



GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION
CURRENT PLANNING ACTIVITY
123 W. Indiana Avenue, DeLand, FL 32720
(386) 943-7059

PUBLIC HEARING: March 12, 2013 – Planning and Land Development Regulation Commission (PLDRC)

CASE NO: V-12-038

SUBJECT: Variance to setbacks for an existing accessory structure on Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements & Management Overlay Zone (R-4W) zoned property.

LOCATION: 44 Oak Tree Drive, New Smyrna Beach

APPLICANT: James Coomber

OWNER: William Fibiger, Philip Fibiger, Nancy Fenster and Emily Russell

STAFF: John H. Stockham, ASLA, Planner III

I. SUMMARY OF REQUEST

The applicant is requesting two variances to bring a reconstructed and expanded a two-story wooden deck into compliance with the applicable accessory structure setback requirements of the zoning code. The accessory deck structure encroaches into the south side yard and the rear, waterfront yard. These variances are for the reconstruction and expansion of the structure. A previous owner constructed the original deck structure in 1978. The current owner rebuilt the deck in the same location and expanded the footprint by adding the 2.6-foot-wide staircase on the south side and a 1.8-foot overhang of the existing seawall on the west side.

Variance 1: A waterfront yard setback from the required 25 feet to 0 feet for an accessory structure; and

Variance 2: A south side yard setback from the required 8 feet to 4.8 feet for an accessory structure on Urban Single-Family Residential / Indian River Lagoon Surface Water Improvements & Management Overlay Zone (R-4W) zoned property.

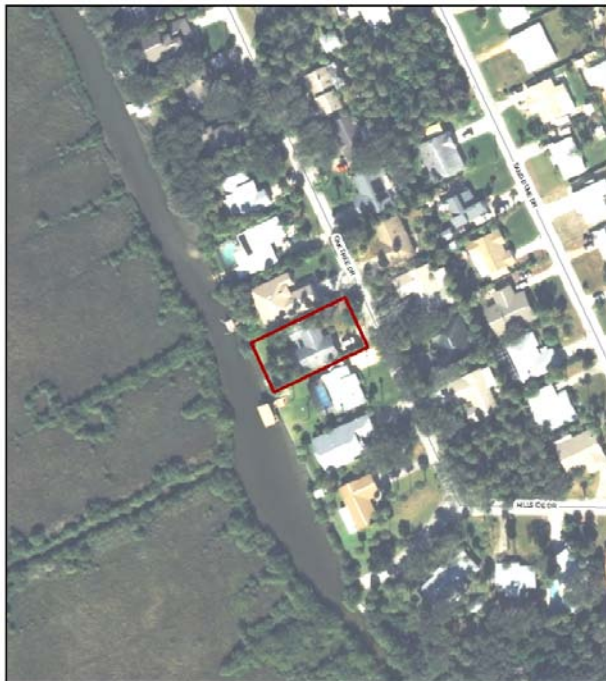
Staff recommendation: Approval of the modified variance request, subject to the staff recommendation and conditions.

SITE INFORMATION

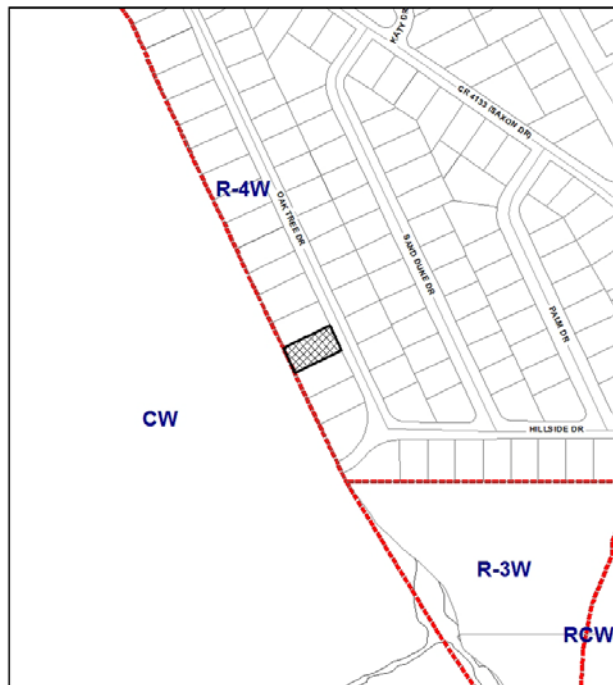
1. Location: The property is located on the west side of Oak Tree Drive, approximately 210 feet north of its intersection with Hillside Drive, near the city of New Smyrna Beach.
2. Parcel No(s): 7435-03-01-0250
3. Property Size: \pm 9,100 square feet.
4. Council District: 3
5. Zoning: Urban Single Family Residential/Indian River Lagoon Surface Water Improvement (R-4W)
6. Future Land Use: Urban Low Intensity (ULI)
7. ECO Overlay: No
8. NRMA Overlay: Yes
9. Adjacent Zoning and Land Use:

DIRECTION	ZONING	FUTURE LAND USE	CURRENT USE
North:	R-4W	Urban Low Intensity	Single-family homes
East:	R-4W	Urban Low Intensity	Single-family homes
South:	R-4W	Urban Low Intensity	Single-family homes
West:	CW	Environmental System Corridor	Canal and saltwater marsh

10. Location Maps:



AERIAL MAP



ZONING MAP

III. BACKGROUND AND PREVIOUS ACTIONS

This case is the result of a notice of violation issued by the compliance staff on May 18, 2012. A county inspector noticed construction of the replacement deck and found no permit on file. For reference, the county previously issued a permit in May 2011 for an in-ground swimming pool, screen enclosure, and stormwater area management. As the property is located within a Class II Overlay area, on-site stormwater area is required for construction exceeding 250 sq. ft. of area. The reconstructed deck was not part of the 2011 permit.

Per the county property appraiser's records, the original deck structure and associated shed were built in 1978. The deck was constructed by a previous owner as the current owners purchased the subject property in 2010. The owners rebuilt and expanded the width of the subject deck structure at the same location. The expansion included a 2.6-foot-wide staircase on the south side that move the structure within 4.8 feet of the south lot line, and a 1.8-foot extension over Indian River North waterway.

The current waterfront yard for an accessory structure is 25 feet. Based on staff research, no permit was found for the deck and the minimum yard for accessory structures was 5 feet when the structure was first constructed in 1978. The former and current deck are not nonconforming structures as defined by Section 72-206(3) of the zoning code, because the deck was not a lawful structure existing on the effective 1980 date of adoption or amendment of the zoning code.



Accessory Structure (looking south)

The applicant has agreed to modify the deck to meet the size and side setback that existed before it was expanded. Variances are still required to enable the owner to apply and obtain required permits for the deck. This proposed modification will change the requested side yard variance from the required 8 feet to 7.4 feet. The deck alteration will reduce the 1.8-foot deck overhang of the seawall to the western edge of the seawall, which still requires approval of a variance for no waterfront setback.

IV. REVIEW CRITERIA AND ANALYSIS

Section 72-379 (1) a. 4 *Variances* of the zoning code contains five applicable criteria by which the PLDRC may grant a variance. Staff bases its evaluation on these criteria:

i. Special conditions and circumstances exist which are peculiar to the land, structure, sign, or building involved and which are not applicable to other lands, structures, signs, or buildings in the same zoning classification.

Variances 1 & 2: A wooden deck existed in the same waterfront location since 1978. The current deck is a reconstruction, however, the deck footprint was expanded closer to the south property line and that extends over the seawall. The applicant has agreed to return the deck to the same foot print and side yard as the original pre-1980 structure. Variances are necessary to maintain the structure in the waterfront yard.

The application meets this criterion with conditions.

ii. The special conditions and circumstances do not result from the actions of the applicant.

Variances 1 & 2: The owner is responsible for rebuilding and expanding the structure. Though the original structure predated the current zoning code, as amended, the deck did not comply with the zoning regulation in effect at the time it was constructed. The owner rebuilt the structure in a manner that increased the yard encroachments. However, the owner will return the structure to its original footprint that existed prior to their ownership.

The application meets this criterion with conditions.

iii. Literal interpretation of the provisions of this ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning classification, under the terms of the ordinance, and would work an unnecessary and undue hardship on the applicant.

Variances 1 & 2: Literal interpretation of the zoning code requires the applicant to relocate the deck structure to another area of the lot outside of the 25-foot waterfront yard. This will be difficult due to the home placement, a recently added swimming pool, and the stormwater area required with the pool construction. Complete elimination of the deck would be a hardship on the property owner. The applicant proposes to return the structure to its previous size and reduce the current setback encroachments.

The application meets this criterion with conditions.

iv. The variance granted is the minimum variance that will make possible the reasonable use of the land, building, structure, or sign.

Variances 1 & 2: The requested variances are the minimum variances to allow the structure to remain in place without modification. However, they are not the minimum variances necessary to allow continue use of a previously non-compliant deck. By reducing the deck to its original size and eliminating the seawall overhang, a 7.4-foot side yard variance and variance for no waterfront yard will be need to maintain the deck to its previously dimension.

The application meets this criterion with conditions.

v. The grant of the variance will be in harmony with the general intent and purpose of this ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10, as amended, and that such variance will not be injurious to the area involved.

Variances 1 & 2: The previous deck structure and the proposed modified deck will continue to not be injurious to area.

The application meets this criterion.

V. STAFF RECOMMENDATION

Staff finds that the application can meet all five criteria to grant the requested variances based on the intended deck modification. Therefore, staff offers the following recommendation and conditions:

A variance for a waterfront yard setback from the required 25 feet to 0 feet (variance 1) and a variance for a side yard setback from the required 8 feet to 7.4 feet (variance 2) for an accessory structure (deck) on Urban Single-Family Residential / Indian River Lagoon Surface Water Improvements & Management Overlay Zone (R-4W) zoned property, subject to the following conditions:

1. The variance approvals are limit to a 140 square foot deck that shall not exceed a height of 15 feet, including safety rails.
2. No portion of the deck may extend past the western edge of the seawall, nor shall no portion of the deck extend or overhang into the south side yard area as established on the approved variance plan
3. The property owner or authorized agent shall submit a revised variance site plan in compliance with the approved variance(s), prior to building permit application.
4. The property owner or authorized agent shall obtain and complete all required building permits and inspections for the structure

5. The structure shall not be enlarged, increased, or extended to further encroach or occupy any greater area or other part of the side yard of the property, as defined by the zoning code, without approval of separate variances, building permits, and wetland alteration permits.

VI. ATTACHMENTS

- Variance site plan
- Staff and agency comments
- Application
- Maps

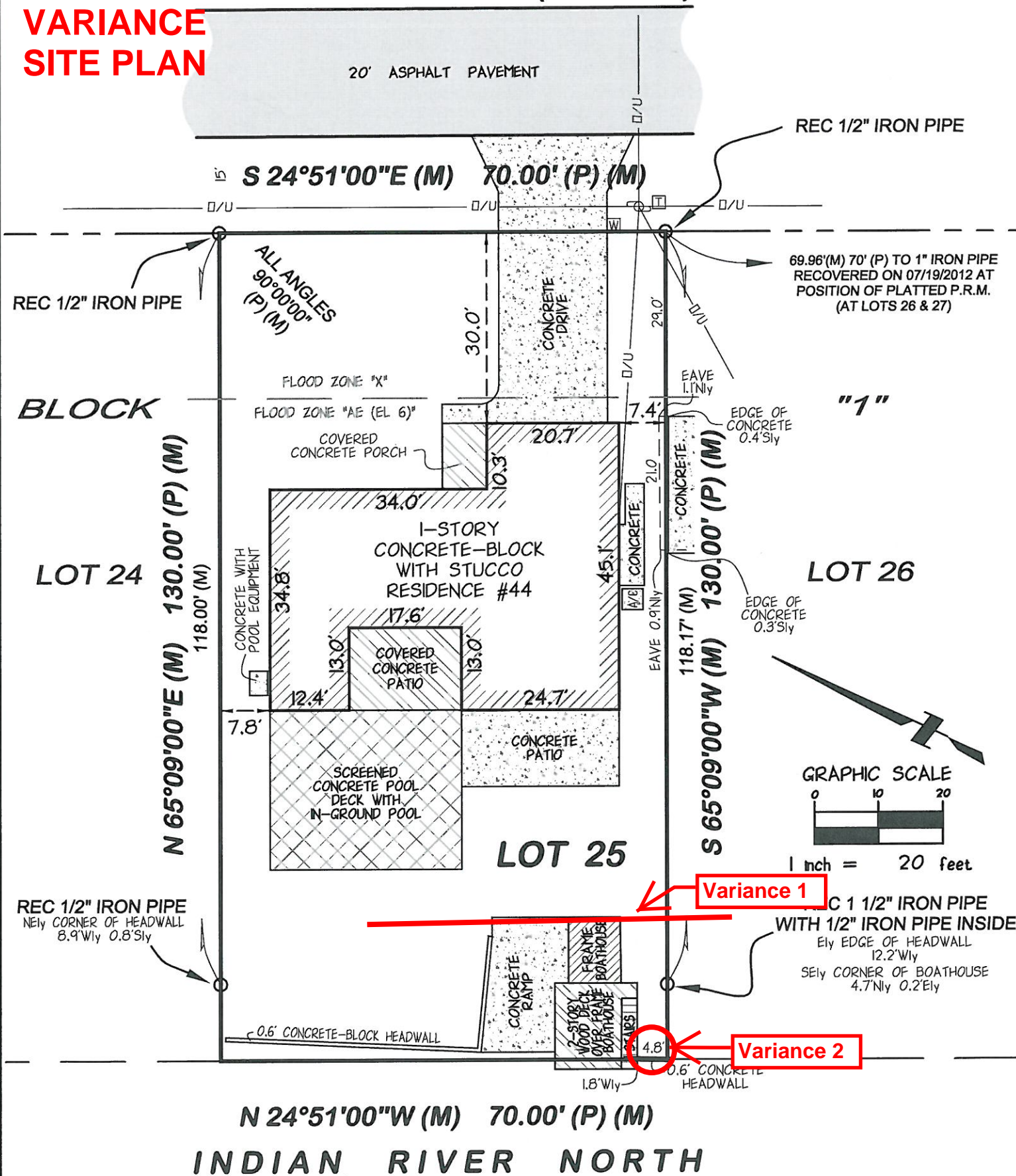
VII. AUTHORITY AND PROCEDURE

The commission may, except as otherwise provided in Section 72-379 of the zoning code, authorize, after due public notice upon application on a form prescribed by the zoning enforcement official, such variance or variances from the terms of this ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provision of this ordinance would result in unnecessary and undue hardship. Said variance application shall be heard only if it is presented by the person owning 51 percent or more of the specific area of land involved or upon an administrative application by the county council.

Any new information to be presented at the planning and land development regulation commission meeting for any application will be grounds to continue an application to the next planning and land development regulation commission meeting. Applicants shall inform and provide staff with the new information prior to the planning and land development regulation commission meeting.

VARIANCE SITE PLAN

OAK TREE DRIVE (50' R/W)



PER PLAT:
30' DRAINAGE EASEMENT RESERVED
THRU RIPARIAN RIGHTS TO INDIAN
RIVER NORTH

08/08/2012 - ADDED TIES TO BOATHOUSE

PLAT OF BOUNDARY SURVEY OF

Lot 25, Block 1, SILVER SANDS SUBDIVISION SECTION "C", according to the Plat thereof recorded in Plat Book 25, Page 163, of the Public Records of Volusia County, Florida.

SURVEY REPORT:

1. Description per Warranty Deed recorded in Official Records Book 65 14, Page 2323 of the Public Records of Volusia County, Florida.
2. Bearings refer to an assumed datum and based on the easterly line of said Block "1" as being South 24° 51' 00" East. Angles per plat of record and field measurement.
3. Subject to restrictions, reservations, limitations, easements and rights of way, if any, appearing of record.
4. This map of survey and report prepared without the benefit of an abstract and no title work has been performed or provided to this surveyor.
5. This map of survey and report is subject to any facts that may be disclosed by a full and accurate title search.
6. The location of any subsurface foundations, improvements, features or utilities which may or may not exist and which may or may not violate deed or easement lines are not determined or addressed by this survey.
7. Dimensions indicated hereon are in U.S. standard feet and decimals thereof, unless otherwise noted.
8. Unless otherwise noted, the monumentation has no identification number or name.
9. Drawing distance between features and property line may be exaggerated for clarity.
10. Features shown by symbol as indicated are not to scale.
11. Wetlands not determined or located.
12. A Mean High Water elevation that complies with Chapter 177, Part II, Florida Statutes was not located.
13. **Riparian rights not included in said Silver Sands Subdivision Section "C".**
14. Additions or deletions to this survey map or report by other than the signing party or parties is prohibited without written consent of the signing party or parties per F.A.C. Rule 5J-17.051(3)(b)6.
15. The survey map and report or copies thereof are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

CERTIFIED TO: WILLIAM W. FIBIGER and NANCY FENSTER

TYPE	SURVEY DATE	WORK ORDER #	P.C.	CALC.	DRAFT	CHECKED
BOUNDARY SURVEY	07/19/2012	12-07-021	M.T.Q.	J.W.C.	B.T.C.	J.W.C.
FOUNDATION LOCATION						
FINAL SURVEY						
RECERTIFICATION SURVEY						

● = DENOTES 5/8" IRON ROD W/ CAP " CORY LB 7883" UNLESS OTHERWISE NOTED

○ = DENOTES IRON PIPE UNLESS OTHERWISE NOTED

□ = DENOTES CONCRETE MONUMENT UNLESS OTHERWISE NOTED

P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER

LB = LICENSED BUSINESS

N.G.V.D. = NATIONAL GEODETIC VERTICAL DATUM

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LEGEND & ABBREVIATIONS

Δ = DELTA

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U = UTILITY POLE

O/U = OVERHEAD UTILITIES

A/C = AIR CONDITIONER

CLF = CHAIN-LINK FENCE

BWF = BARBED-WIRE FENCE

AC = ACRES

R/W = RIGHT-OF-WAY

EMT = ELECTRICAL METAL TUBING

FND = FOUND

REC = RECOVERED

CL = CENTER LINE

+ 0.0 = EXISTING ELEVATION (ELEV)

CONC = CONCRETE (CONC)

STOOP = CONCRETE STOOP

CERTIFICATE OF AUTHORIZATION NUMBER LB 7883

I hereby certify that this survey map and report of the subject property is true and correct to the best of my knowledge, information and belief as surveyed in the field under my supervision on the dates shown hereon. I further certify that this survey map and report meets the minimum technical standards set forth in F.A.C. Rule 5J-17, adopted by the Florida Board of Professional Surveyors and Mappers, pursuant to Florida Statutes Ch. 472.027, subject to the qualifications noted hereon.

DANIEL W. CORY P.S.M. NO. 2027
JEFFREY W. CORY P.S.M. NO. 4139

THIS PROPERTY IS LOCATED IN F.I.R.M. ZONE(S) "X" & "AE (EL 6)"
 THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M.

COMMUNITY PANEL 125155 0705 G
 MAP REVISED 04/15/02 APPROXIMATE SCALE 1" = 1000'

DANIEL W. CORY
 SURVEYOR, LLC
 300 CANAL STREET
 NEW SMYRNA BEACH, FLORIDA 32168
 (386) 427-9575
 FAX (386) 427-1783

PREPARED FOR: WILLIAM FIBIGER & NANCY FENSTER

SCALE 1" = 20' FILE # 2054



STORCH & HARRIS, LLC
ATTORNEYS AT LAW

Daytona Beach • DeLand

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glenn@storchlawfirm.com

February 11, 2013

TY HARRIS, ESQUIRE
TY HARRIS, P.A.
112 W. New York Ave., Ste. 211
DeLand, Florida 32720
(386) 624-6904
(386) 624-6906 (fax)
tyharrispa@gmail.com

Mr. John Stockham
County of Volusia
Planning and Zoning
123 West Indiana Avenue
DeLand, Florida 32720

RE: V-12-038/Fibiger

Dear John:

Pursuant to our conversation on Friday, please consider this letter a clarification of the existing non-conforming accessory structures on the above referenced parcel and proposal to maintain same.

The parcel was developed prior to 1978. At that time, the setback for the accessory dock structure was 5 feet from the property line. It is my understanding that in order to maintain said structure, that my client will be required to conform to the existing non conforming footprint of the existing pre-1978 structure, with said footprint being no wider than 8 to 9 feet in width depending on survey interpretation, a minimum of 5 feet from the property line and a riverfront setback that will be reduced to the riparian line which will require a reduction of 1 foot 9.6 inches from the current structure. My client will be required to obtain a building permit consistent with same.

Please let me know if I can provide any additional information to allow this issue to be resolved.

Kindest regards,

Glenn D. Storch

GDS:crs

STORCH & HARRIS, LLC
ATTORNEYS AT LAW

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(386) 624-6906 (fax)
tyharrispa@gmail.com

January 22, 2013

Via Electronic Mail

Mr. John Stockham, Planner III/Ombudsman
County of Volusia
Growth and Resource Management,
123 West Indiana Avenue, Room 202
DeLand, Florida 32720-4615

RE: Fibiger Deck/Variance

Dear John:

This letter is to explain the proposed steps to be taken by Mr. William Fibiger to make his two-story wooden deck structure comply with the County of Volusia's Zoning Code. The existing structure will be reduced to the parameters of the footprint of the original deck structure (combined with the structure and boat ramp), built in 1978, for which there was no zoning code violation. To accomplish this goal, Mr. Fibiger will remove the exterior 2.6 ft. wide staircase and place said staircase within the interior of the structure, restoring the original footprint.

This should eliminate the need for a variance and allow a building permit for the continuation of the maintenance of the deck structure. Please review this proposal and let me know if you have any questions or concerns.

Kindest regards,

Glenn D. Storch

GDS:crs

**VOLUSIA COUNTY
WRITTEN PETITION FOR A VARIANCE**

Section 72-379(1)(a)(4) of the Zoning Ordinance of Volusia County, as amended, requires that each applicant for a Variance submit a written petition as part of the application. The written petition must clearly describe how the Variance request satisfies all of the specific conditions necessary for the granting of the Variance, as listed in the Ordinance.

The following items must be completed in sufficient detail to allow Current Planning to determine if the application complies with the Ordinance (use additional sheets if necessary):

- A. What special condition(s) and circumstance(s) exist which are peculiar to your land, structure, building, or sign and are not applicable to other lands, structures, buildings, or signs in the same zoning classification? Were these special condition(s) and circumstance(s) the result of actions by you?

Built originally in 1978

- B. How would literal interpretation of the Zoning Ordinance deprive you of rights commonly enjoyed by other properties in the same zoning classification and be an unnecessary and undue hardship on you?

could not be rebuilt

- C. Explain how the Variance(s) you are requesting is/are the minimum Variance(s) that will make it possible for you to make reasonable use of your land, building, structure or sign:

*not looking to expand
from original*

- D. The general intent and purpose of the Zoning Ordinance and the Volusia County Comprehensive Plan Ordinance No. 90-10 is to lessen congestion in the streets; to promote public health, safety, morals, and the general welfare; to properly provide for the use of land and governmental services; and to preserve the character, appearance, and aesthetic qualities of Volusia County by regulating signs.


1. Is your request for Variance(s) consistent with this intent and purpose?

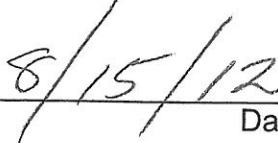
N/A

and

2. Explain how your request for Variance(s) will not be injurious to the surrounding area:

LESS IMPACT THAN OTHER
STRUCTURES NEAR BY


Applicant's Signature


Date

Applicant's Signature

Date

10/08/2012

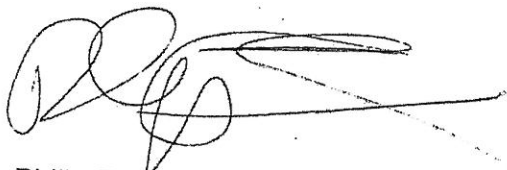
Jim Coomber
Coomber Construction
620 E. 3rd Avenue
New Smyrna Beach, FL

Hi Jim,

This letter is to clarify the intended use of the structure at the back of our property at 44 Oak Tree Dr in New Smyrna Beach. It is going to be used as a boat house. We'll be hanging two kayaks, one 12' and one 14'. It will also store kayak paddles, canoe paddles, crab traps, and some other miscellaneous boating gear. We didn't finish setting up the storage (hooks, straps, etc), it was derailed by the variance issues and we wanted to sort that out first.

Hope this clears things up!

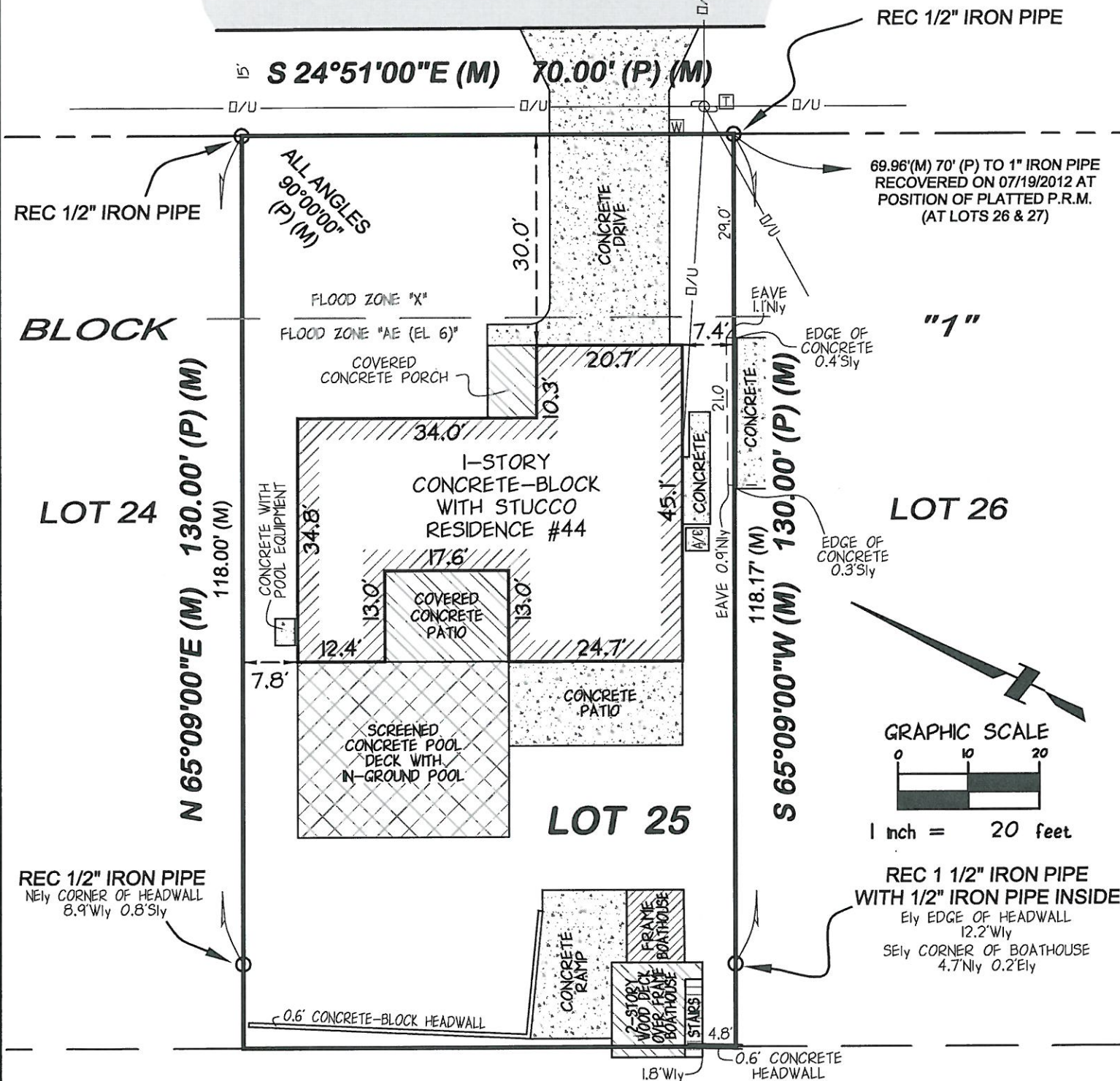
Best,

A handwritten signature in black ink, appearing to read 'Philip Fibiger', with a long horizontal stroke extending to the right.

Philip Fibiger

OAK TREE DRIVE (50' R/W)

20' ASPHALT PAVEMENT



REC 1/2" IRON PIPE

S 24°51'00"E (M) 70.00' (P) (M)

ALL ANGLES
90°00'00"
(P) (M)

REC 1/2" IRON PIPE

FLOOD ZONE "X"

FLOOD ZONE "AE (EL 6)"

COVERED
CONCRETE PORCH

BLOCK

LOT 24

N 65°09'00"E (M) 130.00' (P) (M)

CONCRETE WITH
POOL EQUIPMENT1-STORY
CONCRETE-BLOCK
WITH STUCCO
RESIDENCE #44COVERED
CONCRETE
PATIOSCREENED
CONCRETE POOL
DECK WITH
IN-GROUND POOL

LOT 25

LOT 26

S 65°09'00"W (M) 130.00' (P) (M)

EDGE OF
CONCRETE
0.4'SlyEDGE OF
CONCRETE
0.3'Sly

GRAPHIC SCALE

1 inch = 20 feet

REC 1 1/2" IRON PIPE
WITH 1/2" IRON PIPE INSIDEEly EDGE OF HEADWALL
12.2'Wly
SEly CORNER OF BOATHOUSE
4.7'Nly 0.2'Ely

N 24°51'00"W (M) 70.00' (P) (M)

INDIAN RIVER NORTH

PER PLAT:
30' DRAINAGE EASEMENT RESERVED
THRU RIPARIAN RIGHTS TO INDIAN
RIVER NORTH

08/08/2012 - ADDED TIES TO BOATHOUSE

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4. This map of survey and report prepared without the benefit of an abstract and no title work has been performed or provided to this surveyor.
5. This map of survey and report is subject to any facts that may be disclosed by a full and accurate title search.
6. The location of any subsurface foundations, improvements, features or utilities which may or may not exist and which may or may not violate deed or easement lines are not determined or addressed by this survey.
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13. Riparian rights not included in said Silver Sands Subdivision Section "C".
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15. The survey map and report or copies thereof are not valid without the signature and the original raised seal of a Florida licensed surveyor and mapper.

CERTIFIED TO: WILLIAM W. FIBIGER and NANCY FENSTER

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FINAL SURVEY						
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CAP "C" CORY LB 7883"
UNLESS OTHERWISE NOTED

○ = DENOTES IRON PIPE
UNLESS OTHERWISE NOTED

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P.S.M. = PROFESSIONAL SURVEYOR AND MAPPER

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PC = POINT OF CURVATURE

OR PARTY CHIEF

PT = POINT OF TANGENCY

(P) = PLAT

(D) = DESCRIPTION

(M) = MEASURED

(C) = CALCULATED (CALC)

(PR) = PRORATED

(G) = GRID

O.R. = OFFICIAL RECORD BOOK

M.B. = MAP BOOK

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CMP = CORRUGATED METAL PIPE

T = TELECOMMUNICATIONS (TELE)

RISER

W = WATER METER

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FND = FOUND

REC = RECOVERED

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+ 0.0 = EXISTING ELEVATION (ELEV)

CONC = CONCRETE (CONC)

ST = CONCRETE STOOP

CERTIFICATE OF AUTHORIZATION NUMBER LB 7883

I hereby certify that this survey map and report of the subject property is true and correct to the best of my knowledge, information and belief as surveyed in the field under my supervision on the dates shown hereon. I further certify that this survey map and report meets the minimum technical standards set forth in F.A.C. Rule 5J-17, adopted by the Florida Board of Professional Surveyors and Mappers, pursuant to Florida Statutes Ch. 472.027, subject to the qualifications noted hereon.

Daniel W. Cory
DANIEL W. CORY P.S.M. NO. 2027
JEFFREY W. CORY P.S.M. NO. 4139

THIS PROPERTY IS LOCATED IN F.I.R.M. ZONE(S) "X" & "AE (EL 6)"
THIS LOCATION IS DETERMINED BY SCALING FROM F.I.R.M.

COMMUNITY PANEL 125155 0705 G
MAP REVISED 04/15/02 APPROXIMATE SCALE 1" = 1000'

DANIEL W. CORY
SURVEYOR, LLC
300 CANAL STREET
NEW SMYRNA BEACH, FLORIDA 32168
(386) 427-9575
FAX (386) 427-1783

PREPARED FOR: WILLIAM FIBIGER & NANCY FENSTER

SCALE 1" = 20'

FILE # 2054

INDIAN RIVER NORTH

UNSURVEYED PART OF SECTION 35, TOWNSHIP 17 SOUTH, RANGE 34 EAST

N.24°54'01"W 70.00'

WOOD DECK

CONCRETE HEAD WALL

BOAT RAMP

POINT ON LINE FOUND 1/2" IRON PIPE (NO ID.)

HEADWALL STOPS 0.8' INSIDE PROPERTY

POINT ON LINE FOUND 1/2" IRON PIPE (NO ID.)

LOT 25 BLOCK 1

Pool

Concrete Patio

Concrete Boat Ramp

Wood Shed

LOT 26

LOT 2

S.65°03'44"W. 130.00'

118.00' TO POINT ON LINE

Downspout equipment

7.85'

24.75'

12.95'

17.60'

121.95'

34.70'

12.43'

Butter

CONCRETE

1 STORY CONCRETE BLOCK AND FRAME RESIDENCE #44

34.05'

ROOFED ENTRY

DRAIN Field

CONCRETE DRIVEWAY

METAL AWNING 0.1' INSIDE PROPERTY

FOUND 1/2" IRON PIPE (NO ID.)

OVERHEAD UTILITIES

UTILITY POLE

S.24°54'01"E. 70.00'

25.00'

OAK TREE DRIVE

CENTER LINE

50' RIGHT OF WAY

906 sq ft of Retention

Downspout
Equipment 7.85'

Stormwater Plan Approved
Date 5/6/11 by DW
Vegetation Plan Approved
Date by
Vol. Co. Environmental Mgmt

R/W	RIGHT OF WAY	A.C.	AIR CONDITIONER
R&C	REBAR AND CAP	L.	ARC LENGTH
I.P.	IRON PIPE		DELTA
CM.	CONCRETE MONUMENT	CH.	CHORD LENGTH
L.S.	LAND SURVEYOR	R.	RADIUS
L.B.	LICENSED BUSINESS	RAD.	RADIAL
P.C.	POINT OF CURVATURE	N.R.	NOT RADIAL
P.T.	POINT OF TANGENCY	U/P	UTILITY POLE
P.R.C.	POINT OF REVERSE CURVATURE	O/U	OVERHEAD UTILITIES
P.C.P.	PERMANENT CONTROL POINT	P.	PLAT
P.R.M.	PERMANENT REFERENCE MONUMENT	M.	MEASURED
E/P	EDGE OF PAVEMENT	D.	DESCRIPTION
C/L	CENTERLINE	RES.	RESIDENCE
E/W	EDGE OF WATER	C.B.	CONCRETE BLOCK

SCALE: 1" = 30' 4-20-2011
Surveyor name change

DATE: 10-10-97 RECERTIFIED: 10-6-98

FOUNDATION: _____ FILE NUMBER: 634-97

CERTIFICATE OF AUTHORIZATION NUMBER L.B. 7783

**Inter-Office
Memorandum**



TO: John Stockham, Planner III **DATE:** September 20, 2012

FROM: Brenda Borgiet, Environmental Specialist II

SUBJECT: Planning & Land Development Regulation Commission meeting for
 Date: October 09, 2012
 Parcel #: 7435-03-01-0250
 Case #: V-12-038, William Fibiger, Philip Fibiger,
 Nancy Fenster H&W, owners

Environmental Permitting (EP) has conducted a site inspection of the parcel and reviewed the Variance application for the property. The property is located on the Indian River North and is located within the Natural Resource Management Area where a minimum fifty foot (50') wetland buffer is required. New dock construction activity was noted on the parcel. This construction activity required both Building and Wetland Alteration permits and is a violation of the Land Development Regulations Section 72-884.

This parcel is located within the Indian River Lagoon Surface Water Improvements and Management Overlay Zone, otherwise known as the Class II overlay. The requirement of this Class II ordinance is to provide a volume of stormwater retention equivalent to one-half-inch of depth over the entire lot. The Class II overlay also requires property within the boundary to maintain or plant 35% native vegetation. Future construction activity on this parcel may require the project to meet the provisions of the Class II Land Development Regulations.

EP has no objection to the reduction of the side yard setbacks for the dock structure. However, to avoid any further wetland code enforcement activity related to this matter, the property owner is advised to apply for an after-the-fact wetland alteration permit for these dock modifications. The applicant will be required to meet all applicable requirements of the Land Development Code at the time of building permit application.

REVIEW STAFF COMMENTS

Coomber, Fibiger, Fibiger, Fenster Russell

V-12-038

Code Compliance

Beverly Hancher

September 27, 2012

Comments:

Building inspector, Dale Smith observed this new construction during an inspection at the property next door and took photos. I opened complaint number 20120518035 and sent a violation notice to the property owner of record. See case summary for full notes.

CASE SUMMARY

Complaint #: 20120518035
 Owner: Fibiger William W &
 Address: 44 Oak Tree Dr, New Smyrna Beach 32169
 Parcel #: 7435-03-01-0250

VOLUSIA COUNTY CODE OF ORDINANCES, CHAPTER 22-2, SECTIONS 105.1 AND 109.3

DESCRIPTION: All construction requires building permit(s) and inspection approval(s).
 (dock/deck)

Event Log and Comments

Date	Inspector	Attempt	Comments
26-APR-12	Beverly J. Hancher	Inspection	Dale Smith, building inspector, observed violation, took photos. Left notice in door.
18-MAY-12	Beverly J. Hancher	Violation	Violation exists/observed, creating VIO folder
18-MAY-12	Beverly J. Hancher	Certified Notice of Violation	Generated and mailed certified notice of violation. Scanned signed notice of violation and attached it in the attachment folder.
12-JUN-12	Rebecca Donofrio	Information update	certified mail notice received
17-JUL-12	Beverly J. Hancher	Phone call	I called and spoke with Mr. William Fibiger, 407-437-0703, started out replacing boards, but with a lot of damage, they ended up replacing more than expected. They have been into the permit center office, found out that they needed a newer survey than what they had, they hired John Coomer of Coomer Construction, they were told that they may need a variance for setback purposes, they spoke with John Stockham, planner and have to submit information by 8/24 in order to be heard at the 10/9 hearing. I asked Mr. Fibiger to please keep me updated with the progress towards coming into compliance, he agreed to do so.
27-SEP-12	Beverly J. Hancher	Pursuing administrative remedies	Researched property and found that a variance application has been submitted to current planning. Variance number is V-12-038; submitted on 7/16/2012 and is for ***Variance to side yard setback from the required 15 feet to 4.8 feet for an accessory deck***

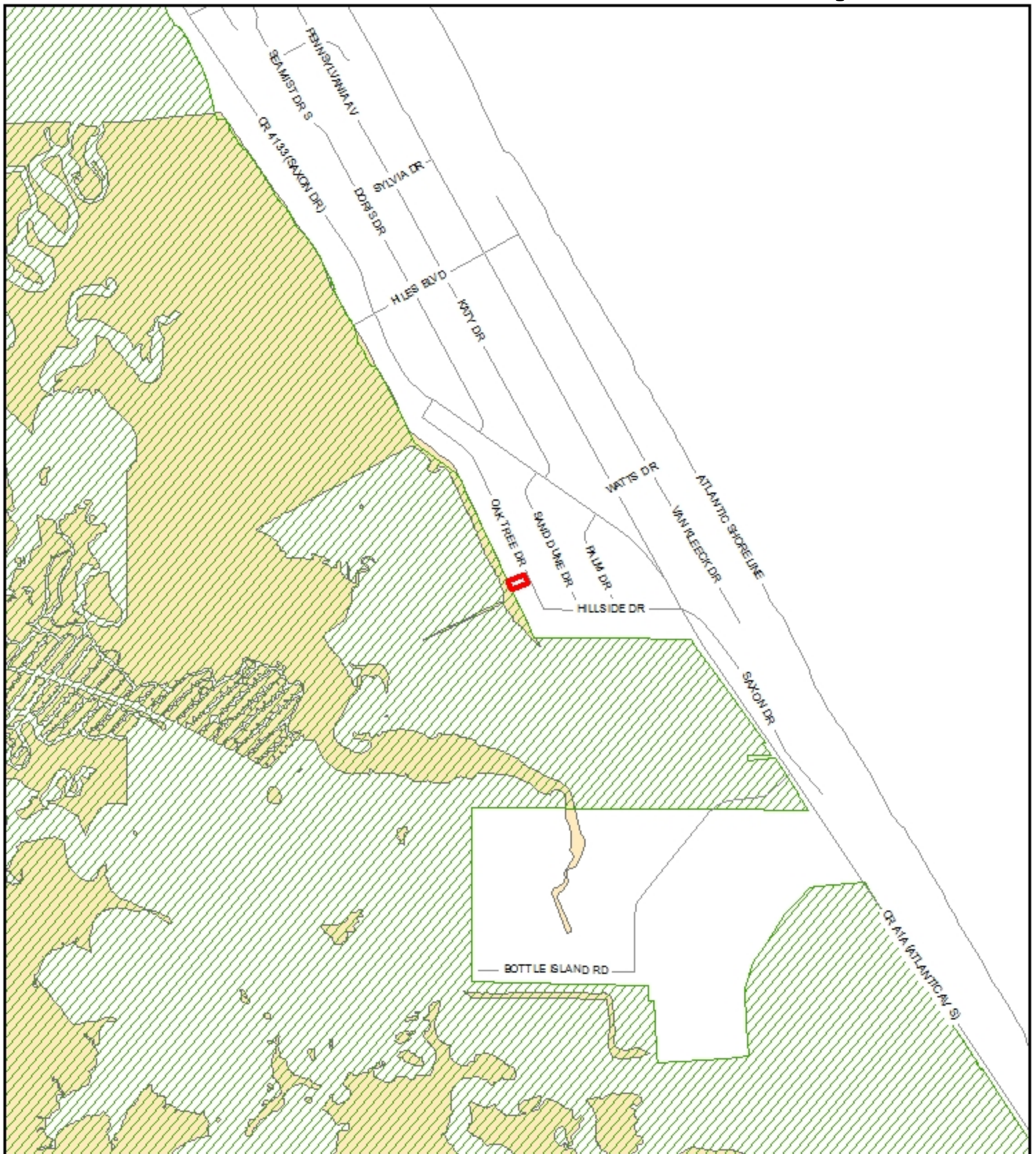
Citation and service information

Certified mail received date: Jun 12, 2012
 Certified mail who signed: William fibiger
 Sheriff Served date:

Times recorded:

Inspector
Rebecca Donofrio
Beverly J. Hancher

Time recorded
 0.1



ECO/NRMA

1"=1000'



REQUEST AREA

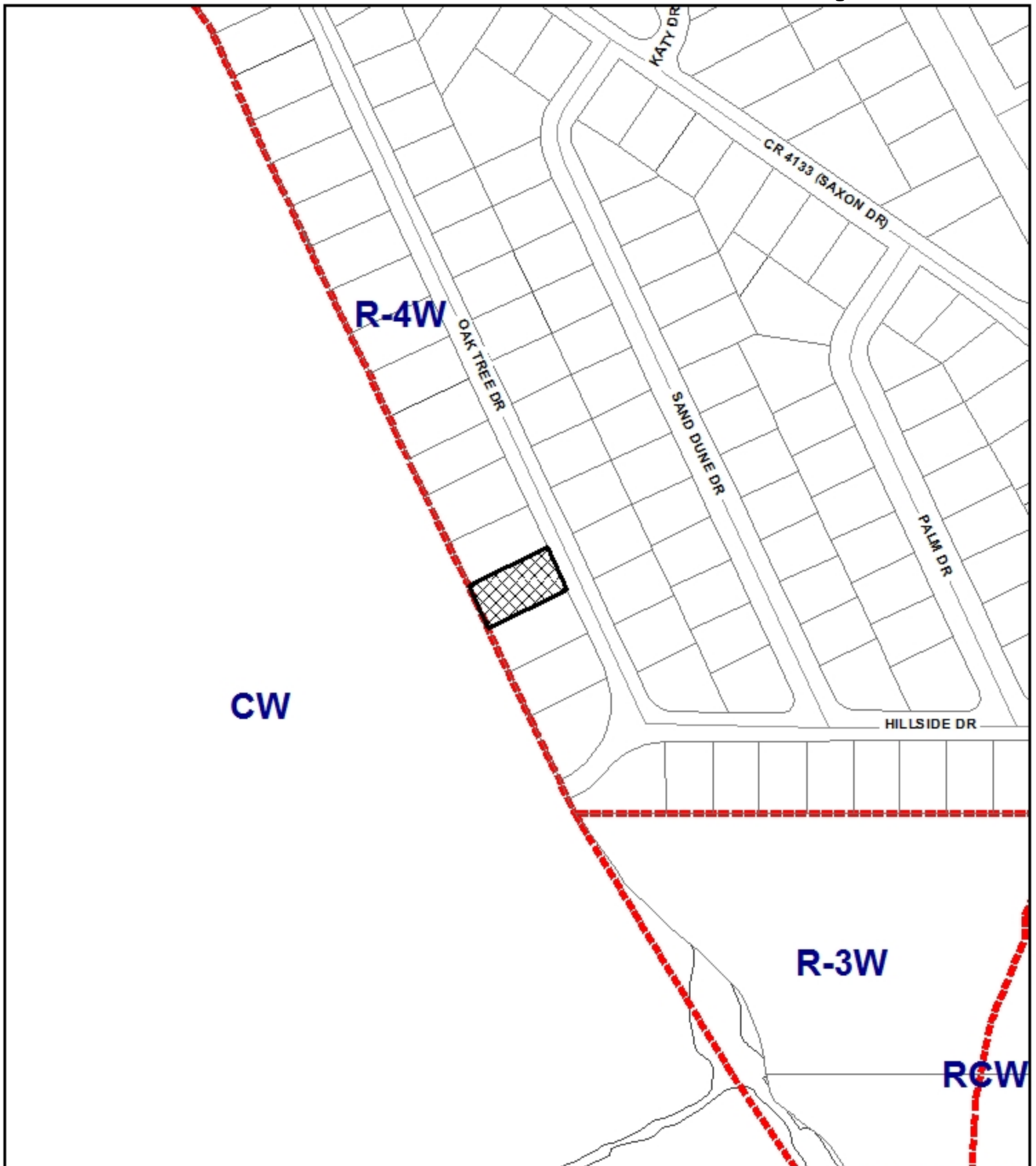
ECO

NRMA



**VARIANCE
CASE NUMBER**


V-12-038



ZONING CLASSIFICATION

**VARIANCE
CASE NUMBER**

1"= 200'

 REQUEST AREA




V-12-038



AERIAL

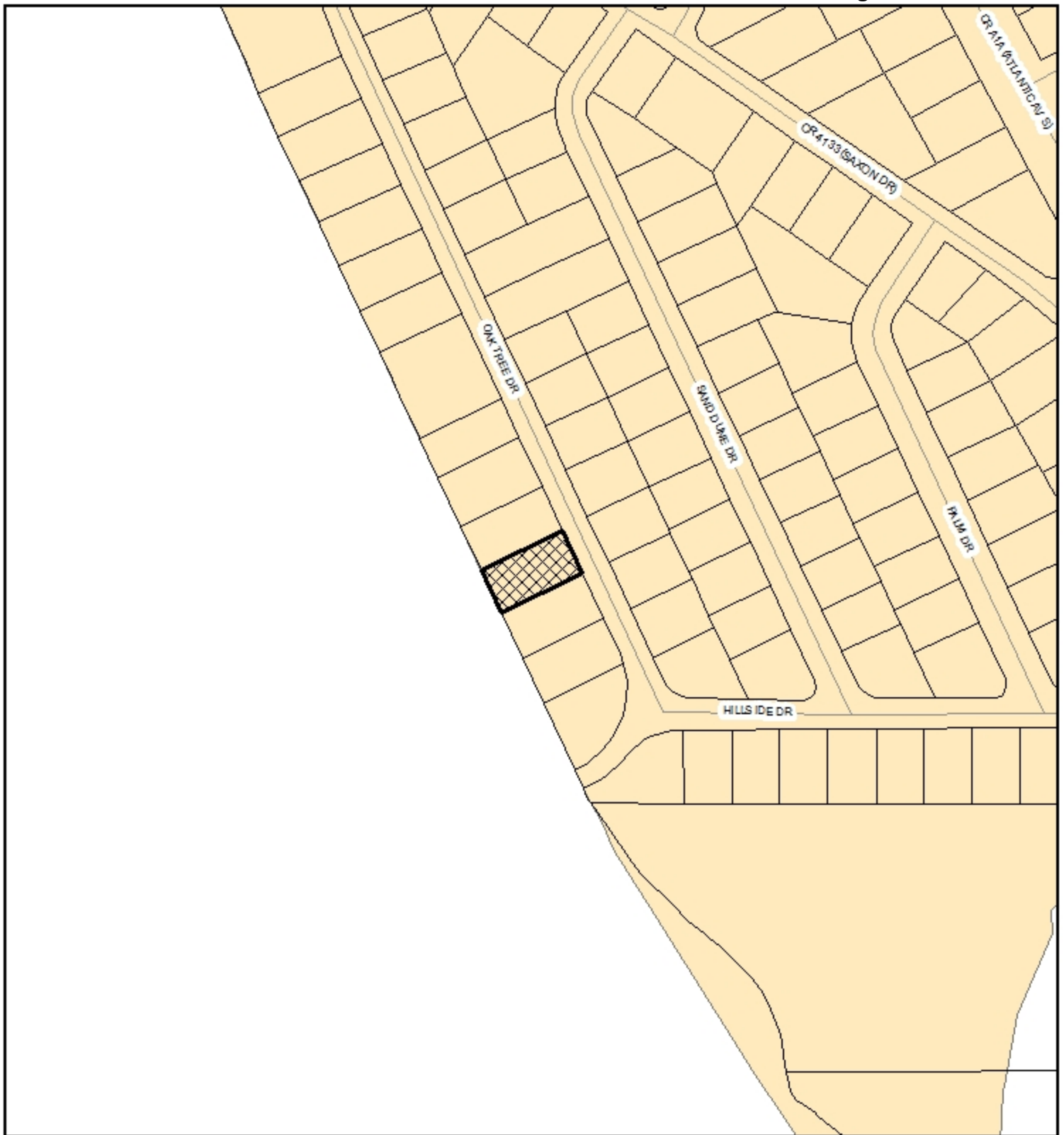
IMAGE YEAR: 2009

1"= 200'

 REQUEST AREA



**VARIANCE
CASE NUMBER
V-12-038**



FUTURE LAND USE DESIGNATION

FORESTRY RESOURCE
 INCORPORATED
 URBAN LOW INTENSITY
 REQUEST AREA

1"= 200'

VARIANCE CASE NUMBER



V-12-038