TOWN OF SEWALL'S POINT

Board of Zoning Adjustments Meeting
August 30, 2021
10:00 AM

I. **CALL TO ORDER**
   - **a. Pledge of Allegiance to the Flag**
   - **a. Oath of Office – Board Members**
   - **c. Roll Call**
   - **d. Additions, Deletions or Changes to the Agenda**

II. **PUBLIC COMMENT ON NON-AGENDA ITEMS- PLEASE SUBMIT A COMMENT CARD TO THE TOWN CLERK AND LIMIT YOUR COMMENTS TO THREE MINUTES**

III. **PUBLIC HEARING**
   - **a. Variance Request – Section 82-74 of the Code of Ordinances – Setbacks William L. Cox and Kathy A. Cox – 13 South Via Lucindia Drive -**
     1) 13 S. Via Lucindia - BZA Packet
     2) 13 S. Via Lucindia - Letter of Support - Baratta.pdf
   - **b. Variance Request – Section 82-74 of the Code of Ordinances – Setbacks Gerritt S. and Marcy C. Walsh – 3 Simara Street**
     1) 3 Simara BZA Packet.pdf
     2) 3 Simara Street - Letter of Support - Antonucci.pdf
     3) 3 Simara Street - Letter of Support - Parks.pdf
   - **c. Variance Request – Section 62-175 of the Code of Ordinances – Roofs Kris Creeden – 176 S. Sewall's Point Road**
     BZA Packet Kreeden.pdf

IV. **COMMENTS FROM BOARD MEMBERS**

V. **ADJOURN**

CIVILITY CLAUSE: It is the policy of the Sewall's Point Town Commission that all persons addressing a town board or attending a Town board meeting shall conduct themselves in a manner that does not disrupt the orderly and efficient conduct of the meeting. Boisterous or unruly behavior; threatening or inciting an immediate breach of the peace; or use of profane, slanderous or obscene speech will not be tolerated and could result in ejection from the meeting after warning from the presiding officer. In accordance with the provisions of the Americans with Disabilities Act (ADA) this document may be requested in an alternate format. Persons in need of a special accommodation to participate in this proceeding shall, within 3 working days prior to any proceeding, contact the Town Clerk's office, One South Sewall's Point Road, Sewall's Point, Florida 34996 (772)287-2455. If any person decides to appeal any decision made by the Town Commission with regard to any matter considered at such meeting or hearing, s/he will need to ensure that a verbatim record of the proceedings is made, which record includes the testimony and evidence upon which the appeal is to be based.

APPLICATION TO THE TOWN OF SEWALL'S POINT BOARD OF ZONING ADJUSTMENT

RECEIVED
JUL 21 2021
By

William L. Cox and Kathy A. Cox
Name

13 S Via Lucindia, Sewall's Point, FL 34996
City State Zip

does hereby make application to the Town of Sewall's Point Board of Zoning Adjustment on the following property in Sewall's Point, legally described as:

(Please include current street address, long legal description may be attached separately.)

Lot 37, LUCINDIA, according to the Plat thereof, and recorded in Plat Book 3, Page 130, Martin County, Florida Public Records.

Property Address: 13 S Via Lucindia, Sewall's Point, FL 34996

For the purpose of: *obtaining a variance from the setback requirements set forth in Section 82-274 of the Town Code, the specifics of which are set forth on the chart submitted with this application.*

(indicate the specific section of Zoning Regulations, Zoning Resolution, Zoning Ordinance)

Application for Special Exceptions, Variances and Expansions, Exceptions, Permits, Replacement or Restoration of Non-Conforming Uses (referred to herein as "Exception")

To authorize upon appeal such Exception from the terms of the zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance would result in unnecessary and undue hardship.

In order to authorize an Exception, an application must be submitted and a public hearing must be held which demonstrates to the satisfaction of the Board of Zoning Adjustment that the following six criteria, as contained in the Code of the Town of Sewall's Point, have been met:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

2. That the special conditions and circumstances do not result from the actions of the applicant.

3. That granting the Exceptions requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

4. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.

5. That the Exception granted is the minimum Exception that will make possible the reasonable use of the land, building or structure.

6. That the grant of the Exception will be in harmony with the general intent and purpose of the ordinance and that such Exception will not be injurious to the area involved or otherwise detrimental to the public welfare.

In granting any Exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the Exception is granted, shall be begun or completed or both.

The Board of Adjustment may prescribe a reasonable time limit within which the action for which the Exception is required shall be begun or completed or both.

No non-conforming use of the neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered for the issuance of a Exception.

The Town shall post Notice of Public Hearing upon the Town Hall bulletin board and shall also see to the publication of the Notice of Hearing in a newspaper of general circulation printed in Martin County, Florida, at least fifteen (15) days prior to the date of the public hearing. All costs thereby incurred by the Town shall be reimbursed to the Town by the applicant prior to the Public Hearing. The Applicant shall post Notice of Public Hearing on the property for which the Exception is sought, and shall at the Applicant's expense, send written notice to property owners of record within 300 feet of the subject property, to be mailed by certified mail, return receipt requested, no later than fifteen (15) days PRIOR TO THE DATE OF THE HEARING.

CERTIFICATION

The Applicant hereby certifies that the information which he/she has provided on and together with this application is correct and accurate to the best of his/her knowledge and belief. The Applicant also certifies that existing deed restrictions or covenants on this property will be adhered to and that if this request is granted, all necessary permits will be obtained and that all orders, resolutions, codes, conditions, rules, regulations and ordinances pertaining to the use of the above-described property will be complied with. The Applicant further certifies that he/she has read all of the above and the Guide to Preparation of Application for Board of Zoning Adjustment and will comply therewith, understanding that failure to do so may result in a denial of the request or administrative dismissal of the application.

Dated this 15th day of July, 2021.

Signature of Applicant or Applicant's Attorney

McCARTHY SUMMERS WOOD NORMAN MELBY & SCHULTZ P.A.
Attorneys at Law

July 30, 2021

AMENDED NOTICE TO INCLUDE STATEMENT OF BENEFITS & SETBACK CHART ATTACHMENTS

Re: **Lot 37, LUCINDIA, according to the Plat thereof, and recorded in Plat Book 3, Page 130, Martin County, Florida Public Records.**

Property Address: 13 Via Lucindia, Sewall's Point, FL 34996

Dear Surrounding Property Owner:

Please be advised; as owners of property within 300 feet of the above-described property, in accordance with the provision of the Town Code of Sewall's Point, you are hereby put on notice that a public hearing will be held at 10:00 AM, or as soon thereafter as the matter may be heard, on the 30th day of August, 2021, at the Sewall's Point Town Hall, by the Sewall's Point Board of Zoning Adjustment, to consider the matter of a Variance to the existing zoning requirements according to Sewall's Point Ordinance 82-274.

A copy of the Statement of Benefits, which has been submitted to the Board of Zoning Adjustment, is enclosed.

This application is being made to the Board of Zoning Adjustment in order to allow variations from the setbacks as set forth on the attached Setback Chart.

You are invited to attend and be heard or to write in care of the Sewall's Point Board of Zoning Adjustment, 1 South Sewall's Point Road, Sewall's Point, FL 34996.

Sincerely,

Terence P. McCarthy, Esquire
tpm@mccarthysummers.com
TPM/dd

RECEIVED
AUG 02 2021
By _____

Terence P. McCarthy *
Robert P. Summers *
Steven J. Wood **
Kenneth A. Norman
Nicola J. Boone Melby ***
Owen Schultz
Margaret E. Wood
Jessica M. VanValkenburgh

Donna R. McMillan
Christen Spake
Kimberly A. Ryan
David A. Lewis

*Board Certified Real Estate Lawyer
**Board Certified Wills, Trusts & Estates Lawyer
***Board Certified Elder Law Lawyer

STATEMENT OF BENEFITS

1. **Special conditions and circumstances exist which are peculiar to the land, structure, or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.**

The residence on the subject property was constructed in 1988, and a pool and pool deck were added in the early to mid- 2000s, all by prior owners. The applicant acquired the property in the summer of 2020 with the existing improvements in place, some of which encroach into the setbacks applicable to this lot. The applicant has since demolished the wood deck that presented the most substantial setback encroachment, and now proposes to simply enclose the existing pool on the property to protect the pool from insects, animals, and leaves and other yard debris. In particular, a beautiful mature banyan tree overhangs the pool and sheds a great deal of debris directly into the pool. The applicant wishes to preserve the beauty of the banyan tree and avoid pruning to the maximum extent possible by adding a screen enclosure over the pool. The addition of the enclosure requires an attendant slight widening of portions of the existing pool deck. Enclosing the pool is consistent with other homes in the surrounding neighborhood and the applicant should not be penalized for seeking to exclude animals, pests, and debris from the pool and patio area, preserve the natural growth of the mature landscaping to the maximum extent possible, and enhance the aesthetic appeal and useability of the improvements at the site.

Additionally, the front window on the residence was constructed in such a way that the allowance for projection of an architectural feature into the front setback up to a maximum of 4 feet (Section 82-423(f) of the Code of Ordinances of the Town of Sewall's Point) does not apply. Because the nature of the construction creates an encroachment, the applicant respectfully requests a variance for the window, just to maintain the status quo at the front of the structure.

The need for the requested variances results from conditions and circumstances which are special and peculiar to this land, its mature landscaping, and the building involved, and are not applicable to other lands and structures in this same zoning district.

2. **The special conditions and circumstances do not result from the actions of the applicant.**

The applicant acquired this property last year. The special conditions and circumstances result from actions and decisions by others that took place many years ago, some likely owing to the less precise instruments of measurement available in those times. The special conditions and circumstances also arise from the natural

growth and health of the mature landscaping on the lot, and do not result from the actions of the applicant.

3. **Granting the Exceptions requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.**

The applicant simply wishes that the Board of Zoning Adjustment legitimize the existing status quo and permit the addition of a screen enclosure over the pool and patio area, which is consistent with many of the other residences in the surrounding neighborhood. The applicant is not asking for any special privilege that is denied to others, and is in fact seeking to maintain the character of the lot's improvements in line with many of the surrounding properties and to continue allowing the banyan tree overhanging the pool and patio area to flourish. Adding a screen enclosure and permitting the existing status quo will not confer any special or unique benefit to the applicant, but will allow the applicant to live in harmony with the mature landscaping and fauna at the property.

4. **The literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.**

A literal interpretation of the provisions of this ordinance would foreclose the addition of the screen enclosure that so many others in the same area are permitted to enjoy, would cause a dramatic change to the existing improvements on the property, and would subject this lot to limitations that others in the area do not observe. Moreover, a literal interpretation would require the applicant to significantly prune or remove and replace their beautiful, mature banyan tree. The applicant is simply requesting that the Town allow the status quo, including their picturesque banyan tree, to remain, and allow the addition of a screen enclosure around the pool and pool deck area. To require the applicant to comply with the setbacks would deprive the applicant of rights commonly enjoyed by other properties in surrounding area, and would work a severe injustice, not only on the applicant, but on the other residents and properties in this area that benefit from and appreciate the aesthetic and functional appeal of thriving, mature landscaping.

5. **The exception granted is the minimum exception that will make possible the reasonable use of the land, building or structure.**

Simply maintaining the status quo, and permitting the addition of a reasonable, aesthetically appealing screen enclosure, are the minimum exceptions that would make possible the reasonable use of the improvements on this property. The debris from the

tree makes it otherwise impossible to reasonably use and enjoy the property and its improvements.

6. **The Grant of the Exception will be in harmony with the general intent and purpose of the ordinance and that such Exception will not be injurious to the area involved or otherwise detrimental to the public welfare.**

The maintenance of the status quo and adding of a screen enclosure will be in harmony with the general intent and purpose of the ordinance and granting the variance will not be injurious to the area involved or otherwise detrimental to the public welfare. Requiring the applicant to bring the structures into compliance with the current setbacks would work a severe injustice on the applicant, who is not responsible for these issues and simply wishes to maintain the landscaping and improvements on the property in harmony with one-another.

SETBACK CHART

LOCATION	SETBACKS		
	Required	Proposed	Variance
South - Rear	25'	21.63'	3.37'
	Required	Existing	Variance
North - Front	35'	32.97'	2.03'

McCARTHY SUMMERS WOOD NORMAN MELBY & SCHULTZ P.A.
Attorneys at Law

July 21, 2021

RECEIVED
JUL 21 2021
By

VIA HAND-DELIVERY
April Stonicus Town Clerk
Town of Sewall's Point
One Sewall's Point Road
Sewall's Point, FL 34996

Re: ***William L. Cox and Kathy A. CoxVariance Application***
13 S Via Lucindia, Sewall's Point, FL 34996
Lot 37 LUCINDIA

Dear April:

With regards to the above-referenced matter, enclosed please find the following:

1. Original and nine (9) copies of the Application to the Town of Sewall's Point Board of Zoning Adjustment;

2. Original and nine (9) copies of Narrative of Variance Request;

3. Ten (10) copies of the recorded Warranty Deed;

4. Ten (10) reduced photocopies of the recorded Plat of Lucindia;

5. Original and nine (9) copies of Statement of Benefits;

6. Original and nine (9) copies of the certified list of property owners of record within 300' of the real property.

7. Ten (10) original signed and sealed surveys, prepared by Stephen J. Brown, Inc. and identified as Job Number 1681-177-01; and

8. Our trust check number 87089made payable to the Town of Sewall's Point in the amount of $1,075.00 in payment of the filing fee of $75.00 and the cost deposit of $1,000.00;

Terence P. McCarthy *
Robert P. Summers *
Steven J. Wood **
Kenneth A. Norman
Nicola J. Boone Melby ***
Owen Schultz
Margaret E. Wood

Donna R. McMillan
Jessica M. VanValkenburgh
Christen Spake
Kimberly A. Ryan
David A. Lewis

*Board Certified Real Estate Lawyer
**Board Certified Wills, Trusts & Estates Lawyer
***Board Certified Elder Law Lawyer

Should you need further information or documentation, please do not hesitate to call or write.

Very truly yours,

Donna Dempsey

Donna Dempsey, FRP
Paralegal to: Terence P. McCarthy
dad@mccarthysummers.com

Enclosures

/s

cc: Jack Reisinger (Via E-Mail: jreisinger@sewallspoint.org)

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SETBACK CHART

LOCATION	SETBACKS		
	Required	Proposed	Variance
South - Rear	25'	21.63'	3.37'
	Required	Existing	Variance
North - Front	35'	32.97'	2.03'





This Instrument Prepared By /Return To:

Lawrence E. Crary III, Esquire
CRARY BUCHANAN, P.A.
759 S.W. Federal Highway
Suite 106
Stuart, Florida 34994
(772) 287-2600

Inst. # 2830846
Bk: 3149 Pg: 620 Pages: 1 of 2
Recorded on:8/10/2020 12:30 PM Doc: D
Carolyn Timmann
Clerk of the Circuit Court & Comptroller
Martin County, FL
Rec Fees: $18.50 Deed Tax: $3,150.00

PARCEL I.D. #:01-38-41-007-000-00370-7

WARRANTY DEED
(STATUTORY FORM - SECTION 689.02 F.S.)

THIS INDENTURE, made this 19 day of June, 2020 between GLORIA A. KNUDSON, a single woman, 524 Hilltown Pike, Line Lexington, Pennsylvania 18932, hereinafter called the Grantor*, and WILLIAM L. COX and KATHY A. COX, husband and wife, 13 S. Via Luncindia Drive, Stuart, Florida 34996, hereinafter called the Grantee*.

WITNESSETH, That said Grantor, for and in consideration of the sum of TEN AND NO/100 ($10.00) DOLLARS, and other valuable considerations, receipt whereof is hereby acknowledged, by these presents does grant, bargain, sell, alien, remise, release, convey and confirm unto the Grantee, and Grantee's heirs and assigns forever, all that certain land situate in Martin County, Florida, to-wit:

Lot 37, LUCINDIA, according to the map or plat thereof, as recorded in Plat Book 3, Page(s) 130, of the Public Records of Martin County, Florida.

THIS CONVEYANCE IS SUBJECT TO: (a) zoning, restrictions, prohibitions, and other requirements imposed by governmental authority; (b) restrictions and matters appearing on the plat or otherwise common to the subdivision; (c) public utility easements of record; and (d) taxes for the year 2020 and subsequent years.

And said Grantor does hereby fully warrant the title to said land, and will defend the same against the lawful claims of all persons whomsoever.

*"Grantor" and "Grantee" are used for singular and plural, as context requires.

IN WITNESS WHEREOF, Grantor has hereunto set Grantor's hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Carla A. Wagoner
CARL A. WAGONER Witness
[PRINT NAME OF WITNESS]

Gloria A. Knudson
GLORIA A. KNUDSON

Deborah Marsh Rogers Witness
[PRINT NAME OF WITNESS]

STATE OF PENNSYLVANIA
COUNTY OF Bucks

The foregoing instrument was acknowledged before me by means of [✓] physical presence or [ ] online notarization, this 19 day of June, 2020, by GLORIA A. KNUDSON, a single woman, (PLEASE CHECK ONE OF THE FOLLOWING) _____ who is personally known to me or ✓ who has produced Drivers License + Passport (TYPE OF IDENTIFICATION) as identification.

Jill E. Reeder
Jill E. Reeder (Print Name)
Notary Public
Commission Number:
My Commission Expires:

(SEAL)

COMMONWEALTH OF PENNSYLVANIA - NOTARY SEAL
Jill E Reeder, Notary Public
Bucks County
My Commission Expires 09/05/2023
Commission Number 1355608

From: Jack Reisinger
To: April Stoncius
Subject: FW: Support for 13 Via Lucindia variance request
Date: Thursday, August 12, 2021 2:24:13 PM

-----Original Message-----
From: Terence McCarthy [mailto:TPM@mccarthysummers.com]
Sent: Thursday, August 12, 2021 10:42 AM
To: Jack Reisinger <JReisinger@sewallspoint.org>
Cc: twaters@foxmccluskey.com
Subject: FW: Support for 13 Via Lucindia variance request

Jack,

Please put the email below in the materials distributed to the BZA board members.

Terence P. McCarthy,
Board Certified Real Estate Lawyer

Connect with us:

Confidentiality Notice: The information contained in this communication is privileged and confidential. It is intended solely for the addressee(s) named above. Access to this communication by anyone else is unauthorized. If the reader of this communication is not the intended recipient, nor the employee or agent responsible for delivering it to the intended recipient, you are hereby notified that any dissemination or copying of this communication is strictly prohibited. If you have received this communication in error, please immediately notify us by telephone at (772) 286-1700, or notify us by e-mail at administrator@mccarthysummers.com.

-----Original Message-----
From: Bridget Baratta <bridgetbaratta@yahoo.com>
Sent: Tuesday, August 10, 2021 7:38 PM
To: Terence McCarthy <TPM@mccarthysummers.com>
Subject: Support for 13 Via Lucindia variance request

Terry -
As a nearby property owner, I received the letter about the requested variance. I am in support of the owner's request. Due to travel plans I am unable to attend the 8/30 meeting on this subject.

Thank you and be well ,
Bridget

Bridget Baratta
25 Ridgeview Road North
Stuart FL 34996

This email has been scanned for spam and viruses by Proofpoint Essentials. Visit the following link to report this email as spam:
https://urldefense.com/v3/__https://us1.proofpointessentials.com/index01.php?mod_id__;!!OOyQrLxwW3k!x0fNmf2MoKB6LvrIS3PQKdWPF3yUlBVZNxZweQfVvsY3mA3dMIFurYKOMfaMu2KD4eX05Q$
&mod_option=gitem&mail_id 28638706-flKiViIMJ5Lz&r_address=m%40mccarthysummers.com&report=

McCARTHY SUMMERS WOOD NORMAN MELBY & SCHULTZ P.A.
Attorneys at Law

July 23, 2021

RECEIVED
JUL 26 2021
By

Terence P. McCarthy *
Robert P. Summers *
Steven J. Wood **
Kenneth A. Norman
Nicola J. Boone Melby ***
Owen Schultz
Margaret E. Wood

Donna R. McMillan
Jessica M. VanValkenburgh
Christen Spake
Kimberly A. Ryan
David A. Lewis

*Board Certified Real Estate Lawyer
**Board Certified Wills, Trusts & Estates Lawyer
***Board Certified Elder Law Lawyer

VIA HAND-DELIVERY
April Stonicus, Town Clerk
Town of Sewall's Point
One Sewall's Point Road
Sewall's Point, FL 34996

Re: ***Gerritt S. and Mary C. Walsh Variance Application***
3 Simara Street, Sewall's Point, FL 34996
Lots 11 and 11A – The Archipelago

Dear April:

With regards to the above-referenced matter, enclosed please find the following:

1. Original and nine (9) copies of the Application to the Town of Sewall's Point Board of Zoning Adjustment;

2. Ten (10) copies of Project Narrative of Variance Request;

3. Ten (10) copies of recorded Resolution No. 84-2 (prior Variance Request Approval;

4. Ten (10) copies of the recorded Warranty Deed;

5. One (1) original signed and sealed survey and nine (9) copies, prepared by Stephen J. Brown, Inc. and identified as Job Number 4009-01-01;

6. Ten (10) reduced photocopies of the recorded Plat of The Archipelago;

7. Ten (10) copies of Statement of Benefits

8. Original and nine (9) copies of the certified list of property owners of record within 300' of the real property. and

9. Our trust check number 87050, made payable to the Town of Sewall's Point in the amount of $1,075.00 in payment of the filing fee of $75.00 and the cost deposit of $1,000.00;

Should you need further information or documentation, please do not hesitate to call or write.

Very truly yours,

Donna Dempsey

Donna Dempsey, FRP
Paralegal to: Terence P. McCarthy
dad@mccarthysummers.com
Enclosures
/s

cc: Jack Reisinger

P:\DOCS\16970\16970.01\LTR\35I8332.DOCX 7/23/2021 10:39:22 AM

APPLICATION TO THE TOWN OF SEWALL'S POINT
BOARD OF ZONING ADJUSTMENT

Gerritt S. Walsh and Mary C. Walsh
Name

3 Simara Street, Sewall's Point, FL 34996
City State Zip

does hereby make application to the Town of Sewall's Point Board of Zoning Adjustment on the following property in Sewall's Point, legally described as:

(Please include current street address, long legal description may be attached separately.)

Lots 11 and 11A, The Archipelago, according to the Plat thereof, as recorded in Plat Book 4, Page 48, Martin County, Florida Public Records.

Property Address: *3 Simara Street, Sewall's Point, FL 34996*

For the purpose of: *obtaining a variance from the setback requirements set forth in Section 82-274 of the Town Code, the specifics of which are set forth on the chart submitted with this application.*

(indicate the specific section of Zoning Regulations, Zoning Resolution, Zoning Ordinance)

Application for Special Exceptions, Variances and Expansions, Exceptions, Permits, Replacement or Restoration of Non-Conforming Uses (referred to herein as "Exception")

To authorize upon appeal such Exception from the terms of the zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance would result in unnecessary and undue hardship.

In order to authorize an Exception, an application must be submitted and a public hearing must be held which demonstrates to the satisfaction of the Board of Zoning Adjustment that the following six criteria, as contained in the Code of the Town of Sewall's Point, have been met:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

2. That the special conditions and circumstances do not result from the actions of the applicant.

3. That granting the Exceptions requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

4. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.

5. That the Exception granted is the minimum Exception that will make possible the reasonable use of the land, building or structure.

6. That the grant of the Exception will be in harmony with the general intent and purpose of the ordinance and that such Exception will not be injurious to the area involved or otherwise detrimental to the public welfare.

In granting any Exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the Exception is granted, shall be begun or completed or both.

The Board of Adjustment may prescribe a reasonable time limit within which the action for which the Exception is required shall be begun or completed or both.

No non-conforming use of the neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered for the issuance of a Exception.

The Town shall post Notice of Public Hearing upon the Town Hall bulletin board and shall also see to the publication of the Notice of Hearing in a newspaper of general circulation printed in Martin County, Florida, at least fifteen (15) days prior to the date of the public hearing. All costs thereby incurred by the Town shall be reimbursed to the Town by the applicant prior to the Public Hearing. The Applicant shall post Notice of Public Hearing on the property for which the Exception is sought, and shall at the Applicant's expense, send written notice to property owners of record within 300 feet of the subject property, to be mailed by certified mail, return receipt requested, no later than fifteen (15) days PRIOR TO THE DATE OF THE HEARING.

CERTIFICATION

The Applicant hereby certifies that the information which he/she has provided on and together with this application is correct and accurate to the best of his/her knowledge and belief. The Applicant also certifies that existing deed restrictions or covenants on this property will be adhered to and that if this request is granted, all necessary permits will be obtained and that all orders, resolutions, codes, conditions, rules, regulations and ordinances pertaining to the use of the above-described property will be complied with. The Applicant further certifies that he/she has read all of the above and the Guide to Preparation of Application for Board of Zoning Adjustment and will comply therewith, understanding that failure to do so may result in a denial of the request or administrative dismissal of the application.

Dated this 27 day of July, 2021.

Signature of Applicant or Applicant's Attorney

Mary C Walsh

McCARTHY SUMMERS WOOD NORMAN MELBY & SCHULTZ P.A.
Attorneys at Law

Terence P. McCarthy *
Robert P. Summers *
Steven J. Wood **
Kenneth A. Norman
Nicola J. Boone Melby ***
Owen Schultz
Margaret E. Wood

Donna R. McMillan
Jessica M. VanValkenburgh
Christen Spake
Kimberly A. Ryan

Kathryn C. Bass†

*Board Certified Real Estate Lawyer
**Board Certified Wills, Trusts & Estates Lawyer
***Board Certified Elder Law Lawyer
†Of Counsel

NARRATIVE OF VARIANCE REQUEST

VIA HAND-DELIVERY
Jack Reisinger
Town of Sewall's Point
Building Department
1 S. Sewall's Point Road
Sewall's Point, FL 34996

Re: ***3 Simara Street, Sewall's Point, FL ("the Property," and see Legal Description Attached as Exhibit "A")***

Dear Mr. Reisinger:

Enclosed please find the variance request from Gerritt and Mary Walsh, the owners of this Property (collectively, the "Applicant") in Sewall's Point. The Applicant is under contract to sell the Property and learned, during the closing process, that portions of the improvements on the property do not meet the applicable setbacks. Applicant did not construct any of the encroaching improvements, but now seeks a variance in order to proceed with the pending sale of the Property, the granting of which will have the beneficial effect of ensuring the salability of the Property in its current state into the future.

A review of the Town's file on this Property revealed that the residence and related improvements were built apparently in accordance with the approved and permitted plans. It is unknown how or why the plans, and the improvements based on those plans, failed to accord with the applicable setbacks. Prior owners of the Property did obtain a variance for construction of a screen enclosure over the existing swimming pool and deck (which were constructed along with the residence in 1970), permitting the southwest corner of the proposed screen enclosure to be seven (7) feet from the side property line. A copy of that variance is enclosed for ease of reference. Interestingly, it does not appear that the encroachment of the pool and attendant pool deck were addressed by this variance, nor does it appear that the measurements used in 1984, when the variance was granted, were accurate. The pool deck and enclosure are actually 5.08 feet from the side property line. The Setback Chart describing the greatest encroachments at various points on the Property is attached hereto.

Applicant has had no complaints about the Property and its improvements and the Town's file is likewise devoid of complaints. Applicant simply seeks a variance to maintain the status quo that has existed at the site for the past 50 years[1] and allow the pending sale to close without further issue.

Applicant respectfully requests that the Town grant a variance authorizing the improvements on the Property as depicted on the enclosed survey. Should you need any additional information or documentation, please do not hesitate to call or write. Thank you for your consideration.

Very truly yours,

Christen Spake
cls@mccarthysummers.com

cc: Applicant

Enclosures.

[1] Except that the screen enclosure over the existing pool was apparently constructed 22 years ago, without extending or otherwise altering the existing pool and deck.

EXHIBIT "A"

Legal Description

LOTS 11 & 11A, ARCHIPELAGO, AS RECORDED IN PLAT BOOK 4, PAGE 48, PUBLIC RECORDS OF MARTIN COUNTY, FLORIDA

SETBACK CHART

LOCATION	SETBACKS		
	Required	Actual	Variance
North - Front			
NW Corner of Residence	35'	29.69'	**5.31'**
Front of Residence	35'	18.54'	**16.46'**
Front Screen Enclosure	35'	21.4'	**13.6'**
West – Side			
Concrete Pad	15'	10.77'	**4.23'**
Pool Deck/Enclosure	7'[2]	5.08'	**1.92'/9.92'**
South – Rear			
Pool Deck/Enclosure	25'	11.75'	**13.25'**
Tile Patio/Enclosure	25'	15.86	**9.14'**

[2] See Variance recorded at Official Records Book 617, Page 897, Public Records of Martin County, Florida, permitting a 7' setback.

BEFORE THE BOARD OF ZONING ADJUSTMENT
TOWN OF SEWALL'S POINT, FLORIDA

RESOLUTION NO. 84-2

532615

RE: APPLICATION FOR VARIANCE TO
TOWN OF SEWALL'S POINT
ZONING ORDINANCES

Lots 11 and 11A, THE ARCHIPELEGO, according to the plat thereof, filed February 25, 1966, recorded in Plat Book 4, Page 42, Martin County, Florida, public records.

WHEREAS, G. WILLIAM SMITH and JEAN E. SMITH, his wife, the owners of the above described real property, applied to the TOWN OF SEWALL'S POINT for a variance requesting that a screen enclosure be erected over the existing swimming pool, with the Southwest corner of the enclosure to be seven (7') foot from the property line of Lot 10 at its nearest point, and whereas such side setback would be less than the minimum fifteen (15') foot setback required by Section VI-G, Subdivision 2, Zoning of the Town Code; and

WHEREAS, notice of the public hearing on the variance application was duly published and mailed in accordance with the provisions of the Town Code, and a public hearing thereon was held on the 27th day of September, 1984, at 7:30 P.M. at the Town Hall of Sewall's Point; and

WHEREAS, at said public hearing the applicants were present in person and all interested parties had an opportunity to be heard for or against such application; and

WHEREAS, based on the information presented this Board does hereby make the following findings of fact:

1.) The applicants' house and swimming pool were constructed prior to the applicants becoming owners.

2.) The Town Commission of Sewall's Point, by Resolution on the 8th day of August, 1984 approved exception to the rear setback from the water regarding the pool enclosure.

3. That one (1) objection to the proposed variance has been voiced by adjoining property owners.

4. That special conditions and circumstances exist which are peculia to the land and structure involved, which are not applicable to other lands and structures in the same district.

O.R. BOOK 617 PAGE 897

5. That the special conditions and circumstances do not result from the actions of the applicants.

6. That granting the variance requested will not confer on the applicants any special privilege that is denied by the Zoning Ordinance to owners of other lands, buildings or structures in the same zoning district.

7. That literal interpretation of the provisions of the Zoning Ordinance would deprive the applicants of rights commonly enjoyed by other properties in the same district under the terms of the Zoning Ordinance and would work unnecessary and undue hardship on the applicant.

8. That the variance granted is the minimum variance that will make possible the reasonable use of the land and structures.

9. That the granting of the variance will be in harmony with the general intent and purpose of the ordinance and that such variance will not be injurious to the area involved or otherwise detrimental to the public welfare.

10. That the reasons set forth in the application and as expressed during the hearing by the applicants justify the granting of the Variance.

NOW THEREFORE, be it resolved by the Board of Zoning Adjustment of the Town of Sewall's Point, Florida, that the application by G. WILLIAM SMITH and JEAN E. SMITH, his wife for a variance from the side setback requirements of Section VI-G, Subdivision 2, Zoning of the Town Code is GRANTED, subject to the following conditions and time limitations:

A. Conditions: The height of the screened enclosure on the affected Southwest corner shall not exceed eight (8.0') feet in height.

B. Time Limitations: The action of construction of the structure for which the variance has been approved must be commenced within thirty (30) days of this date and completed within one hundred eighty (180) days of this date. Failure to either begin or complete construction within these time limits shall void this variance.

The Secretary of this Board is hereby authorized and directed to record this Resolution in the Official Public Records of Martin County, Florida, and the Clerk of the Town of Sewall's Point is hereby directed to maintain this Resolution as part of the Official Records of the Town.

Duly passed and adopted at Public Meeting on September 27, 1984.

Dated this 15 day of October, 1984.

BOARD OF ZONING ADJUSTMENT
TOWN OF SEWALL'S POINT, FLORIDA

BY: _____
Vice Chairman

ATTEST:

By: _____
Secretary

APPROVED AS TO FORM AND LEGALITY

BY: _____
Douglas K. Sande
Attorney for the Board
of Zoning Adjustment

cc: Applicant
Town Clerk, Town of Sewall's Point

O.R. BOOK 617 PAGE 899

Recorded in Martin County, FL 3/5/2019 9:09 AM
Carolyn Timmann, Clerk of the Circuit Court & Comptroller
Rec Fees: $10.00Deed Tax: $5,145.00
CFN#2741948 BK 3044 PG 2147 PAGE 1 of 1

This Document Prepared By and Return to:
Christopher J. Twohey, P.A.
844 SE Ocean Boulevard, Suite A
Stuart, Florida 34994
(772) 221-8013

Courtesy Copy

Parcel ID Number: 13-38-41-001-000-00110.30000

Warranty Deed

This Indenture, Made this 28th day of February, 2019 A.D., **Between** William E. Amsler, Jr and Jane M. Amsler, husband and wife of the County of Martin, State of Florida, **grantors**, and Gerritt S. Walsh and Mary C. Walsh, husband and wife whose address is: 6910 Main St. #158, Miami Lakes, FL 33014 of the County of, State of Florida, **grantees**.

Witnesseth that the GRANTORS for and in consideration of the sum of TEN DOLLARS ($10) DOLLARS, and other good and valuable consideration to GRANTORS in hand paid by GRANTEES, the receipt whereof is hereby acknowledged, have granted, bargained and sold to the said GRANTEES and GRANTEES' heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Martin State of Florida to wit:

Lots 11 and 11A, The Archipelago, according to the plat thereof as recorded in Plat Book 4, Page 48, Public Records of Martin County, Florida.

SUBJECT TO:
1. Taxes for the year 2019, and all subsequent years;
2. Zoning restrictions, prohibitions and other requirements imposed by governmental authority;
3. Restrictions and matters appearing on the Plat or otherwise common to the subdivision; and
4. Public utility easements of record, if any.

and the grantors do hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantors have hereunto set their hands and seals the day and year first above written.

Signed, sealed and delivered in our presence:

Printed Name: Christopher J Twohey
Witness

Printed Name: Angela Jurel
Witness

William E. Amsler, Jr (Seal)
P.O. Address: 3 Simara St. Stuart, FL 34996

Jane M. Amsler (Seal)
P.O. Address: 3 Simara St. Stuart, FL 34996

State of Florida
County of Martin

The foregoing instrument was acknowledged before me this 28th day of February, 2019, by William E. Amsler, Jr and Jane M. Amsler, husband and wife, who are personally known to me or who have produced their DL as identification.

Printed Name: Christopher J Twohey
Notary Public
My Commission Expires: 7-28-20

CHRISTOPHER J. TWOHEY
Commission # GG 000198
Expires July 28, 2020
Bonded Thru Troy Fain Insurance 800-385-7019

Sheet No. 1

THE ARCHIPELAGO

SEWALL'S POINT, MARTIN COUNTY, FLA.

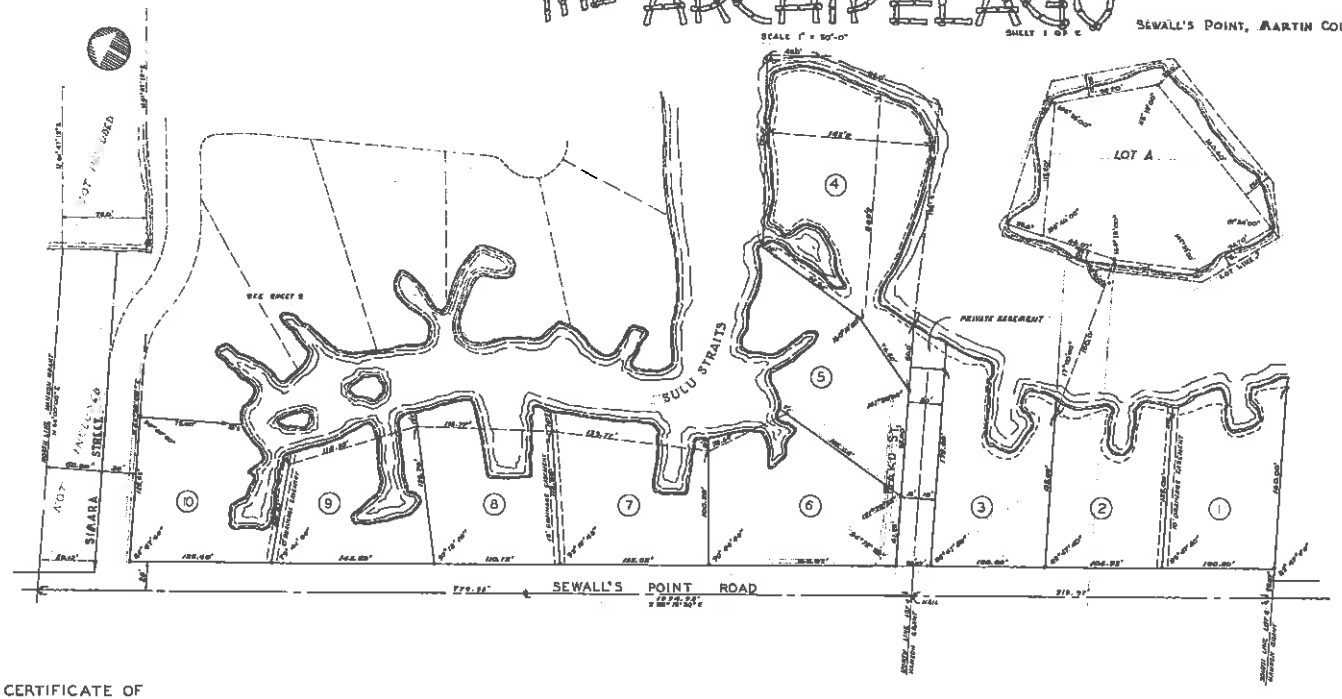
SCALE 1" = 50'-0" SHEET 1 OF 2

STATE of FLORIDA SS
COUNTY of MARTIN

This plat was filed for record at 9:47 AM this 25 day of February 1966 and duly recorded in plat book 4 on page 48.

Dorothy Pierce
CLERK OF CIRCUIT COURT
BY:

FILE No 113027



LEGAL DESCRIPTION

THAT PORTION OF LOTS 1, 2, 3, 4 OF THE SUBDIVISION OF LOT 1 OF THE MANSON GRANT, LYING EASTERLY OF THE CENTERLINE OF THE SEWALL'S POINT ROAD AND INCLUDING ALL SUBMERGED BOTTOM LANDS RIPARIAN TO AFORESAID LOTS
EXCEPT AS SHOWN ON SHEETS 1 & 2 OF THIS PLAT.

CERTIFICATE OF SURVEYOR

I HEREBY CERTIFY: That the attached Plat is a true representation of a Survey made under my direction and that it is true and correct to the best of my knowledge and belief, and that permanent reference monuments have been properly placed as required by law.

W. P. McGrath
REGISTERED LAND SURVEYOR
FLORIDA CERTIFICATE No. 2500

Subscribed and sworn to before me at Stuart, Martin County, Florida, this 6th day of January 1965

John L. C. Gentil
NOTARY PUBLIC IN FLORIDA
My commission expires Oct 29 1967

TOWN OF SEWALL'S POINT
MARTIN COUNTY, FLORIDA

APPROVED 18th day of Jan 1965
BOARD OF TOWN COMMISSIONERS

CERTIFICATE OF OWNERSHIP AND DEDICATION

STATE of FLORIDA
COUNTY of MARTIN S.S.

Perry Boswell, Jr., a single man, certifies that he is the owner of the property described hereon, and does hereby dedicate and set apart all of the streets, alleys, walks, thoroughfares, parks and other open spaces, canals and drainage or other easements shown on this plat to the use of the general public hereon & private easements shown is dedicated on both sides of all side Lot Lines and 10 Wide along all street frontages.
IN WITNESS WHEREOF, I hereunto set my hand and seal this 2 day of February 1966

ATTEST: Shirley W. Bailey (Witness) BY: Perry Boswell Jr.

STATE of FLORIDA
COUNTY of MARTIN S.S.

Before me, the undersigned Notary Public, personally appeared Perry Boswell, known to be a single man and to be the individual described in and who executed the foregoing certificate of dedication, and who acknowledged before me that he executed the same.

WITNESS, my hand and official seal at Martin County, Florida, this 2nd day of February A.D. 1966

Shirley J. Bailey
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES March 29, 1965

CONSENT OF MORTGAGE

STATE of FLORIDA
COUNTY of MARTIN S.S.

The undersigned Mortgagee hereby joins and consents to the areas dedicated hereon which he might claim under the mortgage held by him on said property.

E. C. Warnekam

IN WITNESS WHEREOF, I hereunto set my hand and seal this 2 day of February 1966

WITNESSES: Shirley J. Bailey, Shirley W. Bailey

STATE of FLORIDA
COUNTY of MARTIN S.S.

Before me, the undersigned Notary Public, personally appeared E.C. Warnekam, to me known to be the individual described in and who executed the foregoing certificate of dedication, and who duly acknowledged before me that he executed the same.

WITNESS, my hand and official seal at Martin County, Florida, this 2nd day of February A.D. 1966

Shirley J. Bailey
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES March 29, 1965

CONSENT OF MORTGAGE

STATE of FLORIDA
COUNTY of MARTIN S.S.

The undersigned Mortgagee hereby join and consent to the areas dedicated hereon which they might claim under the mortgage held by them on said property.

Ralph H. Hiers, Olive B. Cook

IN WITNESS WHEREOF, we hereunto set our hands and seals this 7th day of February 1966

WITNESSES: Gertrude C. Bolmer, Willard D. Bennett; Ralph H. Hiers, Ovola B. Hiers, Olive B. Cook

STATE of FLORIDA
COUNTY of MARTIN S.S.

Before me, the undersigned Notary Public, personally appeared Ralph H. Hiers and Ovola B. Hiers, husband and wife, and Olive B. Cook, known to me to be five individuals described in and who executed the foregoing certificate of dedication, and who each duly acknowledged before me that they executed the same.

WITNESS, my hand and official seal at Martin County, Florida, this 7th day of February A.D. 1966

Gertrude C. Bolmer
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES 3/1/67

CONSENT OF MORTGAGE

STATE of FLORIDA
COUNTY of MARTIN SS

The undersigned Mortgagee hereby join and consent to the areas dedicated hereon which they might claim under the mortgage held by them on said property.

Herbert A. Hiers, Adaline W. Hiers

IN WITNESS WHEREOF, we hereunto set our hands and seals this 2nd day of February 1966

WITNESSES: Gertrude C. Bolmer, Willard D. Bennett; Herbert A. Hiers, Adaline W. Hiers

STATE of FLORIDA
COUNTY of MARTIN S.S.

Before me, the undersigned Notary Public, personally appeared Herbert A. Hiers and Adaline W. Hiers, husband and wife, to me known to be the individuals described in and who executed the foregoing certificate of dedication, and who each duly acknowledged before me that they executed the same.

WITNESS, my hand and official seal at Martin County, Florida, this 2nd day of February A.D. 1966

Gertrude C. Bolmer
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES 3/1/67

CONSENT OF MORTGAGE

STATE of FLORIDA
COUNTY of MARTIN S.S.

The undersigned mortgagee hereby joins and consents to the areas dedicated hereon which it might claim under the mortgage held by it on said property

IN WITNESS WHEREOF, the undersigned Corporation has caused these presents to be executed by its president and by its secretary

ATTEST: Gertrude C. Bolmer (Witness); Jerome A. Marguelin (President)
Barbara P. Lennon (Secretary); Ann P. Lennon

STATE of FLORIDA
COUNTY of MARTIN S.S.

Before me, the undersigned Notary Public, personally appeared Jerome A. Marguelin, President and Anne P. Lennon, Secretary of Viner Enterprises, Inc., a Florida Corporation, to me known to be the individuals described in and who executed the foregoing certificate of dedication, and who duly acknowledged before me that they executed the same, as such officers for and in behalf of said corporation

WITNESS, my hand and official seal at Martin County, Florida, this 8th day of February A.D. 1966

Gertrude C. Bolmer
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES March 14, 1967

CONSENT OF MORTGAGE

STATE of FLORIDA
COUNTY of MARTIN S.S.

The undersigned Mortgagee hereby joins and consents to the areas dedicated hereon which they might claim under the mortgage held by her on said property

Ruth A. Griffith

IN WITNESS WHEREOF, I hereunto set my hand and seal this 7th day of February 1966

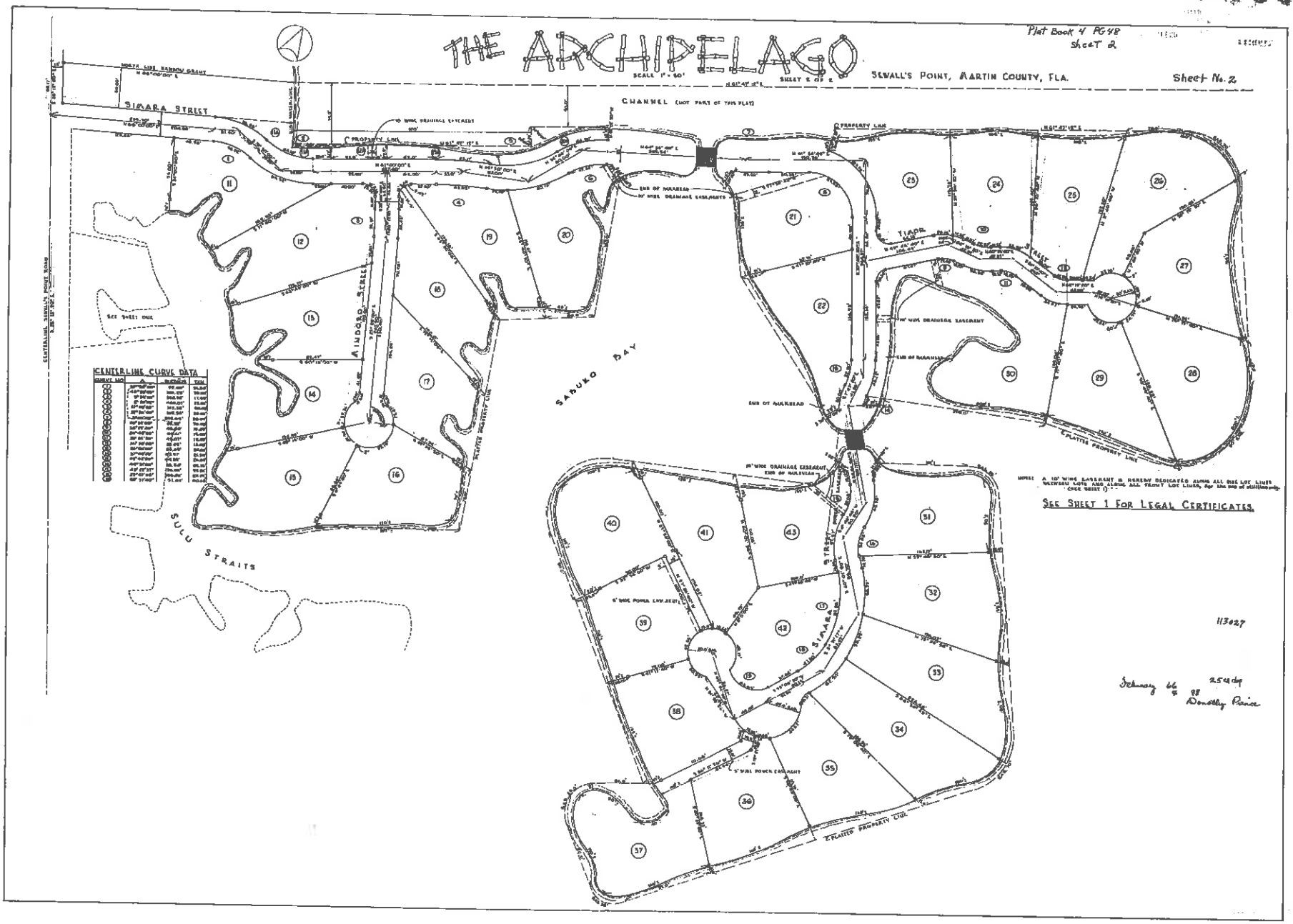
WITNESSES: Ruth A. Griffith, Shirley J. Bailey

STATE of FLORIDA
COUNTY of MARTIN

Before me, the undersigned Notary Public personally appeared Ruth A. Griffith, to me known to be the individual described in and who executed the foregoing certificate of dedication and who duly acknowledged before me that she executed the same.

WITNESS, my hand and official seal at Martin County, Florida, this 7th day of February A.D. 1966

Shirley J. Bailey
NOTARY PUBLIC, STATE OF FLORIDA AT LARGE
MY COMMISSION EXPIRES March 29, 1965


THE ARCHIPELAGO
SCALE 1" = 50'
SEWALL'S POINT, MARTIN COUNTY, FLA.
Plat Book 4 PG 48
Sheet 2
Sheet No. 2
SIMARA STREET
CHANNEL (NOT PART OF THIS PLAT)
SABUKO BAY
SULU STRAITS
CENTERLINE CURVE DATA
See Sheet 1 For Legal Certificates.
113027

From: Jack Reisinger
To: April Stoncius
Cc: Michelle Berger
Subject: FW: 3 Simara setbacks
Date: Wednesday, August 4, 2021 1:36:17 PM

---

fyi

From: Town of Sewall's Point [mailto:sewallspoint.org@enotify.visioninternet.com]
Sent: Tuesday, August 3, 2021 1:47 PM
To: Jack Reisinger <JReisinger@sewallspoint.org>
Subject: 3 Simara setbacks

Message submitted from the <Town of Sewall's Point, Florida> website.

Site Visitor Name: Michael Antonucci
Site Visitor Email: Mga312@hotmail.com

Mr. Reisinger,
I wish to acknowledge my support of Mr & Mrs Walsh re: their situation of setbacks of their home/ structures on their lot.
Sewalls Point is a very unique town. The Archipelago is even more so with most original construction done in the late ‘60 & ‘70s when I’m sure much was done more simply and loosely. Much of this is what we love in our community. It’s amazing this had not been grandfathered in by this time.
We need to be more considerate of this as we try to maintain the uniqueness and beauty of out town.
I also see this as a plus for the town as the homes tax assessment will double.
Regards
Michael Antonucci

From:	Michelle Berger
To:	April Stoncius
Cc:	Jack Reisinger
Subject:	FW: 3 Simara St (Walsh)
Date:	Thursday, August 26, 2021 12:45:31 PM

April – for the public record. Please attach to the case as appropriate.

From: Town of Sewall's Point [mailto:sewallspoint.org@enotify.visioninternet.com]
Sent: Wednesday, August 25, 2021 7:59 PM
To: Michelle Berger <MBerger@sewallspoint.org>
Subject: 3 Simara St (Walsh)

Message submitted from the <Town of Sewall's Point, Florida> website.

Site Visitor Name: Ralph & Jean Parks
Site Visitor Email: jeanparks7333@att.net

Re; Variance Application for 3 Simara St.

We, Ralph and Jean Parks (3 Mindoro St.) do not object to the application for variance for Gerrit and Mary Walsh. We whole heartily endorse their application.

Respectfully Submitted,

Ralph and Jean Parks

APPLICATION TO THE TOWN OF SEWALL'S POINT
BOARD OF ZONING ADJUSTMENT

I, Kris Creedon of 17550 Cobblestone Ln
(Name of Applicant) (Address)

Clermont FL 34711
City State Zip

do hereby make application to the Town of Sewall's Point Board of Zoning Adjustment on the following property in Sewall's Point, legally described as:

Lot _____, Block _____, Subdivision _____ according to Map of Plat Book _____ Page _____ Section _____ Township _____ South, Range _____ East, of the public records of Martin County, Florida, or property otherwise described by metes and bounds. (Please include current street address, long legal description may be attached separately.)

176 S Sewalls Pt Rd Stuart FL

Hanson Grant Lot 1, Beg NE COR Lot 1 High Point N 66 Deg 02'29" E 31.12' TO C/LN S Pt Rd For POB, N ALG C/LN 216.83', N 66 DEG 02'29" E 188.45' To WLY Bank of Canal SWLY ALG ARC of CANAL 288.95' & S 66 DEG 02'29" W 58.15' TO POB (LESS R/W) OR 133/184

for the purpose of _____
(indicate the specific section of Zoning Regulations, Zoning Resolution, Zoning Ordinance)

Application for Special Exceptions, Variances and Expansions, Exceptions, Permits, Replacement or Restoration of Non-Conforming Uses (referred to herein as "Exception")

To authorize upon appeal such Exception from the terms of the zoning ordinance as will not be contrary to the public interest when, owing to special conditions, a literal enforcement of the provisions of the zoning ordinance would result in unnecessary and undue hardship.

In order to authorize an Exception, an application must be submitted and a public hearing must be held which demonstrates to the satisfaction of the Board of Zoning Adjustment that the following six criteria, as contained in the Code of the Town of Sewall's Point, have been met:

1. That special conditions and circumstances exist which are peculiar to the land, structure or building involved and which are not applicable to other lands, structures, or buildings in the same zoning district.

2. That the special conditions and circumstances do not result from the actions of the applicant.

3. That granting the Exceptions requested will not confer on the applicant any special privilege that is denied by this ordinance to other lands, buildings or structures in the same zoning district.

4. That literal interpretation of the provisions of the ordinance would deprive the applicant of rights commonly enjoyed by other properties in the same zoning district under the terms of the ordinance and would work unnecessary and undue hardship on the applicant.

5. That the Exception granted is the minimum Exception that will make possible the reasonable use of the land, building or structure.

6 That the grant of the Exception will be in harmony with the general intent and purpose of the ordinance and that such Exception will not be injurious to the area involved or otherwise detrimental to the public welfare

In granting any Exception, the Board of Adjustment may prescribe appropriate conditions and safeguards in conformity with this ordinance. Violation of such conditions and safeguards, when made a part of the terms under which the Exception is granted, shall be begun or completed or both.

The Board of Adjustment may prescribe a reasonable time limit within which the action for which the Exception is required shall be begun or completed or both.

No non-conforming use of the neighboring lands, structures or buildings in the same district and no permitted use of lands, structures or buildings in other districts shall be considered for the issuance of a Exception.

The Town shall post Notice of Public Hearing upon the Town Hall bulletin board and shall also see to the publication of the Notice of Hearing in a newspaper of general circulation printed in Martin County, Florida, at least fifteen (15) days prior to the date of the public hearing. All costs thereby incurred by the Town shall be reimbursed to the Town by the applicant prior to the Public Hearing. The Applicant shall post Notice of Public Hearing on the property for which the Exception is sought, and shall at the Applicant's expense, send written notice to property owners of record within 300 feet of the subject property, to be mailed by certified mail, return receipt requested, no later than fifteen (15) days PRIOR TO THE DATE OF THE HEARING.

CERTIFICATION

The Applicant hereby certifies that the information which he/she has provided on and together with this application is correct and accurate to the best of his/her knowledge and belief. The Applicant also certifies that existing deed restrictions or covenants on this property will be adhered to and that if this request is granted, all necessary permits will be obtained and that all orders, resolutions, codes, conditions, rules, regulations and ordinances pertaining to the use of the above-described property will be complied with. The Applicant further certifies that he/she has read all of the above and the Guide to Preparation of Application for Board of Zoning Adjustment and will comply therewith, understanding that failure to do so may result in a denial of the request or administrative dismissal of the application.

Dated this 6TH day of APR, 2021

Signature of Applicant or Applicant's Attorney

MARTIN COUNTY
PROPERTY APPRAISER
Jenny Fields, CFA

Basic Info

PIN	AIN	Situs Address	Website Updated
13-38-41-000-000-00112-2	27647	176 S SEWALLS POINT RD SEWALLS POINT FL	8/6/21

General Information

Property Owners
CREEDEN KRIS M
CREEDEN LAURA R

Mailing Address
17550 COBBLESTONE LN
CLERMONT FL 34711

Tax District
SEWALL'S POINT

Parcel ID
13-38-41-000-000-00112-2

Account Number
27647

Property Address
176 S SEWALLS POINT RD SEWALLS POINT FL

Legal Description
HANSON GRANT LOT 1, BEG NE COR LOT 1 HIGH POINT, N 66 DEG 02' 29" E 31.12' TO C/LN S PT RD FOR POB, N ALG C/LN 216.83', N 66 DEG 02' 29" E 188.43' TO WLY BANK OF CANAL SWLY ALG ARC OF CANAL 288.95' & S 66 DEG 02' 29" W 58.15' TO POB (LESS R/W) OR 133/184

Use Code/Property Class
0100 - 0100
Single Family

Neighborhood
193110
Archipelago, High Pt -Canal

Legal Acres
.3980

Ag Use Acres
N/A

Current Value

Year	Land Value	Improvement Value	Market Value	Value Not Taxed	Assessed Value	Total County Exemptions	County Taxable Value
2020	$ 445,500	$ 171,490	$ 616,990	$ 0	$ 616,990	$ 0	$ 616,990

Current Sale

Sale Date	Grantor (Seller)	Doc Num
3/22/10	MCKNIGHT MARGARET L (TR)	2201081
Sale Price	**Deed Type**	**Book & Page**
$ 725,000	Wd Full Covenant and Warranty Deed	2444 2921

Full Legal Description

HANSON GRANT LOT 1, BEG NE COR LOT 1 HIGH POINT, N 66 DEG 02' 29" E 31.12' TO C/LN S PT RD FOR POB, N ALG C/LN 216.83', N 66 DEG 02' 29" E 188.43' TO WLY BANK OF CANAL SWLY ALG ARC OF CANAL 288.95' & S 66 DEG 02' 29" W 58.15' TO POB (LESS R/W) OR 133/184

Improvements

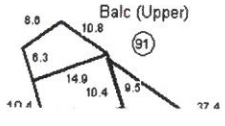
PIN	AIN	Situs Address	Website Updated
13-38-41-000-000-00112-2	27647	176 S SEWALLS POINT RD SEWALLS POINT FL	8/6/21

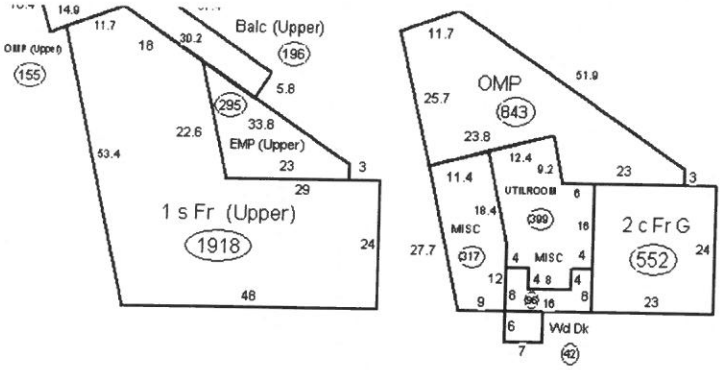
Use Code/Property Class	Total Finished/Under Air Area	Max Stories
0100 - 0100 Single Family	1,918 SF	2

Building Information (1 of 1)

Building Type	Finished/Under Air Area	Exterior Cover	Roof Cover	Wall Height
Single family	1,918 SF	N/A	Metal flat seam	N/A
Year Built	**Wall**	**Number of Units**		
1979	N/A	1		
Bedrooms	**Full Baths**	**Half Baths**		
3	4	0		

03 07 10 11





Sketched Area Legend

Sub Area	Description	Area	Finished Area
MISC	Miscellaneous	96	0
UTILROOM	Residential Utility Room	399	0
DWELL_U	Dwelling Upper	1,918	1,918
EMP_U	Enclosed Masonry Porch Upper	295	0
MISC	Miscellaneous	317	0
OMP	Open Masonry Porch	843	0
WDDK	Wood Deck	42	0
ATTGAR	Attached Garage	552	0
BALC_U	Balcony Upper	196	0
BALC_U	Balcony Upper	91	0
OMP_U	Open Masonry Porch Upper	155	0

Features/Yard Items

Type	Qty	Size	Unit of Measure	Year Blt

BOATD Treated Wood	1	600	Square Feet	1979
BOATD Treated Wood	1	648	Square Feet	2011
Boat Lift	1	1	Per Each	2007
Residential Paving	1	1	Square Feet	1979

Sales History

PIN	AIN	Situs Address	Website Updated
13-38-41-000-000-00112-2	27647	176 S SEWALLS POINT RD SEWALLS POINT FL	8/6/21

Sale Date	Sale Price	Grantor (Seller)	Deed Type	Doc Num	Book & Page
3/22/10	$ 725,000	MCKNIGHT MARGARET L (TR)	Wd Full Covenant and Warranty Deed	2201081	2444 2921
11/30/07	$ 0	LEWSADDER, MARGARET MCKNIGHT	Qu	2053097	2294 1119
9/29/97	$ 240,000	SYLVESTER, MARGARET E (TR)	Special Warranty Deed		1263 0781
9/29/97	$ 240,000	SYLVESTER, THOMAS E (TR)	Special Warranty Deed		1263 0783
10/16/95	$ 0	SYLVESTER, THOMAS E	Special Warranty Deed		1144 1268
10/16/95	$ 0	SYLVESTER, THOMAS E	Special Warranty Deed		1144 1273
6/1/76	$ 30,000	SELLER - see file for name	Special Warranty Deed		0402 1290

Value History

PIN	AIN	Situs Address	Website Updated
13-38-41-000-000-00112-2	27647	176 S SEWALLS POINT RD SEWALLS POINT FL	8/6/21

Year	Land Value	Improvement Value	Market Value	Value Not Taxed	Assessed Value	County Exemptions	County Taxable Value

2020	$ 445,500	$ 171,490	$ 616,990	$ 0	$ 616,990	$ 0	$ 616,990
2019	$ 445,500	$ 173,940	$ 619,440	$ 0	$ 619,440	$ 0	$ 619,440
2018	$ 490,050	$ 174,150	$ 664,200	$ 0	$ 664,200	$ 0	$ 664,200
2017	$ 519,750	$ 150,280	$ 670,030	$ 51,821	$ 618,209	$ 0	$ 618,209
2016	$ 519,750	$ 150,580	$ 670,330	$ 108,322	$ 562,008	$ 0	$ 562,008
2015	$ 445,500	$ 163,090	$ 608,590	$ 97,673	$ 510,917	$ 0	$ 510,917
2014	$ 320,170	$ 144,300	$ 464,470	$ 0	$ 464,470	$ 0	$ 464,470
2013	$ 320,170	$ 133,240	$ 453,410	$ 0	$ 453,410	$ 0	$ 453,410
2012	$ 411,640	$ 146,830	$ 558,470	$ 0	$ 558,470	$ 0	$ 558,470
2011	$ 419,270	$ 119,570	$ 538,840	$ 0	$ 538,840	$ 0	$ 538,840
2010	$ 419,270	$ 123,680	$ 542,950	$ 87,190	$ 455,760	$ 50,000	$ 405,760

WARNING: Significant tax increases often occur when sold. The Taxable Value and Taxes, noted above, may reflect exemptions, classifications and value limitations that will be removed at the time of sale. Homestead exemptions, agricultural classifications, and assessed value limitations are NOT transferable to the new owner. Following a sale, a property's assessed value is reset to the market value & the new owner must reapply for homestead exemption & agricultural classification.

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INSTR # 2201081
OR BK 02444 PG 2921
Pg 2921; (1pg)
RECORDED 03/26/2010 09:00:58 AM
MARSHA EWING
CLERK OF MARTIN COUNTY FLORIDA
DEED DOC TAX 5,075.00
RECORDED BY C Hunter

Prepared by and Return to:
Christopher J. Twohey, P.A.
844 E. Ocean Blvd. Ste. A
Stuart, Florida 34994

Parcel ID Number: 13-38-41-000-000-00112.20000

Warranty Deed

This Indenture, Made this 22nd day of March, 2010 A.D., **Between**
Margaret Louise McKnight, as Trustee of the Margaret Louise McKnight Revocable Trust dated December 4, 2006 , and Individually, a single woman
of the County of Martin, State of Florida, **grantor,** and
Kris M. Creeden and Laura R. Creeden, husband and wife
whose address is: 17550 Cobblestone Ln., Clermont, FL 34711
of the County of Lake, State of Florida, **grantees.**

Witnesseth that the GRANTOR, for and in consideration of the sum of
----------TEN DOLLARS ($10)---------- DOLLARS,
and other good and valuable consideration to GRANTOR in hand paid by GRANTEES, the receipt whereof is hereby acknowledged, has granted, bargained and sold to the said GRANTEES and GRANTEES' heirs, successors and assigns forever, the following described land, situate, lying and being in the County of Martin State of Florida to wit:

A parcel of land situate in Lot 1 of the Miles or Hanson Grant, and being more particularly described as: Start at the Southeast corner of Lot 6, Revised Plat of White Fence Acres, according to the plat thereof, recorded in Plat Book 4, Page 97, Public Records of Martin County, Florida; thence run North 66°02'29~ East a distance of 15.45 feet to the centerline of Sewall's Point Road and the Point of Beginning; thence run North along the centerline of said Sewall's Point Road a distance of 216.83 feet; thence run North 66°02'29~ East a distance of 188.43 feet, more or less, to the water's edge of a canal; thence meander the water's edge of said canal in a Southwesterly direction to intersect a line extending on a bearing of North 66°02'29~ East from the Point of Beginning; thence run South 66°02'29~ West a distance of 58.15 feet, more or less, to the Point of Beginning.

Copy copy copy

SUBJECT TO:
1.Taxes for the year 2010 and all subsequent years;
2.Zoning restrictions, prohibitions and other requirements imposed by governmental authority;
3.Restrictions, and matters appearing on the plat or otherwise common to the subdivision; and
4.Public utility easements of record, if any.

and the grantor does hereby fully warrant the title to said land, and will defend the same against lawful claims of all persons whomsoever.

In Witness Whereof, the grantor has hereunto set its hand and seal the day and year first above written.

Signed, sealed and delivered in our presence:

Margaret Louise McKnight, as Trustee of the Margaret Louise McKnight Revocable Trust dated December 4, 2006 , and Individually, a single woman

Printed Name: Debra G. Durrell
Witness

By Margaret Louise McKnight Individually and as Trustee (Seal)
:
Margaret Louise McKnight Individually & as Trustee
P.O. Address:

Printed Name: Katherine Casey Goodman
Witness

STATE OF Florida
COUNTY OF Martin

The foregoing instrument was acknowledged before me this 22nd day of March, 2010 by Margaret Louise McKnight, Trustee on behalf of said Florida trust , and Individually, a single woman she is personally known to me or she has produced her Florida driver's license as identification.

Printed Name: Katherine Casey Goodman
Notary Public
My Commission Expires: 4/10/11

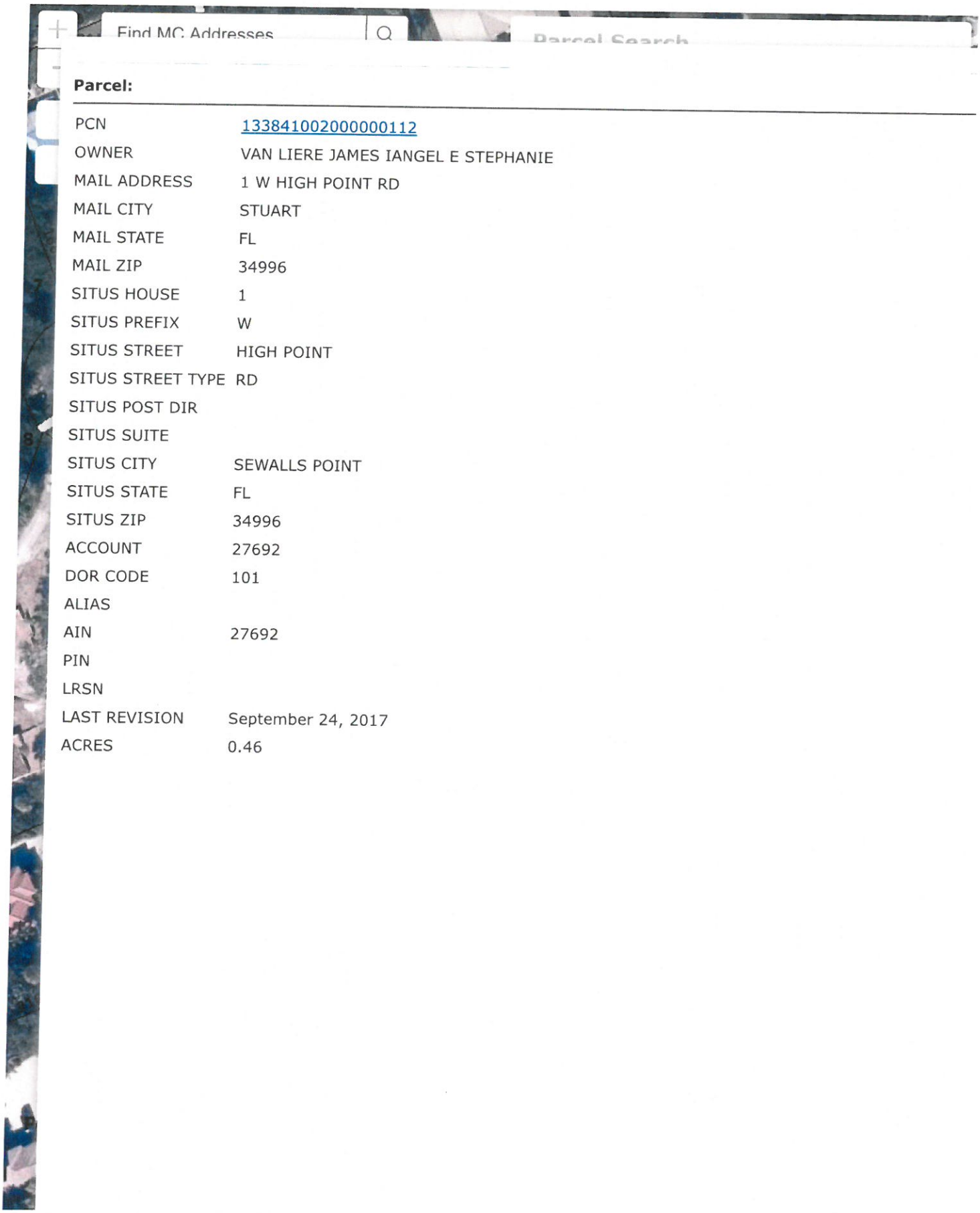
KATHERINE CASEY GOODMAN
MY COMMISSION # DD 644804
EXPIRES: April 10, 2011
Bonded Thru Notary Public Underwriters

CREEDEN


S Sewall's Point RD
102.83'
Island RD
E High Point RD
Mandalay RD
Delano LN
65
87
15
14
13
12
1
6
5
4.0
4.1
6-0-2

General

Martin County Board of County Commissioners



Find MC Addresses

Parcel Search

Parcel:

PCN	133841002000000112
OWNER	VAN LIERE JAMES IANGEL E STEPHANIE
MAIL ADDRESS	1 W HIGH POINT RD
MAIL CITY	STUART
MAIL STATE	FL
MAIL ZIP	34996
SITUS HOUSE	1
SITUS PREFIX	W
SITUS STREET	HIGH POINT
SITUS STREET TYPE	RD
SITUS POST DIR	
SITUS SUITE	
SITUS CITY	SEWALLS POINT
SITUS STATE	FL
SITUS ZIP	34996
ACCOUNT	27692
DOR CODE	101
ALIAS	
AIN	27692
PIN	
LRSN	
LAST REVISION	September 24, 2017
ACRES	0.46

General

Martin County Board of County Commissioners

Find MC Addresses

Parcel Search

Parcel:

PCN	133841000000001140
OWNER	ABELLO EDGARDOABELLO SUSAN
MAIL ADDRESS	3 ISLAND RD
MAIL CITY	STUART
MAIL STATE	FL
MAIL ZIP	34996
SITUS HOUSE	
SITUS PREFIX	
SITUS STREET	
SITUS STREET TYPE	
SITUS POST DIR	
SITUS SUITE	
SITUS CITY	
SITUS STATE	
SITUS ZIP	
ACCOUNT	628931
DOR CODE	107
ALIAS	
AIN	628931
PIN	
LRSN	
LAST REVISION	September 24, 2017
ACRES	0.95

General

Martin County Board of County Commissioners

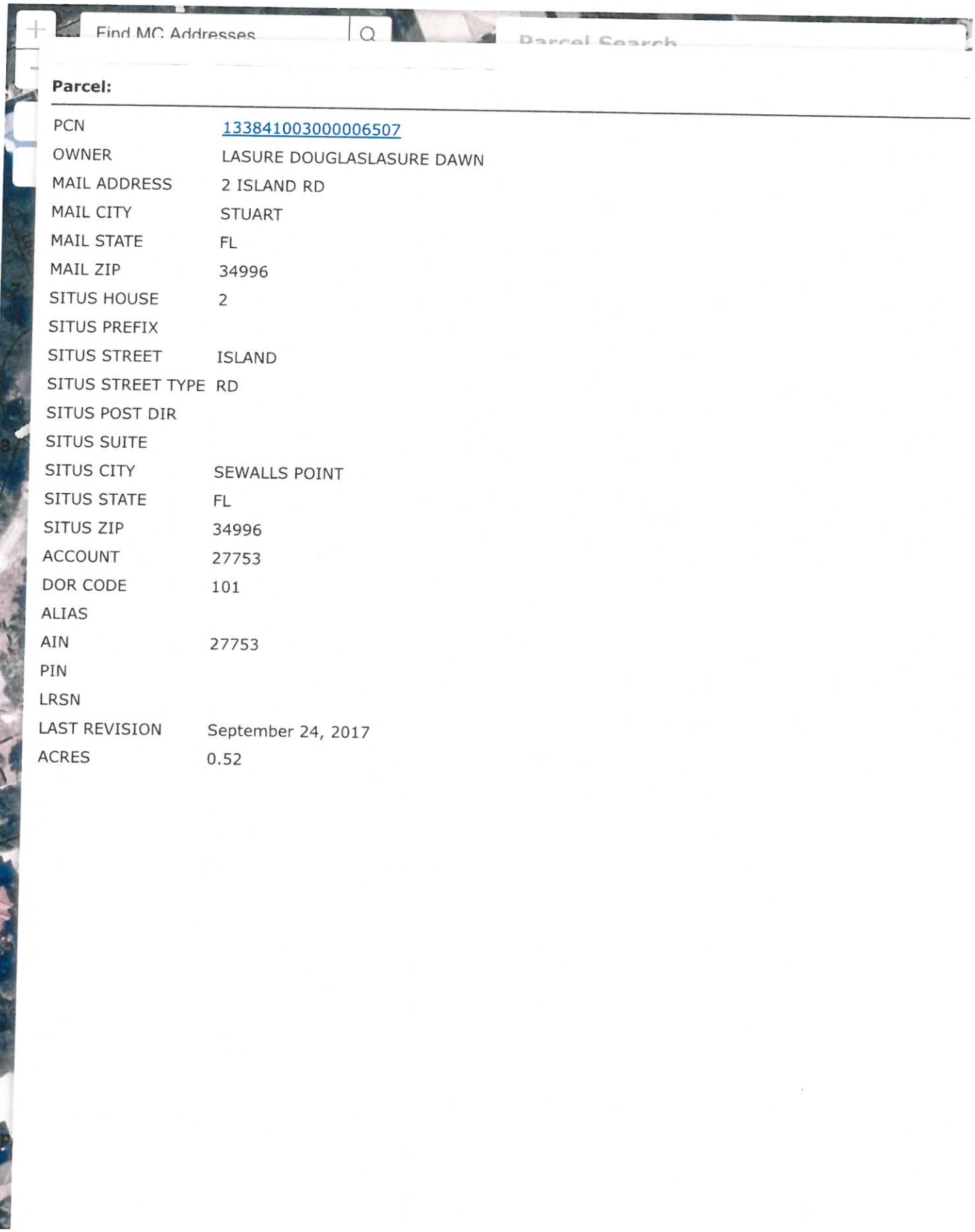
Find MC Addresses | Parcel Search

Parcel:

PCN	133841000000001140
OWNER	ABELLO EDGARDOABELLO SUSAN
MAIL ADDRESS	3 ISLAND RD
MAIL CITY	STUART
MAIL STATE	FL
MAIL ZIP	34996
SITUS HOUSE	
SITUS PREFIX	
SITUS STREET	
SITUS STREET TYPE	
SITUS POST DIR	
SITUS SUITE	
SITUS CITY	
SITUS STATE	
SITUS ZIP	
ACCOUNT	628931
DOR CODE	107
ALIAS	
AIN	628931
PIN	
LRSN	
LAST REVISION	September 24, 2017
ACRES	0.95

General

Martin County Board of County Commissioners



Parcel:

PCN	133841003000006507
OWNER	LASURE DOUGLASLASURE DAWN
MAIL ADDRESS	2 ISLAND RD
MAIL CITY	STUART
MAIL STATE	FL
MAIL ZIP	34996
SITUS HOUSE	2
SITUS PREFIX	
SITUS STREET	ISLAND
SITUS STREET TYPE	RD
SITUS POST DIR	
SITUS SUITE	
SITUS CITY	SEWALLS POINT
SITUS STATE	FL
SITUS ZIP	34996
ACCOUNT	27753
DOR CODE	101
ALIAS	
AIN	27753
PIN	
LRSN	
LAST REVISION	September 24, 2017
ACRES	0.52

General Martin County Board of County Commissioners

Find MC Addresses | Parcel Search

Parcel:

PCN	133841008000000214
OWNER	NEAL JOHN R & MARY C
MAIL ADDRESS	173 S SEWALLS POINT RD
MAIL CITY	STUART
MAIL STATE	FL
MAIL ZIP	34996
SITUS HOUSE	173
SITUS PREFIX	S
SITUS STREET	SEWALLS POINT
SITUS STREET TYPE	RD
SITUS POST DIR	
SITUS SUITE	
SITUS CITY	SEWALLS POINT
SITUS STATE	FL
SITUS ZIP	34996
ACCOUNT	27833
DOR CODE	101
ALIAS	
AIN	27833
PIN	
LRSN	
LAST REVISION	September 24, 2017
ACRES	0.50

General

Martin County Board of County Commissioners

Find MC Addresses

Parcel Search

Parcel:

PCN	133841006000000608
OWNER	OLSEN GEORGE A JR
MAIL ADDRESS	177 S SEWALLS POINT RD
MAIL CITY	STUART
MAIL STATE	FL
MAIL ZIP	34996
SITUS HOUSE	177
SITUS PREFIX	S
SITUS STREET	SEWALLS POINT
SITUS STREET TYPE	RD
SITUS POST DIR	
SITUS SUITE	
SITUS CITY	SEWALLS POINT
SITUS STATE	FL
SITUS ZIP	34996
ACCOUNT	27828
DOR CODE	101
ALIAS	
AIN	27828
PIN	
LRSN	
LAST REVISION	September 24, 2017
ACRES	0.51

General

Martin County Board of County Commissioners

Find MC Addresses

Parcel Search

Parcel:

PCN	133841003000008701
OWNER	SMIERTKA JR ANTHONY & BARBARA
MAIL ADDRESS	11648 BEAUCHAMP RD
MAIL CITY	BERLIN
MAIL STATE	MD
MAIL ZIP	21811
SITUS HOUSE	5
SITUS PREFIX	
SITUS STREET	ISLAND
SITUS STREET TYPE	RD
SITUS POST DIR	
SITUS SUITE	
SITUS CITY	SEWALLS POINT
SITUS STATE	FL
SITUS ZIP	34996
ACCOUNT	27775
DOR CODE	101
ALIAS	
AIN	27775
PIN	
LRSN	
LAST REVISION	September 24, 2017
ACRES	0.40