



**AGENDA
BOARD OF ADJUSTMENT
REGULAR MEETING
FEBRUARY 16, 2022
5:00 PM
CITY HALL COMMISSION CHAMBERS
204 ASH STREET
FERNANDINA BEACH, FL 32034**

- 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 January 19, 2022 Regular Meeting.
- 4. OLD BUSINESS**
 - 4.1 **BOA 2021-0009 - JAMES & CAROLINE KIRCHMEYER, 120 N. 6TH STREET**
Variance requested from LDC Section: 5.01.03(J) to allow for an accessory structure that exceeds 25 FT in height and exceeds maximum 625 sq. ft. footprint. (*Quasi-Judicial*)
- 5. NEW BUSINESS**
- 6. BOARD BUSINESS**
- 7. STAFF REPORT**
- 8. PUBLIC COMMENT**
- 9. ADJOURNMENT**

NEXT BOA REGULAR MEETING IS SCHEDULED FOR MARCH 23, 2022

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 ADJUSTMENT
REGULAR MEETING
JANUARY 19, 2022**

- 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
Geoffrey Grant	Bill Skulmis (Alt 1)

MEMBERS ABSENT:

None

OTHERS PRESENT:

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

- 3. PLEDGE OF ALLEGIANCE**

Chair Miller and Member Grant each disclosed one ex parte communication with staff regarding tonight's case. No other members disclosed any ex parte communications.

City Attorney Bach explained the quasi-judicial procedures and voting requirements for approval or denial of a variance case.

Ms. Hartmann administered the oath to the parties that would be giving testimony.

- 4. APPROVAL OF MEETING MINUTES**

- 4.1 Approval of Minutes for the BOA Regular Meeting of November 17, 2021.

Member Hertslet noted that under item 5.1 Member Oliva corrected Mr. Keister's name, not Member Hertslet.

- 4.2 Approval of Minutes for the BOA Regular Meeting of December 9, 2021

ACTION TAKEN: A motion was made by Member Grant, seconded by Member Hertslet to approve both sets of Minutes with the noted amendment on the November 17th minutes.

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

Ms. Forehand stated that City Attorney Bach has a scheduling conflict for the March 16, 2022, BOA Meeting and has requested to postpone it by 1 week and hold it on March 23, 2022, instead. All members

agreed to this date change.

5. OLD BUSINESS

There were no items to discuss.

6. NEW BUSINESS

6.1 BOA 2021-0011 - GILLETTE & ASSOCIATES INC., AGENT FOR ROBERT P. JONES, 2756 & 2757 BAILEY ROAD

Variance requested from LDC Section: 4.04.02(E) requiring 2 vehicular access points for proposed subdivision. (*Quasi-Judicial*)

Ms. Forehand presented the case and staff recommended denial because of inconsistencies with the Special Conditions, Special Privilege, Literal Interpretation, Minimum Variance, and General Harmony criteria for granting a variance.

Member Oliva inquired about how far south Midway Road extends. Ms. Forehand confirmed that there is right-of-way access, however, it is currently unimproved.

Asa Gillette, 20 S. 4th Street, agent for the applicant, stated that this property was recently annexed into the City and will switch to City water and sewer services. He also confirmed that Midway Road is a substandard right-of-way with only a 25-foot width and to improve it could result in county wetland disruption. Mr. Gillette stated that he cannot argue with Staff's conclusions for variance criteria 2, 3, 4, and 5, but it would not hurt to ask.

Member Grant asked Mr. Gillette to speak of other options for this property if the variance was not granted. Chair Miller asked Mr. Gillette he had any documentation of his correspondence with the County Engineer. Mr. Gillette stated he tried to reach the County Engineer office about this but to no avail. Mr. Gillette stated that there is still a permit for a Right of Way to be applied through the county and a submission to discuss the project through the City's Technical Review Committee.

Public Hearing was opened.

Larry Smith, Pine Road, neighboring resident, asked about the current ownership of the property.

Public Hearing was closed with no other parties wishing to speak.

Chair Miller requested that Mr. Gillette return to the podium for additional questions. Chair Miller inquired about Mr. Gillette's thoughts on why 2 access points are required. Mr. Gillette stated that this is usually for safety reason.

Members agreed that this parcel is likely unsuitable for the applicant's intended plan.

ACTION TAKEN: A motion was made by Member Grant and seconded by Member Hertslet to deny BOA 2021-0011 without conditions; AND moved that the BOA make the following findings of fact and conclusions of law part of the record: That BOA case 2021-0011, as presented, is not substantially compliant with the Comprehensive Plan and Land Development Code to warrant approval at this time; and that BOA case number 2021-0011 does not meet the following criteria for granting a variance: special conditions, special privilege, literal interpretation, minimum variance, general harmony, and public interest.

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

7. BOARD BUSINESS

DRAFT

There were no board business discussions.

8. STAFF REPORT

9. PUBLIC COMMENT

No parties wished to speak.

10. ADJOURNMENT 5:48

Taylor Hartmann, Recording Secretary

Matthew Miller, Chair



Jon C. Lasserre

JLasserre@rtlaw.com

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Amelia Island, Florida 32034

904 . 261 . 5618 Main
904 . 396 . 0663 Fax
www.rtlaw.com

February 7, 2022

Ms. Daphne Forehand
City Planner
City of Fernandina Beach
204 Ash Street
Fernandina Beach, Florida 32034
(Via Electronic Mail to dforehand@fbfl.org and hand delivery)

**RE: BOA 2021-09 – APPLICATION FOR VARIANCE (THE
“APPLICATION”); JAMES A. AND CAROLINE R. KIRCHMEYER (THE
“APPLICANT”); 120 NORTH 6TH STREET, FERNANDINA BEACH,
FLORIDA (THE “PROPERTY”)**

Dear Ms. Forehand:

Our firm represents the above referenced Applicant in the above referenced Application which is currently scheduled to be heard before the Board of Adjustment of the City of Fernandina Beach (consecutively, the “Board” and the “City”) on February 16, 2022. It is our understanding that all required materials for the Application have been received by the City, all required fees have been paid, and all required notices have been made or are in process. Please also find attached a copy of the Owner’s Authorization for Agent Representation for our representation of our client. Please consider this letter and the Owner’s Authorization together as supplements to the Application.

BACKGROUND AND ISSUE:

Importantly, it is notable to understand that the Applicant utilizes the Property as their primary residence in Fernandina Beach for the majority of the year. As such, the daily utility and “comings and goings” in and out of the property are impactful upon their lives and lifestyle.

That understood, the Property presents a very unique situation to the Applicants for various reasons. First, there are potential impacts along both the western block face along N. 6th Street and the eastern block face of N. 7th Street (the “Double Frontage Hardship”). In addition to the Double Frontage Hardship, the Property is separated by a different set of rules, with the N. 6th Street side of the parcel being subject to Historic District regulations and the N. 7th Street parcel being outside of the Historic District (the “Jurisdictional Hardship”). Beyond those first two hardships, there is an extreme grade change wherein the elevation drops naturally from approx. 21’+/- Above Sea Level (“ASL”) on the west side of N. 6th Street to approx. 10’+/- ASL on the east side of N. 7th Street (the “Natural Topography Hardship”). These three identifiable and tangible hardships affecting the property make any development or reasonable use of this large parcel of property challenging within the confined and predetermined aspects of the City’s Land

Development Code (the “LDC”), requiring consideration of a variance an inconvenient but necessary requirement for the proper and reasonable use of the property.

In addition to the above three tangible hardships, there is another hardship that is less tangible but nonetheless poignant; that of the responsibility to fellow residents of Fernandina who respect her history, especially the history which pertains to those Fernandina residents who live in areas within the Historic District, and even more so within the “Silk Stocking District” (the “Historic Responsibility Hardship”).

The Property extends approximately 125’ along N. 6th Street and consists of a 2-story frame residence constructed in 1876 and is known as the Josiah Prescott House (notably, Josiah Prescott, a lieutenant in the Union Army, constructed the building at the northwest corner of Centre and Second Streets for his Cash Boots and Shoe Store which is now known as *The Palace Saloon*). All of the properties along this section of N. 6th Street exhibit contributing structures to the Historic District. These homes have notable names of Fernandina Beach, including, but not limited to, the Chadwick, Hirth, and Humphrey Houses. Any impact that is made along this section of North 6th Street must be considered in context with its “Silk Stocking District” neighbors, which consideration places an intangible “hardship” upon the owners creating such impact who share the privilege of living in these historic homes within this historic district within the Historic District. This intangible “hardship” could be considered a special “historic responsibility” to Fernandina’s history.

Conversely, no portion of this block of N. 7th Street is within the Historic District. The west block face is undevelopable wetlands. The east block face consists of four owners with two developed homes facing the street and the rear yard of two others (including that of the Applicant/Property). One of the homes fronting N. 7th Street was constructed around 30 years ago and the other as recently as 2021. The older of the two homes uses N. 7th Street as access for garage parking (next door to the Property and a use similar to the Applicant’s intended use). The other has front door and garage entry from N. 7th Street. Stormwater runs naturally from N. 6th Street down the sloped area to N. 7th Street to the wetlands on the east side of the road which creates issues for owners on N. 7th Street, such as the Applicant. There are no historical structures to offer comparison along N. 7th Street; that is not to say that therefore, there is no responsibility, just no Historic Responsibility hardship (although taking historical context into consideration with new construction is and should be encouraged, as was done on this section of S. 7th Street).

The juxtaposition of owning a property between these two “competing” streets could be considered another hardship on its own (the “Competing Streets Juxtaposition”), and, when combined with the four previously defined tangible and intangible hardships (all together, the “Kirchmeyers’ Hardships”), are five truly unique and complicated issues to apply the City’s relatively modern LDC to the orderly and appropriate development of the Property in a historical compliant sense.

The Applicant requests a variance from the LDC relating to the maximum footprint and height for an accessory structure. The existing structure is a dilapidated, poorly constructed, non-

conforming 1960 building with very poor drainage having a footprint of approximately 983 square feet (the “Existing Structure”). Furthermore, although the structure appears to be a two-car garage, only one car fits within the garage space so it lacks functionality, yet another hardship for the Applicant as the Existing Structure suffers from functional obsolescence. The Applicant seeks to demolish the Existing Structure and construct a new accessory structure (the “New Structure”) that would be appropriate in context and architecture to the adjoining Prescott House, a historically significant home with approx. 3,700 +/- heated square feet and 5,300 square feet under roof. The New Structure would have a footprint of 1,094 SF, which is approximately 111 square feet (i.e. approximately 11%) larger than the Existing Structure’s footprint. The New Structure is within the 25’ limitation provided in the LDC for an accessory structure in terms of height as measured from N. 6th Street. However, due to the Natural Topography Hardship, the height as measured from N. 7th Street is approximately 8.5’ over the height limitation. Notably, the grade change from the N. 6th Street to N. 7th Street is approximately 11’.

APPLICATION:

As outlined above, the Existing Structure is a dilapidated, poorly constructed, non-conforming building with poor drainage having a footprint of approximately 983 square feet and suffering from functional obsolescence.

The Application meets the criteria of Section 10.02.02 of the LDC for granting of a variance pursuant to the LDC and should be approved by the BOA for the following reasons:

1. Special Conditions: Special conditions do exist as it relates to the land structure of features of the parcel that are resulting from the actions of the Applicant. These conditions include the Kirchmeyer’s Hardships, as defined above. In particular, Natural Topography Hardship causes the height of the accessory structure on N. 7th Street side appear to be dramatic. This change in topography will require construction of footings and a stem wall to the bottom of the grade on N. 6th Street whether or not the bottom floor is finished at grade. Stated differently, the building will appear to be three stories on the N. 7th Street side as a result of the grade change despite its compliance with the 25’ height limitation for an accessory structure on the N. 6th Street side.

2. Special Privileges: While granting the variance may seem to apply a special privilege upon the Applicant, adhering to the size limitation allowed for an accessory structure as contained within the LDC would be out of proportion to the Prescott House. Keeping the two structures within proportion helps to overcome the Historic Responsibility Hardship and justifies granting a variance for the larger footprint.

Furthermore, the applicant would be permitted to maintain the existing footprint of 983 square feet at the Existing Structure. The New Structure is a mere 111 SF+/- (~11%) larger, which is a de minimis “privilege” to bestow upon the Applicant in exchange for historically relevant construction as it applies to massing and proportion.

3. Literal Interpretation. Similar to the Special Privileges argument, while literal interpretation of the LDC would not deprive the applicant of rights commonly enjoyed by others within the same zoning district, adhering to the size limitation allowed for an accessory structure as contained

zoning district, adhering to the size limitation allowed for an accessory structure as contained within the LDC would be out of proportion to the Prescott House. Keeping the two structures within proportion helps to overcome the Historic Responsibility Hardship and justifies granting a variance for the larger footprint.

Furthermore, the Applicant would be permitted to maintain the existing footprint of 983 square feet at the Existing Structure. The New Structure is a mere 111 SF+/- (~11%) larger, which is a de minimis “privilege” to bestow upon the Applicant.

Lastly, few, if any, other properties within the same zoning district as the Applicant are also burdened by the Kirchmeyer Hardships.

4. Minimum Variance. The Applicant is requesting 6 additional linear feet to be added to the rear of the Existing Structure’s footprint. Having this flexibility greatly improves the workability of a floorplan within the New Structure. The New Structure is set back more than 35’ from N. 7th Street, even greater than the 25’ front yard setback required in the R-1 zoning district.

5. General Harmony: While the New Structure may have issues regarding general harmony with the literal size requirements of the LDC, it is certainly in harmony with Policies 11.06.01 and 11.06.02 of the Comprehensive Plan, that is:

11.06.01 – The City shall ensure that new and infill development *adjacent to the Downtown* and Old Town historic districts respects and complements the patterns, character, *and scale* of those historic districts. (Emphasis added.)

11.06.02 – The City shall evaluate the neighborhoods *contiguous to the historic districts* and *evaluate strategies for revitalization of existing structures* in these neighborhoods in a manner that is consistent with their original development *and also compatible with the adjacent historic districts*. (Emphasis added.)

6. Public Interest. The New Structure is compatible with surrounding properties, will not cause injury to the area involved, and otherwise will not be detrimental to the public health safety, welfare or the environment. The proposed structure is in keeping with the design features fo the neighborhood, is in the same style as and within proportion to the Prescott House.

CONCLUSION:

The Board of Adjustments has conclusive evidence to approve BOA 2021-09 and should find that the same should be approved for the following reasons:

1. The Applicant is subject to and burdened by the Kirchmeyer Hardships, as outlined above.
2. The New Structure is in proportion and scale with the Prescott House;

Ms. Daphne Forehand

February 7, 2022

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3. The requested variances from the height and size limitations of the LDC are reasonable in consideration of the Property and Kirchmeyer Hardships; and
4. The requested variances are in harmony with the intent of the Historic Preservation Element of the Comprehensive Plan.

Thank you for your consideration. If you have any questions, please contact me any time. I look forward to reviewing your staff report for this application.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jon C. Lasserre", with a stylized, flowing script.

Jon C. Lasserre, Esq.

Print

Board of Adjustment (BOA) - Submission #8109

Date Submitted: 9/27/2021

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 forty-five (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?*

No

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

mm/dd/yyyy

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

9/28/2021

11:00 AM

PROPERTY INFORMATION

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

Site Address*

120 N 6th St

City*

Fernandina Beach

State*

FL

Zip*

32034

Parcel ID #(s)*

00-00-31-1800-0035-0030

Zoning District*

R-2

Future Land Use Designation*

Medium Density Residential

OWNER OF RECORD

As recorded with the Nassau County Property Appraiser

First Name*

James

Last Name*

Kirchmeyer

Company (if applicable)

Mailing Address*

120 N 6th St

City*

Fernandina Beach

State*

FL

Zip*

32034

Telephone Number*

716-583-5353

E-mail Address*

jakirch@real-info.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

State

Zip

Telephone Number

E-mail Address

PROJECT INFORMATION

Variance Requested from LDC Section(s)*

maximum footprint size for a rebuild of ancillary structure

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

Garage replacement and upgrade James and Caroline Kirchmeyer 120 N 6th St Fernandina Beach FL 32034 The Prescott House was built in 1876 by Josiah Henry Prescott, a Lieutenant of the Union army. It is located within the Historical District. The house is of Victorian design and includes very intricate detailed trim work. The lot itself includes 125' of frontage on N 6th St and runs 200' back until it hits N 7th St. The lot on N 7th includes 100' of frontage. As you are aware, the elevation drops substantially from 6th down to 7th. This causes a drainage issue for the existing garage. The existing garage has the appearance of one built in the 1950's and does not match the look and feel of the property. It is poorly constructed with 2 foot on center 2x4 walls. It has had extensive water damage due to poor drainage and current elevation changes. Building has many sections of rotting wood. Realizing the if a build is taken down that is existing non-conforming, current building codes allow for reconstruction of only 625 square feet for a footprint of the new structure. We come before you to request permission to not downsize the existing footprint in the rebuild. The new structure if approved would include slightly better grading of the driveway (only in front of the garage), a in-law unit on a second level, and a lower rear garage. The new garage would include all of the style and detail of the existing historic house and be a substantial upgrade to the current structure. A new fence along 7th street would be included, along with a crushed shell driveway to the street. No trees would require to be removed. Based on the sale of Clinch Kavanaugh's rear section of his property, and the completion of construction of an entire house, the construction of a garage in keeping with the style of architecture of the historic house would better the look and feel of the property. Thank you in advance for your consideration.

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.*

Owner Comment: Special conditions do exist at the subject property. The property is one of the largest lots (more than 4 typical lots) in the city that includes one single family home. The section on 6th St is 125â€™ of frontage by 100â€™ deep. The rear section, that contains the current garage (and the proposed future garage) is on 7th street and is 100â€™ by 100â€™. We are not looking to reduce development costs, quite the contrary, our desire is to improve on the current structure by creating a functional and beautiful structure that is better suited to this historic area.

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.*

Owner Comment: No special privilege is granted to the owner, as there are many properties within this district with a garage with a small living space above the garage. As a side note, an owner within the very same a block between 6th, 7th, Alachua and Broome recently received permission to split their lot into two 100â€™ x 100â€™ lots, sell off the rear portion and have a very large single family new construction recently completed.

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.*

Owner Comment: This application meets all items under section LDC 5.01.03 except for LDC 5.01.03 J; A detached accessory building shall not exceed twenty-five (25) feet in height or exceed a maximum building footprint of 625ft². The current structure is an existing non-conforming structure that already exceeds the 625 square foot footprint allowable. Adding the additional 6â€™ to the rear of the structure will only slightly alter the current footprint. See comments below regarding LDC 10.01.02: 10.01.02 Expansion or Modification of Nonconforming Uses or Structures A. Nonconforming structures shall not be expanded except in compliance with this section. B. An expansion in square footage shall be permitted where such expansion meets all requirements of this LDC. C. Nonconforming Historic Structures. Repairs, alterations and additions necessary for the preservation, restoration, rehabilitation or continued use of a nonconforming historic structure may be permissible when authorized by the HDC in the form of a Certificate of Appropriateness, provided: 1. The structure lies within the Historic District Overlay; 2. Any unsafe conditions are corrected; 3. The use(s) therein shall be in conformance with all applicable provisions of this chapter. D. An expansion of a nonconforming structure is permissible that is otherwise required by law or ordered by the City Manager to secure the safety of the building. E. A non-conforming structure which was lawfully erected on a lot of record may be reconstructed if it is substantially damaged or destroyed, provided that: 1. The reconstruction does not result in an increase in the nonconformity of the lot area, yards, setbacks or density; Owner Comment: Our plan does not affect this provision. It does not result in an increase in the nonconformity of the lot area, yards, setback or density. 2. The number of dwelling units in such reconstructed structure does not exceed the number of units in existence at the time of damage or destruction; Owner Comment: our plan does not change the current number of units in existence. 3. The repair or reconstruction is substantially completed within twenty-four months of the date of such damage. F. An expansion may be permitted where such expansion is solely to extend an existing use throughout the building in which the use occurs on the date of enactment of this LDC. Such expansion shall not be extended to occupy any land outside the building, including parking and other impervious surfaces. Owner Comment: This expansion is to extend the existing use of garage space. Our desire is to improve existing look of property along 7th St by replacing a rotting fence. No trees will be removed in this plan. A crushed shell apron will lead through a gate along 7th St and a short section of brick pavers with look and feel of existing driveway on 6th street will start inside the fence to rear garage. Neighbors to the north of us on Broome and 7th have a similar rear garage section of the property exiting on 7th.

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

Owner Comment: The variance requested is minimum in is nature and in fact, improves upon the existing structure for it use, purpose and functionality while better representing the style and historical look and feel of the property.

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

Owner Comment: We believe our plan actually improves on the harmony of the LDC. It allows us to improve the property without splitting the lots, creating new and separate lots, further degrading the value of the existing property and potentially lowering the value of neighboring properties. By keeping the property as one collective property, we believe it increases neighborhood value and the integrity of the area.

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.*

owner comment: Correct, 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.

Upload Supplemental Materials

120 N6th survey.pdf

Upload 2

120 N6 Elevations.pdf

Upload 3

120 N6 arch Plans.pdf

Upload 4

120 N6 garage grade lines.jpg

Upload 5

120 N6 garage above pic.jpeg

Upload 6

proof of ownership 120n6 1.pdf

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*

James

Applicant's Last Name*

Kirchmeyer

Today's Date*

9/27/2021



DEPARTMENT OF PLANNING & CONSERVATION

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

Please make sure to disable pop-up blocker in order to submit.



BOARD OF ADJUSTMENT STAFF REPORT
BOA 2021-09
FEBRUARY 16, 2022

Owner/Applicant:	James Kirchmeyer/Jon Lasserre
Property Address:	120 North 6 th Street
Parcel Number:	00-00-31-1800-0035-0030
Requested action:	VARIANCE from LDC Section 5.01.03 (J) to exceed maximum building footprint and height of an accessory structure.
Current zoning:	R-2 (portion of lot extends into Historic District Overlay)
FLUM land use category:	Medium Density Residential
Existing uses on the site:	Single Family Home

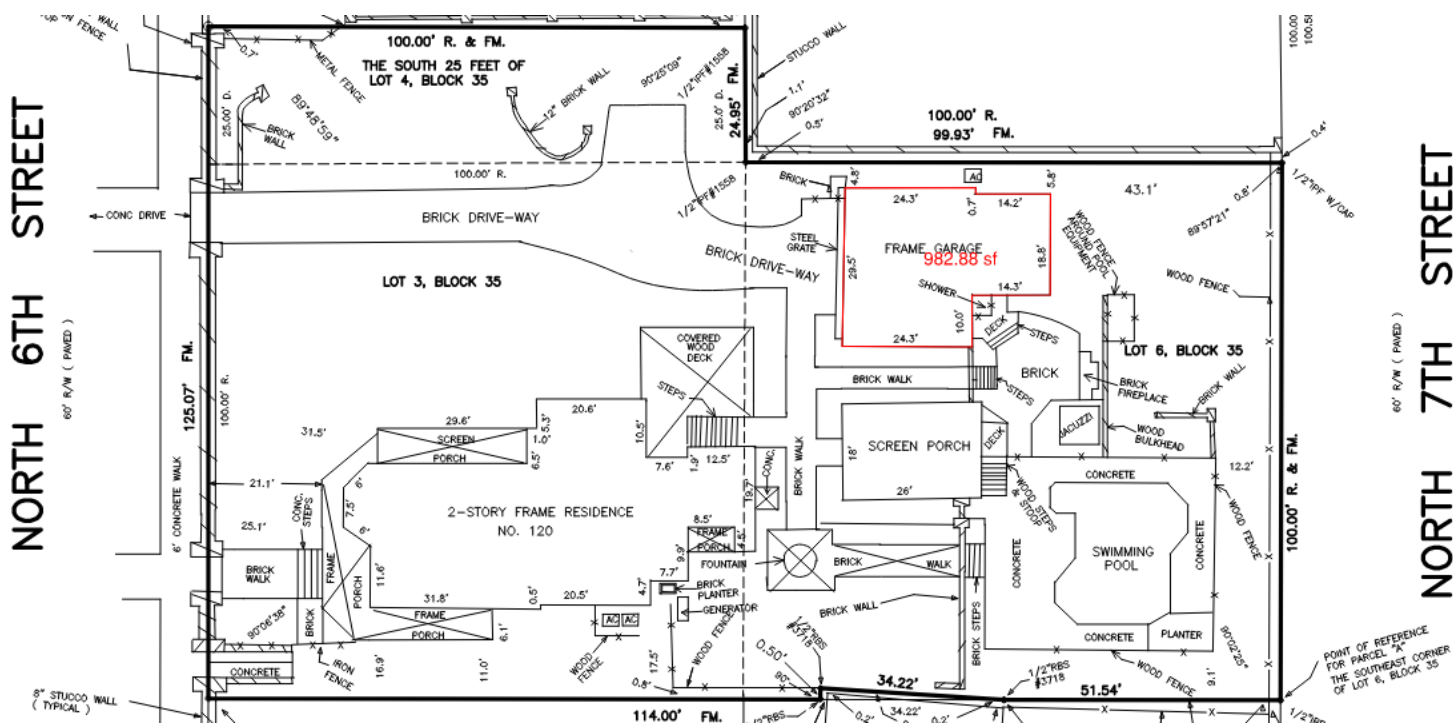
All required application materials have been received. All fees have been paid. All required notices have been made.



SUMMARY OF REQUEST AND BACKGROUND INFORMATION:

The home at 120 North 6th Street was originally constructed in 1876 and lies on a large parcel, half of which is within the Historic District Boundary. The eastern portion of the lot lies outside of this boundary where an existing, nonconforming garage is located. The requested variance application is to replace the existing nonconforming 1960 constructed structure with a new structure that exceeds the maximum footprint and height (625 sq. ft and 25 ft) requirements for accessory structures. The proposed structure will utilize the existing footprint of approximately 983 sq. ft with a 6 ft addition at the rear of the structure. The total building footprint including the addition is approximately 1094 sq. ft with an average height of approximately 29 feet. Additionally, it is important to note that this site has varying topography with elevations that significantly fall from twenty-two feet in the southwest corner to eleven feet in the northeast corner.

EXHIBIT A: SURVEY



EHIBIT B: SITE PLAN

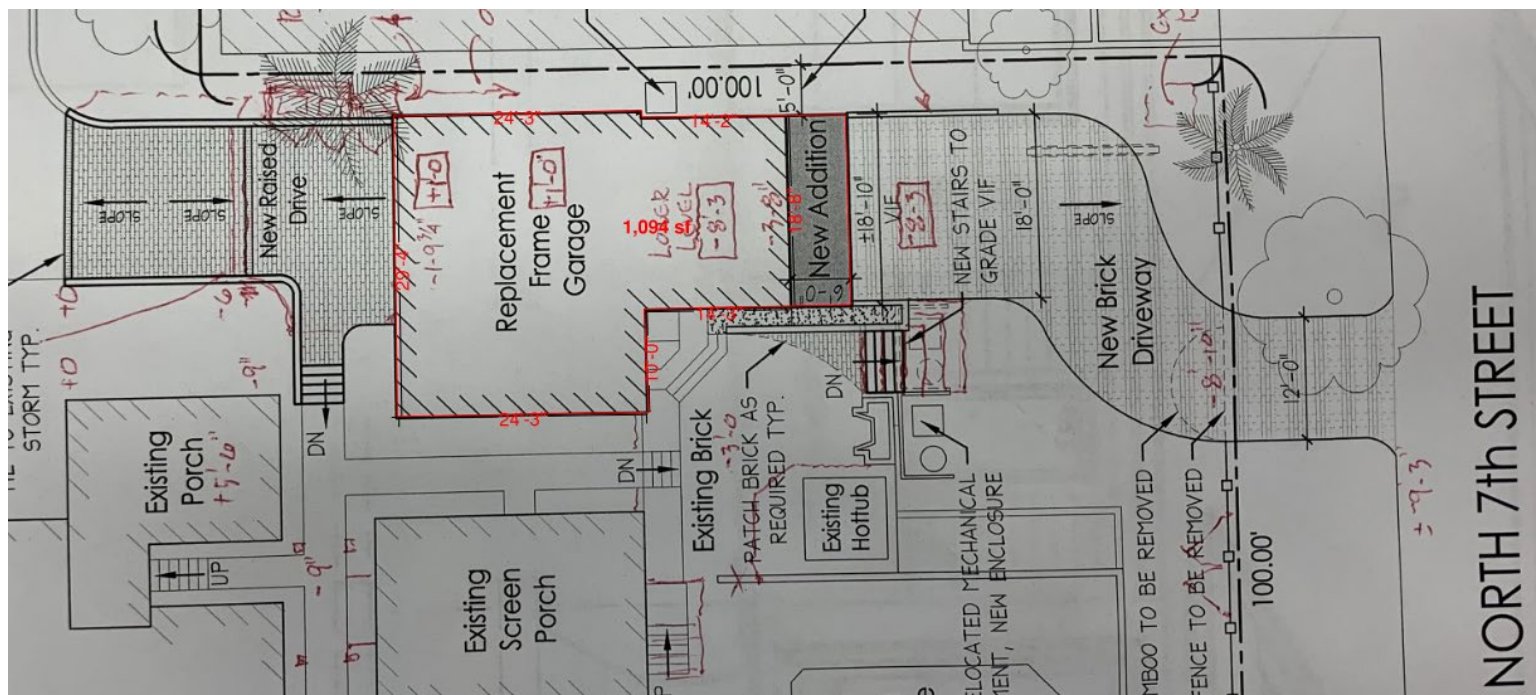
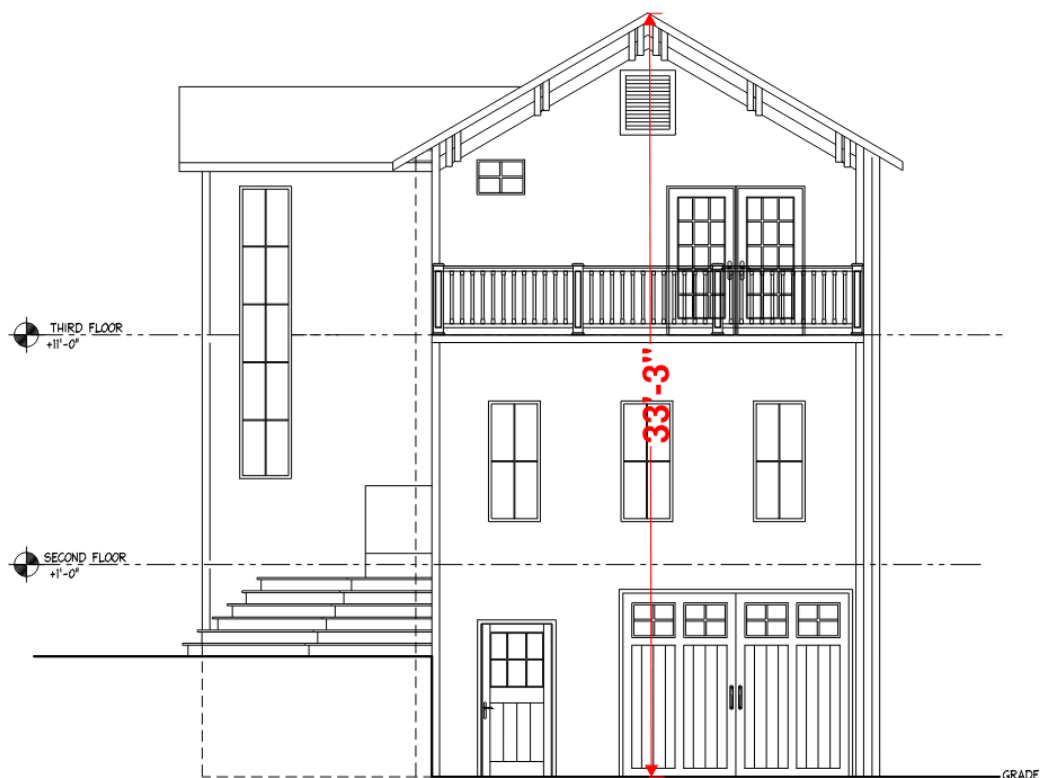


EXHIBIT C: ELEVATIONS



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 COMPREHENSIVE 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.

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
1. Special Conditions <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 <u>do exist</u> as it relates to the land, structure or features of the parcel that did not result from actions of the applicant. The varying natural topography of the lot is a special condition as it relates to the structure's overall height. This is not a condition or circumstance that results from actions of the applicant nor is it based on a desire to reduce development costs. The structure is compliant with the LDC's height limitation as measured from N. 6 th Street. Due to the significant drop in elevation, the structure exceeds the 25' height limitation as measured from N. 7 th Street.	☒ Yes ☐ No
2. Special Privilege <i>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.</i>	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. All residential properties are limited in the size and height of accessory structures regardless of the size of the property.	☐ Yes ☒ No
3. Literal Interpretation <i>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.</i>	No. Literal interpretation of the Land Development Code would <u>not deprive</u> the applicant of rights enjoyed by others in the same zoning district because all properties are limited in the size of accessory structures.	☐ Yes ☒ No

4. Minimum Variance <i>The variance requested is the minimum variance needed that will make possible the reasonable use of the land, structure, or building.</i>	No. The variance requested <u>is not the minimum</u> variance needed to make possible the reasonable use of the land, structure, or building. With the proposed addition this accessory structure will be 469 sq. ft over the accessory building footprint allowance.	☐ Yes ☒ No
5. General Harmony <i>Granting the variance will be in harmony with the general intent and purpose of the Land Development Code and Comprehensive Plan.</i>	No. Granting the variance <u>will not be in harmony</u> with the general intent and purpose of the Land Development Code and Comprehensive Plan as the survival or expansion of nonconformities is not encouraged.	☐ Yes ☒ No
6. Public Interest <i>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.</i>	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, welfare, or environment. The proposed structure will not result in tree removal as it utilizes the existing footprint. It will also be in keeping with the design features and style of the existing historic home.	☒ 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	

The requested variance is consistent with criteria 1 and 6, but it is inconsistent with criteria 2, 3, 4, and 5 for granting of a variance.

Staff recommends:

DENIAL of BOA 2021-09.

Staff recommends denial of the variance because it is not consistent with all of the criteria for the granting of a variance. Although the requested variance is inconsistent with both the Comprehensive Plan and the Land Development Code, the Board may want to give consideration to the size and natural features of the lot in relation to the proposed structure. The request maintains consistency with the scale and massing of the 1960 construction, but reconstructed to better reflect the detailing of the 1876 Victorian era principal structure.

MOTION TO CONSIDER

I move to **approve or deny** BOA case number 2021-09;

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

That BOA case 2021-09, 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 2021-09 **meets or does not meet** the following criteria for granting a variance:

LIST OF EXHIBITS:

EXHIBIT A – SURVEY

EXHIBIT B – SITE PLAN

EXHIBIT C – ELEVATIONS

Respectfully Submitted,



**Daphne Forehand
Planner I**



OWNER'S AUTHORIZATION FOR AGENT REPRESENTATION

I /WE James + Caroline Kirchmeyer
(print name of property owner(s))

hereby authorize: JON LASSERRE / ROGERS TOWERS, P.A.
(print name of agent)

to represent me/us in processing an application for: VARIANCE BEFORE THE BOARD OF ADJUSTMENT
(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.

[Signature]
(Signature of owner)

Caroline R. Kirchmeyer
(Signature of owner)

James A. Kirchmeyer
(Print name of owner)

Caroline R. Kirchmeyer
(Print name of owner)

STATE OF FLORIDA

COUNTY OF NASSAU

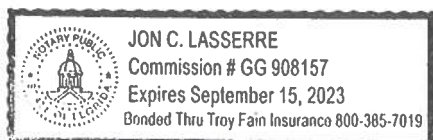
Sworn to (or affirmed) and subscribed before me by means of ☒ physical presence or ☐ online notarization, this 10TH day
of JANUARY, 20 22, by JAMES A. KIRCHMEYER & CAROLINE R. KIRCHMEYER

[Signature]
Notary Public

JON C. LASSERRE
Printed Name

09/12/2023
My Commission Expires

Personally Known ☒ OR Produced Identification ☐ ID Produced: ☐



LYING AND BEING IN THE CITY OF FERNANDINA BEACH (FORMERLY NAME FERNANDINA), IN THE COUNTY OF NASSAU AND THE STATE OF FLORIDA, AND KNOWN AND DESCRIBED UPON AND ACCORDING TO THE OFFICIAL PLAT OF SAID CITY (AS LITHOGRAPHED AND ISSUED BY THE FLORIDA RAILROAD COMPANY IN 1857, AND ENLARGED, REVERSED AND REISSUED BY THE FLORIDA TOWN IMPROVEMENT COMPANY IN 1887 AND 1901).

FOR: JAMES KIRCHMEYER,



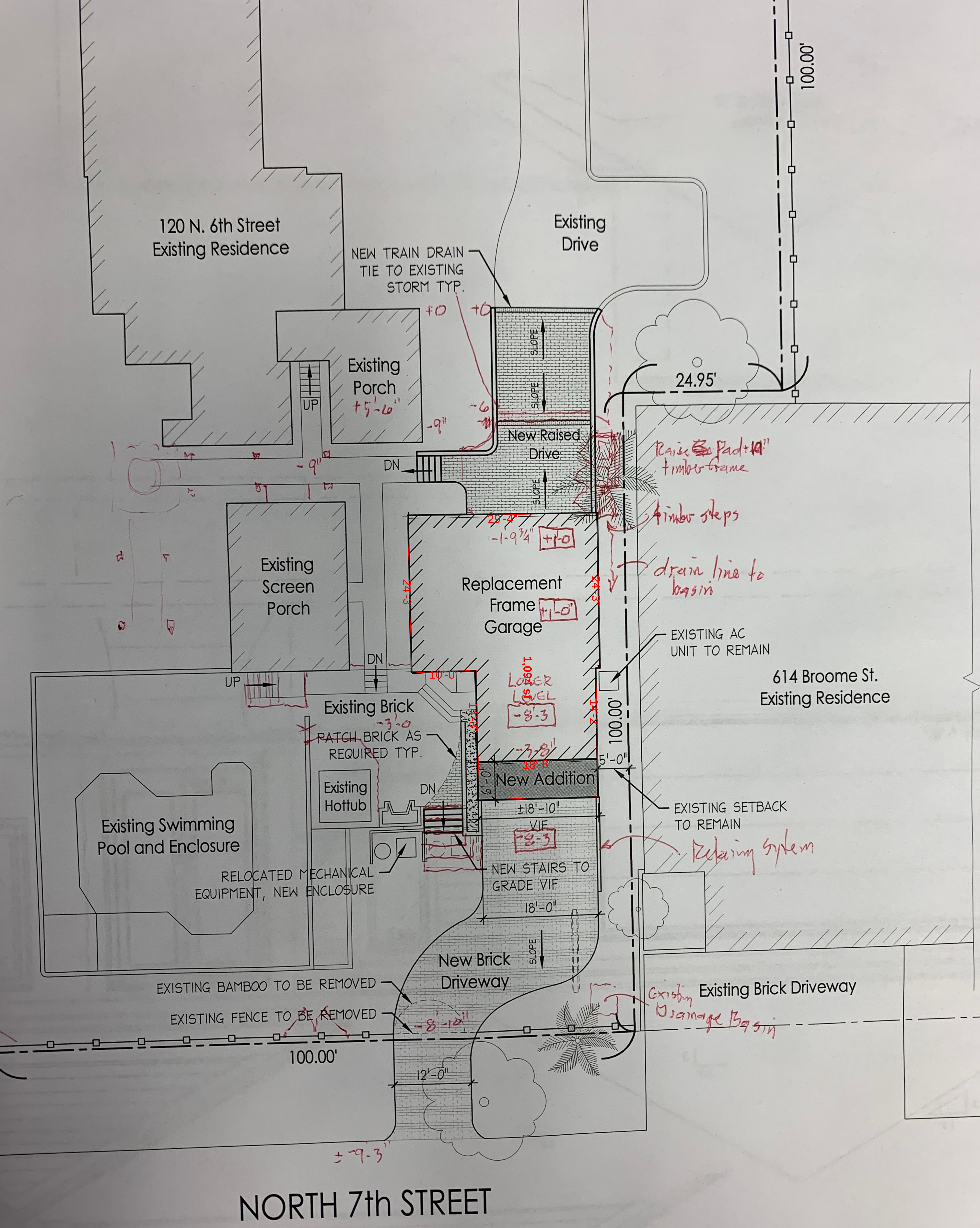
& MAPPERS, INC.
34 NORTH FOURTEENTH STREET
FERNANDINA BEACH, FLORIDA 32032
TEL. 904-261-8950 FAX 904-277-6650

JAMES C. PEACOCK, PROFESSIONAL SURVEYOR AND MAPPER
FLORIDA CERTIFICATE NO. 3718
GEORGIA CERTIFICATE NO. 2365
NOT VALID UNLESS EMBOSSED WITH SURVEYORS OFFICIAL SEAL

GRAPHIC SCALE - FEET

BEARINGS BASED ON N/A
PROPERTY SHOWN HEREON LIES WITHIN
FLOOD ZONE X AS SHOWN
FEMA FLOOD INSURANCE RATE MAP
COMMUNITY NO. 120172 PANEL 1
DATED 8/2/17
DATE OF SURVEY: AUGUST 9, 2022
SCALE 1"=20'
JOB NO. 1105-08 F.B. 322

CORNER MARKERS HAVE NO IDENTIFICATION UNO.
LEGEND:
IRON FOUND - I
IRON PIPE SET - IP
REBAR FOUND - RB
NOT TO SCALE - NTS
BUILDING RESTRICTION LINE - BR
CONCRETE FOUND - C
CONCRETE STAIN FOUND - CS
WALL FOUND - W
POINT OF CURVE - P/C
POINT OF TANGENCY - P/T
CENTRIFUGAL - C
POWER LINE - P
FLAT - F
FIELD MEASURED - FM
REBAR NOT FOUND - D
CONCRETE - CONC.
RIDGE OF DRAIN - R/D
R/W
PERFERENCE CURVE - P
OFFICIAL RECORDS BOOK - O.R.B.



NORTH 7th STREET

\\bammel_usa\bammel_architects\project_files\2019\9.56_kirchmeyer_florida_group\plans.dwg
5/16/2019 4:57 PM



CONSULTANTS:

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Any unauthorized alteration of or addition to this drawing/document is a violation of section 7307 of the New York State education law, article 147-architecture.

SEAL:

NEW BUILDING FOR :

Kirchmeyer

120 N. 6th Street
Fernandina Beach, FL.

ISSUE

ISSUE DATE:	05/16/2019
FILE NAME:	plans
PROJECT NUMBER:	19--
SCALE:	AS NOTED
DRAWN BY:	---
CHECKED BY:	ALL

SHEET TITLE:

EXTERIOR ELEVATIONS

DRAWING NO:

A-200

NASSAU COUNTY, FLORIDA
Permanent Florida residency required as of January 1st
Application Due to Property Appraiser by March 1st

Parcel: 00-00-31-1800-0035-0030

Tax Year: 2021

Owner and mailing address:
KIRCHMEYER JAMES & CAROLINE
120 N 6TH STREET
FERNANDINA BEACH, FL 32034


Type: ☒ New ☐ Change ☐ Additional

Legal Description: BLK 35 LOT 3 & PT OF LOTS
6 IN OR 2214/1641
CITY OF FDNA BEACH S/D OF
SEC 21-3N-28E UNR

Situs Address: 120 6TH ST N FERNANDINA BEACH
Email Address: JAKIRCH@REAL-INFO.COM

Improvement Type: _____ # of units: _____
Any Portion leased or rented? NO

Note: Disclosure of your social security number is mandatory. It is required by Section 196.011(1) Florida Statutes. The number will be used to verify taxpayer identity information and homestead exemption information submitted to property appraisers.

Percent Ownership 100
Date of Deed
Date Recorded
Type of Ownership

Ownership Information
Type of Deed
Instrument #
Book/Page

☒ Homestead \$25,000 - \$50,000
☐ \$500 Widow/Widower
☐ \$500 Disability
☐ Disabled Vet / Wheelchair
☐ Surv Spouse of Veteran

☐ \$5,000 Veteran Disabled 10% or more
☐ Total/Permanent Disability (Income Limits)
☐ Total/Permanent Disability-Quadriplegics
☐ Disabled Veteran Discount, 65 or older
☐ Surv Spouse of 1st Responder

☐ \$500 Blind Persons
☐ Seniors 65+ (Income Limits)
☐ Total/Permanent S/C Veteran Disability
☐ Other
☐ Tot/Permanent Disability-1st Responder

Have you ever received the benefit of Homestead Exemption in Florida? NO If so, When? _____
Address where previous Homestead was claimed (Including County) _____

PROOF OF RESIDENCE		KIRCHMEYER JAMES & CAROLINE	KIRCHMEYER CAROLINE
1 Marital Status	MARRIED	MARRIED	
2 Social Security Number	H 119-60-9952	W 128-58-5360	
3 Home/Work Phone	7165835353	7165835353	
4 Previous address of each applicant	1067 SCHOPPER RD EAST AURORA	NY 14052	
5 Current Employer	SELF REAL ESTATE	RETIRED	
6 FL Residency Date/Occupancy Date	11/1/2020 11/14/2020	11/1/2020 11/14/2020	
7 Do you claim homestead or receive property tax benefit in another state? If yes, where?			
8 Evidence of relinquishing DL from another State	Yes No	Yes No	Yes No
9 Florida Driver License/Issue Date	K625441620600 11/16/2020	K625116645410 12/28/2020	
10 Florida Vehicle Tag #	201RLF	201RLF	
11 Date of Birth	02/20/1962	02/01/1964	
12 Place of Birth/U.S. citizen?	NEW YORK X Yes No	NEW YORK X Yes No	Yes No
13 Immigration Card if not U.S. citizen			
14 Voter Registration #/Date	REG	PENDING	
15 School location of dependent children	NO	NO	
16 Declaration of Domicile			
17 Proof of Utility Payment// Bank acct mailing address	Yes No	Yes No	Yes No
18 Address listed on your last IRS return	1067 SCHOPPER RD EAST AURORA NY 14052	SAME	
19 Physical address of each owner			
20 List all residential properties you or your spouse own in or out of Florida			

I authorize this agency to obtain information to determine my eligibility for the exemptions applied for. I qualify for these exemptions under Florida Statutes. I own the property above and it is my permanent residence or the permanent residence of my legal or natural dependent(s). (See s. 196.031, F.S.). I understand that under section 196.131(2), Florida Statutes, any person who knowingly and willfully gives false information to claim homestead exemption is guilty of a misdemeanor of the first degree, punishable by imprisonment up to one year, a fine up to \$5,000, or both. Under penalties of perjury, I declare that I have read the foregoing application and the facts in it are true.

Caroline Kirchmeyer
Signature, Applicant

[Signature]
Signature, Applicant

Signature, Applicant

11/17/2020

Application Date

Haley Graft
Signature, Property Appraiser/Deputy

Entered by