



Board of Adjustment  
Brevard County Government Center  
2725 Judge Fran Jamieson Way, Building C, Commission Room, Viera, Florida  
Agenda  
Wednesday, March 20, 2024

**Call To Order 1:30 PM**

**Approval of Minutes - January 17 & February 21, 2024**

**G. Public Hearings**

- G.1.** Christopher Strozier requests a variance of Chapter 62, Article VI, Brevard County Code, for lot width in an RU-1-11 zoning classification. (23V00047) (Tax Account 2511433) (District 2)
- G.2.** Steve and Lisa Barnes request a variance of Chapter 62, Article VI, Brevard County Code, for a principal structure in an RU-1-13 zoning classification. (24V00002) (Tax Account 2956450) (District 3)
- G.3.** James Rowan and Sarajane Sengel requests variances of Chapter 62, Article VI, Brevard County Code, for a principal structure in an RU-2-15 zoning classification. (24V00003) (Tax Account 2435723) (District 2)
- G.4.** Gary Lee Collar and Susan Collar Trust requests variances of Chapter 62, Article VI, Brevard County Code, for a boat dock and moored watercraft at the dock in an EU zoning classification. (24V00004) (Tax Account 2609578) (District 4)
- G.5.** Ronald Robin requests a variance of Chapter 62, Article VI, Brevard County Code, for an accessory structure in a PUD zoning classification. (24V00006) (Tax Account 2614560)
- G.6.** O’Kane Family Trust (Gwyn & Anne O’Kane) requests variances of Chapter 62, Article VI, Brevard County Code, for a boat dock and watercraft in an RU-1-13 zoning classification. (24V00005) (Tax Account 2519529) (District 2)
- G.7.** Kevin and Torri Downs requests variances of Chapter 62, Article VI, Brevard County Code, for a accessory structures in an EU zoning classification. (23V00033) (Tax Account 2606220) (District 4)

**Public Comment**

Adjournment

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons needing special accommodations or an interpreter to participate in the proceedings, please notify the Planning and Development Department no later than 48 hours prior to the meeting at (321) 633-2069.

Assisted listening system receivers are available for the hearing impaired and can be obtained from SCGTV staff at the meeting. We respectfully request that ALL ELECTRONIC ITEMS and CELL PHONE REMAIN OFF while the Planning and Zoning Board is in session. Thank You.

This meeting will be broadcast live on Space Coast Government Television (SCGTV) on Spectrum Cable Channel 499, Comcast (North Brevard) Cable Channel 51, and Comcast (South Brevard) Cable Channel 13 and AT&T U-verse Channel 99. SCGTV will also replay this meeting during the coming month on its 24-hour video server nights, weekends, and holidays. Check the SCGTV website for daily program updates at <http://www.brevardfl.gov>. The Agenda may be viewed at: <http://www.brevardfl.gov/Board Meetings>



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.1.

3/20/2024

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### **Subject:**

Christopher Strozier requests a variance of Chapter 62, Article VI, Brevard County Code, for lot width in an RU-1-11 zoning classification. (23V00047) (Tax Account 2511433) (District 2)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider a variance of Chapter 62, Article VI, Brevard County Code, for the lot width in an RU-1-11 (Single-Family Residential) zoning classification.

### **Summary Explanation and Background:**

Christopher D. Strozier requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1340(5) (a), to permit a variance of 10 ft. from the required 75-ft. minimum lot width in an RU-1-11 (Single-Family Residential) zoning classification. Currently zoned RU-1-9 (Single-Family Residential). The property is 0.31 acres, located on the west side of Kaiser Road, approx. 203 ft. south of Smith Road. (2466 Kaiser Road, Mims)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

TO: Board of Adjustment Members  
FROM: Paul Body, Senior Planner  
Thru: Jeffrey Ball, AICP, Planning & Zoning Manager  
SUBJECT: Variance Staff Comments for Wednesday, March 20, 2024  
DATE: February 27, 2024

**THE FOLLOWING ITEM WAS RE-ADVERTISED FROM THE JANUARY 17, 2024, BOA MEETING. THIS ITEM NEEDED TO BE RE-ADVERTISED DUE TO AN ERROR IN THE LEGAL DESCRIPTION OF THE WARRANTY DEED.**

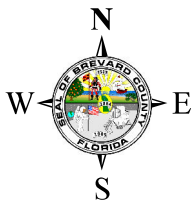
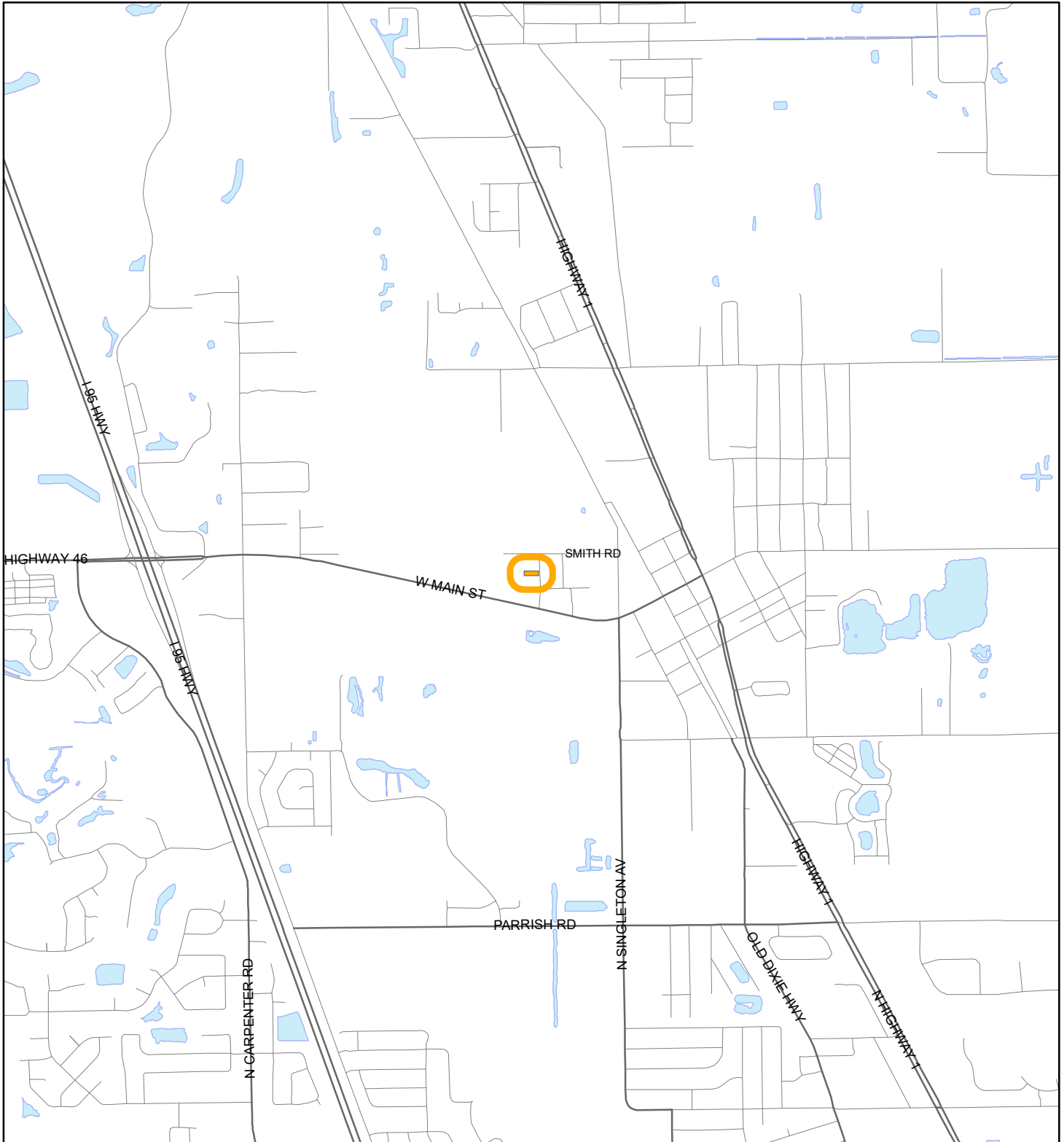
### DISTRICT 1

**1. (23V00047) Christopher D. Strozier** requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1340(5)(a), to permit a variance of 10 ft. from the required 75-ft. minimum lot width in an RU-1-11 (Single-Family Residential) zoning classification. The parcel is currently zoned RU-1-9 (Single-Family Residential). This request represents the applicant's request to legitimize an existing parcel to be rezoned. The applicant states that the parcel was subdivided into its current configuration on February 28, 1960, by a previous owner and the current RU-1-9 zoning classification is not consistent/compatible with the Residential 4 (RES 4) Future Land Use classification. This request equates to a 13% deviation of what the code allows. There are no variances to the minimum lot width requirement in the immediate area. There is no code enforcement action pending with the Brevard County Planning and Development Department. If the Board approves the variance, it may want to limit its approval as depicted on the survey provided by the applicant with a date of 10/27/2020.

# LOCATION MAP

CHRISTOPHER D. STROZIER

23V00047





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

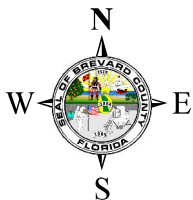
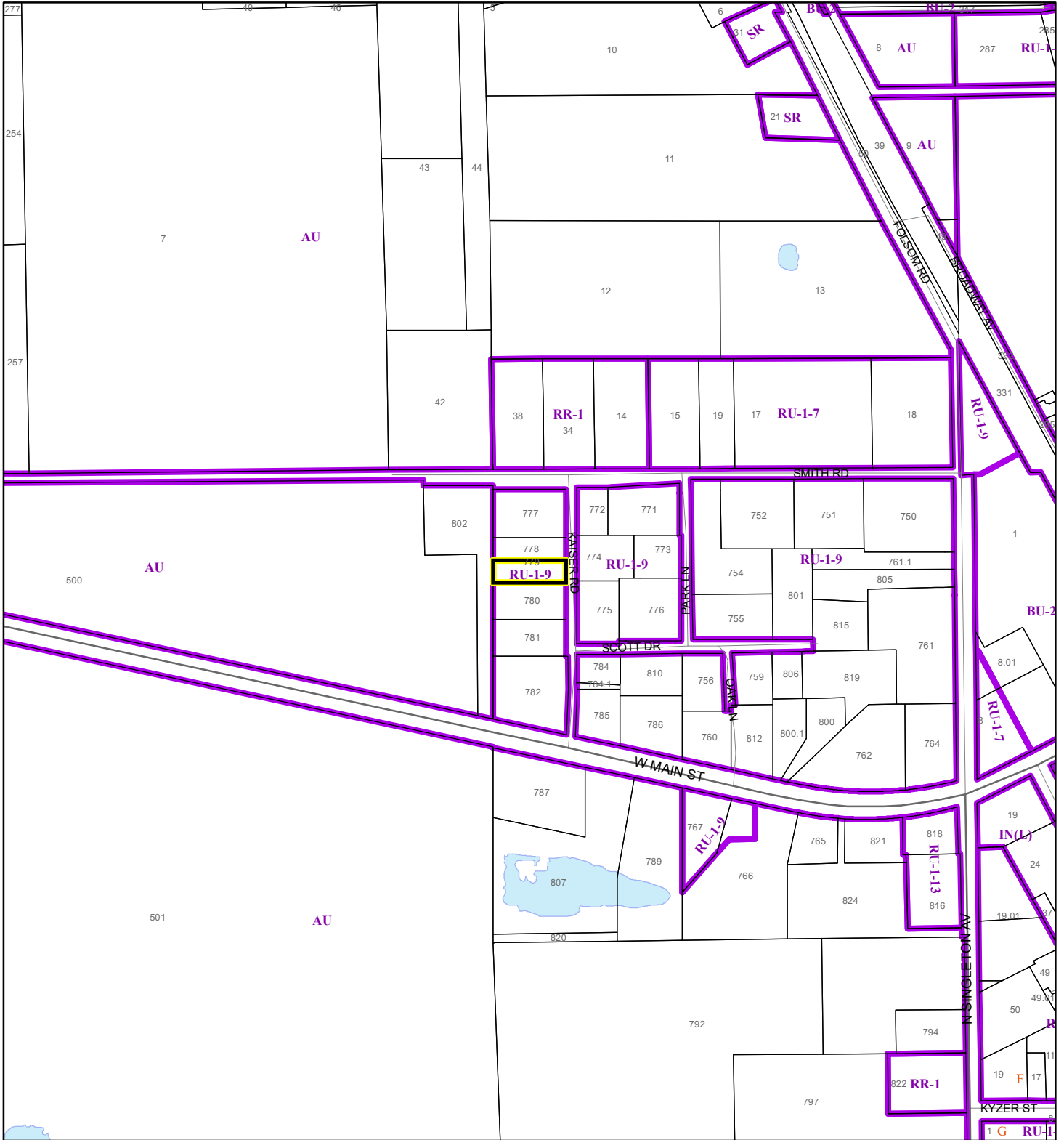
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/28/2023

-  Buffer
-  Subject Property

# ZONING MAP

CHRISTOPHER D. STROZIER  
23V00047



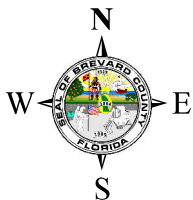
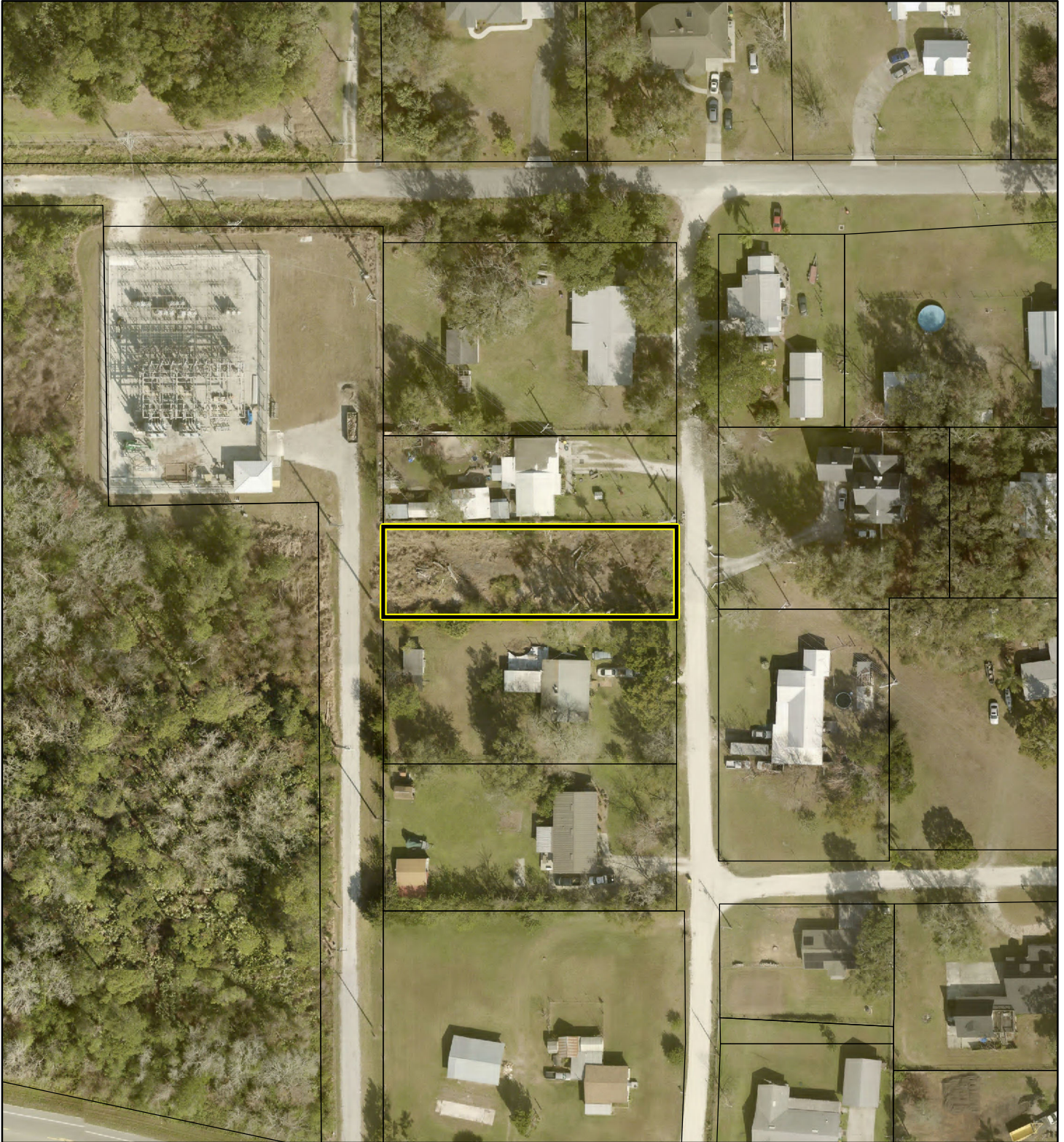
1:4,800 or 1 inch = 400 feet

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Produced by BoCC - GIS Date: 11/28/2023

- Subject Property
- Parcels
- Zoning

AERIAL MAP  
CHRISTOPHER D. STROZIER  
23V00047





1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 11/28/2023

 Subject Property  
 Parcels

## VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number \_\_\_\_\_, and  
name of contractor \_\_\_\_\_

No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

*This land was subdivided in Distfiguration in 1960. And does not meet width to build a single family home.*

(2) That the special conditions and circumstances do not result from the actions of the applicant:

*This was subdivided in this figurat. na by previous owner.*

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

*I am just trying to legitimize This lot for a single family home.*

(over)



(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

*Without the Variance and rezoning the property it would just be vacant land*

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

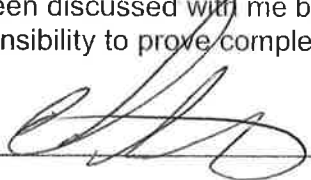
*Yes this the minimum variance requested.*

(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

*Yes to be the intent to legitimize the lot to build single family houses*

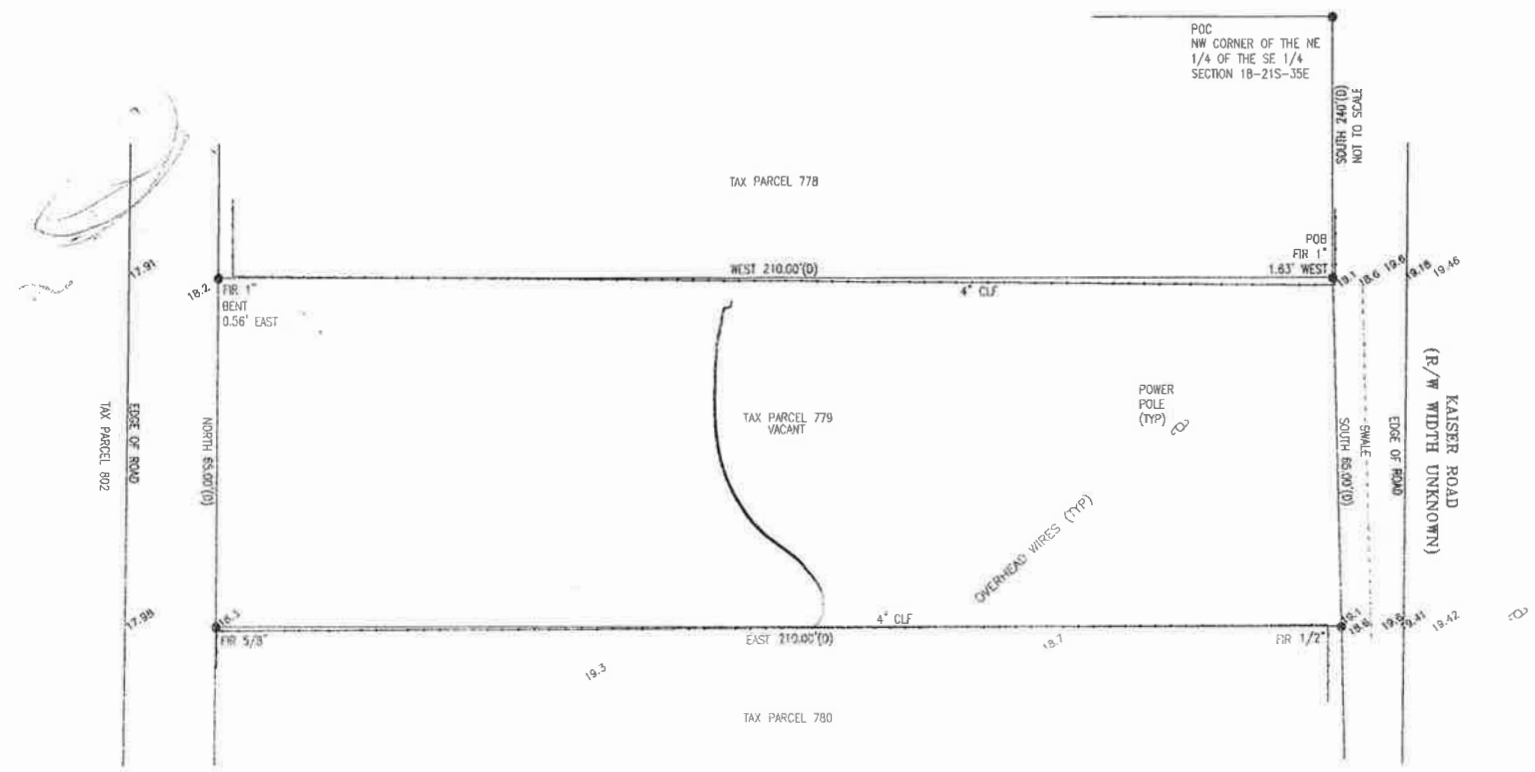
I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant



Signature of planner



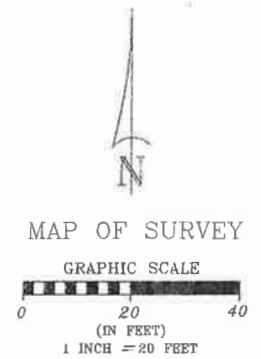


**LEGAL DESCRIPTION:**

BEGIN AT A POINT 240 FEET SOUTH OF THE NORTHWEST CORNER OF THE NORTHEAST 1/4 OF THE SOUTHEAST 1/4 SECTION 18, TOWNSHIP 21 SOUTH, RANGE 35 EAST; THENCE RUN SOUTH 65 FEET; THENCE RUN EAST 210 FEET; THENCE RUN NORTH 65 FEET; THENCE RUN WEST 210 FEET TO THE POINT OF BEGINNING.

**SURVEYOR'S NOTES:**

1. Unless otherwise noted, only plotted easements are shown hereon.
2. P.U.D.E. denotes Public Utilities and Drainage Easement; P.U.E. denotes Public Utilities Easement.
3. No underground utilities or improvements were located unless otherwise shown.
4. Unless otherwise noted, any elevations shown are assumed for calculation purposes.
5. Bearings shown hereon are based on the Centerline line of KAISER ROAD, being SOUTH according to the Plat described hereon and may not be a True North Azimuth.
6. This site appears to lie within F.J.R.M. Zone "X" per Community Panel Number 12095C0115G, dated 03/17/14.



**LEGEND:**

- Set 1/2" iron rebar with cap # PSM 6545
- Found iron rebar, size and cap #
- Set 4"x 4" concrete monument with cap # PSM 6545
- Found concrete monument, size and identification #
- △ Set nail and disk # PSM 6545
- ▲ Found nail and disk, identification # as shown
- 75.5 Existing spot elevation NAVD 1988
- Denotes concrete areas

- PSM PROFESSIONAL SURVEYOR & MAPPER
- LB LICENSED BUSINESS
- FIR FOUND IRON REBAR
- SIR SET IRON REBAR
- R/W RIGHT OF WAY
- P P.L.A.T.
- MEAS. MEASURED DISTANCE
- FIRM FEDERAL INSURANCE RATE MAP
- P.U.D.E. PUBLIC UTILITIES AND/OR DRAINAGE EASEMENT
- CBS CONCRETE BLOCK STRUCTURE
- PC POINT OF CURVE
- S/W SIDEWALK
- A/C AIR CONDITIONING
- FB FIELD BOOK
- EP EDGE OF PAVEMENT
- TYP TYPICAL
- CLF CHAIN LINK FENCE

Section 18, Township 21S, Range 35E

Drawn by:	CD	<b>Layout Services, Inc.</b>
Checked by:	JZ	
Scale:	1" = 20'	LAND SURVEYING & MAPPING 3380 S PARK AVE SUITE 7 TITUSVILLE, FL. 32796 (321) 529-4484 layout1@att.net
Date:	10-27-20	
Project #	20-466	
DATE	REVISIONS	

**BOUNDARY & IMPROVEMENT SURVEY**

Certified to:

Christopher D Strozier  
Alliant National Title Insurance Company  
Island Title & Escrow Agency Inc.

I hereby certify that the survey shown hereon is true and correct to the best of my knowledge and belief, based on actual measurements taken in the field. This survey meets the Standards of Practice as set forth by the Florida Board of Professional Land Surveyors in Chapter 5J-17, Florida Administrative Code, pursuant to Section 472.027, Florida Statutes.

James C  
Zimmerman

Digitally signed by James C Zimmerman  
DN: c=US, o=Professional Land Surveyors, ou=James C Zimmerman, email=jzimmer@att.net, cn=James C Zimmerman  
James Zimmerman  
Professional Land Surveyor No. 6541  
Certificate of Authorization No. 754C





# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.2.

3/20/2024

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### **Subject:**

Steve and Lisa Barnes request a variance of Chapter 62, Article VI, Brevard County Code, for a principal structure in an RU-1-13 zoning classification. (24V00002) (Tax Account 2956450) (District 3)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider a variance of Chapter 62, Article VI, Brevard County Code, for a principal structure in an RU-1-13 (Single-Family Residential) zoning classification.

### **Summary Explanation and Background:**

Steve and Lisa Barnes request a variance of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1340(5)(a), to permit a variance of 2 ft. from the required 7.5-ft side (East) setback for a principal structure in an RU-1-13 (Single-Family Residential) zoning classification. The property is 0.23 acres, located on the north side of Beverly Court, approx. 475 ft. west of Hiawatha Way. (310 Beverly Ct., Melbourne Beach)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

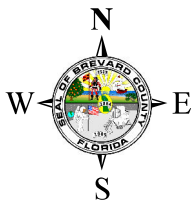
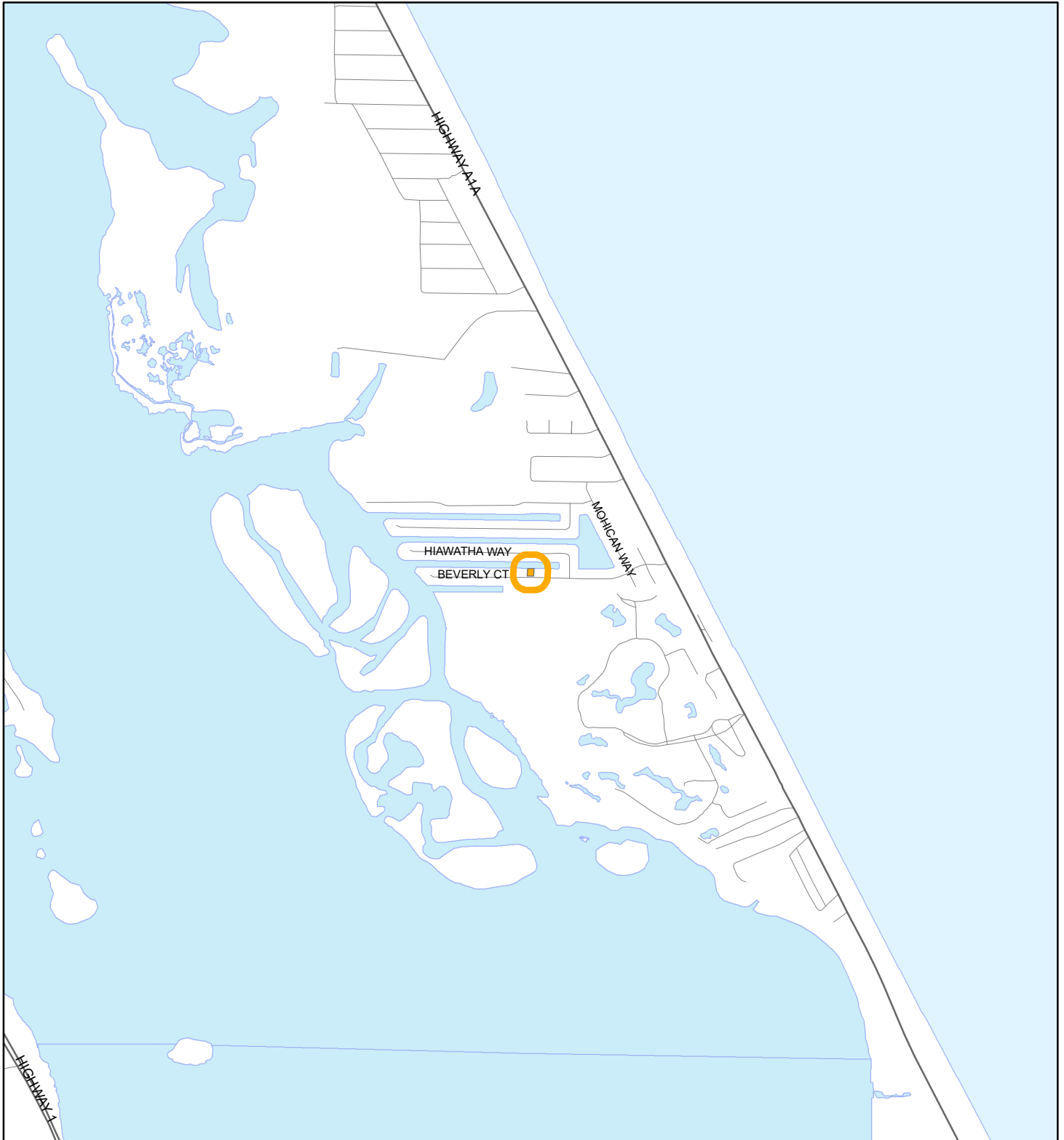
TO: Board of Adjustment Members  
FROM: Paul Body, Senior Planner  
Thru: Jeffrey Ball, AICP, Planning & Zoning Manager  
SUBJECT: Variance Staff Comments for Wednesday, March 20, 2024  
DATE: February 27, 2024

### DISTRICT 3

**2. (24V00002) Steve Cary Barnes and Lisa Marie Barnes** requests a variance of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1340(5)(a), to permit a variance of 2 ft. from the required 7.5-ft side (East) setback for a primary structure in an RU-1-13 (Single-Family Residential) zoning classification. This request represents the applicants' request to build an attached garage addition to their house. The applicants state with the width of their lot and the location of the house, they are limited on spacing for the proposed addition. This request equates to a 27% deviation of what the code allows. There are no variances to the minimum setback requirement for the principal structure in the immediate area. There is no code enforcement action pending with the Brevard County Planning and Development Department. If the Board approves the variance, it may want to limit its approval as depicted on the survey provided by the applicant with a revision date of 12/11/2023.

# LOCATION MAP

Steve & Lisa Barnes  
24V00002





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

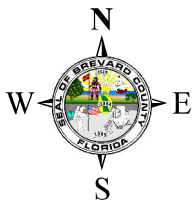
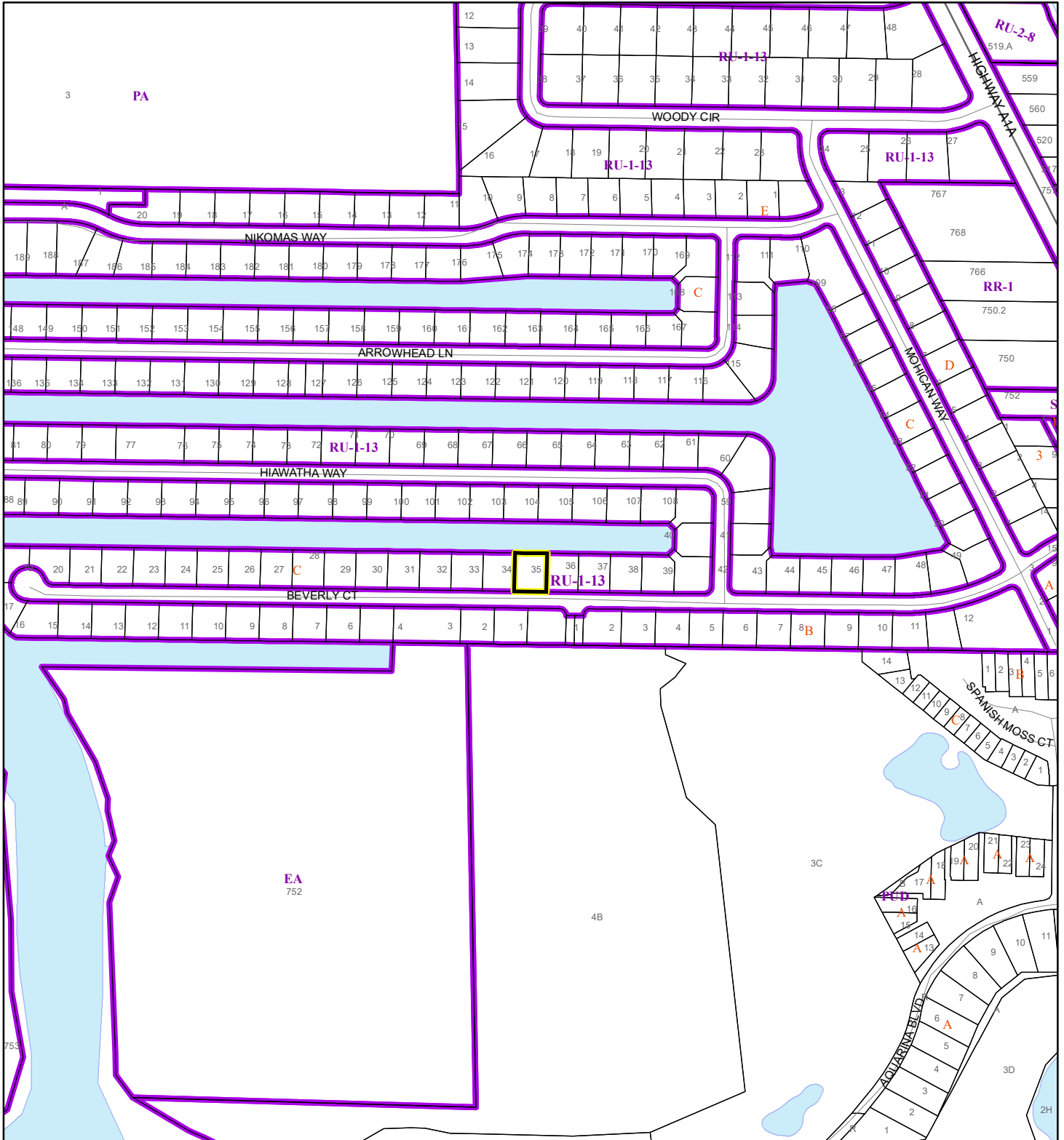
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Produced by BoCC - GIS Date: 1/11/2024

-  Buffer
-  Subject Property

# ZONING MAP




Steve & Lisa Barnes  
24V00002



1:4,800 or 1 inch = 400 feet

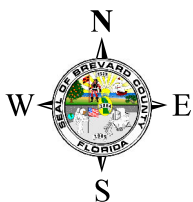
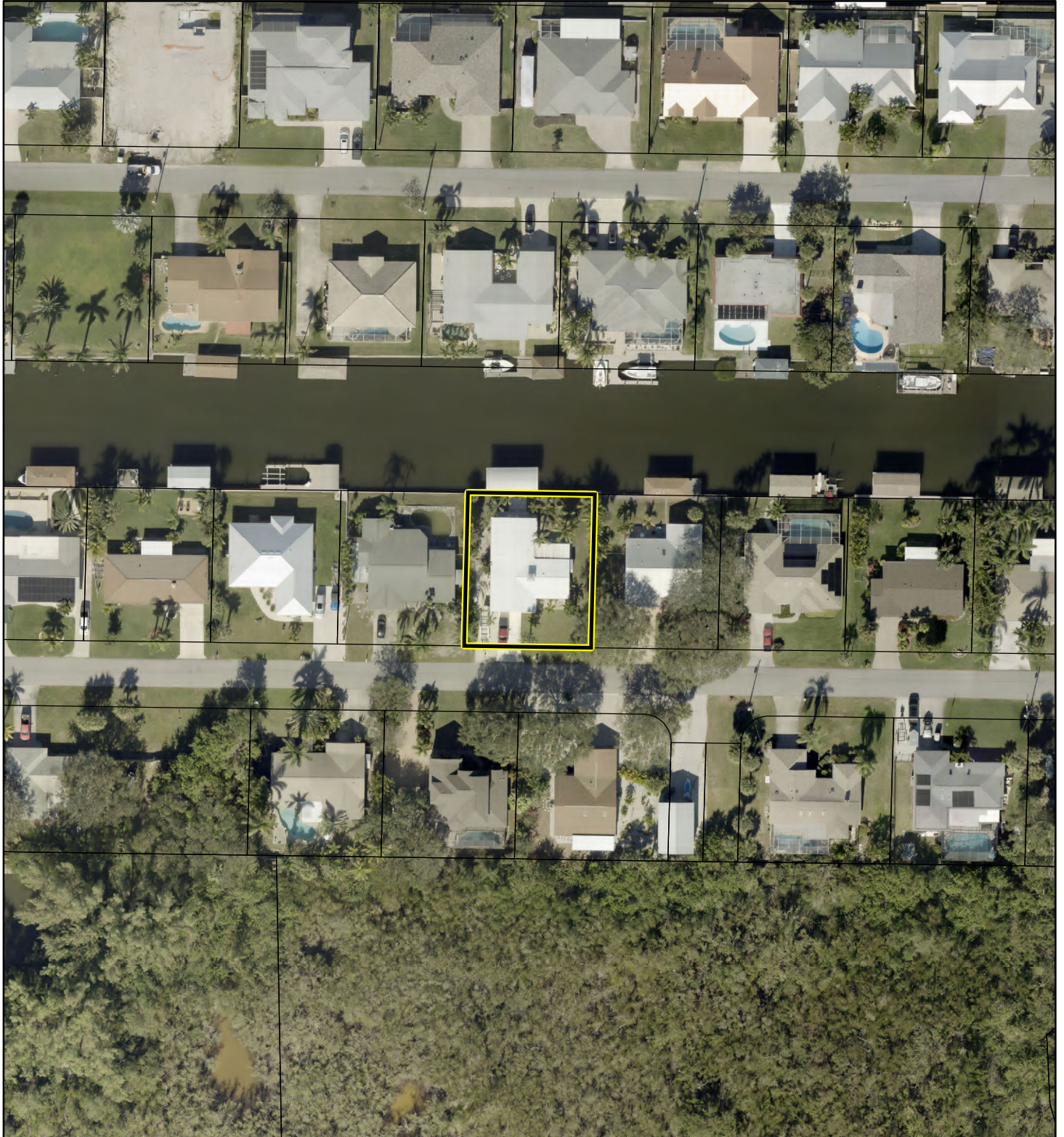
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Produced by BoCC - GIS Date: 1/11/2024

-  Subject Property
-  Parcels
-  Zoning

# AERIAL MAP

Steve & Lisa Barnes  
24V00002




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

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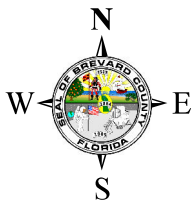
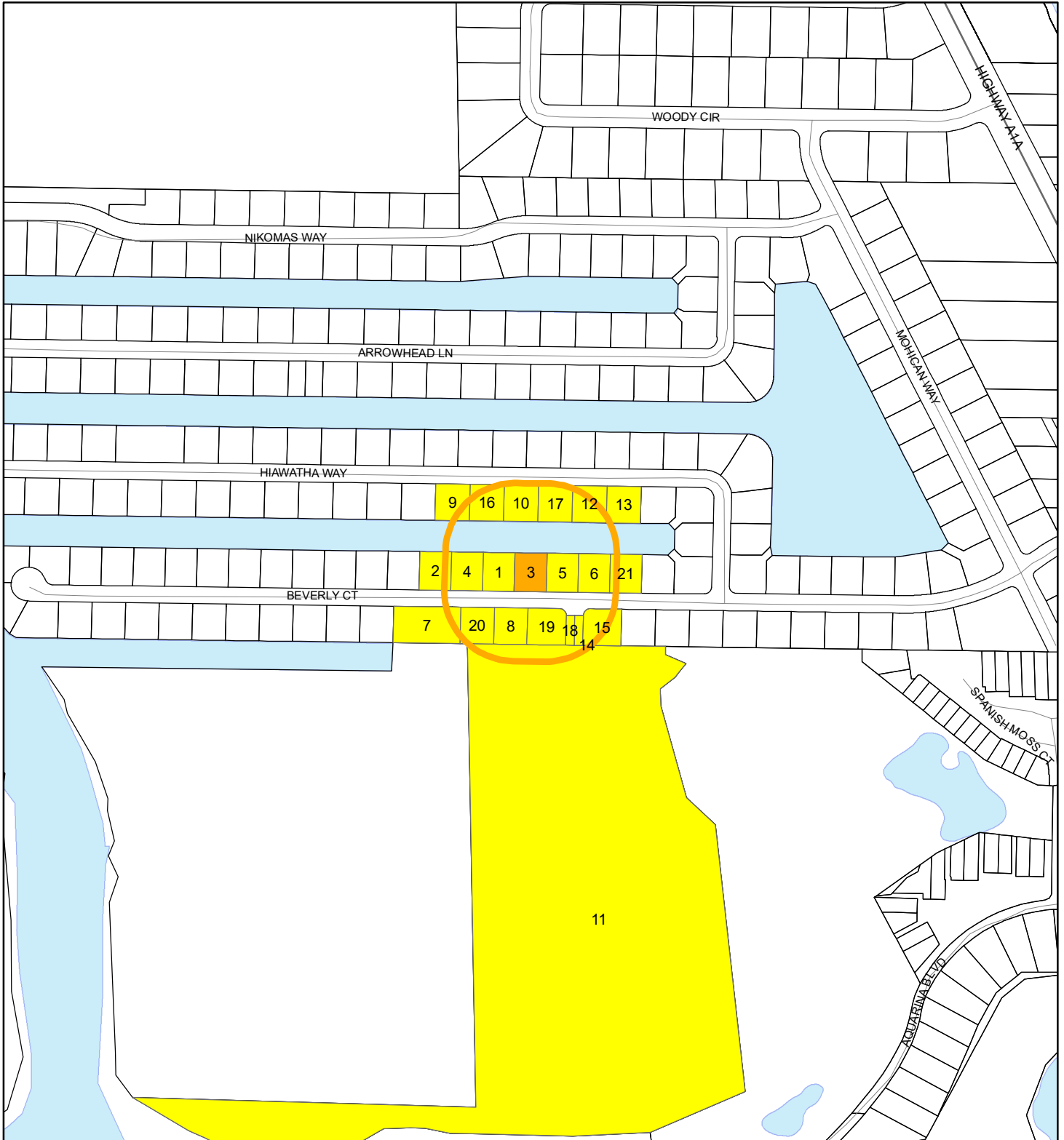
Produced by BoCC - GIS Date: 1/11/2024

 Subject Property

 Parcels

# RADIUS MAP

Steve & Lisa Barnes  
24V00002







1:4,800 or 1 inch = 400 feet

Buffer Distance: 200 feet

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Produced by BoCC - GIS Date: 1/11/2024

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels



# VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number \_\_\_\_\_, and  
name of contractor \_\_\_\_\_

No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

The addition of an attached garage is meant to protect our vehicle from storm damage to include hurricanes and a large oak tree adjacent to our property. Repairs have been made twice to my vehicle, we have borrowed our neighbor's large garage when available to park our truck but this now has ended as they currently have an RV filling this larger garage.

(2) That the special conditions and circumstances do not result from the actions of the applicant:

Other than purchasing our home, we have done nothing to cause this hardship on ourselves. Storms specifically and to include the large oak tree continues to threaten our vehicle in which we are simply trying to protect our property.

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

We feel the <sup>garage</sup> addition is not a special privilege and the requested 1.83' variance will only provide protection for our property; no different than our adjacent neighbors. We have spoken to all neighbors (within 300 yards) explaining our situation; all are in agreement this is an appropriate request.

(over)

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

Since our lot size is 91' east to west, we are very limited on spacing after considering the 7.5' setbacks. We are simply requesting 1.83' easterly variation which will allow us the requested protective enclosure. Our direct neighbor has a much larger garage which would provide us equivalent protection for our vehicle.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

This variance request is the minimum required due to the engineered plans drafted; the block-structure and single garage door required the 18.4 exterior width. The request is for 1.83' variance, minimum and no more.

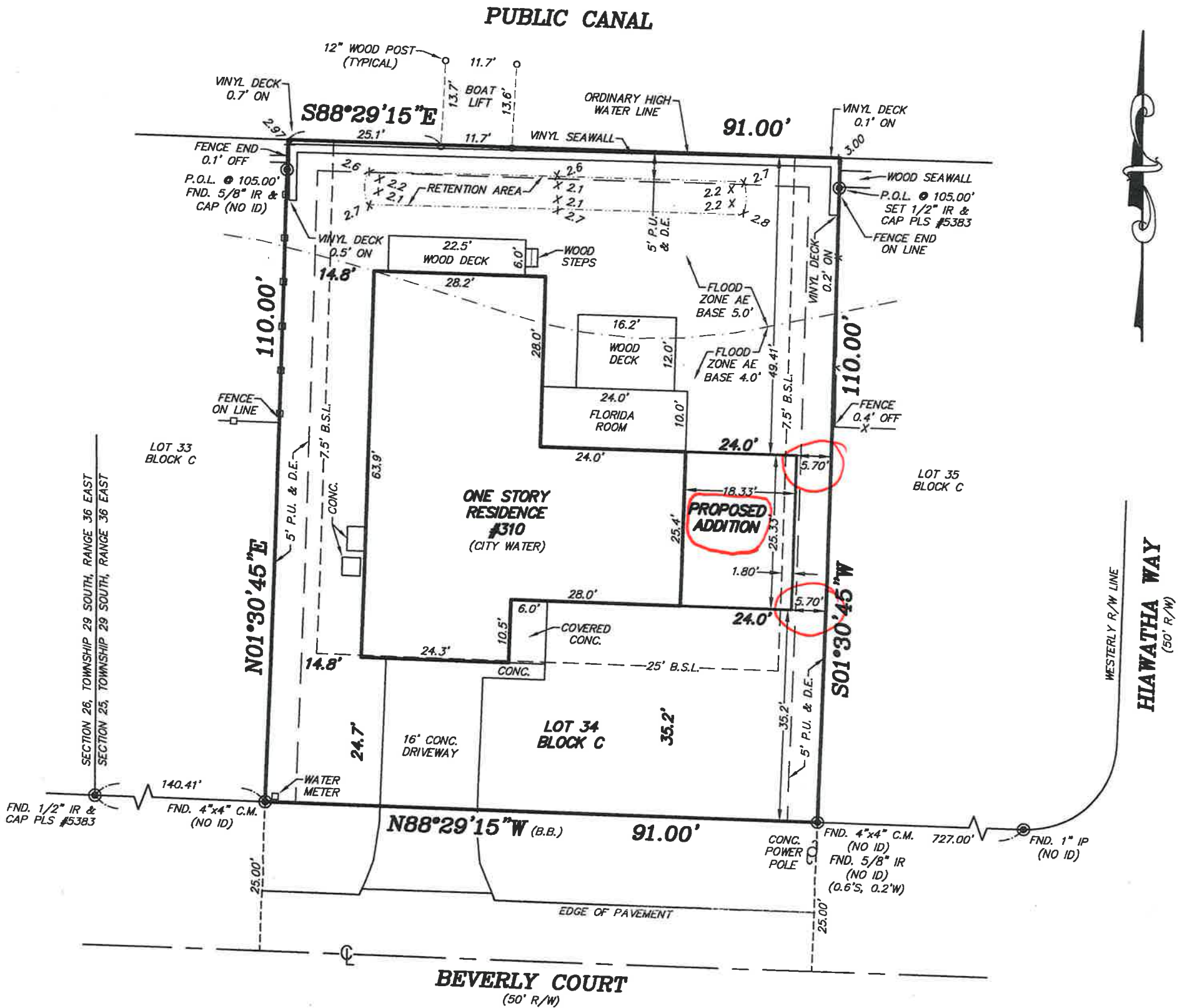
(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

The garage addition utilizing the requested variance will marry to the existing home and is a proper fit for the neighborhood. I have spoken to neighbors showing them plans, all are supportive. This variance does not impede or structurally restrict access to the canal or any throughfare.

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant Steven Cunningham

Signature of planner Paul Body



**SURVEY PREPARED FOR:**  
**STEVE CARY BARNES AND LISA MARIE BARNES**

**DESCRIPTION:** LOT 34, BLOCK C, SECTION 3 SUNNYLAND BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGE 1, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

# AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO FLOOD INSURANCE RATE MAP #12009C 0711 H, DATED JANUARY 29, 2021 THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE AE. BASE 4.0' & 5.0' (NAVD 88)

TYPE OF SURVEY:  
**BOUNDARY**

SCALE: 1" = 20'

REVISION: \_\_\_\_\_  
 REVISION: \_\_\_\_\_  
 REVISION: \_\_\_\_\_  
 REVISION: \_\_\_\_\_  
 REVISION: PLOT PLAN 12-11-23  
 REVISION: ASBUILT 07-13-18

FIELD DATE: 11-16-17

SECTION 25,  
 TOWNSHIP 29 SOUTH,  
 RANGE 38 EAST

**PROJECT #38825**

**GENERAL NOTES:**

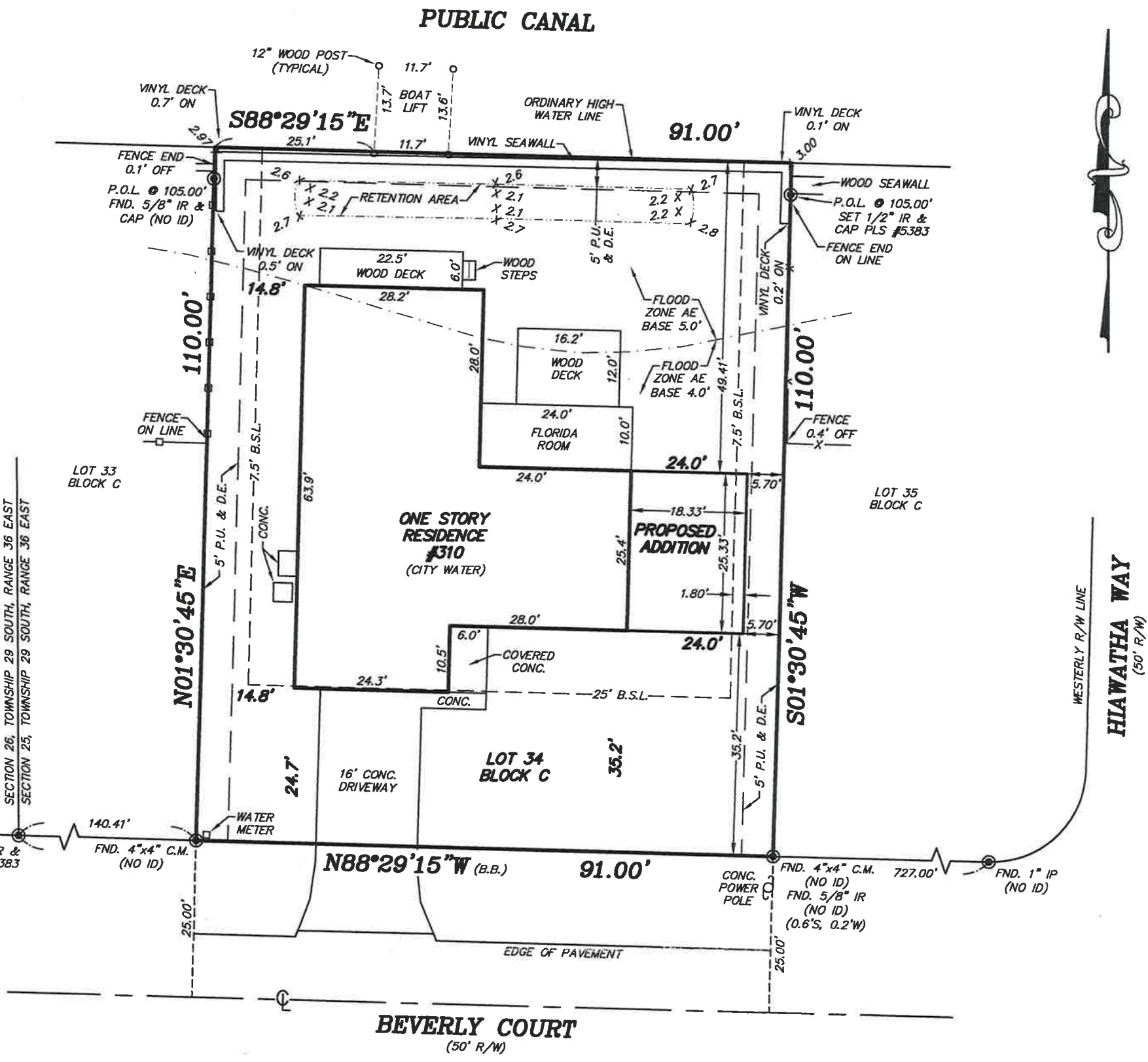
1. THIS SURVEY AND DRAWING HAS BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARD OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.
2. THIS SURVEY AND DRAWING IS FOR THE SOLE USE AND BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE AS NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
3. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE SEAL OF THE FLORIDA LICENSED SURVEYOR, AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
4. NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
5. THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
6. BEARINGS ARE BASED ON AN ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
7. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED.
9. "NO WELLS" AND "NO SEPTICS" ARE DEFINITIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

**3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B. #6623**  
**PHONE: (321)768-8110 FAX: (321)952-9771 EMAIL: frontdesk@aalsurvey.com**

**ANDREW W. POWSHOK**  
 P.L.S. No. 5383

**DANIEL D. GARNER**  
 P.L.S. No. 6189

LEGEND	
(B.B.)	- BASIS OF BEARING
(M)	- MEASURED <span style="border: 1px solid black; padding: 0 2px;">XXXX</span> PROPOSED GRADES
(P)	- PLAT
(D)	- DEED T.B.D. - TO BE DETERMINED
IR	- IRON ROD
IP	- IRON PIPE
N&D	- NAIL AND DISC
N&TT	- NAIL AND TIN TAB
C.M.	- CONCRETE MONUMENT
PRM	- PERMANENT REFERENCE MARKER
PBCP	- PALM BAY CONTROL POINT
TBM	- TEMPORARY BENCHMARK
D=	- DELTA
R=	- RADIUS EL. XXXX - EXISTING GRADES
L=	- ARC LENGTH
FND.	- FOUND
CH	- CHORD LENGTH
P.O.B.	- POINT OF BEGINNING
PC	- POINT OF CURVATURE
PT	- POINT OF TANGENCY
PI	- POINT OF INTERSECTION
PRC	- POINT OF REVERSE CURVE
R/W	- RIGHT OF WAY
B.S.L.	- BUILDING SETBACK LINE
OHW	- OVERHEAD WIRES
L.F.	- LINEAR FEET
P.U.	- PUBLIC UTILITY EASEMENT
D.E.	- DRAINAGE EASEMENT
EL	- ELEVATION
FF	- FINISHED FLOOR
CONC.	- CONCRETE
R.C.P.	- REINFORCED CONCRETE PIPE
C.M.P.	- CORRUGATED METAL PIPE
CL	- CENTERLINE
LB	- LICENSED BUSINESS
PLS	- PROFESSIONAL LAND SURVEYOR



**SURVEY PREPARED FOR:**  
**STEVE CARY BARNES AND LISA MARIE BARNES**

**DESCRIPTION:** LOT 34, BLOCK C, SECTION 3 SUNNYLAND BEACH, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 19, PAGE 1, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

# AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO FLOOD INSURANCE RATE MAP #12009C 0711 H, DATED JANUARY 29, 2021 THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE AE. BASE 4.0' & 5.0' (NAVD 88)

TYPE OF SURVEY:  
**BOUNDARY**

SCALE: 1" = 20'

REVISION: \_\_\_\_\_  
 REVISION: \_\_\_\_\_  
 REVISION: \_\_\_\_\_  
 REVISION: \_\_\_\_\_  
 REVISION: PLOT PLAN 12-11-23  
 REVISION: ASBUILT 07-13-18

FIELD DATE: 11-16-17

SECTION 25,  
 TOWNSHIP 29 SOUTH,  
 RANGE 38 EAST

**PROJECT #38825**

**GENERAL NOTES:**

1. THIS SURVEY AND DRAWING HAS BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARD OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027 OF THE FLORIDA STATUTES.
2. THIS SURVEY AND DRAWING IS FOR THE SOLE USE AND BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE AS NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
3. THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE SEAL OF THE FLORIDA LICENSED SURVEYOR, AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
4. NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
5. THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
6. BEARINGS ARE BASED ON AN ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
7. NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
8. ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED.
9. "NO WELLS" AND "NO SEPTICS" ARE DEFINITIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

**3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B. #6623**  
**PHONE: (321)768-8110 FAX: (321)952-9771 EMAIL: frontdesk@aalsurvey.com**

LEGEND	
(B.B.)	- BASIS OF BEARING
(M)	- MEASURED <span style="border: 1px solid black; padding: 1px;">XXXX</span> PROPOSED GRADES
(P)	- PLAT
(D)	- DEED T.B.D. - TO BE DETERMINED
IR	- IRON ROD
IP	- IRON PIPE
N&D	- NAIL AND DISC
N&TT	- NAIL AND TIN TAB
C.M.	- CONCRETE MONUMENT
PRM	- PERMANENT REFERENCE MARKER
PBCP	- PALM BAY CONTROL POINT
TBM	- TEMPORARY BENCHMARK
Δ	- DELTA
R	- RADIUS EL. XXXX - EXISTING GRADES
L	- ARC LENGTH
FND.	- FOUND
CH	- CHORD LENGTH
P.O.B.	- POINT OF BEGINNING
PC	- POINT OF CURVATURE
PT	- POINT OF TANGENCY
PI	- POINT OF INTERSECTION
PRC	- POINT OF REVERSE CURVE
R/W	- RIGHT OF WAY
B.S.L.	- BUILDING SETBACK LINE
OHW	- OVERHEAD WIRES
L.F.	- LINEAR FEET
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D.E.	- DRAINAGE EASEMENT
EL	- ELEVATION
FF	- FINISHED FLOOR
CONC.	- CONCRETE
R.C.P.	- REINFORCED CONCRETE PIPE
C.M.P.	- CORRUGATED METAL PIPE
CL	- CENTERLINE
LB	- LICENSED BUSINESS
PLS	- PROFESSIONAL LAND SURVEYOR

**ANDREW W. POWSHOCK**  
 P.L.S. No. 5383

**DANIEL D. GARNER**  
 P.L.S. No. 6189



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.3.

3/20/2024

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### **Subject:**

James Rowan and Sarajane Sengel requests variances of Chapter 62, Article VI, Brevard County Code, for a principal structure in an RU-2-15 zoning classification. (24V00003) (Tax Account 2435723) (District 2)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider a variance of Chapter 62, Article VI, Brevard County Code, for a principal structure in an RU-2-15 (Medium Density Multiple-Family Residential) zoning classification.

### **Summary Explanation and Background:**

James Rowan and Sarajane Sengel requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1372(5)(c)(2), to permit a variance of 17.36 ft. from the required 20-ft. rear setback for a principal structure; and 2.) Section 62-1372(5)(c)(1), 6.24 ft. from the required 25-ft. front setback for a principal structure in an RU-2-15 (Medium Density Multiple-Family Residential) zoning classification. The property is 0.83 acres, located on the south side of Arthur Ave, approx. 300 ft. east of N. Atlantic Ave. (201 & 203 Arthur Ave., Cocoa Beach)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

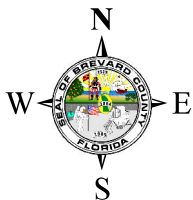
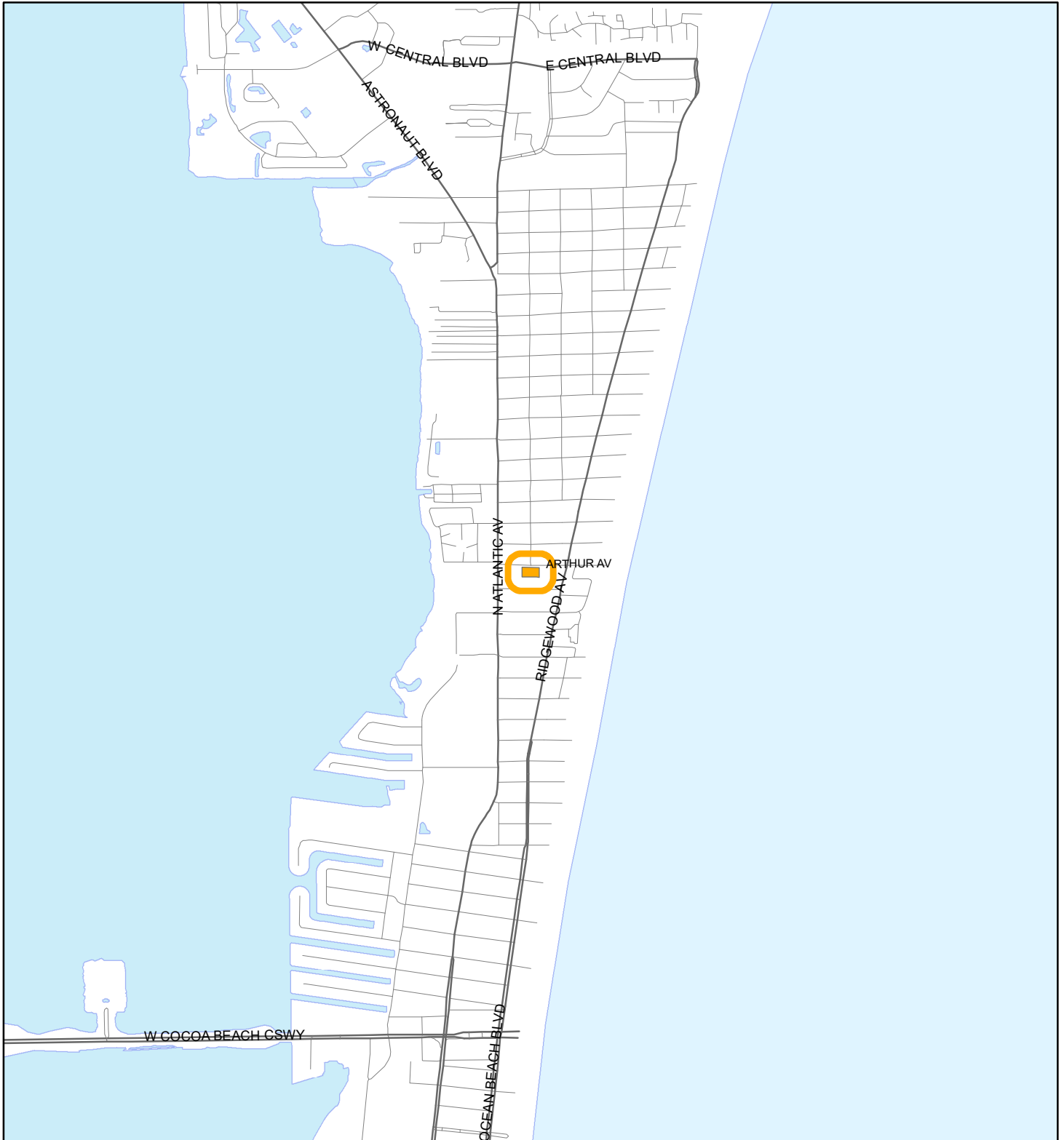
TO: Board of Adjustment Members  
FROM: Paul Body, Senior Planner  
Thru: Jeffrey Ball, AICP, Planning & Zoning Manager  
SUBJECT: Variance Staff Comments for Wednesday, March 20, 2024  
DATE: February 27, 2024

### DISTRICT 2

**3. (24V00003) James Rowan and SaraJane Sengel** requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-1372(5)(c)(2), to permit a variance of 17.36 ft. from the required 20-ft. rear setback for a primary structure; and 2.) Section 62-1372(5)(c)(1), 6.24 ft. from the required 25-ft. front setback for a primary structure in an RU-2-15 (Medium Density Multiple-Family Residential) zoning classification. This request represents the applicants' request to legitimize the existing principal structures to build an addition on the southerly unit. The applicant states that the principal structures were built in 1957 by a previous owner and were in this configuration when they purchased the property on October 27, 2017. The first request equates to an 87% deviation of what the code allows. The second request equates to a 25% deviation of what the code allows. There is one variance to the principal structure setback requirement in the immediate area. There is no code enforcement action pending with the Brevard County Planning and Development Department. If the Board approves the variances, it may want to limit its approval as depicted on the survey provided by the applicant with a recertification date of 12/04/2023.

# LOCATION MAP

James Rowan & Sarajane Sengal  
24V00003





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

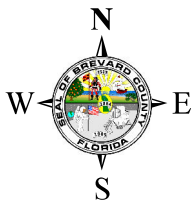
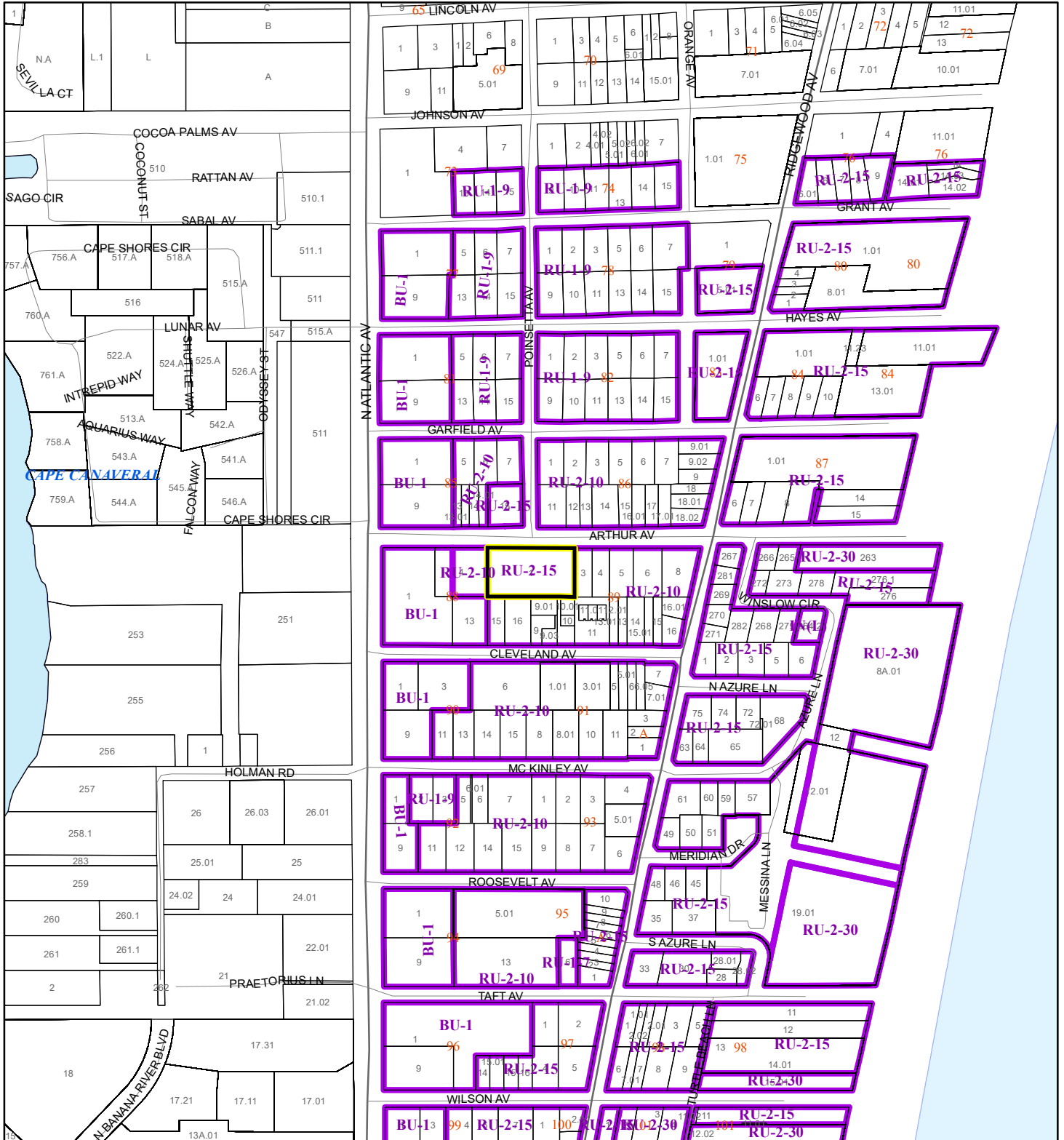
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/24/2024

-  Buffer
-  Subject Property

# ZONING MAP

James Rowan & Sarajane Sengal  
24V00003



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

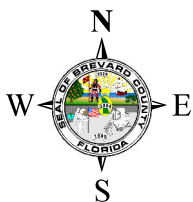
Produced by BoCC - GIS Date: 1/24/2024

- Subject Property
- Parcels
- Zoning



# AERIAL MAP

James Rowan & Sarajane Sengal  
24V00003





1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

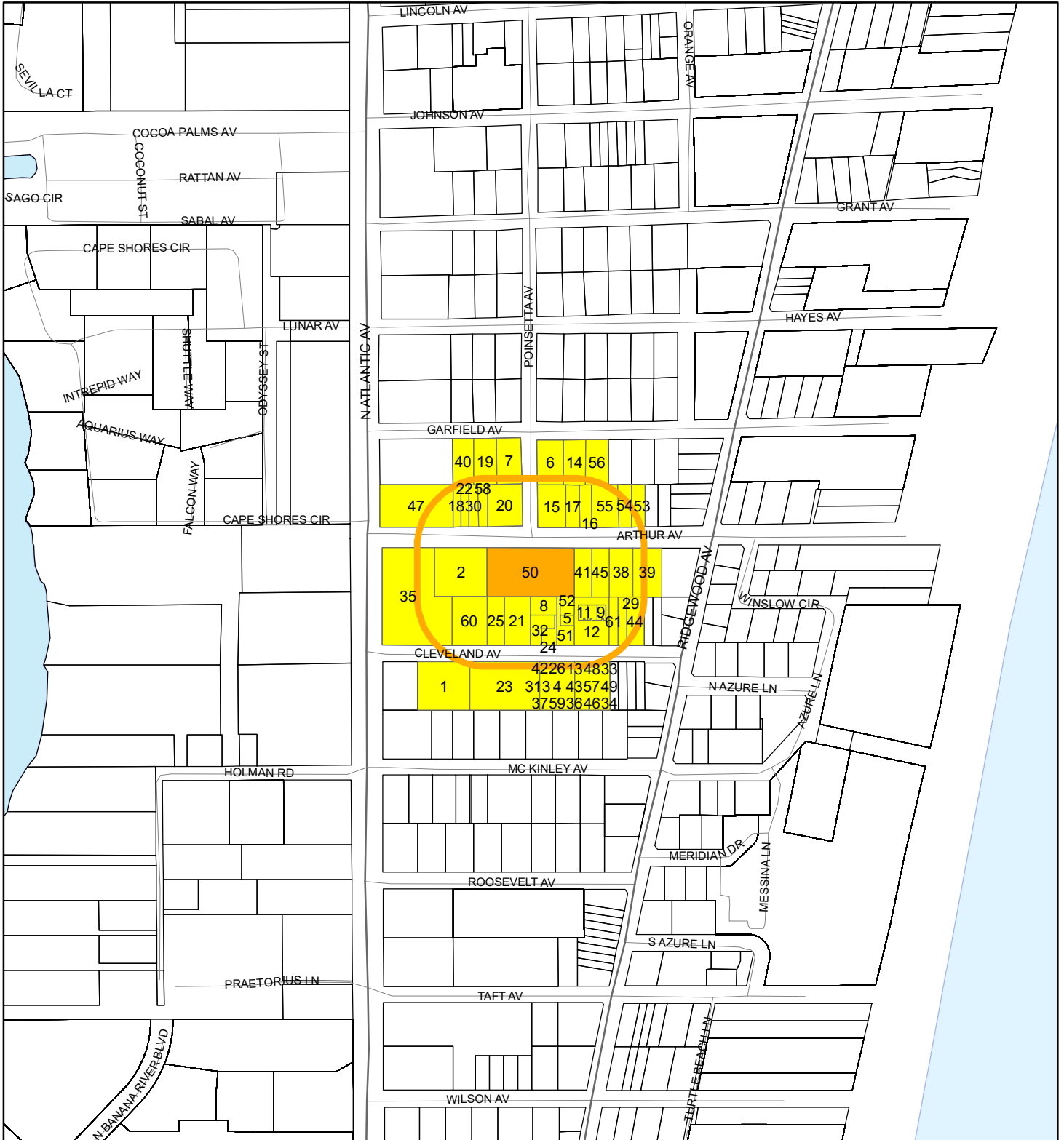
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/24/2024

 Subject Property  
 Parcels

# RADIUS MAP

James Rowan & Sarajane Sengal  
24V00003



1:4,800 or 1 inch = 400 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/24/2024

- Buffer
- Subject Property
- Notify Property
- Parcels

## VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number \_\_\_\_\_, and

name of contractor \_\_\_\_\_

No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

NO, the special conditions are not applicable to other lands, structures or buildings in the applicable zoning classification. (Both houses built in 1957)

(2) That the special conditions and circumstances do not result from the actions of the applicant:

NO, the conditions and circumstances do not result from the applicant's actions.

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

NO, it will not confer any special privileges.

(over)

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

yes, the addition of a kitchen and laundry room will allow for an update and functionality (house built ~ 1957)

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

yes

(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

yes, this variance will be in harmony

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

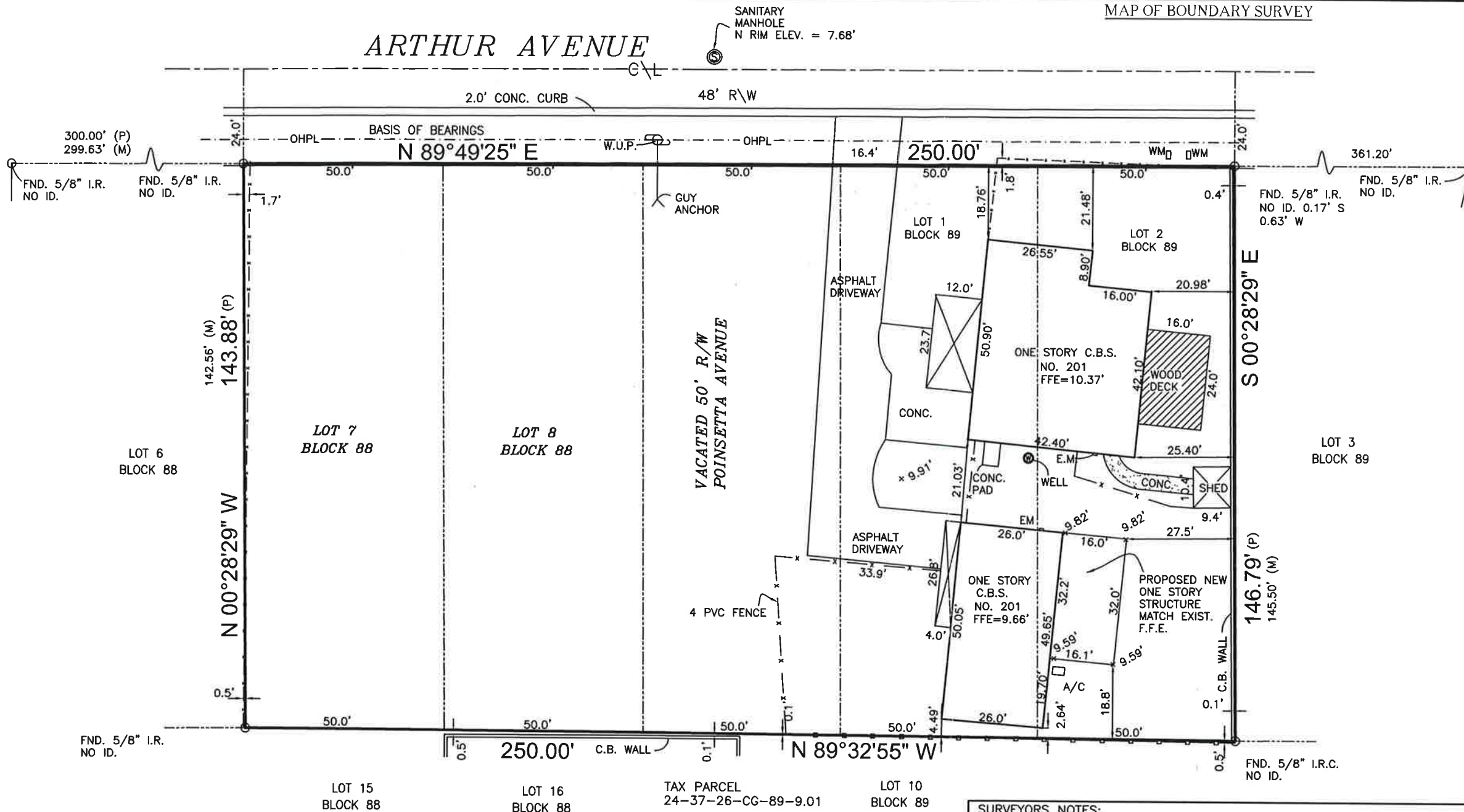
Signature of applicant James Roubin

Signature of planner Lori Gillman

ARTHUR AVENUE

MAP OF BOUNDARY SURVEY

SANITARY MANHOLE  
N RIM ELEV. = 7.68'



**Description:**

Lots 7 and 8 Block 88 and Lots 1 and 2, Block 89, together with vacated Poinsetta Avenue, lying between Lot 8, Block 88 and Lot 1, Block 89, Avon-By-The-Sea, a subdivision according to the plat thereof recorded as Plat Book 3, Page 7, in the Public Records of Brevard County, Florida.


**SURVEYORS NOTES:**

1. This property is located in Flood Zone(s) X, The Residence is lying in Flood Zone(s) X, Map No. 12009C0363G, Panel No. 363, Suffix G, Community No. 125092, Effective Date, March 17, 2014.
2. The bearings shown are based on an Assumed North Meridian, Being S 89° 49' 25" E along the South R/W line of Arthur Avenue.
3. This is Real Property being situated in Section 26, Township 24S, Range 37E.
4. The Surveyor has not abstracted the property. Only platted or furnished easements or encumbrances that may restrict the property are shown.
5. Underground improvements are not located unless requested.
6. Elevations if shown hereon based on NAVD88.

**LEGEND & ABBREVIATIONS:**

○ = Set 5/8" iron rod with plastic cap  
 △ = Set nail with metal disc □ = Set concrete monument with disc  
 —○— = 4' C.L.F.      - - - - - = Center Line  
 —□— = 6' W.F.      XXX = Existing Elevations  
 - - - - - = OHPL      (XXX) = Proposed Elevations  
 (B.M.)=Benchmark, (CONC.)=Concrete, (C\L)=Centerline, (C.B.S.)=Concrete Block Structure  
 (C.B.S.)=Concrete Block Structure, (C.&S)=Covered and Screened,  
 (C.M.)=Concrete Monument, (C.M.P.)=Corrugated Metal Pipe, (C.L.F.)=Chain Link Fence  
 (D)=Deed, (E.M.)=Electric Meter, (F.F.E.)=Finished Floor Elevation, (Fnd.)=Found,  
 (F.P.R.)=Fixed Point of Reference, (IRC)=Iron Rod with Cap, (I.P.)=Iron Pipe  
 (G.M.)=Gas Meter, (L.B.)=Licensed Business, (L.S.)=Licensed Surveyor, (M)=Measured  
 (M.E.S.)=Mitered End Section, (N&D)=Nail & Disc, (O.R.B.)=Official Records Book,  
 (OHPL)=Over Head Power Line, (P.C.P.)=Permanent Control Point, (P)=Plat  
 (P.O.B.)=Point of Beginning, (P.O.C.)=Point of Commencement  
 (P.R.M.)=Permanant Reference Monument, (P.U. & D.E.)=Public Utility & Drainage Easement,  
 (RNG.)=Range, (R.C.P.)=Reinforced Conc. Pipe, (R\W)=Right of Way, (SEC.)=Section  
 (TWP.)=Township, (WUP)=Wood Utility Pole, (W.F.S.)=Wood Frame Structure, (W.M.)=Water Meter

CERTIFIED TO: JAMES G. ROWAN AND SARAJANE SENDEL

Certified By:  Signature Date: 1-10-24  
 I Eric Nielsen Professional Surveyor & Mapper, No. 5386, L.B. 6946, State of Florida certify this map of survey meets the standards set per Florida Administrative Code 5J-17.051 pursuant to Chapter 472.027 per Florida Statutes.

**Eric Nielsen Land Surveying, Inc.**

Revisions: RECERTIFICATION 12-04-2023  
 12 STONE STREET, COCOA, FL. 32922  
 Ph: (321) 631-5654 Fax: (321) 631-5974

SCALE: 1" = 30'	DATE: 10-17-2017	JOB NO. 17-502-10
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# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.4.

3/20/2024

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### **Subject:**

Gary Lee Collar and Susan Collar Trust requests variances of Chapter 62, Article VI, Brevard County Code, for a boat dock and moored watercraft at the dock in an EU zoning classification. (24V00004) (Tax Account 2609578) (District 4)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider a variance of Chapter 62, Article VI, Brevard County Code, for a boat dock and moored watercraft at the dock in an EU zoning classification.

### **Summary Explanation and Background:**

Gary Lee Collar and Susan Collar Trust requests a variance of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2118(d)(3), to permit a variance of 6.2 ft. over the 10.4 ft. projection permitted for a boat dock and watercraft moored at the dock in an EU (Estate Use) zoning classification. The property is 1.08 acres, located on the east side of South Tropical Trail, approx. 2,735 ft. north of Tropical Island Lane. (9020 S. Tropical Trail, Merritt Island)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

TO: Board of Adjustment Members  
FROM: Paul Body, Senior Planner  
Thru: Jeffrey Ball, AICP, Planning & Zoning Manager  
SUBJECT: Variance Staff Comments for Wednesday, March 20, 2024  
DATE: February 27, 2024

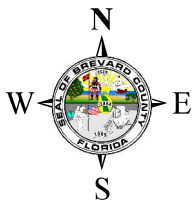
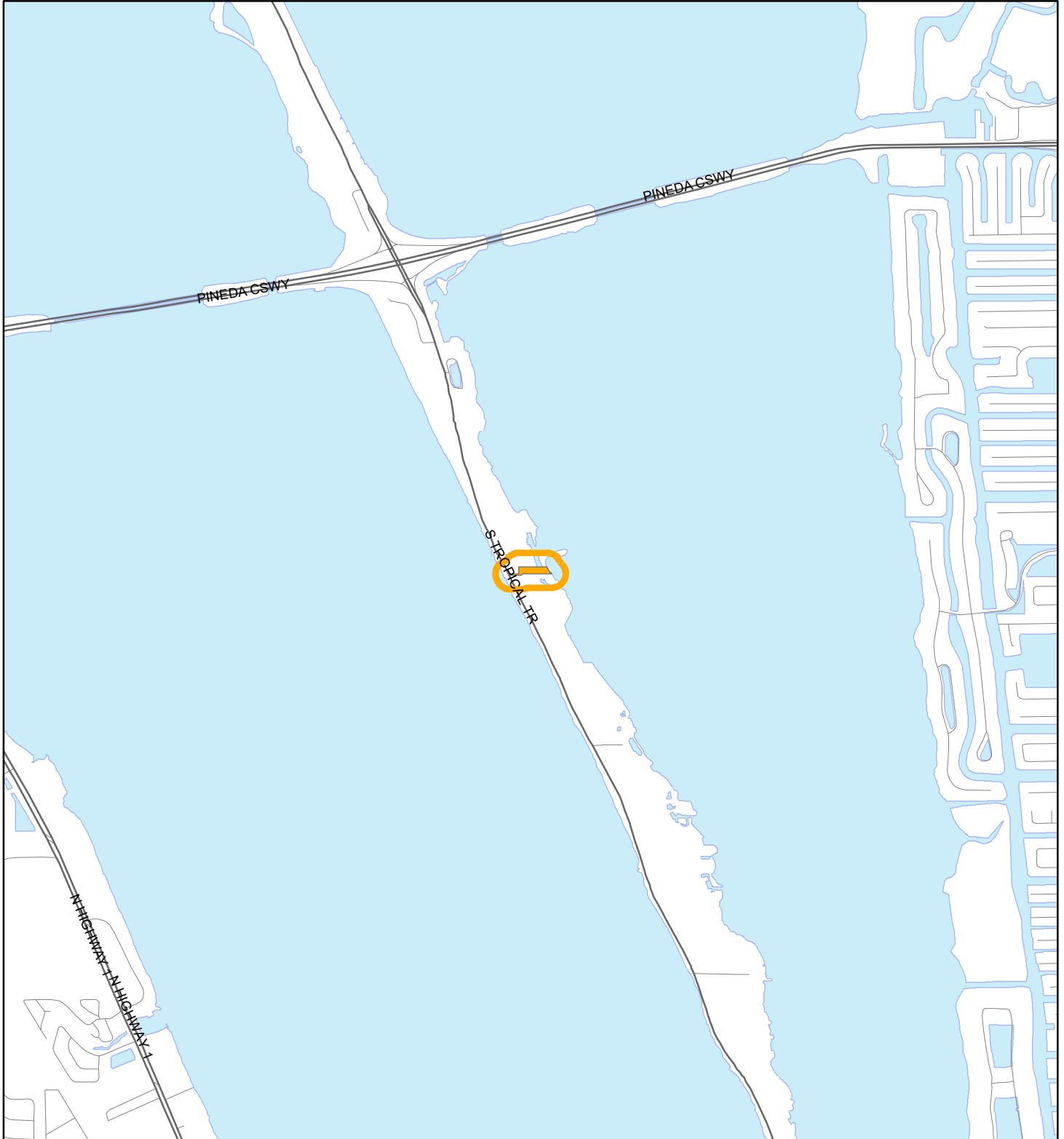
### DISTRICT 4

**4. (24V00004) Gary Lee Collar and Susan Collar** requests variances of Chapter 62, Article VI, Brevard County Code as follows, 1.) Section 62-2118(d)(3), to permit a variance of 6.2 ft. over the 10.4-ft. maximum projection permitted for a boat dock and watercraft moored at the dock in an EU (Estate Use) zoning classification. This request represents the applicants' request to permit an existing dock and boat lift. The applicants state the property is unique in that their property includes the manmade waterway and the waterway dead ends into their property. They also state the variance would not impact any other property owner that has access to the same manmade waterway. This request equates to a 60% deviation of what the code allows. There are no variances to the dock projection requirements in the immediate area. There is a code enforcement action (23CE-00415) pending with the Brevard County Natural Resources Management Department for the following: fill is being brought onto this property; a seawall is being extended into an existing canal; soils are eroding off the property onto neighboring lots and into the canal; fill has been placed in the Surface Water Protection Buffer (SWPB). If the Board approves the variance, it may want to limit its approval as depicted on the survey provided by the applicant with a revision date of 01/03/2024.

# LOCATION MAP

GARY LEE COLLAR & SUSAN COLLAR TRUST

24V00004





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

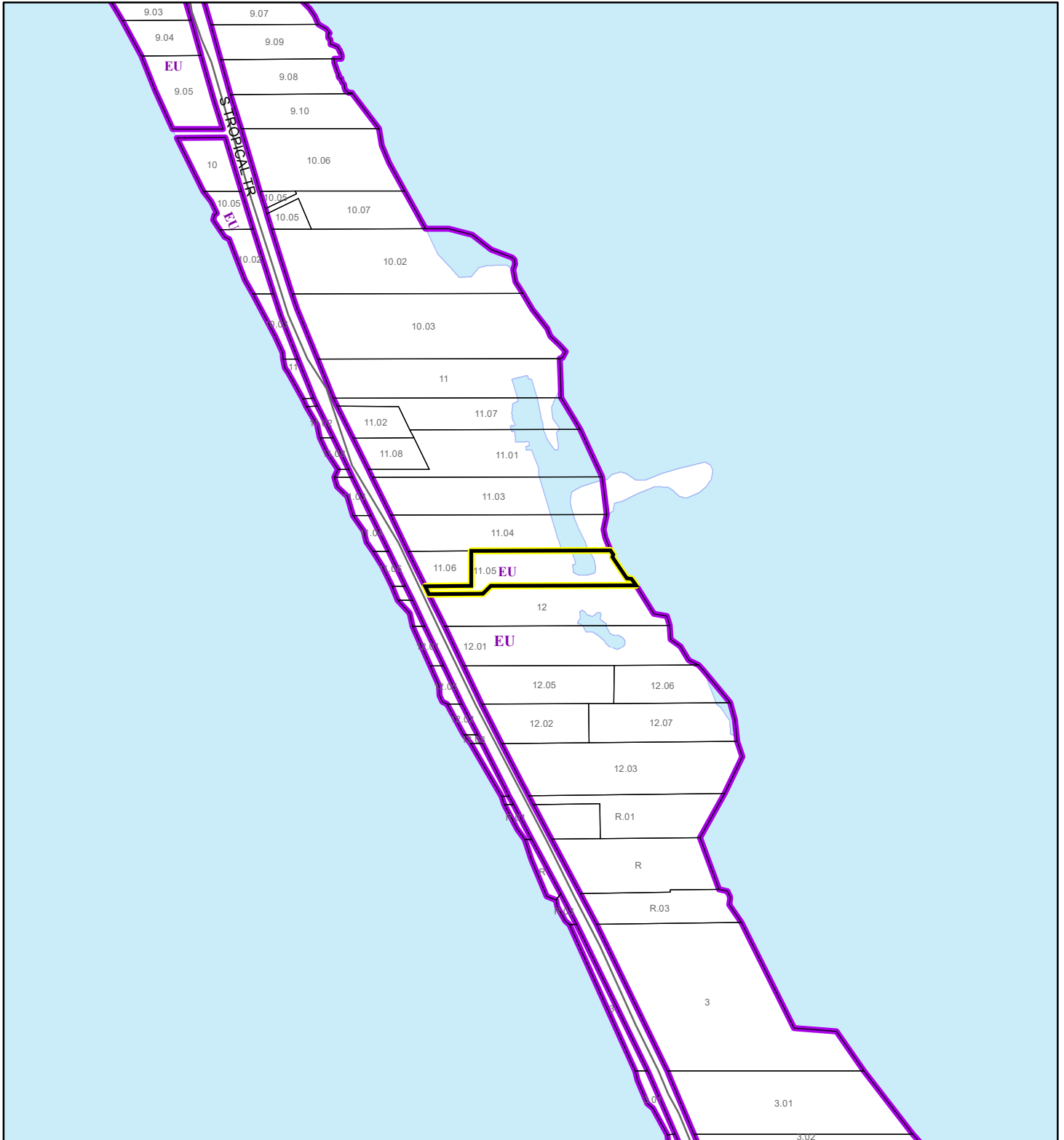
Produced by BoCC - GIS Date: 2/7/2024

-  Buffer
-  Subject Property



# ZONING MAP

GARY LEE COLLAR & SUSAN COLLAR TRUST  
24V00004



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/7/2024

- Subject Property
- Parcels
- Zoning

# AERIAL MAP

GARY LEE COLLAR & SUSAN COLLAR TRUST

24V00004




1:1,800 or 1 inch = 150 feet

PHOTO YEAR: 2023

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/7/2024

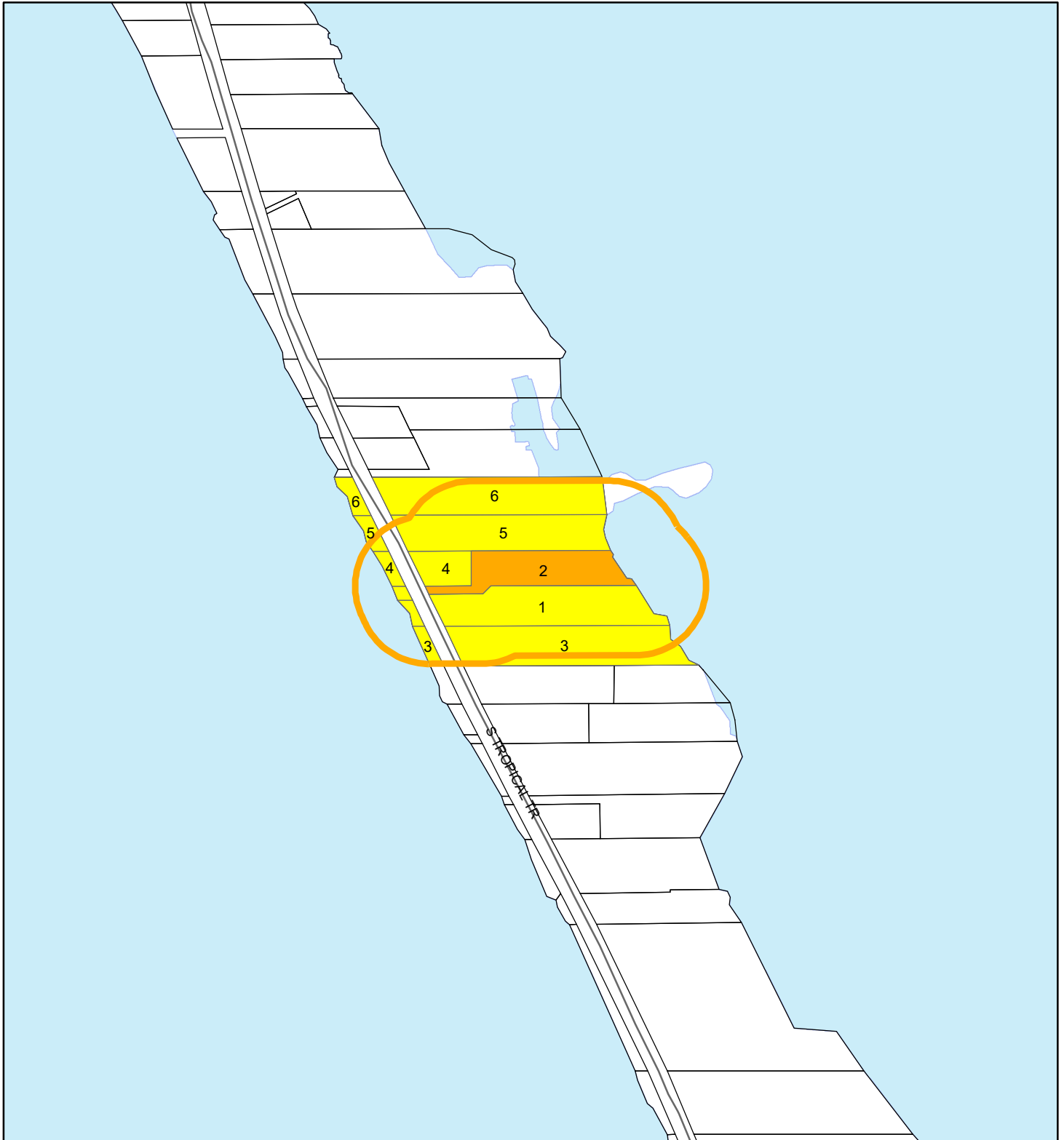
 Subject Property

 Parcels

# RADIUS MAP

GARY LEE COLLAR & SUSAN COLLAR TRUST

24V00004







1:4,800 or 1 inch = 400 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/7/2024

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels



BOARD OF COUNTY COMMISSIONERS

**Planning and Development**

2725 Judge Fran Jamieson Way  
Building A, Room 114  
Viera, Florida 32940  
(321) 633-2070 Phone

**VARIANCE HARDSHIP WORKSHEET**

Is the variance request due to a Code Enforcement action:  Yes  No

If yes, please indicate the case number and the name of the contractor:

Case Number: \_\_\_\_\_

Contractor: \_\_\_\_\_

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

1. That special conditions and circumstances exist which are not applicable to other lands, structures, or buildings in the applicable zoning classification.

Applicant Response:

The property owner purchased this property with "permits in place" for the construction of a single-family home and customary accessory structures, such as a boat dock and lift. The boat dock and lift were installed according to the drawings furnished by the previous property owner. After the dock and lift were installed, it came to the attention of the builder and property owner that the boat lift piers extends further into the manmade waterway than code allows by 6.2 feet.

The subject property is unique in that it contains within its boundary a manmade waterway that would allow for a vessel to access the Banana River without projecting any piers or structures into the Banana River. The manmade waterway dead ends at the subject property and any variance granted would not impact any other property owner that has access to the same manmade waterway. The variance also would not impact anyone from the public as the waterway crosses private property.

2. That the special conditions and circumstances do not result from the actions of the applicant.

**Applicant Response:**

The property owner purchased this property with "permits in place" for the construction of a single-family home and customary accessory structures, such as a boat dock and lift. The boat dock and lift were installed according to the drawings furnished by the previous property owner. After the dock and lift were installed, it came to the attention of the builder and property owner that the boat lift piers extends further into the manmade waterway than code allows by 6.2 feet.

The property owner did not knowingly cause piers to be installed further into the waterway than code allows.

Additionally, the property contains a manmade waterway that was created prior to taking ownership of the property. The subject property is at the dead end of this waterway and any variance would not impact other property owners or the public.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings, or structures in the identical zoning classification.

**Applicant Response:**

Granting the requested variance would allow for the property owner to utilize a dock and boat lift on private property within a preexisting manmade waterway. All other property owners with land that has frontage on or access to navigable waterways are permitted to apply for an construct docks, piers, and boat lifts. Most properties along Tropical Trail have docks, piers, and boat lifts.

Approval of this variance does not constitute any special privilege compared to what other EU zoned properties are allowed.

4. That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant.

**Applicant Response:**

Literal enforcement of the code would prohibit the property owner from maintaining a usable boat lift on this unique manmade waterway located on private property. The waterway in question provides a safe place to keep a vessel, away from the wind and waves on the Banana River, and will not impact any other property owners or the public since it is located on a dead end. Moving the boat lift is not a solution and will cause further disruption of the waterway.

Literal enforcement of the code would constitute an unnecessary and undue hardship on the property owner.

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

Applicant Response:

The proposed variance is the minimum variance that allows for the existing dock and boat lift to remain. Neither the dock nor the boat lift are oversized and they allow for a vessel to enter and exit the manmade waterway safely and with the least impact to the surrounding area.

It is reasonable that a property with frontage on the Banana River be allowed to have a dock and boat lift that do not interfere with any other property owner or the general public.

- 6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

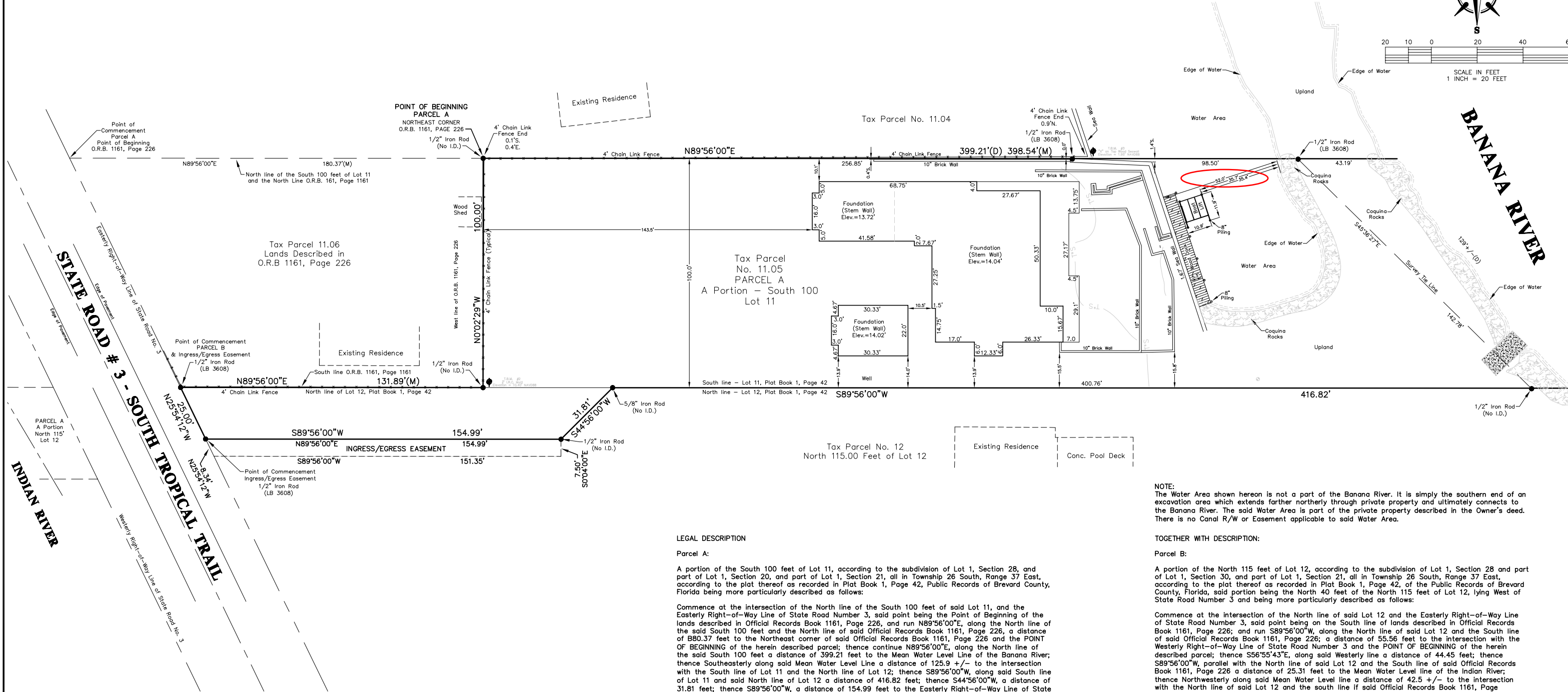
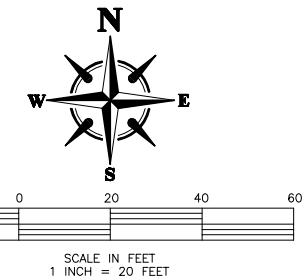
Applicant Response:

The general intent of the code as it relates to residential docks and piers is to ensure that the size and location of such will not be injurious to the area or otherwise detrimental to the public welfare. This dead end manmade waterway is not an easement nor intended for public use or use of adjacent property owners. Allowing an increased projection of piers into the waterway will not negatively impact any property owners in the area or the general public.

I fully understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria.

  
Signature of Applicant

  
Signature of Planner



**NOTE:**  
 The Water Area shown herein is not a part of the Banana River. It is simply the southern end of an excavation area which extends farther northerly through private property and ultimately connects to the Banana River. The said Water Area is part of the private property described in the Owner's deed. There is no Canal R/W or Easement applicable to said Water Area.

**LEGAL DESCRIPTION**

Parcel A:

A portion of the South 100 feet of Lot 11, according to the subdivision of Lot 1, Section 28, and part of Lot 1, Section 20, and part of Lot 1, Section 21, all in Township 26 South, Range 37 East, according to the plat thereof as recorded in Plat Book 1, Page 42, Public Records of Brevard County, Florida being more particularly described as follows:

Commence at the intersection of the North line of the South 100 feet of said Lot 11, and the Easterly Right-of-Way Line of State Road Number 3, said point being the Point of Beginning of the lands described in Official Records Book 1161, Page 226, and run N89°56'00"E, along the North line of the said South 100 feet and the North line of said Official Records Book 1161, Page 226, a distance of 180.37 feet to the Northeast corner of said Official Records Book 1161, Page 226, and the POINT OF BEGINNING of the herein described parcel; thence continue N89°56'00"E, along the North line of the said South 100 feet a distance of 399.21 feet to the Mean Water Level Line of the Banana River; thence Southeastly along said Mean Water Level Line a distance of 125.9 +/- to the intersection with the South line of Lot 11 and the North line of Lot 12; thence S89°56'00"W, along said South line of Lot 11 and said North line of Lot 12 a distance of 416.82 feet; thence S44°56'00"W, a distance of 31.81 feet; thence S89°56'00"W, a distance of 154.99 feet to the Easterly Right-of-Way Line of State Road Number 3; thence N25°55'43"W, along said Easterly Right-of-Way Line, a distance of 25.00 feet to the South line of said Official Records Book 1161, Page 226; thence N89°56'00"E, along said South line a distance of 131.89 feet to the Southeast corner of lands described in Official Records Book 1161, Page 226; thence N0°04'00"W, along the East line of said Official Records Book 1161, Page 226 a distance of 100.00 feet to the Point of Beginning.

TOGETHER WITH DESCRIPTION:

Parcel B:

A portion of the North 115 feet of Lot 12, according to the subdivision of Lot 1, Section 28 and part of Lot 1, Section 30, and part of Lot 1, Section 21, all in Township 26 South, Range 37 East, according to the plat thereof as recorded in Plat Book 1, Page 42, of the Public Records of Brevard County, Florida, said portion being the North 40 feet of the North 115 feet of Lot 12, lying West of State Road Number 3 and being more particularly described as follows:

Commence at the intersection of the North line of said Lot 12 and the Easterly Right-of-Way Line of State Road Number 3, said point being on the South line of lands described in Official Records Book 1161, Page 226; and run S89°56'00"W, along the North line of said Lot 12 and the South line of said Official Records Book 1161, Page 226; a distance of 55.56 feet to the intersection with the Westerly Right-of-Way Line of State Road Number 3 and the POINT OF BEGINNING of the herein described parcel; thence S56°55'43"E, along said Westerly line a distance of 44.45 feet; thence S89°56'00"W, parallel with the North line of said Lot 12 and the South line of said Official Records Book 1161, Page 226 a distance of 25.31 feet to the Mean Water Level line of the Indian River; thence Northwestly along said Mean Water Level line a distance of 42.5 +/- to the intersection with the North line of said Lot 12 and the south line of said Official Records Book 1161, Page 226; thence N89°56'00"E, along said North line of Lot 12 and said South line of Official Records Book 1161, Page 226, a distance of 20.39 feet to the Point of Beginning.

TOGETHER WITH THE FOLLOWING DESCRIBED INGRESS/EGRESS EASEMENT:

A portion of the North 115 feet of Lot 12, according to the subdivision of Lot 1, Section 28 and part of Lot 1, Section 30, and part of Lot 1, Section 21, all in Township 26 South, Range 37 East, according to the plat thereof as recorded in Plat Book 1, Page 42, of the Public Records of Brevard County, Florida, and being more particularly described as follows:

Commence at the intersection of the North line of said Lot 12 and the Easterly Right-of-Way line of State Road Number 3, said point being on the South line of lands described in Official Records Book 1161, Page 226 and S25°55'43"E, a distance of 25.00 feet to the POINT OF BEGINNING of the herein described parcel; thence run N89°56'00"E, a distance of 154.99 feet; thence run S0°04'00"E a distance of 7.50 feet; thence run S89°56'00"W, a distance of 151.35 feet to the intersection with the Easterly Right-of-Way line of State Road Number 3; thence run N25°55'43"W, along said Easterly Right-of-Way line a distance of 8.34 feet to the Point of Beginning.

**SURVEYORS NOTES:**

- LANDS SHOWN HEREON WERE NOT ABSTRACTED FOR ADJOINING DEEDS, RIGHT-OF-WAY, RESERVATION, AGREEMENTS AND/OR EASEMENTS. RECORDS, SUCH INFORMATION, IF DESIRED, SHOULD BE OBTAINED AND VERIFIED BY OTHERS THROUGH APPROPRIATE TITLE VERIFICATION.
- ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
- DRAWINGS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
- ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CONVERSION 5279-4303(10) (F.A.C.)).
- PURSUANT TO FLORIDA LAW (F.A.C. 5279-4303(17)) THIS SURVEY IS BASED ON A CLOSED TRANSFER.
- USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
- ONLY OPEN AND NOTORIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCROACH.
- LEGAL DESCRIPTION AS SHOWN WAS PROVIDED BY CLIENT.
- ELEVATIONS BASED ON 50.00' ASSUMED AT \_\_\_\_\_ N/A.
- ELEVATIONS BASED ON NATIONAL GEODETIC VERTICAL DATUM OF 1989 (MEAN SEA LEVEL) ELEVATION \_\_\_\_\_ N/A. \_\_\_\_\_ AND ARE EXPRESSED IN FEET AND DECIMAL THEREOF.
- BEARINGS BASED ON SOUTH LINE OF LOT 11, SECTION 20, BEING S89°26'00"W (ASSUMED).
- PLOT PLANS ARE NOT TO BE USED FOR CONSTRUCTION LAYOUT PURPOSES.
- LOT DIMENSIONS AND BEARINGS ARE RECORDED AND MEASURED UNLESS OTHERWISE NOTED.
- SEPTIC TANKS AND WELLS IF SHOWN ARE APPROXIMATE LOCATIONS AND SHOULD BE FIELD VERIFIED BY CONTRACTOR FOR CORRECT POSITION AND SPACING.
- MINOR ARROW AS SHOWN DOES NOT REPRESENT TRUE NORTH OR GRID NORTH, IT IS FOR APPROXIMATE POSITION ONLY.
- ALL RIGHT-OF-WAYS, ALLEYS, DIRT ROADS, AND ASPHALT ROADS IF SHOWN ARE "OPEN TO TRAVEL" BOTH BY FOOT AND VEHICLE UNLESS OTHERWISE NOTED BY (CLOSED TO TRAVEL).
- SETBACKS AS SHOWN ON PLOT PLANS WERE PROVIDED BY CONTRACTOR.
- HORIZONTAL FEATURE ACCURACY: TOPOGRAPHIC LAND FEATURES (DOGS, INLETS, VALVES, MAILBOXES, POWER POLES, DRIVEWAYS, CURBS, AND SIMILAR FEATURES) HAVE A HORIZONTAL FEATURE ACCURACY OF PLUS OR MINUS 0.25 FEET.
- VERTICAL FEATURE ACCURACY: ELEVATIONS ON THE SITE (GROUND, PAVEMENT, INLETS, ETC.) HAVE A VERTICAL FEATURE ACCURACY OF PLUS OR MINUS 0.10 FEET.
- THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED. IT SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
- THE EXPECTED USE OF THE LAND IS RESIDENTIAL. THE MINIMUM RELATIVE DISTANCE ACCURACY FOR THIS TYPE OF BOUNDARY SURVEY IS 1 FOOT IN 7500 FEET WHICH WAS MET IN THE CASE OF THIS SURVEY.
- ALL "PROPOSED" IMPROVEMENTS SHOWN HEREON ARE NOT "AS-BUILT". ALL CONSTRUCTION PERFORMED ACCORDING TO THE "PROPOSED" INFORMATION SHOWN HEREON IS SUBJECT TO BEING APPROVED BY THE APPLICABLE AUTHORIZING AGENCIES. THE CLIENT IS RESPONSIBLE FOR OBTAINING THE "PROPOSED" INFORMATION AS SHOWN, WITH THE "PROPOSED" FOR CONSTRUCTION" DOCUMENTATION PRIOR TO AUTHORIZING ANY LAYOUT WORK.

**LEGEND:**

○ = WATER METER	● = WELL
○ (with 'N') = NO VISIBLE WELL	○ (with 'E') = ELECTRIC METER/HANDHOLE
○ (with 'C') = PERMANENT CONTROL POINT	○ (with 'S') = SANITARY SEWER MANHOLE
○ (with 'P.C.') = POINT OF COMMENCEMENT	○ (with 'P.O.B.') = POINT OF BEGINNING
○ (with 'P.T.') = POINT OF TANGENCY	○ (with 'S.S.M.') = STORM SEWER MANHOLE
○ (with 'C.M.P.') = CURVED CURVATURE MONUMENT	○ (with 'S.B.M.') = SOUTHERN BELL MANHOLE/HANDHOLE
○ (with 'C.C.') = POINT OF CURVATURE	○ (with 'U.M.R.') = UNDER MAIN ROD
○ (with 'C.R.C.') = POINT OF REVERSE CURVATURE	○ (with 'S.M.R.') = SOUTHERN BELL RISER
○ (with 'C.G.A.') = CURVED GENERAL ANGLE	○ (with 'C.T.V.R.') = CABLE TELEVISION RISER
○ (with 'R') = RADIUS	○ (with 'G.V.') = GAS VALVE
○ (with 'S') = CENTERLINE	○ (with 'R.W.M.') = RECLAIM WATER METER
○ (with 'P.L.') = PROPERTY LINE	○ (with 'G.S.') = GAS SERVICE
○ (with 'R') = RECORD	○ (with 'W.V.') = WATER VALVE IN 2" x 2" CONC.
○ (with 'S') = CALCULATED R/W = RIGHT-OF-WAY	○ (with 'W.V.') = WATER VALVE
○ (with 'S') = MORE OR LESS	○ (with 'F.H.') = FIRE HYDRANT
○ (with 'N.D.') = NO IDENTIFICATION	○ (with 'P.P.') = POWER POLE
○ (with 'F.A.L.') = FLORIDA POWER AND LIGHT	○ (with 'L.H.H.') = LIGHT HOLE
○ (with 'R') = RESIDENCE	○ (with 'G.A.') = GUY ANCHOR
○ (with 'P.R.P.') = REPROPOSED	○ (with 'T.R.') = TRANSFORMER
○ (with 'C.C.') = CONCRETE (TYP.) = TYPICAL APPROX. APPROXIMATE	○ (with 'A.V.W.') = APPROXIMATE (G.I.W.)
○ (with 'E.P.') = EDGE OF PAVEMENT	○ (with 'S.T.') = APPROXIMATE SEPTIC TANK
○ (with 'T.S.') = APPROX. TOP OF SLOPE	○ (with 'C.D.') = CLEAN DIRT
○ (with 'T.B.') = APPROX. TOP OF BANK	○ (with 'I.M.F.') = IRON MARKER FOUND - SEE DESCRIPTION
○ (with 'D.V.') = DIFFERENTIAL	○ (with 'I.R.H.') = 1/2" IRON ROD WITH PLASTIC CAP
○ (with 'L.F.L.') = LOWEST FLOOR ELEVATION	○ (with 'M.S.M.') = MARKED "A" SMITH LB 7426 SET
○ (with 'G.F.E.') = GARAGE FLOOR ELEVATION	○ (with 'C.C.') = 4" x 4" CONC. CONCRETE FOUNDATION
○ (with 'F.F.E.') = FINISHED FLOOR ELEVATION	○ (with 'S') = SEE DESCRIPTION
○ (with 'P.R.') = PLAT EDGE	○ (with 'M.M.') = 4" x 4" CONC. MARKER MARKED "A" SMITH LB 7426 SET
○ (with 'B.L.') = BUILDING SETBACK LINE	○ (with 'N.S.F.') = NAIL & BISK FOUND - SEE DESCRIPTION
○ (with 'C.M.P.') = CURVED CURVATURE MONUMENT	○ (with 'M.S.M.') = MARKED "A" SMITH LB 7426 SET
○ (with 'C.P.P.') = CORRUGATED PLASTIC PIPE	○ (with 'H.B.') = HUB & TACK SET
○ (with 'I.V.') = INVERT	

CERTIFIED TO: RIVER TREE BUILDERS;

TYPE	SURVEY DATE	JOB NUMBER	CK. BY
ADDED ADDITIONAL DIMENSIONS	JANUARY 3, 2024		
AS-BUILT DOCK AND BOAT LIFT	SEPTEMBER 7, 2023	23-1474	
FOUNDATION (STEM WALL) LOCATION	MAY 24, 2023	23-0892	
SPECIAL PURPOSE SURVEY	DECEMBER 8, 2022	22-2028	
DRAWN BY: P.A.D.		SCALE: 1" = 20'	

Professional Surveyor and Mapper in Responsible Charge  
 KEVIN A. SMITH - FLORIDA CERTIFICATE NO. 4457  
 ANDREW J. SMITH - FLORIDA CERTIFICATE NO. 5690



# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.5.

3/20/2024

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### **Subject:**

Ronald Robin requests a variance of Chapter 62, Article VI, Brevard County Code, for an accessory structure in a PUD zoning classification. (24V00006) (Tax Account 2614560)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider a variance of Chapter 62, Article VI, Brevard County Code, for an accessory structure in a PUD (Planned Unit Development) zoning classification.

### **Summary Explanation and Background:**

Ronald Robin requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1446(d)(7), to permit a variance of 5.2 ft. from the 10-ft side (north) setback required for an accessory structure in a PUD (Planned Unit Development) zoning classification. The property is 1 acre, located on the east side of Turtle Mound Rd., approx. 1,190 ft. north of Turkey Point Dr. (4283 Turtle Mound Rd., Melbourne)

### **Clerk to the Board Instructions:**

None





BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

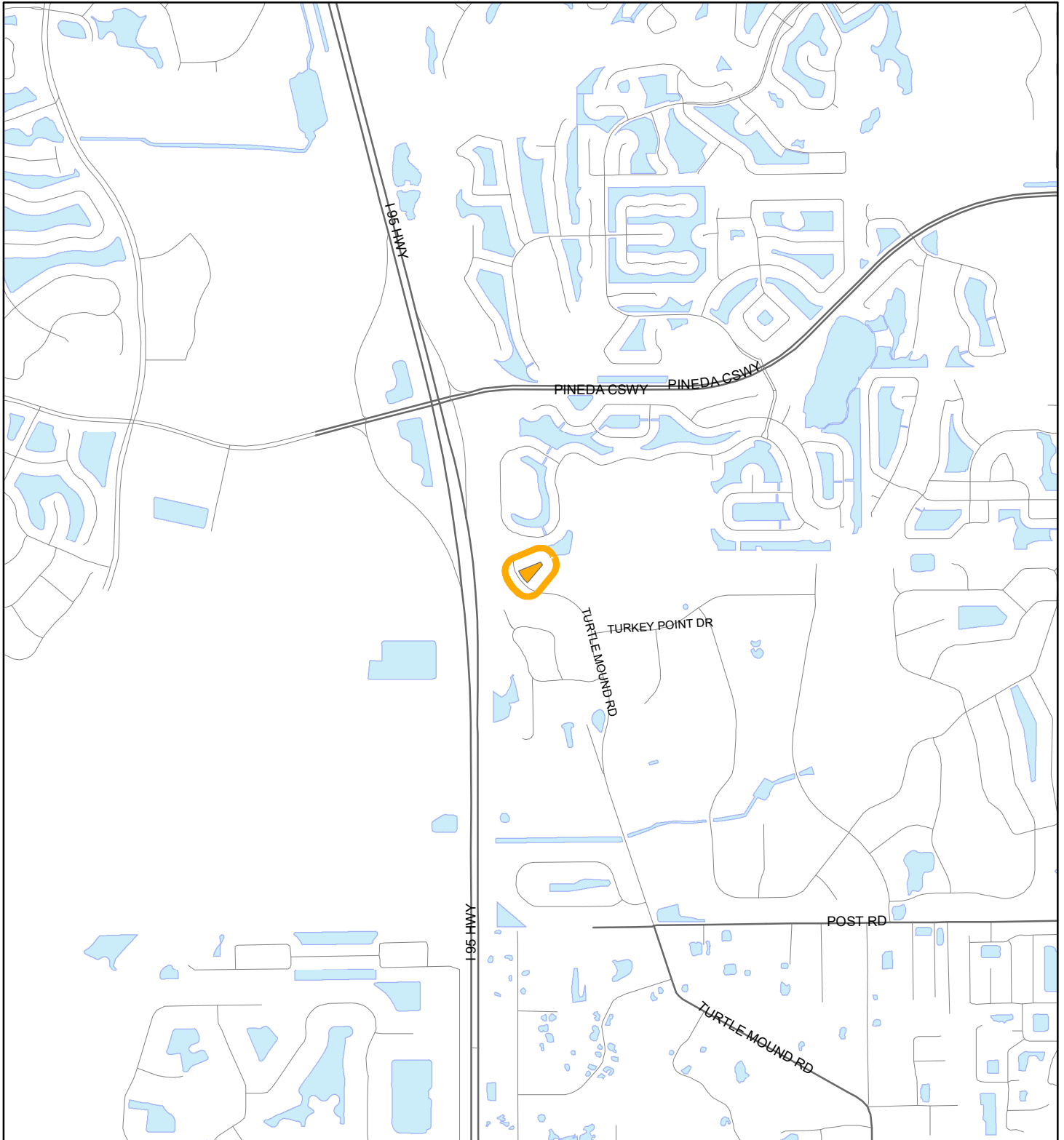
TO: Board of Adjustment Members  
FROM: Paul Body, Senior Planner  
Thru: Jeffrey Ball, AICP, Planning & Zoning Manager  
SUBJECT: Variance Staff Comments for Wednesday, March 20, 2024  
DATE: February 27, 2024

### DISTRICT 4

**6. (24V00006) Ronald Robin** requests a variance of Chapter 62, Article VI, Brevard County Code, Section 62-1446(d)(7), to permit a variance of 5.2 ft. from the 10-ft side (north) setback required for an accessory structure in a PUD (Planned Unit Development) zoning classification. This request represents the applicant's request to legitimize an existing accessory structure (garage) built without a building permit. The applicant states that the accessory structure was placed on an existing asphalt pad that was on the parcel when he purchased the parcel on March 29, 2023. A portion of the 10 foot wide Public Utilities and Drainage Easement the accessory structure is located in was vacated by the Board of County Commission on January 9, 2024, per Resolution 2024-004. This request equates to a 52% deviation of what the code allows. There are no variances to the accessory setback requirements in the immediate area. There was a code enforcement action (23CT-00279) pending with the Brevard County Contractor Licensing Department for having an accessory structure built without a building permit. The applicant has since applied for a building permit for the accessory structure (23BC17204) which closed the code enforcement action. If the Board approves the variance, it may want to limit its approval as depicted on the survey provided by the applicant with a field date of 09/07/2023.

# LOCATION MAP

ROBIN, RONALD M, JR  
24V00006





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

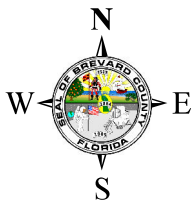
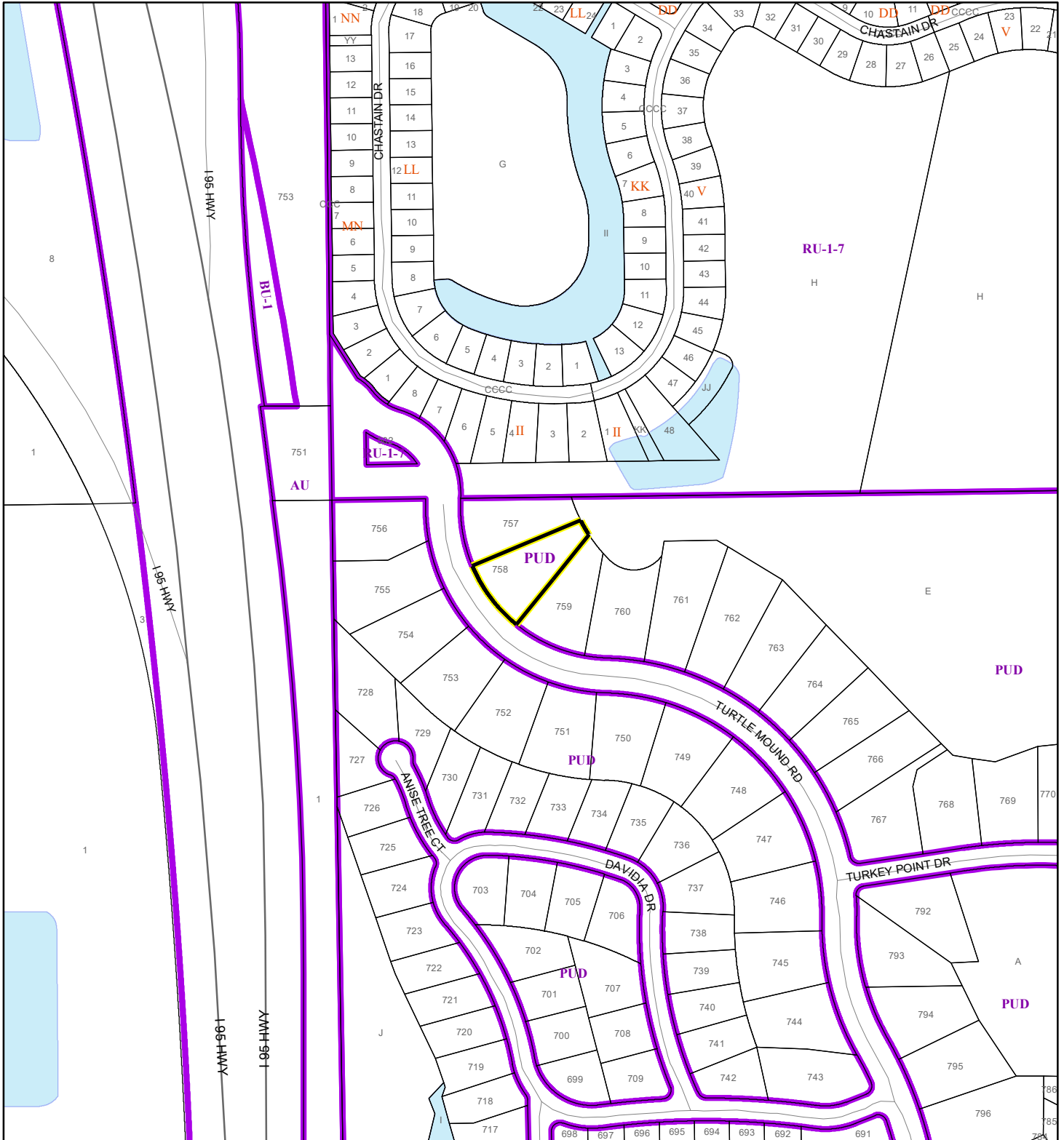
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/5/2024

-  Buffer
-  Subject Property

# ZONING MAP




ROBIN, RONALD M, JR  
24V00006



1:4,800 or 1 inch = 400 feet

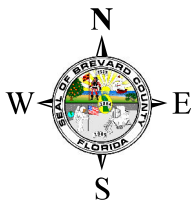
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Produced by BoCC - GIS Date: 2/5/2024

-  Subject Property
-  Parcels
-  Zoning

# AERIAL MAP

ROBIN, RONALD M, JR  
24V00006




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

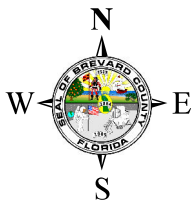
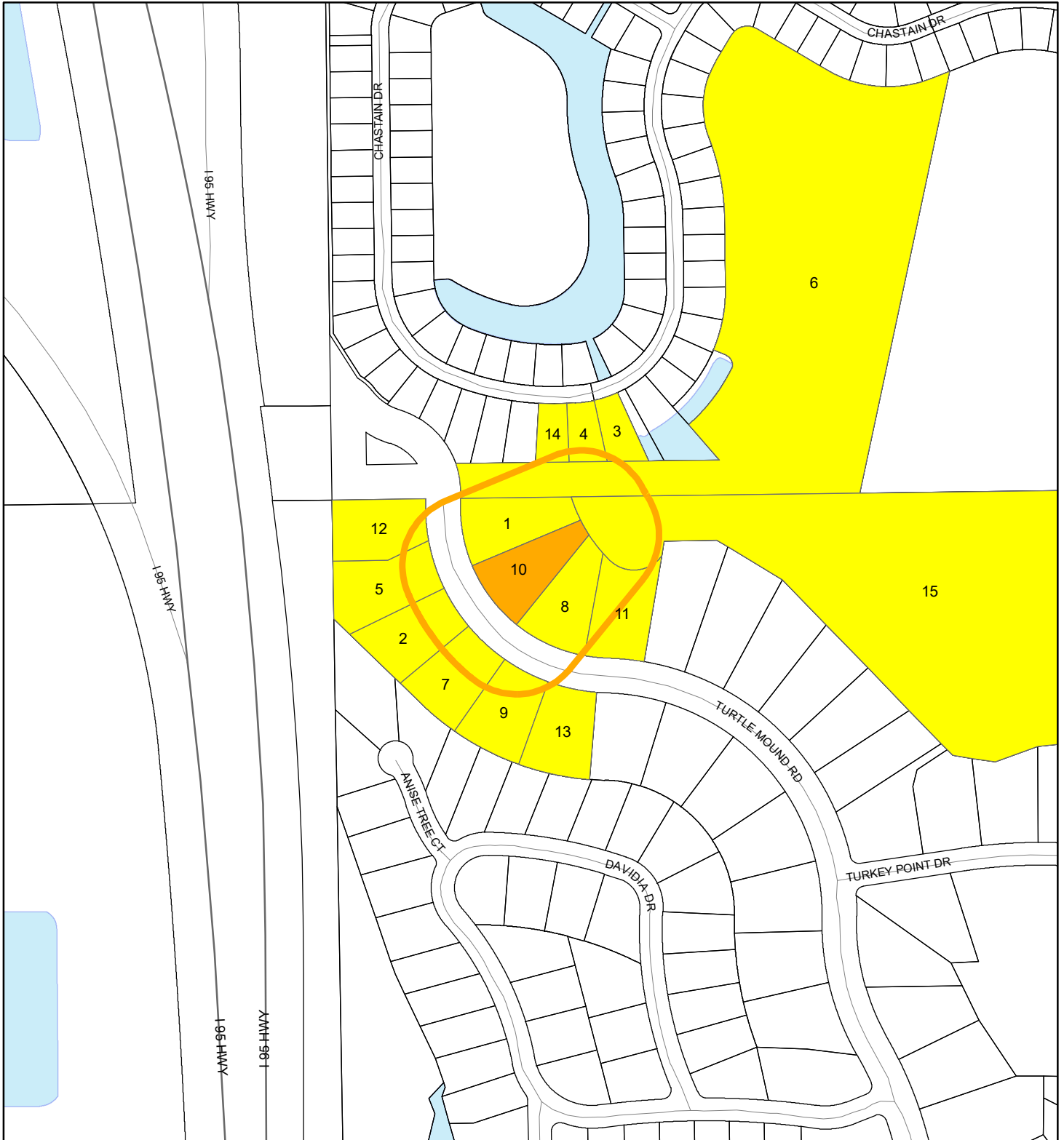
Produced by BoCC - GIS Date: 2/5/2024

 Subject Property

 Parcels

# RADIUS MAP

ROBIN, RONALD M, JR  
24V00006







1:4,800 or 1 inch = 400 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/5/2024

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

## VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number \_\_\_\_\_, and  
name of contractor \_\_\_\_\_

No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

\_\_\_\_\_  
The encroachment of the asphalt pad on the property was already present when the applicant bought the property.  
\_\_\_\_\_

(2) That the special conditions and circumstances do not result from the actions of the applicant:

\_\_\_\_\_  
The applicant purchased the property in 2023. The asphalt pad was already on the property encroaching over the setback at that time. The owner solely placed a shed on the existing asphalt pad.  
\_\_\_\_\_

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

\_\_\_\_\_  
Granting the variance is not a special privilege to the owner as neighboring owners have built similar structures within the setback requirements.  
\_\_\_\_\_

(over)

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant:

Literal enforcement would deprive the applicant of rights commonly enjoyed by other properties such as the right to use their property and to use the structure for its intended use. A denial would cause unnecessary and undue hardship on the applicant. The applicant would have to demolish the asphalt pad and shed, which would cause an undue hardship.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

The encroachment is 5.2 feet on the Northwest side. This variance is the minimum necessary to allow reasonable use of the structure.

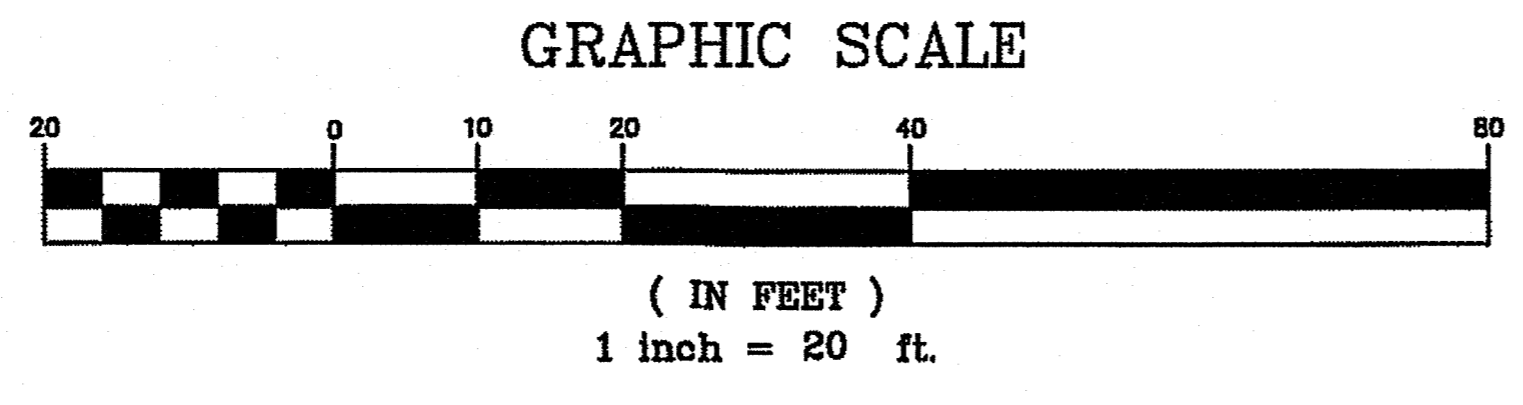
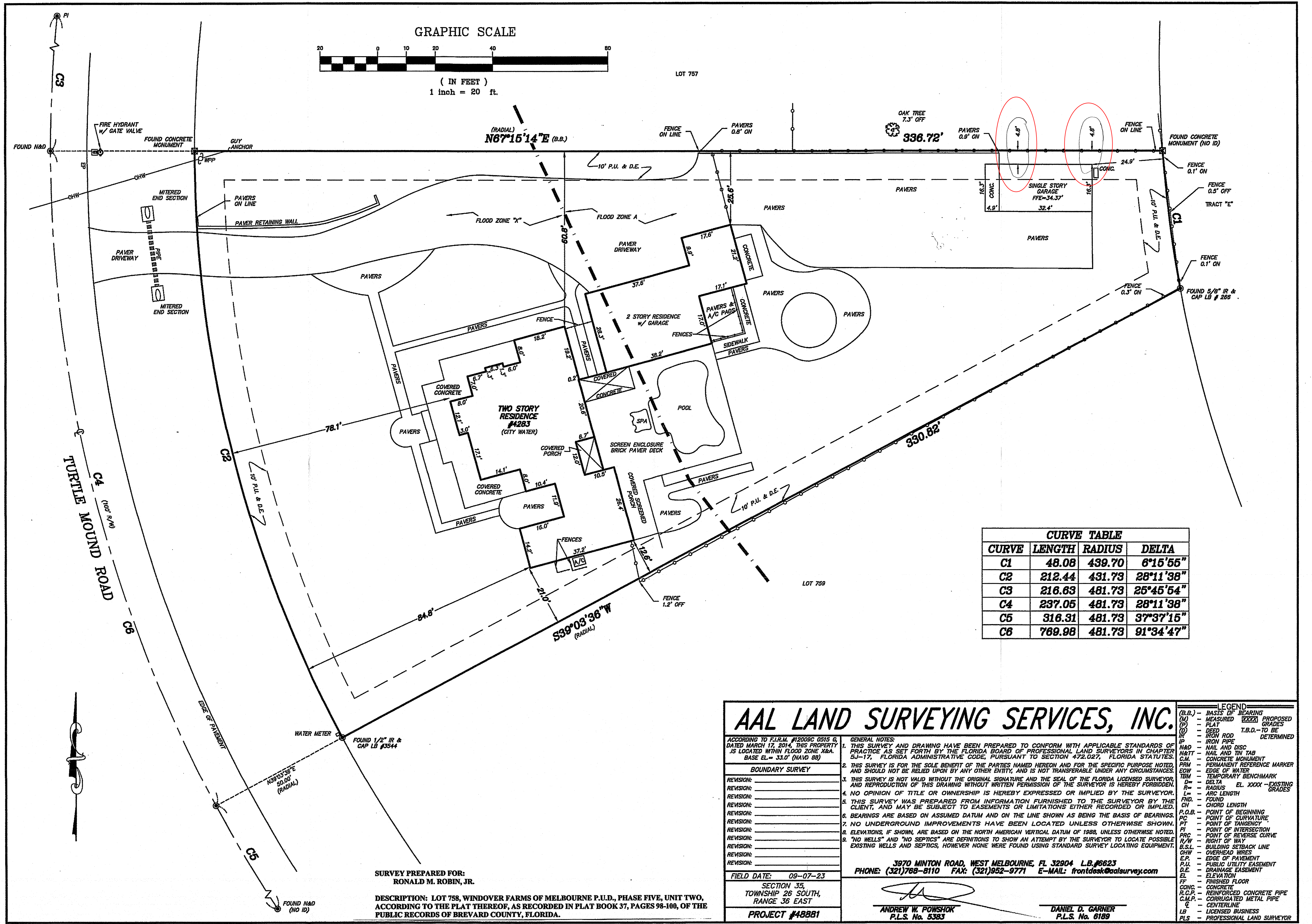
(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

The asphalt pad and shed is an innocuous addition to the property and poses no foreseeable harm to the public welfare.

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant 

Signature of planner 



CURVE	LENGTH	RADIUS	DELTA
C1	48.08	439.70	6°15'55"
C2	212.44	431.73	28°11'38"
C3	216.63	481.73	25°45'54"
C4	237.05	481.73	28°11'38"
C5	316.31	481.73	37°37'15"
C6	769.98	481.73	91°34'47"

## AAL LAND SURVEYING SERVICES, INC.

3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B.#6623  
PHONE: (321)768-8110 FAX: (321)952-9771 E-MAIL: [frontdesk@aalsurvey.com](mailto:frontdesk@aalsurvey.com)

ANDREW W. POWSHOK  
P.L.S. No. 5383

DANIEL D. GARNER  
P.L.S. No. 6189

**BOUNDARY SURVEY**

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

**LEGEND**

(B.B.) - BASIS OF BEARING

(M) - MEASURED ~~XXXX~~ PROPOSED GRADES

(D) - DEED T.B.D. - TO BE DETERMINED

IR - IRON ROD

IP - IRON PIPE

N&D - NAIL AND DISC

N&T - NAIL AND TIN TAB

CM - CONCRETE MONUMENT

PRM - PERMANENT REFERENCE MARKER

EW - EDGE OF WATER

TBM - TEMPORARY BENCHMARK

Δ - DELTA

R - RADIUS EL. XXXX - EXISTING GRADES

L - ARC LENGTH

FND - FOUND

CH - CHORD LENGTH

P.O.B. - POINT OF BEGINNING

PC - POINT OF CURVATURE

PT - POINT OF TANGENCY

PI - POINT OF INTERSECTION

PRC - POINT OF REVERSE CURVE

R/W - RIGHT OF WAY

B.S.L. - BUILDING SETBACK LINE

OHW - OVERHEAD WIRES

E.P. - EDGE OF PAVEMENT

P.U. - PUBLIC UTILITY EASEMENT

D.E. - DRAINAGE EASEMENT

EL - ELEVATION

FF - FINISHED FLOOR

CONC - CONCRETE

R.C.P. - REINFORCED CONCRETE PIPE

C.M.P. - CORRUGATED METAL PIPE

℄ - CENTERLINE

LB - LICENSED BUSINESS

PLS - PROFESSIONAL LAND SURVEYOR

**GENERAL NOTES:**

- THIS SURVEY AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 51-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.
- THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED AND SHOULD NOT BE RELED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
- THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE SEAL OF THE FLORIDA LICENSED SURVEYOR, AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
- NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
- THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
- BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
- NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
- ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED.
- "NO WELLS" AND "NO SEPTICS" ARE DEFINITIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

ACCORDING TO F.I.R.M. #12009C 0515 G, DATED MARCH 17, 2014, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE X&A. BASE EL. = 33.0' (NAVD 88)

FIELD DATE: 09-07-23

SECTION 35, TOWNSHIP 26 SOUTH, RANGE 36 EAST

PROJECT #48881

SURVEY PREPARED FOR:  
RONALD M. ROBIN, JR.

DESCRIPTION: LOT 758, WINDOVER FARMS OF MELBOURNE P.U.D., PHASE FIVE, UNIT TWO, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 37, PAGES 98-100, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.





# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.6.

3/20/2024

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### **Subject:**

O’Kane Family Trust (Gwyn & Anne O’Kane) requests variances of Chapter 62, Article VI, Brevard County Code, for a boat dock and watercraft in an RU-1-13 zoning classification. (24V00005) (Tax Account 2519529) (District 2)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider a variance of Chapter 62, Article VI, Brevard County Code, for a boat dock and watercraft in an RU-1-13 (Single-Family Residential) zoning classification.

### **Summary Explanation and Background:**

O’Kane Family Trust (Gwyn & Anne O’Kane) requests variances of Chapter 62, Article VI, Brevard County Code, as follows: 1.) Section 62-2118(d)(2), to permit a variance of 7.5 ft. from the north 7.5-ft. side setback required for a boat dock and watercraft; 2.) Section 62-2118(d)(2), to permit a variance of 7.5 ft. from the south 7.5-ft. side setback required for a boat dock and watercraft; and 3.) 8 ft. over the 16-ft. projections (20% of canal width) permitted for a boat dock and moored boat in an RU-1-13 (Single-Family Residential) zoning classification. The property is 0.61 acres, located on the west side of Bay Shore Dr., approx. 550 ft. northwest of West Point Dr. (1732 Bay Shore Dr., Cocoa Beach)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

TO: Board of Adjustment Members  
FROM: Paul Body, Senior Planner  
Thru: Jeffrey Ball, AICP, Planning & Zoning Manager  
SUBJECT: Variance Staff Comments for Wednesday, March 20, 2024  
DATE: February 27, 2024

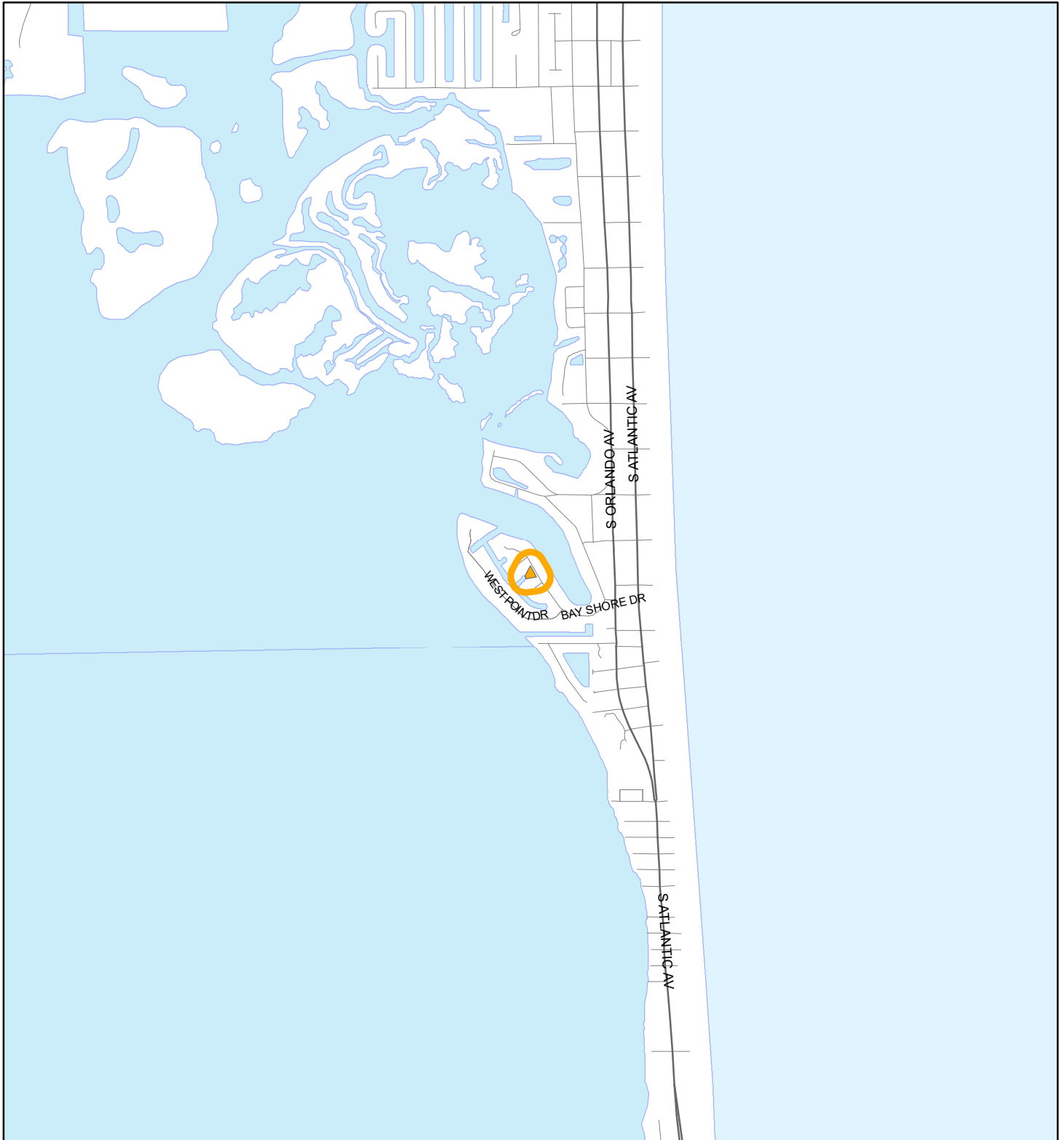
### DISTRICT 2

**5. (24V00005) O’Kane Family Trust (Gwyn and Anne O’Kane)** requests variances of Chapter 62, Article VI, Brevard County Code as follows, 1.) Section 62-2118(d)(2), to permit a variance of 7.5 ft. from the required 7.5-ft. side (north) setback for a boat dock and watercraft; 2.) Section 62-2118(d)(2) to permit a variance of 7.5 ft. from the required 7.5-ft. side (south) setback for a boat dock and watercraft; and 3.) Section 62-2118(d)(3), to permit a variance of 8 ft. over the 16-ft. maximum projection required for a boat dock and watercraft in an RU-1-13 (Single-Family Residential) zoning classification. This request represents the applicants’ request to construct new dock. The applicant states that the shape of their lot and the canal limits the space a dock can be built in. The first request equates to an 100% deviation of what the code allows. The second request equates to an 100% deviation of what the code allows. The third request equates to an 50% deviation of what the code allows. There is one variance approved for dock projection requirements and dock setback requirements in the immediate area. There is no code enforcement action pending with the Brevard County Planning & Development Department. If the Board approves these variances, it may want to limit its approval as depicted on the survey and provided by the applicant with a revision date of 01/30/2024.

# LOCATION MAP

O'KANE FAMILY TRUST

24V00005





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

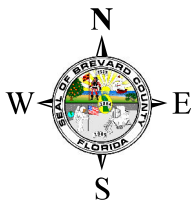
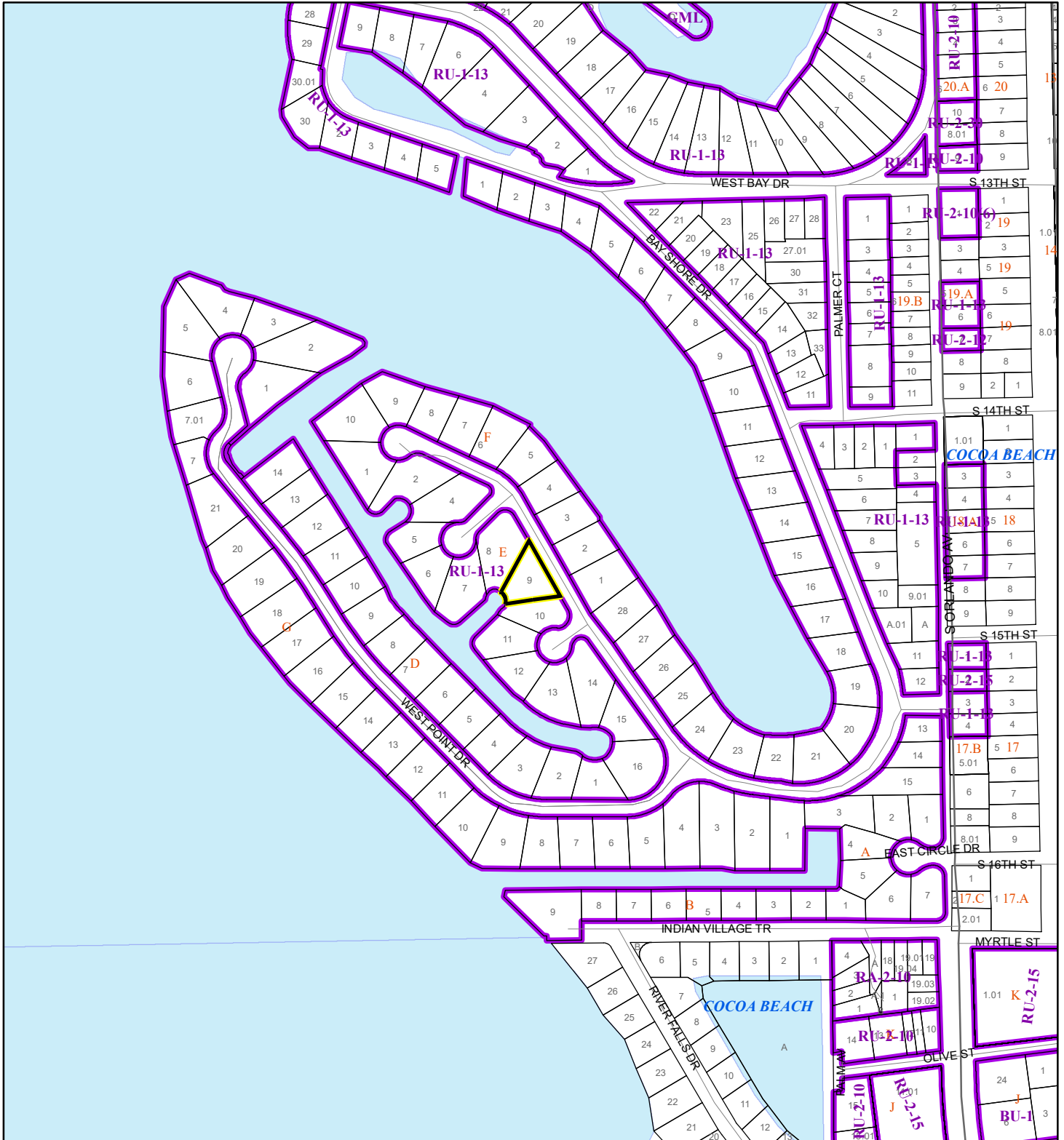
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/1/2024

-  Buffer
-  Subject Property

# ZONING MAP

O'KANE FAMILY TRUST  
24V00005



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/1/2024

- Subject Property
- Parcels
- Zoning

# AERIAL MAP

O'KANE FAMILY TRUST

24V00005




1:1,200 or 1 inch = 100 feet

PHOTO YEAR: 2023

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/1/2024

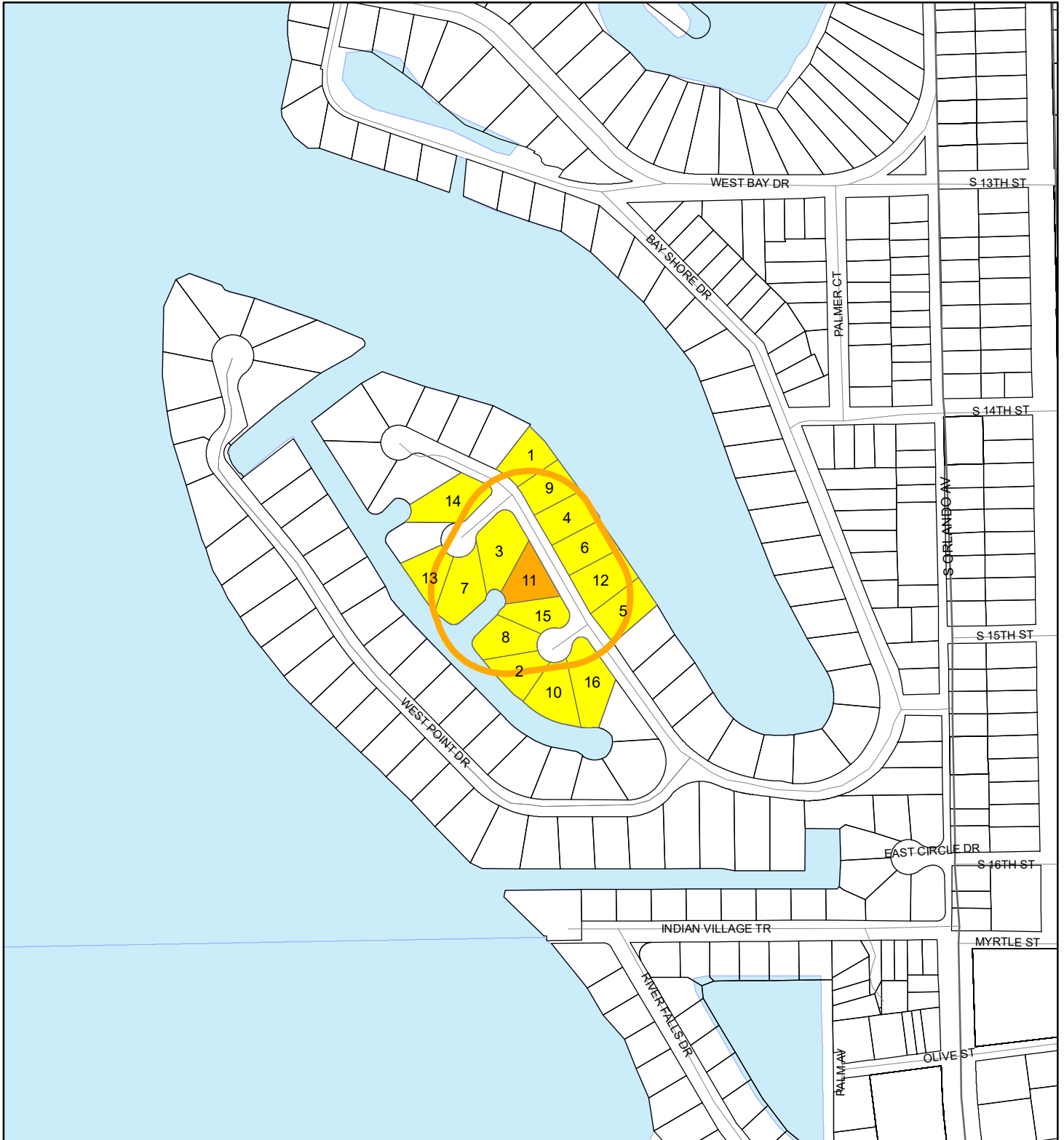
 Subject Property

 Parcels

# RADIUS MAP

O'KANE FAMILY TRUST

24V00005







1:4,800 or 1 inch = 400 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 2/1/2024

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels



BOARD OF COUNTY COMMISSIONERS

Planning and Development

2725 Judge Fran Jamieson Way
Building A, Room 114
Viera, Florida 32940
(321) 633-2070 Phone

VARIANCE HARDSHIP WORKSHEET

Is the variance request due to a Code Enforcement action: [ ] Yes [X] No

If yes, please indicate the case number and the name of the contractor:

Case Number: \_\_\_\_\_

Contractor: Land and Sea Marine Construction

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

- 1. That special conditions and circumstances exist which are not applicable to other lands, structures, or buildings in the applicable zoning classification.

Applicant Response:

There are just three homeowners who share this unique circular area along the East Fork canal. Within this area, each of the three properties faces the challenge of limited space when considering waterway access. The applicants are particularly affected due to the extreme pie-shaped nature of their lot resulting in the least amount of space in the canal. The variance 23V00010, along with subsequent additional dock and dredging, have led to hardship. The applicants are now requesting a variance to address their inability to launch their boat from a boat lift that was originally constructed and permitted by the County 20 years ago. They are seeking a variance for both side setbacks and projection limitations into the waterway.

2. That the special conditions and circumstances do not result from the actions of the applicant.

Applicant Response:

The applicants purchased their home in 2002, with the existing seawall already in place. In 2003, due to permitting limitations at that time, they applied for an elevator-style boat lift. The construction of the lift and final permit inspection were completed by February 11, 2004. Since then, there have been no alterations to the seawall or boat lift in the past two decades. Recently, neighboring property owners on both sides have constructed seawalls and new boat lifts, enabling them to launch straight into the waterway. The applicants are requesting a variance to rotate their boat dock's position so they can enjoy similar ease of access as their neighbors.

3. That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings, or structures in the identical zoning classification.

Applicant Response:

Applicants would like to be able to launch their boat and enjoy the waterway just as both neighbors are now able to do. The applicants took great care to hire the same surveying company used by their neighbors and the same marine contractor who built the seawall and boat dock for the neighbor to the west. This was done to ensure that the design and footprint of the proposed new boat dock would not interfere with the ability of either neighbor to launch their boats.

4. That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant.

Applicant Response:

Literal enforcement of the existing regulations would prevent the applicants from using their boat and deprive them of rights previously enjoyed, which are now commonly enjoyed by both neighbors on either side. Not granting this variance could also have a negative impact on the resale value of their home.



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

Applicant Response:

Yes, the variance requested is the minimum necessary to make it possible for the applicants to use their boat once again.

6. That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

Applicant Response:

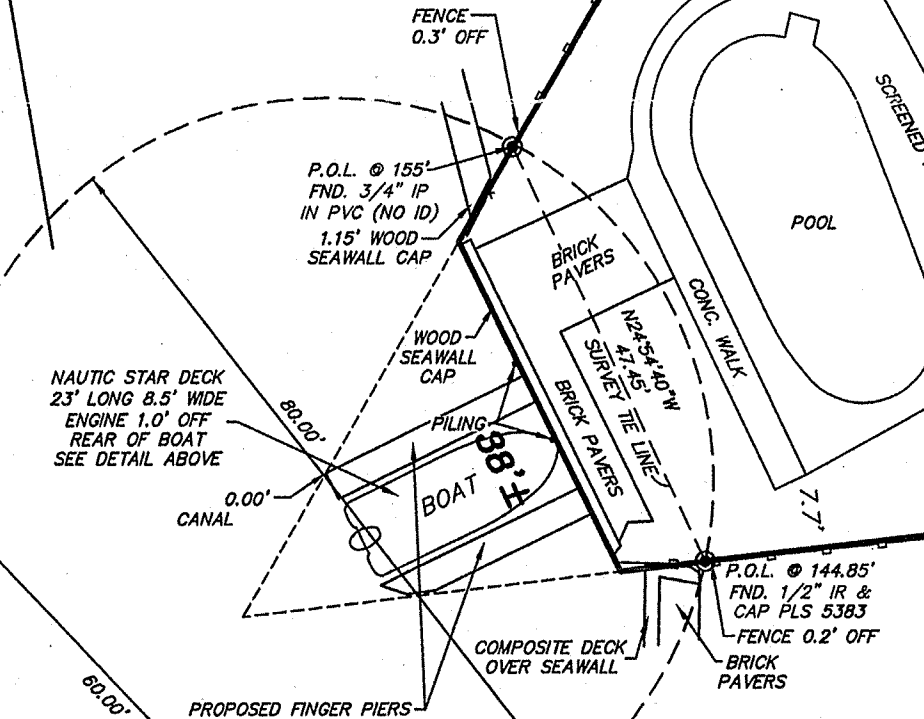
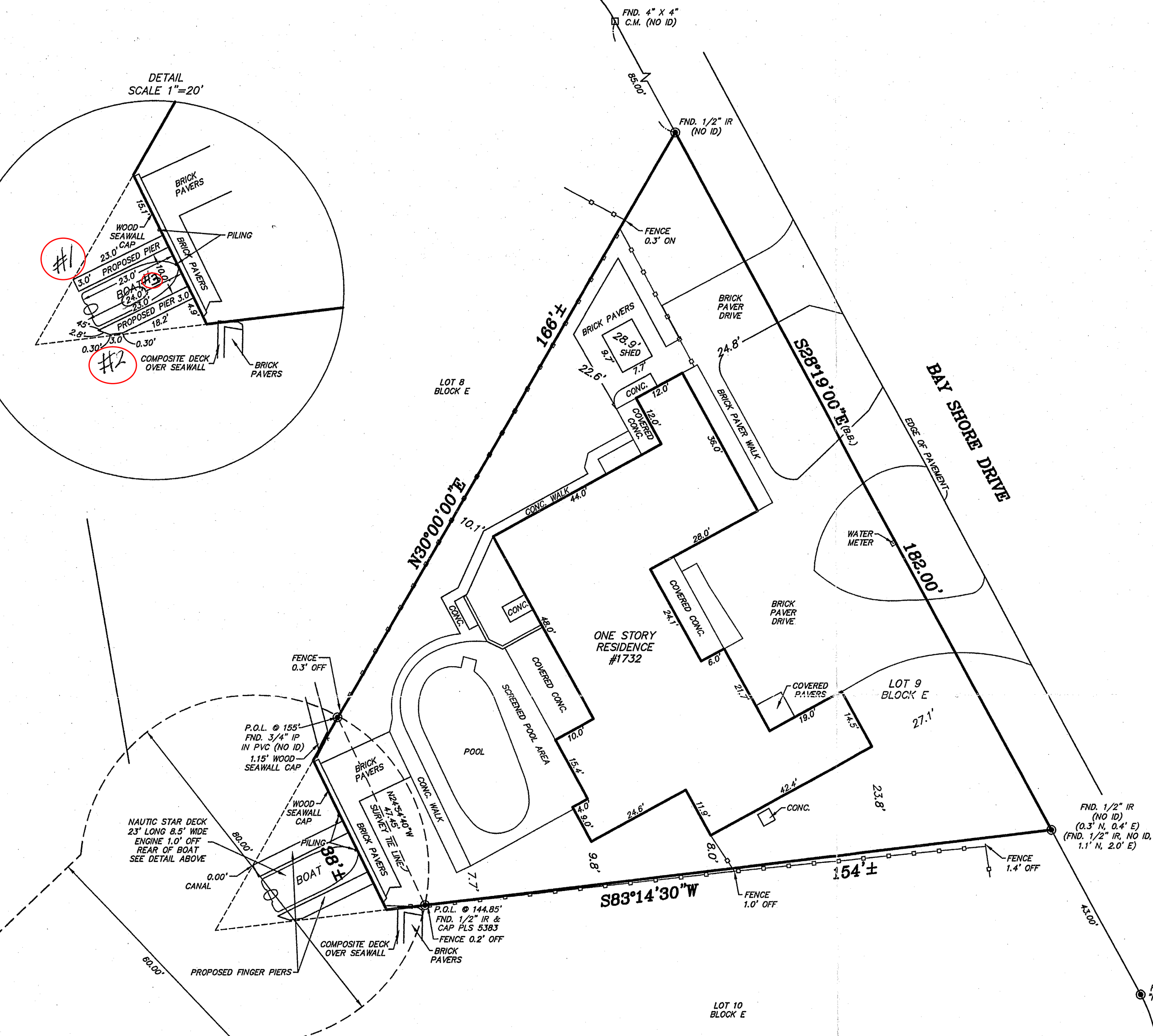
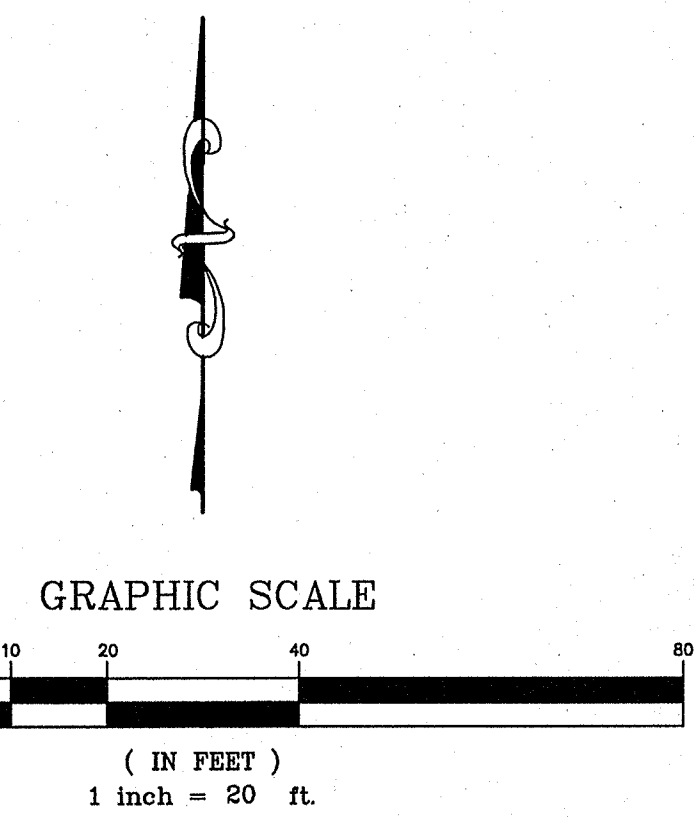
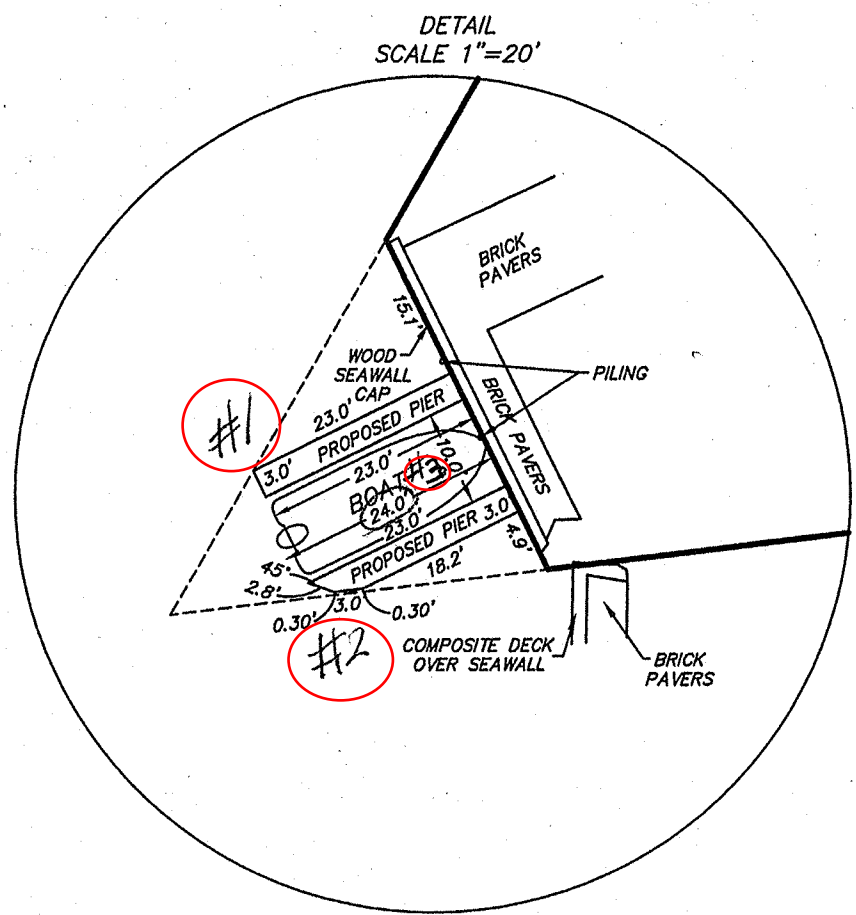
Granting this variance would not only serve the applicants' needs but also contribute to improved harmony in the waterway on the East Fork Canal. The applicants had hoped to avoid the cost of reconfiguring their boat dock, which would exceed \$25,000. However, given the current circumstances, they have no other viable option to regain the ability to use their boat.

I fully understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by a Planning and Development representative. I am fully aware it is my responsibility to prove complete compliance with the aforementioned criteria.

Gwyn O'Kane

Signature of Applicant

Signature of Planner



SURVEY PREPARED FOR:  
O'KANE FAMILY TRUST

DESCRIPTION: LOT 9, BLOCK E, WEST POINT ADDITION TO SNUG HARBOR ESTATES, ACCORDING TO THE PLAT THEREOF, AS RECORDED IN PLAT BOOK 11, PAGE 88, OF THE PUBLIC RECORDS OF BREVARD COUNTY, FLORIDA.

# AAL LAND SURVEYING SERVICES, INC.

ACCORDING TO F.I.R.M. #12009C 0461 H, DATED JANUARY 28, 2021, THIS PROPERTY IS LOCATED WITHIN FLOOD ZONE AE. (BASE EL. 3) (NAVD 88)

BOUNDARY SURVEY

SCALE: 1" = 20'

REVISION: \_\_\_\_\_

REVISION: \_\_\_\_\_

REVISION: COUNTY COMMENTS 01-30-24

REVISION: PROPOSED DOCK ADDED 01-23-24

REVISION: MOOREY CANAL FEATURES 10-30-23

FIELD DATE: 10-06-23

SECTION 22, TOWNSHIP 25 SOUTH, RANGE 37 EAST

PROJECT #48932

GENERAL NOTES:

- THIS SURVEY AND DRAWING HAVE BEEN PREPARED TO CONFORM WITH APPLICABLE STANDARDS OF PRACTICE AS SET FORTH BY THE FLORIDA BOARD OF PROFESSIONAL LAND SURVEYORS IN CHAPTER 5J-17, FLORIDA ADMINISTRATIVE CODE, PURSUANT TO SECTION 472.027, FLORIDA STATUTES.
- THIS SURVEY IS FOR THE SOLE BENEFIT OF THE PARTIES NAMED HEREON AND FOR THE SPECIFIC PURPOSE NOTED, AND SHOULD NOT BE RELIED UPON BY ANY OTHER ENTITY, AND IS NOT TRANSFERABLE UNDER ANY CIRCUMSTANCES.
- THIS SURVEY IS NOT VALID WITHOUT THE ORIGINAL SIGNATURE AND THE SEAL OF THE FLORIDA LICENSED SURVEYOR, AND REPRODUCTION OF THIS DRAWING WITHOUT WRITTEN PERMISSION OF THE SURVEYOR IS HEREBY FORBIDDEN.
- NO OPINION OF TITLE OR OWNERSHIP IS HEREBY EXPRESSED OR IMPLIED BY THE SURVEYOR.
- THIS SURVEY WAS PREPARED FROM INFORMATION FURNISHED TO THE SURVEYOR BY THE CLIENT, AND MAY BE SUBJECT TO EASEMENTS OR LIMITATIONS EITHER RECORDED OR IMPLIED.
- BEARINGS ARE BASED ON ASSUMED DATUM AND ON THE LINE SHOWN AS BEING THE BASIS OF BEARINGS.
- NO UNDERGROUND IMPROVEMENTS HAVE BEEN LOCATED UNLESS OTHERWISE SHOWN.
- ELEVATIONS, IF SHOWN, ARE BASED ON THE NORTH AMERICAN VERTICAL DATUM OF 1988, UNLESS OTHERWISE NOTED.
- "NO WELLS" AND "NO SEPTICS" ARE DEFINITIONS TO SHOW AN ATTEMPT BY THE SURVEYOR TO LOCATE POSSIBLE EXISTING WELLS AND SEPTICS, HOWEVER NONE WERE FOUND USING STANDARD SURVEY LOCATING EQUIPMENT.

3970 MINTON ROAD, WEST MELBOURNE, FL 32904 L.B.#6623  
PHONE: (321)768-8110 FAX: (321)952-9771 E-MAIL: [frontdesk@aalsurvey.com](mailto:frontdesk@aalsurvey.com)

ANDREW W. POWSHOK  
P.L.S. No. 5383

DANIEL D. GARNER  
P.L.S. No. 6189

LEGEND	
(B.B.) - BASIS OF BEARING	
(M) - MEASURED	XXXX PROPOSED
(P) - PLAT	GRADES
(D) - DEED	T.B.D. - TO BE DETERMINED
IR - IRON ROD	
IP - IRON PIPE	
N&D - NAIL AND DISC	
N&TT - NAIL AND TIN TAB	
C.M. - CONCRETE MONUMENT	
PRM - PERMANENT REFERENCE MARKER	
EDW - EDGE OF WATER	
TBM - TEMPORARY BENCHMARK	
Δ - DELTA	EL. XXXX - EXISTING GRADES
R - RADIUS	
L - ARC LENGTH	
FND. - FOUND	
CH - CHORD LENGTH	
P.O.B. - POINT OF BEGINNING	
P.C. - POINT OF CURVATURE	
PT - POINT OF TANGENCY	
PI - POINT OF INTERSECTION	
PRC - POINT OF REVERSE CURVE	
R/W - RIGHT OF WAY	
S.S.L. - BUILDING SETBACK LINE	
OHV - OVERHEAD WIRES	
E.P. - EDGE OF PAVEMENT	
P.U. - PUBLIC UTILITY EASEMENT	
D.E. - DRAINAGE EASEMENT	
EL - ELEVATION	
FF - FINISHED FLOOR	
CONC. - CONCRETE	
R.C.P. - REINFORCED CONCRETE PIPE	
C.M.P. - CORRUGATED METAL PIPE	
CL - CENTERLINE	
LB - LICENSED BUSINESS	
PLS - PROFESSIONAL LAND SURVEYOR	

**From:** [Cynthia Lynn Keller](#)  
**To:** [Champion, Kristen](#)  
**Cc:** [Gwyn O'Kane](#)  
**Subject:** O'Kane Variance Application 24V00005  
**Date:** Sunday, March 3, 2024 11:23:59 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

This letter is in support of Variance Application 24V00005 by our neighbors, Gwyn and Anne O'Kane of 1732 Bay Shore Drive in Cocoa Beach, to change their boat dock and lift. They are specifically requesting a minimum variance for both side setbacks and projection limitations into the waterway. We have reviewed the application as well as their current situation and proposed changes. Our property has a direct line-of-sight down the East Fork of the Grand Canal to the O'Kane's dock and house, as well as partial views of their two adjacent neighbors' properties. We do not believe their proposed solution would negatively impact our water access or view. We have not talked with the O'Kane's adjacent neighbors, so we do not know if they have any concerns, but, in our opinion, the proposal emphasizes fair and equitable waterway access for all three properties.

Briefly, the O'Kanes are unfortunately no longer able to use their boat lift to launch their boat following recent water-access construction by their adjacent neighbors. We believe their application meets the definition of "undue hardship" because they are not able to practically launch their boat due to their pie-shaped lot with a limited waterfront property line of 38 feet. In addition to the physical impracticality, they do not want to interfere with their neighbors' structures. Of note, their boat lift was permitted and installed over two decades ago.

The O'Kanes propose to build a 4-piling lift that will be rotated 90 degrees from the current installation, which would have the bow of their boat at the seawall and the stern facing down the canal toward our house. This would allow easy launching of their boat to enable safe navigation into the Grand Canal. Critically, this new orientation would maintain adequate clearance for their neighbors' boats, and all three properties would then have similar waterway access. In our minds, the O'Kanes have gone above and beyond in their efforts to satisfy and balance their needs with the needs of their neighbors. They even hired the same surveyor that was used by their neighbors, and they hired the same contractor that was used by the neighbor to the west to ensure full compatibility. The survey they obtained shows their boat will fit within the projections of their property lines without encroaching on their neighbors' water access.

In summary, we believe that the O'Kanes have done their due diligence to ensure they will be able to launch their boat easily and safely, while at the same time avoiding any conflicts with the neighbors' structures. We therefore fully endorse the O'Kane's proposed solution since it maintains fairness for everyone's use of this section of the canal while allowing them to again use their boat, and it will not affect our water access. We ask for your approval of their application. Thank you so much for your time and consideration.

Scott and Lynn Keller  
7 West Point Drive  
Cocoa Beach, FL 32931

Judith Greene

8 West Point Drive  
Cocoa Beach, FL 32931

March 4, 2024

To Whom It May Concern:

I am writing to express my support for variance notice 24V00005.

Having observed the developments from the rear of my property, overlooking the East Fork towards the O’Kane property, I have gained an understanding of the challenges posed by the proximity of construction projects and boat lifts, particularly with just three neighbors sharing this space.

After carefully reviewing the information and drawings regarding the variance request for the O’Kane property, I am convinced that approving this variance is the most sensible course of action for the Board.

Thank you for considering my input.

Best regards,

Judith Greene

**From:** [TULSKIE, BARBARA](#)  
**To:** [Champion, Kristen](#)  
**Cc:** [Gwyn O'Kane](#)  
**Subject:** Variance Application 24V00005  
**Date:** Friday, March 8, 2024 1:51:47 PM

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**[EXTERNAL EMAIL]** DO NOT CLICK links or attachments unless you recognize the sender and know the content is safe.

Hello

I felt compelled to write to you about the variance for the O'Kane family. I can't attend the meeting since my husband is getting a knee replacement that day, so this is the next best thing.

We bought in the Snug Harbor neighborhood for the access to the water ways and beaches. It is a lovely neighborhood with lots of great neighbors. The O'Kane's are one of our great neighbors. I do a lot of kayaking so I knew the previous condition of their "cove or nook" in our canal. Theirs was the only boat there and even with it being the only boat it was tight for them. With the addition of 2 more docks, it is not possible for them to enjoy the aspect of our neighborhood that might even be the reason they bought here.

I am in agreement that they need to rotate their dock 90 degrees, which will enable them to use their boat without any interference from the neighboring properties. Please approve the variance. If you don't approve the variance, you basically eliminated their ability to use their boat. The O'Kane's dock was the first one in that part of the canal. Since the other 2 docks were approved on either side, they restricted the O'Kane's use of their dock. Even with the approval, they have to spend a lot of money to rotate their dock. I see no reason this should be turned down.

Thanks  
Barb Cassidento

## Lilo Rowan

1800 Bayshore Drive  
Cocoa Beach FL 32931  
United States  
(973) 452-3265 (Mobile)  
(321) 613-2632 (Home)

Re: Variance Application 24V00005  
Gwyn and Annie O'Kane, 1732 Bay Shore Drive, Cocoa Beach, FL. 32931

Dear Ms. Champion,

I am writing this letter to encourage the Board of Adjustment to grant approval for this variance.

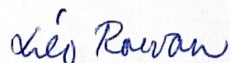
I have resided at 1800 Bay Shore Drive for over 11 years during which time I have been fortunate enough to get to know most of my neighbors. We chat while walking our dogs, invite each other to celebrations - college graduations, weddings, birthdays and other such events. There were also boating excursions that many neighbors participated in. The O'Kane's in particular made a point of always inviting me to join them on their boat with their family whenever they took their boat out.

During the summer of 2023, dredging related to seawall and boat lift construction by their neighbors in the small cul-de-sac where they are located, made it impossible for the O'Kane's to safely launch their boat from their boat lift which was built over 20 years ago with proper permitting and regulations then in effect. The O'Kane's are exceptionally concerned about safety and not damaging any neighbor's property or seawall. They have not been able to launch their boat since last summer.

Everyone residing on the canals in Snug Harbor should be able to safely launch their vessels and enjoy the waterways. The O'Kane's were able to launch their boat for many years prior to last summer and should be able to do so in the future.

**I strongly support approval of this variance for the O'Kane family.**

Sincerely yours,



Lilo Rowan

Ilona Parker

5 West Point Drive

Cocoa Beach, FL, 32931

321-783-7935

March 5<sup>th</sup>, 2024.

**Subject: Support letter of Variance Application # 24V00005 O'Kane**

Dear Mrs. Champion,

This letter is in support of Variance Application 24V00005 by our neighbors, Gwyn, and Anne O'Kane of 1732 Bay Shore Drive in Cocoa Beach, to reconfigure their boat dock and lift.

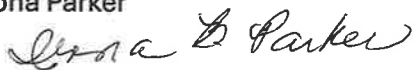
This variance will enable safe navigation for all 3 properties involved in that part of the canal and I do not see any forthcoming issues as it only affects these 3 properties and both neighbors have already been enjoying their new sea walls and dock lifts.

I am endorsing their proposed solution as this will restore harmonious relationship among neighbors and safe navigation as it's compatibility with the collective interest of 2 other properties sharing this section of the canal.

After reviewing the proposed variance drawings, I am confident that the board will have no objection in granting their variance request so that the O'Kane's will once again be able to enjoy/use their boat.

Sincerely,

Ilona Parker







# Agenda Report

2725 Judge Fran Jamieson  
Way  
Viera, FL 32940

## Public Hearing

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G.7.

3/20/2024

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### **Subject:**

Kevin and Torri Downs requests variances of Chapter 62, Article VI, Brevard County Code, for a accessory structures in an EU zoning classification. (23V00033) (Tax Account 2606220) (District 4)

### **Fiscal Impact:**

None

### **Dept/Office:**

Planning and Development

### **Requested Action:**

It is requested that the Board of Adjustment conduct a public hearing to consider a variance of Chapter 62, Article VI, Brevard County Code, for a accessory structures in an EU (Estate Use) zoning classification.

### **Summary Explanation and Background:**

Kevin and Torri Downs requests variances of Chapter 62, Article VI, Brevard County Code as follows, 1.) Section 62-1339(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; 2.) Section 62-1339(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; and 3.) Section 62-1339(5)(b), to permit a variance of 5.2 ft. from the required 10-ft. side (south) setback for an accessory structure (tennis court) in an EU (Estate Use) zoning classification. The property is 2.86 acres, located on the west side of South Tropical Trail, approx. 700 ft. south of Pineda Causeway. (8505 S. Tropical Trail, Merritt Island)

### **Clerk to the Board Instructions:**

None



BOARD OF COUNTY COMMISSIONERS

## Inter-Office Memo

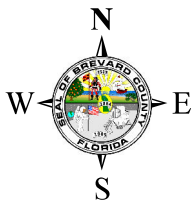
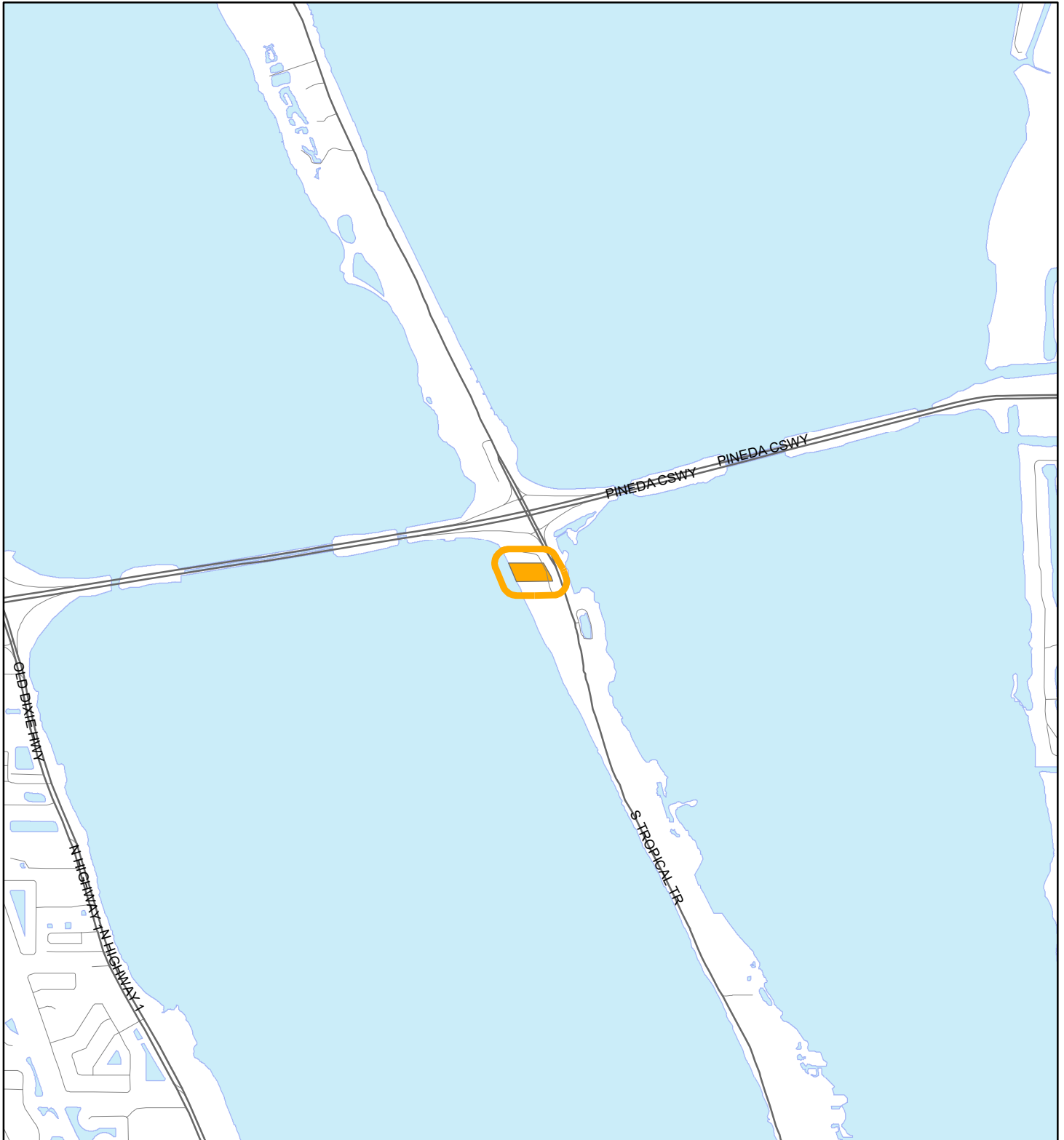
TO: Board of Adjustment Members  
FROM: Paul Body, Senior Planner  
Thru: Jeffrey Ball, AICP, Planning & Zoning Manager  
SUBJECT: Variance Staff Comments for Wednesday, March 20, 2024  
DATE: February 27, 2024

### DISTRICT 4

**7. (23V00033) Kevin and Torri Downs** requests variances of Chapter 62, Article VI, Brevard County Code as follows, 1.) Section 62-1339(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; 2.) Section 62-1339(5)(b) to permit a variance to allow an accessory structure to be located forward of the front building line of the principal structure; and 3.) Section 62-1339(5)(b), to permit a variance of 5.2 ft. from the required 10-ft. side (south) setback for an accessory structure (tennis court) in an EU (Estate Use) zoning classification. This request represents the applicants' request to legitimize the existing accessory structures in order to build a RV carport which will be required to meet setback requirements. The applicant states that the accessory structures were built by a previous owner and were in this configuration when they purchased the property on September 25, 2017. The third request equates to a 52% deviation of what the code allows. There are no variances to the accessory setback requirements in the immediate area. There is no code enforcement action pending with the Brevard County Planning and Development Department. If the Board approves the variances, it may want to limit its approval as depicted on the survey provided by the applicant with a survey date of 10/19/2023.

# LOCATION MAP

DOWNNS, KEVIN W  
23V00033





1:24,000 or 1 inch = 2,000 feet

Buffer Distance: 200 feet

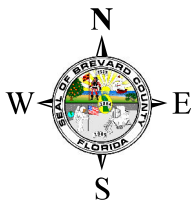
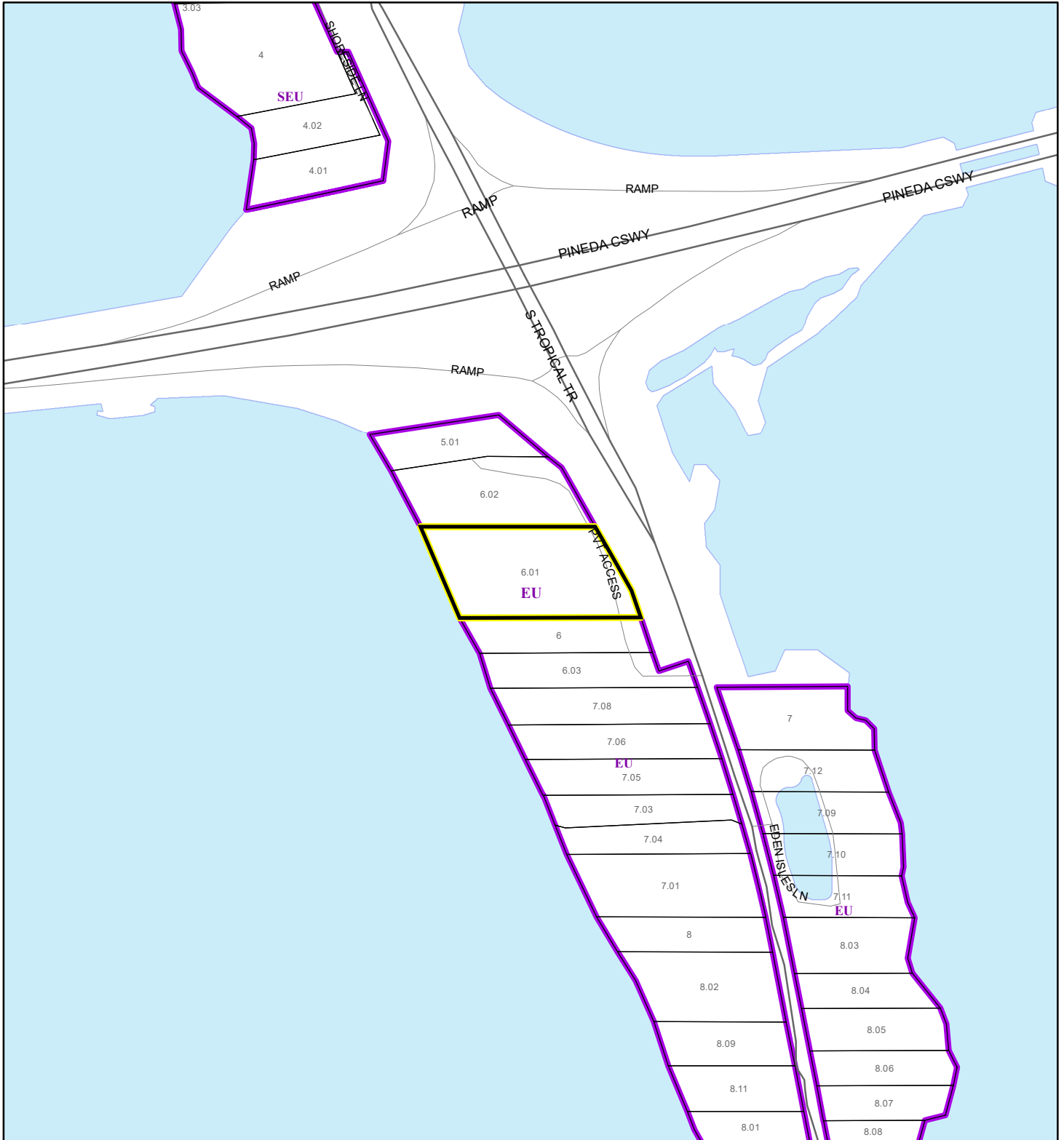
This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/2/2024

-  Buffer
-  Subject Property

# ZONING MAP




DOWNNS, KEVIN W  
23V00033



1:4,800 or 1 inch = 400 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/2/2024

-  Subject Property
-  Parcels
-  Zoning

# AERIAL MAP

DOWNES, KEVIN W

23V00033




1:2,400 or 1 inch = 200 feet

PHOTO YEAR: 2023

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

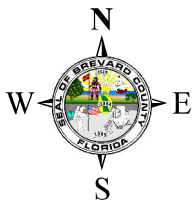
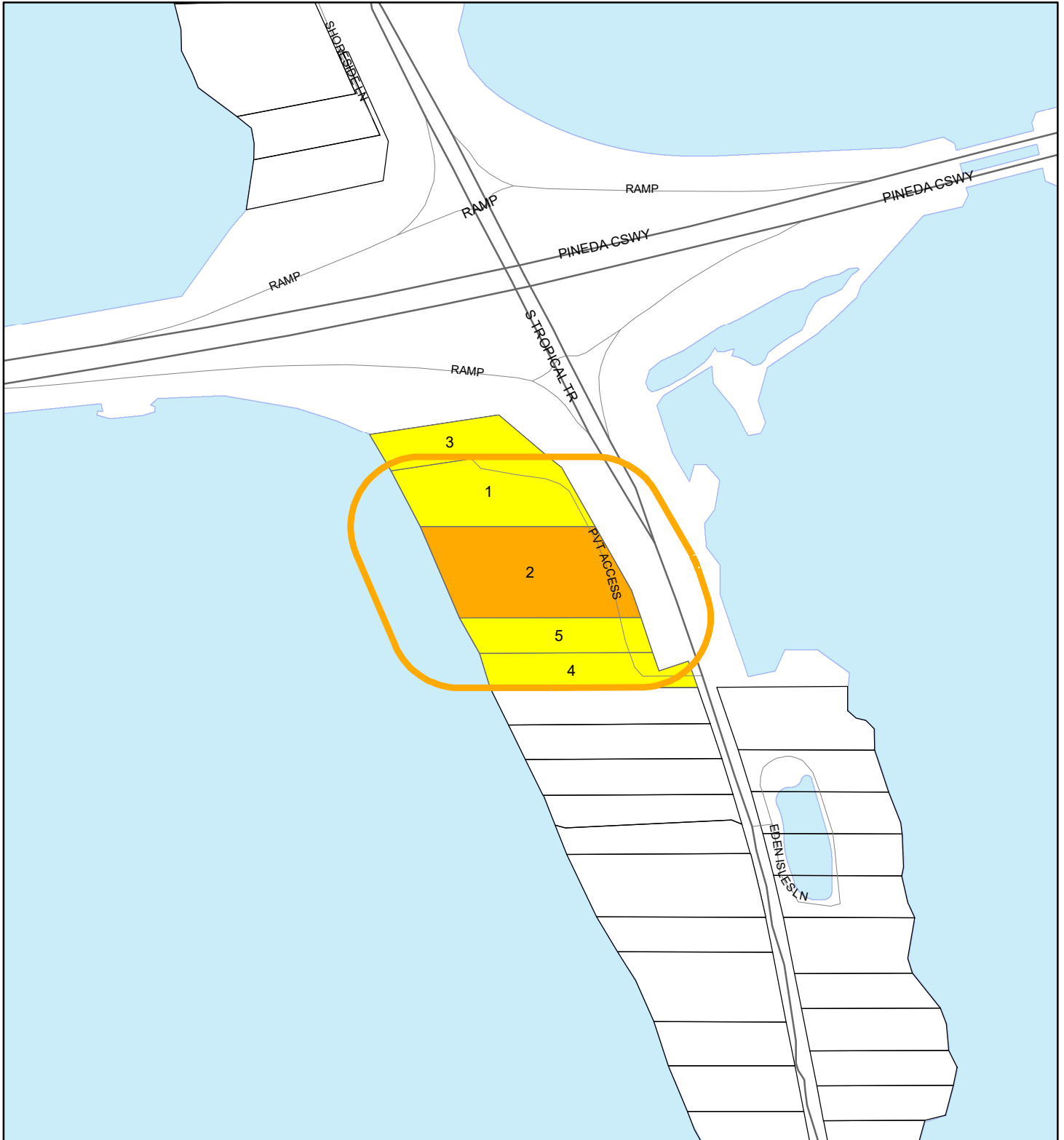
Produced by BoCC - GIS Date: 1/2/2024

 Subject Property

 Parcels

# RADIUS MAP

DOWNNS, KEVIN W  
23V00033







1:4,800 or 1 inch = 400 feet

Buffer Distance: 200 feet

This map was compiled from recorded documents and does not reflect an actual survey. The Brevard County Board of County Commissioners does not assume responsibility for errors or omissions hereon.

Produced by BoCC - GIS Date: 1/2/2024

-  Buffer
-  Subject Property
-  Notify Property
-  Parcels

VARIANCE HARDSHIP WORKSHEET

Is the request due to a Code Enforcement action?

Yes. If Yes, indicate case number \_\_\_\_\_, and  
name of contractor \_\_\_\_\_

No.

Prerequisites to granting of variance:

A variance may be granted when it will not be contrary to the public interest where, owing to special conditions, a literal enforcement of the provisions of this chapter will result in unnecessary and undue hardship. The term "undue hardship" has a specific legal definition in this context and essentially means that without the requested variance, the applicant will have no reasonable use of the subject property under existing development regulations. Personal medical reasons shall not be considered as grounds for establishing undue hardship sufficient to qualify an applicant for a variance. Economic reasons may be considered only in instances where a landowner cannot yield a reasonable use and/or reasonable return under the existing land development regulations. You have the right to consult a private attorney for assistance.

In order to authorize any variance from the terms of this chapter, the Board of Adjustment shall find all of the following factors to exist:

(1) That special conditions and circumstances exist which are not applicable to other lands, structures or buildings in the applicable zoning classification:

No other structures or buildings that are not on property will be effected.

(2) That the special conditions and circumstances do not result from the actions of the applicant:

Variance hardship is not result of current homeowner structures to legitimize guest house there since 1949, tennis courts & sheds on property prior to purchase in 2017.

(3) That granting the variance requested will not confer on the applicant any special privilege that is denied by the provisions of this chapter to other lands, buildings or structures in the identical zoning classification:

Granting variance will not have any special privileges to homeowner. No existing structures will be touched or moved.

(over)

(4) That literal enforcement of the provisions of this chapter would deprive the applicant of rights commonly enjoyed by other properties in the identical zoning classification under the provisions of this chapter and will constitute unnecessary and undue hardship on the applicant.

Guest house tennis court, sheds on property prior to purchase in 2017. This is creating an undue hardship on homeowner to make any upgrades to home & property.

(5) That the variance granted is the minimum variance that will make possible the reasonable use of the land, building or structure:

Variance being granted will allow homeowner to place property in compliance and obtain permits for future projects.

(6) That the granting of the variance will be in harmony with the general intent and purpose of this chapter and that such use variance will not be injurious to the area involved or otherwise detrimental to the public welfare:

Intent of variance to place all existing structures in compliance, no areas involved will have any detrimental effects to the public or environment

I understand that all of the above conditions apply to the consideration of a variance and that each of these conditions have been discussed with me by the below-signed zoning representative. I am fully aware that it is my responsibility to prove complete compliance with the aforementioned criteria.

Signature of applicant \_\_\_\_\_

Signature of planner \_\_\_\_\_

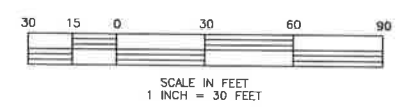
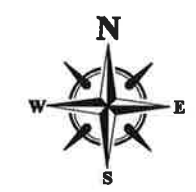


LEGAL DESCRIPTION - per Official Records Book 8000, Page 1711:

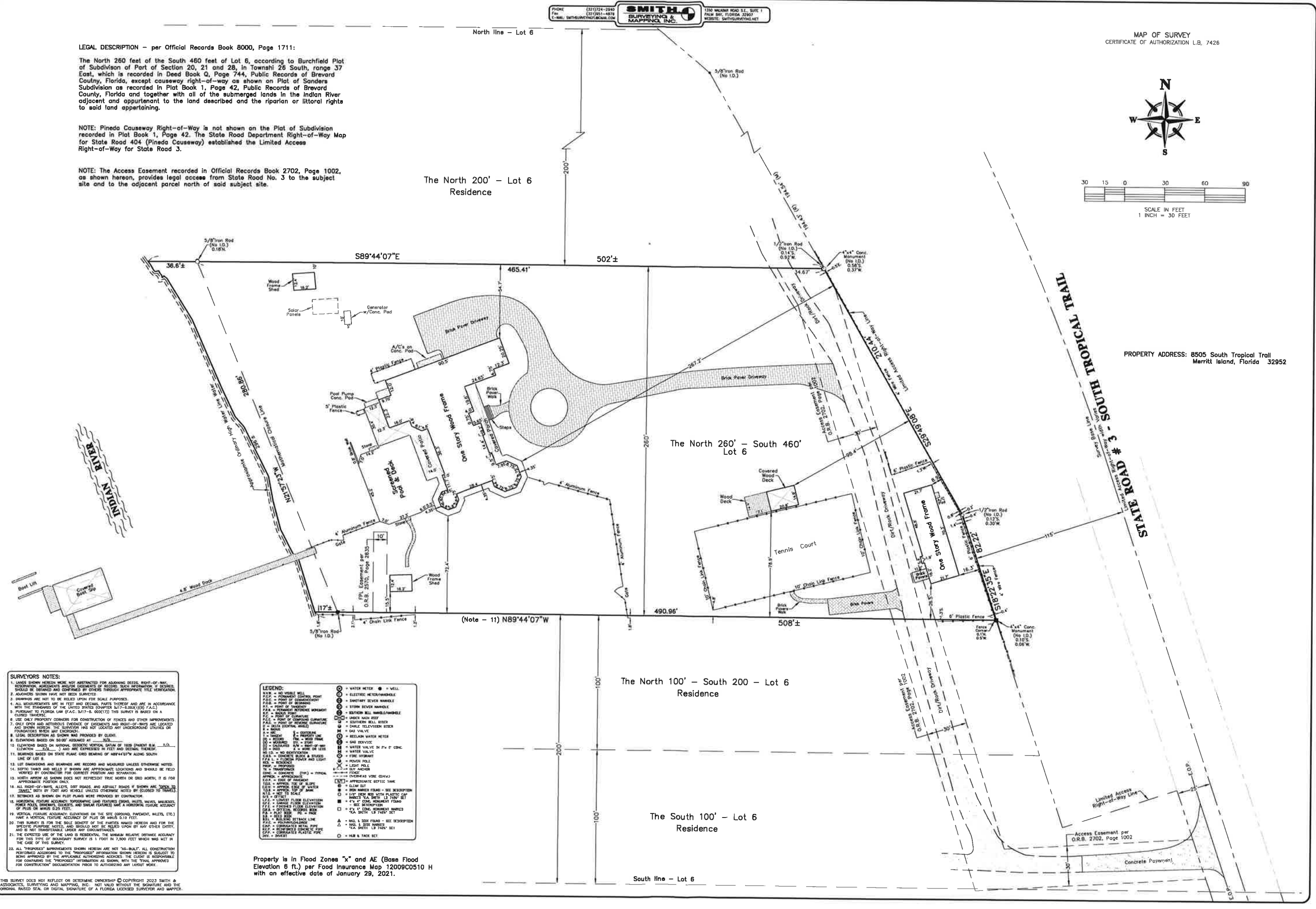
The North 260 feet of the South 460 feet of Lot 6, according to Burchfield Plat of Subdivision of Part of Section 20, 21 and 28, in Township 28 South, range 37 East, which is recorded in Deed Book Q, Page 744, Public Records of Brevard County, Florida, except causeway right-of-way as shown on Plat of Sanders Subdivision as recorded in Plat Book 1, Page 42, Public Records of Brevard County, Florida and together with all of the submerged lands in the Indian River adjacent and appertaining to the land described and the riparian or littoral rights to said land appertaining.

NOTE: Pineda Causeway Right-of-Way is not shown on the Plat of Subdivision recorded in Plat Book 1, Page 42. The State Road Department Right-of-Way Map for State Road 404 (Pineda Causeway) established the Limited Access Right-of-Way for State Road 3.

NOTE: The Access Easement recorded in Official Records Book 2702, Page 1002, as shown hereon, provides legal access from State Road No. 3 to the subject site and to the adjacent parcel north of said subject site.



PROPERTY ADDRESS: 8505 South Tropical Trail  
 Merritt Island, Florida 32952



**SURVEYORS NOTES:**

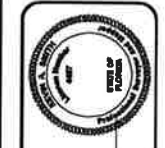
1. LINES SHOWN HEREON WERE NOT INTENDED FOR ASSIGNING DEED, RIGHT-OF-WAY, REVERSION, ACQUISITIONS AND/OR EASEMENTS OF RECORD. SUCH INFORMATION IF DESIRED, SHOULD BE OBTAINED AND CONFIRMED BY CONVEYANCE THROUGH APPROPRIATE TITLE VESTIGATION.
2. ADJOINERS SHOWN HAVE NOT BEEN SURVEYED.
3. DIMENSIONS ARE NOT TO BE RELIED UPON FOR SCALE PURPOSES.
4. ALL MEASUREMENTS ARE IN FEET AND DECIMAL PARTS THEREOF AND ARE IN ACCORDANCE WITH THE STANDARDS OF THE UNITED STATES (CHAPTER 317-2.000(1)(3) F.A.C.).
5. PURSUANT TO FLORIDA LAW (F.A.C. 317-2.000(1)(3) THIS SURVEY IS BASED ON A CLOSED TRAVERSE.
6. USE ONLY PROPERTY CORNERS FOR CONSTRUCTION OF FENCES AND OTHER IMPROVEMENTS.
7. ONLY OPEN AND NOTICIOUS EVIDENCE OF EASEMENTS AND RIGHT-OF-WAYS ARE LOCATED AND SHOWN HEREON. THE SURVEYOR HAS NOT LOCATED ANY UNDERGROUND UTILITIES OR FOUNDATIONS WHICH MAY ENCROACH.
8. LEGAL DESCRIPTIONS AS SHOWN ARE PROVIDED BY CLIENT.
9. ELEVATIONS BASED ON NGVD'83 ASSUMED AT 1/4\"/>

**LEGEND:**

WELL	WATER METER	WELL
NO VISIBLE WELL	ELECTRIC METER/HANDHOLE	
PERMANENT CONTROL POINT	SANITARY SEWER MANHOLE	
POINT OF COMMENCEMENT	STORM SEWER MANHOLE	
POINT OF BEGINNING	SANITARY BELL MANHOLE/HANDHOLE	
POINT OF SURVEY	UNDER MAIN ROOF	
PERMANENT REFERENCE MONUMENT	SOUTHERN BELL BELL	
POINT OF CONFORMANCE	CHALK TELEVISION SETTER	
POINT OF RECORD SIGNATURE	GAS VALVE	
WALL CORNER MONUMENT	RECYCLED WATER METER	
ANCHOR	GAS SERVICE	
CONCRETE	WATER VALVE IN 2 1/2\"/>	

Property is in Flood Zones "X" and AE (Base Flood Elevation 8 ft.) per Flood Insurance Map 12009C0510 H with an effective date of January 29, 2021.

THIS SURVEY DOES NOT REFLECT OR ESTABLISH OWNERSHIP. COPYRIGHT 2023 SMITH & ASSOCIATES, SURVEYING AND MAPPING, INC. NOT VALID WITHOUT THE SIGNATURE AND THE ORIGINAL RAISED SEAL OR DIGITAL SIGNATURE OF A FLORIDA LICENSED SURVEYOR AND MAPPER.



KENN W. DOWNS  
 SURVEYOR  
 STATE OF FLORIDA  
 LICENSE NO. 12345

TYPE	SURVEY DATE	JOB NUMBER	CHK. BY
BOUNDARY SURVEY	OCTOBER 18, 2023	23-1583	
DRAWN BY: P.A.D.		SCALE: 1" = 30'	

CERTIFIED TO: KENN W. DOWNS