARE REFERENCED TO THE CENTERLINE OF HUTCHINSON STREET (75' R/W) AS BEING N 03°00'00" E.
- THIS PLAT HAS BEEN PREPARED FROM A PREVIOUS BOUNDARY SURVEY OF THE SUBJECT PROPERTY PREPARED BY THIS FIRM, WHICH MEETS MINIMUM TECHNICAL STANDARDS FOR SURVEYS, AS DEFINED IN CHAPTER 21HH-6.
- NO SEARCH OF THE PUBLIC RECORDS WAS DONE BY RAYMOND RICHARDSON AND ASSOCIATES, INC. VISIBLE EVIDENCE OF EASEMENTS WILL BE SHOWN HEREON, BUT NO CERTIFICATION IS GIVEN THAT EASEMENTS, DEED OVERLAPS, UNDERGROUND IMPROVEMENTS OR ENCROACHMENTS DO NOT EXIST.

LEGEND:

- DENOTES PERMANENT REFERENCE MONUMENT (P.R.M.) SET CORP. NO. 3724
- DENOTES PERMANENT REFERENCE MONUMENT (P.R.M.) FOUND R.L.S. NO. 4095
- P.O.B. DENOTES POINT OF BEGINNING
- P.O.C. DENOTES POINT OF COMMENCEMENT
- N DENOTES NORTH
- S DENOTES SOUTH
- E DENOTES EAST
- W DENOTES WEST
- (°) DENOTES DEGREES
- (') DENOTES MINUTES OR FEET
- (") DENOTES SECONDS OR INCHES
- ± DENOTES MORE OR LESS
- R/W DENOTES RIGHT-OF-WAY
- CORP. DENOTES CORPORATION
- P.R.C. DENOTES POINT OF REVERSE CURVATURE
- P.C.C. DENOTES POINT OF COMPOUND CURVATURE
- P.C. DENOTES POINT OF CURVATURE
- P.T. DENOTES POINT OF TANGENCY
- DENOTES PERMANENT CONTROL POINT (P.C.P.) SET CORP. NO. 3724
- DENOTES CENTERLINE

BLOCK 20

JOINDER AND CONSENT TO DEDICATION:

HENDERSON BEACH LAND TRUST, THE HOLDER OF A MORTGAGE ON THE HEREON DESCRIBED PROPERTY, RECORDED IN O.R. BOOK _____, AT PAGE _____ OF THE PUBLIC RECORDS OF OKALOOSA COUNTY, FLORIDA, DO HEREBY CONSENT TO AND JOIN IN THE DEDICATION AND PLATTING, AS SET FORTH HEREON.

Will Merrill, Jr.
WILL MERRILL, JR., MANAGING PARTNER

Craig A. Coker
WITNESS

WITNESS

ACKNOWLEDGEMENT TO JOINDER AND CONSENT TO DEDICATION:

STATE OF FLORIDA, COUNTY OF OKALOOSA, BEFORE ME THE UNDERSIGNED PERSONALLY APPEARED, WILL MERRILL, JR., KNOWN TO ME TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND WHO ACKNOWLEDGED HE EXECUTED THE SAME FOR THE USES AND PURPOSES SET FORTH. GIVEN UNDER MY HAND AND SEAL THIS _____ DAY OF _____, 1991.

NOTARY PUBLIC
STATE OF FLORIDA
My Commission Expires: _____

COUNTY CLERK'S CERTIFICATE:

I, NEWMAN C. BRACKIN, CLERK OF THE CIRCUIT COURT OF OKALOOSA COUNTY, FLORIDA, HEREBY CERTIFY THAT THIS PLAT COMPLIES WITH THE PROVISIONS OF CHAPTER 177, FLORIDA STATUTES AND WAS FILED FOR RECORD ON THE 12th DAY OF November, 1991, IN PLAT BOOK 12, AT PAGE 75.

Neuman C. Brackin
NEWMAN C. BRACKIN

DESTIN PLANNING COMMISSION:

THIS IS TO CERTIFY THAT THIS PLAT WAS PRESENTED TO THE DESTIN PLANNING COMMISSION OF THE CITY OF DESTIN, OKALOOSA COUNTY, FLORIDA AND WAS APPROVED BY THEM ON THE 18th DAY OF July, 1991.

Kathy M. Blue
KATHY M. BLUE, CHAIRMAN

DEDICATION:

CRYSTAL BEACH DEVELOPMENT OF NORTHWEST FLORIDA, AS OWNER OF THE HEREON DESCRIBED PROPERTY DECLARE THAT THEY HAVE CAUSED THE SAME TO BE SUBDIVIDED.

Jay A. Odom
JAY A. ODOM, PRESIDENT

Angela E. Yost
WITNESS

W. Merrill
WITNESS

ACKNOWLEDGEMENT TO DEDICATION:

STATE OF FLORIDA, COUNTY OF OKALOOSA, BEFORE ME THE UNDERSIGNED PERSONALLY APPEARED, JAY A. ODOM, KNOWN TO ME TO BE THE INDIVIDUAL DESCRIBED IN AND WHO EXECUTED THE FOREGOING DEDICATION AND WHO ACKNOWLEDGED HE EXECUTED THE SAME FOR THE USES AND PURPOSES SET FORTH. GIVEN UNDER MY HAND AND SEAL THIS 18th DAY OF July, 1991.

NOTARY PUBLIC
STATE OF FLORIDA
My Commission Expires: _____

TITLE OPINION:

IT IS THE OPINION OF THE UNDERSIGNED THAT THE TITLE OF LAND DESCRIBED HEREON IS IN THE NAME OF THE DEDICATORS, AS SHOWN HEREON, AND THERE ARE NO UNSATISFIED MORTGAGES ON THE LAND, EXCEPT AS SHOWN.

Warren W. Cook
WARREN W. COOK, PRESIDENT, FIRST NATIONAL LAND TITLE CO., INC. 1977

APPROVAL OF DESTIN CITY COUNCIL:

THE CITY COUNCIL OF DESTIN, OKALOOSA COUNTY, FLORIDA, HAVING EXAMINED THE WRITTEN PLAT DURING ITS REGULAR MEETING HELD ON THE 5th DAY OF August, 1991, AND APPROVED THE SAME FOR RECORDING.

James W. Vaughn
JAMES W. VAUGHN, MAYOR

Carolyn Lee Garrett
CAROLYN LEE GARRETT, CITY CLERK

SURVEYOR'S CERTIFICATE:

I HEREBY CERTIFY THAT THIS PLAT IS A TRUE AND CORRECT REPRESENTATION OF THE LANDS SURVEYED, THAT THE SURVEY WAS MADE UNDER MY PERSONAL DIRECTION AND SUPERVISION, THAT PERMANENT REFERENCE MONUMENTS HAVE BEEN PLACED, AS SHOWN, AND THAT THE SURVEY DATA COMPLIES WITH ALL THE REQUIREMENTS OF CHAPTER 177, OF THE FLORIDA STATUTES.

Gregory D. Wynn
GREGORY D. WYNN, SURVEYOR NO. 3384
RAYMOND RICHARDSON & ASSOCIATES, INC., L.B. NO. 3724

K12 PG 75

Crystal Beach Cottages

AFFIDAVIT OF ERROR
RECORDED IN OR 1721-1215

PB12 PG 75

02/26/2023

Planning Division of the Community Development Department

City Hall Annex
4100 Indian Bayou Trail
Destin, Florida 32541

RE: Letter of Request – Variance – 4485B Luke Avenue

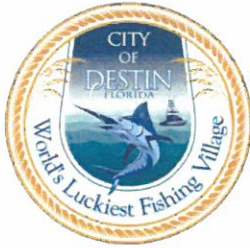
To whom it may concern,

This is a Letter of Request for a Variance for the location of an existing shed at 4485B Luke Avenue Destin FL that is currently constructed within the setback of the subject property noted above. Attached is the REQUEST FOR BOARD OF ADJUSTMENT PUBLIC HEARING VARIANCE APPLICATION required for consideration.

Warm regards,



Scott R. Henson
Owner/Resident
4485B Luke Avenue
Destin FL 32541
850-978 0009



City of Destin
Community Development Department
Planning Division
City of Destin Annex
4100 Indian Bayou Trail
Destin, Florida 32541
Phone (850) 654-1119 • Fax (850) 460-2171
www.cityofdestin.com

REQUEST FOR BOARD OF ADJUSTMENT PUBLIC HEARING VARIANCE APPLICATION

_____ – _____ – VA
(project number assigned by planning staff)

All applications must be emailed or shared with planning@cityofdestin.com.

A pre-application meeting is required prior to submitting this application. If a pre-application meeting has not been held, the application is considered incomplete and will not be processed. Completed applications shall be emailed or shared with planning@cityofdestin.com. Hearings are scheduled on the first Wednesday of each month at 5:30 pm in the City Hall Boardroom. Submittal deadlines are the first Wednesday of each month, one month prior to the desired meeting date. Submittal by this date does not guarantee a specific meeting date. This application will be forwarded to the Board of Adjustment for their consideration and action. You will be advised of the date and time of the Board of Adjustment public hearing. You must appear at this hearing or be represented by an authorized agent or attorney for the Board of Adjustment to take action on your application. The application will be terminated or tabled for failure to appear at a scheduled public hearing, unless you have provided written notice to the Planning Division. If you designate an agent or attorney to represent you in this application, you must submit a completed Agent Affidavit in a form approved by the City.

You are fully responsible for researching and knowing any and all laws, which may be applicable and affect the outcome of the any decision on your application request. The City assumes no responsibility or liability relating to your failure to research and know all applicable laws including, but not limited to, state, federal and city laws, codes, land development regulations and comprehensive plan. The City strongly recommends that all applicants consider consulting an attorney regarding their application.

You are encouraged to review, or copy, the Quasi-Judicial rules and procedures used by the Board of Adjustment at the public hearings.

1. AGENT/APPLICANT: Scott R. Henson

Mailing Address: 4485B Luke Avenue

City: Destin State: FL Zip Code: 32541

Business Phone number: 850-978-0009 Fax number: _____

Email: scotthenson@beachbreak.com

2. PROPERTY OWNER:

Mailing Address: Same As Applicant

City: _____ State: _____ Zip Code: _____

Business Phone number: _____ Fax number: _____

3. PROPERTY INFORMATION:

Street Address: Same As Applicant

Legal Description: _____
(Attach a copy of the Recorded Deed and Property Record Card)

Parcel ID: 00-2S-22-0582-0000-0140

4. ZONING (To be completed by City Staff):

Current Zoning: _____ Future Land Use: _____

5. SITE DETAILS:

Total Acreage of the Property: 0.14 Acres - Okaloosa County WebGIS

Existing or Proposed Special Exceptions or Variances, etc:

None existing except this one for my 30 year old shed.

6. VARIANCE REQUEST:

8'x22' shed constructed approximately 30 years ago. See attached detail of circumstances.

7. IN ORDER TO SECURE A VARIANCE, THE BOARD MUST DETERMINE BY LAW THAT YOUR VARIANCE REQUEST SATISFIES THE FOLLOWING CRITERIA OF THE CITY CODE (PLEASE PROVIDE A WRITTEN RESPONSE ALONG WITH ANY OTHER SUPPORTING DOCUMENTATION):

- A. That 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:

see attached detail of circumstances.

- B. That the special conditions and circumstances do not result from the actions of the applicant:

There was no intent for locating and constructing the shed in the setback.

I was travelling frequently during that period and my only contribution to

the construction was paying for materials.

- C. That granting the Variance requested will not confer on the applicant any special privilege denied that is denied by any Zoning Ordinance to other lands, buildings, or structures in the same Zoning District:

see attached detail of circumstances.

- D. That literal interpretation of the provisions of any Zoning Ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same Zoning District under the terms of any Zoning Ordinance, and would work unnecessary and undue hardship on the applicant:

Construction of structures within setbacks of properties within the Zoning District is commonplace.

And as noted in the attached detail of circumstances, there does not appear to be any safety

issues, now or in the future, based on its location.

- E. That the Variance granted is the minimum Variance that will make possible the reasonable use of the land, building, or structure:

It will.

- F. That the granting of the Variance will be in harmony with the general intent and the purpose of any Zoning Ordinance and that such Variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

The structure existed for nearly 30 years and is in harmony with the general and the purpose

of the Zoning Ordinance. The variance is fully within my property boundary and separated

from adjacent properties accessible to the public by a thick vegetated buffer.

8. THE FOLLOWING ITEMS ARE REQUIRED TO COMPLETE THE APPLICATION AND MUST BE ATTACHED:

- X 1. Completed Application - The applicant must fill out all applicable areas of the application. The application must be submitted to the Planning Division of the Community Development Department, City Hall Annex, 4100 Indian Bayou Trail, Destin, Florida 32541.
- X 2. Letter of Request - The applicant must submit a letter of request that clearly states what they are requesting.
- X 3. Proof of Ownership - The affidavit of ownership must be executed, notarized, and submitted. A letter of authorization is required if the applicant is other than the owner.
- NA 4. Agent Affidavit / Special Power of Attorney (if applicable) - If the applicant is other than the owner of the property under consideration for review.
- NA 5. Legal Description - A complete legal description of the subject property must be submitted for use in the legal advertisement.
- X 6. Application Fee: [Fee Schedule](#)
(FY2019 Schedule of Fees, Resolution 19-11, adopted 08/05/19, effective 08/06/19)
- Application fee includes Initial Submittal Review only. Subsequent Submittal Reviews and all mailing costs will be invoiced to the Applicant; invoices must be paid prior to submittal of additional Submittal Review Packages.**
- Accepted Payments are Cash, Check, MasterCard or Visa. Checks shall be made payable to the City of Destin and submitted to the Planning Division, Community Development Department, City Hall Annex, 4100 Indian Bayou Trail, Destin, Florida 32541**
- X 7. Site Plan - Submit a **DIGITAL** site plan, to scale, showing the proposed improvement or location of the specific request. The site plan shall contain an affidavit that the plan accurately depicts the property, improvements and proposed improvements. The applicant may provide a current survey (not older than ninety (90) days), which provides the same information, in lieu of a site plan. Digital plans shall be emailed or shared with planning@cityofdestin.com.
8. Additional Information - Any other documents or requirements, which are mandated by the Code or deemed necessary by staff in reference to the specific request, made may be required.

NOTE:

1. The City of Destin Planning Division will notify in writing abutting property owners of record within three hundred (300) feet of the subject property in accordance with LDC 2.17.00. The cost of this notification will be the responsibility of the applicant.
2. This application must be filled out completely and must be signed by the owner or his designated agent. If the applicant is different than the owner of the subject property, then an agent affidavit is required from the owner of the property that is under consideration for Board of Adjustment hearings. The agent affidavit must be completely filled out and submitted with this application. If the property is in multiple-ownership, then all of the owners or their designated agent(s) must sign this application.
3. A request for postponement must be submitted to the Community Development Department at least 10 working days prior to the originally scheduled meeting date. Costs for re-advertisements, public notice mailings, and all applicable fees will be the responsibility of the applicant.

I HAVE READ THE INFORMATION IN THIS APPLICATION AND HAVE FILLED IN ALL ANSWERS CORRECTLY TO THE BEST OF MY ABILITY.

APPLICANT:

SIGNATURE: _____

DATE: 3/7/23

PRINTED NAME: _____

Scott R. Henson

**AGENT AFFIDAVIT
SPECIAL POWER OF ATTORNEY**

KNOWN ALL MEN BY THESE PRESENTS, THAT I, _____ am
presently the owner and/or leaseholder at _____, and desiring
to execute a Special Power of Attorney, have made, constituted and appointed, and by these presents do
make, constitute and appoint _____
whose address is _____, County of _____, State of _____,
my Attorney-in-Fact to act as follows, GIVING AND GRANTING unto said attorney full power to act as
my agent in any and all matters pertaining to: _____.

FURTHER, I do authorize the aforesaid Attorney-in-Fact to perform all necessary acts in the execution of
the aforesaid authorization with the same validity as I could effect if personally present. Any act or thing
lawfully done hereunder by the said attorney shall be binding on myself and my heirs, legal and personal
representative, and assigns.

PROVIDED; however, that any and all transactions conducted hereunder for me or for my account shall
be transacted in my name, and that all endorsements and instruments executed by the said attorney for the
purpose of caring out the foregoing powers shall contain my name, followed by that of my said attorney
and the designation "Attorney-in-Fact."

OWNER

Signature

Printed Name

STATE OF _____
COUNTY OF _____

The foregoing instrument was acknowledged before me by means of physical presence ☐ or
online notarization ☐ this ___ day of _____, 20___,

By:

(Print name)

Personally known _____ OR Produced Identification _____

Notary Signature Seal:

Do Not Submit this Informational Page with Application

GENERAL INFORMATION REGARDING PUBLIC HEARINGS

The applicant, the applicant's representative as stated on the application, or the applicant's attorney should appear at the public hearing. If photographs, documents, maps or other materials are provided to the Commission and Board as evidence at the public hearing, you will need to leave those instruments with the Secretary. By law those instruments automatically become part of the public records and cannot be returned to you.

The public hearing before the Board of Adjustment regarding land development is considered quasi-judicial in nature. State and local law strictly prohibits applicants and/or interested parties from participating in ex-parte communications with Commission or Board members in person, by phone, E-mail, or in writing before the application is discussed at a public hearing.

For the purposes of making a decision on the application, the Commission and Board shall only consider testimony of qualified witnesses. A witness is determined by the Commission and Board and is generally based on:

1. The witness has personal knowledge of the fact in which the witness will testify; and/or
2. In the case of testimony consisting of opinions or inferences, the testimony is qualified as the following:

- A. **LAYMAN WITNESS:** Testimony of a witness other than an expert witness is qualified only if:

The witness can readily, and with equal accuracy and adequacy, communicate what he perceived to the Commission and Board without testifying in form of opinions or inferences.

The opinions and inferences do not require any special knowledge, skill experience or training.

- B. **EXPERT WITNESS:** Testimony of an expert witness is qualified only if:

The subject matter is proper for expert testimony because scientific, technical, or other specialized skill will help the Commission and Board understand the evidence being presented, or helps establish a fact in issue.

The witness is adequately qualified to express an opinion on the matter.

Detail of Circumstances

I made an unintentional mistake out of ignorance nearly 30 years ago and I admit it without hesitation. A shed was constructed within the setbacks on my property. My ignorance was that at the time, I did not know what setbacks were much less that they existed on my lot. At the time the shed was constructed, rebar lot corner markers were still present and they were used to make sure the entire structure was erected within my property boundaries. The shed has existed in its current location for almost 30 years without issue with neighboring property owners, the general public or storms. In the beginning, it looked like a shed. But over the years my wife forced me to make sure the exterior complimented the house. So needless to say, it has changed a few times over the years (see today's version in the photos below).

On Friday, January 10th, 2023 I attended a meeting with city staff that resulted in the following conclusions summarized in an email to me from Mrs. Noell D. Bell, CBO, City of Destin Building Official, Building Division:

"You have a shed which was constructed on your property without a permit in 1995. The shed is a nonconforming shed, due to the fact it was never permitted and is orientated on the property inside the setback requirements of the recorded plat."

City staff were very professional and patient with me and they provided relevant information clearly throughout the meeting. It turns out that the way my home is oriented on my lot, there is no way that the shed can be relocated on my lot without being in violation of the setbacks. So, the only real option for compliance is the removal of the shed. It should be noted that the City Engineering staff had no objections to the structure itself.

On my way back home after the meeting, I could not come to grips with a couple of aspects of this situation; Where is the common sense? And why me, why now? I believe that there are numerous situations that do not conform to the intent of and rules or recommendations that require a case by case examination. As an Okaloosa County Public Works Department manager, I have learned that these two aspects should always be considered when making decision on a course of action.

Looking at the definition and intent/purpose of a "setback", the city LDC defines it as *"The minimum distance by which any building or structure (accessory or principal) must be separated from the right-of-way or property line."* What I did not find in the LDC is the intent of a setback. In a search on the internet, this was the most common description of the intent and/or purpose – *"Setbacks allow for access to underground utilities and distance between properties."* I cannot claim that I was aware of this at the time of construction but what I know now is that there is no conflict the intent of a setback presently and highly unlikely in the future.

The Crystal Beach Cottages subdivision is nearly 100% built out and the property north of my lot (BestBuy, Office Max, Pet Smart, etc.) will probably never be developed further to the south. The buildings in the commercial retail complex are about 140 feet from my shed at the closest point (see reference image below). The 140 feet between my shed and the retail businesses north of me consists of a Florida Power and Light easement with high wire transmission lines and stormwater infrastructure. The property contains two large stormwater ponds required to service the retail businesses on the north side of the property fronting Hwy. 98.

Utilities to all of the flag lots like mine in the subdivision traverse from Luke Avenue under easements and no utilities are conveyed to the flag lots from the FPL easement or the setbacks on the north side of the flag lots.

So, in spite of my ignorance all of those years ago, common sense wise it does not appear as though a setback has much relevance based on past, current, and future land use.

That brings us to *why now, why me*. I really don't know the answers but I can speculate. Several months ago I was seeking information that would assist in addressing a sewage issue and I was seeking information from City staff for that. Or, my wife and I were entertaining constructing a pool on the property and the potential contractor submitted a permit application. I don't know for sure but I know that there were several occasions over the past 30 years – like development of the properties to the east, north and south when City staff would have definitely seen the shed and its location but I never received a notice of violation. However, since the meeting with city staff, I found out from a Councilperson that someone had “complained “about my shed. The Councilperson could not reveal to me who made the complaint but I am almost 100% sure that the complaint was from Charlotte Milliken at 4485C Luke Avenue. If that is true, she actually has no issue with my shed and she is complaining out of petty spite. Ms. Milliken is currently suing me because she has an issue with her sewer line and she alleges that I am responsible for it. One of her allegations is that my sewer line tied into her sewer line. The claim is ludicrous just from the fact that my sewer line was installed almost a decade before her house was built. If anything, the builder of her home tied into my existing sewer line. The case is still pending. There are numerous other examples for my description of her motives are “petty spite”. She has complained numerous times to the Sherriff's Department - at least a half dozen times - forcing them to respond to her baseless accusations. One such instance was she accused me of defacing a newly installed survey marker and the Sherriff's Department responded to my house one evening a couple of months ago. Upon investigation, it turns out that the surveyor – who she hired - had not permanently installed the monument medallion until the day after her complaint. Interestingly, we had to call the Sherriff's Department later that same night because she placed a radio directed at my front door playing full blast in violation of a noise ordinance. The Sherriff's Department responded and caught her in the act. The sheriff's compelled her to cease and desist her behavior. There are many other instances of pretty spite and I will share them if asked.

On the way home from the meeting and on the next few days after that, I took the opportunity to drive slowly through several Destin subdivisions to see if I could observe any other setback violations as described by City staff and I noted quite a few. And, almost all of them were clearly setback violations requiring no physical measuring. But there were some structures that are dealt with differently even though they are not compatible with the intent of a setback; most notably fencing and swimming pools. Both are vertical construction even though a pool would be in a negative direction relative to grade. Anchoring for fencing is also a negative direction relative to grade. In terms of the intent of a setback, both would interfere with the installation or maintenance of utilities. In the Land Development Code, swimming pools are allowed to extend into the setback which would arguably have greater impact on utility installation/maintenance than a positive vertical structure. I have a fair amount of expertise in this area since I managed the Stormwater Division for Okaloosa County for many years.

As you can see by the photos below, I have a nice looking shed - thanks to my wife. I only have myself to blame for the interior. And that shed has been there for almost half of my life. My first boy, now 30, was an infant when it was constructed and my second boy, now 23, was still 5 years from being born. There

was no Destin Commons, no Kelly Plantation, no Walmart, no Hutchinson Street and the mid-bay bridge was under construction. A panel on the inside of the shed are height hash marks from my children, nieces and nephews and other neighborhood kids. The shed has seen countless projects begun, completed or abandoned. In 2 years I will be retiring. My only plans for the shed is to leave it as is.

This letter come to you as an appeal for a variance on the grounds that buildout of adjacent property is very highly unlikely, utility conflicts are highly unlikely, lack of complaints from the adjacent property owners and the fact that the shed has existed without remark from the public or regulatory entities for nearly 30 years.

Thanks for your time and assistance:

Scott R. Henson
4485B Luke Avenue
Destin, FL



LETTER FROM CITY OF DESTIN TO ME AFTER MEETING

Hello Scott,

To recap our meeting discussion which occurred on Friday, Jan. 20, 2023:

You have a shed which was constructed on your property without a permit in 1995. The shed is a nonconforming shed, due to the fact it was never permitted and is orientated on the property inside the setback requirements of the recorded plat.

You now have a pool permit which has been submitted by your pool contractor which at this time cannot proceed until the shed issue is resolve. That permit application has been placed on hold.

The options for you at this time for the shed are as follows:

1. **The existing shed must be removed from property or be moved outside from the setback requirements.**
 - a. **If you choose to move the shed elsewhere on the property, provide a revised site plan under your permit BLDR-009736-2022, showing new location which comply with setbacks for staff review.**
 - b. **If you decide to remove the shed from the property, inform staff and request your permit application be revised to state removal of shed and contact us for site inspection for verification of shed removal.**
2. **Apply for a variance to the Board of Adjustments.**

Land Development requirements:

1. Per the recorded Plat
 - Building setbacks are 10' in the front and rear, 5' on the sides.
2. Per Land Development Code (LDC) 12.04.04.B.
 - A minimum five-foot wide common boundary landscape area abutting adjacent property lines shall be landscaped.
3. If the applicant were to pursue a variance, the steps are listed below.

The Variance application shall be submitted through COMPASS. Once logged in, you can click 'Apply' – 'Plans' – then search 'Exceptions – Variance'. For Staff support, you will have to detail that you have satisfied all 6 criteria in LDC 2.25.03.C. The Variance will be heard at a public hearing before the Board of Adjustment. I have also attached the OLD Variance application to this email so that you can use the checklist to ensure all documents are submitted, and you can use it to fill out the required criteria if desired.

You have 90 days to complete any of the options provided, date set for this is April 17, 2023. Failure to due so will result in further Code Compliance Action.

Regards,

Mrs. Noell D. Bell, CBO
Building Official / Building Division
City of Destin / Community Development Department
4200 Indian Bayou Trail
Destin, FL 32541
P:850-654-1119, prompt 2
www.cityofdestin.com

Link to permitting software for application submittals: www.cityofdestin.com/compass

** OFFICIAL RECORDS **
BK 1813 PG 43

FILE NO. 93019601A
DOC. 192.50
REC. 6.00
TOTAL 198.50

Warranty Deed

STATE OF FLORIDA
COUNTY OF OKALOOSA

TAX ID # 00-25-22-0582-0000-0140

Prepared by and return to
LISA A. GINN of
Stewart Title of Pensacola, Inc
401 E Chase St., Suite 104
Pensacola, Florida 32501
Pursuant to the issuance of
a Title Insurance Policy

KNOW ALL MEN BY THESE PRESENTS: That
LINDA HENDRICKS SIGURDSSON, A SINGLE WOMAN

for and in consideration of Ten Dollars (\$10.00) and other good and valuable considerations the receipt of which is hereby
acknowledged has bargained, sold, conveyed and granted unto
SCOTT R. HENSON, AN UNMARRIED MAN

Address: 336 FT. PICKENS ROAD W 109, PENSACOLA BEACH, FLA. 32561
grantee's heirs, executors, administrators and assigns, forever, the following described property, situate, lying and being in
the County of OKALOOSA, State of Florida, to wit:

Lot 14, Crystal Beach Cottages, a Planned Unit Development, recorded in Plat
Book 12, Page 75, County Okaloosa, Township 2 South, Range 22 West, Public
Records of Okaloosa County, Florida.

THE GRANTOR HEREIN COVENANTS THAT THE ABOVE DESCRIBED PROPERTY IS NOT HER
HOMESTEAD AS DEFINED BY THE FLORIDA CONSTITUTION, AND FURTHER THAT SHE
RESIDES AT: 551 E. MIRACLE STRIP PKWY, Mary ESTHER, FL

FILE# 1314994
OKALOOSA COUNTY, FLORIDA

RCD: FEB 10 1994 @ 2:13 PM
NEWMAN C BRACKIN, CLERK

FLORIDA DOCUMENTARY STAMP TAX REQUIRED
BY LAW IN THE AMOUNT OF \$ 192.50 HAS
BEEN PAID. NEWMAN C. BRACKIN, CLERK
OKALOOSA COUNTY
BY: Cat Jeller DC

Subject to taxes for current year and to valid easements and restrictions affecting the above property, if any, which are
not hereby reimposed. Subject also to oil, gas and mineral reservations of record.
Said grantor does fully warrant the title to said land and will defend the same against the lawful claims of all persons
whomsoever.

*Wherever used herein, the term "grantee/grantor" shall include the heirs, personal representatives, successors and/or assigns of the
respective parties hereto, the use of singular member shall include the plural, and the plural the singular, the use of any gender shall include
the genders.

IN WITNESS WHEREOF, grantor has hereunto set grantor's hand and seal on 2-8-94

Signed, sealed and delivered
in the presence of:

WITNESS:

[Signature]
[Signature]
[Signature]

[Signature] (SEAL)
LINDA HENDRICKS SIGURDSSON (SEAL)
(SEAL)
(SEAL)

STATE OF FLORIDA
COUNTY OF ESCAMBIA

Before me the subscriber personally appeared LINDA HENDRICKS SIGURDSSON

known to me, and known to me to be the individual described by said name in and who executed the foregoing instrument
and acknowledged that, as grantor, executed the same for the uses and purposes therein set forth, who produced
DRIVERS LICENSE as identification and who ☒ did ☐ did not take an oath.
Given under my hand and seal on FEB 8 19 94

CLERK FILE NO.

[Signature]
Notary Public
My Commission Expires 7/31/95
Serial # PC 131452

EMERALD COAST ASSOCIATES, INC.

10000 EMERALD COAST PARKWAY DESTIN, FLORIDA (904) 837-8242

PROJECT #

92-212

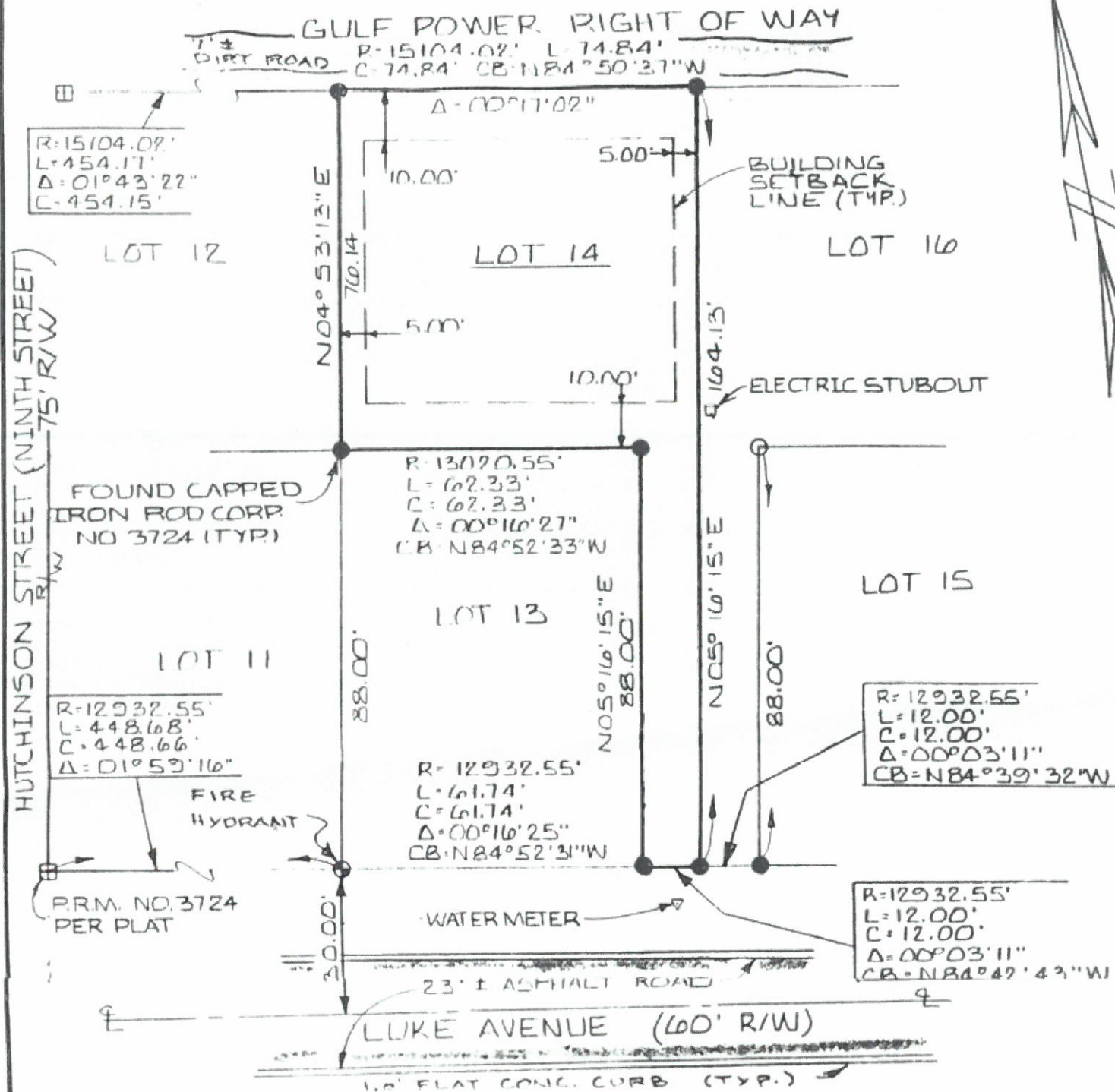
REQUESTED BY: SCOTT R. HENSON

CERTIFIED TO: SEE SHEET 2 OF 2

TITLE COMPANY:

TYPE OF SURVEY BOUNDARY

SHEET 1 OF 2
SCALE 1"=30'



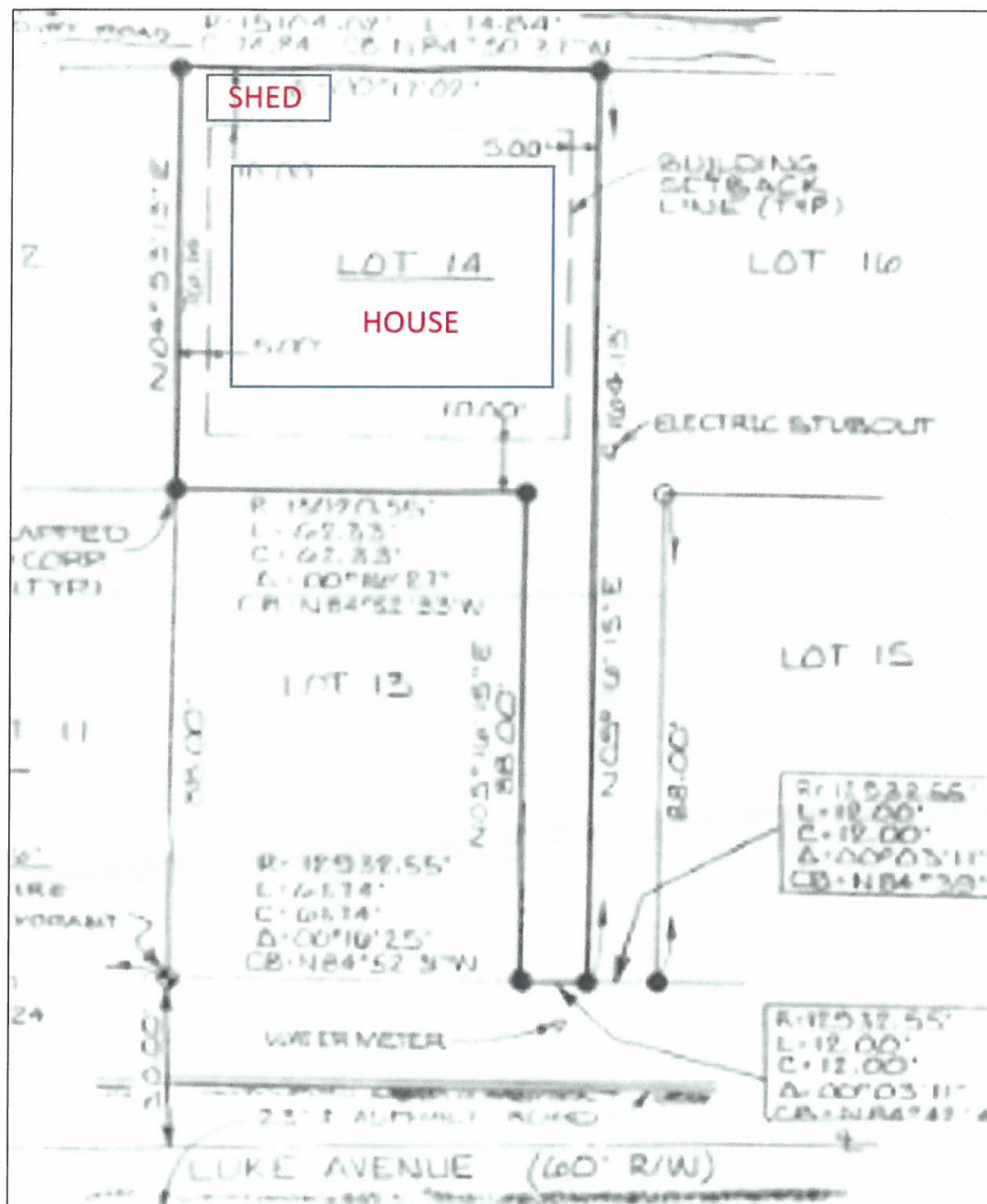
NO SEARCH OF THE PUBLIC RECORDS WAS DONE BY EMERALD COAST ASSOCIATES, INC. VISIBLE EVIDENCE OF EASEMENTS WILL BE SHOWN HEREON, BUT NO CERTIFICATION IS GIVEN THAT EASEMENTS, DEED OVERLAPS, UNDERGROUND IMPROVEMENTS OR ENCROACHMENTS DO NOT EXIST.

REV. #1 FIELD RECERTIFIED (127-34) *MANVU H. COY* PLS 3439 1/31/94

REV. #2

EMERALD COAST ASSOCIATES, INC. BEACH COTTAGES - A PLANNED UNIT DEVELOPMENT

Site Map



CITY OF DESTIN – COMMUNITY DEVELOPMENT



AGENDA ITEM

MEETING DATE: June 7, 2023
BOARD/COMMITTEE: Board of Adjustment
TYPE OF AGENDA ITEM: Action Item
OUTLINE NUMBER: 6.B.

TO: Board of Adjustment

THRU: Lance Johnson, City Manager
Louis Zunguze, Community Development Director
Kimberly Kopp, Land Use Attorney

FROM: Steve O'Connor, Principal Planner

DATE: June 2, 2023

SUBJECT: BOA-001141-2023 – Gilligan’s Site Variance Request

I. BACKGROUND: Ms. Melissa Ward of Dunlap & Shipman, P.A., on behalf of Mike Abadie of ABC Amusement Co., is requesting approval of a Variance Request, BOA-001141-2023. This application is requesting relief from ***LDC Section 8.09.03.A.6.a, 8.09.03.A.6.b, & 8.03.00, Table 8-1***, which regulates minimum sidewalk and buffer widths within the City’s Old Destin Multi-Modal Transportation District (MMTD). The subject zoning project is located at 530 Harbor Boulevard (Parcel IDs: 00-2S-22-0630-0000-03A1; 00-2S-22-0630-0000-03A2; & 00-2S-22-0630-0000-03A3).

Applicant: Melissa Ward
Location: 530 Harbor Boulevard, Destin, FL, 32541
Size of Property: 1.15 acres
Current Zoning: South Harbor Mixed Use (SHMU)
Future Land Use Map Classification: South Harbor Mixed Use (SHMU)
Comprehensive Plan Compliance: N/A

Legal Notice: The legal notice for the proposed variance request was submitted for publication in the Northwest Florida Daily News with publication dates of May 28, 2023, and June 2, 2023.

II. DISCUSSION: The applicant is requesting relief from ***LDC Section 8.09.03.A.6.a, 8.09.03.A.6.b, & 8.03.00, Table 8-1***, which regulates minimum sidewalk and buffer widths within the Old Destin Multi-Modal Transportation District (MMTD).

LDC Section 8.09.03.A.6.a states that - *Developments abutting a public or private right-of-way shall provide sidewalks (refer to Figure 8-11: External sidewalks) running the full length of any*

roadway frontage directly adjacent to the site. Sidewalks widths vary depending on the street type and location; please refer to Table 8-1: Roadway Design Standards for the appropriate sidewalk width for your project. Sidewalks shall be constructed within the right-of-way whenever possible. However, where it is not possible to construct the sidewalk within the right-of-way either wholly or in part, the entire sidewalk or remaining portion thereof shall be constructed on the subject property. If any portion of a public sidewalk is located on private property, then a public sidewalk easement shall be required prior to the issuance of any certificate of completion or occupancy. Stormwater runoff generated by the sidewalk located within the public sidewalk easement shall be satisfied in the adjacent right-of-way.

LDC Section 8.09.03.A.6.b states that - A minimum buffer area of four feet is required between the street (back of street curb or edge of the pavement) and the required sidewalk width when the posted speed limit on the adjacent street is 25 mph or greater (refer to Figure 8-12A: Sidewalk buffer), with the exception of US Highway 98 where a minimum buffer area of six feet is required (refer to Figure 8-12B: Sidewalk buffer).

LDC Table 8-1: Roadway Design Standards

Street type ⁽⁹⁾	Design Speed	Number of Traffic Lanes	Traffic Lane Width	Median Width		Parking Lane Width ⁽¹⁾	Bike Lane Width ⁽¹⁾	Sidewalk Width ⁽¹⁾		Buffer Width ⁽²⁾
Min.	Max.	Old Destin	Crystal Beach							
Major arterial (6-lane)	45 mph	6	12'	# ⁽¹¹⁾		n/a	5'	10' ⁽⁵⁾	8'	6'
Major arterial (4-lane)	45 mph	4	12'	# ⁽¹¹⁾		n/a	5'	10' ⁽⁵⁾	8'	6'
Minor arterial	35 mph	4	11'	6'	16'	n/a	5'	10'	8'	6'
Major collector	35 mph	4	11'	6'	12'	8'	5' ⁽⁴⁾	10' ⁽⁶⁾	8' ⁽⁶⁾	6' ⁽⁷⁾
Minor collector	35 mph	2	11'	6'	12'	8'	5' ⁽⁴⁾	10' ⁽⁶⁾	8' ⁽⁶⁾	6' ⁽⁷⁾
Local street (commercial)	25 mph	2	10'	n/a ⁽¹²⁾		8'	5' ⁽⁴⁾	10'	8'	6' ⁽⁷⁾
Local street (residential)	25 mph	2	10'	n/a ⁽¹²⁾		7'	n/a	5'	5'	4'
Alley (2-way)	15 mph	2	10'	n/a ⁽¹²⁾		n/a	n/a	n/a	n/a	n/a
Alley (1-way)	15 mph	1	12'	n/a ⁽¹²⁾		n/a	n/a	n/a	n/a	n/a

FINDINGS:

According to the **LDC Section 2.25.03(C)**, to authorize upon appeal such variance from the terms of any zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of such ordinance would result in unnecessary and undue hardship. In order to authorize any variance from the terms of the conditions, the Board of Adjustment must find:

A. That special conditions or 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.

Applicant response: This request is related to a redevelopment of an existing site, which includes existing sidewalks and buffers. The requirement to expand the sidewalks and buffer

is contraindicated when you consider the loss of parking spaces along the US Highway 98 corridor.

Staff Findings: Staff defers to the applicant with respect to showing the reduction in parking, as the City does not yet have final plans for the redevelopment of the site. However, staff has seen preliminary plans and supports the additional parking with an 8-foot sidewalk with no additional buffer requirement.

B. That special conditions and circumstances do not result from the actions of the Applicant.

Applicant response: The Code changes to increase the sidewalk and buffer for redevelopment are inconsistent with the street use today. The neighbors to the east and west presently have the same size sidewalk/buffers areas as the Property. The Petitioner is seeking to improve the site, but the new language (since the first development of the site) will force a reduction of parking spaces.

Staff Findings: The surrounding properties themselves do not meet the current code because the properties have not redeveloped to a point where the new sidewalk and buffer standards have been required. Staff defers to the applicant with respect to showing the conditions are not a result of the Applicant's actions. However, staff supports an 8-foot sidewalk with no additional buffer requirement to allow for additional parking and provide for public safety.

C. That granting the requested variance will not confer on the Applicant any special privileges denied by any zoning ordinance to other lands, buildings, or structures in the same zoning district.

Applicant Response: The request, if approved, will not grant a special privilege. It does, however, provide for consistency along the corridor.

Staff Findings: Not all properties on the Harbor have ten foot sidewalks, however, properties being redeveloped are required to meet the Code unless a variance is obtained. At this property, staff supports an 8-foot sidewalk with no additional buffer requirement. This would maintain public safety in the right of way and also allow for additional parking at the site.

D. That literal interpretation of the provisions of any zoning ordinance would deprive the Applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of any zoning ordinance, and would it result in unnecessary and undue hardship on the Applicant.

Applicant Response: Per **Land Development Code (LDC) 8.09.00**, the Multimodal District provides that the minimum distance for the buffer along US Highway 98 is 6'. Currently, the Site has 3', consistent with the properties to the east and west and along us Hwy 98. The extension of the sidewalk/buffer from the present 8 feet to 16 feet will result in the reduction of parking spaces, limiting the use of the site.

Staff Findings: Staff defers to the applicant with respect to showing the reduction in parking, as the City does not yet have final plans for the redevelopment of the site. However, staff has seen preliminary plans and supports the additional parking with an 8-foot sidewalk with no additional buffer requirement.

E. That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure.

Applicant Response: The variance as requested is the minimum for reasonable use of the site for the necessary parking spaces.

Staff Findings: Staff defers to the applicant with respect to showing the reduction in parking, as the City does not yet have final plans for the redevelopment of the site. However, staff has seen preliminary plans and supports the additional parking with an 8-foot sidewalk with no additional buffer requirement.

F. That the granting of the variance will be in harmony with the general intent and purpose of any zoning ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response: The intent of the proposal for greater sidewalks and buffers is not altogether being diminished. The petitioner provides for a sidewalk/buffer but a lesser width in order to accommodate parking needs.

Staff Findings: Staff defers to the applicant with respect to showing the reduction in parking, as the City does not yet have final plans for the redevelopment of the site. However, staff has seen preliminary plans and supports the additional parking with an 8-foot sidewalk with no additional buffer requirement.

A. Link to Strategic Goals / Objectives: #2. A green and sustainable environment

#3: Improve mobility and connectivity.

#4. Enhance quality of life and safety for families

#6. Effective, efficient, and aesthetically pleasing infrastructure.

B. Effect on Budget (EOB): n/a

C. Level of Service (LOS): n/a

D. Legislative Sponsor:

III. CONCLUSION: The applicant is requesting relief from *LDC Section 8.09.03.A.6.a, 8.09.03.A.6.b, & 8.03.00, Table 8-1*, which regulates minimum sidewalk and buffer widths within the Old Destin Multi-Modal Transportation District (MMTD). The initial request was for a reduction from the required ten (10) foot sidewalk length to five (5) feet and a reduction in the required six (6) foot buffer to three (3) feet, per its existing condition.

Since the time of the initial request, the applicant has worked with the City and if acceptable to the BOA, staff and the applicant would agree to a 2 foot variance on the 10-foot sidewalk requirement, whereby the applicant replaces the existing five foot sidewalk with a new eight foot sidewalk and would be required to provide no additional buffer. The recommended motion reflects this proposal.

Per *Land Development Code (LDC), Section 2.25.03(C)*, to authorize a variance request, the Board of Adjustment must find that all six (6) of the aforementioned criteria must be satisfied.

The Board will need to determine whether the provisions of LDC Section 2.25.03(c) have been met.

IV. RECOMMENDED MOTION: I move to recommend that the Board of Adjustments approve Variance Request, BOA-001141-2023 with the condition that the applicant replace the existing 5-foot sidewalk with a new 8-foot sidewalk and no additional buffer.

ALTERNATIVE MOTION:

I move to recommend that the Board of Adjustments approve/ deny the proposed Variance Request, BOA-001141-2023.

Attachments:

1. 1. Variance
Application Submittal
2. 2. Site Plan
3. 3. Proof of Ownership
4. 4. Agent Affidavit

ATTORNEYS:

J. LUKE CHANEY
 LANA CRUCIN
 DIXIE DAIMWOOD
 MICHAEL P. DICKEY **
 DAVISSON F. DUNLAP, III * **
 MICHAEL J. HENRY
 HANNAH M. JACKSON
 ROBERT L. KAUFFMAN ** +
 CHRISTINE SUTHERLIN LADWIG *** +
 DAVID H. MILAM
 ASHLEY B. ROGERS **** +
 MATTHEW S. SCANLAN
 KAYLA M. SCARPONE
 GARY A. SHIPMAN **
 AARON A. WHITE * ** ^

BOARD CERTIFIED - CONSTRUCTION LAW *
 CERTIFIED CIRCUIT COURT MEDIATOR **
 FL LICENSED CPA & LL.M (TAXATION) ***
 BOARD CERTIFIED-REAL ESTATE****
 BOARD CERTIFIED- CONDOMINIUM & PLANNED DEV. LAW ^
 ALSO ADMITTED IN AL +

OF COUNSEL:

DAVISSON F. DUNLAP, JR.
 KRISTIN A. GARDNER
 WILLIAM E. WHITNEY

**PLANNING & DEVELOPMENT CONSULTANT**

MELISSA WARD, AICP
 (NOT ADMITTED TO FL BAR)

PLEASE REPLY TO: SRB OFFICE

ROBERT KAUFFMAN
 2063 S. COUNTY HWY 395
 SANTA ROSA BEACH, FL 32459
 PHONE: 850-231-3315
 FACSIMILE: 850-231-5816
 ROBERT@DUNLAPSHIPMAN.COM

May 8, 2023

Board of Adjustment
 City of Destin

RE: Mike Abadie d/b/a ABC Amusement Co. Request for Variance.

This is a request to deviate from Section 8.09.00 of the Code, which contains the standard requirement of a 10-foot sidewalk and 6-foot buffer. The property owned by ABC Amusement Co. ("Applicant") abuts US Highway 98 in the Multi-Modal Transportation District and is located at 530 Harbor Boulevard, identified as parcel numbers 00-25-22-0630-0000-03A1; 03A2; and 03A3 (collectively, the "Property"). The variance request is to allow the existing 5-foot sidewalk and 3-foot buffer on Highway 98 to remain as it currently exists, both on this Property and in the surrounding area. The Applicant's proposed upgrade to the parking lot is consistent with all other areas of the Code. The present layout proposed provides for 76 parking spaces. The strict application of the Code as stated would reduce the frontage depth by 8-feet, thereby removing all the 21 spaces reflected on the plan. A redesign of the parking area would still lose 10 parking spaces provided onsite.

The Site presently has 5-foot sidewalk with 3-foot buffer, which is standard with existing construction along US Highway 98. The hardship is that nothing within the Multi-Modal Transportation District requirements has been implemented on these properties along US Highway 98 to date, which increased buffer requirement results in a loss of necessary parking.

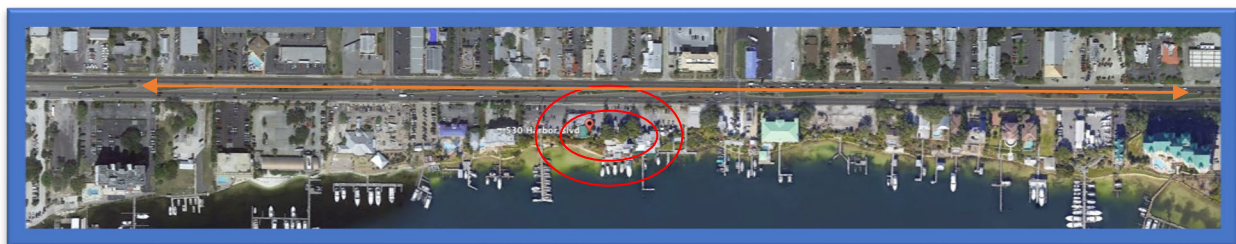


Figure 1. Google Earth View of US Highway 98 showing 5' sidewalks and 3' buffer for approximately 1 mile stretch of highway.

PANAMA CITY

SANTA ROSA BEACH

TALLAHASSEE

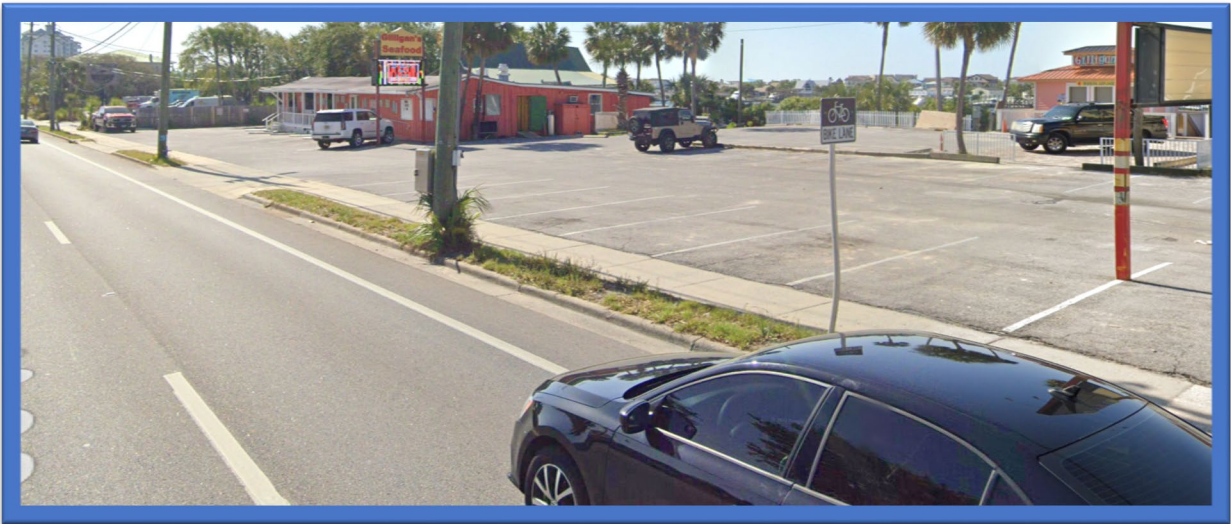


Figure 2. Variance Site showing sidewalk interconnectivity with adjacent parcels.



Figure 3. Image of 5' sidewalk and 3' buffer east of Site.

This application, including the letter of request per Section 2.23.12.B.a of the Code, includes the site plan, site plan with notes, property maps for the three adjacent properties under common ownership of the Applicant, the warranty deed, and other materials supporting this variance request.

The Property is designated as South Harbor Mixed Use (SHMU), which is a zoning category designed to preserve the waterfront views, water dependent activity and charter fishing opportunities for the public. The Property is the location of the Gilligan's Seafood Restaurant and commercial parasailing, wave-runner, pontoon boats, and dolphin tours. The Property currently presents about 55 parking spaces. The proposal is to remove the restaurant and increase the parking for the public, which will increase waterfront views and serve the waterfront activities that will continue to be provided on-site.



Figure 4. Aerial image of the Site, 3 lots on US Highway 98.

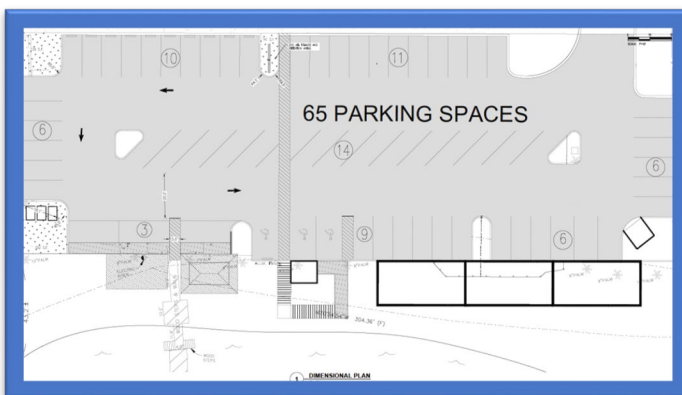


Figure 5. Proposed Site Plan.

The subject Property, as shown in the above image, includes the restaurant built in 1983. The building consists of 3,300 SF structure and approximately 19 parking spaces. The west side of the Property has the pier and watersports pavilion devoting most of that portion to parking, totaling about 55 parking spaces.

The image to the left shows the proposed increased parking and the removal of the restaurant.

The Multi-Modal Transportation District, per section 8.09.00 of the Code, includes standards to encourage mixture of land uses with alternative transportation methods geared toward pedestrian-oriented designs. Section 8.09.01 states that “all developments in the multimodal transportation district are required to contribute to the bicycle, pedestrian, and transit network in order to minimize vehicle trips and provide options for travel.” The Property already has a sidewalk for pedestrian movement in conjunction with parking spaces specific to the uses onsite.

The City Council recently held a meeting related to the Destin Harbor Carrying Capacity Study in which the recommendation was made to “implement comprehensive parking strategies to reassess existing parking lot usage to optimize current available parking.” It can be inferred from this suggestion by the study that parking is, as it has been, a premium along the harbor waterways and therefore the effect of the strict application of the Code to the Applicant’s proposal – which significantly reduces available parking on-site – is detrimental to the objectives of the Study. To implement another 8 feet of sidewalk/buffer area along US Highway 98 adds little to pedestrian usability while creating a significant detriment to parking capacity.

11. C7. Implement Comprehensive Parking Strategies to reassess existing parking lot usage to optimize current available parking.

Background. Field observation and overwhelming public feedback from focus groups emphasized that targeted public and private parking lots were consistently overcapacity. Parking was consistently above 70% occupancy during 12PM and 6PM throughout the summer (see Section 6.7 for more detailed information). Major parking issues occur when cars parking in private area stay over the allotted time because there isn’t a clear time limit nor law enforcement on parking. Also, some private entities only allow customer parking, which creates inefficient use of parking. Additionally, traffic congestion detracts from recreational experience and becomes a safety issue. The Destin Harbor Master Plan Sasaki Report (1998) provided multiple recommendations including, “creat[ing] a TranDestin Authority to operate a transit system, develop[ing] an on-demand, computer commuter system, require[ing] future garages to be in mixed use structures, centrally locate new garages to allow for pedestrian access and expand the on-street parking” (Sasaki, 1998). The purpose of this recommendation is to glean implementable strategies from this report in combination with suggestions developed based on field observation, data collection, and stakeholder feedback.

Figure 6. Excerpt from the Capacity Study.

The “background” on the issue reflects that over the years, recommendations to increase the sidewalk/buffer along US Highway 98 have been made **but to date have not been implemented**. As such, the Multimodal Transportation District design is too stringent for this specific area and this Property in particular. A strict application of the Code places this Property in the adverse situation of complying with an ordinance that no other Property is currently required to comply with, and that the City has not supported via public transportation, parking garages, or other public uses that were contemplated to increase pedestrian use. For this reason, it is unreasonable to extend

existing sidewalk/buffer areas into the Property, only to delete parking that is both highly needed and used according to the Destin Harbor Carrying Capacity Study.

DESTIN HARBOR CARRYING CAPACITY STUDY – DRAFT REPORT

Objective 1: Promote Safety and Enjoyment of Local Waterways
1. A1. Install better defined channel markers equipped with “NO MOORAGE” signs.
2. A10, A3. Regulate livery vessel traffic operations to ensure each livery vessel is properly registered. Concurrently identify pre-existing, appropriate City Action Plans to leverage and promote the shuttling of visitors to primary destinations around the Harbor via water taxis and/or tour boats as an alternative to livery vessels.
3. A9, A10. Revisit regulations on issuing vessel permits to minimize over issuance, in combination with regulating livery vessel traffic operations to ensure each livery vessel is properly registered.
4. A1, A6, A7. Install better defined channel markers equipped with “NO MOORAGE” signs, in combination with the creation of a Destin safety video to cover boating, traffic safety, and boating under the influence, in combination with an increase in law enforcement presence to avoid BUIs on vessels and jet skis.
5. A6, B8. Create a Destin safety video and implementation strategy to cover boating, traffic safety, and boating under the influence, in combination with the Coast Guard Auxiliary/Nonprofits conducting vessel inspection trainings.
Objective 2: Promote Environmental Health of Harbor and Surrounding Waterways
6. B9. Incorporate a more robust water quality monitoring system in the Harbor.
7. B10. Conduct a hydrographic study to optimize pump usage.
8. B11. Study the current effectiveness of the pump system to gather baseline data that could then inform decisions regarding changes to the pump system and its operations.
9. B7. Conduct a comprehensive water quality study (CWQS), including a hydrographic flow study on the pump, to provide baseline data and optimize pump usage.
Objective 3: Promote Economic Development of Businesses Operating Along the Harbor
10. C5. Optimize slip configurations in the Harbor based on user demand and improving slip usage efficiency.
11. C7. Implement Comprehensive Parking Strategies to reassess existing parking lot usage to optimize current available parking.
12. Multi-objective. Navigational Improvements Investigation Under Continuing Authorities Program

11.0 References

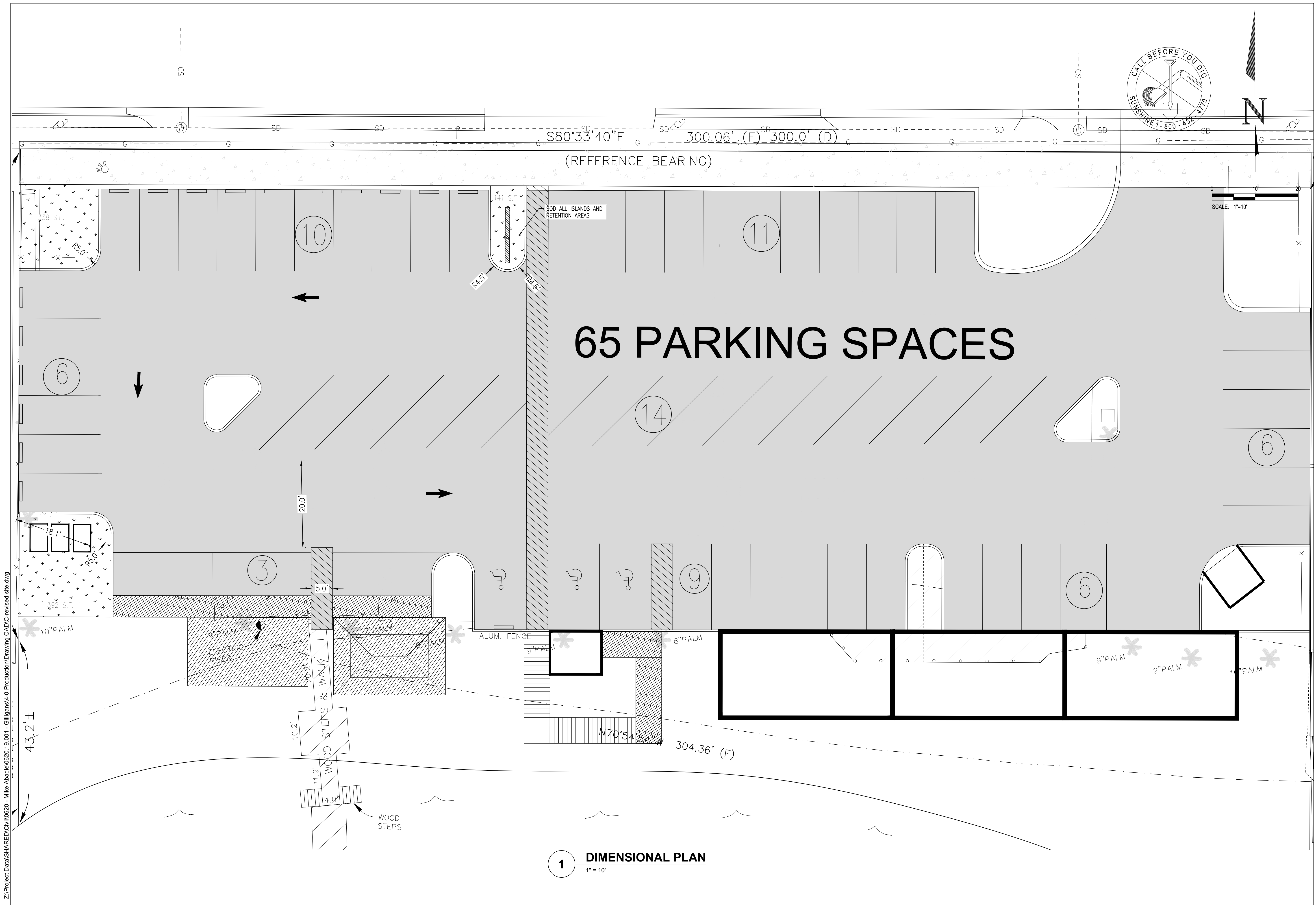
Asplund, T. R. (2000). *The effects of motorized watercraft on aquatic ecosystems*.
Madison: Wisconsin DNR.

For reasons stated herein, the Applicant respectfully requests the variance to deviate from the Code Section 8.09.00, requiring 10-foot sidewalk and 6-foot buffer, so that the existing and consistent 5-foot sidewalks and 3-foot buffers remain as installed along US Highway 98.

Respectfully,

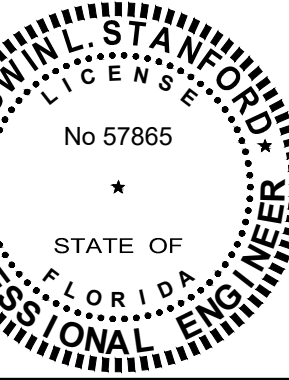
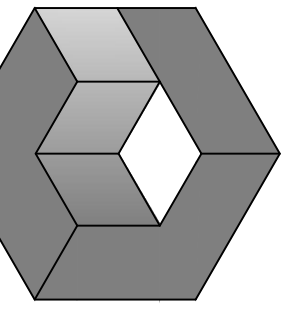
A handwritten signature in black ink, appearing to read 'R. Kauffman', with a stylized, cursive script.

Robert Kauffman
Attorney



CORE ENGINEERING & CONSULTING, INC.
CIVIL & ENVIRONMENTAL ENGINEERING
3997 COMMONS DRIVE W., SUITE F
DESTIN, FLORIDA 32541
PH. 850.650.2646
FAX 850.837.1576
CORECONSULTING.COM

CERTIFICATE OF AUTHORIZATION NO. 28155



REV	DATE	DESCRIPTION

KIOSK AND SITE REVISIONS

530 HARBOR BOULEVARD
CITY OF DESTIN, FLORIDA 32541

DIMENSIONAL PLAN

Not valid unless bearing Engineer's seal & original signature

0620.09.001
10/09/19
EL5
ZDB
EL5

DRAWING NUMBER
C1.02
SHEET NUMBER
4 OF 11

THIS DRAWING IS THE PROPERTY OF CORE ENGINEERING & CONSULTING INC. & IS NOT TO BE REPRODUCED WITHOUT IT EXPRESSED WRITTEN CONSENT

WARRANTY DEED
FROM CORPORATION TO CORPORATION
DEED'S FORM R. S. 33 1/2

Manufactured and for sale by The H. & W. S. Draw Company
Jacksonville, Florida

This Warranty Deed Made and executed the 23rd day of July A. D. 1991 by

ABC AMUSEMENT CO., INC.

a corporation existing under the laws of THE STATE OF FLORIDA and having its principal place of business at 333 West Baya Ave., Lake City, Florida hereinafter called the grantor, to

ABC AMUSEMENT CO., INC.

a corporation existing under the laws of the State of Florida, with its permanent postoffice address at P.O. Box 2072, Lake City, Florida 32056 hereinafter called the grantee:

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

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Okaloosa County, Florida, viz:

The West 100 feet of the East 500 feet of the portion of Lot 3-A lying South of U.S. Highway 98, Moreno Point Military Reservation Survey of Lots, Destin, Florida, in Okaloosa County, Florida.

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

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

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

FLORIDA DOCUMENTARY STAMP TAX REQUIRED
BY LAW IN THE AMOUNT OF \$ 60 HAS
BEEN PAID. NEWMAN C. BRACKIN, CLERK
OKALOOSA COUNTY.
BY: *Roy Smith* DC



In Witness Whereof the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST: *Mary Ann Philpot*
Secretary

ABC AMUSEMENT CO., INC.

Signed, sealed and delivered in the presence of:

Dale C. Ferguson DATE *C. Ferguson*
Karen M. Wright By: *John V. Philpot* President
KAREN M. WRIGHT

STATE OF FLORIDA
COUNTY OF COLUMBIA

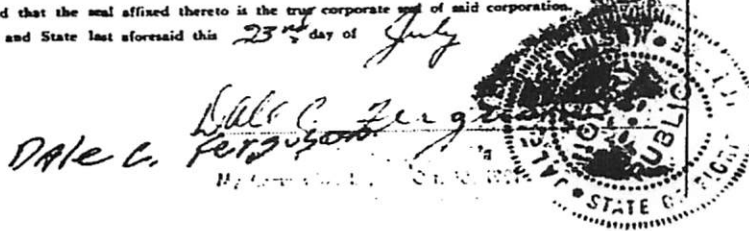
I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared John V. Philpot and Mary Ann Philpot

well known to me to be the President and Secretary respectively of the corporation named as grantor in the foregoing deed, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.
WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of July



FILE# 1149594
OKALOOSA COUNTY, FLORIDA

RCD: AUG 12 1991 @ 3:44 PM
NEWMAN C BRACKIN, CLERK



QUIT-CLAIM DEED

This instrument was prepared by
 CLYDE B. WELLS, Attorney
 Chipley, Florida 552 PAGE 264

OFFICIAL RECORDS

THIS INDENTURE, Made this 2nd day of October, A. D. 1969

BETWEEN Charles C. Hataway and Monica C. Hataway, husband and wife

_____ of the County of _____

Date _____ and State of Alabama, part 105 of the first part, and

A.B.C. Amusement Company

of the County of Columbia and State of Florida part X of the second part.

WITNESSETH, That the said part 1st of the first part, for and in consideration of the sum of _____

Ten dollars and other good and valuable consideration _____ Dollars

in hand paid by the said part Y of the second part, the receipt whereof is hereby acknowledged, ha. YB. re

mised, released and quit-claimed, and by these presents do____ remise, release and quit-claim unto said

part Y of the second part, and its heirs and assigns forever, all the right, title, interest, claim and de

mand which said parties of the first part have in and to the following described lot, piece or parce

of land, situate, lying and being in the County of Okaloosa, State of Florida

to wit:

The West 300 feet of the East 500 feet of the Portion
of Lot 3-A lying South of U.S. Highway 98, Moreno Point
Military Reservation, Okaloosa County, Florida.



TO HAVE AND TO HOLD the same, together with all and singular the appurtenances thereunto belonging or in anywise appertaining, and all the estate, right, title, interest and claim whatsoever of the said part 1st of the first part, either in law or equity, to the only proper use, benefit and behoof of the said part Y of the second part, its heirs and assigns forever.

IN WITNESS WHEREOF, The said part¹⁰⁸ of the first part have hereunto set their
hand⁵ and seal⁵ the day and year first above written.

Signed, sealed and delivered in presence of us:

Gerald Holley
Audrey H. Carter

Wm. C. Brown (SEAL)
D. J. Brown (SEAL)

STATE OF FLORIDA
COUNTY OF WASHINGTON

552 PAGE 265

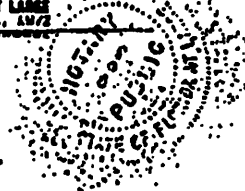
OFFICIAL RECORDS

I HEREBY CERTIFY, that on this day before me, an officer duly authorized in the State aforesaid and in the County aforesaid to take acknowledgments, personally appeared Charles C. Hataway and Monica C. Hataway, husband and wife

to me known to be the person he described in and who executed the foregoing instrument and they acknowledged before me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 2nd day of October, A. D. 1969.

Ludwig H. Hataway
NOTARY PUBLIC, State of Florida, AT LARGE
MY COMMISSION EXPIRES JAN 22, 1972



Quit-Claim Deed

FROM

TO

Date _____ day of _____, A. D. 19____

Washington County Court House, Washington, Florida



FILED
CECIL L. ANCHORS, SR.
CLERK CIRCUIT COURT
OKALOOSA COUNTY, FLA.
69 OCT 13 PM 12 09

318883

Warranty Deed

This Indenture, Made this 27th day of March A.D., 1973, Between
LUCIUS E. BURCH, JR., and wife, **ELSIE CALDWELL BURCH,** and
JOHN S. PORTER and wife, **MARY LOCKE PORTER**
 of the County of Shelby, State of Tennessee, grantor, and

ABC AMUSEMENT CO., INC.,

whose post office address is P. O. Drawer F, Chipley, Florida
 of the County of Washington, State of Florida, grantee,

Witnesseth, That said grantor, for and in consideration of the sum of ----- (\$10.00) -----
 ----- Ten and no/100 ----- Dollars,
 and other good and valuable considerations to said grantor in hand paid by said grantee, the receipt whereof is hereby
 acknowledged, has granted, bargained and sold to the said grantee, and grantee's heirs and assigns forever, the fol-
 lowing described land, situate, lying and being in Okaloosa County, Florida, to-wit:

The West 300 feet of the East 500 Feet of the portion of Lot 3-A
 lying South of U. S. Highway 98, Moreno Point Military Reservation
 Survey of Lots, Destin, Florida, and being the same property
 conveyed to Lucius E. Burch and John S. Porter by deeds of record in
 Book 283 of Official Records at Page 178, in Book 283 of Official
 Records at Page 180 and in Book 283 of Official Records at Page 182
 recorded in the office of the Circuit Court Clerk of Okaloosa County
 in the State of Florida.

6.00
 47.85
 130.20
 184.05

and said grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims
 of all persons whomsoever.

* "Grantor" and "grantee" are used for singular or plural, as context requires.

In Witness Whereof, Grantor has hereunto set grantor's hand and seal the day and year first above written.
 Signed, sealed and delivered in our presence:

Patricia A. Kirby
Marlene Morse
Harriet G. Patton
James Lawson

[Signature] (Seal)
[Signature] (Seal)
[Signature] (Seal)
Mary Locke Porter (Seal)

STATE OF TENNESSEE)
 COUNTY OF SHELBY)

I HEREBY CERTIFY that on this day before me, an officer duly qualified to take acknowledgments, personally
 appeared **LUCIUS E. BURCH, JR.** and wife, **ELSIE CALDWELL BURCH,** and
JOHN S. PORTER and wife, **MARY LOCKE PORTER**

to me known to be the person so described in and who executed the foregoing instrument and acknowledged before
 me that they executed the same.

WITNESS my hand and official seal in the County and State last aforesaid this 21 day of September
 1973.

My commission expires:

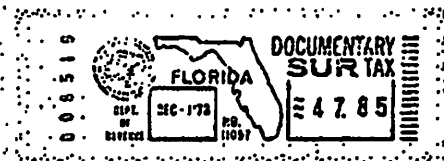
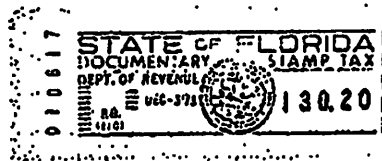
Jan 11, 1975

Mary F. Rhem

Notary Public

THIS INSTRUMENT WAS PREPARED BY

MARVIN A. URQUIHART, JR.
 408 Magnolia Avenue
 Panama City, Florida 32401



398019

FILED
CLERK OF COURT
CLERK OF COURT
CLERK OF COURT

73 NOV 30 PM 1 31



*at St. Louis
Jan. 1974*

This Warranty Deed Made and executed the 23rd day of July A. D. 1991 By

ABC AMUSEMENT CO., INC.

a corporation existing under the laws of THE STATE OF FLORIDA and having its principal place of business at 333 West Baya Ave., Lake City, Florida hereinafter called the grantor, to

ABC AMUSEMENT CO., INC.

a corporation existing under the laws of the State of Florida with its permanent postoffice address at P.O. Box 2072, Lake City, Florida 32056 hereinafter called the grantee:

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

Witnesseth: That the grantor, for and in consideration of the sum of \$ 10.00 and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the grantee, all that certain land situate in Okaloosa County, Florida, viz:

The West 100 feet of the East 500 feet of the portion of Lot 3-A lying South of U.S. Highway 98, Moreno Point Military Reservation Survey of Lots, Destin, Florida, in Okaloosa County, Florida.

Together with all the tenements, hereditaments and appurtenances thereto belonging or in any-wise appertaining.

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

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

FLORIDA DOCUMENTARY STAMP TAX REQUIRED
BY LAW IN THE AMOUNT OF \$ 60 HAS
BEEN PAID, NEWMAN C. BRACKIN, CLERK
OKALOOSA COUNTY.
BY Ray Smith DG



In Witness Whereof the grantor has caused these presents to be executed in its name, and its corporate seal to be hereunto affixed, by its proper officers thereunto duly authorized, the day and year first above written.

ATTEST: Mary Ann Philpot Secretary

ABC AMUSEMENT CO., INC.

Signed, sealed and delivered in the presence of:

Dale C. Ferguson Dale C. Ferguson
By John V. Philpot President
Karen M. Wright Karen M. Wright

STATE OF FLORIDA
COUNTY OF COLUMBIA

I HEREBY CERTIFY that on this day, before me, an officer duly authorized in the State and County aforesaid to take acknowledgments, personally appeared John V. Philpot and Mary Ann Philpot



well known to me to be the President and Secretary respectively of the corporation named as grantor in the foregoing deed, and that they severally acknowledged executing the same in the presence of two subscribing witnesses freely and voluntarily under authority duly vested in them by said corporation and that the seal affixed thereto is the true corporate seal of said corporation.
WITNESS my hand and official seal in the County and State last aforesaid this 23rd day of July

FILE# 1149594
OKALOOSA COUNTY, FLORIDA

ACD: AUG 12 1991 @ 3:44 PM
NEWMAN C BRACKIN, CLERK

Dale C. Ferguson
DATE C. Ferguson



**AGENT AFFIDAVIT
SPECIAL POWER OF ATTORNEY**

KNOWN ALL MEN BY THESE PRESENTS, THAT I, Mike Abadie of ABC Amusement am
presently the owner and/or leaseholder at 530 Harbor Boulevard, and desiring
to execute a Special Power of Attorney, have made, constituted and appointed, and by these presents do
make, constitute and appoint Dunlap and Shipman, PA
whose address is 2063 S. CR 395, SRB, County of Walton, State of FL,
my Attorney-in-Fact to act as follows, GIVING AND GRANTING unto said attorney full power to act as
my agent in any and all matters pertaining to: Variance.

FURTHER, I do authorize the aforesaid Attorney-in-Fact to perform all necessary acts in the execution of
the aforesaid authorization with the same validity as I could effect if personally present. Any act or thing
lawfully done hereunder by the said attorney shall be binding on myself and my heirs, legal and personal
representative, and assigns.

PROVIDED; however, that any and all transactions conducted hereunder for me or for my account shall be
transacted in my name, and that all endorsements and instruments executed by the said attorney for the
purpose of caring out the foregoing powers shall contain my name, followed by that of my said attorney
and the designation "Attorney-in-Fact."

OWNER

Mike Abadie
Signature

Mike Abadie

Printed Name

STATE OF Florida

COUNTY OF Okaloosa

The foregoing instrument was acknowledged before me by means of physical presence ☒ or online

notarization, this 3 day of May, 2023, by
(name of person acknowledging)

Mike Abadie

Ashley Logsdon
Signature of Notary

Ashley Logsdon
Printed Name of Notary or Seal

Personally known _____ OR Produced Identification ☒

Type of Identification Produced Drivers license

