

**STAFF REPORT**  
**Community Development Department**  
**Petition Number: VAR-12-008**

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**To:** The Charlotte County Board of Zoning Appeals

**From:** Shaun Cullinan, Zoning Official

**Prepared By:** Ken Quillen, AICP, Planner III

**Report Date:** July 3, 2012

**BZA meeting date:** July 11, 2012

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**Requested Action/General Information:**

Tim Bronson, agent for Judy Justice, is requesting two variances, one to reduce the required 10.83' side yard setback by 2.73' to allow an 8.1' side yard setback for an existing detached garage, and another to reduce the required 10' side yard setback by 2.5' to allow a 7.5' side yard setback for the existing principal residence,. This property is located at 4005 North Beach Road, on Manasota Key (see **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Manasota Single-family-3.5 (MSF-3.5). This property has a Low Density Residential, Future Land Use Map designation.

The applicant has submitted the attached **Boundary Survey** (**Exhibit A**), which shows the existing one-story two-family residence and detached garage on this 17,100 square foot lot. This survey shows the location and setbacks of these existing structures including the 8.1' setback for the existing garage and 7.5' setback for the existing one-story two-family residence as they are currently located.

The applicant would like to construct a second story on the garage to be used for storage and as an observation platform. The applicant has submitted the attached **Floor Plan** (**Exhibit B**) along with **Elevation Drawings** (**Exhibit C**) showing the proposed new second floor above the garage. A building permit cannot be issued for an addition to the garage because it does not meet the 10' setback requirement of the Manasota Key Code. As such, the owners are requesting a variance for the existing garage to allow an addition, which will comply with all setback requirements of code.

Section 3-9-53(f)(8) of the Zoning Code requires a minimum lot width of 80', lot area of 12,445 square feet, and side yard setbacks of 10' for properties located in the MSF-3.5 zoning district. This lot is conforming with regard to minimum lot width and area. If this requested variance is approved to bring the existing residence and detached garage into conformity with code then the owners intend to construct the new addition according to all the existing requirements of code.

The applicant has submitted the attached **Narrative** (**Exhibit D**) explaining why the applicant believes this request for a variance should be granted. An Environmental Specialist has performed a cursory environmental review and their comments are in the attached **Memorandum** (**Exhibit E**) dated June 13, 2012. The Manasota and Sandpiper Key Architectural Review Committee met on June 6, 2012, and recommended approval of this requested variance (see attached **Exhibit F**).

**Findings: The seven standards for approval of a Variance according to Section 3-9-6.1(d) of the Charlotte County Zoning Code are as follows:**

1. Unique or peculiar conditions or circumstances exist which relate to the location, size and characteristics of the land or structure involved and are not generally applicable to other lands or structures.

Finding: The existing residence was constructed in 1969, with a 7.5' side yard setback, and the existing detached garage was constructed in 1989, with an 8.1' side yard setback. These structures conformed to the Zoning Code in existence at that time. The Manasota Key Zoning District Overlay Code, adopted in 2005, resulted in the creation of these non-conforming setbacks.

2. The strict and literal enforcement of the Zoning Regulations would create an undue hardship as distinguished from a mere inconvenience on the property owners. Physical handicaps or disability of the applicant may be considered where relevant to the request.

Finding: The strict and literal enforcement of the Zoning Code would create an undue hardship because; it would prevent any addition to the existing structures, even if the proposed addition is in complete conformity with the Zoning Code.

3. The variance requested does not involve any use, which is prohibited in the district where the property is located.

Finding: The variance request is to allow an addition to an existing detached garage, which is a permitted accessory structure in the MSF-3.5 zoning district.

4. The granting of a variance would not be injurious to or incompatible with contiguous uses, the surrounding neighborhood or otherwise detrimental to the public welfare.

Finding: Because the proposed addition will comply with all applicable County Codes, the granting of the requested variance would not be considered injurious or incompatible with the adjacent residential uses.

5. The condition giving rise to the requested variance has not been created by any person presently having an interest in the property and the conditions cannot reasonably be corrected or avoided by the applicant.

Finding: The conditions given rise to the requested variance have not been created by the current owner, who purchased this property, as is, in 2011. The existing conditions cannot reasonably be corrected or avoided by the applicant.

6. The requested variance is the minimum modification of the regulation at issue that will afford relief.

Finding: The requested variance is the minimum modification that will afford relief because the variance is to bring the existing non-conforming side yard setbacks into conformity with code.

7. The requested variance is consistent with the **Smart Charlotte 2050 Plan** (Charlotte County Comprehensive Plan).

Finding: **Objective 1.4** of the **Future Land Use Element**, which is titled "**Protection of Private Property Rights**" proposes to: "recognize and respect existing private property rights, ... and to consider such rights and the impact upon them when preparing recommendations for land use decisions." Staff believes that the variance request may be considered consistent with this objective in the **Smart Charlotte 2050 Plan**.

**ANALYSIS AND CONCLUSIONS:**

After review of the site and the application requesting two variances to reduce the required side yard setbacks, staff believes that the requested variances do meet all seven criteria for granting the variances.

If the Board of Zoning Appeals decides to approve the requested variances staff recommends the following conditions be adopted, as conditions of approval, to ensure that this development is in compliance with the purpose and intent of the Zoning Code.

The recommended condition(s) are as follows:

1. The first variance, as approved by the Board of Zoning Appeals, is to reduce the required 10' side yard setback by 2.5' to allow a 7.5' side yard setback, for the existing residence.
2. The second variance, as approved by the Board of Zoning Appeals, is to reduce the required 10.83' side yard setback by 2.73' to allow an 8.1' side yard setback for an existing detached garage.
3. All future development must be constructed according to all applicable codes in existence at that time, unless a variance is granted specific to the development proposed at that time.

**Please be advised that the final decision regarding the petition rests with the Board of Zoning Appeals, and will be decided upon consideration of all the evidence introduced at the hearing.**

Attachments: Staff Report (3), Location Map, Zoning Map, Aerial Photo, Boundary Survey, Floor Plan, Elevation Drawings (4), Narrative (2), Environmental Specialist Memorandum (2) and Manasota Key Recommendation



Community Development

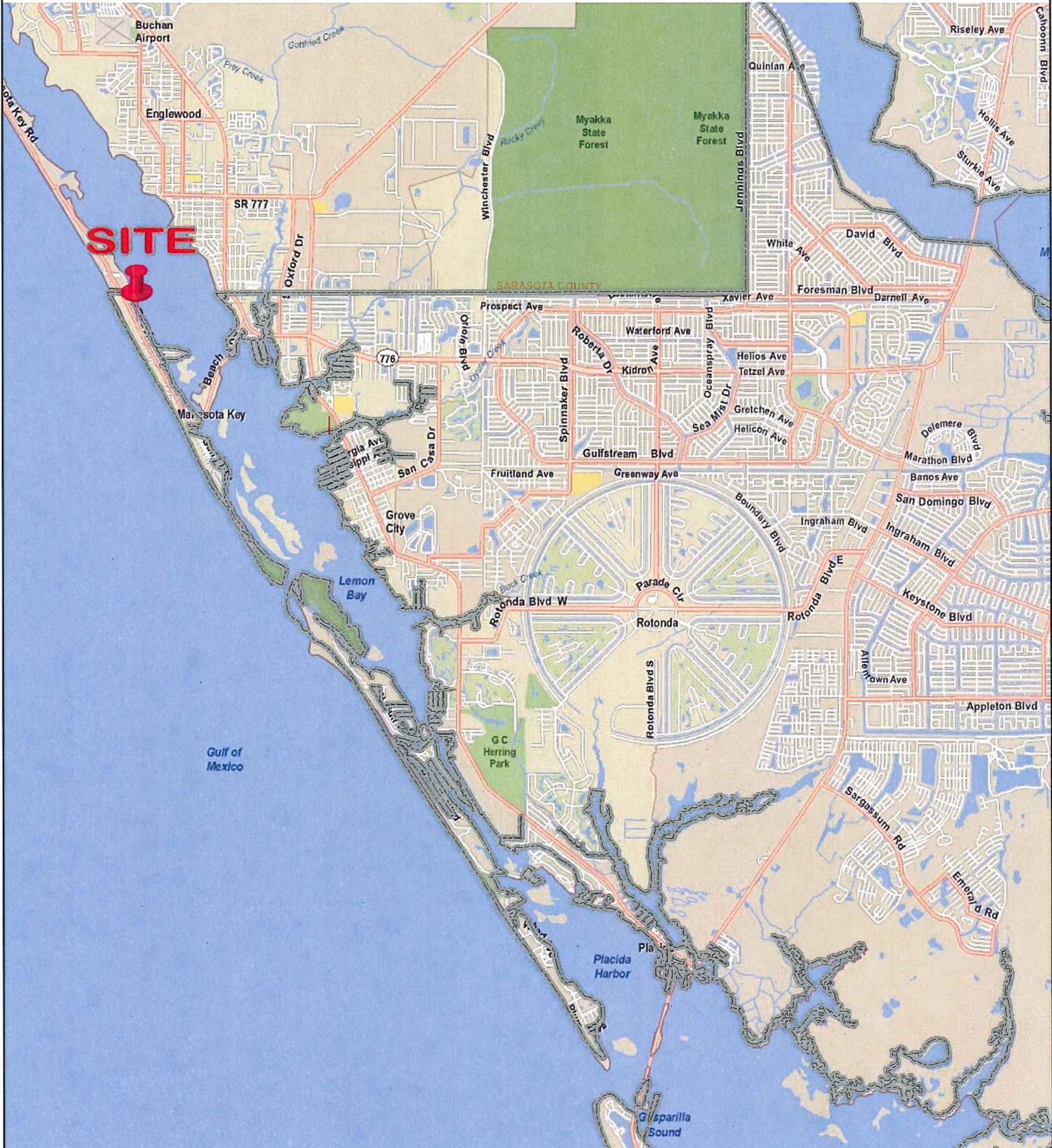
# CHARLOTTE COUNTY

## Location Map for VAR-12-008

Charlotte County Government

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### 01/41/19 West County

This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise, to the accuracy, or completeness. We therefore do not accept any responsibilities as to its use. This is not a survey or is to be used for design. Reflected Dimensions are for Informational purposes only and may have been rounded to the nearest tenth. For precise dimensions, please refer to recorded plats and related documents. Created By: Land Information--D. Vance Date Saved: 6/22/2012 10:03:07 AM  
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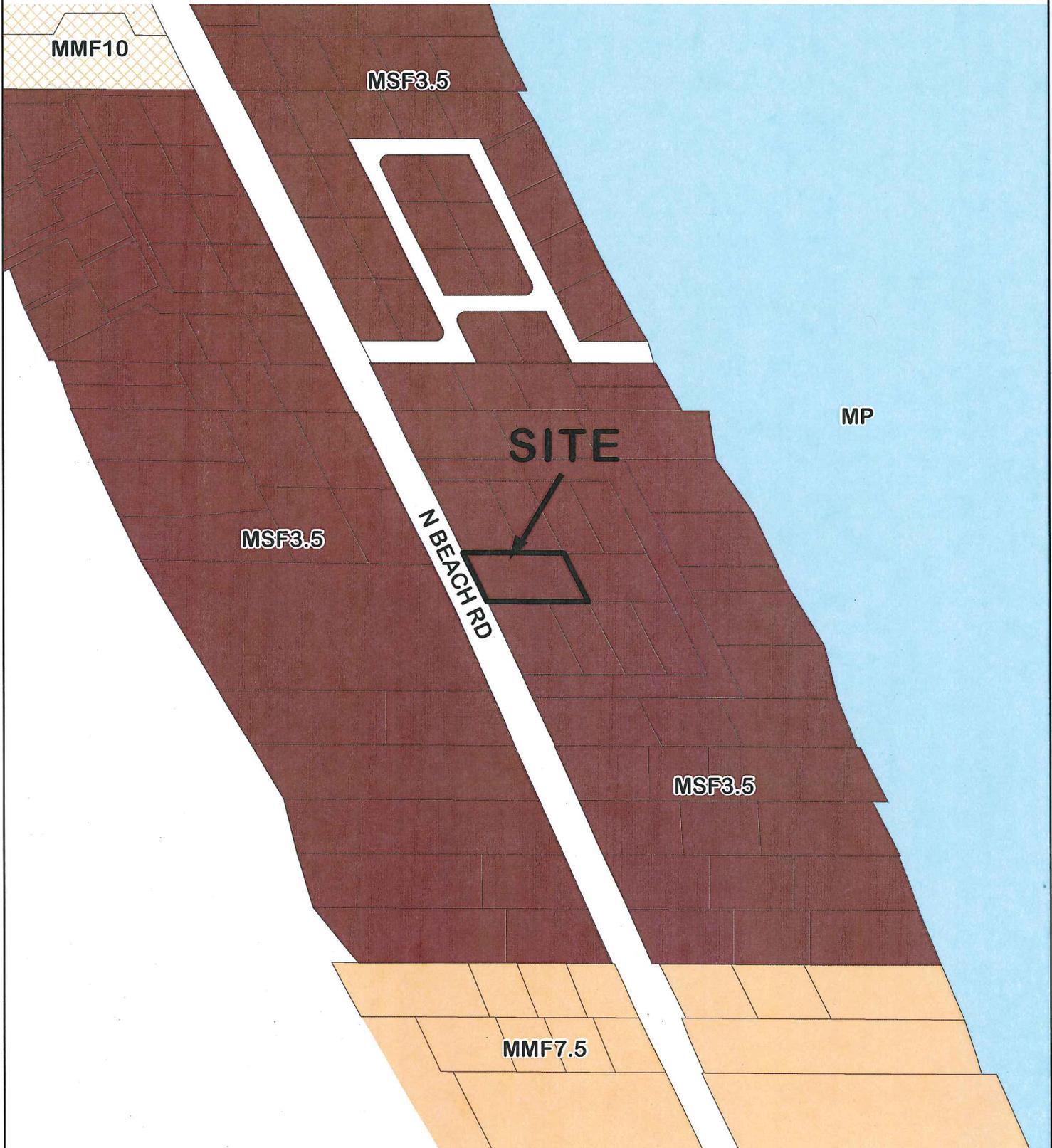
Community Development

# CHARLOTTE COUNTY Zoning Map for VAR-12-008

Charlotte County Government

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01/41/19 West County

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Community Development

# CHARLOTTE COUNTY

## Aerial View for VAR-12-008

Charlotte County Government

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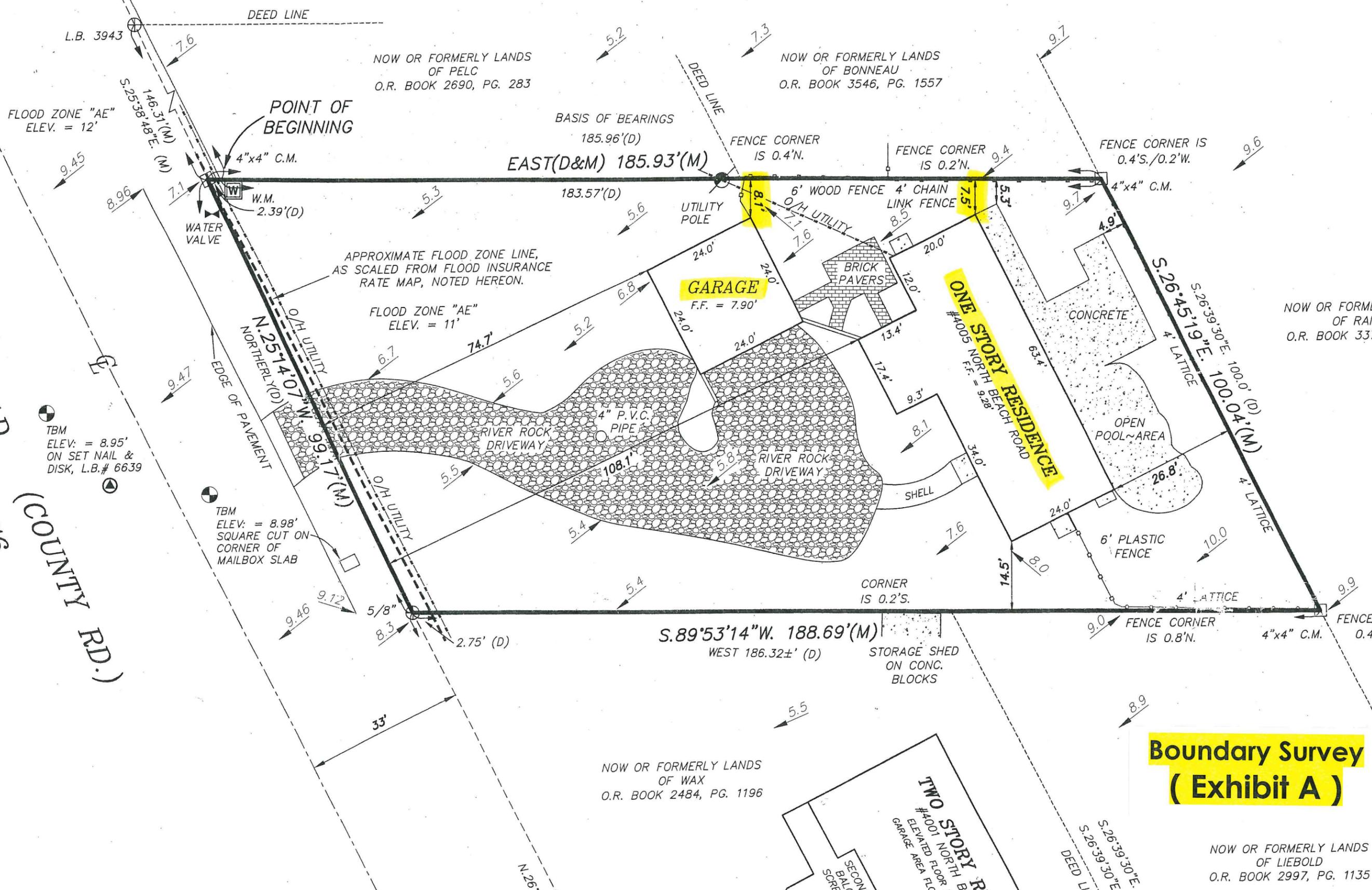
This map is a representation of compiled public information. It is believed to be an accurate and true depiction for the stated purpose, but Charlotte County and its employees make no guaranties, implied or otherwise, to the accuracy, or completeness. We therefore do not accept any responsibilities as to its use. This is not a survey or is it to be used for design. Reflected Dimensions are for Informational purposes only and may have been rounded to the nearest tenth. For precise dimensions, please refer to recorded plats and related documents. Created By: Land Information--D. Vance Date Saved: 6/26/2012 12:01:12 PM  
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**NORTH BEACH ROAD**  
**STATE ROAD 776**  
**(COUNTY RD.)**  
(66' PUBLIC R/W N 34' PAVED)



**Boundary Survey**  
**(Exhibit A)**

FLOOD ZONE "AE"  
ELEV. = 12'

APPROXIMATE FLOOD ZONE LINE,  
AS SCALED FROM FLOOD INSURANCE  
RATE MAP, NOTED HEREON.

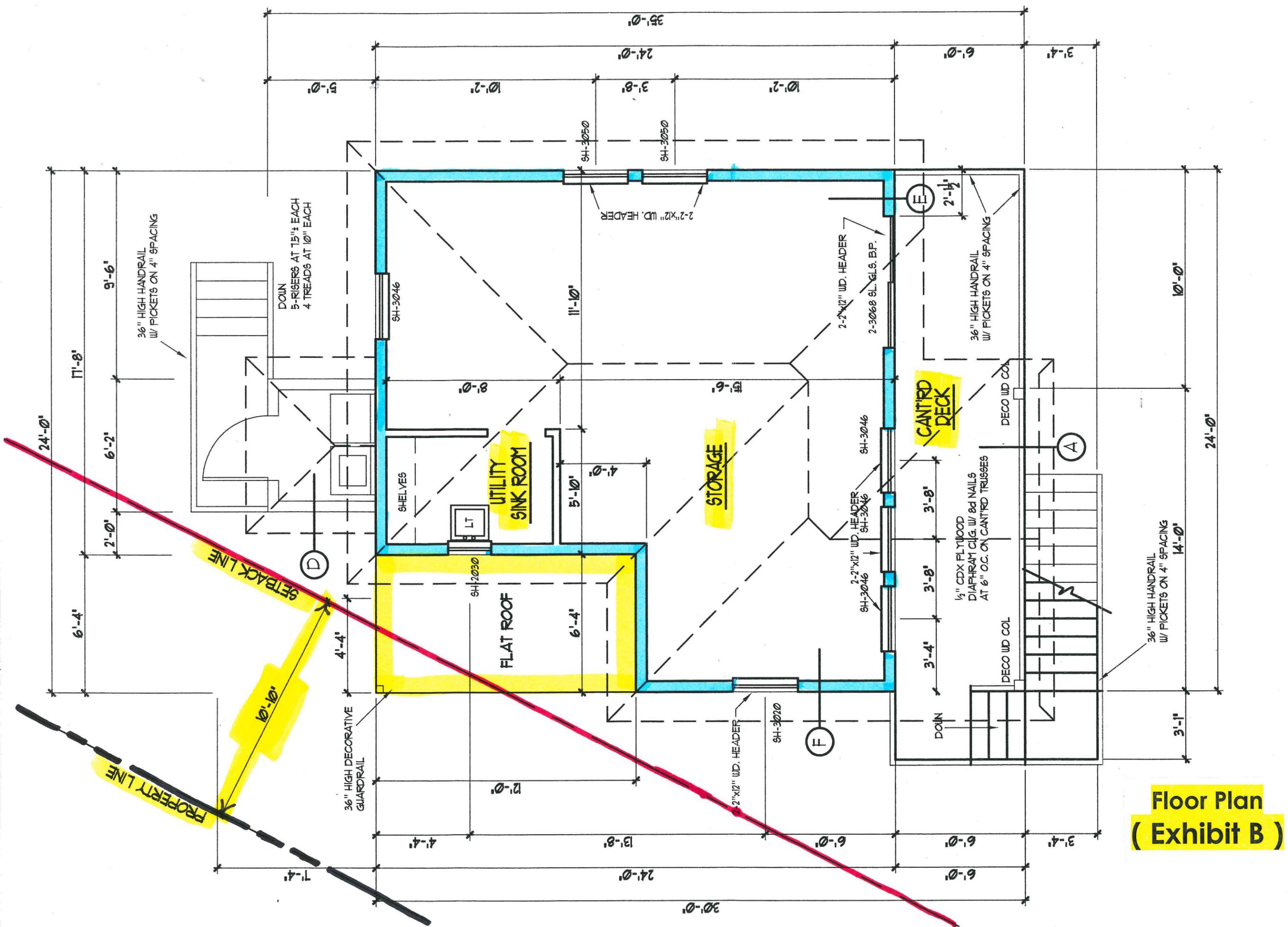
FLOOD ZONE "AE"  
ELEV. = 11'

TBM  
ELEV. = 8.95'  
ON SET NAIL &  
DISK, L.B.# 6639

TBM  
ELEV. = 8.98'  
SQUARE CUT ON  
CORNER OF  
MAILBOX SLAB

NOW OR FORMERLY LANDS  
OF WAX  
O.R. BOOK 2484, PG. 1196

NOW OR FORMERLY LANDS  
OF LIEBOLD  
O.R. BOOK 2997, PG. 1135



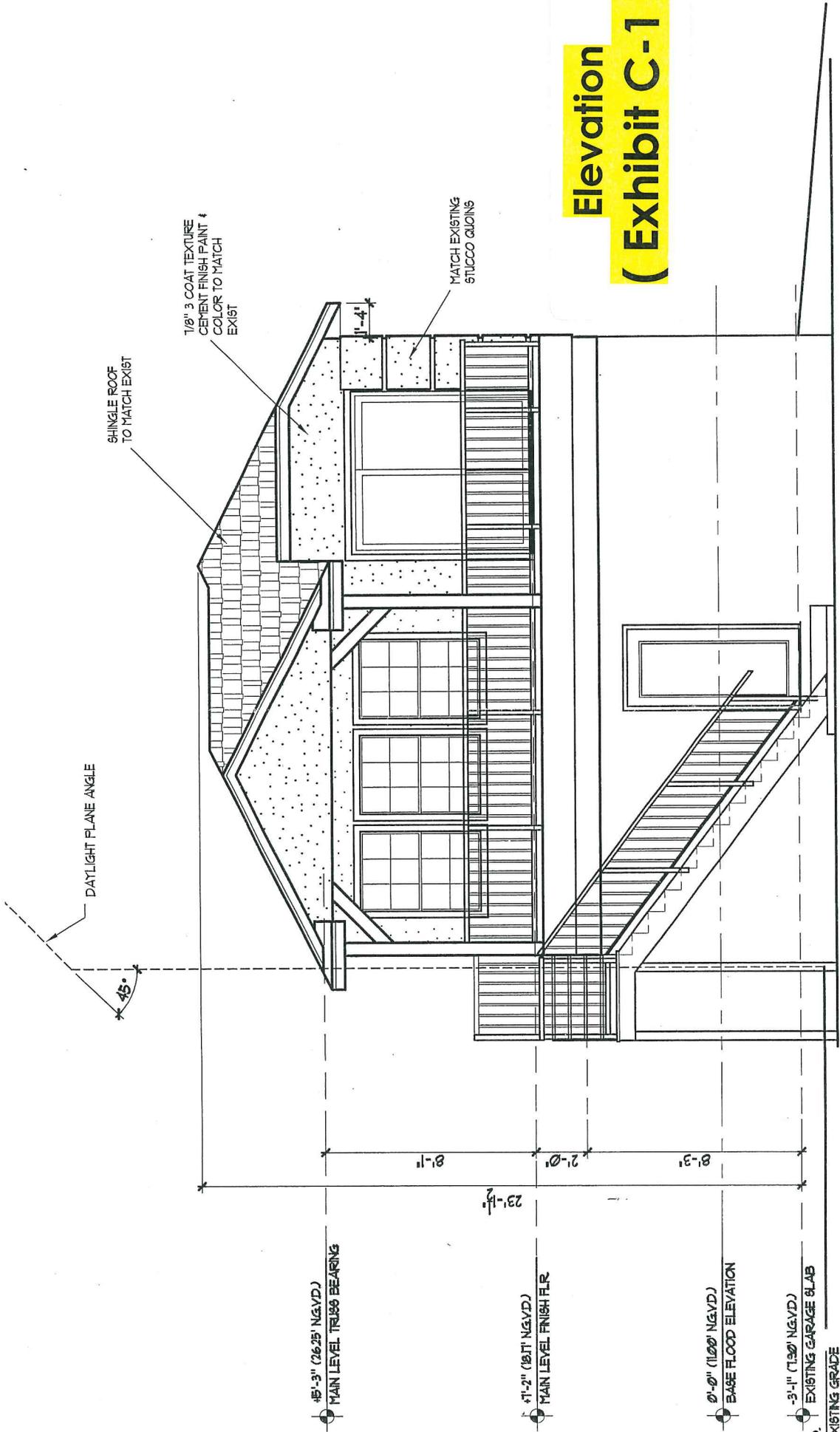
**Floor Plan  
(Exhibit B)**

**MAIN FLOOR LEVEL PLAN**

SCALE = 1/4" = 1'-0"

REV: 5-14-12

REMODEL FOR:  
 UEBELHOER & JUSTICE  
 4005 NORTH BEACH ROAD

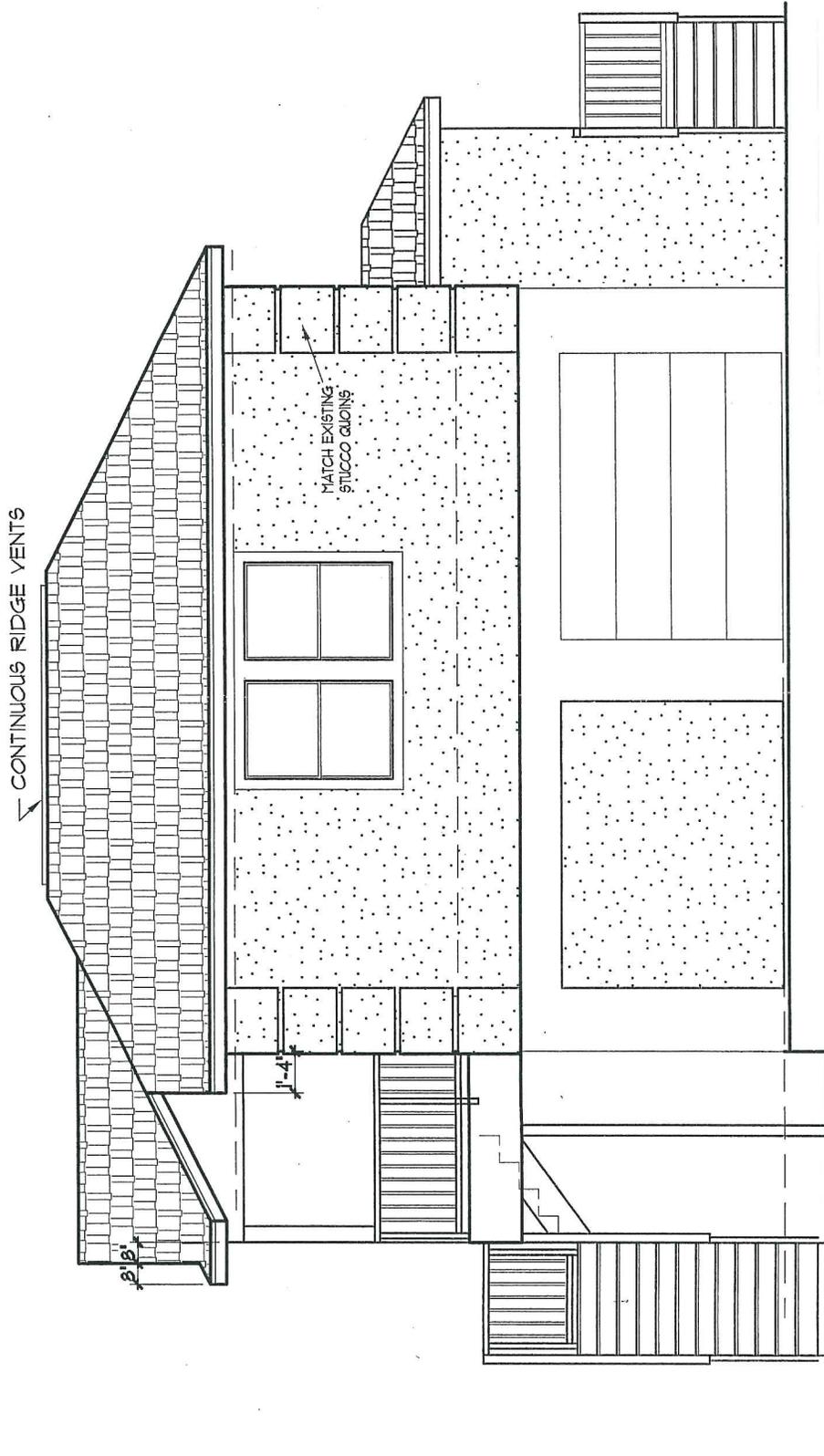


**Elevation  
( Exhibit C-1 )**

REMODEL FOR:  
 REBELHOER & JUSTICE  
 4005 NORTH BEACH ROAD

**WEST ELEVATION**

SCALE = 1/4" = 1'-0"

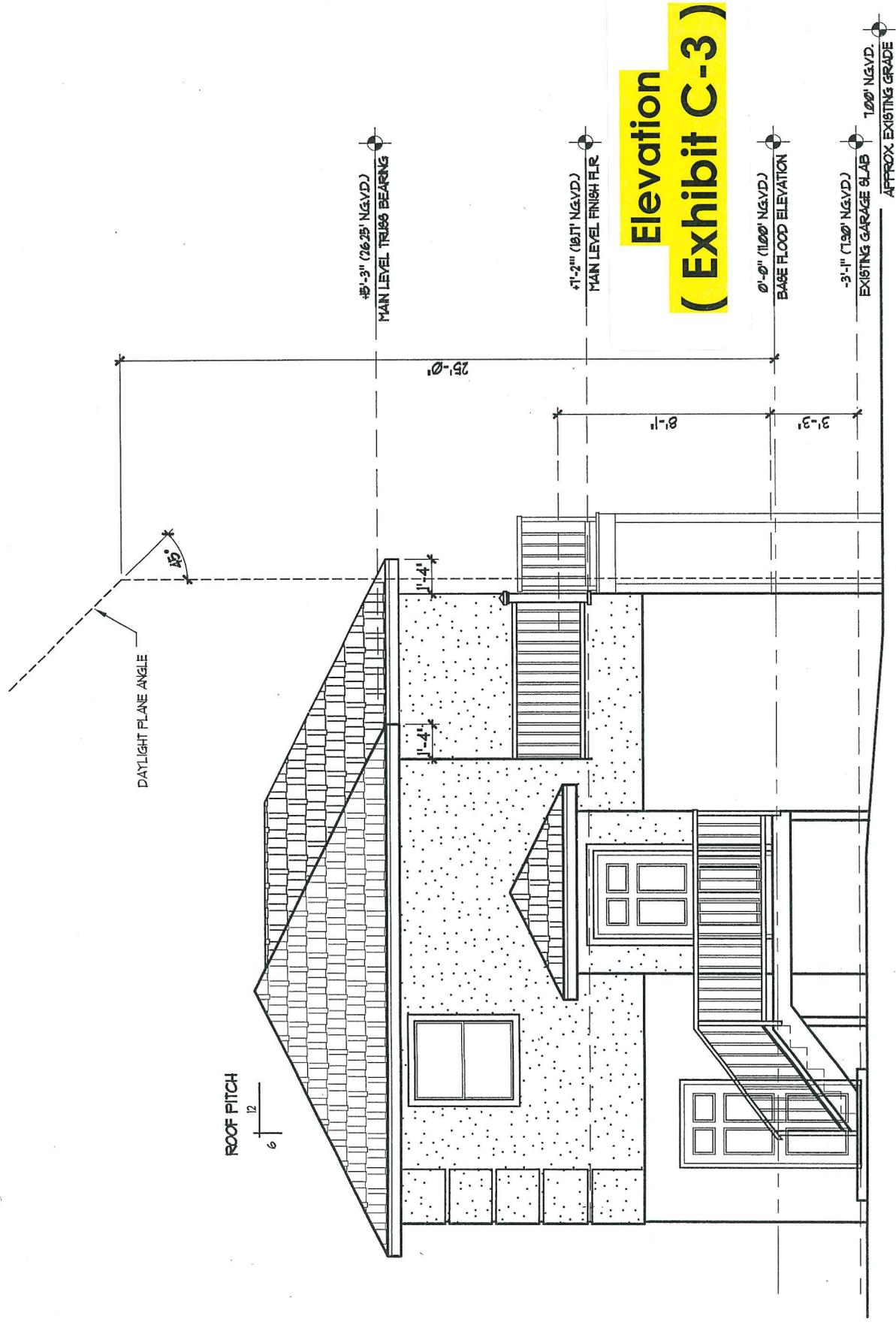


**Elevation  
( Exhibit C-2 )**

**SOUTH ELEVATION**

SCALE = 1/4" = 1'-0"

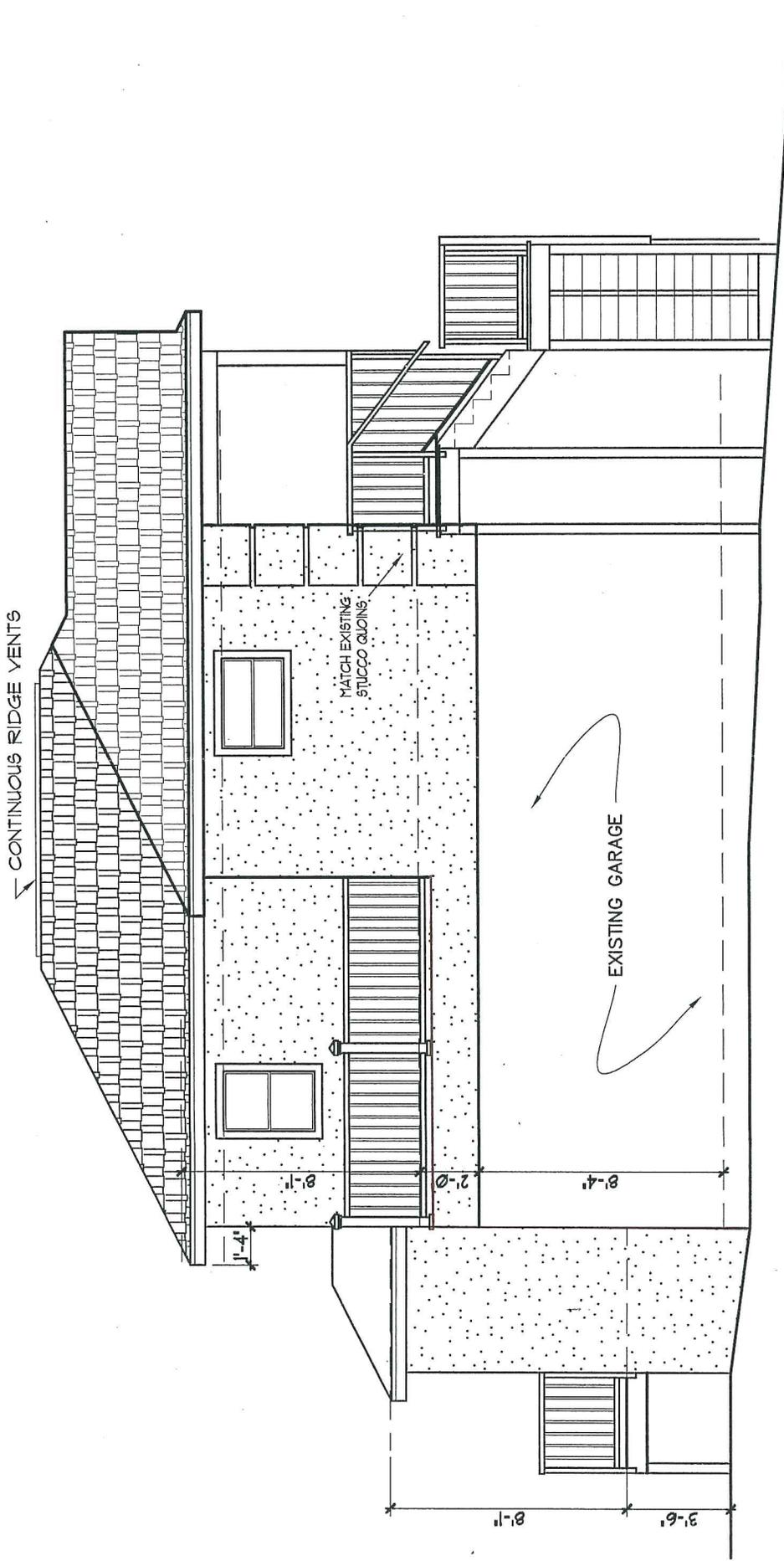
REMODEL FOR:  
 REBELHOER & JUSTICE  
 4005 NORTH BEACH ROAD



**Elevation**  
**( Exhibit C-3 )**

REMODEL FOR:  
REBELHOER & JUSTICE  
4005 NORTH BEACH ROAD

**EAST ELEVATION**  
SCALE = 1/4" = 1'-0"



**Elevation  
( Exhibit C-4 )**

**NORTH ELEVATION**

SCALE = 1/4" = 1'-0"

REMODEL FOR:  
 REBELHOER & JUSTICE  
 4005 NORTH BEACH ROAD

# EIFFEL HOMES



State Licensed & Insured CBC1257819  
Construction & Development, Inc.  
6945 Sunnybrook Blvd. - Englewood, FL 34224  
(941) 661-5591

May 14, 2012

To: Charlotte County Board of Zoning Appeals

Re: Request for Variance

Subject Property: 4005 N. Beach Rd. – Englewood, FL  
Parcel ID: 411901154005  
Legal Description: ZZZ 014119 P6-8

To Whom It May Concern:

We wish to extend a warm “Thank you” to all the board members reviewing this application and we greatly appreciate your time and consideration in this matter.

The proposed project includes the construction of un-air conditioned storage space above an existing detached garage structure, the addition of a 6’-0” cantilevered deck with stair access off the front West wall, partially cantilevered roof above and a new 40 sq. ft. laundry room off the East wall. (See attached plans)

The proposed project “would **not** be injurious to or incompatible with contiguous uses, the surrounding neighborhood or otherwise detrimental to the public welfare”, the conditions do however pose a “hardship” with regards to existing setbacks and a finished floor elevation of 8’-1” or 37” below **Base Flood Elevation** which is preventing the current owners from making improvements and correcting inadequacies that existed prior to the purchase of this property.

The previous owners had installed a washer and dryer within the garage for both dwellings to utilize, however due to “Base Flood Elevation” requirements for plumbing and electrical these items can no longer be located within the garage, therefore the current owners wish to fix this inadequacy and locate those facilities to a separate space off the East Wall and elevate it to the proper level for plumbing. (See attached plans)

Today’s single family dwelling are designed with a minimum 400 sq. ft. garage, with 260 sq. ft. of that space allotted for a vehicle and access to that vehicle with the remaining 140 sq. ft. for items other than a vehicle. That equates to 65% of the space for a vehicle and 35% of the space reserved for misc. items.

The existing detached garage has a total footprint of 576 sq. ft., less 8 inch wall thickness leaves 514 actual square feet, shared by 2 dwellings, totaling 257 sq. ft per dwelling. As indicated above, 260 sq. ft. is utilized for a vehicle leaving no reserve or misc. storage available. The owners wish to correct this inadequacy and improve storage conditions by going up with the structure which will maximize storage and place it safely above B.F.E..

As indicated on the survey the existing garage structure was oriented approximately 30 degrees off angle from the Northern Property Line leaving just one corner located 8'-1" from the property line, which at the time this structure was built was compliant, however this setback is no longer in line with current setback requirements and poses more than a "mere inconvenience".

The addition of a new cantilevered deck w/stairs and partial roof above off the front West wall serves as both an aesthetic feature as well as a function of safety. The addition of a laundry room constructed off the East wall of the detached garage will serve as laundry facilities for the occupants of the main dwellings and would be constructed with 100% compliance with regards to setback and applicable codes. The new un-air conditioned storage area above will provide ample and protective storage of personal items while remaining compliant with "contiguous uses".

The existing detached garage will be brought up to code including installation of flood vents, any structural requirements determined by the architect or engineer of record and some minor electrical improvements. This proposed project is also designed to meet the Manasota and Sandpiper Key Architectural Review standards as stated in Sec. 3-9-53 (u) of the Charlotte County Municode. The entire project will be constructed with like or similar materials and colors as existing structures on the property.

On behalf of the owners, I respectfully ask that based on the project information provided and the hardships identified that we be allowed to permit, construct, correct and make improvements to this structure while maintaining existing setbacks and Code compliance with Charlotte County and the Manasota and Sandpiper Key Review Standards.

Thank you;



Tim Bronson  
(Contractor)

**Narrative**  
**( Exhibit D-2 )**



## MEMORANDUM

**Date:** June 13, 2012  
**To:** Ken Quillen, Planner III  
**From:** Jamie Scudera, Environmental Specialist  
**Subject:** VAR-12-008  
Justice Setback Variance  
4005 North Beach Road

The Zoning Environmental Review Section has conducted a cursory review (additional wildlife or environmental reviews may be required by state and/or federal agencies) of the above referenced petition for compliance with Environmental, Tree and Landscaping codes/ordinances and offers the following comments:

- ❖ A GIS aerial and preliminary environmental review was conducted by staff. The property consists of a developed residence on a highly sensitive coastal island community. Due to the fact that the property is located in an environmentally sensitive area, there is a probability of listed species occurrence on site. A listed species assessment will be completed during the development/permit review process. Staff also highly encourages that all native trees remain preserved on site and that all exotic vegetation be removed once the building permit has been issued.

If this petition is approved, the following conditions will be reviewed for compliance upon Site Plan Review (if required) and the issuance of any county permit or land improvement activities:

- ❖ All applicable county, state and federal authorization/permits, and mitigation (if necessary) will be required.

**( Exhibit E-1 )**

- ❖ If this proposal moves forward, it will be reviewed for compliance with:

Chapter 3-2:

Article IX. *TREE REQUIREMENTS\**

\*\*All heritage trees (per Section 3-2-190) must remain preserved.

Chapter 3-5:

Article IV *CLEARING, FILLING AND SOIL CONSERVATION\**,

Article XVIII, *LANDSCAPING AND BUFFERS\**

- ❖ The project must also comply with the Charlotte County Smart Charlotte 2050 Comprehensive Plan.

If there are any questions pertaining to this review please feel free to contact me at (941) 743-1290.

JS

**( Exhibit E-2 )**



# Community Development Department

## Zoning Division

18400 Murdock Circle, Port Charlotte, FL 33948-1094  
Phone: (941) 743-1956 or (941) 743-1964 / Fax: (941) 743-1598

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### Variance - Application

Manasota/Sandpiper Key Architectural  
Committee Submitted Plans

Recommendation to:

Approve  Deny

Incomplete applications will not be accepted.

Wayne Largent

Date 6-6-12

Signed: Wayne Largent

File #: VAR-12-008 Invoice #: 94575 Comments: \_\_\_\_\_  
 Date Submitted: May 18, 2012 Date of BZA Meeting: July 11, 2012  
 Code M-ZONVAR (Office use only)

related to existing structures only

1. Name of Applicant: Tim Bronson w/Eiffel Homes Construction & Dev.  
6945 SunnyBrook Blvd. Englewood, FL 34224  
 (Address) (City) (State) (Zip + four)  
941-661-5591 / 941-474-8000 / timbronson@live.com  
 (Phone Number) (Fax Number) (E-mail Address)

2. Name of Local Agent: \_\_\_\_\_  
 \_\_\_\_\_  
 (Address) (City) (State) (Zip + four)  
 \_\_\_\_\_  
 (Phone Number) (Fax Number) (E-mail Address)

3. Owner(s) of Record: Jim Uebelhoer & Judy Justice  
11821 St. Joe Rd. Grabill IN 46741  
 (Address) (City) (State) (Zip + four)  
1-260-627-6276 / jimmyu77@msn.com  
 (Phone Number) (Fax Number) (E-mail Address)

4. Owners Authorization: Should an applicant not be the owner of the property, which is the subject of the request, the applicant must attach (on a separate sheet) a notarized authorization giving the applicant the right to apply for the special exception.

5. Full Property Address: 4005 N. Beach Rd. Englewood 34223  
 (Address) (City) (Zip + four)

6. Tax ID/Parcel No.: 411901154005

7. Legal description: Lot(s): ~~ZZZ 014119 P6-8~~ Block(s): \_\_\_\_\_  
 Subdivision: \_\_\_\_\_ Unit or Sub-sec \_\_\_\_\_  
 Parcel(s) or Tract(s): P6-8

(Exhibit F)

Section(s): 01 ; Township: 41 (South); Range: 19 (East)

8. Total Land Area: (in square feet or acres) 18,612 Sq. Ft. / 0.42 Acres

9. Existing Zoning District Classification of Property: ~~RSP3.5~~ MSF-3.5

10. Existing Future Land Use Map (FLUM) Designation: Low Density Residential

(Return completed form to the Zoning Office)