CITY OF APALACHICOLA

BOARD OF ADJUSTMENT
QUASI-JUDICIAL PUBLIC HEARING
WEDNESDAY, JUNE 28th, 2023
Community Center - 1 Bay Avenue
Agenda

Quasi-Judicial Public Hearing: 6:00PM

- 1. 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. Applicant is requesting approval of a 3' front setback.
- 2. Decision on Variance Request for 3' front 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.



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

3' Front Setback

NOTICE OF PUBLIC HEARING
BOARD OF ADJUSTMENT
CITY OF APALACHICOLA, FLORIDA
The Apalachicola Board of Adjustment will
hold a Public Hearing on Wednesday, June
28TH, 2023 at G:00PM in the Community Center,
1 Bay Avenue, Apalachicola, Florida to address
the following variance requests and receive
clitzen comments relating to proposed changes
on the parcels listed below. A decision will
immediately follow. The following variance
requests items will be discussed, considered,
and decided upon:

1. Proposed new construction of a home on the parcel located at the corner of Bay Avenue and 7th Street (Not Constructed), more specifically described as Block 193 Lots 1-5 or 94 Bay Avenue, into the required 15' front setback from Bay Avenue. Applicant is requesting approval of a 3' front setback.

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.

June 8, 15, 2023

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Letters Sent

NOTICE OF PUBLIC HEARING BOARD OF ADJUSTMENT CITY OF APALACHICOLA, FLORIDA

The Apalachicola Board of Adjustment will hold a Public Hearing on Wednesday, June 28th, 2023 at 6:00PM in the Community Center, 1 Bay Avenue, Apalachicola, Florida to address the following variance requests and receive citizen comments relating to proposed changes on the parcels listed below. A decision will immediately follow.

The following variance requests items will be discussed, considered, and decided upon:

 Proposed new construction of a home on the parcel located at the corner of Bay Avenue and 7th Street (Not Constructed), more specifically described as Block 193 Lots 1-5 or 94 Bay Avenue, into the required 15' front setback from Bay Avenue. Applicant is requesting approval of a 3' front setback.

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 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, June 21st, 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:	
FOR	
AGAINST	
Comments:	-
	Tag •
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) 264-584	18
Address: P. O. Box 1394, Chatsworth, GA	30705		
Agent:George Coon	Telephone:	(850) 227-68	98
Address: 252 6th Street, Apalachicola, F	L 32320		
PROPERTY DESCRIPTION: Legal description of pro	perty		
Subdivision: Block(s)	Block 193	Lot(s) Lots 1-5	<u> </u>
Parcel ID#01-095-08W-8330-0193-005	50 & 813/2	07 1325/38	
Address of Property: 94 Bay Avenue, Apa	lachicola, Fl	. 32320	
Current Zoning and Land Use:R-1			
Corner Lot: Yes / No Waterfront Lot: Yes	/No	Historic District:	Yes / No

AM

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 variance request is an adjustment to our initial request dated 3/15/23.

This revised concept uses an accurate Wetland Survey by Garlick Environmental Associates, Inc. as the Site Plan to more accurately locate the house plan. See A0.1

We believe that we have addressed the concerns of the community and have revised our plans to reflect the recommendations of the City Staff.

We are seeking only one variance. This variance is the reduction of the front yard setback from 15' to 3'. Again, no other variance is sought.

pla

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.

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?

Refer to drawings A0.1 and A1.1

The single greatest influence to our request is the location of the wetlands and the required 20' setback from that wetland line. This restriction, by significantly reducing the available buildable area, affects the width (depth) of the house.

We were able to fit a design which respects all setbacks except the front setback which, because of the unique circumstance of the wetlands, will require a 3 foot setback variance.

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?

Refer to drawing A0.1

The overwhelming special condition of this site is the location of the wetland. This new wetlands certificate, accurately locates that line. To be setback from that line by 20 feet is the single special condition and circumstance for this variance application.

PM

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 LDC would prevent the owner from building a house which compliments the neighborhood, and enhances the Apalachicola spirit.

Following the LDC setback requirements allows only a severely limited area, as shown these drawings.

An example of what would be allowed by right is shown on drawing A1.2. Because the site only allows for a 14' wide house, it is much like designing a trailer home, 35' in the air.

Allowing a variance gives better freedom to design a house more complimentary to the 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?

We believe that the variance requested is the minimum needed to design a reasonably attractive and friendly residence. We initially had requested more setback variances, but after comments from the community and the city, we feel this single variance to be the minimum required. The width of the house will still be strictly limited. We are showing a conceptual design which uses the 22' wide usable area. See drawings A2.1 and 2.2

This is a conceptual design which will undergo changes as the project evolves. The reason for the drawings is to establish a setback and suggested area as a framework for the design.

PM

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 don't believe this is a special privilege, but is a privilege which has been conferred to others along the Bay side of Bay Avenue.

Houses along the Bay side have been allowed to build in their reduced front setbacks.

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 variance would allow an attractive house along an existing building line enjoyed by neighbors. This will compliment the street front of Bay Avenue generally. A house is allowed to be built here. We are asking for that house to be the best possible.

This variance would help maintain, or even improve the value of other properties here. Good order and appearance will be enhanced.

The natural resources of the wetlands are respected and will be maintained. Because we are not seeking a variance pushing in to the wetland setback, that natural resource is protected.

PM

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

The LDC allows for and helps to regulate orderly growth. Because a house may be built on this site, what is allowed to be built with no variance actually works against the spirit of the

Granting this one variance exemplifies the reasons for the LDC in the first place. This one variance helps greatly in providing enough space for a house design to fit.

Not granting this one variance would lead to unnecessary hardship for the owner because they would be in a position of building a house they would not want to live in. The house would be built simply to add to the value of the property which they would then sell.

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

The property consists of 5 lots of Block 193. All but 1 lot is underwater. The last lot, Lot 5 on Bay Ave., has a small buildable

Any house design here would comply with the 40% lot coverage requirement. Parking would be under the house with no parking on the street anticipated.

SARAH POLOW Signature of Property Owner Printed Name of Property Owner Signature of Property Owner Printed Name of Property Owner

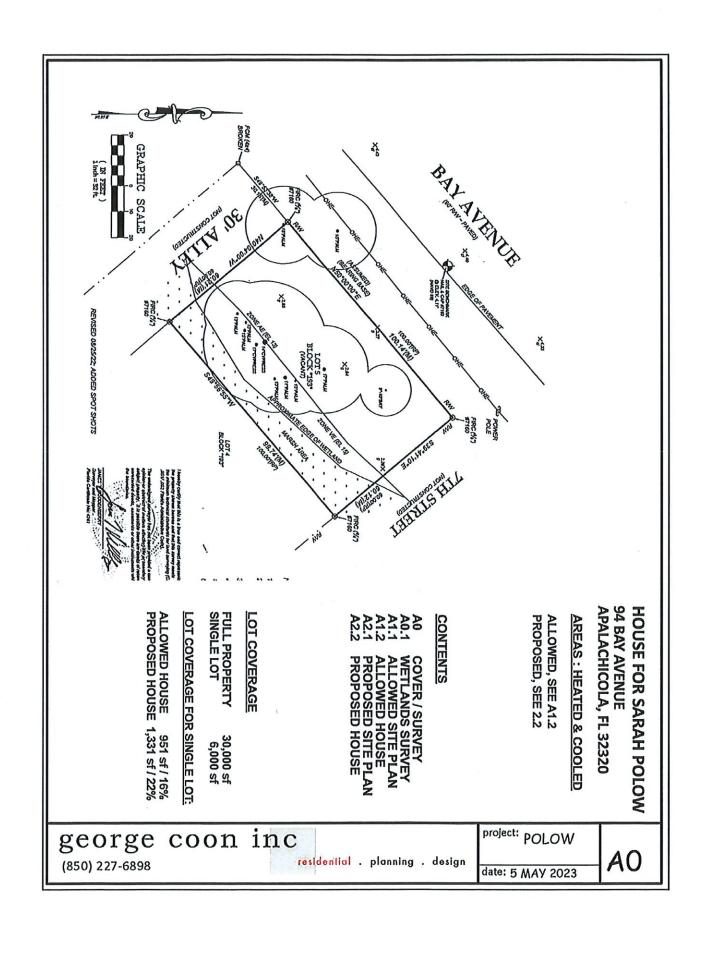
5 MAY 2023

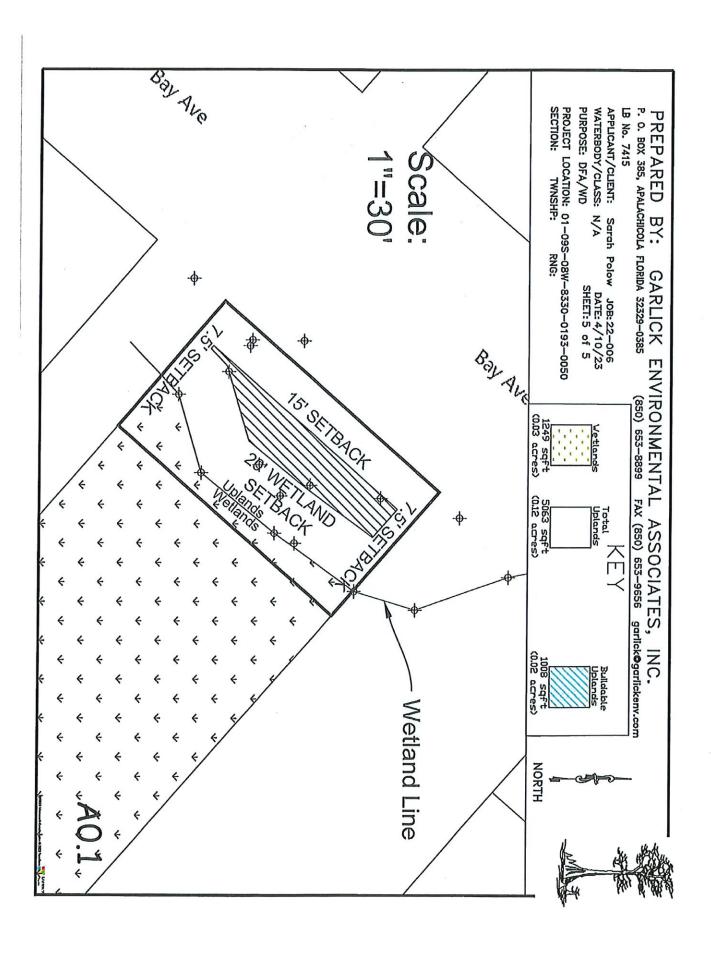
Date

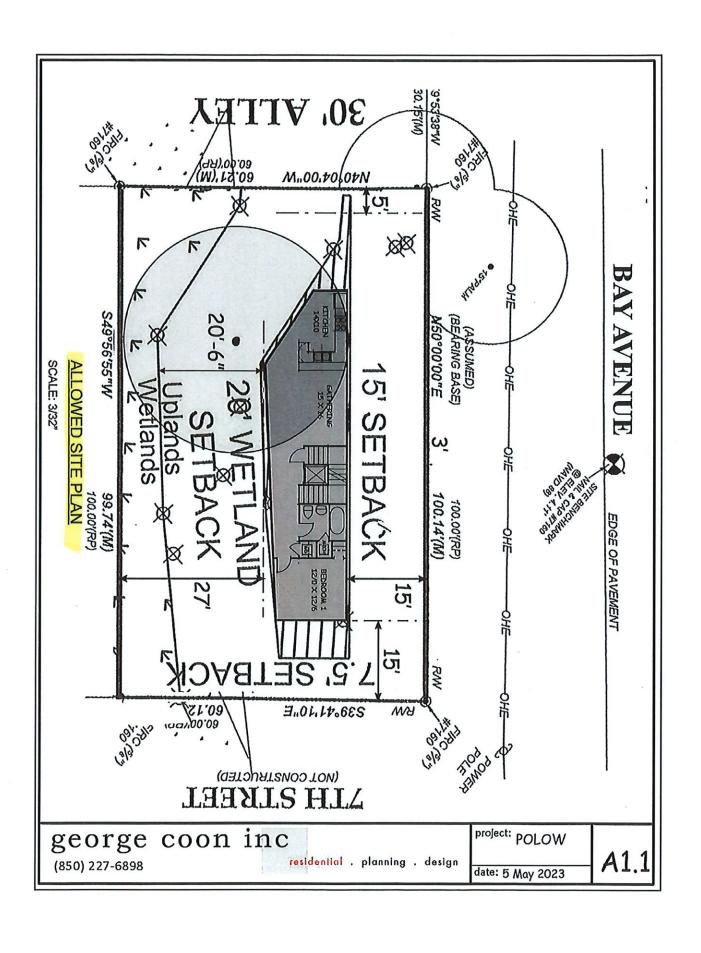
Well. Sarah Polow & Mark Heidt sworn, depose and say that well and are the owners of the property described herein and which is the subject matter of the proposed hearing; that all the answers to the questions in this application, including the disclusure of interest information, all sketches, date, 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, whather 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. George Coon tel (850) 227-6898 As property owner(s) We/I further authorize georgecoon@gmail.com to act as out/my representative in any matters regarding this Petition Signature of Property Owner Mark Heidt Sarah Polow Typed or Printed Name of Owner Typed or Printed Name of Owner STATE OF PLORIDA COUNTY OF FRANKLIN COUNTY The foregoing Instrument was acknowledged before me this 3rd day of January 2023, by Sarah Polow & who is personally known to me or has produced mark Hudt— as identification. Playther Munchine Pl Printed Name: Commission Numbers Commission Expires: 9

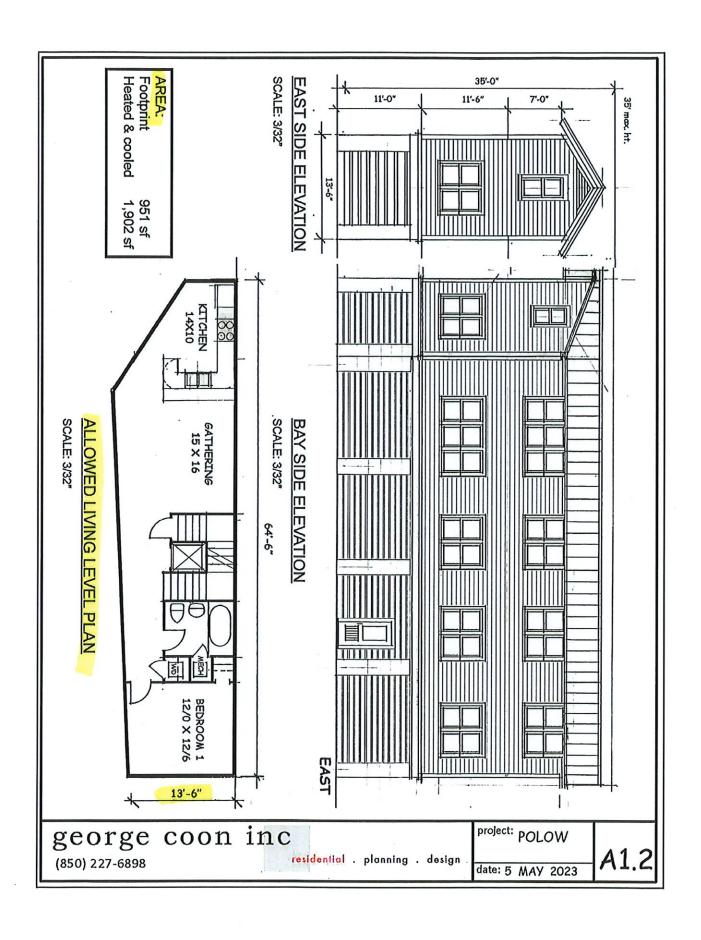
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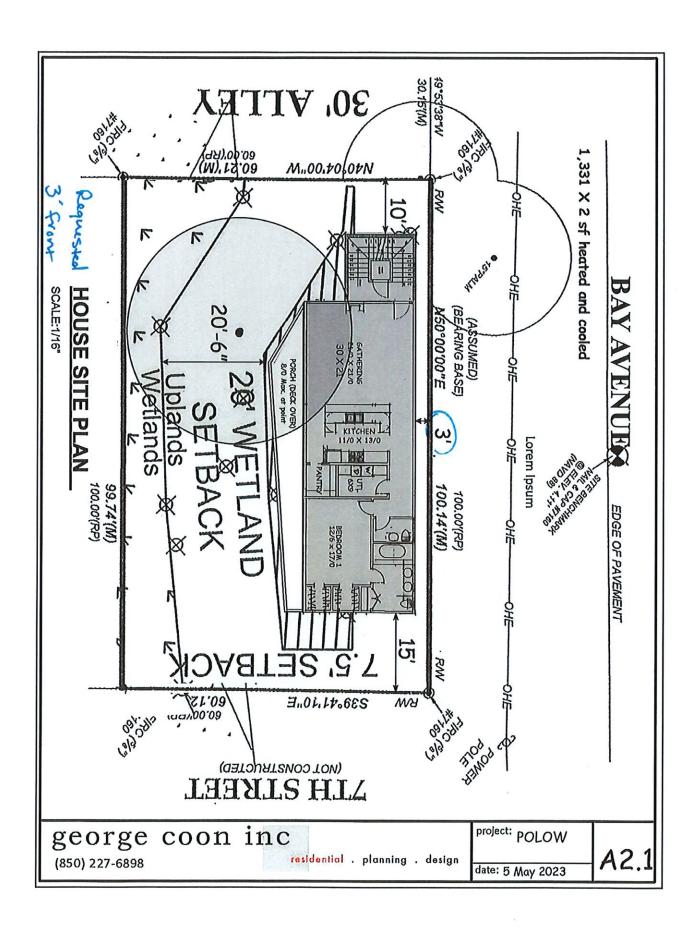
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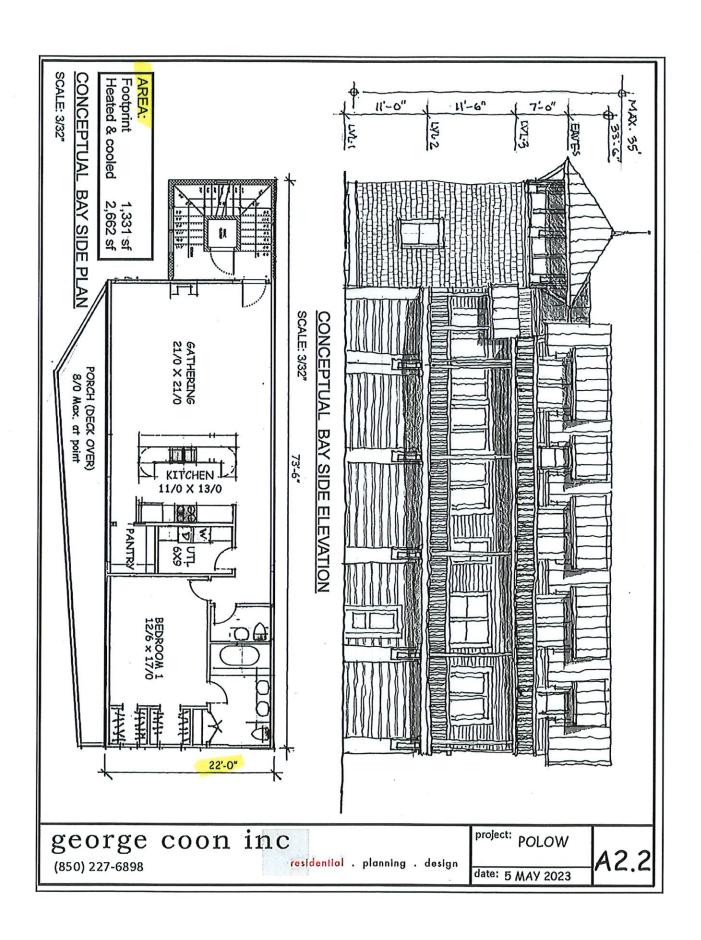












Mayor Brenda Ash

Commissioners
Anita Grove
Adriane Elliott
Despina George
Donna Duncan



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 Lee Mathes

City Attorney
Dan Hartman

Bree Robinson - City Planner

Board of Adjustment Public Hearing 6/28/23 @ 6:00PM City Staff Findings

Background:

The following variance requests items will be discussed, considered, and decided upon at the 6/28/23 BOA Public Hearing:

1. 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. **Applicant is requesting approval of a 3' front setback** based on reasonable use.

This item is the continuation of a variance from the 3/15/23 BOA meeting – the previous meeting minutes are available for review on the City of Apalachicola website. Advertisements giving public notice of the new requests and the public hearing were published in The Times on 6/8/23 and 6/15/23. The advertisement language is within the agenda packet. The Public Notice sign was also posted on the property on 6/5/23. The content of the sign is attached to this report. Citizen Input was sought out through letters sent out to abutting and nearby property owners.

Citizen Input Findings:

Letters were sent out to all abutting property owners or owners within 500ft. The letters sent out gave a brief overview of the request and had a form on the back for citizens to fill out if they were for or against the variance and give comments on why or why not. 19 were sent out and 3 were received back. The results of these letters were:

Variance #1: 94 Bay Avenue requesting 3' front setback

For: 2	Against: 1
Comments:	Comments:
 Supports, stated they had no objective to the proposed development. Supports, stated that their family asked for a setback variance on Bay Avenue and were rejected, but they still believe it is best to build on Bay Avenue closer to the street to stay out of the nearby wetlands. 	 Against, stated they perceive no undue hardship and that the buyers need to understand they purchased a buildable lot.

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

Applicable Code:

- Sec. 111-268. R-1 single-family residential.
 - o (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.
 - o (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 CH 111LAUS ARTIIIZO DIV3ZODIRE S111-268SIMIRE

- (Sec. 101-61 (2)) Board of Adjustment
 - O 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 CH 101GEADPR ARTIIENAD DIV2PODU S101-61BOAD
- (Sec. 101-61 (2) d-j) Board of Adjustment
 - o 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.
 - o 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.
 - o 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.
 - o 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.
 - o 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.
- o 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 CH 101GEADPR ARTIIENAD DIV2PODU S101-61BOAD

Staff Comments/Recommendations:

Variance #1: 94 Bay Avenue Requesting 3' Front Setback

The citizen feedback from public notice of this potential variance was overall positive. (There were negative comments made regarding allowing a 3' front setback on the last submission of this application, as there were concerns about motor and pedestrian safety.) It should be noted that they knew this property was constrained when purchased and the minimum buildable size for R-1 is 800SF, which is achievable without variance. However, a standard City lot is 60'x100' or 6,000SF with 40% lot coverage, which equals to a possible home footprint of 2,400SF. While this applicant owns 5 lots equaling 30,000SF, their buildable space has been limited to one standard lot still partially covered in wetlands.

- Minimum/No Variance Options: The City code speaks to granting the minimum variance that will make possible use of the land, building or structure. The City Code also speaks to reasonable use. In this case, the applicant was aware of the building restraints present on this lot at the time of purchase January 25, 2022.
 - o **Minimum Variance:** The footprint of the home the applicant has submitted and would prefer to build with variance is roughly a 1,331SF base floor footprint, or 2662SF heated and cooled space with 2 floors, excluding the porch decks. (Roughly 22'x73') With variance, their lot coverage could max out at 1,331SF or 22% still much lower than a standard 2,400SF or 40% allocation for a single lot.
 - No Variance: If no variance is granted, it would only be feasible to build a roughly 13.5'x64.5' home, with a 951SF footprint and heated & cooled space of 1,902SF with 2 floors. With no variance, their allowed lot coverage would max out at 951SF or 16% much lower than a standard 2,400SF or 40% allocation for a single lot.

Several other houses neighboring to this property sit in a similar stance to Bay Avenue and have not caused issues for pedestrians. If the variance is granted, there would still be a clear ROW owned by the City in between their property and Bay Avenue. (There is about 35' of City ROW from the applicant's property line to the edge of Bay Avenue.) Allowing the front 3' setback variance would allow the applicant to build a complementary home on the lot, instead of a very narrow elevated shotgun style home. The BOA will need to determine if the possible use of 16% lot coverage is reasonable and if variance should be given for 3' up the applicant's property line to increase the lot coverage to 22%.

• **Recommendation:** It is staff's recommendation that the BOA discuss and determine whether the current possible lot coverage of the land is reasonable use and if the wetlands constitute a hardship. It is staff's opinion that this request is not injurious to the neighborhood or otherwise detrimental to the public welfare in any way.

Attachments:

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



Polow Variance Mailing List:

Name:	Address:	Mailing Address:	Block:	Lot:
Lance & Maria Paterson	98 Bay	7341 Hall Road Greenbrier, TN 37073	193	6-10
	Avenue			
Elizabeth Perkins & Ralph	100 Bay	P.O. Box 1016 Apalachicola, FL 32329	194	1-5
Schiefferle	Avenue	300		
Peter Cunningham & Stephanie	82 Bay	641 East 6 th Avenue Tallahassee, FL	192	6-10
Cunningham	Avenue	32303		
Suber John Weatherington JR	80 Bay	Suber William Middleton P.O. Box 245	192	5. ½ 4
	Avenue	Quincy, FL 32353		
Norman & Harriet Biondi	1 Battery	1 Battery Park Lane, Box 880	192	1-3, ½ 4
	Park Lane	Apalachicola, FL 32320		
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	1/2 3, 4-5
Norma & Beth McNair	17 7 th Street	P.O. Box 216 Apalachicola, FL 32329	26	1/2 7, 1/2 8
Michael Northdrop & Grayson	85 Bay Ave.	85 Bay Colony Ave. Apalachicola, FL	26	½ 8, 9-10
Wallace		32320		40
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 8th Street Apalachicola FL 32320	27	7-10
Lee & Patricia McLemore	101 Bay	P.O. Box 183 Apalachicola, FL 32320	36	1-5
	Ave.			
Curtis & Mary Moon	Block 194	P.O. Box 127 LLOYD, FL 32337-0127	194	6-10
	Lots 6-10			
Michael & Leslie Rindler		P.O. Box 519	36	9-10
Elizabeth & Mark Milliken		P.O. Box 277	36	½ 7 and 8
Judi Stokowski	19 8 th Street	P.O. Box 10	27	6
Don & Ana Maria McLeod	1	10 6 th Street		