

CITY OF APALACHICOLA
BOARD OF ADJUSTMENT
QUASI-JUDICIAL PUBLIC HEARING
WEDNESDAY, MARCH 15th, 2023
Community Center - 1 Bay Avenue
Agenda

Quasi-Judicial Public Hearing: 5:30PM

1. Review & Discussion for proposed new construction of a home on the parcel located at the corner of 6th Street and Bay Avenue (**R-1 Single Family Residential**), more specifically described as Block 26 Lot 1 or 10 6th Street, into the required 15' front setback from 6th Street. Applicant is requesting approval of a 0' front setback.
2. Decision on Variance Request for a 0' front setback. (**R-1**) @ 10 6th Street, Block 26 Lot 1. For Roderick McLeod. – Owner
3. Review & Discussion for proposed new construction of a home on the parcel located at the corner of Bay Avenue and 7th Street (Not Constructed) (**R-1 Single Family Residential**), more specifically described as Block 193 Lots 1-5 or 94 Bay Avenue, into the required 15' front setback from Bay Avenue, the required 15' corner side setback from 7th Street, and the required 20' setback from the wetlands. Applicant is requesting approval of a 3' front setback, a 0' side corner setback, and a 5' wetlands setback.
4. Decision on Variance Request for 3' front setback, 0' side corner setback, and a 5' wetlands setback. (**R-1**) @ 94 Bay Avenue, Block 193 Lots 1-5. For Sarah Polow – Owner; Represented By: George Coon

Other/New Business:

Outstanding/Unresolved Issues:

In our continuing effort to keep the citizens of Apalachicola informed, this agenda is posted on our website at www.cityofapalachicola.com prior to the scheduled meeting for public review. Additional information such as the City Land Development Code and zoning related maps, along with other development information is also available on the website for your convenience. Please direct any questions concerning items on this agenda or the Planning & Zoning Board to Bree Robinson (850)323-0985 or brobinson@cityofapalachicola.com.



10 6th Street (Block 26, Lot 1)

0' Front Setback

3/2/23 + 3/9/23

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BOARD OF ADJUSTMENT
CITY OF APALACHICOLA, FLORIDA

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The Apalachicola Land Development Code allows for variance when special circumstances, conditions and/or undue hardships are determined. All interested parties are encouraged to attend and be heard with respect to this request. For further information, contact the City Planner, Bree Robinson, at 850-323-0985 or brobinson@cityofapalachicola.com.

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The Apalachicola Land Development Code allows for variance when special circumstances, conditions and/or undue hardships are determined.

You are receiving this notice because you are an abutting or nearby registered property owner of one of the above referenced parcels. We would appreciate your comments and ask that you please complete and return this form to the City of Apalachicola by 4:00PM, Wednesday, March 8TH, 2023. You are also encouraged to attend the Public Hearing to be heard with respect to this request.

Please send your response to City Hall, Attention: Bree Robinson, 192 Coach Wagoner Blvd., Apalachicola, FL 32320. If you have any questions in regards to this notice, please call the City Planner, Bree Robinson at (850)323-0985 or email brobinson@cityofapalachicola.com.

(The form is on the back of this page.)

Please circle your response:

Variance #1:	Variance #2:
FOR	FOR
AGAINST	AGAINST

Comments:

Property Owner Address: _____

Property Owner of Block: _____ Lot: _____

Signature: _____

Printed Name: _____

Date: _____

City of Apalachicola

Apalachicola, FL 32320
850-653-9319 / 850-653-2205 Fax

QUASI-JUDICIAL
VARIANCE REQUEST

Name: RODERICK D. MCLEOD Telephone: 813-293-2311

Address: 10 6th Street

Agent: _____ Telephone: _____

Address: _____

PROPERTY DESCRIPTION: Legal description of property

AND THE SOUTHEASTERLY 18 FT

Subdivision: _____ Block(s) 26 Lot(s) 1 (ALL) OF LOT 2

Parcel ID# 01-09S-08W-8330-0026-0010

Address of Property: 10 6th Street

Current Zoning and Land Use: R-1

Corner Lot: Yes / No

Waterfront Lot: Yes / No

Historic District: Yes / No

NATURE OF PETITION

Provide a detailed explanation of the request including what structures are existing and what is proposed; the amount of the encroachment proposed using number, i.e., reduce front setback from 2' to 18'; when property owner purchased property; when existing principal structure was built (including building permit numbers if possible); why encroachment is necessary; how existing encroachment came to be; etc.

This property has been in our family for over 100 years. My grandfather, R. Don McLeod, Jr., who had a law practice in Apalachicola for over 50 years, deeded it to my father, James Carol McLeod, in 1948. He built a 1,200sf home, the current house on the property, where I grew up in the 50's and 60's. We moved into it in early 1951. The front of the house sits but a few inches from the property line, as there were no setback requirements at the time of construction. And it has been there for over 70 years with no known negative or detrimental effects to the community.

I retired from the U.S. Navy with over 30 years of service to my country. When my mother passed in 2017, and the property passed to me and my wife, our desire was to move to Apalachicola and build our dream home on the site of the current house. We moved here permanently in June 2022 and began working on plans.

These plans are now complete, and the result is for a two-story home which will occupy the smallest footprint necessary on the lot, while meeting our minimum needs and wishes. Including porches and stairs, the footprint will be about 38ft x 60ft, and will occupy 2,280sf (29%) of a 7,800sf lot. We also designed it in a style that is complimentary to the styles of houses in the historic district. A computer rendition/picture is attached.

Our plan for the current house on the lot that my father built, which holds so many memories, is *not* to demolish it, but have it moved to another lot in town, and be renovated in the vintage 50's style for which it was built.

Our special situation and point of critical concern: The basis for the variance request is that we have a beautiful Patriarch Live Oak Tree in our back yard. Its trunk, which sits a couple of feet beyond our rear property line, is 5.5ft. in diameter, and it's estimated to be over 250 years old. It has been loved, admired, and enjoyed by our family for over 70 years. It adds a beauty and quality to the lot and area that would be sorely missed if it were not there. I cannot imagine our lot and new home without it.

Over the years, it has weathered many storms and hurricanes. In 2005, a large limb was broken by a hurricane and had to be cut off, so we had Bartlett Tree Experts of Tallahassee put cables on the remaining main limbs to protect it from future storms. It has worked well, and our tree made it through Michael in 2018, the worst hurricane ever to hit the area.

The large limbs and roots of the Oak tree extend into the buildable area of the lot, but there is sufficient room to build our home without any harm to the tree if a variance is approved. Mr. Todd Degner, ISA Board Certified Master Arborist with Bartlett Tree Experts, has stated that "In the event that the full variance request for 15ft is approved, the pruning required for the tree will be negligible in its totality." His letter is attached.

We are therefore requesting a variance for the 15ft setback from the 6th Street property line.

Please note that the Board of Adjustment shall be guided in its determination to approve or deny a variance request by the below listed criteria. Please address these criteria using additional pages if necessary.

- 1. Are there existing special conditions and circumstances which are peculiar to the location, size and characteristics of the lot, structure or building involved and which are not applicable to other lots, structures or buildings in the same zoning district?**

The special condition or circumstance relates to a beautiful Patriarch Oak tree on the property, whose major limbs and roots extend into or near the site of the proposed house. By granting a 15ft variance to place the new home up to the property line, where the current house has been for over 70 years with no known negative or detrimental impact to the neighborhood, we can save the Oak tree and construct our new home.

- 2. Are there special conditions and circumstances which do not result from the action of the applicant such as pre-existing conditions relative to the property which is subject of the variance request?**

The pre-existing condition relates to the beautiful Patriarch Oak tree on the property, whose major limbs and roots extend into or near the site of the proposed house. By granting a 15ft variance to place the new home up to the property line, where the current house has been for over 70 years with no known negative or detrimental impact to the neighborhood, we can save the Oak tree and construct our beautiful new home.

- 3. How will literal interpretation of the provisions of the Land Development Code work unnecessary and undue hardship on the applicant or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district?**

A literal interpretation of the provisions without any consideration for the special circumstances related to protecting the Patriarch Oak tree, and therefore, denial of the variance, would be detrimental to the beauty of the lot, the environment, the community, and the petitioner. This would place an undue hardship on the property owner as the lot could not be properly developed without substantial damage to, or destruction of, a beautiful Patriarch Oak tree; and it would therefore deprive the applicant of rights commonly enjoyed by other properties in the same neighborhood.

4. What is the minimum variance that will make possible the reasonable use of the lot, building or structure and which promote standards of health safety or welfare?

A variance of 7ft (8ft setback from the property line) is the *absolute minimum* variance that would allow construction of our current house plan and still allow enough room for our garage, which will be sitting all the way back on the 5ft alley setback. It would allow only 3ft for stairs coming off the driveway between the garage and the house. While this is workable, it's barely acceptable.

Anything greater than 7ft up to the 15ft variance would work for construction purposes. However, a variance of 7ft and setting the house back 8ft from the property line will still have *substantial negative impact* on the Patriarch Oak Tree. Mr. Degner, arborist, states in his letter, "The variance of 7' will result in the need for significant pruning that may cause damage to a large 24" diameter branch, possibly killing that entire branch."

Therefore, while construction could take place with a 7ft variance, and the house and garage would fit on the lot, it would require significant pruning of the Oak tree, possibly killing the 24inch diameter branch and altering the symmetry of the tree. Roots would also be impacted by the foundation, causing further stress on the tree. Damage to the Oak tree decreases steadily from a variance of 7ft up to 15ft, with 15ft requiring only negligible pruning, and the root structure remains unharmed.

5. How will granting the variance request not confer on the petitioner any special privilege that is denied by these zoning regulations to other lots, buildings, or structures in the same zoning district?

We are not requesting any special privilege with this petition that has not been granted others in our neighborhood and district who have shown sufficient justification. We are trying to build our dream home and save our Patriarch Oak tree in the process. The house next door at 12 6th Street, formerly the home of my uncle, Pal Rivers, had a 7ft variance approved for extension of the porch. In 2013, the house on the corner opposite of ours at 18 6th Street, formerly owned by my uncle, County Judge Eldon McLeod, was approved for an extension of the very small porch, which was bordering on the lot line, for an additional 5ft into the R/W. I believe these variances were fully justified on their own merit, and totally non-injurious to the neighborhood.

When these variances were granted, a little-known fact about 6th Street was considered, and my uncle, Pal Rivers, former Clerk of the Court, reminded the board of it. This is the ONLY numbered street in the city which has a 100ft R/W. All other numbered streets have an 80ft R/W. That means that *our* property lines are set back 50ft from the center of the street. On all other numbered streets, the property lines are 40ft back from the center of the street. If you add a 15ft setback to that, a house on 6th Street must sit 65ft from the center of the street, 10ft further back than on any other numbered street in town.

This wasn't an issue years ago when setbacks were not required, and many older houses along 6th Street have been built near their property lines so they don't sit so far back from the street.

6. How will granting the variance be in harmony with the intent and purpose of the Land Development Code and non-injurious to the neighborhood or otherwise detrimental to the public welfare?

We believe granting of this variance request will be in harmony with the Land Development Code, which requires sufficient justification on a case-by-case basis for approval, and will be non-injurious to the neighborhood or detrimental to the public welfare. *Not granting it* would be injurious to the Patriarch Oak on the property and the beauty of the neighborhood.

7. How will granting the variance be consistent with the Land Development Code?

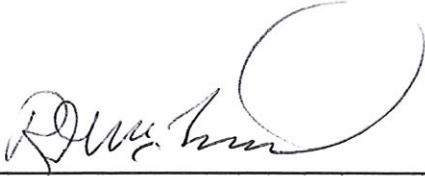
The Land Development Code has established a Board of Adjustment to hear petitions for variances. In special circumstances, and with reasonable and proper justification, property owners need relief from regulations that would prohibit proper use and development of their property. It is our understanding that each request must stand on its merits, and when reviewed, the Board provides fair and equitable relief, consistent with the best use of the property, while ensuring it will not be injurious to the environment, neighbors, or district, or otherwise detrimental to the public welfare.

8. Please provide any other information which may be necessary for the Board of Adjustment to make an informed decision on this matter.

Please see the following Attachments:

1. Letter of 8 December 2022 from Arborist, Mr. Todd Degner, Bartlett Tree Experts
2. Site Plan drawing showing zero setback, 15' variance. Please note that the part of the house that extends into the setback consists mostly of stairs and porch.
3. Site Plan drawing showing 8' setback, 7' variance.
4. Overhead photo of lot, showing current house, garage, utility buildings and Oak tree.
5. Overhead photo showing petitioner's property in relation to neighbors along 6th Street.
6. Computer rendition of new home (front view) to be constructed on the property.
7. Computer rendition of new Home (rear view).

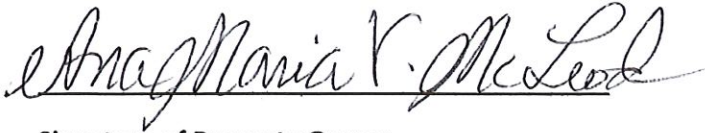
If the variance is approved, and we can move forward with construction, we will apply for a Tree Permit and Mr. Degner, Arborist with Bartlett Tree Experts, will be engaged to take care of any necessary trimming of the Patriarch Oak tree, keeping it to the absolute minimum and ensuring the health of the tree into the future.



Signature of Property Owner

Roderick D. McLeod

Printed Name of Property Owner



Signature of Property Owner

Ana Maria V. McLeod

Printed Name of Property Owner

1/27/2023

Date

AFFIDAVIT

We/I, RODERICK D. + ANA MARIA V. MCLEOD, being first duly sworn, depose and say that we/I am/are the owners of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application, including the disclosure of interest information, all sketches, data, and other supplementary matter attached to and made a part of this application, are honest and true to the best of my/our knowledge and belief. We/I understand that the information requested on this application must be complete and accurate and that the content of this form, whether computer generated or City printed shall not be altered. Public hearings will not be advertised until this application is deemed complete, and all required information has been submitted.

As property owner(s) We/I further authorize _____ to act as our/my representative in any matters regarding this Petition.

[Signature]
Signature of Property Owner

[Signature]
Signature of Property Owner

RODERICK D. MCLEOD
Typed or Printed Name of Owner

ANA MARIA V. MCLEOD
Typed or Printed Name of Owner

STATE OF FLORIDA
COUNTY OF Franklin

The foregoing instrument was acknowledged before me this 27 day of Jan., 2023 by [Signature] who is personally known to me or has produced [Signature] as identification.

(NOTARIAL SEAL)



[Signature]
NOTARY PUBLIC
Printed Name:
Commission Number:
Commission Expires:



BARTLETT TREE EXPERTS

3723 Peddie Drive
Tallahassee, FL 32303

8 DEC '22

To Whom It May Concern,

I have personally examined the large live oak located at 10 6th Street in Apalachicola, FL and have several observations related to the variance request before you.

In the event that the full variance request for 15' is granted, the pruning required for the tree will be negligible in its totality.

The variance of 7' will result in the need for significant pruning that may cause damage to a large 24" diameter branch, possibly killing that entire branch.

Finally, if no variance is provided then the resulting damage to the entire tree will be significant. It is a near certainty that the 24" branch will die. Furthermore, there is a strong likelihood that it would also lead to the death of a 36" stem emanating from the main lower trunk. In my opinion, this outcome would lead most Certified Arborists to the conclusion that the tree is unsafe and would need to be removed.

Please feel free to call me at any time for further clarification.

Sincerely,

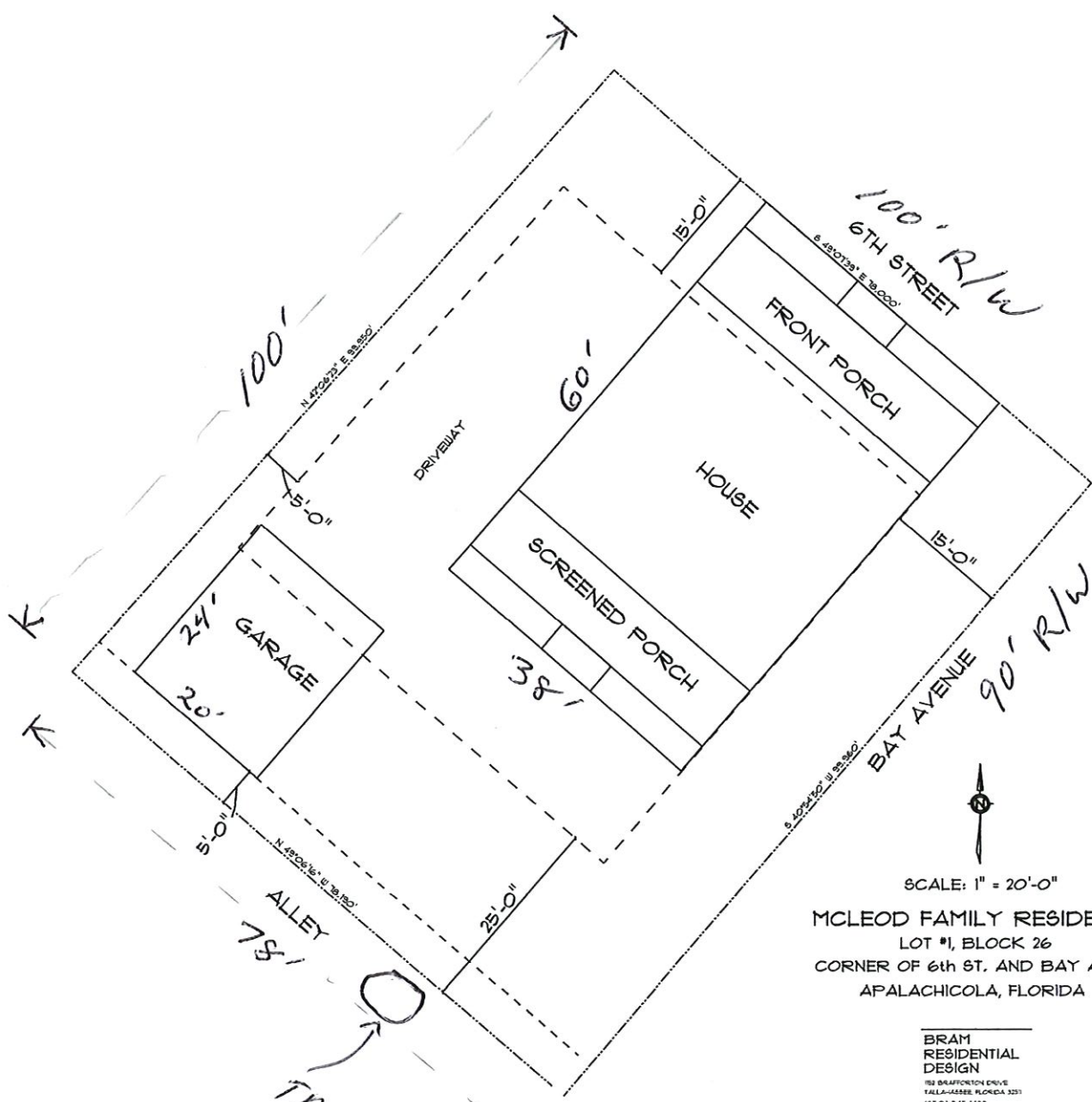
Todd Degner

ISA Board Certified Master Arborist MI-3928-B, TRAQ, CTSP

M: 850-766-2680

ATTACHMENT # 2

0' SETBACK, 15' VARIANCE



SCALE: 1" = 20'-0"

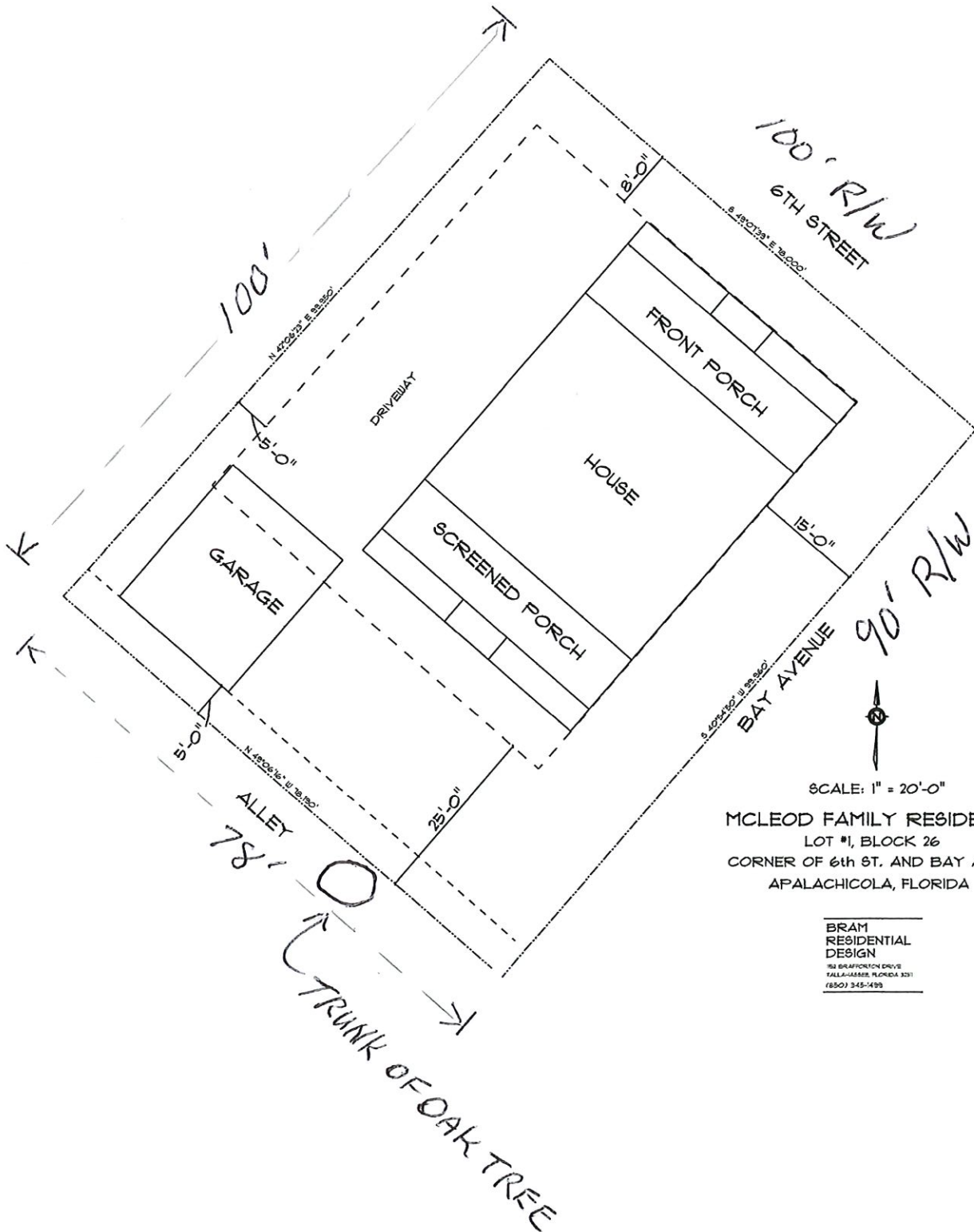
MCLEOD FAMILY RESIDENCE
LOT #1, BLOCK 26
CORNER OF 6th ST. AND BAY AVE.
APALACHICOLA, FLORIDA

BRAM
RESIDENTIAL
DESIGN
103 DRAUGHTON RD ENVI
TALLAHASSEE, FLORIDA 32311
(850) 345-1400

TRUNK OF OAK TREE

ATTACHMENT #3

8' SETBACK, 7' VARIANCE

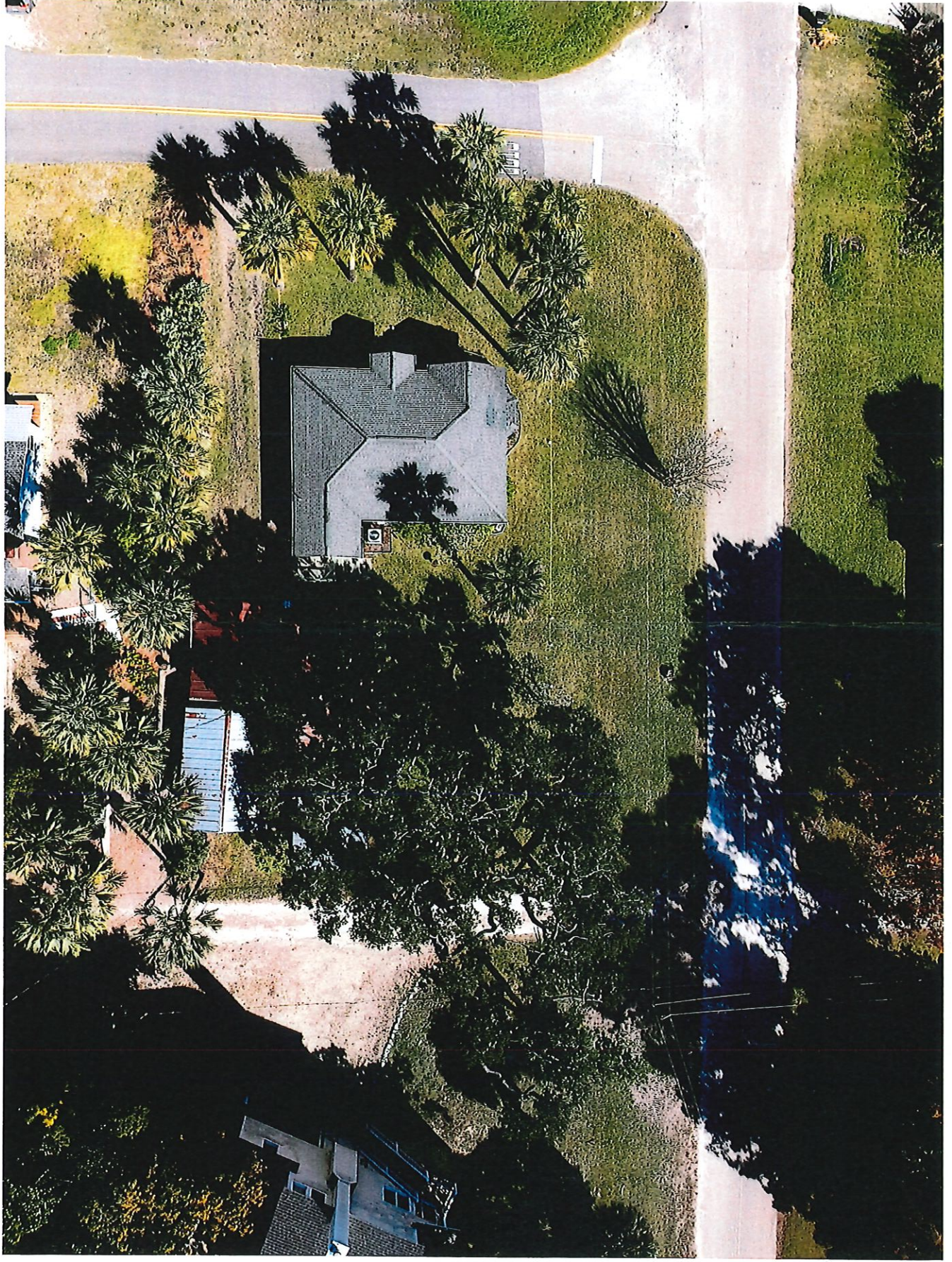


SCALE: 1" = 20'-0"

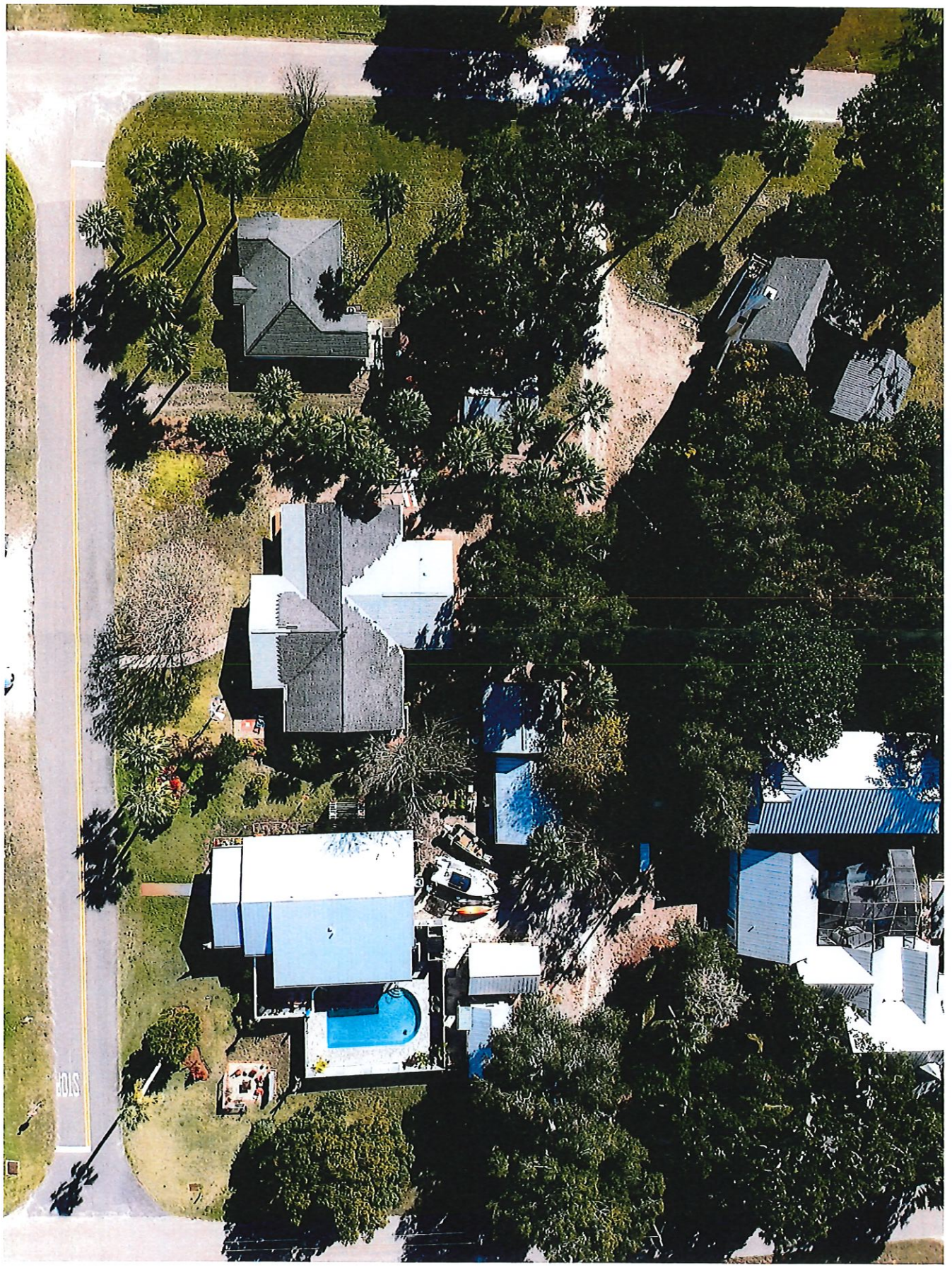
MCLEOD FAMILY RESIDENCE
LOT #1, BLOCK 26
CORNER OF 6th ST. AND BAY AVE.
APALACHICOLA, FLORIDA

BRAM
RESIDENTIAL
DESIGN
152 BRADFORD DRIVE
TALLAHASSEE, FLORIDA 32311
(850) 345-1498

ATTACHMENT # 4



ATTACHMENT #5



ATTACHMENT # 6

10/10/2014 10:00 AM



BOTTOM TO BE ENCLOSED W/ SLATS

HT: APPROX 33'

ATTACHMENT # 7





94 Bay Avenue (Block 193, Lots 1-5)

3' Front Setback

0' Side Corner Setback

5' Wetland Setback

3/2/23 + 3/9/23

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(The form is on the back of this page.)

Please circle your response:

Variance #1:	Variance #2:
FOR	FOR
AGAINST	AGAINST

Comments:

Property Owner Address: _____

Property Owner of Block: _____ Lot: _____

Signature: _____

Printed Name: _____

Date: _____

City of Apalachicola

Apalachicola, FL 32320
850-653-9319 / 850-653-2205 Fax

QUASI-JUDICIAL
VARIANCE REQUEST

Name: Sarah Polow Telephone: (706) 264-5848

Address: P. O. Box 1394, Chatsworth, GA 30705

Agent: George Coon Telephone: (850) 227-6898

Address: 252 6th Street, Apalachicola, FL 32320

PROPERTY DESCRIPTION: Legal description of property

Subdivision: _____ Block(s) Block 193 Lot(s) Lots 1-5

Parcel ID# 01-09S-08W-8330-0193-0050 & 813/207 1325/38

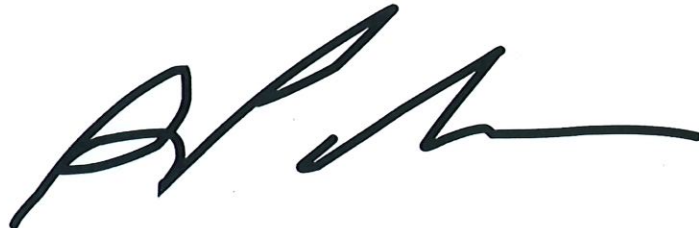
Address of Property: 94 Bay Avenue, Apalachicola, FL 32320

Current Zoning and Land Use: R-1

Corner Lot: Yes / No
YES

Waterfront Lot: Yes / No
YES

Historic District: Yes / No
YES



1/30/2023

NATURE OF PETITION

Provide a detailed explanation of the request including what structures are existing and what is proposed; the amount of the encroachment proposed using number, i.e. reduce front setback from 2' to 18'; when property owner purchased property; when existing principal structure was built (including building permit numbers if possible), why encroachment is necessary; how existing encroachment came to be; etc.

The Polow residence design embodies the essence of Northwest Florida while reflecting the influences of Apalachicola neighborhood and individual preferences. The scale fits the area while maintaining the Apalachicola height limit of 35 feet.

A 2 story residence over a ground level parking area is proposed.

Lot coverage has been met, explained on drawing A0.

Our Lot is a corner lot which required setbacks are defined in the Apalachicola LDC;

Lot, corner, means a lot abutting upon two or more streets at their intersection or at a street corner having an interior angle not greater than 135 degrees. (All boundaries abutting streets shall be considered front yards, and all other boundaries shall be considered side yards.)

Sec. 111-268. - R-1 single-family residential.

(3) Minimum building setbacks.

- a. Front: 15 feet.
- b. Side, interior lot: 7½ feet each side, or any combination of setbacks on each side that equals at least 15 feet, provided that no such setback shall be less than five feet.
- c. Side, corner lot: 15 feet.
- f. a setback of 20 feet from jurisdictional wetlands shall replace conflicting lot line setbacks.

Of the 4 setbacks, 3 are the subject of this application as follows (The 3 variances requested are described visually on drawing A1.1):

1. Bay Avenue front yard required 15' / reduce front setback to 3'
2. 7th Street corner side yard required 15' / reduce setback to 0' (at or near property line).
3. South side jurisdictional wetlands required 20' / reduce setback to 5' (varies)
4. West side yard required between 5' and 10' / no variance sought

Due to the specific nature of the site, the location was chosen to remain within the west (alley side) setback, while it was necessary to encroach upon the other 3. Because the site is a "Corner Lot" there is a setback of 2 front yard dimensions of 15 feet (one on Bay Avenue and the other on 7 St). The other 2 setbacks are defined as side yards with a limit of 15 feet combined, allowing one or the other to be at 5 feet, the other at 10 feet. However, there exists a jurisdictional wetland along the south boundary (side yard) which requires a 20 foot setback. The house remains fully within the property lines.

The property is a combined Lots 1-5 of block No. 193, purchased in January of this year.

The nature of this petition is to request a variance to the 3 setbacks due to the unusual circumstances of the site. No other Variance is sought.



Please note that the Board of Adjustment shall be guided in its determination to approve or deny a variance request by the below listed criteria. Please address these criteria using additional pages if necessary.

1. Are there existing special conditions and circumstances which are peculiar to the location, size and characteristics of the lot, structure or building involved and which are not applicable to other lots, structures or buildings in the same zoning district?

There are special conditions of this site which limit the location of buildable areas. These are not often applicable to many lots away from the water in this zoning district.

These special conditions are:

1. The location of wetlands
 2. Flood zones related to height
 3. An existing 14" Cypress tree on the west side.
-
- 1.) Houses along Bay Avenue share the wetlands pressure and many have been built within their front setbacks. The wetlands push the buildable area forward of other typical lots. By placing the house 3 feet from the front property line, and employing a narrow house design, we are able to respect 5 feet of the required 20 feet wetland setback to the south.
(Our proposed future boardwalk (see A1.1) does cross into the wetlands/marsh area encroaching that south setback. This separate structure will need additional Florida Department of Environmental Protection and Army Corps of Engineers permits.)
 - 2.) Our house is located to avoid the necessity of building in the VE15 Flood zone. Building in that location would require the house to be raised at least 13'-6" above grade. The remaining area for the body of the house to remain in the 35 foot height limit would have produced an unfriendly design, certainly not in character with the neighborhood.
 - 3.) Because 7th Street on the east side of our property is not built to the south of Bay Avenue, an 80 foot green area will continue to remain in its stead. The design location will not interfere with the fine view corridor along 7th Street to the water. **One benefit of pushing close to this east setback is to preserve the existing 14" Cypress tree without diminishing water views for others.**

2. Are there special conditions and circumstances which do not result from the action of the applicant such as pre-existing conditions relative to the property which is subject of the variance request?

The special circumstances discussed above are related to the existing site. The house was designed based on these special site conditions, i.e. ; wetlands, flood zones, and an existing tree. Our request to encroach the 3 setbacks are entirely due to these unusual site circumstances.



3. How will literal interpretation of the provisions of the Land Development Code work unnecessary and undue hardship on the applicant or deprive the applicant of rights commonly enjoyed by other properties in the same zoning district?

A literal interpretation of **the** Land Development Code (LDC) would prevent the owner from building a house which would not **detract** from **the** neighborhood expression. Given **the** interpretation of existing LDC including setback requirements, it would be possible only **to** build in the "ALLOWED BUILDABLE AREA" illustrated on drawing A1.1. The design challenges would be overwhelmed by **the** site conditions.

The 14" cypress would be removed and nothing positive would be added **to** the Apalachicola landscape.

4. What is the minimum variance that will make possible the reasonable use of the lot, building or structure and which promote standards of health, safety or welfare?

The variances requested are **the** minimum variances needed to make **this** lot usable as a reasonable building lot.

Other **designs**, although possibly **feasible**, would **detract** from **the** neighborhood, and **destroy** a beautiful **tree**. A more structurally massive building would have to be **designed to** withstand **the** linear impact of water and wind from coastal storms and hurricanes blowing from **the** south. The required heavy structure would out of scale with **the** fabric of **the** "South Side". Our **design** makes **the** most of what is possible with minor adjustments **to the** LDC requirements.



5. How will granting the variance request not confer on the petitioner any special privilege that is denied by these zoning regulations to other lots, buildings or structures in the same zoning district?

Granting this variance is not so much a "special privilege" but rather a close look at the existing conditions, and the resulting solutions to fit the desired neighborhood fabric. We trust any proposed house in the local community or even the extended community, would be granted the same considerations. These requests are for the benefit of all while still allowing the user to utilize a buildable part of their site.

The immediate houses water side (south) along Bay Avenue have been built with similar site locations, pushing to or near to their respective property lines, most likely for the same reasons. This observation is apparent based on the aerial images shown on drawing A0.1.

6. How will granting the variance be in harmony with the intent and purpose of the Land Development Code a non-injurious to the neighborhood or otherwise detrimental to the public welfare?

The intent of the (original) Land Development Code, among other things is:

- To provide orderly growth; the addition of an attractive house along an existing setback established by neighbors, will improve that rhythm, walking, bicycling or driving along Bay Ave.
- To encourage the most appropriate use of land; a house can somehow be built on this lot. The most appropriate use would be to build an attractive, complementary house for the neighborhood.
- To conserve value of property; the existing lot would be improved and value maintained. Other houses and lots along Bay Ave. would be enhanced and considered more desirable given this as an example of what can be built in Apalachicola.
- To improve good order and appearance; this may be subjective, but certainly the house is attractive in all its sides and appearances, even from the water. The cypress will remain naturalizing the construction.
- To protect natural resources; again, the cypress will remain because of these approved variances. 7th Street will remain open as an 80 foot wide park. The variances will not impact that fine 80 foot view corridor.



7. How will granting the variance be consistent with the Land Development Code?

The granting of the 3 variances does not ignore the Land Development Code (LDC). The design abides with all other directives of the LDC. The spirit of LDC is maintained in that a proper house is built on a property which exists and should be allowed to be built on. Because 7th Street will remain a natural wide park, there should be little recognition that any variance had been granted at all. Most viewers will take the house as simply a clear and good example of the Apalachicola spirit. The variances asking to be considered are due entirely to specific site constraints.

The design addresses the LDC limit of a 35'-0" height. This is achieved by a sensitive use of scale reducing side wings by using dormers for added space. This has the effect of a much lower roof than is allowed, bringing the perceived mass to a pedestrian scale on Bay Avenue. The front entry side is enhanced with the addition of 2 bay windows, a lower roof element over the garage doors with an obvious front door area. A secondary entry to the side stairs is also provided (which effectively disguises the AC unit stand).

The design is an attractive solution to a difficult puzzle.

8. Please provide any other information which may be necessary for the Board of Adjustment to make an informed decision on this matter.

The full property consists of lots 1-5 of Block #193. The fact that a full half block is submerged, leaving only a part of the last lot, Lot 5, on Bay Avenue possible to build on. This design meets the 40% lot coverage specified for just one lot.

All parking for residents is achieved under the house. There will be no on-street parking.



Signature of Property Owner

Sarah Polow

Printed Name of Property Owner

Signature of Property Owner

Printed Name of Property Owner

1/30/2023

Date

AFFIDAVIT

We/I, Sarah Polow + Mark Heidt, being first duly sworn, depose and say that we/I am/are the owners of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application, including the disclosure of interest information, all sketches, data, and other supplementary matter attached to and made a part of this application, are honest and true to the best of my/our knowledge and belief. We/I understand that the information requested on this application must be complete and accurate and that the content of this form, whether computer generated or City printed shall not be altered. Public hearings will not be advertised until this application is deemed complete, and all required information has been submitted.

As property owner(s) We/I further authorize George Coon tel (850) 227-6898 georgecoon@gmail.com to act as our/my representative in any matters regarding this Petition.

[Signature]
Signature of Property Owner

Sarah Polow
Typed or Printed Name of Owner

[Signature]
Signature of Property Owner

Sarah Polow Mark Heidt
Typed or Printed Name of Owner

STATE OF FLORIDA

COUNTY OF FRANKLIN COUNTY

The foregoing instrument was acknowledged before me this 3rd day of January 2023, by Sarah Polow + Mark Heidt who is personally known to me or has produced as identification.

(NOTARIAL SEAL)

Heather Sunshine Pittman
NOTARY PUBLIC
Printed Name:
Commission Number:
Commission Expires:





AERIAL SITE PLAN
 SCALE: (approximate) 1/64"

AERIAL SITE PLAN

SCALE: not to scale

george coon inc

(850) 227-6898

residential . planning . design

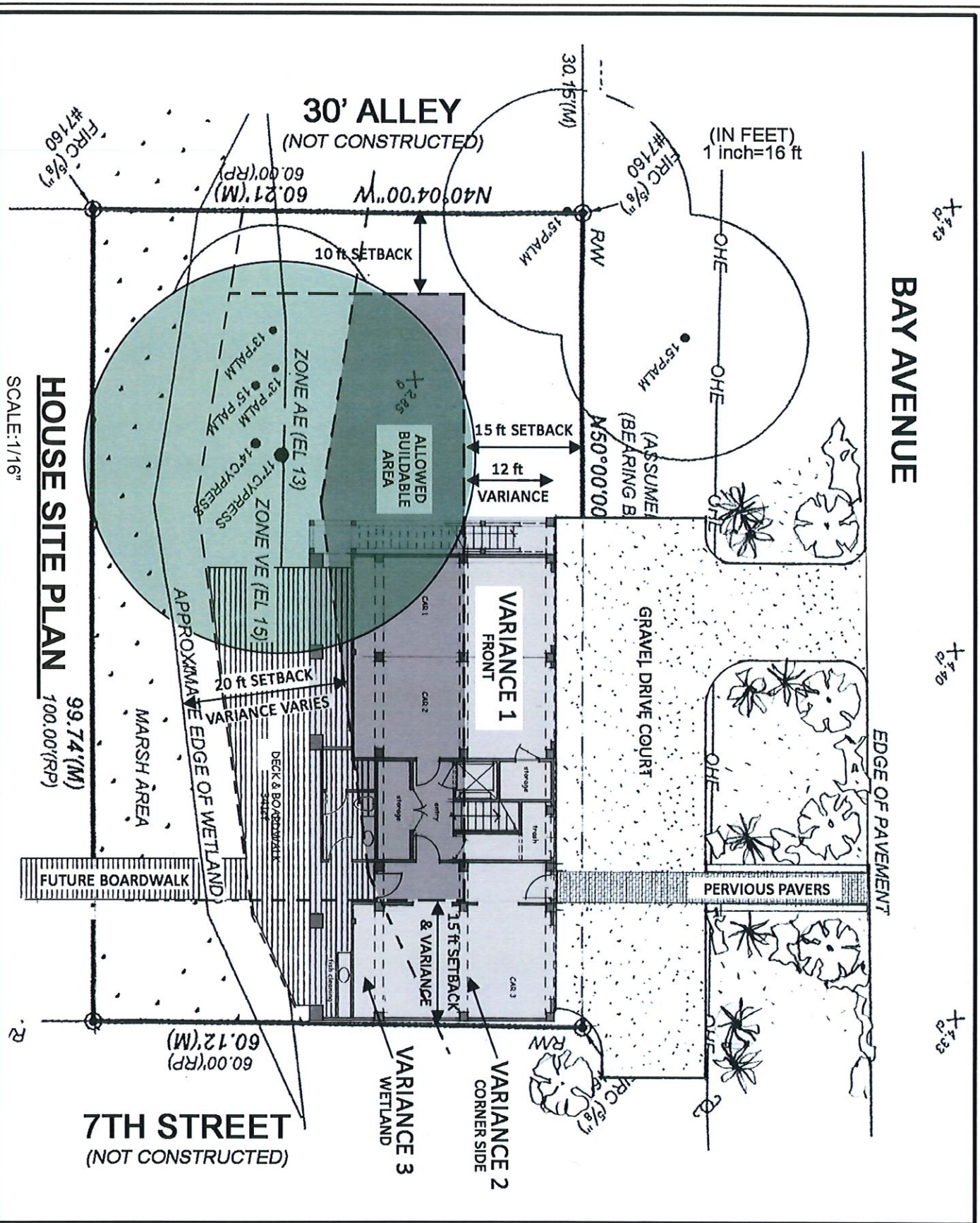
project: POLOW

date: 20 Jan 2022

A0.1

BAY AVENUE

(IN FEET)
1 inch=16 ft



HOUSE SITE PLAN
SCALE: 1/16"
99.74'(M)
100.00'(RP)

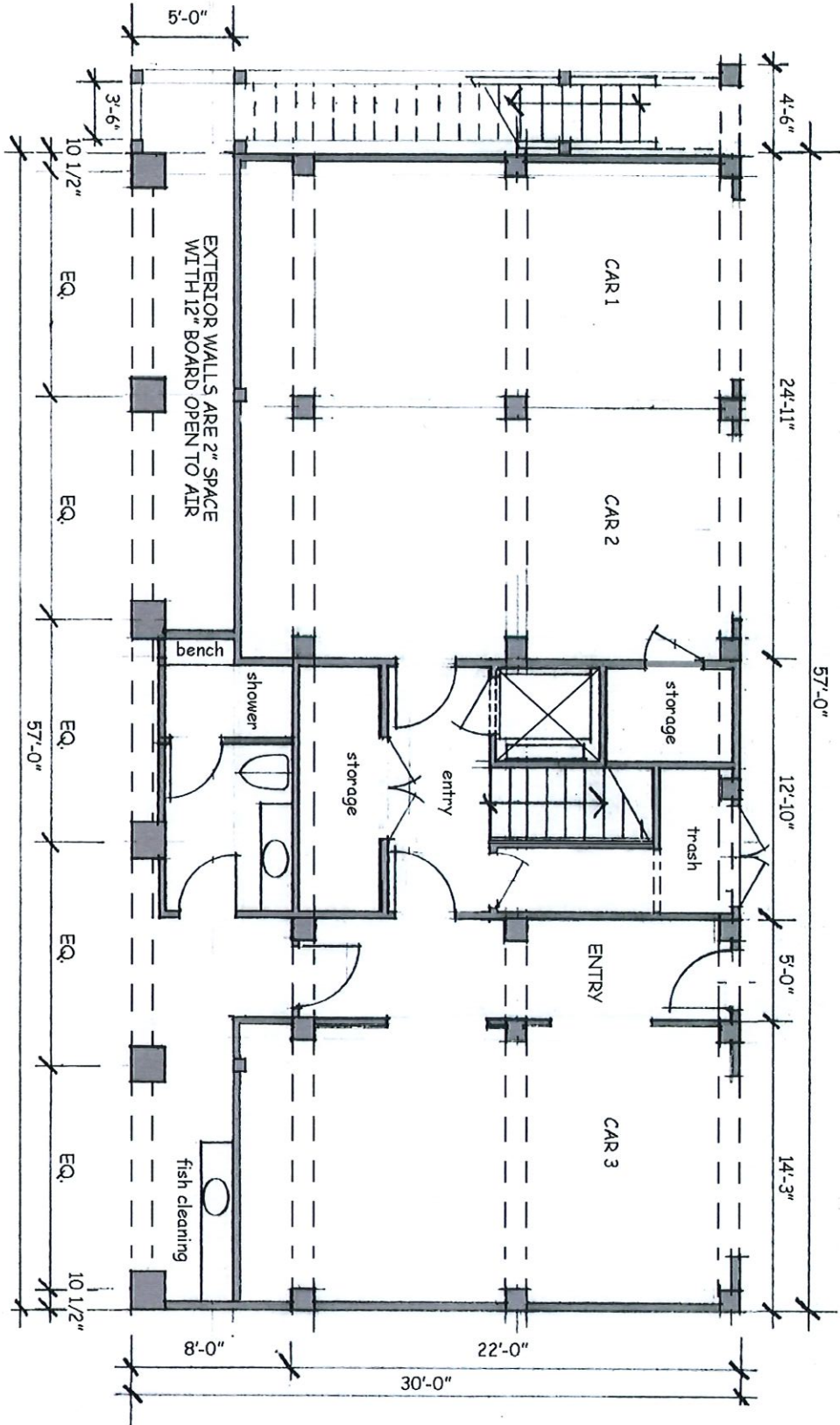
7TH STREET
(NOT CONSTRUCTED)
60.00'(RP)
60.12'(M)

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project: POLOW
date: 20 Jan 2022

A1.1



GROUND LEVEL
SCALE: 1/8"

george coon inc

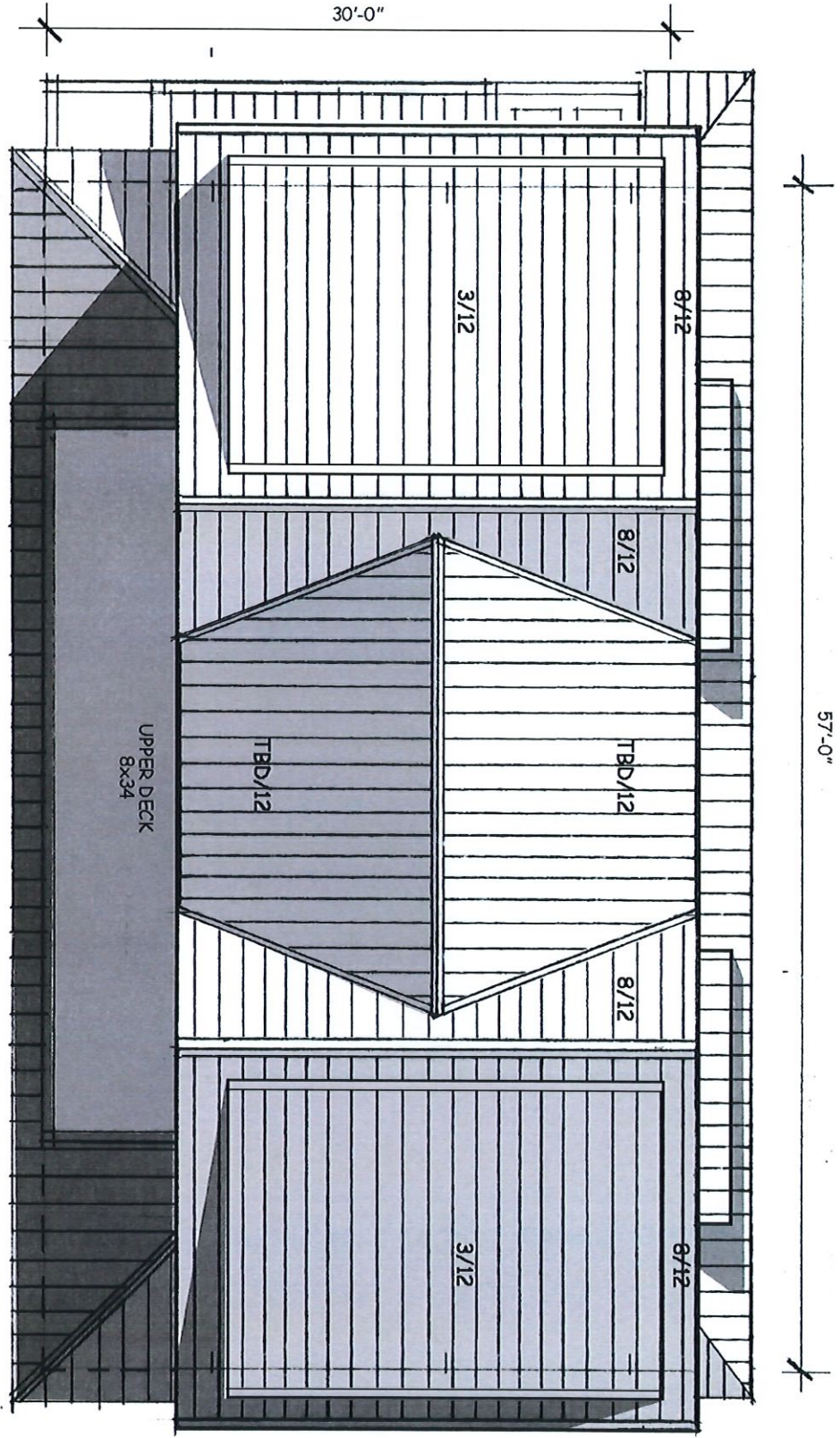
(850) 227-6898

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project: POLOW

date: 20 Jan 2022

A2.1



ROOF PLAN
SCALE: 1/8"

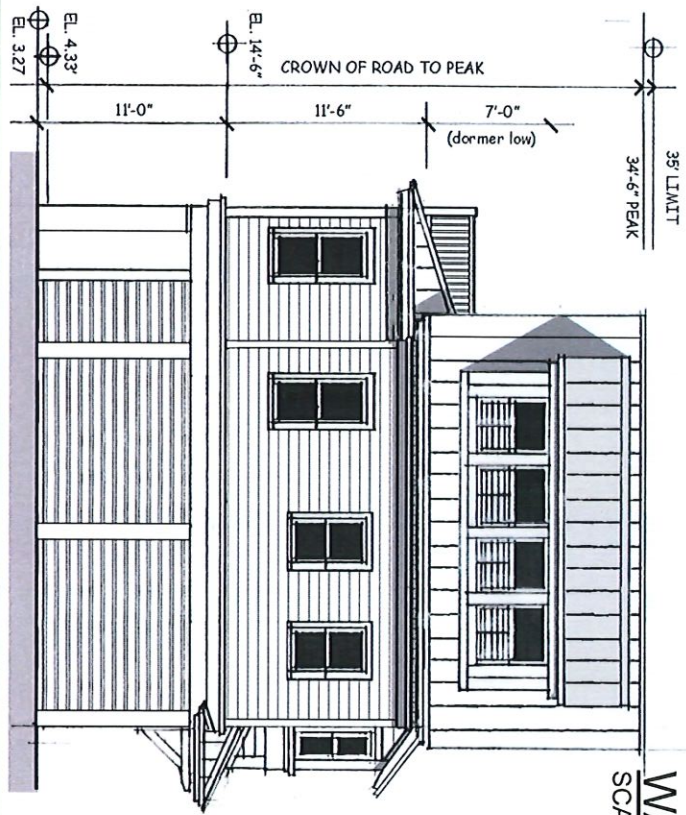
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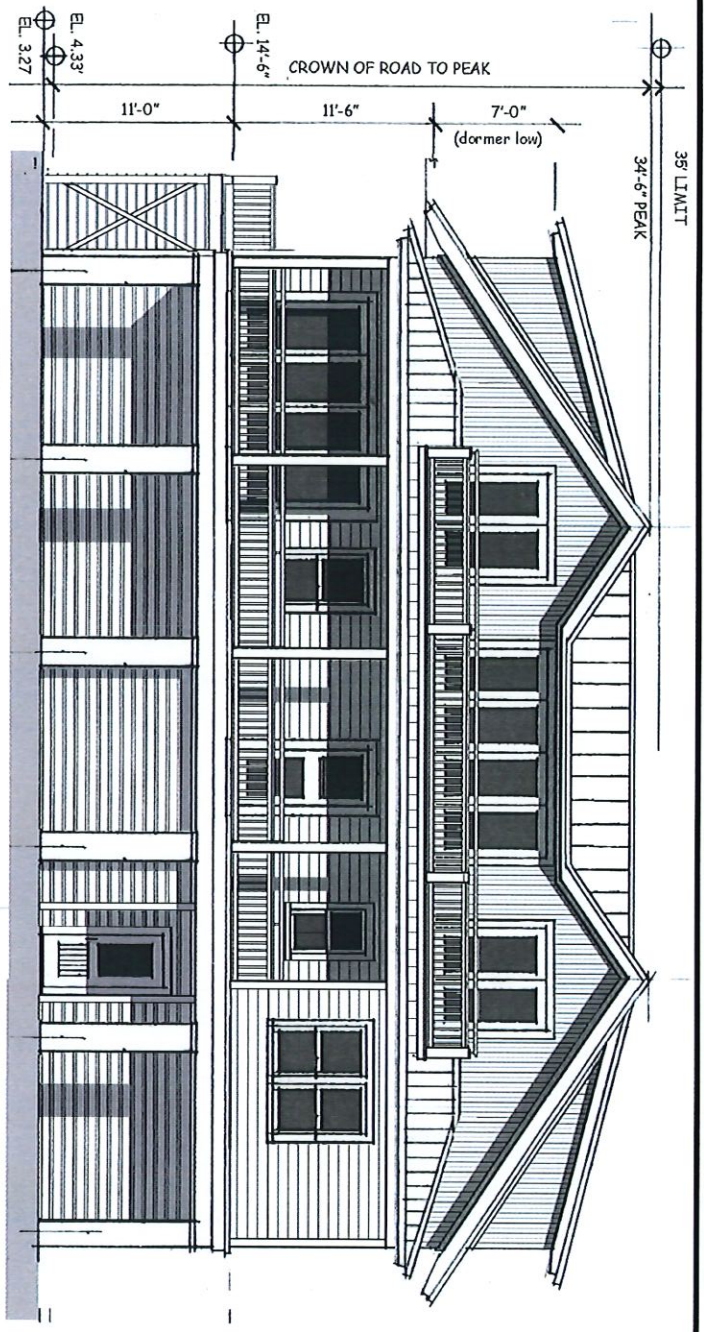
project: POLOW

date: 20 Jan 2022

A2.4



EAST ELEVATION
SCALE: 3/32"



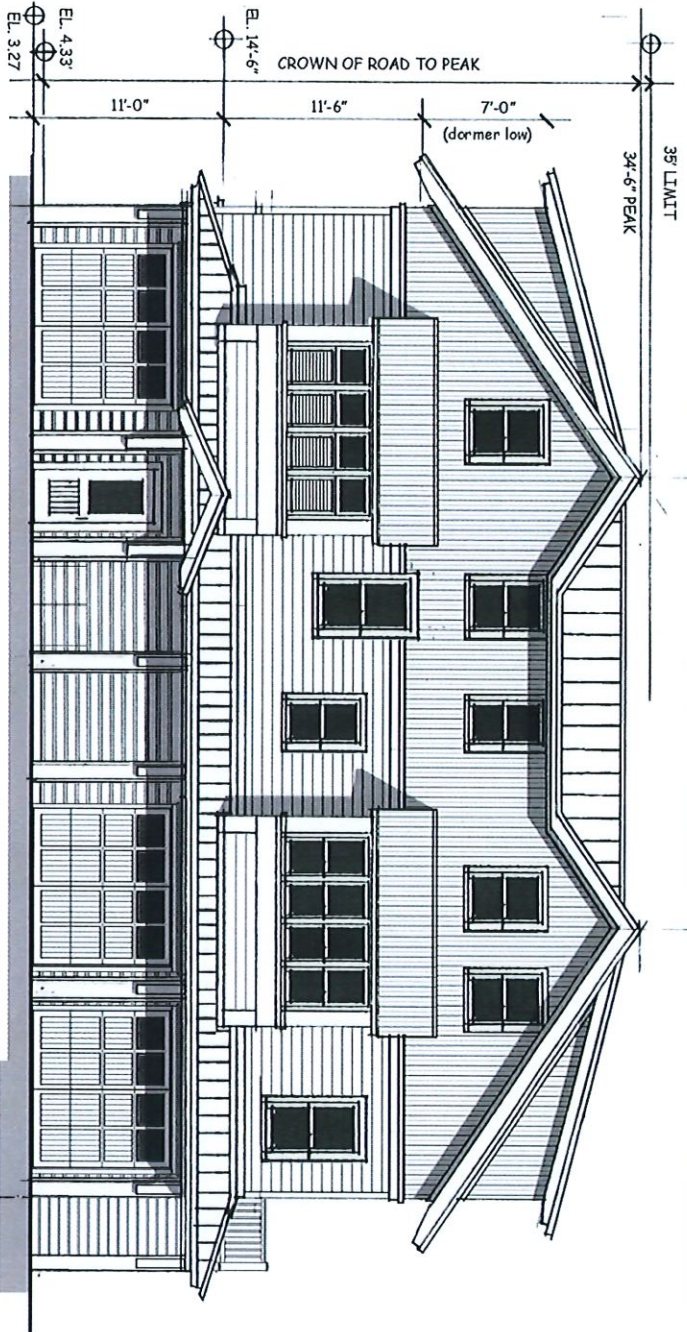
WATER SIDE ELEVATION
SCALE: 3/32"

george coon inc
(850) 227-6898

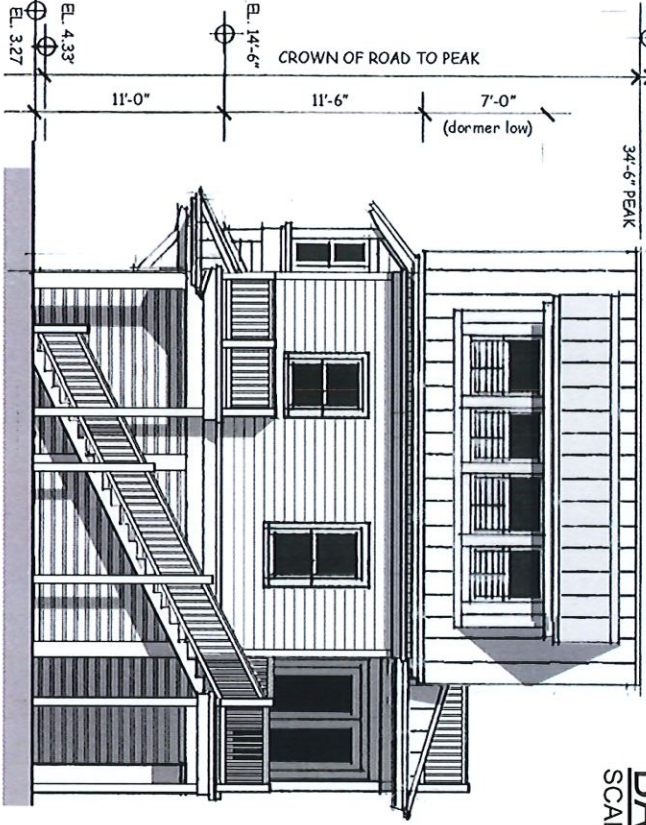
residential . planning . design

project: POLOW
date: 20 Jan 2022

A3.2



BAY AVENUE ELEVATION
SCALE: 3/32"



WEST ELEVATION
SCALE: 3/32"

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project: POLOW
date: 20 Jan 2022

A3.1

Mayor
Brenda Ash

Commissioners
Anita Grove
Adriane Elliott
Despina George
Donna Duncan



CITY OF APALACHICOLA

192 Coach Wagoner Boulevard . Apalachicola, Florida 32320 .
850-653-9319 . Fax 850-653-2205 . www.cityofapalachicola.com

City Manager
Travis Wade

Finance Director
Mark Gerspacher

City Clerk
Deborah Guillotte

City Attorney
Dan Hartman

Bree Robinson – City Planner

Board of Adjustment Public Hearing 3/15/23 @ 5:30PM City Staff Findings

Background:

The following variance requests items will be discussed, considered, and decided upon at the 3/15/23 BOA Public Hearing:

1. Proposed new construction of a home on the parcel located at the corner of 6th Street and Bay Avenue (R-1 Single Family Residential), more specifically described as **Block 26 Lot 1 or 10 6th Street**, into the required 15' front setback from 6th Street. **Applicant is requesting approval of a 0' front setback.**
2. Proposed new construction of a home on the parcel located at the corner of Bay Avenue and 7th Street (Not Constructed) (R-1), more specifically described as **Block 193 Lots 1-5 or 94 Bay Avenue**, into the required 15' front setback from Bay Avenue, the required 15' corner side setback from 7th Street, and the required 20' setback from the wetlands. **Applicant is requesting approval of a 3' front setback, a 0' side corner setback, and a 5' wetlands setback.**

Advertisements giving public notice of these requests and the public hearing were published in The Times on 3/2/23 and 3/9/23. The advertisement language is within the agenda packet. Public Notice signs were also posted at each property – the signs were posted 2/27/23 and have been in place since. The content of the signs are attached to this report. The agendas detailing these requests with all supplementary information were published on the City website 2/15/23 for plenty of time for public notice and review. Citizen Input was sought out through letters sent out to abutting and nearby property owners.

Citizen Input Findings:

As the two locations for variance were very close to each other, there was one mailing list for both potential developments. The letters sent out gave a brief overview of the requests and had a form on the back for citizens to fill out if they were for or against each variance and give comments on why or why not. All abutting properties, properties in view, and properties within the block of potential development received letters. 14 were sent out and 8 were received back. There were also 3 more letters that were downloaded from the City website agenda and sent in with comments. The results of these letters were:

Variance #1: 10 6th Street requesting 0' front setback

For: 6	Against: 3
Comments: <ul style="list-style-type: none"> • Supports, wrote that this would follow the flow of the existing houses, would be crazy to move it back. Would infringe more if moved back. Would severely impact a historic tree if moved back. • Supports, the project will enhance the area and keeping it in line with the other houses would continue the look of the area. • Supports, says they live in full view of the project, and they support the argument to save a 250 yr. old Oak Tree. Also mentioned criterion 5 “granting petitioner any special privilege denied others”, where the only other 2 houses on the block were granted variances on setbacks. State it would make this a beautiful and harmonious addition to the neighborhood as a 2-story home. • Strongly supports, says if the variance is not approved that the tree might have to be removed or be damaged and it offers shade to a neighboring property as well. 	Comments: <ul style="list-style-type: none"> • None

Variance #2: 94 Bay Avenue requesting 3' front setback, 0' side corner setback, 5' wetlands setback

For: 2	Against: 7
Comments: <ul style="list-style-type: none"> • Supports 	Comments: <ul style="list-style-type: none"> • Against due to concerns for wetlands preservation. Owls, osprey, eagles, ducks, egrets, herons, and many other wildlife depend on this habitat. Variance to the street setback will be a hazard for traffic safety and all who walk/bike along Bay Avenue will be negatively affected. Also, potential problems with runoff, erosion, and drainage. • Against, mainly disagrees with the wetland setback being only 5 feet. • Against, thinks they should leave the wetlands alone. • Strongly against, says that protected marsh wetlands is protected for a reason and it would be a shame to see a protected environment stripped from wildlife. Additionally, they state that everyone knew this lot was practically unbuildable and it is frustrating to see people trying to get special privilege to build fancy homes and ruin the natural beauty of the area. They comment that Apalachicola is a special place and if we cave to allowance that we are going to lose what makes Apalachicola special – this isn't Seaside, FL. They ask the BOA to please stand up against people trying to get special privilege and make this city something it isn't. States that we have setbacks for a reason and we need to stand by them. “Do not care!” • Against, they don't believe in building over a wetland and states it would also obstruct their view of the bay.

SEE ATTACHED FOR ADDRESSES LETTERS WERE SENT TO! Letters are available for viewing at City Hall with a public records request.

Applicable Code:

- Sec. 111-268. - R-1 single-family residential.
 - (3)Minimum building setbacks.
 - a. Front: 15 feet.
 - b. Side, interior lot: 7½ feet each side, or any combination of setbacks on each side that equals at least 15 feet, provided that no such setback shall be less than five feet.
 - c. Side, corner lot: 15 feet.
 - d. Rear: 25 feet for principal structures, five feet for accessory structures.

- (f)(4) Submerged lands. In cases where building lots are adjacent to and contiguous with wetlands, a setback of 20 feet from jurisdictional wetlands shall replace conflicting lot line setbacks. This setback shall consist of a vegetative buffer.
https://library.municode.com/fl/apalachicola/codes/code_of_ordinances?nodeId=SPBLADECO_CH111LAUS_ARTIIZO_DIV3ZODIRE_S111-268SIMIRE
- (Sec. 105-26)
 - When the board is the decision maker, approval or conditional approval to remove or substantially alter a patriarch tree on a privately-owned lot shall only be made when no principal structure could be legally built on the lot taking into consideration the location of the tree and such requirements as setbacks and minimum required size for single-family dwellings. Through the variance process the board of adjustment may consider reducing setbacks or minimum dwelling size if doing so would spare the tree.
https://library.municode.com/fl/apalachicola/codes/code_of_ordinances?nodeId=SPBLADECO_CH105EN_ARTIITRPR_S105-26PERERESUALPRTR
- (Sec. 101-61 (2)) Board of Adjustment
 - Variances. Variance from the terms of this Code shall be granted only if the variance is not contrary to the public interest and where, owing to special conditions, a literal enforcement of the provisions of this Code would result in unnecessary hardship. However, a variance may be authorized only for height, area, setback, size of structure, or size of yards and open space requirements.
https://library.municode.com/fl/apalachicola/codes/code_of_ordinances?nodeId=SPBLADECO_CH101GEADPR_ARTIENAD_DIV2PODU_S101-61BOAD
- (Sec. 101-61 (2) d-j) Board of Adjustment
 - d. The board shall find that special circumstances or conditions exist which are peculiar to the land, building or other structure for which the variance is sought and do not generally apply to neighboring lands, buildings or other structures in the same district; that strict application of the provisions of this Code would provide the applicant with no means for reasonable use of the land, building or other structure equivalent to the use made of neighboring lands, buildings or other structures in the same district; and that the peculiar conditions and circumstances existing are not the result of the actions of the applicant.
 - e. The board shall find that the reasons set forth in the application justify the granting of a variance, and that the variance proposed to be granted is the minimum variance that will make possible use of the land, building or structure.
 - f. The board shall find that the granting of the variance will be in harmony with the general purpose and intent of this Code, and will not be injurious to the neighborhood or otherwise detrimental to the public welfare.
 - g. In granting any variance, the board shall prescribe any conditions and safeguards it deems necessary or desirable to ensure conformance with the standards of this Code and the Code of Ordinances and the comprehensive plan adopted for the city. Violation of such conditions and safeguards, when made a part of the terms under which such variances was granted, shall be deemed a violation of this Code.
 - h. The board may prescribe, as a condition to its granting of a variance, a reasonable time limit within which the action for which the variance was granted shall be commenced and/or completed.
 - i. Under no circumstances shall the board issue a variance to permit a use or expand a use not generally or provisionally permitted in the district involved in the request, or any use expressly or by implication prohibited by the terms of this Code in the referenced district. The board shall not issue a variance because of the presence of nonconformities in the zoning district or an adjoining district. The board shall not issue a variance that would in any way increase the density upon a parcel of land if not generally or provisionally permitted in the district in which the parcel is located. The board shall not issue a variance which would permit the reduction of the required setback requirements along arterial and collector roads as defined in the traffic circulation element of the city comprehensive plan.
 - j. The board shall find that the granting of the variance will not confer on the applicant any special privilege that is denied by this Code to other lands, buildings or structures in the same district.
https://library.municode.com/fl/apalachicola/codes/code_of_ordinances?nodeId=SPBLADECO_CH101GEADPR_ARTIENAD_DIV2PODU_S101-61BOAD

Staff Comments/Recommendations:

Variance #1 – 10 6th Street Requesting 0' Front Setback:

- The citizen feedback from public notice of this potential variance was overall very supportive of the saving the tree aspect and the continuing of the current cityscape of the street. Of the two responses that were against the variance, they did not list any specific comments. In visiting the site, it is evident that the development trend on the 6th Street side is to build up to the property line or encroach upon it. This potential new construction home would essentially sit in the same location as the current structure, up against the property line. It is staff's opinion that allowing this 0' front variance request would not visually disturb this street from an aesthetic view.
- **Minimum/No Variance Options:** The City code speaks to granting the minimum variance that will make possible use of the land, building or structure. This applicant has submitted a secondary request option, which includes a 8' front setback and 7' front variance – this option is not desirable per the submitted arborist opinion in efforts to allow longevity for the patriarch tree to the rear of the property, but is an option nevertheless. The footprint of the home the applicant would prefer to build is around 2,280 square feet, which includes front and rear porches. This is a 80'x100' lot. An option to note is that if the applicant were to forego the front porch and a small amount of living space that they could adhere to the 15' front setback and also accommodate the tree in the rear of the property. With the current base floor footprint being 60'x38' (2,280SqFt), if the applicant were to adhere to the City setbacks and forego the 15' in the front – they could still build a 45'x38' (1,710 SqFt) base floor footprint 2-story home.
- **Recommendation:** It is staff's recommendation that the BOA take these options into consideration, but also consider the streetscape that 6th Street currently maintains.

Variance #2: 94 Bay Avenue Requesting 3' Front Setback, 0' Side Corner Setback, & 5' Wetlands Setback:

- The citizen feedback from public notice of this potential variance was overall a negative outlook, specifically towards the reduction of the required 20' setback for wetlands. Concerns were noted about the habitat and in preserving the health of the Bay. There were also negative comments made regarding allowing a 3' front setback, as there were concerns about motor and pedestrian safety. No negative comments were made specifically regarding the reduction of the 0' side corner setback. There was one email received in support of the variance request with no supplemental comments.
- **Minimum/No Variance Options:** The City code speaks to granting the minimum variance that will make possible use of the land, building or structure. In this case, the applicant was aware of the building restraints present on this lot at the time of purchase January 25, 2022. The footprint of the home the applicant has submitted and would prefer to build is roughly 61'6"x30', estimated and including stairs, (1,845SqFt) base floor footprint, along with a 341 SqFt deck and boardwalk. The outside deck protrudes heavily into the 20' wetlands setback and if removed would allow the project to meet the Code on that instance. A suggestion is for the BOA to not grant the 5' variance for the wetland setback and require that the applicant adhere to the standard 20' wetlands setback as required by the COA code. By removing the back deck and slightly redesigning the home, the request for the wetlands setback would not be needed – the deck could potentially be built as a side deck on the alley side of the property and would still preserve the view for others, minimally impact the bay with the boardwalk, and preserve the 14' cypress tree as noted without the need for a wetlands setback variance. As for the side setback on the 7th Street side, this street is unconstructed and will likely never be. To follow standard side setbacks, the applicant could reduce their footprint by around 150 SqFt and allow for a 5' setback on that street side – so a variance for a 5' corner side setback could be granted opposed to 0'. Staff has no issue with the 3' front setback request, as several other houses on Bay Avenue have been granted this. Allowing the front 3' setback variance, a 5' side variance, and no wetlands variance would still allow the applicant to redesign and build a sizable home on the lot that they knew was constrained when purchased.
- **Recommendation:** It is staff's recommendation that the BOA do not grant a variance on the rear wetlands setback (opposed to requested 5'), grant a 5' setback variance on the requested corner side (opposed to requested 0'), and to grant the 3' front setback variance as requested.

Attachments:

- Public Notice Signs Posted on Site
- Mailing List of Addresses

4'x2' Placed at 94 Bay Avenue:



PUBLIC NOTICE

A **VARIANCE REQUEST FOR THIS PROPERTY HAS BEEN FILED WITH THE BOARD OF ADJUSTMENT**

A PUBLIC HEARING FOR THIS REQUEST WILL BE HELD MARCH 15TH @ 5:30PM IN THE COMMUNITY CENTER (1 BAY AVENUE)

QUESTIONS? CALL (850)323-0985 OR EMAIL BROBINSON@CITYOFAPALACHICOLA.COM

24"x18" placed at 10 6th Street:



PUBLIC NOTICE

A **VARIANCE REQUEST FOR THIS PROPERTY HAS BEEN FILED WITH THE BOARD OF ADJUSTMENT**

A PUBLIC HEARING FOR THIS REQUEST WILL BE HELD MARCH 15TH @ 5:30PM IN THE COMMUNITY CENTER (1 BAY AVENUE)

QUESTIONS? CALL (850)323-0985 OR EMAIL BROBINSON@CITYOFAPALACHICOLA.COM

Polow/McLeod Variance Mailing List:

Name:	Address:	Mailing Address:	Block:	Lot:
Lance & Maria Paterson	98 Bay Avenue	7341 Hall Road Greenbrier, TN 37073	193	6-10
Elizabeth Perkins & Ralph Schiefferle	100 Bay Avenue	P.O. Box 1016 Apalachicola, FL 32329	194	1-5
Peter Cunningham & Stephanie Cunningham	82 Bay Avenue	641 East 6 th Avenue Tallahassee, FL 32303	192	6-10
Suber John Weatherington JR	80 Bay Avenue	Suber William Middleton P.O. Box 245 Quincy, FL 32353	192	5. ½ 4
Norman & Harriet Biondi	1 Battery Park Lane	1 Battery Park Lane, Box 880 Apalachicola, FL 32320	192	1-3, ½ 4
William & Charlene Dobbie	12 6 th Street	12 6 th Street Apalachicola FL 32320	26	2/3
Anthony & Linda Armstrong	18 6 th Street	18 6 th Street Apalachicola, FL 32320	26	4/5
Clifford & Lisa Bristol	77 Ave B.	15333 NW CR 12 Bristol, FL 32321	26	6, ½ 7
Leon Bloodworth	18 7 th Street	BOX 760 Apalachicola, FL 32320	27	½ 3, 4-5
Norma & Beth McNair	17 7 th Street	P.O. Box 216 Apalachicola, FL 32329	26	½ 7, ½ 8
Michael Northdrop & Grayson Wallace	85 Bay Ave.	85 Bay Colony Ave. Apalachicola, FL 32320	26	½ 8, 9-10
John & Eloise Nichols	12 7 th Street	214 Foxhall Rd. Pike Road, AL 36064	27	1-2, ½ 3
Caroline & Charles Kienzle	15 8 th Street	15 8 th Street Apalachicola FL 32320	27	7-10
Lee & Patricia McLemore	101 Bay Ave.	P.O. Box 183 Apalachicola, FL 32320	36	1-5