



## MINUTES

### PLANNING AND ZONING BOARD REGULAR MONTHLY MEETING

TUESDAY, JUNE 20, 2023, 6:00 P.M.

CITY OF ST. AUGUSTINE BEACH, 2200 A1A SOUTH, ST. AUGUSTINE BEACH, FL 32080

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I. **CALL TO ORDER**

II. **PLEDGE OF ALLEGIANCE**

III. **ROLL CALL**

BOARD MEMBERS PRESENT: Chairperson Kevin Kincaid, Vice-Chairperson Chris Pranis, Hulsey Bray, Larry Einheuser, Hester Longstreet, Victor Sarris, Senior Alternate Gary Smith.

BOARD MEMBERS ABSENT: Conner Dowling, Junior Alternate Rhys Slaughter.

STAFF PRESENT: Building Official Brian Law, City Attorney John Steinmetz, Planner Jennifer Thompson, Recording Secretary Bonnie Miller.

IV. **APPROVAL OF MINUTES OF REGULAR PLANNING AND ZONING BOARD MEETING OF MAY 16, 2023**

**Motion:** to approve the minutes of the May 16, 2023, meeting. **Moved** by Hulsey Bray, **seconded** by Gary Smith, **passed 7-0** by unanimous voice-vote.

V. **PUBLIC COMMENT**

There was no public comment pertaining to anything not on the agenda.

VI. **NEW BUSINESS**

- A. Land Use Variance File No. VAR 2023-07, for reduction of the 20-foot rear yard setback and 10-foot side yard setback requirements for placement of a 196-square-foot storage shed with a 4.3-foot rear yard setback and a 7.7-foot side yard setback in a low-density residential land use district at 202 Azalea Avenue, St. Augustine Beach, Florida, 32080, Cheryl and Michael O'Steen, Applicants

Jennifer Thompson: This is a variance request for 202 Azalea Avenue, for a reduction in the rear and side yard setbacks for a 196-square-foot shed which currently has a 4.3-foot rear yard setback and a 7.7-foot side yard setback. The required setbacks are 20 feet for the rear yard setback and 10 feet for the side yard setback.

Mike and Cheryl O'Steen, 202 Azalea Avenue, St. Augustine Beach, Florida, 32080, Applicants: We constructed a shed on our property. We had a shed on the other side of our property that we tore down after 23 years, so we built this shed the same distance that our screen enclosure is from our fence. We have a 10-to-11-foot high viburnum hedge on one side so our neighbors can't see the shed, and our lot backs up to 11<sup>th</sup> Street and a 60-foot ditch, so nobody will ever live behind us. If we moved the shed up 16 feet to have a 20-foot setback off the rear property line, there would be no room to park my truck in my yard or to back my boat up to rinse it off before it is taken to the storage unit. The shed is built on sixteen 4'-by-4' posts put two feet in the ground, with a 50-pound bag of concrete around each post. The only things that are not done are the roof and the doors. We built it to look like our house so our neighbors wouldn't have to look at a plastic shed, or a Home Depot shed, as we like to make everything in our neighborhood look nice. I also take care of our neighborhood's common areas, so the shed is the size that it is because there are wheelbarrows, trash cans, mowers, etc., that I use to take care of our neighborhood and keep it looking nice. I don't want to have to move my truck and boat out to the street because there are lots of kids in the neighborhood now, and they play hockey, ride bikes, and skateboard all up and down the street and I think it's a hazard and a safety issue for FedEx and UPS and other delivery trucks to have to go around my truck and boat if they are parked in the street. Also, moving the shed up 16 feet would keep us from utilizing a large part of our property. Half of our neighbors didn't even know there is a shed there, because it currently sits so far back on the lot. This is simply a shed, it has no electricity, no plumbing, and all our neighbors are here to testify to that, they have already signed a petition and know we take care of our property and want it to look right. We are asking that this shed please be allowed to stay where it is.

Kevin Kincaid: I went by the property and looked at it, and it is an attractive shed. To my understanding, what threw you into this different category regarding the required setbacks is the size of the shed, which exceeds 96 square feet, therefore requiring the standard building setbacks and not the smaller setbacks for sheds that are 96 square feet or less. I noticed you have all your neighbors here, and they've all signed in agreement that the shed be allowed to remain where it is. You have also included in your variance application the attachment that shows you do take care of the common areas of the neighborhood. The only issue I have is not with the shed or your use of it, but that this Board is tasked, if we decide to grant a variance to the Land Development Regulations (LDRs), with acknowledging a hardship that is not self-created or brought on by the applicant. I also understand you were not aware at the time you built the shed that you needed a permit for the size shed you built. Generally, the Board is very leery of plans that come before us with an apology for something that was not issued a permit to be built but was built anyway. My only concern with this is that the Board does not set a precedent that will give other people an example they can use to do the same thing.

Larry Einheuser: I also have been out to the property and saw that the shed is pretty much in line with the pool deck and the screen enclosure.

Mike O'Steen: We had to get a new survey done, and the screen enclosure is 7.5 feet from the fence. However, a new fence was put up, and the surveyor did not go around

the fence to find the pins at the rear lot line, so the shed is showing that it has a 4.3-foot rear yard setback. As I was told, if you get three surveys done, they will all be different.

Brian Law: There have been some discrepancies in surveying over the years, due to the advancements in technology. The current survey submitted with the variance application is the only one we are considering, as it is the only one in front of the Board at this time.

Victor Sarris: How did this come to light, that this shed was built without any permits?

Mike O'Steen: Mr. Law was walking, and he saw it, and asked about a permit. I was not trying to hide this, it was not like I put up a big fence and tried to hide what was going on, as I know Mr. Law walks. It's just that there will never be anyone living behind me except turtles and snakes, and I thought I put the shed in the right spot off the property line.

Cheryl O'Steen: As far as the size of the shed goes, I get that we went overboard and were not paying attention to the requirements for the size of the shed. Am I hearing correctly that if we move the shed forward 16 feet, then it will no longer be too big?

Kevin Kincaid: No, we are not saying the shed is too big, or that you went overboard with the size of the shed. What we are saying is that when the size of a shed exceeds 96 square feet, it comes under a different set of regulations and rules, including different setbacks.

Cheryl O'Steen: Okay, so does that mean if we moved the shed forward 16 feet, it would be within the realm of these requirements? What we are struggling with is we have the shed where it is and if we have to pull it forward 16 feet, it will be way more visible to everybody in the neighborhood and then we also can't use our property behind the shed.

Kevin Kincaid: I get it, I am just explaining why you came under a different set of rules for setback requirements for sheds. Nobody here is telling you that your shed is too big, but if you pulled it forward to meet the rear setback requirement, you would not have to be here in front of this Board tonight asking for a variance. The reason you are here is because the shed is built outside of the setbacks per the LDRs for a shed of this size.

Brian Law: Just for clarity, even if the shed was moved forward so that it has a 20-foot rear yard setback, it would still encroach into the required 10-foot side yard setback.

Victor Sarris: Your variance application includes pictures of sheds some of your neighbors have, and it looks like some of these properties are in the same predicament.

Mike O'Steen: Well, I don't know, but on bike rides, you can see the sheds that are all over St. Augustine Beach.

Kevin Kincaid: I noticed some, but there are a handful of 8-foot-by-8-foot sheds which do not have the same regulations, as they are not bigger than 96 square feet.

Mike O'Steen: So, these size sheds do not have to be 5 feet off the property line?

~~Brian Law:~~ Sheds that are 96 square feet or less are required to have minimum 5-foot rear and side yard setbacks off property lines. Anything larger than the standard 8-foot-by-12-foot shed would require building setbacks as set forth in the LDRs for a new building under the definition of building in Article II of the LDRs. Any shed less than 120 square feet and not in a special flood hazard area is exempt from building permitting, but not zoning permitting, under the local Chapter 1 Administrative Code.

Victor Sarris: What is the thinking behind the setbacks for a shed once it gets over 96 square feet?

Brian Law: That code, which is a local law, has been in place for a very long time. Other jurisdictions allow accessory structures that do not exceed the total building height to have minimum 3-foot setbacks off rear and side lot lines. If this Board ever decides to recommend a change to the local code, we can entertain that and move it through the channels here. This code may stem from the standardized shed size of 8-feet-by-12-feet, but I don't know for sure, as I wasn't here when that code was written.

Hulsey Bray: Is your maintenance of the neighborhood community common areas voluntary, or is it a contracted thing?

Mike O'Steen: It is voluntary. Before COVID hit we had a company that did it, but then when it was safe to come back, they wanted to come back every week, and the neighborhood doesn't need weekly maintenance. So, I retired from UPS, and I decided to take care of it myself. A lot of the equipment I use such as wheelbarrows and stuff like that rust if left outside, so I built the shed to house these things. We also house the lighting that is put up in the neighborhood for Christmas.

Hulsey Bray: Is this something that you see yourself doing in the foreseeable future?

Mike O'Steen: Yes, as long as I'm healthy, I enjoy doing it and taking care of our neighborhood, which we all love. We don't have an association, anyone who wants to donate money once a year can and then we have a party and a band, and everyone meets and talks about the neighborhood. It's just a great neighborhood, and that is why I do it.

Hester Longstreet: Does your neighborhood have a gate?

Mike O'Steen: No, ma'am.

Kevin Kincaid: Okay, let's go to public comment.

Rocky O'Hara, 205 Azalea Court, St. Augustine Beach, Florida, 32080: I basically live caddy-corner across the street from the O'Steens, and I have no problem with their shed, I can't even see it. Unless you stop in front of their house and take a hard look, you can't even see it from the road. Mike does take care of the community and saves us all a lot of money. We all give whatever it is a year, but it would be a lot more if we had to contract it out. He takes it upon himself and does not ask for any help in doing any of that. I

couldn't ask for a nicer neighbor, he's helped me a lot with things I can't do anymore myself because of some things that happened to me, and he's always, from the day I moved in five years ago, been there for me. He's just a great guy, and a great benefit to the community. If the Board is concerned about the precedent issue, I can kind of see that. I don't know how many people who put up a shed also take care of their community for free, so really, I think this is an exception to the precedent issue right there.

Kevin Cavanaugh, 204 Azalea Court, St. Augustine Beach, Florida, 32080: I live next door to the O'Steens, and we cannot fully see the shed, but I've talked to Mike, and I know that it is going to look exactly like his house. It's going to be a beautiful thing, and far better than anything we could buy at Home Depot or one of those places. So, we are fully in support of the shed. My wife is not here, but she likewise would concur, and we just hope that you all will let them have it and get down the road with this thing.

Merlyn Hardesty, 198 Azalea Avenue, St. Augustine Beach, Florida, 32080: I live two houses down from where Mike lives and have no issue with him having that shed.

Athena Calvin, 5 Quail Court, St. Augustine Beach, Florida, 32080: I live in another cul-de-sac in the neighborhood. Can we title this as something other than a shed, and what would this require, electricity, or water?

Larry Einheuser: You don't want to do that, because then it would be a building.

Kevin Kincaid: This would be a whole different set of circumstances.

Athena Calvin: Okay, well, how about the pool and screen enclosure? The shed is built to the same level as those, and they take up much more square footage on the property. I think that was Mike's intention, to line everything up to be linear and clean. Is there something that can be worked out with that, or because these things already exist, was a variance granted for the pool and screen enclosure?

Kevin Kincaid: I don't know if there was a variance for these things, but they would be looked at differently under the LDRs. Because of the size of the shed, it has very specific requirements. We're just here to discuss a variance to these requirements for the shed.

Athena Calvin: You mentioned that a hardship not brought on by oneself would be a reason for the variance. What would that be? Are there examples of that?

Kevin Kincaid: The applicants would have to tell us what their hardship is. The Board doesn't get to make it up.

Gary Smith: I mean, it could be something like the extra space needed for storage for the Christmas lights and tools for the community.

Athena Calvin: He does volunteer for that.

Gary Smith: Right. Exactly, he might think of something like that to put in as a hardship.

Pete Clark, 200 Azalea Avenue, St. Augustine Beach, Florida, 32080: I think I live the closest to Mike's shed, as I'm right next door. I have no problem with it whatsoever. The hedges cover it, I can't see it, and if the hedges come down because of some natural disaster one day, it's a beautiful shed that will match the house. Mike does take care of things; I'll admit to driving by and seeing him a few dozen times and guiltily waving as he's taking care of our neighborhood. I really appreciate him doing that.

Kevin Kincaid: Okay, thank-you. Any further public comments? There were none.

Hester Longstreet: Instead of calling it a personal shed, can we call it the Woodland Estates shed for the subdivision? It is not for personal use. It is for the entire subdivision.

Kevin Kincaid: I think we could look at the hardship as a community benefit because we do see it as a community benefit.

Chris Pranis: A community hardship is not on the table.

Kevin Kincaid: No, not a community hardship, but I think the storage and work for the community could be a hardship.

Gary Smith: The storage space is used for more than just the applicants' personal use.

Kevin Kincaid: And I think the loss of driveway space and the increased safety issue, while self-created issues, are a concern.

Chris Pranis: We have denied similar variances in the last couple of years for increased shed size for the storage of Christmas lights and other stuff like that.

Hester Longstreet: But that was for personal use, not for use by the entire subdivision.

Chris Pranis: This is personal property and a personal building. It is not on public or community land.

Hester Longstreet: So, if every property owner in the subdivision gave them a dollar, it could be like a community shed instead of a personal shed.

Chris Pranis: I don't think there is such a thing.

Brian Law: I know where the Board is going with this, but I would encourage everyone to steer away from this because you are going to open a whole different set of building code standards for building permitting. Also, it could not be commercial because the shed is on private residential property, and the local zoning code would prohibit that.

Hester Longstreet: We are not looking for a commercial use, but a community use.

Brian Law: The shed is on private property. For community use, it would have to be on some sort of community-owned land, and then the full weight of the commercial Florida Building Code (FBC) would apply. Right now, the residential FBC looks favorably upon accessory structures because the Florida Building Commission recognizes we need them.

Hester Longstreet: Yes, but if we go that way, then we are setting a precedent that could not be used by everyone else who wants a larger shed.

Brian Law: I understand that is one of the Board's concerns, but I would recommend steering away from any commercial designation. Maybe something to consider is the hardship that the residents are the ones taking care of the subdivision. It is still a personal shed, but the Board can take into consideration the many testimonies from residents that the applicant is maintaining the whole front entranceway. And as everybody here knows, mowers, wheelbarrows, and beautiful Christmas lights take up space, so that is something to be considered for the hardship, that the applicant is going above and beyond just taking care of his own individual private property.

Hester Longstreet: Can we say then that the hardship is for the community residents, all the other residents who are unable to do that? And then, unless somebody comes and says they are doing it for their community, we are not necessarily setting a precedent.

Brian Law: You could definitely consider the fact that the hardship is solely just for the storage of equipment to maintain the entranceway into the subdivision and the common areas. To me, that should definitely qualify for some consideration from the Board.

Victor Sarris: He has had quite a bit of his community come here and vouch for the fact that he is maintaining the common areas of the subdivision.

Hester Longstreet: Right. What I am saying is we are trying not to set a precedent.

Gary Smith: You need a hardship.

Hester Longstreet: The hardship is that it is the community's hardship because the applicant is the one doing it.

Chris Pranis: I just want everyone to remember we denied a few variances where we had some local residents who were older and weren't able to do things and they wanted larger storage sheds. These variances for setback changes were denied because they didn't comply with the setbacks for sheds per the LDRs. This is very similar.

Hester Longstreet: Not really. I mean, because these sheds were still for personal use. This is not for personal use. The other ones that we denied were for personal use only.

Hulsey Bray: I'd like to mention that with the other variances recently denied, the sheds were not complete. This one is built. I mean, are we going to go around to all these people in all these other photos and tell them to tear their sheds down too?

Kevin Kincaid: That's code enforcement.

Hulsey Bray: I understand, but if we tell somebody to tear down their perfectly good shed that's already built just like all their neighbors, what is to keep them from calling code enforcement and reporting all these other people? I don't believe we want to start that.

Victor Sarris: If I understand correctly, we're trying to define a hardship that says in this particular case, the applicant provides storage for lawnmowers and other stuff for community maintenance. This is something I haven't seen in other variance applications.

Larry Einheuser: No, they have all been for personal use, because the applicants didn't have enough storage in their houses or attics.

Kevin Kincaid: Right. Okay, do we have a motion?

Victor Sarris: I'll make a motion. I hope I'll define it correctly. I motion to approve the variance based on the community maintenance equipment that is stored in the shed and is provided for the benefit of the applicant's Woodland Estates community.

Larry Einheuser: I second that.

Kevin Kincaid: We have a motion and a second. Do we have any discussion on the motion?

Brian Law: I want to make sure we get this right for the variance order before the Board votes on the motion. The hardship would be for the additional space required for the storage of maintenance equipment for Woodland Estates Subdivision.

Kevin Kincaid: Yes. That is exactly what I heard. Any further discussion on the motion? Hearing none, let's call for a vote please.

**Motion:** to approve Land Use Variance File No. VAR 2023-07, for reduction of the 20-foot rear yard setback and 10-foot side yard setback requirements for placement of a 196-square-foot storage shed with a 4.3-foot rear yard setback and a 7.7-foot side yard setback in a low density residential land use district at 202 Azalea Avenue, St. Augustine Beach, Florida, 32080, based on the hardship due to the storage of community maintenance, lawn and accessory equipment for the maintenance of Woodland Estates Subdivision. **Moved** by Victor Sarris, **seconded** by Larry Einheuser, **passed 6-1** by the Board by voice-vote, with Mr. Pranis dissenting.

B. Land Use Variance File No. VAR 2023-08, to exceed the maximum 35% lot coverage allowed for residential construction for new construction of a 3-story, 4822-square-foot total single-family residence in a medium density residential land use district at 7 15<sup>th</sup> Street, St. Augustine Beach, Florida, 32080, Robert and Amy Capwell, Applicants

Jennifer Thompson: This next agenda item is an application to request a variance to exceed the allowable lot coverage by 4.5% for a proposed new 4,822-square-foot single-



family residence at 7 15<sup>th</sup> Street. This would bring the lot coverage up to 39.5%. The maximum lot coverage for all residential lots is 35%.

Kevin Kincaid: Going through the variance application, I found the impervious surface ratio (ISR) coverage worksheet calculations, but is there a lot coverage worksheet?

Jennifer Thompson: No, there is not a lot coverage worksheet. When you are looking at a property from a bird's eye view, lot coverage is any area that is covered by a roof.

Kevin Kincaid: Okay, so I didn't find that exact number. I'll go backward into my question here, which is, if this was a standard 50-foot-by-93-foot lot, would the proposed lot coverage fit inside the 35% lot coverage allowed, or would it still exceed it?

Jennifer Thompson: I do not know what the current lot coverage is for the home that is on this lot now. On the ISR worksheet included in the variance application, the building footprint would be the lot coverage square footage for the proposed new home. The plan is to demolish the current home and build a brand new single-family residence.

Kevin Kincaid: So, is the lot coverage based on the current building or the proposed new building?

Jennifer Thompson: It is based on the proposed new building.

Kevin Kincaid: If we took the lot coverage of the proposed new building and divided that into the square footage of a 50-foot-by-93-foot lot, would that be under 35%, or would the lot coverage still exceed 35%? We have the lot coverage for the proposed new building at 39.5%, and that is based on the current configuration of the lot, which is 40 feet wide at the front, 52 feet wide at the back, and 93 feet deep, right?

Jennifer Thompson: This lot is shaped a little differently.

Kevin Kincaid: Yes. So, my question is, the 39.5% lot coverage requested in the variance is for the proposed new home, and this is based on the square footage of the covered building footprint divided by the square footage of the lot size, correct?

Jennifer Thompson: Correct. The covered building footprint of the proposed new home is 1692 square feet, and this, divided by the 4278-square-foot lot size, comes to 39.5%.

Kevin Kincaid: Right. But what I am trying to say is, what would the lot coverage be if this was a regular size lot?

Jennifer Thompson: Okay. Now I understand your question.

Kevin Kincaid: If it was a regular size lot, would it still exceed 35% lot coverage? If the lot was a 50-foot-by-93-foot lot, the lot size would be 4650 square feet.



Hester Longstreet: I'm talking about setbacks because with flooding and everything else that happens in that area, I don't know why we wouldn't be taking setbacks into consideration. So, there is a 20-foot setback in the front and the carport roof overhang extends 5 feet into this. Isn't the front setback supposed to be 25 feet, not 20 feet?

Jennifer Thompson: As the width of this lot in the front is 50 feet or less, the front setback can be 20 feet.

Hester Longstreet: Has this always been the setback for these lots?

Brian Law: About two years ago, the City Commission ordered my staff to come up with a new code for the small-platted lots, which are your 50-foot-by-93-foot lots that have a total square footage of 4650 square feet. The reason for this was because a 4650-square-foot lot could not achieve 35% lot coverage with the setbacks that were then in place that required minimum 25-foot front and rear yard setbacks and minimum 10-foot side yard setbacks. These setbacks limited lot coverage on these small lots to 27.6%. It was my recommendation to not change the setbacks City-wide, but only for the small-platted lots, as we had a disparity in the code, with one section of the code allowing 35% lot coverage, but the setbacks only allowing 27.6% lot coverage. So, the code was changed about two years ago with the intent to allow reduced setbacks for originally platted 50-foot-by-93-foot lots. This is an unusually shaped lot, as it's less than 50 feet wide in the front and it's 93 feet long, so the code changes to allow smaller setbacks would apply to this lot.

Hester Longstreet: I get that, but what I am saying is that my old house was on a 48-foot-by-93-foot lot, but we still had a 25-foot front setback, a 20-foot rear setback, and the side setbacks were a little wonky, because the house was built in 1954. Are you saying a 48-foot-by-93-foot would now be allowed to have 20-foot front and rear setbacks?

Brian Law: Yes, ma'am, that lot would be considered a small-platted lot, so it would be allowed to have 20-foot front and rear setbacks, and 7.5-foot side setbacks. Regarding a previous comment about overhangs, there was a code written in 2018 to allow overhangs to project up to 18 inches into the required setbacks. Before this code was written, the code was silent on the issue of overhangs, and didn't address them. Second and third-level decks are allowed to extend 5 feet into a 20-foot front setback and 10 feet into a 25-foot front setback, but under no circumstances can they breach into the required 15-foot building restriction line. Decks with hard floor surfaces that do not allow water to penetrate through are calculated as lot coverage, because they are like a roof.

Victor Sarris: Is there any way the applicant can realistically reduce the lot coverage to make this work? I don't think the footprint of the building can be changed, but is it possible to change anything else to reduce the lot coverage to 35%?

Kevin Kincaid: Not sealing the decks would reduce the lot coverage.

Jennifer Thompson: The applicant is asking to exceed the maximum 35% lot coverage for

the second- and third-story sealed decks.

Victor Sarris: So, the applicant is saying the decks are waterproof.

Ms. Thompson: Right.

Kevin Kincaid: Can we hear from the applicant, please?

Robert Capwell, 7 15<sup>th</sup> Street, St. Augustine Beach, Florida, 32080, Applicant: I have a few slides [EXHIBIT A] I would like to show to point out some things in the variance application. My wife Amy and I own 7 15<sup>th</sup> Street, and we live there. This is a non-conforming lot, as the Board has already discussed, due to the removal of the St. Johns Electric Trolley depicted on the plat map back in December 1914. Apparently, when the trolley was removed, there were additional lots created. Section 6.01.00 of the City's LDRs talks about lot area, lot coverage, floor area and setbacks, and a typically platted single-family lot is considered to be 50-feet-by-93-feet, so this is obviously a non-conforming lot, and it is on the seaward side of the Coastal Construction Control Line (CCCL). My wife and I purchased this home in 2019 as a rental unit which we wanted to use it as an Airbnb or Vacation Rental by Owner (VRBO) property, and you can see by the two red lines on this third slide that the house does have pylons or pillars, in compliance with construction requirements seaward of the CCCL, and it also has breakaway walls. Apparently, one of the previous owners decided to enclose the bottom of the house, as it was open at one point, and had a different stairway that was not closed. The two red arrows on this third slide point to the first-floor windows installed after the first floor was enclosed. When we purchased the home, it was sold to us as a four-bedroom, three-bath home, but as we learned, since this property is seaward of the CCCL, you cannot have habitable space or bedrooms on the first floor, so we basically purchased a two-bedroom home, but we paid for a four-bedroom home. Again, we bought it as a rental property, and realized after the sale, while working with Brian Law and the Building Department, that it had a couple of issues. One, the owner we purchased the home from built additional deck space on the back of the house, which breached into the rear setback requirement, and this deck was not permitted. This owner also created bedrooms on the first floor, and again, this was not permitted work. When we applied for our transient rental license, we realized that we only have a two-bedroom house, as well as all kinds of nonconformities because of the lack of permitting. Mr. Law was very gracious in working with us and telling us that we had to bring this back up to code. There is really nothing we can do about the bedrooms on the first floor, but I signed a notarized affidavit saying we would not rent the bedrooms on the first floor, so we use this as storage, and keep this area locked. We do not rent out these bedrooms and we do not advertise them as part of the rental of the property, so you can imagine what it was like thinking we bought a four bedroom house that can now only be rented as a two-bedroom house. This obviously really changes the revenue numbers quite a bit, and considering the debt my wife and I had on the property, we weren't meeting the debt load, and we were basically losing money. At that point, we decided to move into the house ourselves, otherwise, we would not be able to keep it, as we couldn't rent it out and make enough money to meet our debt load. So currently, we do live in the house full-time, and that is the reason we've decided to rebuild it and try to

recoup the value of it as a four-bedroom home. We had no intention of building on this lot when we bought it, but going back to the variance request, it is for 195 square feet of sealed deck space. We are not asking for more livable area or to add more bedrooms or anything else. The only thing we are asking for is to seal the decks over the front carport and rear stairway area to protect everything below, our vehicles, whatever, from water dripping on them, from the sun, and everything else. If we were not asking for sealed decks, they would be considered drip-through and would not be counted as part of the roof or lot coverage, and we would not be here today. If this was a conforming lot, it would just be a little over the allowable lot coverage. Understanding the issue with water drainage, as I know the City is very concerned that we handle our own water run-off, we took this into account, and I provided an ISR worksheet. The proposed new construction complies with the maximum 50% ISR coverage allowed, as the ISR is at 47.6%. So, sealing the decks doesn't change anything as far as drainage or the ability to mitigate our own water goes. The only thing it affects is the lot coverage. We've gone to all of our neighbors and described what we want to do and shared our plans. They've all agreed, and I have their signatures in agreement included in the variance application. The bottom line is, we are just asking to seal decks, and this will not affect our ISR coverage.

Kevin Kincaid: Any comments from the public? Hearing none, my only comment is that I am still stuck in the same place as I was, as this is a self-inflicted wound here. Part of the claimed hardship is that the lot is non-conforming and smaller than a standard 50-foot-by-93-foot lot, but even if it was a standard-size lot, you would still be right here in front of this Board asking for a variance, based on the size of the house you want to build. You want a bigger house, and that is not an original request at all. The Board gets that all the time. People want to build huge houses that violate the setbacks, the ISR, the lot coverage, and lots of different things. My issue is that this is absolutely precedent-setting due to the size of the house you want to build. You could enclose the decks and build a smaller house, but the stated hardship of the non-conformity of the lot kind of goes out the window if we pretend it is a conforming lot, because it would still exceed the maximum lot coverage allowed on a 50-foot-by-93-foot lot. I would ask that you choose between not sealing one of the decks or decreasing the size of the decks so that the proposed new construction does not exceed the maximum 35% lot coverage allowed. I would be comfortable granting a variance as long as the lot coverage does not exceed the maximum 35% that would be allowed on a standard 50-foot-by-93-foot lot.

Robert Capwell: Or I could apply to vacate the alleyway in back of the property, which again, nobody uses. But I did not want to go down that route.

Brian Law: This would be a different application that would come before this Board for the Board's recommendations to the City Commission, which would make the decision as to whether or not the alley should be vacated.

Hester Longstreet: Doesn't this alley behind 15<sup>th</sup> Street go to the beach?

Brian Law: Yes, but alleys like this have been vacated in the past when they weren't fully accessible. This would be something this Board and the Commission would decide based

on the parking lot adjacent to A1A Beach Boulevard. If the Commission approved the vacation of the alley with comments from the City engineers, the County Utility Department, and all other affected agencies, it would still take another few months for the City Attorney to draft an ordinance to vacate the alley and for the two public hearings required for the passage of the ordinance to go through this Board and the Commission.

Kevin Kincaid: And this is not something that is really in front of this Board at this time.

Brian Law: No, this is not even in front of the Board, so the Board should not even consider it.

Robert Capwell: I just didn't want to go that route, to be honest with you, as it involves a lot of time and paperwork, and I thought the variance application was an easier process. My wife and I had no intention of building a new house on this lot, if you understand our hardship and the reason why we need to regain the value of the property, it is what it is. I understand your comments, and again, this will not exceed the ISR coverage allowed, which is why I don't see this as being a big issue. We will still be taking care of our own drainage and water run-off, which I know is a concern.

Kevin Kincaid: That is not my concern at all. My concern is the precedent to bend a rule because you want to build a bigger house. I can tell you that is not an original request.

Robert Capwell: It is not to build a bigger house. It is just to seal decks.

Kevin Kincaid: If you built a 4,000-square-foot house, you could seal the decks all around and it wouldn't be a problem. The house you want to build is nearly 5,000 square feet.

Robert Capwell: It is not that big, it is 3200 square feet.

Kevin Kincaid: It's 4822 square feet, per the documentation in the variance application.

Robert Capwell: That is the total square footage that includes all the decking and everything else. The house is not that big, it is not even close to being that big.

Kevin Kincaid: Okay. I do know that on either side of you there are large houses. I am assuming these houses are the same size and sort of house you are looking to build.

Robert Capwell: Correct.

Kevin Kincaid: Yeah, so it is not going to be out of place with other houses on the street.

Robert Capwell: No. It is just hard building it because it is on a non-conforming lot.

Kevin Kincaid: Yes, but even if it were a conforming lot, you would still be here in front of us because the house would still exceed the maximum 35% lot coverage.

Hester Longstreet: You are looking to put a 4,822-square-foot, three-story house on a 4278-square-foot lot.

Kevin Kincaid: Right. My point is, even if we were to pretend the lot was a 4650-square-foot conforming lot, the house would still exceed the maximum 35% lot coverage allowed and be in violation of the LDRs. The applicant would still be here looking for a variance, so that takes the argument out that the hardship for the variance is that it is a non-conforming lot, because that argument is no longer valid. I would not mind allowing the maximum 35% lot coverage that would be allowed on a 4650-square-foot lot and asking the applicant to reduce the size of one of the two decks. Any other questions or comments? Hearing none, I'd like to make a motion that the Board approve the variance with the stipulation that the final lot coverage not exceed the 35% maximum lot coverage that would be allowed for a conforming lot size of 4650 square feet.

Brian Law: If we can get a second to the motion, I'd be more than happy to discuss that.

Hulsey Bray: I second the motion.

Brian Law: I want to steer the Board away from the use of conforming and non-conforming in regard to lot size. This is a medium density residential lot, and I would ask that the Board consider this as a very unusually shaped lot due to the trolley line that existed on it at one time. I will try to reiterate the motion and if you think I have encapsulated it you can make an amendment to it that the motion is to approve the variance with the consideration to allow the total lot coverage based on the maximum 35% lot coverage that would be allowed on a 4650-square-foot lot. No exceptions will be granted to exceed 35% maximum lot coverage based on a 4650-square-foot lot size.

Kevin Kincaid: That encapsulates the motion that was made and seconded. Do we have a second on the amended motion, for the purpose of discussion?

Gary Smith: I second it for discussion.

Kevin Kincaid: Okay, we have a motion and a second. The motion is to approve the variance with the condition that the final lot coverage is not to exceed the maximum 35% lot coverage that would be allowed on a 4650-square-foot lot. Any further discussion?

Hester Longstreet: You are being generous by allowing the lot coverage that would be allowed for a 4650-square-foot lot, as this lot is 4200-square feet or something like that.

Kevin Kincaid: My reasoning for that is because it is a non-conforming lot, which I'm not supposed to say, so I'll say it is not a standard-size lot, and that would be the hardship for the granting of the variance. However, as the house would still exceed the maximum lot coverage allowed for a standard-size, 4650-square-foot lot, the motion is to allow the variance for lot coverage not to exceed the maximum 35% allowed for a standard-size lot.

Hester Longstreet: So, the applicant would have to agree to take off one of the decks.

Kevin Kincaid: Or he could not seal one of the decks. He does not have to take a deck off, he just won't be able to seal one of them or he can reduce the size of one or all of them.

Brian Law: This variance is necessary for the Planning and Zoning Division to review it for conformity with the code and any applicable variances before staff can write a letter for zoning compliance so the applicant can apply to the State of Florida for DEP permitting.

Victor Sarris: Can I ask the applicant if he sat down with an architect and showed him his property when he developed this site plan?

Robert Capwell: Yes, I did.

Victor Sarris: Okay. When the architect formulated the plan, did it trigger the fact that it was over the maximum 35% lot coverage allowed on this property?

Robert Capwell: Yes, but only because I am asking to seal the decks to protect anything below in the carport and the back corner stairway. That's why, obviously, I am here now.

Victor Sarris: I'd just hate to see you go through all of this and still have to go back to your architect because you have to revise the plans you paid money for to make it smaller.

Robert Capwell: It is going to cost me money regardless.

Kevin Kincaid: Any other questions or comments? Hearing none, can we have a vote on the motion, please?

**Motion:** to approve Land Use Variance File No. VAR 2023-08, to allow maximum 35% total lot coverage based upon the maximum 35% lot coverage that would be allowed on a standard 4650-square-foot lot, with no exceptions to allow more than the maximum 35% lot coverage that would be allowed on a 4650-square-foot lot, for proposed new construction of a three-story, 4822-square-foot total single-family residence in a medium density residential land use district at 7 15<sup>th</sup> Street, St. Augustine Beach, Florida, 32080. **Moved** by Kevin Kincaid, **seconded** by Gary Smith, **passed 6-1** by the Board by voice-vote, with Ms. Longstreet dissenting.

C. Land Use Variance File No. VAR 2023-09, for expansion of an existing non-conforming structure by more than 25% of the gross floor area for a proposed 797.41-square-foot addition to an existing 1804-square-foot total single-family residence in a low-density residential land use district at 13 Oak Road, St. Augustine Beach, Florida, 32080, R.E. Chip Mitchell, Agent for Timothy and Tamara Callahan, Applicants

Jennifer Thompson: This next variance application is a request to expand an existing non-conforming single-family residence by more than 25% of the gross floor area. This is for additions on the southeast and north sides of a single-family residence at 13 Oak Road.

Kevin Kincaid: Any questions for Ms. Thompson? Okay, let's hear from the applicant.



Chip Mitchell, 4228 Melrose Avenue, Jacksonville, Florida, 32210, Agent for Applicants: My name is Chip Mitchell, I'm with Designs for Living LLC, and I have been helping folks like the Callahans now for 45 years in this market area in Northeast Florida. I am kind of a bearer of bad news because I am a conformist. The first things I looked at were the site plan and the LDRs, and I saw that this is a non-conforming property. It is non-conforming because when the house was built some 60 years ago, it was conforming to the development but under today's new LDRs, side setbacks of 10 feet on each side are required, and this house only has a 7.5-foot side setback on the south side, which throws it into a non-conforming status. And because it is non-conforming, this limits the amount of expansion the structure is allowed to have. In addition to the 7.5-foot setback on the south side, there is a 10-foot drainage easement between the Callahans' lot and the lot next door to the south. The whole idea behind setbacks is to protect you from your neighbors with a separation, and because of the 10-foot drainage easement, the Callahans' home is 17.5 feet, and not 10 feet, away from this next door neighbor's lot line.

Hester Longstreet: Your clients are only looking to add on to their house, they are not looking at tearing down the house and rebuilding it?

Chip Mitchell: No, my clients aren't that rich.

Kevin Kincaid: And just to clarify, would the proposed new additions further expand the existing encroachments in this non-conforming 7.5-foot side setback? In other words, would anything new that is proposed be in conformity with the current LDRs?

Chip Mitchell: Correct. I always design to the setback, and not to any existing encroachments. As I tell my clients, it is easier to not reinvent the wheel, and just work within the rules.

Kevin Kincaid: Just to clarify, the variance, if granted, will basically grandfather the existing single-family residence as a non-conforming structure and allow expansion of greater than 25% of the gross floor area with the proposed additions.

Brian Law: I would like to stay away from the grandfathering provision because we are simply here to consider the variance for the proposed additions in excess of 25% of the existing gross floor area. God forbid, but if a natural disaster was to occur to the house, any variances or pre-existing conditions are off the table, if that is what you are asking. That's why I get cautious about using the term "grandfathering."

Kevin Kincaid: So, we are not giving a blanket approval to the current non-conforming setback. The variance is just to allow the applicants to go around that regulation.

Brian Law: If granted, the variance would allow expansion of the structure in excess of 25% of the existing gross floor area. As many of the senior Board members know, setbacks have ping-ponged back and forth quite a bit in the last five or six years, but they have now finally settled to where almost everybody is happy. This house appears to have been built in 1961, and the City's LDRs really didn't come into effect until the early 1990s.

I would encourage everyone to look at the City seal on the wall behind the Board members, as the seal has the year the City was incorporated, 1959, on it, so when this house was built in 1961, this was at the beginning of the City. There is no real viable opportunity to vacate the existing drainage easement, as the City's Public Works Department has shown that they are not willing to do this because it is a drainage easement for the subdivision, which is needed. The applicants are not asking to violate any setbacks with the proposed additions, and they are not asking for any variances in regard to lot coverage or ISR coverage. They are asking to expand an existing non-conforming structure by more than 25% of the gross floor area. It is a non-conforming structure simply because the side setback on one side is only 7.5 feet, and the current side yard setback requirement for this particular property is 10 feet.

Kevin Kincaid: Have there been any objections from anybody?

Bonnie Miller: None on record.

Hester Longstreet: If we don't use the word "grandfather" but say pre-existing, we could grant the variance based on the pre-existing structure, or whatever you want to call it.

Chip Mitchell: Yes, it was conforming when it was built in 1961 but today it is not.

Kevin Kincaid: We can grant the variance as requested with the understanding that it was built under pre-existing regulations and conditions. Do we have any public comment? Hearing none, any other discussion? There was no further discussion.

**Motion:** to approve Land Use Variance File No. VAR 2023-09, for expansion of a non-conforming structure by more than 25% of the gross floor area for a proposed 797.41-square-foot addition to an existing 1804-square-foot total single-family residence in a low density residential land use district at 13 Oak Road, St. Augustine Beach, Florida, 32080, based on the pre-existing non-conforming status of the existing single-family residence that was built under pre-existing development regulations in 1961. **Moved** by Hester Longstreet, **seconded** by Kevin Kincaid, **passed 7-0** by the Board by unanimous voice-vote.

D. Concept Review File No. CR 2023-01, for demolition of the existing 48,555-square-foot Publix grocery store and rebuild to a new 54,964-square-foot Publix grocery store and reconfiguration of the Anastasia Plaza shopping center parking lot to create additional parking spaces for the shopping center, in a commercial land use district at 1001 and 1033 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, Patrick McKinley, Agent for Regency Centers and MCW-RC-FL-Anastasia LLC, Applicant

Jennifer Thompson: I'd like to present the next two items together, because the first item is a concept review for an extraction of the current Publix to build a new 54,964-square-foot building in its place, and then the following variance application pertains to the parking lot reconfiguration included in the concept review. As some of you remember from previous concept reviews, they are more of a fact-gathering application for informational purposes, as the Board doesn't make a motion on a concept review

application. It is just a chance for everyone to ask questions and understand the applicant's vision. The variance application is asking for three items. The first request is for a reduction of the standard parking space size, which per the LDRs is 9-feet-by-20-feet. The current parking spaces at Anastasia Plaza are 9-feet-by-18 feet, and the proposed new parking spaces are 9.5-feet-by-18 feet, with proposed new drive aisles that are 25 feet wide. The new configuration of the parking lot will add 13 parking spaces for a total of 481 parking spaces. Current parking regulations per the LDRs require 429 parking spaces. Back in 2012, the Board granted a variance to Salt Life allowing this restaurant to reduce the size of its parking spaces to 9-feet-by-18-feet. The second portion of the variance is a request for a reduction of the north buffer. Back in 1987, when Anastasia Plaza was built, there were no buffer requirements because the property to the north was zoned commercial. This parcel is now owned by the City and is the future site of Hammock Dunes Park. Currently, the City does not have plans for improvements to this parcel in the near future. The LDRs state non-compatible uses must have a 15-foot buffer between them. The Hammock Dunes Park property is now zoned for parks and recreation, and the Anastasia Plaza property is zoned commercial. The northern buffer between the Hammock Dunes Park property and the Anastasia Plaza property would be limited to only a five-foot-wide buffer because of the proposed truck dock addition to the rear of Publix that will allow trucks to make that wide turn around the building. Moving away from the proposed new truck dock along the northern property line in either direction, the size of the buffer area increases and there is a larger buffer between the adjacent properties. The third part of the variance application is a request to exceed the maximum 70% ISR coverage allowed for commercial properties per the LDRs. The current ISR coverage is 80.94%, and the new ISR coverage with the Publix rebuild is proposed as 80.54%. However, after discussion with the applicant, permeable pavers, which are not calculated as ISR coverage for commercial properties, will be used and this will reduce the ISR coverage to 78.6%. This is a reduction of 10,797 square feet of existing ISR coverage. The areas that will be changed are the actual Publix building and portions of the parking lot that will be replaced with permeable pavers along the northeastern side of the property adjacent to A1A Beach Boulevard and the northern portion of the property adjacent to Hammock Dunes Park, and some parking spaces on the A1A South side of the Publix building and behind the existing retail building adjacent to A1A South.

Hester Longstreet: Obviously, if the current Publix is going to be increased, will this expansion take up some of the existing retail shops?

Jennifer Thompson: Yes, some of the retail stores behind the existing Publix, along with the Cato store, the Publix Liquor store, the sunglasses store, and one other retail suite will be part of the new Publix. All the other areas will remain as they are now.

Brian Law: Axis Investments is the other retail suite.

Hester Longstreet: So, this is not just blowing out walls, Publix will be demolished and a new one built, correct?

Jennifer Thompson: Yes. Publix and the other retail areas mentioned will be demolished

for the rebuilding of the new Publix, but the other areas of the Plaza will not be disturbed.

Hester Longstreet: If the entire parking lot is going to be redone, what will happen to those businesses that will not be part of the Publix rebuild?

Jennifer Thompson: They will be redoing the parking lot in phases, so the entire parking lot will not be closed at any one time. Portions of the parking lot will be closed, so that, at any given time, there will be parking available to the businesses remaining open.

Larry Einheuser: I've been through this when the Publix at Moultrie Plaza was rebuilt, and they didn't completely block out everything at once. They just built the new Publix, left the other businesses, and did everything in phases, and we loved it when it was all done. It does take a little time, but we need a bigger Publix, definitely.

Kevin Kincaid: Any other questions for Ms. Thompson? Hearing none, can we hear from the applicant, please?

Patrick McKinley, 1 Independent Drive, Suite 114, Jacksonville, Florida, 32202, Agent for Regency Centers, Applicant: Good evening, I am Patrick McKinley with Regency Centers. I appreciate your time this evening, and I have our team here ready to answer any questions. Anastasia Plaza was built in 1987, and Regency Centers purchased it in 1993. We are nationwide now, and this one is special to us, because it is one of the first 24 properties we purchased when we went public. We've owned it now for 30 years, and a redevelopment of this property is long overdue. I want to bring up a similar redevelopment you may or may not be familiar with in Jacksonville Beach, where we just tore down an existing box and redid the façade for the Whole Foods project there. It's a good one to at least visit because it gives a good reference point for what we did. We kept the existing tenants open, as has been mentioned for this site, and the community has been really happy with it. We've been trying for a long time to figure out how to get the Publix at Anastasia Plaza bigger, because we know the community really needs it. We finally are here with the plan that gets you a new Publix, and a fully reimagined façade that gets the beach coastal vibe that this community needs rather than the look it has today, which is a little outdated. We have our architect, civil engineer, construction manager, and land use attorney here, ready to answer any questions.

Hester Longstreet: Are the outdoor patio and the kiosk something for your employees?

Patrick McKinley: This would be a new outside patio. Something we are trying to add to our shopping centers are gathering spaces, as really there is no outside dining. We want to take the opportunity to build an outside patio covering about 1300 square feet. For the kiosk, we envision some covered space, nice hardscapes, nice seating, maybe some fake grass for kids to play around on, maybe a dessert shop to create a space for customers to gather, as that is what shopping communities are really gravitating towards.

Staci Rewis, 1 Independent Drive, Suite 1200, Jacksonville, Florida, 32202: I'm the land use attorney here on behalf of the applicant, Regency Centers, and I wanted to make sure

we addressed some of the variance topics. Very similar to the previous property that just came before the Board, this is an existing use, built prior to the current code. To rebuild Publix, some variances are needed. The hardship is not self-created but is because of the current code. Regency Centers really wants to give back to the community with an improved area that matches the coastal vibe here. I want to comment on an email copied to the Board members in their meeting packets from a citizen, Mr. Burnett, regarding making a recommendation for a traffic improvement, in particular, a roundabout at the shopping center's entrance on A1A Beach Boulevard. We do not support that or believe it is necessary at all. We are not increasing the square footage of the shopping center. The square footage of Publix is increasing to meet the community needs, but because of the other changes with some of the tenants leaving, there is an 875-square-foot decrease in the total building square footage. So, there is no increase that would necessitate a traffic study or anything else along those lines. Also, it is not our road, so we can't go and do a study and then potentially ask St. Johns County, as I do not think the City owns all of that right-of-way, as well as the Florida Department of Transportation (FDOT), to accept that study. We would appreciate your support of the three variances to allow the redevelopment, but we cannot agree to the conditions proposed by Mr. Burnett.

Hester Longstreet: What is the time frame for all of this happening?

Patrick McKinley: We are working on the final agreements with our tenants and getting the plans done, so I would say it will be early next year. The whole project itself, including the tear-down and rebuilding of Publix, will probably take plus or minus 12 months.

Hester Longstreet: And what about the employees?

Patrick McKinley: Publix typically relocates employees to other stores while redevelopment is happening, but that would be up to them.

Hester Longstreet: This is important, because a lot of those employees live here in St. Augustine Beach, and we would want to know about that. We have a lot of people who use the Publix Pharmacy, and these people are going to ask those questions, and we want to be able to have answers to these questions for the citizens.

Patrick McKinley: Based on a meeting we recently had with staff, I asked Publix if they could do a temporary pharmacy and maybe even a temporary liquor store, so they are looking into that, but I haven't heard back from them on this yet.

Hester Longstreet: We are assuming the employees are going to be taken care of then?

Kevin Kincaid: I think what the applicant is saying is that we have to ask Publix about that.

Larry Einheuser: They will be taken care of. I knew a lot of the employees at the Moultrie Publix when I lived over there off Wildwood Drive. They went away to work at different stores while Publix was being rebuilt, and when it was done, they all came back.

Patrick McKinley: That is my experience when we've torn down and rebuilt other stores.

Hester Longstreet: I see there will be nine handicap accessible parking spaces in front of Publix. I went by there and I know that there are 11 handicap accessible spaces now. So, will we be losing two handicap accessible parking spaces?

Brian Law: In the State of Florida, the number of handicap spots is based on the total number of available parking spots. I looked at this based on the total number of parking spaces, and they are compliant with State law. The City currently has no provision for any additional parking spaces, and this is something that will be reviewed in greater detail.

Hester Longstreet: We are losing two handicap parking spaces, not just for Publix, but for the other tenants, too. The two handicap accessible spaces that are currently on the other side of Publix will be gone, as this is where the picnic area and kiosk are proposed.

Kevin Kincaid: We got the stuff on the traffic circle or roundabout and I don't believe that, as a Board, this is under our purview or is a hunt we can get into, but I would like to ask if there is any consideration being given to the current entrance and exit. On occasion, not often, but on occasion, with the two entrance lanes and two exit lanes on each side, I'll see somebody either go in or come out the wrong way. Can I ask your engineer if there has been any consideration given to changing the entrance and exit design?

Wade Olszewski, Professional Engineer, CPH Corporation, 5200 Belfort Road, Suite 212, Jacksonville, Florida, 32256: Unfortunately, this site is so tight and one of the goals here is to increase the parking, as this Publix is one of the busiest stores in Florida. We haven't made any changes to the entrance other than modifying the flow onto the site. If you come in that way now, you kind of get forced down that one-way aisle straight to the front of Publix, which is not a safe condition with the pedestrians out front. So, we modified this so that it doesn't take you directly there and you have more of a clear path to use the rest of the parking lot. All of the drives are two-way and 25 feet wide. The whole area is being repaved and it will be brand-new, thermoplastic.

Kevin Kincaid: Okay. That island there, I think, is confusing to people at times, as again, on occasion, it is not something I've seen often, but I have seen people pull in and jam on their brakes because they are going the wrong way out or the wrong way in.

Hester Longstreet: Maybe arrows, like brighter arrows, would help, because I don't remember seeing any arrows at all. I have seen a lot of people doing the same thing, and if there were brighter arrows showing the way to go left, straight, or right, this may help our wonderful tourists that come here figure out how to get into and out of this place.

Kevin Kincaid: I'm not a traffic engineer, so I don't know what the fix is, but I don't believe this Board has the authority to get involved in traffic circles and traffic flow.

Hester Longstreet: But we could say we will have drawn and painted arrows for those that come to visit and are not familiar with St. Augustine Beach.

Wade Olszewski: We could narrow the entrance drive as we really don't need two lanes

coming in. We need two lanes going out, but one option I'll look at with our traffic engineer is the possibility of narrowing the entrance down to just one wide lane.

Kevin Kincaid: Thank you. Any other comments or questions? Hearing none, can we have public comment?

Jim LeClare, 115 Whispering Oaks Circle, St. Augustine Beach, Florida, 32080: In general, I think this is great, but my concern, which I discussed with the Regency Centers folks already, is with the community-owned park to the north of Anastasia Plaza, which may possibly be used by residents as a potential path to the beach, because beach access was blocked off once Whispering Oaks Subdivision was put in. On my phone I have a snapshot, which I will show here on the overhead, of what I saw walking down the sidewalk along A1A Beach Boulevard near the park. Some of us clean up trash left like this on a regular basis, and you can imagine what it is like to be walking along the sidewalk with your kids and telling them not to look at the used condoms thrown to the side. The point I am making is there are going to be more dumpsters added to the shopping center, and there has to be a way to secure that area, maybe with security cameras, as we have to think of that park area as a public pathway to the beach someday. I am not opposing any of the variances, but as things change, I'd like everyone to think about the natural area we have left in the park, as St. Augustine is not a secret anymore, it is much different from the way it was 10, 20, 30, or 40 years back when you could camp on the beach at the State Park. I'm a big Publix fan and have been forever, but I just want to make sure we're looking at the whole picture and that area we all own as a community park is kept in check, so you don't have to wonder if what you see is a white egret or a big Styrofoam container.

Bobby Crum: 301 Spanish Oak Court, St. Augustine Beach, Florida, 32080: I generally want to say I am very much in favor of the plan, conceptually, as I am a customer of this shopping center and Publix, which is one of the few businesses and corporations that gives back. They are the largest giver to United Way of St. Johns County, I love Publix and everything they do. I just have a couple of comments about the plan. To the east of Taco Libre, there is a dirt pathway where people tend to walk. I really hope we can put some kind of a sidewalk that extends from the parking lot at the northeast side of the shopping center to the sidewalk along A1A Beach Boulevard. I have lived in Whispering Oaks, which is the community north of the park, for 20 years, and on multiple occasions, we have had flooding issues, and I know that there is stormwater coming from the shopping center onto the park land. If you go back behind the buildings now, you'll see rooftop water coming down on a gutter, and it literally just goes right out into the park. My biggest concern with the whole project is to not have that stormwater going into the park, to somehow retain it going into the retention pond, as we have had flooding issues in Whispering Oaks because of this. If Publix and Regency Centers can figure out a solution to this, I would be very happy. That's really my only concern with the project.

Deborah Hagenbuch-Reese, 290 Sunset Drive, Units A and B, St. Augustine, Florida, 32080: I live in Sunset Park Subdivision, which is directly across the street from this shopping center. I love Publix, I shop there, and I don't know what I'll do without the pharmacy, so if they can think of some kind of temporary set up for the pharmacy, that

would be great. My concern is about the traffic flow since Anastasia Plaza was originally built. It's great to have the entrance off A1A Beach Boulevard as the "main entrance," but I am almost positive the majority of the traffic comes in off A1A South. At peak times, people are backed up in that turn lane all the way out to the main traffic lanes, as this is where everybody comes in. This is a community where we encourage bike riding, people are out walking their dogs, and everyone is crossing A1A South to get into the shopping center. I don't know if this needs to be addressed to somebody else, but this seems like the place to start, so is there any way this turn lane could be enlarged and made safer? I know some of my neighbors would like to have an intersection here with a traffic light. At the very least, we need a crosswalk with buttons for bike riders and pedestrians to push to stop traffic and allow them to get across safely. This is a safety problem, and it seems like this is the proper time to bring it up, which is the reason I came here tonight.

Brian Law: This is a State highway under the authority of the Florida Department of Transportation (FDOT), so this is not under the City's jurisdiction. Your comments are very good, but the right avenue to take for this is to speak to the City Commission, and if the Commission wants to direct staff to contact the FDOT, it can do so. City Commission meetings are traditionally held the first Monday of each month, but because the first Monday in July is on July 3, obviously the day before the 4<sup>th</sup> of July holiday, the next City Commission meeting is scheduled the following Monday, July 10, 2023, at 6:00 p.m., right here at City Hall. I would encourage you to speak at this meeting during the public comment segment near the beginning of the meeting, as the City has no right to order anything that will affect the FDOT's authority over this State highway.

Deborah Hagenbuch-Reese: What about the width of the parking lot entrance or exit?

Brian Law: One thing to keep in mind, for the Board and all the members of the public who are here and have been sticking with us all night long, is that this is a surgical extraction of an existing portion of Anastasia Plaza. The key points here are less ISR coverage, heightened lighting systems, and heightened accessibility standards. Regency Centers and the engineers they utilize can look into anything, as they are here to hear your comments and see what things are feasible. But the FDOT is a whole different animal to deal with. These comments should definitely be directed to the City Commission, and if the Commission so decides, they can inform the City Manager to direct the appropriate department to contact the FDOT to begin communication about these concerns.

Deborah Hagenbuch-Reese: So, do I request to speak at the general comments segment at the beginning of the next City Commission meeting?

Brian Law: Yes, ma'am, much like you just did, you would fill out a request to speak card and speak when the public comment part of the meeting is opened. You can speak about anything that is not on the agenda under the public comments segment.

Deborah Hagenbuch-Reese: So many people love to shop at Publix, and I don't know of anybody who's unhappy about the proposed improvement of the store or the increasing store size. But we do have a traffic problem in this area that's becoming quite dangerous.



This seemed like a good place to start, and the City sent me a letter about the proposed new store and parking lot reconfiguration, so thank you very much for your time.

Hester Longstreet: I think we all probably agree with this, so maybe we can also put our hat in the ring and ask the City Commission to speak with the FDOT.

Brian Law: Definitely, if the Board wants a unified letter for simplicity, I would ask that it come from the chair, just so we continue the system of chain of command, and then staff would be more than happy to direct it to the City Manager, as he is the conduit to the City Commission and as such is the person who will make sure the Commissioners all get it.

Hester Longstreet: Can I make a motion that we address the safety issue and concerns of being able to go in and out of the shopping center?

Brian Law: I would say no. You can submit a letter as a unified Board, but keep in mind, this is a concept review. No motions are to be made on a concept review application. Only the application for the variances is to have a motion for approval or denial.

Hester Longstreet: Kevin, do you have a problem with drafting a letter?

Kevin Kincaid: Is anybody in opposition to us drafting a letter asking, at the very least, consideration of this citizen's concerns? Hearing none, Brian, can I give you a rough draft?

Brian Law: No, sir, we want it to be in your words, not mine, on behalf of the Board.

Kevin Kincaid: Okay.

Brian Law: I want to remind the Board of the Sunshine Law, so just keep that in mind as you are drafting a letter. You are not to speak to other Board members outside of a public meeting such as this. Also, this has no bearing on any future development orders, this is a safety concern raised by a citizen and it will be moved up the chain to the next level.

Hester Longstreet: And because this is a safety concern, whether the Publix rebuild and the proposed variances get approved or not, these concerns should still be addressed.

Brian Law: Yes, ma'am.

Kevin Kincaid: Okay, let's move on to the variances requested in the variance application.

Wade Olszewski: I just wanted to address a couple of items that were brought up. One gentleman asked about having a sidewalk connection from the restaurant, Taco Libre, to the sidewalk along A1A Beach Boulevard. We are proposing a connecting sidewalk from the east side of the restaurant to the sidewalk right-of-way along the Boulevard. The lady who just spoke mentioned the access driveway on the A1A South side of the shopping center, which we are proposing to widen, mainly for the Publix trucks. We are going to try to take the extreme changes in grades and soften them out a little bit, and

find a way to connect the pedestrian walkway that goes around Publix and runs along the buildings in back of Publix to the existing sidewalk to the west along A1A South. Regarding drainage, there's an existing St. Johns River Water Management District permit that requires all water on this site to go to the retention pond. It may not all go there now, as I know there is a lot of relief with the park property between Anastasia Plaza and Whispering Oaks. I'm not sure how the water gets there, but we are going to be held to keeping all the water onsite, and we are making improvements back there. Some of that is new parking with curbing, so we are going to have to make sure everything drains on-site and not off-site. Regarding trash, this plan just shows two enclosures, but we are adding two more, so there will be four state-of-the-art dumpster enclosures back there with doors so that the trash generated by the shopping center will be better contained.

Staci Rewis: I would like to just get on the record to staff that, if possible, to the extent of any discussion about the Anastasia Plaza property itself and any safety concerns or issues in the letter drafted by the Board chair, that Regency Centers be at the table with FDOT to have those conversations as well. Thank-you.

Matt Atkins, 316 High Tide Drive, Unit 201, St. Augustine Beach, Florida, 32080: I'm a vested community representative, and I also work for Publix, as a Publix manager. Part of the Publix rebuild includes adding a dock for trucks. Our Publix is one of the busiest stores in Florida, and we currently use a scissor lift to unload all merchandise, so we are in desperate need of a truck dock. It's a safety issue, absolutely, first and foremost. I could go on and on about the list of things we need as an employee representing Publix, and I wasn't asked by anybody to be here. If we continue with things as they are, we are going to have a lot of the same issues and concerns with traffic and litter in surrounding areas and things like that. But I think adding a new façade to the community is a need, as Florida is susceptible to mother nature, obviously, and I think this complex is showing its age. Once development starts, we can't stop it, and I think the proposed Publix rebuild and parking lot reconfiguration plan has a lot of assets and benefits to it.

Kevin Kincaid: Thank you very much. Okay, let's discuss the variances individually, but then if we have a motion, we can vote on all three variances at the same time, or we can separate them, however the Board wants to do it.

Jennifer Thompson: Would it be helpful if I just summarized each item?

Kevin Kincaid: Sure.

Jennifer Thompson: The first variance is to reduce the required standard parking size of 9-feet-by-20-feet per City Code. The current parking space size at Anastasia Plaza is 9-feet-by-18-feet, and the parking size proposed in this variance is 9.5-feet-by-18-feet.

Kevin Kincaid: So, the effect of this variance would be to increase the size of the current parking spaces, but not increase the size to what is required in the LDRs.

Jennifer Thompson: Correct. The parking space widths would be increased by one-half

of a foot and the parking space length would be what it is now, which is 18 feet long.

Kevin Kincaid: No parking spaces would be lost, and the current parking space size would be increased, but still not meet the current parking space size regulations.

Jennifer Thompson: Yes, and there would be a gain of 13 parking spaces. There was a previous variance granted for Salt Life in 2012, which I pointed out earlier, allowing Salt Life to have parking spaces that are 9-feet-by-18-feet.

Kevin Kincaid: Okay. Any questions or comments on this variance request? All right, on to the next one.

Jennifer Thompson: The next variance is for a reduction of the north buffer to 5 feet and 10 feet in certain areas along the northern boundary line of the Anastasia Plaza property. When the Plaza was built in 1987, there were no buffer requirements because both property uses were commercial. Then in 2009, the City purchased the property to the north and effectively changed the use to parks and recreation. Non-compatible zoning uses are required to have 15-foot buffers between properties. The variance requested is to reduce this 15-foot buffer to 5 feet in some areas and 10 feet in other areas.

Kevin Kincaid: So, if it weren't for a change in zoning and land use, the 15-foot buffer would not be required, because both Anastasia Plaza and the parks and recreation property next door were zoned commercial when Anastasia Plaza was first built.

Jennifer Thompson: Correct. Not until 2009, when the City bought the adjacent property and it was rezoned to parks and recreation, would a buffer have been required.

Kevin Kincaid: My feeling here is that with respect to the City park, I have an issue with having no buffer between this property and the Anastasia Plaza property, so I think the 5-foot buffer is reasonable since there was no buffer required before the property use was changed to parks and recreation. However, I would request that a fence be installed between these properties, to stop the migration of trash and garbage that is coming out of the parking lot from moving into other surrounding areas. I don't think we can stop the people or stop the trash, but we can certainly require a barrier to be put up, so trash doesn't go into our park and people don't use the park as a walk-thru to hide in when they go behind Publix and dump trash. I would like to see a fence installed somewhere within that 5-foot buffer to just kind of encapsulate the park away from the Anastasia Plaza property and parking lot. I'm okay with the 5-foot buffer but I'd like something additional to help control the trash that gets dragged and blown into surrounding areas.

Gary Smith: I think that is a great idea.

Jennifer Thompson: The last variance request is to exceed the maximum ISR coverage, which is 70% for commercial land uses. Currently, the ISR coverage for Anastasia Plaza is 80.94%. In 1987, when the Plaza was built, there were no ISR regulations, which is why it is currently at 80.94%. As I mentioned earlier, because they are using permeable pavers

in some areas, the new proposed ISR coverage is 78.6%, which would reduce the current ISR coverage by 10,797 square feet.

Kevin Kincaid: So, we gain a community benefit with the new Publix, and we gain reduced ISR coverage though it is still higher than the current ISR regulations for commercial properties. This will be a gain of an additional 10,797 square feet of permeable paver surface, which I think is a win. Any other comments or questions from anyone?

Staci Rewis: Could I clarify about the fence? I mean, as long as it is on the property line and it is allowed within that buffer area, I think it's fine. We just want to make sure that the fence is not in the concrete loading drive aisle and things like that.

Kevin Kincaid: My feeling is as long as the fence is not on the park property, but on the Anastasia Plaza property, and it is something that is going to keep the trash and everything else out of the park, I don't think it needs to be in the parking lot or drive aisle.

Staci Rewis: Okay, got it. Thanks.

Brian Law: Before the Board makes a motion about the fence, it may be helpful to the applicants to discuss what type of fence is to be installed.

Kevin Kincaid: It should be trash-proof. I'm not a designer, but I think if there was a fence put up to protect the City's Hammock Dunes Park, or whatever it may become in the future, it will be much easier to ask that a fence be put up now between the park and the Anastasia Plaza property, instead of waiting to ask that a fence be put up later when we decide to make improvements to the park or use it for something else or whatever. I don't know if I would design the fence, other than saying it should be more of a solid fence rather than a metal rail fence or something that allows trash to get through.

Hester Longstreet: So, should it be just like what, an 8-foot-high wooden fence?

Kevin Kincaid: Either wooden or PVC or whatever type of fence is allowed per the LDRs, it should be something to protect the park. I don't want to prescribe exactly what it is.

Patrick McKinley: Typically, when we do some type of barrier fence, it would be some sort of 6-foot-high chain link fence, which I guess theoretically, would allow some things to get through. But I think the issue is with people bringing trash through, and the chain link fence would solve the problem. We are okay with doing whatever the Board specifies.

Larry Einheuser: You could put green strips through the chain link, which would match the Publix green.

Kevin Kincaid: Yeah, it should be something to make it a little more aesthetically pleasing than chain link fence, since it will be a barrier between the shopping center and the park.

Chris Pranis: And it is not only people dropping trash, but also the wind blowing it around.

5. Brian Law: Going over this with the City Attorney, does the Board want the request for a fence to be part of the variance order, or part of the final development order? We are just trying to get the paperwork in order in case the City Attorney has any questions about the drafting of the variance order.

Kevin Kincaid: What happens if we approve the variance without putting in the request for a fence?

Brian Law: The final development order gives you the option to make recommendations to the City Commission regarding the building development process. For example, and this is no guarantee of any future approvals, the Board could recommend the approval of the plans as submitted with the condition that a fence be installed along the buffer area adjacent to the park before a Certificate of Occupancy is granted for the rebuild of Publix.

Kevin Kincaid: Or we could require the fence as a condition of the variance approval.

Hester Longstreet: Let's just do it now so we don't have to remember it.

Kevin Kincaid: I will make a motion that we approve the three variances as requested, with the exception that a barrier fence be installed on Anastasia Plaza property in the buffer area between Anastasia Plaza and the Hammock Dunes Park property.

Gary Smith: I second the motion.

Kevin Kincaid: We have a motion and a second. Do we have any discussion on the motion?

Brian Law: I would ask that you give the applicants one more chance to speak, based on the motion.

Patrick McKinley: As long as the fence is only required along the north property line, this is the only verification I need, and we're good with it.

Kevin Kincaid: Okay, may we have a vote on the motion please.

**Motion:** to approve Land Use Variance File No. VAR 2023-10, for variances for the proposed reconfiguration of the Anastasia Plaza shopping center parking lot for existing non-conforming uses for minimum parking space size reduction to 9.5-feet-by-18 feet; reduction of the northern landscape buffer to 5 feet and 10 feet in certain areas to accommodate the proposed new truck dock; and to maintain but lower the existing non-conforming impervious surface ratio coverage of 80.94% to 78.6% at 1001 and 1033 A1A Beach Boulevard, St. Augustine Beach, Florida, 32080, subject to the condition that a barrier fence be installed along the northern buffer area of the Anastasia Plaza property adjacent to the Hammock Dunes Park property. **Moved** by Kevin Kincaid, **seconded** by Gary Smith, **passed 7-0** by the Board by unanimous voice-vote.

**VII. OLD BUSINESS**


**VII. BOARD COMMENT**

Chris Pranis: Does anyone know the status of that crab boil business the Board approved?

Brian Law: I was there this morning for an under-slab plumbing inspection, so the permit for this has been issued to the contractor and construction for it has begun.

**IX. ADJOURNMENT**

The meeting was adjourned at 8:17 p.m.



Kevin Kincaid, Chairperson



Bonnie Miller, Recording Secretary

(THIS MEETING HAS BEEN RECORDED IN ITS ENTIRETY. THE RECORDING WILL BE KEPT ON FILE FOR THE REQUIRED RETENTION PERIOD. COMPLETE AUDIO/VIDEO CAN BE OBTAINED BY CONTACTING THE CITY MANAGER'S OFFICE AT 904-471-2122)

# EXHIBIT A

## 7 15<sup>th</sup> Street Variance Application

Supporting Information

# St. Johns Electric Trolley – December 1914

Landmark Web Official Records Search – 7 15<sup>th</sup> Street Parcel 110 - Atlantic Beach Subdivision

10/25/21, 2:40 PM

Landmark Web Official Records Search

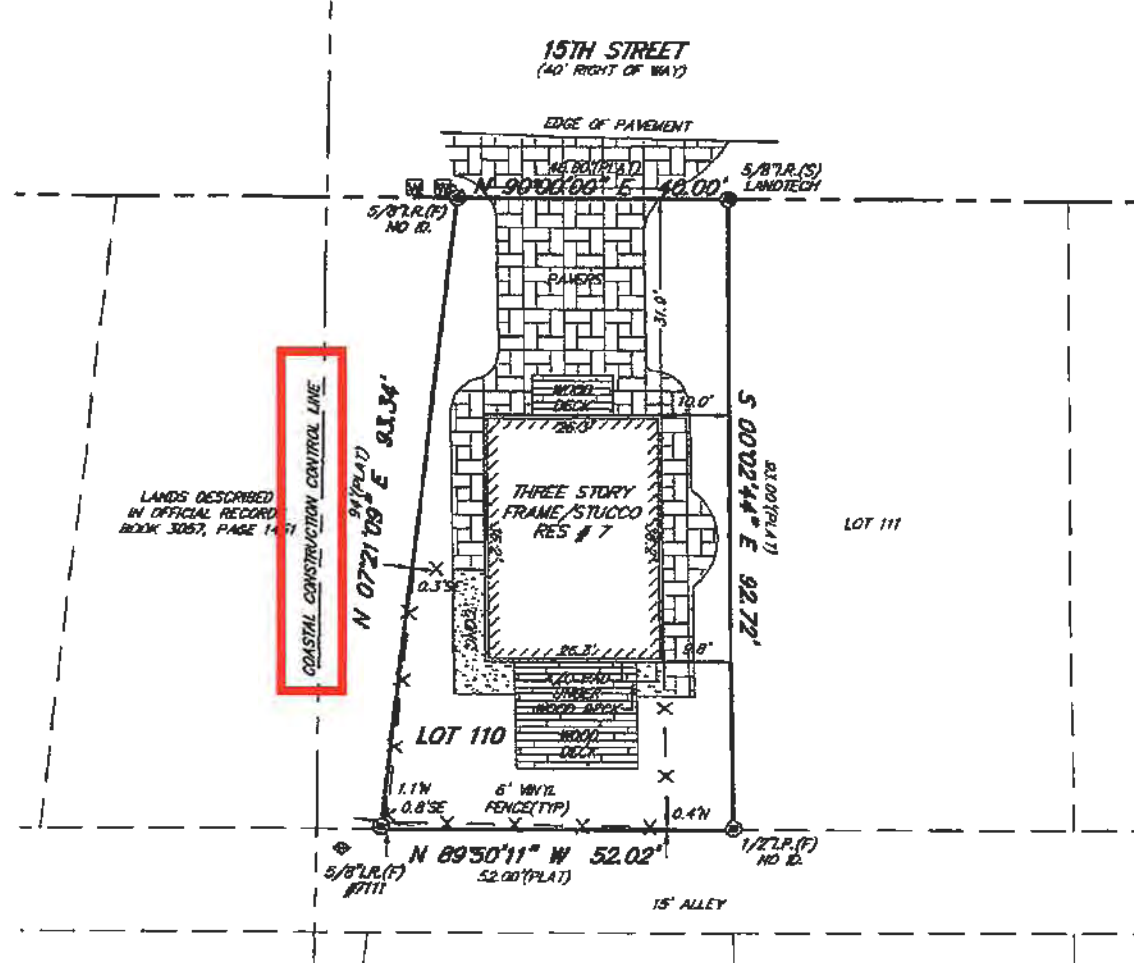




# 7 15 Street - Current Site Survey

Building Codes Sec 6.01.00 Lot area, lot coverage, floor area and setbacks

Typical  
Single Family  
platted lot  
size of 50' by  
93'



## 7 15<sup>th</sup> Street – March 2018



# 06-20-2018 Affidavit for Transient Rental License

## AFFIDAVIT

I, Robert Capwell do hereby solemnly affirm and promise that I will not rent under any terms my property located at 7 15<sup>th</sup> Street, St Augustine Beach, FL 32080 until the following have been completed:

1. The deck will be repaired and re-constructed to meet the setback requirement. Currently, the deck encroaches the 17 foot setback requirement by 8 feet. The deck will be permitted by the SAB Building Department after repair and reconstruction.
2. Once the renovation and/or repair of the deck has been completed and all open permits if any, have been acted upon, inspected, and approved by the SAB Building Department, a re-inspection for the transient lodging facility permit will be performed.

It is further understood that the first-floor area of the described property will not be utilized as habitable space specific to guest(s) sleeping. Specifically, the first floor area will not be utilized other than for storage, parking and access. These conditions are relative to break away wall construction on the first floor area.

STATE OF FLORIDA  
COUNTY OF St Johns

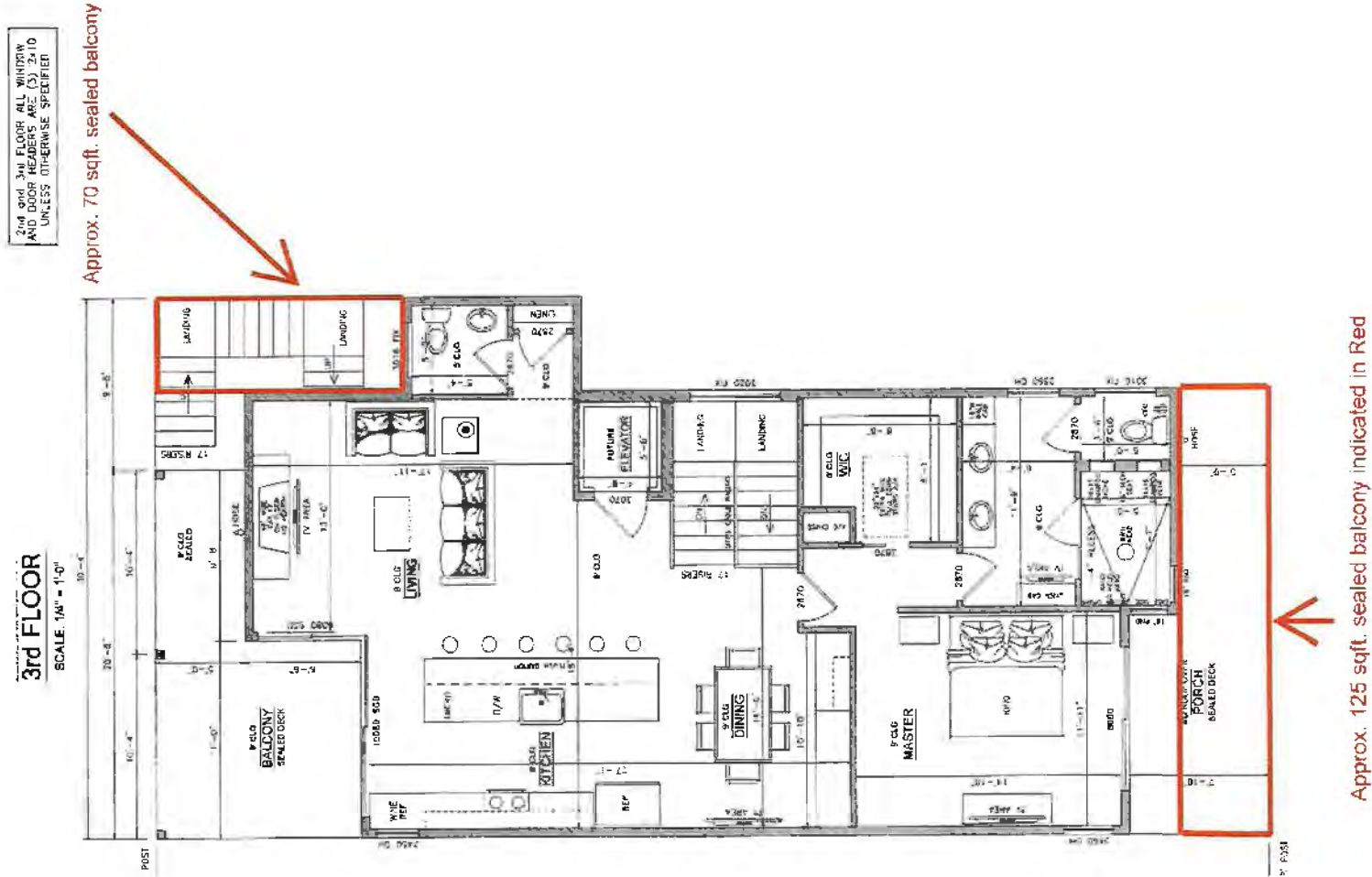
The foregoing instrument was acknowledged before me this 20 day of June, 2018, by (name of person acknowledging Robert Edward Capwell - Robert Capwell

(Signature of Notary Judy Ferrell

Name of Notary Printed)

# Area Requesting Variance approx. 195 sq feet

Reference Building Plans sheet 2B – Exceeds lot coverage allowance by 4.5%



# ISR Worksheet for Proposed Plans – ISR under 50% maximum impervious surface ratio

## IMPERVIOUS SURFACE RATIO (ISR) WORKSHEET

**IMPERVIOUS SURFACE:** Any building, surface, concrete, pool, wet retention/detention areas, pavement or surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration by water. It includes, but is not limited to, semi-impervious surfaces such as compacted clay, as well as most conventionally surfaced streets, roofs, sidewalks, parking lots, and other similar structures.

**IMPERVIOUS SURFACE RATIO (ISR):** The ISR shall be calculated by dividing the total impervious surface area by the total area of the proposed development site or project. Alternative porous paving with a 10% or greater permeability shall not count as ISR coverage.

**PERMEABLE PAVERS WITH 10% OR GREATER PERMEABILITY SHALL BE LIMITED TO 15% OF LOT COVERAGE IN LOW AND MEDIUM DENSITY LAND USE DISTRICTS (SEE #8 BELOW).**

Site Address 7 15th Street, St. Augustine, FL 32080 Lot Area 4,278 square feet

### Impervious Surfaces:

1. Building footprint	<u>1,692</u>	square feet
2. Parking & driveway areas	<u>330</u>	square feet
3. Access easements	<u>N/A</u>	square feet
4. Walkways	<u>305</u>	square feet
5. Pools and decks	<u>311</u>	square feet
6. Other (screen rooms, patios, porches, etc.)	<u>N/A</u>	square feet
7. Equipment and air-conditioning pads	<u>30</u>	square feet
8. Permeable pavers > 10% permeability	<u>635</u>	square feet

Total Impervious Surfaces: 2,033 square feet

2,033 ÷ 4,278 = 47.5%

Total Impervious Surfaces Lot Area Impervious Surface Ratio %

| Robert Capwell (signature) certify that the calculations submitted above for the impervious surface ratio calculations are accurate and complete.

Name Robert Capwell Date 04-10-2023

Address 7 15th Street, St. Augustine, FL 32080 Phone 412-901-3316

Email address bobcapwell@gmail.com

# Support of Proposed Variance Application by Surrounding Residents

10/28/2021

St. Augustine Beach Planning and Zoning Board  
2200 A1A South St.  
Augustine Beach, FL 32080

Dear Planning and Zoning Board,

I am the property owner of 6 15<sup>th</sup> Street, St. Augustine Beach, FL 32080. I have reviewed the proposed building plans being submitted by Robert and Amy Capwell of 7 15<sup>th</sup> Street, St. Augustine Beach, FL 32080 in conjunction with a variance application. I have reviewed the proposed plans which would add approximately 125 square feet of roofline and extend past the required front setback of 20' and add 77 square feet of sealed deck area to the Western side of Capwells' property. I also understand that the additional square footage will exceed the building to lot ratio by 4.5%

I have no objection to these proposed plans.

Respectfully,

Robert Dunagan

Signature: 

Date: 11/21

10/28/2021

St. Augustine Beach Planning and Zoning Board  
2200 A1A South St.  
Augustine Beach, FL 32080

Dear Planning and Zoning Board,

I am the property owner of 9 15<sup>th</sup> Street, St. Augustine Beach, FL 32080. I have reviewed the proposed building plans being submitted by Robert and Amy Capwell of 7 15<sup>th</sup> Street, St. Augustine Beach, FL 32080 in conjunction with a variance application. I have reviewed the proposed plans which would add approximately 125 square feet of roofline and extend past the required front setback of 20' and add 77 square feet of sealed deck area to the Western side of Capwells' property. I also understand that the additional square footage will exceed the building to lot ratio by 4.5%

I have no objection to these proposed plans.

Respectfully,

Jeffrey King

Signature: 

Date: 10/31/21



10/22/2021

St. Augustine Beach Planning and Zoning Board  
2200 A1A South St.  
Augustine Beach, FL 32080

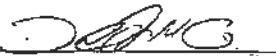
Dear Planning and Zoning Board,

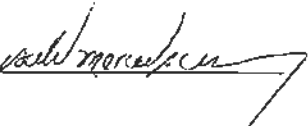
We are the property owners of 5 15<sup>th</sup> Street, St. Augustine Beach, FL 32080. We have reviewed the proposed building plans being submitted by Robert and Amy Capwell of 7 15<sup>th</sup> Street, St. Augustine Beach, FL 32080 in conjunction with a variance application. We have reviewed the proposed plans which would add approximately 125 square feet of roofline and extend past the required front setback of 20' and add 77 square feet of sealed deck area to the Western side of Capwells' property. We also understand that the additional square footage will exceed the building to lot ratio by 4.5%

We have no objection to these proposed plans.

Respectfully,

Donald McCarthy and Isabel Cumming

Signature:  Date: 10/22/2021

Signature:  Date: 10/22/2021

## Variance Application Request

To Exceed the building to lot coverage ratio by 4.5% to accommodate approx. 195 square feet of sealed deck area instead of constructing drip through decking.