



INTER-OFFICE MEMORANDUM

TO: Planning and Land Development
Regulation Commission

DATE: September 1, 2017

FROM: Scott Ashley, AICP
Senior Zoning Manager

SUBJECT: Request for Rehearing of Variance case V-17-052
Parcel No: 8505-01-47-0110

The applicant William Allen, agent for Susan Kinard, owner, is requesting the Planning and Land Development Regulation Commission (PLDRC) rehear variance case V-17-052. This application consisted of four variances, which the PLDRC approved, with conditions, at its public hearing on August 8, 2017. The applicant is requesting the rehearing to provide the opportunity for the PLDRC to reconsider relevant variance case information for one of the variance conditions added by the commission. Please see the attached applicant letter.

Section 72-381 of the zoning code (Article II, Chapter 72 Land Planning, as amended) provides the procedure for rehearing a decision of the PLDRC or county council. Should the PLDRC decide to rehear the case, it must state its reasons for doing so and set a date, time and place for another public hearing, upon due public notice.

Should the PLDRC decide to rehear the case, zoning staff suggests that the rehearing occur at the regularly scheduled PLDRC hearing of October 10, 2017, or such later date as the PLDRC may decide.

Attachment: Request for Rehearing of Variance Case V-17-052
August 8, 2017 PLDRC Rendition Letter
Draft August 8, 2017 PLDRC minutes excerpt
Letter from Glenn Storch

c: William Allen, applicant
Susan Kinard, owner
Case File V-17-052R



**COUNTY OF VOLUSIA
PLANNING AND ZONING
REHEARING AND APPEAL APPLICATION FORM**

Mail or hand deliver completed application to:
**GROWTH AND RESOURCE MANAGEMENT DEPARTMENT
PLANNING AND DEVELOPMENT SERVICES DIVISION**
123 W. Indiana Avenue, Room 202, DeLand, FL 32720-4604
(386) 736-5959 planning@volusia.org



TYPE OF APPLICATION:

(Check all that apply)

- REHEARING BY THE
 PLANNING & LAND DEVELOPMENT REGULATION COMMISSION (PLDRC) COUNTY COUNCIL
 APPEAL OF
 PLANNING & LAND DEVELOPMENT REGULATION COMMISSION (PLDRC) DECISION
 ZONING ENFORCEMENT OFFICIAL (ZEO) DETERMINATION
 ADMINISTRATIVE INTERPRETATION OF THE COMPREHENSIVE PLAN
 ADMINISTRATIVE (660') BOUNDARY ADJUSTMENT

SUBJECT OF REHEARING/APPEAL:

CASE NUMBER: V-17-052-47-0110
 HEARING OR DETERMINATION DATE: 8-8-17
 DECISION RENDERED: _____

TAX PARCEL NUMBER: 8505-01-47-0110
 PROPERTY ADDRESS: 6524 TURTLE MOUND RD. US8 32169

REASON FOR REHEARING OR APPEAL:

(This request should state in detail what facts or points of law the Commission or Council may have overlooked or misapprehended). Please state the reason(s) for your appeal or legal right / pecuniary interest was invaded by:

The parcel was approved for a 4000 sq FT House.
The intent for approval is for a Three story House.
The council had out dated information, from a
previous variance on the same parcels.
 I request the County Council reverse or modify the decision to the extent that: we can Build
a 3 story according to the new plans. The POF has been sent
to you

DUE PUBLIC NOTICE: The applicant is responsible for all due public notice required by section 72-378, 72-380, and 72-381 of Chapter 72 – Land Planning, as amended.

REHEARING NOTE: I understand that I must serve by certified mail or hand delivery upon the Chairman of the Commission or County Council and the County Manager and all adjoining property owners previously notified of the hearing, together with a notice stating the date, time, and place my request for rehearing will be orally presented to the Commission or County Council. If my request is granted, the rehearing fee must be paid prior to the rehearing.

APPEAL NOTE: An appeal is based on the record and no new evidence shall be introduced. The appeal fee must be paid with the submission of appeal form.

LOCATION: This application will be considered at the Commission or County Council public hearing in the County Council Meeting Room of the Thomas C. Kelly Administration Center, 2nd floor, 123 W. Indiana Avenue, DeLand, FL 32720, at a date and time certain to be determined.

****APPLICANT INFORMATION:**

NAME: William Accen PRIMARY CONTACT
 COMPANY: ACCEN + SON CONST.
 ADDRESS: 829 14th Ave E.
 CITY, STATE, ZIP: New Smyrna Bch 32169
 PHONE: (386) CC3 2992 FAX: () _____ EMAIL: a son const 837 G. bell

**If the Applicant is not a property owner, then a Notarized Authorization of Property Owner, if applicable must be completed.

OWNER INFORMATION:

NAME: Susan Kinard PRIMARY CONTACT
 COMPANY: _____
 ADDRESS: 228 Canterbury Bell Drive
 CITY, STATE, ZIP: Orlando Florida 32765
 PHONE: (407) 221-9111 FAX: () _____ EMAIL: SKinard@arbys.com

CERTIFICATION AND STATEMENT OF UNDERSTANDING

By my signature hereto, I do hereby certify that the information contained in this application is true and correct to the best of my knowledge, and understand that deliberate misrepresentation of such information may be grounds for denial or reversal of this application and/or revocation of any approval based upon this application.

I hereby authorize Volusia County staff permission to view and enter upon the subject property for the purposes of investigating and reviewing this request.

I understand that this application and payment of fees for the processing and public hearing advertisement does not imply or guarantee that the application will be approved.

I acknowledge that a complete application includes all fees and all required supplemental information and that applications determined to be incomplete shall not be scheduled for public hearing and may be returned to the applicant prior to acceptance.

I filed this request on 8-28-2017 (mo/day/yr), which is within 10 working days after the rendition of decision by the Commission or Council.

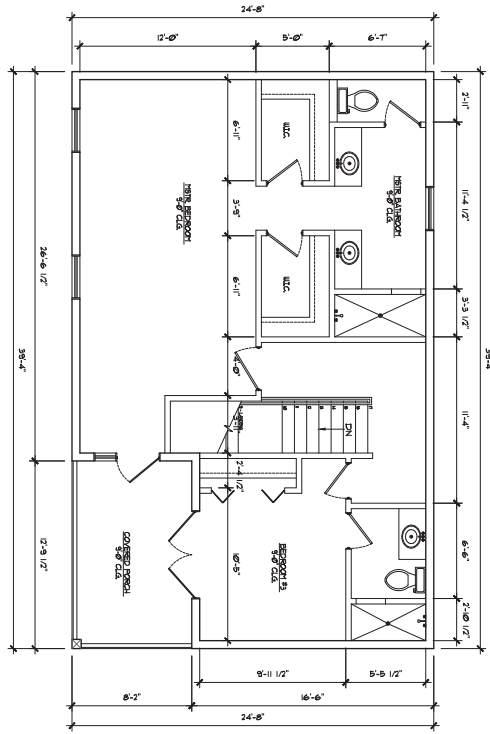
APPLICANT(S) SIGNATURE: William E. Accen **DATE:** 8-28-17

PRINT NAME: William E. Accen

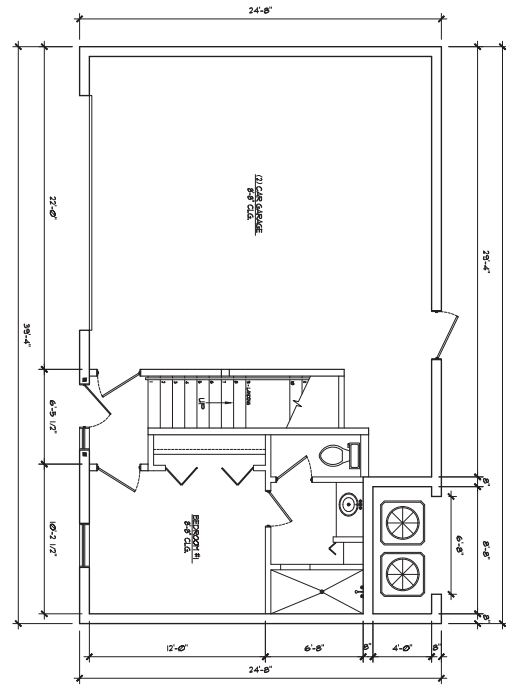
TO BE COMPLETED BY COUNTY STAFF:

Date Stamp:	<u>8/28/17</u>	Received by:	<u>[Signature]</u>
Fee Paid: <small>(Breakdown of fees must be attached)</small>		Application #(s):	
Original Case Number:	<u>V-17-052</u>	RSN:	<u>888629</u>
Appeal or Rehearing Date and Time Certain:			

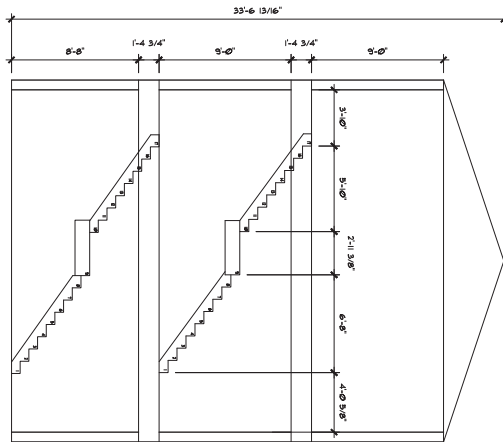
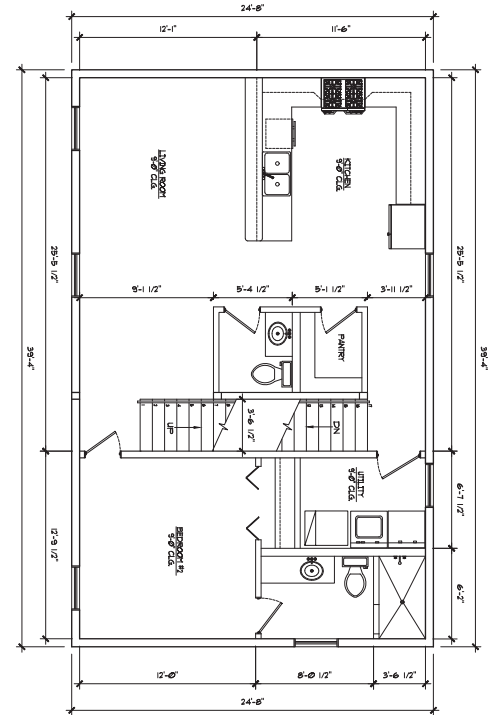
3rd FLOOR PLAN
SCALE: 1/4" = 1'-0"



1st FLOOR PLAN
SCALE: 1/4" = 1'-0"



2nd FLOOR PLAN
SCALE: 1/4" = 1'-0"



RECEIVED BY E-MAIL

Current Planning

Date 08/24/17 **YS**

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3	REV.	DATE	NOTES
DRAFTER: DBA		CLIENT:	
CHECKED BY: RD			
PROJECT NO. 17-XXXX			

SITE PLAN & INDIAN RIVER LAGOON MANAGEMENT SITE PLAN FOR:
KINARD RESIDENCE
 6524 TURTLE MOUND ROAD
 VOLUSIA COUNTY (N.S.B. AREA), FLORIDA

RICHARD J. DIXON, P.E.
 PROFESSIONAL ENGINEER
 FL. REG. # 47544
 102 SOUTH ORANGE STREET
 NEW SMYRNA BEACH, FL
 32168 (386) 428-5834

DATE: 07/27/17



ANDERSON-DIXON, LLC
 ENGINEERING • PLANNING • DRAFTING
 PHONE: (386) 428-5834 • FAX: (386) 409-3781



August 23, 2017

Glenn Storch
Storch Law Firm
420 South Nova Road
Daytona Beach, Florida 32114

RE: PLDRC Rendition for Variance case V-17-052
Parcel No(s): 8505-01-47-0110

Dear Mr. Storch:

At its hearing of August 8, 2017, the Planning and Land Development Regulation Commission (PLDRC) took the following action:

Approved a variance for a front yard from the required 25 feet to 15 feet (Variance 1); a variance for a rear yard from the required 20 feet to 10 feet (Variance 2); a variance for side yards from the required 7 feet to 5 feet (Variance 3); and a variance to the maximum lot coverage from the allowed 35 percent to 40 percent (Variance 4) on Urban Single-Family Residential/Indian River Lagoon Surface Water Improvements and Management Overlay Zone (R-9W) zoned property, subject to the following conditions:

1. The developer shall comply with the Indian River Lagoon Surface Water Improvements and Management Overlay Zone requirements of the Land Development Code, including stormwater retention and open space/landscaping criteria.
2. The variances are limited to a proposed single-family dwelling with a dimension of 40 feet wide and 25 feet deep. The applicant shall submit a revised variance plan to the Planning office within ten working days from the date of the hearing that is in compliance with the staff recommendations.
3. No impervious surfaces or structures shall be constructed or placed upon the subject property except as shown on the approved site plan. No balconies, decks, or stairways shall extend or overhang into any yard area established by this variance.

4. The applicant or successors shall maintain the required area for two off-street parking spaces that shall not extend into the public right-of-way. Therefore, the ground floor carport or garage shall not be converted to conditioned or unconditioned living area.
5. The property owner or authorized agents shall obtain the required permits and inspections and comply with any other Federal, State and County fees, codes or ordinances.
6. The garage shall be located at the northernmost portion of the lot.
7. The single-family dwelling shall be limited to a two-story building height.

EXPIRATION OF VARIANCE: If a variance does not begin to serve the purpose for which it was granted within 12 months from the date of rendition, or if its use is abandoned for 12 consecutive months from the date of rendition, it shall expire. However, the zoning enforcement official may extend the variance for up to an additional 12 month period of time if the applicant can demonstrate that a good faith reliance has been on going to accomplish the approved variance. Good faith reliance may include, but is not limited to, the securing of any required permits from other governmental agencies/jurisdictions or the expenditure of substantial funds upon reliance of the approved variance (Section 72-379(4) of the zoning code).

Please submit a copy of this letter and the enclosed variance site plan to building and zoning staff. This will assist in obtaining zoning approval for your building permit application. Building and zoning staff were notified of the approved variance. If modifications are made to this approved plan, those changes must meet the requirements of the applicable regulations of the zoning code.

If you have any questions, please contact Current Planning at (386) 736-5959.

Sincerely,


Scott Ashley, AICP
Senior Zoning Manager

Attachment(s): Approved Variance Site Plan

c: Susan Kinard, 228 Canterbury Bell Drive, Oviedo, Florida 32765
William Allen via email asonconst83@gmail.com
Janice Cornelius, Chief Deputy Property Appraiser
Case File (RSN 881498)

Excerpt from the minutes of the PLDRC meeting of August 8, 2017. *These minutes have not been approved by the PLDRC, and are therefore subject to change.*

1 Mr. Nosan identified part of Lot 12, Block 47 of the Bethune-Volusia Beach Unit 4 of 7 Units plat,
2 as the southernmost portion of the lot as his preferred entrance of the dwelling, which is below
3 the dotted line, as referenced on page 13 of 25 of the staff report.

4
5 Chair Severino thanked Mr. Nosan for his participation in the public hearing and appreciated his
6 comments.

7
8 Mr. Storch clarified that for his client to have reasonable use of the property, a southernmost
9 entrance to the single-family dwelling can be designed as well as relocate the garage to the
10 northernmost portion of the lot.

11
12 William (Bill) E. Allen, Jr., Allen and Son Construction, LLC, 829 East 14th Avenue, New Smyrna
13 Beach. Mr. Allen explained that the architectural drawings were originally drawn so the entrance
14 to the dwelling was from the middle of the structure and the garage was located to the left of the
15 entrance (southernmost portion of lot). Mr. Allen said that the architectural drawings could be
16 drawn so that the design of the dwelling is flipped.

17
18 Mr. Storch asked Mr. Nosan if this was acceptable.

19
20 Chair Severino asked for a five-minute recess so that the parties involved can resolve the
21 concerns of the adjacent neighbor, Mr. Nosan.

22
23 Mr. Storch stated that during the recess, additional terms were negotiated with Mr. Nosan to gain
24 support for the variance approval. The term are as follows: (1) The entrance of the dwelling will
25 be near the center of the lot adjacent to the relocated garage to the north; (2) Any area built on
26 the lower section (first floor) will not have access to the rear of the structure and will only have
27 access to the south; (3) No other extensions, as indicated in staff Condition #3, on page seven of
28 25 of the staff report, shall be permitted into the required yard.

29
30 Mr. Nosan expressed a preference of a portion of the downstairs (first floor garage area) to be
31 walled to protect and buffer any potential noise from the property.

32
33 Chair Severino asked Mr. Storch is there were any other conditions that the commission needed
34 to consider.

35
36 Member Young inquired if Mr. Storch had any objection to restricting construction of the structure
37 to a two-story single-family dwelling.

38
39 Mr. Storch responded no.

40
41 There being no further public participation, the floor was opened for commission discussion.

42
43 Member Mills clarified the added condition to relocate the garage to the northernmost portion of
44 the lot and the entrance to the single-family dwelling is to be determined when the architectural
45 drawings are finalized.

46
47 There being no further commission discussion, Chair Severino asked for a motion.

48
49 **Member Mills MOVED to APPROVE case number V-17-052, a variance for a front yard from**
50 **the required 25 feet to 15 feet (Variance 1); a variance for a rear yard from the required 20**
51 **feet to 10 feet (Variance 2); a variance for side yards from the required 7 feet to 5 feet**
52 **(Variance 3); and a variance to the maximum lot coverage from the allowed 35 percent to**
53 **40 percent (Variance 4) on Urban Single-Family Residential/Indian River Lagoon Surface**

Excerpt from the minutes of the PLDRC meeting of August 8, 2017. These minutes have not been approved by the PLDRC, and are therefore subject to change.

1 Water Improvements and Management Overlay Zone (R-9W) zoned property, subject to the
2 following staff recommended conditions, plus two (2) Conditions added by the PLDRC:
3

- 4 1. The developer shall comply with the Indian River Lagoon Surface Water
5 Improvements and Management Overlay Zone requirements of the Land
6 Development Code, including stormwater retention and open space/landscaping
7 criteria.
8
- 9 2. The variances are limited to a proposed single-family dwelling with a dimension of
10 40 feet wide and 25 feet deep. The applicant shall submit a revised variance plan to
11 the Planning office within ten working days from the date of the hearing that is in
12 compliance with the staff recommendations.
13
- 14 3. No impervious surfaces or structures shall be constructed or placed upon the
15 subject property except as shown on the approved site plan. No balconies, decks,
16 or stairways shall extend or overhang into any yard area established by this
17 variance.
18
- 19 4. The applicant or successors shall maintain the required area for two off-street
20 parking spaces that shall not extend into the public right-of-way. Therefore, the
21 ground floor carport or garage shall not be converted to conditioned or
22 unconditioned living area.
23
- 24 5. The property owner or authorized agents shall obtain the required permits and
25 inspections and comply with any other Federal, State and County fees, codes or
26 ordinances.
27
- 28 6. The garage shall be located at the northernmost portion of the lot.
29
- 30 7. The single-family dwelling shall be limited to a two-story building height.
31

32 Mr. Storch clarified that verbal agreement with Mr. Nosan requested the entrance of the dwelling
33 is to be from the center of the lot.
34

35 Member Mills responded that the location of the entrance to the single-family dwelling will not be
36 a condition of the variance approval.
37

38 **Member Young SECONDED the motion. Motion CARRIED unanimously (5:0).**



RECEIVED
By ysomers at 4:21 pm, Sep 01, 2017

GLENN D. STORCH, ESQUIRE
glenn@storchlawfirm.com

COREY D. BROWN, ESQUIRE
corey@storchlawfirm.com

September 1, 2017

A. JOSEPH POSEY, ESQUIRE
joey@storchlawfirm.com

VIA EMAIL TO: ysomers@volusia.org
Volusia County Planning Land Development Review Commission
Volusia County – Current Planning
123 West Indiana Avenue
DeLand, Florida 32120

Re: V-17-052

Dear Chairman Severino and Commission Members:

I was listed as the applicant in the above-referenced matter in a hearing before the Commission requesting four (4) variances. I represented the agent for the landowner, and was authorized by the landowner. I submitted that the request met the criteria for granting of variances provided by County ordinance and State law, and the County staff, in their recommendation, agreed. At the hearing, an adjoining property owner expressed concern regarding the requested variances, and conditions for said variances were negotiated between the agent for the landowner, and the adjoining property owner. During open hearing, those terms were discussed and placed as conditions for granting the variances by the Commission in your approval of the variance requests.

However, it is my understanding that the landowner has determined that certain conditions are not satisfactory, and, has requested a rehearing.

Please be advised that this firm does not represent the applicant or the landowner with regard to the requested rehearing or with regarding to any other matters subsequent to the hearing on the above-referenced variances.

Kindest regards,

Glenn D. Storch

GDS:crs

cc: Clay Ervin, Planning Director
Scott Ashley, Senior Zoning Manager