



MARTIN COUNTY, FLORIDA
DEVELOPMENT REVIEW DIVISION
GROWTH MANAGEMENT DEPARTMENT

VARIANCE APPLICATION STAFF REPORT

SUBJECT: Request for a non-administrative variance by Fox McCluskey Bush Robison, PLLC on behalf of Chad and Elisa Hopkins to reduce the required west side yard setback from 20 feet to 10 feet, a requirement of Article 3, Zoning Districts, Land Development Regulations, Martin County Code for the HB-1A, Hotel Motel District to permit the construction of a screen-enclosed pool and patio structure and existing encroachment of the 19.9 feet rear of dwelling on the subject property located at 9295 SE Delafield Street in Hobe Sound.

A. APPLICATION PROCESSING INFORMATION

Applicant /Property owner: Chad and Elisa Hopkins

Agent for applicant: Fox McCluskey Bush Robison, PLLC
Tyson Waters, Esq.

Date application submitted: June 25, 2024

Staff report date: July 18, 2024

Date of Board of Zoning Adjustment hearing: July 25, 2024

Project coordinator for County: Barbara Counsellor, Senior Planner

Growth Management Director: Paul Schilling

Report number: 2024_0725_Hopkins_Variance_Staff

B. APPLICATION TYPE AND DESCRIPTION OF REQUEST

The subject property is zoned HB-1A, Hotel Motel District District. Article 3, Zoning District, Land Development Regulations, Martin County Code governs any development of the parcel.

The applicant is requesting a side yard setback non-administrative variance of 10 feet for a proposed screen-enclosed pool and patio structure to reduce the setback requirement from 20 feet to 10 feet along the west side property line and to include the existing encroachment 19.9 feet of single-family dwelling structure.

C. VICINITY AND SITE INFORMATION

Site Address: 9295 SE Delafield Street
Parcel Control Number: 343842000008003109

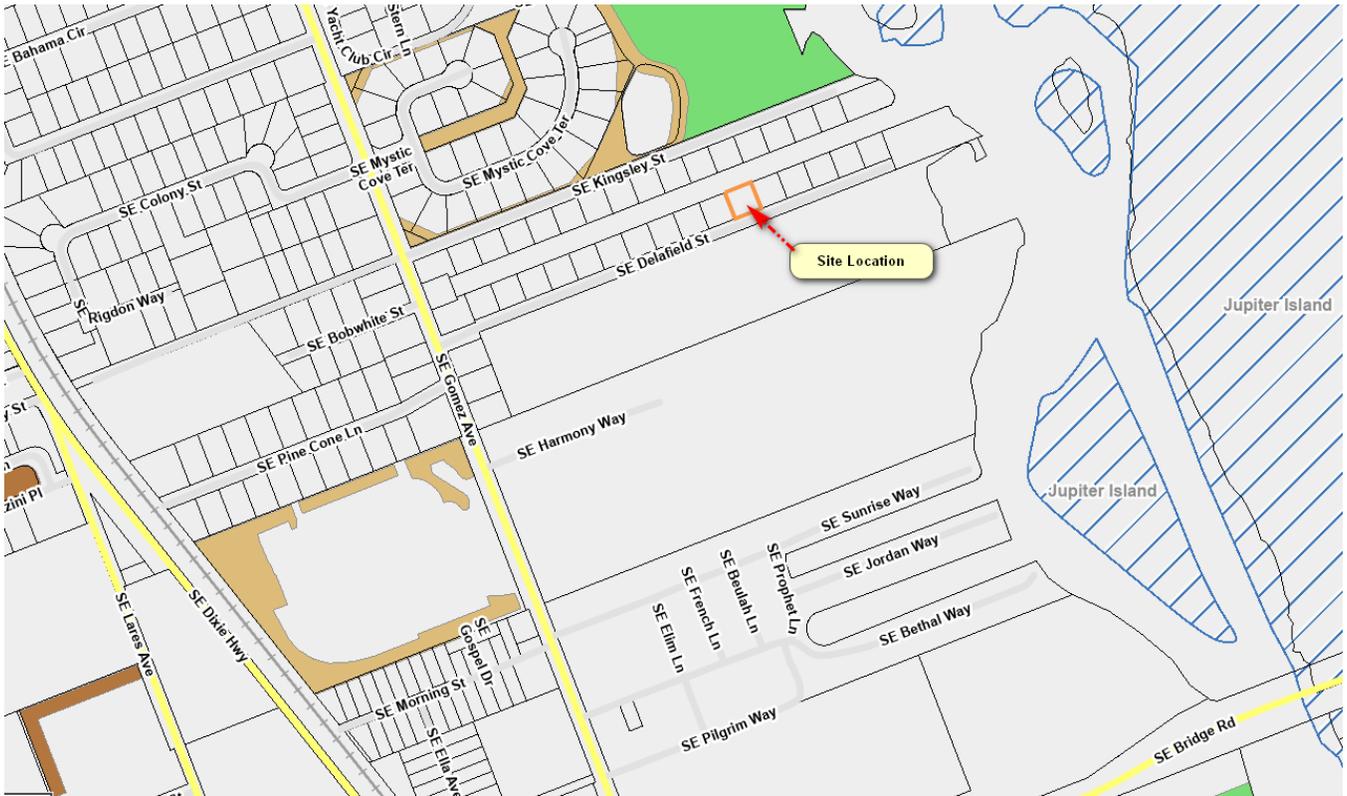
Legal Description:

The South 100 feet of the North 292 feet of the East 100 feet of the West 1230 feet of Lot 8, GOMEZ GRANT, as recorded in Plat Book 1, Page 80, Public Records of Palm Beach (now Martin) County, Florida.

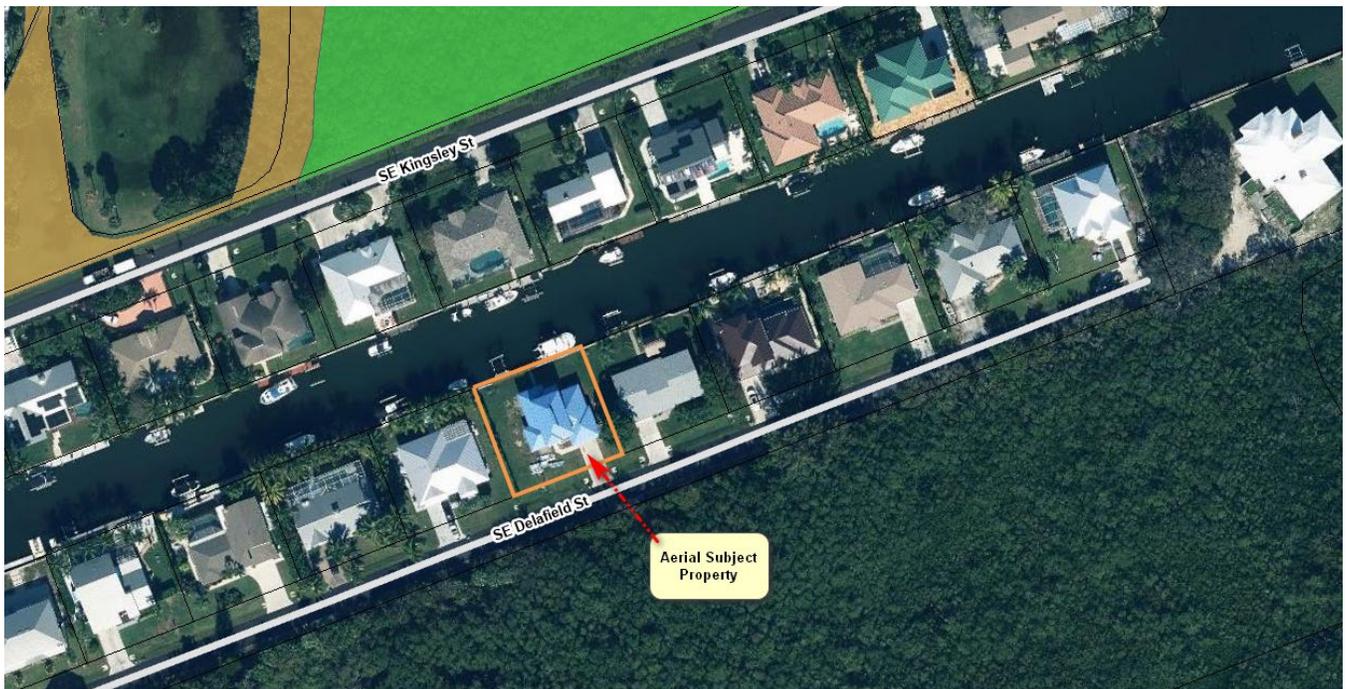
Together with an easement for ingress and egress over the South 60 feet of the North 360 feet of the West 130 feet and over the South 50 feet of the North 342 feet less the West 130 feet thereof of Lot 8, GOMEZ GRANT, as recorded in Plat Book 1, Page 80, Public Records of Palm Beach (now Martin) County, Florida.

Consisting of 0.23 acres, more or less

LOCATION MAP



PROPOSED VARIANCE SITE



D. COMPLIANCE ASSESSMENT

Article 9, Section 9.5, Land Development Regulations, Martin County Code provides the criteria for review and action by the Board of Zoning Adjustment. Based on the review of these criteria, the information provided by the applicant and other information reviewed by staff from the County's records, the Board is advised as follows:

1. The subject property is located within the Gomez Grant & Jupiter Island Plat recorded in Plat Book 01, Page 80, Public Records Martin County, Florida recorded on May 27, 1910.
2. The property is currently developed with an existing one-story single-family dwelling constructed in 2002.
3. The subject lot has an area of approximately 0.23 acres (approximately 10,018.8 square feet). The property is approximately 100 feet x 100 feet.
4. A previous non-administrative variance was approved and adopted on September 27, 2001 to permit the construction of a single-family dwelling by reducing the front yard setback requirement to 25 feet, the water setback requirement in the rear of the property to 20 feet and the easterly side property line setback requirement to 15 feet.
5. The setback requirements in this zoning district for structures are as follows:

Front: For structures of two stories or less there shall be a front yard of not less than 50 feet measured from the street line or right-of-way to the front of the structure. For structures in excess of two stories in height, 10 feet shall be added to the required front yard for each additional story.

Side: For structures of two stories or less, 20 feet shall be required on each side of the structure. For structures in excess of two stories in height, the side yard shall be increased ten feet for each additional story.

Rear: For structures of two stories or less, 25 feet shall be required on each side of the structure. For structures in excess of two stories in height, the side yard shall be increased ten feet for each additional story.

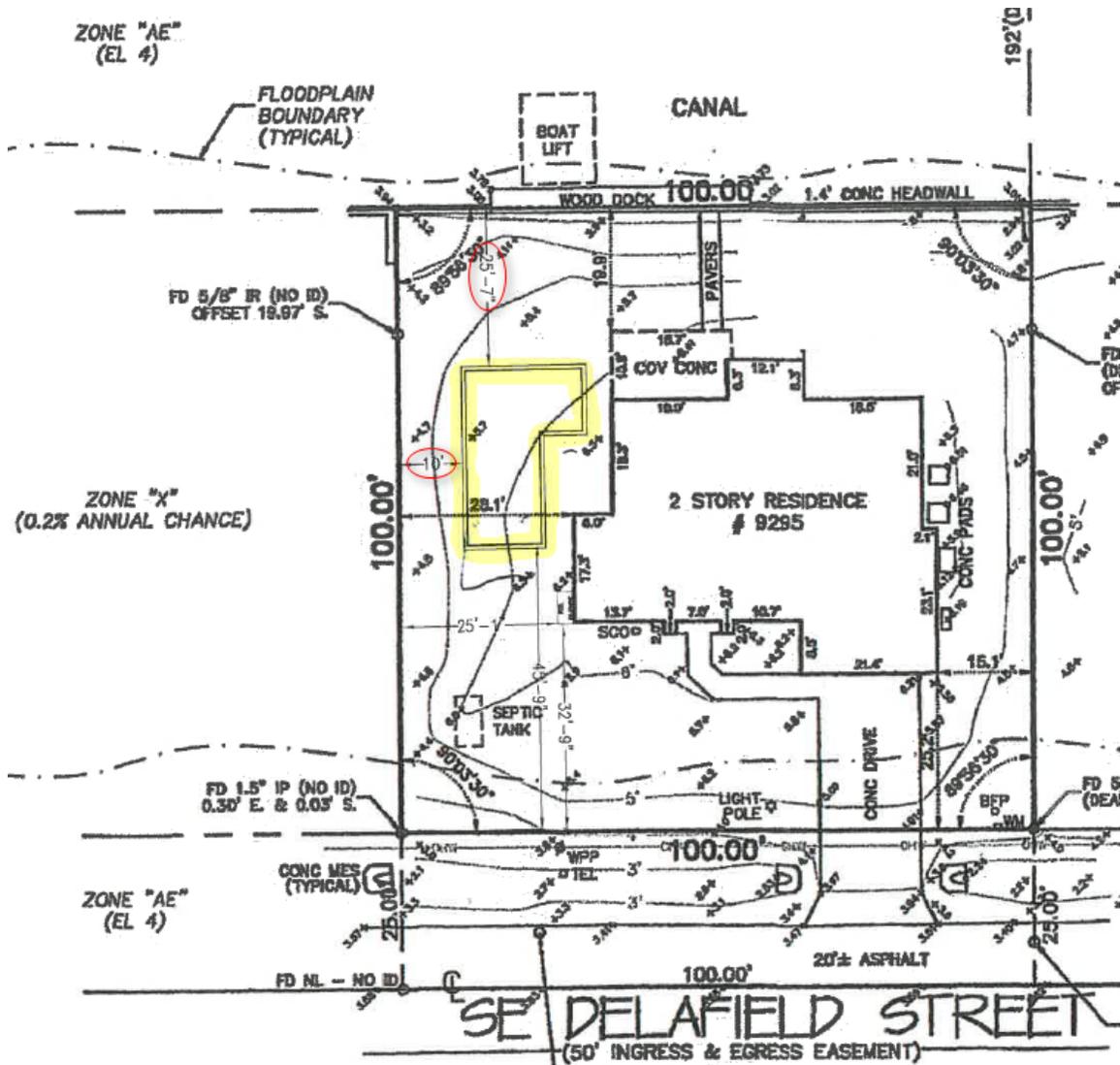
Rear: Abuts navigable waterway: Required environmental minimum setback for new construction will be 25 feet measured from the mean high-water line.

Martin County Land Development Regulation definition of *Story*: *That part of a building contained between any floor and the floor or roof next above.*

The HB-1A setbacks are one of the most stringent setbacks required in the County for single family uses. This is a Category "C" zoning district created as part of the County's first countywide zoning code which was adopted in 1967.

6. The applicant is requesting a side yard setback non-administrative variance of 10 feet for a proposed screen-enclosed pool and patio structure to reduce the setback requirement from 20 feet to 10 feet along west side property line and to include the existing encroachment 19.9 feet of single-family dwelling structure.
7. Surrounding Zoning Districts minimum setbacks for side yards range from 6 feet (R2B) to 10 feet (PUD-R).

Proposed Site Plan



8. Based on the criteria provided in Article 9, Land Development Regulations for the granting of a setback variance, the following conclusions are offered for the Board's consideration:
 - a. *Special conditions and circumstances exist which are peculiar to the land and structure that are part of this variance application which are not applicable to other lands in the same district or are comparable in size to the subject property.* The subject property has a

zoning designation of HB-1A, which requires large setbacks and is not compatible with the subject property or residential neighborhoods. The subject property is less than a quarter-acre in size and similarly situated properties would have zoning setbacks that if applicable to the subject property would not require the requested setback variance.

- b. *Literal interpretation of the provisions of Article 3 would deprive the applicant the rights commonly enjoyed by other properties in the same zoning district.* The subject property is located on a canal, no new structure may be located within 25 feet of the rear property line. A pool and patio would typically be placed in the rear of the property but because of this increased setback requirement (both as a result of the subject property being on a canal, as well as the requirements of the HB-1A zoning designation) the Applicant is required to locate the pool and patio on the side of the lot. The Applicant is proposing to place the pool and patio ten (10) feet off the side property line, which under normal similar single family zoning designation requirements would meet the required setbacks. In the subject case, however, because the subject property is zoned HB-1A, the setbacks are greater than normal for a residential lot of this size, making the variance request necessary.
 - c. *The special conditions and circumstances for this request is not the result of the applicant's action.* The Applicant purchased the property in 2023. The existing residential structure was constructed in or around 2002. A variance was granted to the then-property owner to allow for the construction of the residential structure as it currently exists. The zoning designation on the subject property, which is the ultimate restriction that mandates the proposed setback variances, was established in 1967. The variance requested is to allow for the construction of a pool and patio, improvements which are customary on other lots in and around the subject property. The existing improvements and large setback requirements of the HB-1A zoning district are the reason for this variance application.
 - d. *The granting of the variance requested will not confer on the applicant a special privilege that is denied to owners of other lands in the same district.* Applications for similar requests and with similar circumstances have been consistently treated by the Board. Each case is reviewed on the merits of the application and based on the established criteria for the granting of setback variances.
9. It appears that the granting of a variance will not create a negative impact to the health, safety, and welfare of the surrounding neighborhood and the requested variance appears to be the minimum variance that is required for the proposed screen-enclosed swimming pool and patio, with the existing encroachment of dwelling.
10. Research of the public records indicates that there has been setback variance granted for other lots within the following neighboring properties:
- 9295 SE Delafield 9424 SE Kingsley 11165 SE Gomez
 - 9205 SE Delafield 9104 SE Kingsley 11205 SE Gomez

- 9305 SE Delafield 9124 SE Kingsley
- 9185 SE Delafield 9294 SE Kingsley
- 9105 SE Delafield 9244 SE Kingsley
- 9325 SE Delafield 9184 SE Kingsley
- 9285 SE Delafield

E. RECOMMENDATION

The Board is advised that this application for a setback variance is in order and qualifies for an action of approval for a side yard setback variance of 10 feet for a screen-enclosed swimming pool and patio to reduce the setback requirement from 20 feet to 10 feet along the west side property line and to recognize an existing encroachment of 19.9 feet within the required rear setback of the existing dwelling. If the Board concurs and approval is granted, authorization is requested for the Chairman to sign the variance resolution which has been prepared for this agenda item with an attached Exhibit A that provides an illustration of the proposed construction and reduced setbacks.

F. OTHER SUBMITTAL REQUIREMENTS

Fees for this application are calculated as follows:

<i>Fee type:</i>	<i>Fee amount:</i>	<i>Fee payment:</i>	<i>Balance due:</i>
<i>Variance application fees:</i>	\$690.00	\$690.00	\$0.00
<i>Advertising fees:</i>	TBD	TBD	TBD

G. ATTACHMENTS

1. Sample letter notice
2. Newspaper ad for July 25th, 2024 meeting.
3. Application (copies provided to the Board and available for inspection in the offices of the Martin County Growth Management Department, Development Review Division)