



MARTIN COUNTY, FLORIDA
DEVELOPMENT REVIEW DIVISION
GROWTH MANAGEMENT DEPARTMENT

VARIANCE APPLICATION STAFF REPORT

SUBJECT: Request for a variance by Michael and Dianna Bach to reduce the setback requirements of Article 3, Zoning Districts, Land Development Regulations, Martin County Code, for the HR-1, Single-family Residential District to permit the construction of a swimming pool and deck and to address the existing encroachment of the residence. The subject property is located at 8959 SE Hawksbill Way, Hobe Sound, Florida

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A. APPLICATION PROCESSING INFORMATION

Applicant and property owner: Michael and Dianna Bach
Agent for applicant: Jared Gaylord, Esq., Marc. R. Gaylord, P.A.
Date application submitted: October 29, 2020
Staff report date: December 30, 2020
Date of Board of Zoning Adjustment hearing: January 28, 2021
Project coordinator for County: Peter Walden, AICP, Principal Planner
Growth Management Director: Paul Schilling
Report number: 2020_1230_GMD2020110032_

B. APPLICATION TYPE AND DESCRIPTION OF REQUEST

The subject property is zoned HR-1, Single-family Residential District, Article 3, Zoning District, Land Development Regulations, Martin County Code. The structural setback requirements in this zoning district are as follows:

Side: 15 ft. from the lot line

Front: 50 ft. from the centerline of the adjacent road right-of-way. Structures on lots abutting private streets platted prior to April 29, 1986 are exempt from the centerline setback requirements. The subject lot was platted in 1971 and is therefore exempt.

Rear: 35 ft. from the mean high water line
25 ft. from the face of seawall (MHWL) – SPZ

The applicant is requesting a variance to reduce the rear yard setback requirement for the rear lot line from 35 ft. to 25 ft. to permit the construction of a swimming pool and patio. The applicant is also requesting the variance permit the existing encroachment of the residence into the rear yard setback by

4.1 ft.

C. VICINITY AND SITE INFORMATION

8959 SE Hawksbill Way, Hobe Sound

Lot 8, Block 7, Replat of Block 7, "The Soundings", according to the map or plat thereof as recorded in Plat Book 5, Page 102, of the Public Records of Martin County, Florida.

LOCATION MAP



PROPOSED VARIANCE SITE



Backyard view



D. APPLICANT INFORMATION

Applicant and property owner: Michael and Dianna Bach
Address: 8959 SE Hawksbill Way
Hobe Sound, FL
Phone: 954-681-2384

Agent for applicant: Jared Gaylord, Esq.
Marc. R. Gaylord, P.A.
Address: 12000 SE Old Dixie Highway
Hobe Sound, FL 33455
Phone: 772-545-7740

E. 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 a platted lot of record that was created in 1973 with the recording of the plat for the "The Soundings".
2. The property is a waterfront lot adjacent to a man-made canal and is hardened with a vertical seawall. The property is currently occupied by a one story single-family dwelling which was constructed in 1984.

3. The subject property has an area of approximately 0.36 acres (approximately 15,500 sq. ft.). The property width is approximately 105 ft. along the road frontage adjacent to SE Hawksbill Way and approximately 105 ft. of frontage on the canal. The depth of the property is approximately 100 ft. on the west and east property line.

4. The setback requirements for the subject lot are as follows:

Side: 15 ft. from the lot line

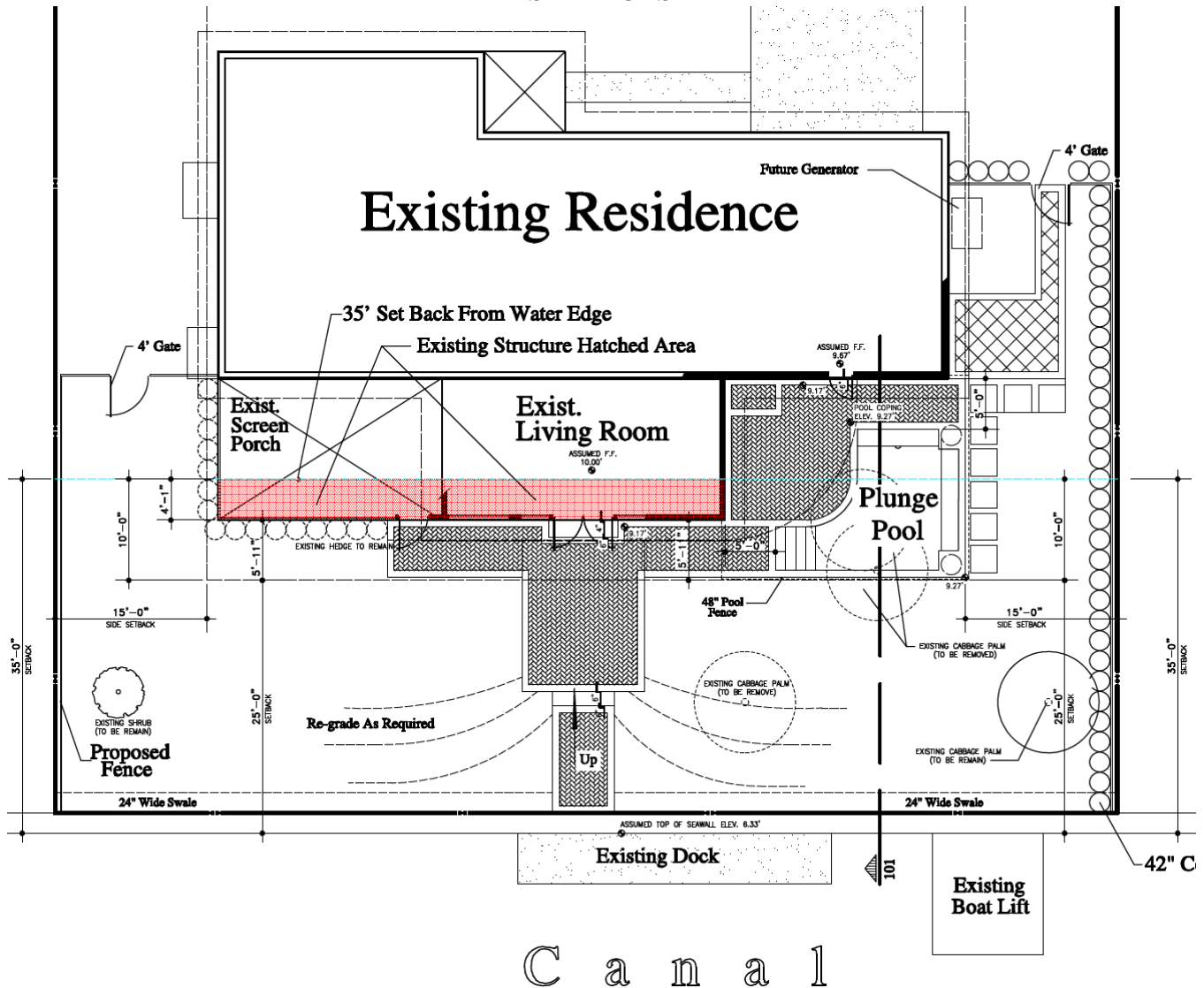
Front: 50 ft. from the centerline of the adjacent road right-of-way. Structures on lots abutting private streets platted prior to April 29, 1986 are exempt from the centerline setback requirements. The subject lot was platted in 1971 and is therefore exempt.

Rear: 35 ft. from the mean high water line (MHWL)
25 ft. from the face of seawall (MHWL) – SPZ

These setbacks are one of the most stringent setbacks required in the County for single family uses. The HR-1 district is a carryover zoning category from the County's original zoning regulations which were adopted in 1967.

5. The applicant is requesting a variance to reduce the rear yard setback requirement from 35 ft. to 25 ft. to permit the construction of a swimming pool and deck and to address the existing 4.1 ft encroachment of the dwelling.

REQUIRED AND PROPOSED SETBACKS



6. 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 subject property. The subject property has an area of approximately 0.36 acres (approximately 15,500 sq. ft.). The property width is approximately 105 ft. along the road frontage adjacent to SE Hawksbill Way and approximately 105 ft. of frontage on the canal. The depth of the property is approximately 100 ft. on the west and east property line. The existing one story dwelling, size and configuration of the lot, the current setbacks and shoreline protection zone requirements for the lot significantly reduces the design flexibility for the proposed swimming pool and deck addition.

- 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. Based on a strict interpretation of the rear yard setback requirements for this lot the proposed swimming pool and deck would not be permitted.
 - c. The special conditions and circumstances for this request is not the result of the applicant's action. The subject property is a platted lot of record that was created in 1973 with the recording of the plat for The Soundings. The property is currently occupied by a one story single-family dwelling which was constructed in 1984. The applicant purchased the property in 2018.
 - 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.
7. 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 to permit the proposed swimming pool and deck.
 8. Research of the public records indicates that there have been setback variances granted for this subdivision.

F. RECOMMENDATION

The Board is advised that this application for a setback variance is in order and qualifies for an action of approval for a rear yard setback variance of 10 ft. to reduce the setback requirement from 35 ft. to 25 ft. to permit the proposed swimming pool and deck, and address the existing 4.1 ft. rear yard encroachment of the 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 survey that provides an illustration of the proposed improvements and reduced setback.

G. 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	\$0.00	\$TBD

H. ATTACHMENTS

1. Sample letter notice.
2. Newspaper ad for January 28, 2021 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)