

STAFF REPORT
Community Development Department
Petition Number: VAR-15-003

To: The Charlotte County Board of Zoning Appeals

From: Shaun Cullinan, Zoning Official

Prepared By: Ken Quillen, AICP, Planner III

Report Date: May 6, 2015

BZA meeting date: May 13, 2015

Requested Action/General Information:

Stephen and Jody Norris are requesting a variance to reduce the required rear yard setback from 20.0 feet to 10.0 feet to allow construction of a swimming pool for a single-family residence in the Manasota Single-family-3.5 zoning district. Subject property is located at **4086 North Beach Road** on Manasota Key in Englewood (see **Location Map**). The attached **Zoning Map** shows the zoning of this property, which is Manasota Single-family-3.5. This property has a Low Density Residential FLUM designation.

Subject property consists of 10,043 square feet (100' by 111') and meets the minimum lot width requirement of 80 feet; however, it does not meet the minimum lot size requirement of 12,445 square feet, making this a substandard sized lot. The applicant would like to construct a swimming pool, which is a permitted accessory structure for single-family residences located in the Manasota Single-family-3.5 zoning district.

The applicant has submitted the attached **Boundary Survey** (Exhibit A), which shows the existing single-family residence located on this parcel. The applicant has also submitted a **Pool Plan** (Exhibit B) showing the proposed location of the swimming pool with a proposed 10-foot rear (west) setback and 10-foot side (north) setback. The Board of County Commissioners adopted the Manasota Key Overlay Code in February of 2005 and amended this Code most recently on September 24, 2013. **Subsection 3-9-53(g)(2)A** (Exhibit C) requires a minimum 20-foot rear setback, to which the applicant is requesting a variance of ten feet. **Subsection 3-9-53(j)(9), (10), (11) and (12)** (Exhibit D) of this code also applies to the proposed swimming pool and requires a minimum 10-foot peripheral landscape strip, which the applicant is proposing to comply with as part of this variance request.

This existing single-family residence was constructed in 1980 in conformity with all codes in existence at that time. Under the regular County Zoning Code a swimming pool could be constructed 10 feet from the rear lot line; however, a 20-foot setback is required under the Manasota Key Overlay Code, which was adopted in 2005.

The applicant has also submitted the attached **Narrative** (Exhibit E) 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 F) dated April 17, 2015. The Manasota and Sandpiper Key Advisory Committee will meet on May 6, 2015, and make a recommendation to the Board of Zoning Appeals concerning this variance request. Staff will provide their recommendation to the BZA at the May 13th BZA public hearing. The Manasota and Sandpiper Key Advisory Committee recommendation will be labeled **Exhibit G**.

Findings: The five standards for approval of a Variance according to Section 3-9-6.3(i) 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 100-foot wide parcel does meet the 80-foot minimum lot width requirement; however, its shallow depth, of only 111 feet, results in a 10,043 square foot lot, which does not meet the minimum 12,445 square foot lot size requirement of the Manasota Key Overlay Code. The depth, orientation and configuration of this substandard parcel are unique, which creates peculiar conditions, that are not generally applicable to other properties.

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

Finding: A swimming pool is a typical accessory use to single-family residences in Charlotte County. A strict and literal enforcement of the 20-foot rear yard setback for a swimming pool would result in an area less than 150 square feet (11' by 13.5') available for a pool on this parcel. This area is so small it could be considered an undue hardship, which is preventing the applicant from enjoying reasonable use of their property.

3. 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: The variance request is to allow a swimming pool, which is a permitted accessory structure and use in the MSF-3.5 zoning district. Construction of the in-ground pool, as proposed by the applicant, would not create any above-ground physical or visual obstruction and does provide a 10-foot setback and landscape buffer adjacent to the single-family residences to the rear (west) and side (north). Staff believes that this would not be injurious to or incompatible with the adjacent residences.

4. 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 applicant purchased subject property in October of 2014 with all the all of the existing conditions already in place. Staff is not aware of any alternative locations or designs for a swimming pool that would be practical for this property.

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

Finding: The requested variance, to reduce the rear yard setback from 20 feet to 10 feet will allow construction of a small swimming pool, which is a permitted accessory use to single-family residences. The applicant has also stated that they intend to comply with the required 10-foot landscape buffer and that the requested variance of 10 feet is the minimum modification that will afford relief.

ANALYSIS AND CONCLUSIONS:

After review of the site and the application requesting a variance to allow construction of a swimming pool, staff believes that the requested variance does meet all five criteria for granting a variance.

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. The variance, as approved by the Board of Zoning Appeals, is to reduce the required 20-foot rear yard setback by 10 feet to allow a 10-foot rear setback for the proposed swimming pool only.
2. This variance extends only to the swimming pool as proposed in the documents submitted with this application. This variance shall carry with the swimming pool only once it is constructed. If the proposed swimming pool is not constructed within three years then this variance shall expire.
3. If the swimming pool is constructed and at a later date 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, Pool Plan, Section 3-9-53 (6), Narrative (2), and Environmental Specialist Memorandum



Community Development

CHARLOTTE COUNTY

Location Map for VAR-15-003

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-S. Yancey -6716 Date Saved: 4/7/2015 9:20:53 AM

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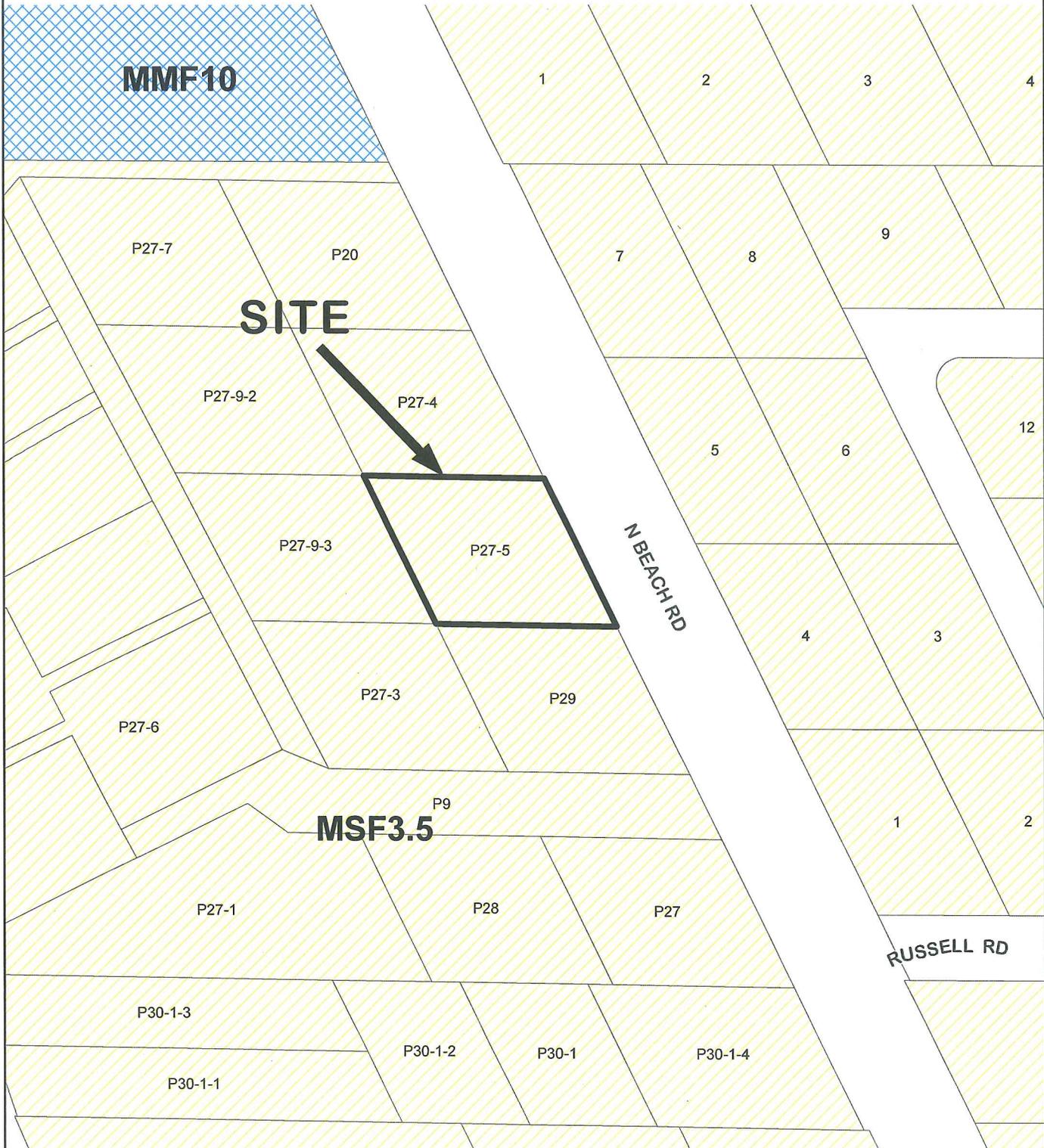
Community Development

CHARLOTTE COUNTY Zoning Map for VAR-15-002

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Community Development

CHARLOTTE COUNTY

2014 Aerial View for VAR-15-003

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OFFICE 941-753-9994

FAX 941-739-8318

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SITE ADDRESS

4086 N BEACH RD,
ENGLEWOOD, FL 34223

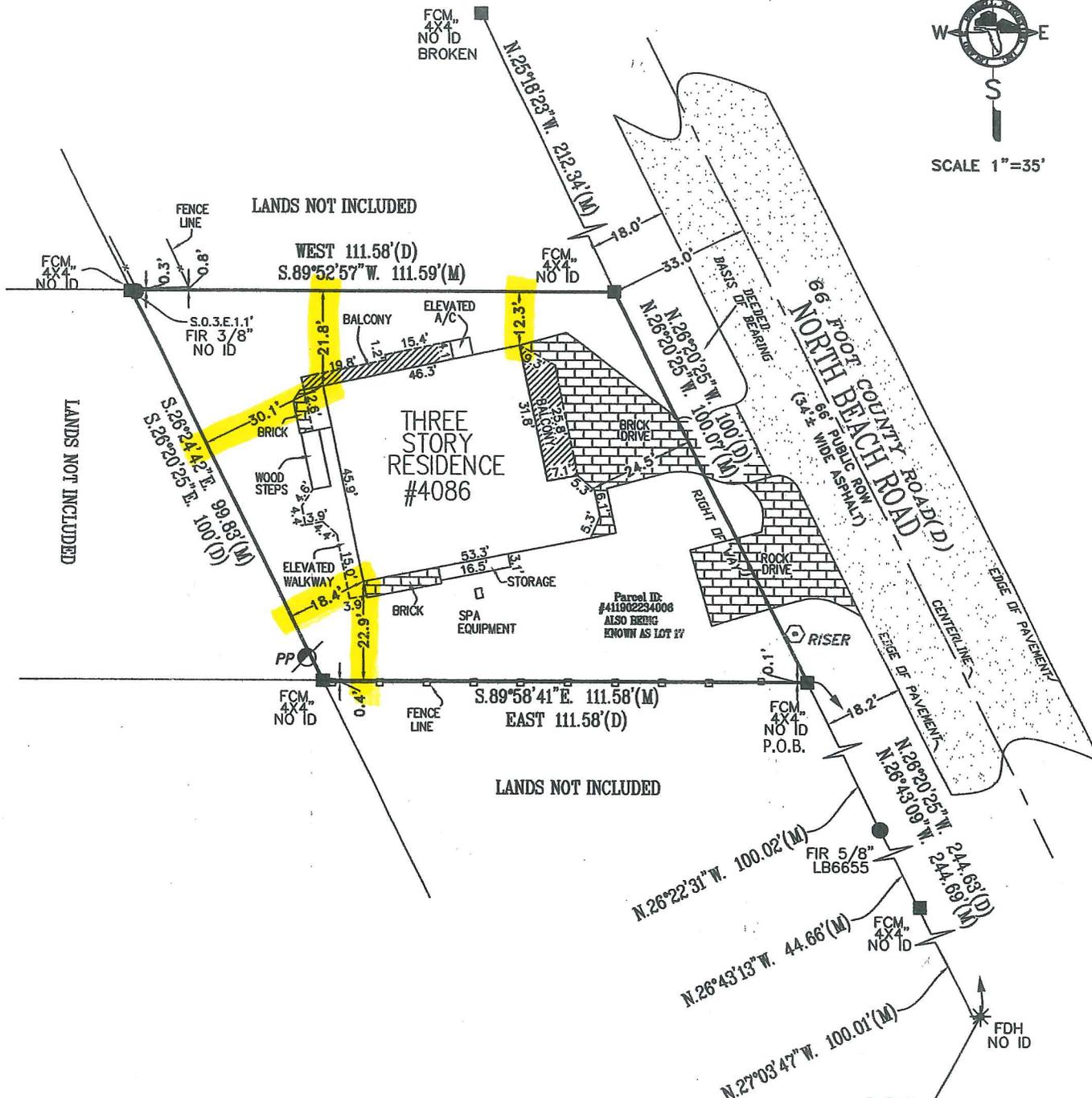
SHEET#
2 OF 2
NOT VALID
WITHOUT
SHEET 1 OF 2

PURPOSE OF SURVEY
MORTGAGE/SALE
BOUNDARY SURVEY

MAP OF SURVEY BOUNDARY SURVEY & VISIBLE IMPROVEMENTS



SCALE 1"=35'



THE SCALE DEPICTED HEREON HAS BEEN CUSTOMIZED FOR BETTER VIEWING



GRAPHIC SCALE

Boundary Survey (Exhibit A)

P.O.C.
POINT LYING 1536.25' S. OF
N. BOUNDARY LINE OF SEC
2-TWP 41S-RNG 19E

(NOTE)
IN COMPLIANCE WITH FLORIDA STATUTES
5J-17.052.2 (D) (4) (IF LOCATION OF
EASEMENTS OR RIGHT-OF-WAY OF RECORD,
OTHER THAN THOSE ON RECORD PLAT, IS
REQUIRED, THIS INFORMATION MUST BE
FURNISHED TO THE SURVEYOR AND MAPPER.

CERTIFICATION :



3579 S. ACCESS RD. STE. J ENGLEWOOD, FL. 34224 OFFICE (941)475-2260 FAX (941) 474-4421

Proud member of:



License # RP0067415A
CPC1458295

Voted Best Pool
Builder 9 Years
In A Row



Designed by: Jim Harrison
Date: March 30, 2015
Job supervisor:
SCALE: 1/8" = 1'

NOTE: a 5% tolerance is applied to all dimensions.
Gas tank, line or hook-up not included.
This plan is property of:
AQUASCAPES DESIGN, Inc.

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CUSTOMER INFORMATION

NAME: Steve Norris
ADDRESS: 4086 N Beach Road
CITY: Englewood
STATE: Florida 34223
HOME PHONE#: 961-3999
WORK PHONE#: XXXXX
LOT#: xxx BOOK#: ### PG.: ###
COUNTY: Charlotte
SUBDIVISION: xxx
TDA: 422 S.F.

GENERAL SPECIFICATIONS

Earth Disposal: Mini dig
Size: 14' x 18'6" Area: 198 s.f.
Depth: 3 - 5 Perimeter: 56 ft.
Swimout: Yes Loveseat: No
Handrail: No Handhold: No
Interior Finish: Krystalkrete
Pool Light: 1 Spa Light: No
Over Flow Line: Yes
Pool Cleaner: No Returns: 3

Pool Deck: 224 s.f. Pavers: std
Lanai: N/A s.f. Pavers: N/A
Front Entry: N/A s.f. Pavers: N/A
Raised Deck: N/A ft. Footer: N/A ft.
Planter: No

Filter: Clean/Clear Pump: Pentair 2 speed
Chlorinator: Rainbow Heater: No
Electrical Prewire: Aquascapes Design
Electrical Hook-up: Aquascapes Design
Screen Enclosure: None Walls: xx
Doors: xx Gutters: xx Screws: xx

Spa: N/A Size: N/A Spa Top: N/A
Beam Height: N/A Beam Width: N/A Jets: N/A
Controller: N/A
Air Blower: N/A Fountain in Spa: N/A

Notes: **NOTES**

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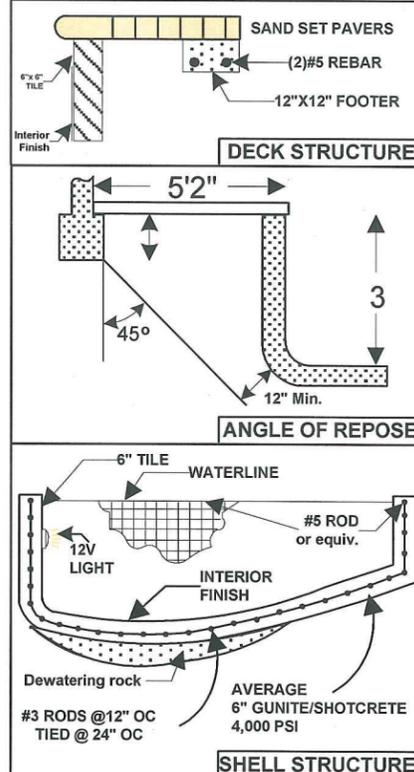
NOTES

ACCEPTANCE AGREEMENT

I hereby accept this design and layout of a swimming pool, deck and any accessories provided on this blueprint by AQUASCAPES Design, Inc. I hereby also state that there have been no verbal agreements or promises that are not provided on this blueprint. I understand that any changes to design, layout, color selections, dimensions and or any accessories that must be installed during the construction process constitutes a change order and may require additional charges.

SIGNATURE: _____

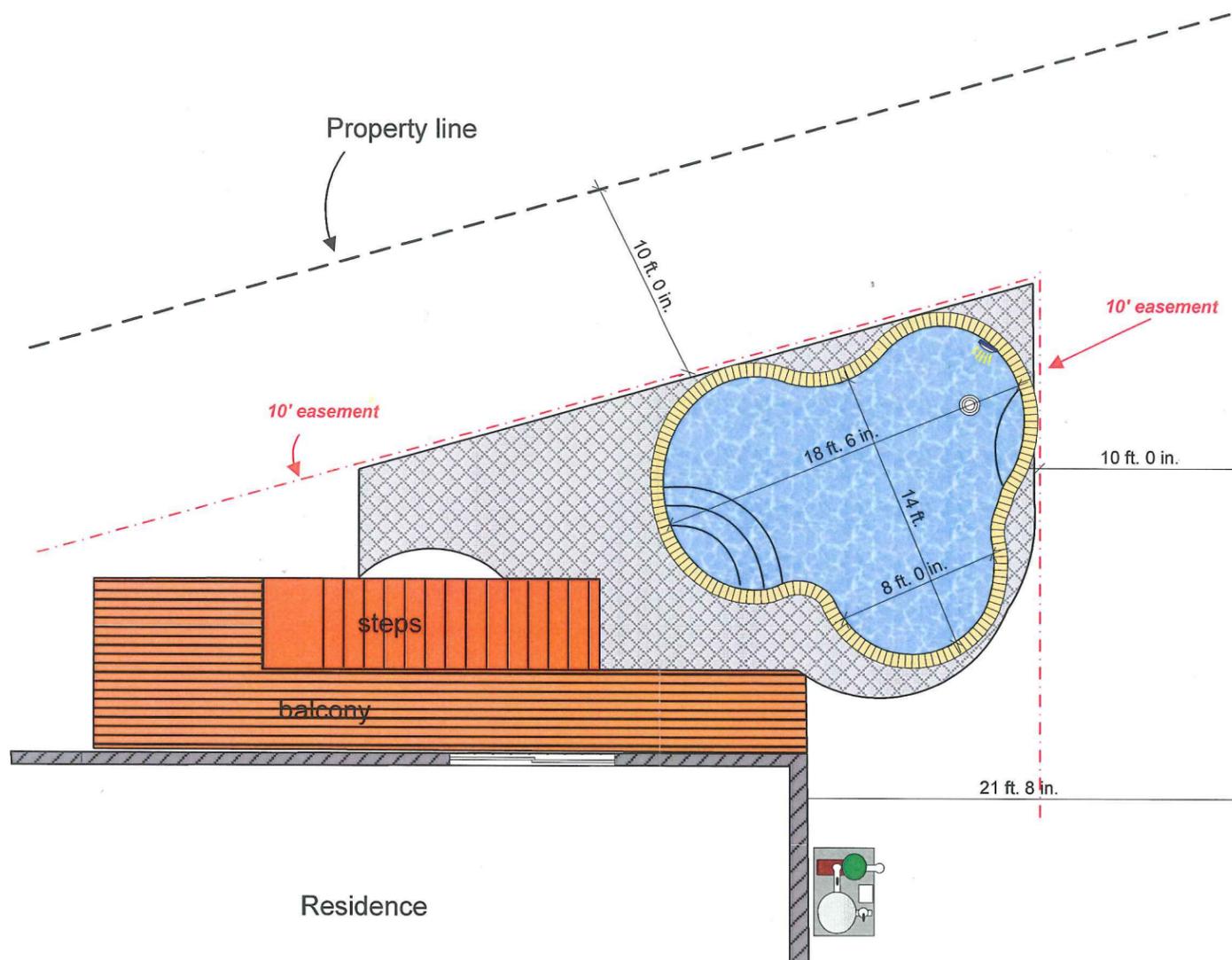
DATE: _____



COLOR SELECTIONS

Deck Edge:	STD. BRICK
Water line tile:	STD. SELECTION
Step tile:	STD. SELECTION
Accent tile:	OPTIONAL
Handholds:	NONE
Interior finish:	KRYSTALKRETE
Deck finish:	PAVERS
Cage color:	NONE
Safety feature:	BABY BARRIER/FENCE

-TILE SELECTION MUST BE COMPLETE BEFORE PROJECT IS PERMITTED.-
POOL FINISH DISCLAIMER: Most pool finishes are composed of natural materials. A certain amount of shading or color variation is a natural occurrence, and should not be viewed as a defect, therefore pool finishes are warranted only to waterproof the pool.



**Pool Plan
(Exhibit B)**

Sec. 3-9-53. - Manasota Key zoning district overlay.

(a) *Definitions.* When terms are defined both in this Section 3-9-53 and elsewhere in the County Code, definitions for such terms in this subsection shall control. The following terms shall have the meanings set forth in this subsection:

Advisory committee shall mean the Manasota and Sandpiper Key advisory committee established by the board on October 12, 2004, pursuant to Resolution Number 2004-212.

Appurtenances shall mean something added to another, more important thing on a building that is customarily incidental and subordinate to a principal building.

Building setback calculation shall mean the methodology used in the overlay code to determine the stepped setback required from the property line for a building based on building height and stepped setback calculation points.

Driveway shall mean a permeable surface designed for use by vehicles that connect a road to a structure.

Driveway crossover shall mean that portion of a driveway located on a setback.

Height, building or structure in this Code shall mean the distance from zero (0) feet NGVD to the top of the highest constructed element.

Highest constructed element shall mean the highest point of a building or the highest point of any rooftop livable space or appurtenances thereto.

Manasota Key Overlay Code shall mean the Manasota and Sandpiper Key Zoning District Overlay Code established by section 3-9-53 and as amended into the County Code.

Manasota Key shall mean the land located south of the Sarasota-Charlotte County line, west of Sandpiper Key, north of Stump Pass Beach State Park and east of the Gulf of Mexico.

Manasota commercial general or MCG shall mean the commercial general zoning district established by the overlay code.

Manasota commercial tourist or MCT shall mean the commercial tourist zoning district established by the overlay code.

Manasota environmentally sensitive or MES shall mean the environmentally sensitive zoning district established by the overlay code.

Manasota multifamily or MMF shall mean the multifamily zoning districts established by the overlay code.

Manasota planned development or MPD shall mean the planned development zoning district established by the overlay code.

Manasota single-family or MSF shall mean the single-family zoning district established by the overlay code.

Maximum building height within the Manasota and Sandpiper Key overlay district shall mean the building height as measured from zero (0) feet NGVD to the top of the highest constructed element.

Maximum building height calculation means the height of a building measured from zero (0) feet NGVD to the top of the highest constructed element which is the highest point of a building or the highest point of any rooftop livable space or appurtenances thereto.

Minimum finished floor elevation shall mean the lowest floor for which a building permit may be issued which on Manasota Key in the A-Zones is the minimum lowest floor elevation; and in the V-Zone (governed by Florida DEP seaward of the coastal construction control line) is the least horizontal shore parallel structural member plus the thickness of the structure which for this code shall be a vertical measurement of two (2) feet from the lowest horizontal structural member.

NGVD shall mean the National Geodetic Vertical Datum on the effective date of this overlay.

Overlay code shall mean the Manasota and Sandpiper Key Zoning District Overlay Code established by this section 3-9-53.

Peripheral landscape strip shall mean the required green open area of a immediately adjacent and parallel to all sides of the lot boundary that is

Plan shall mean the Manasota Community Plan as accepted by the board

Section 3-9-53(g)
(Exhibit C-1)

- (4) Special Districts
Manasota Planned Development (MPD)

(f) Intent of Manasota and Sandpiper Key overlay districts.

- (1) The intent of the MES district is to preserve and protect certain land and water areas which have overriding ecological, hydrological, or physiographic importance to the public at large. It is intended to preserve and protect open spaces, park lands, wilderness areas, marshlands, watersheds and water recharge areas, scenic areas, beaches and native flora and fauna. It is intended to allow limited public/private recreational/educational uses and their incidental accessory uses and structures.
- (2) The intent of the MSF district is to provide single-family residential dwellings and for other uses normally associated with single-family residential dwellings. Nothing herein is intended to prevent the grouping of lots or parcels for residential single-family uses.
- (3) The intent of the MMF district is to provide low or medium-density residential districts with emphasis on multifamily use. There are variations among the MMF districts in requirements which include differing lot areas, width, yards and uses.
- (4) The intent of MCG district is to provide areas in which the customary and traditional conduct of trade, retail sales and commerce may be carried on without disruption by the encroachment and intrusion of incompatible residential uses and protected from the adverse effects of undesirable industrial uses.
- (5) The intent of the MCT district is to permit the designation of suitable locations for and to facilitate the proper development and use of land for the commercial provision of accommodations and services for tourists and other visitors and short-term or seasonal residents. The term "accommodations" is intended to include housing and various amenities, including recreational facilities and local retail trade in goods and service both general and specific to the locality/tourist attraction or principal activities. Areas designated MCT are expected to be located near or adjacent to a tourist attraction such as Gulf beach frontage, major public or private parks, and other recreational or scenic resources.
- (6) The intent of the MPD district is to retain standards that maintain current densities and zoning districts consistent with the goals of the Manasota Key Community Plan and provide standards for new planned developments.

(g) District development standards.

- (1) Open Space and Rural District standard.

	<i>MES</i>
<i>Lot (min. acres)</i>	
Lot is inside Urban Service Area	10
Lot area outside Urban Service Area	40
Lot width (ft.)	250
<i>Yard (min. ft.)</i>	
Front	25
Side	20
Rear	20
Abutting water	20
Side and rear abutting Gulf of Mexico	50
<i>Bulk (max.)</i>	

**Section 3-9-53(g)
(Exhibit C-2)**

Lot coverage	10%
Height (ft.)	43 ft.
Density (units per acre)	0.025

- a. Only one (1) driveway crossover is permitted within the front yard setback.
- b. Maximum building height shall not exceed forty-three (43) feet for MSF Zones landward of the CCCL as measured from zero (0) feet NGVD to the top of the highest constructed element. Building height calculations are contained under the development standards of this Code.
- c. The property shall be maintained in natural vegetation rather than landscaped.
- d. Temporary portable structures and mobile homes shall be prohibited in this district.

(2) Residential District Standards.

A. Single-family

	MSF-1	MSF-3.5	MSF-5	Nonconforming
<i>Lot (min.)</i>				
Lot area (sq. ft.)	43,560	12,445	8,712	Less than 8,712
Lot width (ft.)	125	80	70	Less than 70
<i>Yard (min. ft.)</i>				
Front	25	25	25	25
Side yard (interior)	Stepped/10 See below.	Stepped/10 ft. See below.	Stepped/10 See below.	10
Side yard (street)	20	15	15	15
Rear yard (interior)	Stepped/20 See below.	Stepped/20 ft. See below.	Stepped/20 See below.	10
Rear yard (street)	25	25	25	25
Abutting water	20/50 GM See below.	20/50 GM See below.	20/50 GM See below.	20/50 GM See below.
Peripheral landscape strip	10	10	10	10
<i>Bulk (max.)</i>				
Lot coverage	35%	35%	35%	35%
Height (ft.)	48/43 See below.	48 Se		

**Section 3-9-53(g)
(Exhibit C-3)**

Sport marinas and resort marinas shall be prohibited. However, leasing of dock space in the MCT district only on lots adjacent to coastal waters not on the Gulf of Mexico is permitted as a special exception with the following restrictions: no live-aboard dockage; no sale of fuel and lubricants; no provisions, bait and tackle; no service buildings with laundry facilities, showers, toilets; no rental of motorized watercraft; and no launching of boats from the site. A condition of the permit is adequate parking for leased dock spaces.

(8) Unless specifically defined in the above use table, additional uses are prohibited.

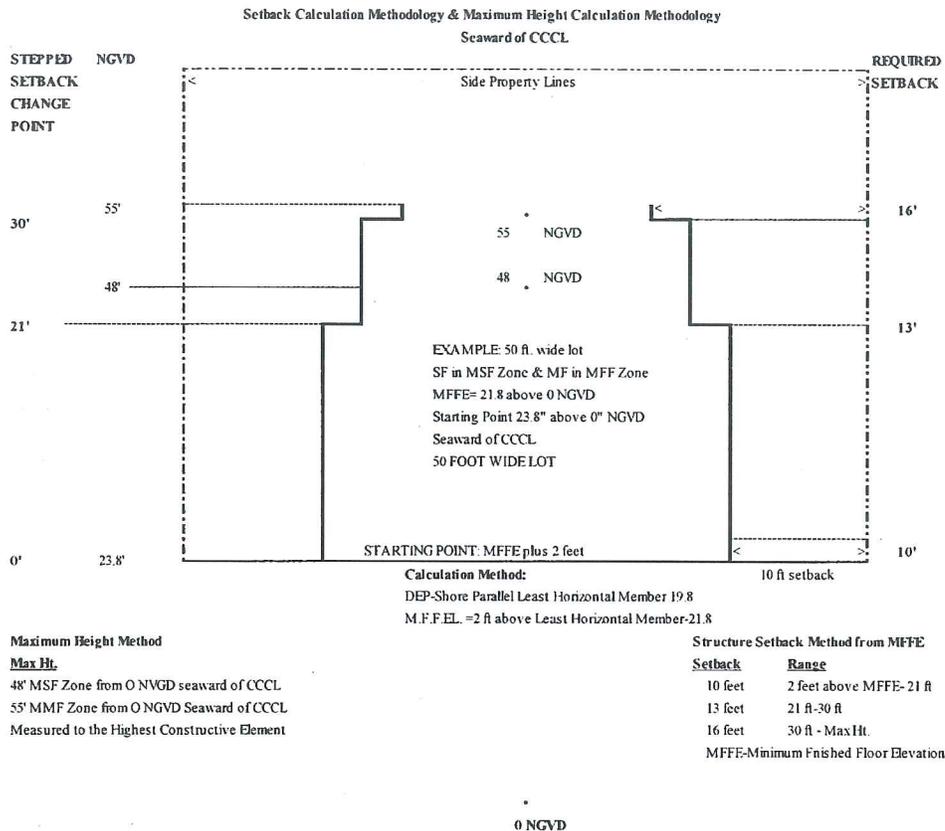
(i) *Development review procedure.*

- (1) Prior to submitting an application to the county for any type of development, for a special exception, or for a variance, an applicant shall appear before the Manasota and Sandpiper Key advisory committee at a regularly-scheduled public meeting of the advisory committee to review, discuss, and receive recommendations from the advisory committee regarding the proposed development's consistency with the Manasota Key Community Plan and the portions of this Code specifically applicable to the Manasota and Sandpiper Key Overlay Code. Such request for review shall be accompanied by documentation required by the advisory committee to perform its review. At the conclusion of the review, the advisory committee shall prepare written comments regarding the proposed development with recommendations or notations, as appropriate, which shall be considered by the county officials in their deliberations.
- (2) All sketches, site plans, or other documentation submitted to the county as part of a development application shall be consistent with any information submitted to the advisory committee for review, except as such may be revised based upon recommendations made by the advisory committee.

(j) *Development standards.* These development standards shall apply to all zoning districts within the Manasota Key Overlay Code.

- (1) *Uniform line of construction.* In order to maintain the uniform line of construction of major structures within the overlay district, no portion of a residential structure shall be located seaward of this line, or of a line traced between the corners of the two (2) nearest buildings along the Gulf of Mexico, except as permitted by DEP.
- (2) *No-fill area.* The entire Manasota and Sandpiper Key overlay district is designated as a no-fill area, within which only pilings and stemwalls may be used for all construction, except the minimum amount of fill necessary within the building footprint and for drainfields associated with onsite waste treatment and disposal systems.
- (3) *Permeable material.* With the exception of fences and walls, all ground-level amenities such as walkways, patios, new private roads, residential driveways, and all parking spaces outside of the building footprint shall be constructed of permeable materials. Handicapped accessible routes when required by ADA shall be exempt from this requirement.
- (4) *Bulk limitations.* No building shall be over two hundred (200) feet wide or long in any zoning district.
- (5) *Open space/reservation area.* All development within the overlay district subject to site plan review shall include an open space/habitat reservation area equal to five (5) percent of the total area of the development. No financial contribution in lieu of reservation shall be permitted. Peripheral landscape strips and setbacks may be counted as part of the open space habitat area unless the lot is greater than one-quarter ($\frac{1}{4}$) of one (1) acre.
- (6) *Pilings for structures.*
 - a. Pilings shall conform to construction techniques authorized under the Florida Building Code.
 - b. Pilings for structures throughout Manasota and Sandpiper Key shall be augered into the ground, or otherwise introduced through contemporary technologies that are shown to reduce the noise and vibration in sufficient amount to meet the intent of this section.
 - c. If driving pilings into or onto the ground is proposed,
 1. The developer must conduct a detailed geotechnical analysis of the property with a certification from a geotechnical engineer that the proposed development activity will have no adverse impacts to adjacent properties; and
 2. Show proof of minimum insurance policy coverage of one million dollars (\$1,000,000.00) per occurrence and five million dollars (\$5,000,000.00) aggregate.
 3. If pile driving is deemed appropriate, the contractor shall be required to notify by mail the owner of properties within three hundred (300) feet of the outer limits of the subject property and document existing conditions of structures, prior to the
 - 4.

Section 3-9-53(j)
(Exhibit D-1)



- (9) **Peripheral landscape strip.** Peripheral landscape strips are required on all lots within the Manasota overlay district. All properties, conforming and nonconforming, shall have front, side interior and rear interior peripheral landscape strips of no less than ten (10) feet from the property line. Peripheral landscape strips shall be located immediately adjacent and parallel to all sides of a lot boundary. All peripheral landscape strips shall be green open areas. No encroachments shall be allowed within the ten (10) feet peripheral landscape strip including but not limited to structures, accessory structures, AC units, driveways, parking areas, pools and pool accessories, electrical equipment, signage, and holding tanks. Neither a structure nor any portion thereof shall be erected or shall encroach or overhang upon the required peripheral landscape strip. The only exceptions shall be:
- Dune walkovers, sidewalks and driveway crossovers, where permissible.
 - Fences,
 - Guttered roof overhangs that may extend two (2) feet into the peripheral landscape strip,
 - Sunshades that may extend two (2) feet into the peripheral landscape strip.
 - For nonconforming multifamily lots fifty (50) feet wide or less, the owner may request an administrative waiver of up to twenty (20) percent of the side setback (two (2) feet on each side) to redress hardships associated with meeting driveways and parking requirements for multifamily development. Waiver limits are as follows: No portion of the waiver areas shall be used for habitable space, for an increase in building envelope of livable area from the first floor to the highest constructed element or be permanently enclosed or roofed; and, the waiver request must document need for additional space exclusively for parking and driveway use that does not increase the livable space envelope and offers the least invasive design option regarding encroachment into the side peripheral landscape strips.

- (10) **Yard setbacks.** Yard setbacks, greater than ten (10) feet peripheral landscape strip, shall be required for structures based on zoning district minimum yard requirements, abutting properties, abutting water, and building height requirement of the Overlay Code. No primary structures shall be allowed to encroach within the greater yard building setback area, however appurtenances and mechanical equipment for the primary structure, which are typically allowed within required yards may be located within the greater yard setback. Accessory structures, parking, and driveways may be located within the greater yard building setback area as long as County Codes and the Overlay Code district standards and architectural standards are met.

Section 3-9-53(j)
(Exhibit D-2)

- (11) *Accessory structures.* No accessory structures shall be allowed within the ten-foot peripheral landscape strip. All accessory structures must conform to the side and rear setback requirements of the appropriate zoning district. Detached permanent garages must conform to the front setback requirements of the appropriate zoning district. All other accessory structures must be located behind the leading edge of the living area of the principal structure. The only exception is on lots three hundred (300) feet or greater in depth which may have screened accessory structures located in front of the building façade provided they are located at least one hundred fifty (150) feet from the county right-of-way. Other accessory structure requirements are contained under the architectural design standards below. Multifamily developments when permitted in any zoning district are permitted to contain a clubhouse, recreation room or similar community room to serve the residents of the development.
- (12) *Nonconforming lots.* It is the intent of this section to specify provisions of the Overlay Code that supersede the county nonconforming provisions and exceptions to yards provisions and which sections of the county code remain in place. It is also the intent to include provisions unique to nonconforming lots in the overlay boundary. Other than the administrative waiver provided for in this Overlay Code, it is the intent that all lots contain a ten-foot peripheral landscape strip.
- a. Within the Manasota and Sandpiper Key overlay district, the provisions of the County Code requiring a variance to build on a lot less than five thousand (5,000) square feet or less than fifty (50) feet in width shall not apply as long as the building conforms to the requirements for the zoning district in which the lot is located.
 - b. The minimum side yard interior setbacks in all districts for conforming and nonconforming lots, including lots less than five thousand (5,000) square feet shall be ten (10) feet. The only exception is provided for under the administrative waiver procedure for MMF and MCT-Residential lots in this Code. In these cases, documentation shall be provided to indicate why the administrative waiver is warranted; and an administrative variance shall be not granted in addition to the administrative waiver.
 - c. The variance provisions of the County Code under section 3-9-6.1 provide for relief in hardship cases for nonconforming lots in the Overlay Code. The administrative variance under section 3-9-6.1 (g) shall not be permitted for side yard variances which result in a side yard of less than ten (10) feet, and the provisions contained in sections 3-9-10.c.5.c and 3-9-75(2) shall not apply when they would result in a side yard of less than ten (10) feet.
- (13) *Parking standards.* For any residential development within the overlay district, each residential dwelling unit shall provide a minimum of two (2) spaces per unit. Multifamily developments shall provide additional parking spaces for services and guests. Service parking requirements shall be the lowest whole number that is greater than or equal to ten (10) percent of the number of units contained within the multifamily project. Guest parking requirements shall be the lowest whole number that is greater than or equal to twenty (20) percent of the number of units contained within the multifamily project. At least one (1) of the guest parking spaces as required by this section shall be handicapped accessible. Beach access points on the islands shall not be obstructed by parked cars or any other barriers. Parking of unlicensed or unregistered automobiles, recreational vehicles, boats and/or trailers shall be prohibited.
- (14) *Disaster recovery.* Following a natural disaster, as determined by the board of county commissioners, multifamily developments that are nonconforming due to their density may be rebuilt with no increase in square footage, so long as they comply with as many other development standards of this Code as possible, while still allowing the overall pre-disaster density which existed to be retained. In redevelopment of the site, first priority shall be given to establishing the peripheral landscape strip, to the greatest extent possible. Documentation shall be provided to indicate where a particular development standard cannot be met.
- (15) *Underground utilities.* Electrical wires that connect poles with structures shall be placed underground.
- (16) *Spot ground elevations.* The spot ground elevations for new development and for reconstruction that exceeds fifty (50) percent of the replacement value of an existing structure shall be established prior to any clearing of the site by a signed and sealed survey prepared by a surveyor licensed in Florida. There shall be a minimum of one (1) spot elevation per site, with additional spot ground elevations provided at every one (1) foot of elevation change within the site.
- (k) *Architectural design standards.* These architectural design standards shall apply to all new development within the overlay district and to any alterations or additions to existing structures that exceed fifty (50) percent of the replacement value of the structure. These standards shall regulate the appearance and constructive elements of structures and be used in addition to those expressed else
- (1) *Driveways and parking areas and walkways/sidewalks.*

Section 3-9-53(j) (Exhibit D-3)

VARIANCE – APPLICATION NARRATIVE

Stephen S. and Jody L. Norris of 4086 N. Beach Road, Englewood, FL 34223

The following narrative describes the scope of the request and addresses the criteria set forth in Sect. 3-9-6.1 (d) of the Charlotte County Zoning Code.

Background

We purchased this home in November 2014 and moved in immediately with 5 of our children. This is our permanent residence which we plan to remain in for many years. We have been pool owners for over 20 years at our previous residences and were hoping to build another at our new home.

We met with two pool contractors who both designed a small pool to be located in the rear corner with a 10' rear setback. Upon further review the second contractor found that the requirements on Manasota Key of a 20' rear setback and 10' side setback would make it impossible to place a pool in any private areas of the property.

This application therefore requests a rear setback variance of 10' to allow a 10' setback rather than the required 20' setback.

Criteria Applicable to this Variance

1. The subject property is zoned MSF3.5 and consists of a 9,968 square foot area that take on a rhomboid shape. The property also has less square footage than required by MSF3.5 zoning code of 12,445 square feet and the home sits on the property askew to the rhombus creating only one small area in the rear corner for any improvements.
2. The enforcement of applicable zoning codes would cause undue hardship as this would prevent the improvement of a property that was designed well before the existence of the zoning code. The property was platted in 1963 and the home was constructed in 1980. The most recent survey (attached) even shows that the house structure itself falls short of the 20'

Narrative
(Exhibit E-1)

setback now required. Additionally, one of our sons suffers from a torn meniscus and acute pain from a previously broken ankle. He swims as part of his therapy. Swimming is regarded as the best, low impact, means of therapy.

3. The variance request does not involve prohibited land use as it is for an accessory that would otherwise be permissible without variance elsewhere in Charlotte County and is requested by full time residents who will not allow, participate with or condone the violation of any ordinance, statute or other lawfully prohibited conduct at the subject property. The variance request will not obstruct the view of water bodies or other scenic parks, beaches wilderness or open areas; or obstruct the path or flow of wildlife, watersheds, drainage, wind, sunlight, thoroughfares or easements of any type and will therefore not be injurious to or incompatible with adjacent land uses or the surrounding community. The plans do not include a cages area around the pool so that structures will not have any consequential elevations.
4. The subject property owners did not intentionally cause themselves protracted injury, did not design the building lot at its existing layout or square footage and did not enact the zoning code necessitating the variance. All of these conditions cannot reasonably be corrected or avoided by the owners who, consequently, did not create the conditions necessitating the requested variance.
5. The variance requested is for a small functional pool allowing for a safe and usable area between the house and the water's edge, while maintaining a 10' rear setback.

**Narrative
(Exhibit E-2)**



MEMORANDUM

Date: April 17, 2015
To: Ken Quillen, Planner III
From: Jamie Scudera, Environmental Specialist
Subject: VAR-15-003
Norris residence pool, 4086 North Beach Road

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

- ❖ A GIS aerial review was conducted by staff. The property consists of an existing single family home located on a highly sensitive coastal island community. The property is located within the Charlotte County Sea Turtle Lighting review area.

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 authorizations or permits, and mitigation (if necessary) will be required.
- ❖ 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 in the Zoning Office at (941) 743-1290.

JS

(Exhibit F)

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