



MARTIN COUNTY, FLORIDA  
DEVELOPMENT REVIEW DIVISION  
GROWTH MANAGEMENT DEPARTMENT

# VARIANCE APPLICATION STAFF REPORT

**SUBJECT:** Request for a variance by Daniel and Marlena Husted to reduce the setback requirements of Article 3, Zoning Districts, Land Development Regulations, Martin County Code for the HB-1AA, Hotel Motel District to permit the construction of a single family residential dwelling and appropriate accessory structures on Lot 3, Galleon Bay, recorded in Plat Book 10, Page 5, Public Records Martin County, Florida.

## A. APPLICATION PROCESSING INFORMATION

*Applicant and property owner:* Daniel and Marlena Husted  
*Date application submitted:* October 4, 2021  
*Staff report date:* October 13, 2021  
*Date of Board of Zoning Adjustment hearings:* October 28, 2021  
*Project coordinator for County:* Matt Stahley, Principal Planner  
*Growth Management Director:* Paul Schilling  
*Report number:* 2021\_1018\_Husted\_Variance\_Staff\_Final

## B. APPLICATION TYPE AND DESCRIPTION OF REQUEST

The subject property is zoned HB-1AA, Hotel Motel District District, Article 3, Zoning District, Land Development Regulations, Martin County Code governs any development of the parcel. 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, ten feet shall be added to the required front yard for each additional story.

**Rear oceanfront:** A dune preservation zone extends from the mean high water line of the Atlantic Ocean to a point being 50 feet westerly of the coastal construction control line (CCCL) as in force and effect on June 1, 1985.

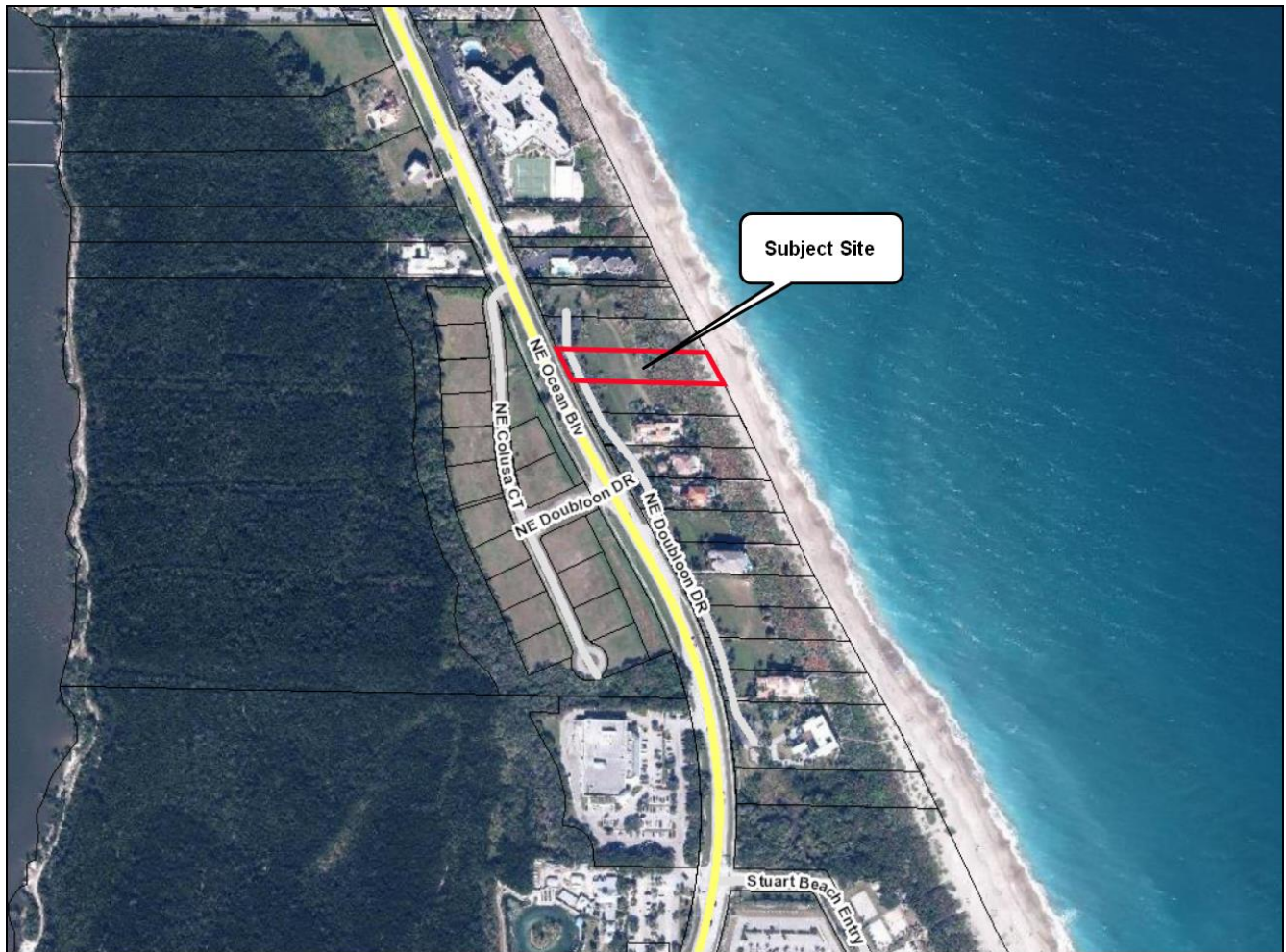
**Side:** For structures of two stories or less, 20 feet shall be required on each side of the structure. For structures in excess of two stories in height, the side yard shall be increased ten feet for each additional story.

The applicant is requesting a side yard setback variance of 10' for the third story of a proposed single family residence to reduce the setback requirement from 30 ft. to 20 ft. along both the north and south property lines.

### C. VICINITY AND SITE INFORMATION

Located on Lot 3, Galleon Bay, Hutchinson Island, between SR A1A and the Atlantic Ocean, Stuart, Florida.

#### LOCATION MAP



## PROPOSED VARIANCE SITE



### D. APPLICANT INFORMATION

*Applicant and property owner:* Daniel & Marlena Husted  
*Address:* 1345 SE St. Lucie Blvd.  
Stuart, FL 34996

### 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 located on lot 3 of the Galleon Bay Plat recorded in Plat Book 10, Page 5, Public Records Martin County, Florida recorded in 1985.
2. The property is a vacant and unimproved oceanfront lot with a proposed single family residential use.
3. The subject lot has an area of approximately 0.97 acres (approximately 42,253.). The property width is approximately 104.5 ft. The depth of the property varies between 549.3 ft. adjacent to the northerly property line to 515.76 ft. adjacent to the southerly property line.

4. A dune preservation zone extends from the mean high water line of the Atlantic Ocean to a point being 50 feet westerly of the coastal construction control line (CCCL) as in force and effect on June 1, 1985.
5. The setback requirements for the subject lot 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, ten feet shall be added to the required front yard for each additional story.

Rear oceanfront: A dune preservation zone extends from the mean high water line of the Atlantic Ocean to a point being 50 feet westerly of the coastal construction control line (CCCL) as in force and effect on June 1, 1985.

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.

The HB-1AA 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.

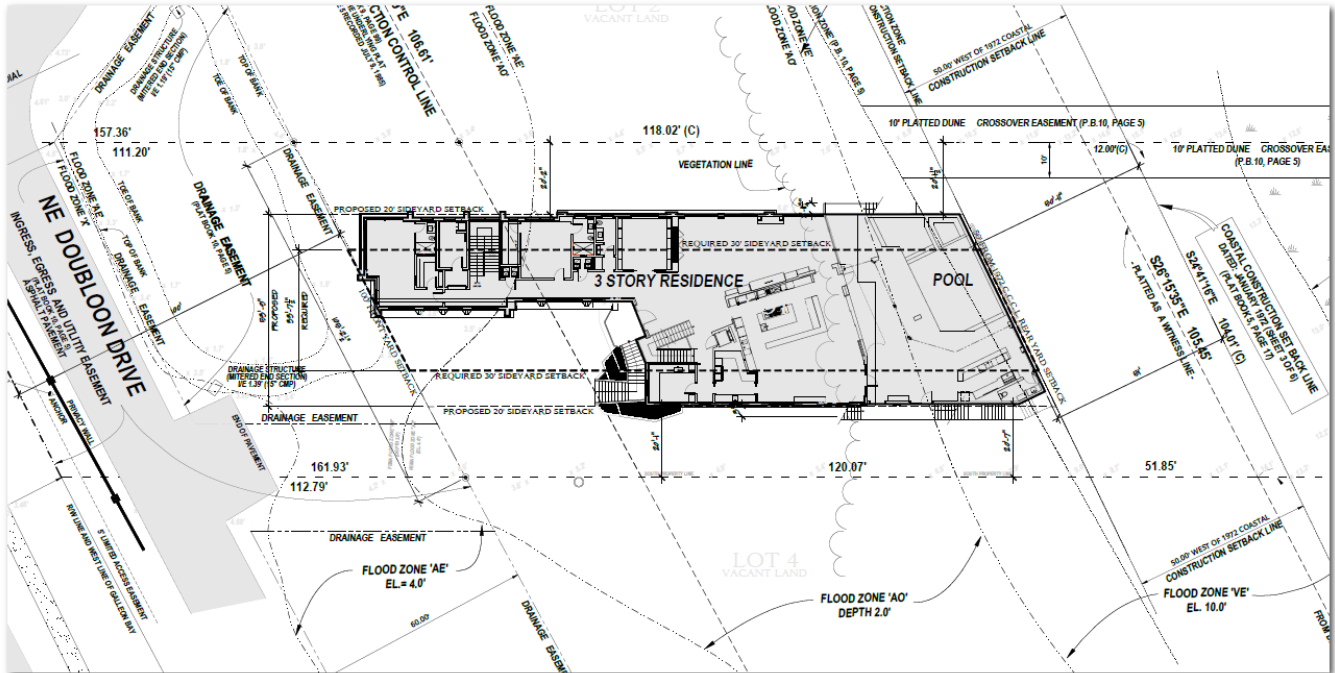
6. The applicant is requesting a side yard setback variance of 10' for the third story of a proposed single family residence to reduce the setback requirement from 30 ft. to 20 ft. along both the north and south property lines.
7. Based on the criteria provided in Article 9, Land Development Regulations 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 lot has an area of approximately 0.97 acres (approximately 42,253 sq. ft.). The property width is approximately 104.5 ft. The depth of the property varies between 549.3 ft. adjacent to the northerly property line to 515.76 ft. adjacent to the southerly property line. The width of the lot, the current setbacks, drainage easements, and dune preservation zone requirements for the lot reduces the design flexibility for the intended three story single family residential dwelling and appropriate accessory structures.
  - 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 current side setback requirements of 30 ft for a three story single family residence appear to limit the width of a residence to approximately 33 ft.
  - c. The special conditions and circumstances for this request is not the result of the applicant's action. The current regulations were in place at the time the Galleon Bay subdivision was created in 1985.
  - 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.

8. 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 three story single family residential dwelling and appropriate accessory structures.

### Proposed Site Plan



## 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 side yard setback variance of 10' for the third story of a proposed single family residence to reduce the setback requirement from 30 ft. to 20 ft. along both the north and south property lines. The variance shall be subject to the receipt of Florida Department of Environmental Protection authorization for the proposed construction. 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 that provides an illustration of the proposed construction and reduced setbacks.

## 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>
Variance application fees:	\$690.00	\$690.00	\$0.00
Advertising fees:	TBD	TBD	TBD

## H. ATTACHMENTS

1. Sample letter notice

2. Newspaper ad for October 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)