

**STAFF REPORT**  
**Community Development Department**  
**Petition Number: VAR-13-004**

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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:** September 3, 2013                      **BZA meeting date:** September 11, 2013

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**Requested Action/General Information:**

Gerald Barrett, agent for Jeffery Broida, is requesting a variance of 17' to the required 25' front yard setback to allow an 8' front yard setback for an addition to an existing single-family residence. This property is located at 1491 Maryknoll Road in Englewood (see **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is *Residential Single-family-5* (RSF-5). This property has a *Low Density Residential*, Future Land Use Map designation.

Subject property is a 10,730 square foot lot, which was platted in 1961. The existing single-family residence was constructed in 1962, prior to both the 1962 and 1981 Zoning Codes. This lot exceeds the minimum lot width (70') and area (7,500 sq. ft.) requirements of the zoning code. This lot is 75' to 115' wide and 125' deep, which is 3,235 square feet larger than the standard 7,500 square foot lot. The applicant would like to construct an addition to the front of the existing residence, which does not comply with the 25' front yard setback requirement of code. As such the owner has submitted this application requesting a variance.

The applicant has submitted the attached **Boundary Survey (Exhibit A)**, which shows the existing single-family residence located on this lot, and **Site Plan (Exhibit B)**, which shows the proposed addition located in front of the existing residence. **Section 3-9-32(f) (Exhibit C)** of the Zoning Code requires a minimum 25' front yard setback. The owners would like to construct a bedroom and bathroom addition as shown on the **Proposed Floor Plan (Exhibit D)** and **Street View (Exhibit E)**, with an 8' setback from the front lot line.

This 10,730 square foot lot is larger than the standard 7,500 square foot lot in the RSF-5 zoning district. This lot does have sufficient room to the rear of the home to construct a 500 to 700 square foot addition. Staff has drawn the attached **Alternative Site Plan (Exhibit F)**, to show how this could be done. As such, there is room on subject property for an addition that complies with all setback requirements of code.

The applicant has submitted the attached **Narrative (Exhibit G)** 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 H)** dated August 23, 2013.

**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: This 10,730 square foot lot is a large, regular shaped, conforming lot, with regard to minimum lot width and area. Staff is not aware of any unique or peculiar conditions related to the characteristics of the land or residence located on this lot, which are not similar to surrounding lands or structures.

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: A strict and literal enforcement of the front yard setback for an addition would not create an undue hardship on the property owners. There are other locations on subject property where an addition could be constructed according to all the setback requirements of 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 construction of an addition to the existing single-family residence, which is a permitted use in the RSF-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: Staff is not aware of any evidence that indicates that granting of the requested variance would be injurious to, 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 giving rise to the requested variance have been created by the current owner. The addition, as proposed, could be constructed in other locations on subject property in compliance with all the setback requirements of code.

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

Finding: The requested variance, to allow an 8' front yard setback, is not the minimum modification that will afford relief. There are other locations on subject property where a similar addition could be constructed in compliance with all the required setbacks.

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 this variance request may be considered inconsistent with this objective.

## **ANALYSIS AND CONCLUSIONS:**

After review of the site and the application requesting a variance to allow construction of an addition with an 8' front yard setback, staff believes that the requested variance does not meet all seven criteria for granting a variance. Specifically standards numbered 1, 2, 5, 6 and 7 have not been met.

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

The recommended condition(s) are as follows:

1. This variance, as approved by the Board of Zoning Appeals, is to reduce the required 25' front yard setback for an addition by 17' to allow a setback of 8'.
2. This variance extends only to the addition as proposed for the existing single-family residence as it currently exists. This variance shall carry with the single-family residence only once it is constructed.
3. If the home is ever removed, destroyed or replaced, all future development must be constructed according to all applicable codes in existence at that time, unless a new 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, Site Plan, Section 3-9-32(f), Proposed Floor Plan, Street View, Alternative Site Plan, Narrative and Environmental Specialist Memorandum



Community Development

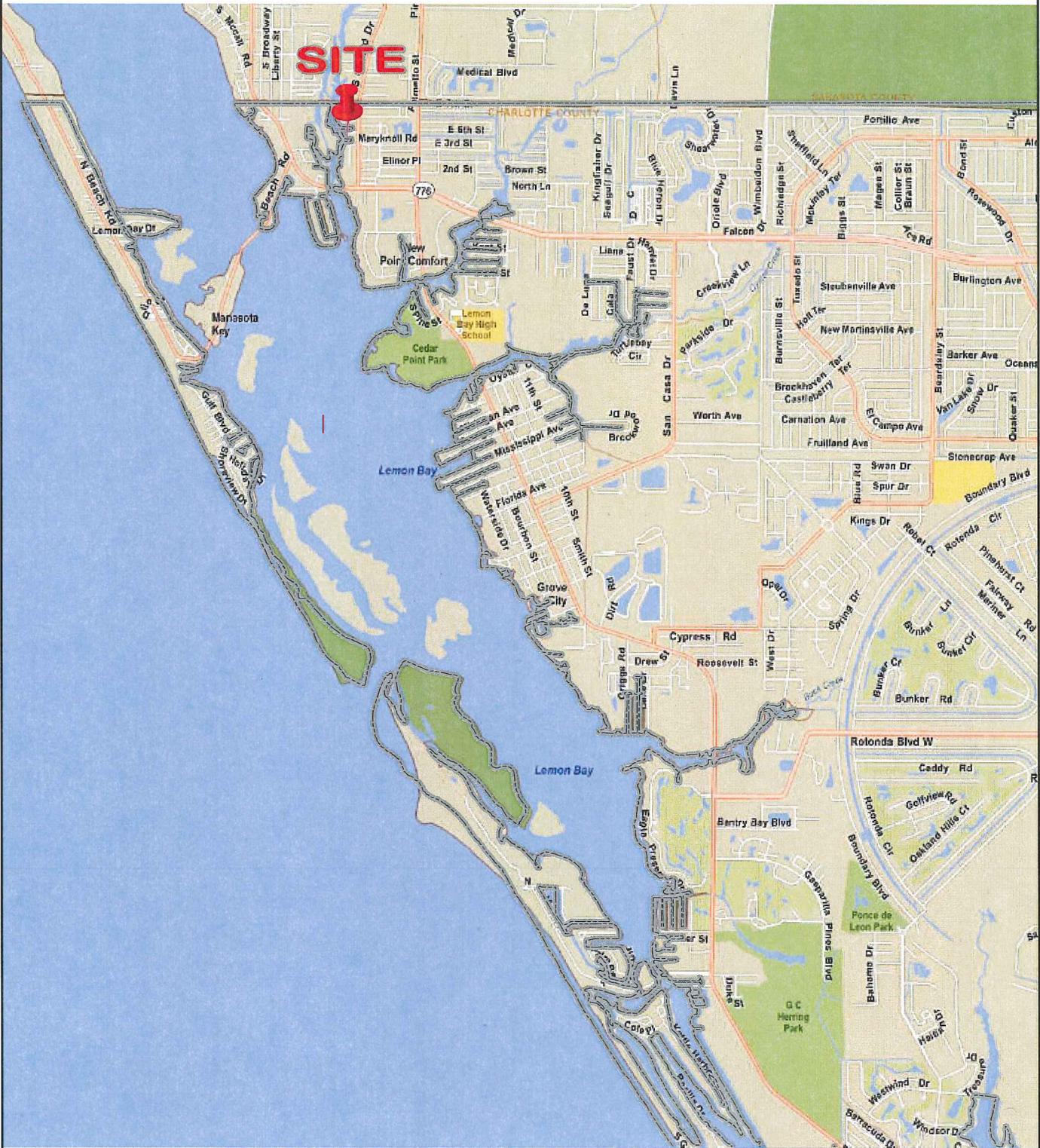
# CHARLOTTE COUNTY

## Location Map for VAR-13-004

Charlotte County Government

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### 06/41/20 West County

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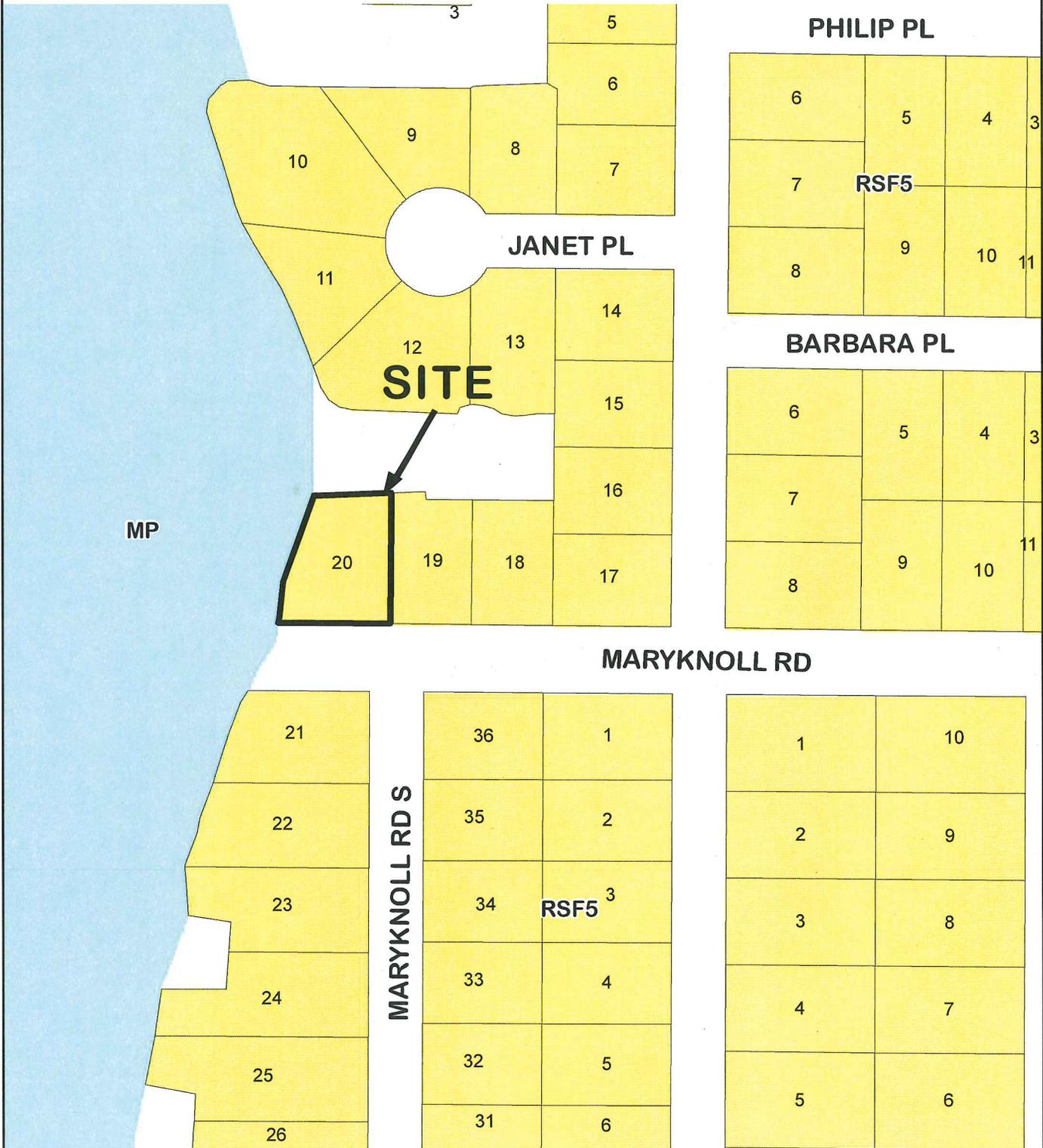
Community Development

# CHARLOTTE COUNTY Zoning Map for VAR-12-004

Charlotte County Government

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Community Development

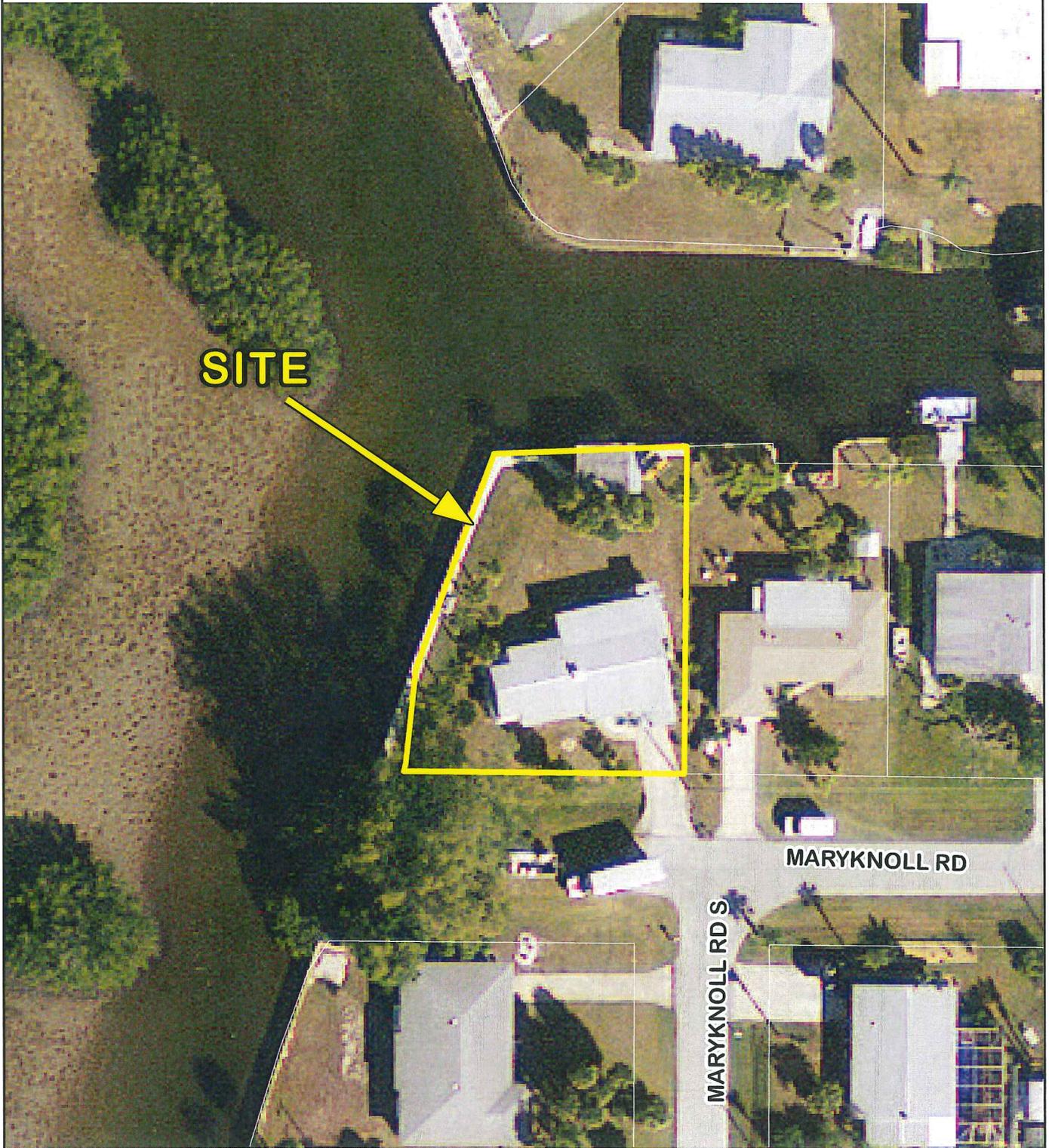
# CHARLOTTE COUNTY

*Aerial View for VAR-13-004*

Charlotte County Government

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**SITE**

**MARYKNOLL RD**

**MARYKNOLL RD S**

**06/41/20 West County**

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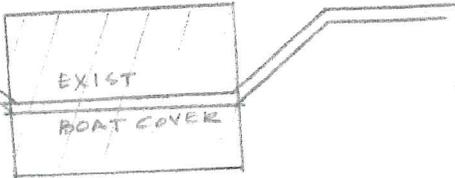


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GOTTFRIED CREEK



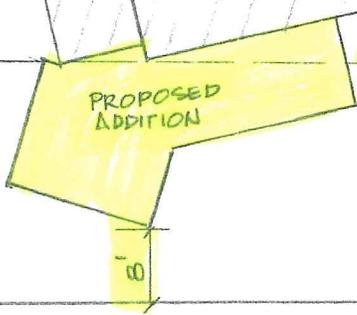
20' SETBACK



7.5'

1491 MARYKNOLL RD  
EXIST CMU RESIDENCE

10.07'



25' FRONT SETBACK

6'

**RECEIVED**  
AUG 16 2013  
BY: \_\_\_\_\_

**Site Plan  
( Exhibit B )**

SITE PLAN

1"=20'  
BROIDA 1491 MARYKNOLL  
12/3/12 M Tracy

EXISTING 60' ROW

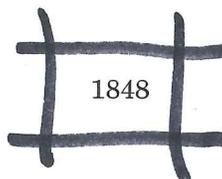
PROPOSED  
60' d  
CUL-DE-SAC

MARYKNOLL RD



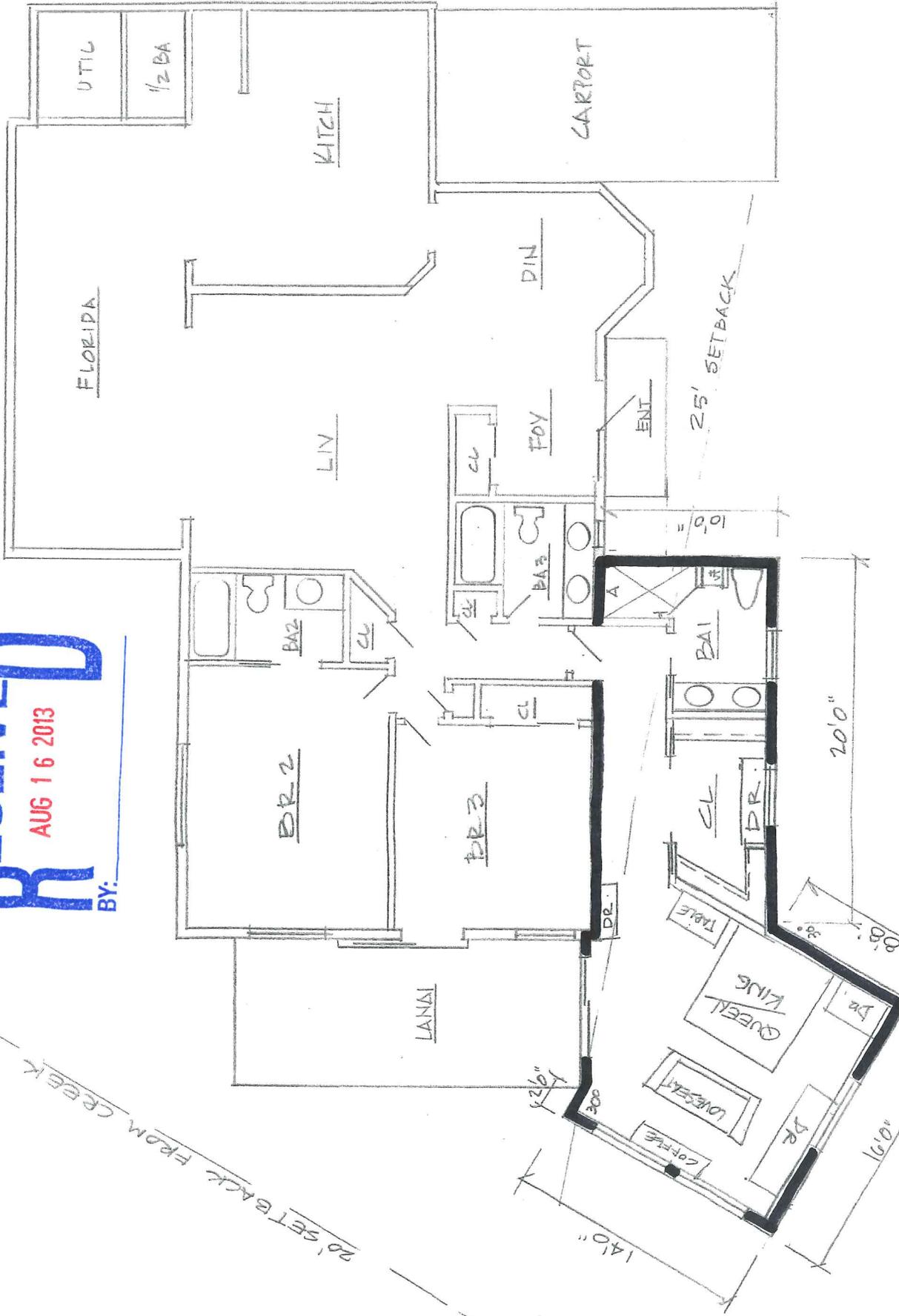
(f) *Development standards.* The following development standards shall apply in this district:

	<i>RSF-1</i>	<i>RSF-2</i>	<i>RSF-2.5</i>	<i>RSF-3.5</i>	<i>RSF-5</i>
Minimum lot requirements, in square feet (except as otherwise permitted)	40,000	20,000	15,000	10,000	7,500
Width, feet	125	100	100	80	70
<u>Front yard, feet</u>	25	25	25	25	<u>25</u>
Side yard:					
Interior, feet	15	15	15	7.5	7.5
Abutting a road, feet	20	20	20	15	15
Maximum lot coverage by all buildings, percent	35	35	35	35	35
Maximum building height, feet	38	38	38	38	38
Minimum rear yard, feet:					
Abutting a lot	20	20	20	20	20
Abutting a road	25	25	25	25	25
Abutting a greenbelt	15	15	15	15	15
Setback for accessory buildings from:					
Rear lot line, feet	10	10	10	10	10
Side yard	Same as principal building				
Abutting road right-of-way line	Same as principal building				
Rear or side line abutting a waterway, feet	20	20	20	20	20



# Proposed Floor Plan ( Exhibit D )

**RECEIVED**  
**R**  
 AUG 16 2013  
 BY:



PROPOSED FLOOR PLAN 1/8"  
 ADD 436 #  
 BROIDA 1491 MARYKNOLL  
 12/3/12 M. Tracy

property line

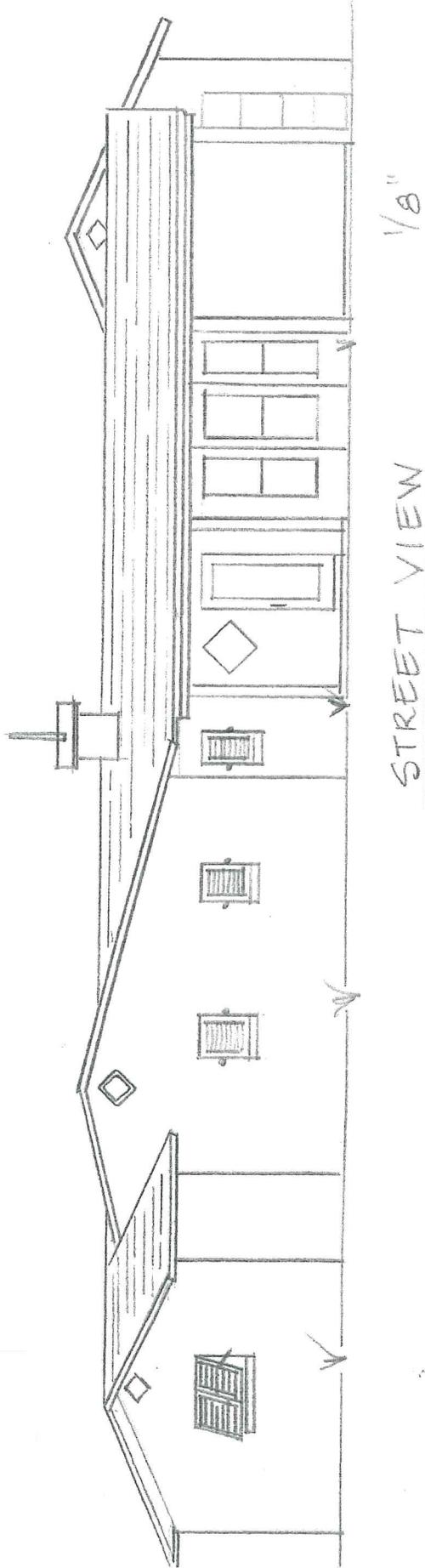
20' SETBACK FROM CREEK

Attn: Ken Quillen

House appraisal \$111,000<sup>00</sup>

**Street View  
(Exhibit E)**

**RECEIVED**  
AUG 16 2013  
BY: \_\_\_\_\_

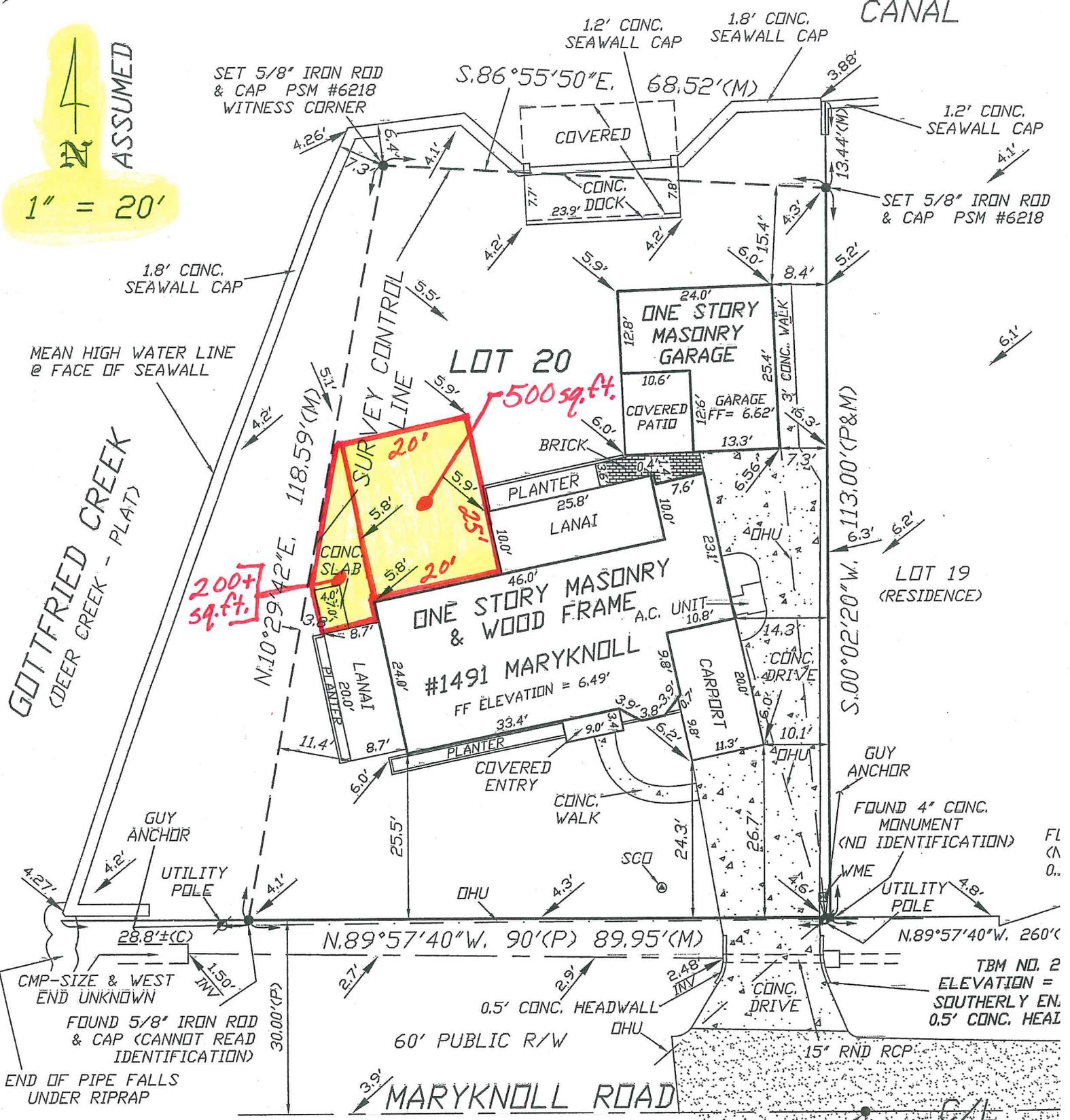
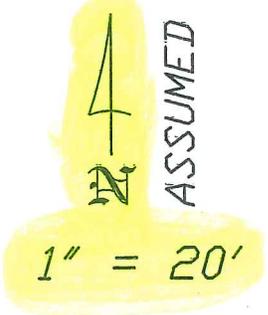


RCP = REINFORCED CONCRETE PIPE  
 CMP = CORRUGATED METAL PIPE  
 CPP = CORRUGATED PLASTIC PIPE  
 = EXISTING ELEVATION

TO SHOW CLARITY

RECORDS OF CHARLOTTE COUNTY

CANAL



**Alternative Site Plan  
 (Exhibit F)**

BEARINGS BASED ON THE NORTHERLY  
 MARYKNOLL ROAD BEING N.89°57'40"  
 ELEVATIONS BASED ON F.D.O.T. BM  
 PUBLISHED ELEVATION = 7.52 FEET

SIGNATURE CERTIFIED TO DATE OF FIELD SURVEY, THE SURVEY  
 DEPICTED HERE IS NOT COVERED BY PROFESSIONAL LIABILITY INSURANCE

1  
 = 4.50'  
 NUM CAP  
 LB #4838

PREPARED BY  
 JEFFREY M. &

DATE OF FIELD SURVEY, 3-1-11 7-8

Jeffrey M. Broida and Jane K. Broida, homeowners at 1491 Maryknoll Road, Englewood, Florida, (legal description: Lot 20, third addition to Oxford Manor, as per plat thereof, as recorded in plat book 7, page 24, of the public records of Charlotte County, Florida), are requesting a zoning variance to reduce the required front yard setback of 25' to 8'. The setback is requested to add an addition of a third bedroom and handicap accessible bathroom to the existing single family home. This would add a 400 square foot single story addition, sketched on the photos below. As can be seen on the photos (A, B), there is no other location for the addition.

**1. Unique or Peculiar Conditions**

The situation at this site is unique. Near the 1491 Maryknoll address, the road makes a 90 degree turn, continuing south to a dead end. The road does not continue adjacent to the front of the property. Therefore, the zoning variance request of a front yard setback is actually a setback from county owned vegetation, maintained by the homeowners adjacent to the vegetation, and not actual roadway.

**A. 3<sup>rd</sup> Bedroom/Bath Addition (view from 2010 aerial)**



**B. 3<sup>rd</sup> Bedroom/Bath Addition (view from 2012 aerial)**



**Narrative  
( Exhibit G-1 )**

**2. Undue Hardship**

The intent of the homeowners is to enlarge their home, at reasonable expense, to accommodate family that need handicap access. Both living parents, Jane's mother and Jeff's dad, use walkers and cannot negotiate stairs nor deal with the complexity of an elevator.

**3. Does Not Involve Prohibited Use**

The intended use is to maintain a private, single family home on the site.

**4. Would Not be Injurious or Incompatible with Surrounding Neighborhood or Detrimental to Public Welfare**

All homes in the area are single family, one story homes. The variance would assist in maintaining the character of the neighborhood.

The county property that is vegetation is occasionally used as parking by neighbors. The setback variance would not impact this use. In fact, with the planned landscaping of native species by the homeowners to their property, the appearance of the general area would be improved as well as adherence to runoff requirements maintained.

**5. Condition**

The conditions that have led to this proposal are completely a result of the homeowner's needs to upgrade the home and are not created by any other person or entity having an interest in the property.

**6. Minimum Modification to Regulation**

Given the unique road configuration, an 8' front yard setback would be established from the county property where there is no possible reason to ever construct a roadway. The existing paved roadway of county property would actually be approximately 35' from the proposed addition at 1491 Maryknoll.

**7. Consistent with Comprehensive Plan**

Approval of this variance would allow the homeowners to maintain affordable housing, the ability for them to "age in place", provide for needs of extended family, as well as continue to reside in a location that encourages "walkable" services. These elements are all part of the Smart Charlotte 2050 Comprehensive Plan.

**Summary**

Not maintaining the 25' setback requirement would appear to have minimal impact in this unique situation. It would seem to not impair or make any changes to public access. Presently, and into the foreseeable future, neighbor's views to this portion of the house are blocked by vegetation (see photos A, B). The variance would not impair the neighbor's views or sunlight nor seem to have any other negative effect. It will provide a more comfortable family-oriented home and improve property value.

**Narrative  
( Exhibit G-2 )**



## MEMORANDUM

**Date:** August 23, 2013  
**To:** Ken Quillen, Planner III  
**From:** Jamie Scudera, Environmental Specialist  
**Subject:** VAR-13-004  
Broida addition, 1491 Maryknoll 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 Charlotte County GIS aerial review was conducted by staff. The property consists of a developed single family lot at the end of a cul-de-sac with a man-made basin adjacent to the northern property line and Gottfried Creek adjacent to the western property line. The proposed addition will be located on the SW corner of the home.

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 or permits, and mitigation (if necessary) will be required.
- ❖ If this proposal moves forward, it will be reviewed for compliance with:

Chapter 3-5:

Article IV, *CLEARING, FILLING AND SOIL CONSERVATION*,  
Article XV, *SURFACE WATER AND WETLAND PROTECTION*,  
Article XV, *UPLAND BUFFER ZONE*.

Chapter 3-2:

Article IX. *TREE REQUIREMENTS*

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

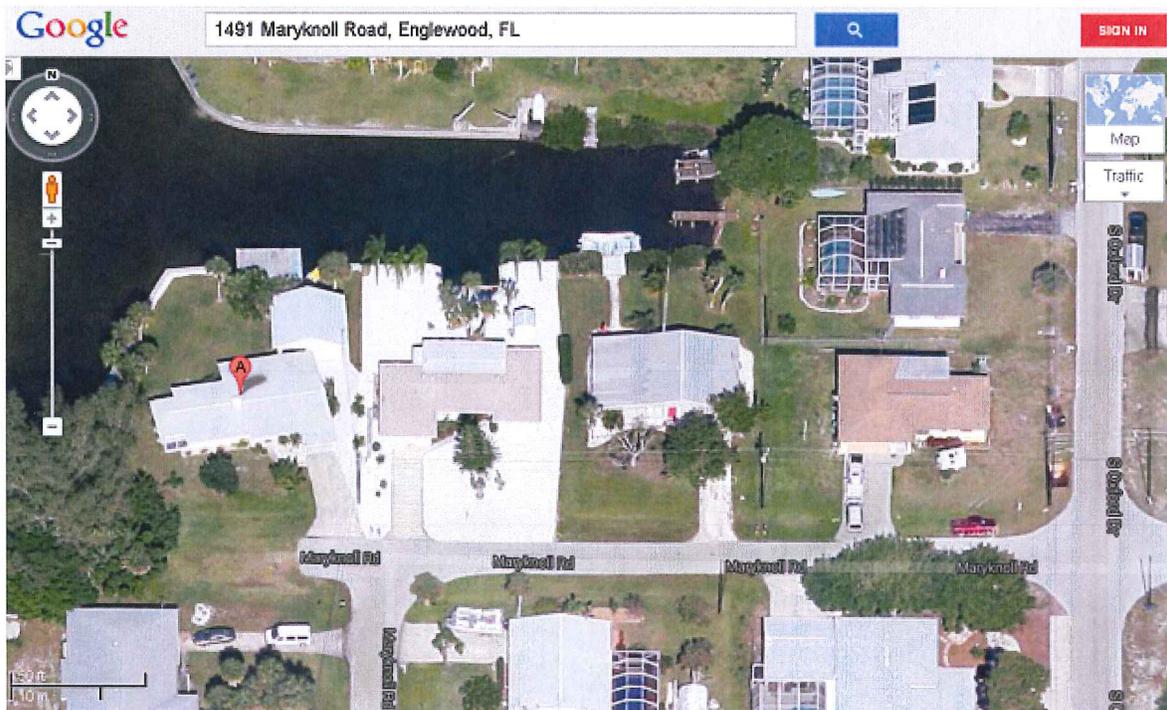
If there are any questions pertaining to this review please feel free to contact me at (941) 743-1290.

JS

**( Exhibit H )**



Aerial Photograph (2006)



Google Maps © 2013