



PAWLEYS ISLAND BOARD OF ZONING APPEALS
Town of Pawleys Island Town Hall, 321 Myrtle Avenue
(843) 237-1698

CHARIMAN
Harold Wyatt

VICE-CHARIMAN
Heide Johnson

MEMBERS
Byron York
Peter Fawcett
Matt Ellis

TO: Zoning Board of Appeals Members and Other Interested Persons
FROM: LaShawna Armstrong, *Acting Secretary*
DATE: October 17th, 2022
SUBJECT: Monthly Meeting

The Pawleys Island Zoning Board of Appeals will hold its regularly scheduled meeting on **Thursday, October 27th, 2022 at 3:30 p.m.** **This meeting will be held at the Town of Pawleys Island Town Hall located at 321 Myrtle Avenue.**

Please find the agenda and applicable materials.

/Ima



AGENDA
PAWLEYS ISLAND BOARD OF ZONING APPEALS
Town of Pawleys Island Town Hall, 321 Myrtle Avenue
Thursday, October 27th, 2022
3:30p.m.

I. Determination of a Quorum – Agenda

II. New Business

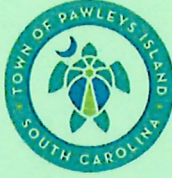
A request from **Dan Stacy**, as agent for **Evelyn Welborn Lineberger** for a variance to Article 3-2.2: Low Density Residential District (R-1), Section (E): Minimum Required Yards. This request involves the new construction of a single family dwelling. The residential lot is currently vacant. The property is located at 607 Myrtle Avenue in Pawleys Island. Tax Map Number 42-0174-048-00-00. VAR2022-00022.

III. Executive Session

Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim. (S.C. Code 1976, 30-4-70(a)(2))

IV. Minutes

V. Adjournment



TOWN OF PAWLEYS ISLAND ZONING BOARD OF APPEALS

DATE: October 27th, 2022

AGENDA ITEM: A request from Dan Stacy, as agent for Evelyn Welborn Lineberger for a variance to Article 3-2.2: Low Density Residential District (R-1), Section (E): Minimum Required Yards. This request involves the new construction of a single family dwelling. The residential lot is currently vacant. The property is located at 607 Myrtle Avenue in Pawleys Island. Tax Map Number 42-0174-048-00-00. VAR2022-00022.

DEPARTMENT: Zoning Department

ISSUE UNDER CONSIDERATION: The applicant is requesting a variance to the front setback requirement and the salt water critical line setback in order to construct a single family dwelling.

This case was deferred by the board at the July 13th hearing. The board requested additional information regarding the variance request from the applicant. The board requested the applicant appeal the OCRM delineation of the critical line, and also provide a site plan showing the proposed home on the lot without any variances granted, and the size of the home with the variances granted.

CURRENT STATUS: Vacant Residential Lot

POINTS TO CONSIDER:

1. The lot is located at 607 Myrtle Avenue in Pawleys Island.
2. County records indicate the parcel was purchased by the current owners in 2016.
3. The lot was previously occupied by a single family dwelling, which was demolished prior to 2010, per the county GIS aerial photos.
4. The property is zoned R-1 (Low Density Residential), which requires a 20' front setback and a 10' setback from the salt marsh critical line established by OCRM.
5. The plat submitted by the applicant identifies the location of the previous home on the lot, and the previous location of the salt marsh critical line.
6. An unconstructed area for an extension of Scarborough Avenue abuts the parcel to the rear. This area is marsh, and it is unlikely the road will ever be constructed. There is currently a walkway constructed over this area providing creek access for the property owners of this lot.

7. A letter dated 8/9/2016 from the Town Administrator identifies this lot as an existing lot of record, and classifies it as buildable. The letter further explains the rear setback requirement related to the unconstructed area for the extension of Scarborough Avenue. The plat submitted with the letter from the Town Administrator identifies the setback requirements for this lot as:

Front – 20’

Sides – 9.7’

Rear – 0’ – abutting unconstructed Scarborough Avenue

8. The applicant is requesting a 10’ variance to the 20’ front setback requirement, which will make the front setback requirement 10’. The applicant is also requesting a 10’ variance to the salt marsh critical line setback, which will make the setback from the critical line 0’.
9. The applicant plans to build a single family dwelling. The setback requirements restrict the buildable area of the lot by approximately 50%, per the applicant. The size of the proposed home is undetermined at this time. The proposed home will be required to meet all other town and building code requirements, including the ARB and flood requirements. The variance request relates to the front setback and salt marsh critical line setback only.
10. *There are extraordinary and exceptional conditions pertaining to the particular piece of property.* The lot is oddly shaped, with the southern side property line being approximately 34’ shorter than the northern side property line. The salt marsh critical line was previously located in the area designated for the expansion of Scarborough Avenue. The existing salt marsh critical line is now located further landward on this parcel, and restricts the buildable area of the lot on the rear and both sides of the property.
11. *The conditions of this parcel do not generally apply to the surrounding parcels.* The other buildable parcels in the area appear to be of a more normal shape, and contain more buildable area. The surrounding lots do not appear to be as greatly affected by the salt marsh critical line. Most of the occupied lots appear to have installed retaining walls to protect their properties from erosion and the encroachment of the salt marsh.
12. *The application of this ordinance would effectively prohibit or unreasonably restrict the use of this parcel.* Enforcing the 20’ front setback and the 10’ setback from the salt marsh critical line restricts the buildable area of this lot by approximately 50% or more. The proposed dwelling will not encroach into the salt marsh critical line.
13. *The authorization of this variance request would not be a substantial detriment to the adjacent property owners or the public good.* The applicant is requesting a minimal variance to the front setback requirement. The variance request to make the setback from the salt marsh critical line 0’ is substantial, however the proposed home will not encroach into the critical area. The rear corners of the proposed dwelling are the only areas that will be constructed to the critical line. The adjoining lots are vacant and do not appear to contain any buildable area. County records provided no evidence that the neighboring properties have been occupied by any structures, other than walkways providing access to the creek in recent years. The lot was previously occupied by a single family dwelling and documents submitted by the applicant prove that the lot has been deemed buildable by the Town of Pawleys Island.
14. The board has the authority to establish conditions to the variance request. If the proposed dwelling being constructed to the salt marsh critical line is of concern, the proposed home could be constructed at the ground level to meet the 10’ setback from the salt marsh critical line, but allow the elevated square footage to cantilever over the setback area to the salt marsh critical line. This would prevent the

encroachment of the critical area on the ground, but still allow more buildable area for the proposed home.

15. The applicant contacted OCRM requesting the delineation of the critical line be revised. OCRM would not revise the location of the critical line.

16. A site plan was submitted by the applicant identifying the existing and buildable area of the lot.

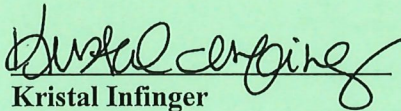
FINANCIAL IMPACT: N/A

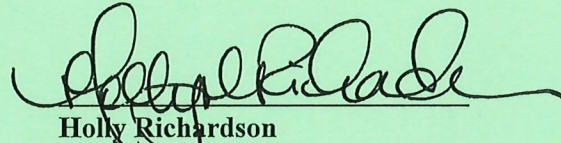
VARIANCE OPTIONS:

1. Grant the variance as requested.
2. Grant an amended variance.
3. Defer for further information.
4. Deny the variance request.

ATTACHMENTS:

1. Application and Attachments
2. GIS Location Map
3. GIS Area Zoning Map
4. GIS Aerial Map
5. Exhibits from the Applicant
6. Adjacent Property Owners Notice


Kristal Infinger
Zoning Administrator


Holly Richardson
Director of Planning and Code Enforcement

Public Notification Information:

Date Advertised: 10-13-22(Coastal Observer)

Date Property Posted/By:	8-29-22/KInfinger
Date of Notification: 10-13-22	Number Notified: 2

Case Number/Staff Contact: VAR2022-00022/KInfinger



VAR 2022-00022

APPLICATION FOR VARIANCE

ZONING BOARD OF APPEALS
TOWN OF PAWLEYS ISLAND, SOUTH CAROLINA



pd 5650-00 n/c #1432

Owner or Authorized Applicant: LINEBERGER, EVELYN WELBORN

Mailing Address: 197 Trout Pond Ln.

City Bakersville State NC Zip 28705 Telephone: () 843-450-9897

Address of Property for which Variance is Requested: 607 Myrtle Avenue, Pawleys Island, SC 29585

TMS# 42-0174-048-00-00 Zoning District Vacant Resort Lot (N400) Application Date: _____

Owner of Property: LINEBERGER EVELYN WELBORN

VARIANCE REQUEST. Describe the variance requested (include the specific zoning code section):

Current setbacks requirements will reduce buildable area of a new construction to approximately 16' width x 23' depth on lot. We ask for setbacks to be amended on this lot to allow for 0 feet of setback from OCRM lines on both sides and marsh edge, and for 20' town setback on road side to be amended to 10'.

(Article VIII Item 807/808/809 (Wetland setbacks) Article VI Item 607.2, Article V Item 503)

The Board may grant a variance from the requirements of the Zoning Ordinance when strict application of the provisions of the Ordinance would result in unnecessary hardship, provided the hardship is not self-created or based on greater profit.

The findings required by the Board for variance are identified in Sec. 3-7.5(B) of the Zoning Ordinance. Response to each of the following will assist the Board in making a determination.

1. Describe the *extraordinary and exceptional* conditions pertaining to the particular piece of property. (use additional paper if necessary)

Due to DHEC OCRM line that was marked in May 2022 the property has decreased buildable area approximately 50%. There were no previous OCRM lines on the either side of property, now there are substantial encroaching lines of sea grass on three sides.

2. Are the previously described conditions unique to the property for which the variance is sought, or do these same conditions apply to other properties in the vicinity?

This is unique as this property now has 3 OCRM lines not just one typically seen with other creek/ocean lots.

3. Describe why the zoning regulation proposed for variance would prohibit or unreasonably restrict utilization of the property because of the previously described conditions.

Due to the new OCRM lines, the lot is not buildable in our opinion. The maximum width of a home within these lines would be 16 ft approximately according to survey. This lot previously had a home that has now been demolished so at some point was buildable.

4. *Describe how authorization of the variance will be in harmony with the intent of zoning ordinance and will not be injurious to adjacent properties, the neighborhood, or the general public.*

This lot does not have neighbors on either side and therefore would not impact those living in close proximity. The road setback request is not unique to this area as houses near this lot sit well within the 20-ft restriction.

5. *Describe how the variance sought is the **minimum** variance necessary for reasonable development of the site*

This request would allow for a 30 ft X 50 ft footprint of a home, which is still far smaller than previously home or previously surveyed. Without this variance, this would not be possible and it would be very difficult to fit a home of any normal square footage.

6. *Describe why the granting of the requested variance will not confer on the applicant any special privilege that is denied by the zoning regulations to other landowners in the same zoning district.*

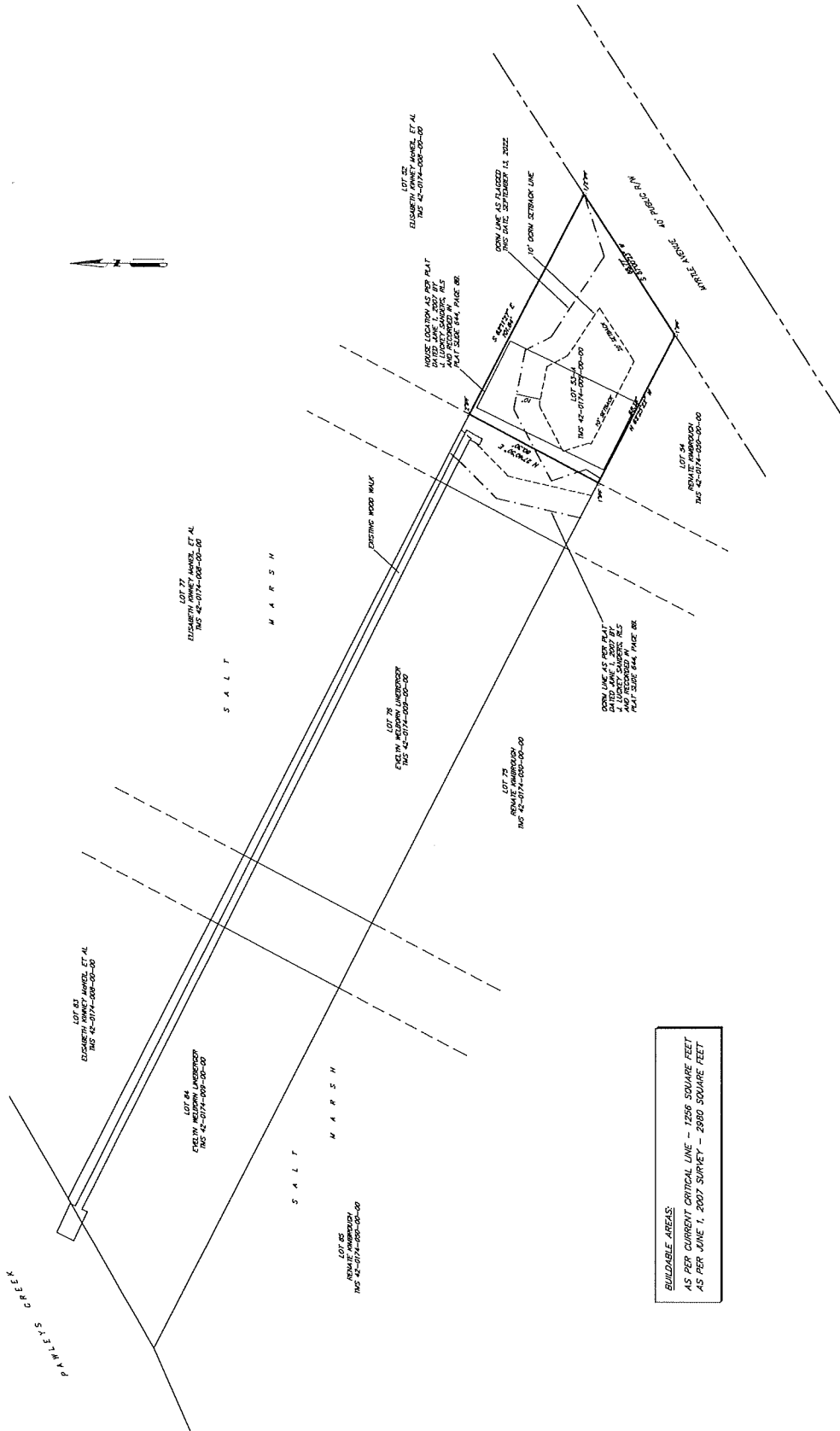
This variance approval would allow for a minimum square footage home; sitting on the same setback to road as others around it. It is of our opinion that a home developed on this lot would be more widely acceptable to homeowners and the Town of Pawleys Island than an empty and uncared for empty lot. There are other homes currently being constructed with other variances

<u>6-2-22</u>	<u>Evelyn Welborn Lineberger</u>	<u>Evelyn Welborn Lineberger</u>	<u>owner</u>
Date	Applicant Printed Name	Signature of Applicant	Title

SURVEY
SHOWING LOT 53-A,
BRODS NEST
SURVEYED FOR

EVELYN WELBORN LINERBERGER

LOCATED ON PAWLEY'S ISLAND,
GEORGETOWN COUNTTY, SOUTH CAROLINA
DATE: SEPTEMBER 13, 1922
SCALE: 1"=20'



BUILDABLE AREAS:
AS PER CURRENT CRITICAL LINE - 1256 SQUARE FEET
AS PER JUNE 1, 2007 SURVEY - 2980 SQUARE FEET

EXISTING LOT OF RECORD
CONTAINED TO BE A RESERVE OF A PIECE, PARCEL
OR LOT OF LAND SHOWN ON A MAP OR PLAT
RECORDED IN GEORGETOWN COUNTY IN PLAT
BOOK 614, PAGE 88.



ANDERSON, LLC
CHUCK ELLIOTT
STOCK, 30 JUNE
1-800-888-8888

Legend

Streets

— <all other values>

MaintainedBy

County

Private

State

Evelyn W. Lineberger

Lot Lines

Railroads

Landmarks

Municipalities



DISCLAIMER: This map is a graphic representation of data obtained from various sources. All efforts have been made to warrant the accuracy of this map. However, Georgetown County disclaims all responsibility and liability for the use of this map.





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Legend

Streets

— <all other values>

MaintainedBy

County

Private

State

Evelyn W. Lineberger

Lot Lines

Railroads

♦ Landmarks

Imagery2017Med

RGB

Red: Band_1

Green: Band_2

Blue: Band_3

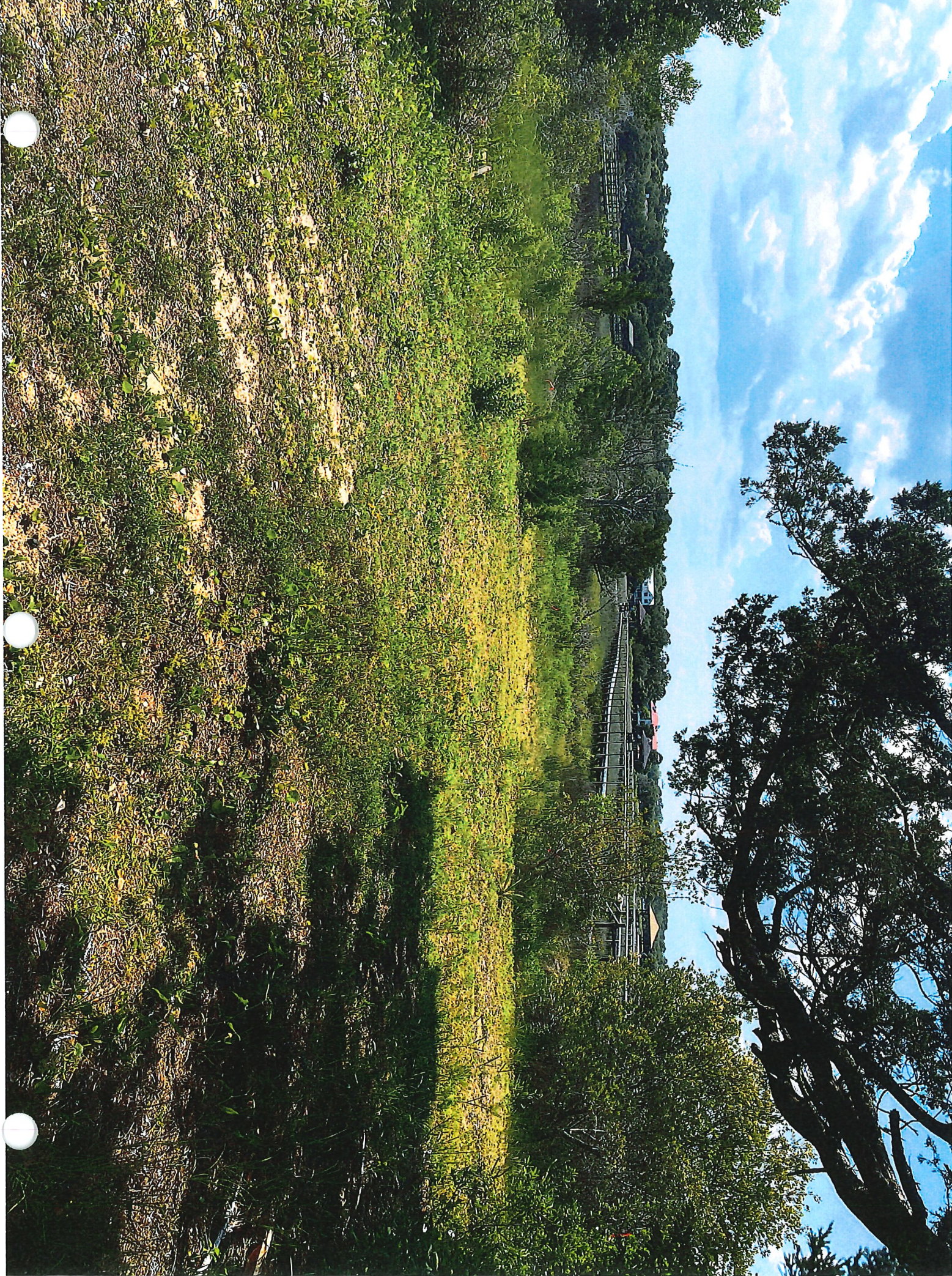
Municipalities

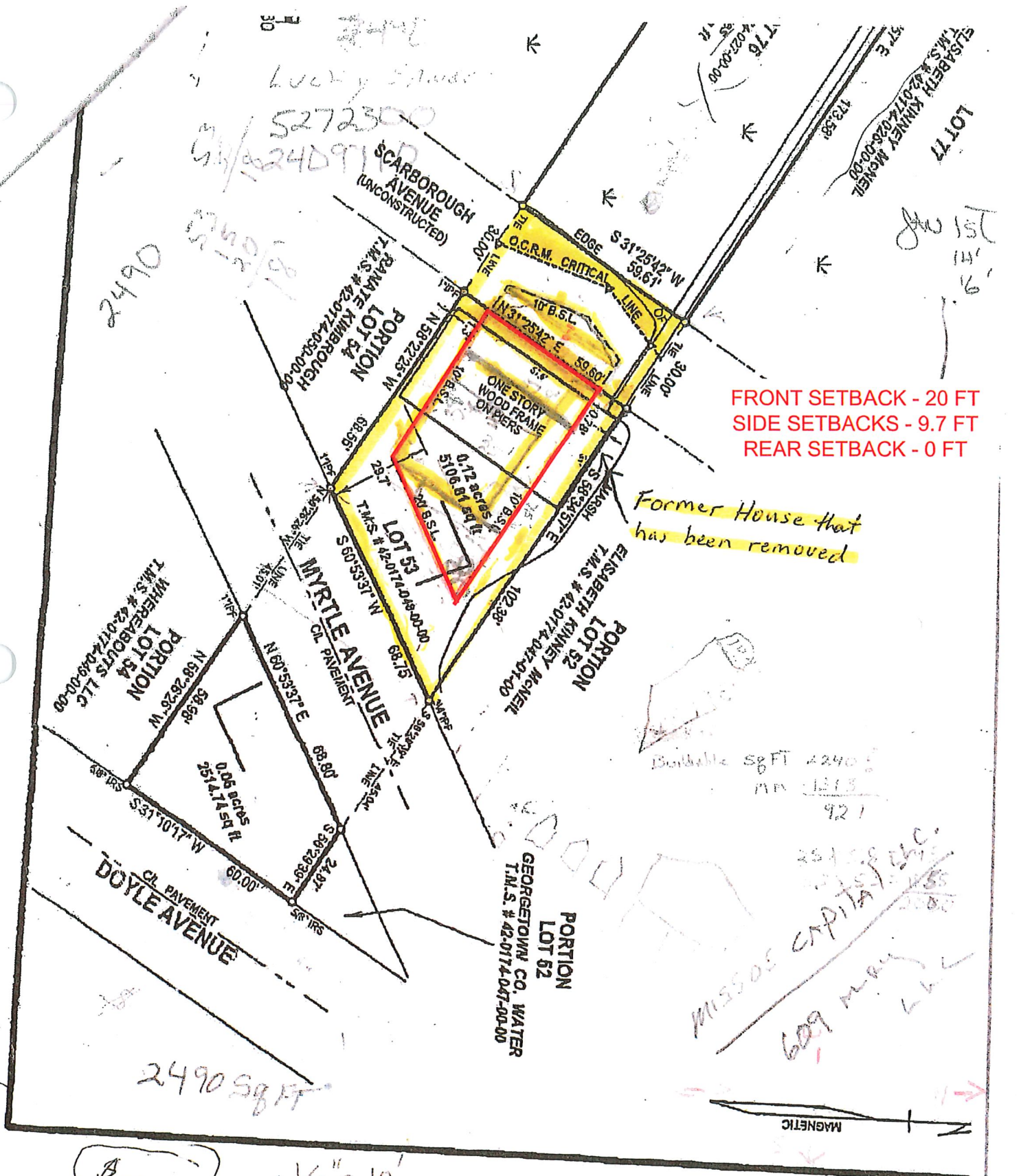
0 15 30 60 90 120 Feet

DISCLAIMER: This map is a graphic representation of data obtained from various sources. All efforts have been made to warrant the accuracy of this map. However, Georgetown County disclaims all responsibility and liability for the use of this map.









FRONT SETBACK - 20 FT
 SIDE SETBACKS - 9.7 FT
 REAR SETBACK - 0 FT

Former House that
 has been removed

Buildable Sq FT 2240
 MD 1213
 921

MISSOIE CAPITAL LLC
 23158 ETC.
 1213
 2240

\$80.00

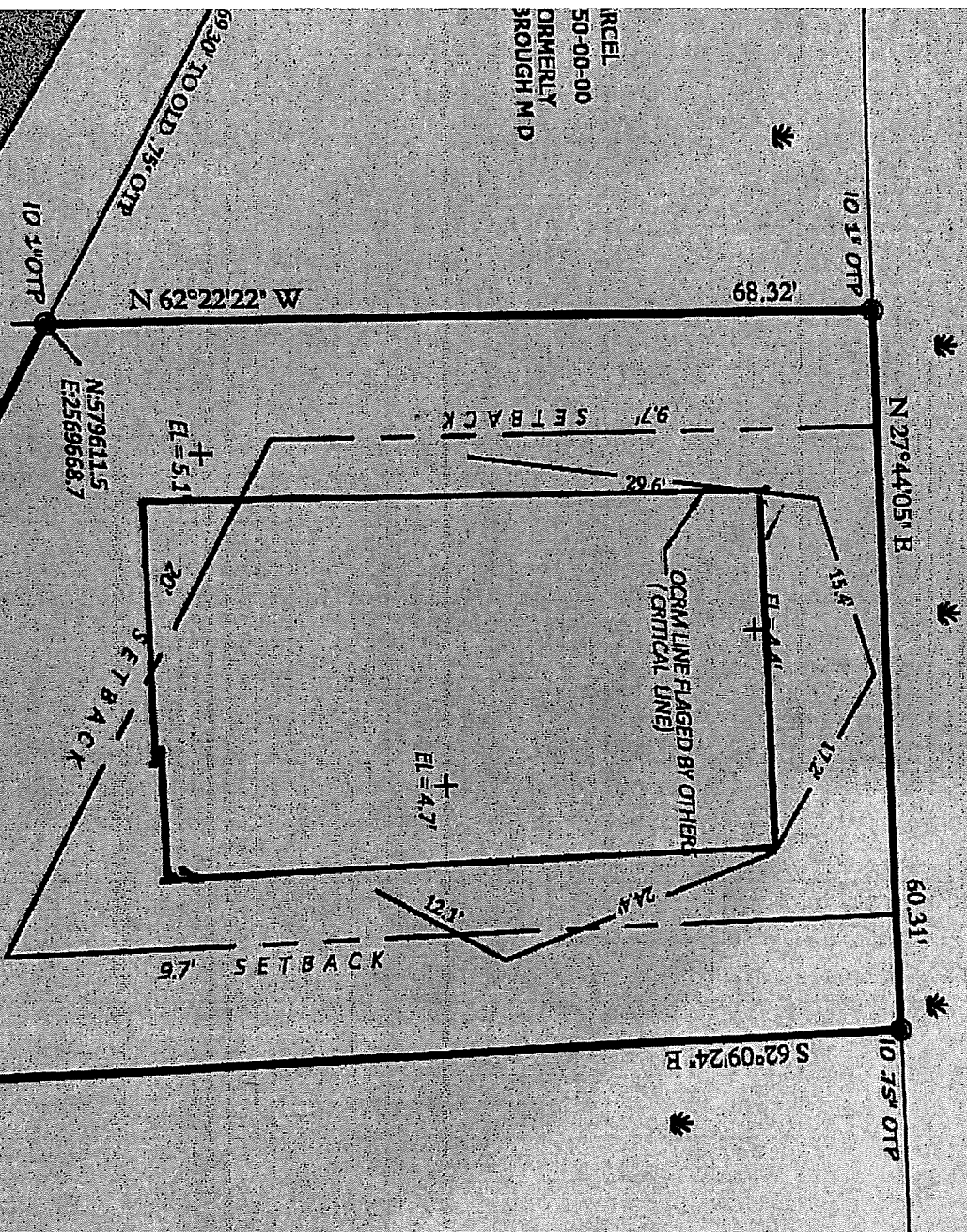
1/4" = 10'
 TRIANGLE 894 sqft

AC 3
 257,000

MAGNETIC

SCARBOROUGH AVENUE
UNCONSTRUCTED

EXISTING WOOD DOCK



RCEL
50-00-00
FORMERLY
BROUGH M.D.

TAX PARCE
42-0174-008-1
NOW OR FOR
ELISABETH KINNEY



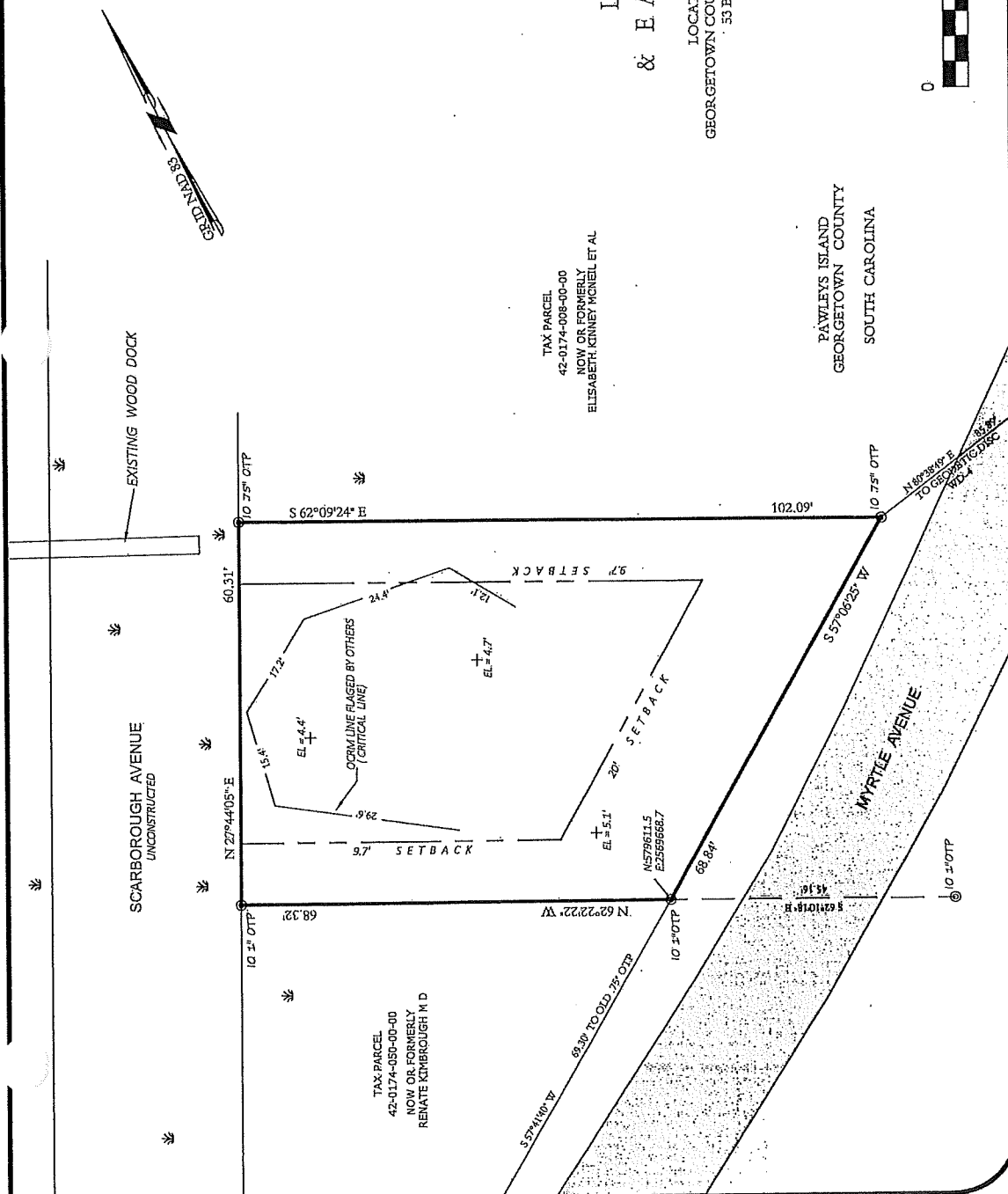
EXHIBIT
PREPARED FOR

LYN WELBORN
& EARL LINEBERGER

LOCATED ON THE SOUTH END OF PAWLEYS ISLAND
GEORGETOWN COUNTY, SOUTH CAROLINA AND BEING DESIGNATED AS LOT
53 BIRDS NEST, TAX PARCEL 42-0174-048-00-00.
ADDRESS # 607 MYRTLE AVENUE

PAWLEYS ISLAND
GEORGETOWN COUNTY
SOUTH CAROLINA

GRAPHIC SCALE IN FEET
1" = 20'



Robert J. Moran, PA
Attorney-at-Law
Post Office Box 370
Murrells Inlet, South Carolina 29576
Robert J. Moran, Jr. Esquire
Telephone: (843) 237-4533 E-Mail: Mullettlaw@sc.rr.com Facsimile: (843) 237-3163

August 9, 2016

Ryan Fabbri
Administrator
Town of Pawleys Island
Via Email asstadmin@townofpawleysisland.com

Re: 607 Myrtle Ave
Lot 53, Bird's Nest
42-0174-048-00-00

Dear Ryan:

I represent Lyn Welborn and Earl Lineberger in connection with their purchase of the above parcel, together with the two additional parcels (Lots 76 & 84) extending into the marsh. It is my understanding that Lyn and Earl have discussed their construction options with you and, with your permission, I would like to confirm the substance of the conversation.

First, this is a "lot of record" and, as such, buildable.

Second, there is no minimum dwelling size limitation in the Town's rules or ordinances; and

Finally, the Town would interpose no objection to the clients using, at least, the line demarking the division between Lot 53 and Scarborough Ave as their rear yard setback.

I will be pleased if you can take a few moments to confirm or deny these three issues. Thanks for your cooperation.

Sincerely,



Robert J. Moran, Jr.

RJM:kp

cc: Joanne Ochal, Georgetown County
Lyn Welborn and Earl Lineberger
Roger Wyndham

Location: 70-D Da' Gullah Way, Pawleys Island, South Carolina 29585
¿Quanta justitia emere potes?



Town of
Pawleys Island
SOUTH CAROLINA

August 9, 2016

Robert J. Moran, Jr. Esquire
70-D DaGullah Way
Pawleys Island, SC 29585

Re: 607 Myrtle Avenue
Lot 53 A, Bird's Nest
TMS# 42-0174-048-00-00

Dear Bob:

I did have the pleasure of meeting with the Linebergers to discuss their construction options on the above-mentioned property. In response to your letter, I can confirm the following:

1. The Town considers the above parcel a "lot of record" and, it is buildable.
2. The Town's development code does not include a limitation on the minimum size of a single-family dwelling.
3. Section 20-1(c) of the Town's development code recognizes the existence of certain platted unopened streets that may cause a greater setback for construction purposes than is necessary to protect adjacent property owners, and it is the intent to allow said streets to be used for construction rear setback purposes. Your clients will be allowed to use the line demarking the division between TMS# 42-0174-048-00-00 and Scarborough Avenue as their rear setback. Please note this line also represents the property boundary so all setback exceptions allowed in the Town's development code would not apply to this rear setback.

I hope you find this an acceptable response to your concerns, but if not, please don't hesitate to contact me.

Best regards,

Ryan Fabbri
Town Administrator

cc: Joanne Ochal, Georgetown County



NOTICE TO PROPERTY OWNERS OF APPEAL

TOWN OF PAWLEYS ISLAND ZONING BOARD OF APPEALS

TO THE PROPERTY OWNER:

The Zoning Board of Appeals in acting upon variations or modifications of the Zoning Ordinance or appeals from action taken by the Zoning Administrator or Development Coordinator, hears all such cases at public hearings at which neighboring property owners and other interested persons have a right to be heard.

If the appeal, as stated below is thought by you to be objectionable, you will have an opportunity to fully express your objection.

If it is inconvenient to appear at the hearing, file your objection by letter to the address below:

**Georgetown County Zoning Board of Appeals
129 Screven Street
Georgetown, SC 29440**

Or e-mail at: larmstrong@gtcounty.org

This letter notifies you that the matter stated below will be heard at a public hearing by the Zoning Board of Appeals. The hearing will be held in the **Town of Pawleys Island Town Hall** at **321 Myrtle Avenue** in **Pawleys Island**.

TIME & DATE OF HEARING: **October 27th, 2022 @ 3:30p.m.**

CASE NUMBER: **VAR # 2022-00022**

APPELLANT: **Evelyn Welborn Lineberger**

PROPERTY AFFECTED: **Tax Map ID: 42-0174-048-00-00
607 Myrtle Avenue
Pawleys Island, SC 29585**

SUBJECT: **A request seeking a variance to Article 3-2.2: Low Density Residential District (R-1), Section (E): Minimum Required Yards. This request involves the new construction of a single family dwelling. The residential lot is currently vacant.**

9/12/22, 12:06 PM

Town of Pawleys Island Mail - Opposition to change of zoning laws reference lot 607 Myrtle Ave, Pawleys Island, SC



Daniel O'Hara <dohara@townofpi.com>

Opposition to change of zoning laws reference lot 607 Myrtle Ave, Pawleys Island, SC

2 messages

morton cohen <molicia@icloud.com>
To: dohara@townofpi.com

Mon, Sep 12, 2022 at 11:34 AM

I am sending this email reference the public hearing of the zoning board of appeals application for lot 607 Myrtle Ave, Pawleys Island, SC.
I oppose any changes of the zoning laws reference the lot at 607 Myrtle Ave, Pawleys Island, SC.
I own the home at 601 Myrtle Ave, Pawleys Island, SC and it has been in my family since the 1950's. We have always counted on the Town of Pawleys Island to enforce the zoning code as it has been written. Thank you.
Sincerely,
Alicia Gardner Cohen
Home phone 732-536-2813
Cell phone 732-687-1977

Sent from my iPhone

Daniel O'Hara <dohara@townofpi.com>
To: morton cohen <molicia@icloud.com>

Mon, Sep 12, 2022 at 12:06 PM

Mrs. Cohen,

Received, thank you!

Respectfully,

Daniel O'Hara
Town Clerk
Town of Pawleys Island
(843) 237-1698



[Quoted text hidden]

9/14/22, 8:38 AM

Town of Pawleys Island Mail - Web Site Contact Form Submisson



Daniel O'Hara <dohara@townofpi.com>

Web Site Contact Form Submisson

1 message

Mary and Davis Arnette <forms@theimpactguys.com>
Reply-To: davisarnette@yahoo.com
To: dan.ohara@townofpi.com, dnewquist@townofpi.com

Tue, Sep 13, 2022 at 8:09 PM

Name

Mary and Davis Arnette

Email

davisarnette@yahoo.com

Phone

(864) 710-5561

Message

RE: Zoning variance request 607 Myrtle Ave.

We are strongly opposed to granting the requested setback variances for the vacant lot at 607 Myrtle Ave. The zoning ordinances are established to maintain the Arrogantly Shabby character of the Island. Simply because someone wishes to build a larger house than permitted under the existing ordinances does not give them the privilege of getting a variance that runs counter to the neighborhood. We ad our neighbors have homes that conform to ordinances, and, to have this variance granted, would adversely impact the neighborhood's character. Approving the requested variance may well set a precedent that would allow numerous additional variances, further adversely impacting the Arrog antly Shabby character of Pawleys.

There does not appear to be a reasonable basis for granting this requested variance.

Please decline this requested setback variance.

Sincerely,

Mary and Davis Arnette

[612 Scarborough Ave.](#)

Pawleys Island, SC

9/13/22, 8:30 AM

Town of Pawleys Island Mail - Public hearing on zoning variance proposal



Daniel O'Hara <dohara@townofpi.com>

Public hearing on zoning variance proposal

2 messages

H Ronald Tanner <ronny@handandtanner.com>

Mon, Sep 12, 2022 at 10:57 PM

To: "dohara@townofpi.com" <dohara@townofpi.com>

Cc: H Ronald Tanner <ronny@handandtanner.com>, Melanie Tanner <randmtanner@yahoo.com>, Tim Monahan <tmonahansr@gmail.com>

Members of the zoning board of appeals,

Our family owns property in the Birds Nest area of Pawleys Island, specifically [619 Doyle Avenue](#), and has for over 60 years.

We are opposed to the variance and feel this would have an impact on the surrounding marsh areas of the island.

We actually rented the home that sat on this property ,Sammy's Shack, for several summer vacations.

Over the years there have been too many variations allowed, with some marsh areas being filled in.

These variations should not be allowed as they impact the enjoyment of the island by others.

Thank you for your consideration and all each of you do to keep our island the way it is.

We know your job is not easy and appreciate all.

Our property is in the name of my wife Melanie M Tanner and her sister Lucy Moore Monahan.

Sincerely

H. Ronald Tanner

HAND & TANNER FINANCIAL GROUP, INC.

39 Professional Village Circle

Beaufort, SC 29907

[843-524-6310](tel:843-524-6310)

fax: [843-525-1636](tel:843-525-1636)

www.handandtanner.com

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9/13/22, 8:30 AM

Town of Pawleys Island Mail - Public hearing on zoning variance proposal

☒ TLS encrypted by Smarsh Business Solutions

Daniel O'Hara <dohara@townofpi.com>
To: H Ronald Tanner <ronny@handandtanner.com>

Tue, Sep 13, 2022 at 8:30 AM

Good Morning,

Thank you for the information. I will pass it along to the board.

Respectfully,

Daniel O'Hara
Town Clerk
Town of Pawleys Island
(843) 237-1698



[Quoted text hidden]



TOWN OF PAWLEYS ISLAND ZONING BOARD OF APPEALS MINUTES

Town Hall – Conference Room | 323 Myrtle Ave | Pawleys Island SC 29585
6-13-2022 – 5:00 pm

PRESENT: Harold Wyatt, Heide Johnson, Matt Ellis, Peter Fawcett, Byron York

ABSENT: None

STAFF PRESENT: Daniel O'Hara (Town Clerk), Woody Durant (Attorney), Kristal Infinger (Georgetown County Zoning Administrator), and LaShawna Armstrong (Acting Secretary).

1. DETERMINATION OF A QUORUM – AGENDA

A. Chairman Harold Wyatt called the meeting to order at 3:30.

2. APPROVAL OF MINUTES

A. 06-08-22 MINUTES

I. Chairman Wyatt approved the minutes with no additions or changes.

3. NEW BUSINESS

A. A request from Evelyn Welborn Lineberger for a variance to Article 3-2.2: Low-Density Residential District (R-1), Section (E): Minimum Required Yards. This request involves the new construction of a single-family dwelling. The residential lot is currently vacant. The property is located at 607 Myrtle Avenue in Pawleys Island. Tax Map Number 42-0174-048-00-00. VAR2022-00022.

I. Chairman Wyatt asked Kristal Infinger to present the request to the board. Kristal stated that the applicant has requested a variance to the front setback requirement and the salt water critical line setback to construct a single-family dwelling. The property was purchased by the applicant in 2016. The current lot is vacant, and the previous home was demolished before 2010. The property is zoned R-1 (Low-Density Residential), which requires a 20-foot front setback and a 10-foot setback from the salt marsh critical line established by OCRM. The lot backs up to an unconstructed area for an extension of Scarborough Avenue which is marshland. A letter from the previous Town Administrator in 2016 stated that the lot was buildable. The applicant is requesting a variance lowering the lot front setback to 10 feet and the rear setback to the salt marsh critical line setback to 0 feet. The current setbacks limit the buildable area of the lot to 50%, per the applicant and the size of the proposed home is underdetermined at this time. But it will have to meet all the requirements of the building and design code enforced by the Town. Kristal stated the following points regarding the lot for the board to consider: There are extraordinary and exceptional conditions pertaining

to the piece of property. Citing an oddly shaped lot and the OCRM survey showed that the marsh had migrated forward on the lot. The conditions of this parcel do not generally apply to the surrounding parcels. Citing other lots surrounding the parcel contains more buildable space. The application of the ordinance would effectively prohibit or unreasonably restrict the use of this parcel. Citing the enforcement of the front and salt marsh critical line setback limits the buildable area by 50%. The authorization of this variance request would not be a substantial detriment to the adjacent property owners or the public good. Citing that the front variance is minimal and the variance to the salt marsh would not encroach on the critical area. Chairman Wyatt asked if the applicant would be able to build all the way to the unconstructed line of Scarborough Ave. Kristal Infinger stated that the critical line would prohibit the construction up to Scarborough Ave. Noting that the critical line has since moved forward since the letter came from Ryan Fabbri in 2016. After a brief clarification of the variance request Chairman Wyatt asked if there was anyone who would like to speak on behalf of the applicant. Jamie Beard the realtor representing the applicant in the sale of the property stated that he has been involved in the process more recently. Jaime stated that when he spoke to OCRM they stated that they had no issue with the construction going up to the critical line. Stating that the home would be on pilings and would not impede the marsh habitat. Jamie mentioned that if granted, the variances requested would not be a disturbance to a neighbor as the lot is surrounded by marsh. Stating that the new critical line has placed an undue hardship on the lot and potential new home. Jamie finished by adding that the front variance would be required for just one corner of the home. The board asked Jamie several questions regarding the request. Jamie went into a further explanation of the unusual circumstances of the lot and the surrounding parcels. The board had no decision or votes from the discussion with Jamie. Byron York questioned Jamie regarding his role in the representation of the owner and ask about the potential purchaser of the property. Jamie stated that the property has been under contract during this waiting period and that the result of the variance would have an impact on the sale of the property. Brian Darr the prospective buyer spoke to the board regarding the buildable area of the lot. Brian stated that with the current constraints he would not be able to build an acceptable house to the Town's standards. Byron asked whether the

Town had granted variances on the front and salt marsh critical line setback in the past. Kristal stated that the Town had granted variances on the front setback but in her three years working with the Town she stated that she had not experienced a variance for the salt marsh critical line. Brian explained to the board that he is wanting to build a home for his family and that his home would not be larger than 3,000 square feet. Matt Ellis asked if the variance was given, and if would they be able to petition OCRM on the critical line survey. The applicant party stated that they were unsure if they would be able petition it. Harold Wyatt asked for a motion to step into the executive session to confer with legal counsel. Heide Johnson started the motion; Peter Fawcett seconded the motion to move into executive session.

II. Executive Session - S.C. Code 1976, 30-4-70(a)(2)

- a. Discussion of negotiations incident to proposed contractual arrangements and proposed sale or purchase of property, the receipt of legal advice where the legal advice relates to a pending, threatened, or potential claim or other matters covered by the attorney-client privilege, settlement of legal claims, or the position of the public agency in other adversary situations involving the assertion against the agency of a claim.

- i. Harold Wyatt requested a motion to step out of the executive session. Heide Johnson made the motion to step out of the executive session. Peter Fawcett seconded the motion. All voted in favor.
- ii. Chairman Wyatt asked if the applicant would like to share or provide any comments on the matter. Brian Darr the prospective purchaser of the property asked to clarify the variance that Ryan Fabbri had mentioned in the original letter in 2016. Daniel O'Hara stated that the variance Ryan had mentioned in the letter was to the unconstructed Scarborough Ave, not the critical line. Kristal Infinger stated that she never had evidence of that variance or that it was ever granted to the owner of the lot. Harold Wyatt requested a motion to approve or disapprove the variance or defer for more information. Byron York requested to defer the decision for more information. Peter Fawcett seconded the motion to differ. All voted in favor. Kristal

Infinger asked for the board to elaborate on the information they would like to receive. Byron York stated the first request was they would like to see an appeal to OCRM on the critical line. The second request of the board was that they should provide a drawing or schematic of the house on the lot without any variances granted and the size of the home with a variance granted.

4. **OTHER BUSINESS**

5. **ADJOURNMENT**

A. Chairman Wyatt Adjourned the meeting at 4:36 pm

APPROVED

DATE

ATTEST

DATE