City of Atlantic Beach

# Amended Agenda

## Regular City Commission Meeting

**Monday, August 11, 2025 - 6:00 p.m.**
**Commission Chamber**
**City Hall, 800 Seminole Road**
**Atlantic Beach, FL 32233**

**INVOCATION AND PLEDGE TO THE FLAG**
**CALL TO ORDER**


| | | | Page(s) |
|---|---|---|---|
| **1.** | | **APPROVAL OF MINUTES** | |
| * | 1.A. | Approve minutes of the Budget Workshop held on July 28, 2025.<br>7-28-25 Budget Workshop Draft Minutes | 5 - 6 |
| * | 1.B. | Approve minutes of the Regular Commission Meeting held on July 28, 2025.<br>7-28-25 Regular City Commission Draft Minutes | 7 - 26 |
| * | 1.C. | Approve minutes of the Community Workshop held on August 6, 2025.<br>8-6-25 Community Workshop Draft Minutes | 27 - 29 |
| **2.** | | **COURTESY OF FLOOR TO VISITORS** | |
| | 2.A. | Police Department: Officer Eric Kohler Swearing-in | |
| | | **PUBLIC COMMENT** | |
| **3.** | | **CITY MANAGER REPORTS** | |
| * | 3.A. | Accept the 90-Day Calendar (Aug. - Oct. 2025)<br>90 Day Calendar - Aug. - Oct. 2025 | 31 - 34 |
| | 3.B. | Centennial Celebration | |
| * | 3.C. | Hen Standards | |
| * | 3.D. | Fire Suppression Resolution | |
| **4.** | | **REPORTS AND/OR REQUESTS FROM CITY COMMISSIONERS** | |
| **5.** | | **UNFINISHED BUSINESS FROM PREVIOUS MEETINGS** | |
| | | None. | |
| **6.** | | **CONSENT AGENDA** | |
| | | None. | |

## 7. COMMITTEE REPORTS

* 7.A. Appointments to Arts, Recreation, and Culture Committee 35 - 43
Appointments to ARCC

## 8. ACTION ON RESOLUTIONS

8.A. **Resolution No. 25-52** 45 - 46
A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ATLANTIC BEACH, FLORIDA, NAMING THE NEWLY ACQUIRED BUILDING AT 100 WEST FIRST STREET IN ATLANTIC BEACH "MARSH OAKS COMMUNITY CENTER" IN HONOR OF THE MARSH OAKS COMMUNITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.
Resolution No. 25-52

8.B. **Resolution No. 25-66** 47 - 49
A RESOLUTION OF THE CITY OF ATLANTIC BEACH AUTHORIZING THE PURCHASE OF AN EQUIPPED POLICE MOTORCYCLE FOR $24,207.35 FROM ADAMEC HARLEY-DAVIDSON; AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS AND PURCHASE ORDERS IN ACCORDANCE WITH AND AS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.
Resolution No. 25-66

## 9. ACTION ON ORDINANCES

None.

## 10. MISCELLANEOUS BUSINESS

10.A. **Public Hearing - APP25-0004 - Appeal of a decision of the Community Development Board (CDB) for variance ZVAR25-0010 at 1025 Beach Avenue**
Request for a variance to reduce the required side yard setbacks for the construction of a proposed single-family residence.

10.A.1 Disclosure of Ex Parte Communications, if any

10.A.2. City Attorney Procedural Reminders

10.A.3. Swearing in of all persons who will speak

10.A.4. City Staff Overview 51 - 103
Appeal - APP25-0004

10.A.5. Applicant Presentation

10.A.6. Public Comments

10.A.7. Closing Comments/Rebuttal

10.A.8. Commission Deliberation and Action

10.B. **Public Hearing - APP25-0005 - Appeal of a decision of the Community Development Board (CDB) for variance ZVAR25-0011 at 1039 Beach Avenue**
Request for a variance to reduce the required side yard setbacks for the construction of a proposed single-family residence.

10.B.1. Disclosure of Ex Parte Communications, if any

10.B.2. City Attorney Procedural Reminders

10.B.3. Swearing in of all persons who will speak

10.B.4. City Staff Overview 105 - 157
Appeal - APP25-0005

10.B.5. Applicant Presentation

10.B.6. Public Comments

10.B.7. Closing Comments/Rebuttal

10.B.8. Commission Deliberation and Action

## 11. CITY ATTORNEY/CITY CLERK REPORTS AND/OR REQUESTS

## 12. CLOSING COMMENTS BY CITY COMMISSIONERS AND CITY MANAGER

## 13. ADJOURNMENT

This meeting will be live-streamed and videotaped. The video recording will be posted within four business days on the City's website. To access live or recorded videos, visit www.coab.us/live.

If any person decides to appeal any decision made by the City Commission with respect to any matter considered at any meeting, such person may need a record of the proceedings, and, for such purpose, may need to ensure that a verbatim record of the proceedings is made, which record shall include the testimony and evidence upon which the appeal is to be based.

Any person wishing to speak to the City Commission on any matter at this meeting should submit a request to the City Clerk prior to the meeting. For your convenience, forms for this purpose are available at the entrance to the Commission Chamber.

Every effort is made to indicate what action the City Commission is expected to take on each agenda item. However, the City Commission may act upon any agenda subject, regardless of how the matter is stated on the agenda.

In accordance with the Americans with Disabilities Act and Section 286.26, Florida Statutes, persons with disabilities needing special accommodation to participate in this meeting should contact the City Clerk's Office at (904) 247-5821 or at City Hall, 800 Seminole Road, Atlantic Beach, FL 32233, no later than 5:00 PM on the Thursday prior to the meeting.

# MINUTES
## Budget Workshop Meeting
## Monday, July 28, 2025 - 5:00 PM
## City Hall, Commission Chamber
## 800 Seminole Road, FL 32233

**ATTENDANCE:**

| | |
|---|---|
| **Present:** | Curtis Ford, Mayor - Seat 1 (At Large)<br>Bruce Bole, Commissioner - Seat 2 (District 1308)<br>Candace Kelly, Commissioner - Seat 4 (District 1306)<br>Jessica Ring, Commissioner - Seat 5 (District 1312) |
| **Absent:** | Thomas Grant, Commissioner - Seat 3 (District 1307) |
| **Also Present:** | William B. Killingsworth, City Manager (CM)<br>Kevin Hogencamp, Deputy City Manager (DCM)<br>Donna Bartle, City Clerk (CC)<br>Michelle Weippert, Records Management Specialist (RMS)<br>Victor Gualillo, Police Chief (PC) |

**CALL TO ORDER**
Mayor Ford called the meeting to order at 5:02 PM.

**1. PUBLIC COMMENT**
The following speaker provided their comments:
**Tracy Gebeaux**

**2. TOPICS**

**A. Budget Workshop #4 Presentation**
**Overview**
**Public Safety Department**

CM Killingsworth presented, as detailed in the agenda packet, and, along with PC Gualillo, answered questions from the Commission.

Mayor Ford requested information about reimbursement from the interlocal agreement for ocean rescue.

**ADJOURNMENT**
Meeting adjourned at 5:44 PM.

DRAFT

Attest:

| | |
|---|---|
| Donna L. Bartle, City Clerk | Curtis Ford, Mayor |

Date Approved: _____

DRAFT

# MINUTES
## Regular City Commission Meeting
## Monday, July 28, 2025 - 6:00 PM
## Commission Chamber
## City Hall, 800 Seminole Road
## Atlantic Beach, FL 32233

**INVOCATION AND PLEDGE OF ALLEGIANCE**
**CALL TO ORDER:**

Following the Pledge of Allegiance, Mayor Ford called the meeting to order at 6:00 PM. CC Bartle called the roll.

**ATTENDANCE:**

| | |
|---|---|
| **Present:** | Curtis Ford, Mayor - Seat 1 (At Large)<br>Bruce Bole, Commissioner - Seat 2 (District 1308)<br>Candace Kelly, Commissioner - Seat 4 (District 1306)<br>Jessica Ring, Commissioner - Seat 5 (District 1312) |
| **Absent:** | Thomas Grant, Commissioner - Seat 3 (District 1307) |
| **Also Present:** | William B. Killingsworth, City Manager (CM)<br>Scott Thomas, City Attorney (CA)<br>Donna Bartle, City Clerk (CC)<br>Kevin Hogencamp, Deputy City Manager (DCM)<br>Michelle Weippert, Records Management Specialist (RMS) |

**1 APPROVAL OF MINUTES**

**1A. Approve minutes of the Budget Workshop on July 14, 2025.**

The Commission approved the minutes as submitted.

**1B. Approve minutes of the Regular Commission Meeting held on July 14, 2025.**

The Commission approved the minutes as submitted.

**1C. Approve minutes of the Town Hall Meeting held on July 19, 2025.**

The Commission approved the minutes as submitted.

**2. COURTESY OF FLOOR TO VISITORS**

**PUBLIC COMMENT**

The following speakers provided their comments:

**James Johnson**



DRAFT

**Jeannie Gracy**
**Mitch Reeves**

## 3. CITY MANAGER REPORTS

### 3.A. Accept the 90-Day Calendar (July - Sept. 2025)

DCM Hogencamp provided an update on the summer youth tennis camp.
There was ***CONSENSUS*** to accept the 90-Day Calendar as amended, including the addition of the first day of school on August 11, 2025.

### 3.B. West First Street turf block project

CM Killingsworth reported as detailed in the agenda packet and answered questions from the Commission.

### 3.C. On-site Storage Proposed Ordinance Change

CM Killingsworth presented a handout for a potential ordinance change (which is attached hereto and made part of this official record as **Attachment A**).
There was a ***CONSENSUS*** that the CM should revise the definition of 'major redevelopment' in the ordinance before it is sent to the Community Development Board.
7-28-25 Attachment A

## 4. REPORTS AND/OR REQUESTS FROM CITY COMMISSIONERS

**Commissioner Bole**

- Proposed adding a city arborist position to the staff. Commissioner Kelly suggested using the mitigation fund for this.

**Commissioner Ring**

- Requested updates on the Marsh Oaks Community Center project, including photos and timeline information, and suggested notifying nearby neighbors about the project.
- Inquired about the status of a potential ordinance allowing hens at duplexes or multi-family homes with fenced yards. CM Killingsworth reported that staff was developing standards based on other communities' regulations.

## 5. UNFINISHED BUSINESS FROM PREVIOUS MEETINGS

None.

## 6. CONSENT AGENDA

### 6.A. Approve Resolution No. 25-64.

**A RESOLUTION OF THE CITY OF ATLANTIC BEACH, FLORIDA ESTABLISHING THE CITY'S FISCAL YEAR 2025-26 PRIORITIES; AND PROVIDING AN EFFECTIVE DATE.**

***MOTION:*** Approve Resolution (No.) 25-64.

***Motion:*** ***Bruce Bole***
***Second:*** ***Candace Kelly***



DRAFT

| | |
|---|---|
| ***Curtis Ford*** | ***For*** |
| ***Bruce Bole (Moved By)*** | ***For*** |
| ***Candace Kelly (Seconded By)*** | ***For*** |
| ***Jessica Ring*** | ***For*** |

***Motion passed 4 to 0.***

**7. COMMITTEE REPORTS**

None.

**8. ACTION ON RESOLUTIONS**

**8.A. RESOLUTION NO. 25-65**

**A RESOLUTION OF THE CITY OF ATLANTIC BEACH, FLORIDA, AUTHORIZING STAFF TO ISSUE A TASK AUTHORIZATION TO GEOSYNTEC CONSULTANTS FOR PROFESSIONAL ENGINEERING SERVICES TO CONDUCT A FEASIBILITY STUDY OF DISCHARGING HIGHLY TREATED RECLAIMED WATER TO AREA DRAINAGE DITCHES TO PREVENT SALTWATER INTRUSION FROM KILLING ADJACENT WETLAND HARDWOOD TREES; AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS AND PURCHASE ORDERS IN ACCORDANCE WITH AND AS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.**

***MOTION:*** Approve Resolution No. 25-65.

***Motion: Jessica Ring***
***Second: Candace Kelly***

| | |
|---|---|
| ***Curtis Ford*** | ***For*** |
| ***Bruce Bole*** | ***For*** |
| ***Candace Kelly (Seconded By)*** | ***For*** |
| ***Jessica Ring (Moved By)*** | ***For*** |

***Motion passed 4 to 0.***

**9. ACTION ON ORDINANCES**

**9.A. ORDINANCE NO. 90-25-256, Public Hearing and Final Reading**

**AN ORDINANCE OF THE CITY OF ATLANTIC BEACH, COUNTY OF DUVAL, STATE OF FLORIDA, HEREBY AMENDING THE LAND DEVELOPMENT REGULATIONS AS ADOPTED BY ORDINANCE NUMBER 90-24-253; THIS ORDINANCE SPECIFICALLY AMENDING SECTION 24-113(c), LIGHT INDUSTRIAL AND WAREHOUSING DISTRICTS, PROVIDING FOR RECORDATION AND PROVIDING AN EFFECTIVE DATE.**



DRAFT

NDD Askew explained as detailed in the agenda packet.

The public hearing was opened, there were no speakers, and the public hearing was closed.

***MOTION:*** Approve Ordinance No. 90-25-256.

***Motion: Jessica Ring***
***Second: Bruce Bole***

| | |
|---|---|
| ***Curtis Ford*** | ***For*** |
| ***Bruce Bole (Seconded By)*** | ***For*** |
| ***Candace Kelly*** | ***Against*** |
| ***Jessica Ring (Moved By)*** | ***For*** |

***Motion passed 3 to 1.***

**10. MISCELLANEOUS BUSINESS**

**10.A. Public Hearing on Waiver Request (WAIV25-0003)**
**Request for a waiver from Section 19-1 to allow for the modification and continued use of an unpermitted parking pad in city right-of-way at 341 6th Street.**

**10.A1. City Attorney Procedural Reminders**

CA Thomas explained the procedures as detailed in the agenda packet.

**10.A3. Swearing in of all persons who will speak**

CC Bartle administered the oath to all speakers.

**10.A2. Disclosure of Ex Parte Communications, if any**

No disclosures were reported by the Commission.

**10.A4. City Staff Overview**

NDD Askew presented as detailed in a presentation (which is attached hereto and made part of this official record as **Attachment B**) and answered questions from the Commission.
7-28-25 Attachment B

**10.A5. Applicant Presentation**

Jim Lucas, the applicant, explained his request and answered questions.

**10.A6. Public Comments**

The following speakers provided their comments:



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**Brinkley Harrell**

**10.A7. Closing Comments/Rebuttal**

Mr. Lucas explained he wants to improve what is already there and build what the City of Atlantic Beach is accepting as a 50% impervious surface.

**10.A8. Commission Deliberation and Action**

***MOTION:*** Approve WAIV25-0003.

***Motion: Jessica Ring***
***Second: Candace Kelly***

Discussion ensued. Mayor Ford expressed appreciation for Jim Lucas following proper procedures and supported the use of turf block pavers.

***Motion passed unanimously 5 to 0.***

***MOTION:*** Approve WAIV25-0003 under the compliance that this shall not be in conflict with the public interest, maintaining 50% or less impervious ratio requirement coverage.

***Motion: Jessica Ring***
***Second: Candace Kelly***

| | |
|---|---|
| ***Curtis Ford*** | ***For*** |
| ***Bruce Bole*** | ***For*** |
| ***Candace Kelly (Seconded By)*** | ***For*** |
| ***Jessica Ring (Moved By)*** | ***For*** |

***Motion passed 4 to 0.***

**11. CITY ATTORNEY/CITY CLERK REPORTS AND/OR REQUESTS**

CA Thomas

- Expressed appreciation for the opportunity to attend the meeting in place of Jason Gabriel.

CC Bartle

- Thanked the city for sending flowers. Mayor Ford expressed his condolences.

**12. CLOSING COMMENTS BY CITY COMMISSIONERS AND CITY MANAGER**

**Commissioner Ring**

- Thanked former Mayor Reeves' annexation discussion, noting the unusual boundary along Mayport Road.

**Commissioner Kelly**

- Requested more information about the city's upcoming 100th birthday celebration at the next meeting. Mayor Ford asked the CM to check into grants that are available for the 250th anniversary of the United States.



DRAFT

**Commissioner Bole**

- Commented annexing property is a very complicated thing.

CM Killingsworth

- Reported the STOP committee has recommendations for ordinance changes that proactively address the "strike zone."

There was a ***CONSENSUS*** that the CM proceed with the STOP Committee's recommendations.

**Mayor Ford**

- Spoke about the significant challenges with annexing a portion of Jacksonville to Atlantic Beach.

**13. ADJOURNMENT**

The meeting adjourned at 7:15 PM

Attest:

_____ _____

Donna L. Bartle, City Clerk Curtis Ford, Mayor

Date Approved: _____

DRAFT

**Sec. 24-89. Stormwater, drainage, storage and treatment requirements.**

(a) Except as required to meet coastal construction codes as set forth within a valid permit from the Florida Department of Environmental Protection; or as required to meet applicable flood zone or stormwater regulations as set forth herein, the elevation or topography of a development or redevelopment site shall not be altered.

(b) *Topography and grading.* All lots and development sites shall be constructed and graded in such a manner so that the stormwater drains to the adjacent street, an existing natural element used to convey stormwater, or a city drainage structure after meeting onsite storage requirements, as set forth within this section. The city shall be provided with a pre-construction topographical survey prior to the issuance of a development permit and a post-construction topographical survey prior to the issuance of a certificate of occupancy. Elevations in all topographic surveys will be referenced to NAVD 1988. Said surveys shall be signed and sealed by a licensed Florida surveyor. All new developments and redevelopments shall provide assurance that adjacent or nearby properties not owned or controlled by the applicant will not be adversely affected by drainage or flooding.

(c) *Onsite storage.* Except as provided for herein, an applicant shall be required to provide onsite storage of stormwater in accordance with this section as follows:

(1) Projects which increase the impervious surface on the development parcel to over 35% impervious ~~by more than four hundred (400) square feet~~ shall provide onsite storage of stormwater for the increase in the impervious surface area only. ~~The four hundred (400) square feet of impervious surface area shall be calculated cumulatively from the adoption date of this ordinance.~~ Projects including total reconstruction or major redevelopment (defined as a level 3 alteration in the Florida Building code) shall provide onsite storage for the entire impervious surface area of the proposed project.

(2) Any modification or replacement of driveway and sidewalk areas only on a developed lot shall not be required to provide onsite storage improvements provided the modification or replacement does not alter the footprint of the existing driveway or sidewalk area.

(3) Applicants shall provide documentations and calculations to demonstrate compliance with submittal of applications for construction.

(4) Projects permitted by the St. Johns River Water Management District (SJRWMD), which have an in-compliance existing retention or detention areas that collect and control stormwater are exempt for further onsite storage requirements; provided, however, a copy of the engineer's certification of as-built construction to the SJRWMD must be submitted to the city before building permits for individual lot construction may be issued.

(5) When onsite storage is required, an as-built survey, signed and sealed by a licensed Florida surveyor, documenting proper construction and required volume of the storage system, must be submitted to and approved by the director of public works prior to permit closeout or issuance of a certificate of occupancy. For an under-ground system, a notarized letter from the general contractor, along with as-built plans and construction photographs will be sufficient to document proper construction.

(6) In addition, a declaration of restrictive covenant, in recordable form and approved by the city, identifying and describing the required on-site storage improvements to be maintained, shall be executed and recorded in the public records of Duval County, Florida, by the owner of the development parcel and shall be binding on successors and assigns, prior to permit closeouts or issuance of a certificate of occupancy.

(7) Volume calculations for any projects that require onsite storage shall be based on the following calculation:

V = CAR/12, where

V = volume of storage in cubic feet,

A = total impervious area,

R = 25-year and 24-hour rainfall depth (9.3 inches) over the lot area, and

C = runoff coefficient, which is the difference between impervious area (C=1.0) and undeveloped conditions (C=0.08).

This volume must be stored at least one (1) foot above the wet season water table and below the overflow point to offsite (in many cases this may be the adjacent road elevation). As an option, and as approved by the director of public works, an applicant may implement, at the applicant's cost, offsite storage and necessary conveyance to control existing flood stages offsite, provided documentation showing appropriate authorization for the off-site use and meeting the requirements of this section is submitted and approved by the city.

(d) *Floodplain storage.* There shall be no net loss of storage for areas in a special flood hazard area (100-year floodplain), where a base flood elevation has been defined by the Federal Emergency Management Agency (FEMA) on flood insurance rate maps (FIRMs). Site grading shall create storage onsite to mitigate for filling of volume onsite. This storage is in addition to the storage required for the increase in impervious surface area. The applicant shall provide signed and sealed engineering plans and calculations documenting that this "no net loss" requirement is met.

(e) *Stormwater treatment.* For all new development or redevelopment of existing properties, excluding single- and two-family uses, where construction meets limits for requiring building code upgrades, stormwater treatment shall be provided for a volume equivalent to either retention or detention with filtration, of the runoff from the first one (1) inch of rainfall; or as an option, for facilities with a drainage area of less than one hundred (100) acres, the first one-half (½) inch of runoff pursuant to Chapter 62-330, Florida Administrative Code (FAC). No discharge from any stormwater facility shall cause or contribute to a violation of water quality standards as provided in Section 62-302, FAC. This treatment volume can be included as part of the onsite storage requirement in subsection (b) of this section.

(f) *NPDES requirements.* All construction activities shall be in conformance with the city's National Pollutant Discharge Elimination Systems (NPDES) permit, in addition to the requirements of the St. Johns River Water Management District and the Florida Department of Environmental Protection. NPDES requirements include use of best management practices (BMPs) prior to discharge into natural or artificial drainage systems. All construction projects of one (1) acre or more require a stand-alone NPDES permit. Site clearing, demolition and construction on any size site may not commence until site inspection and approval of the proper installation of a required best management practices erosion and sediment control plan is completed.

(g) *Enforcement.* Subsequent to approval of a property owner's final grading, including onsite and/or floodplain storage and stormwater treatment and closeout of the applicable permit or issuance of certificates of occupancy, the improvements shall be maintained by the property owner. In order to ensure compliance with the provisions of this section and the requirements to maintain onsite stormwater improvements over time, the city is authorized to conduct inspections of property, upon reasonable notice and at reasonable times, for the purpose of inspecting said property and/or onsite storage improvements for compliance with this section and with any applicable conditions of previously issued permits. Failure to maintain the improvements will require restoration upon notification by the director of public works, within a stipulated time frame. If restoration is not timely completed, the city shall have the right to complete the restoration, and the city's actual cost incurred, together with a charge of one hundred (100) percent of said costs to cover the city's administrative expenses, shall be charged to the then owner of the property.

(h) *Variances to impervious surface area limits.* Variances to impervious surface limits shall be subject to the provisions in section 24-65. Impervious surface requirements shall not be eligible for relief via waivers from the city commission.

(Ord. No. 90-24-253, § 3(Exh. A), 10-14-24)

CHAPTER 6 CLASSIFICATION OF WORK

## SECTION 604
## ALTERATION—LEVEL 3

**604.1 Scope.**

Level 3 *alterations* apply where the work area exceeds 50 percent of the *building area*.

**604.2 Application.**

Level 3 *alterations* shall comply with the provisions of Chapters 7 and 8 for Level 1 and 2 *alterations*, respectively, as well as the provisions of Chapter 9.

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# WAIV25-0003
# 341 6th St

Request for a waiver from Section 19-1 to allow the modification and continued use of a parking pad in the City right-of-way and Section 19-7(a) to exceed the maximum impervious area within the right-of-way at 341 6th St

# Site Context and Details

- Located on north side of 6th St
- Zoned Residential, Single-Family (RS-2)

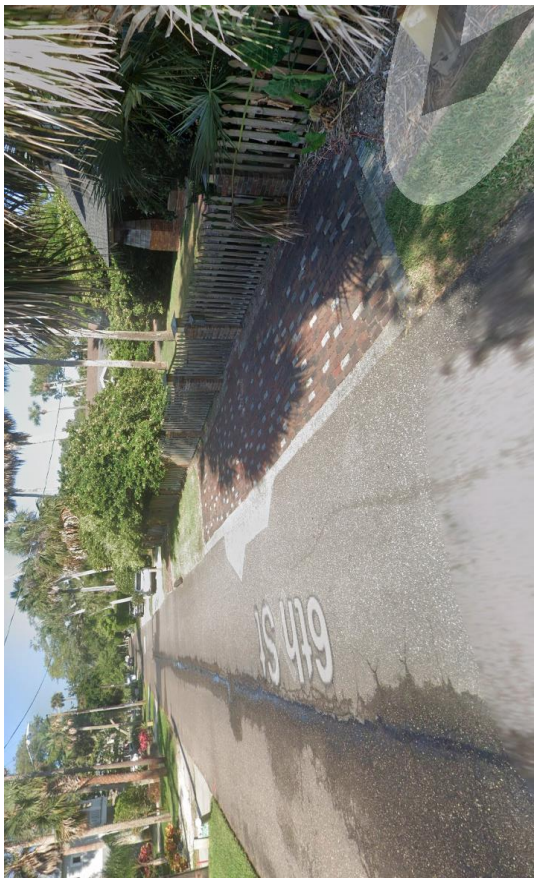


# Background

- The parking pad was constructed in 2012 without a permit and currently consists of gravel



Attachment B to
7-28-25 Minutes





# Relevant Code **Sections**

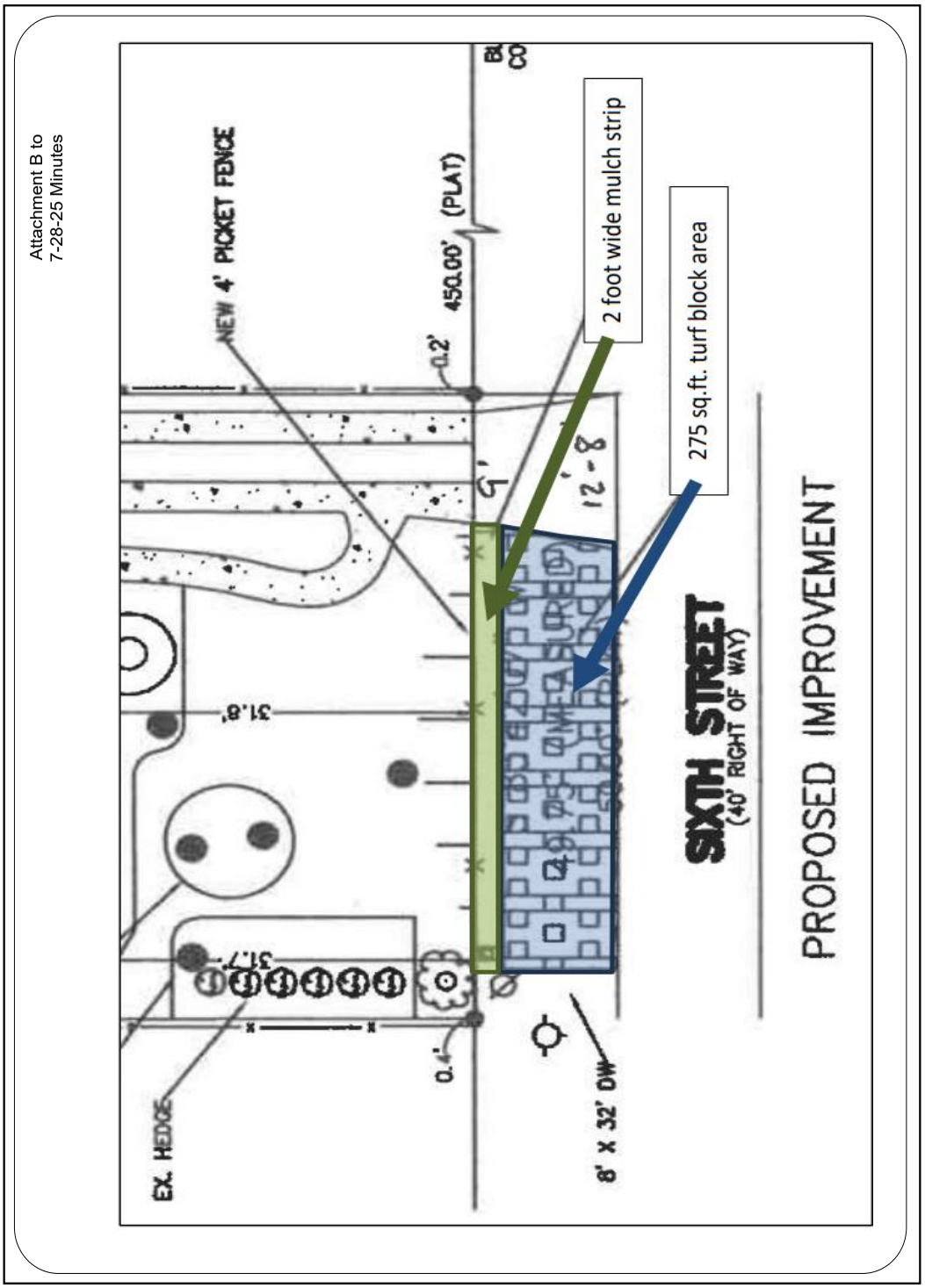
- Section 19-1(c):
  - Prohibits construction in city rights-of-way, including parking spaces or “any work, construction activity or item which creates an obstruction, whether permanent or temporary, to the free and complete use of the right-of-way”
- Section 19-2:
  - Authorizes staff to issue permit within the ROW based on the benefit to of the use to the general public
- Section 19-7(a):
  - Limits the maximum impervious area between the front property line and the street pavement to 50%

# Waiver Request

- The applicant is requesting a waiver to allow the parking pad and to exceed the maximum impervious area in the City right-of-way
- The applicant plans to remove 420 square feet of the gravel and install 275 square feet of turf block pavers along with a 2-foot strip of mulch, resulting in 51.7% impervious area in the right-of-way



Attachment B to
7-28-25 Minutes



# Considerations

Attachment B to
7-28-25 Minutes

- STOP committee policy recommendations

**2.3. Policy**

Plantings, landscaping material or other obstruction within public rights-of way are not permitted per the city Code Sec. 19-1.

Whenever plantings, landscaping material or other obstruction within public rights-of-way obstruct the ingress and/or egress of the rights-of-way, they shall be removed upon request by the city, and in the event of failure by the owner to so move them, the city shall do so and the expense of same charged to the property owner.

All existing obstructions within the 2-foot safety zone shall be removed (Sec. 19-5). All other plantings, landscaping material or other obstructions must comply with this section of the code.

**2.4. Enforcement**

Working in conjunction with other City staff, Code Enforcement and Public Works shall be responsible for enforcing the provisions of this policy.

**2.5. Exceptions**

The City Manager may grant exceptions to this policy on a case-by-case basis. Decisions to do so must be reported in writing to the City Commission.

# CDB Decision

**At the June 17, 2025 Community Development Board meeting, a motion to recommend that the City Commission approve the request, subject the parking pad maintain 50% or less impervious area, was made and passed by a vote of 6 to 0.**

# Commission Decision

The city commission shall not approve a waiver unless:

- (1) Compliance with such provision(s) would be unreasonable; or
- (2) Compliance with such provision(s) are in conflict with the public interest; or
- (3) Compliance with such provision(s) are a practical impossibility.

# MINUTES
## Community Workshop
## Wednesday, August 6, 2025 - 6:00 PM
## Commission Chamber

**ATTENDANCE:**

| | |
|---|---|
| Present: | Curtis Ford, Mayor - Seat 1 (At Large)<br>Bruce Bole, Commissioner - Seat 2 (District 1308)<br>Thomas Grant, Commissioner - Seat 3 (District 1307)<br>Candace Kelly, Commissioner - Seat 4 (District 1306)<br>Jessica Ring, Commissioner - Seat 5 (District 1312) |
| Also Present: | William B. Killingsworth, City Manager (CM)<br>Donna Bartle, City Clerk (CC)<br>Kevin Hogencamp, Deputy City Manager (DCM) |

**CALL TO ORDER**
Mayor Ford called the meeting to order at 6:00 PM.

**1. WELCOME AND INTRODUCTIONS**
Mayor Ford welcomed officials from Neptune Beach and Atlantic Beach. The meeting addressed Neptune Beach's request to use Atlantic Beach water for fire suppression at the Kmart Plaza.

Mayor Ford explained the discussion was informational, with public comment to follow, and committed to allowing public input before any resolution vote.

Mayor Bylund clarified the request is for a developer-funded meter on existing infrastructure, used only if a fire triggers the sprinkler system. The intent is to meet insurance requirements, not supply water for firefighting.

**2. PRESENTATION AND DISCUSSION: ATLANTIC BEACH WATER SUPPLY**
Steve Diebenow, representative for the developer and Matt Melchiori, Civil Engineer for Prosser|Prime gave a presentation as detailed in a photo (which is attached hereto and made part of this official record as **Attachment A**) and answered questions.

8-6-25 Attachment A

**2 PUBLIC COMMENT**
The following speakers provided their comments and engaged in discussion with the Commission and presenters:
**Mitch Reeves**
**Jim Wheatley**



DRAFT

**Brinkley Harrell**
**Ray Brown**
**Charlie Miller**

CM Killingsworth and Mayor Ford explained what action would be needed to move forward.

**ADJOURNMENT**
The meeting was adjourned at 7:12 PM.

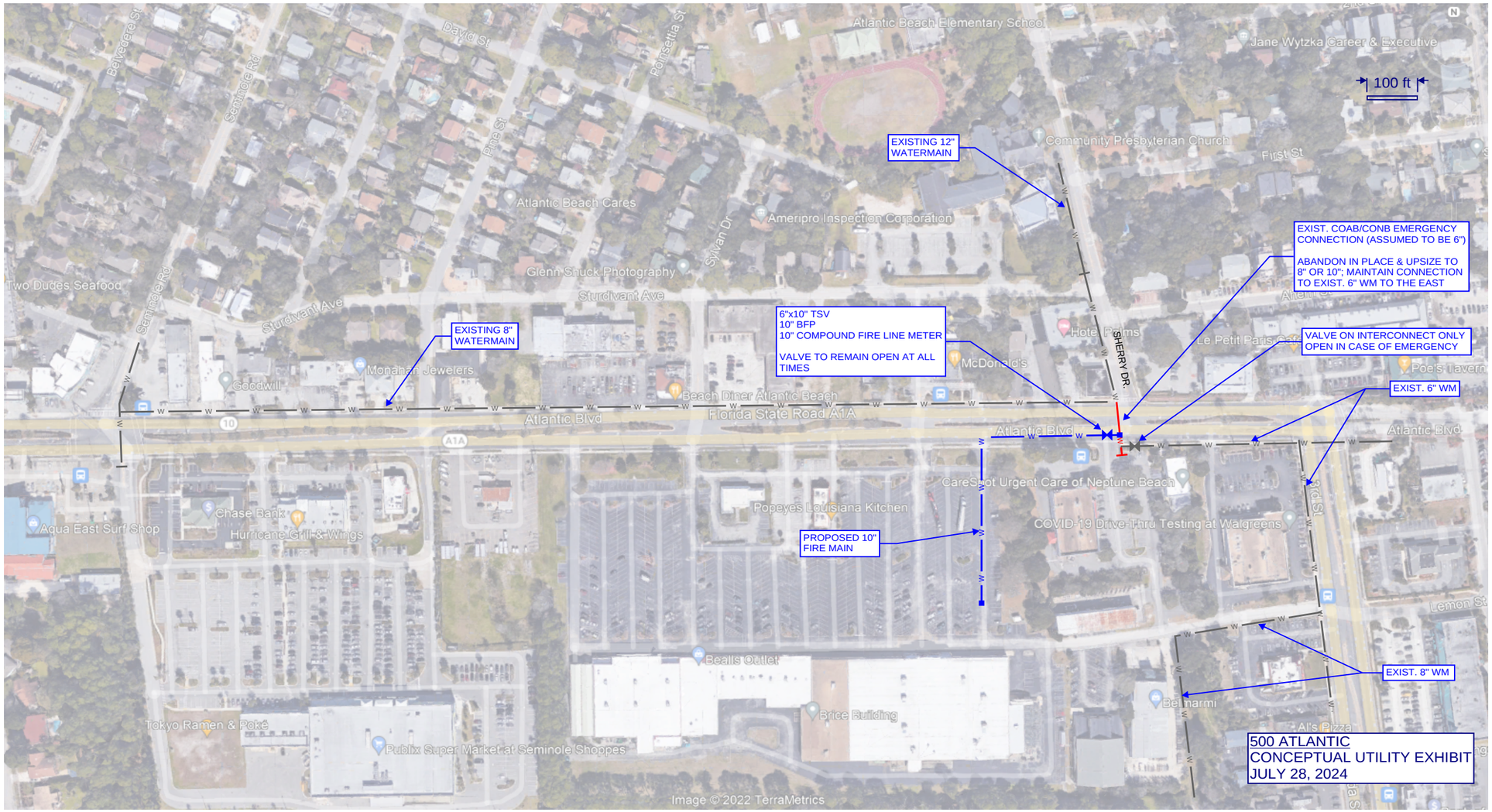
Attest:

_____ _____
Donna L. Bartle, City Clerk Curtis Ford, Mayor

Date Approved:_____

DRAFT

**Attachment A to 8-6-25 Minutes**



**CITY OF ATLANTIC BEACH**
**CITY COMMISSION MEETING**
**STAFF REPORT**

**AGENDA ITEM:** 90-Day Calendar for the City Commission

**SUBMITTED BY:** Adrianna Walsh, Executive Assistant to the City Manager

**TODAY'S DATE:** August 5, 2025

**MEETING DATE:** August 11, 2025

**BACKGROUND:** The rolling 90-day calendar is routinely revised based on input from City staff and the Commission, and is included in each agenda for consideration by consensus.

Please note that the 2025 town hall meetings have been scheduled for:

- Saturday, October 18 at the Adele Grage Cultural Center

Please note that the Budget Workshops for FY 2025-26 have been scheduled for 5 p.m. on:

- Monday, August 11
- Monday, August 25

**BUDGET:** None

**RECOMMENDATION:** Accept the 90-Day Calendar for August 2025-October 2025 by consensus

**ATTACHMENT(S):** City Commission 90-Day Calendar (August 2025-October 2025)

**REVIEWED BY CITY MANAGER:** 

# CITY COMMISSION

## August 2025

| MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|---|---|---|---|---|---|
| | | | | 1<br>Police Union Contract Negotiation<br>10 am | 2 |
| 3<br>Farmers Market<br>10 am-2 pm<br>(Russell Park)<br>Songwriters Concert<br>6 pm<br>(Gulliford Hall) | 4 | 5 | 6<br>Community Workshop: Neptune Beach Water<br>6 pm | 7 | 8 | 9 |
| 10<br>Farmers Market<br>10 am-2 pm<br>(Russell Park) | 11<br>*Duval County First Day of School*<br>Budget Workshop<br>5 pm<br>City Commission<br>6:00 pm<br>(Invoc-Ring) | 12 | 13<br>Environmental Stewardship Cmte.<br>6 pm | 14<br>Pension Boards<br>6 pm | 15 | 16<br>Movie in the Park – Wild Robot<br>Sunset<br>(Johansen Park) |
| 17<br>Farmers Market<br>10 am-2 pm<br>(Russell Park) | 18 | 19<br>Community Development Board<br>6 pm | 20<br>Environmental Stewardship Cmte.<br>6 pm | 21<br>Employee Appreciation<br>City Offices Closed<br>11:30am – 1:30pm | 22<br>Blood Drive<br>Noon-5 pm | 23 |
| 24<br>Farmers Market<br>10 am-2 pm<br>(Russell Park)<br>Acoustic Night<br>6 pm<br>(Bull Park) | 25<br>Budget Workshop<br>5 pm<br>City Commission<br>6:00 pm<br>(Invoc-Ford) | 26 | 27<br>Arts, Recreation, Culture Committee<br>6 pm | 28 | 29 | 30 |
| 31<br>Farmers Market<br>10 am-2 pm<br>(Russell Park) | | | | | | |

## CITY COMMISSION

# September 2025

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|---|---|---|---|---|---|---|
| | 1<br>Labor Day Holiday<br>City Offices Closed | 2 | 3<br>Code Enforcement<br>Special Magistrate<br>2 pm | 4<br>Environmental<br>Speaker Series<br>6 pm | 5 | 6 |
| 7<br>Farmers Market<br>10 am-2 pm<br>(Russell Park)<br>Songwriters Concert<br>6 pm<br>(Gulliford Hall) | 8<br>City Commission<br>6:00 pm<br>(Invoc-Bole) | 9<br>Arts, Recreation,<br>Culture Committee<br>6 pm | 10<br>Environmental<br>Stewardship Cmte.<br>6 pm | 11 | 12 | 13 |
| 14<br>Farmers Market<br>10 am-2 pm<br>(Russell Park) | 15 | 16<br>Community<br>Development Board<br>6 pm | 17<br>Environmental<br>Stewardship Cmte.<br>6 pm | 18 | 19<br>Fall Paint Night –<br>Registration Required<br>6 pm<br>Adele Grage | 20<br>Fall Festival<br>(Donner Park)<br>10 am-1 pm |
| 21<br>Farmers Market<br>10 am-2 pm<br>(Russell Park)<br>Acoustic Night 6 pm<br>(Bull Park) | 22<br>City Commission<br>6:00 pm<br>(Invoc-Grant) | 23 | 24 | 25 | 26 | 27 |
| 28<br>Farmers Market<br>10 am-2 pm<br>(Russell Park) | 29 | 30 | | | | |

## CITY COMMISSION

# October 2025

| SUNDAY | MONDAY | TUESDAY | WEDNESDAY | THURSDAY | FRIDAY | SATURDAY |
|---|---|---|---|---|---|---|
| | | | 1 | 2<br>Speaker Series<br>6 pm | 3 | 4 |
| 5<br>Farmers Market<br>10 am-2 pm<br>(Russell Park)<br>Songwriters Concert<br>6 pm<br>(Gulliford Hall) | 6 | 7 | 8<br>Environmental Stewardship Cmte.<br>6 pm | 9 | 10 | 11 |
| 12<br>Farmers Market<br>10 am-2 pm<br>(Russell Park) | 13<br>City Commission<br>6:00 pm<br>(Invoc-Kelly) | 14<br>Arts, Recreation, Culture Committee<br>6 pm | 15<br>Environmental Stewardship Cmte.<br>6 pm | 16 | 17<br>Blood Drive<br>Noon-5 pm | 18<br>Town Hall Meeting<br>10 am<br>(Adele Grage)<br>Family Fun Day<br>Jack Russell Park |
| 19<br>Farmers Market<br>10 am-2 pm<br>(Russell Park)<br>Acoustic Night 6 pm<br>(Bull Park) | 20 | 21<br>Community Development Board<br>6 pm | 22 | 23 | 24 | 25 |
| 26<br>Tricks & Trees Giveaway<br>10 am-Noon<br>Farmers Market<br>10 am-2 pm<br>(Russell Park) | 27<br>City Commission<br>6:00 pm<br>(Invoc-Ring) | 28<br>Board Member Review Committee<br>6 pm | 29 | 30 | 31 | |

**CITY OF ATLANTIC BEACH**
**CITY COMMISSION MEETING**
**STAFF REPORT**

**AGENDA ITEM:** Appointments to Arts, Recreation, and Culture Committee (ARCC)

**SUBMITTED BY:** Donna L. Bartle, City Clerk DLB

**DATE:** August 4, 2025

**MEETING DATE:** August 11, 2025

**BACKGROUND:** The Board Member Review Committee (BMRC) met on July 29, 2025, following the recent approval of Ordinance No. 5-25-71, to address Arts, Recreation, and Culture Committee (ARCC) membership, including term dates for the two, newly-established ARCC positions and appointments to those positions.

A handout was provided by the City Clerk outlining a proposed schedule for assigning the initial term dates. That proposal was reviewed, discussed, and ultimately recommended by the Committee.

Applicants considered were Curtis Winter (1312), a former alternate member, whose position was eliminated by passage of Ordinance No. 5-25-71; Ingrid McCawley (District 1306; Eran Tobol (District 1308); and Sondra Goldschmidt (District 1306).

The BMRC made the following recommendations:

1. Assign ARCC Member #8 a term ending 12/31/2025.,
2. Assign ARCC Member #9 a term ending 12/31/2027.,
3. Appoint Curtis Winter to ARCC Member #8 for the initial term ending December 31, 2025, and continue his appointment for the following three-year term ending December 31, 2028, and
4. Appoint Ingrid McCawley to ARCC Member #9 for the term ending December 31, 2027.

**BUDGET:** There is no budget impact.

**RECOMMENDATION:** Approve the four BMRC recommendations shown above, effective immediately.

**LINK:** July 29, 2025 BMRC Amended Agenda Packet

**ATTACHMENTS:** July 29, 2025 BMRC Draft Minutes

**REVIEWED BY CITY MANAGER** WJ

# MINUTES
## Board Member Review Committee (BMRC) Meeting
## Tuesday, July 29, 2025 - 6:00 PM
## City Hall, Commission Chamber
## 800 Seminole Road, Atlantic Beach, FL 32233

**ATTENDANCE:**

| | |
|---|---|
| **Present:** | Curtis Ford, Chair<br>Stephen Ditamore, Member<br>Pamela White, Member<br>Lisa Goodrich |
| **Absent:** | Sean Keane, Member |
| **Also Present:** | Donna Bartle, City Clerk (CC) |

**CALL TO ORDER AND ROLL CALL**
Mayor Ford called the meeting to order at 6:00 PM.

**1. APPROVAL OF MINUTES**

**A. Approve Minutes of the Board Member Review Committee meeting of May 15, 2025.**

The minutes were approved as submitted with no changes.

**2. INTRODUCTIONS AND OVERVIEW OF ROLES AND RESPONSIBILITIES OF THE ARTS, RECREATION, AND CULTURE COMMITTEE (ARCC)**

Mayor Ford explained the process and introductions were made.

ARCC Chair Lisa Goodrich gave an overview of the Arts, Recreation, and Culture Committee.

**3. ARTS, RECREATION, AND CULTURE COMMITTEE (ARCC)**

**A. Discuss new ordinance and changes in membership.**

Mayor Ford explained that the recent increase in membership from seven (7) to nine (9) members is the reason for the two new vacancies.

**B. Make Recommendations on term dates for the two newly-established regular member positions, Members 8 and 9.**

Mayor Ford referred to and explained the handout provided by City Clerk Bartle (attached hereto and made part of the official record as **Attachment A**), which reflects the term dates of current members, along with a proposal for assigning term dates to the two new positions, Members 8 and 9. He also welcomed other proposals to consider.

A discussion followed concerning the process for reappointing members upon the expiration of their terms. It was clarified that any board or committee member whose term expires can continue to serve until the member's replacement appointment is effective. Members seeking reappointment typically do not need to be re-interviewed—unless requested by the chair of their respective board or committee—though their attendance records are reviewed during consideration.

It was also clarified that appointments to unexpired terms of less than one year will not count toward term limits, and individuals in such cases may be recommended for appointment to the subsequent full term.

Attachment A to 7-29-25 BMRC Minutes

***MOTION:*** Approve the recommendations (which is to assign ARCC Member #8 a term ending 12/31/25 and ARCC Member #9 a term ending 12/31/27, as shown in **Attachment A**).

***Motion:*** ***Stephen Ditamore***
***Second:*** ***Pamela White***

| | |
|---|---|
| ***Curtis Ford*** | ***For*** |
| ***Stephen Ditamore (Moved By)*** | ***For*** |
| ***Pamela White (Seconded By)*** | ***For*** |
| ***Lisa Goodrich*** | ***For*** |

***Motion passed 4 to 0.***

**C. Discuss Curtis Winter, a former alternate member, whose position was eliminated by passage of Ordinance No. 5-25-71 and is interested in appointment to one of the newly-established regular member positions.**

***MOTION:*** Recommend appointing Curtis Winter to the ARCC Member #8 term (immediately) and continue him for the following three-year term after December 31, 2025.

***Motion:*** ***Stephen Ditamore***
***Second:*** ***Lisa Goodrich***

| | |
|---|---|
| ***Curtis Ford*** | ***For*** |
| ***Stephen Ditamore (Moved By)*** | ***For*** |
| ***Pamela White*** | ***For*** |
| ***Lisa Goodrich (Seconded By)*** | ***For*** |

***Motion passed 4 to 0.***

**D. Interview New Candidates.**

The Committee interviewed those applicants in attendance, separately. Although Sondra Goldschmidt was not in attendance, her application was considered along with her email dated July 28, 2025 (which is attached hereto and made part of this official record at **Attachment B**). Lauren Bauder withdrew her application prior to the meeting and was not considered. During the interview, applicants explained their personal accomplishments, experience, and interest and answered questions from the Committee.

Attachment B to 7-29-25 BMRC Minutes

**E. Ingrid D. McCawley (District 1306)**

BC App-25-13

Interviewed in person.

**F. Eran Tobol (District 1308)**

BC App-25-05

Interviewed in person.

**G. Sondra Goldschmidt (District 1306)**

BC App-23-08

Unable to attend; application was considered along with her email dated July 28, 2025, **Attachment B**.

**H. Lauren Bauder (District 1312)**

BC App-24-04

Withdrew application prior to the meeting and, therefore, not considered.

**I. Public Comments**

Sarah Boren provided comments and offered suggestions for onboarding new appointees.

**J. Make recommendations on appointments.**

With one vacancy having been addressed during Item 3.C, there was only one vacancy remaining. The Committee discussed the three candidates - all of which were described as excellent candidates - and made the following recommendation.

***MOTION:*** Recommend appointing Ingrid McCawley to ARCC Member #9 (immediately).

***Motion:*** ***Stephen Ditamore***
***Second:*** ***Lisa Goodrich***

| | |
|---|---|
| ***Curtis Ford*** | ***For*** |
| ***Stephen Ditamore (Moved By)*** | ***For*** |
| ***Pamela White*** | ***For*** |
| ***Lisa Goodrich (Seconded By)*** | ***For*** |

***Motion passed 4 to 0.***

**4. OTHER BUSINESS**

**A. Schedule future meeting(s)**

The Committee discussed possible meeting dates and agreed to propose October 22nd, 23rd, and 28th.

City Clerk Bartle reported that the minutes from October 7, 2024 were not approved at the May meeting due to a lack of quorum. These minutes will be included on the next meeting agenda for approval.

**ADJOURNMENT**
This meeting adjourned at 7:23 PM.

Attest:

Donna L. Bartle, City Clerk

Curtis Ford, Mayor/Chair

Date Approved: _____

DRAFT

**Attachment A**
**to 7/29/25 BMRC Minutes**

**Current List of Arts, Recreation, and Culture Committee Members and their terms:**

| First Name | Last Name | Title | Position | District | Start Term | End Term |
|---|---|---|---|---|---|---|
| An | Oskarsson | Member | ARCC Member 1 | 1307 | 1/1/2023 | 12/31/2025 |
| Josué | Cruz | Member | ARCC Member 2 | 1306 | 1/1/2025 | 12/31/2027 |
| Lisa | Goodrich | ARCC Chair | ARCC Member 3 | 1307 | 1/1/2024 | 12/31/2026 |
| Hilary | Hickam | Member | ARCC Member 4 | 1307 | 1/1/2023 | 12/31/2025 |
| Desmond | Demps-Brooks | Member | ARCC Member 5 | 1308 | 1/1/2025 | 12/31/2027 |
| Kaylene | Maddox | Member | ARCC Member 6 | 1312 | 1/1/2024 | 12/31/2026 |
| Joseph | Schwarz | Member | ARCC Member 7 | 1306 | 1/1/2024 | 12/31/2026 |

**City Clerk's proposal for recommending terms for the two, newly-established, regular member positions:**

| First Name | Last Name | Title | Position | District | Start Term | End Term |
|---|---|---|---|---|---|---|
| | | Member | ARCC Member 8 | Any | immediately upon appointment | 12/31/2025 |
| | | Member | ARCC Member 9 | Any | immediately upon appointment | 12/31/2027 |

**Attachment B**
**to 7/29/25 BMRC Minutes**

**Bartle, Donna**

**From:** sondra goldschmidt <sgoldschmidt2@gmail.com>
**Sent:** Monday, July 28, 2025 6:01 PM
**To:** Bartle, Donna
**Subject:** Re: Notification of Interview with BMRC for Arts, Recreation, and Culture Committee

Hi Donna!

Sincerest apologies, I missed this email with work travel and personal travel the past few weeks. Unfortunately, I will not be able to make tomorrow evening's meeting. Please prioritize those applicants who attend in person over me!

Sincerely,
Sondra

On Tue, Jul 8, 2025 at 5:47 PM Bartle, Donna <dbartle@coab.us> wrote:

Good Afternoon, Ms. Goldschmidt,

Thank you for your interest in serving on the City's Arts, Recreation, and Culture Committee (ARCC). **You are invited to proceed to the next step, which is to interview with the Board Member Review Committee (BMRC).** Interviews will take place during the following scheduled meeting:

**Event:** **Board Member Review Committee Meeting**

**Date:** **Tuesday, July 29, 2025**

**Time:** **6:00 p.m.**

**Location:** **City Hall, Commission Chamber**
**800 Seminole Road**
**Atlantic Beach, FL 32233**

**Although, in-person attendance is preferred, a virtual attendance option (via Zoom) is available, if needed.**

1

**Attachment B**
**to 7/29/25 BMRC Minutes**

**If you are unable to attend this scheduled meeting through either of those two options, your application can still be included on the BMRC agenda for consideration along with the other candidates.**

Please let me know whether or not you are available to attend this meeting and, if so, specify your choice of in-person or virtual (via Zoom).

P.S. We have an Arts, Recreation, and Culture Committee page where you can access Committee information in the meantime.

If you have any questions, please don't hesitate to contact me.

Thank you,

Donna L. Bartle

City Clerk

City of Atlantic Beach

800 Seminole Road

Atlantic Beach, FL 32233

(904) 247-5809

**CITY OF ATLANTIC BEACH**
**CITY COMMISSION MEETING**
**STAFF REPORT**

**AGENDA ITEM:** Resolution No. 25-52 (Naming 100 West First Street ***Marsh Oaks Community Center*** )

**SUBMITTED BY:** Amanda L. Askew, AICP, Neighborhood Department Director

**TODAY'S DATE:** July 29, 2025

**MEETING DATE:** August 11, 2025

**BACKGROUND:** On June 9, the City Commission of Atlantic Beach discussed the naming of the property located at 100 West Street and reached a consensus to designate the facility as the **Marsh Oaks Community Center**.

The proposed naming of the building was conducted in accordance with the City's Parks, Recreation Areas, and Building Naming Policy. On July 22, the Arts, Recreation, and Culture Committee (ARCC) formally voted to approve the name *Marsh Oaks Community Center* for the facility.

This property was acquired to enhance services for the residents of Atlantic Beach, with the purchase formally authorized through **Resolution No. 23-55**. Currently undergoing significant renovations, the facility is intended to serve as a welcoming space for community gatherings, civic engagement, and a wide range of social, recreational and cultural activities.

The name *Marsh Oaks Community Center* has been proposed to honor the surrounding neighborhood, known for its distinctive character and natural beauty. The name reflects the graceful canopy of live oaks and the ecological significance of the adjacent marshlands—hallmarks of the area that contribute to the city's identity.

The *Marsh Oaks Community Center* will serve as a vital extension of the Beaches Memorial Veterans Park, enhancing its role as a central gathering space for both reflection and community engagement. Strategically situated to complement the park's purpose and design, the community center will offer programming, services, and amenities that support veterans, their families, and the broader beaches community.

By naming the facility the *Marsh Oaks Community Center*, the City of Atlantic Beach affirms its commitment to preserving the legacy and celebrating the natural environment of the Marsh Oaks community, recognizing its enduring value to the city's cultural and environmental heritage.

**BUDGET:** None

**RECOMMENDATION:** Approve Resolution No. 25-52.

**ATTACHMENT(S):** Resolution No. 25-52

**REVIEWED BY CITY MANAGER:**

**RESOLUTION NO. 25-52**

**A RESOLUTION OF THE CITY COMMISSION OF THE CITY OF ATLANTIC BEACH, FLORIDA, NAMING THE NEWLY ACQUIRED BUILDING AT 100 WEST FIRST STREET IN ATLANTIC BEACH "MARSH OAKS COMMUNITY CENTER" IN HONOR OF THE MARSH OAKS COMMUNITY; PROVIDING FOR CONFLICTS; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City of Atlantic Beach is dedicated to recognizing and honoring the unique neighborhoods and natural beauty that define the character of our community; and

**WHEREAS**, the area known as *Marsh Oaks* is distinguished by its lush tree canopy, rich biodiversity, and proximity to the coastal marshes, making it a cherished and picturesque part of the city; and

**WHEREAS**, the name *Marsh Oaks* reflects both the natural elegance of the live oaks that grace the community and the ecological importance of the nearby marshlands; and

**WHEREAS**, the City has acquired the building at 100 West First Street and is transforming the building into a community center to serve as gathering place for residents, to foster civic engagement, and to support recreational and cultural activities; further, the community center will be an integral complement to Beaches Veterans Memorial Park and serve the surrounding military families; and

**WHEREAS**, the City has adhered to its Parks, Recreations Area and Building Naming Policy, and the Arts, Recreation, Culture Committee voted on July 22, 2025, to recommend naming the building located at 100 West First Street *Marsh Oaks Community Center*.

**NOW THEREFORE,** be it resolved by the City Commission of the City of Atlantic Beach as follows:

**SECTION 1.** In recognition of the Marsh Oaks community, the City Commission hereby adopts the name *Marsh Oaks Community Center* for the building located at 100 West First Street.

**SECTION 2.** All Resolutions or parts of Resolutions in conflict herewith are hereby repealed to the extent of such conflict.

**SECTION 3.** This Resolution shall take effect immediately upon its passage and adoption.

**PASSED AND ADOPTED** by the City of Atlantic Beach, this 11th day of August 2025.

_____
Curtis Ford, Mayor

Attest:

_____
Donna L. Bartle, City Clerk

Approved as to form and correctness:

_____
Jason Gabriel, City Attorney

**CITY OF ATLANTIC BEACH**
**CITY COMMISSION MEETING**
**STAFF REPORT**

**AGENDA ITEM:** Resolution No. 25-66 authorizing the Purchase of a Police Motorcycle

**SUBMITTED BY:** Victor Gualillo, Chief of Police

**TODAY'S DATE:** July 30, 2025

**MEETING DATE:** August 11 , 2025

**BACKGROUND:** The Police Department has made traffic safety and enforcement a key priority in response to community concerns and city commission priorities regarding the safety of our roadways. As part of that initiative, the Police Department has reinstituted its Traffic Enforcement Unit to employ officers whose primary focus is the enforcement of traffic laws and responding to traffic complaints. A Traffic Enforcement Unit is part of our approach toward enacting the City's Comprehensive Safety Action Plan, as well as other state and local traffic safety initiatives such as Vision Zero.

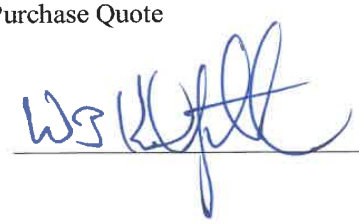
Currently, the Traffic Unit consists of one motorcycle officer and one DUI enforcement officer. The Police Department desires to expand this unit by an additional motorcycle. Motorcycles are highly effective in traffic enforcement because of their high maneuverability and agility as well as their low profile compared to a standard patrol vehicle. Officers working traffic enforcement from a motorcycle are two to three times more effective than officers working out of cars. The department has received a quote for an available new 2024 Harley-Davidson Road King police package motorcycle for $24,207.35 from Adamec Harley-Davidson that meets the needs of this request. This is below the pricing of 2025 and 2026 model year motorcycles.

There are existing funds available in the FY 2024-25 Police budget adequate to purchase a police motorcycle for $24,312.82; these funds are from salary lapses during the fiscal year. No additional monies are required to effectuate this purchase. This will not cause an increase in number of budgeted police officer positions. This resolution will authorize the expenditure of funds to purchase and outfit these vehicles.

**BUDGET:** Current funds in the FY25 Police Department budget will be transferred into the Police Patrol Motor Vehicles account 001-2002-521-64-01 to purchase and outfit one Police Department motorcycle for $24,207.35.

**RECOMMENDATION:** Approve Resolution No. 25-66 authorizing the purchase of an additional police motorcycle for $24,207.35.

**ATTACHMENT(S):** Resolution No. 25-66
Vehicle Purchase Quote

**REVIEWED BY CITY MANAGER:** 

**RESOLUTION NO. 25-66**

**A RESOLUTION OF THE CITY OF ATLANTIC BEACH AUTHORIZING THE PURCHASE OF AN EQUIPPED POLICE MOTORCYCLE FOR $24,207.35 FROM ADAMEC HARLEY-DAVIDSON; AUTHORIZING THE CITY MANAGER TO EXECUTE CONTRACTS AND PURCHASE ORDERS IN ACCORDANCE WITH AND AS NECESSARY TO EFFECTUATE THE PROVISIONS OF THIS RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.**

**WHEREAS**, the City has prioritized traffic safety and enforcement as a key issue; and

**WHEREAS**, the Police Department employs a Traffic Enforcement Unit, including motorcycle officers, to conduct traffic enforcement operations; and wishes to add an additional motorcycle to this unit; and

**WHEREAS**, traffic enforcement performed via a motorcycle is two to three times more effective than using a car, the police department wishes to add an additional motorcycle to the traffic unit; and

**WHEREAS**, the Police Department can purchase and outfit vehicles from one or more State of Florida purchasing contracts or secure favorable pricing and terms of contract from other vendors; and

**WHEREAS**, the Police Department has determined that one 2024 Harley-Davidson Road King police motorcycle can be purchased and outfitted from Adamec Harley-Davidson for $24,207.35; and

**WHEREAS**, the funds necessary to complete this purchase are available in the FY2025 Police Department Budget in Account No. 001-2002-521-64-01.

**NOW THEREFORE,** be it resolved by the City Commission of the City of Atlantic Beach as follows:

**SECTION 1**. The City Commission hereby authorizes the purchase of an equipped police motorcycle for $24,207.35.

**SECTION 2**. The City Commission hereby authorizes the City Manager to execute contracts and purchase orders in accordance with and as necessary to effectuate the provisions of this Resolution.

**SECTION 3.** This Resolution shall take effect immediately upon its passage and adoption.

**PASSED AND ADOPTED** by the City of Atlantic Beach, this 11th day of August, 2025.

Attest:

_____
Donna L. Bartle, City Clerk

_____
Curtis Ford, Mayor

Approved as to form and correctness:

_____
Jason Gabriel, City Attorney

**Atlantic Beach Police Department 2024 FLHP Parts Bid Per Unit** **07/24/2025**

**2024 Harley Davidson Police Road King FLHP** **$14,823.00**

**Line Item #1 Whelen Tour Pack** **$5264.93**

Furnish and install Whelen Box Rear open system with adapter plate, aux battery with charger, terminal block with fuses, 12VDC receptacles, Aux battery, separation plate , Strip lite run-turn Brake, 6 M4 light heads, Red- Blue.

**Line Item #2 Whelen Windshield Light Array - Par-32 passing lamps** **$1428.98**

Furnish and Install Whelen Windshield Light Array with 4 High Intensity LED light heads -blue and Whelen Par 32 Led passing lamps run white flash blue

**Line Item #3 Run-Turn Brake module with Bright Ass LED rear brake light** **$608.92**

Furnish and install H-D 3 way run turn brake module with Bright Ass rear brake light

**Line Item #4 Furnish and Install Saddle bag guard rails** **$542.86**

Furnish and install H-D Chrome Saddle Bag Guard rails

**Line Item #5 Furnish and Install Emergency Response Kit** **$1538.66**

**Total parts and labor furnished and installed per unit** **$24,207.35**

**CITY OF ATLANTIC BEACH**
**CITY COMMISSION MEETING**
**STAFF REPORT**

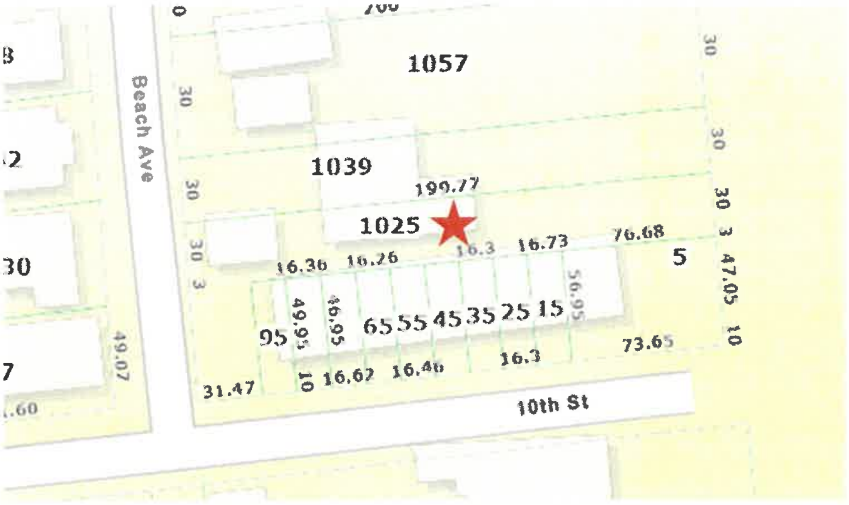
**AGENDA ITEM:** APP25-0004 (Appeal of a decision of the Community Development Board for variance ZVAR25-0010 at 1025 Beach Avenue)

**SUBMITTED BY:** Amanda L. Askew, AICP, Neighborhoods Department Director

**TODAY'S DATE:** July 29, 2025

**MEETING DATE:** August 11, 2025

**BACKGROUND:** The applicant and authorized agent, Nathan Bussey, is appealing the final decision of the City of Atlantic Beach Community Development Board (CDB) regarding Variance Requests ZVAR25-0010 and ZVAR25-0011, rendered on May 20, 2025.




The subject property (1025 Beach Ave. is a vacant lots located on the west side of Beach Avenue near the intersection of 10th Street located within the Residential, General, Multi-Family (RG-M) zoning district.

The applicant is requesting a variance for each property (1025 and 1039 Beach Ave.) to allow a reduction in the required side yard setbacks for the construction of proposed single-family residences. The original application submitted to the Community Development Board (CDB) indicated that each lot had a width of 30 feet. However, during the public hearing, the applicant explained his drawing were incorrect and that the southern lot, located at 1025 Beach Avenue, includes an additional three (3) feet of width within its widest buildable area, bringing the total width to 33 feet.

Mr. Bussey is requesting variances for two properties to reduce the required side yard setbacks in order to construct new single-family homes. A public hearing was held on May 20, 2025, during which the CDB reviewed the applications, supporting documentation, and public comments. Following deliberation, the Board voted unanimously (6-0) to deny both variance requests. The denial was based on the Board's determination that the applications did not satisfy the criteria for variance approval outlined in Section 24-65(c) of the Land Development Regulations.

On June 7, 2022, both structures located at 1025 and 1039 Beach Avenue sustained substantial damage due to a fire, necessitating demolition. Relevant code sections addressing the redevelopment of nonconforming structures include:

- **Section 24-85(b)(7):** Permits legal nonconforming residential structures substantially damaged by a natural event to be reconstructed within the previously existing footprint and height, provided reconstruction commences within one year and is completed within three years of the event.
- **Section 24-84(c)(4):** Provides similar provisions for site improvements or structures located on properties with legal nonconforming uses.

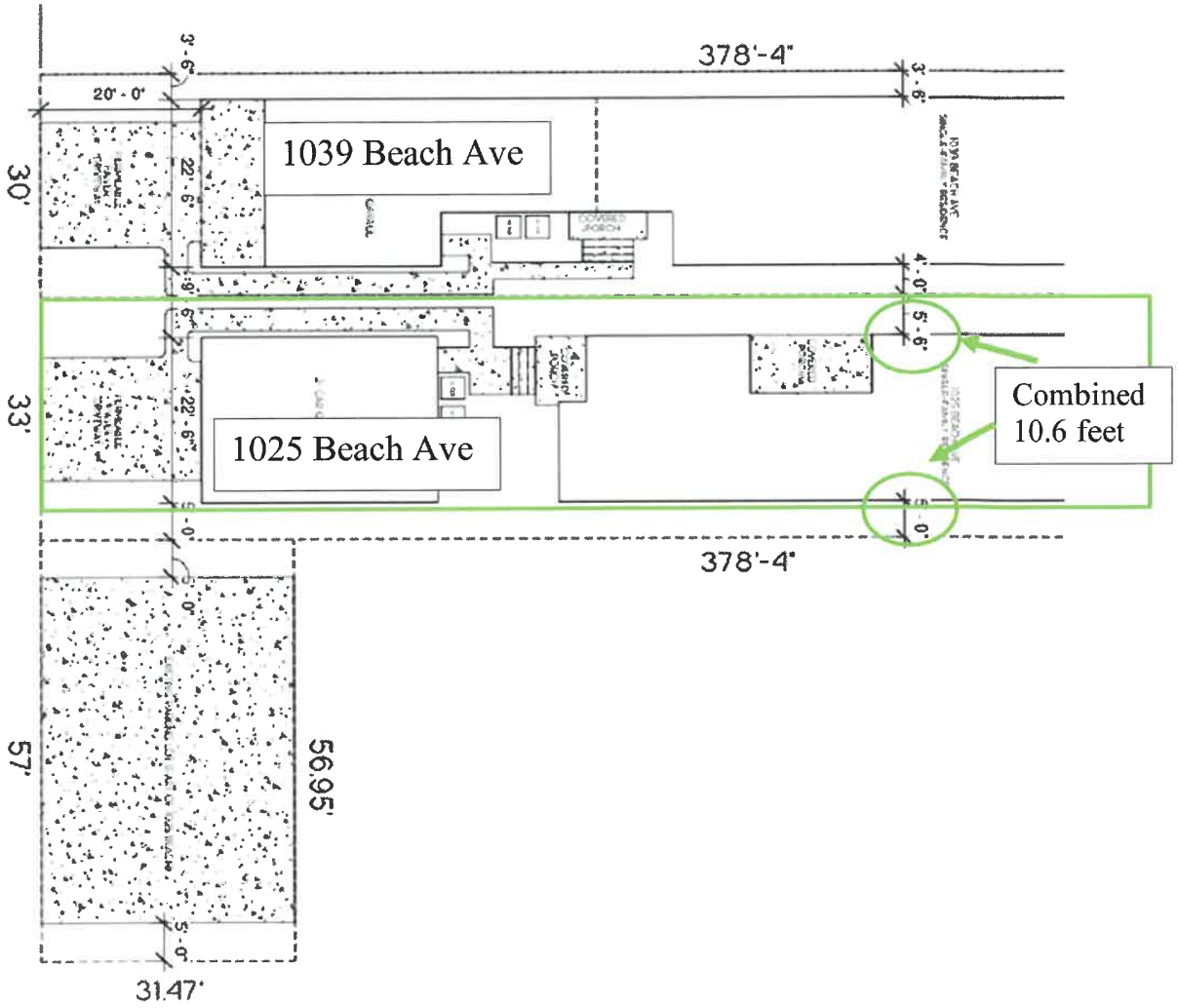
The property owners were informed of their redevelopment options in October 2022 (see "Redevelopment Options Letters Updated 1.01.22"). However, reconstruction did not begin within the one-year timeframe following the event (by June 7, 2023), resulting in the loss of the properties' legal nonconforming status.

**VARIANCE REQUEST**:

Pursuant to **Section 24-108(e)(3)(a)** of the Land Development Regulations, side yard setbacks for single-family dwellings require a combined total of fifteen (15) feet, with a minimum of five (5) feet on either side.

- **1025 Beach Avenue (southern lot):** The proposed side yard setbacks are 5.6 feet (interior to new house) and 5 feet (external to existing house). The applicant seeks a variance to reduce the combined side yard setback from 15 feet to 10.6 feet

| | North side of property | | South Side of property | | Combined | |
|---|---|---|---|---|---|---|
| | Code | Proposed | Code | Proposed | Code | Proposed |
| **1025 Beach Ave** | 5 feet | 5.5 feet | 5 feet | 5 feet | 15 feet | 10.6 feet |




Section 24-65 states that "applications for a variance shall be considered on a case-by-case basis, and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section." According to Section 24-17, Definitions, "[a] variance shall mean relief granted from certain terms of this chapter. The relief granted shall be only to the extent as expressly allowed by this chapter and may be either an allowable exemption from certain provision(s) or a relaxation of the strict, literal interpretation of certain provision(s). Any relief granted shall be in accordance with the provisions as set forth in Section 24-65 of this chapter, and such relief may be subject to conditions as set forth by the City of Atlantic Beach."

Section 24-65(c) provides six distinct grounds for the approval of a variance:

**(1)** ***Exceptional topographic conditions of or near the property.***

**(2)** ***Surrounding conditions or circumstances impacting the property disparately from nearby properties.***
The applicant identified this as a ground for approval. See the application for additional comments.

**(3)** ***Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.***

**(4)** ***Onerous effect of regulations enacted after platting or after development of the property or after***
The applicant identified this as a ground for approval. See the application for additional comments.

**(5)** ***Irregular shape of the property warranting special consideration.***

**(6)** ***Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.***
The applicant identified this as a ground for approval. See the application for additional comments.

**BUDGET:** None

**RECOMMENDATION:** Review and vote on APP25-0004 (an approval of the appeal would approve the variance (ZVAR25-0010) and a denial would deny the variance).

**REQUIRED ACTION:**
The Commission may consider a **motion to approve APP25-0004/ ZVAR25-0010**, request for a variance to Section 24-108(e)(3)(a), upon finding this request is consistent with the definition of a variance, and in accordance with the provisions of Section 24-65, specifically the grounds for approval delineated in Section 24-65(c) and as described below:

*1) Exceptional topographic conditions of or near the property.*
*(2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.*
*(3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.*
*(4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.*
*(5) Irregular shape of the property warranting special consideration.*
*(6) Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property.*

Or,

The Commission may consider a **motion to deny APP25-0004/ ZVAR25-0010**, request for a variance to Section 24-108(e)(3)(a) upon finding this request does not meet any of the criteria set forth in section 24-65(c) nor is consistent with the definition of a variance.

**ATTACHMENT(S):**

Appeal Procedures
Appeal Application
Section 24-108 in the Land Development Code
CDB staff report
Variance Application
CDB Meeting Minutes
Redevelopment Options letters updated 1.01.22

**REVIEWED BY CITY MANAGER**:

**CITY OF ATLANTIC BEACH**
**PROCEDURES FOR APPEALS**
**APPEAL FROM DENIAL OF VARIANCE**
**BY COMMUNITY DEVELOPMENT BOARD**

Pursuant to 24-49(b) of the Land Development Regulations (LDR) attached, appeals from a decision of the Community Development Board (CDB) may be made to the City Commission by any adversely affected person(s), or any officer, board or department of the City and must set forth how the decision being appealed is in conflict with or in violation of the LDR, in whole or in part, and specify the grounds of the conflict or violation. Appeals of a CDB decision to the Commission are *de novo*, meaning that the appeal hearing proceeds from the beginning, as if the prior hearing at the CDB had not occurred.

Quasi-judicial proceedings, such as rezonings, uses by exception, variances, waiver requests, and appeals are not controlled by strict rules of evidence and procedure, but certain standards of basic fairness must be adhered to in order to afford due process. In quasi-judicial hearings, the parties must be able to present evidence, cross-examine witnesses and be informed of all of the facts upon which the Commission acts. The hearing must be fair and impartial and contain the following requirements:

- Notice per § 24-51(k), LDR.
- Quasi-judicial hearings can be very informal. The record must be made at the hearing and the parties must be able to comment on the evidence or to introduce contrary evidence.
- Written decision. The decision must be based on the record as it is produced at the hearing and should include an analysis of the applicable statutes, ordinances, regulations and policies as well as the facts.
- Fairness protections require an unbiased decision maker and decisions are to be based on information presented at the hearing and made a part of the record.

Suggested Procedure for Appeal Hearings:

- Mayor to Open Public Hearing.
- City Attorney – Procedural reminders/correspondence made part of record.
- Disclosure by the Commission members of any ex parte communications (per Resolution 95-26, each Commissioner must disclose the subject of the communication and the identity of the person, group or entity who made the communication before final action).
- Staff presents an overview of the subject matter and timeline of the application and basis for decision by CDB.
- Commission questions for Staff, if any.
- Applicant, and/or representatives/legal counsel, if applicable, present the request and support for approving the variance request and Applicant's witnesses, if any, make presentations.
- Commission questions for Applicant/witnesses, if any.
- Public comments – 3 or 5 minutes, depending on number of speaker cards submitted to Clerk.
- Closing comments/rebuttal by Applicant (may include cross-examination if requested).
- Mayor closes Public Hearing.
- Commission deliberation and action, based on provisions set forth in Section 24-65 (c), Land Development Regulations, Variances (attached), which will be memorialized in a written order.
- Commission may approve, approve with conditions or deny the variance request.
  - Per Section 24-65 (c), a variance may be approved if the Commission finds that one (1) or more of the following factors exists to support an application for a variance:
  (1) Exceptional topographic conditions of or near the property.
  (2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.
  (3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.
  (4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.
  (5) Irregular shape of the property warranting special consideration.
  (6) Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property.

**REFERENCED CODE SECTIONS**

**Sec. 24-49. - Appeals.**

Appeals of administrative decisions made by the planning and community development director and appeals of final decisions of the community development board may be made by adversely affected person(s) in accordance with the following provisions. Appeals shall be heard at a public hearing within a reasonable period of time with proper public notice, as well as due notice to the interested parties as set forth in section 24-51 hereof. At the hearing, any party may appear in person, by agent or by attorney.

(a) *Appeals of administrative decisions of the planning and community development director.* Appeals of a decision of the planning and community development director may be made to the city commission by any adversely affected person(s), or any officer, board or department of the city affected by a decision of the planning and community development director made under the authority of this chapter.

Such appeal shall be filed in writing with the city clerk within thirty (30) days after rendition of the final order, requirement, ruling, decision or determination being appealed.

The planning and community development director shall, upon notification of the filing of the appeal, transmit to the city commission, all the documents, plans, or other materials constituting the record upon which the action being appealed was derived. A duly noticed public hearing, which shall be de novo, will be held by the city commission at a date and time set by the city manager or his/her designee, shall be scheduled within ten (10) business days from the date the appeal is filed.

(b) *Appeals of decisions of the community development board.* Appeals of a decision of the community development board may be made to the city commission by any adversely affected person(s), any officer, board or department of the city affected by any decision of the community development board made under the authority of this chapter. Such appeal shall be filed in writing with the city clerk within thirty (30) days after rendition of the final order, requirement, decision or determination being appealed. The appellant shall present to the city commission a petition, duly verified, setting forth that the decision being appealed is in conflict with or in violation of this chapter, in whole or in part, and specifying the grounds of the conflict or violation. A duly noticed public hearing, which shall be de novo, will be held by the city commission at a date and time set by the city manager or his/her designee, shall be scheduled within ten (10) business days from the date the appeal is filed.

(c) *Stay of work.* An appeal to the city commission shall stay all work on the subject premises and all proceedings in furtherance of the action appealed, unless the administrator shall certify to the city commission that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by order, which may be granted by the city commission after application to the officer from whom the appeal is taken and on due cause shown.

**Sec. 24-65. - Variance.**

- **Sec. 24-65. - Variances.**

The community development board is authorized to grant relief from the strict application of certain land development regulations where, due to an exceptional situation, adherence to the land development regulations results in "exceptional practical difficulties or undue hardship" upon a property owner. Examples of land development standards for which a variance may be authorized include but are not limited to:

- Parking standards
- Drive aisle width
- Setbacks
- Landscaping
- Fence height
- Impervious surface

However, variances are not authorized to reduce minimum lot area, minimum lot width or lot depth, nor increase maximum height of buildings as established for the various zoning districts. Further, a variance shall not modify the permitted uses or any use terms of a property.

In most cases, exceptional practical difficulties or undue hardship results from physical characteristics that make the property unique or difficult to use. The applicant has the burden of proof. The community development board must determine that granting the request would not cause substantial detriment to the public good and would not be inconsistent with the general intent and purpose of the land development regulations.

A variance may be sought in accordance with this section. Applications for a variance may be obtained from the community development department.

(a) *Application.* A request for a variance shall be submitted on an application form as provided by the city and shall contain each of the following:

(1) A legal description of the property for which the variance is requested.

(2) A reasonable statement describing the reasons and justification for the variance.

(3) A survey or lot diagram indicating setbacks; existing and proposed construction, as well as other significant features existing on the lot.

(4) The signature of the owner, or the signature of the owner's authorized agent. Written and notarized authorization by the owner for the agent to act on the behalf of the property owner shall be provided with the application.

(b) *Public hearing.* Upon receipt of a complete and proper application, the planning and community development director shall within a reasonable period of time schedule the application for a public hearing before the community development board following required public notice as set forth in section 24-51. At the public hearing, the applicant may appear in person and/or may be represented by an authorized agent.

(1) Applications for a variance shall be considered on a case-by-case basis and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section.

(2) The community development board shall not grant a variance, which would allow a use that is not a permitted use, or a permitted use-by-exception in the applicable zoning district. In the case of an application for a use-by-exception that is considered concurrently with an application for a variance, approval of the variance shall be contingent upon approval of the use-by-exception by the community development board. In the event, that the use-by-exception is denied by the community development board, any approved variance shall be rendered null and void.

(3) The community development board shall not approve any variance that would allow a use that is prohibited by

(4) The nonconforming use of adjacent or neighboring lands, structures or buildings shall not be considered as justification for the approval of a variance.

(5) Variances shall not be granted solely for the personal comfort or convenience, for relief from financial circumstances, or for relief from situations created by the property owner.

(c) *Grounds for approval of a variance.* The community development board shall find that one (1) or more of the following factors exist to support an application for a variance:

(1) Exceptional topographic conditions of or near the property.

(2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.

(3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.

(4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.

(5) Irregular shape of the property warranting special consideration.

(6) Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property.

In the event the community development board finds that none of the above exist, then the community development board shall deny the variance.

(d) *Approval of a variance.* To approve an application for a variance, the community development board shall find that the request is in accordance with the preceding terms and provisions of this section and that the granting of the variance will be in harmony with the purpose and intent of this chapter. In granting a variance, the community development board may prescribe appropriate conditions in conformance with and to maintain consistency with city Code. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter, and shall be subject to established code enforcement procedures.

(e) *Approval of lesser variances.* The community development board shall have the authority to approve a lesser variance than requested if a lesser variance shall be more appropriately in accord with the terms and provisions of this section and with the purpose and intent of this chapter.

(f) *Nearby nonconformity.* Nonconforming characteristics of nearby lands, structures or buildings shall not be grounds for approval of a variance.

(g) *Waiting period for re-submittal.* If an application for a variance is denied by the community development board, no further action on another application for substantially the same request on the same property shall be accepted for three hundred sixty-five (365) days from the date of denial.

(h) *Time period to implement variance.* Unless otherwise stipulated by the community development board, the work to be performed pursuant to a variance shall begin within twelve (12) months from the date of approval of the variance. The planning and community development director, upon finding of good cause, may authorize a one-time extension not to exceed an additional twelve (12) months, beyond which time the variance shall become null and void.

(i) *Transferability.* A variance, which involves the development of land, shall be transferable and shall run with the title to the property unless otherwise stipulated by the community development board.

# REQUEST FOR APPEAL

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

*FOR INTERNAL OFFICE USE ONLY*
PERMIT# APP25-0004
APP25-0005

☒ $500.00 Application Fee

**Please submit form in person or to buildng-dept@coab.us

## SITE INFORMATION

ADDRESS 1025 Beach Ave, Atlantic Beach, FL 32233

SUBDIVISION Atlantic Beach BLOCK 41 LOT 3

RE# 170264-0000 ☒ RESIDENTIAL ☐ COMMERCIAL ☐ OTHER

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Dr CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1025 Beach Ave, Atlantic Beach, FL 32233 PHONE # (205) 586-5734 CELL # N/A

RE# 170264-000 LOT/PARCEL SIZE 0.22 Acres ZONING CODE RG-M

**WHAT ISSUE ARE YOU APPEALING?** Variance for Side Setback

**PLEASE TELL US IN DETAIL WHY YOU ARE APPEALING:**

The applicant is appealing the denial of their previously filed Variance for minimum side setback relief. The applicant has attached a detailed description of the justification for their appeal in accordance with Section 24-49 of the City of Atlantic Beach Code of Ordinances. The applicant believes that items (2), (4) or (6) apply as justification for appeal in accordance with Section 24-65(f) of the City of Atlantic Beach Code of Ordinances.

In this application only, the applicant made the Community Development Board aware that the lot was (33') wide in lieu of (30') wide. The applicant suggested the additional feet be added to the side setbacks. An updated conceptual illustration is attached with the revised request for minimum side setbacks. The Community Development Board did not consider any amendments with the additional footage.

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| SIGNATURE OF APPLICANT | Nathan Bussey<br>PRINT OR TYPE NAME OF APPLICANT | 6/9/2025<br>DATE |
|---|---|---|

*REQUEST FOR APPEAL 01.29.2025*

# REQUEST FOR APPEAL

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

*FOR INTERNAL OFFICE USE ONLY*
PERMIT# APP25-0005

☒ $500.00 Application Fee

**Please submit form in person or to buildng-dept@coab.us

## SITE INFORMATION

ADDRESS 1039 Beach Ave, Atlantic Beach, FL 32233

SUBDIVISION Atlantic Beach BLOCK 41 LOT 4

RE# 170265-0000 ☒ RESIDENTIAL ☐ COMMERCIAL ☐ OTHER

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Dr CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1039 Beach Ave, Atlantic Beach, FL PHONE # (205) 586-5734 CELL # N/A

RE# 170265-0000 LOT/PARCEL SIZE 0.18 Acres ZONING CODE RG-M

**WHAT ISSUE ARE YOU APPEALING?** Variance for Side Setback

**PLEASE TELL US IN DETAIL WHY YOU ARE APPEALING:**

The applicant is appealing the denial of their previously filed Variance for minimum side setback relief. The applicant has attached a detailed description of the justification for their appeal in accordance with Section 24-49 of the City of Atlantic Beach Code of Ordinances. The applicant believes that items (2), (4) or (6) apply as justification for appeal in accordance with Section 24-65(f) of the City of Atlantic Beach Code of Ordinances.

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| SIGNATURE OF APPLICANT | Nathan Bussey<br>PRINT OR TYPE NAME OF APPLICANT | 6/9/2025<br>DATE |
|---|---|---|

*REQUEST FOR APPEAL 01.29.2025*

BEFORE THE CITY COMMISSION
OF THE CITY OF ATLANTIC BEACH, FLORIDA

Re: Appeal of Order of the Community Development Board Denying Variance, File Number's: ZVAR25-0010 & ZVAR25-0011 for 1025 & 1039 Beach Avenue, Atlantic Beach, FL.

Davis Fleming, owner of 1025 Beach Avenue, with Jerry Harward, owner of 1039 Beach Ave, pursuant to Section 24-49(B), of the City of Atlantic Beach ("City") Land Development Regulations (LDR's), appeals the Order Denying Variance, File Numbers: ZVAR25-0010 & ZVAR 25-0011, issued by the Community Development Board ("Board") on May 20, 2025, denying a side yard setback variance to obtain a reasonably sufficient width for two proposed single-family residences, one for each lot.

Parties

Davis Fleming, owner of 1025 Beach Avenue, Atlantic Beach, FL parcel No. 1702640000 ("1025 Property"). Jerry Harward, owner of 1039 Beach Avenue, Atlantic Beach, FL parcel No. 1702650000 ("1039 Property"). The following are images of both Mr. Fleming & Mr. Harvard's residences according to the Duval Property Appraisers website. Nathan Bussey has been authorized by the property owners to file this application.




(1025 Beach Avenue)



(1039 Beach Avenue)

Facts

In April of 2025, both applicants authorized Nathan Bussey to submit a Variance Application pursuant to Section 24-65 of the LDR's to request relief to construct a reasonably wide home on each of their Oceanfront lots. The proposed request was to reduce the combined side setback to (7.5') for each property, with the minimum side setback on one side being (3.5') for each property. Before the Board meeting conducted on May 20, 2025, the applicant realized that a mistake had been made with the 1025 Beach application. This property had an additional (3') in width than originally thought (33' wide in lieu of 30' wide). This fact was presented by the applicant to the Community Development Board at the onset of the applicant's public comment.

During the Board meeting conducted on May 20, 2025, the applicant offered several solutions. None of the proposed solutions presented by the applicant were strategies to increase the building width, rather to increase the width of the (previously incorrectly shown) setbacks.

At some point in 2022, both homes suffered a fire which resulted in the total loss for the structures on both 1025 & 1039 Beach Avenue. The Townhome Condominiums ("Condos") to the South were damaged in this fire. In October & November of 2022, the City of Atlantic Beach issued a Notice to both owners that they had (1) year to reconstruct like-kind structures, or they would lose their grandfathered rights. Those documents are contained in the staff report presented at the Board meeting May 20, 2025.

The previous minimum side setback between the structure at 1025 Property & the Condos to the south was (4.2'). The North setback adjacent to the 1039 Property being (3.4'). The 1025 property was previously a grandfathered Multi-Family property, with at least 2 dwellings units. The previous minimum side setback between the 1039 Property & the 1025 Property to the south was (1.6'). The previous minimum side setback to the North being (4.1').

The Condos maintain a (5') utility easement, per Duval Official Records Bk. 4998 Pg. 1120, that runs along the Condos & is adjacent to the shared 1025 Beach property line.

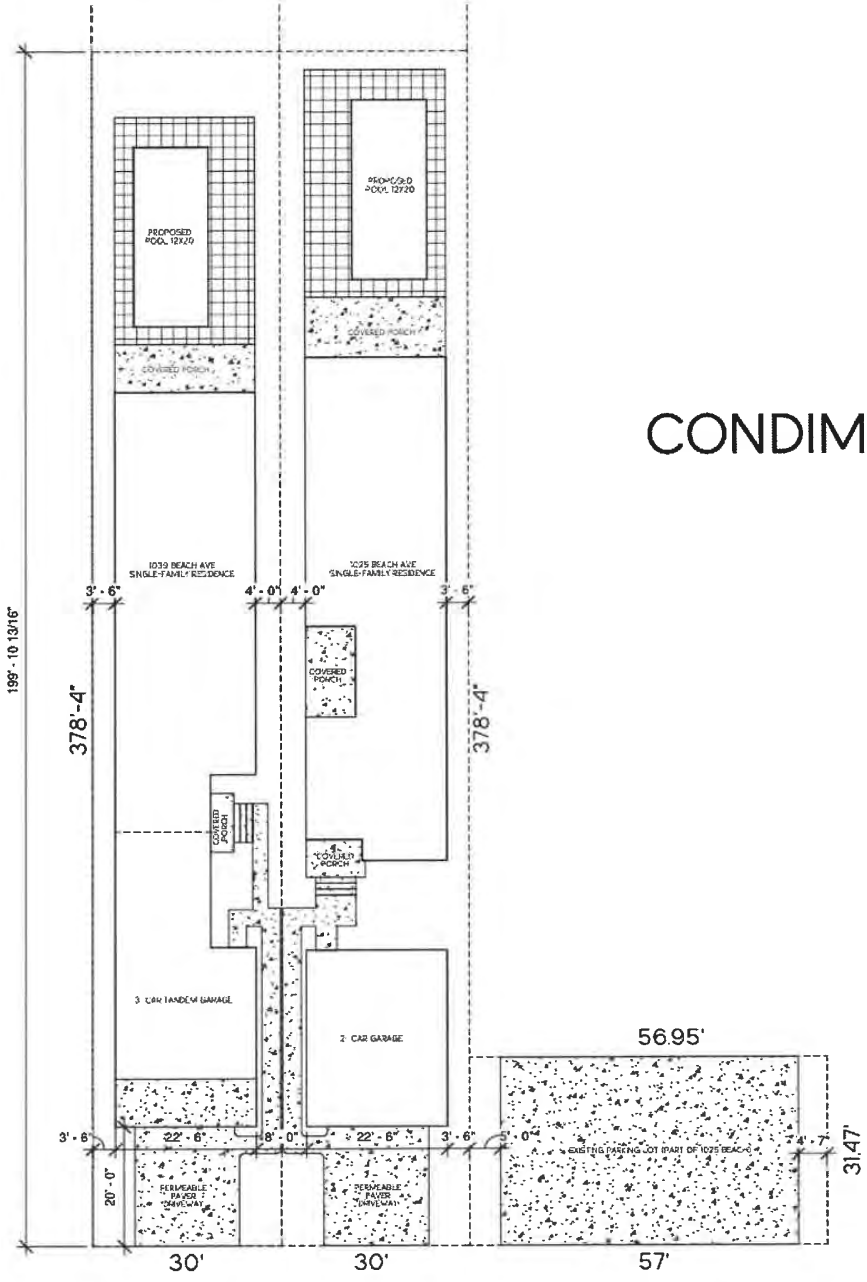
Conceptual Rendering Presented at Board Meeting




Existing Street View

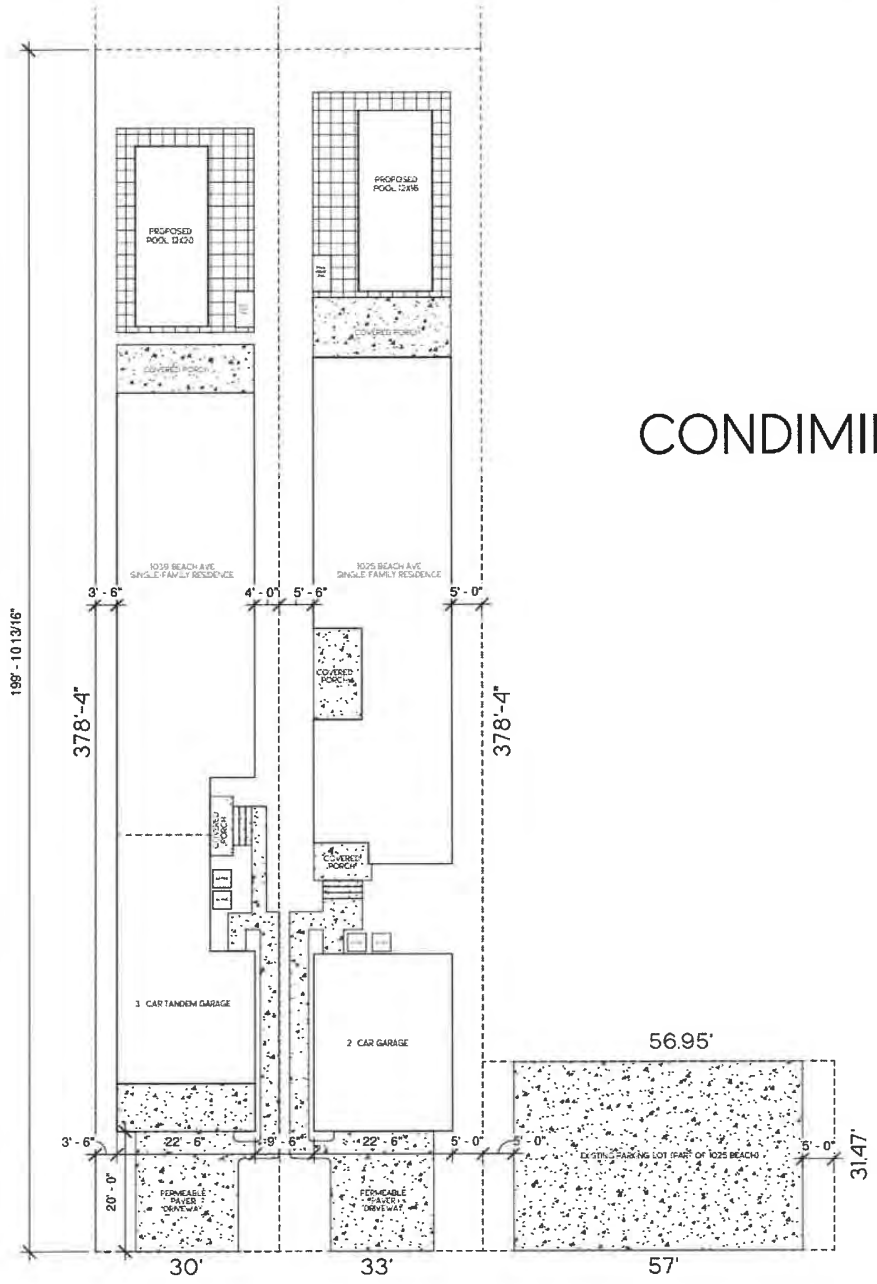


Below is the conceptual site plan originally filed:




CONDIMII

Below is with the additional 3'(which was proposed during the Board meeting 5/20/25):

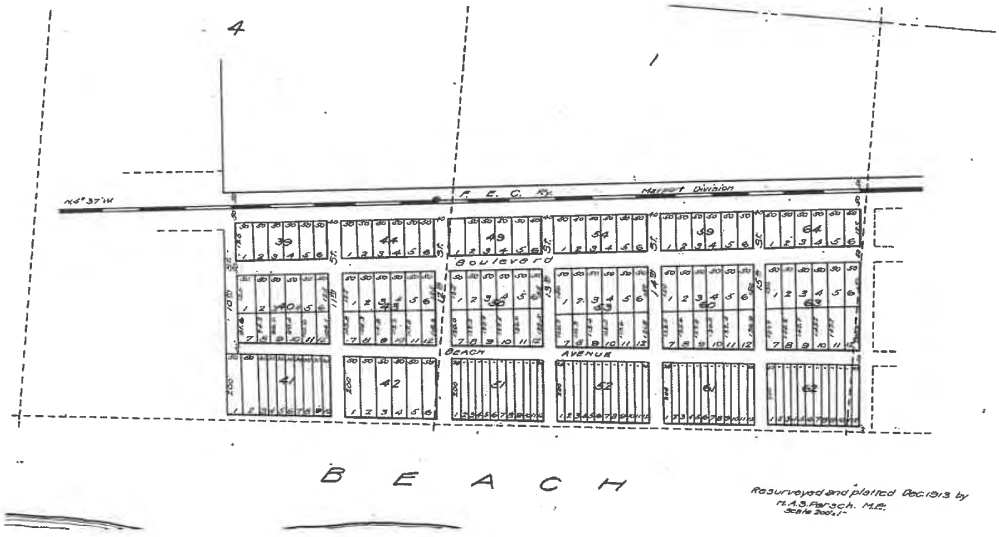



CONDIMIN

The revised conceptual plan shows each lot containing a (22.5') wide residence, with a (5') setback to the condominiums to the South, (9.5') of total separation between the residences, with a (3.5') setback to the single-family residence to the North. From our understanding of the LDR's & use restrictions in effect, the (31.47' x 56.95') parking pad ("Parking Lot") can not be utilized for any structure & must be utilized for parking. For the considerations of this application, we are not requesting relief in setbacks for the Parking Lot.

NOTE: The city's current code for the RG-M district requires a combined (15) feet in total side setbacks, with a minimum of (5) feet for one side.

Both the 1025 Property & 1039 Property are located in A Replat of Mayport Terminal Co, of the Atlantic Beach Corporation, which was platted in December of 1913 & recorded 1/2/1914. Included in this plat were approved lots along Beach Avenue that were only (30') in width, in which both properties lie within. Here is a picture of that plat:




(Plat Book 6, Page 1 of the Duval County Public Records)

When the applicant came before the Board, the request was being made to restore the property rights to these two owners. It was explained that, under the current LDR's, the maximum width of a structure on each property would only allow for a (18') wide structure on the 1025 Property & a (15') wide structure on the 1039 Property. The applicant, a licensed General Contractor with the state of Florida, mentioned how this width is not practical for an oceanfront residence. Below is an (18') wide townhome that is built around the Jacksonville metro - the width of one townhome being the maximum width for the 1025 Property.



The applicant also made relevant comments as to:

- The Owners inability to rebuild their properties within the (1) year timeline.
- The density & pricing of the Condo/Townhome Cluster relative to the low-density all surrounding it.
- The side setback relief was granted to 885 Beach Ave, the property directly South of the Condo/Townhome Cluster & before the single-family oceanfront properties.
    - Later found to be granted May 22, 1978 by the City Commission in which (2') side setbacks were granted for a (30') wide lot in a PUD.
- Current LDR's prevent other owners from "splitting" their combined lots to seek relief in the future.
- Both Owners have owned their properties for 20+ years & have been actively trying to sell them as one property for more than (1) year as of the submission date of the original variance.

The applicant attended the public hearing, in which most of the neighbors from the Townhome Condominiums to the North attended. The neighbors mentioned concerns of proximity to their property in the event of another fire. Several neighbors were relieved to hear that a (5') side setback was able to be maintained when the applicant mentioned that there were (3') additional feet available for the 1025 property. Several neighbors spoke in support of the lots being developed with single-family residences.

Relevant documents and items were submitted to the Board with material facts about the history, location, and adverse effects the modern LDR's are having on the ability to market these properties. The Board stated that the owners of the properties needed to come together, form some type of agreement and sell these as townhomes. The Board also mentioned concerns on density as justification for not approving this variance. The Board voted zero (0) to six (6) to deny both requests for the variances, claiming "They don't meet any of the criteria" in reference to the justifications for variance relief, defined in Section 24-65(F) of the Land Development Regulations.

Argument

The application for the variance should have been approved by the Board under the provisions of the LDRs governing variances set forth in Section 24-65(C) & justifications set forth in Section 24-65(F). Therefore, the city commission should disregard the decision of the Board to deny the variance request, grant this appeal of the Order Denying Variance pursuant to Section 24-49(B) of the LDRs, and approve this variance.

To make the appeal of the Order Denying Variance clear, the applicant wishes to clarify the requested setbacks:

- 1025 Beach - Minimum Combined Setback of (10.5')
- 1039 Beach - Minimum Combined Setback of (7.5') and (3.5') Minimum on either side.

Point 1: The Application for a Variance of Side Setbacks is required due to the substandard sized lot of record.

Section 24-65(F) defines the justifications for approval of Variances per the LDRs. Two items per that list are items: item four (4) which states "Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property" & item six (6) which states "Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property."

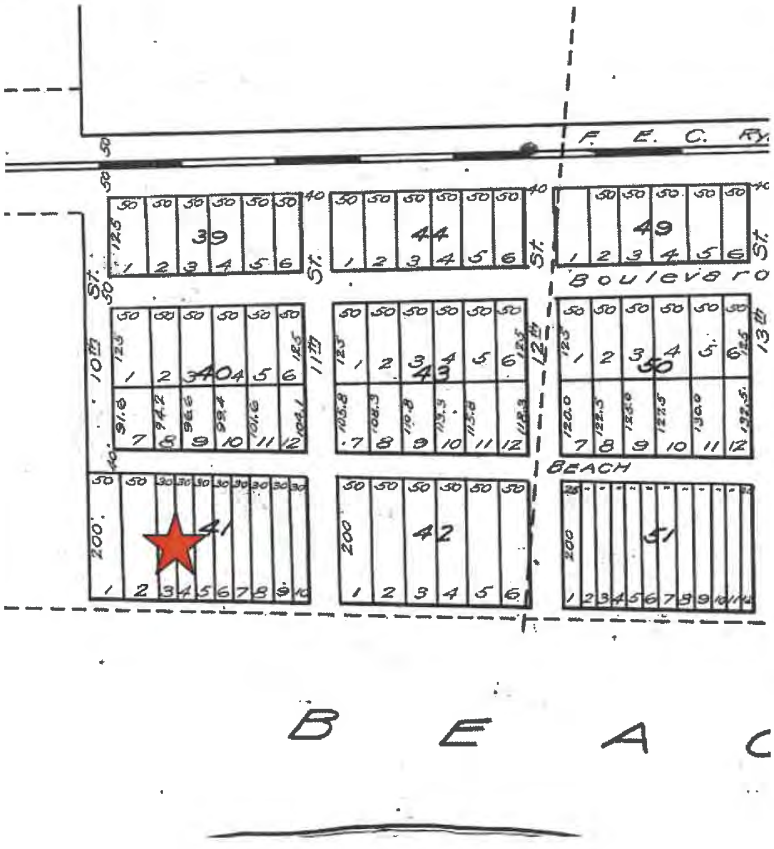
These lots were both platted in 1913, well before the inclusion of side setbacks into any Land Development Code, that were likely included around the 1970's. The previous structures on these properties, which were built near the time of platting, represent this having setbacks that were less than (2') in some instances. Also, 1025 Beach Ave contained multiple dwellings previously (which were grandfathered in) in which, if this appeal is granted, would still only allow for one dwelling.

The current LDRs only allow for a "Narrow Home" sized property on each lot, which would be equal to or less than the width of a builder-grade townhouse. The current listing price for the property directly north of 1039 Beach, is currently listed for $7.5M. The owners believe it is obvious that the LDRs are forcing a "Narrow Home" on each property in the event they are not

able to sell the combined lots, in a way the plat did not account for back in 1913. This is having an adverse effect on the owner's property values & ability to market them for sale.

The applicants have marketed the combined lot with multiple real estate agents, over the course of (18+) months. The market is clearly not responding to the combined listing & the owners believe they should not be forced to sell these as a combined lot to maintain the reasonable use of their individual real property.

NOTE: If the Appeal of the Denial for the Side Setback Variances is approved, the owners still intend to maintain the combined lot listing as available for purchase.




(Original 1913 Plat Attached)

Point 2: The Future Land Use Amendments over time have negatively impacted both properties to pursue alternative uses.

At some point between 1980 & 2005, the Future Land Use for these properties was designated (RL) - Residential Low Density. This differs from the current Zoning which is (RG-M) - Residential, General Multi-Family. This is another example of item four (4): "Onerous effect of regulations enacted after platting…" affecting the reasonable use of property.

Currently, (RG-M) zoning allows for the following uses:

(b) *Permitted uses.* The uses permitted within the RG-M zoning district shall be:

(1) Single-family dwellings.
(2) Two-family (duplex) dwellings subject to density limitations.
(3) Townhouses, subject to density limitations, compliance with article IV, Subdivision Regulations and section 24-88.
(4) Multi-family dwellings, subject to density limitations.
(5) Accessory uses as set forth in section 24-151.
(6) Government buildings and facilities.
(7) Family day care homes and group care homes.
(8) Community residential homes, small and large.
(9) Foster care homes.
(10) Assisted living facilities with less than fifteen (15) residents.

Currently, (RL) allows for residential uses only, with the following density guidelines:

**Table A-1. Residential Land Use Classification and Permitted Density**

| Residential Land Use Classification | Maximum Density Permitted per Acre |
|---|---|
| Residential – Low Density (RL) | Up to six (6) Dwelling Units |
| Residential – Medium Density (RM) | Up to fourteen (14) Dwelling Units |
| Residential – High Density (RH) | Up to twenty (20) Dwelling Units |

Due to the size of each lot, Two-Family, Townhouses & Multi-Family Dwellings are all not possible. Each lot by the (RL) standards is allowed one dwelling per lot by right, and not by the density calculation (due to both lots being under 1.00). The remaining uses are not feasible with an oceanfront lot nor typical for the area. This discrepancy is an unintended consequence of updated LDRs without the consideration of density. The Condo/Townhome cluster at the

termination of Plaza Rd, has density up to 20 dwellings per unit. There is a dramatic decrease in density when you leave this cluster.

This same impact was observed & granted back on May 22, 1978 to the property owners at 885 Beach Ave at the time. They were given an approved PUD that granted them a 26' wide structure on a 30' wide lot, directly south to the Condo/Townhome cluster & before the low-density single-family dwellings surrounding it. For the reasons above, we believe that this point also falls into item (2) under Section 24-65(F), which states "Surrounding conditions or circumstances impacting the property disparately from nearby properties."

The primary concern mentioned by residents, and one of the justifications used by the Board to deny this variance, was the safety concern for future fires with the granting of this variance. These concerns are not practical, with the now revised concept plan, due to existing building rights found in the existing LDR code. In this appeal, the most narrow setback is between 1039 Beach & the property directly adjacent to the North. That minimum setback is being requested to be (3.6'). In the existing code now under RG-M, a property can maintain the minimum side setback of (5') & is permitted to construct a (2') overhang. This would reduce the "real" setback to (3') from the property line - which is less than what is being requested.

NOTE: The owners are willing to partially waive the rights to Section 24-82(B, Item 2), which allows a (2') projection into a required side yard, to address the fire concern, for setbacks under (5') to maintain a minimum of (3') of building separation to the property line.

The side setbacks in all instances in our proposed site plan are in excess of (3.5') with the separation between 1025 & 1039 Beach being (9.5'). As stated above, both residences will be single-family dwellings under this proposed plan - as mandated by the LDRs. The resulting outcome has less density than what was previously constructed. Section 24-84 of the LDRs prevent future owners from splitting combined lots to seek similar relief.

Furthermore, the proposed structures fall within the CCCL ("Coastal Construction Control Line") which mandates superior building practices.

Point 3: City Commission should Grant the Appeal of the Board's Order Denying Variance, Disregard the Board's Determination, and Order the Planning and Community Development Director to Approve the Requested Variance.

Section 24-49 of the Land Development Regulations provides for appeals & states:

"Appeals of administrative decisions made by the planning and community development director and appeals of final decisions of the community development board may be made by adversely affected person(s) in accordance with the following provisions. Appeals shall be heard at a public hearing within a reasonable period of time with proper public notice, as well as due notice to the interested parties as set forth in section 24-51 hereof. At the hearing, any party may appear in person, by agent or by attorney."

***

*"(b) Appeals of decisions of the community development board.* Appeals of a decision of the community development board may be made to the city commission by any adversely affected person(s), any officer, board or department of the city affected by any decision of the community development board made under the authority of this chapter. Such appeal shall be filed in writing with the city clerk within thirty (30) days after rendition of the final order, requirement, decision or determination being appealed. The appellant shall present to the city commission a petition, duly verified, setting forth that the decision being appealed is in conflict with or in violation of this chapter, in whole or in part, and specifying the grounds of the conflict or violation. A duly noticed public hearing, which shall be de novo, will be held by the city commission at a date and time set by the city manager or his/her designee."

Thus, the City Commission is empowered to review and reverse the decision of the Board to deny this requested variance. A finding by the Commission that any of the LDR provisions governing the issuance of variances, in fact, did apply would be sufficient for this Commission to reverse the Board's decision and grant the variance.

## Conclusion

Because the owner's requested variance for a relief of minimum side setbacks meets one or more of the above-mentioned criteria for Variances in Section 24-65(F), items (2), (4) or (6), the Commission should reverse the Order Denying Variance(s), File Number(s): ZVAR25-0010 & ZVAR25-0011, issued by the Community Development Board on May 20, 2025, grant the Variance Application and approve the requested variances consistent with the application and the proposed plans submitted to the City. Appellant also requests that the filing fee of $500 for each variance appeal be refunded.

Respectfully submitted this 9th day of June, 2025.

Sec. 24-108. - Residential, multi-family district (RG-M).

(a) *Intent.* The RG-M zoning district is intended for development of medium to high-density multi-family residential areas.

(b) *Permitted uses.* The uses permitted within the RG-M zoning district shall be:

(1) Single-family dwellings.

(2) Two-family (duplex) dwellings subject to density limitations.

(3) Townhouses, subject to density limitations, compliance with article IV, Subdivision Regulations and section 24-88.

(4) Multi-family dwellings, subject to density limitations.

(5) Accessory uses as set forth in section 24-151.

(6) Government buildings and facilities.

(7) Family day care homes and group care homes.

(8) Community residential homes, small and large.

(9) Foster care homes.

(10) Assisted living facilities with less than fifteen (15) residents.

(c) *Uses-by-exception.* The following uses may be approved as a use-by-exception within the RG-M zoning district:

(1) Churches.

(2) Public and private recreation facilities not of a commercial nature and of a neighborhood scale intended to serve the surrounding residential neighborhood.

(3) Child care facilities.

(4) Schools and community centers.

(5) Assisted living facilities with fifteen (15) or more residents.

(d) *Minimum lot area.* Existing legally established lots of record may exist, which do not meet the following requirements. These lots may be developed subject to section 24-84(a) and all other applicable land development regulations and density limitations; however, all lots created after January 1, 2002, must comply with these minimum lot size requirements in order to obtain building permits authorizing development. The minimum size for lots within the RG-M zoning district shall be as set forth herein.

(1) Minimum lot or site area:

a. Residential low density: seven thousand two hundred sixty (7,260) square feet per dwelling unit.

b. Residential medium density: three thousand one hundred twelve (3,112) square feet per dwelling unit.

c. Residential high density: two thousand one hundred seventy-eight (2,178) square feet per dwelling unit.

(2) Minimum lot width in the RG-M zoning district: Forty (40) feet.

(3) Minimum lot depth in the RG-M zoning district: One hundred (100) feet.

(4) Notwithstanding subsections 1, 2 and 3, the final lot sizes for proposed new townhouse development may be less per unit, subject to density, compliance with article IV, Subdivision Regulations and section 24-88.

(e) *Minimum yard requirements.* The minimum yard requirements in the RG-M zoning are:

(1) Front yard: Twenty (20) feet.

(2) Rear yard: Twenty (20) feet.

(3) Side yard:

a. Single-family dwellings: Combined fifteen (15) total feet and five (5) minimum feet on either side.

b. Two-family (duplex) dwellings: Seven and one-half (7.5) feet each side.

c. Townhouse dwellings:

(1) New construction: Seven and one-half (7.5) feet exterior side yard and zero (0) feet for the interior side yard (shared lot line).

(2) Additions to existing townhouse dwellings:

i. Exterior side yard: Seven and one-half (7.5) feet.

ii. Interior side yard: Seven and one-half (7.5) feet for additions that are forward of the existing front plane of the townhouse unit.

iii. Interior side yard: Zero (0) feet for additions that are behind the existing front plane of the townhouse unit.

c. Multi-family dwellings or non-residential structures: Fifteen (15) feet each side.

d. Corner lots: The side yard adjacent to a right-of-way containing a street shall be ten (10) feet minimum.

Where there is a platted building restriction line that is greater than the minimum yards listed above, the building restriction line shall be enforced.

(f) *Building restrictions.* The building restrictions for the RG-M zoning district shall be as follows:

(1) Maximum impervious surface: Forty-five (45) percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, additions/modifications to such structures and improvements shall not exceed the pre-

existing impervious surface percentage, provided the requirements of section 24-89 are met. However, new development and major remodels shall not exceed forty-five (45) percent regardless of existing impervious surface percentage.

(2) Maximum building height: Thirty-five (35) feet.

(Ord. No. 90-24-253, § 3(Exh. A), 10-14-24)

# CITY OF ATLANTIC BEACH
# COMMUNITY DEVELOPMENT BOARD
# STAFF REPORT

| | |
|---|---|
| **AGENDA ITEM** | **1.B** |
| **CASE NO.** | **ZVAR25-0010 & ZVAR25-0011**<br>*Request for a variance to Section 24-108(e)(3)(a) to reduce the minimum side yard setbacks on each side of the proposed single-family homes at 1025 Beach Avenue and 1039 Beach Avenue.* |
| **LOCATION** | **1025 & 1039 Beach Avenue (RE # 170264 0000 & 170265 0000)** |
| **APPLICANT** | **Nathan Bussey** |
| **DATE** | **May 15, 2025** |
| **STAFF** | **Abrielle Genest, Principal Planner** |

## STAFF COMMENTS

The applicant, Nathan Bussey, is the authorized agent for 1025 and 1039 Beach Avenue. These oceanfront properties are vacant lots located on the west side of Beach Avenue within the Residential, General, Multi-Family (RG-M) zoning district.



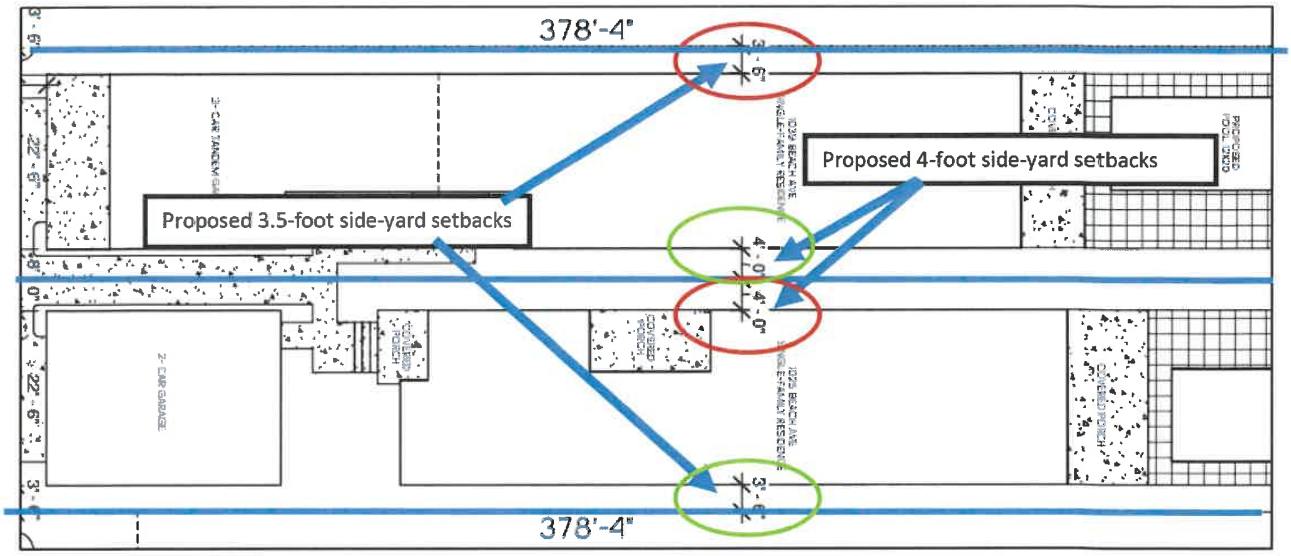

On June 7, 2022, both structures incurred significant damage in a fire that led to the buildings being demolished. The following code sections applied to this situation:

> Section 24-85(b)(7): "legal nonconforming residential structures which incur substantial damage by a natural event may be reconstructed within the previously existing footprint and height as lawfully permitted prior to the occurrence of the natural event provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years."
>
> Section 24-84(c)(4): "site improvements or structures located on properties containing a legal nonconforming use which incur substantial damage by a natural event may be reconstructed within the previously existing footprint and height as lawfully permitted prior to the occurrence of the natural event provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years."

The property owners were notified of the redevelopment options in October 2022 (see "Redevelopment Options letters updated 1.01.22"), however, since the reconstruction of the properties did not commence by June 7, 2023, the properties lost the "grandfathering" of the nonconformities.

The applicant is proposing to build a single-family home on each 30-foot-wide lot with side yard setbacks that do not meet the minimum requirements of a combined 15 feet and 5 minimum feet on either side. Per Section 24-108(e)(3)(a), side yards for "Single-family dwellings [are a] Combined fifteen (15) total feet and five (5) minimum feet on either side." The 4 foot and 3.5 foot side-yard setbacks proposed do not

meet these minimums. As such, the applicant is applying for a variance from Section 24-108(e)(3)(a) to reduce the combined setback from 15 feet to 7.5 feet and to reduce the minimum setback from 5 feet to 3.5 feet and 4 feet for each lot.




| | North side | | South Side | | Combined | |
|---|---|---|---|---|---|---|
| | Code | Proposed | Code | Proposed | Code | Proposed |
| 1025 Beach Ave | 5 feet | 4 feet | 5 feet | 3.5 feet | 15 feet | 7.5 feet |
| 1039 Beach Ave | 5 feet | 3.5 feet | 5 feet | 4 feet | 15 feet | 7.5 feet |

**ANALYSIS**

Section 24-65 states that "applications for a variance shall be considered on a case-by-case basis, and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section." According to Section 24-17, Definitions, "[a] variance shall mean relief granted from certain terms of this chapter. The relief granted shall be only to the extent as expressly allowed by this chapter and may be either an allowable exemption from certain provision(s) or a relaxation of the strict, literal interpretation of certain provision(s). Any relief granted shall be in accordance with the provisions as set forth in Section 24-65 of this chapter, and such relief may be subject to conditions as set forth by the City of Atlantic Beach."

Section 24-65(c) provides six distinct grounds for the approval of a variance:

**(1)** ***Exceptional topographic conditions of or near the property.***

**(2)** ***Surrounding conditions or circumstances impacting the property disparately from nearby properties.***
The applicant identified this as a ground for approval. Please see the application for more details.

**(3)** ***Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.***
The applicant identified this as a ground for approval. Please see the application for more details.

**(4)** ***Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.***
The applicant identified this as a ground for approval. Please see the application for more details.

**(5)** ***Irregular shape of the property warranting special consideration.***

**(6)** ***Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.***
The applicant identified this as a ground for approval. Please see the application for more details.

**REQUIRED ACTION**

The Community Development Board may consider a **motion to approve ZVAR25-0010 and ZVAR25-0011**, request from Section 24-108(e)(3)(a), upon finding this request is consistent with the definition of a variance, and in accordance with the provisions of Section 24-65, specifically the grounds for approval delineated in Section 24-65(c) and as described below.

*A variance may be granted, at the discretion of the Community Development Board, for the following reasons:*

*(1) Exceptional topographic conditions of or near the property.*
*(2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.*
*(3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.*
*(4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.*
*(5) Irregular shape of the property warranting special consideration.*
*(6) Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.*

Or,

The Community Development Board may consider a **motion to deny ZVAR25-0010 and ZVAR25-0011**, request for a variance Section 24-108(e)(3)(a).

# VARIANCE APPLICATION

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

***FOR INTERNAL OFFICE USE ONLY***
PERMIT# ZVAR25-0010

☐ $500.00 Application Fee

**Please submit form in person or to buildng-dept@coab.us

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Drive CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1025 Beach Ave, Atlantic Beach, FL 32233 PHONE # 205-586-5734 CELL #

RE# 170264-0000 BLOCK # 41 LOT # 3

LOT/PARCEL SIZE 0.22 Acres ZONING CODE RG-M UTILITY PROVIDER JEA

COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION RL

PROVISION FROM WHICH VARIANCE IS REQUESTED Side Building Setbacks

Homeowner's Association or Architectural Review Committee approval required for the proposed construction
☐ YES ☒ NO (if yes, this must be submitted with any application for a Building Permit)

Statement of facts and site plan related to requested Variance, which demonstrates compliance with Section 24-65 of the Zoning, Subdivision and Land Development Regulations, a copy of which is attached to this application. Statement and site plan must clearly describe and depict the Variance that is requested.

**PROVIDE ALL OF THE FOLLOWING INFORMATION**

***(all information must be provided before an application is scheduled for any public hearing):***

1. Proof of ownership: deed or certificate by lawyer or abstract or title company that verifies record owner as above.
2. If the applicant is not the owner: provide a letter of authorization from the owner(s) for applicant to represent the owner(s) for all purposes related to this application.
3. Survey and legal description of property for which Variance is sought.
4. Required number of copies: One (1) digital copy - additional paper copy is optional.

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| SIGNATURE OF APPLICANT | Nathan Bussey<br>PRINT OR TYPE NAME OF APPLICANT | 4.28.25<br>DATE |
|---|---|---|

*VARIANCE APPLICATION 01.29.2025*

**The following paragraph sets forth reasons for which a Variance may be approved, please check the circumstances that apply to your request and briefly describe in the space provided.**

**Grounds for approval of a Variance:** A Variance may be granted at the discretion of the Community Development Board, for the following reasons.

☐ 1. Exceptional topographic conditions of or near the property.

☒ 2. Surrounding conditions or circumstances impacting the property disparately from nearby properties.

The adjcaent property is a 1950's condo assocation that has had recent sales below $500k. Standard oceanfront property rarely sell for below $4M. The stark price jump is affecting the ability to find a buyer.

☒ 3. Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.

This parcel serves as the bridge between High-Density Residential & Low-Density Residential. There is no "stepping" down of density & the properties immediately adjcaent to the HDR are not as desirable.

☒ 4. Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.

This property was platted in 1913 & was platted to match the design standards at that time. Most parcels from 10th Street to 16th Street are platted the same. The Land Use Code was also changed to prevent non-RL developments.

☐ 5. Irregular shape of the property warranting special consideration.

☒ 6. Substandard size of a Lot or Record warranting a Variance in order to provide for the reasonable use of the property.

30' wide lot in lieu of the typical 50' you see on Beach Ave & elsewhere in Atlantic Beach. Side setbacks would render the property effectively unusable.

a. Approval of a Variance. To approve an application for a Variance, the Community Development Board shall find that the request is inaccordance with the preceding terms and provisions of this Section and that the granting of the Variance will be in harmony with the Purpose and Intent of this Chapter.

b. Approval of Lesser Variances. The Community Development Board shall have the authority to approve a lesser Variance than requested if a lesser Variance shall be more appropriately in accord with the terms and provisions of this Section and with the Purpose and Intent of this Chapter.

c. Nearby Nonconformity. Nonconforming characteristics of nearby Lands, Structures or Buildings shall not be grounds for approval of a Variance.

d. Waiting period for re-submittal. If an application for a Variance is denied by the Community Development Board, no further action on Another application for substantially the same request on the same property shall be accepted for 365 days from the date of denial.

e. Time period to implement Variance. Unless otherwise stipulated by the Community Development Board, the work to be performed pursuant to a Variance shall begin within six (6) months from the date of approval of the Variance. The Community Development Director, upon finding of good cause, may authorize a one time extension not to exceed an additional six (6) months, beyond which time the Variance shall become null and void.

f. A Variance, which involves the Development of Land, shall be transferable and shall run with the title to the Property unless otherwise stipulated by the Community Development Board.

**ADDITIONAL COMMENTS:**

There are multiple considerations to make with this variance:

1). COAB has changed their Future Land Use Code to make the chances of any Land Use Amendement to Medium-Density, or similar, almost zero due to spot zoning. This is concerning in regards to the property right's of the subject property because their lot was effectively "down-zoned" out of compliance with land use amendments. Of course, the zoning code changes over the years have only made this worse for the owners to "fit" within what is allowed.

2). The owners are seeking this request to restore a previously granted notice from COAB, which would have allowed them to rebuild if building started within one-year. Unfortunenly, the owners were not in the financial position to do that & now wish to sell.

3). The owners did not pursue this action for-profit, rather their house burned down in a fire. The owner is simply seeking the ability to sell a marketable vacant lot. Currently, the side setbacks would allow for a 15' wide house. That is more narrow than a builder grader starter townhome & not suitable for any luxury market.

4). The owners are longtime residents of Atlantic Beach. The lot was purchased in 2001 & multiple changes LUZ code since have made this property obsolete.

5). The 1950's condos have sold for under $500k consistently & the cheapest purchase on oceanfront is ~$4M. This is another example of the harmful effect's the LUZ code can have when there is not intermediary zone between high-density & low-density housing.

6). The lot currently sits vacant & does not add value to the area.

# OWNER'S AUTHORIZATION FOR AGENT

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

**Please submit form in person or to building-dept@coab.us

## OWNER INFORMATION

NAME Davis Fleming PHONE # _____

ADDRESS 1025 Beach Ave CELL # 904-631-5690

CITY Atlantic Beach STATE FL ZIP CODE 32233

## AGENT INFORMATION

NAME Andrew Nathan Bussey PHONE # _____

ADDRESS 1912 N Sherry Drive CELL # 205-586-5754

CITY Atlantic Beach STATE FL ZIP CODE 32233

Nathan Bussey is hereby authorized to act on behalf of Davis Fleming the owner(s) of those lands described within the attached application and as described in the attached deed or other such proof of ownership as may be required, in applying to the City of Atlantic Beach, Florida, for an application related to a Development Permit or other action pursuant to:

- ☐ BUILDING PERMIT
- ☐ USE-BY-EXCEPTION
- ☐ COMPREHENSIVE PLAN AMENDMENT
- ☐ TREE PERMIT
- ☑ ZONING VARIANCE
- ☐ PLAT, REPLAT OR LOT DIVISION
- ☐ SIGN PERMIT
- ☐ ZONING MAP AMENDMENT
- ☐ OTHER _____

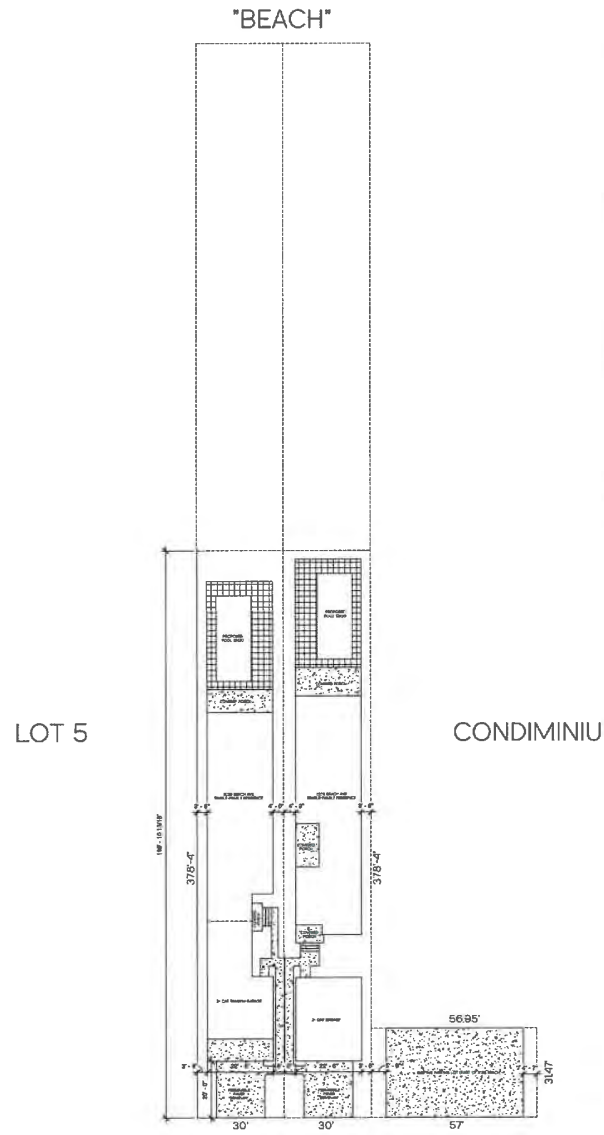
Teresa Ann May
NOTARY PUBLIC STATE OF FLORIDA
TERESA ANN MAY
Commission # HH 424592
Expires September 4, 2027

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| SIGNATURE OF OWNER | PRINT OR TYPE NAME | DATE |
|---|---|---|
| | Davis Fleming | 5/1/25 |

| SIGNATURE OF AGENT | PRINT OR TYPE NAME | DATE |
|---|---|---|
| | Nathan Bussey | 5/1/25 |

*OWNERS AUTHORIZATION 11.19.2024*




IMPERVIOUS COVER 1039 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 7782 S.F. |
| HOUSE FOOT PRINT: | | 2373 S.F. |
| COVERED ENTRANCE | | 56 S.F. |
| COVERED REAR PORCH | | 180 S.F. |
| COVERED DRIVEWAY | | 180 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| TOTAL IMPERVIOUS | | 2909 S.F. |
| IMPERVIOUS PERCENTAGE | | 37.3% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 530 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

IMPERVIOUS COVER 1025 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 9380 S.F. |
| HOUSE FOOT PRINT: | | 1742 S.F. |
| COVERED ENTRANCE | | 77 S.F. |
| COVERED REAR PORCH | | 225 S.F. |
| GARAGE APARTMENT | | 663 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| EXISTING PARKING LOT | | 1492 S.F. |
| TOTAL IMPERVIOUS | | 4319 S.F. |
| IMPERVIOUS PERCENTAGE | | 45% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 523 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

S1

CGC #1523195

BUILD PATH
1025 & 1038 BEACH AVE
ATLANTIC BEACH, FL

ANDREW N. DUSSEAU
CGC #1523196

1913 N SHERRY DRIVE
ATLANTIC BEACH, FL
32233

buildpath

# VARIANCE APPLICATION

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

***FOR INTERNAL OFFICE USE ONLY***
PERMIT# ZVAR25-0011

☐ $500.00 Application Fee

**Please submit form in person or to buildng-dept@coab.us

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Drive CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1039 Beach Ave, Atlantic Beach, FL 32233 PHONE # 205-586-5734 CELL #

RE# 170264-0000 BLOCK # 41 LOT # 4

LOT/PARCEL SIZE 0.18 Acres ZONING CODE RG-M UTILITY PROVIDER JEA

COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION RL

PROVISION FROM WHICH VARIANCE IS REQUESTED Side Building Setbacks

Homeowner's Association or Architectural Review Committee approval required for the proposed construction
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Statement of facts and site plan related to requested Variance, which demonstrates compliance with Section 24-65 of the Zoning, Subdivision and Land Development Regulations, a copy of which is attached to this application. Statement and site plan must clearly describe and depict the Variance that is requested.

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3. Survey and legal description of property for which Variance is sought.
4. Required number of copies: One (1) digital copy - additional paper copy is optional.

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

SIGNATURE OF APPLICANT | Nathan Bussey PRINT OR TYPE NAME OF APPLICANT | 4.28.25 DATE

*VARIANCE APPLICATION 01.29.2025*

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This property was platted in 1913 & was platted to match the design standards at that time. Most parcels from 10th Street to 16th Street are platted the same. The Land Use Code was also changed to prevent non-RL developments.

☐ 5. Irregular shape of the property warranting special consideration.

☒ 6. Substandard size of a Lot or Record warranting a Variance in order to provide for the reasonable use of the property.

30' wide lot in lieu of the typical 50' you see on Beach Ave & elsewhere in Atlantic Beach. Side setbacks would render the property effectively unusable.

a. Approval of a Variance. To approve an application for a Variance, the Community Development Board shall find that the request is inaccordance with the preceding terms and provisions of this Section and that the granting of the Variance will be in harmony with the Purpose and Intent of this Chapter.

b. Approval of Lesser Variances. The Community Development Board shall have the authority to approve a lesser Variance than requested if a lesser Variance shall be more appropriately in accord with the terms and provisions of this Section and with the Purpose and Intent of this Chapter.

c. Nearby Nonconformity. Nonconforming characteristics of nearby Lands, Structures or Buildings shall not be grounds for approval of a Variance.

d. Waiting period for re-submittal. If an application for a Variance is denied by the Community Development Board, no further action on Another application for substantially the same request on the same property shall be accepted for 365 days from the date of denial.

e. Time period to implement Variance. Unless otherwise stipulated by the Community Development Board, the work to be performed pursuant to a Variance shall begin within six (6) months from the date of approval of the Variance. The Community Development Director, upon finding of good cause, may authorize a one time extension not to exceed an additional six (6) months, beyond which time the Variance shall become null and void.

f. A Variance, which involves the Development of Land, shall be transferable and shall run with the title to the Property unless otherwise stipulated by the Community Development Board.

**ADDITIONAL COMMENTS:**

There are multiple considerations to make with this variance:

1). COAB has changed their Future Land Use Code to make the chances of any Land Use Amendement to Medium-Density, or similar, almost zero due to spot zoning. This is concerning in regards to the property right's of the subject property because their lot was effectively "down-zoned" out of compliance with land use amendments. Of course, the zoning code changes over the years have only made this worse for the owners to "fit" within what is allowed.

2). The owners are seeking this request to restore a previously granted notice from COAB, which would have allowed them to rebuild if building started within one-year. Unfortunenly, the owners were not in the financial position to do that & now wish to sell.

3). The owners did not pursue this action for-profit, rather their house burned down in a fire. The owner is simply seeking the ability to sell a marketable vacant lot. Currently, the side setbacks would allow for a 15' wide house. That is more narrow than a builder grader starter townhome & not suitable for any luxury market.

4). The owners are longtime residents of Atlantic Beach. The lot was purchased in 1998 & multiple changes LUZ code since have made this property obsolete.

5). The 1950's condos have sold for under $500k consistently & the cheapest purchase on oceanfront is ~$4M. This is another example of the harmful effect's the LUZ code can have when there is not intermediary zone between high-density & low-density housing.

6). The lot currently sits vacant & does not add value to the area.

# OWNER'S AUTHORIZATION FOR AGENT

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

**Please submit form in person or to buildng-dept@coab.us

PROPERTY ADDRESS
1039 BEACH AV
ATLANTIC BEACH, FL
32233

**OWNER INFORMATION**

NAME JERRY HARWARD PHONE # 9044698762

ADDRESS 77 CHESTNUT ST UNIT 203 CELL #

CITY TRYON STATE NC ZIP CODE 28782

**AGENT INFORMATION**

NAME NATHAN BUSSEY PHONE #

ADDRESS 1912 N. SHERRY DR CELL # 205-586-5734

CITY ATLANTIC BEACH, STATE FL ZIP CODE 32233

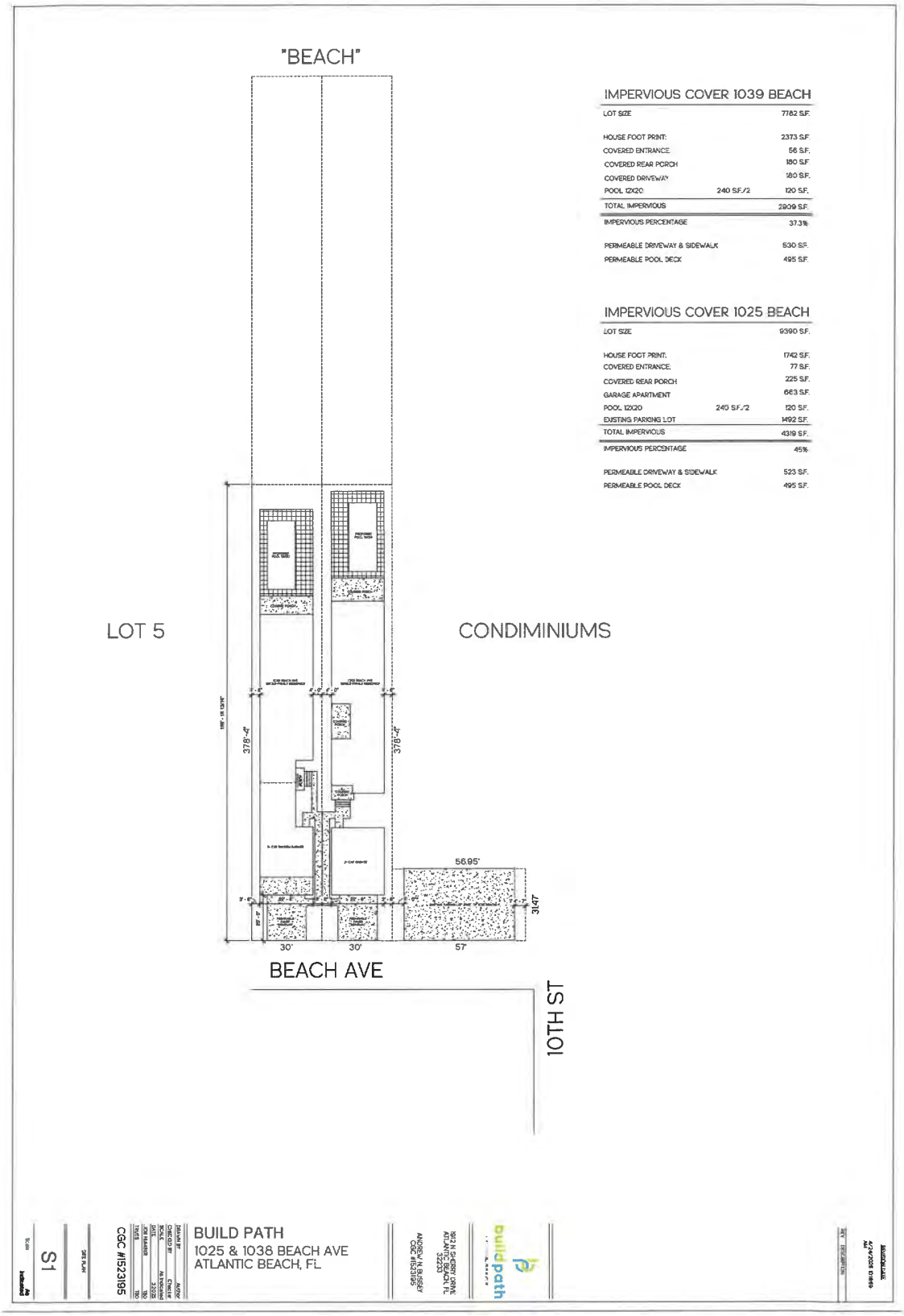
NATHAN BUSSEY is hereby authorized to act on behalf of JERRY HARWARD the owner(s) of those lands described within the attached application and as described in the attached deed or other such proof of ownership as may be required, in applying to the City of Atlantic Beach, Florida, for an application related to a Development Permit or other action pursuant to:

- ☐ BUILDING PERMIT
- ☐ USE-BY-EXCEPTION
- ☐ COMPREHENSIVE PLAN AMENDMENT
- ☐ TREE PERMIT
- ☒ ZONING VARIANCE
- ☐ PLAT, REPLAT OR LOT DIVISION
- ☐ SIGN PERMIT
- ☐ ZONING MAP AMENDMENT
- ☐ OTHER

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| | | |
|---|---|---|
| SIGNATURE OF OWNER | JERRY HARWARD<br>PRINT OR TYPE NAME | 5-5-2025<br>DATE |
| SIGNATURE OF AGENT | Nathan Bussey<br>PRINT OR TYPE NAME | 5.5.25<br>DATE |

OWNERS AUTHORIZATION 11.19.2024




IMPERVIOUS COVER 1039 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 7782 S.F. |
| HOUSE FOOT PRINT: | | 2373 S.F. |
| COVERED ENTRANCE | | 56 S.F. |
| COVERED REAR PORCH | | 180 S.F. |
| COVERED DRIVEWAY | | 180 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| TOTAL IMPERVIOUS | | 2909 S.F. |
| IMPERVIOUS PERCENTAGE | | 37.3% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 530 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

IMPERVIOUS COVER 1025 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 9390 S.F. |
| HOUSE FOOT PRINT: | | 1742 S.F. |
| COVERED ENTRANCE | | 77 S.F. |
| COVERED REAR PORCH | | 225 S.F. |
| GARAGE APARTMENT | | 663 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| EXISTING PARKING LOT | | 1492 S.F. |
| TOTAL IMPERVIOUS | | 4319 S.F. |
| IMPERVIOUS PERCENTAGE | | 45% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 523 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

S1

CGC #1523195

BUILD PATH
1025 & 1038 BEACH AVE
ATLANTIC BEACH, FL

1872 N DIXIE FREEWAY
ATLANTIC BEACH, FL
32233

build path

# MINUTES
## Community Development Board (CDB) Meeting
## Tuesday, May 20, 2025 - 6:00 PM
## City Hall, Commission Chamber
## 800 Seminole Road, Atlantic Beach, FL 32233

**Present:**
Kirk Hansen, Chair
Ellen Golombek, Vice Chair
Jennifer Lagner, Member
Angela Farford, Member
Harold Gear, Member
Richard Arthur, Member
Jeff Haynie, Member

**Absent:**
Gregory (Greg) Beliles, Alternate Member

**Also Present:**
Amanda Askew, Neighborhoods Department Dir. (NDD)
Abrielle Genest, Principal Planner
Valerie Jones, Recording Clerk
Robert Graham, City Attorney (CA)

**1. CALL TO ORDER AND ROLL CALL**

Chair Hansen called the meeting to order at 6:00 p.m. Mr. Haynie was late for the meeting and arrived at 6:30 p.m.

**2. APPROVAL OF MINUTES**

**A.** Approve minutes of the April 15, 2025 regular meeting of the Community Development Board.

**3. OLD BUSINESS**

There was no old business.

**4. NEW BUSINESS**

**A. 324 Aquatic Drive ZVAR25-0009 (Michelle Meeker)**

Request for a variance to Section 24-82(b)(1) to exceed the maximum four (4) foot rear yard projection and Section 24-81(c) to allow construction of a covered porch within an easement at 324 Aquatic Drive.

**STAFF REPORT:** Planner Genest presented the information as explained in the staff report. She also provided a PowerPoint presentation.

**APPLICANT REPORT:** Michelle Meeker introduced herself as the owner of the property. She said that all she wanted to do was replace it like-for-like. She said she had a representative that was going to speak on her behalf.

Michael Herzberg introduced himself. He referred to a handout that the Board had. Mr. Herzberg said that the screen structure was already there when Ms. Meeker purchased the property in 2018. He pointed out how there were four structures that encroach into the setback and that there isn't any documented permit history for her home. Mr. Herzberg explained how the home has an excessively large front yard setback at 42-feet and only a 1-foot rear yard setback creating an unreasonable limitation on any construction. He said that Ms. Meeker is proposing to tear down an existing unpermitted improvement made by the previous owner and replace it with a newer one. He said in regard to Public Works concerns this would not further create an encroachment into that and there would still be ample room to work in.

Mr. Arthur asked about the side of the house since it looks like it's encroaching into the setback. Mr. Herzberg said it does encroach and would continue to encroach even if the variance isn't granted.

Chair Hansen asked Planner Genest to elaborate on Public Works concerns. Planner Genest said the area has had flooding in the past, so the ditch needs to be maintained so they need access through that easement. She confirmed for Ms. Lagner that the applicant is only replacing what is currently there. Planner Genest also confirmed for Mr. Arthur that the small section that projects out on the survey was in the original plans along with the 8x11 patio according to the survey.

**BOARD DISCUSSION:** Mr. Gear said he went and looked over the fence and saw the existing encroachment but since the applicant isn't going past that it wouldn't be an issue.

**PUBLIC COMMENT:** Chair Hansen opened the floor to public comment. There were no public comments. Ms. Lagner agreed.

***MOTION:*** To **APPROVE ZVAR25-0009** based on condition #2 "Surrounding conditions or circumstances impacting the property disparately from nearby properties".

***Motion:*** ***Harold Gear***
***Second:*** ***Jennifer Lagner***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |

***Motion passed 6 to 0.***

B. **1025 and 1039 Beach Avenue ZVAR25-0010 and ZVAR25-0011 (Nathan Bussey)** Request for a variance to Section 24-108(e)(3)(a) to reduce the minimum side yard setbacks on each side of the proposed single-family homes at 1025 Beach Avenue and 1039 Beach Avenue.

**STAFF REPORT:** Director Askew presented the information as explained in the staff report. She also provided a PowerPoint presentation.

Ms. Farford asked if the City had minimum structure width requirements. Director Askew said they did not. She said the applicant had one year after the fire to build back to previous setback and density

**APPLICANT REPORT:** Nathan Bussey of BuildPath Construction Advisors introduced himself as representing the owners. He said the proposed plan was to build back a structure that was 22 1/2 feet wide with 1,700 square feet per lot on the footprint which would be what is intended for the area and the charm of the neighborhood. Mr. Bussey said that the applicants are restricted by what can be built and still have value to their properties that they've owned for 20 plus years. He said the medium density zoning conflicts with the land use as to what the applicant can build back.

Chair Hansen asked if the owners today are the same owners that were there when there was a fire. Mr. Bussey said yes, they are the same owners.

Mr. Bussey said that it has been listed as one lot assembled together with a large structure with 3 different realtors and hasn't had an offer showing that it isn't what the market wants.

**PUBLIC COMMENT:** Chair Hansen opened the floor to public comment. He read a letter from Howard Loft who was not in favor of approving this request.

Nathan Gray introduced himself as working on behalf of the owners. He explained that these 2 lots are very standard for ocean front lots between 10th Street and 16th Street which currently have 2- and 3-foot setbacks. Mr. Gray said that regulations have made these parcels effectively unusable. He said it is difficult to tell an owner they can build a 15-foot-wide house that would be less than a builder grade townhome which is 16-foot wide. Mr. Gray said he understands the concerns about fires but there are many homes in neighborhood that have even smaller setbacks.

Terrie Bradshaw of 75 10th Street introduced herself and said the fire did a lot of damage to her home and does not support the approval of this request.

Bill Taylor of 95 10th Street introduced himself. He had questions about the L-shaped lot, could it be built on and would the variance be a normal variance or a 3-foot variance?

Scott Cairns introduced himself and said he and family members own 4 of the townhouses. He said he wants the lots developed and said the standard 5-foot setback would be fine. Mr. Cairns was not opposed to the variance.

Deborah Oken of 1073 Beach Avenue said she has a 100-year-old house on a 30-foot lot, and it touches the boundaries on one side. She said the variance request was a reasonable request.

**BOARD DISCUSSION:** Ms. Golombek asked Director Askew if they could build townhomes. Director Askew said yes, the zoning district does allow townhomes so they could have a shared wall, but the difficulty is when you have 2 different property owners.

Mr. Arthur asked which lot was 33 feet wide. Director Askew had the applicant return to the podium. Mr. Bussey said that 1025 Beach was the 33 feet wide lot. He said that he didn't think townhomes would be the highest and best thing to build fitting the charm of the neighborhood. Mr. Bussey said that they could use the additional 3 feet on the south setback by the condos.

Mr. Gear said that if the applicants agreed to build townhouses, then they would meet the setbacks. Chair Hansen said that since the applicants had 1 year to apply to build back to what they had before but didn't and the concerns of the neighbors he couldn't support this request. He thought that the owners should get together and figure out a deal between the two of them. Ms. Farford agreed and was concerned about the closeness of the structures. Mr. Arthur said he was leery of suggesting that any applicant can get with their neighbors and come up with a new plan. Chair Hansen said he is just suggesting combination of the lots as a possible solution.

Nathan Gray said that suggesting townhomes to the applicants the Board is forcing them to get into a partnership agreement which is what they are doing right now. He said they have been trying to sell the properties as one for 18 months. Mr. Gray said surrounding properties are selling for $7.5 million and the maximum sale for condos and townhomes would be $1.5 million. He said that what they are suggesting for setbacks is larger than the setbacks were before.

***MOTION:*** To **DENY ZVAR25-0010** due to it not meeting any of the criteria.

***Motion:*** ***Jennifer Lagner***
***Second:*** ***Angela Farford***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner (Moved By)*** | ***For*** |
| ***Angela Farford (Seconded By)*** | ***For*** |
| ***Harold Gear*** | ***For*** |
| ***Richard Arthur*** | ***For*** |

***Motion passed 6 to 0.***

***MOTION:*** To **DENY ZVAR25-0011** due to it not meeting any of the criteria.

***Motion:*** ***Harold Gear***
***Second:*** ***Angela Farford***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner*** | ***For*** |
| ***Angela Farford (Seconded By)*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |

***Motion passed 6 to 0.***

**C. 310 Mayport Road COMP25-0001 and REZN25-0001 (Randall Whitfield)**
Request is for a Future Land Use Map (FLUM) amendment to change the future land use map designation of the western 70 feet 310 Mayport Road (RE# 170736-0000) FROM Residential Medium Density (RM) TO Commercial (CM). Also, a request for a rezoning of the same property at 310 Mayport Road (RE# 170736-0000) FROM Residential, General, Two-Family (RG) TO Commercial, General (CG).

**STAFF REPORT:** Director Askew presented the information as explained in the staff report. She also provided a PowerPoint presentation. Director Askew reminded the Board that this would be a recommendation to the City Commission and would go before them at the June 23rd meeting. Mr. Arthur asked that since they have a variance to tear down and build back storage would they have to get approval again on this one lot. Director Askew said that since they are putting parking on this lot they wouldn't have to.

**APPLICANT REPORT:** Michael Traynor, an attorney with Orr Cook, office at 818 A1A North. He said he was representing Randall Whitfield. Mr. Traynor said they plan to make the access to the property on 3rd Street West instead of Mayport Road making it safer to enter. He said the front would be landscaped making it more attractive.

Mr. Arthur asked why all of this couldn't be done with the existing 415 by 102-foot area that is zoned CG already. Mr. Traynor said that they want to get the entrance off of Mayport Road and put the parking in the rear. He added that it would also put all of the property under the same zoning. A design board was presented showing the landscaping and fencing. In response to a question from Mr. Arthur, Director Askew went over the considerations listed on page 94-95 of the agenda packet. Ms. Golombek said that she liked the idea of eliminating the multiple entrances off of 3rd Street West and only having one.

**BOARD DISCUSSION:** Ms. Golombek asked if the Board can put conditions on this request. Director Askew said they cannot.

***MOTION:*** To recommend **APPROVAL** of COMP25-0001 and REZN25-0001 to the City Commission.

***Motion: Ellen Golombek***
***Second: Harold Gear***

Mr. Haynie said he doesn't see how it is consistent with the Comprehensive Plan and pointed to page 94 of the agenda packet where Director Askew had laid out some of the relevant policies. He said the plan is telling them that there is not a goal of adding commercial property to this area and if commercial property is added the plan is saying it will not be for this use. Chair Hansen said that it is already storage units and that's not going away. Mr. Haynie said he thought it was awkward to add commercial general to that neighborhood on one lot. Mr. Arthur said they could just put the parking on the existing commercial general lots. He said he was concerned about the expansion of a carve out when what they want to do can be done on site. Ms. Lagner said she wasn't in favor of this. Mr. Gear said there is a similar carve out a couple of streets over.

| | |
|---|---|
| ***Kirk Hansen*** | ***Against*** |
| ***Ellen Golombek (Moved By)*** | ***For*** |
| ***Jennifer Lagner*** | ***Against*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Seconded By)*** | ***For*** |
| ***Richard Arthur*** | ***Against*** |
| ***Jeff Haynie*** | ***Against*** |

***Motion failed 3 to 4.***

***MOTION:*** To recommend **DENIAL** of COMP25-0001 and REZN25-0001 to the City Commission due to it not being consistent with the Comprehensive Plan.

***Motion: Jeff Haynie***
***Second: Jennifer Lagner***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***Against*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***Against*** |
| ***Harold Gear*** | ***Against*** |
| ***Richard Arthur*** | ***For*** |
| ***Jeff Haynie (Moved By)*** | ***For*** |

***Motion passed 4 to 3.***

## 5. REPORTS

### A. 400 square foot trigger for Stormwater

The Board discussed this topic and decided to have this trigger removed from the Code

***MOTION:*** To recommend the amendment of Section 24-89 to strike paragraph C1.

***Motion:*** ***Harold Gear***
***Second:*** ***Jennifer Lagner***

Director Askew went over the explanation of the paragraph explaining that the trigger for on-site stormwater storage was for the addition of 400 square feet even if you are under the 45% pervious ratio. She said this also applies to new builds. Mr. Arthur said that it doesn't make sense to apply this to lots that are under their 45% pervious ratio. He said it puts burden on the residents and their property rights.

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***Against*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |
| ***Jeff Haynie*** | ***For*** |

***Motion passed 6 to 1.***

### B. Shared Parking

Director Askew explained in detail how the Shared Parking is addressed in the Code. Chair Hansen said it appears there's a quirk in the code because the on-site parking in some cases doesn't count toward the requirement. Director Askew explained that the site Chair Hansen was referring to didn't have enough on-site parking to share. She said you have to have the required parking for your required uses whether you are open from 8-10 a.m. or 24 hours. Chair Hansen said they should be able to have a shared parking agreement with the building they are in. Mr. Gear said there would have to be a legal agreement. Mr. Arthur wondered how Staff would differentiate between when a business is closed and when that space could be counted toward on-site parking. Mr. Haynie suggested they keep the 400 feet requirement since that can be handled with a variance. Ms. Golombek agreed.

***MOTION:*** To recommend to the City Commission that shared parking Section 24-161 be amended to allow for allocation of on-site parking based on hours of operation of shared tenants.

***Motion:*** ***Harold Gear***
***Second:*** ***Jennifer Lagner***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |
| ***Jeff Haynie*** | ***For*** |

***Motion passed 7 to 0.***

**6. PUBLIC COMMENT**
There were no public comments.

**7. ADJOURNMENT**
There being no further discussion, Chair Hansen declared the meeting adjourned at 7:45 p.m.

Attest:

Amanda Askew

Kirk Hansen, Chair

**City of Atlantic Beach**
Building and Zoning
800 Seminole Road
Atlantic Beach, Florida 32233
Telephone (904) 247-5826
http://www.coab.us

November 1, 2022

**Re: 1025 & 1039 Beach Avenue Fire Damage**

To whom it may concern,

This letter is intended to supplement the letter dated October 6th that summarized the options for rebuilding the structures that incurred damage caused by the fire on June 7, 2022.

As mentioned in the October 6th letter both properties are recognized as nonconforming lots of record since they do not meet current lot standards. As outlined in the original letter there are several redevelopment options. **The redevelopment options run with the property and not the owner, therefore, they transfer with the land.**

Please note that option 1 and option 3 have time limits imposed by the codes.

For your reference the Oct. 6th letter is attached.

Sincerely,

Amanda L. Askew, AICP
Planning and Community Development Director

**City of Atlantic Beach**
Building and Zoning
800 Seminole Road
Atlantic Beach, Florida 32233
Telephone (904) 247-5826
http://www.coab.us

October 6, 2022

**Re: 1025 & 1039 Beach Avenue Fire Damage**

To whom it may concern,

This letter is intended to summarize options for rebuilding the structures that incurred damage caused by the fire on June 7, 2022.

**Nonconforming lots of record:** Both properties are recognized as nonconforming lots of record since they do not meet current lot standards. Nonconforming lots of record, per Sec. 24-84(b)(1), may be used for single-family dwellings or residential dwellings consistent with density as designated in the comprehensive plan. Both properties are within the Residential, Low Density (RL) future land use category which permits up to six dwelling units per acre, or 7,260 square feet per unit (excluding land seaward of the CCCL). Since neither property contains the lot area for more than one dwelling unit, each property is permitted to construct one single-family house. If the two properties were combined and developed as one parcel, only one residential unit would be permitted (a duplex, triplex, etc. would not be permitted).

**Nonconforming structures**: Additionally, both properties are considered nonconforming structures as they do not meet current zoning setback requirements. Sec. 24-85(b)(7) states "legal nonconforming residential structures which incur substantial damage by a natural event may be reconstructed within the previously existing footprint and height as lawfully permitted prior to the occurrence of the natural event provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years." **This means that structures on both properties could be reconstructed within their previously existing footprints.** Please note that any new structure will have to be constructed the meet current building codes.

**Nonconforming use:** Lastly, city records indicate that 1025 Beach Avenue contained five dwelling units (four in the main structure and one in the accessory garage structure). Since five dwelling units exceeds the number of units currently allowed under the Residential Low Density designation, this property is considered a nonconforming use. Section 24-85(c)(4) states "Site improvements or structures located on properties containing a legal nonconforming use which incur substantial damage by a natural event may be reconstructed and the nonconforming use may be resumed as lawfully permitted prior to the occurrence of the natural event, provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years."

In summary, the reconstruction options for these properties includes:

**Option 1.** Construct one single-family house on each property. Permitted to use existing damaged structure footprints and height.

**Option 2.** Combine the lots to create one property and construct one single-family house. Would be required to meet existing zoning codes (no longer use the existing damaged structure footprints and height).

**Option 3.** Construct a five dwelling unit structure on 1025 Beach Avenue and one single-family house on 1039 Beach Avenue. Permitted to use existing damaged structure footprints and height.

Please let me know if you have any questions or would like to go over this options in-person.

Sincerely,

Amanda L. Askew

Amanda L. Askew, AICP
Planning and Community Development Director

**CITY OF ATLANTIC BEACH**
**CITY COMMISSION MEETING**
**STAFF REPORT**

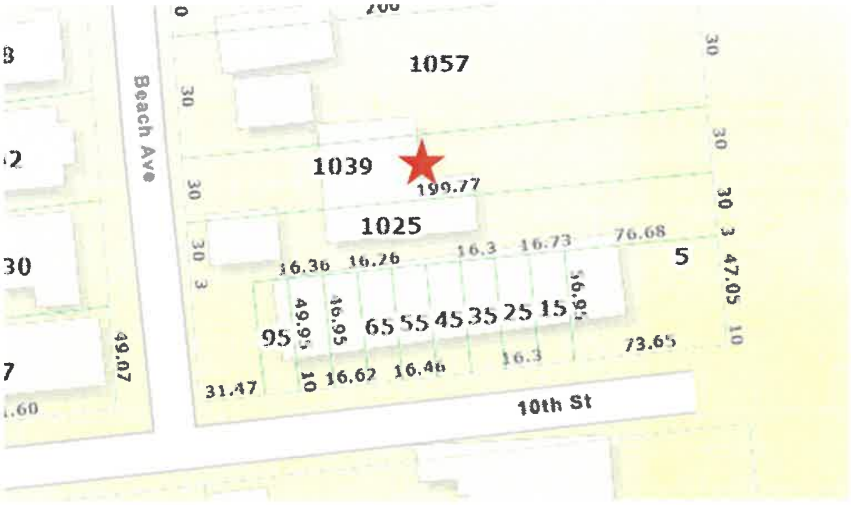
**AGENDA ITEM:** APP25-0005 (Appeal of a decision of the Community Development Board ZVAR25-0011 at 1039 Beach Avenue)

**SUBMITTED BY:** Amanda L. Askew, AICP, Neighborhoods Department Director

**TODAY'S DATE:** July 29, 2025

**MEETING DATE:** August 11, 2025

**BACKGROUND:** The applicant and authorized agent, Nathan Bussey, is appealing the final decision of the City of Atlantic Beach Community Development Board (CDB) regarding Variance Requests ZVAR25-0010 and ZVAR25-0011, rendered on May 20, 2025.




The subject property (1039 Beach Ave.) is a vacant lot located on the west side of Beach Avenue near the intersection of 10th Street located within the Residential, General, Multi-Family (RG-M) zoning district.

The applicant is requesting a reduction in the required side yard setbacks for the construction of a proposed single-family residence.

Mr. Bussey is requesting variances for the two adjacent properties (1025 and 1039 Beach Ave) to reduce the required side yard setbacks in order to construct new single-family homes. A public hearing was held on May 20, 2025, during which the CDB reviewed the applications, supporting documentation, and public comments. Following deliberation, the Board voted unanimously (6-0) to deny both variance requests. The denial was based on the Board's determination that the applications did not satisfy the criteria for variance approval outlined in Section 24-65(c) of the Land Development Regulations.

On June 7, 2022, both structures located at 1025 and 1039 Beach Avenue sustained substantial damage due to a fire, necessitating demolition. Relevant code sections addressing the redevelopment of nonconforming structures include:

- **Section 24-85(b)(7):** Permits legal nonconforming residential structures substantially damaged by a natural event to be reconstructed within the previously existing footprint and height, provided reconstruction commences within one year and is completed within three years of the event.
- **Section 24-84(c)(4):** Provides similar provisions for site improvements or structures located on properties with legal nonconforming uses.

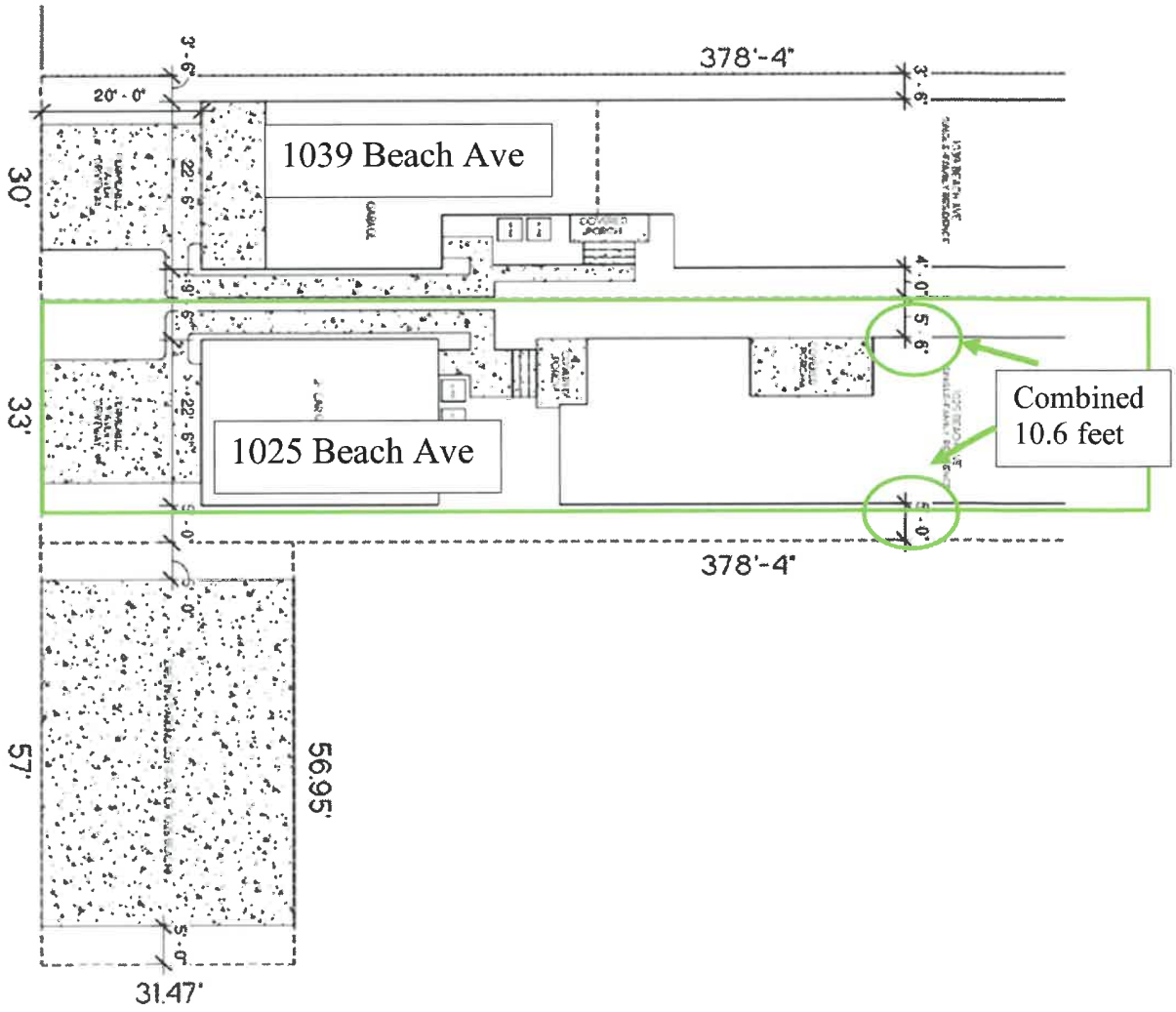
The property owners were informed of their redevelopment options in October 2022 (see "Redevelopment Options Letters Updated 1.01.22"). However, reconstruction did not begin within the one-year timeframe following the event (by June 7, 2023), resulting in the loss of the properties' legal nonconforming status.

**VARIANCE REQUEST**:

Pursuant to **Section 24-108(e)(3)(a)** of the Land Development Regulations, side yard setbacks for single-family dwellings require a combined total of fifteen (15) feet, with a minimum of five (5) feet on either side.

- **1039 Beach Avenue (northern lot):** The proposed side yard setbacks are 3.6 feet (external to existing house) and 4 feet (interior to new house). The applicant is requesting a variance to reduce the combined side yard setback from 15 feet to 7.6 feet, and the minimum setback from 5 feet to 3.6 feet and 4 feet, respectively.

| | **North side of property** | | **South Side of property** | | **Combined** | |
|---|---|---|---|---|---|---|
| | Code | Proposed | Code | Proposed | Code | Proposed |
| **1039 Beach Ave** | 5 feet | 3.5 feet | 5 feet | 4 feet | 15 feet | 7.6 feet |




Section 24-65 states that "applications for a variance shall be considered on a case-by-case basis, and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section." According to Section 24-17, Definitions, "[a] variance shall mean relief granted from certain terms of this chapter. The relief granted shall be only to the extent as expressly allowed by this chapter and may be either an allowable exemption from certain provision(s) or a relaxation of the strict, literal interpretation of certain provision(s). Any relief granted shall be in accordance with the provisions as set forth in Section 24-65 of this chapter, and such relief may be subject to conditions as set forth by the City of Atlantic Beach."

Section 24-65(c) provides six distinct grounds for the approval of a variance:

**(1)** ***Exceptional topographic conditions of or near the property.***

**(2)** ***Surrounding conditions or circumstances impacting the property disparately from nearby properties.***
The applicant identified this as a ground for approval. See the application for additional comments.

**(3)** ***Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.***

**(4)** ***Onerous effect of regulations enacted after platting or after development of the property or after***
The applicant identified this as a ground for approval. See the application for additional comments.

**(5)** ***Irregular shape of the property warranting special consideration.***

**(6)** ***Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.***
The applicant identified this as a ground for approval. See the application for additional comments.

**BUDGET:** None

**RECOMMENDATION:** Review and vote on APP25-0005 (an approval of the appeal would approve the variance (ZVAR25-0011) and a denial would deny the variance)

**REQUIRED ACTION:**
The Commission may consider a **motion to approve APP25-0005/ ZVAR25-0011**, request for a variance to Section 24-108(e)(3)(a), upon finding this request is consistent with the definition of a variance, and in accordance with the provisions of Section 24-65, specifically the grounds for approval delineated in Section 24-65(c) and as described below:

*1) Exceptional topographic conditions of or near the property.*
*(2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.*
*(3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.*
*(4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.*
*(5) Irregular shape of the property warranting special consideration.*
*(6) Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property.*

Or,

The Commission may consider a **motion to deny APP25-0005/ ZVAR25-0011**, request for a variance to Section 24-108(e)(3)(a) upon finding this request does not meet any of the criteria set forth in section 24-65(c) nor is consistent with the definition of a variance.

**ATTACHMENT(S):**

Appeal Procedures
Appeal Application
Section 24-108 in the Land Development Code
CDB staff report
Variance Application
CDB Meeting Minutes
Redevelopment Options letters updated 1.01.22

**REVIEWED BY CITY MANAGER**:

**CITY OF ATLANTIC BEACH**
**PROCEDURES FOR APPEALS**
**APPEAL FROM DENIAL OF VARIANCE**
**BY COMMUNITY DEVELOPMENT BOARD**

Pursuant to 24-49(b) of the Land Development Regulations (LDR) attached, appeals from a decision of the Community Development Board (CDB) may be made to the City Commission by any adversely affected person(s), or any officer, board or department of the City and must set forth how the decision being appealed is in conflict with or in violation of the LDR, in whole or in part, and specify the grounds of the conflict or violation. Appeals of a CDB decision to the Commission are *de novo*, meaning that the appeal hearing proceeds from the beginning, as if the prior hearing at the CDB had not occurred.

Quasi-judicial proceedings, such as rezonings, uses by exception, variances, waiver requests, and appeals are not controlled by strict rules of evidence and procedure, but certain standards of basic fairness must be adhered to in order to afford due process. In quasi-judicial hearings, the parties must be able to present evidence, cross-examine witnesses and be informed of all of the facts upon which the Commission acts. The hearing must be fair and impartial and contain the following requirements:

- Notice per § 24-51(k), LDR.
- Quasi-judicial hearings can be very informal. The record must be made at the hearing and the parties must be able to comment on the evidence or to introduce contrary evidence.
- Written decision. The decision must be based on the record as it is produced at the hearing and should include an analysis of the applicable statutes, ordinances, regulations and policies as well as the facts.
- Fairness protections require an unbiased decision maker and decisions are to be based on information presented at the hearing and made a part of the record.

Suggested Procedure for Appeal Hearings:

- Mayor to Open Public Hearing.
- City Attorney – Procedural reminders/correspondence made part of record.
- Disclosure by the Commission members of any ex parte communications (per Resolution 95-26, each Commissioner must disclose the subject of the communication and the identity of the person, group or entity who made the communication before final action).
- Staff presents an overview of the subject matter and timeline of the application and basis for decision by CDB.
- Commission questions for Staff, if any.
- Applicant, and/or representatives/legal counsel, if applicable, present the request and support for approving the variance request and Applicant's witnesses, if any, make presentations.
- Commission questions for Applicant/witnesses, if any.
- Public comments – 3 or 5 minutes, depending on number of speaker cards submitted to Clerk.
- Closing comments/rebuttal by Applicant (may include cross-examination if requested).
- Mayor closes Public Hearing.
- Commission deliberation and action, based on provisions set forth in Section 24-65 (c), Land Development Regulations, Variances (attached), which will be memorialized in a written order.
- Commission may approve, approve with conditions or deny the variance request.
  - Per Section 24-65 (c), a variance may be approved if the Commission finds that one (1) or more of the following factors exists to support an application for a variance:
  (1) Exceptional topographic conditions of or near the property.
  (2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.
  (3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.
  (4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.
  (5) Irregular shape of the property warranting special consideration.
  (6) Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property.

**REFERENCED CODE SECTIONS**

**Sec. 24-49. - Appeals.**

Appeals of administrative decisions made by the planning and community development director and appeals of final decisions of the community development board may be made by adversely affected person(s) in accordance with the following provisions. Appeals shall be heard at a public hearing within a reasonable period of time with proper public notice, as well as due notice to the interested parties as set forth in section 24-51 hereof. At the hearing, any party may appear in person, by agent or by attorney.

(a) *Appeals of administrative decisions of the planning and community development director.* Appeals of a decision of the planning and community development director may be made to the city commission by any adversely affected person(s), or any officer, board or department of the city affected by a decision of the planning and community development director made under the authority of this chapter.

Such appeal shall be filed in writing with the city clerk within thirty (30) days after rendition of the final order, requirement, ruling, decision or determination being appealed.

The planning and community development director shall, upon notification of the filing of the appeal, transmit to the city commission, all the documents, plans, or other materials constituting the record upon which the action being appealed was derived. A duly noticed public hearing, which shall be de novo, will be held by the city commission at a date and time set by the city manager or his/her designee, shall be scheduled within ten (10) business days from the date the appeal is filed.

(b) *Appeals of decisions of the community development board.* Appeals of a decision of the community development board may be made to the city commission by any adversely affected person(s), any officer, board or department of the city affected by any decision of the community development board made under the authority of this chapter. Such appeal shall be filed in writing with the city clerk within thirty (30) days after rendition of the final order, requirement, decision or determination being appealed. The appellant shall present to the city commission a petition, duly verified, setting forth that the decision being appealed is in conflict with or in violation of this chapter, in whole or in part, and specifying the grounds of the conflict or violation. A duly noticed public hearing, which shall be de novo, will be held by the city commission at a date and time set by the city manager or his/her designee, shall be scheduled within ten (10) business days from the date the appeal is filed.

(c) *Stay of work.* An appeal to the city commission shall stay all work on the subject premises and all proceedings in furtherance of the action appealed, unless the administrator shall certify to the city commission that, by reason of facts stated in the certificate, a stay would cause imminent peril to life or property. In such case, proceedings or work shall not be stayed except by order, which may be granted by the city commission after application to the officer from whom the appeal is taken and on due cause shown.

**Sec. 24-65. - Variance.**

- **Sec. 24-65. - Variances.**

The community development board is authorized to grant relief from the strict application of certain land development regulations where, due to an exceptional situation, adherence to the land development regulations results in "exceptional practical difficulties or undue hardship" upon a property owner. Examples of land development standards for which a variance may be authorized include but are not limited to:

- Parking standards
- Drive aisle width
- Setbacks
- Landscaping
- Fence height
- Impervious surface

However, variances are not authorized to reduce minimum lot area, minimum lot width or lot depth, nor increase maximum height of buildings as established for the various zoning districts. Further, a variance shall not modify the permitted uses or any use terms of a property.

In most cases, exceptional practical difficulties or undue hardship results from physical characteristics that make the property unique or difficult to use. The applicant has the burden of proof. The community development board must determine that granting the request would not cause substantial detriment to the public good and would not be inconsistent with the general intent and purpose of the land development regulations.

A variance may be sought in accordance with this section. Applications for a variance may be obtained from the community development department.

(a) *Application.* A request for a variance shall be submitted on an application form as provided by the city and shall contain each of the following:

(1) A legal description of the property for which the variance is requested.

(2) A reasonable statement describing the reasons and justification for the variance.

(3) A survey or lot diagram indicating setbacks; existing and proposed construction, as well as other significant features existing on the lot.

(4) The signature of the owner, or the signature of the owner's authorized agent. Written and notarized authorization by the owner for the agent to act on the behalf of the property owner shall be provided with the application.

(b) *Public hearing.* Upon receipt of a complete and proper application, the planning and community development director shall within a reasonable period of time schedule the application for a public hearing before the community development board following required public notice as set forth in section 24-51. At the public hearing, the applicant may appear in person and/or may be represented by an authorized agent.

(1) Applications for a variance shall be considered on a case-by-case basis and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section.

(2) The community development board shall not grant a variance, which would allow a use that is not a permitted use, or a permitted use-by-exception in the applicable zoning district. In the case of an application for a use-by-exception that is considered concurrently with an application for a variance, approval of the variance shall be contingent upon approval of the use-by-exception by the community development board. In the event, that the use-by-exception is denied by the community development board, any approved variance shall be rendered null and void.

(3) The community development board shall not approve any variance that would allow a use that is prohibited by

(4) The nonconforming use of adjacent or neighboring lands, structures or buildings shall not be considered as justification for the approval of a variance.

(5) Variances shall not be granted solely for the personal comfort or convenience, for relief from financial circumstances, or for relief from situations created by the property owner.

(c) *Grounds for approval of a variance.* The community development board shall find that one (1) or more of the following factors exist to support an application for a variance:

(1) Exceptional topographic conditions of or near the property.

(2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.

(3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.

(4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.

(5) Irregular shape of the property warranting special consideration.

(6) Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property.

In the event the community development board finds that none of the above exist, then the community development board shall deny the variance.

(d) *Approval of a variance.* To approve an application for a variance, the community development board shall find that the request is in accordance with the preceding terms and provisions of this section and that the granting of the variance will be in harmony with the purpose and intent of this chapter. In granting a variance, the community development board may prescribe appropriate conditions in conformance with and to maintain consistency with city Code. Violation of such conditions, when made a part of the terms under which the variance is granted, shall be deemed a violation of this chapter, and shall be subject to established code enforcement procedures.

(e) *Approval of lesser variances.* The community development board shall have the authority to approve a lesser variance than requested if a lesser variance shall be more appropriately in accord with the terms and provisions of this section and with the purpose and intent of this chapter.

(f) *Nearby nonconformity.* Nonconforming characteristics of nearby lands, structures or buildings shall not be grounds for approval of a variance.

(g) *Waiting period for re-submittal.* If an application for a variance is denied by the community development board, no further action on another application for substantially the same request on the same property shall be accepted for three hundred sixty-five (365) days from the date of denial.

(h) *Time period to implement variance.* Unless otherwise stipulated by the community development board, the work to be performed pursuant to a variance shall begin within twelve (12) months from the date of approval of the variance. The planning and community development director, upon finding of good cause, may authorize a one-time extension not to exceed an additional twelve (12) months, beyond which time the variance shall become null and void.

(i) *Transferability.* A variance, which involves the development of land, shall be transferable and shall run with the title to the property unless otherwise stipulated by the community development board.

# REQUEST FOR APPEAL

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

*FOR INTERNAL OFFICE USE ONLY*
PERMIT# APP25-0004
APP25-0005

☒ $500.00 Application Fee

**Please submit form in person or to buildng-dept@coab.us

## SITE INFORMATION

ADDRESS 1025 Beach Ave, Atlantic Beach, FL 32233

SUBDIVISION Atlantic Beach BLOCK 41 LOT 3

RE# 170264-0000 ☒ RESIDENTIAL ☐ COMMERCIAL ☐ OTHER

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Dr CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1025 Beach Ave, Atlantic Beach, FL 32233 PHONE # (205) 586-5734 CELL # N/A

RE# 170264-000 LOT/PARCEL SIZE 0.22 Acres ZONING CODE RG-M

**WHAT ISSUE ARE YOU APPEALING?** Variance for Side Setback

**PLEASE TELL US IN DETAIL WHY YOU ARE APPEALING:**

The applicant is appealing the denial of their previously filed Variance for minimum side setback relief. The applicant has attached a detailed description of the justification for their appeal in accordance with Section 24-49 of the City of Atlantic Beach Code of Ordinances. The applicant believes that items (2), (4) or (6) apply as justification for appeal in accordance with Section 24-65(f) of the City of Atlantic Beach Code of Ordinances.

In this application only, the applicant made the Community Development Board aware that the lot was (33') wide in lieu of (30') wide. The applicant suggested the additional feet be added to the side setbacks. An updated conceptual illustration is attached with the revised request for minimum side setbacks. The Community Development Board did not consider any amendments with the additional footage.

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| SIGNATURE OF APPLICANT | Nathan Bussey<br>PRINT OR TYPE NAME OF APPLICANT | 6/9/2025<br>DATE |
|---|---|---|

*REQUEST FOR APPEAL 01.29.2025*

# REQUEST FOR APPEAL

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

*FOR INTERNAL OFFICE USE ONLY*
PERMIT# APP25-0005

☒ $500.00 Application Fee

**Please submit form in person or to buildng-dept@coab.us

## SITE INFORMATION

ADDRESS 1039 Beach Ave, Atlantic Beach, FL 32233

SUBDIVISION Atlantic Beach BLOCK 41 LOT 4

RE# 170265-0000 ☒ RESIDENTIAL ☐ COMMERCIAL ☐ OTHER

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Dr CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1039 Beach Ave, Atlantic Beach, FL PHONE # (205) 586-5734 CELL # N/A

RE# 170265-0000 LOT/PARCEL SIZE 0.18 Acres ZONING CODE RG-M

**WHAT ISSUE ARE YOU APPEALING?** Variance for Side Setback

**PLEASE TELL US IN DETAIL WHY YOU ARE APPEALING:**

The applicant is appealing the denial of their previously filed Variance for minimum side setback relief. The applicant has attached a detailed description of the justification for their appeal in accordance with Section 24-49 of the City of Atlantic Beach Code of Ordinances. The applicant believes that items (2), (4) or (6) apply as justification for appeal in accordance with Section 24-65(f) of the City of Atlantic Beach Code of Ordinances.

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| SIGNATURE OF APPLICANT | Nathan Bussey<br>PRINT OR TYPE NAME OF APPLICANT | 6/9/2025<br>DATE |
|---|---|---|

*REQUEST FOR APPEAL 01.29.2025*

BEFORE THE CITY COMMISSION
OF THE CITY OF ATLANTIC BEACH, FLORIDA

Re: Appeal of Order of the Community Development Board Denying Variance, File Number's: ZVAR25-0010 & ZVAR25-0011 for 1025 & 1039 Beach Avenue, Atlantic Beach, FL.

Davis Fleming, owner of 1025 Beach Avenue, with Jerry Harward, owner of 1039 Beach Ave, pursuant to Section 24-49(B), of the City of Atlantic Beach ("City") Land Development Regulations (LDR's), appeals the Order Denying Variance, File Numbers: ZVAR25-0010 & ZVAR 25-0011, issued by the Community Development Board ("Board") on May 20, 2025, denying a side yard setback variance to obtain a reasonably sufficient width for two proposed single-family residences, one for each lot.

Parties

Davis Fleming, owner of 1025 Beach Avenue, Atlantic Beach, FL parcel No. 1702640000 ("1025 Property"). Jerry Harward, owner of 1039 Beach Avenue, Atlantic Beach, FL parcel No. 1702650000 ("1039 Property"). The following are images of both Mr. Fleming & Mr. Harvard's residences according to the Duval Property Appraisers website. Nathan Bussey has been authorized by the property owners to file this application.




(1025 Beach Avenue)



(1039 Beach Avenue)

Facts

In April of 2025, both applicants authorized Nathan Bussey to submit a Variance Application pursuant to Section 24-65 of the LDR's to request relief to construct a reasonably wide home on each of their Oceanfront lots. The proposed request was to reduce the combined side setback to (7.5') for each property, with the minimum side setback on one side being (3.5') for each property. Before the Board meeting conducted on May 20, 2025, the applicant realized that a mistake had been made with the 1025 Beach application. This property had an additional (3') in width than originally thought (33' wide in lieu of 30' wide). This fact was presented by the applicant to the Community Development Board at the onset of the applicant's public comment.

During the Board meeting conducted on May 20, 2025, the applicant offered several solutions. None of the proposed solutions presented by the applicant were strategies to increase the building width, rather to increase the width of the (previously incorrectly shown) setbacks.

At some point in 2022, both homes suffered a fire which resulted in the total loss for the structures on both 1025 & 1039 Beach Avenue. The Townhome Condominiums ("Condos") to the South were damaged in this fire. In October & November of 2022, the City of Atlantic Beach issued a Notice to both owners that they had (1) year to reconstruct like-kind structures, or they would lose their grandfathered rights. Those documents are contained in the staff report presented at the Board meeting May 20, 2025.

The previous minimum side setback between the structure at 1025 Property & the Condos to the south was (4.2'). The North setback adjacent to the 1039 Property being (3.4'). The 1025 property was previously a grandfathered Multi-Family property, with at least 2 dwellings units. The previous minimum side setback between the 1039 Property & the 1025 Property to the south was (1.6'). The previous minimum side setback to the North being (4.1').

The Condos maintain a (5') utility easement, per Duval Official Records Bk. 4998 Pg. 1120, that runs along the Condos & is adjacent to the shared 1025 Beach property line.

Conceptual Rendering Presented at Board Meeting

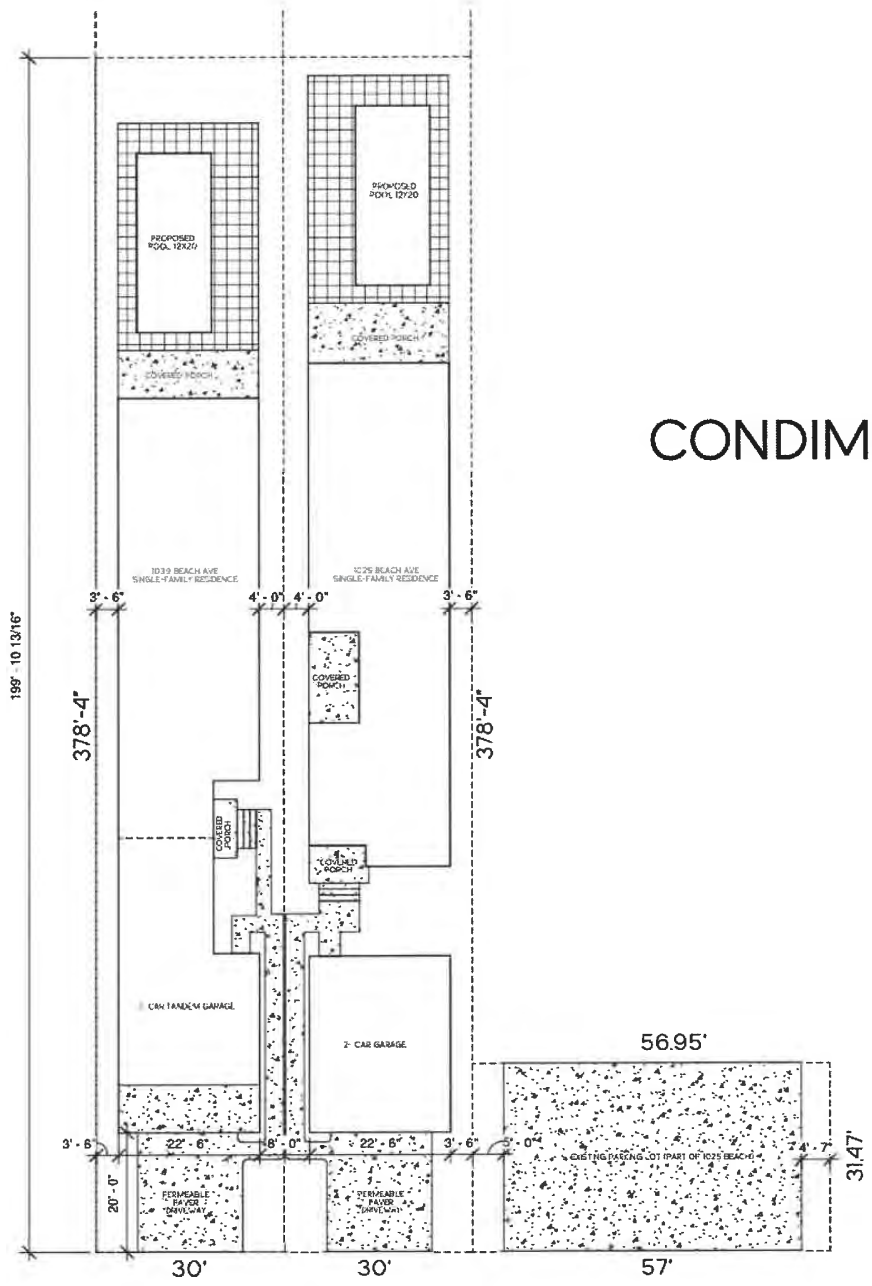



Existing Street View



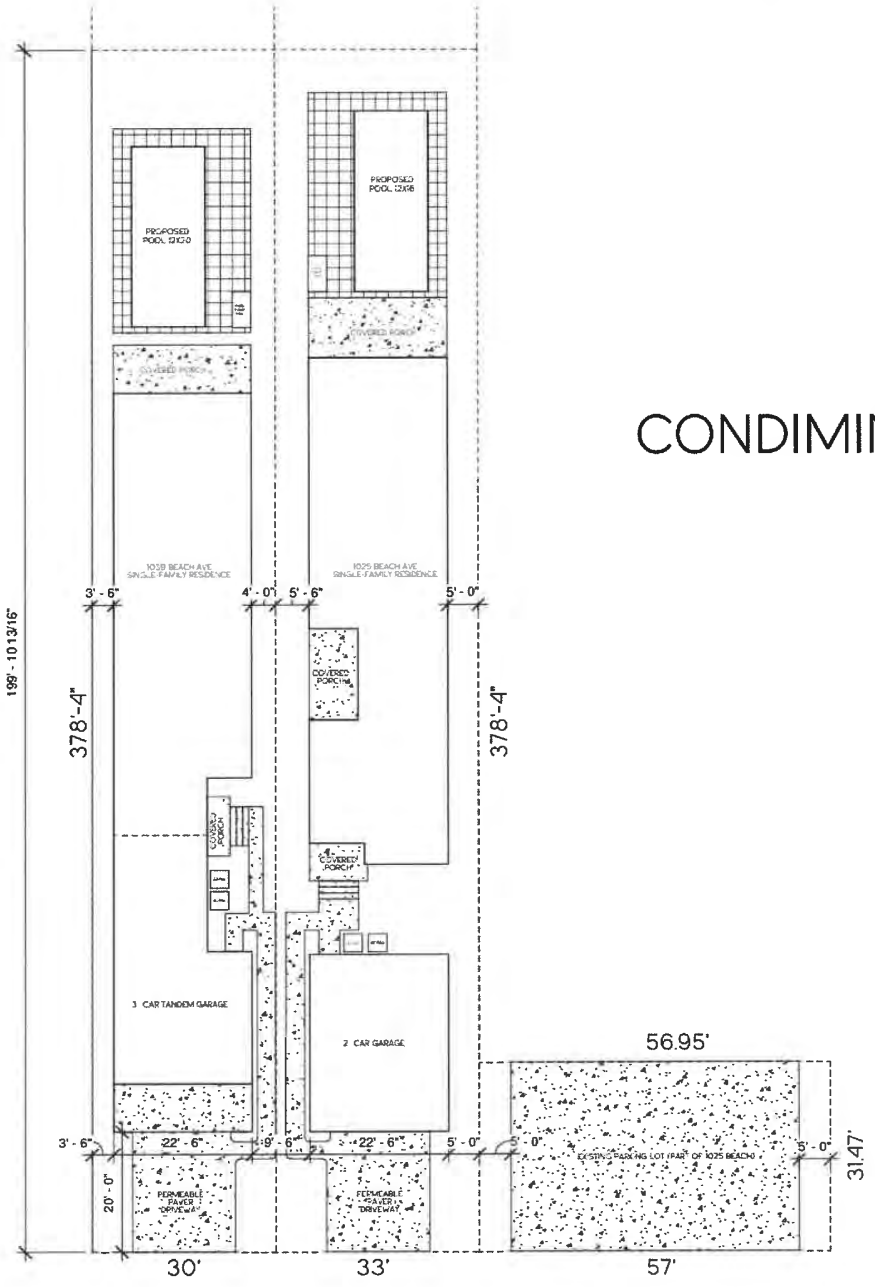
5

Below is the conceptual site plan originally filed:




CONDIMII

Below is with the additional 3'(which was proposed during the Board meeting 5/20/25):

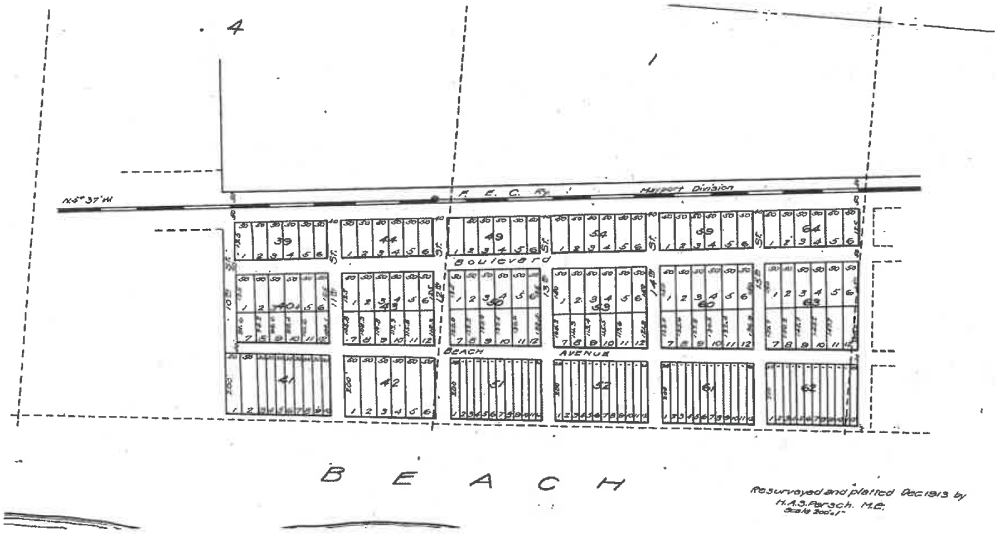



CONDIMIN

The revised conceptual plan shows each lot containing a (22.5') wide residence, with a (5') setback to the condominiums to the South, (9.5') of total separation between the residences, with a (3.5') setback to the single-family residence to the North. From our understanding of the LDR's & use restrictions in effect, the (31.47' x 56.95') parking pad ("Parking Lot") can not be utilized for any structure & must be utilized for parking. For the considerations of this application, we are not requesting relief in setbacks for the Parking Lot.

NOTE: The city's current code for the RG-M district requires a combined (15) feet in total side setbacks, with a minimum of (5) feet for one side.

Both the 1025 Property & 1039 Property are located in A Replat of Mayport Terminal Co, of the Atlantic Beach Corporation, which was platted in December of 1913 & recorded 1/2/1914. Included in this plat were approved lots along Beach Avenue that were only (30') in width, in which both properties lie within. Here is a picture of that plat:




(Plat Book 6, Page 1 of the Duval County Public Records)

When the applicant came before the Board, the request was being made to restore the property rights to these two owners. It was explained that, under the current LDR's, the maximum width of a structure on each property would only allow for a (18') wide structure on the 1025 Property & a (15') wide structure on the 1039 Property. The applicant, a licensed General Contractor with the state of Florida, mentioned how this width is not practical for an oceanfront residence. Below is an (18') wide townhome that is built around the Jacksonville metro - the width of one townhome being the maximum width for the 1025 Property.



The applicant also made relevant comments as to:

- The Owners inability to rebuild their properties within the (1) year timeline.
- The density & pricing of the Condo/Townhome Cluster relative to the low-density all surrounding it.
- The side setback relief was granted to 885 Beach Ave, the property directly South of the Condo/Townhome Cluster & before the single-family oceanfront properties.
    - Later found to be granted May 22, 1978 by the City Commission in which (2') side setbacks were granted for a (30') wide lot in a PUD.
- Current LDR's prevent other owners from "splitting" their combined lots to seek relief in the future.
- Both Owners have owned their properties for 20+ years & have been actively trying to sell them as one property for more than (1) year as of the submission date of the original variance.

The applicant attended the public hearing, in which most of the neighbors from the Townhome Condominiums to the North attended. The neighbors mentioned concerns of proximity to their property in the event of another fire. Several neighbors were relieved to hear that a (5') side setback was able to be maintained when the applicant mentioned that there were (3') additional feet available for the 1025 property. Several neighbors spoke in support of the lots being developed with single-family residences.

Relevant documents and items were submitted to the Board with material facts about the history, location, and adverse effects the modern LDR's are having on the ability to market these properties. The Board stated that the owners of the properties needed to come together, form some type of agreement and sell these as townhomes. The Board also mentioned concerns on density as justification for not approving this variance. The Board voted zero (0) to six (6) to deny both requests for the variances, claiming "They don't meet any of the criteria" in reference to the justifications for variance relief, defined in Section 24-65(F) of the Land Development Regulations.

Argument

The application for the variance should have been approved by the Board under the provisions of the LDRs governing variances set forth in Section 24-65(C) & justifications set forth in Section 24-65(F). Therefore, the city commission should disregard the decision of the Board to deny the variance request, grant this appeal of the Order Denying Variance pursuant to Section 24-49(B) of the LDRs, and approve this variance.

To make the appeal of the Order Denying Variance clear, the applicant wishes to clarify the requested setbacks:

- 1025 Beach - Minimum Combined Setback of (10.5')
- 1039 Beach - Minimum Combined Setback of (7.5') and (3.5') Minimum on either side.

Point 1: The Application for a Variance of Side Setbacks is required due to the substandard sized lot of record.

Section 24-65(F) defines the justifications for approval of Variances per the LDRs. Two items per that list are items: item four (4) which states "Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property" & item six (6) which states "Substandard size of a lot of record warranting a variance to provide for the reasonable use of the property."

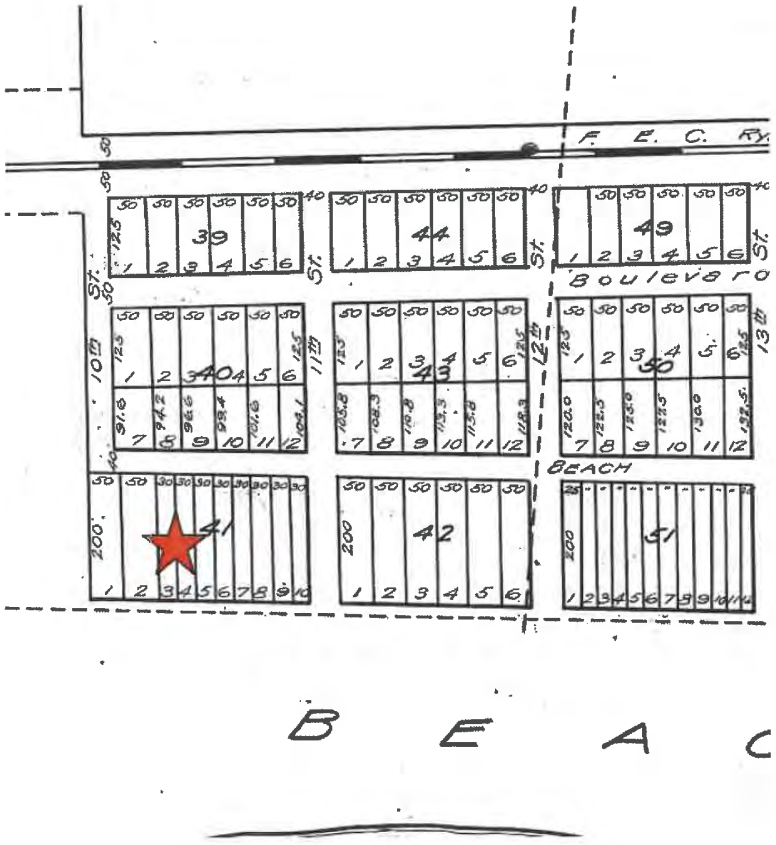
These lots were both platted in 1913, well before the inclusion of side setbacks into any Land Development Code, that were likely included around the 1970's. The previous structures on these properties, which were built near the time of platting, represent this having setbacks that were less than (2') in some instances. Also, 1025 Beach Ave contained multiple dwellings previously (which were grandfathered in) in which, if this appeal is granted, would still only allow for one dwelling.

The current LDRs only allow for a "Narrow Home" sized property on each lot, which would be equal to or less than the width of a builder-grade townhouse. The current listing price for the property directly north of 1039 Beach, is currently listed for $7.5M. The owners believe it is obvious that the LDRs are forcing a "Narrow Home" on each property in the event they are not

able to sell the combined lots, in a way the plat did not account for back in 1913. This is having an adverse effect on the owner's property values & ability to market them for sale.

The applicants have marketed the combined lot with multiple real estate agents, over the course of (18+) months. The market is clearly not responding to the combined listing & the owners believe they should not be forced to sell these as a combined lot to maintain the reasonable use of their individual real property.

NOTE: If the Appeal of the Denial for the Side Setback Variances is approved, the owners still intend to maintain the combined lot listing as available for purchase.




(Original 1913 Plat Attached)

Point 2: The Future Land Use Amendments over time have negatively impacted both properties to pursue alternative uses.

At some point between 1980 & 2005, the Future Land Use for these properties was designated (RL) - Residential Low Density. This differs from the current Zoning which is (RG-M) - Residential, General Multi-Family. This is another example of item four (4): "Onerous effect of regulations enacted after platting…" affecting the reasonable use of property.

Currently, (RG-M) zoning allows for the following uses:

(b) *Permitted uses.* The uses permitted within the RG-M zoning district shall be:

(1) Single-family dwellings.

(2) Two-family (duplex) dwellings subject to density limitations.

(3) Townhouses, subject to density limitations, compliance with article IV, Subdivision Regulations and section 24-88.

(4) Multi-family dwellings, subject to density limitations.

(5) Accessory uses as set forth in section 24-151.

(6) Government buildings and facilities.

(7) Family day care homes and group care homes.

(8) Community residential homes, small and large.

(9) Foster care homes.

(10) Assisted living facilities with less than fifteen (15) residents.

Currently, (RL) allows for residential uses only, with the following density guidelines:

**Table A-1. Residential Land Use Classification and Permitted Density**

| Residential Land Use Classification | Maximum Density Permitted per Acre |
|---|---|
| Residential – Low Density (RL) | Up to six (6) Dwelling Units |
| Residential – Medium Density (RM) | Up to fourteen (14) Dwelling Units |
| Residential – High Density (RH) | Up to twenty (20) Dwelling Units |

Due to the size of each lot, Two-Family, Townhouses & Multi-Family Dwellings are all not possible. Each lot by the (RL) standards is allowed one dwelling per lot by right, and not by the density calculation (due to both lots being under 1.00). The remaining uses are not feasible with an oceanfront lot nor typical for the area. This discrepancy is an unintended consequence of updated LDRs without the consideration of density. The Condo/Townhome cluster at the

termination of Plaza Rd, has density up to 20 dwellings per unit. There is a dramatic decrease in density when you leave this cluster.

This same impact was observed & granted back on May 22, 1978 to the property owners at 885 Beach Ave at the time. They were given an approved PUD that granted them a 26' wide structure on a 30' wide lot, directly south to the Condo/Townhome cluster & before the low-density single-family dwellings surrounding it. For the reasons above, we believe that this point also falls into item (2) under Section 24-65(F), which states "Surrounding conditions or circumstances impacting the property disparately from nearby properties."

The primary concern mentioned by residents, and one of the justifications used by the Board to deny this variance, was the safety concern for future fires with the granting of this variance. These concerns are not practical, with the now revised concept plan, due to existing building rights found in the existing LDR code. In this appeal, the most narrow setback is between 1039 Beach & the property directly adjacent to the North. That minimum setback is being requested to be (3.6'). In the existing code now under RG-M, a property can maintain the minimum side setback of (5') & is permitted to construct a (2') overhang. This would reduce the "real" setback to (3') from the property line - which is less than what is being requested.

NOTE: The owners are willing to partially waive the rights to Section 24-82(B, Item 2), which allows a (2') projection into a required side yard, to address the fire concern, for setbacks under (5') to maintain a minimum of (3') of building separation to the property line.

The side setbacks in all instances in our proposed site plan are in excess of (3.5') with the separation between 1025 & 1039 Beach being (9.5'). As stated above, both residences will be single-family dwellings under this proposed plan - as mandated by the LDRs. The resulting outcome has less density than what was previously constructed. Section 24-84 of the LDRs prevent future owners from splitting combined lots to seek similar relief.

Furthermore, the proposed structures fall within the CCCL ("Coastal Construction Control Line") which mandates superior building practices.

Point 3: City Commission should Grant the Appeal of the Board's Order Denying Variance, Disregard the Board's Determination, and Order the Planning and Community Development Director to Approve the Requested Variance.

Section 24-49 of the Land Development Regulations provides for appeals & states:

"Appeals of administrative decisions made by the planning and community development director and appeals of final decisions of the community development board may be made by adversely affected person(s) in accordance with the following provisions. Appeals shall be heard at a public hearing within a reasonable period of time with proper public notice, as well as due notice to the interested parties as set forth in section 24-51 hereof. At the hearing, any party may appear in person, by agent or by attorney."

***

*"(b) Appeals of decisions of the community development board.* Appeals of a decision of the community development board may be made to the city commission by any adversely affected person(s), any officer, board or department of the city affected by any decision of the community development board made under the authority of this chapter. Such appeal shall be filed in writing with the city clerk within thirty (30) days after rendition of the final order, requirement, decision or determination being appealed. The appellant shall present to the city commission a petition, duly verified, setting forth that the decision being appealed is in conflict with or in violation of this chapter, in whole or in part, and specifying the grounds of the conflict or violation. A duly noticed public hearing, which shall be de novo, will be held by the city commission at a date and time set by the city manager or his/her designee."

Thus, the City Commission is empowered to review and reverse the decision of the Board to deny this requested variance. A finding by the Commission that any of the LDR provisions governing the issuance of variances, in fact, did apply would be sufficient for this Commission to reverse the Board's decision and grant the variance.

## Conclusion

Because the owner's requested variance for a relief of minimum side setbacks meets one or more of the above-mentioned criteria for Variances in Section 24-65(F), items (2), (4) or (6), the Commission should reverse the Order Denying Variance(s), File Number(s): ZVAR25-0010 & ZVAR25-0011, issued by the Community Development Board on May 20, 2025, grant the Variance Application and approve the requested variances consistent with the application and the proposed plans submitted to the City. Appellant also requests that the filing fee of $500 for each variance appeal be refunded.

Respectfully submitted this 9th day of June, 2025.

Sec. 24-108. - Residential, multi-family district (RG-M).

(a) *Intent.* The RG-M zoning district is intended for development of medium to high-density multi-family residential areas.

(b) *Permitted uses.* The uses permitted within the RG-M zoning district shall be:

(1) Single-family dwellings.

(2) Two-family (duplex) dwellings subject to density limitations.

(3) Townhouses, subject to density limitations, compliance with article IV, Subdivision Regulations and section 24-88.

(4) Multi-family dwellings, subject to density limitations.

(5) Accessory uses as set forth in section 24-151.

(6) Government buildings and facilities.

(7) Family day care homes and group care homes.

(8) Community residential homes, small and large.

(9) Foster care homes.

(10) Assisted living facilities with less than fifteen (15) residents.

(c) *Uses-by-exception.* The following uses may be approved as a use-by-exception within the RG-M zoning district:

(1) Churches.

(2) Public and private recreation facilities not of a commercial nature and of a neighborhood scale intended to serve the surrounding residential neighborhood.

(3) Child care facilities.

(4) Schools and community centers.

(5) Assisted living facilities with fifteen (15) or more residents.

(d) *Minimum lot area.* Existing legally established lots of record may exist, which do not meet the following requirements. These lots may be developed subject to section 24-84(a) and all other applicable land development regulations and density limitations; however, all lots created after January 1, 2002, must comply with these minimum lot size requirements in order to obtain building permits authorizing development. The minimum size for lots within the RG-M zoning district shall be as set forth herein.

(1) Minimum lot or site area:

a. Residential low density: seven thousand two hundred sixty (7,260) square feet per dwelling unit.

b. Residential medium density: three thousand one hundred twelve (3,112) square feet per dwelling unit.

c. Residential high density: two thousand one hundred seventy-eight (2,178) square feet per dwelling unit.

(2) Minimum lot width in the RG-M zoning district: Forty (40) feet.

(3) Minimum lot depth in the RG-M zoning district: One hundred (100) feet.

(4) Notwithstanding subsections 1, 2 and 3, the final lot sizes for proposed new townhouse development may be less per unit, subject to density, compliance with article IV, Subdivision Regulations and section 24-88.

(e) *Minimum yard requirements.* The minimum yard requirements in the RG-M zoning are:

(1) Front yard: Twenty (20) feet.

(2) Rear yard: Twenty (20) feet.

(3) Side yard:

a. Single-family dwellings: Combined fifteen (15) total feet and five (5) minimum feet on either side.

b. Two-family (duplex) dwellings: Seven and one-half (7.5) feet each side.

c. Townhouse dwellings:

(1) New construction: Seven and one-half (7.5) feet exterior side yard and zero (0) feet for the interior side yard (shared lot line).

(2) Additions to existing townhouse dwellings:

i. Exterior side yard: Seven and one-half (7.5) feet.

ii. Interior side yard: Seven and one-half (7.5) feet for additions that are forward of the existing front plane of the townhouse unit.

iii. Interior side yard: Zero (0) feet for additions that are behind the existing front plane of the townhouse unit.

c. Multi-family dwellings or non-residential structures: Fifteen (15) feet each side.

d. Corner lots: The side yard adjacent to a right-of-way containing a street shall be ten (10) feet minimum.

Where there is a platted building restriction line that is greater than the minimum yards listed above, the building restriction line shall be enforced.

(f) *Building restrictions.* The building restrictions for the RG-M zoning district shall be as follows:

(1) Maximum impervious surface: Forty-five (45) percent; provided, however, where lawfully existing structures and improvements on a parcel exceed this applicable percentage, additions/modifications to such structures and improvements shall not exceed the pre-

existing impervious surface percentage, provided the requirements of section 24-89 are met. However, new development and major remodels shall not exceed forty-five (45) percent regardless of existing impervious surface percentage.

(2) Maximum building height: Thirty-five (35) feet.

(Ord. No. 90-24-253, § 3(Exh. A), 10-14-24)

# CITY OF ATLANTIC BEACH
# COMMUNITY DEVELOPMENT BOARD
# STAFF REPORT

| | |
|---|---|
| **AGENDA ITEM** | **1.B** |
| **CASE NO.** | **ZVAR25-0010 & ZVAR25-0011**<br>*Request for a variance to Section 24-108(e)(3)(a) to reduce the minimum side yard setbacks on each side of the proposed single-family homes at 1025 Beach Avenue and 1039 Beach Avenue.* |
| **LOCATION** | **1025 & 1039 Beach Avenue (RE # 170264 0000 & 170265 0000)** |
| **APPLICANT** | **Nathan Bussey** |
| **DATE** | **May 15, 2025** |
| **STAFF** | **Abrielle Genest, Principal Planner** |

## STAFF COMMENTS




The applicant, Nathan Bussey, is the authorized agent for 1025 and 1039 Beach Avenue. These oceanfront properties are vacant lots located on the west side of Beach Avenue within the Residential, General, Multi-Family (RG-M) zoning district.

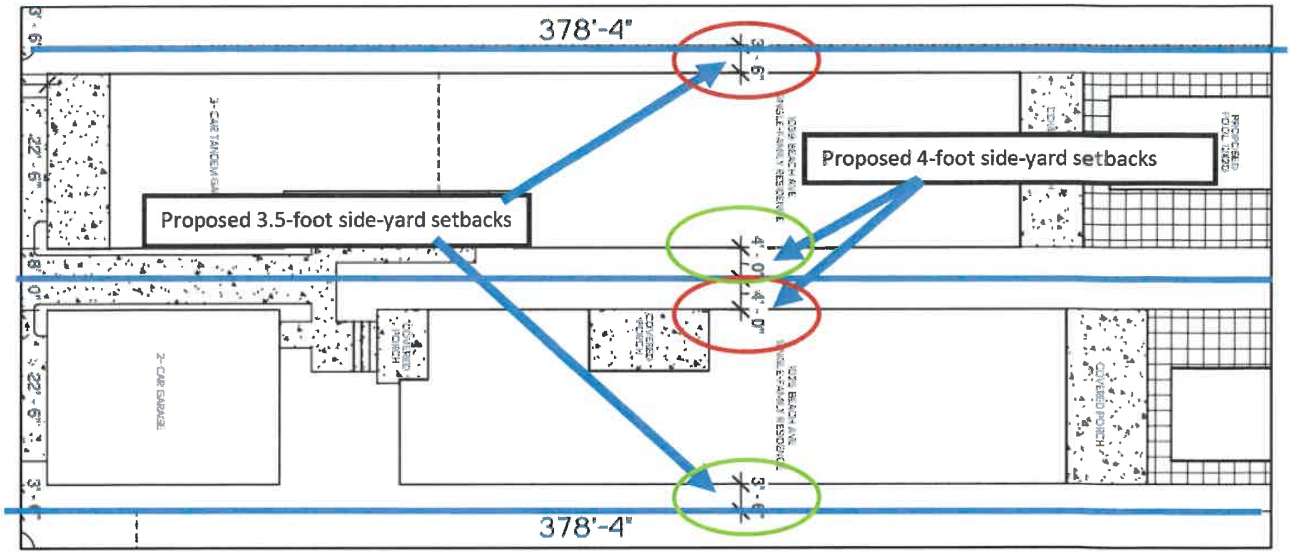
On June 7, 2022, both structures incurred significant damage in a fire that led to the buildings being demolished. The following code sections applied to this situation:

> Section 24-85(b)(7): "legal nonconforming residential structures which incur substantial damage by a natural event may be reconstructed within the previously existing footprint and height as lawfully permitted prior to the occurrence of the natural event provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years."
>
> Section 24-84(c)(4): "site improvements or structures located on properties containing a legal nonconforming use which incur substantial damage by a natural event may be reconstructed within the previously existing footprint and height as lawfully permitted prior to the occurrence of the natural event provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years."

The property owners were notified of the redevelopment options in October 2022 (see "Redevelopment Options letters updated 1.01.22"), however, since the reconstruction of the properties did not commence by June 7, 2023, the properties lost the "grandfathering" of the nonconformities.

The applicant is proposing to build a single-family home on each 30-foot-wide lot with side yard setbacks that do not meet the minimum requirements of a combined 15 feet and 5 minimum feet on either side. Per Section 24-108(e)(3)(a), side yards for "Single-family dwellings [are a] Combined fifteen (15) total feet and five (5) minimum feet on either side." The 4 foot and 3.5 foot side-yard setbacks proposed do not

meet these minimums. As such, the applicant is applying for a variance from Section 24-108(e)(3)(a) to reduce the combined setback from 15 feet to 7.5 feet and to reduce the minimum setback from 5 feet to 3.5 feet and 4 feet for each lot.




| | North side | | South Side | | Combined | |
|---|---|---|---|---|---|---|
| | Code | Proposed | Code | Proposed | Code | Proposed |
| 1025 Beach Ave | 5 feet | 4 feet | 5 feet | 3.5 feet | 15 feet | 7.5 feet |
| 1039 Beach Ave | 5 feet | 3.5 feet | 5 feet | 4 feet | 15 feet | 7.5 feet |

**ANALYSIS**

Section 24-65 states that "applications for a variance shall be considered on a case-by-case basis, and shall be approved only upon findings of fact that the application is consistent with the definition of a variance and consistent with the provisions of this section." According to Section 24-17, Definitions, "[a] variance shall mean relief granted from certain terms of this chapter. The relief granted shall be only to the extent as expressly allowed by this chapter and may be either an allowable exemption from certain provision(s) or a relaxation of the strict, literal interpretation of certain provision(s). Any relief granted shall be in accordance with the provisions as set forth in Section 24-65 of this chapter, and such relief may be subject to conditions as set forth by the City of Atlantic Beach."

Section 24-65(c) provides six distinct grounds for the approval of a variance:

**(1)** ***Exceptional topographic conditions of or near the property.***

**(2)** ***Surrounding conditions or circumstances impacting the property disparately from nearby properties.***
The applicant identified this as a ground for approval. Please see the application for more details.

**(3)** ***Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.***
The applicant identified this as a ground for approval. Please see the application for more details.

**(4)** ***Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.***
The applicant identified this as a ground for approval. Please see the application for more details.

**(5)** ***Irregular shape of the property warranting special consideration.***

**(6)** ***Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.***
The applicant identified this as a ground for approval. Please see the application for more details.

**REQUIRED ACTION**

The Community Development Board may consider a **motion to approve ZVAR25-0010 and ZVAR25-0011**, request from Section 24-108(e)(3)(a), upon finding this request is consistent with the definition of a variance, and in accordance with the provisions of Section 24-65, specifically the grounds for approval delineated in Section 24-65(c) and as described below.

*A variance may be granted, at the discretion of the Community Development Board, for the following reasons:*

*(1) Exceptional topographic conditions of or near the property.*
*(2) Surrounding conditions or circumstances impacting the property disparately from nearby properties.*
*(3) Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.*
*(4) Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.*
*(5) Irregular shape of the property warranting special consideration.*
*(6) Substandard size of a lot of record warranting a variance in order to provide for the reasonable use of the property.*

Or,

The Community Development Board may consider a **motion to deny ZVAR25-0010 and ZVAR25-0011**, request for a variance Section 24-108(e)(3)(a).

# VARIANCE APPLICATION

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

***FOR INTERNAL OFFICE USE ONLY***
PERMIT# ZVAR25-0010

☐ $500.00 Application Fee

**Please submit form in person or to **buildng-dept@coab.us**

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Drive CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1025 Beach Ave, Atlantic Beach, FL 32233 PHONE # 205-586-5734 CELL #

RE# 170264-0000 BLOCK # 41 LOT # 3

LOT/PARCEL SIZE 0.22 Acres ZONING CODE RG-M UTILITY PROVIDER JEA

COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION RL

PROVISION FROM WHICH VARIANCE IS REQUESTED Side Building Setbacks

Homeowner's Association or Architectural Review Committee approval required for the proposed construction
☐ YES ☒ NO (if yes, this must be submitted with any application for a Building Permit)

Statement of facts and site plan related to requested Variance, which demonstrates compliance with Section 24-65 of the Zoning, Subdivision and Land Development Regulations, a copy of which is attached to this application. Statement and site plan must clearly describe and depict the Variance that is requested.

**PROVIDE ALL OF THE FOLLOWING INFORMATION**
***(all information must be provided before an application is scheduled for any public hearing)*:**

1. Proof of ownership: deed or certificate by lawyer or abstract or title company that verifies record owner as above.
2. If the applicant is not the owner: provide a letter of authorization from the owner(s) for applicant to represent the owner(s) for all purposes related to this application.
3. Survey and legal description of property for which Variance is sought.
4. Required number of copies: One (1) digital copy - additional paper copy is optional.

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

SIGNATURE OF APPLICANT | Nathan Bussey PRINT OR TYPE NAME OF APPLICANT | 4.28.25 DATE

*VARIANCE APPLICATION 01.29.2025*

**The following paragraph sets forth reasons for which a Variance may be approved, please check the circumstances that apply to your request and briefly describe in the space provided.**

**Grounds for approval of a Variance:** A Variance may be granted at the discretion of the Community Development Board, for the following reasons.

☐ 1. Exceptional topographic conditions of or near the property.

☒ 2. Surrounding conditions or circumstances impacting the property disparately from nearby properties.

The adjcaent property is a 1950's condo assocation that has had recent sales below $500k. Standard oceanfront property rarely sell for below $4M. The stark price jump is affecting the ability to find a buyer.

☒ 3. Exceptional circumstances preventing the reasonable use of the property as compared to other properties in the area.

This parcel serves as the bridge between High-Density Residential & Low-Density Residential. There is no "stepping" down of density & the properties immediately adjcaent to the HDR are not as desirable.

☒ 4. Onerous effect of regulations enacted after platting or after development of the property or after construction of improvements upon the property.

This property was platted in 1913 & was platted to match the design standards at that time. Most parcels from 10th Street to 16th Street are platted the same. The Land Use Code was also changed to prevent non-RL developments.

☐ 5. Irregular shape of the property warranting special consideration.

☒ 6. Substandard size of a Lot or Record warranting a Variance in order to provide for the reasonable use of the property.

30' wide lot in lieu of the typical 50' you see on Beach Ave & elsewhere in Atlantic Beach. Side setbacks would render the property effectively unusable.

a. Approval of a Variance. To approve an application for a Variance, the Community Development Board shall find that the request is inaccordance with the preceding terms and provisions of this Section and that the granting of the Variance will be in harmony with the Purpose and Intent of this Chapter.

b. Approval of Lesser Variances. The Community Development Board shall have the authority to approve a lesser Variance than requested if a lesser Variance shall be more appropriately in accord with the terms and provisions of this Section and with the Purpose and Intent of this Chapter.

c. Nearby Nonconformity. Nonconforming characteristics of nearby Lands, Structures or Buildings shall not be grounds for approval of a Variance.

d. Waiting period for re-submittal. If an application for a Variance is denied by the Community Development Board, no further action on Another application for substantially the same request on the same property shall be accepted for 365 days from the date of denial.

e. Time period to implement Variance. Unless otherwise stipulated by the Community Development Board, the work to be performed pursuant to a Variance shall begin within six (6) months from the date of approval of the Variance. The Community Development Director, upon finding of good cause, may authorize a one time extension not to exceed an additional six (6) months, beyond which time the Variance shall become null and void.

f. A Variance, which involves the Development of Land, shall be transferable and shall run with the title to the Property unless otherwise stipulated by the Community Development Board.

**ADDITIONAL COMMENTS:**

There are multiple considerations to make with this variance:

1). COAB has changed their Future Land Use Code to make the chances of any Land Use Amendement to Medium-Density, or similar, almost zero due to spot zoning. This is concerning in regards to the property right's of the subject property because their lot was effectively "down-zoned" out of compliance with land use amendments. Of course, the zoning code changes over the years have only made this worse for the owners to "fit" within what is allowed.

2). The owners are seeking this request to restore a previously granted notice from COAB, which would have allowed them to rebuild if building started within one-year. Unfortunently, the owners were not in the financial position to do that & now wish to sell.

3). The owners did not pursue this action for-profit, rather their house burned down in a fire. The owner is simply seeking the ability to sell a marketable vacant lot. Currently, the side setbacks would allow for a 15' wide house. That is more narrow than a builder grader starter townhome & not suitable for any luxury market.

4). The owners are longtime residents of Atlantic Beach. The lot was purchased in 2001 & multiple changes LUZ code since have made this property obsolete.

5). The 1950's condos have sold for under $500k consistently & the cheapest purchase on oceanfront is ~$4M. This is another example of the harmful effect's the LUZ code can have when there is not intermediary zone between high-density & low-density housing.

6). The lot currently sits vacant & does not add value to the area.

# OWNER'S AUTHORIZATION FOR AGENT

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

**Please submit form in person or to buildng-dept@coab.us

## OWNER INFORMATION

NAME Davis Fleming PHONE # _____

ADDRESS 1025 Beach Ave CELL # 904-631-5696

CITY Atlantic Beach STATE FL ZIP CODE 32233

## AGENT INFORMATION

NAME Andrew Nathan Bussey PHONE # _____

ADDRESS 1912 N Sherry Drive CELL # 205-586-5754

CITY Atlantic Beach STATE FL ZIP CODE 32233

Nathan Bussey is hereby authorized to act on behalf of Davis Fleming the owner(s) of those lands described within the attached application and as described in the attached deed or other such proof of ownership as may be required, in applying to the City of Atlantic Beach, Florida, for an application related to a Development Permit or other action pursuant to:

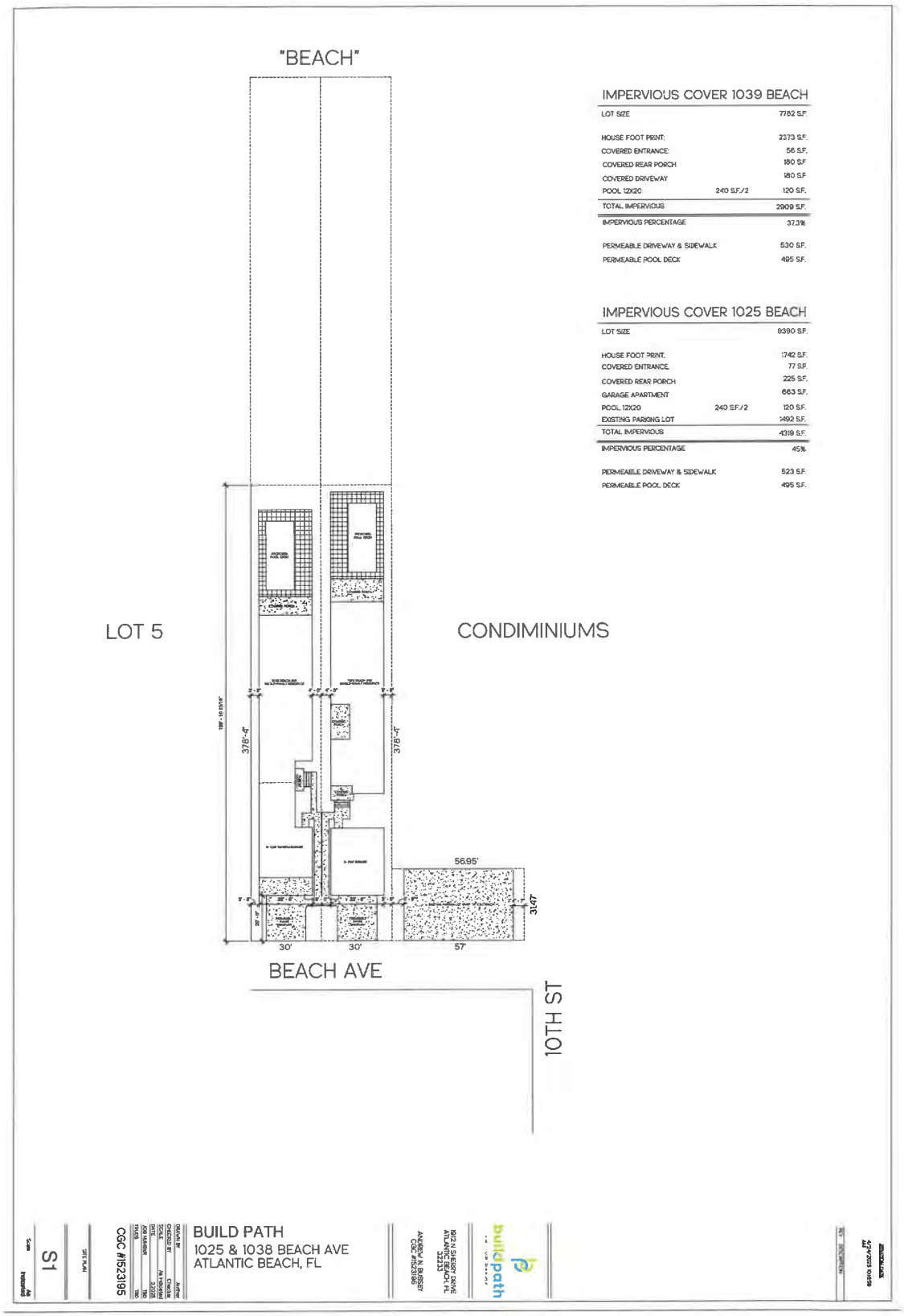
- ☐ BUILDING PERMIT
- ☐ USE-BY-EXCEPTION
- ☐ COMPREHENSIVE PLAN AMENDMENT
- ☐ TREE PERMIT
- ☑ ZONING VARIANCE
- ☐ PLAT, REPLAT OR LOT DIVISION
- ☐ SIGN PERMIT
- ☐ ZONING MAP AMENDMENT
- ☐ OTHER _____

Teresa Ann May
NOTARY PUBLIC STATE OF FLORIDA
TERESA ANN MAY
Commission # HH 424592
Expires September 4, 2027

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| | | |
|---|---|---|
| SIGNATURE OF OWNER | Davis Fleming PRINT OR TYPE NAME | 5/1/25 DATE |
| SIGNATURE OF AGENT | Nathan Bussey PRINT OR TYPE NAME | 5/1/25 DATE |

*OWNERS AUTHORIZATION 11.19.2024*




IMPERVIOUS COVER 1039 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 7782 S.F. |
| HOUSE FOOT PRINT: | | 2373 S.F. |
| COVERED ENTRANCE: | | 56 S.F. |
| COVERED REAR PORCH | | 180 S.F. |
| COVERED DRIVEWAY | | 180 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| TOTAL IMPERVIOUS | | 2909 S.F. |
| IMPERVIOUS PERCENTAGE | | 37.3% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 530 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

IMPERVIOUS COVER 1025 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 9390 S.F. |
| HOUSE FOOT PRINT. | | 1742 S.F. |
| COVERED ENTRANCE. | | 77 S.F. |
| COVERED REAR PORCH | | 225 S.F. |
| GARAGE APARTMENT | | 663 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| EXISTING PARKING LOT | | 1492 S.F. |
| TOTAL IMPERVIOUS | | 4319 S.F. |
| IMPERVIOUS PERCENTAGE | | 45% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 523 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

S1

CGC #1523195

BUILD PATH
1025 & 1038 BEACH AVE
ATLANTIC BEACH, FL

# VARIANCE APPLICATION

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

***FOR INTERNAL OFFICE USE ONLY***
PERMIT# ZVAR25-0011

☐ $500.00 Application Fee

**Please submit form in person or to buildng-dept@coab.us

## APPLICANT INFORMATION

NAME Nathan Bussey EMAIL nathanb@mybuildpath.com

ADDRESS 1912 N Sherry Drive CITY Atlantic Beach STATE FL ZIP CODE 32233

PROPERTY LOCATION 1039 Beach Ave, Atlantic Beach, FL 32233 PHONE # 205-586-5734 CELL #

RE# 170264-0000 BLOCK # 41 LOT # 4

LOT/PARCEL SIZE 0.18 Acres ZONING CODE RG-M UTILITY PROVIDER JEA

COMPREHENSIVE PLAN FUTURE LAND USE DESIGNATION RL

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*VARIANCE APPLICATION 01.29.2025*

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c. Nearby Nonconformity. Nonconforming characteristics of nearby Lands, Structures or Buildings shall not be grounds for approval of a Variance.

d. Waiting period for re-submittal. If an application for a Variance is denied by the Community Development Board, no further action on Another application for substantially the same request on the same property shall be accepted for 365 days from the date of denial.

e. Time period to implement Variance. Unless otherwise stipulated by the Community Development Board, the work to be performed pursuant to a Variance shall begin within six (6) months from the date of approval of the Variance. The Community Development Director, upon finding of good cause, may authorize a one time extension not to exceed an additional six (6) months, beyond which time the Variance shall become null and void.

f. A Variance, which involves the Development of Land, shall be transferable and shall run with the title to the Property unless otherwise stipulated by the Community Development Board.

**ADDITIONAL COMMENTS:**

There are multiple considerations to make with this variance:

1). COAB has changed their Future Land Use Code to make the chances of any Land Use Amendement to Medium-Density, or similar, almost zero due to spot zoning. This is concerning in regards to the property right's of the subject property because their lot was effectively "down-zoned" out of compliance with land use amendments. Of course, the zoning code changes over the years have only made this worse for the owners to "fit" within what is allowed.

2). The owners are seeking this request to restore a previously granted notice from COAB, which would have allowed them to rebuild if building started within one-year. Unfortunently, the owners were not in the financial position to do that & now wish to sell.

3). The owners did not pursue this action for-profit, rather their house burned down in a fire. The owner is simply seeking the ability to sell a marketable vacant lot. Currently, the side setbacks would allow for a 15' wide house. That is more narrow than a builder grader starter townhome & not suitable for any luxury market.

4). The owners are longtime residents of Atlantic Beach. The lot was purchased in 1998 & multiple changes LUZ code since have made this property obsolete.

5). The 1950's condos have sold for under $500k consistently & the cheapest purchase on oceanfront is ~$4M. This is another example of the harmful effect's the LUZ code can have when there is not intermediary zone between high-density & low-density housing.

6). The lot currently sits vacant & does not add value to the area.

# OWNER'S AUTHORIZATION FOR AGENT

**City of Atlantic Beach**
Community Development Department
800 Seminole Road Atlantic Beach, FL 32233
(P) 904-247-5800

**Please submit form in person or to buildng-dept@coab.us

PROPERTY ADDRESS
1039 BEACH AV
ATLANTIC BEACH, FL
32233

**OWNER INFORMATION**

NAME JERRY HARWARD PHONE # 9044698762

ADDRESS 77 CHESTNUT ST UNIT 203 CELL #

CITY TRYON STATE NC ZIP CODE 28782

**AGENT INFORMATION**

NAME NATHAN BUSSEY PHONE #

ADDRESS 1912 N. SHERRY DR CELL # 205-586-5734

CITY ATLANTIC BEACH, STATE FL ZIP CODE 32233

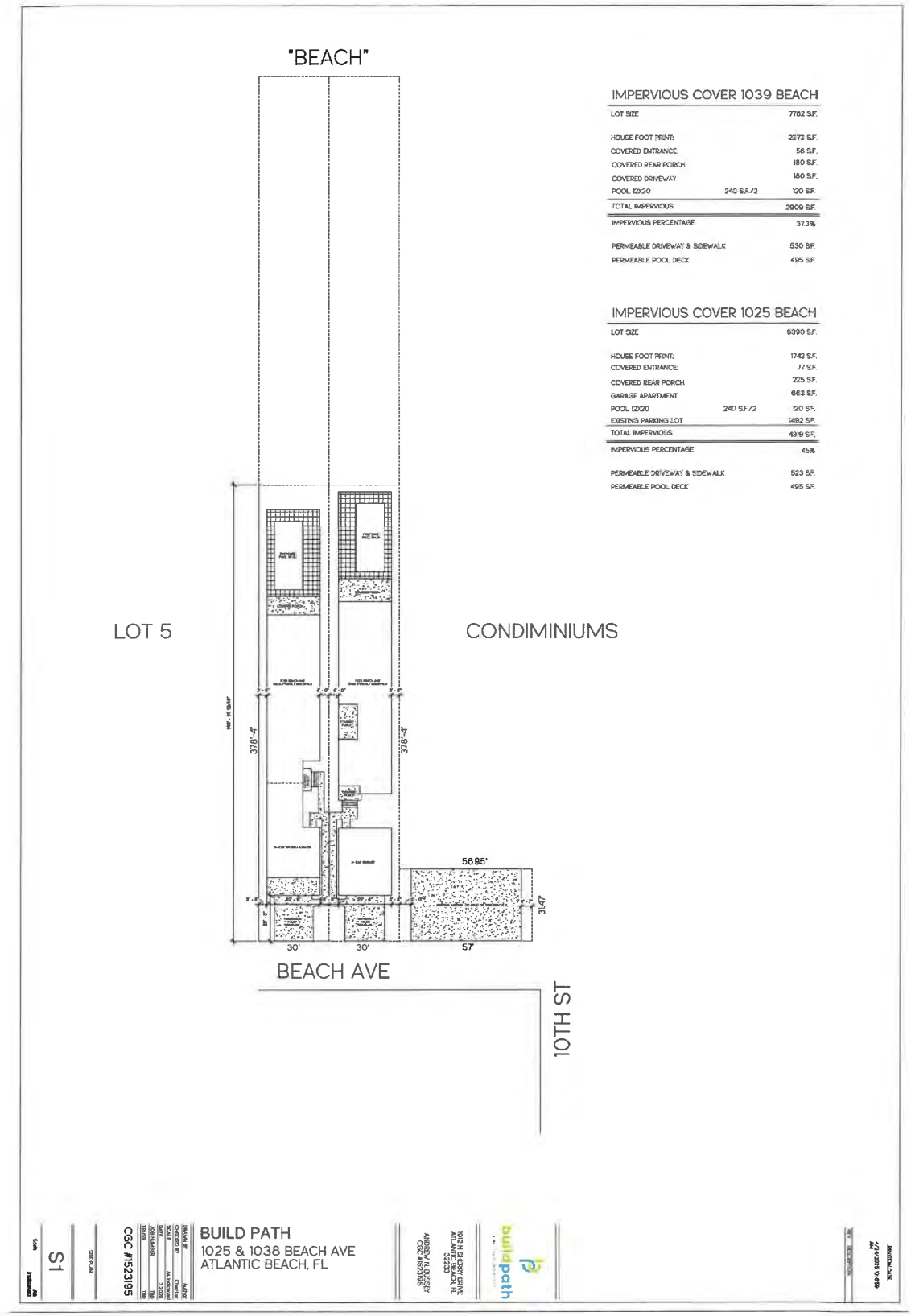
NATHAN BUSSEY is hereby authorized to act on behalf of JERRY HARWARD the owner(s) of those lands described within the attached application and as described in the attached deed or other such proof of ownership as may be required, in applying to the City of Atlantic Beach, Florida, for an application related to a Development Permit or other action pursuant to:

- ☐ BUILDING PERMIT
- ☐ USE-BY-EXCEPTION
- ☐ COMPREHENSIVE PLAN AMENDMENT
- ☐ TREE PERMIT
- ☒ ZONING VARIANCE
- ☐ PLAT, REPLAT OR LOT DIVISION
- ☐ SIGN PERMIT
- ☐ ZONING MAP AMENDMENT
- ☐ OTHER

"In lieu of signed, sworn and notarized signatures of the property owner, agent and/or contractor, and under penalties of perjury, I declare that I have read and examined the foregoing application and that the facts stated in it are true and correct."

| SIGNATURE OF OWNER | PRINT OR TYPE NAME | DATE |
|---|---|---|
| | JERRY HARWARD | 5-5-2025 |
| SIGNATURE OF AGENT | PRINT OR TYPE NAME | DATE |
| | Nathan Bussey | 5.5.25 |

OWNERS AUTHORIZATION 11.19.2024




IMPERVIOUS COVER 1039 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 7782 S.F. |
| HOUSE FOOT PRINT: | | 2373 S.F. |
| COVERED ENTRANCE | | 56 S.F. |
| COVERED REAR PORCH | | 180 S.F. |
| COVERED DRIVEWAY | | 180 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| TOTAL IMPERVIOUS | | 2909 S.F. |
| IMPERVIOUS PERCENTAGE | | 37.3% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 530 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

IMPERVIOUS COVER 1025 BEACH

| | | |
|---|---|---|
| LOT SIZE | | 9390 S.F. |
| HOUSE FOOT PRINT: | | 1742 S.F. |
| COVERED ENTRANCE | | 77 S.F. |
| COVERED REAR PORCH | | 225 S.F. |
| GARAGE APARTMENT | | 663 S.F. |
| POOL 12X20 | 240 S.F./2 | 120 S.F. |
| EXISTING PARKING LOT | | 1492 S.F. |
| TOTAL IMPERVIOUS | | 4319 S.F. |
| IMPERVIOUS PERCENTAGE | | 45% |
| PERMEABLE DRIVEWAY & SIDEWALK | | 523 S.F. |
| PERMEABLE POOL DECK | | 495 S.F. |

S1

CGC #1523195

BUILD PATH
1025 & 1038 BEACH AVE
ATLANTIC BEACH, FL

# MINUTES
## Community Development Board (CDB) Meeting
## Tuesday, May 20, 2025 - 6:00 PM
## City Hall, Commission Chamber
## 800 Seminole Road, Atlantic Beach, FL 32233

**Present:**
Kirk Hansen, Chair
Ellen Golombek, Vice Chair
Jennifer Lagner, Member
Angela Farford, Member
Harold Gear, Member
Richard Arthur, Member
Jeff Haynie, Member

**Absent:**
Gregory (Greg) Beliles, Alternate Member

**Also Present:**
Amanda Askew, Neighborhoods Department Dir. (NDD)
Abrielle Genest, Principal Planner
Valerie Jones, Recording Clerk
Robert Graham, City Attorney (CA)

**1. CALL TO ORDER AND ROLL CALL**

Chair Hansen called the meeting to order at 6:00 p.m. Mr. Haynie was late for the meeting and arrived at 6:30 p.m.

**2. APPROVAL OF MINUTES**

**A.** Approve minutes of the April 15, 2025 regular meeting of the Community Development Board.

**3. OLD BUSINESS**

There was no old business.

**4. NEW BUSINESS**

**A. 324 Aquatic Drive ZVAR25-0009 (Michelle Meeker)**

Request for a variance to Section 24-82(b)(1) to exceed the maximum four (4) foot rear yard projection and Section 24-81(c) to allow construction of a covered porch within an easement at 324 Aquatic Drive.

**STAFF REPORT:** Planner Genest presented the information as explained in the staff report. She also provided a PowerPoint presentation.

**APPLICANT REPORT:** Michelle Meeker introduced herself as the owner of the property. She said that all she wanted to do was replace it like-for-like. She said she had a representative that was going to speak on her behalf.

Michael Herzberg introduced himself. He referred to a handout that the Board had. Mr. Herzberg said that the screen structure was already there when Ms. Meeker purchased the property in 2018. He pointed out how there were four structures that encroach into the setback and that there isn't any documented permit history for her home. Mr. Herzberg explained how the home has an excessively large front yard setback at 42-feet and only a 1-foot rear yard setback creating an unreasonable limitation on any construction. He said that Ms. Meeker is proposing to tear down an existing unpermitted improvement made by the previous owner and replace it with a newer one. He said in regard to Public Works concerns this would not further create an encroachment into that and there would still be ample room to work in.

Mr. Arthur asked about the side of the house since it looks like it's encroaching into the setback. Mr. Herzberg said it does encroach and would continue to encroach even if the variance isn't granted.

Chair Hansen asked Planner Genest to elaborate on Public Works concerns. Planner Genest said the area has had flooding in the past, so the ditch needs to be maintained so they need access through that easement. She confirmed for Ms. Lagner that the applicant is only replacing what is currently there. Planner Genest also confirmed for Mr. Arthur that the small section that projects out on the survey was in the original plans along with the 8x11 patio according to the survey.

**BOARD DISCUSSION:** Mr. Gear said he went and looked over the fence and saw the existing encroachment but since the applicant isn't going past that it wouldn't be an issue.

**PUBLIC COMMENT:** Chair Hansen opened the floor to public comment. There were no public comments. Ms. Lagner agreed.

***MOTION:*** To **APPROVE ZVAR25-0009** based on condition #2 "Surrounding conditions or circumstances impacting the property disparately from nearby properties".

***Motion:*** ***Harold Gear***
***Second:*** ***Jennifer Lagner***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |

***Motion passed 6 to 0.***

**B. 1025 and 1039 Beach Avenue ZVAR25-0010 and ZVAR25-0011 (Nathan Bussey)**
Request for a variance to Section 24-108(e)(3)(a) to reduce the minimum side yard setbacks on each side of the proposed single-family homes at 1025 Beach Avenue and 1039 Beach Avenue.

**STAFF REPORT:** Director Askew presented the information as explained in the staff report. She also provided a PowerPoint presentation.

Ms. Farford asked if the City had minimum structure width requirements. Director Askew said they did not. She said the applicant had one year after the fire to build back to previous setback and density

**APPLICANT REPORT:** Nathan Bussey of BuildPath Construction Advisors introduced himself as representing the owners. He said the proposed plan was to build back a structure that was 22 1/2 feet wide with 1,700 square feet per lot on the footprint which would be what is intended for the area and the charm of the neighborhood. Mr. Bussey said that the applicants are restricted by what can be built and still have value to their properties that they've owned for 20 plus years. He said the medium density zoning conflicts with the land use as to what the applicant can build back.

Chair Hansen asked if the owners today are the same owners that were there when there was a fire. Mr. Bussey said yes, they are the same owners.

Mr. Bussey said that it has been listed as one lot assembled together with a large structure with 3 different realtors and hasn't had an offer showing that it isn't what the market wants.

**PUBLIC COMMENT:** Chair Hansen opened the floor to public comment. He read a letter from Howard Loft who was not in favor of approving this request.

Nathan Gray introduced himself as working on behalf of the owners. He explained that these 2 lots are very standard for ocean front lots between 10th Street and 16th Street which currently have 2- and 3-foot setbacks. Mr. Gray said that regulations have made these parcels effectively unusable. He said it is difficult to tell an owner they can build a 15-foot-wide house that would be less than a builder grade townhome which is 16-foot wide. Mr. Gray said he understands the concerns about fires but there are many homes in neighborhood that have even smaller setbacks.

Terrie Bradshaw of 75 10th Street introduced herself and said the fire did a lot of damage to her home and does not support the approval of this request.

Bill Taylor of 95 10th Street introduced himself. He had questions about the L-shaped lot, could it be built on and would the variance be a normal variance or a 3-foot variance?

Scott Cairns introduced himself and said he and family members own 4 of the townhouses. He said he wants the lots developed and said the standard 5-foot setback would be fine. Mr. Cairns was not opposed to the variance.

Deborah Oken of 1073 Beach Avenue said she has a 100-year-old house on a 30-foot lot, and it touches the boundaries on one side. She said the variance request was a reasonable request.

**BOARD DISCUSSION:** Ms. Golombek asked Director Askew if they could build townhomes. Director Askew said yes, the zoning district does allow townhomes so they could have a shared wall, but the difficulty is when you have 2 different property owners.

Mr. Arthur asked which lot was 33 feet wide. Director Askew had the applicant return to the podium. Mr. Bussey said that 1025 Beach was the 33 feet wide lot. He said that he didn't think townhomes would be the highest and best thing to build fitting the charm of the neighborhood. Mr. Bussey said that they could use the additional 3 feet on the south setback by the condos.

Mr. Gear said that if the applicants agreed to build townhouses, then they would meet the setbacks. Chair Hansen said that since the applicants had 1 year to apply to build back to what they had before but didn't and the concerns of the neighbors he couldn't support this request. He thought that the owners should get together and figure out a deal between the two of them. Ms. Farford agreed and was concerned about the closeness of the structures. Mr. Arthur said he was leery of suggesting that any applicant can get with their neighbors and come up with a new plan. Chair Hansen said he is just suggesting combination of the lots as a possible solution.

Nathan Gray said that suggesting townhomes to the applicants the Board is forcing them to get into a partnership agreement which is what they are doing right now. He said they have been trying to sell the properties as one for 18 months. Mr. Gray said surrounding properties are selling for $7.5 million and the maximum sale for condos and townhomes would be $1.5 million. He said that what they are suggesting for setbacks is larger than the setbacks were before.

***MOTION:*** To **DENY ZVAR25-0010** due to it not meeting any of the criteria.

***Motion:*** ***Jennifer Lagner***
***Second:*** ***Angela Farford***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner (Moved By)*** | ***For*** |
| ***Angela Farford (Seconded By)*** | ***For*** |
| ***Harold Gear*** | ***For*** |
| ***Richard Arthur*** | ***For*** |

***Motion passed 6 to 0.***

***MOTION:*** To **DENY ZVAR25-0011** due to it not meeting any of the criteria.

***Motion:*** ***Harold Gear***
***Second:*** ***Angela Farford***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner*** | ***For*** |
| ***Angela Farford (Seconded By)*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |

***Motion passed 6 to 0.***

**C. 310 Mayport Road COMP25-0001 and REZN25-0001 (Randall Whitfield)**
Request is for a Future Land Use Map (FLUM) amendment to change the future land use map designation of the western 70 feet 310 Mayport Road (RE# 170736-0000) FROM Residential Medium Density (RM) TO Commercial (CM). Also, a request for a rezoning of the same property at 310 Mayport Road (RE# 170736-0000) FROM Residential, General, Two-Family (RG) TO Commercial, General (CG).

**STAFF REPORT:** Director Askew presented the information as explained in the staff report. She also provided a PowerPoint presentation. Director Askew reminded the Board that this would be a recommendation to the City Commission and would go before them at the June 23rd meeting. Mr. Arthur asked that since they have a variance to tear down and build back storage would they have to get approval again on this one lot. Director Askew said that since they are putting parking on this lot they wouldn't have to.

**APPLICANT REPORT:** Michael Traynor, an attorney with Orr Cook, office at 818 A1A North. He said he was representing Randall Whitfield. Mr. Traynor said they plan to make the access to the property on 3rd Street West instead of Mayport Road making it safer to enter. He said the front would be landscaped making it more attractive.

Mr. Arthur asked why all of this couldn't be done with the existing 415 by 102-foot area that is zoned CG already. Mr. Traynor said that they want to get the entrance off of Mayport Road and put the parking in the rear. He added that it would also put all of the property under the same zoning. A design board was presented showing the landscaping and fencing. In response to a question from Mr. Arthur, Director Askew went over the considerations listed on page 94-95 of the agenda packet. Ms. Golombek said that she liked the idea of eliminating the multiple entrances off of 3rd Street West and only having one.

**BOARD DISCUSSION:** Ms. Golombek asked if the Board can put conditions on this request. Director Askew said they cannot.

***MOTION:*** To recommend **APPROVAL** of COMP25-0001 and REZN25-0001 to the City Commission.

***Motion: Ellen Golombek***
***Second: Harold Gear***

Mr. Haynie said he doesn't see how it is consistent with the Comprehensive Plan and pointed to page 94 of the agenda packet where Director Askew had laid out some of the relevant policies. He said the plan is telling them that there is not a goal of adding commercial property to this area and if commercial property is added the plan is saying it will not be for this use. Chair Hansen said that it is already storage units and that's not going away. Mr. Haynie said he thought it was awkward to add commercial general to that neighborhood on one lot. Mr. Arthur said they could just put the parking on the existing commercial general lots. He said he was concerned about the expansion of a carve out when what they want to do can be done on site. Ms. Lagner said she wasn't in favor of this. Mr. Gear said there is a similar carve out a couple of streets over.

| | |
|---|---|
| ***Kirk Hansen*** | ***Against*** |
| ***Ellen Golombek (Moved By)*** | ***For*** |
| ***Jennifer Lagner*** | ***Against*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Seconded By)*** | ***For*** |
| ***Richard Arthur*** | ***Against*** |
| ***Jeff Haynie*** | ***Against*** |

***Motion failed 3 to 4.***

***MOTION:*** To recommend **DENIAL** of COMP25-0001 and REZN25-0001 to the City Commission due to it not being consistent with the Comprehensive Plan.

***Motion: Jeff Haynie***
***Second: Jennifer Lagner***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***Against*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***Against*** |
| ***Harold Gear*** | ***Against*** |
| ***Richard Arthur*** | ***For*** |
| ***Jeff Haynie (Moved By)*** | ***For*** |

***Motion passed 4 to 3.***

## 5. REPORTS

### A. 400 square foot trigger for Stormwater

The Board discussed this topic and decided to have this trigger removed from the Code

***MOTION:*** To recommend the amendment of Section 24-89 to strike paragraph C1.

***Motion:*** ***Harold Gear***
***Second:*** ***Jennifer Lagner***

Director Askew went over the explanation of the paragraph explaining that the trigger for on-site stormwater storage was for the addition of 400 square feet even if you are under the 45% pervious ratio. She said this also applies to new builds. Mr. Arthur said that it doesn't make sense to apply this to lots that are under their 45% pervious ratio. He said it puts burden on the residents and their property rights.

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***Against*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |
| ***Jeff Haynie*** | ***For*** |

***Motion passed 6 to 1.***

### B. Shared Parking

Director Askew explained in detail how the Shared Parking is addressed in the Code. Chair Hansen said it appears there's a quirk in the code because the on-site parking in some cases doesn't count toward the requirement. Director Askew explained that the site Chair Hansen was referring to didn't have enough on-site parking to share. She said you have to have the required parking for your required uses whether you are open from 8-10 a.m. or 24 hours. Chair Hansen said they should be able to have a shared parking agreement with the building they are in. Mr. Gear said there would have to be a legal agreement. Mr. Arthur wondered how Staff would differentiate between when a business is closed and when that space could be counted toward on-site parking. Mr. Haynie suggested they keep the 400 feet requirement since that can be handled with a variance. Ms. Golombek agreed.

***MOTION:*** To recommend to the City Commission that shared parking Section 24-161 be amended to allow for allocation of on-site parking based on hours of operation of shared tenants.

***Motion:*** ***Harold Gear***
***Second:*** ***Jennifer Lagner***

| | |
|---|---|
| ***Kirk Hansen*** | ***For*** |
| ***Ellen Golombek*** | ***For*** |
| ***Jennifer Lagner (Seconded By)*** | ***For*** |
| ***Angela Farford*** | ***For*** |
| ***Harold Gear (Moved By)*** | ***For*** |
| ***Richard Arthur*** | ***For*** |
| ***Jeff Haynie*** | ***For*** |

***Motion passed 7 to 0.***

**6. PUBLIC COMMENT**
There were no public comments.

**7. ADJOURNMENT**
There being no further discussion, Chair Hansen declared the meeting adjourned at 7:45 p.m.

Attest:

Amanda Askew

Kirk Hansen, Chair

**City of Atlantic Beach**
Building and Zoning
800 Seminole Road
Atlantic Beach, Florida 32233
Telephone (904) 247-5826
http://www.coab.us

November 1, 2022

**Re: 1025 & 1039 Beach Avenue Fire Damage**

To whom it may concern,

This letter is intended to supplement the letter dated October 6th that summarized the options for rebuilding the structures that incurred damage caused by the fire on June 7, 2022.

As mentioned in the October 6th letter both properties are recognized as nonconforming lots of record since they do not meet current lot standards. As outlined in the original letter there are several redevelopment options. **The redevelopment options run with the property and not the owner, therefore, they transfer with the land.**

Please note that option 1 and option 3 have time limits imposed by the codes.

For your reference the Oct. 6th letter is attached.

Sincerely,

Amanda L. Askew, AICP
Planning and Community Development Director

**City of Atlantic Beach**
Building and Zoning
800 Seminole Road
Atlantic Beach, Florida 32233
Telephone (904) 247-5826
http://www.coab.us

October 6, 2022

**Re: 1025 & 1039 Beach Avenue Fire Damage**

To whom it may concern,

This letter is intended to summarize options for rebuilding the structures that incurred damage caused by the fire on June 7, 2022.

**Nonconforming lots of record:** Both properties are recognized as nonconforming lots of record since they do not meet current lot standards. Nonconforming lots of record, per Sec. 24-84(b)(1), may be used for single-family dwellings or residential dwellings consistent with density as designated in the comprehensive plan. Both properties are within the Residential, Low Density (RL) future land use category which permits up to six dwelling units per acre, or 7,260 square feet per unit (excluding land seaward of the CCCL). Since neither property contains the lot area for more than one dwelling unit, each property is permitted to construct one single-family house. If the two properties were combined and developed as one parcel, only one residential unit would be permitted (a duplex, triplex, etc. would not be permitted).

**Nonconforming structures**: Additionally, both properties are considered nonconforming structures as they do not meet current zoning setback requirements. Sec. 24-85(b)(7) states "legal nonconforming residential structures which incur substantial damage by a natural event may be reconstructed within the previously existing footprint and height as lawfully permitted prior to the occurrence of the natural event provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years." **This means that structures on both properties could be reconstructed within their previously existing footprints.** Please note that any new structure will have to be constructed the meet current building codes.

**Nonconforming use:** Lastly, city records indicate that 1025 Beach Avenue contained five dwelling units (four in the main structure and one in the accessory garage structure). Since five dwelling units exceeds the number of units currently allowed under the Residential Low Density designation, this property is considered a nonconforming use. Section 24-85(c)(4) states "Site improvements or structures located on properties containing a legal nonconforming use which incur substantial damage by a natural event may be reconstructed and the nonconforming use may be resumed as lawfully permitted prior to the occurrence of the natural event, provided that such reconstruction is started within one (1) year from such natural event and completed within three (3) years."

In summary, the reconstruction options for these properties includes:

**Option 1.** Construct one single-family house on each property. Permitted to use existing damaged structure footprints and height.

**Option 2.** Combine the lots to create one property and construct one single-family house. Would be required to meet existing zoning codes (no longer use the existing damaged structure footprints and height).

**Option 3.** Construct a five dwelling unit structure on 1025 Beach Avenue and one single-family house on 1039 Beach Avenue. Permitted to use existing damaged structure footprints and height.

Please let me know if you have any questions or would like to go over this options in-person.

Sincerely,

Amanda L. Askew, AICP
Planning and Community Development Director