



**AGENDA
BOARD OF ADJUSTMENT
REGULAR MEETING
APRIL 21, 2021
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

The Regular Board of Adjustment Meeting will be held as a VIRTUAL MEETING with board members and City staff participating through video conferencing. This virtual meeting will be broadcasted live for members of the public to view on the City of Fernandina Beach website (www.fbfl.us) and Channel 264 (Comcast only).

- 1. CALL TO ORDER / ROLL CALL / DETERMINATION OF QUORUM**
- 2. PLEDGE OF ALLEGIANCE**
- 3. APPROVAL OF MEETING MINUTES**
 - 3.1 Approval of Minutes for the Regular Meeting of March 17, 2021.
- 4. OLD BUSINESS**
- 5. NEW BUSINESS**
 - 5.1 **BOA 2021-0001 - DAN MCCRANIE, 3474 1ST AVE**
In an effort to retain trees, parking variances are needed from the following sections of the Land Development Code: 7.01.01 E (a), 4.02.05 C, 7.01.04(A), and 4.02.05 B. (*Quasi-Judicial*)
 - 5.2 **BOA 2021-0004 - POOLE & POOLE, PA., AGENT FOR MANGANARO FAMILY TRUST, 604 GUM STREET**
Variance from LDC Section 1.03.05(C) to separate Lots 3 & 4 from Lots 1 & 2 of Block 152. (*Quasi-Judicial*)
- 6. BOARD BUSINESS**
- 7. STAFF REPORT**
- 8. PUBLIC COMMENT**
- 9. ADJOURNMENT**

NEXT BOA REGULAR MEETING IS SCHEDULED FOR MAY 19, 2021

This will be conducted as a virtual meeting with restricted physical access. Public comment may also be provided virtually through use of the Zoom Meeting link below, the phone number provided below, or in person

at City Hall with strict restrictions to protect health and safety. Individuals wishing to provide live comments during the meeting must dial-in or connect via the Zoom Meeting link or phone number below no later than 4:50 PM on April 21, 2021 and will be called upon by their individual registered Zoom Meeting ID Account or by the last-4 digits of their respective phone number. When called upon, please provide your name and home address prior to issuance of public comment. Please limit comment to 3 minutes.

Please click the link below to join the webinar:

<https://zoom.us/j/97596448458>

Meeting ID: 975 9644 8458

One tap mobile

+13017158592,,97596448458# US (Washington DC)

+13126266799,,97596448458# US (Chicago)

Dial by your location

+1 301 715 8592 US (Washington DC)

+1 312 626 6799 US (Chicago)

+1 646 558 8656 US (New York)

+1 253 215 8782 US (Tacoma)

+1 346 248 7799 US (Houston)

+1 669 900 9128 US (San Jose)

Meeting ID: 975 9644 8458

Find your local number: <https://zoom.us/u/arm9IfIfQ>

All members of the public are invited to be present and be heard. Persons with disabilities requiring accommodations in order to participate in this program or activity should contact (904) 310-3115 or through the Florida Relay Services at 711 at least 24 hours in advance to request such accommodations.

All interested parties may appear at said meeting and be heard as to the advisability of any action, which may be considered with respect to such matter. For information regarding this matter, please contact the Planning Department (904) 310-3135.



**MINUTES
BOARD OF DJUSTMENT
REGULAR MEETING
MARCH 17, 2021**

1. CALL TO ORDER 5:00

2. ROLL CALL / DETERMINATION OF QUORUM

MEMBER PRESENT:

Matthew Miller (Chair)	Steven Papke (V-Chair)
Barry Hertslet	Chuck Oliva (Alt 1)
Geoffrey Grant	Bill Skulmis (Alt 2)

MEMBERS ABSENT:

None

OTHERS PRESENT:

Daphne Forehand, City Planner
Tammi Bach, City Attorney
Taylor Hartmann, Recording Secretary

Chair Miller seated Member Oliva as a permanent voting member and Member Skulmis was moved to the Alternate 1 seat with the Alternate 2 seat becoming vacant.

All Board members disclosed one ex parte communication, this being an email received by staff indicating a change to BOA case 2021-0002. Ms. Forehand then disclosed that she sent an email to all Board members indicating the change in the number of variance requested from 2 to only 1.

City Attorney Bach explained the quasi-judicial procedures. Ms. Hartmann administered the oath to the parties that would be giving testimony.

3. PLEDGE OF ALLEGIANCE

4. APPROVAL OF MEETING MINUTES

4.1 Approval of Minutes of the BOA Regular Meeting of January 20, 2021.

ACTION TAKEN: A motion was made by Member Oliva, seconded by Member Papke to approve the minutes as presented.

Vote upon passage of the motion was taken by ayes and nays and being all ayes, carried.

5. OLD BUSINESS

There were no Old Business items to discuss.

6. NEW BUSINESS

6.1 BOA 2021-0002 - JOHN GREEVES, 1906 1ST AVENUE

Variance requests from LDC Section 5.01.04 (A1 & A3) to have a structure that is larger than the 625SF maximum and located in a place other than the rear yard. (*Quasi-Judicial*)

Ms. Forehand presented the case and staff recommended approval. Ms. Forehand also stated that she sent an email to Board members indicating the number of variances requested changing from 2 to only 1.

Member Skulmis inquired about the staff's interpretation of Special Conditions and Special Privilege variance criteria. He also requested to have a specific definition of Special Privilege. Ms. Bach indicated that the LDC's definition of Special Privilege was part of the presented staff report. She also gave an overview of why variances are allowed per the LDC. Ms. Bach stated that if Board members express bias for a particular case, they should abstain from voting as each case is based on the evidence presented.

Member Grant clarified that this was an application for an Accessory Dwelling Unit. Ms. Forehand reviewed what the applicant's original request was and what was currently being requested.

John Greeves, 1906 1st Avenue, spoke about his proposed plans and the intent of his project. He stated that they were looking to construct a 2-story structure with a studio on the second floor.

Ms. Bach clarified definitions for Accessory Dwelling Units and Accessory Structures.

Member Grant inquired about setback requirements for structures in the front yard versus rear yard.

Members felt that there was not enough clarification about what the request was for and whether a 3rd variance might be necessary to meet front yard setbacks.

Ms. Bach clarified that LDC section 5.01.03 does not speak to side or rear lot lines. She also does not feel that this case should move forward until all ambiguity be clarified and recommended a continuation.

Ms. Forehand stated that during her analysis, she had not looked into considering the front yard setback.

Public Hearing was opened and then closed with no comments being made.

ACTION TAKEN: A motion was made by Member Hertslet and seconded by Member Grant to Continue BOA case 2021-0002 to date certain of April 21, 2021.

Vote upon passage of the motion was taken by ayes and nays, being all ayes, carried.

Although the case was continued, Chair Miller reopened the Public Hearing to give opportunity to public residents present to comment on the case.

Claude Rackley, 1903 S. Fletcher Avenue, spoke in favor of BOA Case 2021-0002.

William Bradshaw, 1762 1st Avenue, spoke in favor of BOA Case 2021-0002.

Donna Haynes, 1929 S. Fletcher Avenue, spoke in favor of BOA Case 2021-0002.

7. BOARD BUSINESS

Member Hertslet expressed concern over receiving new information 90 minutes prior to a meeting.

DRAFT

Member Grant stated that he would like to see more complete applications and agenda packets.

8. STAFF REPORT

9. PUBLIC COMMENT

10. ADJOURNMENT 6:19

Taylor Hartmann, Recording Secretary

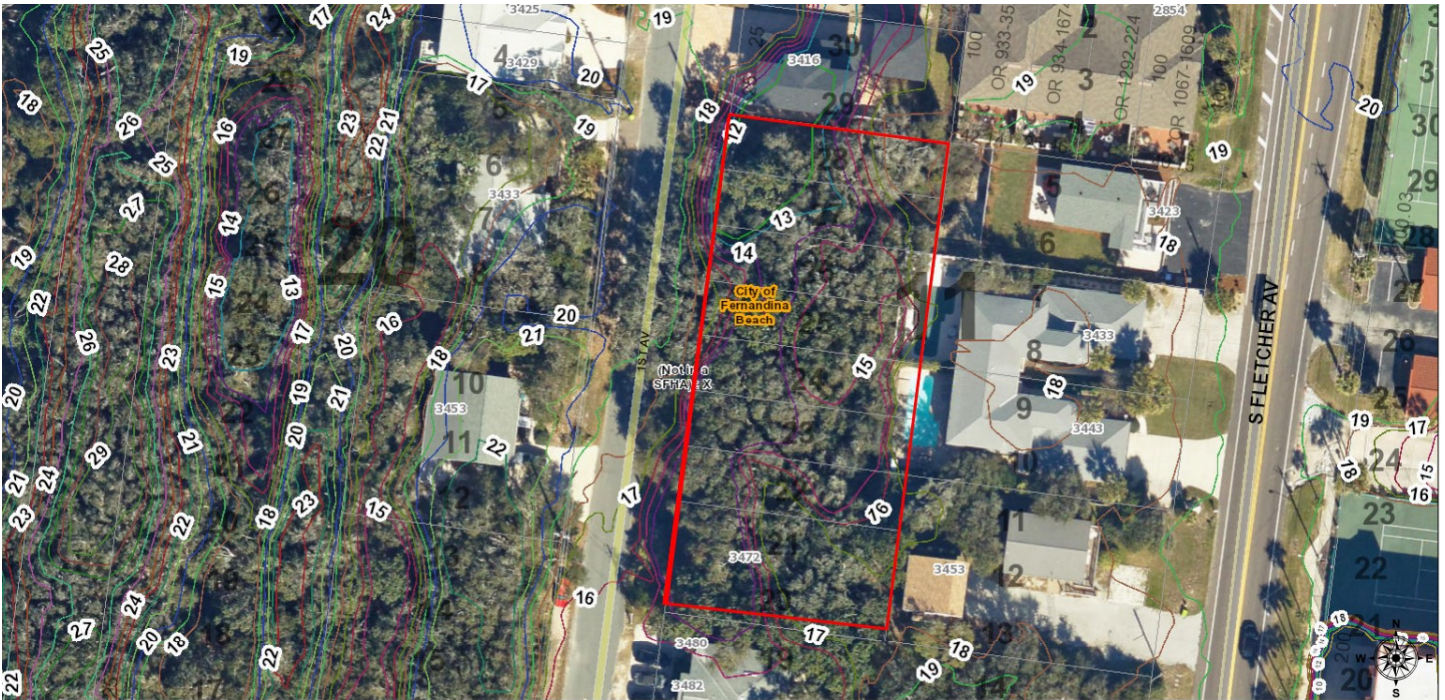
Matthew Miller, Chair



BOARD OF ADJUSTMENTS STAFF REPORT
BOA 2021-01
APRIL 21, 2021

Owner/Applicant:	Dan McCranie
Property Address:	1 st Avenue
Parcel Number:	20-3N-29-0000-0029-0000 00-00-31-1680-0011-0220 00-00-31-1680-0011-0230 00-00-31-1680-0011-0240 00-00-31-1680-0011-0250 00-00-31-1680-0011-0260 00-00-31-1680-0011-0270 00-00-31-1680-0011-0280
Requested action:	VARIANCE from LDC Sections: 4.02.05 C: Parking shall be located in the side or rear yard. 7.01.01 E (a): Residential driveways shall be a minimum of 12 feet in width and a maximum of 20 feet in width. Needed for Lots 25 and 28: - 7.01.04(A): Parking requirements for duplex dwellings: 2 per unit. - 4.02.05 B: Dwelling units used as resort rental units shall provide 1 parking space for each 2 occupants.
Current zoning:	R-3
FLUM land use category:	High Density Residential
Existing uses on the site:	Vacant

All required application materials have been received. All fees have been paid. All required notices have been made.



SUMMARY OF REQUEST AND BACKGROUND INFORMATION:

The applicant is seeking a variance from four sections of the Land Development Code, all of which are deviations in parking requirements. The applicant intends to construct three separate 2-unit townhomes and one 3-unit townhome which is an allowable use for the R-3 zoning classification. The property consists of nine 25' undeveloped, underlying lots of record (lots 20 – 28) which were originally platted in 1911 as part of the Seaview Subdivision.

Due to the heavy vegetation, trees and varying topography of this site, the applicant has proposed a design in which the homes are built on stem walls for the side and rear yards and parking is oversized and located in the front of the proposed structures. This design works with the natural tree canopy and existing topography and allows for the retention of over 50% of the existing healthy trees. Multiple variances are needed for the proposed design.

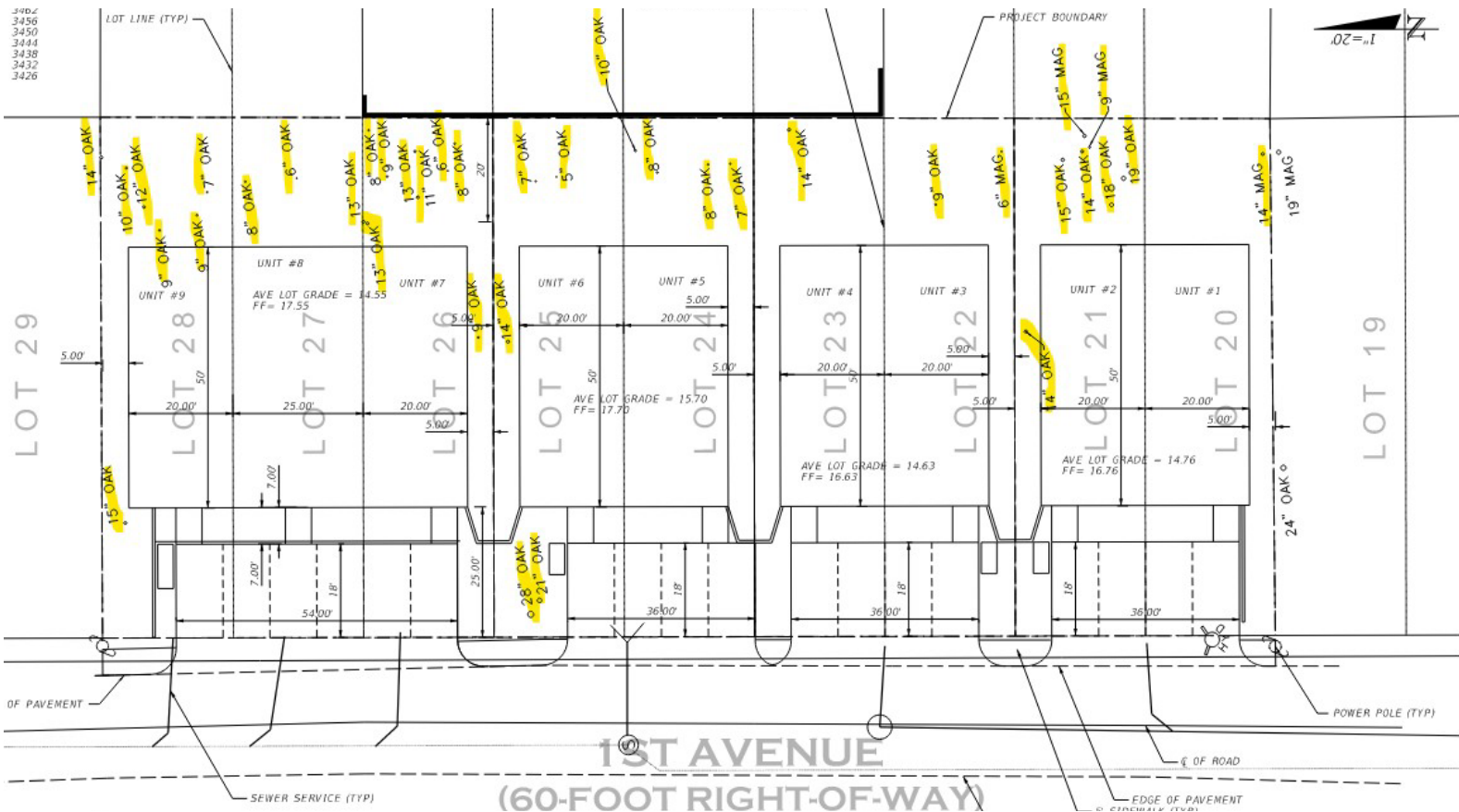
4.02.05 C requires parking to be located in the side or rear and 10' from the front property line where parking is permissible in the front yard. For the applicant to meet the requirements of this section of code, it would require the lots to be filled which results in significant tree loss at the rear of the lots. Side parking is not an option due to the width of the lots: at a width of 25', the proposed units are 20' wide leaving only 5' for the side yard. In addition, front parking with a 10' setback requires the structures to shift to the rear which would also result in the significant loss of trees.

7.01.01 E (a): Requires driveways to be a minimum of 12' and a maximum of 20' in width. The applicant is proposing a 36' wide parking area/driveway for the two-unit townhome (accommodating 4 cars) and 54' wide for the 3-unit townhome (accommodating 6 cars). This design allows for parking of each unit to be adjacent to each other, which provides a larger grasses area between unit parking areas. This has been done in an effort to retain two large 28" and 21" oak trees located at the front of lot 25.

Lots 25 and 28 require a variance from 7.01.04(A) and 4.02.05 B which requires 2 parking spaces per unit and 1 parking space for each 2 occupants. The applicant is not requesting a reduction in the required spaces per unit, only a shift in location. Again, the shift onto the adjoining property has been designed to provide a larger grassed area to retain the existing oak trees at the front of lot 25. The applicant's variance request is simply to allow for the parking of the townhomes to be located on the adjoining property.

The applicant has worked with staff to adjust the site plan and create a design that is environmentally sensitive and serves to protect as much native vegetation and natural topography. The development of this site is supported by three policies in the Comprehensive Plan list below and the City Commission's goal to preserve its tree canopy.

EXHIBIT A: SITE PLAN



APPLICABLE GUIDELINES:

CITY OF FERNANDINA BEACH LAND DEVELOPMENT CODE:

Staff's review of this application finds it is not subject to any of the limitations of Section 10.02.01 and can therefore be considered by the Board.

CITY OF FERNANDINA BEACH COMPREHNSIVE PLAN:

The following Comprehensive Plan statements are applicable in this case:

- Policy 1.02.07 – The City shall implement the Fernandina Beach Comprehensive Plan in a manner that acknowledges private property rights.
- Policy 1.02.10 – The City shall protect privacy and access to light, air, and open space. The City shall consider regulations such as building placement on a site, building design, and building orientation as one means to achieve this policy.
- Policy 5.11.09 C. – The City shall protect and retain existing trees and require replacement of trees lost to land clearing.

ANALYSIS:

In order for an application for a variance to be approved or approved with conditions, the BOA shall make a positive finding with regard to each of the following provisions:

Consistent with Criteria? All questions must be answered in the affirmative in order for staff to recommend approval of a variance. Negative answers must be addressed in the findings.

Criteria	Staff Analysis	Meets Criteria
<u>1. Special Conditions</u> <i>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. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.</i>	Yes, special conditions or circumstances <u>do exist</u> as it relates to the land, structure, or features of the parcel. The parking could be configured to meet the requirements of the LDC, however staff is aware of implications of meeting these requirements. The strict adherence to City standards for parking would totally eliminate the natural features of the site, specifically existing mature maritime hammock.	☒ Yes ☐ No
<u>2. Special Privilege</u> Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.	Yes. Granting the variance <u>does not confer</u> upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district. All new residential construction is required to meet the minimum parking standards of the LDC. In looking at similar projects within the same R-3 zoning district, many were approved as single family homes and later converted to resort rental dwellings. The code itself does not prevent that activity from happening over time. Many active resort rental units were constructed well before current regulations for parking were adopted and continue to operate with front loaded parking typical of a traditional single family home.	☒ Yes ☐ No
<u>3. Literal Interpretation</u> Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.	No. Literal interpretation of the provisions of the Land Development Code <u>would not deprive</u> the applicant of rights commonly enjoyed by other properties in the same zoning district. All new development and redevelopment within the R-3 zoning district must comply with the LDC. The property owner is capable of construction of the project consistent with current design regulations but recognizes the value of the environmental features contained on the property and wishes to preserve them.	☐ Yes ☒ No
<u>4. Minimum Variance</u> The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.	Yes. The variance requested <u>is the minimum</u> variance needed to make possible the reasonable use of the land.	☒ Yes ☐ No

5. General Harmony Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.	Yes. Granting the variance <u>will be in harmony</u> with the general intent and purpose of Land Development Code and Comprehensive Plan. Granting the variance will allow for the retention/protection of healthy trees consistent with Policy 5.11.09 C of the Comprehensive Plan and LDC 4.05.14: "The intent of this section is to provide standards and regulations to ensure a minimum number of trees on any lot or parcel, <u>protect and preserve the natural landscape, foster and encourage maintenance of natural vegetation, and minimize loss of trees to development.</u> "	☒ Yes ☐ No
6. Public Interest Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.	Yes. Granting the variance <u>is compatible</u> with the surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, or welfare, or environment. This project could proceed absent approval of the requested variance; however, the applicant has worked with the existing canopy and topography for a design that is environmentally sensitive. The requested variance serves to meet the City's goals to maximize tree preservation in development scenarios.	☒ Yes ☐ No

STAFF RECOMMENDATION:

The variance requested is consistent/inconsistent with the criteria for granting a variance as follows:

	Consistent	Inconsistent
1. Special Conditions	X	
2. Special Privilege	X	
3. Literal Interpretations		X
4. Minimum Variance	X	
5. General Harmony	X	
6. Public Interest	X	

Staff finds that the requested action, as presented, does not meet criteria 3 and as such, must recommend denial.

Staff recommends:

DENIAL of BOA 2021-01

MOTION TO CONSIDER

I move to **approve or deny** BOA case number 2021-01;

AND I move that the BOA make the following findings of fact and conclusions of law part of the record:

That BOA case 2021-01, item, as presented, **is or is not** substantially compliant with the Comprehensive Plan and Land Development Code to warrant approval at this time.

LIST OF EXHIBITS:

EXHIBIT A

Respectfully Submitted,



**Daphne Forehand
Planner I**

Print

Board of Adjustment (BOA) - Submission #7056

Date Submitted: 3/30/2021

BOARD OF ADJUSTMENT (BOA)

USE THIS FORM TO Apply for a variance to obtain relief from the design standards of this Land Development Code (LDC) where otherwise hardship would occur. A person who is adversely affected by any administrative decision may appeal such decision to the BOA.

Fees

Once application is submitted it will be reviewed for completeness. Once verified complete, an invoice will be emailed to the applicant.



Residential Properties \$1,000



Non-Residential properties \$2,500



Administrative Appeals \$500

2021 Submission Deadline + Meeting Calendar



IMPORTANT NOTES

Application Requirements

- ☒ A complete application filed at least thirty (45) days before the date of the Board of Adjustment's public hearing;
- ☒ A current signed, sealed, scaled survey of the property (no older than two years from date of application);
- ☒ Proof of ownership (copy of deed or tax statement)
- ☐ If applying as an agent, Owner's Authorization for Agent Representation form must be signed/ notarized and submitted as part of the application;
- ☒ A detailed letter stating the reasons for the request;
- ☒ Materials as needed to illustrate the nature of the request, including but not limited to, site plans, architectural drawings, photographs, etc. (Site plans must be dimensioned and to scale).

Pre-Application Meeting

To guide you through the process and ensure that your application is understood and properly processed, you'll need to meet with the applicable planner prior to submitting your application. Completed Board applications are due forty-five (45) days prior to the meeting date. Cases in the historic districts or Community Redevelopment Area are heard by the Historic District Council, please use the HDC Variance Application. Cases in all other areas of the City are heard by the Board of Adjustment.

Please see the Land Development Code (LDC) for detailed information:

- ☒ Procedures for Variances – see LDC Section 10.02.04.
- ☒ Expiration of Variance Approval – see LDC Section 10.02.04(C).
- ☒ Appeals on a Variance – see LDC Section 10.02.04(D).
- ☒ Appeals of Administrative Action – see LDC 11.07.00

The LDC is available for review at

www.fbfl.us/LDC

Appeals

Any person aggrieved by any decision of the BOA regarding a variance may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision at the office of the Board; otherwise, the decision of the Board shall be final.

Limitations on the Grant of a Variance

- ☒ 1. A variance shall not be granted which authorizes a use that is not permissible in the zoning district in which the property subject to the variance is located.
- ☒ 2. A variance shall not be granted which authorizes any use or standard that is prohibited by the City's Comprehensive Plan.
- ☒ 3. No nonconforming use of adjacent lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts, shall be considered g
- ☒ 4. A variance shall not change the requirements for concurrency.
- ☒ 5. A variance shall not be granted to permit the use of a single media peonia for the construction of a dwelling unit.
- ☒ 6. A variance shall not be granted if the evidence submitted by an applicant is solely a demonstration of financial hardship or economic considerations.
- ☒ 7. A variance shall not be granted for procedure or process components of this Land Development Code.
- ☒ 8. A variance shall not be granted to deviate from LDC section 4.02.02 to combine two (2) or more lots which would result in a lot width greater than 100 feet for lots or parcels that abut Ocean Ave
- ☒ 9. A variance will not be granted which authorizes the filling of wetlands prohibited by Land Development Code Section 3.03.03(A)
- ☒ 10. No variance shall be granted to exceed the maximum building height of 35 feet for a building on any lot within 800 feet of the mean highwater line of the Atlantic Ocean under LDC Section 4.02.03(D)
- ☒ 11. A variance shall not be granted for any residential or residential mixed-use structure to exceed the maximum building height requirements contained in Table 4.02.03(E).
- ☒ 12. A variance shall not be granted to exceed the minimum side yard setbacks listed in Table 4.02.03(E) for any building within 800 feet of the mean high-water mark of the Atlantic Ocean.

REVIEW TYPE*

- ☒ Variance
- ☐ Appeal of Administrative Decision

Have you met with a planner for a pre-application meeting?*

Yes ☐

What was the date of your pre-application meeting?*

12/9/2020

If you have yet to have a pre-application meeting, please choose a date and time to schedule your meeting now. Every Tuesday is reserved for pre-application appointments.*

mm/dd/yyyy

hh:mm am/pm

PROPERTY INFORMATION

[Property information can be found at the Nassau County Property Appraiser's Website at Map Search](#)

Site Address*

3474 1st Avenue

City*

Fernandina Beach

State*

FL

Zip*

32034

Parcel ID #(s)*

00-00-31-1680-0011-0200

Zoning District*

R-3

Future Land Use Designation*

High Density Residential

OWNER OF RECORD

As recorded with the Nassau County Property Appraiser

First Name*

Daniel

Last Name*

McCranie

Company (if applicable)

First Avenue Amelia, LLC

Mailing Address*

95094 Arbor Lane

City*

Fernandina Beach

State*

FL

Zip*

32034

Telephone Number*

904-753-8777

E-mail Address*

dan@mccranie-engineers.com

OWNER'S AGENT

If other than owner. If an agent will be representing the owner, an Owner's Authorization For Agent Representation form must be included

First Name

Last Name

Company (if applicable)

Mailing Address

City

Fernandina Beach

State

FL

Zip

32034

Telephone Number

9043358685

E-mail Address

dan@mccranie-engineers.com

PROJECT INFORMATION

Variance Requested from LDC Section(s)*

7.01.01.E (a) - Driveway Width, 7.01.04 A - parking location, 4.02.05 - Resort Rental Parking location

Summary of Request (more detailed information to be provided in required letter of intent)*

Please see attached Variance Request letter.

REQUIRED FINDINGS FOR A GRANT OF A VARIANCE

In order for an application for a variance to be approved or approved with conditions, the BOA must make a positive finding with regard to each of the provisions below. The applicant has the burden of proof of demonstrating that the application for a variance complies with each of the requirements. Please explain in detail how your case meets the following requirements:

1. Special Conditions: 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. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.*

The lots were platted in 1911, as 25' wide lots. This width does not allow for parking on the side of the building. The existing topography of the lots would require a massive amount of fill (and a disturbance of the natural topography) to place parking in the rear. Parking in the rear would also require nearly all of the trees to be removed from the site. The intent of this project is to work with the existing topography and retain as many trees as possible.

2. Special Privilege: Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.*

There are many properties that have driveways that are wider than 24'. There are also at least 33 other properties that have been issued Resort Rental permits after October 1, 2006, are not on the Atlantic Ocean, and have parking in the front.

3. Literal Interpretation: Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.*

The project could be constructed without approval of the variances, but the two large oaks (28" and 21") would need to be destroyed. We are working with both the topography and around the natural tree canopy. We are also adding street trees to the larger grass islands that will be created with this design.

4. Minimum Variance: The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.*

This is the minimum variance required to save the trees. We have reduced the parking space widths from 10' to 9'.

5. General Harmony: Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.*

The variance will allow for the development of a nice looking townhome development area, with adequate parking. The proposed design will be complimentary to the existing development along 1st Avenue.

6. Public Interest: Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.*

Granting this variance will allow for the townhomes to be constructed, and most of the trees to remain. This property will not be clear cut. It will remain natural and compatible with the surrounding properties. This property will not cause injury to the area involved and will not be detrimental to the public health, safety, welfare or the environment.

Upload Supplemental Materials

VarianceRequest.pdf

Upload 2

Choose File

No file selected

Upload 3

Choose File

No file selected

Upload 4

Choose File

No file selected

Upload 5

Choose File

No file selected

Upload 6

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No file selected

Upload 7

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No file selected

Certification*



By signing below, I certify that the information contained in this application is true and correct to the best of my knowledge at the time of the application.



I acknowledge that I understand and have complied with all of the submittal requirements and procedures.

Applicant's First Name*

Dan

Applicant's Last Name*

McCranie

Today's Date*

1/6/2021



DEPARTMENT OF PLANNING & CONSERVATION

204 Ash Street | Fernandina Beach, Florida 32034 | 904 310-3480 |
www.fbfl.us/planning



Engineers/Planners and Consultants

City of Fernandina Beach
Department of Planning and Conservation
204 Ash St.
Fernandina Beach, Fl. 32034

Re: First Avenue Amelia, LLC –
Variance Request

To whom it may concern:

The owner of parcel 00-00-31-1680-0011-0200, located on 1st Avenue, between Matanzas Ave. and Manatee Ave. request the following variances to the City of Fernandina Beach Code of Ordinances.

Property information:

The property is currently undeveloped and consist of 9 separate 25' wide lots. This property was platted in 1911 as part of the Seaview community. The natural topography varies greatly, ranging from an elevation of 20 to an elevation of 9. The site contains many hardwood trees. Access to the property is from 1st Avenue. The zoning classification is R-3, allowing for townhome development. The legal description is Lot 20-28 of the Seaview Subdivision.

Property development intent:

It is our intent to construct three separate 2-unit townhomes and one 3-unit townhome. In order to retain the most amount of trees, we are proposing the homes to be built on stem walls for all side and rear yards. This construction method does not require the side and rear of the lots to be filled to the first floor grade and allows for the retention of over 50% of the existing healthy trees. Due to the width of the individual existing lots, there is limited room for driveways. There are also 2 large oak trees in the front. The proposed driveways and parking area is 36' wide for the 2-unit buildings (wide enough for 4 cars) and 54' wide for the 3-unit building (wide enough for 6 cars). The townhomes are anticipated to be used for either permanent residency or short term rental.

Variance Request:

4.02.05 C.- "Parking shall be located in the side or rear yard, except for lots abutting the Atlantic Ocean. Parking shall be located at least ten (10) feet from the front property line where parking is permissible in the front yard. This provision is for new resort rental permits only. For new Resort Rental permits issued after October 1, 2006 parking is prohibited in the front yards of houses on the west side of Fletcher Avenue"

The Code requires that parking be located in the side or rear yard for this property. The code also requires parking to be set back 10' from the front property line if parking is allowed in the front yard. We have evaluated the site and tried to find a way to place the parking on the side or rear. There is no room to place it on the side. The lots are only 25' wide, and the proposed units are only 20' wide. This leaves 5' on the side yard. We also tried to design parking in the rear of the townhomes. This would require the lots to be filled, and nearly all trees to be removed.

We have researched all of the new Resort Rental Permits issued after October 1, 2006 and not abutting the Atlantic Ocean. There are at least 33 locations not abutting the Atlantic Ocean,

where parking has been allowed in the front yard.

In order to place the proposed parking 10' from the front property line, the townhomes would need to be set back an additional 5'. This would further impact the rear yards and not allow for the retention of 50% of the healthy trees. The proposed townhomes are not large. They are 2-story, and only 20' wide.

We request a variance, allowing for parking in the front yard with no additional parking setback required.

7.01.01 E (a) – *“Residential driveways shall be a minimum of twelve (12) feet in width and a maximum of twenty (20) feet in width.”*

The Code requires 2 parking spaces for each unit. Due to the lot width, we have designed the parking for each unit to be adjacent to each other. This has been done in order to save trees and to provide a larger grassed area between unit parking areas. There are two large (28” and 21”) oak trees in the front yard of lot 25. We have shifted the proposed parking away from these trees in order to protect them.

We request a variance to the code to allow for 36' wide driveways for the 2-unit townhomes, and 54' wide for the 3-unit townhome.

7.01.04 A – *“The minimum number of parking spaces shall conform to the standards in Table 7.01.04(A). – Duplex dwellings – 2 per unit.”*

The Code requires 2 parking spaces for each unit. Due to the lot width, we have designed the parking for each unit to be adjacent to each other. This has been done in order to save trees and to provide a larger grassed area between unit parking areas. There are two large (28” and 21”) oak trees in the front yard of lot 25. We have shifted the proposed parking away from these trees in order to protect them. The shift has placed some of the parking spaces on the adjoining parcel instead of the specific parcel they serve. A parking easement will be granted to the owners of the townhomes, granting them the right to park in their assigned parking spaces. There is no reduction of parking spaces, just a shift in their location.

We request a variance to the code to allow for parking for the townhomes to be allowed to be located on adjoining property.

We have worked with the City planners to come up with a design that is both economically feasible and environmentally sensitive. We have held a pre-application meeting with the TRC. There were no objections to the proposed parking areas.

Thank you for your consideration.

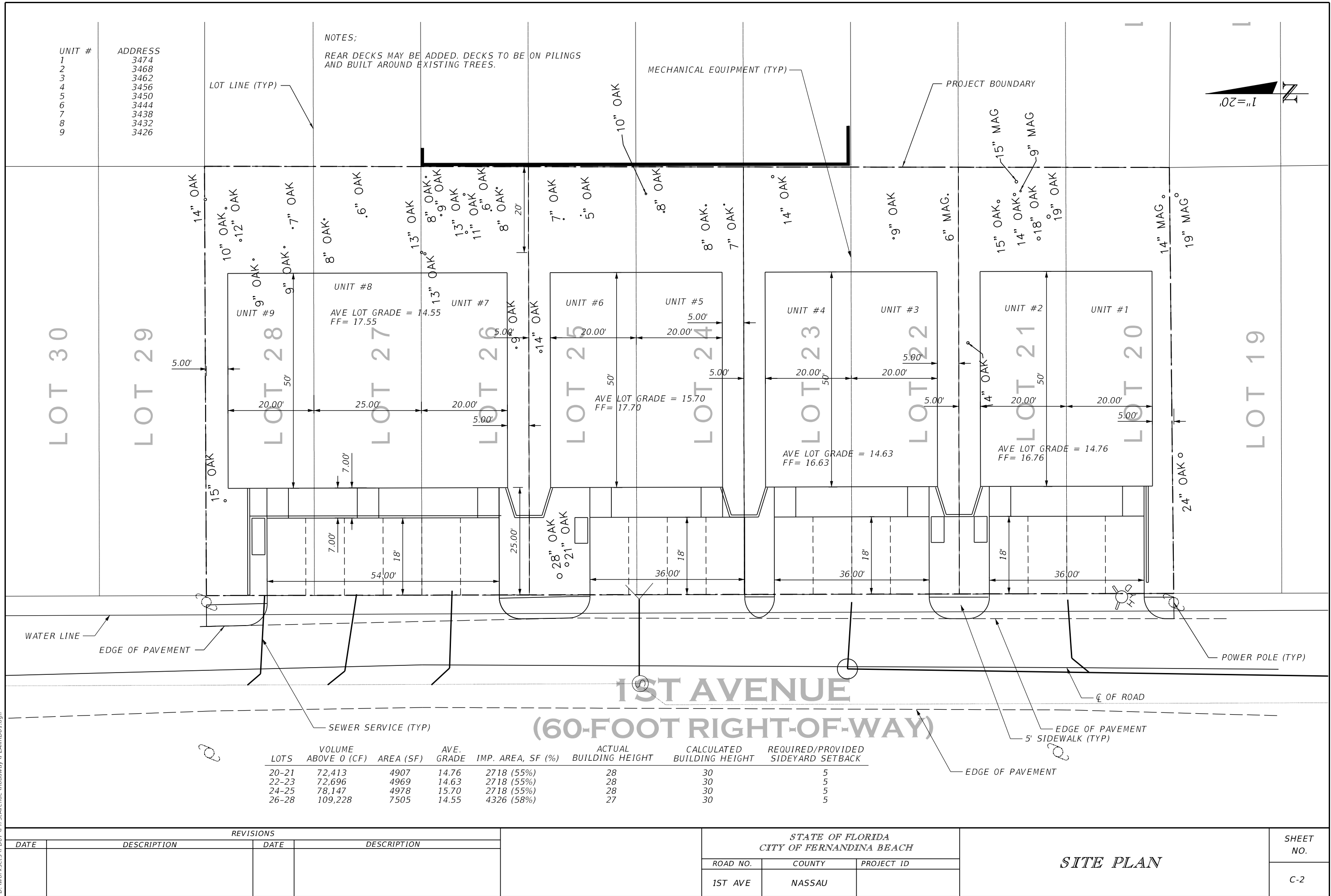
Dan



Daniel I. McCranie, PE
Vice President
McCranie & Associates, Inc.

CC:

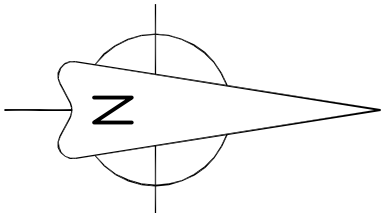
3/30/2021 1:12:10 PM DanMcCrane
D:\Works\1\DOT\1stAvenue\Roadway\PLAN\RD01.dgn



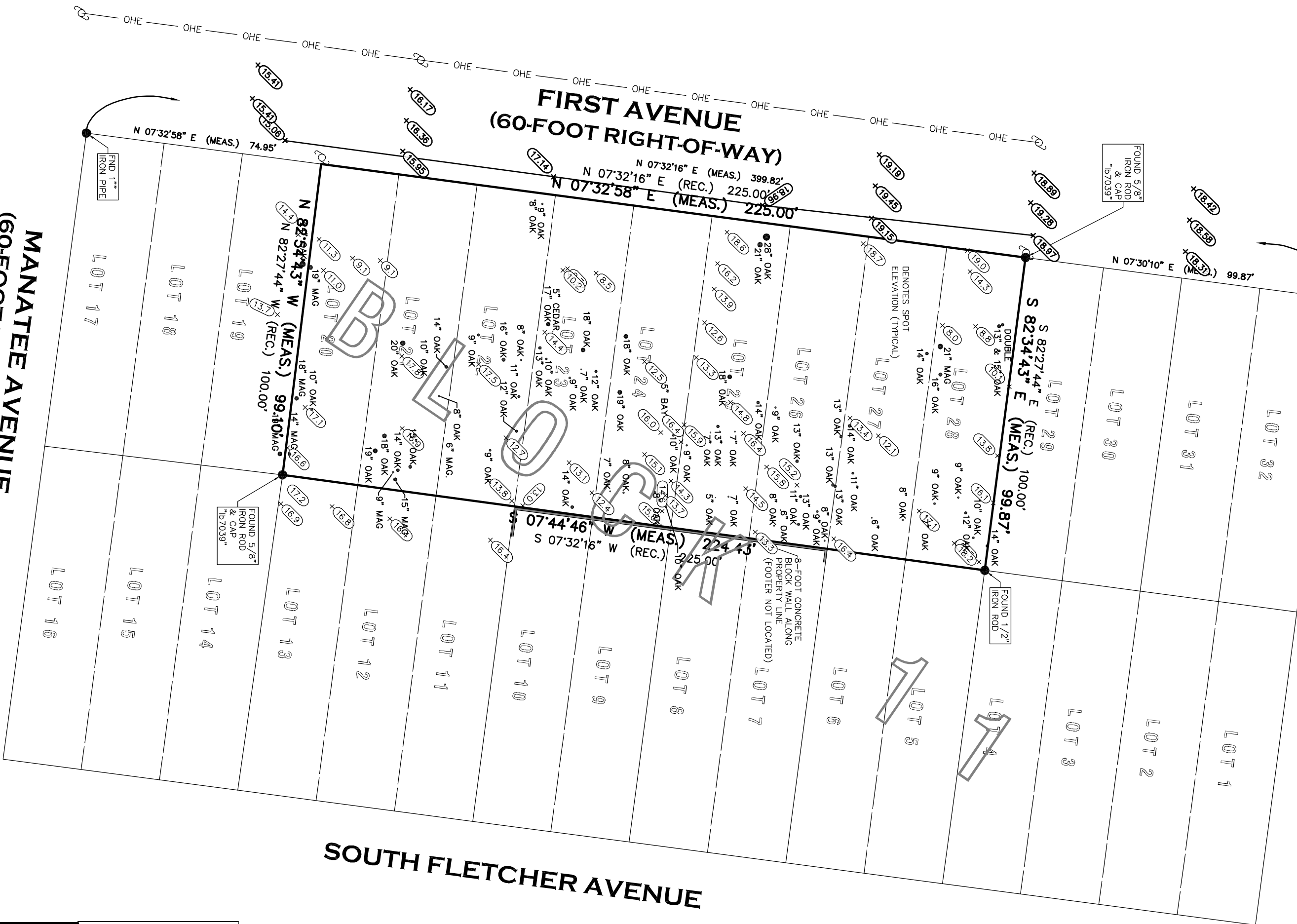
LOTS	VOLUME ABOVE 0 (CF)	AREA (SF)	AVE. GRADE	IMP. AREA, SF (%)	ACTUAL BUILDING HEIGHT	CALCULATED BUILDING HEIGHT	REQUIRED/PROVIDED SIDEYARD SETBACK
20-21	72,413	4907	14.76	2718 (55%)	28	30	5
22-23	72,696	4969	14.63	2718 (55%)	28	30	5
24-25	78,147	4978	15.70	2718 (55%)	28	30	5
26-28	109,228	7505	14.55	4326 (58%)	27	30	5

REVISIONS				STATE OF FLORIDA CITY OF FERNANDINA BEACH			SHEET NO.
DATE	DESCRIPTION	DATE	DESCRIPTION				
				ROAD NO.	COUNTY	PROJECT ID	C-2
				1ST AVE	NASSAU		

SITE PLAN



**MATANZAS AVENUE
(60-FOOT RIGHT-OF-WAY)**

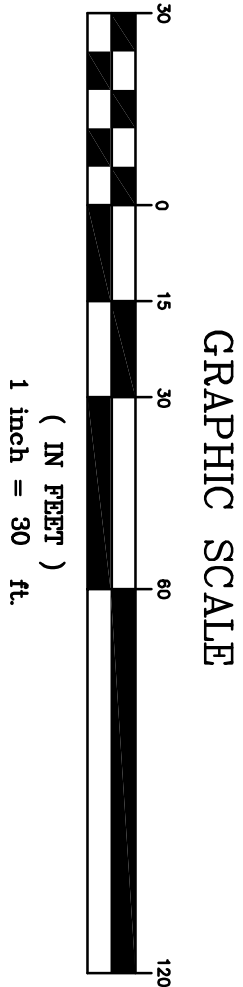


**MANATEE AVENUE
(60-FOOT RIGHT-OF-WAY)**

SOUTH FLETCHER AVENUE

**MAP SHOWING BOUNDARY SURVEY OF:
LOTS 20, 21, 22, 23, 24, 25, 26, 27 & 28, BLOCK 11, SEA VIEW SUBDIVISION
ACCORDING TO PLAT THEREOF RECORDED IN PLAT BOOK 1, PAGE 7, OF THE CURRENT COUNTY
RECORDS OF NASSAU COUNTY, FLORIDA.**

PREPARED FOR:
STEPHANIE CORBETT



SURVEY NOTES:

- 1) The "Legal Description" hereon is in accord with the description provided by the client.
- 2) Underground improvements were not located or shown.
- 3) Lands shown hereon were not obstructed by this office for easements, rights-of-way, ownership or other instruments of record.
- 4) Bearings based on N 07°32'16.00" E for the Easterly Right-of-Way line of First Avenue, (State Plane Coordinate System for Florida East Zone).
- 5) Fence ownership, if applicable, has not been determined by this office. Fences are drawn out of scale in order to accentuate their relationship to property lines. Fences are not deemed to be encroachments unless ownership is apparent.
- 6) "Unless it bears the COLOR signature and the original raised seal of a Florida licensed surveyor and mapper, this map/report is for informational purposes only and is not valid.
- 7) The property shown hereon lies within flood zone " X " as per F.E.M.A. Flood Insurance Rate Map, Panel 12089C0377G, Dated 08/02/2017.
- 8) Unless otherwise noted Measured angles and distances are the same as Plat or Deed angles and distances.
- 9) **Notice of Liability:** This Survey is certified to those individuals shown on the face thereof. Any other use, benefit or reliance by any other party is strictly prohibited and restricted. The Surveyor is responsible only to those certified and hereby disclaims any other liability and hereby restricts the rights of any other individual or firm to use this survey without the express written consent of the Surveyor.
- 10) Elevations shown hereon refer to North American Vertical Datum of 1988. (N.A.V.D. '88)
- 11) The Reference Benchmark is a Concrete Monument with Brass Disc Stamped R-41 located near the Northwest corner of property located at 3560 South Fletcher. (Elevation =19.46).
- 12) Site Benchmark is as shown hereon.

LEGEND:	
A/C = AIR CONDITIONER	IDENT. = IDENTIFICATION
AKA = ALSO KNOWN AS	L = ARC LENGTH
B.R.L. = BUILDING RESTRICTION LINE	MEAS. = MEASURED
CD = CHORD BEARING	MOVD. = MONUMENTAL
CONC. = CONCRETE	O.R.B. = OFFICIAL RECORD BOOK
CORR. = CORRUGATED METAL PIPE	P.C. = POINT OF CURVATURE
D.B. = DEED BOOK	P.I.N. = PARCEL IDENTIFICATION NUMBER
ELEV. = ELEVATION	P.O.B. = POINT OF BEGINNING
F.F. = FINISHED FLOOR	P.O.C. = POINT OF COMMENCEMENT
INV. = INVERT	P.T. = POINT OF TANGENCY
	R = RADIUS
	REP = REINFORCED CONCRETE PIPE
	REC. = RECORD
	RNG. = RANGE
	R/W = RIGHT OF WAY
	SEC = SECTION
	SEW. = SEWER CLEANOUT
	SHIP = SHIP
	THOE = TOWNHEAD ELECTRIC
	USE = UNDERGROUND ELECTRIC
	UT. = UTILITY POLE
	W. = WATER METER
	X = CENTRAL ANGLE
	Y = SET 4x4" CONC. MON. & DISK (LB 7366)
	Z = SET 1/2" IRON ROD & CAP (LB 7366)
	● = FOUND IRON AS NOTED
	⦿ = FOUND MONUMENT AS NOTED



P. O. Box 977, Yulee, FL 32041
(904) 225-0597 * FAX (904) 548-0456
surveyor98@comcast.net

BY: STEPHEN W. HOFFMAN
FLORIDA REGISTERED SURVEYOR
AND MAPPER CERTIFICATE NO. 5774

THE INFORMATION SHOWN HEREON MEETS THE MINIMUM
TECHNICAL STANDARDS SET FORTH BY THE FLORIDA
BOARD OF PROFESSIONAL SURVEYORS AND MAPPERS
IN CHAPTER 50-17, FLORIDA ADMINISTRATIVE CODE,
PURSUANT TO SECTION 472.027, FLORIDA STATUTES.

SCALE: 1" = 30'
DATE: 03/17/20
JOB NO.: 20012
F.B. NO.: DC
PAGE NO.: FILE



BOARD OF ADJUSTMENTS STAFF REPORT
BOA 2021-04
APRIL 21, 2021

Owner/Applicant:	Mario Manganaro/Harrison Poole
Property Address:	604 Gum Street
Parcel Number:	00-00-31-1800-0152-0010
Requested action:	VARIANCE from LDC 1.03.05(A) Combined Lots
Current zoning:	R-2
FLUM land use category:	Medium Density Residential
Existing uses on the site:	Single Family House and Garage

All required application materials have been received. All fees have been paid. All required notices have been made.



SUMMARY OF REQUEST AND BACKGROUND INFORMATION:

604 Gum Street is comprised of four 25' X 100' underlying platted lots of record. According to the Nassau County Property Appraiser, a single-family residence and a one-story concrete garage have existed on lots 1, 2 & 3 since 1945.

The applicant is seeking a variance to separate lots 3 & 4 from lots 1 and 2 to have the opportunity to develop lot 3 and lot 4 individually. Since the existing one-story concrete garage crosses the common platted lot line of lot 2 & 3, the lots are considered one building site in accordance with Section 1.03.05(A). Any reversion back to the original platted lots affects the building site and therefore requires a variance from Section 1.03.05 of the Land Development Code. The property owner does not have the option of separating the lots through the Property Appraiser as would be the case otherwise. Land Development Code section 1.03.05(C) specifically requires that

the requested lot separation be reviewed by the Board of Adjustment for approval. LDC Section 1.03.05 specifically reads as follows:

“1.03.05 Construction or Demolition of Structures on Combined Lots

- A. In order to maintain open space, visual corridors, neighborhood character, property values and visual attractiveness of residential areas, wherever there may exist a single-family residence, a two-family building or any auxiliary building or structure, including but not limited to, swimming pools, or any other improvement which was heretofore constructed on property containing one or more platted lots or portions thereof (excluding walls or fences), such lots shall thereafter constitute one building site and shall be considered the “lot of record”, and no permit shall be issued for the construction of more than one residence or two-family building on the site. All construction on the building site must comply with all existing zoning and density requirements.
- B. The demolition or removal of any residence or structure, whether voluntary or involuntary, shall not have the effect of changing the establishment of the building site.
- C. Any change from the foregoing provisions for the purpose of establishing building sites, or separation of building sites, shall require approval by Board of Adjustment, at which all interested persons shall be afforded an opportunity to be heard.”

LDC Section 1.03.05, intentionally places approval of any previously established building site in the hands of the Board of Adjustment. Therefore, it has been directed that the Board of Adjustment hear and weigh the separation of lots through their conventional variance process as prescribed in LDC Section 10.02.00. The process provides notice to surrounding property owners and affords all interested parties to be heard in a quasi-judicial setting. The City established this mechanism for hearing cases such as this in 2006. LDC Section 9.04.03 (B) provides authority to the BOA to “authorize a variance from a provision of the LDC, as set forth in Chapter 10.” Given that the site is combined under 1.03.05(A) and authority directed to the BOA through subsection C it is appropriate that the procedure for consideration of a variance be applied to each case seeking relief from LDC Section 1.03.05(A).

This property is currently zoned R-2 which has a minimum lot width of 50 feet and a maximum density of 8 dwelling units per acre. The Comprehensive Plan and Land Development Code both honor platted lots of record although a 25' X 100' lot does not meet the density and minimum lot width requirement. The applicant is requesting approval to demolish the existing garage on lot 3 for the construction of a new single-family home. If granted the variance, the resulting effect of approval is separation of both lot 3 and lot 4 for future construction of a single-family dwelling unit on each property. The requested action introduces a unique development pattern, which is not compatible with the existing neighborhood character. Denial of the requested variance would not prevent development of current lot 4 under the City's design standards.

EXHIBIT A: SURVEY

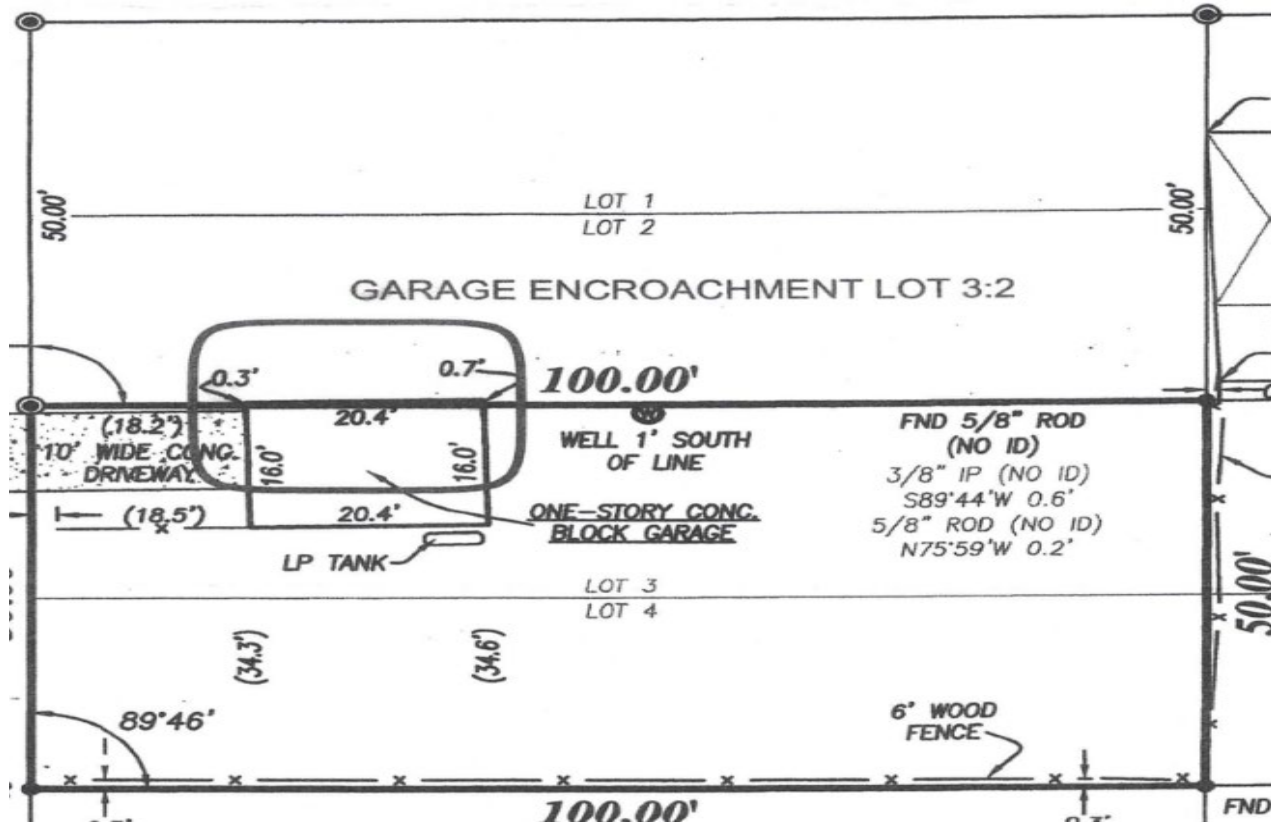
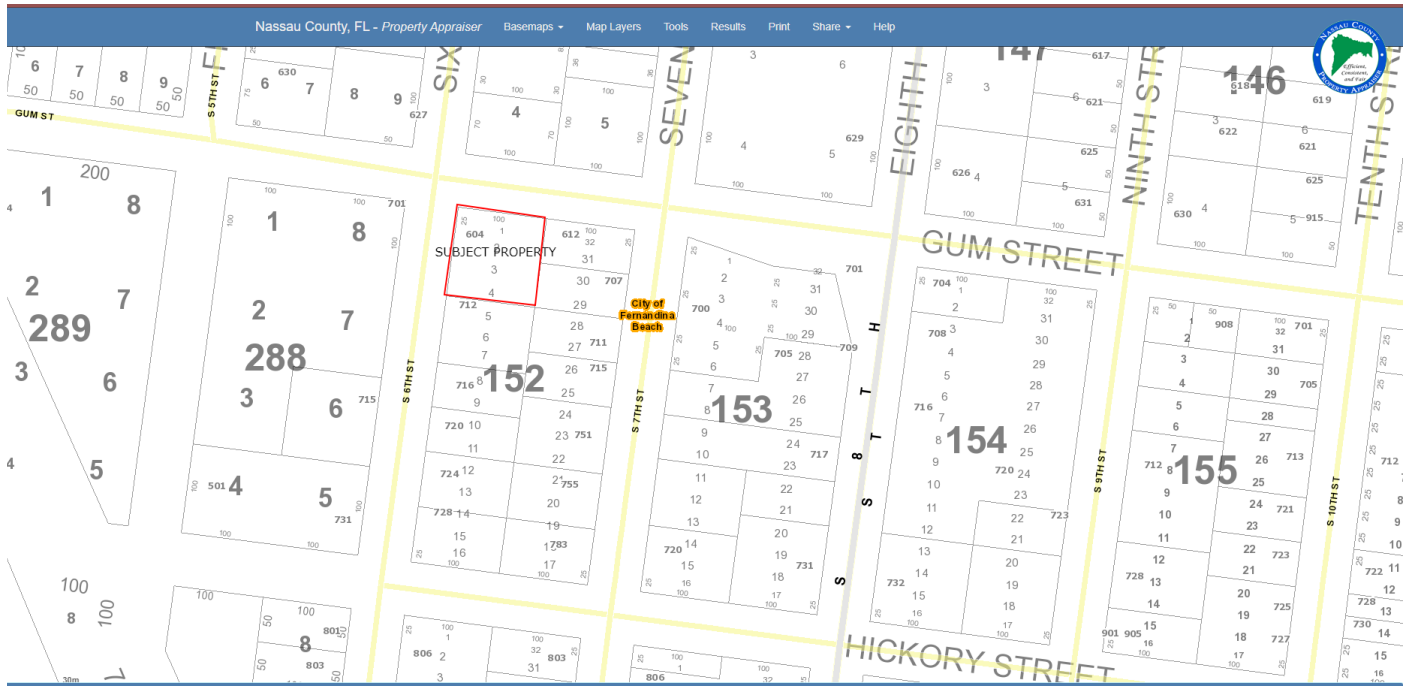


EXHIBIT B: IMAGE DEPICTING LOCATION OF GARAGE



EXHIBIT C: SURROUNDING AREA PARCEL CONFIGURATION FROM NC PROPERTY APPRAISER MAPPING



APPLICABLE GUIDELINES:

CITY OF FERNANDINA BEACH LAND DEVELOPMENT CODE:

Staff's review of this application finds it is not subject to any of the limitations of Section 10.02.01 and can therefore be considered by the Board.

CITY OF FERNANDINA BEACH COMPREHNSIVE PLAN:

The following Comprehensive Plan statements are applicable in this case:

- Policy 1.02.07 – The City shall implement the Fernandina Beach Comprehensive Plan in a manner that acknowledges private property rights.
- Policy 1.02.10 – The City shall protect privacy and access to light, air, and open space. The City shall consider regulations such as building placement on a site, building design, and building orientation as one means to achieve this policy.
- Policy 1.05.04 - Existing platted lots of record located in Central Business District, Mixed Use, and Low, Medium, or High-Density Residential land use districts shall not be prohibited from the construction of one (1) residential unit due to a nonconforming lot size.
- Objective 1.06 – Community Character - Community character is reflected in lot sizes, house sizes, site placement, height, architectural features and existing vegetation. The City shall strive to stabilize and preserve neighborhoods and establish urban design standards which protect and promote quality of life, in order to prevent teardowns, encourage re-use, infill and new development.

ANALYSIS:

In order for an application for a variance to be approved or approved with conditions, the BOA shall make a positive finding with regard to each of the following provisions:

Consistent with Criteria? All questions must be answered in the affirmative in order for staff to recommend approval of a variance. Negative answers must be addressed in the findings.

Criteria	Staff Analysis	Meets Criteria
<u>1. Special Conditions</u> <i>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. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.</i>	No. Special conditions <u>do not exist</u> 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. There are numerous examples of single family homes/structures that were built over underlying platted lots of record, however, if the variance is granted the proposed lots will be capable of satisfying design standards for the R-2 zoning district and as honored by LDC section 1.03.03.	☐ Yes ☒ No
<u>2. Special Privilege</u> Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.	No. Granting the variance <u>does confer</u> upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district. If this were a previously undeveloped property only combined for tax purposes, they could restore the underlying platted lots by simply going to the Property Appraiser's Office; however, any improvement as stated in the specific section of code establishes new lots of record – Lots 1 and 2 (combined), Lot 3, and Lot 4.	☐ Yes ☒ No
<u>3. Literal Interpretation</u> Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.	No. Literal interpretation of the Land Development Code <u>would not deprive</u> the applicant of rights enjoyed by other properties. Specific sections of the LDC exist which reference both honoring underlying platted lots of record, and sections that restrict redevelopment of properties where structures (including garages) exist over multiple lots. Denial of the variance continues to allow for the property to contain its historic structures in their original development form. Denial of the variance also preserves private property rights entitled to the owner for compliant development on the remaining 25'x100' originally platted lot of record.	☐ Yes ☒ No
<u>4. Minimum Variance</u> The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.	Yes. The variance requested <u>is the minimum</u> variance needed to make possible the reasonable use of the land and restore two 25' X 100' lots and construct two single family detached structures while maintaining a single-family structure on a 50' X 100' lot.	☒ Yes ☐ No
<u>5. General Harmony</u>	No. Granting the variance <u>will not be in harmony</u> with the general intent and purpose of Land Development	☐ Yes

Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.	Code and Comprehensive Plan. Although the request honors underlying platted lots of record, the resulting development pattern with 2- 25x100 foot lots of record is not compatible with the built environment surrounding this property. However, the resulting lots will have sufficient land area to support the proposed single-family homes.	☒ No
6. Public Interest Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.	No. Granting the variance <u>is not compatible</u> with the surrounding properties. Granting of the variance is not compatible with surrounding properties lot configuration and pattern of development.	☐ Yes ☒ No

STAFF RECOMMENDATION:

The variance requested is consistent/inconsistent with the criteria for granting a variance as follows:

	Consistent	Inconsistent
1. Special Conditions		X
2. Special Privilege		X
3. Literal Interpretations		X
4. Minimum Variance	X	
5. General Harmony		X
6. Public Interest		X

Staff finds that the requested action, as presented, does not meet criteria 1, 2, 3, 5, and 6 and as such, must recommend denial.

Staff recommends:

DENIAL of BOA 2021-04

MOTION TO CONSIDER

I move to **approve or deny** BOA case number 2021-04;

AND I move that the BOA make the following findings of fact and conclusions of law part of the record:

That BOA case 2021-04, item, as presented, **is or is not** substantially compliant with the Comprehensive Plan and Land Development Code to warrant approval at this time;

AND that BOA case number 2021-04 **meets or does not meet** the following criteria for granting a variance: special conditions, special privilege, literal interpretations, minimum variance, general harmony, and public interest.

LIST OF EXHIBITS:

EXHIBIT A - SURVEY

EXHIBIT B – IMAGE

EXHIBIT C – SURROUNDING AREA PARCELS

Respectfully Submitted,



**Daphne Forehand
Planner I**

Print

Board of Adjustment (BOA) - Submission #6900

Date Submitted: 3/5/2021

BOARD OF ADJUSTMENT (BOA)

USE THIS FORM TO Apply for a variance to obtain relief from the design standards of this Land Development Code (LDC) where otherwise hardship would occur. A person who is adversely affected by any administrative decision may appeal such decision to the BOA.

Fees

Once application is submitted it will be reviewed for completeness. Once verified complete, an invoice will be emailed to the applicant.



Residential Properties \$1,000



Non-Residential properties \$2,500



Administrative Appeals \$500

2021 Submission Deadline + Meeting Calendar



IMPORTANT NOTES

Application Requirements

- ☒ A complete application filed at least thirty (45) days before the date of the Board of Adjustment's public hearing;
- ☒ A current signed, sealed, scaled survey of the property (no older than two years from date of application);
- ☒ Proof of ownership (copy of deed or tax statement)
- ☒ If applying as an agent, Owner's Authorization for Agent Representation form must be signed/ notarized and submitted as part of the application;
- ☒ A detailed letter stating the reasons for the request;
- ☒ Materials as needed to illustrate the nature of the request, including but not limited to, site plans, architectural drawings, photographs, etc. (Site plans must be dimensioned and to scale).

Pre-Application Meeting

To guide you through the process and ensure that your application is understood and properly processed, you'll need to meet with the applicable planner prior to submitting your application. Completed Board applications are due forty-five (45) days prior to the meeting date. Cases in the historic districts or Community Redevelopment Area are heard by the Historic District Council, please use the HDC Variance Application. Cases in all other areas of the City are heard by the Board of Adjustment.

Please see the Land Development Code (LDC) for detailed information:

- ☒ Procedures for Variances – see LDC Section 10.02.04.
- ☒ Expiration of Variance Approval – see LDC Section 10.02.04(C).
- ☒ Appeals on a Variance – see LDC Section 10.02.04(D).
- ☒ Appeals of Administrative Action – see LDC 11.07.00

The LDC is available for review at

www.fbfl.us/LDC

Appeals

Any person aggrieved by any decision of the BOA regarding a variance may present to a court of record a petition, duly verified, setting forth that the decision is illegal, in whole or in part, specifying the grounds of the illegality. The petition shall be presented to the court within thirty (30) days after the filing of the decision at the office of the Board; otherwise, the decision of the Board shall be final.

Limitations on the Grant of a Variance

- ☒ 1. A variance shall not be granted which authorizes a use that is not permissible in the zoning district in which the property subject to the variance is located.
- ☒ 2. A variance shall not be granted which authorizes any use or standard that is prohibited by the City's Comprehensive Plan.
- ☒ 3. No nonconforming use of adjacent lands, structures, or buildings in the same zoning district, and no permitted use of land, structures, or buildings in other zoning districts, shall be considered g
- ☒ 4. A variance shall not change the requirements for concurrency.
- ☒ 5. A variance shall not be granted to permit the use of a single media peonia for the construction of a dwelling unit.
- ☒ 6. A variance shall not be granted if the evidence submitted by an applicant is solely a demonstration of financial hardship or economic considerations.
- ☒ 7. A variance shall not be granted for procedure or process components of this Land Development Code.
- ☒ 8. A variance shall not be granted to deviate from LDC section 4.02.02 to combine two (2) or more lots which would result in a lot width greater than 100 feet for lots or parcels that abut Ocean Ave
- ☒ 9. A variance will not be granted which authorizes the filling of wetlands prohibited by Land Development Code Section 3.03.03(A)
- ☒ 10. No variance shall be granted to exceed the maximum building height of 35 feet for a building on any lot within 800 feet of the mean highwater line of the Atlantic Ocean under LDC Section 4.02.03(D)
- ☒ 11. A variance shall not be granted for any residential or residential mixed-use structure to exceed the maximum building height requirements contained in Table 4.02.03(E).
- ☒ 12. A variance shall not be granted to exceed the minimum side yard setbacks listed in Table 4.02.03(E) for any building within 800 feet of the mean high-water mark of the Atlantic Ocean.

REVIEW TYPE*

- ☒ Variance
- ☐ Appeal of Administrative Decision

Have you met with a planner for a pre-application meeting?*

Yes ☐

What was the date of your pre-application meeting?*

2/25/2021

If you have yet to have a pre-application meeting, please choose a date and time to schedule your meeting now. Every Tuesday is reserved for pre-application appointments.*

mm/dd/yyyy

hh:mm am/pm

PROPERTY INFORMATION

[Property information can be found at the Nassau County Property Appraiser's Website at Map Search](#)

Site Address*

604 Gum Street

City*

Fernandina Beach

State*

FL

Zip*

32034

Parcel ID #(s)*

00-00-31-1800-0152-0010

Zoning District*

R-2

Future Land Use Designation*

Medium Density Residential

OWNER OF RECORD

As recorded with the Nassau County Property Appraiser

First Name*

Mario

Last Name*

Manganaro

Company (if applicable)

Manganaro Family Trust

Mailing Address*

c/o Poole & Poole, P.A. 303 Centre Street, Suite 200

City*

Fernandina Beach

State*

FL

Zip*

32034

Telephone Number*

9042610742

E-mail Address*

harrisonpoole@pooleandpoolelaw.com

OWNER'S AGENT

If other than owner. If an agent will be representing the owner, an Owner's Authorization For Agent Representation form must be included.

First Name

Harrison

Last Name

Poole

Company (if applicable)

Poole & Poole, PA

Mailing Address

303 Centre Street, Suite 200

City

Fernandina Beach

State

FL

Zip

32034

Telephone Number

9042610742

E-mail Address

harrisonpoole@pooleandpoolelaw.com

PROJECT INFORMATION

Variance Requested from LDC Section(s)*

1.03.05(C)

Summary of Request (more detailed information to be provided in required letter of intent)*

This is request authorized by section 1.03.05(C) of the Land Development Code seeking the approval of the Board of Adjustment to separate Lots 3 and 4 from Lots 1 and 2 of Block 152 (604 Gum Street) to create two additional buildable lots. At present there exists a one story concrete block garage on lot 3 that is proposed to be demolished. However, due to section 1.03.05(A), the existence of the garage means that lots 1,2, and 3 are considered a combined "lot of record" and cannot be separated without the approval of the Board of Adjustment. As it sits today, lot 4 is already a buildable lot of record which can be separated without the approval of the BOA. Boiled down to its core, the request is for approval to have the existing garage on lot 3 be demolished to be replaced with a new, single family residence. At the direction of City staff, this request is being submitted via an application for a variance. The applicant would note, however, that the language in section LDC 1.03.05(5) indicates that only approval of the BOA, with an opportunity for all interested parties to be heard, is required to separate the lots, without the requirement to meet the six criteria for a formal variance (although applicant submits those have also been satisfied). It is a long standing doctrine of legislative interpretation that "Expressio Unius Est Exclusio Alterius", or that the mention of one thing means the exclusion of others. Had the Commission that adopted section 1.03.05(5) of the Land Development Code intended for the approval to be made by means of a variance it could have quite simply and easily stated as such. However, since the Code only states that approval, and not a variance, is required, the only reasonable interpretation that can be given is that the Commission did not intend for the approval of separation of lots in these circumstances be considered by a variance. Further, if it were the Commission's intent for a variance to be required, then subsection C is entirely unnecessary as an owner would authorized to seek a variance pursuant to Chapter 10 of the LDC, and subsection 3 could have been omitted entirely.

REQUIRED FINDINGS FOR A GRANT OF A VARIANCE

In order for an application for a variance to be approved or approved with conditions, the BOA must make a positive finding with regard to each of the provisions below. The applicant has the burden of proof of demonstrating that the application for a variance complies with each of the requirements. Please explain in detail how your case meets the following requirements:

1. Special Conditions: 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. Special conditions or circumstances do not result from actions of the applicant and are not based on a desire to reduce development costs.*

The existing concrete block garage, which if constructed at the same time as the residence it serves, dates back to approximately 1945 according to the Property Appraiser's records. If not for the existence of the garage, lot 3 would be considered a buildable lot of record pursuant to LDC section 1.03.03.

2. Special Privilege: Granting the variance does not confer upon the applicant a special privilege that is denied by the Land Development Code to other lands, structures, or buildings in the same zoning district.*

The granting of approval of this request does not confer any special privilege as every other owner of a platted lot has what is considered a buildable lot, notwithstanding any improvements that implicate section 1.03.05. The applicant is simply seeking approval to construct on what is otherwise a buildable lot.

3. Literal Interpretation: Literal interpretation of the provisions of the Land Development Code would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district.*

A literal interpretation would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district, to wit the ability to build a residence on each platted lot of record.

4. Minimum Variance: The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.*

The request is the minimum needed to have both lots 3 and 4 considered buildable lots of record.

5. General Harmony: Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.*

Granting approval is in harmony with the general intent and purpose of the LDC and Comp Plan. The stated purpose and intent of Section 1.03.05 is "to maintain open space, visual corridors, neighborhood character, property values and visual attractiveness of residential areas". As it currently sits, lot 4 is buildable as a lot of record. Because there is already a structure on lot 3 (the garage), allowing Lots 3 and 4 to become their own buildable lots would not decrease open space or visual corridors. Notably, any construction on those lots would be required to meet LDC requirements including setbacks, as well as any regulations concerning trees and landscaping. Allowing the 25 foot wide buildable lots of record is also consistent with the neighborhood character in that there are no less than 10 such existing lots on 6th and 7th streets within two blocks of the applicant's property. Granting approval will also increase property values and visual attractiveness of the residential area by allowing an existing, and very dated, garage to be replaced with the construction of a new home.

6. Public Interest: Granting the variance is compatible with surrounding properties, will not cause injury to the area involved, or otherwise be detrimental to the public health, safety, welfare or environment.*

The public interest will be served by granting approval. Allowing two new single family homes to be constructed will provide additional impact fees, increase the tax basis for the City, increase property values, and help meet the demand for residential properties within the City. Because any new construction would have to be compliant with the LDC and Florida Building Code, there would be no detriment to the public health, safety, welfare or environment.

Upload Supplemental Materials

BRN3C2AF49CCD79.pdf

Upload 2

Street View.pdf

Upload 3

ori.pdf

Upload 4

No file selected

Upload 5

No file selected

Upload 6

No file selected

Upload 7

No file selected

Certification*

☒

By signing below, I certify that the information contained in this application is true and correct to the best of my knowledge at the time of the application.

☒

I acknowledge that I understand and have complied with all of the submittal requirements and procedures.

Applicant's First Name*

Harrison

Applicant's Last Name*

Poole

Today's Date*

3/5/2021



DEPARTMENT OF PLANNING & CONSERVATION

204 Ash Street | Fernandina Beach, Florida 32034 | 904 310-3480 |
www.fbfl.us/planning



OWNER'S AUTHORIZATION FOR AGENT REPRESENTATION

I /WE Mario P. Manganaro, as Trustee of the Manganaro Family Trust
(print name of property owner(s))

hereby authorize: Harrison W. Poole and/or Wesley R. Poole
(print name of agent)

to represent me/us in processing an application for: Variance under LOC 1.03.05(c)
(type of application)

on our behalf. In authorizing the agent to represent me/us, I/we, as owner/owners, attest that the application is made in good faith and that any information contained in the application is accurate and complete.

Mario Manganaro
(Signature of owner)

(Signature of owner)

MARIO MANGANARO
(Print name of owner)

(Print name of owner)

STATE OF FLORIDA

COUNTY OF NASSAU

Sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 17th day of February, 2021, by Mario P. Manganaro.

Jamie M. Thirsk
Notary Public

Jamie M. Thirsk
Printed Name

My Commission Expires

Personally Known _____ OR Produced Identification _____ ID Produced: _____



JAMIE M. THIRSK
Commission # GG 279373
Expires December 15, 2022
Bonded Thru Budget Notary Services

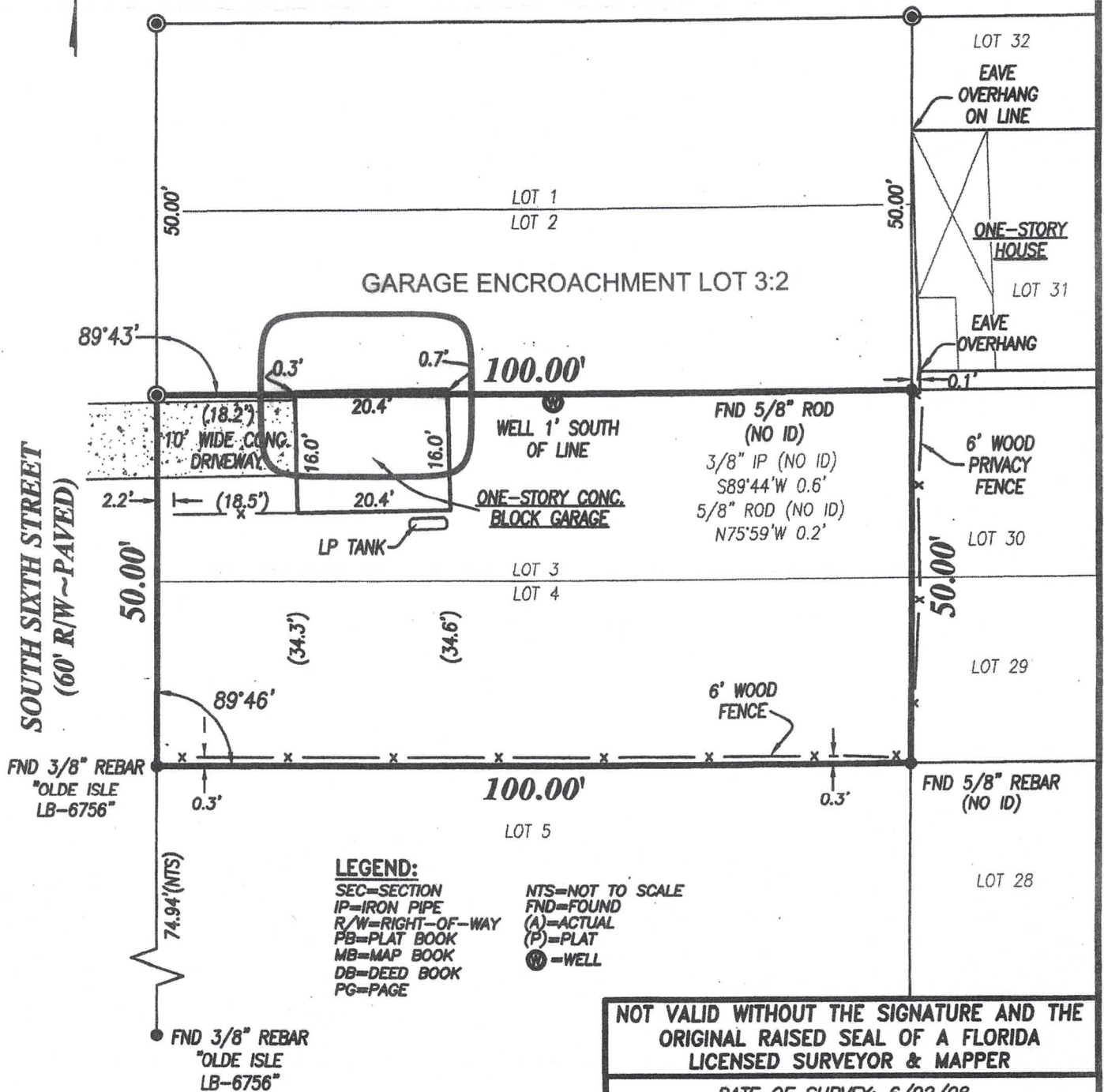
MAP TO SHOW BOUNDARY SURVEY OF
LOTS 3 & 4, BLOCK 152, FERNANDINA,
NASSAU COUNTY, FLORIDA

AS SHOWN ON THE OFFICIAL PLAT OF FERNANDINA (AS LITHOGRAPHED AND ISSUED BY THE FLORIDA RAILROAD COMPANY
 IN 1857 AND ENLARGED, REVISED AND RE-ISSUED BY THE FLORIDA TOWN IMPROVEMENT COMPANY IN 1887 AND 1901)

FOR: MARIO MANGANARO

SCALE: 1"=20'

GUM STREET (60' R/W~PAVED)



LOTS 3 & 4, BLOCK 152, FERNANDINA, NASSAU COUNTY, FLORIDA

SHOWN ON THE OFFICIAL PLAT OF FERNANDINA (AS LITHOGRAPHED AND ISSUED BY THE FLORIDA RAIL
 1857 AND ENLARGED, REVISED AND RE-ISSUED BY THE FLORIDA TOWN IMPROVEMENT COMPANY IN 18

FOR: MARIO MANGANARO

